Foreign & Commonwealth Office

Research Analysts Paper

Protection of Civilians (POC): Developments since 2009

KEY POINTS

- **POC must be part of a broader political strategy** because PKOs are not resourced or designed to protect all civilians in a conflict.
- **The UN is inevitably judged on POC** and its legitimacy is undermined when civilians are harmed.
- **There continues to be a lack of clarity on what POC actually means** on the ground. Different missions, or units within missions, interpret it in different ways.
- **The West** (including the P3), along with some newer Troop Contributing Countries (TCCs) **generally supports robust PKOs** for POC. Other countries are more cautious about any move away from basic peacekeeping principles.
- POC, and peacekeeping as a whole, would benefit from among other things: faster troop deployment, better understanding by contingents of their rules of engagement and better equipment, logistics, training, contingency planning, surge capacity, intelligence and mobility.

DETAIL

I. Introduction

i) Background

Various studies on peacekeeping and POC in recent years have identified among other things: a lack of clarity on what POC meant and an absence of doctrine; unclear rules of engagement; problems with command and control, lack of troops, insufficient offensive military back up; difficulties finding a balance between peacekeeping and peace enforcement and reluctance by Peacekeeping Operations (PKOs) to use force offensively. A **2009 DPKO/OCHA commissioned report**[1] noted a lack of clarity, guidance and planning and concluded that the chain of events to support POC - from planning, to mandates, to the implementation of mandates by peacekeeping missions in the field - was broken.

[1] Protecting Civilians in the Context of UN Peacekeeping Operations: Successes, Setbacks and Remaining Challenges, Victoria Holt and Glyn Taylor with Max Kelly, Nov 2009 An independent study commissioned by DPKO and OCHA.

II. What does POC mean?

The concept of POC is well established but there is less clarity and agreement on what it means.[2] For example, while this paper focuses on the role of UN peacekeepers and the use of force, DPKO's draft 2010 Operational Concept reasoned that **POC could be seen in one of three ways**. Most humanitarian and human rights actors saw it as a broad idea based on full respect for the rights of the individual as detailed in international humanitarian and human rights law. Some saw it essentially as keeping civilians safe from harm, while a third group felt POC was the inherent end result of peacekeeping, and so was redundant as a distinct mandated task. [3]

The DPKO also argued that **the role of UN PKOs in POC could be split into three mutually reinforcing tiers**: i) protection through a political process, ii) protection from physical violence, and iii) the establishment of a protective environment (a main PKO police focus). Although not formally adopted, this was perhaps the first clear UN statement defining PKO POC. But it raises more queries, especially tier 3 which can include legal protection, humanitarian assistance, advocacy and support of state institutions. As the Stimson Center notes, with this, nearly all peacekeeping could constitute POC.[4] Either way, MONUC's 2009 definition for DRC is as good a summary of POC in its broadest sense as any:

> All activities aimed at ensuring the safety and physical integrity of civilian populations, particularly children, women and other vulnerable groups, including IDPs, preventing the perpetration of war crimes and other deliberated acts of violence against civilians, securing humanitarian access and ensuring full respect for the rights of the individual, in accordance with national and international bodies of law, ie human right law and international humanitarian law.[5]

III. Progress

i) Procedures and strategies

A March 2014 report on POC by the UN Office of Internal Oversight Services (OIOS)[6] acknowledged that **progress has been made since 2009 in developing guidance and structures to support POC in the field**. It highlighted the 2010 Operational Concept, a 2011 framework for drafting POC strategies and a 2012 POC resource and capability matrix. It also noted that most missions with POC mandates now have mission-level POC strategies. In particular, those with immediate POC threats such as MONUSCO in DRC and UNMISS in South Sudan have comprehensive structures and processes to implement their strategies including community alert networks, public information and reporting systems.

ii) Action on the ground

[2] A point illustrated during TCC discussions with the UN Peace Operations Panel. See UN Review of Peace Operations: Africa Consultations,
[3] DPKO/DFS Draft Operational Concept on the Protection of Civilians in United Nations Peacekeeping Operations, April 2010, pp3,7
[4] See Reconciling Security Sector Reform and the Protection of Civilians in Peacekeeping Contexts; Fairlie Chappuis and Aditi Gorur, Civilians in Conflict Issue Brief No.3 Stimson DCAF, pp5-6 Jan 2015
[5] MONUC: UN System wide Strategy for the Protection of Civilians in the DRC, 2009in Armed Conflicts, Robert Schutte, 2014 p.194
[6] A /68/787, Evaluation of the Implementation and Results of Protection of Civilians Mandates in United Nations Peacekeeping Operations. Report of the Office of Internal Oversight Services (OIOS), 7 March 2014, p6.

