Orthodox Displacement Framework and the Harm of Displacement: A Missing Habit of Prohibition in NATO's Protection of Civilians Policy 2016

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Abstract

This thesis inquiries into the lack of explicit reference to displacement due to violence or the threat of violence as a civilian harm, in the North Atlantic Treaty Organization's (NATO) landmark 2016 Protection of Civilians (POC) Policy.[1] Using empirical and desk based research, this thesis maps how the 'harm of displacement' is framed in the dominant 'orthodox displacement framework'. It argues that this lack of reference by NATO is emblematic of the way the harm of displacement is dealt with in the orthodox displacement framework – where the gravity of this harm has been diminished. Moreover, this framework offers uneven rights based protection for the affected, limited accountability for perpetrators and lacks a singular approach to protecting civilians from this harm in various situations of violence, from international conflict to generalized violence within a country.

For the purposes of this thesis, I define the harm of displacement, as the injury of being coerced to abandon one's home, community and normal life and move, due to violence and threat of violence. The orthodox displacement framework is defined as the law, policy and practice and positioning of various state and non- state actors on issues of displacement.

I conclude by noting that NATO as a political and military entity, must fashion its own approach to the harm of displacement and protection of civilians. It can do so, by addressing the gaps in the orthodox displacement framework. Plus improve its military operations planning, which could stymie even an improved framework. With its adoption of a Human Security Approach coupled with its Protection of Civilians Policy, NATO starts with the right tools for this endeavor.

[1] *NATO Policy for Protection of Civilians*, North Atlantic Treaty Organization, 2016, online: https://www.nato.int/cps/en/natohq/official_texts_133945.htm.

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I also want to thank Prof. Yvonne Su, who kindly joined the committee as external evaluator, since I wanted her deep and insightful knowledge of displacement to shape my thesis. She did this willingly despite my many slipping deadlines. Thank you so much for sharing your insights and time.

My path in writing this thesis has not been traditional and I have taken more time than many. Throughout this whole process what has struck me the most is the kindness of all involved!

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Foreword

I began this paper in the initial weeks of the Ukraine conflict and am concluding it with not just Ukraine but also Gaza holding policymakers' attention in Western countries, many of whom are also North Atlantic Treaty Organization (NATO) member states.

With Ukraine's high-intensity and state-on-state conflict, I noted a concern expressed in interviews conducted in my research that the experiences of leaning into protection of civilians in the course of post- 9/11 conflicts, namely Afghanistan, were being lost. Moreover, knowledge acquired from counterinsurgency operations is disappearing as command chains age out and are replaced by a generation that hews closely to traditional international humanitarian law (IHL) minimums of proportionality, distinction and precautions, and as established processes like civilian causalities tracking, are not retained adequately. In contrast to the present situation in Ukraine, in Iraq and Afghanistan, the tactical directives previously adopted went far beyond IHL.

That said, the gains of the post-9/11 period in terms of protection of civilians in war were modest, giving rise to the criticism that in these wars, protection of civilians was a "window dressing" to justify continued engagement.[2] However, at a minimum, an awareness, dialogue and engagement emerged on protection of civilians during these post-9/11 wars. There, the "winning of hearts and minds" via protecting civilian populations and minimising harm became a strategy for the conduct of hostilities. This was a result of an increasing awareness of the enduring consequences of continued insecurity and resentment resulting from a failure to protect civilians, which could hamper military operations. Indeed, these lessons were internalised and led to the adoption of NATO's first ever Protection of Civilians Policy in 2016.[3]

In Ukraine, it was noted in the early days of the conflict that there has been an implicit

[2] Samuel Moyn, *Humane* (New York: Farrar, Strauss and Giroux, 2021).
[3] Kathleen D. Kock, "Origins, Progress, and Unfinished Business: NATO's Protection of Civilians Policy", (Washington DC: Stimson Center 2021) 5, online: https://www.stimson.org/wp-content/uploads/2021/03/StimsonNato_PoC_FINAL319.pdf.

acceptance of the high-intensity nature of the conflict by Western governments and this could prove challenging for effective protection of civilians engagement.[4] As the conflict has continued in Ukraine, there have been statements on civilian harm occurring by NATO. However, NATO appears to struggle in applying its 2016 Protection of Civilians Policy in its sphere of influence vis-à-vis its institutional positioning or common understanding among its member states. Even if NATO's Protection of Civilians Policy was born out of counterinsurgency, it is expansive enough to cover high intensity state-on-state conflict. Although, Karolina MacLachlan notes that NATO has yet to make that mental leap.[5]

The conflict in Gaza broke out after my collection of interview data for this thesis' research. By analysing the news and following vigorous online debates and other analysis, I note that the conflict in Israel-Gaza will affect NATO thinking, given the involvement of some key NATO countries in the crisis. In Gaza, minimum protections of IHL and not the wider protection of civilians is the focus. However, even these minimums are being challenged in this conflict, with new interpretations being offered by belligerents and standard interpretations of the law being disregarded completely.[6] As a result, protection of civilians is in danger of being whittled down to these minimums only and this would likely find ready audience in NATO militaries. This is because, as some interviewees in this research note, IHL is a comfort zone for most militaries.

This thesis is intended to contribute to discussions on what is required in order to avoid protection of civilians being applied selectively in some situations and not in others -- or being approached primarily through application of IHL minimum standards. Today, even as we must acknowledge that the rules- based international order is under severe assault and fragile -- the harm of displacement requires an application of not just IHL but all other bodies of law consistently to all affected, with an aim towards absolute protection.

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[4] Interviews from a separate research project undertaken by this researcher in October 2022 on: "Protection of Civilians and Canadian Armed Forces: Time for a National Policy".

[5] Karolina MacLachlan, "The NATO Strategic Concept and Protection of Civilians" (23 June 2022 online), (blog): https://www.rusi.org/explore-our-research/publications/commentary/nato-strategic-concept-and-protection-civilians.

[6] Oona Hathaway, "War Unbound-Gaza, Ukraine and the Breakdown of International law", *Foreign Affairs* (April 23, 2024) online: https://www.foreignaffairs.com/ukraine/war-unbound-gaza-hathaway.

Chapter 1

Introduction

In this thesis, I map the rhetoric and reality around the legal, policy and practice approaches to, and conversations around, the harm of displacement in situations of violence (including those inter-linked with climate emergencies, etc.). I examine various narratives offered by military, humanitarian, state and non-state actors including civil society, in their interpretation and application of international humanitarian law (IHL) and broader human rights frameworks (including aspects of refugee law); as well as their policy and operational approaches and positioning on situations of displacement in the context of protecting civilians. I place this regulation of the harm of displacement broadly under a framework that I call the *orthodox displacement framework.* Notwithstanding the normal resonances associated with orthodoxy, I conceptualize this framework as dominant but not rigid – that is, as a protean way of thinking and dealing with the harm of displacement both de jure and de facto, within and beyond institutional structures.[7] It is a dominant framework consisting of varied laws, policies and practices, yet mutable enough to adjust itself to new ideas or influences. It is the framework that is used by actors at global and local levels as a common point of reference in dealing with affected populations in their work. It is both an analytical and justificatory framework, in that actors deploy it in constructing their particular mode of engagement, non-engagement and moral positioning.[8] While its analytical mode tends to tack towards dominant understandings, its justificatory mode provides a counter tendency towards mutability.

Caught between tendencies, today this orthodox displacement framework offers uneven protection of rights against displacement experienced by persons in various situations of violence and even less accountability of perpetrators. As a result, it dilutes the gravity of the

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[7] I use "orthodox" to reference traditional or mainstream, but I then use the seemingly contradictory "protean" as well -- because the orthodox framework is surprisingly adaptive to political winds, donor pressure, etc., in order to remain relevant.

[8] David Kennedy, *Of Law and War*, (Princeton: Princeton University Press, 2006), online: https://press.princeton.edu/books/hardcover/9780691128641/of-war-and-law. Also, Samuel Moyn, *Humane* (New York: Farrar, Strauss and Giroux, 2021).

harm of displacement. By *displacement* I mean an occurrence, "when individuals or communities have been forced or obliged to leave or flee their homes or places of habitual residence" and go elsewhere within the country or beyond a country's borders.[9] By *harm of displacement*, I mean the injury of being coerced to abandon one's home or place of habitual residence and one's wider community and leave one's normal life and move, due to violence or threat of violence. Consequently, the understanding of this harm by NATO is within current limiting parameters of this orthodox framework and it could absolve itself of much of the responsibility and accountability for its actions.

There is a deliberateness in my usage of "harm" language to describe displacement due to violence. I want to spotlight the injury aspect of this situation rather than employ a generic rights-based approach by noting that there is a "right against displacement". I seek to do this for two reasons: First, this foregrounds the harm rather than the legal right, thereby underscoring the need to address displacement through the various lenses of ethics, politics, and strategy -- and not just that of legality. Second, a "language of harm" can be applied to both a community and to an individual, which arguably is something "language of rights" cannot always encompass, since association of a "right" rests primarily with individualism in dominant discourses.

Here the term *violence,* encompasses everything from civil disturbance to conflict. Some of this violence may be interlinked with other triggers, such as natural disasters and climate emergencies. In this thesis, I would also like to emphasize the coerciveness of not just manifested violence but also both threats of violence and imminent violence within the harm

[9]The **definition of displacement** for this research: "(displacement) occurs when individuals and communities have been forced or obliged to flee or to leave their homes or places of habitual residence as a result of or in order to avoid the effects of events or situations such as armed conflict, generalized violence, human rights abuses, natural or man-made disasters, and/or development projects. It both includes situations where people have fled, as well as situations, where people have been forcibly removed from their homes, evicted or relocated to another place not of their choosing, whether by State or non-State actors. The defining factor is the absence of will or consent." Global Protection cluster working group, *Handbook for Protection of Internally Displacement Persons*, (Geneva: United Nations High Commissioner for Refugees (UNHCR), June 2010) 134, online: https://www.unhcr.org/protection/idps/4c2355229/handbook-protection-internally-displaced-persons.html.
Note the above defined concept of displacement will also include some situations where displaced persons have crossed international borders as well.

of displacement. This manifests itself not just in the physical act of moving from one's home but in harm that occurs even prior to any manifestation of violence. As a result, individuals and communities start to feel dislocated from a place that feels no longer like home, with the involuntary movement being a final act and the reasons propelling flight appearing unconnected to the actual danger they face or may imminently face.

Today, because of violence a high number of people remain in displacement with limited solutions for ending the impact of this harm and ensuring accountability.[10] In displacement, the situation of individuals and communities often deteriorates significantly, with numerous rights violations occurring such as increased mortality rates and instances of sexual violence.[11] While the focus in this research will be primarily on internal displacement due to violence given the overwhelming numbers, the reference to displacement and forcibly displaced populations will include both those within a country (internally displaced persons) and those across borders (refugees).[12]

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[10] Although more than 53% of new displacements in 2022 were due to natural disasters. The total number of people that remain in displacement due to disasters is 8.7m. While the total number of those who remain in displacement due to violence is 62.5 m : IDMC, GRID Report 2023, (Geneva: Internal Displacement Monitoring Center (IDMC) 2023), online: https://api.internal-displacement.org/sites/default/files/publications/documents/IDMC_GRID_2023_Global_Report_on_Internal_Displacement_LR.pdf #page=8 .
On refugees UNHCR notes: "In 2022, 84 per cent of refugees and asylum seekers fled from countries which are highly climate- vulnerable, compared to 61 per cent in 2010…Many countries are affected by both conflict and disaster that interact and overlap as triggers and drivers of displacement." UNHCR, Focus Area Strategic Plan of Action 2024-2030, Advance Copy (Geneva: United Nations High Commissioner for Refugees (UNHCR) Dec 2023), online: https://data.unhcr.org/en/documents/details/106704#:~:text=UNHCR's%20newly%20released%20Strategic%20Plan,forcibly%20dis placed%20and%20stateless%20people.

[11] Milliband, David & Mesfin Teklu Tessema, "The unmet needs of refugees and internally displaced people", *The Lancet* 392: 10164 (December 2018), online: http://dx.doi.org/10.1016/S0140-6736(18)32780-6 ; Ibrahim, et all, "Report of the UCL–Lancet Commission on Migration and Health: the health of a world on the move", The Lancet 392: 10164, December 2018, online: http://dx.doi.org/10.1016/S0140-6736(18)32114-7.

[12] For the **definition of Refugees**: *Convention Relating to Status of Refugees*, 28 July 1951, Treaty series, 22 April 1954 read with *Protocol Relating to Status of Refugees*, 4 October 1967, Treaty Series, vol.189, 4 October 1967, Art.1, online: https://www.refworld.org/legal/modellaw/unhcr/2011/en/83363?prevDestination=search&prevPath=/search?keywords=Convention+ Relating+to+Status+of+Refugees+and+protocol&order=desc&sort=score&result=result-83363-en.
For the **definition of Internally Displaced Persons**: Refer, para 2, Introduction- Scope and Purpose, Guiding Principles on Internal Displacement 1998, online: https://www.unhcr.org/media/guiding-principles-internal-displacement.

Context

In 2016, a landmark Protection of Civilians policy was released by NATO. It built on years of engagement in conflicts, including Bosnia and Kosovo, but really came to fruition based on the experiences in Afghanistan. There, the loss of trust from and accountability to the civilian population meant the difference between winning and losing military campaigns. While a significant step forward for NATO, this policy is still more on paper than in reality, note Knoops and Pantz.[13] Interviewees note that the initial enthusiasm for this policy and momentum around its implementation has ebbed and flowed , due to various factors – namely, the Afghanistan conflict and its lessons receding into history, and the Protection of Civilians Policy increasingly being seen as a legacy of counter-terrorism operations.

Initially, this policy was housed in the military operations part of NATO, however, subsequently it was subsumed into the policy division of NATO that houses all the cross-cutting issues, under a Human Security umbrella alongside Women, Peace and Security.[14] This institutional relocation may have contributed to the protection of civilians policy not being effectively integrated in military operations, as we examine later in this thesis.

