Global Protection Cluster

PARTNER CONTRIBUTIONS TO THE INDEPENDENT HIGH LEVEL PANEL ON PEACE OPERATIONS

1. Reducing risks faced by affected populations during humanitarian crises, armed conflict, a volatile post conflict environment and/or violent political crises, as well as cultivating an environment conducive to protection, requires a multi-disciplinary and multi-stakeholder approach. Strategic and operational interaction between humanitarian actors and UN missions[1] need, therefore, to be encouraged and institutionalized to maximize protection outcomes.

2. Pro-active engagement by humanitarians with UN missions, such as political good offices and integrated human rights components, uniformed military and police personnel, is critical to contributing to the protection of civilians (PoC). Engagement by humanitarian actors with a UN mission can take many forms and is not synonymous with endorsing the mission's mandate or decisions. The question is not "if" to engage, but "how" to engage, bearing in mind the importance of adhering to, and being perceived to adhere to, the humanitarian principles of humanity, neutrality, impartiality and independence. Whilst humanitarian action may contribute to the objectives of peace operations, the main purpose of humanitarian action is to save lives and alleviate human suffering.

3. In view of the foregoing, the GPC welcomes the independent review of peace operations, which can be an opportunity to support ongoing efforts to strengthen coordination; reinforce respect for the diversity of mandates; and leverage complementarities, approaches, expectations and modus operandi among actors contributing to protection outcomes. At the same time, the review presents an opportunity to formulate recommendations for the implementation of existing UN policies and guidance, such as the UN Human Rights Due Diligence Policy (HRDDP), the Policy on Human Rights Screening of UN Personnel, and the UN Department of Peacekeeping Operations (DPKO) PoC toolkit. Finally, it is hoped that this review can dovetail with other important exercises of this kind – such as the ongoing independent Whole-of-System Review of Protection in Humanitarian Crises, and implementation of the UN Human Rights Up Front Plan of Action – with overall aim of facilitating a closer alignment of priorities among humanitarian, peacekeeping and other actors.

---

[1] "UN missions" in this document refers to UN peacekeeping missions and UN special political missions.

Character of Peacekeeping Mandates

4. Challenges have been observed when UN peacekeeping missions are tasked with the protection of civilians under imminent threat of physical violence alongside state-building, or the extension of state authority, if the State itself is a threat to civilians, fails to fulfill its obligations under international humanitarian and human rights law, and/or becomes a party to conflict. Such multifunctional mandates appear to be incompatible and contradictory. The simultaneous pursuit of state-building functions can, for example, limit efforts to hold State forces accountable to their obligations to civilian populations and inhibit peacekeepers, even when tasked to protect, from intervening in situations where civilians face an immediate risk to life by the State.

5. It may also be necessary to assess, more systematically, the feasibility/appropriateness of implementing all mandated tasks concurrently and analyze their positive/negative impact on each other. Some actors hold the view that an approach that prioritizes the different components of peacekeeping (e.g. PoC, transitional justice) could be considered. Under all circumstances, the work of the UN should be informed and guided by a solid protection analysis and shared understanding of the full range of threats to civilians (including threats specific to children, women, men and other groups), which is developed and regularly updated in consultation with humanitarian actors to account for progress and the changing operational context.

Interaction between Humanitarians and UN Missions

6. Effective dialogue and interaction between humanitarian and military actors, including military actors within UN peacekeeping missions, have sometimes been hampered by humanitarian actors' concerns over the impact a closer association may have on their ability (or how they are perceived) to operate in an independent, neutral and impartial manner. Humanitarian actors have nevertheless long recognized that humanitarian action alone is not sufficient to protect civilians from the full effects of armed conflict. Peacekeepers, meanwhile, have the capacity and expertise to engage politically with States, contribute to the physical protection of civilians and undertake other measures to reduce the risk faced by civilians. Peacekeeping can also contribute to creating an environment and security conditions conducive for humanitarian actors to provide assistance and protection.

7. Accordingly, UN missions and humanitarian actors can thus coordinate activities in a manner that compliments the overall humanitarian response while maintaining distinctions. This demands efforts to promote greater understanding of (i) mandates, (ii) guiding principles and (iii) the areas of work with the humanitarian community and between political, security, human rights and other actors within missions. To this end, recent best practices of engagement between UN peacekeeping missions and humanitarian actors, in particular protection clusters,[2] in undertaking protection analyses and jointly formulating PoC strategies need to be emphasized.[3] Participation in protection clusters of relevant UN civilian mission staff, such as Human Rights Officers and Child Protection and Women Protection Advisors, is also to be encouraged. UN missions can, where appropriate, consider opening their coordination meetings to non-UN humanitarian staff for fuller cooperation and coordination. Indeed, human rights components of UN missions can play a critical role in bridging protection discussions between humanitarian actors and the UN mission. Coordination on this level can contribute to a better overall understanding of how different actors contribute to shared protection outcomes and how complementarities can be leveraged and optimized.

