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Office for the Coordination of Humanitarian Affairs

Building a Culture of Protection:

20 Years of Security Council Engagement on the Protection of Civilians

OCHA POLICY AND STUDIES SERIES
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ABBREVIATIONS AND ACRONYMS

AMISOM	African Union Mission in Somalia
AU	African Union
CAAC	children and armed conflict
CAR	Central African Republic
CRSV	conflict-related sexual violence
DDR	disarmament, demobilization and reintegration
DFS	United Nations Department of Field Support
DOS	United Nations Department of Operational Support
DPA	United Nations Department of Political Affairs
DPKO	United Nations Department of Peacekeeping Operations
DPO	United Nations Department of Peace Operations
DPPA	United Nations Department of Political and Peacebuilding Affairs
DRC	Democratic Republic of the Congo
FAO	Food and Agriculture Organization of the United Nations
FARDC	Armed Forces of the Democratic Republic of the Congo
G5 Sahel	Group of Five for the Sahel
GBV	gender-based violence
HRDDP	Human Rights Due-Diligence Policy
ICC	International Criminal Court
ICRC	International Committee of the Red Cross
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
IDP	internally displaced person
IHL	international humanitarian law
IHRL	international human rights law
IRL	international refugee law
ISAF	International Security Assistance Force in Afghanistan
MARA	Monitoring, Analysis and Reporting Arrangements on Conflict-Related Sexual Violence
MICT	International Residual Mechanism for Criminal Tribunals
MINUJUSTH	United Nations Mission for Justice Support in Haiti
MINURCAT	United Nations Mission in the Central African Republic and Chad
MINUSCA	United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic
MINUSMA	United Nations Multidimensional Integrated Stabilization Mission in Mali
MISCA	African-led International Support Mission to the Central African Republic

MONUC	United Nations Mission in the Democratic Republic of the Congo
MONUSCO	United Nations Organization Stabilization Mission in the Democratic Republic of the Congo
MRM	Monitoring and Reporting Mechanism on Grave Violations against Children in Situations of Armed Conflict
NRC	Norwegian Refugee Council
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
OHCHR	Office of the United Nations High Commissioner for Human Rights
ONUB	United Nations Operation in Burundi
OPCW	Organisation for the Prohibition of Chemical Weapons
OSRSG	Office of the Special Representative of the Secretary-General
PoC	protection of civilians in armed conflict
SALW	small arms and light weapons
SEA	sexual exploitation and abuse
SRSG	Special Representative of the Secretary-General
SSR	security sector reform
SVC	sexual violence in armed conflict
UN	United Nations
UNAMA	United Nations Assistance Mission in Afghanistan
UNAMI	United Nations Assistance Mission for Iraq
UNAMID	United Nations – African Union Hybrid Operation in Darfur
UNAMSIL	United Nations Mission in Sierra Leone
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations International Children's Emergency Fund
UNIFIL	United Nations Interim Force in Lebanon
UNISFA	United Nations Interim Security Force for Abyei
UNMAS	United Nations Mine Action Service
UNMIL	United Nations Mission in Liberia
UNMIS	United Nations Mission in Sudan
UNMISS	United Nations Mission in South Sudan
UNOCI	United Nations Operation in Côte d'Ivoire
UNSMIL	United Nations Support Mission in Libya
UNSOM	United Nations Assistance Mission in Somalia
WFP	World Food Programme
WHO	World Health Organization
WPS	women, peace and security

EXECUTIVE SUMMARY

2019 marks the twentieth year since the Security Council added the protection of civilians in armed conflict (PoC) to its agenda, thereby formally recognizing PoC as a matter of international peace and security. Resolution 1265 – the Council's first resolution on PoC adopted in 1999 – set the parameters of what remain today the building blocks of the PoC agenda: enhancing compliance with applicable international law and relevant Council decisions in the conduct of hostilities; facilitating access to humanitarian assistance; protecting forcibly displaced persons, women and children; providing protection through UN peace operations; and responding to violations through targeted measures and the promotion of accountability. In the 20 years since resolution 1265, the Council's work has centred around strengthening the PoC architecture through the adoption of thematic resolutions, the integration of protection concerns in country- and context-specific resolutions and actions, and the development of tools which seek to ensure the effective protection of civilians on the ground.

In a rare occurrence, the curtains of the UN Security Council were opened in April 2019 under a German Council presidency, to symbolize transparency and openness to the broader UN membership and civil society. CREDIT: UN Photo/Evan Schneider

The evolution of the Council's approach towards PoC – from its initial recognition as a matter of international peace and security in 1999, to its prioritization as a core item on the Council's agenda in 2019 – is discernible for all key items that comprise the PoC agenda.

On ***enhancing compliance with international law in the conduct of hostilities,*** the Council has progressed from broadly condemning attacks against civilians and civilian objects to a more robust promotion of international humanitarian law (IHL) and international human rights law (IHRL), specifying the actors bound by these obligations, the types of attacks prohibited, and the persons and objects protected by the law. The Council has promoted national and regional compliance frameworks, supported and established accountability mechanisms and developed tools of implementation, thereby manifesting PoC in the conduct of hostilities as the inherent and indispensable cornerstone of the PoC agenda.

The Council's approach to the ***facilitation of access to humanitarian assistance and medical care*** has evolved from promoting compliance with parties' obligations under IHL, to operationalization – e.g. by mandating peace operations to support and enable access or designating the obstruction of access as a sanctions criterion – to enforcing the rapid and unimpeded passage of humanitarian relief to civilians in need by authorizing cross-border operations in Syria. The Council has also adopted dedicated resolutions on the protection of UN and humanitarian personnel, medical care, and food security in armed conflict.

On the ***prevention of and response to forced displacement,*** the Council has gone from emphasizing the vulnerability of refugees and internally displaced persons (IDPs) and the security and civilian character of camps to addressing a wide range of topics related to forced displacement as part of its mandate to maintain international peace and security. It has addressed the special protection concerns of refugees and IDPs as well as the pursuit of durable solutions and – to a lesser extent – prevention, freedom of movement and housing, land and property issues. It has mandated peace operations to promote the protection of refugees and IDPs and deemed forced displacement a listing criterion in sanctions regimes.

To enhance the ***protection of children in armed conflict,*** the Council has established an integrated system of protective tools. These include the public listing of perpetrators of grave violations against children combined with the incentive to end, remedy or prevent future violations through the possibility of de-listing after the development and implementation of action plans. They further include a monitoring and reporting mechanism by which to feed the listing process with reliable data, and a dedicated working group to provide recommendations and keep the Council informed on, and engaged with, the agenda.

To better ***protect women and combat conflict-related sexual violence*** (CRSV), the Council has, to a certain extent, replicated the tools of the Children and Armed Conflict agenda. It has developed a mechanism of listing and de-listing perpetrators and monitoring and reporting on violations and created a dedicated, informal expert group. It has also requested the establishment of an Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict to provide strategic leadership in combatting CRSV, as well as a team of experts to assist in ensuring criminal accountability.

The evolution of the Council's approach to these core themes on the PoC agenda is not the only indication of the gradual trend towards the prioritization of PoC. This trend is further evidenced through the tools developed by the Council to advance the effective protection of civilians on the ground.

PoC mandates granted by the Council to ***UN peace operations*** have evolved from reactive, physical protection mandates to comprehensive, whole-of-mission protection strategies integrated in the design and operation of missions. Elements covering the range of PoC issues – from physical protection to the facilitation of humanitarian assistance, enhanced protection for displaced persons, women and children and the promotion of accountability – are increasingly mainstreamed across missions throughout their life-cycles, with PoC acting as a yardstick for measuring a mission's performance.

UN sanctions regimes have increasingly been used as vehicles to protect civilians through designation criteria related to IHL violations or human rights violations or abuses. Whereas such listing criteria were initially limited to general references to serious violations of IHL and IHRL, today many conflict-related sanctions regimes comprise detailed PoC listing criteria, ranging from IHL and IHRL violations including forced displacement, violations against women and children, and attacks against specific protected persons and objects, to stand-alone listing criteria for the obstruction of the delivery or distribution of, or access to, humanitarian assistance, child recruitment and use, and CRSV.

Monitoring and reporting processes have been set up to inform, implement and enforce the Council's PoC-related decisions, creating a feedback loop with protection actors in the field and enabling more targeted protection activity. Processes range from human rights monitoring, civilian casualty-recording and reporting, and Secretariat-issued periodic and special reports, to the work of dedicated working groups, sanctions committees and panels of experts, and the integrated systems of monitoring and reporting on grave violations against children and CRSV. These processes facilitate the provision of current and accurate information on protection concerns as well as the making of specific recommendations.

Finally, over the past 20 years, the Council has played a fundamental role in ***promoting accountability and fighting impunity*** in response to violations related to PoC. Council actions have included the creation of international and hybrid tribunals and investigative mechanisms, as well as referrals of situations to the International Criminal Court. In recent years, the Council has increasingly shifted its focus from the activation of international justice mechanisms to the promotion of national and regional accountability mechanisms as well as localized transitional justice, capacity-building and stabilization efforts.

The evolution of the Council's approach towards the key themes and tools related to its PoC agenda demonstrates the emergence and persistence of five overarching trends:

Prioritization of PoC and the emergence of a PoC culture across the United Nations: The Council has gradually elevated PoC to become one of its main priorities in ensuring international peace and security, proclaiming it as "one of the core issues on its agenda" in presidential statements in 2015 and 2018. The prioritization of PoC is evident in the context of peace operations, where the Council decided as early as 2006 that mandated protection activities were to be "given priority in decisions about the use of available capacity and resources". But it is also evident in Council-mandated sanctions regimes, monitoring and reporting processes and accountability measures, in which PoC has increasingly become a central and driving force. The prioritization of PoC is further manifested in the Council's now well-established practice of considering the

Secretary-General's recommendations on PoC annually and in the context of open debates. By placing PoC at the heart of both its thematic and relevant country-specific work and fostering the engagement of the larger UN community with the agenda, the Council has gradually elaborated a culture of PoC not only at the Council, but across the United Nations and its membership.

Specificity, detail and prescriptiveness: The Council's language has grown increasingly specific and detailed across the range of its PoC engagement. Not only does the Council reiterate the legal and normative obligations of parties and other actors during armed conflict, but it does so with an increasing degree of specificity – both for the substance of the obligations and for their performance. This demonstrates the Council's focused engagement with PoC and a trend towards more targeted Council expectations, conceivably influenced by strengthened information channels to protection actors at Headquarters and on the ground. It also likely reflects the Council's attempt to combat lacking compliance by the addressees of its statements and decisions by pushing them towards action through increasing levels of detail. While the Council's prescriptiveness has created a more robust normative framework and additional clarity on mandated tasks, it has also, at times, led to a disconnect between required tasks and long-term objectives and undermined operational and tactical flexibility, particularly in the mandates of certain peace operations.

Development of a toolkit to foster change on the ground: The Council has developed a robust toolkit to translate the normative PoC framework into concrete actions on the ground. For instance, peace operations have been provided with comprehensive, whole-of-mission protection mandates informing every step of the mission's lifecycle, from planning and operationalization to performance assessment and drawdown. Sanctions regimes have been given designation criteria pertaining to IHL violations and human rights violations and abuses, including stand-alone criteria for certain categories thereof. Monitoring and reporting mechanisms and channels have created a feedback loop between the Council and the field, thus enabling more informed, targeted and effective protection activity. Accountability mechanisms have contributed to the fight against impunity by deterring, ending and remedying violations.

Consistency: Consistency in addressing protection concerns in relevant contexts and in the method and manner of addressing them is important to achieve clarity of standards and predictability of expectations, and thereby an overall stronger and more coherent PoC agenda. Particularly over the last decade, the Council has streamlined protection language into country-specific contexts with increasing consistency, as is particularly visible in the mandates of certain peace operations. However, the Council's consistency can vary greatly between contexts, depending on Council dynamics and the degree of the situation's politicization, and an existing "base line" of protection language has yet to be mainstreamed across all relevant protection contexts.

Fragmentation of the agenda: While the first decade of the Council's PoC engagement was characterized by a series of holistic thematic resolutions on PoC, over the course of the second decade, the Council increasingly dedicated specific resolutions to sub-themes of the agenda. These sub-themes include the protection of UN and humanitarian personnel, journalists and medical care in armed conflict; the efforts against the proliferation of small arms and light weapons; and the fight against food insecurity in armed conflict. Other themes of PoC were mainly addressed in country-specific resolutions and thereby in a context-specific, rather than a comprehensive manner. Dedicated discussions on particular sub-themes of PoC are important, as they facilitate the detailed and comprehensive consideration of certain issues and may result in more purposeful and targeted outcomes or even entire mandates and robust toolkits, as in the case of the Women, Peace and Security agenda. However, dedicated thematic resolutions on individual sub-themes also run the risk of

fragmenting the agenda by isolating the issue from a greater vision of comprehensive, integrated protection and providing different categories of civilians with different levels of attention while neglecting overarching issues such as respect for IHL or accountability. The issue of fragmentation is particularly relevant as new challenges like urban warfare, hunger, climate change and counter-terrorism continue to arise and pervade the range of protection concerns. On the twentieth anniversary of PoC, the Council might consider taking advantage of the momentum to take actions towards reunifying, or at least reaffirming, the unity of the PoC agenda.

On the twentieth anniversary of the Council's PoC agenda, much work remains to be done, but the substantial evolution of the agenda deserves to be acknowledged.

In 2019, a sophisticated normative PoC framework is firmly established by international law and Council practice and deeply rooted in the Council's work, both at the thematic and the country level. On the ground, this evolution is manifested in comprehensive PoC mandates and mission-wide protection strategies in UN peace operations, explicit PoC-related listing criteria in UN sanctions regimes, instructive monitoring and reporting tools, and national and international accountability mechanisms for IHL and IHRL violations. Through the Council's regular and detailed engagement with PoC, the inclusion of PoC in its work at the thematic and country levels with progressively increasing specificity and consistency and the development of tools to foster protection on the ground, a culture of PoC has been instilled, not only at the Council, but across the entire UN membership and organization. PoC has become a yardstick for measuring performance, not only of the UN, but of the international community as a whole.

Despite these gains, there remain gaping disparities between the quality of protection provided by the existing normative framework and the actual protection of civilians on the ground.

A long path lies ahead towards achieving protection for civilians in armed conflicts that is reflective of the protection granted by existing international laws and norms. The tools for protection exist and have the potential – through consistent improvement, operationalization, financing and prioritization – to gradually inch towards translating the law into pragmatic action and thereby close the gap between theoretical and practical protection. To achieve this, however, the Council must ensure greater consistency in its approach to PoC, including by ensuring that a "base line" of issues and concerns is routinely addressed across all relevant contexts. PoC mandates in peace operations must be clearer, linked to the missions' long-term objectives and equipped with adequate resources and capacities. Sanctions regimes need to be implemented and enforced. Monitoring and reporting has to be systematized. Accountability measures should be more proactively established, supported and funded.

Member State initiative is key.

It has been the tradition of Member States seeking or having gained a seat on the Council of defining priorities and seeking allies to which many of the achievements of the PoC agenda have been attributable. The P-5 have also played their part by supporting the continued overarching prioritization of PoC. Council members should continue to strive ambitiously towards a stronger PoC agenda, creating opportunities and taking advantage of them as they arise. Other Member States should work towards aligning PoC policy priorities across the UN and promoting the allocation of requisite financial resources. When the inherently political nature of these bodies inhibits effective action or the limits of the UN's implementation arms are met, Member States should work together, bilaterally or in other multilateral, regional or national forums, to promote effective action and leverage political and financial support. The protection of civilians is not only the responsibility of the Council, or of the United Nations; it is a shared and global responsibility of every one of its members.

INTRODUCTION – 20 YEARS AND COUNTING

2019 marks the twentieth year since the protection of civilians in armed conflict (PoC) became a specific item on the agenda of the Security Council. In 1999, at the close of a decade marked by genocide in Rwanda, atrocities in the Balkans, and brutality and displacement in West Africa and the Great Lakes region, the Council formally recognized the relevance of PoC to international peace and security. As memorably put by Lloyd Axworthy, then Minister of Foreign Affairs of Canada, which had resolutely spearheaded the effort to add PoC to the Council's agenda, the Council thereby acknowledged that PoC "is no sideshow to the Council's mandate for ensuring international peace and security; it is central to it. The ultimate aim of the Council's work is to safeguard the security of the world's people, not just the States in which they live."[1]

The twentieth anniversary of the Security Council's PoC agenda provides an opportune moment to review progress made in the past, build on present insights and chart the course for the future, with a focus on achieving tangible improvements for the protection of civilians on the ground. In September 2018, the Council requested that the Secretary-General include in his next PoC Report a summary of achievements and challenges to the work of the United Nations on PoC over the past 20 years.[2] The present study seeks to complement the Secretary-General's report by taking stock of the Security Council's engagement with PoC. This research does not seek to be comprehensive or exhaustive, but to review key developments of the Council's PoC agenda, both from a normative and a practical perspective. It also seeks to identify focus areas deserving further attention and progress, and to contribute to reflections for strengthening PoC in the years and decades to come.

"Promoting the protection of civilians in armed conflict is no sideshow to the Council's mandate for ensuring international peace and security; it is central to it. The ultimate aim of the Council's work is to safeguard the security of the world's people, not just the States in which they live."

Lloyd Axworthy, former Minister of Foreign Affairs of Canada and President of the Security Council during its first open debate on PoC in February 1999

1. See *Records of the 3977th Meeting of the Security Council*, S/PV.3977 (1999).
2. S/PRST/2018/18, para. 8 on PoC.

PART I – CHARTING THE PATH TOWARDS A COMPREHENSIVE PROTECTION OF CIVILIANS AGENDA

A. 1999–2008: GROUNDING THE PROTECTION OF CIVILIANS IN INTERNATIONAL PEACE AND SECURITY

The first decade of the Council's engagement with PoC was shaped by the Council's recognition of the agenda as central to its role in maintaining international peace and security.[3] From 1999 to 2008, the Council established a practice of interacting with and requesting information from the Secretary-General on matters pertaining to PoC, regularly deliberating on protection-related concerns and developing the normative framework through its thematic and country-specific resolutions and presidential statements.

EARLY BEGINNINGS: THE FIRST POC REPORT AND RESOLUTION 1265

In February 1999, the Council's first official debate on PoC resulted in a request to the Secretary-General for a report with specific recommendations on how the physical and legal protection of civilians in situations of armed conflict could be improved.[4] The report was duly submitted by the Secretary-General in September of that year, and included a list of 40 recommendations.[5] The recommendations ranged from enhancing respect for international law, ratifying and revising international legal instruments and ensuring the protection of humanitarian workers and relief operations, displaced persons, women and children, to providing protection through peace operations and sanctions regimes and implementing national and international accountability measures.

The following week, the Council adopted resolution 1265, its first thematic resolution on PoC. In this historic resolution, the Council framed the PoC concept in holistic terms for the first time. It recalled the prohibition against deliberately targeting civilians and civilian objects in situations of armed conflict under international law. It also stressed the obligation to comply with applicable international laws and norms more generally, particularly with international humanitarian law (IHL), international human rights law (IHRL) and international refugee law (IRL), as well as with relevant decisions adopted by the Council. Covered by this normative universe was the conduct of hostilities, but also the facilitation of humanitarian access and assistance and the protection of humanitarian personnel, the regulation of certain types of weapons and the special protection concerns of vulnerable groups such as women, children, refugees and internally displaced persons (IDPs). In the resolution, the Council also addressed how obligations pertaining to PoC could be implemented, namely, by including protection mandates in peace operations and adopting adequate measures in response to violations. In addition, the Council emphasized the need for accountability, calling for an end to impunity and the prosecution of perpetrators and stressing the significance of international and hybrid tribunals and other relevant mechanisms.[6]

In adopting resolution 1265, the Council for the first time broadly defined its understanding of PoC to include measures and activities that, in situations of armed conflict, help to prevent or minimize the consequences of hostilities on civilians and civilian objects and certain categories thereof, notably through the compliance with, implementation of and accountability for violations of IHL, IHRL and IRL.

THE FIRST DECADE: STRENGTHENING THE NORMATIVE FRAMEWORK AND CREATING A POC ECOSYSTEM

After the Secretary-General's inaugural PoC Report, the Council regularly requested additional dedicated reports on PoC, with six such reports issued between 1999 and 2008.[7] During this time, the Council began to regularly consider the recommendations included in the PoC Reports as well as other PoC-related matters in open debates.[8] The Council also periodically

3. See Emanuela-Chiara Gillard and Julien Piacibello, *The Role of the Security Council in Enhancing the Protection of Civilians in Armed Conflicts,* in *A Participação de Portugal no Conselho de Segurança: 2011–2012, Instituto Diplomático/Ministério dos Negócios Estrangeiros* (eds), 2015, 67–82.
4. S/PRST/1999/6, para. 12 on PoC.
5. *Report of the Secretary-General on the Protection of Civilians in Armed Conflict* (SG PoC Report), S/1999/957.
6. For all of the above, see S/RES/1265 (1999), OP 2 (on targeting civilians/civilian objects); PPs 7–8, OPs 4–5, 9, 18 (on compliance with international law/norms); OPs 7–9, 16–17 (on humanitarian access/assistance); PPs 4, 10–12, OPs 7, 13, 16, 19 (on vulnerable groups); PP 9, OPs 12, 17–18 (on arms control); PP 9, OPs 10–15 (on implementation); OP 6 (on accountability).
7. S/1999/957, S/2001/331, S/2002/1300, S/2004/431, S/2005/740, S/2007/643.
8. See, e.g., S/PV.4046 (1999) organized by the Netherlands, S/PV.4130 (2000) organized by Canada, S/PV.4312 (2001) organized by the UK, S/PV.4660 (2002) organized by Colombia, S/PV.5781 (2007) organized by Indonesia.

hosted informal "Arria-formula" meetings on PoC and the Secretary-General, the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator and the International Committee of the Red Cross (ICRC) regularly briefed the Council on matters of concern. This consistent and transparent engagement allowed PoC to maintain a prominent place at the Council and enabled the broader UN membership to engage with the agenda.

Over the course of the first decade, the Council elaborated the normative PoC framework in five thematic resolutions and seven presidential statements.[9] Resolutions 1296 and 1674 addressed PoC in a holistic manner, reaffirming the Council's broad construal of the agenda and increasing the detail with which it addressed certain issues, such as the protection activities of peace operations and the facilitation of humanitarian access and assistance.[10] In two dedicated thematic resolutions, the Council addressed the protection of UN and humanitarian personnel and of journalists and other media professionals.[11] It also addressed certain PoC sub-issues as part of independent agenda items, including children affected by armed conflict (CAAC); women, peace and security (WPS); and small arms and light weapons (SALW).[12] The Council thereby created a landscape in which PoC and other agenda items were increasingly intertwined in a protection ecosystem of "semi-autonomous but interdependent parts".[13]

In addition to its thematic resolutions and presidential statements, the Council also began to increasingly incorporate PoC concerns into its country-specific resolutions. This included, fundamentally, the introduction of PoC mandates in UN peace operations, with the UN mission in Sierra Leone becoming the first UN peace operation with an explicit PoC mandate in 1999. Further PoC mandates were included in the missions in the Democratic Republic of the Congo (DRC) in 2000, Liberia in 2003, Côte d'Ivoire, Haiti and Burundi in 2004, Sudan in 2005, Lebanon in 2006 and Darfur in 2007.[14]

From 1999 to 2008, the Council's regular and detailed engagement with PoC, including through its recurring deliberations, its considerations of the Secretary-General's PoC Reports in open debates and its thematic and country-specific resolutions, gradually solidified the PoC framework and its status as an ingrained part of the Council's work on international peace and security.

B. 2009–2018: INSTILLING A CULTURE OF PROTECTION ACROSS THE ORGANIZATION

Over the course of the second decade, the Council concentrated on translating the normative PoC framework into its work on the ground by streamlining it into its situation-specific resolutions, requesting detailed information on the actual protection concerns in the countries under review and developing tools with which to seek to effectively address them.[15] It also continued to fine-tune the normative PoC framework through its thematic resolutions and manifested its custom of considering the Secretary-General's recommendations in open debates. Through the engagement of the Council as well as that of the greater UN community, a culture of PoC was gradually established across the organization.

COUNCIL RESOLUTIONS AND PRESIDENTIAL STATEMENTS

Through five additional thematic resolutions and six presidential statements, the Council continued to streamline and fine-tune the normative PoC framework from 2009 to 2018, with a total of

9. S/RES/1265 (1999), S/RES/1296 (2000), S/RES/1502 (2003), S/RES/1674 (2006), S/RES/1738 (2006), S/PRST/1999/6, S/PRST/2002/6, S/PRST/2002/41, S/PRST/2003/27, S/PRST/2004/46, S/PRST/2005/25, S/PRST/2008/18.
10. See S/RES/1296 (2000), OPs 9, 13, 16, 18–19, S/RES/1674 (2006), OPs 14–20 on PoC (on peace operations); S/RES/1296 (2009), OPs 8, 11–13, 21, S/RES/1674 (2006), OPs 5, 11, 16, 21–23 (on humanitarian access/assistance).
11. See S/RES/1502 on PoC/humanitarian personnel, S/RES/1738 (2006) on PoC/media professionals.
12. See S/RES/1314 (2000), S/RES/1379 (2001), S/RES/1460 (2003), S/RES/1539 (2004), S/RES/1612 (2005), S/RES/1882 (2009), S/RES/1998 (2011), S/RES/2068 (2012), S/RES/2143 (2014), S/RES/2225 (2015), S/RES/2427 (2018) on CAAC; S/RES/1325 (2000), S/RES/1820 (2008), S/RES/1888 (2009), S/RES/1889 (2009), S/RES/1960 (2010), S/RES/2106 (2013), S/RES/2122 (2013), S/RES/2242 (2015), S/RES/2467 (2019) on WPS. Although the Council did not adopt separate resolutions on SALW until 2013 (S/RES/2117) and 2015 (S/RES/2220), it added the issue to its agenda as a separate item as early as 1999, see S/PRST/1999/28; see also DPA, *Repertoire of the Practice of the Security Council,* 13th Supplement, 1996–1999, pp. 1058–1060.
13. See Liam Mahoney and Roger Nash, *A Framework for a Holistic Approach to UNSC Resolutions on Protection of Civilians, Children and Armed Conflict and Women, Peace and Security,* Fieldview Solutions, November 2008, p. 35.
14. See S/RES/1270 (1999), OP 14 on UNAMSIL/Sierra Leone; see also S/RES/1291 (2000), OP 8 on MONUC/DRC, S/RES/1509 (2003), OP 3(j) on UNMIL/Liberia, S/RES/1528 (2004), OP 6(i) on UNOCI/Côte d'Ivoire, S/RES/1542 (2004), OP 7(l)(f) on MINUSTAH/Haiti, S/RES/1545 (2004), OP 5 on ONUB/Burundi, S/RES/1590 (2005), OP 16(i) on UNMIS/Sudan, S/RES/1701 (2006), OP 12 on UNIFIL/Lebanon, S/RES/1769 (2007), OP 15(a) on UNAMID/Darfur.
15. See Gillard and Piacibello, *supra.*

10 thematic resolutions and 13 presidential statements adopted to date.[16] In its only holistic PoC resolution adopted during this decade – on the tenth anniversary of PoC in 2009 – the Council fleshed out the protection requirements of UN peace operations and relevant actors' monitoring and reporting obligations.[17] It requested that the Secretary-General, in consultation with Member States, develop comprehensive operational strategies on PoC responsibilities in peace operations including threat assessment, crisis response and risk mitigation mechanisms, mission-wide pre-deployment training, and benchmarks and indicators to measure progress. The Council also directed the Secretary-General to include more comprehensive information on PoC in country-specific reports and to streamline reporting across peace operations. From Member States, the Council sought the creation of national procedures to ensure the implementation of applicable international law.

Over the course of the second decade, the Council increasingly adopted a practice of issuing dedicated thematic resolutions on specific topics or categories of persons, including UN and humanitarian personnel in 2014, journalists and other media professionals in 2015, medical care in armed conflict in 2016, and hunger and conflict in 2018.[18] It also adopted resolutions on SALW as a separate agenda item as well as a dedicated resolution on mine action.[19]

Since 2009, the Council has addressed PoC concerns more frequently and comprehensively in country-specific resolutions, including through the elaboration of comprehensive PoC mandates in UN peace operations, the inclusion of PoC criteria in UN sanctions regimes and the substantiation of monitoring and reporting processes.[20] Through its resolutions and presidential statements adopted between 2009 and 2018, the Council has demonstrated a trend towards addressing PoC issues with heightened consistency and specificity and sub-themes as stand-alone items, developing concrete tools for implementation and prioritizing PoC across the spectrum of its work.

OPEN DEBATES AND POC REPORTS

During the second decade, the Council continued to intensify its consideration of the Secretary-General's recommendations on PoC – requesting that the PoC Report be issued annually rather than at 18-month intervals as of 2016 – with a total of 14 PoC Reports issued to date.[21] During this time, it also became an increasingly established and customary practice for the Council to consider the Secretary-General's PoC Report in open debates.[22] This transparent and dedicated engagement not only elevated the profile and manifested the prioritization of the PoC agenda at the Council, but also allowed the entire UN membership to become regularly involved with and express its positions on matters of concern.