However, the commitment to protection of civilians remains strong in NATO. This can be seen in the outcomes of the NATO Strategic Summit of June 2022, which set the directions and priorities for NATO for the next decade. The outcomes included adoption of a Human Security Approach, as well as reiteration of a commitment to protection of civilians.[15] This was viewed as a positive development by interviewees in my research, given that any action that NATO takes requires an agreement by all 32 member states.

While the Protection of Civilians Policy, 2016 is viewed as a progressive document by a

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[13] Joachim .A. Knoops & Christian Pantz, "UN, EU and NATO approaches to the Protection of Civilians: Policies, Implementation, and Comparative advantage", (2022) 4, online (pdf): International Peace Institute, online: https://www.ipinst.org/wp- content/uploads/2022/03/UN-EU-NATO-Approaches.pdf.

[14] *Supra* note 1. **Thematic policy issues:** In the research, interviewees called them cross-cutting issues. At NATO, they include combatting trafficking in human beings, protection of children in armed conflict, preventing and responding to conflict-related sexual violence, protection of civilians, and cultural property protection. See *NATO Human Security*, North Atlantic Treaty Organization, 20 July 2023, on-line: https://www.nato.int/cps/en/natohq/topics_181779.htm.

[15] *NATO Strategic Concept Note*, North Atlantic Treaty Organization, 29 June 2022, Madrid, online: https://www.nato.int/strategic-concept/.

number of interviewees in this research there is no explicit mention of displacement as a civilian harm in the policy itself. It was agreed by most interviewed that this civilian harm should have been explicitly mentioned. Others expressed their surprise that it was not specifically referenced in the 2016 policy. Some noted it could be a good start to name displacement as a *civilian harm* in the policy document – while others were more ambivalent.[16] The latter noted that the semantics of this should not be the focus, but rather robust engagement on this harm going forward.

I conclude this introductory part of the thesis by laying out the motivation for my research. This research was inspired by a report from Brown University's Costs of War Project that tracks displacement from the post-9/11 wars.[17] The report, "Creating Refugees: Displacement Caused by the United States Post- 9-11 wars", notes that these wars triggered unprecedented displacement; in seven countries alone, a total of 37 million people were displaced. Some of this displacement can be attributed to the US and its allies, including fellow NATO member states and other operational partners.[18] Furthermore, I have also worked in four of the other conflict displacement contexts referenced in this same Brown University report: that is, Iraq, Libya, Somalia and Syria.

Additionally, the Brown University Report spoke to my personal experience of having worked on displacement issues in Afghanistan, where I interacted with NATO/ISAF forces at the height of "the surge" ordered by the Obama administration in 2012. It bothered me then that, as today, the harm of displacement was not entirely being comprehended and

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[16] I use here an attempted **common definition of civilian harm** by the NGO Protection of Civilians (PAX) since there are differing definitions and for some actors it is centred around civilian casualties. PAX produced a book in 2021 to highlight various areas that could be covered under the remit of civilian harm: "Civilian harm consists of all negative effects on civilian personal or community well-being caused by use of force in hostilities. Effects can occur directly (death, physical or mental trauma, property damage) or indirectly through the destruction of critical infrastructure, disruption of access to basic needs and services, or the loss of livelihood." Chapter 10 in this book examines displacement during and after a conflict. Erin Bijl, Welmoet Wels & Wilbert van der Zeijden, ed, *On Civilian Harm - Examining the complex negative effects of violent conflict on the lives of civilia*n, (Utrecht: Protection of Civilians (PAX), June2021), online: https://protectionofcivilians.org/on-civilian-harm/.

[17] Vine et all, *Creating Refugees: Displacement Caused by the United States Post-9/11 wars* (Providence: Watson Institute for International Affairs- Brown University 2020), online (pdf): https://watson.brown.edu/costsofwar/files/cow/imce/papers/2020/Displacement_Vine%20et%20al_Costs%20of%20War%20 2020% 2009%2008.pdf .

[18] *Ibid* at 1. Countries are Afghanistan, Somalia, Yemen, Libya, Iraq and Pakistan.

internalized for the future duty of care and due diligence in military operations by ISAF. My thesis will, I hope, contribute to NATO addressing the harm of displacement within its Protection of Civilians Policy in a more nuanced and sophisticated way. I am confident this is possible as attested by the example of NATO's successful engagement on civilian casualties, which both acknowledged the harm and initiated measures to minimise it, however imperfectly.[19]

Theoretical framework

My two main legal theoretical frameworks for this research are Critical Legal Studies and Third World Approaches to International Law (TWAIL). The rationale for my choices is explained below.

In the book *Of Law and War*, critical legal studies scholar David Kennedy argues that the law, "offers an institutional and doctrinal space for transforming the boundaries of war into strategic assets, as well as a vernacular for legitimating and denouncing … (with) an ethically self-confident voice of sharp distinctions, a pragmatic voice of instrumental assessment."[20] In other words, the shared culture and language of the law among various interests in the global arena (elites and non-elites) is a tool to advance certain political and power dynamics, with resulting exclusions and inclusions, meaning thereby that the law is not neutral. This thesis examines the shaping of the orthodox displacement framework regulating the harm of displacement today by inquiring why and how the law, policy and practice decisions were made by various members of the international community responding to various displacement crises. These actors include the United Nations, the International Committee of the Red Cross (ICRC), and individual member states. It does so by unpacking the motivations for these decisions and mapping out who really benefited from these decisions and who lost out. Most significantly, it scrutinizes whether these decisions benefitted those affected by the harm of displacement.

[19] Steven Hill & Andreea Manea, "Protection of Civilians: A NATO Perspective", (2018) 34 (2) Utrecht Journal of International and European Law 147, online: https://utrechtjournal.org/articles/10.5334/ujiel.461.
[20] *Supra* note 8 at 73.

The application of TWAIL as a theoretical lens appeals to me because it seeks to look at the world, as Luis Eslava and Sundhya Pahuja put it, from the perspective of those at the receiving end of international law.[21] Building on the non-neutrality of law, this approach recognizes that the edifice of international law was built by European thinkers for their perceived needs, including their colonial ambitions and imperial desires. As a result, concepts of sovereignty and nationhood and the individualistic nature of the first generation of human rights were imposed on the rest. This TWAIL analytical perspective on the distribution of global ideas and use of power is imperative as a worldview through which to explore the shaping of the orthodox regulatory framework for the harm of displacement.[22]

The post-1945 regulatory framework for the harm of displacement rests on concepts developed by dominant colonial and imperial European worldviews, the consequences of which are still being felt today. Tragically, elites in the power structures at the receiving end of this, in the global south, are adopting these same concepts to either maintain a status quo on protections being afforded to the displaced and in some cases, erode these further. On a positive note, those rights are also morphing into something owned by the affected populations themselves (beyond their Euro-colonial origins centrism), based on their experiences and the internalizing of these rights as "theirs to claim". All this must be understood in order to ensure an effective framework for the harm of displacement.

In addition, I read up on Critical Race Theory in order to inform myself on how law and policies constructed to reduce harm on the basis of identity can end up reenforcing unequal protections inadvertently.[23] This is useful to be aware of when examining the unequal protections offered by the dominant orthodox displacement framework.

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[21] Luis Eslava & Sundhya Pahuja, "Beyond the (Post)Colonial: TWAIL and the Everyday Life of International Law " (2012) 45:2 Verfassung und Recht in Übersee /Law and Politics in Africa, Asia and Latin America 165, online: https://www.jstor.org/stable/43256852.

[22] Makau Mutua & Antony Anghie, "What is TWAIL, American Society of International Law", (2000) 94 Proceedings of the Annual Meeting (American Society of International Law) 31, online: https://www.jstor.org/stable/25659346.

[23]

I follow the caution of Chimni and others in that my employment of TWAIL will be attentive not simply to deconstruct law and global institutions, but also to offer a more inclusive approach to the omissions I identify in the dominant regulatory framework.[24] This lack of a way forward is what often founders TWAIL, as well as Critical Race Theory, as theoretical frameworks for analysis. [25]I am especially mindful of this since my audience is policy makers, who are looking for solutions or at least ideas that provoke thinking for future action.

Research Methodology

The research methodology I have adopted is a combination of desk-based research and empirical data analysis and I explain here the various steps and approaches adopted. My rationale for the use of empirical data is that in legal research it is a fairly recent phenomenon and contributing to this nascent and yet growing field appealed to me. My primary reason was that this kind of data collection felt more suited for the contemporary topical events that my thesis seeks to cover. Most of the knowledge on issues covered in the thesis resides is within intuitions of practice, rather than in academia and the thinking is evolving fairly rapidly around them in the last 4-5 years. I also felt getting information this way would add to the credibility of my research for policy makers, who are one of the primary target audiences for my research.

My preparation to equip myself to undertake this research included taking a semester long course over and above my degree requirements, which introduced me to various research methods. While doing that course, I also simultaneously undertook an independent study that involved collecting empirical qualitative data with one-on-one interviews. This gave me a chance to practice my research skills and hone them prior to applying them to this thesis.

My thesis research involved three stages of data collection. In stage 1, I conducted a desk-based literature review, and this continued alongside stage 2 and 3 of my data collection. In stage 2,

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[24] B.S. Chimni, *International Law and World Order*, 2nd ed., (Cambridge: Cambridge University Press, 2017), online: https://www.cambridge.org/core/books/international-law-and-world-order/1AC856F0E9730C7382B4936BF802FA0E.

[25] Naz K. Modirzadeh, "[L]et Us All Agree to Die a Little: TWAIL's Unfulfilled Promise" (March 31, 2023) Harvard International Law
Journal, Forthcoming, Available at SSRN: https://ssrn.com/abstract=4406477.

I collected empirical qualitative data and in stage 3, I collected data to triangulate and cover gaps in the empirical data. Apart from empirical data collection, my desk-based research included surveys of secondary and available primary literature, including scholarly articles, government and inter- governmental organization policy papers/memos, news reports, advocacy and research papers, online blogs, etc.

The empirical data collection methodology of the thesis research involved a total of 21 semi-structured one-on-one interviews with a set of senior experts on NATO, UN Peace Operations/UN humanitarian actors and the African Union, conducted via zoom from late 2022 to early 2023. An additional 1 individual declined to be interviewed but sent me thoughts on the topic via email. I drafted indicative questions which were shared with participants prior to the interviews. Some common questions were asked to all interviewees, as well as some specific ones based on their area expertise (questionnaires are included in Annex B of this thesis.

The methodology of the interview and questionnaire was clearly explained and agreed to by all the participants. It was also explained that the interview questionnaire contained suggestive questions to guide a free-flowing conversation with ad hoc questions thrown in. Participants were given the choice to answer as they wish. I acknowledge at the onset that my ad hoc questions may have had some of my bias creep in, based on my personal views and the same goes for those interviewed.

I used Otter A.I. software to record the interviews and transcribe them and this was done with the approval of the participants. My preference of Otter A.I. was based on the fact that it was an encrypted software, which ensured the confidentiality of the data. All interview transcripts have been stored offline rather than on cloud storage in pen drives, in order to ensure confidentiality of the data. I also shared the interview transcriptions with each of the interviewees for their review and feedback and also for their records. A few reverted with comments however, the majority did not. The material collected from the interviews was extensive and some material was shared with me by interviewees themselves, including public reports.

Most individuals interviewed were identified through a snowball method, alongside a few that were known to me through my previous work. Some individuals provided me with other people to speak with within their institution, while a couple noted that they were the only one from their employer authorized to speak to me. While agreeing to speak to me, participants also indicated the levels of confidentiality of their answers. Interviewees indicated whether they wished to be identified by name in the report or to remain anonymous. I finally decided to anonymize all identities in the thesis, in order to harmonize the writing style and also due to imperatives of time since I was not able to go back and get the approval of those whom I wished to quote. Therefore, any discrepancies in anonymous quotes or attributions of positions are all mine.

While I did not have a challenge securing UN and NATO experts, unfortunately I could not get somebody working with the UN Special Rapporteur on the Human Rights of Internally Displaced Persons, as the mandate of the incumbent was ending at the time. I was unable to schedule more than a couple of interviews with African Union experts, despite a number of emails to various people over months. Therefore, a lot of analysis for the AU was from material available in the public domain online. Early in 2025 I was invited to a conference which was attended by some AU experts and from them I was able to get an update on developments in AU peace operations doctrine. I was also fortunate to be afforded an online training on Protection of Civilians developed by NATO for its personnel.

On concluding the empirical data collection and prior to commencing the coding process, I checked on the displacement data I was working with. Especially the sources of data cited in the Costs of War Project Report on the post 9-11/wars at Brown University. This report was a key data point for the arguments in my thesis. Therefore, I spoke to the author of the report and discussed his data sources with him and was satisfied with the feedback provided.

At the coding stage, I chose the following methodology for coding and analysis. Although I did an online training for Nvivo offered by York University, as recommended by professors teaching research methods at Osgoode Hall Law School. I decided against using the software

and instead opted to proceed with coding manually. This was a more tedious and time-consuming process but yielded better results in terms of answer groupings for analysis. I also would like to note that I am a lawyer and have worked as a civilian in various crisis zones as a protection expert and therefore, my analysis is distilled through that perspective.

The coding was undertaken using a method that involved data being categorized under various pre- determined themes, as well as, some new themes being selected as my analysis progressed. I acknowledge that there was some amount of winnowing of data through the process of coding, and not everything was coded and analysed for the purposes of this paper. Also, unfortunately, not all the rich information from the interviews that were coded and analysed has made its way into the thesis.

