

# CONFLICT TRENDS

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# EDITORIAL

BY **VASU GOUNDEN**

The international community is increasingly engaged in complex tasks aimed at providing wider support to societies emerging from conflict. An issue that has become central in such contexts is the protection of civilians under threat. This is not a recent approach. It has evolved over time based on the development of several mechanisms of practice and policy frameworks. More recently, civilian protection has gained momentum within the context of complex peacekeeping mandates. These include the emerging view that the protection of civilians has a central role in building sustained credibility and the legitimacy of such interventions.

An increased understanding of the importance of incorporating a larger approach to protecting civilians in conflict areas became apparent in the late 1990s. The failure of the international community to prevent violence against civilians in countries like Rwanda and Somalia strengthened the debate around increasing the effectiveness and relevance of international interventions. This played a role in widening the mandates and scope of peacekeeping operations, particularly in relation to their multidimensional levels. As a result, in 1999 the United Nations (UN) Mission in Sierra Leone was the first mission to be mandated with the specific task of protecting civilians. Since then, several other missions with protection of civilians mandates have been deployed. However, the general political language used in these peacekeeping mandates created confusion amongst peacekeepers about the implementation of such protection in the field. This led to challenges in the actual implementation of protection tasks. In recent years, however, there has been a global initiative to increase clarity on the protection of civilians. This includes how it is designed and implemented in peacekeeping operations at the levels of both the UN and regional organisations. Those in Africa are pivotal.

The establishment of the African Union (AU) in 2002 was seen as enabling Africans to actively respond to the challenges posed by conflicts on the continent. The AU recently engaged in the larger debate focused on

understanding types of guidelines, operational approaches and responsibilities as a means of strengthening African capacity to prevent violence against civilians. This process is not without challenges. The AU Mission in Somalia (AMISOM) faces many issues in seeking to improve peace and security in the country, including severe threats posed to civilians by the conflict. At the request of African member States, the AU Commission is currently working to mainstream the protection of civilians within AMISOM's work. This will have a central role in the planning and deployment of African peacekeeping operations. It must of necessity be linked to the repository of policies, lessons and operational guidance being created to enhance the way in which the AU responds to the dangers faced by civilians in conflict situations.

As studies of the protection of civilians in Africa are still in the initial stages, the need exists for further reflection on the central role of such protection within peacekeeping operations in Africa. This Training for Peace (TfP) Special Issue of *Conflict Trends* further contributes to this discussion. The articles it contains approach this theme from diverse perspectives and through a variety of topics. They are all relevant for the further understanding of civilian protection in Africa. Some of the articles present timely analyses of the challenges presented by the protection of civilians mandates in UN missions in the Democratic Republic of the Congo and Côte d'Ivoire. Others focus on the emerging role of the AU in developing civilian protection strategies in its peacekeeping operations. Finally, while this Issue does not directly focus on the topic of 'Responsibility to Protect', it provides a space for reflection on how the Libyan intervention yields further points of comparison and analysis for peacekeeping operations in Africa. **A**

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# THE PROTECTION OF CIVILIANS IN PEACEKEEPING IN AFRICA: CONTEXT AND EVOLUTION

BY GUSTAVO DE CARVALHO AND ANDREAS ØIEN STENSLAND



UN PHOTO/SYLVAIN LIECHTI

The last decade has witnessed a revolution – both conceptually and operationally – in the commitment to protect civilians during conflict in general and in peace and stabilisation operations in particular. The protection of civilians agenda has recently gained considerable momentum. Its role within the humanitarian community has been consolidated and become a primary objective in peace and security operations. Currently, the African Union (AU) is in the process of developing its own approaches to the protection of civilians that are relevant and applicable to the African context. This article presents an overview of the evolution of the protection of civilians concept and its implementation with a focus on recent developments within the AU. Further, it presents some general challenges and

opportunities for the AU. It raises some key questions on the on-going debate around the AU's development of protection of civilians policies.

## **The Protection of Civilians: Historical Overview**

The legal imperative to protect civilians has developed over time and in response to atrocities committed during armed conflicts. This section identifies how these historical

**Above: In the last decade there has been an increased commitment to protect civilians during conflict in general and in peace and stabilisation operations in particular.**

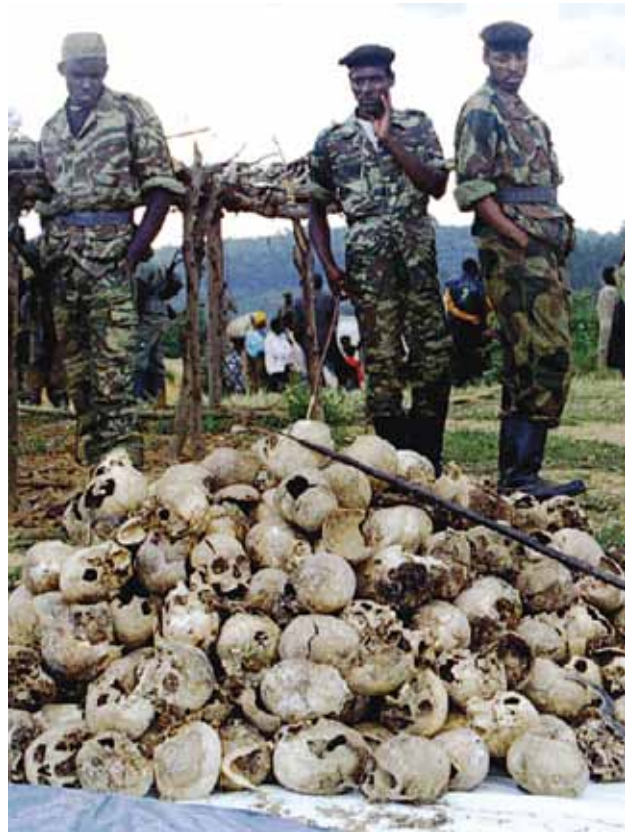
developments have directly influenced and still influence the thinking and practice around the protection of civilians within peacekeeping operations in Africa.

The emergence in the 18<sup>th</sup> century of the norm of sovereignty gave States the opportunity to wage war as an extension of their foreign policy. As a result, less attention was directed to the justification of war and more to its conduct. The battle of Solferino in 1859<sup>1</sup> inspired the creation of the International Committee of the Red Cross/Red Crescent (ICRC) as a humanitarian relief agency to provide help to wounded soldiers in war. Protection thus became institutionalised, defining who should be protected – the wounded soldiers – and who should have the duty and the right to protect, namely the parties to the conflict and the ICRC.

## PROVIDING FOOD AND MATERIAL AID WHEN DELIBERATE ATTACKS UPON CIVILIANS WAS NOT ONLY SEEN AS AN INEFFECTIVE RESPONSE BUT ALSO AS A ‘SMOKESCREEN FOR POLITICAL INACTION’

The atrocities of World War II spurred the creation of the 1949 Geneva Convention and the subsequent Protocols of 1977, serving as the core treaties of International Humanitarian Law (IHL). Through these the group of protected persons came to include civilians who did not participate in hostilities as well as soldiers who had laid down their weapons. In situations that are not covered by these treaties, such as internal conflicts, civilians are protected by other international bodies of law. These include the Human Rights Law (HRL) and its inalienable rights of the right to life and the prohibition of torture and slavery as well as International Refugee Law and International Criminal Law. More recent IHL-related instruments have extended the scope of the law with regard to the means of warfare. In particular, these relate to means which are indiscriminate or have massively disproportionate effects on the civilian population such as anti-personnel mines and cluster munitions.<sup>2</sup>

Further developments in relation to the emergence of the protection of civilians came as a result of the failure of States and international organisations to stop acts of genocide, war crimes and crimes against humanity committed during the 1990s. These were particularly prevalent in Africa. Countries like Liberia, Rwanda and Sierra Leone demonstrated the contemporary trend where civilians are increasingly made the targets and objectives to be won in a context where military engagements take place amongst, against or in the defence of civilians.<sup>3</sup>



**The protection of civilians concept was further developed in the 1990s following the failure of States and international organisations to stop acts of genocide, war crimes and crimes against humanity. Genocide in Rwanda was an example of this.**

Simultaneously, within the humanitarian community there was an increasing awareness that humanitarian assistance had become a complex endeavour with the potential for doing both good and also considerable harm in some cases. Providing food and material aid when deliberate attacks upon civilians was the central issue was not only seen as an ineffective response but also as a ‘smokescreen for political inaction’.<sup>4</sup> As a result of this realisation, in 1996 the ICRC invited a group of agencies to a series of workshops with the idea of developing professional standards for humanitarian protection work. This resulted in a definition of protection that is now shared among most humanitarian actors. It covers ‘all activities aimed at ensuring full respect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of law (including human rights law, international humanitarian law and refugee law)’.<sup>5</sup>

Beyond the work of humanitarian actors, various international organisations have come to focus on civilian protection as a core part of their mandate. A turning point in this regard came when the responsibility to protect civilians was not only given to the parties to the conflict but also to the society of States at large. Until the late 1990s,



**The United Nations Security Council holds an open debate on the protection of civilians in armed conflict on 9 November 2011, in New York.**

the United Nations (UN) Security Council had only dealt with the protection of civilians within the scope of IHL and always from a country-specific perspective. In 1999, efforts by several actors both within and outside the UN system contributed to place the responsibility for civilian protection within the UN Security Council.<sup>6</sup> The protection of civilians was thus defined as an activity to be mandated by this third party.

#### **Evolution of the Protection of Civilians within the UN**

The Office for the Coordination of Humanitarian Affairs (OCHA) has been the most active promoter of the protection of civilians in taking a leading role in the UN context. OCHA has sought to promote what it has labelled a 'Culture of Protection', where 'Governments would live up to their responsibilities, armed groups would respect the recognized rules of international humanitarian law, the private sector would be conscious of the impact of its engagement in crisis areas, and member States and international organizations would display the necessary commitment to ensuring decisive and rapid action in the face of crisis.'<sup>7</sup>

The 'Culture of Protection' is not clearly defined. Rather, it is seen as a complex and multi-layered process. It involves a diversity of entities and approaches that help to cover a wide range of protection needs. According to the 2001 Secretary General's report on the Protection of Civilians in Armed Conflict, the relevant activities may include the delivery of

humanitarian assistance, the monitoring and recording of violations of international humanitarian and human rights law and the reporting of these violations to those responsible and other decision makers. It may further include institution building, governance and development programmes and ultimately the deployment of peace support operations troops.<sup>8</sup> In each case, these activities will have to be adapted to the specific requirements of the particular conflict situation and to the needs, structure and sensitivities of the affected population.

The increased role of the 'Culture of Protection' within the UN system culminated in the deliberate use of the protection of civilians within peacekeeping mandates. In 1999, the UN Mission in Sierra Leone (UNAMSIL) was the first UN peacekeeping operation explicitly mandated to 'take the necessary action within its capabilities and areas of deployment, to afford protection to civilians under imminent threat of physical violence.'<sup>9</sup> Since then the Security Council has treated protection as a cross-cutting issue with an emphasis on the most vulnerable groups of people. Thus far, 13 UN operations have been provided with explicit protection mandates. The protection of civilians was included in Security Council mandates for UN peacekeeping operations in Sudan, Chad, the Democratic Republic of the Congo and elsewhere. However, the impact on the ground has varied.





**In 1999, the United Nations Mission in Sierra Leone (UNAMSIL) was the first peacekeeping operation explicitly mandated to take the necessary action to protect civilians under imminent threat of physical violence.**

Almost ten years after the first protection of civilians mandate, the Department of Peacekeeping Operations (DPKO) and OCHA jointly commissioned a report on the protection of civilians in the context of UN peacekeeping operations.<sup>10</sup> The study, published in November 2009, concluded that UN peacekeeping missions lacked a clear definition and conceptual understanding of civilian protection as well as comprehensive strategies for implementing their mandates in the field. This realisation led the UN to develop a range of policy documents for the conceptualisation and operationalisation of the protection of civilians in its peacekeeping operations. However, an on-going challenge is to bridge the gap between the humanitarian community and the peacekeeping community.

### **The AU and the Protection of Civilians**

African leaders have recognised that on-going conflicts across the continent represent perhaps the single biggest threat to the future development of the continent. Protection of civilians is thus an intrinsic part of the AU. A number of AU instruments are relevant in this regard. They include the AU Constitutive Act, the African Charter on Human and People's Rights, the African Charter on the Rights and Welfare of the Child, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the Protocol Relating to the Establishment of the

Peace and Security Council of the AU as well as the AU Convention for the Protection and Assistance to Internally Displaced Persons.

These developments represent a shift from 'non-interference' to 'non-indifference' that lies at the core of the AU.<sup>11</sup> The AU's predecessor, the Organisation of African Unity (OAU), placed primacy on the principle of non-interference in the affairs of its member States. This was based on the organisation's focus of sustaining the independence and sovereignty of member States and the eradication of all forms of colonialism. The AU, on the other hand, is based upon the notion that the continent should not be indifferent to threats and violence against civilians within member States. Thus several aspects of the AU Constitutive Act are directly related to the protection of civilians. These include the values of 'respect for democratic principles, human rights, the rule of law and good governance' and 'respect for the sanctity of human life'. Also, the Constitutive Act identifies one of its main principles in relation to the protection of civilians when it states the 'right of the Union to intervene in a member State pursuant to a decision of the Assembly in respect of grave circumstances, namely war crimes, genocide and crimes against humanity.'<sup>12</sup>

More recently, the AU has strengthened its focus on protection of civilians within its overall work under the auspices of the African Peace and Security Architecture

(APSA). For example, the meeting of the Peace and Security Council in May 2011 re-emphasised the importance of the protection of civilians, and urged the AU Commission to finalise *the Draft Guidelines on Protection of Civilians* as early as possible, drawing lessons from relevant experiences. Importantly, the Council encouraged the Commission to mainstream the protection of civilians into the ‘whole spectrum’ of the APSA. The protection of civilians is viewed in a broad and all-encompassing perspective that goes beyond peace support operations to include international humanitarian law, human rights, humanitarian action, legal protection and gender issues.

Key to this broad and all-encompassing view of protection is the AU’s Draft Humanitarian Policy Framework

## MORE RECENTLY, THE AFRICAN UNION HAS STRENGTHENED ITS FOCUS ON PROTECTION OF CIVILIANS WITHIN ITS OVERALL WORK UNDER THE AUSPICES OF THE AFRICAN PEACE AND SECURITY ARCHITECTURE

which when finalised will provide a set of principles for humanitarian action and form the basis for an AU Humanitarian Policy. The idea, premised on the Strategic Plan for the AU Commission for 2009–2012, is to create and enhance mechanisms that strengthen the African-wide

humanitarian response and actions. The Draft Framework includes a strong focus on protection. It specifically defines the role and responsibility of the AU at continental, sub-regional and national levels, including field levels where applicable, in the area of protection of civilians in humanitarian crises and in conflict zones.<sup>13</sup> With regard to protection issues, the Draft Framework focuses particularly on the coordination and sustainability of solutions, the implementation of existing conventions and policies and the monitoring of the humanitarian situation. It further calls for the establishment of an effective coordination mechanism for humanitarian operations on the African continent. These range from situations of armed conflict to natural and man-made disasters. The AU Commission is to be a prime institution in providing technical and material support to its member States in situations of humanitarian crises.

### Developing the Protection of Civilians Agenda in the AU’s Peace Support Operations

Since the end of 2009, the AU has worked to develop the Draft Guidelines for the Protection of Civilians in AU Peace Support Operations. A first draft was finalised by the AU Commission (AUC) in 2010 and gained increased momentum towards the second half of 2011. The draft guidelines envision a four-tiered approach to protection of civilians (Table 1). They are intended to provide guidance at both the operational and the tactical levels of AU missions. The guidelines are still being enhanced within the AU. They will be further revised in response to new

**Table 1: AU Protection of Civilians Tiered Approach**

AU Tiered Approach as per Draft Guidelines <sup>14</sup>	Core Definition
1. Protection of civilians as part of the political process	A central aspect of a peacekeeping mission’s work is to ensure that a State emerging from conflict can establish lasting and sustainable peace. It is also essential to the mission’s effort to protect civilians, given that the rights and physical safety of civilians cannot be fully protected in an environment in which conflict is on-going or re-ignites.
2. Physical protection	This tier is divided into four phases: <ul style="list-style-type: none"> <li>• Prevention</li> <li>• Pre-emption</li> <li>• Response</li> <li>• Consolidation</li> </ul>
3. Rights based protection	A rights-based approach can involve the monitoring and reporting of human rights violations in the mission area and the development of local capacity to promote and protect human rights.
4. Establishment of a secure environment	This comprehensive and broad tier includes a peace-building dimension. It starts with early recovery and should lead to self-sustainable solutions.





**A woman carrying a child walks at a camp for internally displaced persons in Mogadishu, Somalia, while AMISOM peacekeepers stand guard.**

information and lessons learned in the field as well as new conceptual developments.