THE REVISED AIDE-MEMOIRE ON POC

In 2001, the Council requested an aide-memoire listing relevant PoC concerns to facilitate its deliberations on the establishment, change or termination of peacekeeping mandates.[23] To date, seven versions of the aide-memoire have been prepared by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), and have been explicitly adopted by or recognized in presidential statements issued by the Council.[24] Although the foundations of the aide-memoire were laid in the first decade of the Council's PoC engagement, it is de facto a tool of the second decade, as editions issued since 2009 have become progressively more detailed,

16. See S/RES/1265 (1999), S/RES/1296 (2000), S/RES/1502 (2003), S/RES/1674 (2006), S/RES/1738 (2006), S/RES/1894 (2009), S/RES/2175 (2014), S/RES/2222 (2015), S/RES/2286 (2016), S/RES/2417 (2018) for resolutions on PoC; S/PRST/1999/6, S/PRST/2002/6, S/PRST/2002/41, S/PRST/2003/27, S/PRST/2004/46, S/PRST/2005/25, S/PRST/2008/18, S/PRST/2009/1, S/PRST/2010/25, S/PRST/2013/2, S/PRST/2014/3, S/PRST/2015/23, S/PRST/2018/18 for presidential statements on PoC.
17. See S/RES/1894 (2009) on PoC.
18. See S/RES/2175 (2014) on PoC/humanitarian personnel, S/RES/2222 (2015) on PoC/media professionals, S/RES/2286 on PoC/medical care, S/RES/2417 (2018) on PoC/food insecurity.
19. See S/RES/2117 (2013), S/RES/2220 (2015) on SALW; S/RES/2365 (2017) on mine action.
20. See below under PARTS II and III; see also OCHA, *Security Council Norms and Practice on the Protection of Civilians in Armed Conflict: Analysis of Normative Developments in Security Council Resolutions 2009–2013,* May 2014, (SC Norms and Practice on PoC 2009-2013).
21. See S/1999/957, S/2001/331, S/2002/1300, S/2004/431, S/2005/740, S/2007/643, S/2009/277, S/2010/579, S/2012/376, S/2013/689, S/2015/1453, S/2016/447, S/2017/414, S/2018/462; see also S/PRST/2015/23, para. 6, in which the Council requested that the PoC Report be issued annually.
22. See, e.g., S/PV.6151 (2009) organized by Turkey, S/PV.6427 (2010) organized by the UK, S/PV.6790 (2012) organized by China, S/PV.7109 (2014) organized by Lithuania, S/PV.7606 (2016) organized by Uruguay, S/PV.7711 (2016) organized by France, S/PV.7951 (2017) organized by Uruguay, S/PV.8264 (2018) organized by Poland.
23. See the *Letter dated 21 June 2001 from the President of the Security Council to the Secretary-General,* S/2001/614, para. 3.
24. S/PRST/2002/6, S/PRST/2003/27, S/PRST/2009/1, S/PRST/2010/25, S/PRST/2014/2, S/PRST/2015/23, S/PRST/2018/18.

focused and effective, both in terms of addressing protection concerns and recommending particular Council action. The aide-memoire has expanded vastly in scope, from 7 pages in 2002 to well over 200 pages – as well a searchable online tool[25] – in 2018, and since 2009 addressing PoC concerns in general rather than in the sole context of UN peace operations. Recent versions have also included a thematically organized compilation of Council language used in prior resolutions or statements based on good practice to serve as a practical reference guide of language previously adopted for certain situations and issues of concern. Particularly in recent years, the aide-memoire has thereby proven a useful practical tool to analyse and diagnose key protection issues, as well as to facilitate the Council's deliberations on and streamlining of protection language in its resolutions and statements by providing easily accessible guidance and precedent employed by the Council in the past.[26]

THE INFORMAL EXPERT GROUP ON POC

In 2009, following a recommendation by the Secretary-General in his 2007 PoC Report to establish a "dedicated, expert-level working group to facilitate the systematic and sustained consideration and analysis of protection concerns, and ensuring consistent application of the aide-memoire", the United Kingdom convened the first meeting of the Informal Expert Group on PoC.[27] The group is an informal forum through which Council members are provided, at expert level, with information on key protection concerns in advance of deliberations on specific items on the Council's agenda, most prominently the authorization, creation or renewal of the mandates of UN peace operations related to PoC. Based on extensive research and consultations, OCHA briefs the Council on key protection concerns and activity on the ground addressing them, and makes recommendations for Council action to strengthen PoC. OCHA and other UN entity representatives with expertise relevant to the subject matter are then available to answer questions from Council members.[28] The informal nature of and expert-level participation in the forum, as well as its exclusive focus on PoC and related humanitarian issues, enable frank and interactive discussions. Since its creation, the Informal Expert Group on PoC has met around 100 times and been instrumental in informing the Council on country-specific developments on the ground against the main existing protection concerns. Over the course of the second decade, most Council members gradually embraced the group as a tool through which to identify and address protection concerns in a more informed, concrete, coherent and effective manner in upcoming resolutions, and many of the group's recommendations have found their way into the Council's country-specific resolutions and statements.

THE GROUP OF FRIENDS OF POC

In 2007, the Group of Friends of PoC was established by Switzerland as an informal forum through which to mobilize political and financial support for PoC-related matters among Council members, as well as the greater Member State community and civil society. Particularly during the second decade, the Group of Friends has consistently served as a forum through which to raise, promote, and muster support for, specific PoC-related issues. Through initiatives such as systematically issuing joint statements, providing leadership on certain matters, organizing retreats, gathering like-minded communities around key issues and advocating for support among the global community, the forum has contributed to keeping up the momentum around PoC issues year-round, and maintaining PoC high on the Council's list of priorities. In particular for elected members – who have often played a leading role in furthering the PoC agenda, from its inception to today – the group has proven effective in providing a platform through which to advance the PoC agenda.

There are currently 23 members of the Group of Friends of PoC: Australia, Austria, Belgium, Brazil, Canada, Côte d'Ivoire, France, Germany, Indonesia, Ireland, Italy, Japan, Kuwait, Liechtenstein, Luxembourg, Netherlands, Norway, Poland, Portugal, Sweden, Switzerland, UK, Uruguay. Of these 23 members, 6 joined in February 2019 (Côte d'Ivoire, Indonesia, Ireland, Kuwait, Poland, Sweden).

From 2009 to 2018, the Council increasingly translated the normative PoC framework into concrete protection activity on the ground, including through the elaboration of the nor-

25. See https://poc-aide-memoire.unocha.org/.
26. See S/RES/1894 (2009), OP 30, S/PRST/2013/2, para. 25, S/PRST/2014/3, para. 11, S/PRST/2015/23, para. 5, S/PRST/2018/8, para. 7 on PoC.
27. See *SG PoC Report,* S/2007/643, p. 19, action five; see also S/RES/1894 (2009), PP 18 (noting the practice of briefings to Council members by OCHA *"on behalf of the United Nations' humanitarian community, both through formal and informal channels"*); S/PRST/2010/25, para. 17.
28. Depending on the context, represented UN entities may include, e.g., DPA (as of January 2019 DPPA), DPKO (as of January 2019 DPO), OHCHR, OSRSG-CAAC, OSRSG-SVC, UNMAS, UNHRC, UNICEF or UN Women.

mative framework in thematic resolutions and statements, the inclusion of PoC concerns in situation-specific decisions, the Council's requests for detailed information on protection concerns and the development of tools with which to address them. Through the Council's consistent and transparent engagement as well as the involvement of the greater Member State community, a PoC culture gradually spread across the organization.

C. 2019 AND BEYOND: TACKLING THE CHALLENGE OF IMPLEMENTATION

On the twentieth anniversary of the Council's PoC agenda, much work remains to be done, but the substantial evolution of the agenda deserves to be acknowledged. In 2019, a sophisticated and comprehensive normative PoC framework is firmly established by international law and Council practice and deeply rooted in the Council's work, both at the thematic and the country levels. On the ground, this evolution is manifested in comprehensive PoC mandates and mission-wide protection strategies in UN peace operations, explicit PoC-related listing criteria in UN sanctions regimes, instructive monitoring and reporting tools, and national and international accountability mechanisms for IHL and IHRL violations. Through the Council's regular and detailed engagement with PoC, the inclusion of PoC in its work at the thematic and country levels with progressively increasing specificity and consistency and the development of tools to foster protection on the ground, a culture of PoC has been instilled, not only at the Council, but across the entire UN membership and organization. By the Council's own words, PoC is today "one of the core issues" on its agenda.[29] It has become a yardstick for measuring performance, not only of the UN, but of the international community as a whole.

Despite the progress that has been achieved, many challenges remain. In 2017, the Secretary-General identified ***three protection priorities*** on PoC: enhancing respect for IHL and IHRL and promoting good practice by parties to conflict; protecting the humanitarian and medical mission and according priority to the protection of civilians in UN peace operations; and preventing forced displacement and pursuing durable solutions for refugees and IDPs.[30] In 2019, these priorities and their associated challenges remain as relevant as ever. While the legal and normative framework for compliance exists, in the third decade, the task will be to achieve proactive protection through further systematized and effective implementation, as well as accountability for violations.

Any future road map must begin with an assessment of the status quo. The analysis below therefore begins with an overview of the evolution of the key thematic priorities considered by the Council in its resolutions and statements in the context of PoC **(part II).** It subsequently addresses how the obligations existing within these thematic contexts have been implemented through concrete tools and actions on the ground **(part III).** The study continues with an overview of the Council's work on combating impunity and ensuring accountability **(part IV).** Finally, it concludes with observations and recommendations for the road ahead **(part V).**

Since 1999, the Council has adopted more than 1,200 resolutions and 700 presidential statements, many of these on matters concerning or at least in some way related to PoC.*

* Where resolutions and statements of the Council are referenced throughout this report to trace the evolution of Council activities, they are intended to be illustrative only and do not seek to exhaustively cover the Council's activity on a particular subject matter.

29. S/PRST/2015/23, para. 4, S/PRST/2018/18, para. 1 on PoC.
30. *SG PoC Report,* S/2017/414, para. 5.

PART II – ANCHORING THE PROTECTION OF CIVILIANS IN THE LAWS OF WAR

Al Hudaydah, Hajjah Road Bridge, Yemen, 2017. A man and his sons travel to collect water underneath a bridge that was hit by an airstrike in 2016.
CREDIT: OCHA/Giles Clarke

Over the past two decades, a number of key themes have emerged in the Council's work on PoC, which have coincided to some degree with the themes and priorities identified in the Secretary-General's PoC Reports. They include **(A.)** enhancing respect for international law in the conduct of hostilities, **(B.)** facilitating access to humanitarian assistance and medical care, **(C.)** preventing and responding to forced displacement, **(D.)** according special protection to children affected by armed conflict and **(E.)** protecting women and combatting conflict-related sexual violence (CRSV).

The Council has also addressed other important topics in the context of PoC, such as disarmament, demobilization and reintegration of combatants (DDR), security-sector reform (SSR), conflict prevention, peacebuilding and the rule of law. However, due to the magnitude of each of these subjects, their significant overlap with development dimensions outside of active armed conflict settings and the limited scope of this report, they have been excluded from the present analysis unless mentioned in connection with other themes.

A. ENHANCING RESPECT FOR INTERNATIONAL LAW IN THE CONDUCT OF HOSTILITIES

Lack of respect for IHL in the conduct of hostilities has been well documented as the most important threat to civilians in armed conflict. IHL provides a robust legal framework that – if respected by parties to conflict – would overwhelmingly translate into effective protection of civilians on the ground. Accordingly, the ***obligation to comply with IHL, IHRL and IRL in armed conflict*** featured as the cornerstone of the PoC agenda in the Council's first thematic resolution on PoC in 1999 and has been reiterated by the Council in its thematic resolutions ever since.[31]

31. See S/RES/1265 (1999), PP 7, OPs 4–5, S/RES/1296 (2000), PP 7, OP 19, S/RES/1674 (2006), OPs 6, 9, S/RES/1894 (2009), OPs 1, 5, 8, S/RES/2417 (2018), OPs 1, 8 on PoC; see also SG PoC Reports, S/1999/957, para. 36, recs. 1–2, S/2005/740, paras. 14, 37, S/2007/643, paras. 21–26, S/2009/277, paras. 27–37, S/2010/579, paras. 44–51, S/2012/376, paras. 32–40, S/2013/689, paras. 31–37, S/2015/453, para. 28, S/2016/447, paras. 7–12.

Over the past 20 years, the Council's promotion of compliance with applicable international law in the conduct of hostilities has evolved from the broad condemnation of attacks against civilians and civilian objects to a more robust promotion of IHL and IHRL – specifying the actors bound by these obligations, the types of attacks prohibited, and the persons and objects protected by the law – as well as the development of mechanisms and tools to foster the effective protection of civilians on the ground.

From the outset of the PoC agenda, the Council has consistently reiterated its broad condemnation of deliberate ***attacks or threats of attacks against civilians and civilian objects*** and expressed its willingness to respond thereto.[32] In 2009, the Council for the first time expressly highlighted the prohibitions against indiscriminate or disproportionate attacks and the use of civilians to render certain points immune from military operations in one of its thematic resolutions on PoC.[33] On this occasion, the Council also emphasized the need to address in its country-specific deliberations the compliance of parties to conflict with IHL and IHRL and noted the importance of gathering timely, objective, accurate and reliable information on alleged violations.

Over the past decade and particularly in recent years, the Council's language has become increasingly clear in referring explicitly to the ***fundamental IHL principles*** of distinction and proportionality, the prohibition against indiscriminate attacks, and the obligation to take all feasible precautions to protect civilians and civilian objects in and against the effects of attacks.[34] For example, in statements on Yemen, the Council first included explicit language on the principle of precaution in 2016, the principle of distinction in 2017 and the principle of proportionality in 2018.[35] In 2018, the statement also included an express condemnation of indiscriminate attacks in densely populated areas. Notably, the Council's resolutions on Yemen have continued to refer more generically to the obligation to comply with international law, including IHL and IHRL.[36]

The Council's language has also become more specific regarding the ***protection of particular categories of persons and objects.*** Increasingly, the Council has condemned attacks against and promoted the protection of specific civilian objects such as schools, places of worship, medical facilities, or essential infrastructure for food or water supply.[37] It has also condemned particular types of attacks – including suicide attacks, car bombs and acts of terrorism – and tactics, such as the use of unlawful sieges, civilians as human shields or starvation of civilians as a method of warfare.[38] Over time, the Council increasingly recalled that compliance with IHL was required of all parties to conflict – i.e., including non-State groups – and extended the obligation to respect human rights to armed groups and militias and the obligation to respect IHL and human rights to UN authorized peace operations.[39] It has also expressly recognized the need for consistent engagement by humanitarian actors with non-State armed groups for humanitarian purposes, including activities aimed at ensuring respect for IHL, and emphasized the applicability of IHL and IHRL obligations to the counter-terrorism activities of Member States.[40]

32. S/RES/1265 (1999), OPs 2, 10, S/RES/1296 (2000), OP 5, S/RES/1674 (2006), OPs 3, 26, S/RES/1894 (2009), OPs 3–4 on PoC.
33. S/RES/1894 (2009), OPs 2, 8, 15(a) on PoC.
34. S/RES/1894 (2009), OP 2 on PoC, S/RES/2093 (2013), OP 26, S/RES/2408 (2018), OP 22 on Somalia, S/RES/2120 (2013), PP 21 on Afghanistan, S/RES/2139 (2014), OP 3, S/RES/2165 (2014), PP 10 on Syria, S/RES/2286 (2016), PP 9 on PoC/medical care, S/PRST/2018/5, para. 3 on Yemen, S/RES/2423 (2018), OP 42 on Mali, S/RES/2427 (2018), OP 12 on CAAC, S/RES/2429 (2018), OP 41 on Darfur.
35. See, respectively, S/PRST/2016/5, para. 11, S/PRST/2017/7, para. 7 and S/PRST/2018/5, para. 3 on Yemen.
36. S/RES/2266 (2016), PP 5, S S/RES/2342 (2017), PP 5, /RES/2402 (2018), PP 5 on Yemen.
37. S/RES/2393 (2017), PP 5, S/RES/2401 (2018), PP 4 on Syria, S/RES/2406 (2018), PP 16 on South Sudan, S/RES/2417 (2018), OPs 1, 7 on PoC/food insecurity.
38. S/RES/2165 (2014), PP 14, S/RES/2393 (2017), PP 5, S/RES/2401 (2018), PP 6, OP 10 on Syria, S/RES/2405 (2018), PP 15, OP 23 on Afghanistan, S/RES/2417 (2018), OP 5 on PoC/food insecurity.
39. See S/RES/2233 (2015), PP 15, S/RES/2299 (2016), PP 11, S/RES/2367 (2017), PP 11 on Iraq (on IHL and human rights obligations of non-State actors); S/RES/2100 (2012), OP 24 on Mali, S/RES/2098 (2013), OPs 12(b), 15(a), 34(b)(iii) on the DRC, S/RES/2372 (2017), OPs 6, 16–17 on Somalia (on IHL and human rights obligations of UN authorized peace operations).
40. See S/PRST/2013/2, para. 17 on PoC (on engaging with non-State armed groups); S/RES/2139 (2014), OPs 3, 5, S/RES/2165 (2014), PP 10–11, S/RES/2401

As will be further elaborated in part III of this report, the Council has, with increasing consistency, taken steps to ***implement and enforce*** the obligations under IHL and IHRL existing to protect civilians in the conduct of hostilities. It has included PoC mandates in UN peace operations and PoC-related listing criteria in UN sanctions regimes. It has also established monitoring and reporting mechanisms to stay abreast of protection activities, violations and progress, and taken steps to ensure accountability for violations. Further, the Council has worked towards ensuring respect for IHL and IHRL, for instance by encouraging those with influence over parties to conflict to remind them of their obligation to comply with these regimes, urging Member States to insist on respect for IHL and IHRL when partnering with other armed actors, or directing them to establish joint compliance frameworks.[41]

Not directly regarding the conduct of hostilities, but related thereto, the Council has, in several instances, addressed the issue of ***persons gone missing*** in armed conflict, including combatants missing in action. The Council has highlighted the importance of parties' cooperation with investigative mechanisms and their provision of access to relevant areas to enable the positive identification of missing persons and, more recently, welcomed and called for investigations and prosecutions related to reports of missing persons in Iraq after the liberation of territories from ISIL.[42]

The Council has also increasingly condemned the practice of ***arbitrary arrest and detention*** and demanded the release of arbitrarily detained persons.[43] It has urged States to take preventive measures against arbitrary detention, to ensure investigations and prosecutions of violations, to transfer detainees to State authorities and to ensure their proper treatment during detention.[44] It has also mandated UN peace operations to monitor places of detention and called for full and unhindered access by UN personnel to detainees.[45]

Over time, the Council's thematic and situation-specific decisions and statements have increasingly prioritized enhancing and ensuring respect for IHL and IHRL in the conduct of hostilities, specified the particular parameters of compliance, and developed tools for implementation. The protection of civilians in the conduct of hostilities thus remains the inherent and indispensable cornerstone of the Council's PoC agenda.

RESTRICTIONS ON THE USE OF CERTAIN TYPES OF WEAPONS

Due to the harmful and often disastrous effects that the use of prohibited weapons and the widespread availability or indiscriminate use of permissible weapons can have on civilians, the Council has frequently addressed the use of certain types of weapons in the context of PoC.

Since its early thematic resolutions on PoC, the Council has emphasized the ***destabilizing effect of SALW*** and the important role of DDR in peace processes and UN peace operations.[46] In 2013 and 2015, the Council adopted dedicated thematic resolutions on SALW focused on addressing their illicit transfer, destabilizing accumulation and misuse.[47] These resolutions also

> ***"The single biggest cause of humanitarian suffering in the world arises from the way belligerents behave in conflict – from their failure to comply with the laws of war."***
>
> **Mark Lowcock, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator**

(2018), OPs 8, 10 on Syria, S/RES/2405 (2018), PP 21 on Afghanistan, S/PRST/2018/5, para. 3 on Yemen (on threats to civilians in urban armed conflict settings); S/RES/2396 (2017), PP 7 on foreign terrorist fighters (on compliance with IHL and IHRL in the context of counter-terrorism activities).

41. See S/PRST/2017/14, para. 5 on famine in Yemen, Somalia, South Sudan and north-east Nigeria, S/RES/2417 (2018), OP 8 on PoC/food insecurity (on reminding parties to comply with IHL); S/RES/2423 (2018), OP 45 on Mali (on insisting on IHL and IHRL compliance through partner forces); S/RES/2391 (2017), OP 22 on the G5 Sahel (on establishing a joint compliance framework).
42. S/RES/2058 (2012), PP 15, OP 5, S/RES/2453 (2019), PP 15, OP 12 on Cyprus, S/RES/2367 (2017), PP 11 on Iraq, S/RES/2385 (2017), PP 17, OP 39 on Djibouti/Eritrea/Somalia.
43. S/RES/2196 (2015), PP 11 on the CAR, S/RES/2213 (2015), OP 6 on Libya, S/RES/2363 (2017), OP 34 on Darfur, S/RES/2367 (2017), PP 11 on Iraq, S/RES/2374 (2017), PP 18 on Mali, S/RES/2393 (2017), PP 9 on Syria, S/RES/2406 (2018), PP 16 on South Sudan, S/RES/2409 (2018), PPs 6, 9, 12 on the DRC.
44. S/RES/2213 (2015), OP 6 on Libya, S/RES/2363 (2017), OP 34 on Darfur, S/RES/2367 (2017), PP 11 on Iraq, S/RES/2393 (2017), PP 9 on Syria, S/PRST/2018/3, para. 12 on West Africa and the Sahel.
45. S/RES/2303 (2016), OP 16 on Burundi, S/RES/2363 (2017), OP 34 on Darfur, S/RES/2405 (2018), OPs 6(e), 35 on Afghanistan.
46. S/RES/1265 (1999), PP 9, OPs 12, 17, S/RES/1296 (2000), OPs 16, 21, S/RES/1674 (2006), PP 5, OP 18 on PoC.
47. S/RES/2117 (2013), S/RES/2220 (2015) on SALW.

Over the past 20 years, the Council's engagement on the use of certain types of weapons and their impact on civilians has evolved from broad-brush expressions of concern over the destabilizing effect of SALW and the use of certain prohibited weapons to increased levels of specificity, activism and prescriptiveness.

sought to strengthen compliance with and the implementation and monitoring of arms embargoes, and improve coordination through the UN and cooperation by Member States and other relevant actors. Further, they expressed support for the Arms Trade Treaty – commended by the Secretary-General as a "significant step towards preventing the flow of weapons and ammunition to areas affected by conflict and violence".[48]

Over the past decade, the Council has largely translated this normative framework into its situation-specific work on the ground. It has consistently expressed its concern over the illicit transfer, destabilizing accumulation and/or misuse of weapons in relevant country-specific contexts.[49] It has called on States to improve their management, storage and securing of stockpiles, and their collection or destruction of surplus, seized, unmarked or illicitly held SALW and ammunition.[50] It has asked States to develop and implement effective national legislation, policies and/or processes to regulate and combat the illicit transfer of arms and ammunition including through weapons-marking programs and data collection and analysis systems, and improve monitoring and control procedures including through special Council focal points.[51] At times, the Council has specifically called out Governments for the suspected diversion of arms from within their ranks.[52] It has also reminded States of their obligations under existing regional instruments.[53] And it has mandated UN peace operations to support country authorities in controlling the flow of SALW through the confiscation, storage and destruction of weapons and ammunition, the safe and effective management and securing of stockpiles, and/or the provision of assistance to DDR processes.[54]

Over the years, the Council has increasingly promoted compliance with weapons-related sanctions regimes and condemned violations of ***arms embargoes.***[55] It has repeatedly called for international cooperation in countering arms proliferation and ensuring the effective implementation of sanctions regimes, and mandated UN peace operations to assist in the monitoring of arms embargoes.[56] It has reminded States of their specific obligations to implement arms embargoes, urged their reporting on implementation measures, and called upon them to inspect cargos and dispose of prohibited items in accordance with international law.[57] In one of its most far-reaching decisions, concerning Libya, the Council granted States the right to inspect vessels on the high seas that were reasonably suspected of violating the existing arms embargo.[58]

The Council has also increasingly addressed the use and elimination of certain ***prohibited weapons.*** In its early thematic resolutions on PoC adopted in 1999 and 2000, the Council emphasized the importance of international legislation restricting or prohibiting the use of landmines.[59] In 2009, the Council additionally called on parties to take all feasible precautions to protect civilians from the effects of landmines and other explosive remnants of war and encouraged the international community to support national clearance efforts and provide assistance to victims.[60] In a major recent evolution, in 2017, the Council issued its first dedi-

48. SG PoC Report, S/2015/453, para. 48.
49. S/RES/2265 (2016), PP 9, OP 8 on Sudan, S/RES/2387 (2017), PP 16, OP 58 on the CAR, S/RES/2342 (2017), PP 3 on Yemen, S/RES/2409 (2018), OP 27 on the DRC, S/RES/2423 (2018), PP 27, OP 69 on Mali.
50. S/RES/2140 (2014), OP 30 on Yemen, S/RES/2265 (2016), OP 8 on Sudan, S/RES/2387 (2017), OP 58 on the CAR, S/RES/2409 (2018), OP 27 on the DRC, S/RES/2423 (2018), OP 69 on Mali.
51. S/RES/2278 (2016), OPs 6, 9 on Libya, S/RES/2333 (2016), OP 6 on Liberia, S/RES/2360 (2017), OP 15 on the DRC, S/RES/2370 (2017), OP 5 on preventing terrorists from acquiring weapons, S/RES/2385 (2017), OPs 4–7 on Somalia.
52. S/RES/2360 (2017), OP 15 on the DRC, S/RES/2385 (2017), OPs 4–7 on Somalia.
53. S/RES/2227 (2015), OP 34 on Mali, S/RES/2288 (2016), PP 6 on Liberia, S/RES/2399 (2018), OP 7 on the CAR.
54. S/RES/2226 (2015), OP 19(d), (f) on Côte d'Ivoire, S/RES/2387 (2017), OPs 43(c), 55–58 on the CAR, S/RES/2409 (2018), OPs 27, 37(i), (iii) on the DRC, S/RES/2423 (2018), OPs 38(a)(ii), 39(b), 69 on Mali, S/RES/2429 (2018), OP 40 on Darfur.
55. S/RES/2265 (2016), OPs 6–9 on Sudan, S/RES/2292 (2016), PPs 6–7, 13, OPs 1, 3 on Libya, S/RES/2385 (2017), PPs 4, 19 on Somalia, S/RES/2389 (2017), PP 7 on the DRC/the region.
56. See S/RES/2265 (2016), PP 18, OP 12 on Sudan, S/RES/2292 (2016), PP 6 on Libya, S/RES/2399 (2018), PP 24, OP 7 on the CAR (on international cooperation); S/RES/2226 (2015), OP 19(f) on Côte d'Ivoire, S/RES/2409 (2018), OP 37(iii) on the DRC (on monitoring by UN peace operations).
57. S/RES/2216 (2015), OPs 14–16 on Yemen, S/RES/2265 (2016), OPs 10–14 on Sudan, S/RES/2292 (2016), OPs 3–5 on Libya, S/RES/2399 (2018), OPs 1–2 on the CAR.
58. S/RES/2292 (2016), OPs 3–5 on Libya.
59. S/RES/1265 (1999), OP 18, S/RES/1296 (2000), OP 20 on PoC.
60. S/RES/1894 (2009), OP 29 on PoC.

cated resolution on mine action, including language on the long-term effect of mines and improvised explosive devices, as well as States' roles in countering their availability, circulation and use.[61]

These developments at the thematic level have also increasingly been reflected in the Council's country-specific work, in which the Council has repeatedly addressed the use and elimination of certain prohibited weapons such as landmines and chemical weapons.[62] In 2013, the Council endorsed the decision of the Executive Council of the Organisation for the Prohibition of Chemical Weapons (OPCW) to establish special procedures for the expeditious destruction of Syria's chemical weapons program and stringent verification thereof, decided that Syria shall comply with all aspects of the OPCW decision, and further decided to provide UN assistance to OPCW activities in Syria for the purpose of the implementation of the OPCW decision.[63] In 2015, the Council requested the establishment of the OPCW-UN Joint Investigative Mechanism to identify persons involved in the use of chemical weapons in Syria where the OPCW Fact-Finding Mission determined that an incident likely involved their use.[64]

Over time, the Council's work related to the impact of specific types of weapons on civilians has evolved from reiterating the general legal framework to setting specific and detailed courses of action on weapons management, arms embargoes and the use of certain types of weapons, including through extensive mandates granted to UN peace operations, assertive demands directed at parties to conflict and, in the case of chemical weapons, the establishment of a targeted accountability mechanism.

HOSTILITIES IN POPULATED AREAS

The Council has addressed some specific means and methods of warfare in light of the increasing urbanization of conflict and the particular vulnerabilities of civilians in populated areas, including in urban settings. In Syria, it has condemned indiscriminate attacks in populated areas, including through aerial bombardments and shelling, as well as the indiscriminate use of particular types of explosive weapons in populated areas such as artillery, barrel bombs, mortars, car bombs, suicide attacks and tunnel bombs.[65] In Yemen, the Council has expressed grave distress at indiscriminate attacks in densely populated areas, and the impact this has had upon civilians, including large numbers of civilian casualties and damage to civilian objects.[66]

In Syria, the Council has also demanded that parties demilitarize medical facilities, schools and other civilian facilities and avoid establishing military positions in populated areas, and expressed its grave concern at the deliberate interruptions of water supply and the use of starvation of civilians as a method of warfare, including by the besiegement of populated areas.[67] It has also called upon the Syrian Government to cease all use of and withdraw heavy weapons in and from population centres.[68] In Afghanistan, the Council has condemned the use of civilians as "human shields" as well as suicide attacks, "often in civilian-populated areas".[69] Also in Afghanistan and Syria, the Council condemned the use of improvised explosive devices against civilians.[70] And in Côte d'Ivoire, the Council responded decisively to the escalating violence and use of explosive weapons, including in populated areas, by clarifying that its authorization of the United Nations Operation in Côte d'Ivoire (UNOCI) to use all necessary means to carry out its PoC mandate included preventing the use of heavy weapons against the civilian population.[71]

Further use and consistency of language on the use of explosive weapons and the prohibition of indiscriminate attacks in populated areas would clarify and strengthen the normative PoC framework in relevant protection contexts, particularly in light of the effects of hostilities in urban settings.

61. S/RES/2365 (2017) on mine action.
62. See S/RES/2274 (2016), PP 29, OP 37, S/RES/2405 (2018), PP 17, OP 32 on Afghanistan (on landmines); S/RES/2118 (2013), S/RES/2235 (2015), S/RES/2319 (2016) on Syria (on chemical weapons).
63. S/RES/2118 (2013) on Syria.
64. See S/RES/2235 (2015), S/RES/2314 (2016), S/RES/2319 (2016) on Syria; see also below under PART IV B.
65. S/RES/2139 (2014), OP 3, S/RES/2191 (2014), PP 5, S/RES/2165 (2014), PP 10, S/RES/2393 (2017), PP 5 on Syria.
66. S/PRST/2018/5, para. 3 on Yemen.
67. S/RES/2165 (2014), PP 11, S/RES/2393 (2017), PP 5, S/RES/2401 (2018), OP 8 on Syria.
68. S/RES/2042 (2012), PP 5, OPs 2–3 on Syria.
69. S/RES/2274 (2016), OP 32, S/RES/2405 (2018), PP 21 on Afghanistan.
70. S/RES/2163 (2014), PP 7 on Syria, S/RES/2405 (2018), PP 17, OP 23 on Afghanistan
71. S/RES/1975 (2011), OP 6 on Côte d'Ivoire.

