

NUPI

# The Protection of Civilians and the Post-Conflict Security Sector

A Conceptual and Historical Overview

Andreas Vogt  
Benjamin de Carvalho  
Petter Hojem  
Marit Arntzen Glad



NUPI Report

Security in Practice no. 8  
[A Publication in the NUPI Series on Security in Practice]

Norwegian Institute  
of International  
Affairs

Norsk  
Utenrikspolitisk  
Institutt

Utgiver: NUPI  
Copyright: © Norsk Utenrikspolitisk Institutt 2008  
ISSN: 82-7002-185-7  
ISBN: 978-82-7002-185-7

Alle synspunkter står for forfatterens regning. De må ikke tolkes som uttrykk for oppfatninger som kan tillegges Norsk Utenrikspolitisk Institutt. Artiklene kan ikke reproduseres – helt eller delvis – ved trykking, fotokopiering eller på annen måte uten tillatelse fra forfatterne.

Any views expressed in this publication are those of the author. They should not be interpreted as reflecting the views of the Norwegian Institute of International Affairs. The text may not be printed in part or in full without the permission of the author.

Besøksadresse: C.J. Hambros plass 2d  
Adresse: Postboks 8159 Dep.  
0033 Oslo  
Internett: [www.nupi.no](http://www.nupi.no)  
E-post: [pub@nupi.no](mailto:pub@nupi.no)  
Fax: [+ 47] 22 36 21 82  
Tel: [+ 47] 22 99 40 00

# **The Protection of Civilians and the Post-Conflict Security Sector: A Conceptual and Historical Overview**

**Andreas Vogt  
Benjamin de Carvalho  
Petter Hojem  
Marit Arntzen Glad**



## **Introduction**

During the last decade, peacekeeping operations have grown in both number and scope. A sign of the latter has been the development of larger “executive” mandates, where peacekeeping operations take on administrative tasks in the area where they have been dispatched. This development of broader mandates has been encouraged by two parallel and interlinked trends that have been taking place since the end of the Cold War: Firstly, there has been a call for a more extensive concept of security, going beyond mere physical protection in and outside of conflict. Secondly, several of the post-Cold War conflicts that the international community has been involved in, have often been of an ambiguous nature. Many of these conflicts have been characterized by the fact that outright warfare and heavy fighting are circumscribed phenomena, leaving states in a situation between war and peace. These trends are linked in that “[t]he scope of protection has grown in the last decades in an effort to meet the challenges of contemporary war” (Bowden 2002).

As a response to these trends, broader peacekeeping mandates have been designed in attempt to include a widening concept of the Protection of Civilians (PoC). In the present report, we outline the main challenges that must be met for the PoC in peacekeeping operations to be effective. First, we address the understanding of “protection” prevalent in UN documents today. The second section of the report addresses the characteristics and problems of the security gap in post-conflict states, as well as their importance in the literature on conflict prevention and resolution.

Delivering protection in such an environment has made it necessary to involve a wide range of entities. Often they operate with differing mandates aimed at covering a wide range of immediate and more long-term needs, although they share the goal of creating a more secure environment. Therefore, this report will focus on the different institutions that make up the security sector. Especially, it is necessary to look at the difference between military personnel and civilian police, what kind of roles these can play, and what the current problems in distributing roles and responsibilities between these are. On the basis of this overview, the last section of the report is dedicated to possible measures aimed at tightening the security gap in order to ensure a more efficient practice of protection of civilians, given the constraints often imposed on peacekeeping operations due to the international community’s relative unwillingness or inability to act. By way of conclusion, we address at recent developments of the related, but not synonymous concept of the Responsibility to Protect (R2P), which some have tried to equate with PoC, and the possible consequences of this conceptual confusion. Our argument is that the conflation of these two concepts may not only blur the distinction between them, but also have consequences for the perceived legitimacy of the concepts.

## **The Complexity of Protection**

In the literature on peacekeeping operations, “protection” and the “protection of civilians” (PoC) have become increasingly used terms—almost buzz-

words—specific UN strategies and policies dealing with how to provide effective protection still remain few.

The term “Protection of Civilians” was initially coined by then UN Secretary General (UNSG) Kofi Annan in his *The causes of conflict and the promotion of durable peace and sustainable development in Africa* report (UNSG 1998) in which he identified protecting civilians in situations of conflict as a “humanitarian imperative”. Rwanda and Srebrenica had crudely exposed the lack of proper tools for reacting to this type of situations. Furthermore, not only has the civilian toll relative to that suffered by combatants in situations of armed conflict increased dramatically, but civilian casualties in conflicts today are increasingly the result of deliberate targeting by fighting parties rather than indirect victims.<sup>1</sup>

Against this backdrop, many actors supported the emerging concept of PoC. In February 1999, the UN Security Council (UNSC) addressed a set of issues which subsequently became the core of the PoC concept. These initial issues were:

- the need to ensure the safety of civilians,
- the unimpeded and safe access of the UN and other humanitarian personnel to those in need,
- the situation of children in armed conflict,
- the need for justice,
- and the proliferation of small arms.

The UNSC also asked the UNSG to submit a report on how to “improve the physical and legal protection of civilians in situations of armed conflict” (UNSC 1999a).

The policy development process ensuing has to this date led to six reports by the UNSG and the adoption of four UNSC resolutions<sup>2</sup>. In his first report dated 8 September 1999, the UNSG made recommendations for strengthening the legal and physical protection of civilians. In addition to the issues emphasized by the UNSC, the report included

- forced displacement,
- combatants and armed elements mixing with civilians in camps for refugees and internally displaced persons (IDPs),
- the specific problems faced by women,
- the targeting of humanitarian and peacekeeping personnel,
- the use of land-mines and the humanitarian impact of sanctions.