The draft guidelines have given the protection of civilians agenda important momentum within the AU, spurring various developments within the Commission. It has increased attention from the Assembly of Heads of State and Government, the Peace and Security Council and other relevant organs as well as within the AU Commission. In July 2010, the AU Assembly welcomed the efforts of the Commission in developing a framework of action and creating guidelines on the protection of civilians. It further requested the Commission's continued support to the relevant AU organs, enhancing their capacity to take the necessary decisions in relation to the development

**CURRENTLY, THERE IS NO CLEAR DEFINITION OF THE PROTECTION OF CIVILIANS THAT IS SHARED ACROSS INSTITUTIONS AND SECTORS (HUMANITARIAN, CIVILIAN, MILITARY) IN THE AFRICAN UNION OR ELSEWHERE**

of procedures and mainstreaming the guidelines within the AU's work.<sup>15</sup> The Peace and Security Council has also encouraged the AU Commission to mainstream the draft AU Guidelines into the activities of the AU Mission in Somalia (AMISOM). It further requested that specific guidelines should be based on lessons learned from operations and the field.<sup>16</sup> A workshop dedicated to this is scheduled for late May 2012 in Addis Ababa.

#### **Challenges and Opportunities for the AU in the Protection of Civilians Debate**

Currently, there is no clear definition of the protection of civilians that is shared across institutions and sectors (humanitarian, civilian, military) in the AU or elsewhere. This is a central obstacle to rendering the protection of civilians operationally effective. However, the conceptual vagueness is not only a result of diverging interpretations of historical developments. There is also frequent miscommunication and a lack of coordination. Institutional understandings of protection of civilians are also shaped by the interests of key actors (states, non-governmental organisations, UN agencies) involved in formulating and advancing different aspects of the protection of civilians agenda. Some actors

favour an IHL-centred approach, while others emphasise the humanitarian aspects of the protection of civilians. Some emphasise the political and military aspects of protection, while others subscribe to a comprehensive approach that includes all of these aspects.<sup>17</sup>

The formulation of the AU's four-tiered approach to the protection of civilians – through political process, physical protection, rights based protection and through a secure environment – has contributed to clarifying the understanding and enhancing the operationalisation of the protection of civilians in the AU context. However, the four-tier approach still requires further clarification in order to have practical significance in AU operations. This will be particularly important in the current process of mainstreaming the protection of civilians within the AU's current operations, particularly in AMISOM. Its importance also lies in generating further debates on the roles of particular actors within APSA such as the Panel of the Wise, and among actors within the AU's emerging Humanitarian Policy Framework.

If the AU does not move beyond the development of general guidelines in its approach to the protection of civilians it will most likely face the same challenges of conceptual vagueness as the UN. While the authorisation

for civilian protection in the UN is clear, 'the Council's resolution leaves the decision to protect civilians up to the Special Representative of the Secretary General (SRSG), the force commander or another actor further down the chain to "deem" it to be within the scope of its "capabilities". What is not clear is if the capabilities, from the beginning, were deemed sufficient to protect civilians or were planned to do so'.<sup>18</sup> Whilst this refers to the situation within UN-led operations, the same concerns could be raised with regard to AU missions that are and will be deployed. Increased conceptual clarity will improve the ability of the strategic, operational and tactical personnel (civilian or military) to gauge whether capabilities do correspond with the mandate to protect civilians.

The issue of conceptual clarity is particularly salient in the light of the AU's multidimensional approach to the protection of civilians. While the protection of civilians has a clear role for military actors, it equally involves the police and civilian components of the AU's Peace Support Operations. This brings to the fore operational challenges such as ensuring coordination across sectors and actors, increasing understanding of roles and responsibilities and creating a shared approach towards implementing and mainstreaming protection within the AU's work. The AU's



UN PHOTO/STUART PRICE

**A severely malnourished child is carried to the AMISOM headquarters in Mogadishu, Somalia for emergency medical treatment.**

Peace Support operations, and AMISOM in particular, require the development of mission-specific protection of civilians strategies that harmonise the actions of the numerous actors working on protection issues in the field.

## THE AU NEEDS TO IDENTIFY NOT ONLY WHAT PROTECTION OF CIVILIANS ACTIVITIES WITHIN THE AFRICAN CONTEXT ARE AND SHOULD BE, BUT ALSO FROM WHAT AND FROM WHOM CIVILIANS SHOULD BE PROTECTED

The AU needs to identify not only what protection of civilians activities within the African context are and should be, but also from what and from whom civilians should be protected. Threats can be in the form of violence (killings, torture, sexual violence), coercion (arbitrary displacement, forced recruitment, abduction) and deprivation (denial of access to humanitarian assistance, discrimination in the provision of basic services). The peacekeepers themselves can become a threat to civilians. Too often the need to protect civilians is difficult to assert and agree upon when the violence is ongoing but easily identified after the atrocities have been committed. Field leadership needs to develop mission-wide strategies in order to understand the strategic logic of the perpetrators, analyse threats and mitigate them.

Quality training for personnel involved in protection work is another important task for the AU in the near future. The development of training guidelines through the identification of training needs, standards and partnering with other institutions to ensure quality training is essential to ensure coherent and efficient implementation of the protection of civilians agenda. There is a strong need for the AU to provide space for strengthened partnerships with the large community of African training centres. This can be done by providing guidance for a harmonised approach to the protection of civilians training aimed at building the capacity of AU personnel to protect civilians in the field.

### Conclusion

This article presents some of the processes that are currently under way to increase the AU's capacity to effectively protect civilians in Africa. There have been important developments in initiating the creation of a culture of protection within the AU. This is particularly so in relation to the development of the draft Guidelines and the increased acceptance of and interest in the issue within the AU commission. There is still a long way to go before the AU is able to effectively incorporate the protection of civilians within its daily vocabulary, mandates and practice. It is therefore promising that there is now more focus on

increasing the institutional understanding of the issue and the implementation of the practical requirements for mainstreaming protection of civilians guidelines into AU missions, particularly AMISOM. ▀

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### Endnotes

- 1 During the war of the unification of Italy the Battle of Solferino resulted in the victory of the Franco-Sardinian alliance against the Austrian Army, in Solferino, northern Italy.
- 2 These include the 1949 Geneva Convention and its five protocols, the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Ottawa Convention), and the 2008 Convention on Cluster Munitions.
- 3 Smith, Rupert (2007) *The Utility of Force: The Art of War in the Modern World*, New York: Knopf, pp. 3–4.
- 4 IASC, *Growing the Sheltering Tree - Protecting Rights through Humanitarian Action*, Geneva: IASC, 2002, xv.
- 5 ICRC, *Third Workshop on Protection*, Background Paper (7 January 1999), 21.
- 6 Statement by the President of the Security Council, (12 February 1999).
- 7 UN Secretary General, *Report of the Secretary-General to the Security Council on the Protection of Civilians in Armed Conflict*, S/2001/331 (30 March 2001), 2.
- 8 Ibid.
- 9 Security Council Resolution S/RES/1280.
- 10 Holt, Victoria and Taylor, Glyn (2009) *Protecting Civilians in the Context of UN Peacekeeping Operations: Successes, Setbacks and Remaining Challenges*, United Nations.
- 11 See for example: Williams Paul D. From Non-intervention to Non-indifference: The Origins and Development of the African Union's Security Culture. *African Affairs*, 106, pp. 253–279.
- 12 *Protocol on Amendments to the Constitutive Act of the African Union*, Article 4, subparagraph h.
- 13 AU Humanitarian Affairs Division. *African Humanitarian Policy Frameworks*. Initial Draft. 11 March 2010.
- 14 Draft AU Guidelines for the Protection of Civilians by Peace Support Missions.
- 15 Assembly of the African Union 25–27 July 2010, Kampala, Uganda. Assembly/AU/Dec.289–331(XV).
- 16 AU Peace and Security Council, 245<sup>th</sup> Meeting, 15 October 2010. PSC/MIN/1(CCXXXV) and African Union Peace and Security Council, 279<sup>th</sup> Meeting Press Statement. 18 May 2011. PSC/PR/BR.(CCLXXIX)
- 17 Stensland, Andreas and Sending, Ole Jacob (2011) *Unpacking the 'Culture of Protection' - A Political Economy Analysis of OCHA and the Protection of Civilians*. Security in Practice. Oslo: NUPI.
- 18 Holt, Victoria (2005) *The Responsibility to Protect: Considering Operational Capacity for Civilian Protection*. Washington DC: The Henry L. Stimson Center, p. 14.





# THE PROTECTION OF CIVILIANS: A COMPARISON BETWEEN UNITED NATIONS AND AFRICAN UNION PEACE OPERATIONS

BY **SETH APPIAH-MENSAH** AND **RACHEL EKLOU-ASSOGBAVI**

Most contemporary wars in Africa have been intrastate conflicts where civilians constitute the overwhelming majority of the victims and targeting them has become a primary objective of the warring parties. Such conflicts are not only theatres of the widespread abuse and violation of human rights; they are often the consequences of these. The security of the population is thus critical to an enduring political agreement between warring parties. This is also important for the broader political goals of creating and preserving the peace. Furthermore, preventing attacks on civilians deters spoilers from creating instability and weakening fragile peace processes. The protection of civilians is thus perceived as essential to the success of a

peace mission and therefore to the peacekeepers' legitimacy and credibility.

The central argument of this article is that the United Nations (UN) and the African Union (AU) are grappling with the same challenges in the protection of civilians and should not work in isolation. As the AU assumes greater responsibility in the African peacekeeping arena, the emerging models of peace missions are likely to include

**Above: The protection of civilians is perceived as essential to the success of a peace mission and to peacekeepers' legitimacy and credibility.**



**The United Nations Secretary-General, Ban Ki-moon, addresses a meeting of the Security Council on the protection of civilians in armed conflict (July 2010).**

the AU working with the UN in sequence or in partnership. With the protection of civilians so central to the legitimacy of international organisations and to the credibility and success of their peace missions, it is in the interests of both the UN and the AU to maximise their comparative advantage to achieve the objective of protecting civilians.

Politically and conceptually, the UN and the AU share the same understanding of the protection of civilians, placing the concept at the centre of the mandates of their respective missions. The use of force is the inner core of their protection concept. Since 1999, when the UN Security Council first addressed the protection of civilians as a thematic issue, the Council has established the practice of holding biannual open debates on this issue and has mandated all its peacekeeping missions in Africa to undertake this critical task.<sup>1</sup> It has also established five sanction regimes in peacekeeping contexts with a listing of criteria explicitly related to violations of international human rights or humanitarian law.<sup>2</sup>

The Security Council has also considered the protection of specific groups, including women and children<sup>3</sup>, from specific forms of violence, notably sexual and gender-based violence. This thematic focus is then reflected in mission mandates. The Security Council, through its resolutions 1265

(1999), 1674 (2006) and 1894 (2009), has clearly expressed its responsibility to protect civilians from grave crimes, including through the use of force in peacekeeping contexts. To this end, Security Council mandates include explicit authorisation to UN peacekeepers 'to use all necessary means to protect civilians under imminent threat of physical violence, without prejudice to the responsibility of the host Government, within the limits of its capacity and areas of deployment.'

Protection of civilians is also a central element of Africa's peace and security architecture and indeed one of its founding principles, as stated in article 4(h) of the AU's Constitutive Act. This affords the Union a right to forcibly intervene in one of its member States in 'grave circumstances', namely war crimes, genocide and crimes against humanity. The Peace and Security Council, the AU's decision-making organ for the prevention, management and resolution of conflicts, is guided by this intervention principle. It can recommend to the AU Assembly intervention in a member State in respect of these grave circumstances. The AU's harmonised doctrine for peace support operations states that 'the protection of a non-combatant's basic right to life and dignity is a fundamental element of all peace support



operations.' It further lists a variety of military tasks relevant to such protection including the protection of aid agencies, the creation and maintenance of aid routes, the protection of refugee camps, 'restoring human security thus helping to curb human rights abuses, and the apprehension of war criminals.'<sup>4</sup>

While a number of Africa-led peace support operations<sup>5</sup> included measures (formal or informal) to protect civilians, only the African Mission in Sudan (AMIS) had an explicit mandate to 'protect civilians whom it encounters under imminent threat and in the immediate vicinity, within resources and capability, it being understood that the protection of the civilian population is the responsibility of the Government of Sudan.'<sup>6</sup> Beyond this, the mandate required AMIS to also protect both static and mobile humanitarian operations under imminent threat and in the immediate vicinity, within capabilities. In the AU Mission in Somalia (AMISOM), the protection mandate is only implied. However, UN Security resolution 2036 (2012), now requires AMISOM to establish an Indirect Fire Policy and a Civilian Casualty Tracking Analysis and Response System (CCTAR), with a view to ensuring that the military operations of the mission and those of the forces of the Transitional Federal Government (TFG) take into account the protection

of civilians and respect for the rights of the vulnerable. The Security Council, mindful that AMISOM lacks the necessary capabilities, does not mandate the mission to use all necessary means to protect civilians under imminent threat of physical violence.

At the conceptual level, both the UN and the AU have developed similar approaches. This suggests that coherence and future interoperability between their respective missions will not be a challenge. The Operational Concept on the Protection of Civilians in UN Peacekeeping Operations, finalised in April 2010, is organised around a three-tiered approach to protecting civilians:

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

Similarly, the seminal Draft Guidelines for the protection of civilians in AU Peace Support Operations which prompted significant policy developments<sup>7</sup> at the AU are also developed around a tiered approach, adding 'rights-based protection' as a fourth tier. Echoing the UN Operational Concept, the AU Draft Guidelines states that 'protection of civilians in a peace support mission requires a multidimensional and coordinated approach with clear



REUTERS / THE BIGGER PICTURE

**The African Union Mission in Sudan (AMIS) was the only Africa-led peace support operation with an explicit mandate to protect civilians under imminent threat and in the immediate vicinity.**





**The United Nations and the African Union could replicate the civilian protection partnership that led to the creation of the African Union Mission in Sudan (AMIS), with the most legitimate organisation leading the political strategy in support of the objective of civilian protection.**

and differentiated responsibilities for military, police and civilian components, which recognises the protection activities of host State authorities, civilian populations, and external protection actors.<sup>8</sup> The tiered approach illustrates the understanding by both organisations that protection of civilians ‘goes beyond the domain of physical protection from imminent threat.’<sup>9</sup>

### Challenges

Notwithstanding these developments, there remain significant challenges common to the UN and the AU. These could be addressed through a strategic civilian protection partnership between these organisations on the basis of their respective comparative advantage in peacekeeping.

First, political support is essential in the protection of civilians. Mandating organs are responsible for providing their missions with the political support to achieve their objectives in the protection of civilians, engaging consistently and sustainably with the parties to the peace agreement, bringing spoilers to the negotiating table, and sanctioning them when they violate the most fundamental rights of civilians. However, neither the UN Security Council nor the AU Peace and Security Council have systematically

linked their mandates with a commensurate political strategy to achieve these objectives. The UN and AU mandating organs could use their comparative advantage to build joint political strategies in support of the objectives of their respective peace missions towards the protection of civilians. Despite its primacy in the maintenance of international peace and security, the legitimacy of the Security Council in Africa<sup>10</sup> has been challenged after the Council’s late involvement to protect civilians in some of the world’s deadliest wars at the time: in the Democratic Republic of the Congo (DRC), Liberia, Rwanda and Sierra Leone. The AU on the other hand, enjoys considerable legitimacy, having been established against the backdrop of the Security Council’s disengagement from Africa in the 1990s.<sup>11</sup> Short of establishing hybrid missions, the UN and the AU could replicate the civilian protection partnership that led to the creation of AMIS, with the most legitimate organisation leading and sustaining the political strategy in support of the objective of the protection of civilians. Such a partnership, tailored to each situation, would maximise UN and AU political capital in support of a peace agreement, ultimately grounding peace in the achievement of civilian security.



**The African Union Mission in Somalia (AMISOM) soldiers and the Somali National Army collaborate in a major offensive dubbed “Operation Free Shabelle”, which aims to liberate the Afgooye corridor and about 400 000 internally displaced people from the control of the insurgent group, Al Shabaab (May 2012).**

Second, and related to the previous point, the protection of civilians requires the involvement of the host government which retains the primary responsibility for such protection. Ideally, protection strategies would thus be conceived with the relevant government bodies, notably the security forces. More often than not, host governments neither have the capacity nor the will to protect civilians. One of the biggest challenges the UN Mission in the DRC (MONUC) faces in implementing the protection of civilians mandate in the DRC is that among the main perpetrators of human rights abuses are members of the Congolese police and armed forces.<sup>12</sup> This is at a time when security forces are being called upon to play a leading role as the national actor responsible for the protection of civilians. Meanwhile, given Somalia’s weak Transitional Federal Government (TFG), AMISOM has faced considerable challenges in eliciting compliance to human rights and humanitarian norms from the TFG forces. In a civilian protection partnership, the AU could address challenges related to political will, using the leverage of its member States to influence the host government and if needed imposing sanctions on spoilers. The UN could focus on security sector challenges, professionalising security forces and assisting in bringing them under civilian


control, and in helping to build effective policing and judicial systems.

Third, as can be deduced from the UN and AU tiered approaches, the mission’s leadership plays a critical role in generating a cross-mission strategy with a clear division of labour amongst the mission components. The military often plays an indirect supporting role for the humanitarian community’s work on protection. Military escorts can be required to allow early humanitarian access to insecure areas or to assess situations. For example, coordination between AMIS and the UN Mission in Sudan (UNMIS) resulted in the timely deployment of UN human rights officers alongside AU observers to incident scenes to collect hard evidence.<sup>13</sup> However, while responsibilities in UN peacekeeping operations for the protection of civilians rest with the military, police and civilian components, these responsibilities are predominantly a military undertaking in AU peace support operations. This is because the AU’s civilian capacity in the field is embryonic. While the AU does not have the same advantages as the UN’s protection resources on the ground, it could enhance coordination through regular interaction with UN agencies and non-governmental organisations (NGOs) that constitute the protection cluster. To this end,

the development of AU civil-military coordination guidelines would be a priority.