B. FACILITATING ACCESS TO HUMANITARIAN ASSISTANCE AND MEDICAL CARE

As noted by the Secretary-General in his 2007 PoC Report, access "is the fundamental prerequisite for humanitarian action and protection, and for millions of vulnerable people caught in conflict it is often the only hope and means of survival".[72] The facilitation of humanitarian assistance for civilians in need was a priority at the Council from the inception of the PoC agenda and featured prominently across the Council's thematic PoC resolutions from 1999 to 2009.[73] In addition to its holistic PoC resolutions, the Council highlighted certain focus areas by adopting dedicated thematic resolutions on the protection of ***UN and humanitarian personnel*** in 2003 and 2014, the protection of ***medical care*** in conflict in 2016 and the protection against ***food insecurity*** in conflict in 2018.[74]

ENSURING ACCESS TO HUMANITARIAN ASSISTANCE

The Council's activity has covered the prohibition against arbitrarily withholding consent to the provision of impartial humanitarian assistance to civilians in need, the obligation to allow and facilitate rapid and unimpeded passage of humanitarian relief, and the safety and security of humanitarian personnel and assets.[75]

The Council's work on ensuring access to humanitarian assistance has evolved, over the course of the past 20 years, from promoting compliance by parties to conflict with their obligations under international law, to operationalization – e.g., by mandating peace operations to support and enable access or designating the obstruction of access as a sanctions criterion – to binding decisions enforcing the rapid and unimpeded passage of humanitarian relief to civilians in need by authorizing cross-border operations in Syria.

The Council's thematic PoC resolutions from 1999 to 2009 stressed the ***prohibition to unlawfully deny access*** or intentionally obstruct the provision of humanitarian assistance to civilians; underlined the obligation of parties to conflict to ***allow and facilitate*** the unhindered access of humanitarian personnel to civilians while ensuring their safety, security and freedom of movement; and condemned the ***use of violence or intimidation*** against humanitarian personnel and assets.[76] The resolutions also expressed the intention to mandate UN peace operations to assist in creating conditions conducive to the delivery of humanitarian assistance, called on relevant parties including neighbouring States to cooperate fully with UN and humanitarian personnel and make available necessary facilities for their operations, and promoted respect for the humanitarian principles of humanity, neutrality, impartiality and independence.[77] The Council encouraged the Secretary-General to systematically monitor and analyse constraints on humanitarian access, to include observations and recommendations in his briefings and country-specific reports, and to bring to the Council's attention information regarding the deliberate denial of access to humanitarian assistance in violation of international law.[78] In particular, resolution 1894, adopted in 2009, included detailed language on the protection of the humanitarian mission, following extensive recommendations and an annex listing constraints in the Secretary-General's 2009 PoC Report.[79] In addition to its holistic thematic resolutions on PoC, the Council responded to the at-

72. *SG PoC Report,* S/2007/643, para. 32.
73. S/RES/1265 (1999), PP 3, 7, OPs 7–10, S/RES/1296 (2000), OPs 8, 11–12, S/RES/1502 (2003), S/RES/1674 (2006), OPs 5, 11, 16, 21–23, S/RES/1894 (2009), PPs 11, 19, OPs 4, 12–17 on PoC.
74. See, respectively, S/RES/1502 (2003), S/RES/2175 (2014) on PoC/humanitarian personnel, S/RES/2286 (2016) on PoC/medical care, S/RES/2417 (2018) on PoC/food insecurity.
75. See Dapo Akande and Emanuela-Chiara Gillard, *Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict,* independent study commissioned by OCHA, 2016 (Oxford Guidance), for a description of the legal framework.
76. S/RES/1265 (1999), PP 7, OPs 7, 10, S/RES/1296 (2000), OPs 8, 12, S/RES/1502 (2003), PPs 5, 7, OPs 1, 4, S/RES/1674 (2006), OPs 5, 22, S/RES/1894 (2009), OPs 4, 12, 14 on PoC.
77. See S/RES/1674 (2006), OP 16, S/RES/1894 (2009), OP 15(b) on PoC (on UN peace operations); S/RES/1296 (2000), OP 8 S/RES/1502 (2003), OP 4, S/RES/1674 (2006), OP 22, S/RES/1894 (2009), OP 14 on PoC (on cooperating with humanitarian personnel and making available facilities); S/RES/1296 (2000), OP 11, S/RES/1502 (2003), PP 4, S/RES/1674 (2006), OP 21, S/RES/1894 (2009), OP 13 on PoC (on respecting humanitarian principles).
78. S/RES/1296 (2000), OP 8, S/RES/1502 (2003), OPs 5(a), 6, S/RES/1894 (2009), OP 17 on PoC.
79. S/RES/1894 (2009), PPs 11, 19, OPs 4, 12–17 on PoC; SG PoC Report, S/2009/277, paras. 58–60, annex. The updated annex was included again in the Secretary-General's PoC Reports in 2010 (S/2010/579) and 2012 (S/2012/376).

Humanitarian aid delivery in Haut Mbomou province, town of Obo, Central African Republic, 2010. Credit: ICRC/Marko Kokic

tack on the UN headquarters in Baghdad in 2003 and to a period marked by particularly high casualties among humanitarian workers in 2014 by adopting two dedicated thematic resolutions on the protection of UN and humanitarian personnel.[80]

Over the past decade, the Council has increasingly addressed the prohibition of unlawfully denying access or intentionally obstructing the provision of humanitarian assistance to civilians in need in its country-specific resolutions and statements, in line with repeated concerns raised by the Secretary-General in this regard.[81] At times, the Council has examined humanitarian assistance through the lens of "arbitrary" denial of access.[82] In addition, the Council has overwhelmingly included its call for safe, timely and unhindered access to humanitarian assistance and the protection of humanitarian personnel and assets in its relevant country-specific resolutions.[83] And it has highlighted specific examples of impediments to humanitarian assistance, such as limitations on the delivery of vital goods – including for besieged areas and entrapped enclaves – the misappropriation or diversion of funds or supplies, insecurity, acts of criminality and movement restrictions by parties to

80. See S/RES/1502 (2003), S/RES/2175 (2014) on PoC/humanitarian personnel; see also *Records of the 4814th Meeting of the Security Council,* S/PV.4814 (2003); and the *Letter dated 5 August 2014 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General,* S/2014/571, annex.
81. See S/RES/2139 (2014), PP 10, S/RES/2165 (2014), PP 15 on Syria, S/RES/2216 (2015), PP 10, S/PRST/2018/5, para. 4 on Yemen, S/RES/2217 (2015), PP 9 on the CAR, S/RES/2296 (2016), PP 12, OP 22 on Darfur; *SG PoC Reports,* S/2007/643, para. 38, S/2010/579, para. 6, S/2013/689, paras. 58–59, S/2015/453, paras. 7, 39, 56, 61, S/2016/447, paras. 34, 69, S/2017/414, paras. 52, 83.
82. See S/RES/2139 (2014), PP 10, S/RES/2165 (2014), PP 15 on Syria, S/RES/2216 (2015), PP 10 on Yemen; see also Oxford Guidance, *supra,* para. 47.
83. S/RES/2328 (2016), OP 5 on Syria, S/RES/2349 (2017), OP 16 on the Lake Chad Basin, S/RES/2358 (2017), OP 23, S/RES/2372 (2017), OP 50 on Somalia, S/RES/2363 (2017), OPs 32–33 on Darfur, S/RES/2405 (2018), OP 26 on Afghanistan, S/RES/2406 (2018), PP 16, OP 23 on South Sudan, S/RES/2360 (2017), PP 13, S/RES/2409 (2018), PP 22, OPs 19, 43 on the DRC.

> ***"International humanitarian law is designed to minimize human suffering in war, including by safeguarding humanitarian activities. So, garnering greater respect for international humanitarian law is one of the most effective ways to safeguard humanitarian space."***
>
> **Mark Lowcock, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator**

conflict, and bureaucratic impediments such as restrictions on visas and travel permits.[84]

The Council has also increasingly recalled that access not only includes the ability of humanitarian actors to reach civilian populations in need, but also the ***ability of the civilian population to access humanitarian assistance*** and services.[85] In a recent statement on Yemen, the Council went as far as addressing commercial imports, expressing its great concern over the impact of access restrictions on commercial and humanitarian imports on the humanitarian situation and calling on parties to immediately facilitate access for these essential imports into the country and their distribution throughout.[86]

Particularly in recent years, the Council has taken unparalleled steps to ***implement*** the protection of the humanitarian mission at ***all three levels,*** i.e. the authorization of impartial humanitarian relief operations, the facilitation of the provision of humanitarian assistance, and the assurance of the safety and security of humanitarian personnel and assets. It has designated the obstruction of access to humanitarian assistance and attacks against UN and humanitarian personnel as listing criteria in sanctions regimes and urged Governments to report to Council sanctions committees on measures undertaken in response to violations.[87] It has also included detailed provisions on facilitating humanitarian access and protecting humanitarian personnel in the mandates of UN peace operations.[88] From parties, the Council has demanded concrete steps to operationalize access, such as the implementation of humanitarian corridors, days of tranquillity, localized ceasefires and truces, or durable humanitarian pauses to enable the delivery of humanitarian aid and services or medical evacuations.[89] And the Council has specifically called for the facilitation and expedition of bureaucratic and administrative procedures such as the registration of humanitarian organizations and the expansion of their activities, the issuance of visas and travel permits, and the entry and movement of humanitarian goods and equipment.[90]

In 2014, in one of its most assertive resolutions, the Council took the unprecedented decision to authorize the UN and its implementing partners to deliver humanitarian aid throughout Syria ***across conflict lines and certain border crossings.***[91] In his 2013 PoC Report, the Secretary-General had recommended that parties to conflict ensure the availability of the most efficient means for reaching people in need of assistance, including through cross-line and cross-border operations, if necessary.[92] The Council subsequently demanded that all parties abide by their obligation to allow the delivery of humanitarian and medical assistance into and within Syria – including across conflict lines and borders – and expressed its resolution to take further steps in the event of non-compliance.[93] When it found that its demands had not been heeded due to "continued, arbitrary and unjustified withholding of consent to relief operations", the Council authorized humanitarian aid delivery by UN agencies and implementing partners across conflict lines and border

84. See S/RES/2402 (2018), PP 11 on Yemen (on the delivery of vital goods); S/RES/2393 (2017), PP 12 on Syria (on besieged areas); S/RES/2387 (2017), PP 21 on the CAR (on entrapped enclaves); S/RES/2385 (2017), PP 13 on Somalia (on the diversion of funds and supplies); S/RES/2296 (2016), OPs 19, 22 on Darfur (on insecurity, acts of criminality, movement restrictions by parties to conflict and bureaucratic impediments).
85. S/RES/2093 (2013) OP 43(c) on Somalia, S/RES/2216 (2015), OP 19 on Yemen, S/RES/2293 (2016), OP 7(f) on the DRC, S/RES/2374 (2017), OP 8(e) on Mali, S/RES/2428 (2018), OP 14(g) on South Sudan, S/RES/2399 (2018), OP 21(f) on the CAR.
86. S/PRST/2018/5, para. 4 on Yemen.
87. See below under PART III B.
88. See below under PART III A.
89. S/RES/1860 (2009), OP 3 on the occupied Palestinian territory, S/RES/2139 (2014), OP 5, /RES/2401 (2018), OPs 1, 10 on Syria, S/RES/2216 (2015), OP 12 on Yemen.
90. S/PRST/2013/15, para. 13 on Syria, S/RES/2349 (2017), OP 16 on the Lake Chad Basin.
91. S/RES/2165 (2014), OP 3 on Syria.
92. *SG PoC Report,* S/2013/689, paras. 59, 79.
93. S/PRST/3013/15 paras. 12–14, S/RES/2139 (2014), OPs 5–8, 17 on Syria.

crossings with notification to the Syrian authorities and established a mechanism under the authority of the Secretary-General to monitor the passage of relief consignments across certain border crossings.[94] The Council has repeatedly noted the impact of the cross-border operations, recalling that the UN and its implementing partners delivered life-saving assistance to millions of people in need in Syria through humanitarian aid deliveries across borders, including food assistance for an average 1 million people every month since 2016, non-food items for 6 million people, health assistance for 25 million treatments, and water and sanitation supplies for more than 5 million people.[95]

The Council's action in Syria exemplifies an effective response to the significant and rapid deterioration of the humanitarian situation in the country, with at that time more than 10 million people in need of assistance, including 6.4 million IDPs. Notable was the role of the non-permanent Council members – particularly Australia, Jordan, Luxembourg, New Zealand and Spain – in ensuring the inclusion of relevant language enabling the delivery of humanitarian assistance. Although an isolated example in an extreme situation, the decision illustrates how the Council has strengthened its role in enabling humanitarian assistance, from promoting and demanding to deciding, operationalizing and enforcing compliance with international obligations, over the course of 20 years.

PROTECTING MEDICAL CARE IN ARMED CONFLICT

In 2016, the Council unanimously adopted a landmark resolution dedicated to the protection of medical care in armed conflict,[96] one of the cornerstones of IHL. The initiative for the resolution – co-sponsored by 84 Member States and spearheaded by Egypt, Japan, New Zealand, Spain and Uruguay – came in the wake of a stark increase in attacks on medical care in preceding years, with devastating effects in places like Syria, Yemen, Afghanistan, Iraq and South Sudan.[97] At that time in Syria, 730 medical personnel had been killed and more than 360 attacks on some 250 medical facilities had been documented since the beginning of the conflict, and more than half of Syria's medical facilities had either been damaged or destroyed. In Yemen, the UN had verified 59 attacks against 34 hospitals in the preceding year, and more than 600 medical facilities had closed because of conflict-induced damage, destruction and shortage of supplies and medical workers. The ICRC had published a study as early as 2011 recognizing interference with health-care services as one of the biggest, most complex and least recognized humanitarian issues of our time.[98] The Secretary-General began to address the matter with urgency in his 2012 PoC Report.[99]

In 2016, through resolution 2286, the Council responded to these developments in strong and decisive terms and thereby demonstrated its unified resolve to strengthen the protection of medical care in armed conflict. It strongly condemned acts and threats of violence against the wounded and sick, medical personnel and humanitarian personnel exclusively engaged in medical duties, their means of transport and equipment, as well as hospitals and other medical facilities (hereinafter medical personnel, assets and facilities). It deplored the long-term consequences of such attacks for civilians and the health-care systems of affected countries. It demanded that all parties comply with their obligations under international law to respect and protect medical personnel, assets and facilities, and to facilitate their safe and unimpeded passage to all people in need. The Council further urged parties to develop effective measures to prevent and address attacks on medical care including by developing domestic legal frameworks, collecting data on violations, sharing challenges and good practices, and ensuring the integration of training and protection measures into the operations of armed and security forces. It called upon States to conduct full, prompt and impartial investigations and take action against perpetrators with a view to reinforcing preventive measures, ensuring accountability and addressing the grievances of victims. Moreover, it requested the Secretary-General to report regularly on progress both at the thematic and country levels and to provide the Council with recommendations on ways to enhance protection, prevention and accountability.[100]

Since the adoption of resolution 2286, the Council has addressed medical care in armed conflict more systematically in country-specific contexts.[101] It has repeatedly demanded compliance

94. See S/RES/2165 (2014), PPs 5, 15, OPs 2–3 on Syria; see also S/RES/2191 (2014), PP 10, S/RES/2258 (2015), PP 18, S/RES/2332 (2016), PP 18 on Syria.
95. See S/RES/2449 (2018), PP 11 on Syria; see also S/RES/2393 (2017), PP 11 on Syria.
96. S/RES/2286 (2016) on PoC/medical care.
97. See *Records of the 7685th Meeting of the Security Council,* S/PV.7685 (2016).
98. ICRC, *Health care in danger: a sixteen-country study,* 2011.
99. *SG PoC Report,* S/2012/376, para. 33.
100. See the Secretary-General's recommendations in the *Letter dated 18 August 2016 from the Secretary-General addressed to the President of the Security Council,* S/2016/722, annex.
101. S/RES/2344 (2017), OP 23, S/RES/2405 (2018), OP 27 on Afghanistan, S/

> ***"The protection of the medical mission is at the origin of international humanitarian law and is a building block of our humanity: that anyone who is wounded or sick, irrespective of whether they are friend or foe, deserves to be treated with humanity; and that those caring for them should have special protection."***
>
> **Peter Maurer, President of the International Committee of the Red Cross**

with the obligation to respect and protect medical personnel, assets and facilities and condemned attacks in violation thereof. It has also frequently demanded that parties facilitate the safe and unimpeded passage for medical personnel, equipment, transport and supplies to all people in need. At times, it has expressly demanded the demilitarization of medical facilities.[102] Further, the Council has designated the involvement in attacks on hospitals as an express sanctions criterion in UN sanctions regimes.[103]

As a result of resolution 2286, individual Council members and other Member States have demonstrated notable resolve in enhancing the protection of medical care in conflict. In 2016, Canada and Switzerland established as co-chairs the informal group of friends of resolution 2286 to mobilize leadership for the protection effort and promote the issue in the General Assembly and the Human Rights Council. In 2017, France led a declaration on the protection of humanitarian and medical personnel that 41 States have signed as of May 2019. UN actors continue to support these efforts and the World Health Organization (WHO) has rolled out a monitoring system for the collection of data regarding attacks on medical care. At the national level, the National Red Cross and Red Crescent Societies and the ICRC have continued to work with Governments to adopt laws and good practice that protect health care and ensure the correct use of, and respect for, the distinctive emblems in accordance with IHL.[104] Several Member States have independently reviewed their national legal frameworks to ensure their compliance with IHL. On a related matter, France and Germany announced a "call to action" on the protection of humanitarian and medical personnel in an Arria-formula meeting on 1 April 2019.

Despite this progress, severe and well-known challenges remain on the ground. At the adoption of resolution 2286, Peter Maurer, President of the ICRC, observed that it marked "a momentous step in the international community's effort to draw attention to a problem that we otherwise risk getting used to through the sheer frequency of its occurrence", while cautioning that it "must mark not the end of a political process but the beginning of a practical effort".[105] In 2016, in response to the Council's request for recommendations on implementing the resolution, the Secretary-General outlined a road map for operationalization.[106] It included recommendations for promoting international law and strengthening national law, military guidance and standard operating procedures to strictly comply with IHL. It also included measures to promote efficient data collection and information exchange and ensure respect and accountability. Unfortunately, Council members could not reach a consensus on the adoption of these recommendations. The challenge going forward will be to encourage States to implement practical measures to enhance the protection of medical care in armed conflict and to continue to seek ways of meaningful contribution through the Council.

PROTECTING AGAINST FOOD INSECURITY IN ARMED CONFLICT

In 2018, the Council unanimously adopted another important thematic resolution closely related to the humanitarian mission, which addressed the link between armed conflict, food insecurity and famine.[107] The co-penholders of the

RES/2387 (2017), OP 63 on the CAR, S/RES/2401 (2018), OPs 7–8 on Syria, S/RES/2406 (2018), PPs 16, 23, OP 23 on South Sudan, S/RES/2439 (2018), PP 11, OP 6 on the DRC, S/RES/2423 (2018), OP 62 on Mali.

102. S/RES/2401 (2018), OP 8 on Syria.
103. S/RES/2093 (2013), OP 43(e) on Somalia, S/RES/2206 (2015), OP 7(d) on South Sudan, S/RES/2293 (2016), OP 7(e) on the DRC, S/RES/2399 (2018), OP 21(b) on the CAR, S/RES/2374 (2017), OP 8(f) on Mali.
104. For all of the above, see *SG PoC Report,* S/2018/462, paras. 29–30; see also www.healthcareindanger.org/hcid-project for the ICRC initiative on the protection of healthcare in armed conflict.
105. See *Records of the 7685th Meeting of the Security Council,* S/PV.7685 (2016).
106. See the *Letter dated 18 August 2016 from the Secretary-General addressed to the President of the Security Council,* S/2016/722, annex.
107. S/RES/2417 (2018) on PoC/food insecurity.

resolution were Côte d'Ivoire, Kuwait, the Netherlands and Sweden. The resolution followed a report by the Food and Agriculture Organization of the United Nations (FAO) and the World Food Programme (WFP) that global hunger was on the rise for the first time after more than two decades of decline, with conflict cited as the main reason for that reversal.[108] In his 2017 PoC Report, the Secretary-General had outlined the urgent need for greater humanitarian access in Nigeria, Somalia, South Sudan and Yemen, where more than 20 million people were on the brink of famine in large part due to certain methods of warfare and restrictions on humanitarian access by parties to conflict.[109] In response, the Council adopted a presidential statement calling on all parties to take steps to enable a more effective humanitarian response.[110] In his 2018 PoC Report, the Secretary-General noted his concerns over the use of starvation of civilians as a method of warfare and highlighted the situations in Syria – where some 420,000 people were living in nine besieged areas at the end of 2017 – and Yemen, where nearly 7 million people were at risk of famine following severe restrictions on the movement and import of humanitarian and commercial goods.[111] In South Sudan, 1 million people had been declared food insecure as of 1 January 2018 – a 40 per cent increase from the previous year largely attributable to the enduring conflict – and 7 million in need of food assistance for that year's lean season.[112]

In the face of these bleak realities, the Council adopted resolution 2417. In this resolution, the Council recalled the link between armed conflict, food insecurity and the threat of famine, and expressly linked them to its primary responsibility for maintaining international peace and security. It called on parties to comply with their obligations under IHL, including respect for and the protection of objects necessary for food production and distribution, and the prohibition of attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population. The Council noted that conflict-induced food insecurity could lead to forced displacement, and also highlighted both the direct and indirect impacts of conflict on food security through increased food prices, decreased purchasing power and limited access to food production supplies such as water and fuel. The Council underlined the importance of safe and unimpeded humanitarian access, condemned the unlawful denial of access and the deprivation of objects indispensable to civilians' survival – including by wilfully impeding relief supply – and called for the protection of civilian infrastructure critical to the delivery of humanitarian aid. It called on all relevant parties to respect and protect humanitarian personnel and consignments, unequivocally condemned the starvation of civilians as a method of warfare and underlined that such starvation may constitute a war crime. It also urged those with influence over parties to conflict to remind the latter of their obligations and recalled the possibility of adopting sanctions for the obstruction of humanitarian assistance.

Moreover, the Council requested that the Secretary-General report annually on the implementation of the resolution and regularly on the risk of famine and food insecurity in his reports. It also requested that the Secretary-General report swiftly to the Council when the risk of conflict-induced famine and widespread food insecurity in armed conflict contexts occurs. This "early-warning" reporting mechanism has been implemented twice to date through briefings to the Council by the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator – once on the situation in South Sudan and once on the situation in Yemen.

PROTECTING HUMANITARIAN ACTION BY ENGAGING WITH NON-STATE ARMED GROUPS

It is essential for humanitarian actors to engage with non-State armed groups with control over territory in which humanitarian activities are carried out to secure access and promote respect for IHL and PoC. Engagement can relate to a range of practical issues regarding the resolution of security concerns, the setting of travel routes and times, and other operational arrangements. It can also serve to clarify the needs of civilians and the role of humanitarian organizations, as well as obligations of armed groups under IHL. In accordance with IHL, impartial humanitarian bodies can offer their services to all parties to armed conflict, including non-State armed groups.

In 2009, in its resolution 1894, the Council stressed the importance of all parties to conflict cooperating with humanitarian per-

108. See FAO and WFP, *Monitoring Food Security in Countries with Conflict Situations,* issue No. 3, January 2018, which found that 10 out of the 13 major food crises in 2016 were conflict-driven.
109. *SG PoC Report,* S/2017/414, para. 48.
110. S/PRST/2017/14 on the threat of famine in north-east Nigeria, Somalia, South Sudan and Yemen.
111. SG *PoC Report,* S/2018/462, paras. 23–25.
112. *Records of the 8267th meeting of the Security Council,* S/PV.8267 (2018).

sonnel to allow and facilitate access to civilian populations affected by armed conflict, thereby inferring the need for engagement between humanitarian actors and non-State armed groups with control over territory in which humanitarian activities are carried out.[113] In 2013, the Council expressly recognized the need for consistent engagement by humanitarian agencies with all parties to conflict for humanitarian purposes, including activities aimed at ensuring respect for IHL.[114]

The Council has also repeatedly requested respect for the humanitarian principles of humanity, neutrality, impartiality and independence, both at the thematic and at the country-level.[115] According to the humanitarian principles, human suffering is addressed wherever it is found, humanitarian aid does not favour any party to conflict, it is provided solely on the basis of need, without discrimination, and it is autonomous from political objectives. Humanitarian activities carried out in compliance with the humanitarian principles inherently encompass engagement with parties to conflict, including non-State armed groups in control over territory with civilian populations in need.

> ***"Humanitarian action cannot succeed without unimpeded access to those in need. Government and opposition leaders in countries affected by conflict must understand that they do not confer recognition on their opponents simply by allowing civilians living in areas which they do not control to receive help."***
>
> **Sergio Vieira de Mello, former Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator**

113. S/RES/1894 (2009), OP 14 on PoC.
114. S/PRST/2013/2, para. 17 on PoC.
115. S/RES/1296 (2000), op. 11, S/RES/1502 (2003), pp. 4, S/RES/1674 (2006), op. 21, S/RES/1894 (2009), op. 13 on PoC, S/ERS/2274 (2016), pp. 24 on Afghanistan, S/RES/2332 (2016), pp. 19 on Syria, S/RES/2363 (2017), op. 33 on Darfur, S/RES/2406 (2018), op. 23 on South Sudan, S/RES/2409 (2018), op. 43 on the DRC, S/RES/2423 (2018), pp. 26 on Mali.

In 2017, the Council acknowledged the need to ensure that measures taken by Member States to counter terrorism comply with their obligations under international law, in particular IHL, IHRL and IRL.[116] In this resolution 2396, the Council underscored that "respect for human rights, fundamental freedoms and the rule of law are complementary and mutually reinforcing with effective counter-terrorism measures, and are an essential part of a successful counter-terrorism effort", and that failure to comply with international obligations "is one of the factors contributing to increased radicalization to violence and fosters a sense of impunity". In a recent resolution adopted in 2019, the Council urged States, when designing and applying measures to counter the financing of terrorism, to take into account the potential effect of those measures on exclusively humanitarian activities, including medical activities, that are carried out by impartial humanitarian actors in a manner consistent with IHL.[117]

Over time, the Secretary-General has repeatedly stressed the importance of structured and effective contact with non-State armed groups for humanitarian purposes and expressed concern over the impact of counter-terrorism legislation criminalizing engagement with certain groups, and other measures such as lengthy administrative processes introduced by donor States.[118] Although the Council's work has responded to these concerns to some degree, further consistency in preserving the conditions necessary for humanitarian engagement with armed groups, and avoiding the criminalization of engagement with certain groups, is essential to enable and promote the principled delivery of humanitarian assistance.

C. PREVENTING AND RESPONDING TO FORCED DISPLACEMENT

From its first ***thematic PoC resolution*** onward, the Council called for compliance with IRL by all relevant parties, addressed refugees and IDPs as particularly vulnerable groups with special protection concerns, stressed the need to maintain the security and civilian character of refugee and IDP camps and underlined the importance of safe and unhindered humanitarian access to

116. S/RES/2396 (2017), PP 7 on foreign terrorist fighters.
117. S/RES/2462 (2019) on countering the financing of terrorism.
118. *SG PoC Reports*, S/2001/331, para. 17, S/2002/1300, paras. 25–27, S/2004/431, paras. 42–42, S/2009/277, paras. 38–47, S/2010/579, para. 55, S/2012/376, paras. 45–46, S/2013/689, paras. 39–40, S/2018/462, para. 22.

refugees and IDPs.[119] In 2006, the Council for the first time included more detailed language on forced displacement in a thematic PoC resolution.[120] It recalled the prohibition of forced displacement under international law, strongly condemned all violations of applicable international obligations with respect to forced displacement and reiterated the need to maintain the security and civilian character of refugee and IDP camps. It also stressed the role of peace and post-conflict processes and agreements as well as UN peace operations in creating conditions conducive to the voluntary, safe, dignified and sustainable return of refugees and IDPs, encouraged the Secretary-General to take all feasible measures to ensure security in and around refugee and IDP camps and urged the international community to support States in fulfilling their protection responsibilities. In resolution 1894 adopted in 2009, the Council additionally noted the adoption of the *African Union Convention for the Protection and Assistance of IDPs in Africa* (the Kampala Convention) and requested the inclusion of information on the protection needs of refugees and IDPs in the Secretary-General's country-specific reports.[121] In 2014, the Council held an Arria-formula meeting on the protection of IDPs that emphasized the importance of national authority and protection, the key role of the international community and the Council when protection fails, and the need for greater focus on and investment in durable solutions.[122] In a notable recent development, in resolution 2417 adopted in 2018, the Council highlighted the reciprocal link between armed conflict, forced displacement and food insecurity.[123]

Over the years, the Council has increasingly addressed forced displacement in ***country-specific contexts,*** in particular with regard to the protection of displaced persons during displacement and the facilitation of durable solutions for refugees and IDPs.[124] Regarding the ***prevention of forced displacement,*** the Council has only sporadically recalled the prohibition of forced displacement or addressed prevention explicitly, and in the latter case without specifying how such prevention could be achieved.[126] The Council has, however, repeatedly condemned forced displacement and designated violations of international law as it pertains to forced displacement as a listing criterion in UN sanctions regimes.[127]

Over the past 20 years, the Council's approach to forced displacement has evolved from emphasizing the vulnerability of refugees and IDPs and the security and civilian character of camps to addressing a wide range of forced displacement-related issues as part of its mandate to maintain international peace and security. The Council has focused on refugees and IDPs as vulnerable groups with special protection needs in armed conflict, promoted their protection during displacement and the pursuit of durable solutions and, in individual cases, addressed the prevention of forced displacement in its resolutions and statements.[125]

Regarding the ***protection of displaced persons*** during displacement, the Council has increasingly condemned all violence against refugees and IDPs, stressed their freedom of movement and cautioned their particular consideration in the delivery of humanitarian assistance in its country-specific resolutions.[128] It

119. S/RES/1265 (1999), PPs 4, 10, OP 7, S/RES/1296 (2000), PP 4, OPs 3, 14 on PoC.
120. S/RES/1674 (2006), PP 8, OPs 5, 11–14, 16 on PoC.
121. S/RES/1894 (2009), PPs 9, 10, OP 32 on PoC.
122. See *SG PoC Report,* S/2015/453, para. 44.
123. S/RES/2417 (2018), PP 11, OP 2 on PoC/food insecurity.
124. S/RES/2112 (2013), PP 6, OP 6(a), (g) on Côte d'Ivoire, S/RES/2170 (2014), PP 4, OP 2 on Iraq/Syria, S/RES/2334 (2016), PP 4 on oPt, S/RES/2376 (2017), PPs 4, 11–13, 24 on Iraq, S/RES/2374 (2017), OP 8(f) on Mali, S/RES/2399 (2018), PP 5, OP 21(b) on the CAR, S/RES/2405 (2018), PP 19, OPs 7(c), 26, 43, S/RES/2409 (2018), PPs 12, 21, OPs 18, 36(i)(a) on the DRC, S/RES/2428 (2018), PP 2, OP 14(d) on South Sudan, S/RES/2429 (2018), PPs 11, 17, OP 45, S/RES/2431 (2018), OP 50 on Somalia, S/RES/2449 (2018), PPs 4, 6, 22 on Syria.
125. Forced displacement refers both to the movement of IDPs and the cross-border movement of refugees and asylum seekers as a result of persecution, armed conflict, generalized violence or human rights violations, as well as the IHL prohibition to forcibly displace the civilian population by parties to conflict except for reasons of security or imperative military necessity.
126. See S/RES/2093 (2013), OP 29 on Somalia (on the prohibition of forced displacement); S/RES/2386 (2017), PP 19 on Abyei (on the prevention of forced displacement).
127. See S/RES/1556 (2004), PP 8 on Sudan, S/RES/2170 (2014), OP 2 on Iraq/Syria, S/RES/2334 (2016), PP 4 on the occupied Palestinian territory, S/RES/2409 (2018), OP 18 on the DRC (condemning forced displacement); S/RES/2093 (2013), OP 43(e) on Somalia, S/RES/2206 (2015), OP 7(d) on South Sudan, S/RES/2293 (2016), OP 7(e) on the DRC, S/RES/2374 (2017), OP 8(f) on Mali, S/RES/2399 (2018), OP 21(b) on the CAR (on UN sanctions regimes).
128. See S/RES/2112 (2013), PP 6 on Côte d'Ivoire, S/RES/2093 (2013), OP 28 on Somalia, S/RES/2367 (2017), PP 12 on Iraq (on violence against refugees and IDPs); S/RES/2367 (2017), PP 12 on Iraq, S/RES/2387 (2017), PP 21, OP 9 on the

IDP camp, Bama town, Borno State, Nigeria, 2018. Credit: OCHA/Yasmina Guerda

has also emphasized the need to ensure and respect the civilian character and security of refugee and IDP camps or PoC sites and made reference to the *Guiding Principles of Internal Displacement* (the Guiding Principles) and the Kampala Convention.[129] To implement the protection of refugees and IDPs, the Council has increasingly included corresponding provisions in the mandates of UN peace operations. Peace operations have been mandated to ensure the civilian character or security of refugee and IDP camps or PoC sites or to proactively deploy to and conduct active patrolling in areas of high concentration of IDPs and refugees.[130] They have also been cautioned to pay particular attention to the needs of refugees and IDPs in the provision of humanitarian assistance.[131] In addition, some peace operations have explicitly been mandated to improve governmental capacities to provide security for refugees and IDPs or to train and monitor community policing on providing security in IDP camps and along migration routes.[132]

A notable development of the past decade has been the Council's increased reference to ***durable solutions*** as including not only the voluntary, safe and dignified return of displaced persons to their places or origin, but also their local integration in the area of displacement and their resettlement to a third location.[133] In-

CAR, S/RES/2406 (2018), OP 23 on South Sudan (on freedom of movement); S/RES/2387 (2017), OP 62 on the CAR, S/RES/2406 (2018), PP 22, OP 23 on South Sudan, S/RES/2409 (2018), OP 43 on the DRC (on humanitarian assistance).