On these issues the report made specific recommendations, including

- the need to build the UN capacity to plan and deploy rapidly,
- to establish a permanent technical review mechanism,
- to impose arms embargoes in situations where civilians are targeted by combating parties,

<sup>1</sup> A complete chronology of the UN documents on protection can be found at <http://ochaonline.un.org/webpage.asp?Page=780>

<sup>2</sup> UNSG 1999, UNSG 2001, UNSG 2002, UNSG 2004, UNSG 2005 and UNSG 2007, and UNSC 1999b, UNSC 2000, UNSC 2006a and UNSC 2006b

- to consider deployment in certain cases of a preventive peacekeeping operation or of a preventive monitoring presence, making greater use of targeted sanctions,
- to deploy international military observers to monitor the situation in camps for IDPs and refugees,
- to underscore in its resolutions the imperative for civilian populations to have unimpeded access to humanitarian assistance,
- to authorise peacekeeping and peace enforcement operations to close down hate media,
- and to consider imposition of appropriate enforcement action in face of massive and ongoing abuse.

The question of enforcement of these measures, however, is less straightforward. In the same report from September 1999, the UNSG stressed that the following factors ought to be considered with respect to the enforcement of protection:

- the scope of the breaches of human rights and international humanitarian law,
- the inability or lack of will of local authorities to uphold legal order,
- the exhaustion of peaceful or consent-based efforts,
- the ability of the UNSC to monitor actions that are undertaken,
- the limited and proportionate use of force, with attention to repercussions upon civilian populations and the environment.

While the concept of PoC has been continuously expanded, there is still disagreement as to the extent to which it ought to be binding for the international community as a whole, or whether these issues ought to be the responsibility of individual member states.

The first UNSC resolution on the issue was adopted on 17 September 1999, and stated that it was “the primary responsibility of States to ensure [PoC]” (UNSC 1999b). Furthermore, it urged all parties involved in conflict to comply with international legal standards. It also expressed a “willingness to consider how peacekeeping mandates might better address the negative impact of armed conflict on civilians” (UNSC 1999b). However, the second resolution on PoC, passed in April 2000, went further than the previous in stressing the importance of the principle of sovereignty (UNSC 2000). It stated that the UNSC would proceed on a case-by-case basis when considering ways to provide for PoC in armed conflict, thus curtailing the way for PoC to become a general norm for action. However, the UNSC affirmed its intention to ensure that mandates and resources for peacekeeping mission were adequate to provide effective protection for the civilian population, especially the protection of women, children and vulnerable groups (UNSC 2000).

The *Millennium Declaration* of 2000 held that protecting the vulnerable was one of the main challenges to future peace operations, as it resolved “[t]o expand and strengthen the protection of civilians in complex emergencies, in conformity with international humanitarian law” (General Assembly 2000). But there was disagreement as to the extent to which PoC should be binding; a fact reflected in the UNSG’s stress of the need to work towards

creating a “culture of protection” in his report to the UNSC (UNSG 2001).<sup>3</sup> The UNSC on its part emphasized that the PoC ought to be based on the two resolutions of 1999 and 2000, stressing that further developments should rely on “the spirit, principles and approaches of resolutions 1265 (1999) and 1296 (2000)” (UNSC 2001).

In the above-mentioned report from UNSG Kofi Annan on *Protection of Civilians in Armed Conflict*, he called for the establishment of the “culture of protection” in which “[g]overnments would live up to their responsibilities, armed groups would respect the recognized rules of international humanitarian law, the private sector would be conscious of the impact of its engagement in crisis areas, and Member States and international organizations would display the necessary commitment to ensure decisive and rapid action in the face of crisis.” (UNSG 2001) The report further argued that the establishment of such a culture of protection not only depended on states complying with the measures outlined in the report, but also their willingness to deal “with the reality of armed groups and other non-state actors in conflicts, and the role of civil society in moving from vulnerability to security and from war to peace.” (ibid.)

Before the UNSC took further action with respect to the development of PoC in 2006 (UNSC 2006a and UNSC 2006b), three more reports were submitted by the UNSG, and an *Aide-Memoire* was developed. This had been requested by the UNSC as an guide for the consideration of issues pertaining to the protection of civilians during the its “deliberation on the establishment, change or close of peacekeeping mandates” (UNSC 2001). The *Aide Memoire* was intended both as a “diagnostic tool” reflecting the evolution in protection priorities in order to assist the UNSC, as well as a “tool that provides a systematic basis for analysis and reporting during humanitarian crisis.” The main intention behind the document, however, was that “the relevant protection needs and rights of civilians are reflected in relevant resolutions and the mandates of peacekeeping operations.” (UN OCHA 2004) While much remains in terms of making PoC effective, there has been, as Victoria Holt notes, a clear trend towards including PoC when deciding upon new peacekeeping operation mandates, or when revising old ones (Holt 2005).

In identifying the main challenges posed by insecurity in conflict areas, the document identified the main priorities facing actors providing protection. While such a list by no means can be said to be exhaustive, it is a good indicator of the scope of the concept of PoC, as it identified thirteen issues central to protection in its updated version from 2003 (UN OCHA 2004). The document identified (a) the *security for displaced persons and host communities*, the support of immediate protection needs of the civilian population, as well as the facilitation of the return of refugees and IDPs, as one of the key areas for protection. Other areas were (b) the *facilitation humanitarian assistance to vulnerable populations*, including counter-terrorism measures. Furthermore, (c) protection was understood to include the *safety and security of humanitarian and associated personnel* and (d) *training of*

<sup>3</sup> This theme was subsequently developed by the International Commission on Intervention and State Sovereignty (ICISS) which also emphasized the need for a “protection culture” with respect to the “Responsibility to Protect” (R2P) (ICISS 2001)



*security and peacekeeping forces* in human rights and cross-agency cooperation.<sup>4</sup>

In terms of the more immediate tasks in the provision of protection, the document cited (e) *Security and the rule of law*, including strengthening the capacity of local police and judicial systems to physically protect civilians and enforce law and order. This was to be achieved through the deployment of qualified and well-trained international civilian police, technical assistance, reconstruction and rehabilitation of the institutional infrastructure, as well as mechanisms for monitoring and reporting of alleged violations of humanitarian, human rights and criminal law. Furthermore, emphasis was to be put on stabilization and rehabilitation of communities through (f) *disarmament, demobilization, reintegration, and rehabilitation* (DDR) of ex-combatants, and (g) measures to *control and reduce the illicit traffic in small arms*.