Fourth, from the planning stages through the management of the operations and the actual delivery of protection activities, a complex mix of skills and expertise is required. For uniformed personnel, protection begins with a clear understanding of their obligations and responsibilities under international law. The UN has recently developed a series of training modules. These offer guidance to its troops and police from contributing countries or for its field missions on what constitutes the protection of civilians in UN peacekeeping contexts. However, in national contexts, traditional UN and AU troops and police from contributing countries have limited training in the protection of civilians as a strategic or operational aim. Specifically, until very recently, military thinking on how to conduct such a protection operation was almost nonexistent. In the DRC in March 2007, the MONUC Force Commander issued a directive on the protection of civilians with the aim of providing the background, guidance and operational context for the military's role in this regard. It was the first attempt by a military component in a UN peacekeeping operation to articulate their operations through the lens of protection in a directive. While each operational area is different, generic guidance could be jointly developed by the UN and the AU. Troops from African countries contributing to the UN and/or AU peacekeeping operations have amassed considerable operational awareness and understanding of the complex and fluid operational environments of African conflicts. In collaboration with the UN Secretariat and relevant partners, the AU Commission could build upon this considerable operational awareness and experience, to mainstream the protection of civilians issue during the mission planning and the implementation phases of AU-mandated operations.

## Conclusion

The protection of civilians in peacekeeping contexts is a challenging mandate but not an impossible one. Some of these challenges stem from the inconsistent political backup of the UN and AU mandating organs, the lack of political will and of capacity within the host government, the lack of coordination amongst protection actors and the absence of operational training for protection purposes. There are further challenges which are arguably more pressing. In particular there is the gap between what each organisation is expected to deliver and what they are capable of or committed to delivering. This article has identified some of the challenges that would be more effectively tackled through a civilian protection partnership between the UN and the AU. Its proposals represent initial recommendations for increased effectiveness. 

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**The views expressed in this article are those of the authors and do not necessarily reflect those of the United Nations.**

## Endnotes

- 1 These include the UN Missions in Sierra Leone (UNAMSIL), the Democratic Republic of the Congo (MONUC and MONUSCO), Liberia (UNMIL), Côte d'Ivoire (UNOCI), Burundi (ONUB), Sudan (UNMIS), Darfur, Sudan (UNAMID), Chad and Central African Republic (MINURCAT), and South Sudan (UNMISS).
- 2 These include the sanctions regime related to Côte d'Ivoire, the DRC, Libya, Somalia and Eritrea, and Sudan.
- 3 Security Council in Resolutions 1325 (2000) and 1889 (2009) on women, peace and security, Security Council Resolutions 1612 (2005) and 1882 (2009) on children and armed conflict; and specifically on sexual and gender-based violence in Resolutions 1820 and 1888 (2008). Available at: <<http://www.un.org>>
- 4 African Union, Peace Support Operations Harmonized Doctrine (2006).
- 5 These include the African Mission in Sudan (AMIS) and the African Mission in Somalia (AMISOM), the deployment of the military force in Rwanda – the Neutral Monitoring Group (NMOG I and II), the African Mission in Burundi (AMIB) the Assistance Mission in the Comoros (MAES), as well as the joint management of the hybrid Operation in Darfur (UNAMID).
- 6 African Union, Communiqué of the 17<sup>th</sup> meeting of the Peace and Security Council (PSC/PR/Comm. (XVII), 20 October 2004. Available at: <<http://au.int>>
- 7 In February 2011, the AU established the Inter-Departmental Working Group on Protection of Civilians, consisting of representatives of the Office of the Legal Counsel, the Peace and Security Department, the Political Affairs Department, the Social Department, the Directorate on Gender and Women's Affairs, and the Communication and Information Department, charged with the responsibility to mainstream civilian protection at the AU.
- 8 African Union, Proposed Guidelines for the Protection of Civilians for AU Peace Support Operations for consideration by the African Union, p.3.
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- 10 Boulden, Jane (2006) Double Standards, Distance and Disengagement: Collective Legitimization in the Post-Cold War Security Council, *Security Dialogue* 37(3), pp. 409–423.
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# AMISOM AND THE PROTECTION OF CIVILIANS IN SOMALIA

BY WALTER LOTZE AND YVONNE KASUMBA



UN PHOTO/STUART PRICE

When the international community decided to re-engage with Somalia in a meaningful manner from 2006 onwards, it was primarily regional and global security concerns which underpinned the decision. Ethiopia, backed by the United States of America, deployed its armed forces into southern Somalia in an attempt to overthrow the Islamic Courts Union and to install an Ethiopian-backed Transitional Federal Government (TFG). The decision by the African Union (AU) to deploy a peace support operation,

the African Union Mission in Somalia (AMISOM) in January 2007, was based largely on efforts to convince Ethiopia to withdraw its forces from Somali territory. It also provided support to the fledgling and widely unpopular TFG while

**Above: AMISOM was established in 2007 to facilitate the withdrawal of Ethiopian forces from Somali territory and to provide support to the fledgling Transitional Federal Government.**



Map No. 3690 Rev. 7 UNITED NATIONS  
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Department of Peacekeeping Operations  
Cartographic Section

control of Mogadishu in August 2011, driving Al-Shabaab into southern Somalia and Puntland. By early 2012 AMISOM forces prepared to extend their operations well beyond the confines of Mogadishu into the remainder of southern Somalia. Its operations were coordinated with Kenyan and Ethiopian forces operating in the region and AMISOM has achieved significant military successes against Al-Shabaab. Its ability to keep the TFG in power throughout the political transition period, in preparation for the conduct of elections in August 2012, is laudable. Indeed, the AU has remained unwavering in its determination to provide security and pave the way for peace in Somalia. But these successes have come at considerable cost to the Somali civilian population. The protection of the Somali civilian population has been neglected by the international community for several years. It was more focused on reinforcing the fledgling TFG, diminishing the military capabilities of Al-Shabaab and hunting down terrorists than with the protection of civilians. They have borne the brunt of the ongoing conflict in Somalia.

A notable shift in focus and approach occurred in late 2010.

the details of a longer-term transition and peace process were hammered out.

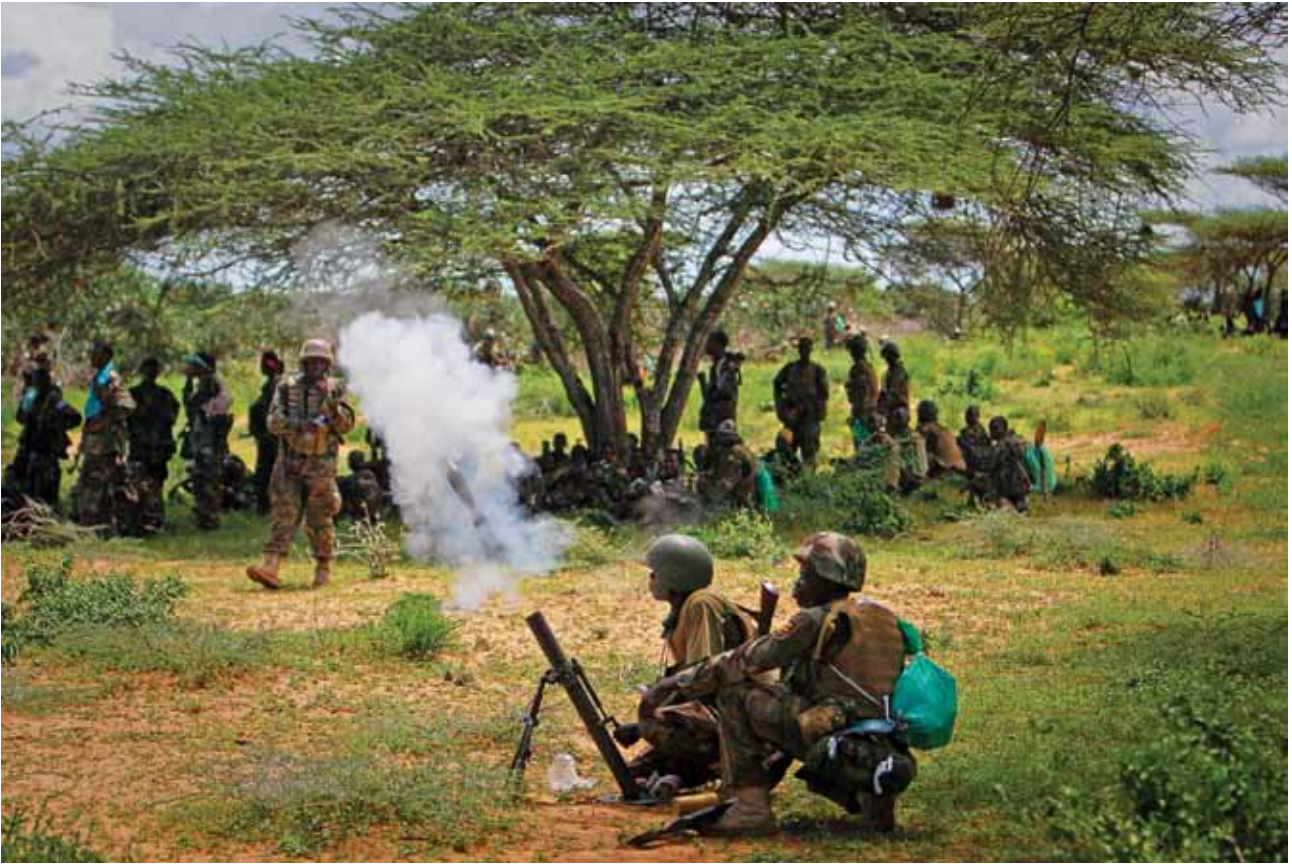
Yet it soon became apparent that there was no peace for AMISOM to keep. The AU mission quickly found itself alongside TFG forces, fighting the Islamist Al-Shabaab group.<sup>1</sup> This conflict rapidly turned Somalia into the most dangerous country in the world.<sup>2</sup> Following four years of heavy fighting, TFG and AMISOM forces were able to take

This was when first the AU and then the United Nations began to take increasing notice of civilian protection concerns. From 2011 onwards this increased attention to civilian protection concerns has significantly impacted the manner in which AMISOM operations have been planned and conducted. As of 2011, civilian casualties in AMISOM's areas of operations have dropped significantly. Both the AU and AMISOM leadership have taken considerable steps to incorporate protection of civilian considerations into the work of the mission. But despite this progress significant gaps remain. These must be addressed by the AU if AMISOM is to successfully attain its mandate and be viewed as legitimate and credible in the eyes of the Somali people.

**THE 8 000 SOLDIERS WHO CONSTITUTED AMISOM, UNLIKE THE AU MISSION IN SUDAN (AMIS) WHICH WAS OPERATING CONCURRENTLY AT THE TIME, WERE NOT PROVIDED WITH AN EXPLICIT PROTECTION OF CIVILIANS MANDATE**

When AMISOM was established in January 2007, this was ostensibly to facilitate the withdrawal of Ethiopian forces and to provide support to a fledgling TFG. The mission was mandated to support dialogue and reconciliation in Somalia, facilitate the implementation





**AMISOM and Somali troops advance to Afgooye, a town to the west of Mogadishu, during the Anti-Shabaab Operation (May 2012).**

of peace agreements in Somalia, protect the Transitional Federal Institutions (TFIs), support the implementation of the National Security and Stabilisation Plan (NSSP), provide technical and other support to disarmament and stabilisation efforts, and facilitate the delivery of humanitarian assistance.<sup>3</sup> But the 8 000 soldiers who constituted AMISOM, unlike the AU Mission in Sudan (AMIS) which was operating concurrently at the time, were not provided with an explicit protection of civilians mandate. This was because the mission was viewed as a short-term operation tasked with providing technical support and ensuring the physical safety of the TFIs. It would pave the way for a larger and more robust UN peacekeeping mission for Somalia.

However, as soon as the initial deployment of 1 600 Ugandan forces arrived in Mogadishu in March 2007, they swiftly became entangled in the fighting between the Ethiopian-backed TFG forces and insurgents. By 2008 Mogadishu had become engulfed in conflict. It was only through the conduct of urban warfare operations that the TFG and AMISOM forces were able to take control of Mogadishu by August 2011. By 2012, to facilitate the expansion of AMISOM operations into the remainder of southern Somalia, the force strength was elevated to an

authorised 17 731 uniformed personnel.<sup>4</sup> The mission was then authorised to take all appropriate necessary measures to reduce the threat posed by Al-Shabaab and other armed opposition groups. This was in order to establish conditions for effective and legitimate governance across Somalia.<sup>5</sup>

Despite increasing the force strength of AMISOM, neither the AU Peace and Security Council (PSC) nor the UN Security Council gave much consideration to providing the mission with a protection of civilians mandate. This was based on the recognition that AMISOM essentially did not constitute a peace support operation. Rather, it was acting as a peace enforcement operation engaged in military operations against an armed insurgency. In this context, since AMISOM was a direct actor in the conflict,

**BOTH THE AU AND AMISOM LEADERSHIP  
HAVE TAKEN CONSIDERABLE STEPS TO  
INCORPORATE PROTECTION OF CIVILIAN  
CONSIDERATIONS INTO THE WORK OF  
THE MISSION**





**The Security Council votes to unanimously adopt Resolution 2036, which requests that the African Union increase their contribution of troops to AMISOM by 5 000 to a total of 17 700 (22 February 2012).**

the mission could not be provided with a protection of civilians mandate. AMISOM could not be expected to provide protection to the civilian population at risk while simultaneously engaging in ongoing offensive operations against Al-Shabaab. Furthermore, despite the increase in troop numbers in 2012, AMISOM remains a critically under-resourced operation. Financial and human resources were in short supply and it possessed no air assets of its own. Even the mission's ability to move troops in its areas of operations is severely constrained. For example, many of its armoured personnel carriers (APCs) are noted for being out of operation. It is clear therefore that even if AMISOM were to be provided with a civilian protection mandate it would not have the necessary resources to implement such a mandate. The mission was therefore not given a protection of civilians mandate. The AU PSC's communiqués and the UN Security Council's Resolutions initially only went as far as calling on AMISOM to uphold and ensure respect for International Humanitarian Law (IHL) in the conduct of its operations.

Yet civilian protection concerns grew rapidly as the conflict escalated. Accurate figures are difficult to ascertain largely due to continued insecurity and a lack of political will to prioritise tracking. On the basis of available figures the overall annual death toll in Somalia

is likely to exceed that in Afghanistan.<sup>6</sup> Ongoing drought in the region has also contributed to making Somalia a much more precarious place for its civilian population. In the first seven months of 2011 alone over 87 000 people fled Somalia for Kenya. They overwhelmed the main refugee reception camp at Dadaab which was originally intended for 90 000 people. Its population increased to well over 400 000.<sup>7</sup> As a result of the conflict and outbreaks of fierce fighting which engulfed both Mogadishu and towns across southern Somalia, hundreds of civilians were killed and thousands more displaced.<sup>8</sup> In Mogadishu, where the heaviest fighting took place until 2011, civilian casualties were perhaps the highest. One report utilising statistics obtained from a Somali civil society organisation noted that in the first half of 2011 alone 1 400 civilian fatalities were recorded.<sup>9</sup> Human Rights Watch estimated that between late 2010 and mid 2011 the fighting in Mogadishu had resulted in 1 000 civilian fatalities and 4 000 civilian injuries.<sup>10</sup> The World Health Organisation reported that in the first six months of 2011, 6 543 individuals (likely a combination of civilians and combatants) had been admitted to hospitals in Mogadishu with weapon-related injuries.<sup>11</sup> Despite the difficulty in obtaining accurate statistics it was clear that the civilian population in Somalia, and particularly in Mogadishu, was

bearing the brunt of the conflict and that measures needed to be taken to better protect civilians at risk.

In addition, during the heaviest bouts of fighting particularly in the Somali capital civilians were facing an increasing range of risks. Contrary to the tactics often witnessed in other conflicts characterised by insurgency such as in Afghanistan or Iraq, much of the fighting in Mogadishu was being conducted along traditional frontlines. Al-Shabaab, TFG and AMISOM forces relied to a significant extent on artillery fire. The use of indirect fire by all sides inherently placed civilians at a high risk of death, injury and property damage. Al-Shabaab exploited this tactic, firing mortars at AMISOM positions from densely populated areas. They then used civilians as human shields when AMISOM used retaliatory fire.<sup>12</sup> Civilians were also often caught in the cross-fire between Al-Shabaab, AMISOM and TFG forces. This was particularly the case as the frontlines in Mogadishu moved unpredictably, often on a daily basis. Civilians cooperating with AMISOM were also directly targeted with limbs being amputated in public or people being assassinated. Such incidents were reported to be on the rise in 2011 as Al-Shabaab was being pushed out of Mogadishu. A relatively new risk emerged with the

increased use of Improvised Explosive Devices (IEDs) and suicide attacks which rose dramatically in 2011.<sup>13</sup>

Noting these concerns, in his report to the PSC on the situation in Somalia in October 2010<sup>14</sup>, the Chairperson of the AU Commission reported that humanitarian organisations had increasingly raised concerns about the high number of civilian casualties arising from fighting

## AMISOM COULD NOT BE EXPECTED TO PROVIDE PROTECTION TO THE CIVILIAN POPULATION AT RISK WHILE SIMULTANEOUSLY ENGAGING IN ONGOING OFFENSIVE OPERATIONS AGAINST AL-SHABAAB

taking place in Mogadishu between insurgents and TFG forces supported by AMISOM. He further reported that certain humanitarian organisations and human rights groups had accused AMISOM of indiscriminately shelling civilian populated regions of Mogadishu. This was in response to attacks from Al-Shabaab. The Chairperson



UN PHOTO/STUART PRICE

**Civilians are often caught in the cross-fire between Al-Shabaab, AMISOM and Transitional Federal Government forces.**





**Suspected Al-Shabaab members are captured by AMISOM and Somali security services during a joint security operation (March 2012).**

noted that such accusations, further fuelled by Al-Shabaab propaganda, had the potential to affect the credibility of AMISOM in the eyes of the Somali people. In this regard, the Chairperson reported that AMISOM had commenced with the development of a pro-active and comprehensive communication and outreach strategy. AMISOM and the United Nations Country Team (UNCT) in Somalia had initiated the establishment of a working group intended to share information on the civilian casualties and devise practical means of addressing civilian protection concerns. It was the intention of the Commission to incorporate the *Draft Guidelines on the Protection of Civilians in AU Peace Support Operations* developed by the AU in 2009 into the activities of AMISOM.