129. See S/RES/2093 (2013), OP 28 on Somalia, S/RES/2139 (2014), PP 6 on Syria, S/RES/2327 (2016), PP 5 on South Sudan, S/RES/2340 (2016), OP 19 on Sudan, S/RES/2349 (2017), OP 13 on the Lake Chad Basin, S/RES/2409 (2018), OP 36(i)(a) on the DRC (on the civilian character/security of camps); S/RES/2406 (2018), PP 26, on South Sudan (on the Guiding Principles); S/RES/1923 (2010), PP 12 on the CAR/Chad, S/RES/2113 (2013), PP 6 on Darfur, S/RES/2431 (2018), OP 50 on Somalia (on the Kampala Convention).
130. S/RES/1861 (2009), OP 25(b) on the CAR/Chad, S/RES/1927 (2010), OP 4 on Haiti, S/RES/2363 (2017), OP 15(a)(i) on Darfur, S/RES/2406 (2018), PPs 10, 24, 26, OPs 3, 7(a)(ii), (iv), 9(iii), 12 on South Sudan, S/RES/2409 (2018), OP 36(i)(a) on the DRC.
132. S/RES/1861 (2009), OP 25(c) on the CAR/Chad, S/RES/2363 (2017), OP 15(a)(iv), (v) on Darfur.
133. See S/RES/2362 (2017), OP 36 on Darfur, S/RES/2367 (2017), PP 12 on Iraq, S/RES/2372 (2017), OP 49 on Somalia, S/RES/2387 (2017), OP 9, 42(c) on the CAR and S/RES/2406 (2018), OP 15 on South Sudan, S/RES/2423, OP 38(f) on Mali (for the full range of durable solutions); S/RES/2386 (2017), PPs 24 on Abyei, S/RES/2405 (2018), OP 7(c), 43 on Afghanistan, S/RES/2409 (2018), PP 21 on the DRC, S/RES/2449 (2018), PP 22 on Syria (mentioning only return).

creasingly, UN peace operations have also been mandated to assist in the facilitation of durable solutions for refugees and IDPs by creating conditions conducive to their voluntary, safe and dignified return and/or their local integration or resettlement in close coordination with humanitarian actors, although mandates have not consistently included all three variations for providing durable solutions.[134]

An area warranting more systematic attention is the resolution of ***housing, land and property*** issues in relation to refugees and IDPs. The Secretary-General highlighted the importance of prioritizing the resolution of such issues as an underlying driver and inevitable consequence of armed conflict in his 2002, 2007 and 2009 PoC Reports.[135] While the Council has since stressed the importance of resolving housing, land and property issues and related intercommunal conflicts, it has done so inconsistently. In Burundi and Liberia, the Council generally emphasized the need to resolve land issues and promote land reform to address the root cause of conflict and achieve lasting peace and security.[136] In Côte d'Ivoire, it additionally urged parties to address land tenure issues to facilitate a sustainable return and reintegration of displaced persons.[137] In Darfur, it specifically highlighted the need to address land disputes in areas key to the voluntary return of displaced populations to realize durable solutions.[138] Most explicitly, in Georgia, the Council stressed that individual property and residency rights and identity of ownership remain unaffected by displacement, emphasized the need to reassure the local population of their residency rights, and highlighted the importance of ensuring, without distinction, the protection of the property of refugees and IDPs.[139] In contrast, in other contexts where property issues are acute – such as Somalia or South Sudan – the issue has remained largely unaddressed.

134. See S/RES/2363 (2017), OP 15(a)(xiii) on Darfur, S/RES/2387 (2017), OP 42(c) on the CAR, S/RES/2405 (2018), OP 7(c) on Afghanistan, S/RES/2406 (2018), OPs 7(a)(vii), 15 on South Sudan, S/RES/2421 (2018), OP 2(c)(i) on Iraq, S/RES/2423 (2018), OP 38(f) on Mali.
135. *SG PoC Reports,* S/2002/1300, para. 49, S/2007/643, paras. 2, 52–59, p. 19, action four, S/2009/277, para. 17.
136. S/RES/2137 (2014), PP 12 on Burundi, S/RES/2333 (2016), PPs 6, 10, OP 4 on Liberia.
137. S/RES/1933 (2010), OP 14, S/RES/2284 (2016), PP 12, OPs 1, 3 on Côte d'Ivoire.
138. S/RES/2363 (2017), PPs 11, 22, OPs 15(a)(vii), (b)(iv), (c)(i)–(iii), 36 on Darfur.
139. S/RES/1666 (2006), OP 7, S/RES/1716 (2006), OP 9, S/RES/1781 (2007), OP 15, S/RES/1808 (2008), OP 9, S/RES/1866 (2009), OP 3 on Georgia.

"The staggering number of people forced to flee from their homes due to conflict and violence must serve as an eye opener to us all. We are getting better at providing emergency aid, but we need to put a lot more effort into preventing displacement, protecting people, and finding long-term solutions."

Jan Egeland, Secretary-General of the Norwegian Refugee Council and former Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator

D. PROTECTING CHILDREN IN ARMED CONFLICT

While CAAC constitutes a specific item on the Council's agenda independent from PoC, it is addressed in this report due to the Council's regular and recurring consideration of the protection concerns of children affected by armed conflict in its work on PoC, as well as the PoC focus of the CAAC toolkit and its synergies with the PoC agenda.

Since 1999, the Council has issued 12 thematic resolutions dedicated to CAAC, gradually creating one of the most robust protection frameworks in the PoC ecosystem.[140] In its first dedicated thematic resolution, the Council condemned the targeting of children in situations of armed conflict, urged parties to comply with international law, minimize harm suffered and put in place special protection measures for children, and requested that the Secretary-General submit a dedicated thematic report on CAAC the following year.[141] Together with subsequent resolutions, this first resolution 1261 identified ***six grave violations*** committed against children in times of conflict, namely: recruitment and use of children in armed conflict in violation of international law; killing and maiming of children; rape and other sexual violence against children; attacks or threats of attacks against schools or hospitals; abduction of children; and denial of humanitarian access for children.

140. S/RES/1314 (2000), S/RES/1379 (2001), S/RES/1460 (2003), S/RES/1539 (2004), S/RES/1612 (2005), S/RES/1882 (2009), S/RES/1998 (2011), S/RES/2068 (2012), S/RES/2143 (2014), S/RES/2225 (2015), S/RES/2427 (2018) on CAAC.
141. S/RES/1261 (1999) on CAAC.

In 2001, the Council established an unprecedented ***listing mechanism*** by which the Secretary-General's annual report on CAAC would publicly list the names of State and non-State parties that recruit or use children in armed conflict in violation of international law.[142] The broad wording of the Council's request importantly included not only situations already on the Council's agenda, which are now included in annex I to the report, but also situations brought to its attention by the Secretary-General in accordance with Article 99 of the UN Charter, which are now included in annex II of the report. In subsequent years, the Council included additional grave violations against children in violation of international law as listing triggers: killing and maiming of children and rape and other forms of sexual violence against children were added in 2009, attacks or threats of attacks against schools and hospitals in 2011 and abductions of children in 2015.[143]

In 2003 and 2004, the Council built on the listing mechanism to ensure better implementation and results. In 2003, it requested that the Secretary-General ***report on progress*** made by listed parties on ending recruitment or use of children in armed conflict, develop specific proposals to ensure more effective monitoring and reporting of the application of international norms designed to protect children in armed conflict, and include CAAC as a specific aspect in his country-specific reports.[144] In 2004, the Council called upon listed parties to develop ***action plans*** to put an end to their violations through concrete time-bound commitments in collaboration with UN peace operations and country teams and requested that the Secretary-General ensure regular review of compliance with the action plans. It further expressed its intention to consider imposing targeted measures against parties that failed to develop action plans or meet commitments included therein.[145]

Over the past 20 years, the Council has created an unparalleled set of integrated tools to implement the CAAC agenda. These tools include the public listing of perpetrators of grave violations against children combined with the incentive to end, remedy or prevent future violations through the possibility of de-listing after the development and implementation of action plans. They further include a monitoring and reporting mechanism by which to feed the listing process with reliable data, and a dedicated working group to provide recommendations and keep the Council informed on, and engaged with, the CAAC agenda.

In 2005, the Council took a further unprecedented step when it created a field-based Monitoring and Reporting Mechanism on Grave Violations against Children in Situations of Armed Conflict ***(the MRM)*** and a dedicated Council working group ***(the CAAC Working Group).*** The MRM was established to collect and provide timely, objective, accurate and reliable information from the field on the six grave violations against children.[146] At field level, it is managed by Country Task Forces on Monitoring and Reporting that are co-chaired by UNICEF and the highest UN representative in the country (the Special Representative of the Secretary-General (SRSG) in mission settings or the Resident Coordinator/Humanitarian Coordinator in non-mission settings) and consist of relevant actors from UN peace operations, UN entities and NGOs. The findings of the Country Task Forces are transmitted to the SRSG-CAAC and included in the Secretary-General's annual and country-specific reports as well as in confidential quarterly updates shared with the CAAC Working Group. They reach the Council through the CAAC Working Group as well as the Informal Expert Group on PoC. The CAAC Working Group, consisting of all 15 members of the Council, was set up to review the information provided by the MRM and the development and implementation of listed parties' action plans and to make recommendations to the Council on measures to promote the protection of children in armed conflict. The SRSG-CAAC, although holding her original mandate from the General Assembly, plays a central part in the CAAC architecture of the Council, including by promoting the implementation of the Council's CAAC resolutions.[147]

142. S/RES/1379 (2001), OP 16 on CAAC.
143. See, respectively, S/RES/1882 (2009), OP 3, S/RES/1998 (2011), OP 3, S/RES/2225 (2015), OP 3 on CAAC.
144. S/RES/1460 (2003) on CAAC.
145. S/RES/1539 (2004) on CAAC.
146. S/RES/1612 (2005) on CAAC. An "incident" is an action by a party to conflict that may lead to one or more grave violations.
147. A/RES/51/77 (1997), OPs 35–38.

Bayt Mayad neighbourhood, Sana'a, Yemen, 2015. Ali, 6 years old, stands in the rubble of what used to be his house.
Credit: OCHA/Charlotte Cans

Over time, the Council's country-specific resolutions and statements have increasingly and more consistently applied the provisions elaborated in the Council's thematic resolutions on CAAC.[148] More recently, they have also reflected further developments on the thematic level: In 2014, the Council passed a resolution emphasizing the need to protect schools and access to education and highlighting the civilian character of schools.[149] In 2018, it adopted a resolution calling for the mainstreaming of child protection in all relevant activities in conflict prevention, peace processes and conflict and post-conflict situations – including by engaging with non-State armed groups – and also focusing on child detention.[150] The Council has also included grave violations against children in UN sanctions regimes and mainstreamed the protection concerns of children across UN peace operations, including through the establishment and incorporation of child protection adviser positions, which serve, inter alia, to mainstream child protection across missions, incorporate it into in-mission training, and ensure that child protection is part of threat assessment, planning and decision-making.[151]

Over the past 20 years, through the above-mentioned resolutions and practice, the Council has established an integrated and effective set of tools for the protection of children in armed conflict. These include the listing process as a powerful call to action for parties to conflict to engage with the UN to end and prevent violations; the "carrot-dangling" possibility of de-listing as an incentive to end and remedy violations and change behaviours of parties to conflict; the MRM by which to feed these processes with reliable data; and the CAAC Working Group as a dedicated and engaged body to review developments on the

148. See, e.g., SC Norms and Practice on PoC 2009–2013, *supra,* pp. 15–16.
149. See S/RES/2143 (2014) on CAAC; see also S/PRST/2017/12, para. 5 on the DRC, S/RES/2405 (2018), PP 25, OP 33 on Afghanistan, S/RES/2423 (2018), PP 21 on Mali.
150. S/RES/2427 (2018) on CAAC.
151. See below under PART III.A. and PART III.B.

> ***"The children and armed conflict mandate has been used as a model for the question of protection of civilians and has influenced the development of other mandates related to the protection of civilians. This mandate must be considered a success story for the United Nations."***
>
> **Jean-Marc de La Sablière, former Permanent Representative of France to the UN and first Chair of the Security Council Working Group on Children and Armed Conflict**

CAAC agenda, keep the Council fully apprised and provide recommendations to Member States and parties to conflict on the protection of children. Although not without challenges,[152] within the PoC ecosystem, the CAAC mandate and tools serve as a model for effective protection.

E. PROTECTING WOMEN AND FIGHTING SEXUAL VIOLENCE IN ARMED CONFLICT

While WPS, CRSV and sexual exploitation and abuse (SEA)[153] all constitute overlapping but separate items addressed by the Council, they are closely linked to PoC whenever relevant to minimizing civilian harm in conflict in accordance with international law. WPS is a separate agenda item at the Council, CRSV is addressed as part of this agenda, and SEA is addressed as part of the Council's peacekeeping agenda. However, the Council has also recurrently addressed these items in its work related to PoC.

The first thematic Council resolution on ***WPS*** was adopted in 2000.[154] It addressed, among other issues, the protection of women and girls from gender-based violence (GBV) in conflict situations and the responsibility of States to end impunity. With this resolution, the Council paved the way for a broad WPS agenda covering situations both in and outside of armed conflict, which has been subsequently addressed in eight additional thematic resolutions dedicated to WPS.[155] In 2008, through its resolution 1820, the Council for the first time recognized ***CRSV*** against civilians, including women and girls, as a threat to international peace and security.[156] In this resolution, the Council emphasized that rape and other forms of sexual violence may constitute a war crime, a crime against humanity, or a constitutive act with respect to genocide; stressed the need for the exclusion of sexual violence crimes from amnesty provisions in the context of conflict resolution processes; and called upon Member States to comply with their obligations to prosecute persons responsible for such acts to ensure that all victims of sexual violence, particularly women and girls, have equal protection under the law and equal access to justice. The Secretary-General had first focused on CRSV in detail, together with SEA, in his 2002 PoC Report, and continued to raise it as a serious concern in subsequent years.[157] In 2007, he focused on it as one of four key challenges and, underscoring the horrific perpetrations of sexual violence in the DRC at that time, stressed that it was the one area in which the "collective failure to ensure effective protection for civilians" in conflict was most "apparent". Although not an independent item on the Council's agenda, CRSV has been included in thematic Council resolutions on WPS ever since.

In 2016, the Council issued a thematic resolution dedicated to ***SEA,*** in which it endorsed the Secretary-General's decision to repatriate military or police units in UN peace operations in the event of widespread or systematic SEA, requested the replacement of all country units if steps to investigate and hold perpetrators accountable for violations failed to be tak-

152. See, e.g., Security Council Report, *Children and Armed Conflict: Sustaining the Agenda,* October 2017, pp. 2–3: In 2015, the Israel Defense Forces were initially listed but removed prior to the report's publication; In 2016, the Saudi-led coalition, which had been listed for grave violations in Yemen, was removed from the listing following political pressure; In 2017, the coalition was re-listed under a changed format of the annex, which now included a Section A for parties that had not put in place any remedial measures and a Section B for those who had (the coalition being listed in Section B).

153. A clear distinction must be drawn between CRSV, which concerns sexual violence perpetrated by parties to conflict (an outward-looking matter related to potential IHL/IHRL violations), and SEA, which concerns sexual exploitation and abuse perpetrated by UN personnel and implementing partners (an inward-looking, human resources conduct and discipline matter).

154. S/RES/1325 (2000) on WPS.

155. S/RES/1820 (2008), S/RES/1888 (2009), S/RES/1889 (2009), S/RES/1960 (2010), S/RES/2106 (2013), S/RES/2122 (2013), S/RES/2242 (2015), S/RES/2467 (2019) on WPS/CRSV.

156. S/RES/1820 (2008) on WPS/CRSV.

157. *SG PoC Reports,* S/2002/1300, paras. 54–57, S/2004/431, paras. 26–30, S/2005/740, paras. 14–15, S/2007/643, paras. 43–51.

en, and called upon Member States to take corresponding steps regarding non-UN forces authorized under a Council mandate.[158]

In 2008 and 2009, the Council requested the Secretary-General to submit to it an annual report on ***CRSV,*** responding, inter alia, to a 2007 Secretary-General recommendation.[159] In 2009, the Council unanimously directed the Secretary-General to establish the ***OSRSG-SVC*** to provide coherent and strategic leadership and foster cooperation and coordination among all relevant stakeholders. The Council also requested the Secretary-General to identify and take appropriate measures to deploy rapidly the ***UN Team of Experts on the Rule of Law and Sexual Violence in Conflict*** to assist national authorities in strengthening the rule of law with the aim of ensuring criminal accountability for perpetrators of CRSV.

In 2010, the Council requested the establishment of the Monitoring, Analysis and Reporting Arrangements on CRSV ***(the MARA).***[160] Modelled after the CAAC mechanism, the Secretary-General's annual report was to include an annex listing parties credibly suspected of being responsible for patterns of CRSV, with the notable difference that listings were to occur only in situations already on the Council's agenda. As under the CAAC agenda, listed violators would be incentivized through the possibility of de-listing if action plans were developed and implemented. The Council called upon parties to make and implement specific time-bound commitments to combat CRSV inter alia by including the prohibition of sexual violence in clear orders through their command chains as well as in codes of conduct, military field manuals and similar documents. It also urged parties to make and implement specific commitments on the timely investigation of alleged abuses to hold perpetrators accountable. It requested the Secretary-General to ensure a coherent and coordinated approach at field level, to track and monitor the implementation of parties' commitments and to regularly update the Council on progress. It also expressed its intention to use the MARA as a basis for imposing sanctions on listed parties, as appropriate.

By 2013, the MARA was not yet operationalized. In a thematic WPS resolution adopted that year, the Council called for more systematic monitoring of and attention to CRSV, recognized the need for more timely, objective and accurate information as a basis for prevention and response, and requested the acceleration of the establishment and implementation of the MARA.[161] In 2013, the Council also adopted a resolution addressing the persistent gaps in the implementation of the WPS agenda, recognizing its own shortcomings and recommitting itself and other UN actors to prioritizing WPS and combatting CRSV.[162] Two years later, the Council established an ***Informal Experts Group on WPS*** to enable a more systematic approach to its work as well as greater oversight and coordination of implementation efforts.[163] In recent years, the Council has requested UN peace operations to coordinate the implementation of the MARA at country level.[164]

Today, the MARA is operational in several contexts, but has yet to reach the effectiveness of the MRM, likely in part due to social stigmatization and related underreporting of sexual violence. Further, at country level, the MARA receives its data through existing collection systems, such as the protection cluster, the

Modelled after the CAAC agenda, the Council has taken a range of steps over the past 20 years to develop tools to create a robust framework to implement the WPS agenda and combat CRSV. It has developed a mechanism of listing and de-listing perpetrators and monitoring and reporting on violations and created a dedicated, informal expert group. It has also requested the establishment of an Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict (OSRSG-SVC) to provide strategic leadership in combatting CRSV, as well as a team of experts to assist in ensuring criminal accountability.

158. S/RES/2272 (2016) on SEA.
159. See S/RES/1820 (2008), S/RES/1888 (2009) on WPS/CRSV; *SG PoC Report,* S/2007/643, p. 18, action two.
160. S/RES/1960 (2010) on WPS/CRSV.
161. S/RES/2106 (2013) on WPS/CRSV.
162. S/RES/2122 (2013) on WPS/CRSV.
163. S/RES/2242 (2015) on WPS/CRSV.
164. S/RES/2406 (2018), OP 7(c)(ii) on South Sudan, S/RES/2409 (2018), OP 36(i)(b) on the DRC.

Hundreds of women have been raped in Kasai, a central DRC region struck by violence since August 2016. Credit: OCHA/Otto Bakano

GBV sub-cluster, gender theme groups, and the GBV Information Management System (GBV-IMS).[165] It is informed by UN entities, relevant institutional bodies, NGOs and civil society organizations and service providers. The existence of inter-agency networks already collecting information on CRSV, including the MRM and the GBV-IMS, can lead to a lack of reporting due to perceived duplication, as well as actual duplication, which risks re-interviewing victims and endangering the confidentiality of information, as well as the efficiency and effectiveness of the data collection process. In 2015, a provisional guidance note outlining the intersections between the MARA and the GBV-IMS was elaborated in order to enhance coordination and coherence in GBV and CRSV data collection among the organizations that work in addressing GBV and CRSV.

165. A number of protection-related information management systems have developed over the years, helping to refine PoC analysis. Some are grounded in humanitarian response, such as the GBV-IMS and the protection clusters' Protection Information Management System, and document protection incidents and information on victims/survivors primarily to shape prevention strategies and protection programming. Other systems, such as the MARA and the MRM, analyze trends and patterns of violations perpetrated by parties to conflict to improve PoC. Over the years, these systems have developed connectivity through information sharing protocols and referrals and have proven to be efficient when collaborating with frontline humanitarian service providers.

In 2019, the Council adopted a resolution reinforcing the link between WPS – including women's participation in prevention and peace processes – the broader gender equality agenda, and CRSV.[166] The resolution took a survivor-centred approach and focused on compliance through commitments, action plans and a gap assessment by the Secretary-General; and accountability through strengthened legislation and enhanced investigations and prosecutions. It urged sanctions to be applied against perpetrators of CRSV and requested dedicated gender expertise in expert groups and monitoring teams. It recognized the work of the Informal Experts Group, welcomed briefings from civil society, and focused on enhancing monitoring, documenting and reporting processes, including through the timely deployment of senior women protection advisers. It also called for specific commitments ahead of the 20th anniversary of the WPS agenda in 2020 and encouraged countries to adopt and refresh fully funded national action plans.

In parallel to the gradual strengthening of the WPS/CRSV and SEA frameworks through the adoption of thematic resolutions, the Council has increasingly adopted, streamlined and strengthened its corresponding language in country-specific resolutions.[167] It has included CRSV as a listing criterion in UN sanctions regimes and mainstreamed the protection concerns of women across UN peace operations, including through the establishment and incorporation of women protection adviser and gender adviser positions, which serve, inter alia, to mainstream the protection of women across missions, incorporate it into in-mission training, and ensure that the protection of women is part of threat assessment, planning and decision-making.[168] Further, the presence of women protection advisers in the missions responsible for convening the MARA has significantly improved the availability and quality of information.[169] Currently, 21 women protection advisers are deployed in 7 UN peace operations. More recently, the Council has also focused strongly on the role of women in the prevention and resolution of conflict.[170]

After the CAAC agenda, the WPS/CRSV agenda has been equipped with the strongest toolkit by the Council, including an integrated mechanism of listing and delisting perpetrators and monitoring and reporting of violations, regular reporting through the Secretary-General and a dedicated, informal experts group. In each case, such tools have sought to replicate those developed for the CAAC agenda, although in some cases they have yet to match their parallel counterparts in resourcing and effectiveness. Nevertheless, the WPS/CRSV tools have the potential to serve as another model for effective protection within the ecosystem of PoC.

"Sexual violence is a threat to humanity's collective peace and security."

António Guterres, Secretary-General of the United Nations

166. S/RES/2467 (2019) on WPS/CRSV.
167. See, e.g., SC Norms and Practice on PoC 2009–2013, *supra,* pp. 16–18.
168. See below under PART III.A. and PART III.B.
169. See S/RES/1888 (2009), OP 12 on WPS/CRSV.
170. S/RES/2405 (2018), OPs 10, 19, 39 on Afghanistan, S/RES/2406 (2018), PP 27, OPs 4, 33 on South Sudan, S/RES/2408 (2018), OP 14 on Somalia, S/RES/2423 (2018), OPs 4, 38(c)(iv), 64 on Mali, S/RES/2448 (2019), PP 9, OPs 3, 11, 39(b)(iii)–(v), 57 on the CAR.

PART III – ACTIVATING SECURITY COUNCIL TOOLS FOR THE PROTECTION OF CIVILIANS

Over the past 20 years, the Security Council has developed a number of tools and approaches to translate the normative PoC framework into concrete protection activity on the ground. These include, in particular, **(A.)** PoC mandates in UN peace operations, **(B.)** PoC listing-criteria in UN sanctions regimes and **(C.)** various types of monitoring and reporting processes and mechanisms related to PoC.

> ***"What suffering civilians are expecting from us all is that we provide incontrovertible proof that all our declarations on the importance of, and compliance with, existing law are being translated into fact."***
>
> **Cornelio Sommaruga, former President of the International Committee of the Red Cross**

A. PEACE OPERATIONS: MEASURING PERFORMANCE WITH THE YARDSTICK OF PROTECTION

The prioritization of PoC at the Council is nowhere more visible than in the evolution of PoC mandates in UN authorized peace operations.[171] In addition to their conceptual prioritization in the Council's resolutions and statements, PoC mandates are also perhaps the most important tool by which the Council has translated the normative PoC framework into pragmatic action.[172] Although not always easily quantifiable, the inclusion of PoC mandates in UN peace operations has undoubtedly saved countless civilian lives and increased the protection of civilians on the ground.

Over the years, the Council has articulated the tasks of peace operations with ever-increasing specificity and prescriptiveness. This demonstrates a high degree of engagement and an increasingly systematized information feedback loop between the Council, peace operations and protection actors in the field and at UN Headquarters. The multitude of tasks and priorities delineated in the mandates of UN peace operations has, however, also contributed to so-called "Christmas-tree mandates" lacking a clear connection between the vast number of output-focused, process-oriented tasks, their protective impact, and the long-term objectives of the mission.[173] Going forward, this suggests a refocusing on clear and concise, objective-oriented mission mandates equipped with matching resources and capacities and a certain degree of operative flexibility.

1999–2008: FROM SIERRA LEONE TO RESOLUTION 1674

In ***1999,*** the United Nations Mission in Sierra Leone (UNAMSIL) became the UN peace operation with the ***first PoC mandate.*** The mandate provided simply that the mission was authorized to take the "necessary action" to "afford protection to civilians under imminent threat of physical violence", "within its capa-

171. The term "peace operations" is used here to reflect the recommendation of the *Report of the High-level Independent Panel on Peace Operations on uniting our strengths for peace: politics, partnership and people,* A/70/95–S/2015/446 (HIPPO Report), paras. 49–52, 61(b), to move away from the sharp distinction between peacekeeping operations and special political missions towards a continuum of responses and smoother transition between different phases of missions, which is also reflected in the *Report of the Secretary-General on the future of United Nations peace operations: implementation of the recommendations of the High-level Independent Panel on peace Operations,* A/70/357–S/2015/682 (SG Report on the Future of UN Peace Operations), para. 9, and the Secretariat's restructuring of its peace and security framework. However, as the Council has granted express PoC mandates only to peacekeeping operations while including PoC elements in some mandates of special political missions, the majority of the below analysis is in reference to peacekeeping operations. At times the traditional names ("peacekeeping operations" and "special political missions") will thus be used for the sake of clarity.

172. See S/RES/1296 (2000), OPs 9, 13, 16, 18–19, 23, S/RES/1674 (2006), OPs 10, 14–18, 20, S/RES/1894 (2009), PPs 19–22, OPs 6–7, 15(b), 18–24, 26–27, 30, 33, S/PRST/2010/25, paras. 13, 15–16, S/PRST/2013/2, paras. 21–26, S/PRST/2014/3, paras. 8–9 on PoC.