Priorities which must be understood in terms of providing protection and security in the long term were seen to include (h) *justice and reconciliation* through the establishment of arrangements for investigation and prosecution of serious crimes, as well as locally adapted mechanisms for truth and reconciliation. Media and information channels were also to be controlled in order to (i) *ensure anti-hate media and limit the propagation of hateful information*. The particular protection needs of (j) *women*, as well as their contribution to peace processes were also mentioned as central, as was the (k) *protection of children*. Finally, the report argued that the (l) *impact natural resources might have on armed conflicts* had to be addressed, as well as (m) *ways of limiting the impact of economic sanctions* on the populations through humanitarian exemptions in sanction regimes and targeted sanctions.

The concept of PoC was further broadened, following an increased focus on the behaviour of UN personnel in mission. Developments on the international scene also fed into the formulation of the concept, as the issues of sexual exploitation, commercial exploitation and terrorism were included. Furthermore, there was an increased focus on moving the agenda away from concept formulation towards implementation.

The PoC was further developed by the UNSG in 2004 as a ten-point platform identifying the key concerns where further action was required. While the platform did little in terms of conceptual innovation, it drew attention to “forgotten emergencies” and stressed that peace processes had to “include a commitment by parties to conflict to immediately cease all attacks on civilians” (UNSG 2004). The issues emphasized by the platform included:

- improving humanitarian access to civilians in need
- improving the safety and security of humanitarian personnel
- improving measures to respond to the security needs of refugees and internally displaced persons
- ensuring that the special protection and assistance requirements of children in armed conflicts are fully addressed
- ensuring that the special protection of women in armed conflict are fully addressed

<sup>4</sup> For more information about the importance of human rights training for CIVPOL officers and local police officers, see (Marotta 2000).

- addressing shortcomings in our approach to disarmament, reintegration and rehabilitation
- addressing the impact of small arms and light weapons on civilians
- combating impunity
- developing further measures to promote the responsibility of armed groups and non-state actors
- ensuring the provision of the necessary resources to address the needs of vulnerable populations in “forgotten emergencies” (ibid.).

The importance of the PoC was further emphasized in the UNSG’s report 2005 to the UNSC which reminded the latter of its previous willingness, as expressed in its resolution 1296 (2000), to consider the deliberate targeting of civilians and the “committing of systematic, flagrant and widespread violations of international humanitarian and human rights law” as constituting a threat to international peace and security (UNSG 2005). Furthermore, the report of 2005 emphasized a number of key challenges, such as (a) violence against civilians; (b) security for displaced persons and host communities; (c) special issues related to women and children; and, (d) access to vulnerable populations. Although the report acknowledged that “[p]rotection concerns are better and more consistently reflected in peacekeeping mission mandates” it nevertheless stressed that there were still “gaps in the current framework.” The main ones being the areas of physical protection, provision of humanitarian assistance, peacemaking, monitoring and reporting. (UNSG 2005:10)

### **The Security Gap**

The development of the concept of PoC and its subsequent entry into mandates, has posed new challenges to UN peacekeeping missions. These missions already operate in post-conflict situations that are characterized by a lack of security institutions. The judicial system has often disintegrated, security forces are militarized or politicized, and there is no penal system and sometimes no applicable law.<sup>5</sup> Moreover, civil war settlements often dramatically decrease the number of security personnel as a consequence of demilitarization processes, vetting, or because they had been part of an “occupation force” or ethnically biased.

In addition, as Eide and Holm argue, there is often no clear distinction between the two subsections of the coercive apparatus (2000). Thus, the division between the “external” security sector (military) and the “internal” (police, justice system, penal system) is often blurred, merging into a “fluid entity” (Chanaa 2002:39).<sup>6</sup>

For an adequate protection of civilians to be effective, building up a credible security sector is necessary. Such challenges as the ones already mentioned must be addressed in a holistic way. The various institutions comprising the security sector are interrelated and interdependent. Thus, all

<sup>5</sup> For more considerations on the problems related to the uncertainties of applicable law in PSOs, see (Rausch 2002).

<sup>6</sup> This is particularly the case in Africa, where internal security has become the function of a mixture of forces. Most African police is paramilitary, while the military usually takes over aspects of basic enforcement (Chanaa 2002).

aspects of the security sector must be addressed in order to secure a stable and safe environment: police arresting criminals who cannot be detained or prosecuted is of little use, and can further contribute to decreasing the already weak legitimacy the security sector enjoys in post-conflict situations. Building and reforming detention facilities, as well as strengthening the court system therefore go hand in hand with rebuilding a police force. The security issues are often made more salient due to the failure of military forces to address immediate security threats. Failure to address immediate security threats can result in a situation where a power vacuum allows for organized crime to develop.

In order to simultaneously meet the challenges posed by the breakdown of security institutions, “policekeeping” has been suggested as a complementary force to the military. International police forces should be deployed together with troops, the argument goes, as they would more easily command local consent “by protecting societies from persecution and lawlessness” (Day and Freeman 2005:145). In order to be efficient, policekeeping should begin in the immediate aftermath of hostilities and last until local authorities have successfully retaken control.