In its Communiqué on Somalia<sup>15</sup>, the PSC reiterated the AU's commitment to respecting the sanctity of human life as articulated in the AU Constitutive Act. With particular reference to the AU's efforts in Somalia, it reaffirmed the AU's commitment to fully adhere to and respect IHL in AMISOM's operations. In this regard, and as part of the overall effort to better protect civilians, the Council encouraged the Commission to integrate the

draft guidelines on the protection of civilians into the activities of AMISOM while the mission did its utmost to avoid collateral civilian casualties. In its first open meeting on the protection of civilians held in May 2011<sup>16</sup>, the PSC again requested that the Commission continue with its efforts to incorporate the draft guidelines into the activities of AMISOM. It urged the development of an AMISOM approach towards the protection of civilians.

By the time of the PSC meeting AMISOM had already been working on the development of guidance on the use of indirect fire, a process supported by a US-based civil society organisation. Prior to 2011 AMISOM did not have sufficient guidance on the use of indirect fire and did not sufficiently control indirect fire, resulting in significant civilian casualties. Following the decision of the PSC to prioritise the protection considerations into AMISOM operations, an indirect fire policy was put in place by the mission. This formalised a stricter chain of command for the use of mortar and artillery fire and the establishment of 'no-fire zones' where civilians were known to be present. Furthermore, pursuant to the requests of the PSC, AMISOM organised a roundtable in Kigali in July 2011 on enhancing



respect for IHL in the conduct of its operations. While these efforts were ongoing the UN Secretary General continued to express concerns related to the protection of the civilian population in Somalia. In his report to the Security Council on the situation in Somalia in April 2011<sup>17</sup>, the Secretary General expressed such concerns, particularly over the recruitment of child soldiers by parties to the conflict. The Secretary General noted that the UN Office to the AU (UNOAU) was working with AMISOM in this regard. The aim was to recruit civilian personnel for the mission, to strengthen its public information capability and to improve the mission's protection of civilians strategy. Reporting to the Council again in August 2011, the Secretary General noted that the protection of civilians in Somalia remained a major concern.<sup>18</sup> Taking note of the Secretary General's concerns and the efforts undertaken by the AU and

the importance of civilian protection considerations in AMISOM operations, significant gaps still persist. These must be addressed by both the AU and the mission leadership if harm to the civilian population is to be minimised and AMISOM is to ultimately be successful in Somalia.

Firstly, the adoption of the Indirect Fire Policy by AMISOM represents a positive development which has certainly contributed to the reduction of civilian casualties. However, the policy to date has not really incorporated AU decision-making into AMISOM's resource needs. It has not resulted in additional resources for training, mentoring and equipment such as weapons-tracking mechanisms or aerial drones which would greatly assist in tracking fire and determining response options. Thus while the expectations of the mission have been raised it has not been provided

## TO ADDRESS PERCEPTIONS THAT AMISOM PERSONNEL ARE IMMUNE FROM ACCOUNTABILITY WHERE CIVILIAN HARM HAS BEEN CAUSED, THE MISSION WILL NEED TO ESTABLISH AND IMPLEMENT BOTH A CONDUCT AND DISCIPLINE POLICY AND A MORE PROACTIVE PUBLIC INFORMATION STRATEGY

AMISOM to prioritise protection of civilians considerations in the operations of the mission the Security Council, through Resolution 2010 in September 2011, welcomed the progress made by AMISOM in reducing civilian casualties during its operations. It further urged the mission to continue in its efforts to prevent civilian casualties and to develop an effective approach to the protection of civilians.<sup>19</sup>

By the end of 2011 these measures were beginning to take effect. Both the UN and non-governmental organisations reported that the Indirect Fire Policy was showing results with instances of indiscriminate shelling in Mogadishu diminishing.<sup>20</sup> Building on this progress, in late 2011 calls began to be made for the establishment of a more centralised civilian casualty tracking mechanism. This was endorsed by the UN Security Council in Resolution 2036 of February 2012 when the UN called for the establishment of a Civilian Casualty Tracking, Analysis and Response Cell (CCTARC).<sup>21</sup> In essence, the CCTARC was to be established to track incidences of civilian harm, to investigate such incidents and to provide compensation when required. In addition to the establishment of the CCTARC, in early 2012 the AU Commission was providing support to AMISOM for the development of a mission-wide strategy to incorporate protection of civilians considerations into AMISOM operations.

### **Key Challenges and Recommendations**

Despite the progress which has been attained in the last two years in reducing civilian casualties and emphasising

with the necessary means to live up to these expectations. Furthermore, the Indirect Fire Policy was only introduced into the revised AMISOM rules of engagement in mid 2012 which was a full year after their adoption by the mission.

Secondly, expectations for reparations in situations where AMISOM is found to have caused harm to civilians have increased. These have been heightened by calls by the UN Security Council for AMISOM to establish a CCTARC. However, at present the mission has neither the necessary mechanisms and personnel in place to operate a civilian casualty tracking and response cell, nor does it have the financial resources to pay compensation claims on a sustainable basis. Thus while the notion of compensation payments is morally appealing, unless AMISOM is able to establish and operate such a mechanism on a sustainable and equitable basis, the mission may be raising expectations well above what it is actually capable of delivering.

Thirdly, while much progress has been made in reducing the risks faced by the civilian population in the conduct of AMISOM military operations, a view still persists among the Somali people that AMISOM troops are immune from disciplinary action or other forms of accountability when the mission is responsible for causing civilian harm.<sup>22</sup> To date, numerous AMISOM military personnel have been repatriated from the mission area. They have faced disciplinary action in their home countries for violations which have resulted in civilian injury. But hitherto neither AMISOM nor the AU have developed a clear conduct and discipline policy. This effectively means

that disciplinary cases are left up to the discretion of the Force Commander or Head of Mission. There are no established mechanisms and/or processes for facilitating follow up with concerned member States on the outcomes of any disciplinary proceedings that have been instituted. To address perceptions that AMISOM personnel are immune from accountability where civilian harm has been caused, the mission will need to establish and implement both a conduct and discipline policy and a more proactive public information strategy. This will serve to ensure that it is transparent and accountable to the Somali civilian population.

## THE MISSION WILL THUS BE BETTER SERVED IF IT ASSESSES AND EFFECTIVELY COMMUNICATES ITS ABILITIES AND LIMITATIONS TO THE HOST POPULATION

Fourthly, as long as AMISOM continues to operate alongside and provide support for TFG forces it will in some measure be held accountable for the actions of these forces. Numerous challenges have been noted with regard to TFG forces to date relating to civilian protection. These include reports of the recruitment of child soldiers, the absence of rules of engagement, the ongoing use of indirect fire and the conduct of operations against Al-Shabaab in civilian areas. AMISOM will need to establish clear procedures for the provision of support to TFG forces. It may have to consider incorporating elements of conditionality for its support. These would need to be similar to those the UN Operation in the Democratic Republic of the Congo (MONUSCO) established for the provision of support to the Armed Forces of the Democratic Republic of the Congo (FARDC).

Finally, as AMISOM expands its operations beyond the confines of Mogadishu, it will face a range of new civilian protection challenges. Al-Shabaab is likely to continue with its tactics of asymmetrical warfare. However, AMISOM is likely to continue to be under-resourced. Rising expectations will be placed on the Mission by the international community but more importantly, by the Somali people themselves. The management of the expectations of those worst affected by the conflict in Somalia will most certainly be a crucial success criterion for AMISOM. The mission will thus be better served if it assesses and effectively communicates its abilities and limitations to the host population. **A**

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## Endnotes

- 1 Al-Shabaab was the military wing of the Somali Council of Islamic Courts which until the end of 2006 controlled most of Southern Somalia. It is a clan-based terrorist group that since its establishment has unleashed a violent insurgency in southern and central Somalia and has used guerilla asymmetrical warfare against the TFG and its allies including AMISOM.
- 2 Somalia was rated the most dangerous country in the world out of 153 countries surveyed by the Global Peace Index in 2011. Institute for Economics and Peace. Available at: <<http://www.visionofhumanity.org/wp-content/uploads/2011/05/2011-GPI-Results-Report-Final.pdf>>
- 3 African Union (2007) Communiqué of the 69<sup>th</sup> Meeting of the Peace and Security Council (PSC/PR/Comm/[LXIX]). 19 January.
- 4 This number includes both troops and formed police units.
- 5 United Nations (2012) Security Council Resolution 2036. 22 February.
- 6 CIVIC (2011) Civilian Harm in Somalia: Creating an Appropriate Response. p.1.
- 7 Human Rights Watch (2011) You Don't Know Who to Blame – War Crimes in Somalia. p.4.
- 8 Global Peace Index (2011) p. 19.
- 9 CIVIC (2011) p. 18.
- 10 Human Rights Watch (2011).
- 11 Somalia Health Cluster Bulletin 49. July 2011. Available at: <[http://www.who.int/hac/crises/som/sitreps/somalia\\_health\\_cluster\\_bulletin\\_july2011.pdf](http://www.who.int/hac/crises/som/sitreps/somalia_health_cluster_bulletin_july2011.pdf)>
- 12 CIVIC (2011) p.19.
- 13 CIVIC (2011) pp. 20–23.
- 14 African Union (2010) Report of the Chairperson of the Commission on the Situation in Somalia (PSC/MIN/1[CCLXLV]), 245<sup>th</sup> Meeting of the Peace and Security Council, 15 October.
- 15 African Union (2010) Communiqué of the 245<sup>th</sup> Meeting of the Peace and Security Council (PSC/MIN/1/[CCXXXV]), 15 October.
- 16 Press Statement of the 279<sup>th</sup> Meeting of the Peace and Security Council (PSC/PR/BR./[CCLXXIX]), 18 May 2011.
- 17 Report of the Secretary General on Somalia (S/2011/277), 28 April 2011.
- 18 Report of the Secretary General on Somalia (S/2011/549), 30 August 2011.
- 19 United Nations Security Council Resolution 2010, 30 September 2011.
- 20 CIVIC (2011) p. 18.
- 21 United Nations Security Council Resolution 2036, 22 February 2012.
- 22 CIVIC (2011) p. 35.

# THE PROTECTION OF CIVILIANS IN PEACE SUPPORT OPERATIONS: LESSONS FROM CÔTE D'IVOIRE

BY KWESI ANING AND NAILA SALIHU



REUTERS / THE BIGGER PICTURE

## Introduction

The protection of civilians has become the yardstick by which contemporary peace operations in Africa are measured by the international community. The protection of civilians and the ability of multi-dimensional peace support operations to fulfil such mandates is undeniably a critical issue in African security for several reasons. The human cost of Africa's wars is enormous. Civilians are the main victims in these conflicts, and although most succumb to disease and the effects of malnutrition, a significant number are targeted during actual conflict even though they are non-combatants.<sup>1</sup> The protection of civilians refers to a broad range of 'structures and policies developed by the United Nations (UN), states and other humanitarian actors, and based on international humanitarian law (IHL), and human rights and refugee law, to protect

vulnerable populations from the effects of armed conflict, ranging from the most immediate priorities of minimizing civilian casualties to more long-term priorities of promoting the rule of law, security, and law and order within a state.<sup>2</sup> This term (the protection of civilians) has become critical not only for the legitimacy and success of individual peacekeeping operations but also for the credibility of the entire UN, African Union (AU) and the Regional Economic Communities (RECs).<sup>3</sup>

**Above: The United Nations has been criticised for not deploying a timely and robust Mission to protect the Ivorian civilians caught in the post-election cross-fire. An Ivorian artist depicts this plea for help to United Nations peacekeepers.**





Map No. 4312 Rev. 3 UNITED NATIONS  
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Department of Field Support  
Cartographic Section

by the Republic Forces<sup>6</sup>, Forces Nouvelles and Invisible Commandoes which backed Alassane Ouattara.

Characteristic of the dynamics of 'new wars', the Ivorian crisis certainly necessitated the need for civilian protection. However, the lack of timely, effective and robust international action during and after the post-election crisis raises several questions on the protection of civilians in Africa.<sup>7</sup> Even in post-conflict environments, there are reports of indiscriminate violence against civilians. Critical questions which arise from the Ivorian case are:

- What actions have been undertaken by the international community to enhance the protection of civilians during and after the post-election crisis in Côte d'Ivoire?
- What challenges were faced in the process?

This article seeks to answer these questions and explore options for improving civilian protection in the country. In spite of the growing international clamour for the protection of civilians from the adverse effects of armed conflicts, a wide gap still remains between the rhetoric and the actual operational implementation and praxis with specific reference to the post-election Ivorian crisis.

### Civilian Protection Dilemmas in Post-election Côte d'Ivoire

Until recently, Côte d'Ivoire was a beacon of economic growth and political stability in a troubled West African sub-region. The country was relatively stable until 1993 when the death of its founding father, Felix Houphouët-Boigny, in the milieu of dwindling socio-economic growth opened the flood gates to the latent social and political tensions in the country.<sup>8</sup> In 2002, a failed coup d'état attempt resulted in a bloody civil war, which eventually split the country into a rebel-held north and government-controlled south. Although the period of active warfare was relatively short, it resulted in more than 1 000 battle-related deaths and a number of civilian casualties.<sup>9</sup> Several peace agreements and power-sharing deals brokered by the Economic Community of West African States (ECOWAS), the AU, France and the UN could not produce stability and a durable peace.<sup>10</sup>

The 2010 presidential election which took place after several postponements, was deemed an important milestone towards the consolidation of democracy and stability in the country. The UN-supervised election held in October 2010 did not produce an outright winner. This necessitated a second election round on 28 November 2010 between the two leading candidates, incumbent Laurent Gbagbo and opposition leader

In view of this, it is important for interventions by the UN and/or regional organisations to contribute significantly to broad arrangements aimed at protecting the civilian population.<sup>4</sup>

This article focuses on the ongoing crises in Côte d'Ivoire and presents the dilemmas and challenges inherent in implementing the protection of civilians mandate. The Côte d'Ivoire case raises difficult but pertinent questions whose empirical and operational utility and epistemological applicability go beyond the Ivorian case. The political stalemate arising from the 2010 presidential election in Côte d'Ivoire was aggravated by deep-seated social and political tensions and this eventually led to widespread violence between November 2010 and early 2011. These developments plunged this once-stable country into political, social and economic turmoil. This was despite several efforts made by the international community to restore peace and stability which had eluded the country since the civil war in 2002. Nearly 3 000 lives were lost during the post-election violence, while over a million people have either been internally displaced or forced to flee into neighbouring countries such as Ghana and Liberia.<sup>5</sup> There are also reports of gross human rights violations and abuse both by security forces and militias loyal to the former president, Laurent Gbagbo, and



**Thousands of Ivorians fleeing violence in Abidjan gathered in the main bus station, trying to get onto buses with their belongings (March 2011).**

Alassane Ouattara. However, Gbagbo refused to concede defeat and held on to power until his eventual capture on 11 April 2011, by pro-Ouattara forces, arguably aided by the French Special Force LICORNE. The political stalemate led to widespread violence by supporters of both claimants to the presidency. This intensified in late March 2011 and became a civil war. Both pro-Ouattara and pro-Gbagbo forces fought without restraint and respect for international humanitarian law in spite of the presence of the UN Peacekeeping Operations in Côte d'Ivoire (UNOCI).

