

## RESEARCH ARTICLE

# The Protection of Civilians: An Evolving Paradigm?

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Whilst the protection of civilians (POC) in conflict has been a recurring feature of the humanitarian discourse the same has not been true in military doctrines, where the protection of civilians has long been cast in terms of arms bearers upholding their responsibilities under international humanitarian law (IHL). However, opportunities for and pressures on military actors to develop more specific capacities and approaches in this field have grown: partly as a response to the changing nature, location and scope of conflict, particularly the increasing proportion of internal conflicts fought by irregular armed groups in urban environments. It is also a response to the scale and complexity of protection challenges in the Balkans, Rwanda, Darfur and Libya - each of which has clearly demonstrated that threats to civilians are complex and dynamic and that no single international actor is capable of mitigating them without significant support from other institutions (O'Callaghan and Pantuliano, 2007). Despite the enormous growth in opportunities for interaction between militaries and humanitarians there is only a very limited literature on their interaction over protection issues and evaluations of the emerging doctrines. Consequently this article charts the growth in military policies towards POC in the UN, UK, NATO and a range of other states as well as drawing attention to the challenges that still remain in operationalising responses.

## Introduction

Whilst the protection of civilians (POC) in conflict has been a perpetual and recurring feature of the humanitarian discourse the same has not been true in military doctrines, where the protection of civilians has long been cast in terms of arms bearers upholding their responsibilities under international humanitarian law (IHL). However, opportunities for and pressures on military actors to develop more specific capacities and approaches in this field have grown. This is partly a response to the changing nature,

location and scope of conflict, particularly the increasing proportion of internal conflicts fought by irregular armed groups in urban environments. It is also a response to the scale and complexity of protection challenges in the Balkans, Rwanda, Darfur and Libya - each of which has clearly demonstrated that threats to civilians are complex and dynamic and that no single international actor is capable of mitigating them without significant support from other institutions (O'Callaghan and Pantuliano, 2007). Elsewhere Victoria Metcalfe (2012) argues that despite the resultant growth in opportunities for interaction between militaries and humanitarians in what is increasingly a shared endeavour, there is only a very limited literature on their interaction over protec-

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tion issues and evaluations of the emerging doctrines. Consequently this article charts the growth in military policies towards POC and the challenges that still remain in their operationalisation.

### **What is the Protection of Civilians?**

Traditionally the concept of 'protection' has been relatively straightforward, rooted in IHL's protection of civilians from the consequences of war. As such, the International Committee of the Red Cross (ICRC) has traditionally occupied a key role in its application. Later conceptualisations of 'protection' have broadened to encompass elements of refugee law and international human rights law (IHRL), with the UN High Commissioner for Refugees (UNHCR) adopting a role corresponding to that of the ICRC. As a consequence of the prominent roles played by both the ICRC and UNHCR, the implementation of protection has tended to reflect their mandates and operational approaches, manifesting itself as a 'legally oriented, diplomatic and persuasive engagement with national state and non-state actors' (O'Callaghan and Pantuliano 2007). Both the ICRC and the UN's Inter Agency Standing Committee (IASC) reflect this quasi-legal approach; accepting that 'the concept of protection encompasses all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of law (i.e., IHRL, IHL and refugee law)' (ICRC 1999: 3).

### **The Rise in Civilian Protection Discourse**

The broader humanitarian community became increasingly concerned with the protection of civilians caught in the midst of armed conflict, particularly from the early 1990s with the end of the Cold War. This reflected changing perceptions of the relationship between humanitarian action and warfare, 'prompting humanitarian actors to think more deeply about the extent of their responsibility to provide more than relief

alone' (O'Callaghan and Pantuliano 2007: 1). Conflict in the Balkans, Somalia and Africa more generally resulted both in a greater understanding of the impact of war on civilian populations as well as 'the limitations and sometimes negative consequences of relief assistance'. These situations also led to a 'greater emphasis in international policy spheres on a responsibility to protect' and 'closer linkages between humanitarian action and the wider policy agenda'. This also encouraged a reconsideration of the boundaries of humanitarian action and the role and meaning of protection within this space. Increasingly 'protection' expanded from being the domain of the ICRC and UNHCR and took on a broader meaning which encompassed 'issues of civilian safety.' Its importance also expanded organisationally as new humanitarian actors, particularly Non-Governmental Organisations (NGOs), adopted protection policies as part of their operational programming and the UN cluster system established protection as one of the 11 core areas of humanitarian action (O'Callaghan and Pantuliano 2007: 1). In practical terms this led to protection policies continuing to be pursued not only in terms of national-level dialogues between the traditional protection actors and state/non-state armed actors but also to its operationalisation by a much broader array of NGO actors working within communities and 'drawing on links with other political and military actors in their efforts to increase civilian safety' (O'Callaghan and Pantuliano 2007: 2).

The widening of the definition of civilian 'protection' actors has undoubtedly complicated agreement operational priorities even amongst the humanitarian community. This has been complicated further by the increasing role of military forces in protection strategies. Nevertheless, there are large areas of agreement that must not be overlooked. There is a broad acceptance within both the humanitarian community and military doctrine that the protection of civilians in armed conflict relates both to violations of IHL and

human rights law as well as encompassing a 'broader spectrum of human security and human dignity' (HPG 2011: 2) – and this is reflected in much of the military doctrine analysed later in this article. Despite the differing tactics and priorities, as well as the cultural difficulty of some humanitarians in accepting a military role in protection strategies, both military and humanitarian actors recognise each other as having important contributions to make to a shared goal of reducing threats to civilians. Elsewhere, Metcalfe argues that there exists a broad consensus on the protection of civilians including three elements: 'compliance by all parties to conflict with international humanitarian and human rights law; mitigating or reducing the threats and vulnerabilities of civilian populations; and, in the longer term, building a protective environment, including strengthening the capacities of the host state and local communities' (HPG 2012: 1).