As the use of international police forces has become commonplace in later peacekeeping operations, there is however a growing need to further develop the skills and use of international police officers to ensure that a broad understanding of protection underlies the protection of civilians.

## **Understanding the Security Sector**

Delivering security according to a broad concept of protection includes a wide range of actors with complimentary roles. However, there is still no consensus as to which roles different actors ought to play, especially between military and police forces. These issues have not been made easier by the fact that UNSC mandates have increased in scope to include securing areas, crowd and riot control, protecting individuals and convoys, delivering humanitarian aid, using force to protect both civilians and UN personnel, confiscating weapons and contraband, restricting movement, intervening in serious crimes, investigating gross human rights violations, detaining alleged perpetrators, and, even in some cases conducting basic judicial proceedings. The distribution of these tasks between different actors is far from straightforward, especially as to the distinction between “security” and “law and order”. As a case in point, the *Handbook of United Nations Multidimensional Peacekeeping Operations* categorizes “controlling movement and access through checkpoints, providing armed escort for safety and to facilitate access, conducting cordon and search operations, conducting crowd control, and confiscating weapons” as security tasks rather than law and order tasks (UN DPKO 2003:63).

It is generally accepted in literature that military forces are required in the initial phases of operations, as they are the forces best capable of establishing a peace-like environment. Equally, there is agreement as to the military providing a ‘security space’, within which civilian peacekeepers should be able to “get on with restoring and maintaining police, judicial and correction functions” (Oswald 2005:15-16). Holm, for instance, puts strong emphasis on the importance of the overall security situation when CIVPOL

is deployed. CIVPOL should *not* be deployed while fighting is ongoing (Holm 2000). However, while there is some agreement as to the timing of different tasks, there is still disagreement as to the distribution of these tasks.

A common assumption is that the more complex the functions are, the less appropriate they for the military forces to provide alone. Annika Hansen, for instance, usefully distinguishes between “providing a secure environment” and “law enforcement” (Hansen 2005; see also Cockell 2002). For, she further holds, “[m]easures taken to provide a secure environment are not linked to a wider rule of law concept [...] they do not enforce specific laws, are not followed through a chain of justice and do not enjoy the predictability of law enforcement in a stable society” (Hansen 2005). Thus, according to Hansen, military forces are best suited to take on the tasks of “providing a secure environment”, while the police should perform “law enforcement”.

Call and Barnett, on the other hand, make a distinction between *peacekeeping* and *peacebuilding* tasks in distinguishing the tasks and responsibilities of military and police. Peacekeeping, they argue, involves two distinct security challenges, namely (i) ensuring the security of the parties in the conflict, and (ii) securing the remnant population. Historically, the role of providing physical security to former fighting parties has been performed by international military forces. However, Call and Barnett maintain that the military is less suited to provide security for the population at large and conduct peacebuilding tasks: “if military troops are not well suited to the public security tasks of peacekeeping, then they are particularly inappropriate for building permanent civilian police forces” (Call and Barnett 2000:44). Peacebuilding must be understood as institution building, a task which ought to be reserved for the civilian police. Others, in turn, see the difference between “law” and “order”, where the former ought to be the task of the civilian criminal justice, whereas to the latter ought to be reserved to military forces (Oswald 2005:11).

It is thus fair to say that there is little agreement on the matter. Furthermore, the distribution of responsibilities is often decided not by necessities in the field, but the political needs elsewhere and the nature of mandates. These unclear lines lead to ineffectiveness. As Oswald argues, the lack of a clear and common understanding can cause “operational dilemmas [to] arise in situations that straddle the divides between security, law and justice [...] and confusion will hamper identification of the precise nature of the vacuum and who should fill it” (Oswald 2005:11). This brings us to two of the main challenges which need to be overcome for an effective PoC, namely how to effectuate the transition between military and police forces, and the distribution of adequate resources.

### **The Deployment and Enforcement Gaps**

While military forces can generally be deployed at short notice, there is no subsistent stand-by international police force ready to step into peacemaking operations. Police officers generally employed in normal duty in their respective countries, and their deployment in mission is costly and can take time. This “deployment gap” is particularly felt if police forces are not numerous enough to replace withdrawing military personnel. Furthermore, the

problems can be exacerbated by what has been termed the “enforcement gap”, namely that while police forces are generally perceived as legitimate in enforcing the law, they nevertheless often lack adequate resources—financial, but also in terms of strength. The military, on the other hand, generally has the resources necessary to undertake such activities, but are both less qualified to undertake such tasks, and lack the legitimacy police forces have. In the transition from war to peace, continued military presence can easily give the impression that the hostilities are still undergoing. Both limitations are thus related to the military’s potential capacity to fill both gaps, but its unwillingness or inadequacy to do so. It is therefore generally accepted that the military is not the ideal actor to perform certain duties and that police and military forces should have different roles.

There are several reasons why military institutions and personnel should not perform law and order duties. These relate mainly to issues regarding training, identity and willingness. To some extent, the difference between soldiers and policemen is a question of professional identity. On the one hand, the military’s lack of adequate training for certain tasks has been emphasized, while on the other it has been argued that the issue at stake is a question of different cultures between the two. While policemen are used to act individually, military personnel are used to act as members of a larger unit. Further, while policemen tend to use persuasion techniques when dealing with the population, the military has in many cases contributed to escalate the violence. (See Hansen 2005; Chanaa 2002; Jakobsen 2003; Call and Barnett 2000; Watts 2001). As Hills has argued, “[s]oldiers must be stronger than their opponents whereas policemen tend to work through ruse and discretion” (Hills 2001:94).