The manner in which the conflict manifested itself with both regular and irregular forces raised a number of questions about the protection of civilians caught between the two warring factions. Since the beginning of the Ivorian political crisis, civilians have been the main victims as a result of the humanitarian and security situation. The attendant consequences include a decline in socio-economic activities and the deterioration of basic social amenities. Worst of all have been infringements against the fundamental rights and liberties of civilians and significant human rights abuses such as enforced disappearances, killings often with genocidal intent, maiming, rape and other forms of sexual violence. These atrocities were committed against civilians by both the

Ouattara and Gbagbo factions. For example, in Duekoue, (a town captured on 29 April 2011 by rebels loyal to one of the warring factions), there were reports of many gross violations of human rights.<sup>11</sup> Over 800 people were reportedly murdered during an assault on the town by forces loyal to Ouattara. Again, on 17 March 2011, a rocket attack on a pro-Ouattara part of Abidjan killed or maimed at least 100 people.<sup>12</sup> It is also reported that pro-Gbagbo Liberian mercenaries were responsible for massacres in Bolequin and Guiglo where up to 100 civilians were killed.<sup>13</sup>

#### **Protection of Civilians and Post-conflict Côte d'Ivoire**

The post-election crisis is now over and the internationally recognised President Alassane Ouattara has assumed the reins of power, while the former President, Laurent Gbagbo, is standing trial at the International Criminal Court (ICC) in The Hague, Netherlands. However, the new administration is faced with the challenge of re-establishing a secure environment that enables post-conflict reconstruction and development. Violence and crimes against civilians are far from over. This is especially the case with so many former combatants, and armed groups still in possession of small arms and light weapons (SALW). Indeed, there are reports





**Following the 2010 presidential election, both pro-Ouattara and pro-Gbagbo forces fought without restraint and respect for international humanitarian law in spite of the presence of UNOCI.**

of violence against civilians in some parts of the country by armed groups that have supported either Gbagbo or Ouattara in the political struggle. For example, human rights advocacy groups like Human Rights Watch have chronicled accounts of terror involving murder, rape and banditry being unleashed on civilians by former combatants of the Republic Forces and Force Nouvelles in cities such as Bouake (the former capital of the Force Nouvelles).<sup>14</sup> Several hundred Ivorians remain who have either been internally displaced or who reside in deplorable conditions in neighbouring countries as refugees.

#### **The Challenge of Civilian Protection during the Post-election Phase**

It is accepted that the responsibility for protecting civilians is not the sole responsibility of the international community. States are vested with the primary responsibility to protect their citizens and civilians. However, in the case of Côte d'Ivoire an incumbent government had lost an election and refused to relinquish power. It had gone to the extent of arming loyalist militia and mercenaries to unleash violence on supporters of political opponents and innocent civilians. This can be construed as a clear manifestation of State failure to protect its people and thus provide enough justification for

intervention by the international community. However the sometimes contradictory initiatives and actions undertaken by the international community, specifically ECOWAS, the AU, the UN as well as western States such as France were not adequate and effective responses to the daunting task of protecting civilians. Nonetheless, international financial sanctions, particularly, the freeze by the West African Central Bank, were helpful. These sanctions greatly undermined Gbagbo's resolve to hold onto power as his access to financial resources for the payment of salaries of public servants and soldiers was curtailed. This measure possibly undermined the loyalty of the military, public and civil servants to the Gbagbo regime.<sup>15</sup>

In addition, a number of preventive diplomatic initiatives were undertaken specifically by ECOWAS and the AU to secure a negotiated solution to the political crisis. However, these produced few tangible results. This could be attributed to the intransigent positions of the key actors in the crisis, but also to the contradictory positions taken by international partners. For instance, while Gbagbo was unwilling to cede power, Ouattara as well as ECOWAS and the international community were unequivocal in their stance that Gbagbo should step down. As regional mediation initiatives were under way there were



several debates, press statements and resolutions at the UN Security Council emphasising the need to protect civilians.<sup>16</sup> Unsuccessful attempts at mediation led to a worsening security and humanitarian situation as the country was virtually brought back to its initial position in 2002 with armed forces mushrooming across the country.<sup>17</sup> The UN was widely criticised for not authorising robust action to protect civilians in Côte d'Ivoire. Following the Security Council's Resolution 1973 on 17 March 2011 authorising the use of force to protect civilians in Libya, pressure was mounted on the Council to act more decisively on Côte d'Ivoire. In particular, the Nigerian foreign minister criticised the international community for its 'contradictions' in imposing a no-fly zone to protect the population in Libya while just 'watching seemingly helplessly' as innocent civilians were being slaughtered in Côte d'Ivoire.<sup>18</sup> On 24 March 2011, ECOWAS formally requested the Security Council to strengthen the mandate of the UNOCI to enable the 'mission to use all necessary means to protect life and property, and to facilitate the immediate transfer of power to Ouattara', as well as to 'adopt more stringent international targeted sanctions against Gbagbo and his associates.'<sup>19</sup>

Subsequently, on 30 March 2011, the Council adopted Resolution 1975 imposing targeted sanctions against Gbagbo, his wife and three of his associates. This also reinforced the authorisation for UNOCI to use force to protect civilians.

The resolution reiterated the Council's condemnation of all violence committed against civilians and stressed its full support for UNOCI to use all necessary means to carry out its mandate to protect civilians under imminent threat of physical violence, including 'to prevent the use of heavy weapons against the civilian population.'<sup>20</sup>

In pursuance of Resolution 1975, on 4 April 2011, UN and French helicopters launched air strikes against the heavy artillery sites near the presidential residence which were believed to be used by pro-Gbagbo forces against pro-Ouattara forces. This action came after attacks on civilians and UN personnel by pro-Gbagbo forces. While such action appeared to have some operational utility, it appeared to be too little too late.<sup>21</sup> The UN could have acted proactively to protect the civilian population in Côte d'Ivoire, especially when viewed against the swift intervention in Libya.<sup>22</sup> For instance, timely and robust action by the UN and LICORNE forces could have helped to prevent the massacre of Duekoue and in other places.

### Challenges

While the international community failed to act in a timely fashion to stop the humanitarian carnage and protect civilians, there were some challenges stemming from a lack of conceptual and operational clarity on political and



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**A UNOCI peacekeeper stands guard near a temporary refugee camp set up at a Catholic church in Duekoue (May 2011). Approximately 27 000 people took refuge in the Catholic mission when Duekoue experienced some of the worst violence of the post-election crisis.**



**On 30 March 2011 the United Nations Security Council adopted Resolution 1975, authorising UNOCI to use force to protect civilians.**

operational constraints which contributed to the near-abysmal performance in executing the mandate to protect civilians.

First, there were analytical and operational challenges with regard to the broad concept of protection of civilians and the responsibilities of the different actors involved in contemporary peace support operations. The UN, troop-contributing countries (TCCs), host states, humanitarian actors, human rights professionals and the missions themselves continue to struggle over what it means for a peace operation to protect civilians both in theory and in practice.<sup>23</sup> The lack of relative clarity of the term ‘civilian’ is perhaps due to the fluidity of the term in contemporary conflict situations in Africa. There is often a blurred definition of who exactly is a civilian who thus merits protection. This relates to the fact that civilians are both victims and perpetrators of atrocities against other civilians. While civilians have become the focus of violence in contemporary conflicts, many have also been forced to become not just victims but also perpetrators of violence and atrocities. Therefore the challenge is that modern peace operations in Africa are frequently deployed into situations where distinguishing civilians from combatants is difficult.

The term ‘protection’ also has its own challenges. The main challenge tends to lie in differences between various humanitarian organisations. Some think of protection in terms of the fulfilment of human rights and legal norms. Military

institutions, on the other hand, tend to see protection in more limited terms as related to the physical defense of particular ‘individuals, communities and installations’ or demilitarised safe areas.<sup>24</sup> Indeed, most UN peacekeeping missions have lacked both a conceptual understanding and comprehensive strategies for the execution of their mandates.<sup>25</sup>

Second, the politics of the UN Security Council can be a major obstacle to timely intervention. There were differences among members of the Security Council on how best to deal with the situation in Côte d’Ivoire. While the US and European members were convinced of Gbagbo’s obduracy and favoured additional sanctions at an early stage, as they had already imposed such measures on a national basis, Russia and China continued to have reservations and seemed to question the rationale for additional sanctions. However, these differences were eventually overcome when it became clear that Gbagbo and his circle would never agree to negotiate.<sup>26</sup> Even among the Council’s African members, Gabon and Nigeria were supportive of the ECOWAS position which called for sanctions. South Africa, on the other hand, sympathised with the Gbagbo camp, fearing that the ‘winner-takes-all’ election might throw the country into chaos and that accordingly a deal with Gbagbo should be pursued. South Africa’s position changed when the AU High Level Panel recommended recognition of Ouattara as the winner of the presidential elections.<sup>27</sup>

Third, at the regional level, there were some challenges to the initiatives undertaken by ECOWAS to forestall the escalation of the political crisis. For example, the proposal to resort to the use of force to remove Gbagbo from office as a last resort was unrealistic.<sup>28</sup> This was met with mixed responses from individual member States. Several arguments were put forward. These included the lack of political will, tactical differences, operational costs, logistical and funding constraints, as well as the unintended consequences of such military adventurism on the civilian population in that country and the spill-over effects on neighbouring countries. Member States like Ghana reiterated the call for a diplomatic or negotiated solution to the problem citing their inability to contribute troops due to overstretch of their limited personnel in peacekeeping operations in other parts of the world. In addition, efforts at the continental level by the AU were fraught with numerous problems due to the lack of a common African position. ECOWAS, for example, repeatedly

Since its inception, UNOCI has not been sufficiently resourced to enforce the peace agreement, to protect civilians and to play the traditional interposition role between conflict parties.<sup>33</sup> France's request for a larger UN force was opposed by countries like the US who saw it as unnecessary and costly. The mission has been supported by French forces since its inception. Although the mission has a robust mandate, it proved unable to prevent both Gbagbo and Ouattara forces from indiscriminate attacks and to protect civilians from periodic abuses. While the authorised strength of UNOCI has been reviewed and changed by the Security Council on a number of occasions, depending on the situation in the country and the needs of the Mission, it is arguable that the Mission lacks adequate strength and resources to carry out the overwhelming task of the protection of civilians. For instance, the current strength (as at 31 January 2012) is 10 945 total uniformed personnel including 9 418 troops, 197 military observers, 1 330 police (including formed units), 401

## SOME THINK OF PROTECTION IN TERMS OF THE FULFILMENT OF HUMAN RIGHTS AND LEGAL NORMS. MILITARY INSTITUTIONS, ON THE OTHER HAND, TEND TO SEE PROTECTION IN MORE LIMITED TERMS AS RELATED TO THE PHYSICAL DEFENSE OF PARTICULAR 'INDIVIDUALS, COMMUNITIES AND INSTALLATIONS' OR DEMILITARISED SAFE AREAS

though covertly condemned the attitude of some members of the AU High Panel on Côte d'Ivoire (such as South Africa) on their perceived lack of understanding and neutrality in the mediation process.<sup>29</sup>


Fourth, the capacity of UNOCI to undertake comprehensive measures to protect civilians was at issue. UNOCI is a Chapter VII mandate mission created in 2004 by Resolution 1528 to monitor the implementation of the Linas-Marcoussis Accord of January 2003. The mission absorbed the ECOWAS forces and UN Mission in Côte d'Ivoire (MINUCI), which was the political mission that had been deployed since the outbreak of the conflict. The mission was further tasked in 2007 with certifying the elections which were postponed several times.<sup>30</sup> However, when the Special Representative of the Secretary-General (SRSG), Choi Young-Jin, unilaterally certified the results of the November 2010 presidential election run-off, former president Gbagbo withdrew the official consent of the government for the mission. But the UN remained at the request of Ouattara and the mandate was extended in December 2011.<sup>31</sup> Subsequently, UNOCI troops were perceived as foreign invaders by the erstwhile Gbagbo administration, who called on his supporters to target them. This resulted in violence against UNOCI personnel. The role played by the peacekeepers in the execution of their mandate, especially their perceived alignment with pro-Ouattara forces and their response to violence against themselves and civilians, resulted in several questions being raised about their impartiality and neutrality.<sup>32</sup>

international civilian personnel, 748 local staff and 269 UN volunteers.<sup>34</sup> These numbers appear inadequate considering civilian insecurities in today's conflict situations.

### Conclusion and Lessons Learned

The escalation of what started as electoral disputes in Côte d'Ivoire and transformed into widespread violence and the resulting humanitarian crisis points to the profound challenges that confront the international community in preventing conflicts and protecting civilians from the adverse effects of such conflicts. It is obvious that the international community, specifically the UN and ECOWAS, were not able to deploy a timely and robust mission to protect the civilians caught in post-election cross-fire. UNOCI lacked the capacity to adequately protect civilians. There is therefore a need for the international community to prioritise the protection of civilians in all conflicts. This should be underpinned by a comprehensive understanding of conflict situations to enable the framing and deployment of the appropriate peace support missions. Peacekeepers should be given adequate training on the protection of civilians. Training should be tailor-made to the specific needs of the operating environment. In addition, the international community should support the new Ivorian government to implement an effective disarmament, demobilisation and reintegration programme to combat the circulation of SALWs and reintegrate former combatants into society. Finally, impartial and comprehensive transitional justice and



national reconciliation processes should be initiated to ensure accountability to the victims of the violence and to foster national healing. 

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# THE PROTECTION OF CIVILIANS IN THE DEMOCRATIC REPUBLIC OF THE CONGO

BY BAPTISTE MARTIN



UN PHOTO/SILVAIN LIECHTI

On 28 June 2011 the United Nations (UN) Security Council in its Resolution 1991 stated that: 'The Government of the Democratic Republic of the Congo bears primary responsibility for security, peacebuilding and development in the country, and [encouraged] the Government of the Democratic Republic of the Congo to remain fully committed to protecting the civilian population through the establishment of professional and sustainable security forces and the rule of law and respect for human rights, to promote non-military solutions as an integral part of the

overall solution for reducing the threat posed by Congolese and foreign armed groups and to restore full State authority in the areas freed from armed groups.'

**Above: MONUSCO peacekeepers in armoured vehicles are deployed to the town of Bunagana where heavy gun fights between government FARDC forces and insurgent groups have caused residents to flee toward the Ugandan border (May 2012).**



Map No. 4007 Rev. 8 UNITED NATIONS  
January 2004

Department of Peacekeeping Operations  
Cartographic Section

Extending the UN Organisation’s Stabilisation Mission in the DRC (MONUSCO’s) mandate until 30 June 2012, the Security Council reaffirmed ‘that the protection of civilians must be given priority in decisions about the use of available capacity and resources and [encouraging] further the use of innovative measures implemented by MONUSCO in the protection of civilians.’<sup>12</sup>

One of eleven UN peacekeeping missions mandated to protect civilians since the UN Mission in Sierra Leone in

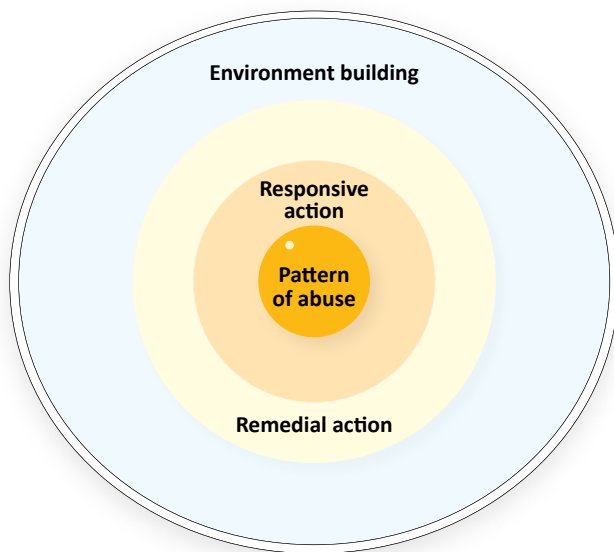
1999, MONUSCO is recognised for developing innovative measures in this regard. This article presents the protection mechanisms and tools developed over the years by MONUSCO as well as some of the practical challenges in implementing its protection of civilians mandate.

**The Overarching Framework: The UN System-Wide Strategy for the Protection of Civilians**

Along with the UN High Commissioner for Refugees, MONUC was tasked by the UN Policy Committee to develop an overarching UN System-Wide Strategy for the protection of civilians in the Democratic Republic of the Congo (DRC). Adopted in January 2010, this protection of civilians strategy sets out a shared vision of the UN’s protection objectives. This corresponds to the activities found in the Protection Egg Model,<sup>3</sup> the most widely recognised model for inter-agency humanitarian protection. This is embodied by three main spheres or levels of programming: responsive, remedial and environment-building.<sup>4</sup> Four strategies along with the overall strategy integrate both the humanitarian and peacekeeping approaches to protection: the Sexual

ALONG WITH THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, MONUC WAS TASKED BY THE UN POLICY COMMITTEE TO DEVELOP AN OVERARCHING UN SYSTEM-WIDE STRATEGY FOR THE PROTECTION OF CIVILIANS IN THE DEMOCRATIC REPUBLIC OF THE CONGO





**The Protection Egg Model**

and Gender-Based Violence Strategy, the International Security and Stabilisation Support Strategy, the UN Joint Justice Support Programme and the Peace Consolidation Programme. These strategies bring together the short term emergency activities of humanitarian actors as set out in the Humanitarian Action Plan, with the longer term development goals of the UN Agencies, Funds and Programmes. The latter are stated in the UN Development and Assistance Framework and MONUSCO's mandated activities on the protection of civilians.<sup>5</sup>

In a context where MONUSCO is engaged in joint military operations with the Congolese army targeting national and foreign armed groups, as mandated under Chapter VII of the UN Charter, this integrated approach to the protection of civilians is supported by humanitarian, development, political and security actors across the DRC. It is enabled by a set of agreed upon civil-military coordination guidelines developed by MONUSCO and the Office for the Coordination of Humanitarian Affairs (OCHA) in 2006. These stress the need to coordinate and distinguish military and humanitarian actors with interrelating roles in protection and assistance activities with a view to safeguarding 'humanitarian space'.