173. See HIPPO Report, *supra;* see also International Peace Institute (IPI), *Reframing the Protection of Civilians Paradigm for UN Peace Operations,* November 2017 (Reframing PoC for UN Peace Operations), IPI, *Protection of Civilians and Political Strategies,* May 2018.

bilities and areas of deployment", "taking into account the responsibilities of the Government of Sierra Leone".[174]

In ***2000,*** the Council's thematic ***resolution 1296*** affirmed its intention to ensure that peacekeeping missions be given suitable mandates and resources to protect civilians under imminent threat, including by strengthening the UN's ability to plan and rapidly deploy peacekeeping personnel.[175] The Council also recognized the need to deploy civilian police, administrators and humanitarians, and highlighted the importance of addressing the special protection needs of women, children and other vulnerable groups. Later that same year, the Report of the Panel on United Nations Peace Operations ***(the "Brahimi Report")*** – commissioned by the Secretary-General and welcomed by the Council – inter alia stressed the need for clear, credible and achievable mandates.[176] In this regard, it noted that a peace operation given a mandate to protect civilians must also be given the specific resources needed to carry it out, and made recommendations for the rapid and effective deployment of multidimensional peace operations.

In ***2004,*** the Secretary-General's PoC Report noted that peacekeeping mandates had now "regularly identified ***key protection issues,*** including the deliberate targeting of civilians, sexual and other forms of violence, the recruitment and use of child soldiers and ensuring humanitarian access to facilitate the delivery of assistance and the safety of United Nations and associated personnel".[177] By this time, ***additional PoC mandates*** had also been granted, allowing troops to physically protect civilians under imminent threat of physical violence, in the DRC, Liberia, Côte d'Ivoire, Burundi and – despite the absence of an armed conflict, as a cautionary and preventive measure taking into consideration the absence of State capacity and the risk of large-scale violence – in Haiti.[178]

174. S/RES/1270 (1999), OP 14 on Sierra Leone.
175. S/RES/1296 (2000) on PoC.
176. See *Report of the Panel on United Nations Peace Operations,* A/55/305-S/2000/809, paras. 56–64, 84–169 (the Brahimi Report); see also S/RES/1327 (2000), PP 4, welcoming the Brahimi Report and adopting its decisions and recommendations.
177. SG PoC Report, S/2004/431, para. 7.
178. S/RES/1291 (2000), OP 7 on the MONUC/DRC, S/RES/1509 (2003), OP 3(j) on UNMIL/Liberia, S/RES/1528 (2004), OP 6(j) on UNOCI/Côte d'Ivoire, S/RES/1542 (2004), OP 7(l)(f) on MINUSTAH/Haiti, S/RES/1545 (2004), OP 5 on ONUB/Burundi.

In ***2005,*** the Secretary-General's PoC Report again emphasized the work undertaken by peace operations to incorporate the protection needs of vulnerable groups into mission planning and deployment, while encouraging better inclusion of the protection needs of displaced persons.[179] It also noted that peace operations had begun to ***integrate expertise from UN agencies,*** helping them to develop a more comprehensive approach to PoC. In the DRC, MONUC had started to develop a ***multidimensional approach*** to protection by drawing on all aspects of the mission, which appeared to have considerable benefits in terms of enhancing access and responding more efficiently to major protection concerns. A number of missions had begun to employ ***"civilian protection officers"*** to improve the understanding of protection needs. This gradually led to the establishment of senior PoC adviser positions and units to ensure the development and implementation of mission-wide protection strategies, including the mainstreaming of PoC across missions and the incorporation of PoC into in-mission training, threat assessment, planning and decision-making.

In ***2006,*** the Council adopted ***resolution 1674.*** This landmark resolution on PoC elaborated a framework for action on UN peace operation mandates, providing for the inclusion of provi-

Over the past 20 years, PoC mandates granted by the Council to UN peace operations have evolved from reactive, physical protection mandates to comprehensive, whole-of-mission protection strategies integrated in the design and operation of missions. Elements covering the range of PoC issues – from physical protection to the facilitation of humanitarian assistance, enhanced protection for displaced persons, women and children and the promotion of accountability – are increasingly mainstreamed across missions throughout their life-cycles, with PoC acting as a yardstick for measuring a mission's performance.

179. *SG PoC Report,* S/2005/740 (2005), paras. 23, 35.

Malawian peacekeepers serving with the UN Operation in Côte d'Ivoire (UNOCI) greet children while on patrol, 2012.
Credit: UN Photo/Patricia Esteve

sions to protect civilians under imminent threat of physical danger, prevent and respond to sexual violence, facilitate the delivery of humanitarian assistance, ensure security in and around IDP and refugee camps, and create conditions conducive to their voluntary and safe return.[180] This resolution also reaffirmed the provisions of paragraphs 138 and 139 of the 2005 World Summit Outcome Document regarding the ***responsibility to protect*** populations from genocide, war crimes, ethnic cleansing and crimes against humanity.[181] In his subsequent PoC Report, the Secretary-General welcomed resolution 1674 as an important step to reinforce the normative and operational framework.[182]

By the ***end of the first decade*** of the Council's PoC engagement, ten UN-authorized peace operations had been equipped by the Council with express PoC mandates.[183]

2009–2018: TOWARDS WHOLE-OF-MISSION PROTECTION STRATEGIES

2009 marked a ***watershed year*** for PoC in UN-authorized peace operations.

On the ground, by this time important progress had been made in the protection of vulnerable groups.[184] Gender and child protection advisers had been deployed in several missions and peace operations had been mandated to protect refugee and IDP camps and sites, maintain their civilian and humanitarian character and create secure conditions promoting durable solutions. In the DRC, MONUC had been mandated to pursue a mission-wide strategy addressing sexual violence.[185]

180. S/RES/1674 (2006) on PoC.
181. S/RES/1674 (2006), OP 4 on PoC; see also S/RES/1894 (2009), PP 7 on PoC.
182. *SG PoC Report*, S/2007/643 (2007), paras. 11–14.
183. UNAMSIL, MONUC, UNMIL, UNOCI, MINUSTAH, ONUB (S/RES/1545 (2004), OP 5 on Burundi), UNMIS (S/RES/1590 (2005), OP 16(i) on Sudan), UNIFIL (S/RES/1701 (2006), OP 12 on Lebanon), UNAMID (S/RES/1769 (2007), OP 15(a) on Darfur, MINURCAT (S/RES/1778 (2007), OP 2, S/RES/1861 (2009), OP 7(a)(i) on the CAR/Chad).
184. See *SG PoC Report*, S/2009/277, paras. 14–17, 48–57.
185. S/RES/1794 (2007), OP 18 on the DRC.

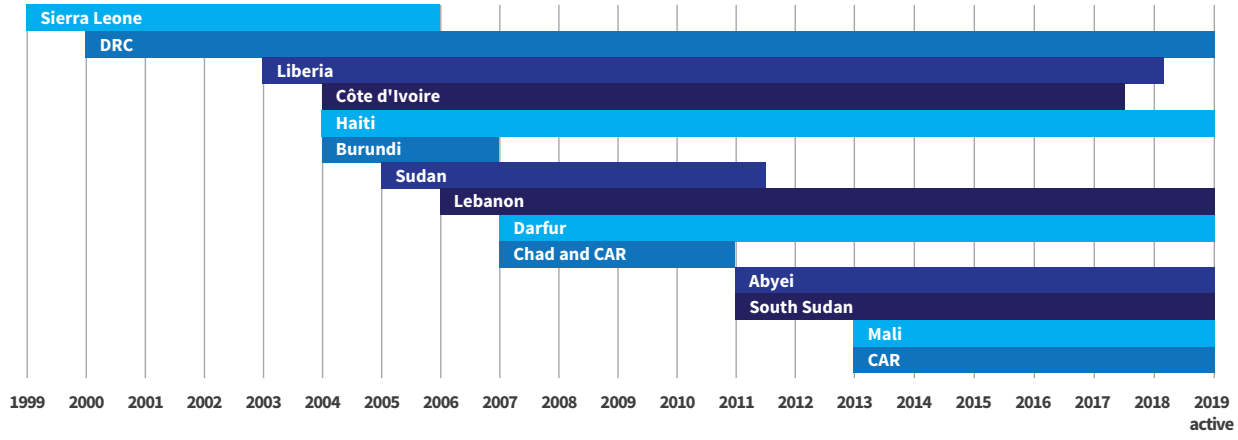
In the ***Secretary-General's 2009 PoC Report,*** he commended the "lasting contributions" of missions from "Sierra Leone to Liberia to Burundi and beyond".[186] But he also noted that the PoC mandate had remained largely undefined as a military or mission-wide task and that there existed a disconnect between mandates, expectations, interpretations and implementation capacity. While peace operations like UNAMID and MONUC had developed relevant guidance at mission-level, a broader policy framework including clear direction as to possible courses of action, indicative tasks and necessary capabilities for their implementation was lacking. Further, the Council's intention to ensure the prioritization of PoC in decisions on the use of "available capacity and resources"[187] required that such resources were appropriate for the task and made available in a timely manner, including sufficient personnel with the right skills, equipment and training.

At the policy level, 2009 was marked by the Council's landmark resolution 1894; the first-ever consideration of PoC through the General Assembly Special Committee on Peacekeeping Operation (C34) during its annual substantive session; and the release of a flagship report on successes and challenges in peacekeeping jointly commissioned by OCHA and the United Nations Department of Peacekeeping Operations (DPKO).[188] All of these considerably augmented the protection requirements of peace operations and triggered momentum across the UN to flesh out policies and practices in support of stronger and more effective PoC mandates.

Resolution 1894 and the three tiers of protection

In ***resolution 1894,*** the Council requested, among other things, the development of an operational concept to guide the missions' preparation of mission-wide PoC strategies, country-specific reporting, pre-deployment and senior leadership training, and benchmarks and indicators to measure and review progress in the implementation of peacekeeping mandates. In response, DPKO and the United Nations Department of Field Support (DFS)[189] developed the *Draft DPKO-DFS Operational Concept on the Protection of Civilians in United Nations Peacekeeping Operations,* which for the first time set out a ***three-tiered approach*** to protecting civilians in UN peace operations, including protection through political process (Tier I), provision of physical protection (Tier II), and establishment of

186. *SG PoC Report,* S/2009/277, paras. 14–17, 48–57.
187. S/RES/1674 (2006), OP 16 on PoC.
188. See, respectively, S/RES/1894 (2009) on PoC; *Report of the Special Committee on Peacekeeping Operations and its Working Group* (the C34 Report), A/63/19 (2009), paras. 125–128; Victoria Holt and Glyn Taylor, *Protecting Civilians in the Context of UN Peacekeeping Operations: Successes, Setbacks and Remaining Challenges,* independent study jointly commissioned by DPKO and OCHA, November 2009. By 2018, the PoC section in the C34 Report had grown from the initial 4 to 29 paragraphs of text, demonstrating consensus on a wide area of topics and tasks, see *C34 Report,* A/72/19 (2018), paras. 293–321. As of January 2019, DPKO has been restructured as the Department of Peace Operations (DPO).
189. As of January 2019, DFS has been restructured as the Department of Operational Support (DOS).



PoC mandates in peacekeeping operations from the year of inclusion to the termination of the mission.

a protective environment (Tier III).[190] The Three Tiers marked a critical turning point in the protection of civilians through peacekeeping operations. Prior to the operational concept, PoC was primarily viewed as the responsibility of the military component of a peacekeeping mission, implemented through presence and deterrence, with the expectation by some stakeholders of the use of proactive force. In subsequent PoC Reports, the Secretary-General emphasized the development of the operational concept and associated training modules as well as the development and/or revision of PoC strategies in several UN peace operations including Côte d'Ivoire, the DRC, Lebanon, South Sudan and Sudan.[191] By 2013, the range of PoC activities conducted by UN peace operations generally included political process, physical protection and the creation of a protective environment.[192]

The scope and detail of the tasks included in the PoC mandates of UN peace operations significantly increased following resolution 1894. Over the next 10 years, the Council more consistently included PoC as a priority in the mandates of peace operations and defined what such mandates entailed, including their security, humanitarian and human rights components.[193]

The Human Rights Due Diligence Policy and Government-perpetrated violations of IHL and IHRL

The simultaneous tasking of peace operations with the protection of civilians and the provision of support to host State Governments on a range of tasks can result in an inherent tension of mission objectives, which proves particularly problematic when Government authorities are among the sources of the threat to civilians. Following reports in 2009 that the UN mission-supported Armed Forces of the Democratic Republic of the Congo (FARDC) had perpetrated human rights and IHL violations, and the development of a policy of conditionality of support by MONUC at mission level, the Secretary-General began to develop what is now known as the ***Human Rights Due Diligence Policy*** (HRDDP). Early iterations of the policy provided that UN missions would not support military operations if there were grounds to believe that they would violate IHL or IHRL, intercede if a unit receiving support was believed to be committing grave violations, and suspend support if no remedial action was taken or violations continued. Corresponding provisions were included by the Council in a resolution on the DRC in 2009 and, after an inter-agency evaluation of their implementation, the HRDDP was instituted in July 2011, to be applied through a framework of risk assessment, transparency and effective implementation whenever any UN entity contemplated or provided support to any non-UN security force.[194] In addition to the HRDDP, the Council also began to include wording in the mandates of certain peace operations clearly stating that the mission's responsibility to protect civilians existed irrespective of who was perpetrating the violations.[195]

The DPKO/DFS 2015 Policy on the Protection of Civilians in United Nations Peacekeeping

In 2015, the 2010 *Draft DPKO-DFS Operational Concept on the Protection of Civilians in United Nations Peacekeeping Operations* was revised to include lessons learned in the field and turned into the first *DPKO/DFS Policy on the Protection of Civilians in United Nations Peacekeeping*. An important change was a reframing of Tier I to "Protection through dialogue and engagement", which went beyond the implementation of political processes and peace agreements to "activities [that] include dialogue with a perpetrator or potential perpetrator, conflict resolution and mediation between parties to the conflict, persuading the government and other relevant actors to intervene to protect civilians, public information and reporting on PoC, and other initiatives that seek to protect civilians through public information, dialogue and direct engagement". The policy also included guidance on assessing and prioritizing different types of threats and the vulnerabilities of civilians so that strategies could be nuanced for various actors in a mission's area of operation given that threats differ widely within and between operational contexts.

Whole-of-mission protection strategies

By 2015, a total of 8 out of 10 peacekeeping operations with PoC mandates had ***whole-of-mission protection strategies***

190. See DPKO/DFS, *Draft Operational Concept on the Protection of Civilians in United Nations Peacekeeping Operations,* 2010.
191. *SG PoC Reports,* S/2010/579, paras. 59–61, S/2012/376, para. 50.
192. See *SG PoC Report,* S/2013/689, paras. 45–49.
193. See below under *Overview of current PoC mandates in UN peacekeeping operations.*
194. See *Human rights due diligence policy on United Nations support to non-United Nations security forces,* A/67/775–S/2013/110, annex; see also S/RES/1906 (2009), OP 22 on the DRC.
195. S/RES/2104 (2013), OP 4 on Abyei, S/RES/2109 (2013), OP 4 on South Sudan, S/RES/2098 (2013), OP 12(a)(i) on the DRC.

identifying threats to civilians and setting out a coordinated approach to addressing them.[196] The Secretary-General had also directed that ***PoC advisers*** with direct reporting lines to the heads of mission be deployed in all missions with PoC mandates to ensure the development of PoC strategies – including the mainstreaming of PoC across missions and the incorporation of PoC into in-mission training, threat assessment, planning and decision-making – and coordinate their implementation. In addition to the overarching 2015 Policy, the Secretariat also developed PoC training and specific PoC guidance for the military and police components of peacekeeping missions. A number of good practices and mechanisms that originated in specific country contexts had also been adopted in other mission contexts, such as Joint Protection Teams and early warning systems. Community-based protection, which grew as an essential part of PoC strategies and activities in peace operations, included Community Alert Networks and Community Liaison Assistants, and highlighted the importance of a "do no harm" approach to engaging with vulnerable populations.

In 2015, the Secretary-General-appointed High-level Independent Panel on Peace Operations issued its ***HIPPO Report,*** recommending, inter alia, that PoC in UN peace operations be strengthened through the convergence of expectations and capability and the linkage between protection mandates and a wider political approach.[197] The report stressed the need for improvements across several dimensions including assessments and planning, information gathering and communication, leadership and training, and the focus of mission mandates. The Panel called upon the Secretariat to be frank in its assessment to the Council on requirements for an adequate response to threats to civilians; the Organization to reinforce implementation of its protection responsibilities and draw appropriately on all available civilian, military and police capacities of peace operations; and Member States to provide the necessary resources and lend their influence and leverage to respond to threats against civilians. The HIPPO Report, as well as the Secretary-General's report on *The Future of United Nations Peace Operations: Implementation of the Recommendations of the High-Level Independent Panel on Peace Operations,* were repeatedly acknowledged by the Council in subsequent resolutions.[198]

> ***"Protection of civilians is a core obligation of the United Nations, but expectations and capability must converge."***
>
> **Report of the High-level Independent Panel on Peace Operations on uniting our strengths for peace: politics, partnership and people**

OVERVIEW OF CURRENT POC MANDATES IN UN PEACEKEEPING OPERATIONS[199]

Today, PoC is overwhelmingly mainstreamed as a cross-cutting issue in the mandates of UN peacekeeping operations. Almost all peacekeeping operations deployed since 1999 have had PoC mandates and currently, ***8 out of 14 active peacekeeping operations have a PoC mandate.***[200] Compared with the first PoC mandate in Sierra Leone, only three mandates continue to include the original protection language, requiring the protection of civilians "under imminent threat of physical violence".[201] The other five PoC mandates – namely, those of MINUSCA/CAR, MINUSMA/Mali, MONUSCO/DRC, UNAMID/Darfur and UNMISS/South Sudan – were either granted without the "imminence" requirement, or this language was subsequently removed, increasingly transitioning PoC in peace operations away from a purely reactive and in a more preventive direction.[202]

196. See *SG PoC Report,* S/2016/447, paras. 56–58; see also HIPPO Report, *supra,* pp. 11, 25, recommending that peace operations draw appropriately on all available civilian, military and police capacities.
197. See HIPPO Report, *supra,* pp. 11, 25 36–42; see also SG Report on the Future of UN Peace Operations, *supra.*
198. S/RES/2272 (2016), PP 10 on UN peacekeeping operations, S/RES/2286 (2016), PP 3 on PoC/medical care, S/RES/2320 (2016), PP 15 on cooperation with regional/subregional organizations.
199. As of 1 April 2019.
200. MINUJUSTH/Haiti (S/RES/2410 (2018)), MINUSMA/Mali (S/RES/2423 (2018)), UNAMID/Darfur (S/RES/2429 (2018)), UNIFIL/Lebanon (S/RES/2433 (2018)), UNISFA/Abyei (S/RES/2445 (2018)), MINUSCA/CAR (S/RES/2448 (2018)), UNMISS/South Sudan (S/RES/2459 (2019)), MONUSCO/DRC (S/RES/2463 (2019)).
201. S/RES/2410 (2018), OP 15 on Haiti, S/RES/2433 (2018), OP 19 on Lebanon, S/RES/2445 (2018), OP 11 on Abyei.
202. See S/RES/2423 (2018), OP 38(d)(i) on Mali, S/RES/2429 (2018), OP 16, S/RES/2363 (2017), OP 15(a)(i) on Darfur, S/RES/2448 (2018), OP 39(a)(i) on the

Of the currently active peacekeeping operations, MINUSCA, MINUSMA, MONUSCO, UNAMID and UNMISS have the ***most comprehensive PoC mandates,*** including special sections dedicated to PoC.[203] Their mandates require them to have comprehensive, mission-wide protection strategies including early warning and response mechanisms, and to give priority to PoC in decisions on the use of available resources, all but the UNMISS mandate specifically designating PoC as a "strategic priority" or a "priority task" of the mission.[204]

In addition to the classic protection of civilians from the threat of physical violence, modern peacekeeping mandates also increasingly include detailed provisions relevant to ***other thematic areas of PoC.*** All peacekeeping missions with PoC mandates except UNIFIL/Lebanon are mandated to monitor and report on IHL, IHRL and/or human rights violations and abuses.[205] Five are expressly mandated to condition any support to non-UN security forces on the latter's compliance with the HRDDP, committing missions to monitor their partners' compliance with international law and potentially end support in the event of violations.[206]

With regard to ***forced displacement,*** six of eight peacekeeping mandates with a PoC component include provisions pertaining to the protection of refugees and IDPs. Of these, four are mandated to assist in the facilitation of durable solutions for refugees and IDPs by creating conditions conducive to their voluntary, safe and dignified return and/or local integration or resettlement.[207] Three are mandated to ensure the security of refugee and IDP camps or PoC sites or to proactively deploy to and conduct active patrolling in areas of high concentration of IDPs and refugees.[208] Three are required to pay particular attention to the needs of refugees and IDPs in the provision of humanitarian assistance.[209] And one is mandated to train and monitor community policing on providing security in IDP camps and along migration routes.[210]

Regarding the ***protection of other vulnerable groups,*** six of eight peacekeeping operations with a PoC mandate are required to provide specific protection for children affected by armed conflict, and all eight operations include measures on the specific protection concerns of women.[211]

With regard to ***children,*** three operations are requested to consider child protection as a cross-cutting issue throughout the mandate.[212] Five include the deployment of child protection advisers and three include the support for national authorities in DDR and/or SSR processes with particular attention to the needs of children.[213] Five missions are expressly mandated to monitor and report violations and abuses committed against children and/or ensure the effectiveness of the MRM.[214]

With regard to ***women and CRSV,*** four mandates stress the importance of gender mainstreaming as a cross-cutting issue throughout the mandate.[215] Six include the deployment of women protection advisers and/or gender advisers and three include the support for national authorities in DDR and/or SSR processes with particular attention to the needs of women.[216] Five missions are specifically mandated to monitor and report on

CAR, S/RES/2459 (2019), OP 7(a)(i) on South Sudan, S/RES/2463 (2019), OP 29(i)(a) on the DRC.

203. S/RES/2363 (2017), OP 15(a) on Darfur, S/RES/2423 (2018), OP 38(d) on Mali, S/RES/2448 (2018), OP 39(a) on the CAR, S/RES/2459 (2019), OP 7(a) on South Sudan, S/RES/2463 (2019), OP 29(i) on the DRC.
204. S/RES/2363 (2017), OPs 11, 15(a), S/RES/2429 (2018), OPs 11(i), 13 on Darfur, S/RES/2423 (2018), OPs 26–27, 38(d) on Mali, S/RES/2448 (2018), OPs 37, 39 on the CAR, S/RES/2459 (2019), OPs 7(a), 12, on South Sudan, S/RES/2463 (2019), OPs 23(a), 20 on the DRC.
205. S/RES/2363 (2017), OP 15(a)(x), S/RES/2429 (2018), OPs 11(i), 38(a), 35 on Darfur, S/RES/2410 (2018), OPs 1, 11 on Haiti, S/RES/2423 (2018), OP 38(e)(ii) on Mali, S/RES/2445 (2018), OP 27 on Abyei, S/RES/2448 (2018), OPs 39(a)(ii), 40(d) on the CAR, S/RES/2459 (2019), OP 7(c) on South Sudan, S/RES/2463 (2019), OP 29(i)(b), (c) on the DRC.
206. S/RES/2423 (2018), OPs 45, 52 on Mali, S/RES/2429 (2018), OP 25 on Darfur, S/RES/2448 (2018), OP 40(a)(iv)–(v) on the CAR, S/RES/2459 (2019), OP 21 on South Sudan, S/RES/2463 (2019), OP 34 on the DRC.
207. S/RES/2429 (2018), OP 46 on Darfur, S/RES/2423 (2018), OP 38(f) on Mali, S/RES/2448 (2018), OP 39(c) on the CAR, S/RES/2459 (2019), OPs 7(a)(vii)–(viii), 18 on South Sudan.
208. S/RES/2363 (2017), OP 15(a)(i) on Darfur, S/RES/2459 (2019), OPs 7(a)(ii), (iv), 10(iii), 14, 18 on South Sudan, S/RES/2463 (2019), OP 29(i)(a) on the DRC.
209. S/RES/2448 (2018), OP 66 on the CAR, S/RES/2459 (2019), OP 7(b)(i) on South Sudan, S/RES/2463 (2019), OP 36 on the DRC.
210. S/RES/2363 (2017), OP 15(a)(iv), (v) on Darfur.
211. Operations not specifically addressing the protection concerns of children are MINUJUSTH/Haiti and UNIFIL/Lebanon.
212. S/RES/2423 (2018), OP 66 on Mali, S/RES/2448 (2018), OP 56 on the CAR, S/RES/2463 (2019), OP 31 on the DRC.
213. See S/RES/2363 (2017), OPs 15(a)(x), 28(a) on Darfur, S/RES/2423 (2018), OP 38(d)(iii) on Mali, S/RES/2445 (2018), OP 29 on Abyei, S/RES/2448 (2018), OP 39(a)(iii) on the CAR, S/RES/2459 (2019), OP 7(a)(i) on South Sudan (on child protection advisers); S/RES/2423 (2018), OP 38(a)(ii) on Mali, S/RES/2448 (2018), OPs 40(b), (c), 56 on the CAR, S/RES/2463 (2019), OP 30(i)(c), (ii)(b), 31 on the DRC (on DDR/SSR processes).
214. S/RES/2423 (2018), OP 38(e)(ii) on Mali, S/RES/2429 (2018), OPs 7(ii), 38(a) on Darfur, S/RES/2448 (2018), OP 40(d)(i), (ii) on the CAR, S/RES/2459 (2019), OP 7(c)(ii) on South Sudan, S/RES/2463 (2019), OP 29(i)(b) on the DRC.
215. S/RES/2410 (2018), OP 17 on Haiti, S/RES/2433 (2018), OP 24 on Lebanon, S/RES/2448 (2018), OP 57 on the CAR, S/RES/2463 (2019), OP 32 on the DRC.
216. See S/RES/2363 (2017), OP 15(a)(x) on Darfur, S/RES/2423 (2018), OP 38(d)(iii) on Mali, S/RES/2445 (2018), OP 29 on Abyei, S/RES/2448 (2018), OP 39(a)(iii) on the CAR, S/RES/2459 (2019), OP 7(a)(i) on South Sudan, S/RES/2463 (2019), OP

OVERVIEW OF CURRENT MANDATES IN UN PEACEKEEPING OPERATIONS*

Peacekeeping operation with PoC mandate	MINUJUSTH Haiti	MINUSCA CAR	MINUSMA Mali	MONUSCO DRC	UNAMID Darfur	UNIFIL Lebanon	UNISFA Abyei	UNMISS South Sudan	Total
PoC mandate	✓	✓	✓	✓	✓	✓	✓	✓	8
protection from "imminent threat of physical violence" language	✓	○	○	○	○	✓	✓	○	3
Section dedicated to PoC	○	✓	✓	✓	✓	○	○	✓	5
Priority of PoC in use of resources	○	✓	✓	✓	✓	○	○	✓	5
PoC a mandated priority of the mission	○	✓	✓	✓	✓	○	○	○	4
HRDDP compliance	○	✓	✓	✓	✓	○	○	✓	5
IHL/human rights monitoring	✓	✓	✓	✓	✓	○	✓	✓	7
Provisions related to forced displacement	○	✓	✓	✓	✓	○	✓	✓	6
Provisions related to the protection of children	○	✓	✓	✓	✓	○	✓	✓	6
Provisions related to the protection of women/CRSV	✓	✓	✓	✓	✓	✓	✓	✓	8
Provisions related to humanitarian assistance	○	✓	✓	✓	✓	✓	✓	✓	7

*As of 1 April 2019. Peacekeeping operations without PoC mandates are: MINURSO, Western Sahara; UNDOF, Golan Heights; UNFICYP, Cyprus; UNMIK, Kosovo; UNMOGIP, India and Pakistan; UNTSO, Middle East

CRSV and violations and abuses committed against women, and UNMISS and MONUSCO are expressly mandated to ensure the effectiveness of the MARA.[217]

Currently, seven of eight peacekeeping mandates with a PoC component include provisions on the ***facilitation of humanitarian access and assistance.***[218] Tasks include creating the conditions conducive to the safe, timely and unhindered, civilian-led delivery of humanitarian assistance, ensuring the safety, security and freedom of movement of humanitarian personnel, and strengthening collaboration and coordination with humanitarian actors.[219] Four mandates define all or some of these activities as priority tasks of the mission and require their prioritization in decisions on resource allocation.[220] While such provisions are welcome, effective coordination between UN peace operations, UN agencies and humanitarian actors – as tailored to the specific context to avoid causing civilian harm or constraining the humanitarian space – is imperative for an effective protection response.[221] In highly insecure environments, it can lead to improved access, as peace operations can provide an additional level of physical protection and establish security conditions conducive to humanitarian operations. However, if perceived as being aligned with the political objectives of missions, access and the security of humanitarians may be undermined, and the use of armed guards and escorts may conflict with the ability of humanitarian workers to engage with relevant stakeholders including local communities and non-State armed groups, thus defeating the goal pursued. It is essential to ensure that there is a clear distinction between political engagement and security oriented actions to end conflict and move toward development and peace, on one hand, and humanitarian action, on the other.

The trend towards the use of increasingly specific, detailed and prescriptive language in the Council's resolutions and statements is particularly visible in the mandates of peacekeeping missions with a PoC mandate. While such prescriptiveness has created a more robust normative framework and additional consistency and clarity on mandated tasks, it has also, at times, led to a disconnect between required tasks and long-term objectives and undermined operational and tactical flexibility. Going forward, this suggests a refocusing on clear and concise, objective-oriented mission mandates equipped with matching resources and capacities and a certain degree of operative flexibility.

POC ELEMENTS IN SPECIAL POLITICAL MISSIONS

Over the years, the Council has increasingly included provisions related to PoC in the mandates of special political missions, underlining the important role that political missions can play in promoting PoC in the absence of a peacekeeping presence in the country. Currently, several mandates of special political missions include PoC elements, including the provision of assistance to national authorities and other actors in ensuring the implementation of human rights, monitoring and reporting on IHL, IHRL and/or human rights violations and abuses, coordinating efforts to ensure civilian protection, reporting on civilian casualties, conducting investigations and/or promoting accountability.[222]

The mandates of special political missions also increasingly include provisions pertaining to humanitarian access and assistance, forced displacement and the special protection concerns of children and women. In particular, UNAMA in Afghanistan and UNAMI in Iraq are comprehensively mandated to support the respective national Government and UN country team in coordinating and facilitating the delivery of humanitarian assistance, creating conditions conducive to the voluntary, safe, dignified, sustainable

32 on the DRC (on women/gender protection advisers); S/RES/2423 (2018), OP 38(a)(ii) on Mali, S/RES/2448 (2018), OP 40(b), (c) on the CAR, S/RES/2463 (2019), OP 30(ii)(b) on the DRC (on DDR/SSR processes).