Nevertheless, profound differences in strategies and tactics have complicated relations not least of all because military support to the protection of civilians is not simply rooted in a humanitarian imperative (see Metcalfe, Haysom and Gordon 2012). Within the growing range of military doctrines on this subject protection is recognised both as a quasi-humanitarian obligation and, importantly, as an essentially pragmatic response to sustaining a viable peace and mission legitimacy. Holt et al. (2009: 14), stress the latter, arguing that protection is central to peacekeeping mandates because the 'safety and security of civilians is critical to the legitimacy and credibility of peacekeeping missions. Missions rely upon their legitimacy with the local civilian population and external observers alike to help build peace and maintain political momentum behind the peace process. Moreover, wherever peacekeepers deploy they raise expectations amongst the local population - and among those who view missions from afar - that the reason for their presence is to support people at risk. As seen in Rwanda, the Balkans,

Sierra Leone, Haiti, DRC and Darfur, among others, peacekeeping operations that are ill-prepared to address large-scale violence directed against civilians will falter and may even collapse' (Holt, Taylor and Kelly 2009). Ariela Blatter (2011: 2) echoes these themes, arguing that 'civilian protection is essential because it is critical to the perceived success of peacekeeping operations and therefore the UN's ability to work credibly in the field of peace and security.' Similarly she suggests that POC is a prerequisite for establishing an enduring peace settlement whilst 'preventing attacks on civilians also pre-empts spoilers from creating instability and weakening fragile peace processes in post-war environments'. Furthermore, in its absence 'humanitarian assistance cannot be provided by relief agencies, international and regional organisations, and NGOs when civilians and third party providers are at risk of being attacked. The security of civilians is also a key aspect of providing development assistance in post-conflict situations' (Blatter 2011: 2).

### **The Growth in Military Roles in the Protection of Civilians**

The evolution of protection strategies within the humanitarian community has also been echoed in militaries, particularly those deployed under UN auspices. Since 1999, when the UN Security Council first authorised peacekeeping troops to use force to protect civilians under imminent threat of violence, the Security Council has increasingly mandated peacekeepers this right.<sup>1</sup> The language of 'civilian protection' is now embedded in the majority of peacekeeping mandates<sup>2</sup>, either as an implicit or explicit function, and UN peacekeeping missions have often innovated creatively in establishing viable concepts of operations (O'Callaghan and Pantuliano 2007).

The concept has also become increasingly important within other international organisations with crisis management roles, such as NATO, the African Union (AU) and the European Union. NATO's operations in

both Libya and Afghanistan have raised the significance of POC as a specific objective (i.e., rather than as a component of regime change or a counter insurgency strategy) and states like the United States and United Kingdom have increasingly placed the emphasis on conflict prevention in their national security strategies.

As a consequence of these trends, the military protection of civilians in armed conflict has increasingly become both more important and complex. The protection elements in the mandates of peacekeeping missions (UN and other international forces) extend beyond IHL obligations placed on the military to uphold distinctions between combatants and non-combatants. Such mandates focus more on establishing a safe environment, linking military conceptions of 'protection' to notions understood by humanitarian organisations and potentially creating 'new areas where the lines between humanitarian and military [action] are blurred' (SCHR 2010: 6). The practical challenges of ensuring the physical protection of people have also combined with normative shifts such as the increasing acceptance of the 'Responsibility to Protect' (R2P) to transform the problem from an essentially humanitarian one into one that is perceived to require a complex mix of political, humanitarian and often military responses, particularly in the context of integrated mission approaches.

### **Military Doctrinal Adaptation**

Broadly speaking, military doctrines have tended to touch on protection in a piecemeal fashion, treating it as an obligation of arms bearers to draw distinctions between, on the one hand, combatants and military objectives and, on the other, civilians and civil objectives (Beadle 2010: 7). Counter-insurgency strategies routinely advocate separating civilian populations from insurgents and creating conditions for the extension of government authority and enablement of economic growth. It also features as an element of stabilisation doctrines' promotion of the extension of host nation governance

and the protection of key persons and institutions (Gordon 2010). Whilst practically all military counter-insurgency and stabilisation doctrines enshrine elements of a POC strategy, there is remarkably little on the mechanics of how this would translate into a broader POC doctrine.

Several of the more recent publications described below have begun to frame protection as a more discrete component that is key to both stabilisation and counter insurgency, often in terms borrowed from the concept of human security. Nevertheless, its generally fragmentary treatment makes it difficult for POC to crystallise into a coherent framework - a concept of operations - that is readily understood by soldiers and politicians alike.