---

[2] For the purpose of this document, "protection cluster" includes field-level protection clusters and cluster-like mechanisms, including working groups.

[3] CAR, South Sudan and Mali.

8. Protection clusters, with a valuable role to play in PoC, need to be fully informed of and systematically consulted in the drafting and revision of PoC strategies of UN missions.[4] Humanitarian actors have noted challenges in achieving a common understanding with UN missions on PoC priorities and protection analyses, which can hamper coordination and the achievement of protection outcomes. At the same time, humanitarian actors are not always aware of the existence of PoC strategies and at times have a poor understanding of the role that they need to play in supporting the drafting and implementation of such strategies. To this end, the GPC has developed guidance and a diagnostic tool that is intended to assist protection clusters to shape their engagement with UN missions, with a view to achieving the best possible protection outcomes. More specifically, the tool includes questions that can help protection clusters to identify areas of convergence and comparative advantage with missions as well as modalities for addressing any areas of sensitivity. Another valuable reference is ICRC's Professional standards for protection work carried out by humanitarian and human rights actors in armed conflict and other situations of violence (reissued in 2013).

9. Without the resources to respond to all instances of violence or threats of violence against civilians, UN missions need to establish clear priorities and focus. In doing so, coordination and interaction with humanitarian actors, most notably protection clusters when they exist, is essential, including for the purpose of developing appropriate, effective and efficient response plans. For instance, the protection cluster in the Central African Republic (CAR) has supported MINUSCA in identifying "enclave communities" facing extreme threats. The mission-wide PoC strategy for CAR also envisages a "Flashpoint Matrix," developed and updated in coordination with the protection cluster, with verified information on threats to civilians to prioritize prevention and response.

Prevention and Environment Building

10. UN missions also have concrete roles in conflict prevention and mitigation, rule of law and security sector reform – all of which are part of a comprehensive approach to addressing risks, beyond immediate physical threats, and creating a protective environment. In realizing this broader approach to PoC, UN missions can prioritize improving compliance by parties to a conflict and other duty bearers with international humanitarian and human rights law. This in turn would contribute to the core objective of UN missions to prevent and reduce risks for civilians and contribute to achieving protection outcomes. Additionally, when UN missions have multiple tasks, such as PoC and state-building, it is necessary to determine priorities and clarify the approach to be taken when the State is party to the conflict and/or poses a threat to civilians.

11. Attention needs to be paid to how UN missions are being supported in their ability to provide physical protection. The UN Security Council and member states have a pivotal role in demonstrating to parties to a conflict that attacks on UN peacekeepers, and on those under the protection of UN peacekeepers, will not be tolerated (e.g., attacks on PoC sites in South Sudan). Imposing penalties, for example, on parties that target UN peacekeepers and the civilians under their care, can have the effect of bolstering peace efforts and enabling negotiations to proceed.

12. Human rights components of missions play a significant role in achieving protection objectives, whether contributing to protection against physical violence or more broadly through, inter alia:

    ➔ human rights monitoring, investigations and reporting on violations of human rights and international humanitarian law;

---

4   See IASC Reference Module for Cluster Coordination at the Country Level, November 2012, Footnote 7: "UNHCR is the Cluster Lead Agency of the Global Protection Cluster. However, at the country level in disaster situations or in complex emergencies without significant displacement, the three core protection mandated agencies (UNHCR, UNICEF and OHCHR) will consult closely and, under the overall leadership of the HC/RC, agree which agency, among the three, will assume the role of Cluster Lead Agency for protection." This could apply in situations where OHCHR is integrated in a UN peacekeeping mission or UN special political mission.

➔ strengthening the rule of law;

➔ contributing to relevant judicial and transitional justice processes;

➔ engaging with host communities and building the capacity of civil society, collaborating and actively engaging with humanitarian and development actors by integrating a human rights-based approach across humanitarian and development efforts as well as the UN mission's senior management team and civilian, police and military components;

➔ providing guidance and advice on human rights, including to UN peacekeeping forces; and

➔ integrating a human rights perspective into programmes to disarm, demobilize and reintegrate combatants.