Although unprepared for the violence in December 2012, **UNMISS saved thousands of lives by sheltering over 80,000 civilians in their camps**. MONUSCO's Force Intervention Brigade **(FIB) played a key role in October 2013 helping the DRC army (FARDC) defeat M23 rebels** and earned praise for rebuilding the credibility of the UN. And in CAR, MINUSCA has, despite a fragile security situation, made good progress in its start up phase.

iii) Addressing sexual violence

In addition, **MONUC was the first PKO mandated (in 2007) to take action to address sexual violence.** Since then similar language on this UK priority has appeared in mandates for MINURCAT (2010), MONUSCO (2010), MINUSMA (2013) and MINUSCA (2014).

IV. UN/UNSC politics, mandates and the move away from traditional peacekeeping

i) From Traditional to Robust Peacekeeping, Stabilisation and Peace Enforcement

POC was not an explicit or primary concern of traditional peacekeeping which involved neutral, unarmed (or lightly armed) troops acting as buffers between opposing sides of a ceasefire. **It was also guided by the basic peacekeeping principles:** consent of the parties, impartiality and non-use of force except in self-defence or (since 1973) defence of the mandate.[7] But over the past 15 years **UNSC mandates have shifted from allowing POC to requiring it,** and this is hardly surprising since **the UN is inevitably judged on POC and its legitimacy is undermined when civilians are harmed.**

Beginning with UNAMSIL (Sierra Leone) in 1999, there have been 15 UN PKOs specifically mandated to protect civilians under threat (or imminent threat) of physical violence. Ten of the current 17 PKOs, involving 97% of peacekeeping personnel, serve in POC mandated missions[8] (eight of them in Africa) and except for UNIFIL (Lebanon), **mandates include authorisation under Chapter VII of the UN Charter (under which consent of the parties is not required) to "take the necessary action"** or use "all necessary means" in conducting the mission.[9]

In addition, **in the absence of functioning peace agreements**, the UNSC has in recent years authorised missions to "neutralise" and "disarm" groups in eastern DRC (MONUSCO), to "stabilise" CAR (MINUSCA) and take "active steps to prevent the return of armed elements" in northern Mali (MINUSMA).

In the case of **MONUSCO's FIB mandate** (UNSCR 2098, March 2013), while it doesn't specify enforcement, it in practice gives FIB - described by the UN as its first ever offensive combat force - **a targeted peace enforcement mandate**. Similarly, **MINUSMA and MINUSCA** are being drawn into situations where enforcement is required, although along

[7] The significant addition of "use of force in defence of the mandate" first appeared in para 4 of the Report of the UNSG on the Implementation of UNSCR 340, 27 October 1973, (S/11052/Rev.1). This concerned the deployment of UNEF II following the Egyptian/Israeli ceasefire.
[8] MINUSCA (CAR), MINUSMA (Mali), MINUSTAH (Haiti), MONUSCO (DRC), UNAMID (Darfur), UNIFIL (Lebanon), UNISFA (Abyei), UNMIL (Liberia), UNMISS (South Sudan), UNOCI (Cote d'Ivoire).
[9] UNSCR 1701 (Aug 2006) authorises UNIFIL **"**to take all necessary action," but references only Chapter VI not VII. Prior to 1999 use of Chapter VII for PKO's was virtually unheard of with the exception of emergencies such as UNSCR 836 covering UNPROFOR in 1993.

with MINUSTAH in Haiti, they are **officially termed UN stabilisation missions**. While this has yet to be properly defined, such missions **share a number of features**: they operate in conflict situations and generally support the host government against identified attackers. In contrast, **other robust PKOs such as UNAMID (Darfur) and UNMISS try to remain impartial**, including towards the host governments (while retaining their consent), and focus on the maintenance of ceasefires and/or implementation of agreements.