But the difference between military and police lies not only in their methods. As Larry Watts argues, while the military is authorized and expected to use lethal force, the police primarily rely on non-lethal force and persuasion. Furthermore, the police is inherently political in that one of its main tasks is the protection of a specific social order, while the military’s political role is less straightforward, as its task is the non-political defense of territory of the state. Finally, police and military differ as to the legal basis and accountability of their activities. Whereas the military are subject to a different set of laws, the police are subject to the same laws as any other citizen (Watts 2001).

This being said, the main challenge confronting both military and police in addressing the security challenges of post-conflict situations is nevertheless that both military and police are ill-prepared for the tasks they have to undertake. Peace operations are not standard operations. Police officers are not used to operating in a largely unstable environment, supervising elections or enforcing external laws. Policing in peace operations is different to “normal” policing. And while military forces may have better training, peace operations are grey-area operations—situations between war and peace. Preparation for such operations must come largely from lessons-learned from previous experiences, a knowledge not necessarily readily available (for more on these challenges, see Hills 2001).

The grey-area tasks which have to be undertaken often lead to more challenges. For instance, the right actors to undertake a specific task may not have been deployed yet when the task is to be undertaken. While one school holds that the distinction between military and police is paramount, as the

police alone “can nurture the capability, will and mutual confidence amongst local authorities required to ensure that rule of law conforms to internationally accepted standards after the mission has ended” (Hills 2001:93), others maintain that the military ought to fill the vacuum if nobody else can do it (Jakobsen 2003).

Both schools nevertheless reflect ideal solutions, which often have little to do with the context encountered in such operations, where compromises due to lack of resources are common. Thus, while a neat division of tasks between different actors may be ideal, this is often not possible, as frequently unforeseen challenges faced must be dealt with immediately. Therefore, while there is a general agreement that the military involvement is inevitable in the emergency phase of an operation (Jakobsen 2003), the role of the military will fluctuate as they have to move between enforcing order, humanitarian relief and combat (Hills 2001).

### **Addressing the Gaps**

Four main options can be followed in order to re-establish interim security, ranging from relying on (i) an emergency local force, (ii) pre-existing local forces, (iii) international military forces, or (iv) international civilian personnel (See Call and Stanley 2001). In practice, however, different options are often combined according to mandates and tasks at hand. Furthermore, they all have their respective strengths and weaknesses.

The establishment of an emergency local force, for instance, has the advantage of being made up of uncompromised members. On the other hand, it may not be the most effective solution. On the other hand, using a pre-existing local force subjected to international monitoring may be more effective, but may in turn involve individuals responsible for great human rights violations. Furthermore, they can be understood as a threat by opposing rebel groups and thus increase insecurity. And while the use of international military forces instead may prove effective in some cases, many scholars question the suitability of military forces to undertake public security tasks. The most promising option, then, is the use of international civilian personnel. Such forces, however, are often ill-prepared to deal with serious security threats and unable to cope with violent, organized crime. They often speak different languages (and in most cases not the local language), have little contact with the local population, and are deployed for short periods. Most of the international officers expect, in addition, to function as monitors (Call and Stanley 2001:157-159).

A complicating factor in terms of different options is also the fact that the mandates themselves may call for different solutions. Some only recognize the role of local law and order, while others authorize peacekeepers to protect civilians and property if local authorities fail in doing so (see the Challenges Project 2005:92).

These mandates have changed over time. Traditionally, mandates were of a non-executive or a monitoring kind. The international peacekeepers were to observe, monitor and train the local forces in their law and order functions. The 1995 SMART concept (Support for HR, Monitoring, Advising, Reporting and Training) has been the backbone of many such opera-

tions.<sup>7</sup> The main challenges posed by non-executive mandates relate to coordination between international and local forces. In order to effectively address threats to civilians, there is a need for a clear distinction of responsibilities of the international and local forces (see Malan 2000; Hartz 2000; Holm 2000; and Cordone 2000).

The use of executive mandates in contrast has been more limited. In these cases, the peace operation has the full responsibility for the maintenance of law and order. The shift from non-executive to executive mandates nevertheless represents a sizeable challenge, and requires a new approach (see Dwan 2002). The deployment gap will be more salient in these cases, as international personnel often lack the technical infrastructure to support criminal investigations. Furthermore, there may be difficulties due to different cultures and languages. As Kaspersen, Eide and Hansen emphasize, “effective policing requires intimate local knowledge, trust of the local population and detailed understanding of the applicable law and customs” (Kaspersen, Eide and Hansen 2004). Finally, potential difficulties arise from the need to provide both law enforcement and training local forces (Perito 2002), and by the fact that an executive mandate removes the responsibilities of local authorities (see Eide and Holm 2000 and Kaspersen, Eide, and Hansen 2004).

The importance of local ownership has thus become a central theme in discussions about how to best organized peace operations. As the final aim of peace processes is the restoration of local authority in a peaceful environment, it has been argued that local actors ought to be integrated in all phases of the peace process in order to ease the transition from international to local responsibility (see Chanaa 2002, , Cordone 2000, Heinemann-Grüder and Grebenschikov 2006, and Kaspersen, Eide and Hansen 2004). Cordone further emphasizes the importance of local ownership, arguing that in some cases, “[t]rying to be the police when one is meant to reform it risks undermining the whole project of reform without necessarily resolving individual incidents. The key is not to lose sight of the ultimate aim of prompting action from the local authorities, ensuring that responsibility, also at the political level, rests squarely on their shoulders” (Cordone 2000:194). Cordone thus also hints at the possibility of there being an incompatibility between long-term objectives of sustainable peace and immediate protection concerns.

The creation of so-called formed police units or standby forces has been suggested as a possible solution to the deployment gap. As police officers are employed at home, their quick deployment abroad is difficult.<sup>8</sup> To remedy this, it has been suggested that the UN create a unit of police officers available for deployment. While there is little agreement as to whether this will solve the issues relating to the deployment gap, most authors nevertheless agree as to the need for both military and police, *and* complimentary gendarmerie forces in formed units. Furthermore, there is also consensus on

<sup>7</sup> This concept has also been broadened to include new tasks such as restructuring, reform and democratization. For more on non-executive mandates see Kaspersen, Eide and Hansen 2004, and Oswald 2005.

