

Draft DPKO/DFS Operational Concept on the Protection of Civilians in United Nations Peacekeeping Operations

I. Summary

1. This note provides a draft operational concept for the implementation of the protection of civilians¹ mandate by United Nations peacekeeping operations. This draft concept draws on operational experience and lessons learned to present a basic framework for conceptualizing the protection of civilians by UN peacekeeping missions.

2. The operational concept is organized around a three tiered approach to protecting civilians:

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

3. While the concept will develop over time based on continuing lessons learned, DPKO and DFS consider that it should form the basis for guidance to missions upon which they may develop mission-wide strategies for the protection of civilians (POC). Each peacekeeping operation is deployed in a unique political and operational setting, has a distinct mandate and capabilities, and engages with varied and diverse protection challenges. As such, each mission that has been charged with protection responsibilities will design and tailor its own comprehensive mission-wide strategy, in consultation with its key partners, and with respect to existing agency mandates on the ground.

II. Introduction

4. Since the authorization of the first POC mandate to UNAMSIL in 1999 “to take the necessary action...within its capabilities and areas of deployment, to afford protection to civilians under imminent threat of physical violence”² the Security Council has mandated 10 peacekeeping operations to undertake this critical task. At times, it has been called ‘the impossible mandate’ for UN peacekeeping missions owing to the mismatch of resources for and expectations of protection of civilians by UN peacekeepers. In the past

¹ The protection of civilians in armed conflict has a universally recognised legal basis in international humanitarian law¹ (IHL). A cardinal principle of IHL is the principle of "distinction." This requires all parties to armed conflicts to differentiate civilians from "combatants" whose function is to conduct hostilities during armed conflict.

Under IHL, civilians are "protected persons" – they cannot be targeted and their life and dignity must be respected. Civilians are presumed not to directly participate in the hostilities and are therefore entitled to full protection from attack. Civilians lose this protection only if, and for as long as, they "directly participate in hostilities." IHL prohibits combatants from posing as civilians and provides special protection for vulnerable populations of civilians such as children.

² Operative paragraph 14 of S/RES/1270(1999).

decade, diverse and *ad hoc* approaches to POC have evolved within missions, and a number of missions have operated without a clear vision for the implementation of this task. A number of senior mission leaders, mission personnel and troop and police contributors now feel that the absence of a clear, operationally-focused and practical concept for protection of civilians by United Nations peacekeeping operations has contributed to the disconnect between expectations and resources.

5. Responding to this need and the request contained in paragraph 128 of the report of the Special Committee on Peacekeeping Operations and its Working Group (A/63/19) for its substantive session (23 February – 20 March 2009), DPKO and DFS have begun to gather lessons learned from mission personnel and troop and police contributors on the implementation of the protection of civilians mandates of missions³. The operational concept should be read alongside the accompanying Lessons Learned Note on Protection of Civilians by UN Peacekeeping Operations, which contains a short synthesis of those mission lessons and experiences. The development of the draft operational concept has been informed by the lessons contained in the Lessons Learned Note. DPKO and DFS will continue to seek further inputs from contributors to – and personnel in – UN peacekeeping missions and the protection partners to inform the more detailed elaboration of this operational concept during 2010. On this basis, DPKO/DFS will aim to develop guidance to missions on the development of strategies, associated guidance and training material, and the articulation of resource requirements.

6. This draft operational concept seeks to build on existing lessons and experience to (i) arrive at a shared understanding of the implementation of POC mandates in United Nations peacekeeping operations, and (ii) identify and organize the range of POC mandated tasks undertaken by missions into a clear conceptual framework to support their practical implementation.

7. The draft operational concept rests on the understanding that POC tasks undertaken by UN peacekeeping missions must reflect and uphold the principles of UN peacekeeping, namely, consent of the host government and the main parties to the conflict, impartiality, and the non-use of force except in self-defense and defense of the mandate. It also recognizes that the protection of civilians is primarily the responsibility of the host government. The support that United Nations peacekeeping operations provide to host governments in carrying out this responsibility enables them to assert their authority, protect those within their borders, and focus on rebuilding the nation and its institutions, thereby enhancing the sovereignty of States.