217. S/RES/2423 (2018), OP 38(e)(ii) on Mali, S/RES/2429 (2018), OPs 7(ii), 11(i), 19(iii), 35 on Darfur, S/RES/2448 (2018), OP 40(d)(i), (ii) on the CAR, S/RES/2459 (2019), OP 7(c)(ii) on South Sudan, S/RES/2463 (2019), OP 29(i)(b) on the DRC.
218. The only exception is MINUJUSTH/Haiti (S/RES/2410 (2018)).
219. See S/RES/2423 (2018), OP 38(f) on Mali, S/RES/2429 (2018), OPs 11(i), 13, 19(i) on Darfur, S/RES/2448 (2018), OP 39(c) on the CAR, S/RES/2459 (2019), OPs 7(b)(i) on South Sudan (on conditions conducive to humanitarian assistance); S/RES/2429 (2018), OPs 11(i), 13 on Darfur, S/RES/2433 (2018), OP 19 on Lebanon, S/RES/2459 (2019), OPs 7(a)(ii), (b)(i) on South Sudan, S/RES/2463 (2019), OP 29(i) on the DRC (on the safety and security of humanitarian personnel); S/RES/1990 (2011), OP 2(d) on Abyei, S/RES/2433 (2018), OP 19 on Lebanon (on freedom of movement); S/RES/2459 (2019), OPs 7(a)(ii), (b)(i) on South Sudan, S/RES/2463 (2019), OP 37 on the DRC (on collaboration and coordination).
220. S/RES/2423 (2018), OPs 27, 38(f) on Mali, S/RES/2429 (2018), OPs 11(i), 13 on Darfur, S/RES/2448 (2018), OPs 37, 39(c) on the CAR, S/RES/2463 (2019), OP 24, 29(i)(a) on the DRC.
221. See *SG PoC Reports,* S/2005/740, para. 31, S/2012/376, paras. 53–55, annex, para. 20; see also J. Egeland, A. Harmer and A. Stoddard, *To stay and deliver: good practice for humanitarians in complex security environments,* independent study commissioned by OCHA, August 2011, IPI, *Pursuing Coordination and Integration for the Protection of Civilians,* February 2019.
222. S/RES/2158 (2014), OP 1(e), S/RES/2461 (2019), OP 1 on UNSOM/Somalia, S/RES/2405 (2018), OP 6(e) on UNAMA/Afghanistan, S/RES/2421 (2018), OP 2(d) on UNAMI/Iraq, S/RES/2434 (2018), OP 2(iii) on UNSMIL/Libya.

> ***"All United Nations peace operations today have the obligation to advocate the protection of civilians. This is a mission-wide task."***
>
> **Ban Ki-moon, eighth Secretary-General of the United Nations**

and/or orderly return of refugees and IDPs and strengthening the protection of children affected by armed conflict.[223] UNAMI and UNSMIL/Libya are mandated to approach gender mainstreaming as a cross-cutting issue throughout their mandates, and UNSMIL and UNSOM/Somalia are mandated to assist in the protection of women and girls from CRSV.[224] UNSMIL is additionally mandated to support the national Governments in the coordination and facilitation of the delivery of humanitarian assistance.[225]

Special political missions can play an important part in protecting civilians in the absence of a peacekeeping presence in a country, and the inclusion of PoC-related provisions in their mandates strengthens their ability to do so. As noted by the Secretary-General, "[a]ll United Nations peace operations today have the obligation to advocate the protection of civilians" as a mission-wide task, including through non-military tools such as political advocacy, credible reporting, liaison with communities and support to national authorities in carrying out protection responsibilities.[226] Provisions related to PoC should therefore be further streamlined into relevant mandates of special political missions in contexts with pressing protective concerns.

223. S/RES/2405 (2018), OPs 7(c), 33 on Afghanistan, S/RES/2421 (2018), OP 2(c)(i), (f) on Iraq.
224. S/RES/2421 (2018), OP 2(e) on Iraq, S/RES/2434, OP 4 on Libya (on gender as a cross-cutting issue); S/RES/2431 (2018), OP 44 on AMISOM/Somalia, S/RES/2434, OP 4 on Libya (on protection from CRSV).
225. S/RES/2434 (2018), OP 2(ii) on Libya.
226. Report of the Secretary-General on the future of United Nations peacekeeping operations, A/70/357–S/2015/682, para. 17.

THE USE OF FORCE IN UN PEACE OPERATIONS AND OTHER RELEVANT MISSIONS

Similar to many early peacekeeping missions, all current UN peacekeeping operations with a PoC mandate are ***authorized by the Council to use force*** in the implementation of their PoC mandate.[227] Over the years and particularly since 2013, the Council has moved towards authorizing more extensive use of force by peace operations. In 2013, it extended MONUSCO's mandate in the DRC to include the deployment of an Intervention Brigade to conduct "targeted offensive operations" to "prevent the expansion of all armed groups, neutralize these groups, and to disarm them" in order to reduce the threat to state authority and civilian security by armed groups active in the DRC.[228] MONUSCO remains the UN peace operation with the most robust mandate to use force, and the authorization to "neutralize" armed actors through the use of force remains unique among peacekeeping mandates.

Several other mandates of UN-authorized peace operations are particularly explicit with regards to the use of force. In the CAR, MINUSCA is mandated to "take active steps to anticipate, deter and effectively respond to serious and credible steps to the civilian population", inter alia by maintaining "a proactive deployment and a mobile, flexible and robust posture, as well as by conducting active patrolling".[229] MINUSMA's mandate requests the mission to "anticipate and deter threats", to "take robust and active steps to counter asymmetric attacks" and to "prevent a return of armed elements".[230] In Somalia, the AU-led AMISOM – which does not have an express PoC mandate but includes provisions related to PoC – is mandated to "reduce the threat posed by Al Shabaab and other armed opposition groups" as a strategic objective of the mission, and authorized "to conduct targeted offensive operations, including jointly with the Somali security forces, against Al Shabaab and other armed opposition groups".[231] In

227. The wording differs slightly in different mandates; see S/RES/2423 (2018), OP 32 on Mali, S/RES/2448 (2018), OP 38 on the CAR, S/RES/2459 (2019), OPs 7, 14 on South Sudan ("all necessary means"); S/RES/2433 (2018), OP 19 on Lebanon ("all necessary action"); S/RES/1990 (2011), OP 3, S/RES/2445 (2018), OP 11 on Abyei, S/RES/2429 (2018), OP 15 on Darfur ("necessary action"); S/RES/2463 (2019), OP 28 on the DRC ("all necessary measures"); MINUJUSTH is authorized to use all necessary means only in support of the Haitian National Police (S/RES/2410 (2018), OP 14).
228. S/RES/2098 (2013), OPs 9, 12(b) on the DRC; see also S/RES/2463 (2019), OPs 14, 29(i)(d) on the DRC.
229. S/RES/2448 (2018), OP 39(a)(ii) on the CAR.
230. S/RES/2423 (2018), OPs 34, 38(d) on Mali.

South Sudan, UNMISS is mandated, "irrespective of the source of such violence…to deter violence against civilians…especially through proactive deployment [and] active patrolling".[232]

As it has moved towards authorizing more extensive use-of-force mandates, the Council has also included more explicit provisions on ***prevention and mitigation of harm to civilians*** in the mandates or authorizations of peace operations. Such measures seek to address the dilemma that while a peace operation's use of force may have a protective effect or create a more protective environment for civilians on the ground – such as by neutralizing armed groups or protecting civilians in PoC sites – it may simultaneously result in increased risks for civilians.[233] Peace operations may themselves undertake robust protection operations or support or undertake joint operations with host States or other security forces that might result in civilian harm; their civilian or uniformed engagement with communities might result in retaliation against individuals within the community or the community at large; and their mere proximity may endanger civilians when a peace operations' bases or transport routes are targeted. Where robust use-of-force mandates are granted, the inclusion of corresponding measures addressing clearly and prominently the prevention and mitigation of civilian harm is therefore of fundamental importance.

Accordingly, the mandates of MONUSCO, MINUSMA and the AU-led AMISOM expressly provide for the mitigation of risk to civilians before, during and after any military operation.[234] The mandate of MINUSCA also includes such a provision, and expressly mentions not only military, but also police operations.[235] MONUSCO has further been requested to strengthen mechanisms to ensure the compliance of its forces with IHL and IHRL and promote accountability, to review its protection mechanisms and strengthen civil-military coordination, and to take steps to mitigate any negative impact on the perception of humanitarian and human rights actors by local populations and parties to conflict. In Somalia, AMISOM was requested to establish and operationalize a Civilian Casualty Tracking, Analysis and Response Cell to monitor and report civilian casualties to the Council.[236] In Afghanistan, the Council repeatedly called for and welcomed efforts by the International Security Assistance Force in Afghanistan (ISAF) and other international forces to minimize the risk of civilian casualties, e.g., by conducting continuous review of tactics, introducing tactical directives, and monitoring and reporting civilian casualties through the ISAF Civilian Casualties Tracking Cell.[237] Notably, for the UN peace operations, the Council did not require casualty-tracking mechanisms to be set up as it did in the context of AMISOM and ISAF – the two non-UN robust force operations.

In the case of the cross-border military counter-terrorist operations by the Joint Force of the G5 Sahel States – the deployment of which was authorized by the AU and welcomed by the Council – the Council requested the G5 Sahel States and forces to take active steps to minimize the risk of harm to civilians in all areas of operation and to establish a robust ***compliance framework*** to prevent, investigate, address and publicly report violations and abuses of IHL and IHRL related to the Joint Force of the G5 Sahel.[238] The Council had previously encouraged the AU to establish a human rights and IHL compliance framework for AU peace support operations.[239] Building on the lessons learned from Afghanistan and the work with the AU in Somalia, the UN-system developed the concept of human rights and IHL compliance frameworks. This approach places human rights and IHL at the center of international security responses and is tailored to military operations, translating international legal obligations into measures and mechanisms enabling regional peace operations to better achieve identified military objectives, while ensuring that they are planned and conducted in compliance with IHL and IHRL. It comprises mutually reinforcing measures and mechanisms to prevent, mitigate and address human rights and IHL violations and thereby reduce the risk of harm to civilians in the conduct of military operations endorsed or otherwise welcomed by the Council. In the context of the G5 Sahel, the compliance framework developed in support of and in collaboration with the Joint Force combines direct technical support from OHCHR on measures and

231. S/RES/2431 (2018), OPs 7(b), 8(d) on AMISOM/Somalia.
232. S/RES/2406 (2018), op. 7(a)(i)–(ii) on South Sudan.
233. See, e.g., IPI, *The UN Intervention Brigade in the Democratic Republic of the Congo,* July 2013; Namie Di Razza, *Protecting Civilians in the Context of Violent Extremism: The Dilemmas of UN Peacekeeping in Mali,* IPI, October 2018.
234. See S/RES/2423 (2018), OP 38(d)(ii) on Mali, S/RES/2431 (2018), OP 26 on AMISOM/Somalia, S/RES/2463 (2019), OP 29(i)(a), (d) on the DRC.
235. S/RES/2448 (2018), OPs 39(a)(ii), 44, 51 on the CAR.
236. S/RES/2093 (2013), OP 11, S/RES/2124 (2013), OP 11, S/RES/2431 (2018), OP 20 on AMISOM/Somalia.
237. S/RES/1868 (2009), OP 14, S/RES/1890 (2009), PP 16, S/RES/1917 (2010), OP 20, S/RES/1943 (2010), PP 19, S/RES/1974 (2011), OP 20, S/RES/2011 (2011), PP 25, S/RES/2041 (2012), OP 31, S/RES/2069 (2012), PP 25, S/RES/2096 (2013), OP 31, S/RES/2120 (2013), PP 26 on Afghanistan.
238. /RES/2391 (2017), OPs 17, 21–22 on the G5 Sahel.
239. S/RES/2320 (2016), PPs 4, 8, OP 6 on the G5 Sahel.

mechanisms such as selection and screening of personnel, training, protection mainstreaming in military doctrines and standard operating procedures, and after-action reviews, with the more classical IHL and IHRL monitoring and reporting. The compliance framework approach will also facilitate the implementation of the HRDDP, in particular in the context of MINUSMA's mandated support to the Joint Force of the G5 Sahel.

While the Council has granted or endorsed extensive use-of-force mandates, it has also promoted caution in the use of force as well as ***unarmed civilian strategies.*** All UN peacekeeping operations with PoC mandates and military components are now multidimensional missions that also include civilian and police components. In a recent thematic resolution dedicated specifically to the importance of UN policing in peace operations, the Council requested the Secretary-General to ensure that UN police components support PoC activities as part of the whole-of-mission approach in missions with PoC mandates.[240] In South Sudan, the Council has instructed UNMISS to explore protection techniques through unarmed civilian protection to complement efforts to build a protection environment.[241]

PERFORMANCE ASSESSMENT AND REFORM INITIATIVES

Increasingly – including in a recent thematic resolution – the Council has demanded that peacekeeping performance be measured and monitored according to a comprehensive and objective policy with clear and well-defined benchmarks, that a culture of performance in UN peacekeeping be standardized, that mission performance reviews of military and civilian contingents be conducted and that performance data inform decisions on peacekeepers' deployment.[242] The Council has also urged the UN to continuously incorporate lessons learned in order to conduct reforms across UN peace operations, which would better enable its offices and contingents to implement its mandate.[243] Additionally, the Council has welcomed the initiative of the Secretary-General to conduct special investigations into performance issues and encouraged or requested reports on the findings of such investigations and efforts to take collective action to improve peacekeeping operations.[244]

In recent years, significant progress on performance management has been made through the work of DPKO and DFS. In May 2018, an addendum to the 2015 *DPKO/DFS Policy on The Protection of Civilians in United Nations Peacekeeping* was adopted, clarifying the responsibilities of military, police and civil mission personnel across all levels of the command structure in the field as well as at Headquarters.[245] It called for the integration of PoC in existing performance management tools and stressed the importance of both institutional and individual accountability. Currently, DPO is leading the development of a new Comprehensive Performance Assessment System, which has been piloted in several missions and will eventually be rolled out across all peacekeeping missions. The system integrates groups of performance indicators into both the planning and performance assessment stages of missions, and for missions with PoC mandates, the effectiveness of the mission in protecting civilians will be addressed in that process.

In 2018, the Secretary-General rolled out his Action for Peacekeeping initiative. 151 Member States endorsed aspects of the initiative through a separate but related *Declaration of Shared Commitments on Peacekeeping Operations*. The declaration includes strengthened protection as one of seven broadly themed commitments and commits Member States to pursue "clear, focused, sequenced, prioritized and achievable mandates" that are "matched by appropriate resources". The *Kigali Principles on the Protection of Civilians* – a non-UN, non-binding set of commitments on the effective implementation of PoC mandates – have been endorsed by 49 countries.

UN peace operations have come a long way in protecting civilians since the first PoC mandate granted to the UN peacekeeping mission in Sierra Leone in 1999. The mission-wide protection strategies of today's multidimensional missions have undoubtedly saved civilian lives, facilitated the delivery of humanitarian assistance, and protected displaced persons, women, children and other vulnerable groups. They have facilitated disarmament, institutional reform and reconciliation, reducing the amount of violence and increasing the chances

240. S/RES/2382 (2017) on UN policing in peace operations.
241. S/RES/2406 (2018), PP 11 on South Sudan.
242. S/RES/2436 (2018) on peacekeeping performance; see also S/RES/2406 (2018), OP 16 on South Sudan, S/RES/2463 (2019), OP 41 on the DRC.
243. S/RES/2406 (2018), OP 21 on South Sudan.
244. S/RES/2409 (2018), PP 32 on the DRC, S/PRST/2018/10, para. 24 on UN peace operations, S/RES/2423 (2018), PP 35 on Mali, S/RES/2436 (2018), OPs 10–11 on peacekeeping performance, S/RES/2448 (2018), PP 31 on the CAR.
245. DPKO/DFS, *Accountability for Implementation of the Protection of Civilians Mandates* (Addendum to 2015.17 DPKO-DFS Policy on the Protection of Civilians), May 2018.

for lasting peace. But "expectations and capability must converge" and PoC mandates "must be realistic and linked to a wider political approach".[246] Going forward, the streamlining of mandates to include fewer, more strategic priorities and greater operational flexibility, while matching mandates with adequate resources and training, and establishing clear links to the political purpose of the mandate throughout the mission cycle, will further increase the protection of civilians through UN peace operations in the years and decades to come.

B. SANCTIONS REGIMES: MAXIMIZING TARGETED IMPACT TO STRENGTHEN PROTECTION

Sanctions are another key tool employed by the Council to implement and enforce its decisions related to PoC. Currently, there are 14 active sanctions regimes, 8 of which expressly include PoC-related listing criteria.[247] From the outset of the PoC agenda, the Secretary-General recommended making greater use of targeted sanctions for the protection of civilians, and the Council – while only referring explicitly to sanctions as a means of promoting PoC in more recent resolutions – expressed its readiness to adopt appropriate steps in response to PoC-related violations.[248] In 2009, when adopting resolution 1894, several Member States stressed the need to consider imposing targeted sanctions to ensure compliance with international law.[249] Increasingly, Council members have expressed the view that sanctions are not only a conflict resolution tool, but also a tool to protect civilians.[250]

Listing criteria related to IHL or IHRL violations or human rights abuses were first introduced in the sanctions regime in Côte d'Ivoire in 2004.[251] By 2011, a total of 5 of the Council's sanctions regimes included PoC-related listing criteria. By 2015, this number had risen to 8, with a total of 9 sanctions regimes having included PoC-related listing criteria to date.[252]

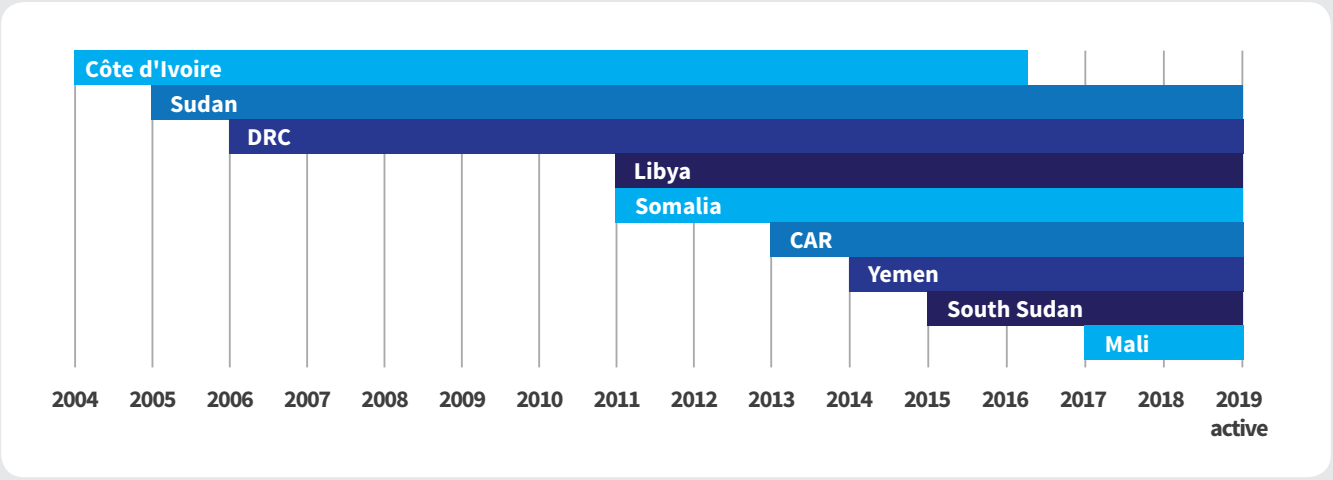
Whereas PoC-related listing criteria debuted tentatively as general references to serious violations of IHL and IHRL, today many conflict-related sanctions regimes comprise detailed and often stand-alone PoC listing criteria. These range from IHL and IHRL violations including forced displacement, violations against women and children, and attacks against specific persons and objects, to stand-alone listing criteria for obstructions of humanitarian assistance, child recruitment and conflict-related sexual violence.

The inclusion of PoC violations in sanctions regimes is a development of fundamental importance and has the potential to serve as an effective tool to protect civilians on the ground. However, the challenge in the years to come will be to achieve greater consistency in the inclusion and application of specific PoC-related sanctions criteria across the board of relevant sanctions regimes, to promote actual listings on the basis of these criteria, and to enforce their implementation through Member States.

OVERVIEW OF POC-RELATED DESIGNATION CRITERIA IN CURRENT UN SANCTIONS REGIMES[253]

All eight current UN sanctions regimes with listing criteria pertaining to PoC violations provide in varying degrees of specificity that individuals and entities determined by the relevant sanctions committee as engaging in or providing support for acts that target civilians and/or constitute IHL or IHRL violations or human rights abuses may be subject to sanctions.[254] Of these

246. HIPPO Report, *supra,* p. 11.
247. Active sanctions regimes are the CAR, Democratic People's Republic of Korea (DPRK), DRC, Guinea-Bissau, Iraq, Lebanon, Libya, Mali, Somalia, South Sudan, Sudan, Yemen, ISIL/Al-Qaida and Taliban regimes. Sanctions regimes with PoC-related listing criteria are the CAR, DRC, Libya, Mali, Somalia, South Sudan, Sudan and Yemen regimes.
248. See SG PoC Reports, S/1999/957, paras. 42, 51, 54, recs. 9, 18, 22–25, S/2004/431, para. 42, S/2009/277, paras. 37(b), 59(h), (e), S/2018/462, para. 71; S/RES/1265 (1999), OP 10, S/RES/1296 (2000), OP 5, S/RES/1674 (2006), OP 26, S/RES/1738 (2006), OP 9, S/RES/1894 (2009), OPs 3–4, 16(c), S/RES/2417 (2018), OPs 4, 9 (expressly referring to sanctions) on PoC.
249. *Records of the 6216th Meeting of the Security Council,* S/PV.6216 (2009).
250. *Records of the 8310th Meeting of the Security Council,* S/PV.8310 (2018).
251. S/RES/1572 (2004), OP 9 on Côte d'Ivoire.
252. S/RES/1572 (2004), OP 9 on Côte d'Ivoire, S/RES/1591 (2005), OP 3(c) on Sudan, S/RES/1698 (2006), OP 13 on the DRC, S/RES/1970 (2011), OP 22 on Libya, S/RES/2002 (2011), OP 1(e) on Somalia, S/RES/2127 (2013), OP 56 on the CAR, S/RES/2140 (2014), OP 18 on Yemen, S/RES/2206 (2015), OP 7 on South Sudan, S/RES/2374 (2017), OP 8 on Mali. The Côte d'Ivoire sanctions regime was terminated in 2016, see S/RES/2283 (2016) on Côte d'Ivoire.
253. As of 1 April 2019.
254. S/RES/1591 (2005), OP 3(c) on Sudan, S/RES/1970 (2011), OP 22(a), S/RES/2174



IHL-related listing criteria in sanctions regimes from the year of inclusion until termination of the sanctions regime.

eight regimes, five expressly mention specific types of violations as part of these general PoC listing criteria, including killing and maiming, torture, abduction and enforced disappearance.[255] The same five regimes also highlight specific types of civilian objects in their general PoC listing criteria, including schools and hospitals, administrative centres and courthouses, and religious sites and locations where civilians are seeking refuge.

All eight sanctions regimes with PoC-related listing criteria also include provisions pertinent to some or all of the other major sub-categories of PoC addressed in this report, including humanitarian assistance, forced displacement, sexual violence and the special protection concerns of women and children. ***It is important to note that where sanctions regimes do not include express listing criteria related to these issues, listings for such violations may and should nevertheless occur under the regimes' general PoC listing criteria related to IHL and IHRL violations or human rights abuses.***

With regard to the ***humanitarian mission,*** the Council has repeatedly underlined that the obstruction of humanitarian access and assistance has been and may be the basis for sanctions. Currently, six UN sanctions regimes expressly provide – in the majority of cases as stand-alone listing criteria – that individuals and entities determined to have engaged in or supported acts that obstruct the delivery or distribution of, or access to, humanitarian assistance, may be subject to sanctions.[256] Six regimes specifically include attacks or support for attacks against UN peacekeepers or peacekeeping missions, UN personnel, associated personnel and/or humanitarian personnel among their listing criteria.[257] At times, the Council has also granted exemptions from UN sanctions for humanitarian purposes. For example, in the CAR, it granted an exemption from an arms embargo for supplies intended solely for humanitarian or protective use.[258] In Somalia, an exemption from economic and financial restrictions was granted for those resources necessary to ensure the timely delivery of urgently needed humanitarian assistance.[259] And in Libya, the Council granted an exemption from a flight ban

(2014), OP 4(a), S/RES/2213 (2015), OP 11(a) on Libya, S/RES/2093 (2013), OP 43(e) on Somalia, S/RES/2140 (2014), OP 18(c) on Yemen, S/RES/2293 (2016), OP 7(e) on the DRC, S/RES/2374 (2017), OP 8(f) on Mali, S/RES/2399 (2018), OP 21(b) on the CAR, S/RES/2428 (2018), OP 14(c), (d) on South Sudan.

255. S/RES/2093 (2013), OP 43(e) on Somalia, S/RES/2293 (2016), OP 7(e) on the DRC, S/RES/2374 (2017), OP 8(f) on Mali, S/RES/2399 (2018), OP 21(b) on the CAR, S/RES/2428 (2018), OP 14(d) on South Sudan.

256. S/RES/2093 (2013) OP 43(c) on Somalia, S/RES/2216 (2015), OP 19 on Yemen, S/RES/2293 (2016), OP 7(f) on the DRC, S/RES/2374 (2017), OP 8(e) on Mali, S/RES/2428 (2018), OP 14(g) on South Sudan, S/RES/2399 (2018), OP 21(f) on the CAR.

257. S/RES/2293 (2016), OP 7(i) on the DRC ("peacekeepers or United Nations personnel"), S/RES/2362 (2017), OP 11 on Libya ("United Nations personnel"), S/RES/2374 (2017), OP 8(d) on Mali ("peacekeepers and other UN and associated personnel"), S/RES/2399 (2018), OP 21(g) on the CAR ("UN missions…as well as…humanitarian personnel"), S/RES/2428 (2018), OP 14(h) on South Sudan ("United Nations missions…or humanitarian personnel"); see also S/RES/2093 (2013), OP 43(a) on Somalia, which includes acts or support for acts that "threaten…AMISOM or UNSOM by force").

258. S/RES/2399 (2018), OP 1(d), (e) on the CAR.

259. S/RES/2385 (2017), OP 33 on Somalia.

for flights whose sole purpose was humanitarian, such as those delivering or facilitating the delivery of assistance or evacuating foreign nationals from the State.[260]

On ***forced displacement,*** the Council has in recent years increasingly affirmed its readiness to impose sanctions in connection with related violations of international law. Currently, five UN sanctions regimes expressly provide – albeit not as stand-alone listing criteria – that individuals and entities determined to have engaged in or supported acts of forced displacement may be subject to sanctions.[261]

On ***CAAC,*** the Council stressed in its earliest thematic resolutions that when adopting sanctions, it would consider their impact on children to consider appropriate humanitarian exemptions.[262] Starting in 2004, it also consistently expressed its intention to consider imposing targeted measures against persistent perpetrators of violations and abuses against children.[263] Currently, five of eight active UN sanctions regimes with PoC-related listing criteria designate the recruitment and use of children in armed conflict in violation of international law as a stand-alone listing criterion.[264] Three regimes additionally expressly mention violations against children among their general PoC listing criteria dealing with IHL and IHRL violations or human rights abuses.[265] The SRSG-CAAC has regularly been invited to brief several sanctions committees and has at times submitted information on individuals. In addition, the CAAC Working Group, through its country-specific conclusions, and the SRSG-CAAC, have routinely been asked to share pertinent information with relevant sanctions committees. Individuals and entities in the CAR, the DRC and South Sudan have been included on the sanctions lists for grave violations against children.

On ***sexual violence,*** the Council expressed its intention to consider the use of targeted measures against perpetrators in a 2008 WPS resolution and reaffirmed its readiness in subsequent thematic resolutions.[266] In 2013, it urged sanctions committees to apply such measures and in 2015, it affirmed its commitment to ensure that relevant sanctions committee expert groups have the necessary gender expertise.[267] At country level, sexual violence was expressly included as a designation criterion in a sanctions regime for the first time in 2008 in the DRC.[268] Currently, six out of eight active UN sanctions regimes with PoC-related listing criteria expressly include "sexual and gender-based violence" or "rape and other sexual violence".[269] Sexual and gender-based violence became a stand-alone listing criterion for the first time in 2017, in the sanctions regime of the CAR, followed by South Sudan, Somalia and Libya in 2018.[270] Additionally, three sanctions regimes expressly mention violations against women among their general PoC listing criteria dealing with IHL and IHRL viola-

> ***"If sanctions can be used to prevent war criminals from enjoying the fruits of their evil, without harming innocent women and children, we have given ourselves a potent new tool for good."***
>
> **Sergio Vieira de Mello, former Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator**

260. S/RES/1973 (2011), OP 7 on Libya.
261. S/RES/2093 (2013), OP 43(e) on Somalia, S/RES/2293 (2016), OP 7(e) on the DRC, S/RES/2374 (2017), OP 8(f) on Mali, S/RES/2399 (2018), OP 21(b) on the CAR, S/RES/2428 (2018), OP 14(d) on South Sudan.
262. S/RES/1261 (1999), OP 17(c), S/RES/1314 (2000), OP 15, S/RES/1379 (2001), OP 7 on CAAC.
263. S/RES/1539 (2004), OP 5(c), S/RES/1612 (2005), OP 9, S/RES/1882 (2009), OP 7(c), S/RES/1998 (2011), OP 9(b), S/RES/2068 (2012), OP 3(b), S/RES/2143 (2014), OP 10, S/RES/2427 (2018), OP 32 on CAAC.
264. S/RES/2093 (2013), OP 43(d) on Somalia, S/RES/2293 (2016), OP 7(d) on the DRC, S/RES/2374 (2017), OP 8(g) on Mali, S/RES/2399 (2018), OP 21(d) on the CAR, S/RES/2428 (2018) OP 14(f) on South Sudan.
265. S/RES/2093 (2013), OP 43(e) on Somalia, S/RES/2374 (2017), OP 8(f) on Mali, S/RES/2428 (2018) OP 14(d) on South Sudan.
266. S/RES/1820 (2008), OP 5, S/RES/1888 (2009), OP 10, S/RES/1960 (2010), OPs 3, 7, S/RES/2106 (2013), OP 13, S/RES/2242 (2015), OP 6 respectively, on WPS/CRSV; see also S/RES/2331 (2016), OPs 12–13 on human trafficking.
267. See S/RES/2106 (2013), OP 13, S/RES/2242 (2015), OP 6 on WPS/CRSV.
268. S/RES/1807 (2008), OP 13(e) on the DRC.
269. S/RES/2093 (2013), OP 43(e), S/RES/2444 (2018), OP 50 on Somalia, S/RES/2293 (2016), OP 7(e) on the DRC, S/RES/2374 (2017), OP 8(f) on Mali, S/RES/2399 (2018), OP 21(c) on the CAR, S/RES/2428 (2018), OP 14(e) on South Sudan, S/RES/2441 (2018), op. 11 on Libya.
270. S/RES/2339 (2017), OP 21(c) on the CAR, S/RES/2428 (2018), OP 14(e) on South Sudan, S/RES/2441 (2018), OP 11 on Libya, S/RES/2444 (2018), OP 50 on Somalia.
271. S/RES/2093 (2013), OP 43(e) on Somalia, S/RES/2374 (2017), OP 8(f) on Mali, S/RES/2428 (2018) OP 14(d) on South Sudan.