<sup>8</sup> An exception is the Italian gendarmerie force, the *Carabinieri*, which can be deployed in relatively consistent numbers and, and a few other minor gendarmerie forces (Hansen 2005:15).

the need for training military personnel in policing tasks, such as training in negotiation skills and the use of non-lethal weapons.

The use of gendarmerie forces has also been advanced as a way to bridge the enforcement gap. Lutterbeck, for instance, argues that “grey area” operations are the gendarmerie forces’ *raison d’être*, having been created in the nation-building phase of their country in order to enforce law in a “grey area” situation. Moreover, these forces have a dual dependency and operability, as they can be deployed under both civilian and military command (Lutterbeck 2004).

However the use of gendarmerie does not bridge the entire enforcement gap, as their use poses some of the same questions as the use of the military, and thus do not hold the same legitimacy as police forces do (Hills 2001). Furthermore, the requirements of different areas may be different. As such, while some areas may require a military presence, other areas may be secure enough for police to operate. This in turn may evolve, and change over time (see for instance Hansen 2005:49). The need for all three types of units to operate simultaneously and in different roles in different areas once more stresses the central role which must be played by coordination.

### **Sharing Responsibility**

The problems of cooperation are exacerbated by institutional problems relating to the overlapping competencies or competing roles of international organizations. In Kosovo, for instance, UNMIK, KFOR and OSCE all had a mandate for providing security, without there being a clear “chain of command” (Heinmann-Grüder and Grebenschikov 2006:56). As a response to this, Michael Williams emphasizes the need for clear mandates. In order to achieve this, he makes the case for a stronger military involvement in the planning phase of an operation. As a solution, Williams also suggests an increased participation of major contributing countries in the planning phase in order to limit national interference on an operational level (Williams 1998). Williams’ point is further elaborated by Cockell who argues that civil-military cooperation should ideally be pursued at all levels: strategic (between organizations’ headquarters, decision making bodies and secretariats), operational (theater-level headquarters for the mission area), and tactical (in field-level operations for mission components) (Cockell 2002).

Furthermore, Joulwan and Shoemaker make the case for the need for practical knowledge in the strategic phase, as they suggest that integrated civil-military implementation staff should be used in the planning phases of an operation as well in order to limit the security gap at a strategic level (Joulwan and Shoemaker 1998). Furthermore, while mission mandates must define clear roles, they should not limit the scope for flexibility (Cockell 2002). The strategic level must also take into account practical lessons-learned from past operations. Delays in the police deployment should therefore be foreseen and built into the military plan. Police and legal advisors should also accompany the initial deployment of military forces in order to ease the transition. At the operative level, coordination can be enhanced through assigning flexible roles to different types of units, full mission integration between civil and military components, congruence of sector boundaries and correspondence of mission levels of management.



## **Black Hole: Strategies**

Responses to the law and order vacuum today often appear to be ad hoc and driven by exigencies on the ground rather than policy and planning. A number of planning issues have also been “a product of a conscious political decision by the major contributors to the military force, rather than the result of mere practical arrangements” (Hansen 2003:186). Rules of Engagement have therefore also tended to “conform to political rather than to military logic”. (Hills 2002:17). Subsequently peacekeepers have often found themselves addressing issues they were neither trained nor prepared for. There is therefore wide agreement on the need for strategies and policies to address the institutional law and order vacuum in post-conflict societies (see Dziedzic 2002, Oswald 2005, Chanaa 2002, and Hills 2002).

Kaspersen, Eide and Hansen have also stressed the importance of planning, especially in emphasizing the importance of an agreement on the end-state. Achieving such a common end-state, they argue, also depends on a holistic approach which includes different actors and merges tools from both the security and development sector (Kaspersen, Eide and Hansen 2004). Effective planning will also depend on the ability elaborate effective and efficient methods to identify the specific needs of the host state, as well as realistic assessments of the extent of the law and order vacuum (Oswald 2005:14-15; Chanaa 2002:39). This includes ways to measure the capabilities of formal and informal local law and order institutions. Effective planning must rely on a comprehensive initial assessment of existing and available capabilities within both the local and the international communities.

## **Peace versus Protection?**

While aims of providing peace and security are generally seen as going hand in hand, as the foregoing discussion has pointed out, there is a fundamental problem in providing protection in peacekeeping operations. Central to this problem is the distribution of tasks and roles between the military and the police. As Call and Stanley argue, there is a potential contradiction between measures to provide immediate security and measures to facilitate long-term institutional development (2001:153). This contradiction, in turn, can be one of the reasons for the poor record peace operations have had in terms of providing protection.

However, a focus on short-term protection may also have adverse consequences for long-term public security development. While the use of existing local personnel to provide immediate security may in turn jeopardize the legitimacy of the new security force in the long run. This potential contradiction between immediate protection and long-term peace points to the importance of clear mandates. Is the goal of the operation long-term institutional development, or short-term protection? And if the operation aims at both, this is one of the key challenges which mandates have to resolve in future operations.

## Concluding Remarks

As we have shown, the concept of a PoC is a broad, almost all-encompassing concept. In order to understand why the concept has developed in this way, it is important to keep in mind that it emerged as a result of a call for and deliberate fostering of a general “culture of protection” (cf. UNSG 2001). This conceptual broadness is further complicated by the emergence of similar and related norms such as the “Responsibility to Protect” (R2P) of the ICISS report, which emphasized protection as a long-term commitment to create a permanent secure environment which goes far beyond the concept of safe havens and protected areas (ICISS 2001).