### ***US Doctrinal Adaptation***

In 2006, the US Army and Marine Corps released *Counterinsurgency Field Manual 3-24* (hereafter FM 3-24) under Army General David Petraeus and Marine General James Mattis. It was one of the earliest doctrinal adaptations to the conflicts in (principally) Iraq and Afghanistan – resulting primarily from the need to address the strategic drift in Iraq. Nevertheless, its influence was felt beyond the US military, being unofficially adopted as the NATO counter-insurgency doctrine. It broke with the US Army's former preoccupation with the decisive use of military force, stressing instead a 'population-centric approach', and sought to engineer a change in the strategic culture of the US military. Whilst its treatment of protection remained fragmentary, split between its desire to separate the insurgent from the general population and its IHL obligations, (FM 3-24: Appendix D) it framed the counter insurgency war as 'a struggle for the population's support' with the 'protection, welfare, and support of the people' being 'vital to success' (FM 3-24: 1-159).

US Joint Publication 3-07.3 entitled 'Peace Operations' (2007) introduces elements of a strategy for the protection of civilians, but this tends to focus on protecting the civilian components of an international mis-

sion, referring obliquely to the international humanitarian community, especially in what it labels as ‘foreign humanitarian assistance’ missions. As strategic doctrine it perhaps intentionally sidesteps what the protection of civilians would demand in terms of a concept of operations. However it does draw out an approach that may involve the forcible separation of belligerents, support to host nation institutions and security apparatus, the maintenance of law and order, the protection of civilians and public officials, the direct protection of NGOs, Other Government Agencies (OGAs) and the military providing what it labels as ‘humanitarian assistance’ (section II-2). It argues that this might involve the protection of safe areas as well as the protection of logistical hubs, corridors and distribution centres. When opposed by one or more belligerents humanitarian assistance may also involve the direct delivery of aid by the military. Whilst many of these activities are potentially valid, the doctrine itself is piecemeal and tends to focus on humanitarian commodities, logistics and international staff rather than the safety of host nation civilians. It also presumes the capacity of the host nation to directly provide a secure environment or to do this in an acceptable timeframe with external support. This may not always be a realistic set of assumptions.

In 2008 the Army revised its field manual on basic operations, known as Field Manual (FM) 3–0, ‘to elevate stability operations to an essential core competency - as important as defeating foreign enemies and protecting the U.S. from attack’ (Ackerman 2008: 5). It also published FM 3–07, the Stability Operations field manual. None of these contained a systematic treatment of POC although all stressed the multidimensional nature of the contemporary military operating environment. FM 3–07, for example, emphasises the protection of urban infrastructure and the seat of government, the avoidance of collateral damage, as well as the requirement to address the range of factors that generate lawlessness, insurgency and subversion. It also referred to the purpose of Civil-Military

Operations as building support for the host government, but again POC is not pursued as an end in itself nor does it offer anything resembling a framework of operations.<sup>3</sup>

### ***UK Doctrinal Adaptation***

In 2009, the UK military produced its equivalent to FM 3–24, the *Joint Doctrine Publication 3–40: Security and Stabilisation: The Military Contribution* (hereafter JDP 3–40). It borrowed heavily from US approaches but also sought to infuse the UK’s broader lessons from its more civilian-oriented approach to stabilisation. Whilst both the US’s FM 3–24 and the UK’s JDP 3–40 stressed the need to develop the support of the population, JDP 3–40 perhaps went further in its emphasis on human security as being one of the keys to the consolidation of tactical military success whilst also being a prerequisite for economic and political progress. It argued that ‘winning the contest for human security [against the insurgents]’ is ‘fundamental to the development of host nation government authority and, ultimately, security of the state’ (FM 3–07: 513). It suggested that the provision of protection to the population ‘stimulates economic activity and supports longer-term development and governance reform. Importantly POC generates confidence in local people about their own security satiation – their collective human security – and an economic interest in ongoing stability. It also denies adversarial groups one of the principal strategies for expanding their support base’ (FM 3–07: 514). Unlike many of the other doctrinal developments of the early part of the decade, JDP 3–40 provides a range of suggested techniques for implementing such a strategy, including the: (i) static protection of key sites, e.g. market places and refugee camps; (ii) persistent security in areas secured and held, e.g. intensive patrolling and checkpoints; (iii) targeted action against adversaries, e.g. search or strike operations; and (iv) population control, e.g. curfews and vehicle restrictions (FM 3–07: 515).

Despite the emergence of a more coherent civilian protection framework, JDP 3–40

places more emphasis on working with civilians from other branches of the UK government than it does on civilian protection *per se*. POC is largely absent from other British doctrinal submissions. Joint Warfare Publication JWP 3–50, *The Military Contribution to Peace Support Operations (Second Edition)* makes brief mention of the need for rule of law and the protection of human rights, but again provides no systematic treatment of the concept of POC. The Army Field Manual ‘Counter Insurgency’ only goes as far as referring to ‘operations to secure key centers of population allow the host government to demonstrate its capability, and allow it to start to instill confidence among the people in its competence and long-term intentions’ (UK MoD 2009: 3–8). Similarly the Joint Medical Doctrine FM 4–03 makes scant mention of the Army medical services’ potential contribution except in so far as it is an obligation under IHL. The UK Stabilisation Unit’s 2008 publication ‘The UK Approach to Stabilisation: Stabilisation Unit Guidance Notes’, whilst claiming to enshrine emerging the UK’s experience and best practice, provides very little on the importance of civilian protection and its role in delivering stabilisation.

The most coherent treatment of the subject is found in the UK MOD’s ‘Peacekeeping: An Evolving Role For Military Forces’ Joint Doctrine Note 5/11 (JDN 5/11). This document provides a holding position pending a more thoroughgoing review of JWP 3–50 (*The Military Contribution to Peace Support Operations*) and is also intended to inform the ongoing review of NATO doctrine on peace support operations.