### **Integrated Protection of Civilians Coordination Mechanisms**

Existing coordination structures reflect the UN's unique integrated approach to the protection of civilians in the DRC. For instance, representatives of OCHA and the UN High Commissioner for Refugees (UNCHR) sit alongside the Mission's leadership in Senior Management Groups on Protection (SMG-P) at both national level and in priority provinces. The Protection Working Group, a technical level body, assists the SMG-P to make country-wide policy decisions on the protection of civilians. This attempts to link

civil and military analysis and planning for the protection of civilians. Complementing the work of the SMG-Ps are other mechanisms dealing with specific aspects of the UN-wide strategy. These include the Protection Cluster, the United Nations Country Team, the Stabilisation Working Group, or Humanitarian Advocacy Group. In addition, coordination of protection activities with the government of the DRC is sometimes affected by a lack of shared vision on solutions.<sup>6</sup>

### **Flexible Allocation of Available Resources for the Protection of Civilians: The Example of UN Troops**

MONUSCO assets, equipment and personnel are deployed along protection priorities agreed upon by the government and other protection actors. Based on regular joint assessments with the government of the DRC, the Mission's structure and strength is adapted towards the implementation of a set of objectives including:

1. Minimising the threat of armed groups and restoring stability in sensitive areas.
2. An improved capacity of the government of the DRC to effectively protect the population through the establishment of sustainable security forces with a view to progressively take over MONUSCO's security role.
3. The consolidation of State authority throughout the territory through the deployment of Congolese civil administration in areas freed from armed groups.<sup>7</sup>



REUTERS / THE BIGGER PICTURE

**MONUSCO is engaged in joint military operations with the Congolese army and protection of civilian concerns are now a main priority of such joint operations.**



**MONUSCO's military presence extends to remote areas where civilians are most at risk of abuse. Having an extended field presence allows MONUSCO to engage directly with protection issues on the ground.**

The current military layout of the Mission thus reflects its protection focus. Three Brigades are deployed in North Kivu, South Kivu and part of Orientale Provinces. The Western Brigade and two sectors cover the rest of the country for a total of 17 791 military personnel (out of a maximum authorised strength of 19 815<sup>8</sup>). MONUSCO's military presence covers about 90 locations including remote areas where civilians are most at risk of abuse. Having an extended field presence in priority areas of the DRC allows MONUSCO personnel to engage directly with protection issues on the ground, establishing early warning and rapid reaction mechanisms to protect civilians under the imminent threat of physical violence when necessary and feasible.

#### **A Dynamic Troop Presence and Posture Supported by the Protection Matrix**

The robust posture MONUSCO has taken on numerous occasions is enshrined in its Tactical Aide Memoire on the protection of civilians which includes 'cordon and search' tactics and the establishment of 'safe corridors' or 'safe havens'. In addition, the regular redeployment of MONUSCO military is one way the Mission ensures it has the flexibility

to respond to changing circumstances and priorities. While larger positions are established based on mid-term priorities, a range of progressively smaller and more mobile bases are established to respond to immediate concerns.<sup>9</sup>

The 2009 Kimia II joint military operations conducted by MONUC and the government of the DRC resulted in large scale civilian displacement, mass rapes and other serious violations of international humanitarian and human rights law by parties to the conflict. Following these, humanitarian actors advocated that protection concerns be taken into account better in the conduct of joint operations. Since then, MONUSCO has held regular discussions with Protection Cluster members. These concern adjustments to its military and sometimes government of the DRC armed forces deployments. Priority areas are identified by drafting a list of locations where humanitarians believe MONUSCO 'must, should or could deploy' troops if available, known as the 'Protection Matrix'. In 2012 consultations on possible deployments were extended to include affected communities and local authorities through local security committees.

Although the Protection Matrix provides a powerful and dynamic tool for establishing deployment priorities and



responding to protection concerns, decisions are not made by consensus. MONUSCO also relies on internal information and analysis to determine the type of response which will be effective to the issue at stake. For example, in cases where government forces are suspected of involvement in human rights violations an adequate response generally includes greater sensitisation of commanders, capacity building and

## COMMANDERS REASONABLY SUSPECTED OF HAVING COMMITTED SERIOUS VIOLATIONS, EITHER DIRECTLY OR ON THEIR WATCH, WILL HAVE SUPPORT DENIED OR SUSPENDED

logistical support in favour of selected units. It also requires the engagement of key leaders who are able to influence behaviour and technical or logistical support to military or civil prosecutors, rather than increased military presence or intervention. Additionally, while humanitarian actors tend

to monitor abuses against local populations, they focus on past armed group activity. MONUSCO has more capacity to analyse the political and security dynamics in the country and forecast possible future activity and the presence of armed groups. Another challenge related to the Protection Matrix lies in response delays. These can result from the lack of information sharing, a divergent analysis of the situation between MONUSCO and the humanitarian community, and also the time it takes to assess, review, approve and implement redeployment recommendations in a challenging logistical environment.

### **A Pre-emptive Approach: Joint Planning and the Conditionality Policy**

Kimia II operations in 2009 also led MONUSCO to develop pre-emptive tools to influence behaviour and reconcile support for the conduct of joint operations and the protection of civilians. In addition to the establishment of joint planning of military operations with the government of the DRC, all logistical and operational support provided to national defense and security forces is now explicitly conditioned on the respect for human rights and humanitarian and



UN PHOTO/MARIE-FRÉCHON

**Members of the South African battalion of MONUC and part of the Joint Protection Team arrive at their mobile operating base in Pingam, North Kivu (February 2009).**





**Following the extension of MONUSCO's mandate to June 2012, the Security Council reaffirmed that the protection of civilians must be given priority in decisions about the use of available capacity and resources.**

refugee law. Known as the Conditionality Policy, this means in practice that MONUSCO undertakes a regular screening of commanders of the army or police units requesting or receiving support. Commanders reasonably suspected of having committed serious violations, either directly or on their watch, will have support denied or suspended. First developed in the DRC, the policy of conditioning support to security services on compliance with protection standards has recently been adopted across the UN through the Human Rights Due Diligence Policy. This makes it an obligation for all UN entities worldwide.

#### **Prevention and Early Warning: The Joint Protection Teams**

The mass killings that were perpetrated in late 2008 by the National Congress for the Defence of the People (CNDP) in Kiwanja, North Kivu Province, led MONUSCO to establish the Joint Protection Teams (JPTs) to reinforce its capacity to prevent future mass atrocities. These draw on a broad range of the Mission's military, police and civilian resources. They include the Joint Human Rights Office, Civil Affairs, Child Protection, Disarmament, Demobilisation and Reintegration (DDR), Public Information and sometimes government and

humanitarian partners. The JPTs aim at enhancing preventive and responsive action towards civilians at risk. This includes improving early warning mechanisms and the analysis of existing or potential protection threats, supporting the development of local protection plans in areas where MONUSCO troops are deployed, as well as establishing or reinforcing existing local coordination structures with authorities, communities or humanitarian partners. Since their creation, JPTs have conducted over 215 missions. They are now recognised by the Department of Peacekeeping Operations (DPKO) as a best practice which could be adapted and replicated in other peacekeeping contexts.

**SINCE 2010, FOLLOWING MASS RAPES IN WALIKALE, NORTH KIVU PROVINCE, MONUSCO'S NETWORK OF FIELD MILITARY PERSONNEL HAS BEEN REINFORCED BY A MUCH NEEDED CIVILIAN CAPACITY IN THE FORM OF THE COMMUNITY LIAISON ASSISTANTS**

### **A Force Multiplier: The Community Liaison Assistants**

Since 2010, following mass rapes in Walikale, North Kivu Province, MONUSCO's network of field military personnel has been reinforced by a much needed civilian capacity in the form of the Community Liaison Assistants (CLAs). Primarily deployed by the Civil Affairs section to support the protection activities of MONUSCO's force at the company or platoon level, 89 Congolese CLAs are currently deployed in 71 locations in Eastern Congo. An additional 113 CLAs are to be deployed by the end of 2012. The presence of the CLAs alongside UN troops allows for easy communication with the local communities, authorities and humanitarian partners. This builds trust and gains access to local networks. It results in a deeper understanding of the local context as compared to UN troops who generally rotate every six months. CLAs also respond to a longer term objective of building national capacity on the protection of civilians. Additional placement of UN personnel in field stations would however further enhance MONUSCO's capacity to prevent and react to protection concerns.

### **Supporting Rapid Reaction: The Community Alert Networks**

To complement its human networks and leverage its response capacity, MONUSCO established Community Alert Networks (CANs) around its military bases in early 2010. By distributing mobile telephones to focal points in villages surrounding the UN base, this pilot project aims to cover most priority areas benefitting from mobile network coverage. Selected in consultation with the community, focal points are generally drawn from local leadership and then alert the CLAs or troop commanders in case of imminent threat to the security of villagers. A set of 'Do No Harm' principles and processes has been established to avoid potential negative consequences for the focal point and his or her community.

Despite technical and logistical difficulties hampering the swift roll-out of the CANs, 25 are now operational and another 17 are being put in place. Initial reviews of the impact of the CANs are positive. A CAN Committee is in charge of adapting the model as required, reviewing and suggesting alternate technology-based options or liaising with partners on any potential extension of the phone network in priority areas.<sup>10</sup> Additionally, in 12 MONUSCO military bases not covered by telephone networks, dedicated high frequency radios have been set up to communicate with a church community network that links 40 communities at risk.

### **The Fight against Impunity**

First introduced as a pillar of the Sexual and Gender-Based Violence Strategy in 2009, the Fight against Impunity has been extended to all crimes and incorporated in MONUSCO's mandate with the UN Security Council Resolution 1906. Joint Investigation Teams, mobile courts and more recently Joint Prosecution Support Cells are the

mechanisms established to implement this policy. These are composed of teams of civil or military prosecutors and judges alongside MONUSCO Human Rights, Child Protection or Rule of Law specialists and other partners.<sup>11</sup> Their primary objective is to support national judicial processes by providing logistical, technical and monitoring assistance to ensure fair trials in line with international standards. This support is sometimes completed by more 'robust' actions such as joint operations with the government of the DRC to arrest key perpetrators of violations or support for the arrest of some elements of armed groups abroad.

### **Extension of State Authority: Rule of Law and the Promotion of Durable Solutions**

Establishing a protective environment requires a wide range of complementary activities. These vary from support for political processes and governance, security sector reform and the extension of State authority to areas formerly under the control of armed groups. They include the rehabilitation of roads, State infrastructure and human capacity. In addition the return, reintegration and recovery assistance to refugees and internally displaced persons, support for solutions to land or tribal conflicts, and combating sexual and gender-based violence are reflected in the Mission's programmes and activities, in coordination with the government of the DRC.<sup>12</sup>

### **BY DISTRIBUTING MOBILE TELEPHONES TO FOCAL POINTS IN VILLAGES SURROUNDING THE UN BASE, THIS PILOT PROJECT AIMS TO COVER MOST PRIORITY AREAS BENEFITTING FROM MOBILE NETWORK COVERAGE**

### **Protection through Political Process**

Support of the political process, including implementation of the 2009 peace agreement, the conduct of elections and smooth integration of armed groups within the national security forces are some of the key political activities MONUSCO conducts in favour of the establishment of a protective environment. Provision of good offices and political mediation, including with regional actors is a less visible but essential contribution to the protection of civilians. These lie in the more discrete expertise of key mission leaders rather than wide processes or mechanisms.

### **Protection of Civilians: The 'Impossible Mandate'?**

Restrictive mandates, limited capacity and resources exist with regard to the protection of civilians. Together with the inherent difficulties associated with intervening in complex emergencies and the high expectations placed on peacekeeping missions, they have sometimes resulted in a sense that the protection of civilians mandates in peacekeeping contexts are impossible to implement. Failure

to protect civilians where a UN peacekeeping mission is deployed threatens to discredit the very practice of peacekeeping and the UN in general.

Public information efforts to manage expectations are essential. For instance, MONUSCO holds weekly meetings with the international and national media. It regularly reaches out to communities, civil society organisations, humanitarians, the government of the DRC and the international community. Through supporting the transmission of Okapi Radio it also seeks to clarify its mandate and share information on its activities.

Learning from the failures of the early 1990s, the international community has enhanced attention in favour of the protection of civilians.<sup>13</sup> This includes requesting that the UN develop conceptual and operational guidance on the protection of civilians.<sup>14</sup> The UN is also in the process of establishing a dedicated protection of civilians cell in the Policy and Best Practices Service of the DPKO and the Department of Field Support (DFS). In addition, the UN Headquarters Office for Legal Affairs has also provided recent guidance on the interpretation of what represents 'imminent threat of physical violence' - the regular protection of civilians mandate language. Building on over ten years of experience across various contexts, these UN-wide efforts to align the theory of the protection of civilians in peacekeeping operations and its practice provides MONUSCO with ideas and further options. These will enable it to adjust its protection of civilians strategy, mechanisms and tools on the ground in order to continue implementing its mandate and to effectively contribute to the protection of civilians in the DRC. ▽

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**The views expressed in this article are those of the author and do not necessarily reflect the views of the United Nations.**

#### Endnotes

- 1 UN Security Council Resolution 1991, paragraph 2, 28 June 2011.
- 2 UN Security Council Resolution 1991, paragraph 1, 28 June 2011.
- 3 Strengthening Protection in War: A Search for Professional Standards, Geneva, International Committee of the Red Cross, 2001.
- 4 Adapting the Protection Egg Model to reflect the specificities of UN Peacekeeping Operations, the UN DPKO and the DFS have since then adopted a three tiered approach for the protection of civilians: (1) protection through political process, (2) provision of protection from physical violence and (3) establishing a protective environment.
- 5 These include support to the political process, conflict management, protection from physical violence, creating conditions for the delivery of humanitarian assistance,

promotion and protection of human rights, rule of law, security sector reform, demobilisation, repatriation, return, reintegration and recovery, mine action and support to the extension of State authority.

- 6 In spite of calls by the UN Security Council through its Resolutions, the government of the DRC has not yet developed a comprehensive strategy for the Security Sector Reform and the government of the DRC froze all DDR activities in favour of Congolese armed groups in 2011.
- 7 UN Security Council Resolution 1925, paragraph 6, 28 May 2010.
- 8 UN Security Council Resolution 1925, paragraph 2, 28 May 2010.
- 9 Company Operating Bases (COBs) of about 100 troops for a long term period, to Temporary Operating Bases (TOBs), Mobile Operating Bases (MOBs) or Standing Combat Detachments (SCDs) of less than 30 troops and deployed for a few days or weeks.
- 10 A major donor has for example recently funded a telephone company to set up short range mobile masts in four Lord's Resistance Army (LRA) affected areas, in coordination with MONUSCO to establish telephone CANs.
- 11 Including the UN Development Programme, the American Bar Association, Avocats Sans Frontieres and the Open Society Institute.
- 12 For example under the umbrella of the government of the DRC Stabilization and Reconstruction Strategy (STAREC).
- 13 For example, through the adoption during the UN Millennium Summit of 2000 of the 'Responsibility to Protect', a political concept enabling the possibility to intervene without the consent of the host government.
- 14 Based on studies such as Protecting Civilians in the Context of UN Peacekeeping Operations, Successes, Setbacks and Remaining Challenges, OCHA / DPKO study, 2009, the General Assembly's C34 Special Committee on Peacekeeping Operations has requested DPKO and DFS to develop the 'Operational Concept on the Protection of Civilians in United Nations Peacekeeping Operations', as well as the 'Framework for Drafting Mission-wide Protection of Civilians Strategies in UN Peacekeeping Operations' and the 'Resource and Capability Requirements for Implementation of Protection of Civilian Mandates in UN Peacekeeping Operations'.



# THE DUTY OF AN INTERVENTION FORCE TO PROTECT CIVILIANS: A CRITICAL ANALYSIS OF NATO'S INTERVENTION IN LIBYA

BY JOHN-MARK IYI



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## Introduction

There are many unresolved legal issues surrounding the role of the North Atlantic Treaty Organisation (NATO) in the Libyan conflict: the legality of the intervention, the implementation of the United Nations Security Council (UNSC) Resolutions 1970 and 1973, the role of NATO as the self-appointed military organ of the United Nations (UN), and the question of accountability of subcontracted enforcement organisations as alternatives to a standing UN army. These issues will agitate the minds of legal scholars for years to come. This article briefly analyses the legal duty of an intervention force like NATO to protect civilians and examines to what extent if at all NATO discharged this obligation during the Libyan conflict.<sup>1</sup>

Protecting civilians during armed conflict is always a complex challenge for many reasons. These include that civilians are always scattered across different locations in conflict zones and difficult operational terrain that hinders movement and increases costs. In such conflicts this is also largely due to the collapse of the state's social and political institutional structures, leaving civilians at the mercy of belligerents (both regular armies and armed militias) necessitating other means of civilian protection.<sup>2</sup>

**Above: A Libyan woman holds a placard that reads "NATO we ask for protection for civilians" during a demonstration in Benghazi (April 2011).**



Libya from the stronghold of Benghazi. Predictably, Gaddafi's response was swift and decisive. Government troops were on the verge of recapturing rebel towns with imminent threats to civilians when Operation Unified Protector was launched by NATO on 19 March 2011.<sup>4</sup> It is debatable whether the intervention brought the war to an earlier end or prolonged it, and whether it actually protected civilians. However, it is agreed that the intervention raised numerous legal issues.