However, while both concepts are related in terms of their aims, there are clear differences between them. R2P is interventionist, PoC is not. As has been shown here, the UNSC has been very mindful in guarding state sovereignty within the context of the PoC. As the UN General Assembly stated at the 2005 World Summit, “we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis” (A/RES/60/1). As such, a cautionary note is necessary. While the R2P enjoys wide legitimacy in most Western countries, this is not necessarily the case for all UN member states. The concept of R2P has suffered a number of blows after the invasion of Iraq. PoC is not interventionist, as it is meant to address more pressing issues dealing with the protection of civilian populations in conflict areas, and meant mainly as a guide to *how* to act, not a trigger on *whether* to act.

These distinct concepts are nevertheless routinely referred to as synonymous and used interchangeably in the same contexts. A case in point is the UNSG 2007 report on PoC, which states that “[m]uch has been achieved in recent years towards strengthening the *protection of civilians* in armed conflict, including the acceptance of the *responsibility to protect*.” (S/2007/643). Being non-interventionist, PoC enjoys wider legitimacy than R2P. The conceptual muddle resulting from the use of both concepts as synonymous can easily end up jeopardizing the legitimacy enjoyed by the norm of PoC. One must be careful to treat both R2P and PoC as two *distinct but related* concepts in order to avoid “R2PoC”.

The prominence given to PoC in UN documents is symptomatic of a new awareness of protection issues within the international community. However, these good intentions and interventions have not always led to the security and peace desired. An effective implementation of PoC still rests upon a number of practical challenges, especially at the operative level. Meeting these challenges has not been made easier with the UN’s emerging emphasis on the need for coordination and integration of effort.

Of the several approaches to the study of security in peacekeeping operations, some take as their starting point the security sector reform process, while others tend to focus on long-term effects of operations, often stressing the importance of local ownership. However, most of these studies are case-based and the issue of protection is only given cursory attention (see for instance Heinmann-Grüder and Grebenschikov 2006, Oakley, Dziedzic and Goldberg 2002, and Hood 2006). Many of these studies identify problems and challenges in terms of providing effective protection, such as poor coordination, late deployment, military reluctance towards taking on police tasks. Nevertheless, few studies suggest specific answers to those challenges.

And the need for solutions to how to provide protection for the civilian population is pressing. In many post-war settings, the level of violence remains unchanged after the end of war, as new security threats often emerge instead of the war-related security threats.

There is therefore a critical need for more research on how to provide effective protection. While different understandings of protection vary, ranging from the provision of mere physical protection to the wider framework adopted by the UN, it might be necessary to be flexible in what understanding of protection is taken as a point of departure, depending on the aim of the particular case. For example, taking the UN framework as a starting point, while covering many aspects of protection issues, may lead to too little conceptual clarity. In this case, a possible framework for focusing on the challenges to physical protection is the emphasis made by Annika Hansen on three areas crucial to filling the security gap, namely (i) providing a secure environment, (ii) law enforcement and the judicial process, and (iii) security sector reform and the rule of law (Hansen 2005). As an alternative, a focus on protection could also start with the distinction between *peacekeeping* and *peacebuilding* tasks advanced by Call and Barnett (Call and Barnett 2000). The effective provision of physical protection must first and foremost focus on the peacekeeping phase. By merging the two, one runs not only the risk of conceptually meddling the issue, but a long-term focus on PoC including, say, a discussion of local ownership, may obscure the issue and take attention away from the more pressing challenges to providing effective security. Finally, the effective provision of protection depends on intimate knowledge of the challenges to be overcome. PoC does not yet figure centrally in the literature on peacekeeping. Such a focus ought to be based on extensive field-knowledge, and an intimate understanding of the different contexts in which deployment and enforcement gaps need to be bridged, and rather than start at the conceptual or general level, ought to take as their starting point the question of what are the *actual* obstructions hindering both police and military peacekeepers from protecting the civilian population in different contexts? The conceptual work done on PoC needs to be followed up by empirical research.

## References

- Bowden, Mark (2002), 21 October, OCHA PDSB. The entire interview can be read at <http://ochaonline.un.org/HumanitarianIssues/ProtectionofCiviliansinArmedConflict/Introduction/ProtectionParameters/tabid/1135/Default.aspx> [05/03/2008]
- Call, Chuck and Barnett, Michael (2000), "Looking for a Few Goods Cops: Peacekeeping, Peacebuilding and Civpol", in Eide, Espen Barth and Holm, Tor Tanke (eds.) (2000), *Peacebuilding and police reform*, Frank Cass, London
- Call, Chuck and Stanley, William (2001), "Protecting the People: Public Security Choices after Civil Wars", in *Global Governance*, vol. 7, no. 2, pp. 151-172
- The Challenges Project (2005), "Meeting the Challenges of Peace Operations: Cooperation and Coordination", Phase II Concluding Report 2003-2006, Elanders Gotab, Stockholm, 2005
- Chanaa, Jane (2002), *Security sector reform: issues, challenges and prospects*, Oxford University Press, Oxford
- Cockell, John C. (2002), "Civil-Military Responses to Security Challenges in Peace Operations: Ten Lessons from Kosovo", in *Global Governance*, Vol. 8, no. 4, pp. 483-503
- Cordone, Claudio (2000), "Peace Reform and Human Rights Investigations: The Experience of the UN Mission in Bosnia and Herzegovina", in Eide, Espen Barth and Holm, Tor Tanke (eds.) (2000), *Peacebuilding and police reform*, Frank Cass, London
- Day and Freeman (2005), "Operationalizing the Responsibility to Protect - The Policekeeping Approach", in *Global Governance*, Vol. 11, no. 2, pp. 139-146
- Eide, Espen Barth and Holm, Tor Tanke (eds.) (2000), *Peacebuilding and police reform*, Frank Cass, London
- General Assembly (2000) "The Millennium Declaration", A/RES/55/2, 18 September 2000, United Nations, New York
- Hansen, Annika (2005), "Supporting the Rule of Law in War-Torn Societies. Tasks and Comparative Advantages of Civilian Police and Military Forces", *FFI-Report 2005/02099*, FFI, Kjeller
- Hartz, Halvor (2000), "CIVPOL: The UN Instrument for Police Reform", in Eide, Espen Barth and Holm, Tor Tanke (eds.) (2000), *Peacebuilding and police reform*, Frank Cass, London
- Heinemann-Grüder, Andreas and Grebenshikov, Igor (2006), "Security governance by internationals: The case of Kosovo", in *International Peacekeeping*, vol. 13, no. 1, pp. 49-59
- Hills, Alice (2001), "The Inherent Limits of Military Forces in Policing Peace Operations", in *International Peacekeeping*, vol. 8, no.3, pp. 79-20
- Holm, Tor Tanke (2000), "CIVPOL operations in Eastern Slavonia, 1992-1998", in Eide, Espen Barth and Holm, Tor Tanke (eds.) (2000), *Peacebuilding and police reform*, Frank Cass, London