Whilst offering less on the operationalisation of civilian protection than JWP 3–40<sup>4</sup> and falling short on providing a viable concept of operations for civilian protection, it does make several valuable contributions, stressing both the multidimensional nature of civilian protection in peacekeeping operations and the probability and importance of a civilian lead and integrated approaches to planning (JDN 5/11: 406–7) a civilian protection strategy

It also picks up a number of traditional themes: the importance of understanding the political context, the challenge of ‘positioning’ in relation to potential and actual spoilers and difficulties in maintaining impartiality in the use of force. It also identifies that the civilian protection tasks are ‘particularly resource-intensive and inevitably require more resources than are available to the mission’ (JDN 5/11: 409). Its solution is to enhance planning in order to recognise early the impact and address the problem ‘collectively among the peacekeeping community either through corralling resources with other actors or prioritizing the most vulnerable population centres’. Highlighting the traditional challenge of implementing civilian protection it argues that the ‘mission must accept risk elsewhere. Risk should be mitigated where possible through contingency planning, including the management of local expectations.’ Whilst the doctrine effectively identifies the challenges in establishing a civilian protection concept of operations, it provides little advice on what approaches might prove useful in resolving these issues.

Whilst JDN 5/11 is the latest offering from the MoD, it should be read in conjunction with the ‘UK Government Strategy on The Protection of Civilians in Armed Conflict.’ With the United Kingdom, as the chair of the informal Security Council Expert Group on the Protection of Civilians (established in 2009), it is unsurprising that the British government has developed a cross-departmental approach. Understandably the document is more strategic in nature than the JDN and establishes four policy areas for joint action principally between MOD, FCO and DFID: (i) political engagement, (ii) protection by peace support operations, (iii) humanitarian action and (iv) state capacity.

Within the second policy area it commits to a greater ‘emphasis on protection issues, where appropriate, in Security Council peace operation mandates, and for better implementation of mandates by DPKO and troop contributing countries.’ It also discusses the

use of 'better and more consistent language on protection in peace support operation mandates; better reporting on protection issues by peace operations; better execution of protection tasks within a peace operation and more capable troop and police contributing nations on protection issues.' In particular it commits to supporting the 'UN to further develop the necessary doctrine, guidance and training to ensure that the protection of civilians elements of peace operation mandates can be implemented consistently and coherently by the UN system to make operations more effective (FCO 2010: 11).

### **NATO Doctrine**

Gaps also exist in NATO doctrine. Allied Joint Publication 9 (AJP-9), *NATO Civilian-Military Cooperation and AJP-3.4(A) Allied Joint Doctrine for Non-Article 5 Crisis Response Operations*' and lower level doctrine such as ATP-3.4.1.1 '*Peace Support Operations Tactics, Techniques and Procedures*' are all pertinent to this discussion. Despite overt recognition of the importance of 'human security' (see AJP 3.4–4), much NATO doctrine tends to treat POC as an implicit product of the restraint of arms carriers rather than as a discrete approach in its own right - arguably reflecting NATO's historical role in defending national territories rather than protecting foreign individuals, as well as national political cultures where the protection of civilian populations is primarily the responsibility of host governments and civilian police forces. In this approach the principles of distinction (particularly drawing distinctions between military targets and civilian persons or objects) and proportionality (limiting the collateral damage entailed by attacking military objectives) are rooted in an assumption that warfare is about compelling enemy combatants to submit and that targeting civilians provides little strategic value (Bruderlein 1999: 430). It is also based on a belief that states will hold to account their armed forces. In this sense current NATO doctrines are more appropriate a non-interventionist Cold War territorial alliance but have clearly

been stretched by operations in Afghanistan and Libya. Arguably, this is surprising given NATO's previous roles in using force to protect civilians in both Bosnia (1994–1995) and Kosovo (1999).

Whilst not treated as a distinct topic in any NATO doctrine, there are several components of a protection strategy including frequent mention of the restoration of law and order, the protection of humanitarian organisations, the creation of a safe and secure environment, freedom of movement, the preservation of basic human rights and support to investigations into abuses of human rights. NATO's AJP-9 publication, clearly reflecting NATO's experiences in the Balkans, specifically mentions the possibility of a NATO-led peace enforcement mission ending widespread human rights abuses and restoring the rule of law as a precursor to handing the operation over to a UN (or other) peace-keeping force or the host nation. It also goes somewhat further in identifying an operational POC doctrine than the US equivalent, drawing attention to a potential role in establishing a 'secure environment' which may be 'extended to include the safeguarding of individuals, communities and institutions' (AJP-9 2003: 6–7). However, it is clumsy in its explanation as to how this would be achieved, arguing that a peace support force 'prepared for combat' may be capable of 'curtailing human rights abuses, and creat[ing] a secure environment in which civilian agencies can address the underlying causes of the conflict and address the requirements for peace building' (Ibid: 6–13). Again, the military role is defined in terms of a capacity for 'combat' as opposed to the development of particular approaches for providing protection at anything less than an industrial scale.

This reluctance in operationalising tactical approaches to POC is reflected in AJP-3.4(A) '*Allied Joint Doctrine For Non-Article 5 Crisis Response Operations*.' This makes brief references to the necessity for rule of law, highlighting support to its restoration as a specific potential mission - although it sets clear

limits in describing this as taking place in 'exceptional circumstances':

While civilian law enforcement is not a NATO function, the latter environment may require military involvement in support of local law and order tasks, including operations to maintain local law and order, during the initial stages of an operation until appropriate civil authorities can resume their tasks.