ii) Differing views within UNSC and UNGA

Although most UN PKOs in Africa are approved unanimously, **differences exist within the UNSC and among TCC's on robust peacekeeping and what POC should involve.**[10] Opinions also differ on whether a distinction should exist between traditional PKOs and MONUSCO's FIB which is seen as a clear departure from basic peacekeeping principles. In addition, while its mandate established FIB "on an exceptional basis," what this actually means is not defined.[11]

These **UN differences on PKOs can be broadly summarised as falling into four groups:**[12]

- **The P3** and to a large extent the West generally, are major funders and **usually push for robust, ambitious operations**. With their seats on the UNSC, the P3 are seen to have a key role (along with some seconded staff in the Office of the Military Adviser and the DPKO) in the internal policy development process and in drafting and agreeing the mandates.

- A second group involves **African states**, many of whom are major TCCs who also **tend to favour robust operations**, although they have less say over mandates and mission planning.

- Then there are **more cautious states**, **such as India and Pakistan** who, despite being large TCCs, also have only limited input to mandates and mission planning.

- Finally, there are **more sceptical, largely non-TCCs**, such as Russia, China and Venezuela who, like the third group have concerns over robust mandates which they argue undermine the core principles of UN PKOs.

iii) Libya and Syria

Of course **politics drives PKOs so, however bad things are, "only when political will and military capacity come together will humanitarian space open and war victims be assisted and protected."**[13] Thus, **Libya's** UNSCR 1973 in 2011 was markedly different to recent POC mandates. It not only authorised States, "acting nationally or through regional organisations... to take all necessary measures to protect civilians and civilian populated

[10] For further discussion of this see - Robust Peacekeeping and the Limits of Force, JM Guehenno, forthcoming, pp4-5
[11] A point noted by a UNSC WG Concept Note on Traditional Peacekeeping versus Peace Enforcement, which recommended clarification in advance of future peace enforcement mandates, Feb 2015
[12] See: Will the UN Review Fix Peacekeeping? Adrian Johnson, RUSI, Nov 2014
[13] The UN and AU in Mali and Beyond, Thomas Weiss & Martin Welz, in International Affairs, Vol 90, No.4 p.905, July 2014

areas under threat of attack" but "establish[ed] a ban on all flights in the airspace of the Libyan Arab Jamahiriya in order to help protect civilians".

In contrast, over 200,000 people have been killed in **the Syrian conflict**, including more than 60,000 civilians, raising questions about UNSC inaction and UN relevance. This point was alluded to by departing UNHCR Pillay in her 2014 UNSC address when she said "I firmly believe that greater responsiveness by this council would have saved hundreds of thousands of lives."

V. Implementation in the field, challenges

i) Who attacks civilians and why: the role of governments and armed groups

The **primary responsibility for POC lies with national authorities and conflict parties**, but this does not stop **governments and rebels at times choosing to attack civilians** for ideological, organisational, geographical or other reasons. For example, ethnic cleansing can expand territory and by killing civilians, governments can undermine rebels by destroying their civilian bases of operation. Armed groups also benefit from seizing civilian property or taking women as "war wives" and forcing civilians, including children, to fight with them. Linked to this the **distinctions between combatants and civilians are all too often blurred** (a point made recently by peacekeepers in CAR) and the UN can find itself trying to protect different vulnerable population groups that are violently hostile to one another.

Despite this, **PKOs often have little choice but to cooperate with government or local security forces** who can be unaccountable, ineffective, motivated by their own agendas (which may well not include POC) and can sometimes view the UN as a threat to their grip on power.

ii) Arguments against UN PKOs using force for POC

Those who are more cautious about the **use or threat to use force by UN PKOs for POC are concerned that this can have the opposite effect**. If civilians learn that PKOs will protect them, it may raise unrealistic expectations, discouraging local attempts at self-defence and even encouraging them to leave their homes in order to congregate and seek protection from small numbers of ill-equipped peacekeepers, making themselves easy targets. In addition, **news that UN PKOs are going to protect civilians can spur armed groups to step up attacks in advance**, especially if their aim is to "ethnically cleanse" an area of opponents. **Armed groups may also attack civilians to provoke a PKO response,** thereby justifying further retaliation.