There are now questions about whether the threshold for intervention was reached before the intervention or whether the crackdown by Gaddafi was exaggerated and manipulated to justify resolution 1973.<sup>5</sup> The exact civilian casualties from the NATO attacks will never be known. Some analysts put it at over 3 500 military deaths and 200 civilian deaths all resulting from NATO air strikes, although NATO has not confirmed these figures.<sup>6</sup> At the peak of the conflict officials in both South Africa and the United States (US) called for a probe of NATO's intervention. According to US Congressman Dennis Kucinich, in Libya 'NATO recklessly bombed civilians in the name of saving civilians'.<sup>7</sup> Kgalema Motlanthe, South Africa's Vice President, also called on the International Criminal Court (ICC) to investigate allegations of human rights violations in Libya by NATO. Evidence is now emerging about NATO's possible violations of International Humanitarian Law (IHL) and the failure to protect civilians during its bombing operations in Libya.<sup>8</sup>

### The Legal Framework for the Protection of Civilians in Armed Conflicts

Throughout history, the protection of civilians has been at the crux of humanitarian military interventions whether it was for the protection of ethnic minorities or religious minorities. This traditional conception was advanced through the International Committee of the Red Cross and developments in customary international law in human rights and IHL generally.<sup>9</sup> However, the existence of these legal rules has not prevented atrocities being committed against civilians caught in the throes of war. One of the lessons learnt from the humanitarian catastrophes that characterised Africa in the 1990s was the inadequacy of traditional conceptions of humanitarian intervention in the protection of civilians.<sup>10</sup> As observed by the UN,

'In the past, civilian populations were chiefly victims of fighting between hostile armies. Today, they are often the main targets, with women suffering in disproportionate

Whereas such needs are obvious in armed conflicts, it is much more difficult determining how to incorporate them into constructive solutions. Governments and policy makers often spend time vacillating between different options and trying to determine, given the circumstances and the realities on the ground, whether the appropriate response should be peacekeeping operations (PKOs). If so, should there be ground troops and what should be the scope of the mandates? However, where the degree of conflict and violence against civilians is already widespread, the need for more coercive measures and enforcement action requiring 'compellence' to get the warring factions and perpetrators to comply with the rules of war and ensure civilian protection becomes more urgent and imperative.<sup>3</sup>

### A Brief Account of the Libyan Crisis

When the Arab Revolution spread to Libya from neighbouring Tunisia and Egypt on 16 February 2011, few expected it to take the dimensions it did given the history of Libya as one of the more stable countries in the region with little or no internal dissent. What began as mere demands for social justice quickly spread to several parts of eastern



**People stand around the coffins of 28 people, who Libyan government officials say were killed after their houses were bombed by NATO forces, in Majar (August 2011).**

numbers while often also being subjected to atrocities that include organized rape and sexual exploitation.<sup>11</sup>

This failure to protect civilians in armed conflicts was attributed to the failure of belligerents to respect the rules of IHL. Coupled with this was the lack of an efficacious enforcement system which has resulted in 'a situation in which civilians suffer disproportionately, and which the international community appears powerless to prevent.'<sup>12</sup>

One way the UNSC has responded to the challenges of the protection of civilians has been to categorise attacks on civilians as a 'threat to international peace and security' and therefore open the way for enforcement action for the protection of civilians under Chapter VII of the UN Charter.<sup>13</sup> The UNSC has since included the protection of civilians in its menu of authorisation of PKOs mandates.<sup>14</sup> Further, the protection of civilians is the core doctrine of the Responsibility to Protect norm and seeks to give a broad range of instruments to States and the international community and agencies for the enforcement of the protection of civilians.<sup>15</sup> The UNSC authorised PKOs to use all necessary means for the protection of civilians in the past, but Libya marks the first time the UNSC authorised the use of force to protect civilians without the consent of the sitting head of state.<sup>16</sup> This far-reaching development has been attributed by many to the

influence of the Responsibility to Protect norm which framed the debate at the UNSC and in the international community during the crisis.

The most significant international instrument regulating the protection of civilians in armed conflicts are the Four Geneva Conventions of 12 August 1949. Of particular importance are the IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War and the two 1977 Protocols Additional to the Geneva Conventions of 12 August 1949, especially Additional Protocol I. These rules form part of customary international law and bind all parties to an armed conflict regardless of whether it is international armed conflict or non-international armed conflict. Also relevant here is the ICC Rome Statute of 1998. Notwithstanding the debates about the legality of the NATO intervention, the operation was still subject to the rules of IHL and international human rights law principles, particularly those relating to the protection of civilians.

#### **NATO's Failure to Protect Civilians in Libya**

The choice of how best to protect civilians in armed conflicts often presents a dilemma because the methods to be adopted have to be balanced by the concerns of troop-contributing states about casualties. While it should ordinarily be easy for an intervention force to demand that perpetrators





**Residents bury two children and their mother who were killed when their house was bombed by NATO forces, in the town of Zlitan (August 2011).**

desist from attacking civilians or subjecting them to other atrocities, there are no guarantees that this would be heeded if not backed by a credible and superior force.<sup>17</sup> This often presents a situation where the objective of civilian protection conflates with the defeat of a belligerent group. This initiates involving a political decision-making process which can serve to eliminate the principle of neutrality that is a core component of peacekeeping missions.<sup>18</sup> The significance of this point lies in how it determines the modus operandi and outcomes of such missions. This played out in Libya where the agenda of regime change was set as a requirement for the protection of civilians. Therefore a ‘no-fly-zone’ and aerial bombardment that targeted the destruction of government troops and military capability was NATO’s key military objective. It resulted in indiscriminate attacks and civilian deaths. This went against ground troop deployment which is recognised as the most effective method of civilian protection in armed conflicts.<sup>19</sup>

During the Libyan operations there were concerns about how NATO would execute its mandate to protect civilians for several reasons. NATO decided it would not deploy ground troops in implementing UNSC Resolution 1973. The implication of this decision was that the means and methods chosen by NATO (aerial bombardment) compromised its

mandate of civilian protection from the very beginning. NATO’s rationale for not deploying ground troops in Libya was borne out of concern for the safety of NATO troops. It had very little to do with the best means and methods of protecting the Libyan people. The means of warfare adopted by NATO in Libya was similar to that employed in its intervention in Kosovo in 1999. In both Libya and Kosovo NATO suffered no casualties because it was ‘protecting’ civilians by dropping bombs from high altitudes and did not deploy ground troops. The result was that NATO was responsible for bombing civilian targets and killing scores of civilians in Libya. According to a recent report by Amnesty International:

‘[d]ozens of civilians have been killed in NATO airstrikes on private homes in residential and rural areas where Amnesty International, UN experts, other international NGOs and journalists found no evidence of military objectives at the strike locations at the time of the strikes. In one incident, in Majer (near Zlitan, west of Misratah), NATO claimed that the site was deliberately struck as a legitimate target, but failed to provide evidence that the site was being used for any military purpose at the time it was targeted, in an attack that cost the lives of 34 civilians, including eight children and eight women.’<sup>20</sup>

There were instances of unlawful attacks by NATO that apparently had nothing to do with military targets. For example, Human Rights Watch reports of visits to sites where about 50 civilians were killed in unlawful NATO attacks.<sup>21</sup> Under Article 48 and Article 51(2) of Additional Protocol I, NATO is under an obligation to distinguish between civilians and combatants and between civilian objects and military objects. Under this rule, NATO is only permitted to attack military objects.

It appears that NATO did not take sufficient precautions to protect civilians when it planned its attacks. There are other instances of indiscriminate attacks launched by NATO during the operations which have now been investigated and confirmed by several independent bodies. For example, it is reported that investigators found several sites with incriminating evidence. These included munitions, survivors, witnesses and the identification of civilians killed by NATO in its attacks in different parts of Libya (Tripoli, Sirte, and Brega). There was also evidence of 14 women and 16 children killed in NATO airstrikes.<sup>22</sup> On 15 September 2011, NATO bombed two vehicles conveying Gaddafi forces in Sirte and killed another 40 civilians who had rushed to the scene after the first NATO strike hit the front vehicle.<sup>23</sup> These reports confirm the claims that scores of Libyan civilians who were not participants in the hostilities were killed by NATO. Even though the exact figures of casualties will never be known, the circumstances

of the killings of most of these civilians suggest that they were victims of indiscriminate NATO attacks in violation of Article 51(4) of Additional Protocol I which prohibits such indiscriminate attacks.

NATO was also in violation of the principle of precaution, which under Article 57(1) of Additional Protocol I, requires NATO to take 'constant care' to avoid killing civilians and the civilian population. In the same manner, NATO violated Article 57(2) (a) (iii) of Additional Protocol I, under which NATO has an obligation to 'refrain from deciding to launch any attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.' The bizarre and indiscriminate nature of some of the NATO attacks is evident in the attack on Gaddafi's private residence which killed Gaddafi's son and three grandsons.<sup>24</sup> While it remains unclear as to whether or not Gaddafi's house was actually being used as a strategic coordinating centre as alleged by NATO, the people who were killed there were evidently civilians who were not engaged in any direct hostility and were residing there as private civilians. Therefore, this seems a clear violation of Article 51(3) of Additional Protocol I, by NATO.

Even if Gaddafi used his private residence as a coordinating centre for government troops (which seems unlikely), it was still illegal for NATO to have bombed the



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**A food storage warehouse in Zlitan was bombed by NATO forces (July 2011).**



**NATO is criticised for prioritising the objectives of Libyan regime change and getting rid of Gaddafi, and not the protection of civilians.**

residence in view of the provisions in Article 51(5) (b) of Additional Protocol I. This is because the incidental damage and loss of lives that could result (and which indeed resulted in this case) was excessive when balanced against whatever military objective NATO sought to achieve under the proportionality principle. Thus NATO was in violation of this fundamental IHL principle.

Moreover, it was unlikely that Gaddafi, who was obviously running and hiding in various places at the time, could have had any meaningful military role in the immediate conflict let alone could have coordinated it from his residence. Assuming that NATO was not sure that Gaddafi was using his private residence housing his family as a command centre for government operations in the conflict, Article 52(3) of Additional Protocol I provides that ‘in case of doubt whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling or a school, is being used to make an effective contribution to military action, it shall be presumed not to be so used.’ Article 57(2) (b) of Additional Protocol I, obliges NATO to have ‘cancelled or suspended’ the attack on Gaddafi’s residence when it was clear that the residence was not a military objective.

Without doubt, the rules of IHL regulates NATO’s intervention in Libya. In the particular circumstance of

protecting civilians, NATO was under an obligation to observe these rules. Violations could constitute war crimes under Article 8(2)(b)(i)(ii)(iv) of the ICC Rome Statute. A particularly significant violation of IHL by NATO in its intervention in Libya was its failure to rescue the people who were shipwrecked. In late March 2011, a boat carrying Libyan and other refugees fleeing the conflict was in distress in the Mediterranean Sea. A nearby NATO ship was contacted for rescue but it ignored the distress call. Instead, a military helicopter dropped food for the migrants and promised to come back but it never did. The refugee boat was left to drift at sea for 16 days as a result of which 63 people, including women and children, died.<sup>25</sup> Under Article 8 of the Additional Protocol II, NATO was under an obligation to protect these shipwrecked refugees and give them adequate care. Article 8(b) of Additional Protocol I, provides that,

“shipwrecked”, mean persons, whether military or civilian, who are in peril at sea or other waters as a result of misfortune affecting them or the vessel or aircraft carrying them and who refrain from any act of hostility. These persons, provided that they continue to refrain from any act of hostility, shall continue to be considered as shipwrecked during their rescue until they acquire another status under the Conventions of this Protocol.<sup>26</sup>



Why did the NATO ship fail to rescue the victims or call for back up to assist them? Investigations launched by the Council of Europe have found NATO officials culpable of errors, observing that:

'NATO failed to react to the distress calls, even though there were military vessels under its control in the boat's vicinity when the distress call was sent, including the *Mendez Núñez* which was estimated to have been 11 miles away although this distance is disputed by Spain.'<sup>27</sup>

A system that permits bombing from such high altitude cannot lay claim to civilian protection as its priority or its claims are at best questionable. Similar views were echoed by Dennis Kucinich on 24 August 2011. He accused NATO of 'illegally' pursuing regime change and 'recklessly' bombing civilians, arguing that 'a negotiated settlement was deliberately avoided for months while NATO, in violation of UNSC Resolution 1970 and 1973, illegally pursued regime change.'<sup>28</sup> There is no doubt that deploying ground troops remains the best approach when the protection of civilians is the objective of any mission. However, NATO's practise has been to avoid its own casualties at the expense of the very civilians it intended to protect by adopting methods that guaranteed a high degree of safety for troops but which left civilians vulnerable to NATO's bombings. This has become NATO's doctrine in its 'zero casualties' policy of modern warfare. Reacting to this development, Dennis Kucinich remarked:

'If members of the Gaddafi regime are to be held accountable, then NATO's top commanders must also be

held accountable through the International Criminal Court for all civilian deaths resulting from bombing. Otherwise, we will have witnessed the triumph of a new international gangsterism.'<sup>29</sup>

#### **Implications for Future Protection of Civilians in Africa**

It is still too early to assess the full impact of the Libyan intervention in and for Africa. However, as events in Syria show, future UNSC resolutions authorising interventions in Africa will find it more difficult to attract support from African States. In the Libyan case three UNSC African States – Gabon, Nigeria and South Africa - voted for the use of force to protect civilians in Libya. It also reinforces the suspicion of African States that humanitarian intervention and the Responsibility to Protect norm will be abused and used as a pretext for regime change in weak African States. This in turn means that civilians who may face genocide, war crimes and crimes against humanity in Africa in the future may not be able to get protection through UNSC-backed interventions. Furthermore, cases such as Libya could further alienate African States from the UN system where they already complain about marginalisation in decision-making processes especially in matters that concern Africa. This could further strengthen their resolve not to support or cooperate with the UN and institutions like the ICC, as they have already decided in relation to the Al Bashir indictment and arrest warrant issued by the ICC.<sup>30</sup> Thus in any process unfolding in Africa where African States are not given a central role through the AU, this will pose a serious challenge for AU-UN relationships particularly in the area of the protection of civilians.



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**People protest the NATO air strikes in Libya that killed hundreds of civilians (August 2011).**

The NATO intervention and the resulting civilian deaths coupled with little or no media attention being paid to these violations of IHL will haunt both the UN and whatever future missions it wants to authorise, particularly in Africa. NATO's violations of IHL in Libya will negatively affect the credibility of future UN-authorized missions and further undermine the legitimacy of the UNSC and its dubious authorisation practices from the perspective of local communities.

## Conclusion

The NATO intervention to enforce UNSC Resolution 1973 to 'protect civilians' and 'civilian populated areas' suffered a dangerous mutation when the leaders of NATO countries substituted the mandate of the protection of civilians authorised by Resolution 1973 for regime change. In a desperate bid to get rid of Gaddafi, NATO became obsessed with regime change. Such a fundamental change in military objectives was bound to affect the choice of means and methods deployed by NATO as an intervention force in Libya. The consequence of this was that the protection of civilians in Libya became a secondary objective. Libyan civilians became dispensable in the pursuit of regime change, and NATO chose aerial bombardment that resulted in scores of civilian deaths.

There is the need to hold intervention forces accountable for violations of IHL. The current situation that exists is that the international enforcement mechanism is weak and inadequate. The UN as an intervening organisation should work in partnership with contributing states to hold violators of IHL accountable. Instances of intervening forces becoming perpetrators of war crimes and crimes against humanity, against the very civilians they were sent to protect, is growing. This calls for a reappraisal of the operational framework of peacekeeping operations and how best to hold peacekeeping forces accountable for violations of IHL committed during service on peacekeeping and enforcement missions. Holding NATO officials accountable for violations of IHL in Libya will be the first genuine and serious demonstration by the UN of putting the protection of civilians at the forefront. **A**

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# THE EXPLOITATION OF CIVILIANS BY PEACEKEEPING SOLDIERS IN AFRICA: THE MOTIVATION OF PERPETRATORS AND THE VULNERABILITY OF VICTIMS

BY ODOMOVO S. AFENO



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## Introduction

The protection of civilians has emerged as a fundamental justification for military and humanitarian intervention during conflicts. It has become a subject of sustained debate among States, international organisations and other stakeholders in peacekeeping operations. The global debate about the right of humanitarian intervention has crystallised into the doctrine of ‘the responsibility to protect’.

As a result, the protection of civilians has come to be seen as the essence of peacekeeping operations. This is because

**Above: The peacekeeping presence often creates the expectation amongst the local population that they will be protected from violence. However, the rights of the civilian population are often violated by those presumed to be responsible for their protection.**





**Ideally, peacekeeping soldiers are required to protect the host civilians. The consequent insecurity among the civilian population during peacekeeping operations has raised concerns about the vulnerability of victims.**

mission mandates demand it and the legitimacy or otherwise of such missions depends on it. However, in spite of the military and humanitarian justifications for peacekeeping, changes in the nature and scope of peacekeeping operations in the last two decades have resulted in a number of unpleasant consequences for the civilian population of the host society. There are reports of the peacekeeping soldiers of the United Nations (UN), the African Union (AU) and the Economic Community of West African States (ECOWAS) exploiting the civilian population they are meant to protect while on peacekeeping duties in Africa.