It also makes clear that these types of operation require joint planning with other organisations: 'when appropriate, NATO should seek the support of other IOs (like the UN, the EU or the OSCE) that have a mandate, resources, and experience concerning involvement in public security'. Perhaps unsurprisingly, the doctrinal contribution falls far short of providing an operational concept for POC.

Largely as a response to these and the broader challenges encountered in Afghanistan, NATO published its NATO Bi-SC Counter-Insurgency Joint Operational Guidelines (JOG) in 26 May 2010 (hereafter JOG 10/01). Again there is the traditional emphasis on securing the population from the insurgent and recognition that 'early provision of basic protection is a key determinant for sustainable progress because political progress is unlikely to take place in the midst of chronic human insecurity' (Beadle 2010). Similar to the UK JDP 3–40, it provides some detail on possible protection tasks, such as 'protecting civilians from local bandits in refugee camps, escorting humanitarian convoys, patrolling in villages, and the importance of protecting civilians from attacks at night.' (JOG 10/01: 513–515)

### ***Other Countries and International Organisations***

The United States, the United Kingdom and NATO are not alone in producing doctrinal approaches to POC. William Durch and Allison Giffen (2010: 21–84) suggest that both the European Union and the African

Union have made some progress in developing guidelines and operationalising POC. The European Union has produced a range of guidelines and has also gained some experience of POC in peacekeeping with deployments in both Congos and in Chad whilst in 2009–2010 the African Union developed its 'Draft Guidelines for the Protection of Civilians by African Union Peace Support Missions.'

Whereas NATO has tended to address civilian protection either in terms of IHL or as a component of a broader political and military strategy, the United Nations has taken a different approach, focusing more on civilian protection as a discrete aim in itself, although this is a relatively new development. Historically the UN Security Council, even in the course of enforcement action, has generally sought to end wars or force compliance with a political objective rather than 'to intervene directly to save civilian lives' (Holt and Berkman 2006: 6).

The first landmark Resolution was UN Security Council Resolution 1270 (1999) authorising peacekeepers in Sierra Leone to use force to protect civilians 'under imminent threat' of physical violence. In 2006, the Security Council passed Resolution 1674, 'committing it to take action to protect civilians in armed conflict.' It also increasingly established civilian protection elements in the mandates of specific missions: MONUC/MONUSCO in the Democratic Republic of Congo (DRC), UNAMID and UNMIS in the Sudan and ACRO in Afghanistan. Eight current missions are explicitly mandated by the UN Security Council to protect civilians. The Department of Peacekeeping Operations (DPKO)/Department of Field Support (DFS) Concept of Operations (2010) describes protecting civilians as 'perhaps the single largest contribution a mission can make', and the UN Security Council has asserted that civilian protection must be considered a priority in the allocation of capacity and resources (UN Security Council 2009).

Despite these developments civilian protection has not been without controversy, particularly through its linkage with the R2P



agenda. Whilst several authors argue that civilian protection and R2P are different, the concept of civilian protection has 'become deeply associated with R2P which has 'polarised the UN community with strong opposing views between the North and the South' (De Coning et al. 2008: 5). The association has also risked creating a sense of growing militarisation in civilian protection approaches. These differences are mirrored within the UN Secretariat, where DPKO staff themselves tend to link R2P and POC - echoing the position of states supportive of R2P such as Australia, Canada, the United Kingdom and New Zealand. In contrast, Lie and Carvalho suggest that the Office for the Coordination of Humanitarian Affairs (OCHA) staff 'are highly reluctant to R2P due to its strong militaristic and political connotations. To OCHA staff there is a concern of conceptual equation between R2P and POC, while they also understand the proliferation of R2P and its reception at DPKO being due to its framing as militaristic and interventionist and thus presumably easier to operationalize than POC' (Lie and Carvalho 2009). Interestingly, OCHA staff interviewed for this project did not accept such a difference within the UN Secretariat.

Despite the tendency to presume linkages, several authors seek to establish clear differences between civilian protection and R2P. The Asia Pacific Centre, for example, draws a distinction between two types of situations in which the protection of civilians occurs. The first is where '[c]ivilian protection [is] an important, but not primary, mission objective operation' whilst the second is where protecting civilians is 'clearly the primary objective where missions are mandated to use all necessary means to prevent or halt genocide, ethnic cleansing or systematic and widespread abuses.' The former is characterised as civilian protection whilst the latter is characteristic of R2P norms. Charles Hunt draws a slightly different distinction, arguing that whilst civilian protection and R2P may be rooted *in* the same principles, they remain distinct, 'in essence, R2P focuses on

preventing and stopping the most horrendous crimes (genocide, ethnic cleansing, war crimes and crimes against humanity) whether they occur within the context of armed conflicts or not. The concept of *civilian protection* focuses on the broader list of specific threats, vulnerabilities and needs of civilian populations in armed conflicts, from physical security to food security and other humanitarian needs' (Hunt 2008: 1–4).

The controversies arising from the perceived linkage of R2P and civilian protection extend to peacekeepers' rules of engagement governing the use of force. When UN unofficial policy became 'that when peacekeepers saw violence perpetrated against civilians, they should be "presumed to be authorised to stop it, within their means"', this was viewed by many as invoking Chapter VII enforcement provisions through the back door as well as potentially impacting overall mission impartiality and state sovereignty (Blatter 2011: 3).