8. The operational concept is based on the recognition that peacekeeping missions are one of many protection actors in the area of deployment and that different actors have distinct roles and responsibilities in providing protection. The responsibility of the host

³ In paragraph 128 of A/63/19, the C34 requested “ the Secretary-General to provide for its consideration detailed information, based on lessons learned, on the provision of resources, training and concepts of operations in existing peacekeeping missions regarding the mandate of protection of civilians, and requests an assessment of their adequacy in effectively achieving all mandated tasks.”

government (and other main parties to the conflict) is critical. Where these actors are not willing or able to carry out their primary responsibility, the capacity of a peacekeeping operation to fill the gap may be insufficient. In this connection, it should be noted that peacekeeping operations can only execute the protection of civilians mandate insofar as the host government continues to provide its strategic consent. If that consent is withdrawn, a peacekeeping environment no longer pertains, and action at the strategic level, including by the Security Council, must be considered.

III. Current Understandings of POC

9. In the absence of a common UN position on the protection of civilians by UN peacekeeping operations, a wide range of views regarding what protection of civilians means for UN peacekeeping missions has taken root. Troop and police contributors, Member States, the Security Council, bodies of the General Assembly, as well as staff within the missions, DPKO and DFS, often understand POC in ways that may contradict one another, causing friction, misunderstanding and frustration in missions.

10. An independent study on the protection of civilians in UN peacekeeping operations commissioned by DPKO and OCHA⁴ illuminated that actors within and external to the field missions generally subscribe to one of three paradigms to frame their understanding of POC in UN peacekeeping. The first group sees protection as a broad concept encompassing international humanitarian law and human rights law, similar to the Inter-Agency Standing Committee⁵ definition of protection as “encompassing all activities aimed at obtaining full respect for the rights of the individual in accordance with international humanitarian, human rights and refugee law.” This is the paradigm utilized by most humanitarian and human rights actors, and is sometimes referred to as the “rights-based approach” to POC. The second group believes that POC is fundamentally about ensuring that civilians are safe from physical harm. The third group believes that POC is the inherent end result of peacekeeping, and that it is therefore redundant as a distinct mandated task.

11. For the purposes of this operational concept, it is not necessary to fully reconcile these paradigms. Rather, it is important that DPKO and DFS set out clearly their understanding of the protection of civilians based on what UN peacekeeping operations are mandated, and able, to achieve. An operational concept for POC must take into account the full range of protection activities mandated and undertaken by peacekeeping operations, and allow sufficient flexibility for the diversity of contexts in which they operate. At the same time, the concept must be specific enough to the unique nature of POC in UN peacekeeping so that it is instructive to those implementing these mandated

⁴ This independent study published in December 2009 titled *Protecting Civilian in the Context of UN Peacekeeping Operations* was jointly commissioned by DPKO and OCHA.

⁵ The Inter-Agency Standing Committee (IASC) is an inter-agency forum for coordination, policy development and decision-making involving the key UN and non-UN humanitarian partners. The IASC was established in June 1992 in response to United Nations General Assembly Resolution 46/182 on the strengthening of humanitarian assistance. General Assembly Resolution 48/57 affirmed its role as the primary mechanism for inter-agency coordination of humanitarian assistance.

tasks, and assists them in developing mission-level strategies and prioritizing tasks for protecting civilians.

IV. Current mission activities relevant to POC

12. There are currently eight UN peacekeeping operations with the mandate to protect civilians under imminent threat of physical violence. When speaking of protection in the context of peacekeeping operations, this is generally the most visible form of protection that a mission can provide. It is often the yardstick by which Member States, host populations, the media, and outside observers in general tend to measure a mission's "success" in protecting civilians. However, POC in peacekeeping operations goes beyond the domain of physical protection from imminent threat.