We next move into the main findings of this research and in Chapter 2, I lay out the key concepts that constitute and shape the dominant orthodox displacement framework, namely law, policy and conversations. I conclude this part by introducing a reality check via an examination of patterns of displacement in various conflicts and noting how these patterns challenge aspects of the orthodox displacement framework. In Chapter 3, I examine the contents of NATO's Protection of Civilians Policy and opportunities afforded in its implementation vis-á-vis the harm of displacement. I then do a comparative examination of NATO's policy with the African Union and UN peace operations approaches to protection of civilians and displacement. These entities are sources of learning or comparison for NATO in its protection of civilians doctrine. In Chapter 4, I note the challenges that NATO faces in comprehending displacement in its military operations. This is critical since even improved framework could be stymied by these operational realities. These challenges identified are not exhaustive, rather they are reflective of what interviewees flagged. I conclude with a few initial recommendations for policy makers.

Chapter 2

The Orthodox displacement framework regulating the harm of displacement

In this chapter, I examine the key constituents of the orthodox displacement framework regulating the harm of displacement. The definition of 'orthodox displacement framework', as noted earlier, is an amalgamation of different treaties, policies, practices and views, subject to differing interpretations and understandings of relevant legal doctrine or standards for practice.

In section 1.2., I lay out the on-going conversations among various stakeholders that apply to the orthodox framework. These conversations often contribute to prioritising or de-prioritising the protection of civilians vis-à-vis the harm of displacement. Therefore, these conversations are as important as law, policy and practice in shaping the orthodox displacement framework.

In section 1.3., I undertake a reality check by examining patterns of displacement in various conflicts of the post 9/11 wars and contemporary times. This is in order to illustrate the gaps in the orthodox displacement framework when faced with the reality of displacement.

1.1.The Foundational Concepts

In this section, I examine the two foundational concepts that shape our understanding of protection from the harm of displacement in situations of violence, that is, *Protection of Civilians* and the *Harm of Displacement*. First, I examine the elements that constitute the definition of protection of civilians, its application today and its links to other concepts such as Human Security. I note that NATO's Protection of Civilians Policy incorporates a broad definition of protection of civilians, covering various types of violence. In addition, this policy, read alongside NATO's Human Security Approach, is definitionally capable of upholding the "spirit of protection of civilians" in military operations.[26] Second,

[26] NATO, "Human Security Approach and Guiding Principles", (14 October 2022), online: https://www.nato.int/cps/en/natohq/official_texts_208515.htm.

notwithstanding a satisfactory definition, there is a limited de jure and de facto accountability for causing the harm of displacement that exists today. Moreover, with no clear red line blanket prohibition on causing this harm, an actor like NATO is unable to fully acknowledge the gravity of this harm when it occurs and to prioritise its prevention.

Concept of Protection of Civilians

Mamiya notes that protection of civilians can be a lot of things, ranging from prevention of atrocities to being a technical term for specific activities in contexts of conflict.[27] Currently there is no common definition of protection of civilians in the international community, despite 25 years of the term being used. Each actor, like UN peace keeping, NATO, humanitarians, etc., have their own definition.[28] This is perhaps reflective of the evolution of protection of civilians from its humble IHL-centric beginnings to a more expansive human-rights-aligned concept today, with an increasing array of harms and measures continuing to be added to its roster.

According to Mamiya, "the human rights in armed conflict" was an idea that emerged in the 1960s out of the Vietnam war.[29] This highlighted how IHL and human rights regimes intertwined in the decades after World War II and that a protection of civilians framing today requires both regimes. In addition, the evolution of protection of civilians intertwined at the UN Security Council with the evolution of peacekeeping, from monitoring belligerents in 1950s in the Suez Crisis to protecting lives of civilians in 1960s Congo. However, the UN Security Council did not use the term protection of civilians until the late 1990s, when it formally adopted the concept introduced by Canada.[30]

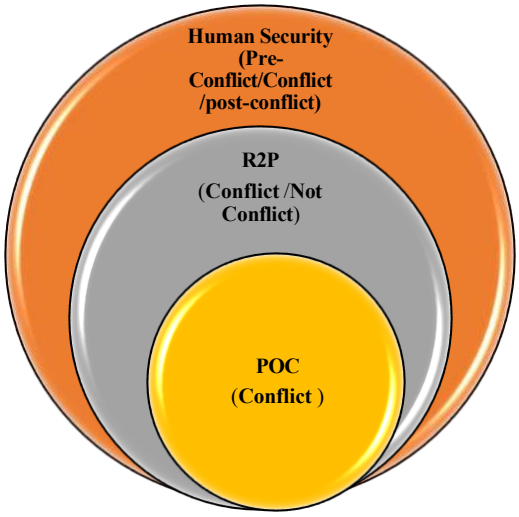
The concept of protection of civilians has historically been linked to two other concepts which

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[27]Ralph Mamiya, "A History and Conceptual Development of the Protection of Civilians*"* in Haidi Willmot, et al., eds., *Protection of Civilians* (Oxford: Oxford University Press, 2016) at 64, Online: https://global.oup.com/academic/product/protection-of-civilians- 9780198729266?cc=us&lang=en&.
[28]Term Peace-Keeping: Given the historical and familiar usage in Canada of the term 'peacekeeping' it will also be used interchangeably with the term 'peace operations' throughout this report.
[29]*Supra* note 27 at 69.
[30] *The Protection of Civilians in armed conflict*, UNSC, S/RES/1265 (1999), 17 September 1999, Online: http://unscr.com/en/resolutions/1265.

developed around the same period of the post-Cold War era, the *Responsibility to Protect* (R2P) and *Human Security.*[31] All three concepts aim to protect human beings in different situations of pre- conflict, ongoing conflict, and post-conflict. One can call this an 'International Human Protection Regime' to borrow the term from Alex Bellamy, who defines it as, "comprising 'principles, norms, rules, and decision-making procedures' … focused on the protection of individuals and groups from the most immediate threats to survival: widespread and systematic arbitrary violence"(Figure 1).[32]

Figure 1: Human protection regime



[31]**Definition of Responsibility to protect***:* **"**The Responsibility to Protect embodies a political commitment to end the worst forms of violence and persecution. It seeks to narrow the gap between Member States' pre-existing obligations under international humanitarian and human rights law and the reality faced by populations at risk of genocide, war crimes, ethnic cleansing, and crimes against humanity." This definition was contained in a path breaking report titled, "The Responsibility to Protect" drafted by the International Commission on Intervention and State Sovereignty (ICISS) which was established by the Canadian Government. This report was subsequently adopted by UN member states at the 2005 World Summit to be a guiding principle for UN action. The World summit guiding document references two levels of responsibility that of individual states and that of the International community. UN, Office on Genocide Prevention and Responsibility to Protect, online: https://www.un.org/en/genocide- prevention/responsibility-protect/about.
Definition of Human Security: The concept of human security was brought to life in UNDP's landmark 1994 Human Development Report, entitled, "New Dimensions of Human Security". The report … equates security with people rather than territories, with development rather than arms. It recognized that measuring income is simply *not enough* to gauge the wellbeing of people. The 1994 report stressed that human security is *people-centred* and, "is concerned with how people live and breathe in a society, how freely they exercise their many choices, how much access they have to market and social opportunities – and whether they live in conflict or in peace". The concept revolves around the importance of affording people "freedom from fear" and "freedom from want". The scope has gradually expanded a 2012 UN Resolution described human security as "the right of people to live in freedom and dignity" was added. *Resolution adopted by the General Assembly on 10 September 2012 [Follow-up to paragraph 143 on human security of the 2005 World Summit Outcome],* A/RES/66/290, 25 October 2012, online: https://documents.un.org/doc/undoc/gen/n11/476/22/pdf/n1147622.pdf.

[32] Alex Bellamy, "The humanisation of security? Towards an International Human Protection Regime", (2016) 1:1 European Journal of International Security, 112 at 113, online: https://www.cambridge.org/core/journals/european-journal-of-international-security/article/abs/humanisation-of-security-towards-an-international-human-protection-regime/DE55C50D1DBF2EE2469816BB33E81DB7.

(Acronym Key: R2P – Responsibility to Protect; POC – Protection of Civilians)
These three concepts, upon their introduction, re-framed the discussion from state-centric to human- centric security in international relations. The purpose of this paper is not to examine the details of this Human Protection Regime, except in relation to NATO's adoption of the Human Security Approach and its interface with protection of civilians.

In the decade or so, following the end of the post-Cold War world -- there was an opportunity for the UN Security Council to act without great power rivalry and to deliver somewhat as originally envisaged, including on aspects of the Human Protection Regime. The subsequent decades marked a noticeable decline in UN Security Council deliberations, with attention diverted to the post-9/11 wars and then a revival of great power rivalry in recent years. Nevertheless, the application and legitimacy of protection of civilians as a concept has flourished, including being propelled by powerful UN member states using it as justification for the military actions undertaken in the post- 9/11 wars, notes the historian Samuel Moyn.[33] As one interviewee noted, it is still a "sexy" topic among the UN Security Council members as opposed to "political" human rights. In contrast, the other constituents of the Human Protection Regime enjoy a much smaller footprint in the global peace and security architecture today.

In the case of the Responsibility to Protect, while it has been mainstreamed throughout the UN system in various ways, including the Office of the Special advisor on Responsibility, there is still a certain toxicity around this concept in part due to the political fallout from the UN-authorised NATO engagement in Libya. Scholars like Bellamy point out that there is a lesser noted diplomatic track of engagement within the concept of R2P (Responsibility to Protect) that could be pursued and not just a military track for intervention by the international community, due to failure of a state to protect its people.[34] Nevertheless, Charles Hunt and Phil

[33]Moyn: *Supra* note 2.

[34] "The Responsibility to Protect rests upon three pillars of equal standing: the responsibility of each State to protect its populations (pillar I); the responsibility of the international community to assist States in protecting their populations (pillar II); and the responsibility of the international community to protect when a State is manifestly failing to protect its populations (pillar III)." Ivan Simonovic, "The Responsibility to Protect", (December 2016), online: https://www.un.org/en/chronicle/article/responsibility-protect#:~:text=The%20responsibility%20to%20protect%20(commonly,and%20the%20responsibility%20of%20the.

Orchard note, "Notwithstanding its persistent appearance in UN Security Council resolutions, some of the momentum ... has been lost in recent years. Advocates in civil society and among UN member states have struggled to leverage the R2P in established and emerging cases of mass atrocities".[35] Hunt in another piece notes a distinct delinking of the concept from UN peacekeeping, after a hectic period of interaction in 2011. The primary attribution for this is the Libyan conflict engagement and, to a lesser extent, the lower profile engagement in Côte d'Ivoire. Both situations ended in regime change when the primary stated aim was to protect civilians.[36] Interestingly in 2012, the UN Secretary-General also sought to disconnect protection of civilians from R2P as a result of this blowback and discomfort among some member states.[37] Hunt notes nevertheless that R2P ideals continue to shape peacekeeping and other parts of the international peace and security architecture, albeit incognito.

The concept of Human Security reached its global zenith at the UN's World Summit in 2005, where it was embraced as a priority concept to be discussed and defined for both conflict and peace times within the UN General Assembly.[38] Over the decades, the concept continues to be used at the UN, although the regular reporting on Human Security by the Secretary-General to the General Assembly indicates a veering in focus towards an emphasis on "freedom from want", that is, development as a part of a security strategy led by the UN's Development programs. While the other track of Human Security, that is, "freedom from fear" (as envisaged by a group of likeminded states led by Canada), centring on security of people from political violence, with links to R2P and the wider peace and security

[35] Phil Orchard and Charles T. Hunt, "Introduction – Consolidation and contestation of the Responsibility to Protect" in Phil Orchard, ed., *Constructing the Responsibility to Protect - Contestation and Consolidation*, (London: Routledge, 2020) 8, online: https://www.taylorfrancis.com/chapters/edit/10.4324/9780429352430-2/contestation-norms-responsibility-protect-regime-phil-orchard.

[36] Charles T. Hunt, "The Responsibility to Protect and the Protection of Civilians in UN peace operations – Interaction, feedback and co-evolution", *ibid* at 24.

[37] R*eport of the Secretary General on Protection of Civilians in Armed Conflict*, UNSC, S/2012/376, 22 May 2012, online(pdf):https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2012_376.pdf.

[40] Refer Para 143, 2005 World Summit Outcome Document, Resolution adopted by the General Assembly on 16 September 2005, A/RES/60/1, Sixtieth session Agenda items 46 and 120, online: https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_60_1.pdf

[38] Refer Para 143, 2005 World Summit Outcome Document, Resolution adopted by the General Assembly on 16 September 2005, A/RES/60/1, Sixtieth session Agenda items 46 and 120, online: https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_60_1.pdf.

architecture has diminished.[39] Mary Kaldor advocates for embracing both tracks, which she calls the human development track (freedom from want) and human rights track (freedom from fear) in order "to put the emphasis both on the security of individuals and on the interrelated character of security".[40] This dual track approach in the UN's definition of Human Security is what NATO has adopted in its Human Security Approach definition although it remains to be seen how it will evolve.[41] Apart from NATO, the Human Security concept has also been adopted by other non-UN entities in the last decade, namely, the Inter-Governmental Panel on Climate Change (IPCC), which in its 2014 Report clearly defines Human Security as suited for its needs (a narrower definition than the UN's wide definition).[42] Human security continues to resonate in the foreign policy for a smaller number of states today, like Japan, while states like Canada have moved on.