### **Obstacles to a Coherent Military Role in Protection**

While many on either side of the humanitarian-military divide recognise that complementary protection strategies are necessary, interaction at strategic and operational levels has faced numerous challenges. The humanitarian community has struggled to reach a consensus on civil–military coordination in general, and there are some who reject any form of interaction. For their part, international military and peacekeeping forces have at times been dismissive of the contribution that humanitarian actors can make to the safety and security of civilians. For both, fundamental differences in culture, terminology, priorities and approaches pose real challenges to constructive interaction on protection and other humanitarian issues.

The concept of civilian protection also faces many challenges in common with the R2P agenda, and there is a raft of additional obstacles, several of which also confront peacekeeping missions as a whole. These include: ambiguous or under-resourced man-

dates, insufficient troop numbers, weak tactical transport and logistics infrastructure and, lastly, competing demands and priorities. The DPKO/DFS 'New Horizon' paper puts this succinctly in stating that 'the scale and complexity of peacekeeping today are mismatched with existing capabilities. The demands of the past decade have exposed the limitations of past reforms and the basic systems, structures and tools of an organization not designed for the size, tempo and tasks of today's missions' (UN DPKO/DFS 2009: 21).

In 2008, DPKO and OCHA commissioned an independent study to review the UN's record of civilian protection. This study, *Protecting Civilians in the Context of Peacekeeping: Success, Setbacks and Remaining Challenges*, is perhaps the most important analysis of civilian protection to date. It concluded that the 'presumed chain of events to support protection of civilians - from the earliest planning, to Security Council mandates to the implementation of mandates by peacekeeping missions in the field - is broken' (Holt et al. 2011). Whilst an analysis of many of these challenges is beyond the scope of this paper, the problems caused by the poverty of military and police doctrine dealing with civilian protection is not. Within the literature there is a striking consensus on the idea that the absence of doctrine focusing on the role of UN military and police in delivering civilian protection has accentuated many of the broader difficulties confronting peacekeeping missions as a whole. In particular the ambiguity of UN Security Council mandates has placed pressure on commanders to reconcile a shortage of resources and numerous competing priorities. Arguably the imprecise language concerning civilian protection in most peacekeeping mandates 'stretches the concept beyond what is functional' whilst commanders are provided with little guidance on how to interpret particularly the key phrase contained in protection mandates of civilians 'under imminent threat of physical violence' (Beadle 2010: 19). Giffen continues this theme, arguing that there is a continu-

ing requirement to clarify the language that is commonly used in the protection elements of Security Council Resolutions. Using an excerpt from SCR 1590 (2005), part of the mandate of the UN Mission in the Sudan (UNMIS), as an exemplar, she draws attention to frequently used and ambiguous phrases in protection mandates.

Acting under Chapter VII of the Charter of the United Nations, (i) Decides that UNMIS is authorized to take the necessary action, in the areas of its deployment of its forces and as it deems within its capabilities, {...} and, without prejudice to the responsibility of the government of Sudan, to protect civilians under imminent threat of physical violence.

In the absence of greater specificity or guidance, the language of protection used in mandates creates a recipe for differing benchmarks of risk and priorities even across the same mission (Pearson Centre 2010). Existing doctrines have simply 'fallen short in providing guidance on *how* to go about *protecting civilians*, leaving it to those planning and implementing such operations to develop the conceptual approaches required to turn ambition into reality as they go' (Giffen 2010: 7). Peacekeeping commanders are therefore often forced to improvise their response, ensuring that civilian protection by peacekeepers has developed a distinctly *ad hoc* approach. Nevertheless, the growth in protection mandates has driven innovation in the field and some of this has been captured in terms of guidelines - although much of this work currently remains under construction (Holt and Berkman 2006).

There is a growing literature reflecting innovations in the field (De Coning et al. 2011); MONUC (now MONUSCO) in the DRC and UNAMID in Darfur have both provided a particularly fertile ground for innovation and 'lesson learning' despite the extreme difficulties of their operational environments and the paucity of their resources (DPKO/

DFS 2010: 34). Innovations have generally been practical in nature: the increasing use of quick-response forces, proactive presence patrolling, temporary basing in threatened areas, early-warning systems, 'firewood patrols' and efforts to create coherent and multidisciplinary operational concepts for protection. Both missions have incorporated civilians into planning clusters and 'Joint Protection Teams', the latter conducting 'assessments in cooperation with military peacekeepers' (Weir 2010: 25). They both also provide a civilian interface between the mission and local communities and work with community leaders and uniformed peacekeepers to develop concrete, localised protection strategies that use all available protection resources to keep civilians safe' (Weir 2010: 25).

Many of these innovations were captured in the *DPKO/DFS Lessons Learned Note on the Protection of Civilians*, which, apart from recording tactical innovations, stressed the importance of portraying protection as 'an operational-level objective' within the commander's concept of operations. This adaptation would make clear the commander's principal intent of protecting civilians and help to prioritise this in relation to the multitude of other tasks confronting subordinate commanders.