13. The majority of the tasks detailed below are well-established activities in UN peacekeeping. Many of them have been mandated and implemented for well over a decade. What has been lacking, however, is a basic organizing framework for how these multiple lines of activity can support the protection of civilians, both directly and indirectly, and which helps to inform the development of mission-wide protection strategies. As highlighted previously in decisions by the General Assembly and the Security Council, the successful conduct of tasks related to POC, such as those highlighted below, must be undertaken in a comprehensive manner.⁶

- Support to the political processes: A sound political process is an important basis for the deployment and subsequent success of a peacekeeping operation. Support to the political process lies at the centre of the mission's work to ensure that a nation emerging from conflict can establish lasting and sustainable peace. It is also essential to the mission's efforts to protect civilians, given that the rights and physical safety of civilians can never be fully protected in an environment in which conflict is ongoing or re-ignites. Fundamentally, a well-managed peace process that takes due consideration of justice and accountability is potentially the best form of protection for the civilian populace.
- Conflict management and support to reconciliation: At the community level, missions help to resolve conflicts on the ground through supporting inter-community dialogue and through working with relevant representatives of the population, including civil society groups. In this context, support is often given to strengthening local conflict resolution capacities, including through the governance structures of local authorities. Wider reconciliation processes at either the national or local level may also be designed to help sustain or build social dynamics conducive to enduring stability.
- Protection from physical violence: This is the act of ensuring that civilians are safe from the effects of physical violence. It includes preventive measures, such as political engagement with parties to the conflict by senior mission leadership, preventive tactical deployments of the peacekeeping force in areas where civilians are

⁶ Such as OP 127 of A/63/19 (2009), OP28 of S/RES/1894 (2009), and OP10 of S/RES/1820 (2008).

potentially at risk, as well as direct use of force in situations where serious international humanitarian law and human rights violations are underway, or may occur. Due largely to the “imminent threat” clause, the protection of civilians from physical violence mandate has historically been regarded as an activity of the mission’s military component. However, many mission activities and components also contribute to the mission’s efforts to protect civilians from physical violence. The police in particular can contribute to both force projection and response through high visibility and increased patrolling. As mentioned above, eight peacekeeping operations have been mandated with this task.

- Creating conditions conducive to the delivery of humanitarian assistance: In integrated UN peacekeeping operations, the mission may be mandated to facilitate and/or create the necessary security conditions for the delivery of humanitarian assistance provided by UN actors in the mission area. The provision of humanitarian assistance to conflict affected civilians has long been viewed by the humanitarian community as at the core of protection activity. Missions may be called upon to help create the necessary safe and secure environment to assist with the delivery of aid, and, *in extremis*, may be requested to support the delivery of humanitarian assistance by military means. Police also contribute to this activity through the provision of route security or security in refugee/IDP camps, as well as public order management during relief item distribution. Eleven missions are currently mandated with this task.
- Promotion and Protection of Human Rights: In the context of peacekeeping operations, this mandated task typically involves the monitoring and reporting of human rights violations in the mission area and the development of local capacity to promote and protect human rights. Some missions have been given broader tasks that go beyond simply monitoring and reporting, including the authority to conduct investigations into human rights abuses, assisting national and international efforts to end impunity, supporting the establishment of transitional justice mechanisms, including vetting, providing special attention to the rights of women and children, through monitoring, advocacy and other measures such as facilitating access to justice. Mandates have also included support to the development of national human rights institutions and training law enforcement and other national officials. Human rights monitoring may work closely with UN police who may either contribute to monitoring host state police investigations into abuse or participate in investigations under the lead of the human rights component. There are eight missions with this mandated task.
- Displacement and solutions: Some missions have been specifically tasked with reducing the causes of forcible displacement, creating conditions conducive to the voluntary, safe, dignified, and sustainable return (or settlement elsewhere in the country) of refugees and internally displaced persons (IDPs), preserving the civilian and humanitarian nature of refugee camps and IDP sites.
- Rule of Law, Security Sector Reform, & DDR: From a protection perspective, the intended effect of RoL, SSR, and DDR activities by a UN peacekeeping operation is

to help the State establish an environment where both the physical security and rights of civilians are fully respected under the rule of law. Specifically:

- With the agreement of the parties to the conflict, DDR seeks to remove armed elements and weapons from society. It helps to lay the groundwork for safeguarding and sustaining the communities in which ex-combatants can live as law-abiding citizens. It helps to establish a secure environment so that other elements of a recovery and peace-building strategy can proceed under the rule of law. Eight missions have this mandated task.
 - SSR is a process that has as its goal the enhancement of effective, human rights compliant and accountable security for the State and its peoples. Building the capacity of host state military and police institutions is a critical element in strengthening the State's ability to protect its civilian population and to ensure the rule of law more generally. There are eight missions with SSR related mandated tasks.
 - RoL activities seek to support the establishment of an environment in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. There are 10 missions with this mandated task.
- **Mine Action**: seeks to protect civilians from death and physical injuries caused by landmines and UXO (Unexploded Ordnance). In addition to removing landmines, UXOs, and de-mining, Mine Action also includes preventive/protective measures such as mine risk education, victim assistance, and stockpile destruction. DPKO mine action programs typically address problems of landmines, UXO and explosive remnants of war which includes abandoned ordnance or weapons left behind by armed forces. There are currently four missions with this mandated task.

Thematic mandates: Through its thematic resolutions, the Security Council has mandated that certain tasks be undertaken by all peacekeeping operations. In some instances, those tasks are explicitly stated within resolutions for specific peacekeeping operations.

- **Child protection**: Peacekeeping operations are mandated to undertake a range of specific tasks on child protection, either pursuant to thematic Security Council resolutions on children and armed conflict such as 1612 (2005) and 1882 (2009) or mission specific resolutions. This reflects a commitment by the Security Council to mainstream child protection concerns in all aspects of the peace process and adopt a child sensitive approach to the mission's activities and strategies. A number of Security Council resolutions on children and armed conflict articulate other priorities to be undertaken by peacekeeping operations, including training peacekeeping personnel on child protection and child rights, dialogue with parties to develop and implement action plans to end the recruitment and use of children by armed forces

and groups and to release such children from their ranks, as well as monitoring and reporting grave violations committed against children. This latter task is currently being implemented in five peacekeeping missions.

- Sexual and Gender-based Violence: Addressing sexual and gender-based violence (SGBV) in peacekeeping operations includes protecting civilians, particularly women and girls, from all forms of sexual violence, either pursuant to thematic Security Council resolutions on women, peace and security such as 1820 (2008) and 1888 (2009) or mission specific resolutions. Missions are responsible for fostering prevention of SGBV across all its mandated tasks, including through pursuing judicial and legal reforms. The police for example may play a role in providing protection through child and family protection officers. Six missions have this mandated task.

V. Framework for Protection of Civilians in UN Peacekeeping

14. DPKO and DFS propose a basic framework for conceptualizing the role of UN peacekeeping operations in the protection of civilians under three tiers:

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

15. The three tiers are mutually accommodating and should be taken forward simultaneously, in accordance with mission mandates and in light of the circumstances on the ground. In many instances, there will be strong links between the activities in one tier and those of another – the tiers are mutually reinforcing. For example, progress in Tiers 1 and 2 should enable the mission to progressively shift towards a focus on Tier 3. At the same time, there are activities the mission undertakes, such as public information, that will impact all three tiers.

16. Although there is no inherent hierarchy between the tiers, the mission must ensure that it has taken all possible measures within its capacity to help the host authorities to protect civilians from physical violence when mandated to do so. Peacekeeping operations are generally the only international entity responsible for playing a direct role in the provision of protection from physical violence; in that regard, they have a unique responsibility among protection actors.