Peacekeepers conduct arms embargo inspections on Government forces in western Côte d'Ivoire, 2005.
Credit: UN Photo/Ky Chung

tions or abuses.[271]

IMPLEMENTATION

As important as it is at the normative level to consistently include PoC-related listing criteria in UN sanctions regimes, protection on the ground is only achieved through effective implementation and enforcement by the Council, relevant UN sanctions committees, panels of experts, and Member States.

The sanctions committees are mandated to designate individuals and entities who meet the listing criteria. They are also mandated to undertake activities like monitoring the implementation of the sanctions measures, considering requests for exemptions, establishing guidelines for implementation at the national level, assessing reports from panels of experts, monitoring groups and/or Member States on steps taken towards implementation, and/or reporting to the Council on their work.[272] To discharge their functions, the committees are supported by panels or groups of experts. While these bodies vary in size and mandate across the PoC-related sanctions regimes, a consistent feature of their mandates is the monitoring of the implementation of measures imposed by the Council and the provision of information relevant to the potential designation of individuals and entities who may be engaging in activities falling within their respective listing criteria.[273] Through the information supplied to the committee, they

272. S/RES/1591 (2005), OP 3(a) on Sudan, S/RES/1907 (2009), OP 18 on Somalia, S/RES/1970 (2011), OP 24, S/RES/2146 (2014), OP 13, S/RES/2213 (2015), OP 21 on Libya, S/RES/2127 (2013), OPs 57–58, S/RES/2134 (2014), OPs 31–32, S/RES/2399 (2018), OPs 14(c), 25–26, 40–41 on the CAR, S/RES/2140 (2014), OP 19, S/RES/2216 (2015), OP 20 on Yemen, S/RES/2206 (2015), OPs 16–17 on South Sudan, S/RES/2293 (2016), OPs 9, 32–36 on the DRC, S/RES/2374 (2017), OPs 9, 18 on Mali.

273. S/RES/1591 (2005), OP 3 on Sudan, S/RES/1973 (2011), OP 24 on Libya, S/RES/2140 (2014), OP 21 on Yemen, S/RES/2206 (2015), OP 18 on South Sudan, S/RES/2360 (2017), OP 6 on the DRC, S/RES/2374 (2017), OP 11 on Mali, S/RES/2399 (2018), OP 32 on CAR, S/RES/2444 (2018), OP 11 on Somalia.

OVERVIEW OF POC-RELATED DESIGNATION CRITERIA IN CURRENT UN SANCTIONS REGIMES

Sanctions regime	CAR	DRC	Libya	Mali	Somalia	South Sudan	Sudan	Yemen	Total
General PoC listing criterion (IHL/IHRL violations or human rights abuses; targeting of civilians)	✓ "planning, directing, or committing acts...that violate [IHRL] or [IHL]...or that constitute human rights abuses or violations, including those involving targeting of civilians, ethnic- or religious-based attacks, attacks on civilian objects, including administrative centers, courthouses, schools and hospitals, and abduction and forced displacement"	✓ "planning, directing, or committing acts...that constitute human rights violations or abuses or violations of [IHL]...including those acts involving the targeting of civilians, including killing and maiming, rape and other sexual violence, abduction, forced displacement, and attacks on schools and hospitals"	✓ "planning, directing, or committing, acts...that violate applicable [IHRL] or [IHL], or acts that constitute human rights abuses…"	✓ "planning, directing, or committing acts…that violate [IHRL] or [IHL]…or that constitute human rights abuses or violations, including those involving the targeting of civilians, including women and children, through the commission of acts of violence (including killing, maiming, torture, or rape or other sexual violence), abduction, enforced disappearance, forced displacement, or attacks on schools, hospitals, religious sites, or locations where civilians are seeking refuge")	✓ "being responsible for violations of applicable international law...involving the targeting of civilians including children and women in situations of armed conflict, including killing and maiming, sexual and gender-based violence, attacks on schools and hospitals and abduction and forced displacement"	✓ "planning, directig, or committing acts that violate applicable [IHRL] or [IHL], or acts that constitute human rights abuses...targeting of civilians, including women and children, through...acts of violence (including killing, maiming, or torture), abduction, enforced disappearance, forced displacement, or attacks on schools, hospitals, religious sites, or locations where civilians are seeking refuge, or...conduct that would constitute a serious abuse or violation of human rights or a violation of [IHL]"	✓ "…commit violations of international humanitarian or human rights law or other atrocities…"	✓ "planning, directing, or committing acts that violate applicable [IHRL] or [IHL], or acts that constitute human rights abuses…"	8
Attacks against humanitarian, UN or associated personnel or peacekeeping missions	✓ "UN missions…as well as…humanitarian personnel"	✓ "peacekeepers" or UN "personnel"	✓ UN "personnel"	✓ "peacekeepers and other UN and associated personnel"	✓ "acts that...threat-en...AMISOM or UNSOM by force"	✓ UN "missions…or humanitarian personnel"	○	○	6
Obstructing humanitarian assistance	✓ "obstructing the delivery of humanitarian assistance to..., or access to, or distribution of, humanitarian assistance"	✓ "obstructing the access to or the distribution of humanitarian assistance"	○	✓ "obstructing the delivery of humanitarian assistance to...or access to, or distribution of, humanitarian assistance"	✓ "obstructing the delivery of humanitarian assistance…or access to, or distribution of, humanitarian assistance"	✓ "delivery or distribution of, or access to, humanitarian assistance"	○	✓ "obstructing the delivery of humanitarian assistance…or access to, or distribution of, humanitarian assistance"	6
Use or recruitment of children in armed conflict (stand-alone)	✓ "recruiting or using children in armed conflict...in violation of applicable international law"	✓ "recruiting or using children in armed conflict...in violation of applicable international law"	○	✓ "the use or recruitment of children by armed groups or armed forces in violation of applicable international law, in the context of the armed conflict"	✓ "as being political or military leaders recruiting or using children in armed conflicts...in violation of applicable international law"	✓ "the use or recruitment of children by armed groups or armed forces in the context of the armed conflict"	○	○	5
Sexual and gender-based violence (SGBV) (stand-alone)	✓ "involved in planning, directing or committing acts involving [SGBV]"	○	✓ "planning, directing or committing acts involving [SGBV]"	○	✓ "planning, directing or committing acts involving [SGBV]"	✓ "planning, directing, or committing acts involving [SGBV]"	○	○	4

provide a glance "from the field", which can inform and meaningfully guide specific listing decisions.

While the Council, with the support of sanctions committees and panels of experts, can designate and streamline sanctions criteria and impose targeted sanctions, implementation is largely up to the enforcement of Member States. Over the years, the Council has increasingly urged States to report to the Council, the Secretary-General or the relevant sanctions committees on actions taken to implement existing sanctions regimes.[274] Going forward, increased consistency by the Council in designating sanctions criteria and imposing targeted sanctions, sanctions committees in designating individuals and entities based on these criteria, and Member States in enforcing relevant sanctions measures, will give full effect to the potential of sanctions to protect civilians by acting as both a response and possible deterrent against violations. More systematic requests by the Council to the High Commissioner for Human Rights and the SRSGs for SVC and CAAC to provide pertinent information to the relevant sanctions committees would further contribute to improving the operationalization of sanctions regimes based on PoC listing criteria.

C. MONITORING AND REPORTING: ENHANCING PROTECTION THROUGH INFORMATION

In order to inform, implement and enforce its decisions related to PoC, the Council has developed a number of different monitoring and reporting procedures and tools over the course of the past 20 years.

These have allowed the Council to better understand protection concerns, define priorities and optimize the PoC response, and have directly translated into enhanced protection of civilians on the ground not only through early warning, but also by fostering accountability and informing engagement with national authorities and parties to conflict. In the future, scaling up systematic data collection and evidence-based analysis and reporting on the impact of conflict through comprehensive mandates, matching resources and revitalized efforts to create a common UN information management system would contribute further to achieving effective protection of civilians by accurately informing the Council on pressing protection requirements and enabling adequate responses.

The Council has developed effective monitoring and reporting tools, inter alia, by requesting periodic and special reports from the Secretary-General and UN peace operations, as well as the inclusion of PoC-specific information in country reports to obtain detailed and up-to-date information on protection concerns in certain thematic and country-specific contexts. The Council has also set up working groups (e.g., with regard to CAAC) and expert groups (e.g., with regard to CRSV) as forums with dedicated resources and expertise to monitor and report to the Council on matters of PoC, including through specific recommendations to the Council on possible actions to enhance protection.[275] In addition, information and recommendations on strengthening PoC are provided by the Informal Expert Group on PoC.[276] Where UN sanctions regimes include PoC-related listing criteria, the existing special committees and expert panels also fulfil this role by monitoring the implementation of PoC-related sanctions and regularly reporting back to the Council on progress.[277] In the MRM and the MARA, the Council has created comprehensive monitoring and reporting mechanisms to provide the Council with detailed information on relevant violations, list violators on the basis of such information and develop action plans with violators to end, remedy and/or prevent violations.[278]

With regard to peace operations, monitoring and reporting plays an essential part in informing the Council of the emergence and evolution of specific protection requirements on the ground and in assessing the effectiveness of and defining the strategic priorities of the mission. All eight UN peacekeeping missions with a PoC mandate as well as AMISOM and PoC-related special political missions require regular reporting by the Secretary-General on the implementation of the mandate.[279] Twelve UN peace operations have a human rights mandate which includes, accord-

274. S/RES/1907 (2009), OP 20 on Somalia, S/RES/1970 (2011), OP 25, S/RES/1973 (2011), OPs 10–12, S/RES/2146 (2014), OP 7 on Libya, S/RES/2134 (2014), OP 42, S/RES/2293 (2016), OP 32 on the DRC, S/RES/2340 (2017), OP 15 on Sudan, S/RES/2374 (2017), OP 17 on Mali, S/RES/2399 (2018), OP 40 on the CAR.

275. See above under PART II.D., E.

276. See above under PART I.B.

277. See above under PART III.B.

278. See above under PART II.D., E.

279. See S/RES/2410 (2018), OP 4 on Haiti, S/RES/2423 (2018), OP 70 on Mali, S/RES/2429 (2018), OP 56 on Darfur, S/RES/2433 (2018), OP 25 on Lebanon, S/RES/2445 (2018), OP 33 on Abyei, S/RES/2448 (2018), OP 71 on the CAR, S/RES/2459 (2019), OP 38 on South Sudan, S/RES/2463 (2019), OP 46 on the

South Sudan integrated team visits site of recent attack on aid workers, 2017. Credit: UN Photo/Isaac Billy

ing to Secretariat policy, public reporting on human rights, with several missions mandated expressly by the Council to monitor and report on threats to civilians and/or violations of IHL or human rights violations and abuses.[280] Four UN peacekeeping operations specifically require the Secretary-General to report on progress made in fulfilling the PoC mandate.[281]

Human rights monitoring, civilian casualty recording, and civilian casualty-tracking capabilities can facilitate advocacy and contribute to a decrease in civilian casualties. This has been demonstrated by the civilian casualty recording and reporting conducted by UNAMA in Afghanistan[282] – an example of good practice that the Council might encourage other peace operations and actors to adopt as adapted to their specific circumstances. UNAMA's recording of and reporting on civilian casualties has facilitated crucial engagement with parties to

DRC (on peacekeeping missions); S/RES/2431 (2018), OPs 9, 55 on Somalia (on AMISOM); S/RES/2405 (2018), OP 44 on Afghanistan, S/RES/2421 (2018), OP 6 on Iraq, S/RES/2434 (2018), OP 7 on Libya, S/RES/2461 (2019), OP 22 on Somalia (on special political missions).

280. See S/RES/2363 (2017), OP 15(a)(x), S/RES/2429 (2018), OPs 11(i), 35, 38(a) on Darfur, S/RES/2410 (2018), OPs 1, 11 on Haiti, S/RES/2423 (2018), OPs 38(e)(ii) on Mali, S/RES/2445 (2018), OP 27 on Abyei, S/RES/2448 (2018), OPs 39(a)(ii), 40(d) on the CAR, S/RES/2459 (2019), OP 7(a)(iii), (c) on South Sudan, S/RES/2463 (2019), OP 29(i)(b), (c) on the DRC (on peacekeeping missions); S/RES/1244 (1999), OP 11(j) on Kosovo, S/RES/2404 (2018), OP 4(b) on Guinea-Bissau, S/RES/2405 (2018), PP 21, OPs 4, 6(e), S/RES/1662 (2006), OP 3, S/2006/145, para. 52(d) on Afghanistan, S/RES/2421 (2018), OP 2(d) on Iraq, S/RES/2434 (2018), OP 2(iii) on Libya, S/RES/2461 (2019), OP 1, S/RES/2158 (2014), OP 1(e) on Somalia (on special political missions); see also OHCHR, DPKO/DFS, DPA, *Public Reporting by Human Rights Components of United Nations Peace Operations,* September 2009.

281. S/RES/2459 (2019), OP 38 on South Sudan, S/RES/2423 (2018), OPs 70(i) on Mali, S/RES/2429 (2018), OP 56(ii) on Darfur, S/RES/2463 (2019), OP 46(i) on the DRC; see also S/RES/2448 (2018), OP 71 on the CAR, which requires reporting on IHL and human rights protection.

282. See SG PoC Report, S/2015/453, para. 54; see also Jacob Beswick and Elizabeth Minor, The *UN and Casualty Recording: Good Practice and the Need for Action,* Oxford Research Group, April 2014.

conflict on their behaviour. This engagement, in combination with measures adopted by parties to the conflict to reduce the impact of their operations on civilians, including through the establishment of dedicated civilian casualty tracking mechanisms, demonstrably mitigated civilian casualties in Afghanistan. Similarly, in the DRC, regular human rights reporting by the UN served as a basis for encouraging parties to conflict to improve their compliance with international law.[283] In Somalia, UN human rights risk assessments for Somali security forces and AMISOM operations informed measures to mitigate civilian casualties and prevent violations.[284]

In its latest resolution on AMISOM/Somalia, the Council welcomed the work of the Civilian Casualty Tracking, Analysis and Response Cell (requested by the Council to track and record civilian casualties since 2013) and underlined the importance of making it fully operational and effective without further delay.[285] It also underlined the importance of ensuring that information be shared with relevant actors including the UN, that it be integrated into AMISOM's reporting and that it feed into operational guidelines and plans. In the Council-endorsed operations by the G5 Sahel, the Council requested the establishment of a robust compliance framework to prevent, investigate, address and publicly report violations and abuses of IHL and IHRL related to the Joint Force of the G5 Sahel.[286]

In 2015, OHCHR proposed the *Human Rights Up Front Common United Nations Information Management System on Violations.* This proposal recognised that while the UN's "greatest strength lies in the comprehensive scope of its mandates, prompting UN entities to routinely collect and obtain information of incredible breadth and depth", this information often remains "in a large number of separate information collection systems and UN entities still operate largely within their own information silos". The *Human Rights Up Front Action Plan* therefore recommended, inter alia, to "review current monitoring and reporting and put forward recommendations to establish a common UN information management system" on serious violations of IHL and IHRL. The review was conducted by an inter-agency task force led by OHCHR through extensive consultations across UN entities and received widespread support across the UN. The result was a proposal for the establishment of a common UN information management system on serious violations. This system would maximize the impact of available information including through clear guidelines on roles, responsibilities and information-sharing practices, and integrate these practices into existing processes while respecting individual UN mandates and refraining from imposing a unique methodology for data collection or a single information technology solution. Thus far, the proposal has not yet reached the stage of implementation or operationalization.

Reliable, accurate and timely information on casualties and IHL/IHRL violations and human rights abuses is an essential component of allowing the Council to promote and pursue its PoC agenda. Information gathered at country level feeds inter alia into human rights public reporting and the Secretary-General's relevant country-specific and thematic reports, including on PoC, CAAC and CRSV. Such information can be used by the Council to understand protection concerns, define priorities and inform decisions to most effectively achieve the protection of civilians on the ground. It can also be used for advocacy and humanitarian diplomacy, including with parties to conflict, operational planning, deterrence and accountability efforts, as well as conflict analysis, prevention and response more generally. Recording casualties "can clarify the causes of harm to civilians as well as the actions needed to end such harm and prevent its recurrence"; therefore, such information management efforts "should be scaled up to systematically collect and analyse information and strengthen reporting on the protection of civilians across conflicts".[287]

> ***"Reliable information is essential to identifying trends, facilitating protection efforts, preventing violations and promoting accountability."***
>
> **Ban Ki-moon, eighth Secretary-General of the United Nations**

283. SG PoC Report, S/2016/447, para. 19.
284. SG PoC Report, S/2017/414, para. 31.
285. S/RES/2431 (2018), OP 20 on Somalia.
286. See S/RES/2391 (2017), OPs 17, 21–22 on the G5 Sahel; see also Report of the Secretary-General on the Joint Force of the Group of Five for the Sahel, S/2017/869, paras. 64–67; above under PART III.A.
287. See *SG PoC Reports,* S/2012/376, para. 28, S/2016/447, para. 19; see also *SG PoC Reports,* S/2004/431, paras. 46–47, S/2005/740, paras. 50–52, S/2013/689, para. 37, S/2015/453, paras. 66-67, S/2017/414, para. 31.

PART IV – RESPONDING TO VIOLATIONS BY FIGHTING IMPUNITY AND PROMOTING ACCOUNTABILITY

As stated by the Secretary-General in his 2001 PoC Report: "Internationally recognized standards of protection will be effectively upheld only when they are given the force of law, and when violations are regularly and reliably sanctioned."[288] Over the past 20 years, the Council has played a fundamental role in fighting impunity and ensuring accountability for violations of IHL, IHRL, IRL and human rights abuses. It has **(A.)** promoted and encouraged support for accountability mechanisms; **(B.)** created international and hybrid tribunals and investigative mechanisms; and **(C.)** referred situations to the International Criminal Court (ICC). While the Council's earlier work on accountability centred largely on the creation and activation of international justice mechanisms, over time, this focus has shifted towards the increased promotion of national and regional accountability mechanisms. Although support for the achievement of accountability at the national and regional levels is of principal and paramount importance, where such accountability is not achieved, international and hybrid accountability mechanisms should more proactively be leveraged in order to realize their full potential in contributing to the fight against impunity.

A. PROMOTING NATIONAL AND INTERNATIONAL ACCOUNTABILITY

The Council's promotion of accountability has formed an important component of many of its thematic resolutions on PoC.[289] At the core of this promotion was the Council's ***emphasis on States' responsibility*** and obligations under international law to end impunity and investigate and prosecute those responsible for genocide, crimes against humanity and serious violations of IHL. The Council stressed the importance of accountability for individual responsibility but also for peace, truth, reconciliation, victims' rights and the prevention of future abuses, and urged States to employ the full range of transitional justice mechanisms including criminal tribunals, truth and reconciliation commissions, reparation programs and institutional reforms. It emphasized the contributions of the ICC and other international, hybrid and national criminal tribunals to fighting impunity and ensuring accountability and stressed the obligations of States to cooperate fully with these mechanisms in accordance with their obligations. It further affirmed the possibility of using the International Fact-Finding Commission under Article 90 of the First Additional Protocol to the Geneva Conventions.

The Council's thematic resolutions have also dealt with accountability for violations pertaining specifically to the humanitarian and medical missions and to women and children. The Council has stressed States' responsibility to investigate and prosecute those responsible for attacks against UN and humanitarian personnel and assets as well as medical personnel, assets and facilities, and emphasized that deliberate attacks against them amount to war crimes.[290] On CAAC, the Council issued a resolution on accountability in 2012, calling on Member States to bring to justice perpetrators through national and international justice mechanisms and requesting the CAAC Working Group to consider options for increasing pressure on those responsible.[291] In 2014, the Council called for the exclusion of egregious crimes against children from amnesty laws and perpetrators from army ranks, and stressed the contributions of the ICC.[292] On CRSV, the Council adopted a resolution on accountability in 2013, promoting inclusion of the full range of CRSV-related crimes in national legislations and conducting effective investigations and documentation to ensure access to justice for survivors.[293] It also highlighted the range of transitional justice measures and the contributions of international, hybrid and national courts and tribunals.

Over the past decade, the Council has increasingly translated its promotion of accountability into its ***country-specific resolutions.***

288. *SG PoC Report,* S/2001/331, para. 9.
289. S/RES/1265 (1999), OP 6, S/RES/1674 (2006), OPs 7–8, S/RES/1738 (2006), PP 6, OP 7, S/RES/1894 (2009), OPs 9–11, S/RES/2175 (2014), PPs 8–9, S/RES/2222 (2015), PP 16, OPs 5–6, S/RES/2286 (2016), PPs 16, 18, OPs 7–9, S/RES/2417 (2018), PP 20, OP 10 on PoC.
290. S/RES/1265 (1999), OP 9, S/RES/1502 (2003), PP 5, S/RES/1674 (2006), OP 23, S/RES/2175 (2014), PPs 7–8, S/RES/2286 (2016), PPs 17–18, OPs 7–9, S/RES/2417 (2018), PP 14, OP 10 on PoC.
291. S/RES/2068 (2012), PP 10, OPs 3, 5 on CAAC, adopted by a vote of 11 in favour to none against with four abstentions (Azerbaijan, China, Pakistan and Russia), was the first Council resolution on CAAC that was not adopted unanimously.
292. S/RES/2143 (2014), PP 9, OPs 11–12 on CAAC.
293. S/RES/2106 (2013), PP 4, OPs 2–4 on WPS/CRSV.

Permanent Premises of the International Criminal Court, 2016. Credit: UN Photo/Rick Bajornas

It has stressed the need to end impunity by bringing perpetrators to justice, emphasized the importance of prompt, transparent and comprehensive independent and/or impartial investigations, and recalled that violations of applicable international law may amount to war crimes.[294] It has focused significantly on the ***promotion of accountability through international mechanisms,*** highlighting the importance of strengthening international investigations and cross-border judicial cooperation in identifying and prosecuting perpetrators, welcoming the establishment of international commissions of inquiry, and promoting cooperation with the ICC.[295] However, the Council's focus has gradually shifted towards increasingly ***promoting national and hybrid accountability mechanisms.*** The Council has welcomed and urged the establishment of and authorized and encouraged the provision of support to the operationalization of national and regional ad hoc jurisdiction and transitional justice mechanisms such as special criminal courts in the CAR and Darfur, a hybrid court with the AU in South Sudan, and truth and reconciliation commissions in Mali, South Sudan and Côte d'Ivoire.[296] Regarding the implementation of effective investigations, the Council has welcomed the estab-

294. See S/RES/2339 (2017), PPs 14–15, S/RES/2387 (2017), PP 11, OP 24 on the CAR, S/RES/2349 (2017), OP 1 on the Lake Chad Basin, S/RES/2363 (2017), PPs 13, 28, OPs 31, 34 on Darfur, S/RES/2364 (2017), PPs 9, 16, 30, 37, OP 38 on Mali, S/RES/2367 (2017), PPs 8, 11 on Iraq, S/RES/2393 (2017), PP 25 on Syria, S/RES/2409 (2018), PPs 11, 13, 24, OP 15 on the DRC (on ending impunity); S/RES/2051 (2012), OP 7 on Yemen, S/RES/2367 (2017), PP 8 on Iraq, S/PRST/2017/22, para. 17 on Myanmar, S/RES/2409 (2018), OP 14 on the DRC (on effective investigations); S/RES/2165 (2014), PP 10, OP 8 on Syria, S/RES/2277 (2016), OP 11 on the DRC, S/RES/2387 (2017), OP 24 on the CAR (on war crimes).

295. S/RES/2349 (2017), OP 13 on the Lake Chad Basin (on international cooperation); S/RES/1975 (2011), OP 8 on Côte d'Ivoire, S/RES/2423 (2018), PP 23, OP 15 on Mali (on investigative mechanisms); S/RES/2387 (2017), OPs 24–25, 43(e)(xi) on the CAR, S/RES/2409 (2018), PP 17, OP 36(i)(f) on the DRC, S/RES/2423 (2018), PP 22, OP 61 on Mali (on cooperation with the ICC).

296. S/RES/2173 (2014), PP 18 on Darfur, S/RES/2164 (2014), OP 9, S/RES/2423 (2018), PP 23 on Mali, S/RES/2217 (2015), PPs 13–14, OPs 11, 13, 32(g), S/RES/2387 (2017), PPs 11, 13, OPs 17, 20, 43(e)(v)–(ix) on the CAR, S/PRST/2016/1, para. 8, S/RES/2290 (2016), PP 23, S/RES/2406 (2018), PPs 19–

lishment of national or regional investigative committees and commissions of inquiry.[297] It has also welcomed the promulgation of national laws, for example, the DRC's legislation excluding amnesty for genocide, war crimes, crimes against humanity, or gross violations of human rights.[298]

The Council has provided significant support to national accountability mechanisms through the mandates and support of ***UN peace operations.*** Currently, most active peacekeeping missions with a PoC mandate as well as several special political missions are required to conduct rule of law, transitional justice and human rights capacity-building activities in support of national Governments and other national and regional actors.[299] Mandated activities of UN peacekeeping missions include supporting the work of the Truth, Justice and Reconciliation Commission in Mali and providing technical, operational and capacity-building assistance to the authorities in operationalizing the Special Criminal Court and identifying, investigating and prosecuting perpetrators of violations of IHL and human rights violations and abuses before the court in the CAR.[300] Activities further include supporting the activities of the Intergovernmental Authority on Development-mandated Ceasefire and Transitional Security Arrangements Monitoring and Verification Mechanism to promote peace and reconciliation in South Sudan, where the Secretary-General has also been requested by the Council to make available technical assistance in setting up the Hybrid Court for South Sudan and the establishment of the Commission for Truth, Reconciliation and Healing.[301] In Darfur, the mission is mandated among other activities to help strengthen transitional justice and human rights institutions, including the Special Court for Darfur, criminal justice institutions and rural courts through the provision of advice and logistical support.[302]

While rule of law and human rights capacity-building activities have long been included in the mandates of UN peace operations, over the years the Council has demonstrated a gradual shift towards a heightened focus on the support to such local accountability mechanisms and away from the promotion of accountability through international procedures and mechanisms.

B. ESTABLISHING INTERNATIONAL TRIBUNALS, HYBRID COURTS AND INVESTIGATIVE MECHANISMS

On numerous occasions over the years, the Council has established accountability mechanisms, including international and hybrid tribunals and investigative mechanisms.

INTERNATIONAL TRIBUNALS AND MECHANISMS

In 1993 and 1994, the Council took the historical step of establishing first the International Criminal Tribunal for the Former Yugoslavia ***(ICTY)*** and then the International Criminal Tribunal for Rwanda ***(ICTR).***[303] The tribunals were created ad hoc to prosecute persons responsible for serious violations of IHL in the regions during specified time frames, and were in each case preceded by ad hoc impartial commissions of inquiry.[304] The Council required that all States cooperate with the tribunals – including their requests and orders for judicial assistance – and take any necessary measures under domestic law to implement the statutes designed specifically for the tribunals, which granted the courts concurrent jurisdiction with primacy over national courts. Although the creation of the tribunals predated the PoC agenda, the vast majority of their activity took place after the agenda was established.

Since then, the Council has repeatedly reinforced its support for the tribunals, stressed their important contributions towards achieving accountability and reconciliation, and reminded States of their obligation to cooperate with them.[305] In 2010, reaffirming its determination to combat impunity and bring to justice all persons indicted by the tribunals, it established the International Residual Mechanism for Criminal Tribunals (MICT) to carry out a number of the tribunals' essential functions after their closure, including the trial of fugitives that are among the most senior leaders suspect-

20, OPs 27–29, 34 on South Sudan, S/RES/2284 (2016), PP 9, OP 10 on Côte d'Ivoire.

297. S/RES/2025 (2011), PP 11 on Liberia, S/RES/2284 (2016), OP 10 on Côte d'Ivoire, S/RES/2290 (2016), PP 22, S/RES/2406 (2018), PP 20 on South Sudan.
298. S/RES/2147 (2014), PP 27 on the DRC.
299. See S/RES/2363 (2017), OP 15(a)(vii)–(ix), (b)–(c) on Darfur, S/RES/2410 (2018), PP 5, OPs 1–2 on Haiti, S/RES/2423 (2018), OPs 38(a)–(e) on Mali, S/RES/2448 (2018), OPs 39(b), 40(a)–(b), (d)–(e) on the CAR, S/RES/2459 (2019), OPs 7(a)(vi), (d), 13 on South Sudan, S/RES/2463 (2019), OPs 29(i)(f)–(g), (ii)(a), 30(i)(a), (ii) on the DRC (on UN peacekeeping missions); S/RES/2405 (2018), OP 7(b) on Afghanistan, S/RES/2421 (2018), OP 2(a)–(d) on Iraq (on special political missions).
300. S/RES/2423 (2018), OPs 38(a)(iii) on Mali, S/RES/2448 (2018), OP 40 (e)(v)–(ix) on the CAR.
301. S/RES/2459 (2019), OPs 7(d)(ii), 16, 32 on South Sudan.
302. S/RES/2363 (2017), OP 15(a)(vii) on Darfur.
303. S/RES/827 (1993) on the ICTY, S/RES/955 (1994) on the ICTR.
304. See S/RES/780 (1992) on the former Yugoslavia, S/RES/935 (1994) on Rwanda.
305. S/RES/1329 (2000), PPs 2–3, OP 5, S/RES/1503 (2003), PPs 3–6, OPs 2–3, S/RES/1534 (2004), PPs 5–7, OPs 1–2, S/RES/1966 (2010), PP 3, S/RES/2193 (2014), OP 2, S/RES/2247 (2015), OP 1, S/RES/2256 (2015), PP 1, OPs 2, 4.

ed of perpetrating relevant crimes.[306] The Council required States to take any measures necessary under their domestic law to implement the MICT and called for States to fully cooperate with the MICT, including through compliance with requests for assistance or orders issued by it in accordance with its statute.[307]

The ICTR, ICTY and MICT have significantly contributed to achieving accountability for the most serious IHL and IHRL violations committed against civilians in situations of armed conflict. The jurisprudence of the ICTY and the ICTR has also led to significant advances in international criminal law and paved the way for States' adoption of the Rome Statute and the establishment of the ICC, a permanent forum for the prosecution of individuals for crimes falling within the Court's complementary jurisdiction.