The concept of protection of civilians has been adopted by a number of humanitarian and human rights organizations in their programs and advocacy beyond the United Nations.[43] Other regional organizations and governments have also adopted protection of civilians policies or national plans in the last decade, including NATO in 2016.[44]

The increase in the global acceptance of protection of civilians as a concept has meant that more populations have come within its purview. Initially, the term protection of civilians covered civilians in international conflicts, including refugees, as an echo of the post-World War II period. Civilians in internal wars were included for protection via developments like 1977 Additional Protocol II to the Geneva Conventions.[45] From the 1990s onwards, first internally displaced persons (IDPs) and, thereafter, various other categories of persons like

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[39] UN General Assembly Resolutions and Debates, and Reports of the Secretary-General on Human Security, UN Trust Fund for Human Security, online: https://www.un.org/humansecurity/reports-resolutions/.
[40] Mary Kaldor, Human Security : A relevant concept?, Politiques étrangère, 4:2006, p.901online: https://shs.cairn.info/journal- politique-etrangere-2006-4-page-901?lang=en.
[41] Definition of Human Security: *Supra* note 31.
[42] The Inter-governmental Panel on Climate Change (IPCC), Human Security (2014), online: https://www.ipcc.ch/report/ar5/wg2/human-security/.
[43] A summary of the developments of POC in the last 20 years provided here: *Report of the Secretary-General, Protection of Civilians in Armed Conflict*, UNSC, S/2019/373 7 May 2019, online: https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B- 6D27-4E9C- 8CD3-CF6E4FF96FF9%7D/S_2019_373.pdf.
[44] *Supra* note 1.
[45] Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977, online: https://ihl-databases.icrc.org/en/ihl-treaties/apii-1977.

conflict-affected migrants and journalists in warzones were included.[46]

For the purposes of this paper, the term protection of civilians includes norms and measures focused on upholding the rights of civilians in situations of conflict implicating IHL, international human rights law, refugee law and principles from other related fields. An application of these may influence the conduct of those committing violence; mitigate or lessen the harmful impact of conflict; and afford protection to those not participating in hostilities. I derived this definition from two clusters of sources: (i) the basic definition used in UN humanitarian agencies' definition of protection of civilians, on which the UN Secretary General's Protection of Civilians reports are based;[47] and (ii) strategy and ethics including, 'codes of honour' or 'codes of conduct' contained in, for example, the US military's Law of War Manual.[48]

The term *conflict* primarily references a certain threshold of violence in the context of international armed conflict and a non-international armed conflict under the Geneva Conventions 1949 and Additional Protocols 1977. The determination of this threshold of violence in these conflicts is challenging to identify and is often contested.[49] In addition, the orthodox displacement framework accommodates a level of institutional ambiguity vis-à-vis this threshold of violence, for example, the UN Security Council does not always adhere to a threshold which could come under the Geneva Conventions 1949 and subsequent protocols. An example of this is peacekeeping deployment in Haiti mandated to protect civilians in situations of law and order breakdown and not conflict.[50] We will also see later in this thesis

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[46] UN Documents for Protection of Civilians refer : UN Secretary General's Reports, Security Council Report, online: https://www.securitycouncilreport.org/un_documents_type/secretary-generals-reports/?ctype=Protection%20of%20Civilians&cbtype=protection-of-civilians.

[47] **Humanitarian Protection Definition:** "… all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (i.e. International Human Rights Law (IHRL), International Humanitarian Law, International Refugee law (IRL*)).*" *Policy - Protection in Humanitarian*, IASC, October 2016, online (pdf): https://interagencystandingcommittee.org/sites/default/files/migrated/2020-11/IASC%20Policy%20on%20Protection%20in%20Humanitarian%20Action%2C%202016.pdf.

[48] US department of Defence, "Defence Department Updates its Law of War Manual, July 31, 2023, online: https://www.defense.gov/News/Releases/Release/Article/3477385/defense-department-updates-its-law-of-war-manual/.

[49] Sylvie Vite, "Typology of armed conflicts in international humanitarian law: legal concepts and actual situations" (2009) 91:873 International Review of the Red Cross 69, online (pdf): https://www.icrc.org/en/doc/assets/files/other/irrc-873-vite.pdf.

[50] Walter Dron, "Protecting civilians with force Dilemmas and lessons from the UN stabilization mission in Haiti", in Peter Nadin, ed., *The Use of Force in UN Peacekeeping* (New York: Routledge, 2018) at 124, online: https://walterdorn.net/pdf/POC-

(chapter 2) that similarly, both NATO and the AU allow for a certain ambiguity in the kind of situations they would intervene in to protect civilians.

Within the parameters of this broad approach to the protection of civilians, various actors like UN humanitarian agencies, UN peacekeeping missions, the AU and NATO situate their definitions of protection of civilians. There is no common definition of protection of civilians as noted earlier, although an attempt was made by the UN to harmonise a common definition under its 'Agenda for Protection' initiative launched in 2022, aimed at strengthening rights respect in crisis zones. Interviewees in this research expressed some scepticism about the possibility of a common definition ever being achieved and suggested instead that a common understanding of each institution's definition of protection of civilians would be helpful. The Agenda for Protection released in 2024 indicates that no common definition has been arrived at.[51]

Measures under the concept of protection of civilians involve both military and non-military measures, aligned along a spectrum of those addressing the broader environment that civilians find themselves in, to ones addressing harm suffered by an individual.[52] Such measures include actions to support peace processes and conflict prevention dialogue, to bolster physical safety and security of civilians, train first- responder groups (example, Syria's White Helmets), ensure food assistance deliveries, and accountability through judicial processes. Protection of civilians also overlaps with aspects of the Women, Peace and Security (WPS) agenda, namely, conflict-related sexual violence, and includes the Children and Armed conflict theme, although it is treated by actors like NATO as separate from

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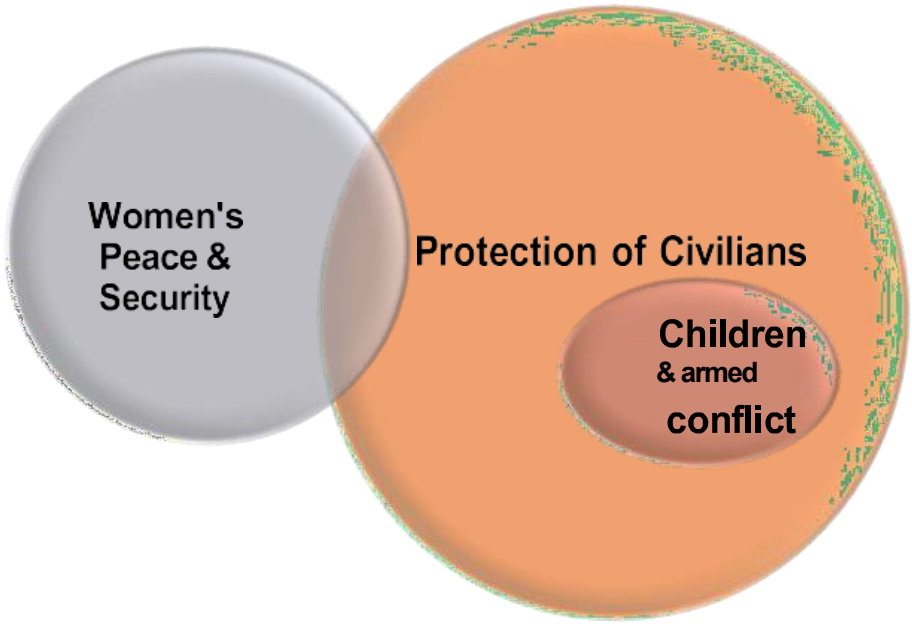
Haiti_Dorn_Ch6-Nadin-Use-of-Force-in-UN-Peacekeeping_10Sept2018.pdf.
Security Council resolution 2699 (2023) [on authorization to Member States to form and deploy a Multinational Security Support Mission in Haiti (MSS) for an initial period of 12 months], UNSC, S/RES/2699 (2023), online: https://digitallibrary.un.org/record/4022890?ln=en&v=pdf.

[51] *United Nations Agenda for Protection*, Office of High Commissioner for Human Rights, United Nations, February 2024, online: https://www.ohchr.org/en/documents/tools-and-resources/united-nations-agenda-protection-strengthening-ability-united-nations

[52] Refer to the **Egg Model** of protection work with responsive, remedial and environment building actions developed by ICRC and
adapted by the wider humanitarian community. Inter-agency standing committee, *Policy - Protection in Humanitarian Action* (Geneva: IASC 2016) at 32, online: https://interagencystandingcommittee.org/sites/default/files/migrated/2019-02/iasc_policy_on_protection_in_humanitarian_action.pdf.

protection of civilians (see Figure 2).[53]

Figure 2: Theme linkages: Protection of Civilians, Women Peace & Security, & Children & Armed Conflict



I conclude this section by speaking about a 'spirit of protection of civilians' that rests within the orthodox displacement framework but is rarely evoked today. What I mean by this is that there is a formalistic emphasis on the adherence to the rules of distinction, proportionality and necessity under IHL for protecting civilians. In reality, such claimed rule-following may provide only limited protection to civilians yet enable a feel-good factor that "we are the good guys". Anand Gopal notes, in his writing about the 2017 air bombing campaign of Raqqa, that despite a battery of lawyers advising the United States and its allies on the conduct of hostilities, the harm to civilian lives and structures vital for their survival was high and similar to the outcomes from the bombing of Aleppo (Syria).[54] In the latter, there was minimal adherence to rules of IHL by the belligerents.

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[53] Examples of children and armed conflict issues include the five specific harms for children in armed conflict under the Monitoring Rights Mechanism (MRM) mechanism. These are: (a) Killing or maiming of children ;(b) Recruiting or use of children in armed forces and groups; (c) Attacks against schools or hospitals; (d) Rape and other forms of sexual violence against children;(e) Abduction of children; (f) Denial of humanitarian access to children[55](*Refer Inter-relationships Image 2 above*). *Guidelines – Monitoring and Reporting Mechanism on Grave Violations against Children in Situations of Armed Conflict*, UNICEF, June 2014, on-line(pdf): https://childrenandarmedconflict.un.org/wp-content/uploads/2016/04/MRM_Guidelines_-_5_June_20141.pdf .

[54] Anand Gopal, "America' War on Syria's Civilians", (14 December 2024), online: https://www.newyorker.com/magazine/2020/12/21/americas-war-on-syrian-civilians.

This is because IHL is subject to various interpretations, and amongst the competing approaches (in the eyes of some states and IHL lawyers), there are some very undemanding standards for what constitutes acceptable targeting that knowingly generates 'collateral' harm to civilians. Furthermore, IHL's requirement to avoid disproportionate harm is determined in relation to the importance of a given military objective (degree of military necessity), with the 'importance rating' being a military decision. As a result, some states have targeting policies that give the greenlight to many dozens of civilians being killed or maimed as an acceptable price for eliminating a major military figure. Even more worrying today, notes ICRC's chief legal advisor Cordula Droege, is that the "protective purpose of IHL is set aside and the rules are literally turned on their head: instead of being interpreted to protect civilians".[55] She does not go beyond IHL to the broader "spirit of protection of civilians", which is unfortunately reflective of the minimums that are being fought for today.

The "spirit of protection of civilians" embodies the quintessence of the human protection regime. These concepts centre human needs rather than just needs of sovereign states and these needs range from immediate security to longer term "freedom from fear", long after the hostilities have stopped. As a result, the avoidance of harm and the well-being of people is placed at the front and centre of the conversations on situations of violence and not merely as a humanitarian afterthought. This reframing of needs may even go against the pragmatism (always guided by 'military necessity'), which is allowed within the laws of war and is a culture that needs to be fostered.

Some of this thinking was undertaken by NATO in Afghanistan, with a realization that one's military operation is ultimately lost if protection of civilians is not prioritised, given that significant civilian harm turns the population against you. However, a culture of protection of civilians is much more expansive, aiming for protection during, post and prior to hostilities by using all tools of law, morality and strategy (including politics) at one's disposal. A recent positive development in the 2024 annual UN Secretary- General's Report on Protection of

[55] Cordula Droege, "War and what we make of the law", (10 July 2024), online (blog):https://www.justsecurity.org/97582/war-law/.

Civilians talks about "beyond compliance", recognising that centralising of civilian harm for effective response goes beyond mere adherence to the law.[56] With NATO's adoption of a Human Security Approach and along with its Protection of Civilians Policy, the organization is better placed to go beyond legal compliance to upholding the "spirit of protection of civilians".

Concept of the harm of displacement

Today, the harm of displacement is regulated through a complex web of laws, guidelines, policy standards and practice derived primarily from IHL, international human rights law and refugee law and is supplemented by principles from adjacent fields. While there have been significant gains over the last decade or so in responding to those already displaced, most experts note limited efforts and gains vis-à- vis prevention or immediate redress of the harm of displacement. This is even more true vis-à-vis situations of violence, as compared to situations of natural disaster.[57]

The perpetrators of violence, if they pay attention to the harm of displacement, do so via their understanding of the orthodox displacement framework. The framework provides that no individual can be forced to move against their will – a general prohibition often reiterated by those working on these issues. However, while such displacement is "unacceptable", it is not always "unlawful".[58] For example, under IHL, people can be "lawfully" moved against their will for their security or based on military necessity.[59] Moreover, within this orthodox displacement framework, there is limited accountability for the harm of displacement, undermining the generally accepted prohibition against this harm. The most stringent accountability is found for "forced displacement" framed under IHL. However, this should

[56] Katharine Fortin et all, Beyond Compliance Symposium – Why and how to go "beyond the law" to address negatively lived experiences of armed conflict, September 17 2024, online: https://lieber.westpoint.edu/why-how-go-beyond-law-address-negative- lived-experiences-armed-conflict/.
[57] Samuel Cheung & Sebastian von Einsiedel," Internal displacement: reflections on prevention, protection and solutions", *Forced Migration Revie*w 65 *(*November 2020), online: https://www.fmreview.org/recognising-refugees/cheung-voneinsiedel .
[58] Global Protection cluster working group, *Handbook for Protection of Internally Displacement Persons*, (Geneva: United Nations High Commissioner for Refugees (UNHCR), June 2010) 137, online: https://www.unhcr.org/protection/idps/4c2355229/handbook- protection- internally-displaced-persons.html.
[59] Refer, Rule 129: Practice related to Rule 129 Act of Displacement: ICRC "International humanitarian law data base", online: https://ihl-databases.icrc.org/en/customary-ihl/v1.

not be considered the alpha and omega of prohibition. In this section, I will map what is covered and what is left out.