17. In further developing this concept, DPKO will work with missions and various protection actors to identify practical tasks and techniques, to assign roles and responsibilities and to examine innovations for overcoming identified challenges at the operational and tactical levels. Based on the further elaboration of this concept, training materials (including case studies), guidance, and resource proposals should be developed. This will assist missions in addressing issues commonly faced, such as protecting civilians who concentrate around team site locations, working with the local population

to identify security threats, and establishing emergency communications systems, among others.

18. **The first tier** is the mission's overarching mandate to support the implementation of a peace agreement, or an existing political process, in the country in which it is deployed. The maintenance of peace through an effective peace process is perhaps the single largest contribution a mission can make to protecting civilians. Efforts by a peacekeeping operation can include the provision of good offices to the parties to a peace agreement, facilitating the political process through mediation, support to reconciliation processes, and active liaison with the host government, the parties to the peace process and their respective command chains, as well as with the international community. The protection of civilians should be a centerpiece of the senior mission leadership's political engagement and advocacy with the parties in support of the political process. Likewise, the full spectrum of POC activities undertaken by the mission contributes to its overarching objective of supporting the political process, preventing the reoccurrence of protection violations and ultimately establishing lasting peace. Member States, particularly regional neighbours, play a critical role in ensuring that the parties to the conflict negotiate in good faith and abide by their commitments and responsibilities. Preventing threats to civilians from escalating is the focus of this tier, and of the POC effort in general.

19. **The second tier** involves protecting civilians from physical violence, which includes any of the mission's efforts to prevent, deter, and if necessary, respond to situations in which civilians are under the threat of physical violence. In most cases, an increase in military and police activities in this tier should be matched by heightened political engagement. In Tier 2, tasks include patrolling, ensuring freedom of movement and route security for both humanitarian aid and refugees/IDPs, evacuation of non-combatants, public order management, conflict mediation and support to inter-community dialogue, monitoring (including of the human rights situation) and early warning measures, and political engagement, among many others. This tier requires close coordination between – and concerted action from – the civilian and uniformed components of the mission. It is important to note that these phases do not necessarily occur in sequential order, as a mission may have to respond to rapidly unfolding circumstances.

- **Phase 1 – Assurance and Prevention**: The measures in this phase are aimed at reassuring the local population of the mission's intent to protect them, largely through routine, passive measures. They may also include assessing the intent of and signaling to potential aggressors or perpetrators of human rights violations that they will be held accountable. Standing police and military patrols, deployment of human rights and other civilian staff, conflict prevention, mediation, active liaison and advocacy with government and non-government armed actors and potential parties to a conflict, as well as monitoring and early warning measures are fundamental elements of this phase.

- Phase 2 – Pre-emption: Where measures under Phase 1 prove insufficient, or when heightened risks are detected, more active pre-emptive measures may be required. Increased liaison with government and non-government armed actors, and potential parties to a conflict, enhanced human rights monitoring, reporting, and advocacy, as well as heightened political pressure are engaged during this phase in order to deter violence against civilians. The increased involvement of other civilian elements of the mission, including civil affairs and public information, among others, should be considered. With regard to the military and police component, the deployment of forces and an increase in proactive, high-visibility patrolling could be employed.
- Phase 3 – Response: When the threat of physical violence to civilians is apparent, and if actions under Phases 1 and 2 are not sufficient, more active measures aimed at deterring potential aggressors from conducting hostile acts may be necessary. Deployment of police and/or direct military action should be considered as an option, such as the interposition of peacekeepers between a vulnerable population and hostile elements or the use of force as a last resort when the population is under imminent threat of physical violence.⁷ Heightened political engagement, including at the international and regional level, must be employed here.
- Phase 4 – Consolidation: This range of activities addresses the stabilization of a post-crisis situation. The aim is to assist the local population and host authorities to return to a state of normalcy, and create the conditions in which a return to crisis is diminished. Liaison with the parties to the conflict, and dialogue with the conflict affected members of the community and investigation into human rights violations committed during the crisis are essential elements of this phase. Re-establishing ties between the population and governance structures, including the police, where they have been broken, will be central.