HYBRID COURTS AND TRIBUNALS

In addition to the establishment of international tribunals and mechanisms, the Council has requested the Secretary-General to negotiate the creation of hybrid courts. These bodies, each containing its own idiosyncratic features, represent an eclectic mix of national and international elements, both in their creation, personnel, and applicable law.

In the context of PoC, the Council established a ***hybrid court in Sierra Leone*** upon request of the President of Sierra Leone. In 2000, the Council directed the Secretary-General to negotiate an agreement with the Government of Sierra Leone to set up an independent special court to prosecute crimes against humanity, war crimes and other serious violations of IHL or relevant Sierra Leonean law committed in the territory of Sierra Leone.[308] The Special Court for Sierra Leone was established in January 2002, and the Council subsequently called consistently on Member States to cooperate with the court and provide it with the necessary financial resources.[309] In 2006, the Council endorsed the creation of a Trial Chamber of the court on the premises of the ICC in the Netherlands to exercise its functions away from the seat of the court in order to safely detain and try former Liberian President Charles Taylor, and requested all States to cooperate to this end.[310] It also exempted any travel necessary for the trial or execution of the judgment from the then-existing sanctions regime. In 2010, it called on all States to cooperate with and render assistance to the court and to INTERPOL in apprehending and bringing Johnny Paul Koroma to justice.[311]

In August 2010, the Residual Special Court for Sierra Leone was established to carry out residual functions of the court after its closure. In April 2012, Charles Taylor was found guilty of aiding and abetting two non-State armed groups in the commission of war crimes and crimes against humanity. The judgment was a significant milestone for international criminal justice, as it marked the first conviction of a former Head of State by an international criminal tribunal for war crimes and crimes against humanity.

INVESTIGATIVE MECHANISMS

A preliminary step in the effort to ensure accountability is the collection of evidence regarding the perpetration of violations of IHL and IHRL. On several occasions, the Council has become instrumental in the establishment of investigative mechanisms to examine reports of violations.

In 2004, the Council requested the Secretary-General to establish ***the International Commission of Inquiry for Darfur*** to investigate reports of violations of IHL and IHRL, determine whether acts of genocide had occurred and identify the perpetrators to ensure accountability.[312] The Council subsequently called on all parties to cooperate fully with the commission and requested increased deployment of human rights monitors to Darfur.[313] In 2005, after the commission had reported that certain individuals were responsible for serious violations of IHL and IHRL, including crimes against humanity and war crimes, the Council decided, on the commission's recommendation, to refer the situation in Darfur to the ICC.[314] This exemplified that commissions of inquiry can be an important first step towards ensuring accountability by signalling that victims will not be ignored and paving the way for formal national or international judicial proceedings. Similarly, the ICTY and the ICTR were also preceded by the establishment of ad hoc fact-finding commissions.[315]

306. S/RES/1966 (2010), PP 6, OP 1 on the MICT; see also S/RES/2193 (2014), PP 1, S/RES/2256 (2015), PP 1.
307. S/RES/1966 (2010), OP 9 on the MICT; see also S/RES/2247 (2015), OP 1 on Bosnia and Herzegovina.
308. S/RES/1315 (2000), PP 8, OPs 1, 2 on Sierra Leone.
309. S/RES/1562 (2004), PP 9, S/RES/1620 (2005), PP 7, S/RES/1734 (2006), PP 10 on Sierra Leone.
310. S/RES/1688 (2006), OPs 1–4, 9 on Sierra Leone.
311. S/RES/1940 (2010), PPs 8–9 on Sierra Leone.
312. S/RES/1564 (2004), OP 12 on Darfur.
313. S/RES/1574, OPs 15–16 on Darfur.
314. S/RES/1593 (2005), OP 1 on Darfur.
315. S/RES/780 (1990) on the former Yugoslavia, S/RES/935 (1994) on Rwanda.

In 2013, the Council requested that the Secretary-General establish ***the International Commission of Inquiry for the CAR*** including experts in IHL and IHRL to investigate reports of violations of applicable international law in the CAR since January 2013.[316] The Council requested that the commission compile information, help identify perpetrators, point to their possible criminal responsibility and help ensure that those responsible are held accountable. It called on all parties to cooperate fully with the commission and requested the Secretary-General to report to the Council on the commission's findings. It also requested the Secretary-General, in conjunction with the High Commissioner on Human Rights, to increase the number of human rights monitors deployed in the CAR. In 2014, the Council welcomed the establishment of the International Commission of Inquiry and called for full cooperation therewith by all relevant parties.[317] Subsequently, the Council repeatedly took note of the reports of the commission and mandated the UN peace operation in the country to support the commission's activities.[318]

In 2015, the Council requested the establishment of the ***OPCW-UN Joint Investigative Mechanism*** to identify persons involved in the use of chemical weapons in Syria where the OPCW Fact-Finding Mission determined that a specific incident likely involved the use of chemical weapons.[319] It called for full cooperation through the Syrian Government and all parties in Syria – including through full access to relevant locations, individuals and materials – and other States, including through the provision of relevant information. It also requested the Fact-Finding Mission to collaborate with the Mechanism by providing full access to previously gathered information and evidence. Subsequently, the Council encouraged the Mechanism to consult appropriate UN counter-terrorism and non-proliferation bodies to exchange information on non-State actor involvement and to engage relevant regional States and reaffirmed the need for full cooperation.[320] The mandate of the Mechanism lapsed in November 2017, after a mandate renewal was blocked by a Russian veto at the Council.

316. S/RES/2127 (2013), OPs 24–26 on the CAR.
317. S/RES/2134 (2014), OP 19 on the CAR.
318. S/RES/2149 (2014), PP 11, OP 30(e)(iii), S/RES/2196 (2015), PP 10, S/RES/2217 (2015), PP 10, OP 32(e)(iii), S/RES/2301 (2016), PP 10, S/RES/2387 (2017), PP 8 on the CAR.
319. S/RES/2235 (2015) on Syria; see also S/RES/2314 (2016), S/RES/2319 (2016) on Syria; above under PART II.A.
320. S/RES/2319 (2016), OPs 4–5, 7 on Syria.

In 2017, the Council established an ***investigative team to collect, preserve and store evidence of war crimes, crimes against humanity and genocide committed by ISIL*** in Iraq to ensure the broadest possible use before national courts, complementing domestic accountability efforts by the Iraqi authorities or authorities in third countries at their request.[321] The Council called for cooperation by States through legal assistance, information exchange and contribution of funds, equipment, services and expert personnel. While the establishment of the investigative team was a welcome development, the limitation of the scope of the investigation to ISIL crimes – as opposed to all parties to the conflict – has repeatedly been criticized.

C. REFERRING CASES TO THE INTERNATIONAL CRIMINAL COURT

In addition to promoting accountability and creating international or hybrid accountability mechanisms, the Council has also referred cases to the ICC.

In 2005, the Council referred "the ***situation in Darfur*** since 1 July 2002" to the ICC.[322] Six years later, in 2011, the Council referred "the ***situation in the Libyan Arab Jamahiriya*** since 15 February 2011" to the prosecutor of the ICC.[323] In each case, the Council required the national authorities (and in Sudan all other parties to the conflict) to cooperate fully with and provide any necessary assistance to the court and the prosecutor and, while recognizing that States not party to the Rome Statute have no obligations under the Statute, urged all States and concerned regional and international organizations to do the same. It stressed that nationals, current or former officials or personnel from a contributing State outside Sudan or, respectively, Libya, that was not a party to the Rome Statute would be subject to the exclusive jurisdiction of that State unless the State had expressly waived such jurisdiction. In each case, the prosecutor of the ICC was invited to address the Council every six months on actions taken in the respective situation.

In the case of Darfur, after the prosecutor of the ICC applied for an arrest warrant against President Omar Hassan al-Bashir on

321. S/RES/2379 (2017), OPs 2, 10–11, 14 on Iraq.
322. S/RES/1593 (2005), OP 1 (the resolution was adopted with the United States abstaining).
323. S/RES/1970 (2011), OPs 4 on Libya (the United States voted in favour of the resolution).

charges of genocide, crimes against humanity and war crimes, the Council considered (on request of the AU), but ultimately did not exercise its powers under Article 16 of the Rome Statute to defer a prosecution.[324] No further Council resolutions on Darfur have addressed the ICC referral. Over 13 years after the original referral by the Council, none of the five suspects in the Darfur situation have been arrested or surrendered to the Court; the process suffers from a lack of cooperation from States and the Council has repeatedly been criticized by the ICC Prosecutor for its inaction.[325]

In the case of Libya, the Council has repeatedly reaffirmed its decision and stressed the need for cooperation to ensure that those responsible for violations of human rights and IHL, including attacks targeting the civilian population, are held to account.[326] It also referenced a decision by the pre-trial chamber finding non-compliance of the Libyan authorities with the court's requests to, inter alia, surrender Saif Al-Islam Gaddafi to the court and a request by the prosecutor to the pre-trial chamber for such surrender, and reinforced its call on the Libyan Government to cooperate fully and provide any necessary assistance to the ICC and the prosecutor.[327]

Deterrence and prevention of crime require the full commitment of the international community to support the quest for justice and accountability. Possible measures include establishing, financing and operationalizing mechanisms to address impunity, truth and reconciliation, and adapting and implementing national legislation to ensure a fair and credible judiciary for effective investigation and prosecution of perpetrators in compliance with IHL and international criminal law, including universal jurisdiction and mechanisms for cooperation on evidence gathering and extradition.[328] Although the Council has contributed fundamentally to the fight against impunity and the achievement of accountability over the past 20 years, much more remains to be done. While providing support and assistance to national accountability mechanisms is essential in allowing States primarily responsible for prosecuting perpetrators of IHL and IHRL violations and human rights abuses on their territory, international accountability mechanisms should be more proactively established, used and supported where accountability at the national level cannot be achieved.

"Accountability has taken root in our collective consciousness."

António Guterres, Secretary-General of the United Nations

324. See S/RES/1828 (2008), PP 9 on Darfur; the resolution was adopted with the United States abstaining.
325. See, e.g., *Twenty-Eight Report of the Prosecutor of the International Criminal Court to the United Nations Security Council Pursuant to UNSCR 1593 (2005),* December 2018, paras. 3–4, 16.
326. S/RES/1973 (2011), PP 14, S/RES/2009 (2011), PP 3, S/RES/2016 (2011), PP 6, S/RES/2040 (2012), PP 6, S/RES/2095 (2013), PP 6, S/RES/2144 (2014), PP 11, S/RES/2174 (2014), PP 5, S/RES/2213 (2015), PP 8, S/RES/2259 (2015), PP 18 on Libya.
327. See S/RES/2095 (2013), OP 4, S/RES/2144 (2014), OP 3, S/RES/2213 (2015), PP 8, OP 7, S/RES/2238 (2015), PP 13, OP 10, S/RES/2259 (2015), PP 18 on Libya.
328. See *SG PoC Report,* S/2001/331, paras. 9–13.

PART V – OBSERVATIONS AND RECOMMENDATIONS

A. OBSERVATIONS: OVERARCHING TRENDS IN THE EVOLUTION OF THE PROTECTION OF CIVILIANS AGENDA

In 1999, the Council's first resolution on PoC – resolution 1265 – set the parameters of what remain today the building blocks of PoC: compliance with IHL, IHRL, IRL and relevant Council decisions in situations of armed conflict; mitigation of the impact of hostilities on persons and objects protected under IHL; facilitation of access to humanitarian assistance; protection of forcibly displaced persons, women and children; provision of protection through UN peace operations; and response to violations through targeted measures and the promotion of accountability. Since this very first thematic resolution on PoC, the Council's work has centred around substantiating and building out the PoC framework, gradually reinforcing and strengthening its architecture through thematic resolutions and integrating it into live protection contexts by streamlining corresponding language into country-specific resolutions and statements with ever-increasing consistency and diligence. Over the past 20 years, five major trends have emerged and carried their way through the Council's work in engineering and tailoring the PoC framework:

Prioritization of PoC on the Council's agenda and the emergence of a PoC culture across the United Nations

Over the years, the Council has gradually elevated PoC to become one of its main priorities in ensuring international peace and security. In its last two presidential statements on PoC adopted in 2015 and 2018, the Council proclaimed PoC to be "one of the core issues on its agenda" and expressed its intention to continue addressing the issue regularly, both in country-specific considerations and as a thematic item.[329] The prioritization of PoC is evident in the context of peace operations, where the Council decided as early as 2006 that mandated protection activities were to be "given priority in decisions about the use of available capacity and resources".[300] But it is also evident in Council-mandated sanctions regimes, monitoring and reporting processes and accountability measures, in which PoC considerations have increasingly become a central and driving force. The prioritization of PoC is further manifested in the Council's now well-established practice of considering the Secretary-General's recommendations on PoC annually and in the context of open debates. By placing PoC at the heart of both its thematic and relevant country-specific work and fostering the engagement of the larger UN community with the agenda, the Council has gradually elaborated a culture of PoC not only at the Council, but across the United Nations and its membership.

329. S/PRST/2015/23, para. 4, S/PRST/2018/18, para. 1 on PoC.
330. S/RES/1674 (2006), OP 16; see also S/RES/1894 (2009), OP 19 on PoC.

Specificity, detail and prescriptiveness

Over time, the Council's protection language has grown increasingly specific and detailed across the spectrum of its PoC engagement. Not only has the Council reiterated the legal and normative obligations of parties and other actors during armed conflicts, but it has done so with an increasing degree of specificity – both for the substance of the obligations and for their performance. The Council's detailed and prescriptive language permeates the themes and tools of PoC and demonstrates the Council's focused engagement with the agenda. It exhibits a trend towards more targeted expectations of the Council to achieve particular results, conceivably stemming from an increasingly systematic and field-focused feedback loop between the Council and protection actors, both at Headquarters and on the ground. It is likely also a reflection of the Council's frustration at the lack of compliance by the addressees of its statements and decisions, whom the Council thus seeks to push towards action through increasing prescriptiveness. On the one hand, the Council's specificity, detail and prescriptiveness contributes to a more robust normative framework and oftentimes more clarity on mandated tasks and expected results; on the other, it can lead to a disconnect between the multitude of required tasks and overarching, long-term objectives, and undermine operational and tactical flexibility, particularly in the mandates of some peace operations.

Development of a toolkit to foster change on the ground

The Council has developed a robust toolkit to translate the normative PoC framework into actual protection activity on the ground. Peace operations have been provided with comprehensive, whole-of-mission protection mandates informing every

step of the mission's life cycle, from planning and operationalization to performance assessment and drawdown. Sanctions regimes have been equipped with explicit and detailed sanctions criteria pertaining to IHL and IHRL violations and human rights abuses, including stand-alone criteria for the obstruction of humanitarian assistance, attacks against UN and humanitarian workers, violations against children and CRSV. Monitoring and reporting mechanisms such as human rights monitoring, casualty recording and reporting, the MRM and the MARA, and reporting channels including via the Secretary-General, UN peace operations, working groups, committees and panels of experts, have created a feedback loop between the Council, Headquarters and the field enabling more informed, targeted and effective protection activity. To combat impunity, the Council has created international tribunals, mandated the creation of hybrid courts, established commissions of inquiry and referred cases to the ICC, though gradually shifting its focus of support from international accountability to national justice mechanisms.

Consistency

Consistency in addressing protection concerns in relevant contexts and in the method and manner of addressing them is important to achieve clarity of standards and predictability of expectations and thereby an overall stronger and more coherent PoC agenda. Particularly over the course of the past decade, increased consistency can be observed in the streamlining of protection language in country-specific contexts, likely influenced by the expansion in scope and use of the aide-memoire in informing Council deliberations in advance of resolutions. Such consistency is particularly evident in those country-contexts where peacekeeping missions with strong PoC mandates are present. This is perhaps the natural result of the regular review of these mandates, in the context of which they are extensively scrutinized by Council members in consultation with UN protection actors both at Headquarters and at the field level, with recommendations for stronger protection language relayed to the Council through the Informal Expert Group on PoC in advance of its deliberations. These are also, of course, contexts in which a political consensus to establish a peace operation was reached in the first place. Unsurprisingly, the consistent increase in resolute protection language is less noticeable in strongly politicized contexts, with exceptions such as the Council's decisions on humanitarian access in Syria. The Council's consistency can vary greatly between contexts, depending on Council dynamics and the degree of the situation's politicization, and an existing "base line" of protection language has yet to be mainstreamed across all relevant protection contexts.

Fragmentation of the agenda

While the first decade of the Council's PoC engagement was characterized by a series of holistic thematic resolutions on PoC, over the course of the second decade, the Council increasingly dedicated specific resolutions to sub-themes of the agenda, including the protection of UN and humanitarian personnel, journalists and medical care and the efforts against the proliferation of small arms and light weapons and food insecurity in armed conflict. Other themes of PoC, including the conduct of hostilities, humanitarian assistance and forced displacement, were mainly addressed in country-level resolutions and thereby in a context-specific, rather than a comprehensive manner. Dedicated discussions on particular sub-themes of PoC are important, as they facilitate the detailed and comprehensive consideration of certain issues, which may result in more purposeful and targeted outcomes. They also have the potential to create strong mandates and robust toolkits, as exemplified by the CAAC and WPS agendas.

However, dedicated thematic resolutions on individual sub-themes also run the risk of fragmenting the agenda by isolating interconnected issues from a greater vision of comprehensive, integrated protection. They risk creating a PoC "à la carte", where different categories of civilians receive different levels of attention and the importance and urgency of achieving progress on overarching issues such as upholding and enhancing respect for IHL or accountability become a second-tier preoccupation. This risk can be exacerbated by requests to the Secretary-General to regularly report on specific sub-themes, somewhat constraining the flexibility of the PoC Report and the ability to report on other pressing and emerging issues. As new challenges in armed conflict – such as urban warfare, hunger, counter-terrorism, climate change and the environment – continue to arise and permeate the global protection sphere, it is important to make progress where political consensus can be reached, but also to ensure that every step of progress contributes to a coherent protection agenda. On the twentieth anniversary of PoC, the Council might consider taking advantage of the momentum to take actions towards reunifying, or at least reaffirming, the unity of the PoC agenda.

B. RECOMMENDATIONS: TOWARDS A MORE CONSISTENT AND PREDICTABLE APPROACH TO THE PROTECTION OF CIVILIANS

Over the last 20 years, the Council has accumulated an increasingly robust repertoire of good practice in promoting and strengthening the protection of civilians, both through its resolutions and statements, as well as through the use of its "toolkit" to foster effective change on the ground, thereby gradually instilling a culture of PoC at the Council and across the United Nations and its Member States.

While plenty of good practice exists, the Council's approach to the protection of civilians can be inconsistent both within and across contexts. This means that protection concerns do not always receive the attention they deserve, or that such attention is not sufficiently sustained. Moreover, while every situation is unique and must be addressed on its own terms, there are specific issues and areas of concern that are relevant across all contexts and which should be addressed accordingly by the Council.

Going forward, therefore, the challenge before the Council is to ensure ***greater consistency in its approach*** to the protection of civilians across and within all relevant contexts, including ensuring that the following "base line" of issues and concerns is routinely addressed:

Enhancing compliance with international law in the conduct of hostilities –

- respect for the IHL principles of distinction, proportionality and precautions and the prohibition against indiscriminate attack;
- the direct responsibility of armed groups to respect IHL and human rights and the need for all relevant actors to engage with armed groups to improve compliance with international law;
- the obligation of Member States to respect and ensure respect for IHL;
- the need for national and operational policies and practices to implement parties' obligations.

Facilitating access to humanitarian assistance and medical care –

- the prohibition against arbitrarily withholding consent to impartial humanitarian relief operations for civilians in need;
- the obligation to allow and facilitate rapid and unimpeded passage of humanitarian relief supplies, equipment and personnel;
- the importance of engaging with armed groups for the provision of impartial humanitarian and medical assistance, and of States refraining from adopting measures that inhibit such engagement;
- the obligation to respect and protect humanitarian and medical personnel, assets and facilities.

Preventing and responding to forced displacement –

- the prohibition against and the need to prevent forced displacement;
- the need for effective strategies as well as national legal and policy frameworks to ensure the protection of refugees and IDPs in line with the Guiding Principles of Internal Displacement, the facilitation of durable solutions including voluntary, safe and dignified return, local integration or resettlement, and the resolution of housing, land and property issues.

Protecting children affected by armed conflict –

- respect for and promotion of the human rights of children and the prohibition of the six grave violations against children.

Protecting women affected by armed conflict and combating conflict-related sexual violence –

- respect for and promotion of the human rights of women and the prohibition of conflict-related sexual violence.

In addition, in order to enhance the ***protection of civilians on the ground,*** the Council should:

In relation to UN peace operations –

- accord priority to PoC in the mandates of relevant peace operations while providing
  - *focused mandates with clear, sequenced and phased tasks;*
  - *requisite human, logistical and tactical capacity and resources;*
  - *sufficient links to the mission's overall long-term objectives; and*
  - *a degree of operational flexibility;*
- where robust use-of-force mandates are granted, ensure the provision of appropriate guidance and training as well as comprehensive measures minimizing risks for civilians and addressing the mitigation of civilian harm;
- promote effective and accountable performance in the implementation of PoC mandates, including through consistent performance indicators across peace operations;
- leverage the potential of special political missions to protect civilians by establishing them in contexts with pressing protective concerns and including explicit PoC criteria in their mandates.

In relation to UN sanctions regimes –

- consistently include and apply the following PoC-related criteria across relevant sanctions regimes, including in the form of stand-alone listing criteria: (a) IHL and IHRL violations and human rights abuses; (b) obstructions of access to or the delivery or distribution of humanitarian or medical assistance; (c) attacks against UN and associated personnel or humanitarian or medical personnel, assets and facilities; (d) forced displacement; (e) grave violations against children; and (f) sexual or gender-based violence;
- make greater use of targeted sanctions to deter and contain violations and consistently enforce and urge Member States to implement and enforce existing sanctions regimes and report to the relevant sanctions committees on actions taken towards implementation and enforcement.

In relation to monitoring and reporting processes –

- urge parties to conflict, including in multinational operations, to establish and implement civilian casualty tracking as proven means of informing military strategy to reduce civilian harm;
- request and ensure adequate resources for more extensive civilian casualty recording and human rights reporting from UN peace operations, in line with UNAMA best practice;
- encourage UN actors to implement a more efficient information management system across entities and data collection methodologies including clear guidelines on roles, responsibilities and information sharing practices;
- promote the strengthening and improvements to the operationalizing of, and adequate resourcing for, the MRM and the MARA.

In relation to accountability –

- play a more proactive role in ensuring an international response where national accountability efforts are unsuccessful by mandating commissions of inquiry, establishing international or hybrid courts, tribunals or reparation regimes, supporting national accountability efforts, or referring situations to the ICC; and in each case supporting the operations of, and the implementation of recommendations and decisions taken by, these institutions.

CONCLUSION – THE ROAD AHEAD

Between 1946 and 1999, the Council adopted 13 thematic resolutions, which primarily dealt with terrorism, disarmament and nuclear proliferation, and were reflective of the Cold War tensions dominating the geopolitical climate during that time.[331] From 1999 until 2018, the Council adopted more than 100 thematic resolutions, many of which addressed PoC-related concerns, and reflected a post-Cold War "worldview more attuned to the value of human lives and less fixated solely on nation state interests and prerogatives".[332] Before 1999, it was "not always clear that the Council – a deeply political repository of UN power – should wade into the murky waters of general pronouncements on a theme unconnected to a conflict specifically listed on the Council's agenda".[333] Ten years later, PoC had become an accepted and established component of the Council's portfolio. Twenty years later, it is – by the Council's own words – "one of the core issues on its agenda".[334]

Over the past 20 years, the Council has successfully instilled a culture of PoC within its own ranks and across the entire UN membership, the organization itself as well as countless other actors within its periphery. Today, it is unimaginable that a UN peace operation would be established in an armed conflict setting without PoC being firmly at the centre of its responsibilities informing not only the mission's preparation, strategy and operations, but also its performance assessment, accountability measures and disciplinary procedures. It is similarly unimaginable that a UN sanctions regime would be established in a country with widespread violations of IHL or human rights violations or abuses, without such violations or abuses being an explicit listing criterion in that regime, or that a protection activity would be unaccompanied by a robust monitoring and reporting mandate to assist in understanding protection concerns, delineating priorities and informing decisions to achieve effective protection of civilians on the ground. PoC is no longer just a priority; it is a yardstick for measuring performance, not only of peace operations, but the United Nations as a whole and, with it, the global community of its membership.

331. Joelle Martin and Robert Young, *Unfinished Business: Canada's Contribution to Promoting Compliance with International Humanitarian Law Through the Protection of Civilians in Armed Conflict Agenda of the United Nations Security Council,* in Windsor Yearbook of Access to Justice, Vol. 27(2), 347–383, 2009, p. 361.
332. Id., p. 362.
333. Ibid.
334. S/PRST/2015/23, para. 4, S/PRST/2018/18, para. 1.

This does not satisfactorily answer the question about the link between the normative and the factual, or the procedural and the practical. "It is always very difficult to demonstrate ultimate ground impact, and this promotes a tendency to judge our effectiveness by the processes we set in motion rather than their results. In reality, analysis of [Council] processes cannot be considered in isolation but always in the context of their connections with the field."[335] It is self-evident from the grim realities faced by millions of civilians in conflict-affected areas around the world every day that there are gaping disparities between the quality of protection provided by the existing normative framework and the actual protection of civilians on the ground, first and foremost due to widespread non-compliance with existing laws and norms by parties to conflict.

Nonetheless, it is undeniable that the Council's PoC engagement over the course of the past two decades has translated into enhanced protection of civilians on the ground. UN peace operations have saved civilian lives; monitoring and reporting practices have led parties to conflict to cease and remedy IHL violations and human rights violations and abuses; sanctions regimes have caused violators to be listed and to cease violations; laws, policies and practices have been reformed; child soldiers have been demobilized; women and girls have been empowered; and war criminals have been tried as a result of the Council's actions and commitment. Moreover, non-compliance is more visible than compliance, and a robust framework elaborating the laws and norms of armed conflict has, in itself, a value in setting the legal and moral standards and thresholds that, in countless cases, guide the behaviour of parties to conflict – from State parties to non-State armed groups – towards the enhanced protection of civilians.

These gains do not supersede the fact that a long path lies ahead towards achieving adequate protection for civilians in armed conflicts that is reflective of the protection granted by existing international laws and norms. But such gains signify that the tools for protection are available and have the potential – through consistent improvement, operationalization, financing and prioritization – to gradually inch towards translating the law into pragmatic action and thereby close the gap between theoretical and practical protection. To achieve this, however, PoC mandates in peace operations must be clearer,

335. Mahoney and Nash, *supra,* p. 8.

linked to the missions' long-term objectives and equipped with adequate resources and capacities. Sanctions regimes need to be implemented and enforced. Monitoring and reporting has to be systematized. Furthermore, accountability measures should be more proactively established, supported and funded. Through their systematic implementation and improvement, these tools have the potential to translate the PoC culture elaborated by the Council into consistent and effective protection activity directly benefitting civilians on the ground. The political positioning of the Council and the consistency of its voice will play a tremendous part in determining its ability to influence the behaviour of States and parties to conflict and to promote required change to, and progress on, PoC.

Member State initiative is key: it was by Canada's initiative that PoC first became an agenda item at the Council. Norway, also aiming to acquire a seat on the Council, soon joined the effort. It has been this tradition of Member States seeking or having gained a seat on the Council – Australia, Egypt, Japan, Jordan, Luxembourg, New Zealand, Poland, Portugal, South Africa, Spain and Uruguay, to name only a few – of defining priorities and seeking allies, often with the support of the Swiss-chaired Group of Friends of PoC, to which many of the positive developments of the past two decades surrounding PoC have been attributable. The P-5 have also played their part, by providing leadership and continuity, supporting the continued overarching prioritization of PoC, organizing open debates and backing or, in the very least, accepting specific Member State initiatives, with particularly notable and continued efforts by France and the UK in maintaining the prominence of the PoC agenda at the Council.

Council members – the P-5 but also and especially elected members – should continue to seek "creative and diplomatic ways making the most of transient opportunities".[336] Other Member States should work towards aligning PoC policy priorities across the UN, seek to influence policy direction through the Special Committees of the General Assembly like the C34, and promote the allocation of requisite financial resources through the General Assembly's Fifth Committee. When the inherently political nature of these bodies inhibits effective action or the limits of the Organization's implementation arms are met, Member States should work together, bilaterally or in other multilateral, regional or national forums, to promote effective action as well as leverage political and financial support.

The protection of civilians in armed conflict is not only the responsibility of the Council, or of the United Nations; it is a shared and global responsibility of every one of its members.

"[A] dream is the beginning of all things. Then come the plans, the timelines, the actions. But the first thing is the dream. A dream that motivates, enthuses and gains the support of the multitudes and arouses hope. Even when everything seemed impossible, Martin Luther King was able to turn around a sad tale of unjust discrimination. But first, he enthused people. He did not say, "I have a strategic plan", but he said "I have a dream". His words may sound strange in an environment like this – where, by definition, we manage international politics in terms of a very stark realism that verges on disenchantment – but none of the great achievements of humanity throughout its long history would have been possible without a dream first."

Nin Novoa, Minister for Foreign Affairs of Uruguay and President of the Security Council during its open debate on PoC in May 2017

336. Id., p. 20.

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