The orthodox legal and policy framework regulating displacement focuses less on the actual harm of displacement and more on the situation post the occurrence of the harm and on the rights of the displaced. It categorizes different kinds of involuntary movement based on their causal links, such as conflict, natural disasters, religious persecution, etc.. It also accords a label to different displaced groups such as refugees, internally displaced persons, etc..[60] These labels afford various rights protections to different displaced persons depending on their status classification. The only explicit prohibition of displacement arising out of violence in international law is found within the body of IHL. While international human rights law has a range of rights that could be interpreted to imply the right against involuntary displacement in situations of conflict, for example, the right to freedom of movement, there is no clear blanket prohibition on displacement per se.[61] The only international human rights treaty that clearly provides a prohibition on displacement is the Indigenous and Tribal Rights Convention 1989.[62] Refugee law is altogether silent on the prohibition of displacement and its focus is on preserving the right to asylum. Nevertheless, it is an important body of law that has shaped how displaced persons are assisted and protected.[63]

Forced displacement: In IHL, under Article 49 of the fourth Geneva Convention 1949, during an international armed conflict occurring between two states, the act of forced displacement is prohibited when it involves "forcible transfers" or "deportation" of civilians by an occupying power. This amounts to a grave breach under Article 147 of the Convention.[64] In a non-international armed conflict occurring within a state between the government and an armed group there is a clear prohibition under Article 17 of 1977

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[60] *Supra* note 12.
[61] Walter Kalin, *Guiding Principles Annotations* (Washington D.C.: American Society of International Law January 2008), online (pdf): https://www.brookings.edu/wp-content/uploads/2016/06/spring_guiding_principles.pdf .
[62] Article 16, Indigenous and Tribal People's Convention, 1989 (C169), June 27, 1989 Treaty Series, 1989 September 5, 1991, online: https://www.refworld.org/legal/agreements/ilo/1989/en/19728.
[63] Josep Zapater, "Prevention of forced displacement: the inconsistencies of a concept", (April 2010), United Nations High Commissioner for Refugees, online (PDF): https://www.unhcr.org/4bbb2a199.pdf.
[64] Article 49 - Deportations, transfers, evacuations : ICRC "International humanitarian law data base", online: online: https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-49.

Additional Protocol II to the Geneva Conventions 1949 of "displacement of the civilian population related to the conflict".[65] Under the Rome Statute of the International Criminal Court 1998, ordering forced displacement in a non-international armed conflict is a war crime.[66] However, this prohibition of forced displacement in IHL has exceptions, namely, based on military necessity or the need to ensure their safety, the civilian population can be moved against their will.

A review of Rule 129 of ICRC's IHL database reveals the extent of this prohibition of forced displacement in the Geneva Convention instruments and other international and state instruments including, military manuals of key NATO member states such as Unites States, United Kingdom, The Netherlands and Canada.[67] While the Geneva Convention has been widely adopted, the Additional Protocols have limited acceptance. Moreover, some states like Israel have declared Article 49 of the Geneva Convention as not covering certain kinds of deportations or forming part of customary international law.[68]

In recent years, there has been an emerging acknowledgement of the narrowness of the prohibition of forced displacement vis-à-vis temporal dimensions of hostilities. The ICRC has proposed the concept of "reverberating effects of war" to cover second and third degree effects from armed conflict, including displacement that continues well after hostilities have ended.[69] However, both the concept and its application in practice are contested, especially by those who interpret IHL more narrowly.[70] Furthermore, this concept does not cover instances where people voluntarily displace themselves prior to armed conflict (referred to as pre-emptive or preventative flight), as noted at an expert consultation meeting on IHL to which I was invited in 2022.[71] Nor does this cover the concept of a "coercive

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[65] *Ibid.*
[66] Refer article 8 (e)(viii): *Rome Statute of the International Criminal Court*, United Nations Treaty Series, vol. 2187, 17 July 1998, online: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-10&chapter=18&clang=_en .
[67] *Supra* note 59.
[68] *Ibid.*
[69] Cédric Cotter, *Displacement in times of Armed Conflict- How International Humanitarian Law protects in war, and why it matters* (Geneva : ICRC 2019), online: https://shop.icrc.org/displacement-in-times-of-armed-conflict-how-international-humanitarian-law-protects-in-war-and-why-it-matters-print-fr.html.
[70] Clark Orr, "Reverberating Effects and International Law",(2021), online (blog): https://civiliansinconflict.org/blog/reverberating- effects-and-international-law/?utm_source=rss&utm_medium=rss&utm_campaign=reverberating-effects-and-international-law .
[71] Rebecca Sutton and Emanuela Chiara-Gillard, *Beyond Compliance: International Humanitarian Law, Humanitarian Need and*

environment" whereby, although no active conflict is taking place, a breakdown of law and order and security impacting the environment they live in has resulted in people feeling displaced from their normal lives (ways of living) without physically moving away, such that any random incident thereafter could trigger flight. For example, an incident such as a kidnapping or a bomb blast across a city may compel a decision to move although it does not impact people directly. As a result, a direct causal link of violence triggering flight becomes a challenge to establish.[72]

Internal Displacement: The post-Cold War period witnessed production of a landmark document, the 'Guiding Principles on Internal Displacement' (Guiding Principles) in 1988. This 'soft law' non- binding document was developed at the request of the UN Human Rights Commission (now the Human Rights Council) by Francis Deng, who was appointed in 1992 as the first Representative of the UN Secretary- General for IDPs. Deng led a unique process of consultation and drafting for the Guiding Principles outside the traditional inter-governmental processes of the UN, involving a group of international experts under his supervision.[73] The Guiding Principles were adopted by the UN Human Rights Commission on 17th April 1988, and have been vigorously promoted over the decades by the Under Secretary-General for Humanitarian Affairs and the Inter-Agency Standing Committee system (IASC). The latter is the principal forum for global decision-making by the humanitarian community (UN, ICRC and NGOs responding to crisis zones). The Guiding Principles were seen as simpler (and quicker) "sell" to member states, rather than a drawn-out process of treaty drafting.

The Guiding Principles added a new category of displaced persons, that is, "internally displaced persons (IDPs)" to the dominant orthodox displacement framework and for the

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Civilian Harm in Armed Conflict (Edinburgh: The Peace and Conflict Resolution Platform at University of Edinburgh 2022), online (pdf): https://peacerep.org/wp-content/uploads/2022/11/Beyond-Compliance-International-Humanitarian-Law-in-Armed- Conflict.pdf .

[72] Ali, Ali, "Conceptualizing displacement: the importance of coercion" (2022) 49:5 Journal of Ethnic and Migration Studies 1083, online: https://www.tandfonline.com/doi/full/10.1080/1369183X.2022.2101440.

[73] Roberta Cohen, "The Guiding Principles on Internal Displacement: An Innovation in International Standard Setting global governance"
(Oct-Dec 2004) 10: 4 Global Governance 459, online (pdf): https://www.jstor.org/stable/i27800535 .

first time created a framework for their protection and assistance.[74] Historical documentation on the drafting of the Guiding Principles highlights that the primary motive that propelled their development was a realization that IDPs were a neglected and growing group within the borders of a number of countries in the 1980s.[75] Moreover, the international community was unable to access these groups when their own state was unable or unwilling assist or protect.[76]

The Guiding Principles were neither a breakthrough political manifesto nor a re-writing of the existing legal framework to fill all the gaps in protection of rights in every situation of displacement. The aim was not to rock the boat by rethinking displacement regulation. As Deng notes, the Guiding Principles were merely a way "to clarify the gaps and gray areas and make the law more relevant to IDPs … a restatement of the law with specific tailoring to the needs of the internally displaced."[77]

A primary aim was to pierce the wall of the jealously guarded principle of sovereignty in a limited way, thus ensuring that displaced people were identified and assisted to an extent. The principle of 'sovereignty as responsibility', developed by Francis Deng in the context of good governance in Africa, was applied to the development of these Guiding Principles. Within this framework the primary responsibility to protect and assist the internally displaced lies with the state, and the international community is be invited in only if the state is unable or unwilling to offer protection.[78]

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[74] *Report of the Special Representative of the Secretary General, Mr. Francis M. Deng, submitted pursuant to Commission resolution 1997/39*, *Addendum Guiding Principles on Internal Displacement GE.98-10493 (E)*, EOSOC, E/CN.4/1998/53/Add.2
11 February 1998, online: https://www.refworld.org/legal/otherinstr/unchr/1998/en/18487 .

[75] A first ever count, produced by the U.S Committee for Refugees in 1982 indicated 1.2 million IDPs in 11 countries. By 1986 this figure had increased to 11.5-14 million with 20 affected countries. These numbers were largely due to conflicts in Central America (El Salvador) and the Middle East (Iraq) and Africa (Ethiopia). Robert Cohen and Francis M.Deng, *Masses in Flight – Global Crisis of Internal Displacement* (Washington D.C: Brookings Institution Press, 1998) 3.

[76] Roberta Cohen, "Developing an International System for Internally Displaced Persons" (2006) 7 International Studies Perspectives 87, online:https://journals-scholarsportal-info.ezproxy.library.yorku.ca/pdf/15283577/v07i0002/87_daisfidp.xml_en.

[77] *Supra* note 73 at 92. For further reading: *Internally displaced persons : compilation and analysis of legal norms : report of the Representative of the Secretary-General, Francis M. Deng, submitted pursuant to Commission on Human Rights resolution*, ECOSOC, 51st session, ECOSOC,E/CN.4/1996/52/Add.2, December 1995, online: https://digitallibrary.un.org/record/227755?ln=en.

[78] The term, "Sovereignty is responsibility" was coined by Francis Deng, developed while he had worked on African governance noting: "I approach sovereignty not as a negative concept by which states barricade themselves against international scrutiny and involvement, but rather as a positive concept entailing responsibility for the protection and

While the Guiding Principles stipulate a prohibition of displacement and encourage prevention of displacement as well as, the ending of displacement as soon as possible. Their primary focus is on provision of assistance and protection of the rights of those already displaced. Therefore, they are a true reflection of their time period, with the surge in IDP numbers.

The categories of IDPs referenced in the Guiding Principles include those forced to leave their homes not just due to conflict (as contained in the 1949 Geneva Conventions), but also due to generalized violence, and due to natural and man-made disasters. This harm is classified as "arbitrary displacement" and was a distinct innovation of the guidelines.[79] It is broader than IHL's forced displacement in terms of triggers for flight.

The only hard law Convention on displacement in existence today is the AU Convention for the Protection and Assistance of Internally Displaced Persons 2009 (Kampala Convention), covering the African continent.[80] Unlike the Guiding Principles, the Kampala Convention spells out responsibility and accountability of states more strongly to prevent this harm of displacement. However, it does not make arbitrary displacement a crime per se, rather it only obligates states to "make offences punishable by law"; that is, displacement that arises from war crimes, genocide and crimes against humanity which are already punishable in international law.[81] It weakly encourages that other individual acts of arbitrary displacement should be covered under domestic and other international laws. So, under the Kampala

general welfare of the citizens and of those falling under state jurisdiction". Refer, Francis Mading Deng, "The Global Challenge of Internal Displacement" (2001) 5, Washington University Journal of Law and Policy, 144, on-line: https://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1556&context=law_journal_law_policy.

79 Principle 6, *Supra* note 74.

80 There are other soft laws that are beginning to echo this prohibition of forced and arbitrary displacement in the Guiding Principles, such as the 2005 Pinhero Principles on Property Rights of Refugees and IDPs. Refer, Elena Katselli Proukaki, "Right not to be displaced under International Law", in Elena Katselli Proukaki,ed, *Armed Conflict and Forcible Displacement: Individual Rights under International Law*, (London: Routledge 2018) 1, online: https://www-taylorfrancis- com.ezproxy.library.yorku.ca/books/edit/10.4324/9781315629391/armed-conflict-forcible-displacement-elena-katselli-proukaki.

81 Mike Asplet, & Meghan Bradley, "Strengthened Protection for Internally Displaced Persons In Africa: The Kampala Convention Comes Into Force" (6 December 2012), online: https://www.brookings.edu/articles/strengthened-protection-for-internally-displaced-persons-in-africa- the- kampala-convention-comes-into-force/ .

Convention de jure accountability for the harm of displacement remains primarily linked to IHL's forced displacement as a war crime and, when not a war crime, within the ambit of the recognized international law crimes of genocide or crimes against humanity.

The Guiding Principles have gained traction within the international community over the last few decades. They are referenced in discussions at the UN Security Council and UN General Assembly and also used as benchmarks for programming, by UN and NGO humanitarian actors and other international institutions, like the World Bank. As of December 2022, a total of 29 countries have laws related to IDPs, 22 have IDP policies and 62 had some strategies or action plans incorporating aspects of the Guiding Principles into their government responses.[82]

Most interviewees who were familiar with the Guiding Principles felt they serve the purpose of identifying this group, enabling provision of assistance and protection services and reminding states (including reluctant ones) of their responsibilities. However, unlike the Kampala Convention, the "soft law" of the Guiding Principles is even more vulnerable to being truncated and subject to vagaries of state-level legislation and policy making, as well as implementation uncertainties.[83] For example, some of these country level legislations narrow the definition of an IDP and others focus on regulating natural disaster-triggered displacement and not displacement caused by violence. Significantly, as interviewees noted, most military actors, including members of NATO and UN peacekeeping missions, do not reference the Guiding Principles as a benchmark in their operations. Nor do the Guiding Principles find reference in NATO documents related to its Protection of Civilian Policy 2016. However, many NATO member states follow some guidance under Council of Europe or individual laws related to the displaced and the prohibition of displacement (some pre-dating the Guiding Principles).[84] This again casts doubt on whether there is indeed a blanket acceptance of the general prohibition of the various kinds of displacement provided in the

[82] Martina Caterina, *Global Report on Law and Policy on Internal Displacement – Implementing National Responsibility*, Geneva: Global Protection Cluster/UNHCR 2022) 16, online (PDF): https://www.unhcr.org/sites/default/files/legacy-pdf/6401d5624.pdf.
[83] Abbey Steele et all, "The politics of Forced Displacement and how states respond" (11 April, 2024), online: https://researchinginternaldisplacement.org/short_pieces/the-politics-of-forced-displacement-and-how-states-respond/.
[84] *Supra* note 82 at 83.