The use of force also impacts upon other actors in the field. In particular, when a PKO becomes involved in a conflict, the risk to humanitarian workers (with whom peacekeepers already have a contentious relationship) will increase if armed groups respond by seeing peacekeepers and humanitarians as one and the same.

PKOs also risk unintentionally harming civilians when they use force, alienating the local population. In CAR the Civilian Harm Tracking Analysis & Response Cell (CHTARC) has been developed to try and address this by gathering and analysing data on civilian harm in order to help MINUSCA amend its activities accordingly.

Finally, as Guehenno argues; "From Liberia, to Congo or South Sudan, [the UNSC] has mandated UN peacekeeping forces to prop up weak governments, even if it means not standing up decisively to abuse by government forces, and losing the capacity to be seen as an impartial broker....**A robust posture may make more visible the double standards of a peacekeeping force**."[14]

iii) Challenges in the field and responses to increasing threats

In examining the challenges facing PKOs in protecting civilians and generally, Berdal gives a summary of why he thinks progress to date continues to be relatively modest:

> **UN missions have proved unable to overcome built-in weaknesses that have been a feature of peacekeeping since its inception**: the absence of unity of command, uneven quality troops offered for peacekeeping service; deficiencies in logistics, intelligence, tactical mobility; and the lack of strategic reserves. Where the operational environment has been generally stable and benign, it has in the past been possible to live with such weaknesses. The particular demands of civilian protection in the context of internal conflicts or civil wars, however, pose challenges that are of a qualitatively different kind. Not the least of these is the inescapable fact that a UN force, however much it may try to avoid it, will be drawn into the politics of the conflict and of the country in which it is deployed.[15]

Similarly, others have warned of a systemic crisis in peacekeeping with recurring patterns of failure from insufficient military resources, inadequate political analysis, unreliable personnel and poor strategic direction."[16] In addition, some of the methods used for POC, such as distributing troops thinly over a wide area, run directly counter to normal military practice. The UN has however attempted to address some of these difficulties with initiatives such as the use of drones in eastern DRC and the establishment of MINUSMA's All Sources Information Fusion Unit in Mali. These issues have also been addressed through high-level initiatives like the High Level Panel on Peace Operations and US-led Leaders Summit on Peacekeeping.

As mentioned above, **while peacekeeping is not meant to be counter-insurgency or counterterrorism, the demands imposed by the situation on the ground in Mali, CAR and DRC are pushing UN missions there in that direction.** In DRC, FIB enjoyed initial success against M23, but since then its record has been mixed. In Mali, some 80 UN peacekeepers were killed in 2014 by armed groups who see the UN and the West as

[14] Robust Peacekeeping and the Limits of Force, JM Guehenno, op cit forthcoming, pp14-15
[15] United Nations Peacekeeping and the Responsibility to Protect; Mats Berdal in Theorising the Responsibility to Protect, Thakur and Maley (eds), forthcoming, p.23
[16] UN crisis diplomacy and peacekeeping, Richard Gowan, Centre for Humanitarian Dialogue for the 2014 Oslo Forum, p48, July 2014

essentially the same enemy. To try and address this, debate continues within the UN on whether a rapid reaction force like FIB should be deployed in northern Mali.

To adapt to the new challenges, t**he UN also increasingly works with regional organisations.** Examples in Africa include the AU's UNSC mandated AMISON mission in Somalia and the 'hybrid' UN/AU mission (UNAMID) in Darfur (although this is apparently little liked by TCCs).[17] The EU's EUFOR also plays a valuable role supporting MINUSCA in CAR. UN PKOs have recently replaced regional organisations in Mali (MINUSMA replacing AFISMA) and CAR (MINUSCA replacing MISCA) with, sometimes challenging, "re-hatting" exercises. Despite some comparative advantages (including at times better regional intelligence), these organisations can be poorly equipped, lack adequate training and have difficult relationships with the UN. But **AU TCCs in particular are more willing to sustain casualties** and operate in tough environments. For example, in Somalia, AMISOM has lost over 3000 troops since 2007. In comparison, 3336 UN peacekeepers have died globally since 1948 (two thirds due to accident or illness).[18]

iv) Avoidance of force

In its 2014 report on POC, the OIOS argued that **POC efforts in the short-term can be classified in three stages**: before harmed (preventative); while being harmed (physical protection) and after they've been harmed (mitigation). UN PKOs take preventative measures that identify threats to civilians and then deter, avert or pre-empt. They are also often very active after civilians have been harmed, for example by escorting them from danger, sheltering them, facilitating humanitarian access and medical evacuations. **But force is almost never used to protect civilians actually under attack.**[19]