Distinction (Humanitarians, Civilian Institutions)

13. Strict adherence to the humanitarian principles is key to the ability of humanitarian actors to achieve and maintain access to an affected population.[5] Humanitarian action is based on needs alone, with priority given to the most urgent cases in distress and with no distinction on the basis of nationality, race, gender, religious belief, class or political opinions. Humanitarian actors must remain neutral with respect to the parties to the conflict and independent of the interests of other actors in the same operating environment. The engagement of military peacekeepers in humanitarian activities can potentially call into question or undermine the perceived neutrality, impartiality and independence of humanitarian actors and their activities.

14. Where a UN mission is specifically tasked to support a host government that is engaged in armed conflict, or to support a peace process that does not have popular support, the mission will not be viewed as impartial. In addition, the UN mission may be tasked with supporting a host government that is itself responsible for mistreatment of a civilian population, in which case the mission may be viewed as not doing enough in mitigating harm experienced by civilians.

15. Similarly, the implications arising from UN missions with enforcement mandates whereby the peacekeeping force becomes party to the conflict (as in the Democratic Republic of Congo) need to be better understood, and considered when UN peacekeeping mandates are devised.

16. There is a difference, however, between regular engagement in offensive operations (including the implications and risks this poses) and the targeted use of force to prevent threats against civilians. The UN Office of Internal Oversight Services (OIOS), in its 2014 evaluation, found that "the use of force… appears to have been routinely avoided as an option by peacekeeping operations" in the implementation of PoC mandates. As such, three recommendations from OIOS are noteworthy:

➔ DPKO should emphasize command and control obligations and require missions to report on PoC failures to Headquarters so that they can be tracked and addressed with Troop Contributing Countries (TCCs) where required;

➔ DPKO should provide clear expectations relating to obligations on PoC; and

➔ Working relationships should be improved between peacekeeping operations and humanitarians.

---

[5] For a definition of the humanitarian principles, see: http://goo.gl/ZjAl8U

17. Clear understanding of and respect for the distinct character of humanitarian action, as required under the UN integration policy, is thus essential for humanitarian actors and peacekeepers working in the same operational environments. Peacekeepers need to respect, at all times, the civilian nature of schools, healthcare facilities, and religious institutions; any military presence in those areas (including of peacekeeping troops) jeopardizes the civilian nature of the space and can lead to perceptions that they are legitimate military targets, particularly in instances where peacekeepers are involved in operations against non-state armed groups.

Accountability, HRDDP, PSEA, and Do No Harm

18. Engagement with affected communities needs to be prioritized more systematically by UN missions for the purpose of strengthening accountability to affected populations; managing expectations and fostering a greater awareness of the mission's mandate; and informing the mission's understanding of risks to civilians. The Community Liaison Assistant model serves as one positive example, as does the incorporation of protection expertise in Joint Mission Analysis Centers (JIMACs) and broader UN participation in Joint Operations Centers (JOCs), as appropriate.

19. Engagement with affected populations is furthermore enhanced when troops and mission staff acquire a basic understanding of the population and its composition while respecting the principle of Do No Harm. It is estimated, for several countries currently with UN missions, children comprise more than 50 per cent of the affected population. As such, pre-deployment training, including on child rights and child protection, needs to be a prerequisite.

20. At the same time, where UN missions are not able to engage directly with affected populations, including importantly women, children and persons with disabilities, and other potentially vulnerable and marginalized groups such as minorities, feedback from participatory assessments undertaken by humanitarian actors is especially valuable.

21. Several UN policies help to strengthen respect and accountability for human rights within UN missions, most notably the 2011 OHCHR/DPKO/DPA/DFS policy on Human Rights in UN Peace Operations and Political Missions. The UN has also adopted policies to reduce the risk that under-18-year-olds participate in its peacekeeping operations, including the 1998 policy on Minimum Age Requirements for Peacekeeping Missions and the 2011 policy on the Prohibition of Child Labour in UN Peacekeeping Operations. The UN has also sought to minimize the risk of supporting perpetrators of human rights violations or allowing them to serve in UN missions by instituting the HRDDP and the policy on Human Rights Screening of UN Personnel.

22. UN missions need to ensure sufficient human rights monitoring and protection capacity deployed throughout the mission's area of responsibility, including through child protection and sexual violence experts for their respective Security Council reporting mechanisms. Additional protection expertise, meanwhile, can be drawn from the humanitarian community – such as the protection cluster.