20. **The third tier** of POC tasks focuses on supporting the establishment of an environment that enhances the safety and supports the rights of civilians. There are three elements to this tier:

- (a) Promotion of legal protection
- (b) Facilitation of humanitarian assistance and advocacy
- (c) Support to national institutions

21. This tier builds upon international human rights, international refugee and international humanitarian instruments and principles to provide a protective framework led by the national authorities. UN peacekeeping operations support efforts to build a protective environment by promoting understanding of and adherence to human rights law, refugee law and international humanitarian law (IHL) standards. These include commonly mandated tasks for human rights monitoring, child protection, and sexual and gender-based violence, as well as advocacy and securing access for humanitarian support, when requested. In these areas, peacekeeping operations support the wider rights-based

⁷ The DPKO/DFS draft concept note on Robust Peacekeeping will also have relevance in this area.

protection efforts undertaken by host governments, the UN system and others. This tier also includes political and technical interventions to assist the state and parties to a peace process to establish and maintain a protective environment. This includes efforts to strengthen the capacity of local governance structures, manage conflict and accommodate the interests of different groups over the longer term, DDR efforts to address armed actors and weapons, and SSR activities that support the development of capable and responsive security sector actors. Rule of law actions help ensure that the security sector and other actors operate within the law and that national police and other criminal justice actors are capacitated to support protection efforts.

Mission-wide Protection Strategies

22. Each mission⁸ has a unique mandate, different mission composition and particular circumstances in its area of deployment. As a result, missions assigned with protection responsibilities must ensure that mission-wide protection strategies are integrated into the overarching mission plan as an important aspect of ensuring that appropriate resources and other requirements are provided to operationalize the protection of civilians concept. General guidance on the creation of mission-wide strategies should be developed. The three tier conceptual framework above provides a starting point for mission specific approaches to protection of civilians. Because UN peacekeeping operations are responsible for implementing a wide range of POC tasks, it is critical for missions to develop comprehensive POC strategies that include their efforts in all three tiers, where mandated, in consultation with other UN actors who deliver mandates across the tiers.

23. Drawing on lessons learned and further elaborated in the DPKO/DFS Lessons Learned from Protection of Civilians by UN Peacekeeping Operations, it is clear that mission protection strategies should cover minimum considerations such as the articulation of the senior mission leadership's understanding of protection of civilians and the mission's detailed roles and responsibilities in undertaking such protection activities. Within this context, the strategies should provide clarity on the mission roles and responsibilities vis-à-vis those of the host government, articulate the communication strategies that would support the mission and provide direction for mission component planning documents. Moreover, these strategies must be based on realistic assessments of available resources and capabilities, should stress prevention as the overriding priority, and should articulate the mission's intended approach towards the policy dilemmas outlined in the accompanying Lessons Learned Note. POC should also be built into other key mission planning processes, including the Integrated Strategic Framework.

24. The protection of civilians is a complex and multi-actor effort involving the host government, local communities, parties to the conflict, humanitarian, human rights, and other partners. Early consultation and planning vis-à-vis the protection of civilians with these stakeholders is essential in the production of a mission-wide protection strategy. The roles and responsibilities of different components within the mission should be

⁸ "Mission" is understood as a UN peacekeeping operation mandated by the Security Council, and does not include UN agencies, funds, and programmes. As stated below, missions should consult other UN actors in the mission area when developing mission-wide protection strategies.

clearly elaborated, and the respective activities and mandates of the mission and external humanitarian actors should be comprehensively articulated in order to maximize available resources and minimize overlaps or mutual undermining. A clear distinction should also be made between military and humanitarian functions. An early understanding with troop and police contributors on the nature of the protection of civilians task, the risks that it implies and the resources it requires, is also crucial. Ascertaining the operational expectations for troop and police contributors through established mechanisms (CONOPS, force requirements, MOUs, LOAs etc.) prior to deployment will assist in crystallizing this shared understanding.

25. An important element in determining whether the mission is meeting the objectives articulated in its protection strategy includes seeking regular feedback from the local communities it serves.