Specifically, of 507 incidents involving civilians covered in UNSG reports from 2010-13, OIOS found that only 20 per cent provoked an immediate PKO response. A show of force to deter was also rare and, even with mission staff on site during an attack (or threatened attack) against civilians, force was almost never used. When it was, it was more often when troops were engaged in self-defence or defence of UN personnel and property. Only four missions reported ever firing a warning shot and only three had fired a shot with lethal intent.

Linked to this **the OIOS report also notes a de facto dual line of command being used by TCCs with their troops** in which field commanders routinely report back and follow instructions from their own capitals, even in violation of UN mission orders. The OIOS sees this, and the failure of missions to report it, as a major concern, and make it their **key recommendation that all missions should report back to UN HQ any failures to follow orders regarding POC**. The matter would then be raised with the relevant TCC's and, if necessary, the UNSC. DPKO rejects this, asserting that challenges to command and control are very rare but when they occur "they are dealt with promptly through discussions with member States." They also query if the UNSC is the proper forum for raising this issue.

[17] UN Review of Peace Operations: Africa Consultations, op cit 13 Feb 2015
[18] The UN and AU in Mali and Beyond, Thomas Weiss & Martin Welz, op cit p 910, July 2014; UN Peacekeeping website accessed 4 March 2015
[19] A/68/787, OIOS Report on POC, op cit, pp.19-20.

Inaction may also be linked to the lack of any agreed TCC definition for the POC mandate phrase "imminent threat of physical violence". Others argue that the decision making process itself - from UNSC, to UN Secretariat, force command, the TCCs and troops in the field - creates a chain of authority rather than a chain of command. Within this, each level wields an effective veto over robust action, meaning that **the most conservative decision-maker (the one most reluctant to use force) tends to prove decisive**.

VI. The future of POC

UN peacekeepers, especially in CAR, DRC, Darfur, Mali, and S Sudan are **increasingly expected to operate in situations where they are faced with combinations** of host government and anti-government forces, state sponsored militias, violent non-state groups, ethnic-based militias, armed criminal elements, other governments' military forces and/or regional organisations military. [20] Criminal groups in particular are very unlikely to have an interest in any political process.

Included among these various actors are Islamist groups who often see the UN as a Western tool and therefore a legitimate target. While this isn't the greatest issue facing the organisation, it may become an increasing problem, and some **argue that the UN will ultimately be judged on its ability to handle the Islamist threat**, rather than its dealings with the "more peripheral conflicts and militias".[21]

However **robust peace keeping is not the same as peace enforcement.** So the **establishment of FIB in DRC, as an offensive combat force engaging in peace enforcement, has inevitably set a precedent.** The **use of force by the UN to protect civilians will therefore continue to be a necessary** option that TCCs and their troops on the ground must be ready and prepared to use. **Force also has to be part of a broader political strategy** addressing root causes as well as the immediate consequences of conflict.

Where necessary, **peace enforcement functions may be better suited to regional organisations, such as the AU**, **EU** or an international coalition. But this will need more coherence and interoperability, and for the AU in particular, better mobilisation of funding and development of military capacity. For example its African Standby Force was meant to be operational by 2008 but is still not properly up and running.

Finally, as the role of peacekeeping changes, traditional TCCs may become more reluctant to contribute troops, replaced, to an extent, by new and returning TCCs. This will provide an opportunity to introduce better training, equipment and leadership, all of which should impact positively on POC. TCCs may also become more willing to prepare troops to deploy ahead of a UNSCR, allowing more rapid deployment.

September 2015

[20] See: Enhancing Peace Operations' Capacity to Face Threats against Peacekeepers. WR Phillips, Background paper for Challenges Forum, Building Capacity for Peace Operations in Response to Diversified Threats: What Lies Ahead? Beijing p.2 Oct 2014

[21] Diplomatic Fallout: UN trapped on front lines of new struggle with violent Islamists, Richard Gowan in World Politics Review, 3Nov 2014