23. There is a need for greatly enhanced accountability and transparency of UN peacekeeping operations for compliance and reporting on their adherence to international humanitarian and human rights law, and measures taken to minimize harm to civilians arising from UN peacekeeping operations where force is used, in particular for missions with enforcement mandates. There is a similar need for civilian casualty tracking, analysis, and response to be comprehensively adopted and implemented.

24. Regular and public monitoring and reporting by human rights components on adherence to international humanitarian and human rights law by government institutions and parties to conflict is also critical to promoting accountability. In this regard, the model for PoC tracking developed by the Human Rights component of the UN Assistance Mission in Afghanistan (UNAMA) has proven effective and could be replicated in other operations, as well as has the Monitoring and Reporting Mechanism (MRM) on grave violations against children in armed conflict. UNAMA's public PoC reports are an important advocacy tool for getting parties to the conflict to improve their directives and practices in relation to minimizing their adverse impact on civilians. By maintaining impartiality and strict verification standards, UNAMA's PoC reports provide a solid, credible basis for advocacy and negotiation - measured against international humanitarian and human rights law- including by humanitarian partners.

25. Human rights components, child protection units (where applicable) and humanitarian actors can develop protocols for information collection and information sharing on violations of international humanitarian and human rights law as well as broader threats and risks to civilians, in line with the recommendations of the Human Rights Up Front Common UN Information Management system review (to be completed in March 2015). Measures, such as field-level standard operating procedures, that serve to safeguard the confidentiality and protection of individuals, especially victims and witnesses, need to be prioritized.

26. Implementation and monitoring of the HRDDP by both missions and UN Country Teams needs to be strengthened through regular stocktaking of progress, including assessments of consistency of UN decision-making based on the policy. Consultations between mission, humanitarian and development actors needs to be enhanced, both in the assessment of risk posed by and compliance by non-UN security forces, and in promoting consistent application. Furthermore, protection clusters, Monitoring and Reporting Mechanisms (MRM) on children and armed conflicts, and the O/SRSG-CAAC, among others, should be consulted when mitigating measures are being developed.

Impact Analysis (Positive, Negative, and Trends)

27. Humanitarian actors and UN mission staff can be encouraged, where appropriate, to undertake joint assessments. This not only facilitates information sharing and analysis, but also provides an opportunity to agree on, for example, action points, priorities, and response strategies. Consideration needs to be given to the affected community's perceptions of risks and threats, and of the effectiveness/appropriateness of the mission's protection measures and impact. Caution is nevertheless essential to ensure that a joint assessment does not affect the neutrality, impartiality and independence of humanitarian actors.

28. UN peace operations and special political missions would benefit from periodic independent assessments and evaluations (real-time, mid-term, and post-facto). Independent evaluations can in turn inform Security Council considerations of appropriate approaches in light of different conflict dynamics, as well as support a culture of learning and accountability. In addition, more regular, transparent and inclusive processes to record good practices and address concerns arising during mandate implementation would greatly enhance the confidence of and engagement by other stakeholders.

29. Trends in peacekeeping activities – including the trends analysis on failures regarding the use of force to protect civilians proposed in the abovementioned March 2014 OIOS evaluation – need to be examined more regularly. Based on trends, analysis of corrective measures or alternatives (such as civilian protection approaches) can be considered.

ANNEX

Relevant Resources

❶ GPC: Thematic Roundtable on "Humanitarian Access, Protection and Assistance under Constraints", 7 November 2012 http://goo.gl/hRl4gn

❷ GPC: Thematic Roundtable on "Cross-Border Humanitarian Relief Operations", 8 July 2014 http://goo.gl/KowTnE

❸ GPC: Diagnostic Tool and Guidance on the Interaction between field Protection Clusters and UN Missions, July 2013, http://goo.gl/hGFAUv (English), http://goo.gl/zeipZl (French).

❹ ICRC: Professional Standards for Protection Work, 2013, http://goo.gl/KibqqB

❺ IASC Principals: Statement on the Centrality of Protection in Humanitarian Action, 17 December 2013 http://goo.gl/RuKPVG

❻ IASC: Frequently Asked Questions on International Humanitarian, Human Rights and Refugee Law in the Context of Armed Conflict 2004 http://goo.gl/bm9OVs

❼ GPC and IASC: Protection of Conflict – Induced IDPs: Assessment for Action 2008 http://goo.gl/NbFlTN

❽ GPC: The Handbook for the Protection of Internally Displaced Persons, 2010 http://goo.gl/Xfq1DC