The first significant document to describe protection as a crosscutting issue was the UN's 2008 Capstone Doctrine (DPKO/DFS 2008). However, Holt *et al.* criticise it for failing to provide an 'operational definition around which planning for specific missions' (Holt *et al.* 2010: 5) could take place - arguably reflecting both the challenge of producing a clear definition and the absence of a consensus on what was meant by the term in practice. In part, the drafters of Security Council Resolution 1894 (2009) endeavoured to remedy precisely these issues, reiterating the Security Council's commitment to civilian protection, but also requesting the 'Secretary-General to develop in close consultation with Member States, including troop and police contributing countries and other

relevant actors, an operational concept for the protection of civilians, and to report back on progress made' (UNSCR 1894 - 2009: 22).

In 2010 the DPKO produced the *Draft DPKO/DFS Operational Concept on the Protection of Civilians in United Nations Peacekeeping Operations*. It refers to a three-tiered, mutually reinforcing framework for conceptualizing peacekeepers' contributions to the protection of civilians (DPKO/DFS 2010b: 15). These include: Tier 1 - Protection through political processes; Tier 2 - Providing protection from physical violence; and Tier 3 - Establishing a protective environment. It also makes clear that the approach 'goes beyond the domain of physical protection from imminent threat' (DPKO/DFS 2010b: 4), encouraging a multidisciplinary approach to planning and delivery that enables the three tiers to be mutually reinforcing and 'taken forward simultaneously' (DPKO/DFS 2010b: 15). The draft paper also outlines the phases in which protection may be required:

1. *'passive presence* to assure civilians of the mission's intent to protect them as well as to deter potential aggressors;
2. *pre-emption* in cases where assurance and prevention is insufficient, which might include enhanced political pressure and more proactive and visible military and police deployment;
3. *response* to threats of imminent physical violence to civilians such as troops taking position between the population and hostile elements; and
4. *consolidation* in the post-crisis situations that aim to assist the population and host government to return to normality through political dialogue and enquiries into human rights violations' (Beadle 2010: 18).

Whilst representing a significant improvement, several issues require further clarification if commanders are to be able to rely on the document as an aid to their decision making. The drafters do not offer a definitive definition of the concept, largely because

of the political sensitivities involved. Whilst undoubtedly a pragmatic response to the practical and political challenges of this, these 'grey areas have been raised by practitioners as some of the most difficult to tackle in theatre, and as such would need further clarification' (Giffen 2011: 8).

Despite the tiers being intended to be mutually reinforcing, the document provides little guidance on how to approach decisions requiring trade-offs between multiple competing priorities in a resource-starved environment. In particular, balancing short term and long-term objectives, making judgments between competing protection cases or between protection objectives and wider purposes such as monitoring the peace agreement or the disengagement of belligerent forces (Kelly and Giffen 2011). These are particularly challenging issues as the paper also makes clear that 'perhaps the single largest contribution a mission can make is to protecting civilians' (DPKO/DFS 2010b: 18).

Furthermore, the paper provides little guidance on how to balance the use of force against the need to manage the strategic consent of the host state. Situations, in which the host government's forces also engage in the abuse of civilians, such as in the DRC, create particular dilemmas for peacekeeping missions with protection elements in their mandates. Understandably this is likely to be a politically sensitive issue - raising many of the same problems found in the R2P debates, but also potentially encroaching upon the sensitivities of states that provide troops to peacekeeping missions with clear caveats on their usage. These states are understandably sensitive about a concept that potentially enables or creates pressures to allow their pre-emptive use against a host state.

Giffen (2011: 1–4), in her paper on the trajectory of POC operationalisation within the DPKO, suggests that the work of the Secretariat continues to focus on five particular areas:

- the development of a strategic framework to provide guidance for missions

in elaborating comprehensive strategies for the protection of civilians;

- pre-deployment and in-mission training modules that include a range of scenario-based exercises for all mission components;
- an evaluation of the resource and capability requirements for the implementation of protection of civilian mandates;
- a thorough examination of protection planning processes, both pre-deployment and within the mission; and
- capability development efforts, including addressing capability standards for military units, to better articulate the performance requirements to meet this task as well as the other modern mandated peacekeeping tasks.

Of these, the two most challenging are the development of an operational concept that will encourage greater clarity in mandate formulation and the ability to bridge the gap between mandate ambiguity and mission reality. Equally difficult will be the efforts to turn the matrix of POC tasks and the range of capabilities necessary to implement POC into resources that member states are willing to contribute. As Erin Weir suggests 'these efforts will show no results if peacekeepers are left blind, overstretched and immobile. Peacekeeping missions routinely operate with a shortage of troops, civilian staff and equipment in some of the most insecure and logistically challenging environments in the world' (Weir 2010: ii). In contrast, efforts to incorporate more systematically POC issues into the integrated mission planning process (IMPP) and to develop POC training packages of the type currently under consideration by UNITAR are comparatively straightforward (UNGA 2010: 148).