Guiding Principles in addition to the stipulations already found in "hard law", that is, forced displacement under IHL.

Displacement and International Criminal Law: Even with forced displacement under IHL, there are only a few cases that have been considered by international tribunals.[85] Most rulings have been conservative, especially in relation to internal displacement, given the higher evidence burden requirement for internal displacement than displacement across international borders.[86] However, contributions by legal expert bodies, such as the Independent International Commission of Inquiry on Syria, may facilitate the shaping of a legal consensus to lower the threshold of evidence for prosecution of this harm. So, for example, the order to all Kurdish residents to leave Tal Akhder village (Ar Raqqah province in Syria) in March 2014 was deemed to be both a war crime and a crime against humanity by the Commission of Inquiry, irrespective of the actual numbers of individuals physically displaced.[87] Moreover, with the situation of displacement unfolding in Gaza, there may be new jurisprudence emerging at international courts.

However, all the above-mentioned examples focus on physical movement during the period of hostilities and do not cover displacement prior to or post hostilities. Nor does it cover displacement that appears to be random, without a direct causal link to violence -- but is due to a "coercive environment" built up over a period of time.[88]

An argument has been made by James Simeon to criminalize all acts of mass displacement, given the many gaps in the existing coverage of international humanitarian law and international criminal law on this harm of displacement.[89] Steps are now being taken

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[85] Dickey, Rebecca, "The Evolution of Forced Displacement in International Criminal Law", (2019) PKI Global Just J 58, online: https://globaljustice.queenslaw.ca/news/the-evolution-of-forced-displacement-in-international-criminal-law .
[86] *Ibid.*
[87] *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, UNGA, A/HRC/27/60, 13 August 2014 at 21, online (pdf): https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/CoISyria/A.HRC.27.60_Eng.pdf .
[88] *Supra* note 72.
[89] James C. Simeon, "Enhancing Refugee Protection Through the Criminalization of 'Mass Forced Displacement'" (2 August 2018), online (Blog): https://rli.blogs.sas.ac.uk/2018/08/02/enhancing-refugee-protection-through-the-criminalization-of-mass-forced- displacement/.

advocate more forcefully for closing the gap on criminalizing displacement as evidenced in a 2022 report by the UN High Commissioner for Refugees (UNHCR). The report maps global efforts and individual state actions to criminalize "arbitrary displacement", while acknowledging that IHL's forced displacement is already criminalized in relation to war crimes, crimes against humanity and/or genocide at the International Criminal Court, etc.[90] The study notes that criminalization of arbitrary displacement will indicate a clear rejection of this act of displacing, as well as contribute to building a culture of deterrence, which would in turn help develop more accountability for this harm (and thus also enable more proactive prevention). Furthermore, this criminalization would mark a significant step towards creating a red line prohibition for the harm of displacement, where there is currently none.

However, criminalization is a long process and once again dependent on the willingness of individual states and subject to global multilateral politics. Moreover, criminalization could be a deterrent but one cannot assume it would be the most desirable deterrent, given that justice for crimes under international law are typically meted out long after the harm is done. Moreover, there is limited enforcement capacity to ensure application of this justice even if speedily rendered, if one goes by the example of case processing of the International Criminal Court today. Therefore, it is incumbent on NATO in the present day to examine how to take responsibility and ensure accountability in real time, within and beyond IHL's forced displacement, if not through de jure action, then through de facto action by approaching it as a red line of prohibition, while planning its military operations. This would go a long way to strengthening its commitment to treat the harm of displacement as a key protection of civilians concern.

1.2. Conversations influencing the orthodox framework

Apart from law and policy, ongoing conversations among states, international organizations and others (academics, etc.), also shape how the harm of displacement is understood and

[90] *Ilena Nicolau, Making Arbitrary Displacement a Crime: Law and Practice (Geneva: Global Protection Cluster/UNHCR 2022), online (PDF): https://www.globalprotectioncluster.org/sites/default/files/2022-07/gpc_making_arbitrary_displacement_a_crime_law_and_practice_mc.pdf.*

responded to. These conversations in turn may influence NATO's understanding of the gravity of this harm, as well help prioritize its prevention. I have identified below some of these key "conversations" based on my interviews.

These conversations, I contend, have resulted in diverting of attention and potentially a de-prioritization of this harm of displacement in a number of contexts, thus also diluting efforts on prevention and accountability. Comparatively, some progress has been seen vis-à-vis prevention in response to climate- related displacement.[91]

Conversation: Migration, Security and Asylum

This conversation, often led by Global North countries, centres on migration issues and security of border management. A non-entrée regime vis-à-vis refugees has been emerging since the 1980s, primarily within western states and has now become entrenched in their political discourse.[92] The attention today is on (yet again) issue of *externalization*.[93]That is, keeping people away from, Europe or America via tighter border controls and moving those inside to countries such as, Rwanda or Mexico or Libya, in order to process their asylum claims.

On sensitivities to the politics of migration in Europe, one interviewee discussed the example of Syria, where huge displacement numbers occurred but were not taken up robustly by their organization and others. This was in comparison to the advocacy around other protection of civilian harms, such as besiegement of cities or attacks on healthcare. This is an observation with which I concur, based on my experience working on this same crisis in the same period.

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[91] *Supra* note 57.

[92] Phil Orchard, *A Right to Flee -Refugees, States, and the Construction, of International Cooperation* (Cambridge: Cambridge University Press, 2014) 203.

[93] UNHCR **externalization definition:** "The externalization of international protection refers here to measures taken by States—unilaterally or in cooperation with other States—which are implemented or have effects outside their own territories, and which directly or indirectly prevent asylum-seekers and refugees from reaching a particular 'destination' country or region, and/or from being able to claim or enjoy protection there. Such measures constitute externalization where they involve inadequate safeguards to guarantee international protection as well as shifting responsibility for identifying or meeting international protection needs to another State or leaving such needs unmet; making such measures unlawful." UNHCR Note on Externalization of International Protection, Office of High Commissioner for Refugees, 28 May 2021, online: https://www.refworld.org/policy/legalguidance/unhcr/2021/en/121534 .

They wondered if one reason was the fact that, if one focused on displacement and movement of people, it would then become about migration and. Therefore, one could conclude that the harm of displacement may have been downplayed given that it was a politically charged issue for a number of countries in the Global North, who were also the primary donors in the Syria conflict (and NATO member states).

The concern always overshadowing displacement is the issue of access to asylum. For example, one interviewee noted, while acknowledging that there was a need to focus on the harm of displacement, we should also be mindful that prevention of displacement is not appropriated as a containment policy by Europe; that is, seeking to keep people in places of or closer to places of their origin, thus preventing those in genuine need of international protection from seeking asylum and accessing European territory. I note that, even without a full-blown or widespread practice of containment, access to asylum is taken up selectively. For example, my experience in working on the Syria crisis was that, given Türkiye's existing generosity to refugees, the issue of opening borders for more Syrians was not taken up strongly by international organizations, as not to offend Türkiye.

This conversation on migration and access to asylum may have also coloured the way displacement is viewed by NATO. A few interviewees noted that while displacement and migration are approached as part of security defence for NATO and considered throughout any planning process from that point of view. It is indeed a very sensitive topic in the alliance to reframe and push for a humanitarian point of view to predominate. One interviewee speculated that perhaps this may be a reason the harm of displacement has not found specific mention in NATO's Protection of Civilians Policy 2016. Another pointed out that some NATO countries use the term 'evacuees' rather than 'displaced' when conducting military training exercises, which may also be due to these sensitivities. The term 'displaced' would immediately conjure up "hordes of foreigners" moving from war-torn countries towards Europe.

One UN expert interviewee noted that one way to stop migration and security casting a shadow over the harm of displacement was to first delink displacement in conflict from the

non-conflict roots of migration, as well as strengthen the link of displacement in conflict to protection of civilians and the wider peace and security architecture. A similar point was made by an interviewee familiar with NATO, who noted that a linking of displacement to conflict makes it more comprehensible, rather than the semantics of whether or not one is a refugee.

There is a space that needs to be reclaimed to focus solely on the harm of displacement, rather than viewing displacement through the prism of the migration, security and asylum nexus on the one hand, or through a vulnerability and humanitarian needs conversation, on the other hand.

Conversation: Humanitarian leadership on displacement contexts

Despite valiant efforts that began with Deng and Cohen to remind states that "sovereignty means responsibility," the response to displacement in a number of crisis situations is dominated by humanitarian actors and not the state. Even in cases where a state is in the driving seat, the language and framing of a situation is heavily influenced by humanitarians.[94] This is especially the case in crisis zones, where potential or new displacements are likely to occur.

One UN expert interviewee noted that while some gains have occurred on protection in armed conflict, most efforts from the humanitarians have gone towards systematizing and professionalizing standards around issues such as child protection services, multi-sectoral assessments and the nexus with development. The needle for addressing the harm of displacement has not moved significantly. Much of the focus of humanitarians has been on situating and solidifying displacement as yet another layer of vulnerability for civilians.[95] This layer of vulnerability is explained by another interviewee as follows: "Being displaced makes you much more exposed to a whole string of protection issues like recruitment, like

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[94] This humanitarian influence on displacement law and policy is noted by Kalin in: Kalin, Walter, ed, *Internal Displacement and the law* (Oxford: Oxford University Press, 2023), online: https://academic.oup.com/book/46446/chapter/407726224 .

[95] V**ulnerability definition:** "The conditions determined by physical, social, economic and environmental factors or processes which increase the susceptibility of an individual, a community, assets or systems to the impacts of hazards (and risks)." UN Office for Disaster Risk Reduction, Sendai Framework Terminology on Disaster Risk Reduction, online: https://www.undrr.org/terminology.

stigma, like exploitation, etc., so it can be seen both as a vulnerability in and of itself."

Of relevance to the focus of this paper is the debate that has occurred on vulnerability and Human Security, which was ascendant in the late 1990s/early 2000s across the UN and elsewhere. Today, Human Security is a broad thematic umbrella for NATO, comprising protection of civilians along with other themes. In 2003, Astri Surkhe wrote that 'concept of vulnerability' is a better alternative to the vague concept of Human Security vis-à-vis the needs of refugees. She argues that the concept of vulnerability caters to the specific protection needs of refugees, for example, children or women at risk are categories of vulnerability which apply easily. Human security, by contrast, suffers as a security- orientated military heritage term which ends up "othering" refugees as a security group, whose rights can be undermined if the security considerations of a state change.[96] However, Edward Newman cautions that the focus on vulnerability undermines human agency (which is now commonly accepted among humanitarians). Moreover, the vulnerability "push back" on Human Security de-links displacement flows from being considered threats to international peace and security within a broader non- humanitarian peace and security architecture. With Human Security adopted in the post-Cold War period the concerns of the displaced were at the centre stage of global high politics at the UN Security Council, rather than just a humanitarian issue.[97]

Apart from this focus on vulnerability, another tool to deal with the harm of displacement adopted under the leadership of the humanitarian community has been the development of laws and policies related to internally displaced persons.[98] This is reflective perhaps of the experience of the actor leading on protecting displaced rights, the UNHCR. My experience working on such policies and laws related to the internally displaced has been that the focus

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[96] Astri Surkhi, "Human Security and Protection of refugees" in Edward Newman and Joanne van Selm, *eds., Refugees and forced displacement: International security, human vulnerability, and the state*, (Tokyo: United Nations University Press, 2003) 93, online (pdf): https://collections.unu.edu/eserv/unu:2434/nLib9280810863.pdf.

[97] Edward Newman, "*Refugees, international security, and human vulnerability: Introduction and survey", Ibid* at 3.

[98] Refer to initiatives such as the United Nations, Global Compact on Refugees December 2018, New York, online: https://www.unhcr.org/about-unhcr/who-we-are/global-compact-refugees. United Nations, Global Compact for Safe Orderly and Regular Migration, July 13 July 2018, adopted in inter-ministerial conference December 2018, online: https://refugeesmigrants.un.org/migration-compact.

is more on rights in displacement, rather than averting or minimising the harm of displacement.