- Holt, Victoria K. (2005), "The Responsibility to Protect: Considering the Operational Capacity for Civilian Protection", Henry L. Stimson Center, Washington DC
- Hood, Ludovic (2006), Missed Opportunities: The United Nations, Police Service and Defence Force Development in Timor-Leste, 1999-2004", in *Civil Wars*, vol. 8, no. 2, pp. 143-162
- ICISS (2001), "The Responsibility to Protect", Report of the International Commission on Intervention and State Sovereignty (ICISS), December 2001, published by the International Development Research Centre, Ottawa
- Jakobsen, Petter Viggo (2003) "Military Forces and Public Security Challenges" in Michael Charles Pugh and Waheguru Pal Singh Sidhu (eds.) *The United Nations and Regional Security: Europe and Beyond*, Lynne Rienner Publishers, New York
- Kaspersen, Anja T., Eide, Espen Barth and Hansen, Annika (2004), "International Policing and the Rule of Law in Transitions from War to Peace", in *Challenges to collective security - working papers from NUPI's UN Programme*, 4/2004, NUPI, Oslo
- Malan, Mark (2000), "Peacebuilding in Southern Africa: Police Reform in Mozambique and South Africa", in Eide, Espen Barth and Holm, Tor Tanke (eds.) (2000), *Peacebuilding and police reform*, Frank Cass, London
- Marotta, Francesca (2000), "The Blue Flame and the Gold Shield: Methodology, Challenges and Lessons Learned on Human Rights Training for Police", in Eide, Espen Barth and Holm, Tor Tanke (eds.) (2000), *Peacebuilding and police reform*, Frank Cass, London
- Oakley, Robert B., Dziedzic, Michael J. and Goldberg, Eliot M. (2002), *Policing the New World Disorder: Peace Operations and Public Security*, University Press of the Pacific, Honolulu
- Oswald, Bruce (2005), "Addressing the Institutional Law and Order Vacuum: Key Issues and Dilemmas for Peacekeeping Operations: Think Piece", in *New Zealand Armed Forces Law Review*, vol. 6, pp. 1-19
- Perito, Robert M. (2002), *The American Experience with Police in Peace Operations*, Canadian Peacekeeping Press, Cornwallis
- Rausch, Colette (2002), "The Assumption of Authority in Kosovo and East Timor: Legal and Practical Implications," in *Executive Policing: Enforcing the Law in Peace Operations*, Dawn, Renata (eds.), Oxford University Press, Oxford
- UN DPKO (2003), *Handbook of United Nations Multidimensional Peacekeeping Operations*, DPKO Peacekeeping Best Practices Unit, New York
- UN OCHA (2004), "Aide Memoire: For the Consideration of Issues Pertaining to the Protection of Civilians", Office for the Coordination of Humanitarian Affairs Policy Development and Studies Branch, New York
- UNSC (1999a), "Statement of the President of the Security Council", S/PRST/1999/6, 12 February 1999, United Nations, New York
- UNSC (1999b), "Resolution 1265", S/RES/1265, 17 September 1999, United Nations, New York

- UNSC (2000), "Resolution 1296", S/RES/1296, 19 April 2000, United Nations, New York
- UNSC (2001), "Letter dated 21 June 2001 from the President of the Security Council addressed to the Secretary-General", S/2001/614, 21 June 2001, United Nations, New York
- UNSC (2006a), "Resolution 1674", S/RES/1674, 28 April 2006, United Nations, New York
- UNSC (2006b), "Resolution 1738", S/RES/1738, 23 December 2006, United Nations, New York
- UNSG (1998), "The causes of conflict and promotion of durable peace and sustainable development in Africa", A/52/871, 13 April 1998, United Nations, New York
- UNSG (2001), "Report of the Secretary-General to the Security Council on the protection of civilians in armed conflict", S/2001/331, 30 March 2001, United Nations, New York
- UNSG (2002), "Report of the Secretary-General to the Security Council on the protection of civilians in armed conflict", S/2002/1300, 26 November 2002, United Nations, New York
- UNSG (2004), "Report of the Secretary-General to the Security Council on the protection of civilians in armed conflict", S/2004/431, 28 May 2004, United Nations, New York
- UNSG (2005), "Report of the Secretary-General to the Security Council on the protection of civilians in armed conflict", S/2005/740, 28 November 2005, United Nations, New York
- UNSG (2005), "Report of the Secretary-General to the Security Council on the protection of civilians in armed conflict", S/2007/643, 28 October 2007, United Nations, New York
- Watts, L. (2001), *Whose Professionalism?: Separating the Institutional Roles of the Military & Police*, Conflict Studies Research Centre, Royal Military Academy, Sandhurst