### **New Doctrinal Approaches to Civilian Protection Strategies**

Not all the work on developing POC concepts has been conducted by international organisations or states. Sarah Sewall, Dwight Raymond and Sally Chin (2010), for example,

have produced the *Mass Atrocity Response Operations (MARO)* handbook aimed at developing an international approach to the 'prevention of the mass killing of civilians'. It parallels some of the work being undertaken by DPKO, exploring conceptual approaches to atrocity situations, military planning as well as signposting future research and operationalisation. It also provides a range of practical approaches spanning preventive action (such as shaping and deterring), intervention (seizing the initiative and dominating ground) and rebuilding (through stabilisation and supporting civilian authorities). Despite the document being essentially a practical guide for policy makers and military commanders, it also serves a political purpose within the US security establishment. Whilst the issue of mass atrocities is briefly touched upon in several major US strategy documents (including the National Security Strategy, the Quadrennial Defense Review, and the US Army Operating Concept) there are many within the US military who view civilian protection generally as a problem of political engagement and will rather than an issue that requires a military doctrinal response. Sewall *et al.* view the problem rather differently, suggesting that in the absence of doctrine the military are inadequately prepared to respond or to provide courses of action to policy makers. Echoing the approach of the DPKO/DFS, the authors advocate translating the 'MARO' concept into 'military doctrine and training in order to provide guidance on genocide prevention and response. While the context of each mass atrocity may be different, there are some common themes that have important implications for the operational and political planning of intervention' (Sewell *et al.* 2010: 43).

## Conclusions

The slow evolution of civilian protection as a shared objective between international military and peacekeeping forces and humanitarian actors presents both opportunities and challenges. The challenges include, above all

else, the need to develop synergies to ameliorate civilian suffering in situations of armed conflict whilst also limiting the potentially harmful consequences of full integration. This presents real dilemmas for humanitarian organisations seeking to maximise protection outcomes for the civilian population whilst also maintaining the perceptions of neutrality and impartiality that are so vital to their broader assistance strategies. Clearly this difficulty is most apparent in situations where the international military forces are perceived to be party to the conflict.

However it *is* essential to interact with armed actors not only to advocate for compliance with their duties as arms bearers and responsibility holders under international law, but also to maintain an understanding of mutual roles and mandates. It is also possible to manage the risks of engaging military or peacekeeping forces in protection strategies alongside humanitarian actors; saving lives requires a more coordinated approach. Elsewhere Metcalfe (2012) argues that the key to this is consistent and transparent dialogue that explains the appropriate parameters for interaction. Similarly it is vital that humanitarians are included from the earliest stages of the military or peacekeeping deployment in order to shape the military understanding of the nature of protection threats as well as the limits and potential of action. Even in situations where humanitarian principles are compromised by direct interaction between humanitarian organisations and military, she suggests there is still scope for interaction, arguing that 'contact may be made indirectly through interlocutors such as OCHA, the protection cluster or working group on the ground, and more detailed guidance on information-sharing, confidentiality and informed consent would help minimize risks to sources and victims.'

In terms of trends in the military contribution to civilian protection, one of the most significant challenges lies in converting civilian protection from a low-priority objective to an operational-level priority.

In terms of the development of doctrine and guidance on this, it is clear that civilian protection is gradually insinuating itself into a range of military doctrines, although progress has been remarkably slow. The United Nations leads the development both of an operational concept as well as efforts to promote civilian protection as an operational priority.

NATO and NATO member states have been slow to produce doctrines that operationalises the concept, although fragments of a viable approach, combining restrictions on arms bearers and support to the civilian population, could be fashioned into a viable operational concept. However, the challenge is to produce greater coherence between the disparate elements and to make civilian protection a more central component of doctrine - in other words to provide a unifying idea around which a concept of operations can coalesce. Whilst the British doctrine appears to go further than that of other NATO states in producing an operational concept, it lags considerably behind the UN approach.

More positively, most military doctrines are part of a firm consensus that civilian protection requires a 'whole of mission' or 'comprehensive approach' - in part due to its multifaceted nature and also to develop synergies between scarce mission resources. Equally, there is almost universal recognition that civilian protection planning and civilian agencies need to be incorporated early in the mission planning cycle, particularly if it is to offer an approach that is anything more than reactive.

## Notes

- <sup>1</sup> For a discussion on the development of the civilian protection norm see Victoria Holt and Glyn Taylor with Max Kelly, 'Protecting Civilians in the Context of UN Peacekeeping Operations: Successes, Setbacks and Remaining Challenges', OCHA/DPKO Jointly commissioned study, November 2009. Hereafter Holt et al., See also Jon Harald Sande Lie 'Responsibility

to Protect: Protection of Civilians, the Responsibility to Protect and Peace Operations' NUPI Report No. 4, 2008. For the evolving role of humanitarian organisations in delivering protection see HPG Report.

- <sup>2</sup> UN-led missions that have been mandated to include civilian protection elements include UNAMSIL in UNSCR 1270 (1999), MONUC in UNSCR 1291 (2000); UNMIL in UNSCR 1509 (2003), UNOCI in UNSCR 1528 (2004), MINUSTAH in UNSCR 1542 (2004), ONUB in UNSCR 1545 (2004), UNMIS in UNSCR 1590 (2005), UNIFIL in UNSCR 1701 (2006), UNAMID in UNSCR 1769 (2007), and MINURCAT in UNSCR 1778 (2007). Currently active missions with a protection of civilians component include Cote D'Ivoire (UNOCI), Darfur (UNAMID), DRC (MONUSCO), Haiti (MINUSTAH), Lebanon (UNIFIL) Liberia (UNMIL) and Sudan (UNMIS).

- <sup>3</sup> See FM 3-07 para 2-6, figure 3-1, para 2-25 and para 3-8.

- <sup>4</sup> Paragraph 410 states that the whilst protection tasks will generally be identified in the course of the planning process the 'military component could expect to be involved with: physical protection tasks of the most vulnerable population areas; the establishment of, or support to, an effective reaction force; and support to the movement of humanitarian actors in non-permissive environments - plus many more.'

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