Today, the response to the harm of displacement in crisis zones is undertaken within the framework of the "humanitarian cluster system". This system was established in response to the growing number of internally displaced in 2005. The idea behind this cluster system is that one UN agency will take coordination leadership responsibility (called a "cluster"), for one area of need within humanitarian response to a crisis. For example, the UN World Food Program will be responsible for the food security cluster, and it will engage with all those delivering food assistance in a crisis (UN, NGOs etc.), in order to ensure food assistance gaps are filled and the assistance is delivered according to certain standards.[99] A similar coordination mechanism exists in refugee crisis settings as well.[100]

Reflecting the findings of two significant assessments undertaken in 2022 and 2024, most interviewees familiar with the clusters noted that these coordination mechanisms, whose raison d'être is to deal with situations of internal displacement, may have inadvertently undermined the gravity of the harm of displacement with insufficient attention being paid to this issue.[101] The cluster system sought to place the over-lapping and inter-connected tangled needs of civilians experiencing the harm of displacement or those already displaced into neatly siloed needs-based subject-matter boxes. As a result, the significant story of displacement and the gravity of the harm of displacement was often lost in this needs-based focus of the affected populations. The 2022 assessment recommended having protection advisors assigned to the most senior UN official in charge of a crisis, since their presence could assist the senior most UN official in a crisis zone to view the big picture of

[99] Refer: OCHA, "Cluster Coordination", online: https://reliefweb.int/topics/cluster-coordination .
[100]Refer: UNHCR, "UNHCR Refugee Coordination model note", online: https://www.unhcr.org/media/unhcr-refugee-coordination- model .
[101] Lawsi Sida, et all, *Independent review of the humanitarian response to internal displacement* (London: Overseas Institute for Development (ODI) 2024), Online: https://odi.org/en/publications/independent-review-of-the-humanitarian-response-to-internal- displacement/.
Jane Cocking et all, *Independent Review of the humanitarian response to internal displacement*, (London: Overseas Institute for Development (ODI) 2022), Online (pdf): https://interagencystandingcommittee.org/sites/default/files/2024-03/Independent%20review%20of%20the%20humanitarian%20response%20to%20internal%20displacement.pdf .

displacement, including the political and security considerations, beyond humanitarian needs. These same assessments also concluded that today clusters no longer only focus on displaced populations but all populations in need, displaced or not, and this may have contributed to the attention on displacement issues diminishing, which was the focus of the 2021 High Level Panel on Internal Displacement report.[102]

Interviewees indicated that military actors today, including NATO, defer to humanitarians in crisis zones for shaping their understanding, engagement and response to displacement today. There is a certain deference to the "humanitarian space" as well as acceptance of humanitarian lead on such issues, primarily as a consequence of factors such as the strained civil-military engagements between militaries and humanitarians in the context of the post 9-11 wars. For example, in Afghanistan, military actors were criticized for engaging in humanitarian assistance activities to "win hearts and minds".[103] The increasing professionalization of the humanitarian system in the 2000s and onwards may have also played a role in this humanitarian dominance of the response to affected populations, along with the expansion of the cluster system. The cluster system and humanitarian engagement is carefully outlined in NATO's Protection of Civilian handbook (ACO Handbook).[104] However, this deference to a humanitarian lead may have inadvertently contributed to NATO not engaging more deeply on issues of displacement, thereby eroding a sense of accountability to displaced persons by the primary duty bearers (NATO member states).

Conversation: A de-politicised engagement on displacement

The humanitarian dominance of displacement in crisis response zones has meant that the architecture to respond to the harm of displacement rests primarily with structures like the humanitarian cluster system and at a higher level, with the inter-agency standing committee (IASC). The IASC is comprised of heads of UN and NGOs, along with the ICRC as a standing

[102] *Shining a light on Internal Displacement: A vision for the Future (September 2021)*, UN Secretary General High Level Panel on Internal Displacement, online: https://internaldisplacement-panel.org/index.html .
[103] Michael J. Dziedzic & Michael K. Seidl, Provincial Re-Construction teams: Military Relations with International and Non-Governmental Organizations in Afghanistan (United States Institute for Peace (USIP) 2005).
Ashley Jackson & Simone Haysom. The search for common ground: Civil–military relations in Afghanistan, 2002–13, (London: Overseas Institute for Development (ODI) 2013), online: https://www.jstor.org/stable/resrep50438?seq=2.
[104] *Infra* note 139 at 13.

invitee.[105] This organizational constellation centres displacement primarily as a humanitarian problem with limited political gravity or implications for international peace and security in a crisis.

In recent years, humanitarian actors have forged deeper links with development actors on crisis response, which could indicate a shift from depoliticized engagement by these humanitarian actors. In reality, these remain technocratic and apolitical engagements that, at best, may have resolved some issues for displaced persons, while having a limited impact on the balance of power or accountability among duty bearers.[106] While rights-based approaches are applied, this is more in terms of program guidance values rather than as fundamental dictates, including engagements like the Action Agenda on Internal Displacement and the Global Compact on Refugees.

A connection of protection of civilians and the harm of displacement to the wider peace and security architecture of the international community, while necessary, is limited. At a country level in a crisis, UN peace operations (and political missions, such as the UN missions in Somalia and Afghanistan that work with NATO or the AU), are integral to the peace and security architecture of the international community. However, interviews indicate that significant parts of a response to displacement is often left to the humanitarians, while peace operations maintain a limited footprint on the issue or take a cue from them. So, for example, unlike gender or child advisors, there are no displacement advisors in peace operations.

At the UN Security Council level, there was a high politics moment for displacement in the interventionist 1990s. For example, in protecting Iraqi Kurds, the Security Council deemed refugee flows as a threat to international peace and security, and initiated action to prevent this harm of forcible displacement across borders.[107] This decade was a zenith for the harm

[105]Inter-Agency Standing Committee (IASC), IASC web-site, online: https://interagencystandingcommittee.org/the-inter-agency- standing-committee.

[106] *Supra* note 22. Emily Arnold-Fenandez ,"The Global Compact on Refugees: inadequate substitute or useful complement?" (2023) 5 Front.Hum.Dyn., online: https://www.frontiersin.org/articles/10.3389/fhumd.2023.1238186/full.

[107] Nicholas J. Wheeler, *Saving Strangers: International Intervention in International Society* (Oxford: Oxford University Press, 2000) at 140, online: https://academic.oup.com/book/276 .

of displacement in global high politics and then there was a subsequent delinking from these wider peace and security discussions due to a variety of reasons, including the rising controversy around attempts at preventing displacement furthering a 'containment policy' aimed at keeping people within or near their place of origin, thus restricting their access to asylum.[108]

In the decades since the 1990s, there have been less explicit references to displacement as a threat to international peace and security, and less attention paid to preventing the harm of displacement. Erin Mooney notes a seamless incorporation and continuity of protection of civilians and displacement from the 1990s in the UN's peace and security architecture, with the growth of protection of civilians as a concept in 1999 and 2000.[109] She notes the consistent references to displacement and protection of civilians in UN Security Council resolutions. However, a deeper dive by Elizabeth Ferris and Sanjula Weerasinghe, by breaking down the content majority of these Security Council resolutions from 2000 to 2010, reveals that while there is consistent reference to displacement and protection of civilians, many of these references deal with issues of humanitarian access and assistance.[110] Only a handful of references deal with issues related to prevention and mitigation of the harm of displacement. My review of UN Security Council resolutions and UN Secretary-General's Protection of Civilians Reports from 2010 until the date of writing concurs with the findings of Ferris and Sanjula. I note references to displacement vis-à-vis humanitarian assistance and response to the displaced, provision of IDP figures, national IDP policy development and adoption of the Global Compact on Refugees. A 2024 stock taking note on Protection of Civilians by OCHA reiterates that prevention of displacement remains a gap.[111]

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[108] Christiane Ahlborn, The Normative Erosion of International Refugee Protection through UN Security Council Practice , *Leiden Journal of International Law*. 2011;24(4):1009-1027: https://www.cambridge.org/core/journals/leiden-journal-of-international-law/article/abs/normative-erosion-of-international-refugee-protection-through-un-security-council-practice/C8EE3847B05BEBCFD365908BB92F935B

[109] Erin Mooney, Displacement and Protection of Civilians under International law, Haidi Willmot, et al., eds., *Protection of Civilians* (Oxford: Oxford University Press, 2016) at 177, Online: https://global.oup.com/academic/product/protection-of-civilians- 9780198729266?cc=us&lang=en&.

[110] Elizabeth Ferris and Sanjula Weerasinghe, "The UN Security Council and Prevention of Displacement" (1December 2012), online: https://www.brookings.edu/articles/the-u-n-security-council-and-prevention-of-displacement/.

[111] Policy Brief on the Security Council's Consideration of the Protection of Civilians in Armed Conflict (2019 - 2023) (New York:OCHA 2024), online: https://www.unocha.org/publications/report/world/policy-brief-security-councils-consideration-protection- civilians-armed-conflict-2019-2023 .

In contrast, other protection of civilians issues involving conflict and sexual violence (under Women, Peace and Security), and children and armed conflict, have standalone platforms at the Security Council backed by specific resolutions and annual reporting and monitoring mechanisms.[112] This enables clear linkages to matters of peace and security, as well as undivided attention of a high politics platform for dialogue with member states. Moreover, NATO has also adopted these as specific thematic areas in its organizational structure, likely influenced by their prominence at the UN for its member states and former UN staff rotating into NATO.

Conversation: Permissibility of the harm of displacement

There are certain conversations that contribute to a culture of permissibility vis-à-vis the harm of displacement within the orthodox displacement framework. I will provide in this section a few examples of such conversations. These conversations foster a perception that displacement is "collateral damage" in IHL, wherein a 'proportionate' degree of harm is acceptable, potentially eroding the gravity, prohibition and accountability of the harm for NATO.

One such conversation is around acceptability of displacement under the guise of "preventative flight", irrespective of the duration of such displacement.[113] As one interviewee notes: "Forced displacement is a manifestation of violence itself. A manifestation of genocidal acts, war crimes, crime against humanity, physical violence and so forth. It constitutes harm of a first order. But then when people just voluntarily seek safety and you know, protect themselves from this kind of harm, then it is not viewed as such."

A significant number of interviewees justified their acceptance of preventative flight as a

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[112] For UN Security Council resolutions and annual reporting on Women, Peace and Security and annual report on conflict related violence refer web-site: Security Council Report, UN documents on Women, Peace and Security, online: https://www.securitycouncilreport.org/un-documents/women-peace-and-security/.
For UN Security Council resolutions and annual reporting on Children in Armed Conflict refer: Security Council Report, UN documents for Children and Armed Conflict, online: https://www.securitycouncilreport.org/un-documents/children-and-armed- conflict/.

[113] UNHCR, *Afghanistan: Conflict Induced Internally Displaced Persons in Afghanistan – Interpretation of Data as of 31 May 2012,* (Kabul: UNHCR Representation Afghanistan, July 2012), 6, online: https://www.refworld.org/reference/countryrep/unhcr/2012/en/88193.

form of "self- protection" by a community. The concept of self-protection is a celebrated one within the humanitarian community. A slight shift - a push back - appears to be occurring in the last couple of years, for example, in a 2023 Centre for Civilians in Conflict (CIVIC) report it is noted that "[s]tates should endeavour to prevent voluntary displacement by civilians as a means of self-protection from the adverse consequences of armed violence", by adhering to IHL and international human rights law in conflict.[114] However, one interviewee cautioned that advocating prevention of this sort of movement could undermine an individual's right to freedom of movement and perhaps their right to asylum, aiding a policy of containment.[115]

Based on my experiences, I note that another contributor to the "permissibility" around the harm of displacement in crisis zones is the conversation celebrating the 'resilience' of displaced people. Rather than viewing it as a result of the abdication of their right to not be displaced, we celebrate the resilience people demonstrate in moving and resuming their lives. Sara Mourad evocatively explains this notion of resilience in the aftermath of the Beirut explosion of 2020. She notes that applauding people for their resilience romanticises their dispossession and loss, and normalises the injustice they have suffered.[116]

A final example of a conversation enabling permissibility to displace is around "evacuations" as a benevolent lifesaving act. This has been explored by Jane McAdam in recent years vis-à-vis the context of climate change and disasters.[117] However, in the case of conflict, such evacuations have been incorporated into the law as exceptions to the prohibition of forced displacement in IHL. For example, in the Gaza conflict, when the first "evacuation" was undertaken by Israeli Defence Forces, it was not considered and criticized as illegal since a permissibility is embedded into the law. Rather this was questioned because it was difficult to implement (similar orders have been applied in places like Raqqa and Mosul in recent

[114] Claire Simmons, Displacement in Armed Conflict and Protection of Civilians, (Washington D.C.: Center for Civilians in Armed Conflict (CIVIC), 5, online (pdf): https://civiliansinconflict.org/wp-content/uploads/2023/09/CIVIC_Displacement_Brief_Draft2.pdf.
[115] B.S. Chimni, Aid, Relief and Containment: The first asylum country and beyond, Intl Migration, Vol 40 (5), SL2/2002 online (pdf): https://onlinelibrary.wiley.com/doi/abs/10.1111/1468-2435.00212.
[116] Sara Mourad, "Aftershock , Rusted Radishes – Beirut literary and art journal" (2021), online (blog): https://www.rustedradishes.com/aftershock/.
[117] Jane McAdam, Evacuations a form of disaster displacement?, Forced Migration Review, Vol. 69, March 2022, online: https://www.fmreview.org/climate-crisis/mcadam.

years).[118] That said, this view of Israeli action did shift rapidly and it began to be viewed by commentators and legal experts as potentially collective punishment, resulting in a grave breach of 'forcible transfer', punishable under the Geneva Convention as well as the Rome Statute.[119]

Additionally, movement of people from their homes, even ostensibly for their safety, is deeply traumatic and in some instances may also end up being inhumane, because these "evacuations" could end up lasting longer than necessary, despite stipulations in law advising otherwise. Therefore, it is imperative that an ethical and strategic gaze also be applied to evacuations, apart from a legal gaze.

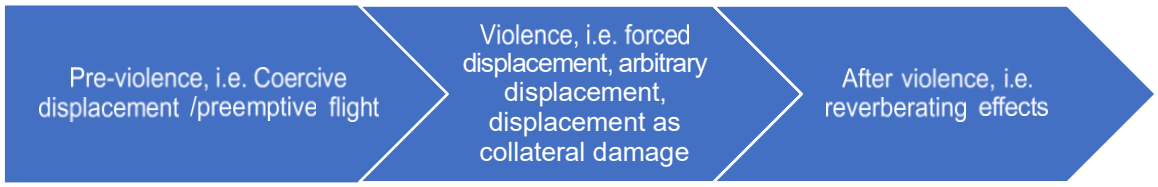
1.3.A reality check for the orthodox framework: Patterns of displacement in the post-9/11 wars and today

Those affected by displacement are not afforded a uniform level of protection under the orthodox displacement framework. This section aims to show the complex and unpredictable reality of displacement and the current limitations of this orthodox displacement framework when confronted with this harm. In reality, displacement occurs before, during and after hostilities have occurred (figure 3). We begin first with the post-9/11 wars (given the engagement of many NATO member states in those situations), and next look at some contemporary situations of violence.

[118] United Nations, "UN Secretary General Statement – on the situation in Gaza"(28 October 2023), online: https://www.un.org/sg/en/content/sg/statement/2023-10-28/un-secretary-generals-statement-%E2%80%93-the-situation-gaza.