The effective protection of civilians has become a critical issue in peacekeeping operations in Africa where civilians are the main victims in most of the violent conflicts devastating the continent. Ideally, peacekeeping soldiers are required to protect the host civilians. Their presence often creates the expectation amongst the local population that they will be protected from violence. However, the rights of the civilian population are often violated by those presumed to be responsible for their protection. The consequent insecurity among the civilian population during peacekeeping operations has raised concerns about the vulnerability of victims and the motivation of the perpetrators. Therefore the main objective of this article is to examine the problem

of civilian exploitation during peacekeeping operations in Africa, with particular emphasis on the motivations of the perpetrators among peacekeeping soldiers and the vulnerability of women and children as victims.

### **Conceptual Overview**

Peacekeeping generally entails the task of containing hostility in order to create conditions for peace and to supervise the implementation of negotiated settlements. Traditional peacekeeping was mainly concerned with 'the use of military forces to maintain a negotiated truce and facilitate a diplomatic/political resolution to a specific conflict'.<sup>1</sup> It also rests on the assumption that the operation is a neutral third-party intervention offered to monitor a ceasefire and the implementation of a peace process. Peacekeeping involves the deployment of military and civilian personnel to help countries emerging from violent conflicts or wars to create conditions for sustainable peace. However, the peacekeeping concept has been transformed and extended to include a variety of third-party interventions. These new activities range from preventive diplomacy to humanitarian assistance and the military enforcement of peace agreements.<sup>2</sup> In other words, the focus of international peace and conflict management has shifted from peacekeeping, which was

intended to maintain the status quo, to peace operations which are intended to manage changes brought about by violent conflicts and provide protection for the civilian population.<sup>3</sup>

The emerging consensus among peacekeeping stakeholders on the obligation to protect civilians during peacekeeping operations notwithstanding, there are differing humanitarian and military perceptions of civilian protection. The military and humanitarian agencies do not share the same understanding of what civilian protection entails. While the human rights and humanitarian communities see their protection role as encompassing ‘all activities aimed at ensuring full respect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of law, that is, human rights law, international humanitarian law and refugee law’<sup>4</sup>, the military sees their protection role primarily in terms of territorial defence. As a result, the human rights and humanitarian communities have developed various concepts and guidelines for civilian protection that are not easily supported by military actors deployed in peace operations. Soldiers and civilians deployed in peacekeeping missions are therefore often confused as to the exact nature of their roles in civilian protection.

### **Military Culture and the Exploitation of Civilians by Peacekeeping Soldiers**

The history of war and militarism is replete with masculinity and male ‘warrior’ narratives. During World War II, the United States and Britain promoted the idea that men’s participation in combat harnesses the male sex drive in ways that could be disrupted by the presence of women combatants. They argued that a ‘system of regulated brothels will contain male sexual aggressiveness in the military’.<sup>5</sup> The masculine culture of the military is believed to have resulted in tolerance for extreme sexual behaviour. There is a conventional understanding among military observers that ‘soldiering’ involves a great deal of ‘War, Wine and Women’.<sup>6</sup> High sexual consumption is sometimes an associated feature of militarised manliness. Peacekeeping soldiers attract sex workers because of the acknowledged relationship between

**SOLDIERS AND CIVILIANS DEPLOYED IN PEACEKEEPING MISSIONS ARE OFTEN CONFUSED AS TO THE EXACT NATURE OF THEIR ROLES IN CIVILIAN PROTECTION**



REUTERS / THE BIGGER PICTURE

**A photograph released by Save the Children in 2008, shows 12 year old “Elizabeth”, who was raped by 10 peacekeepers in Côte d’Ivoire in June 2007.**





**Women and children are the most affected in African conflicts and are more vulnerable during peacekeeping operations. There is a need for a more holistic and comprehensive conception of civilian protection where physical safety is not separated from issues of livelihood and human rights.**

themselves and women. It is often considered acceptable among peacekeeping soldiers to patronise commercial sex workers. This is an unfortunate 'outcome of a militarised masculinity where military culture, insensitive to gender equality and rights or deprecatory to women in general, allows men to violate women in ways that would never be accepted in mainstream society'.<sup>7</sup>

The traditional nature of peacekeeping has changed with intensified interaction between peacekeeping soldiers and the host civilian population. As a result, some peacekeeping soldiers take advantage of the power their work confers on them. They become predators rather than protectors in

**THIS PHYSICAL AND MONETARY POWER DIFFERENTIAL BETWEEN PEACEKEEPING SOLDIERS AND THE HOST COMMUNITY IS A MAJOR CONTRIBUTING FACTOR IN THE VULNERABILITY OF CIVILIANS TO SEXUAL EXPLOITATION AND ABUSE DURING PEACEKEEPING OPERATIONS IN AFRICA**

situations where the host civilian population is powerless and in great need of protection. The dynamic nature and active process of human interaction tends to reinforce the perpetrators' motivation and the vulnerability of the civilian population to exploitation. Consequently, trading food for sexual favours and taking 'temporary' girl-friends and wives has become a common practice among peacekeeping soldiers during peace operations. The involvement of peacekeeping soldiers in forced or transactional sex, however compliant the local women may appear, amounts to exploitation. It is a violation of their duty to protect the host civilian population.

Peacekeeping forces are usually deployed in situations of great insecurity and instability. While they are mandated with the prevention of violence against civilians during conflicts<sup>8</sup>, they are sometimes found to be involved in committing similar or related crimes against those under their protection. Many peacekeeping soldiers fail to understand the nature of their operations. They accept their interaction with the civilian population of the host community as 'usual'. However, the environment and conditions of peacekeeping operations are far from normal. Their failure to understand the troubles of the local population they are tasked to protect has been one of the causes of undisciplined behaviour such as civilian torture, sexual violence, summary killings, economic exploitation and failure to respect the norms of the host community.



In view of their unruly conduct these peacekeeping soldiers are increasingly exposing African civilians in conflict situations to more harm than protection. Often these behaviours result in the so-called 'peace babies' where women became pregnant and are abandoned when the fathers of their babies leave at the expiration of the peacekeeping operation. In some cases this creates paternity disputes in the host community. Women have to deal with the problem of caring for these children and the experience of social stigma caused by the conflicting status of such children. In situations like this, vulnerable sections of the civilian population such as women, young girls and children are left more insecure and troubled than when the peacekeeping soldiers first met them. It is an irony that the same persons mandated to protect the civilian population are often the very people who undermine the rights and security of civilians.

### **The Vulnerability of Civilians to Exploitation by Peacekeeping Soldiers in Africa**

Although underreported, there are both official and unofficial reports of exploitative and offensive acts against civilians during most peacekeeping operations in Africa. These reveal that during the protracted armed conflict in Liberia, between 60% and 70% of women in the mission areas experienced physical or sexual abuse by peacekeeping soldiers of the ECOWAS Ceasefire Monitoring and Observer Group (ECOMOG) and the UN Observer Mission in Liberia (UNOMIL).<sup>9</sup> In addition, between 2004 and 2006 many allegations of sexual exploitation involving UN personnel were reported in the Democratic Republic of the Congo (DRC).<sup>10</sup> Similarly, UN peacekeepers in Somalia, Mozambique, Côte d'Ivoire and Sierra Leone have been accused of raping civilian women and promoting illegal sex business in these countries.<sup>11</sup>

For the most part, the environment of peacekeeping is characterised by the breakdown of law, order, socio-economic infrastructure and cultural norms. It is therefore also a fertile ground for civilian exploitation by peacekeeping soldiers. The absence or dysfunction of these systems in conflict and post-conflict periods offer little or no protection to civilians against exploitation by peacekeeping soldiers.<sup>12</sup> Violent conflict scatters families, creates social displacements, economic depression, lack of basic services and physical insecurity among the civilian population. This situation heightens the survival needs of the civilian population and increases their vulnerability to all sorts of abuses. In this kind of situation, establishing sexual relationships with peacekeeping soldiers in exchange for food, money and shelter, as well as protection for oneself, relatives and friends may be seen as a means of survival in the host community.

Moreover, women and children are the most affected in African conflicts and are more vulnerable during peacekeeping operations. Conflict and post-conflict conditions force most children to live outside their homes in temporary shelters or on the streets. Similarly, camps for refugees and internally displaced persons which also contain large numbers



**Sexual abuse of women and children by peacekeepers has damaged the credibility of peacekeeping institutions and served to intensify local resentment towards peacekeepers.**

of orphaned children are often targeted by perpetrators for forced and transactional sex. In addition, peacekeeping soldiers earn considerably more money than the local civilian population. With higher disposable incomes than most of the local civilian population, a socio-economic imbalance is created that gives peacekeeping soldiers the opportunity to afford whatever they want in the host community. This physical and monetary power differential between peacekeeping soldiers and the host community is a major contributing factor in the vulnerability of civilians to sexual exploitation and abuse during peacekeeping operations in Africa.

### **Towards Effective Civilian Protection During Peacekeeping Operations in Africa**

The legal basis for civilian protection is a global effort to strengthen international humanitarian and human rights laws. This will include the need to move from advocacy to action and accountability in an effort to ensure effective civilian protection. Sexual violence against women and children should be seen as a war crime and a crime against humanity.



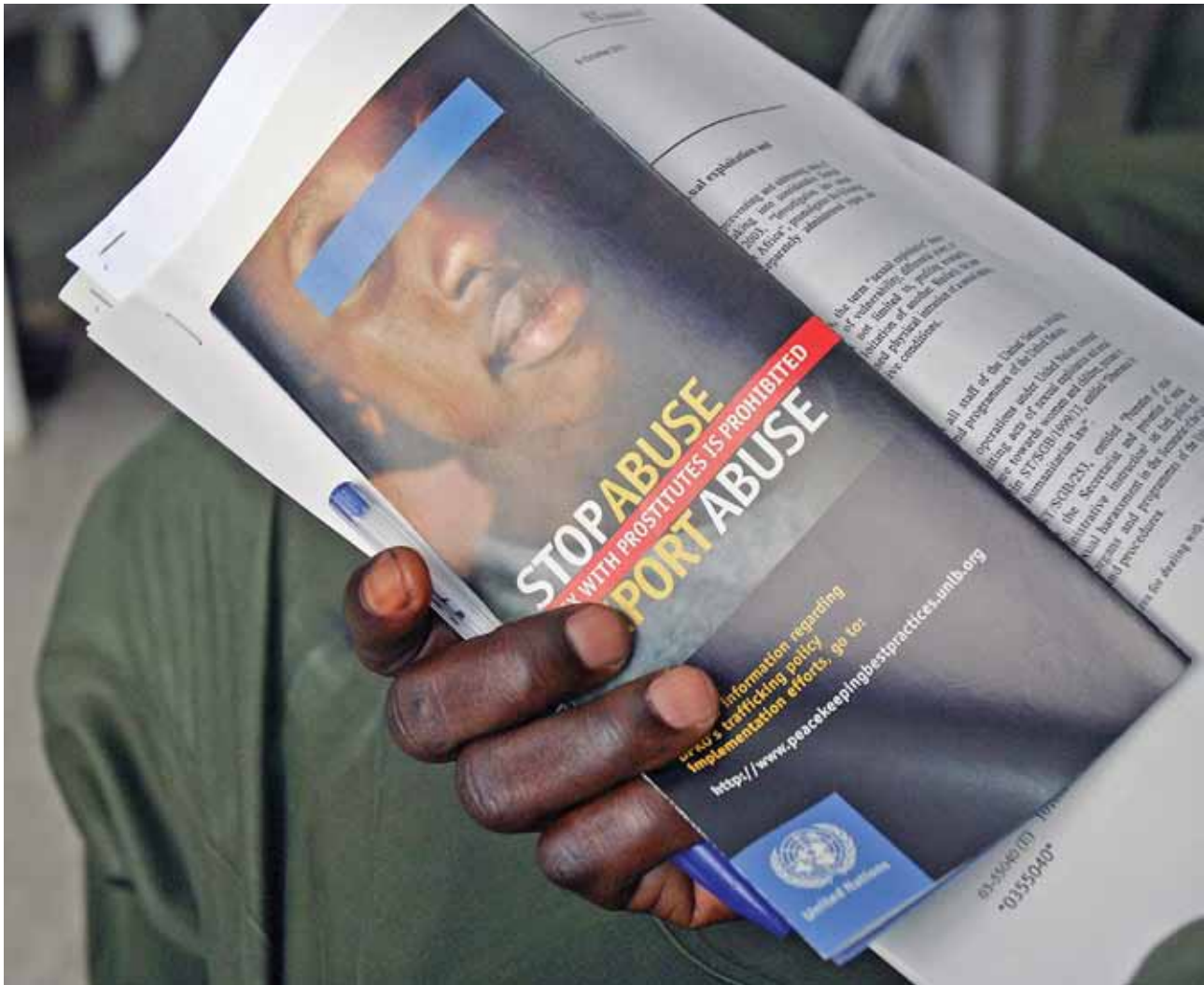
**Margot Wallström (second from right), the UN Special Representative on sexual violence, listens to villagers in Kitchanga, in the eastern DRC, following the mass rape of more than 300 women and children in which UN peacekeepers stationed nearby were accused of failing to protect civilians (October 2010).**

It is therefore necessary to create a normative and operational standard of civilian protection in peacekeeping operations. Organisations involved in peacekeeping have to invest time and resources to ensure that heads of missions and senior officials are held accountable for the protection of civilians in their areas of operations. Senior officers and commanders of peacekeeping forces should be held responsible for creating an environment where misconduct is reduced. In addition, they should be held legally liable for the misdemeanours of their soldiers.

Troops from contributing countries should ensure that their contingents are trained and obligated to respect the laws of the host society and their peacekeeping soldiers prosecuted for human rights and other criminal offences. By exploiting and abusing women, girls and children who have already been victimised by the conflict, peacekeeping soldiers abuse not only their position of power but the integrity of the

troops from the contributing country and the professionalism of the entire mission. But because sexual scandals and other forms of civilian exploitation during peacekeeping missions could tarnish a country's reputation, it is often trivialised and dealt with secretly. To improve enforcement, there is a need to introduce on-site court-martialing of perpetrators. Troop-contributing countries should be held responsible for the actions of their contingents.

Essentially, civilian protection is a broad concept that is not limited only to physical protection. It involves various security needs, including a secure environment. As political cum military actors, peacekeeping soldiers tend to see their role narrowly in terms of providing physical protection. In contrast, humanitarian actors view their protection role more broadly in relation to human rights, relief and remedial efforts. Thus there is a need for a more holistic and comprehensive conception of civilian protection where physical safety is



**Staff members of the United Nations Operation in Côte d'Ivoire (UNOCI) participate in the Sexual Exploitation and Abuse (SEA) awareness training in Bondoukou, Côte d'Ivoire (March 2005).**

not separated from issues of livelihood and human rights. These include the intrinsic human needs for friendship, compassion, belongingness, dignity and justice that go beyond basic survival. These tasks require a thorough analysis of the conflict situation and a comprehensive approach that involves all actors and stakeholders.

Typically, military contingents serve under conditions of severe hardship. With the specific conditions of peacekeeping operations in mind, case-specific pre-deployment training and continuous education on how to act responsibly and according to missions' operational code of conduct should be provided to peacekeeping soldiers. This should be complemented with the provision of recreational facilities in the mission areas, with regular periods of leisure, access to welfare officers and staff counsellors. This is in order to reduce the likelihood of sexual abuse and exploitation. In addition, the involvement of more women in


peacekeeping operations could help to discourage sexual exploitation. The presence of female peacekeeping soldiers might weaken the 'herd instinct' for sexual abuse and exploitation among male peacekeeping soldiers.

Lastly, security, livelihoods and human rights are inseparable components of civilian protection. For this reason the civilian population of the host community, and especially war victims, should be provided with legal aid, counselling, medical and psycho-social support during peacekeeping operations. Thus civilian protection can be enhanced if peacekeeping operations are based on a comprehensive conception of protection and a clearer view of strategies guiding civilian protection activities. This would ensure effective protection for civilians. It would simultaneously uphold the symbolic status of peacekeeping soldiers as defenders of human rights, dignity and security during peacekeeping operations.



## Conclusion

Effective protection of civilians remains a serious challenge for governments and other peacekeeping institutions in Africa. Peacekeeping operations which are intended to protect the host civilian population have become linked to exploitation due to the conduct of some peacekeeping soldiers. Conflict and post-conflict conditions make the host civilian population vulnerable to exploitation and abuse. The absence of economic opportunities for women and girls makes it easy for prostitution and child abuse to flourish during peacekeeping operations. Poverty and exposure to violence compels women to trade sexual favours for material gains and survival. The problem is aggravated by the unequal power relation between peacekeeping soldiers and the host civilian population. A traditional masculine military culture that appears insensitive to gender equality and rights exacerbates the situation. Consequently, the value of peace operations has been questioned and the integrity of troop-contributing countries and institutions has been brought into disrepute.

Ultimately, the exploitation of civilians by peacekeeping soldiers is part of the dynamics of social interaction during peacekeeping operations. Sex involving soldiers during conflicts covers a range of contexts: women's voluntary participation, implicit or explicit trading of sex for protection, and rape. This predatory behaviour has contributed to the further weakening of already strained African sexual values, distortion of the local economy, increase in corruption and criminal activities like human trafficking, the spread of HIV/AIDS, and widespread prostitution and teenage pregnancies. In most cases this has damaged the credibility of peacekeeping institutions and intensified local resentment towards peacekeepers. Thus civilian exploitation and abuse by peacekeeping soldiers is a fundamental problem that requires a multidimensional resolution approach. It must include the collaboration of all stakeholders with the host community in order to ensure effective civilian protection during peacekeeping operations in Africa. 

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