[119] Human Rights Watch, "Helpless, Starving, Besieged – Israel's Forced Displacement of Palestinians in Gaza", (14 November 2024), online: https://www.hrw.org/report/2024/11/14/hopeless-starving-and-besieged/israels-forced-displacement-palestinians-gaza.

Figure 3: Continuum of Displacement



A 2019 ICRC report notes that while the drivers of displacement in conflict are multiple, the key driver in contemporary conflicts can be seen as violence or the threat of violence.[120] In this section, I highlight how displacement occurs not just due to a lack of adherence to rules of IHL but also even when belligerents claim adherence during armed conflict, for example, by invoking "collateral damage". A euphemism, which acknowledges that "civilians may be victims of mistaken target identification or of unintended but inevitable side effects of an attack on a legitimate target in their vicinity".[121] This occurrence of collateral damage is permitted under treaty and customary law and is subject to rules on the lawful choice of a military target and on the proportionality between military benefits and reasonably expected harm to civilians. Jovana Davidovic makes a compelling case that among other reasons, lethal harm, death and injury are given paramountcy over displacement by military practitioners when assessing collateral damage.[122]

The issue of collateral damage is subject to a wide interpretation since proportionality, distinction and military necessity are hotly debated in terms of general doctrinal scope. The latter is subjective in terms of operational discretion exercised in implementing whatever doctrinal interpretation a given military is working with – and not everyone agrees with the same interpretation, whether of general scope or discretionary judgment, even in the same

[120] Cotter, Cédric Cotter , *Displacement in times of Armed Conflict- How International Humanitarian Law protects in war, and why it matters* (Geneva : ICRC 2019) 21, online: https://shop.icrc.org/displacement-in-times-of-armed-conflict-how-international-humanitarian-law-protects-in-war-and-why-it-matters-print-fr.html.
[121] Jean-Francois Queguiner, "Precautions under the law governing the conduct of hostilities", (2006) 88: 864 December 2006, International Review of the Red Cross 794, online (pdf): https://international-review.icrc.org/sites/default/files/irrc_864_5_0.pdf .
[122] Jovana Davidovic, "Displacement as Significant Collateral Harm in War", (2018) 11:1 Global Justice 64 at 84, online: https://www.theglobaljusticenetwork.org/index.php/gjn/article/view/136.
[122] Jovana Davidovic, "Displacement as Significant Collateral Harm in War", (2018) 11:1 Global Justice 64 at 84, online: https://www.theglobaljusticenetwork.org/index.php/gjn/article/view/136.

military.[123] This culture of permissiveness within IHL, which traditionally uses justifications about the realities of conflict ('war is ugly,' etc.) within frames of necessity and tragedy, lessens the seriousness of consideration to be given to the harm of displacement. Some of this is being addressed now by the ICRC and others, by extending what must be taken into account within collateral effects analysis via the concept of "reverberating effects" (that, is, secondary and tertiary effects after an act of violence). However, this concept too is open to interpretation as to its legal status and scope, and there is debate over its implications for both strategic and operational decision-making.[124]

In addition, we see patterns of displacement which are connected to a conflict that may occur not just long after an act of hostility but also prior to active hostilities commencing. Also, occasionally displacement may also occur without connection to the act of hostility but adjacent to the zone of fighting.[125] None of these instances are presently covered under IHL's forced displacement paradigms. A University of Edinburgh study concurs and further notes: "Myriad aspects of displacement are not addressed by IHL… People might also flee in advance of anticipated attacks or before a violent situation becomes an armed conflict, to avoid harm".[126] Also, note that in many recent conflicts, leaving one's home was not the automatic choice or the immediate choice made by people, while many others chose to remain in their homes rather than leave.

Displacement patterns in the post-9/11 wars

Displacement from the post-9/11 wars, over a period of 20 plus years, has resulted in approximately 38 million people being displaced internally and across borders. This figure is a conservative estimate from Brown University's Costs of War Project. The Project also notes that in some of these zones of conflict, displacements continue to occur even today. In the

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[123] U.S. Naval War College, *The Conduct of Hostilities and International Humanitarian Law: Challenges of 21st Century Warfare* (Johannesburg: International Law Association Study Group on the Conduct of Hostilities in the 21st Century 2017), online: https://digital-commons.usnwc.edu/ils/vol93/iss1/12/.

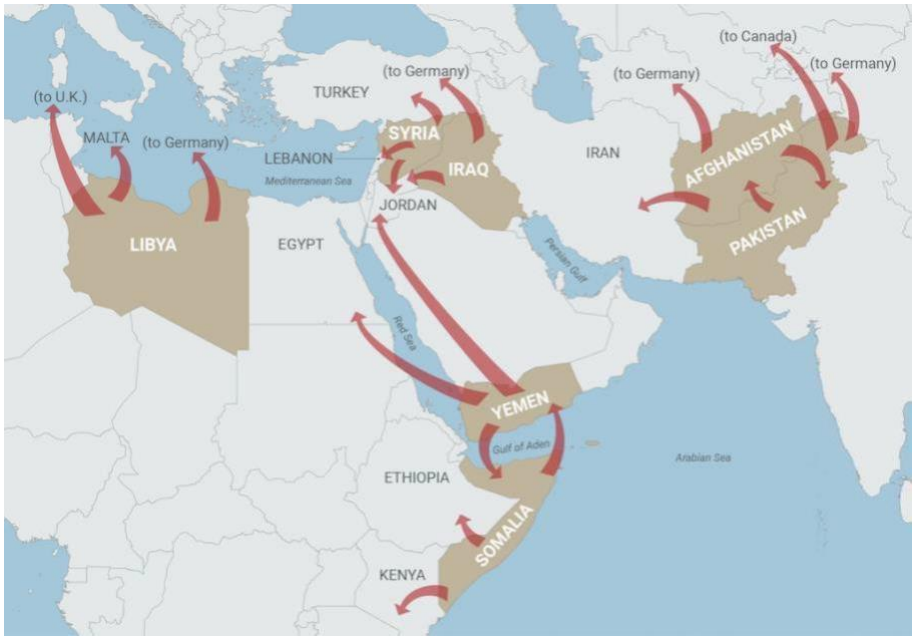
[124] *Supra* note 70.

[125] This was further corroborated by UNHCR's monitoring of patterns in Afghanistan, from 2009 to 2012: UNHCR, "Conflict Induced Displacement in Afghanistan - Interpretation of Data as of 31 May 2012" (July 2012), online (pdf): https://reliefweb.int/report/afghanistan/conflict-induced-internally-displaced-persons-afghanistan-interpretation-data-31.

[126] *Supra* note 71 at 31.

seven countries depicted in the below map, which were defined as the "war on terror" pivot post-9/11, the following figures of displacement are estimated (figure 4): Afghanistan – 5.3. m; Pakistan 3.7 m; Iraq 9.2 m; Libya 1.2 m; Syria 7.1; Yemen 4.4m; Somalia 4.2 m; and Philippines 1.7m.[127] Although they are not entirely attributable to the US and its partners, including other NATO member states (note: only Afghanistan and Libya were NATO-led coalitions), some of the displacements may be attributed to them.[128]

Figure 4: Displacement from the post 9/11 wars



(Data source - Costs of War Project, Brown University, 2022)

In these post-9/11 conflicts, the following patterns of displacement were visible and are indicative of the unpredictability of displacement beyond the temporal confines of hostilities. The examples provided below have been selected primarily from years when NATO member states would have been most active in their engagement with these situations.

In Afghanistan, people moved even before violence occurred, as UNHCR reported in 2012. It

[127] Vine et all, *Creating Refugees: Displacement Caused by the United States Post-9/11 wars* (Providence: Watson Centre - Brown University 2020), online (pdf): https://watson.brown.edu/costsofwar/files/cow/imce/papers/2020/Displacement_Vine%20et%20al_Costs%20of%20War%202020%2009%2008.pdf .
[128] *Ibid.*

noted that internally displaced persons in southern, western and eastern Afghanistan frequently fled their areas of origin in response to a threat of violence even before it had broken out.[129] This kind of movement is known as 'preventative flight'. Similarly, in Libya in 2011, there were instances of people moving due to disinformation rather than to the impact of active zones of conflict once the NATO bombing campaign commenced. I recall meeting Libyan refugees crossing into southern Tunisia and hearing first-hand accounts of the reason for their flight being the threat of sexual violence from Gaddafi forces coming into their areas and that free Viagra had been given to his soldiers to perpetrate this. This was subsequently debunked by Amnesty International and others as misinformation.[130] Nevertheless, the point is that rumours about potential atrocity occurring triggered such flight and shows that misinformation can be manipulated – or created (disinformation) – as a tool to encourage flight. Note that the Libyan example was prior to the widespread accessibility of social media today. Such movements fall outside the definition of forced displacement or even displacement due to generalized violence, since they occurred without any violence occurring or hostilities. Therefore, they would not necessarily get captured in the concept of "reverberating effects" either.

In Iraq, there was displacement due to a "coercive environment", which Ali Ali explained as a phenomenon of displacement in-situ, as opposed to immediate physical mobility.[131] That is, everyday living becomes so hard that your old way of life vanishes, causing a mental displacement from your traditional anchors like your community. Even as, for various reasons, you are not able to leave immediately or are unwilling to do so. Referring to post-Saddam Iraq prior to the civil war, he described an environment of coercion that eventually propelled flight, which could not be directly connected to the temporality of hostilities. This situation challenges the application of the concept of reverberating effects, since it is conditional on second and third degree harm outcomes being linked to the impact of an act,

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[129] In addition, individual families are difficult to track as they are scattered and often staying with host families in places of displacement.
Supra note 125 at 6.

[130] Dan Murphy, "No evidence of Libya Viagra war claims. But war crimes plenty", *Christian Science Monitor* (24 June 2011), online: https://www.csmonitor.com/World/Backchannels/2011/0624/No-evidence-of-Libya-Viagra-rape-claims.-But-war-crimes- Plenty.
[131] *Supra* note 72.

for example, the bombing of a target. In the case of this coercive environment argument, sometimes there is absolutely no direct or indirect link to a triggering act for flight.

In Pakistan**,** Conor Friedersdorf in 2012 writes evocatively of the "continuous tension" and "heaviness of heart" that drone strikes leave within a community, even if it is not directly a target. Moreover, the fear of such strikes resulted in children getting pulled out of schools and marketplace visits being reduced. He also documents the emotional impact when neighbouring houses collapse, even if one's own house was not targeted.[132] It is this sense of fear that may have driven some to leave eventually long after hostilities had stopped, making one question how far the concept of reverberating effects applies to these situations.

Another example from the post-9/11 wars is the post-conflict displacement triggered due to the conflict for Raqqa (Syria) in 2017. This conflict created lasting displacements that are yet to be fully resolved, including those who were encouraged to "evacuate" for reasons of military necessity. Even in the immediate weeks and months following this offensive, there was limited possibility for those seeking to return immediately after hostilities. Return was blocked due to mines and bobby traps throughout the city (including in homes), as well as due to restrictions on movement.[133] The almost yearlong offensive led to a total of 300,000 people being displaced eventually and almost emptying the city.[134] The noted journalist Roy Gutman describes how US military forces appeared to have a blind spot on this situation of the displaced in many ways.[135]

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[132] Conor Friedersdorf, "'Every Person Is Afraid of the Drones': The Strikes' Effect on Life in Pakistan", *The Atlantic* " (25 September
2012), online: https://www.theatlantic.com/international/archive/2012/09/every-person-is-afraid-of-the-drones-the- strikes-effect-on-life-in- pakistan/262814 .

[133] Human Rights Watch, "Syria: Landmines Kill, Injure Hundreds in Raqqa", (12 February 2018), online , https://www.hrw.org/node/314843/printable/print .
Refer also, World Bank, *The Mobility of Displaced Syrians: An Economic and Social Analysis* (Washington, DC: World Bank 2020), Online: https://www.worldbank.org/en/country/syria/publication/the-mobility-of-displaced-syrians-an-economic-and-social- analysis .

[134] IDMC, A Decade of Displacement in the Middle East and North Africa, (Geneva: Internal Displacement Monitoring Center (IDMC) 2009-2019), online: https://www.internal-displacement.org/publications/a-decade-of-displacement-in-the-middle-east-and- north-africa/ .

[135] Gutman, Roy, "US helps drive 200,000 Syrians from their home", The daily beast (02 June
2017), Online: http://www.thedailybeast.com/us-helps-drive-200000-syrians-from-their-homes .

Displacement patterns in contemporary conflicts

Interviewees also cited various patterns in contemporary conflicts indicative of how the current orthodox displacement framework is not entirely fit for purpose. In Myanmar, an interviewee described the challenge of categorizing groups as being "conflict-affected IDPs", even though they were fleeing subsequent economic downturn post conflict. It was decided by the UN to count them as "internally displaced persons due to generalized violence" – an innovative stretching of the definition of displaced persons under the Guiding Principles in practice, thus affording protection from the impact of a conflict.

In Honduras, an interviewee noted that organized crime was triggering "gang violence-related displacement". The violence falls below the IHL threshold of conflict and does not attract the definition of forced displacement in IHL. Nevertheless, humanitarian agencies responded with assistance for the displaced. Such situations inhabit a grey zone of protection – with limitations on rights due to an emergency, without outright conflict and hence civilians not being protected. This situation in Honduras could be categorised as a situation impacted by "generalised violence", covered under the Guiding Principles. However, it is not deemed to be a protection of civilians concern as my review of numerous UN Secretary-General's Protection of Civilians reports finds. In these reports, there is no reference to this violence-induced displacement in Honduras. The only situations reported there are ones where the conflict triggers "forced displacement" under IHL.[136]

In recent years, the Tigray region of Ethiopia experienced hate speech and disinformation being used by all sides and leading to polarization and resulting in displacement, even prior to the outbreak of hostilities.[137] This kind of displacement is occurring neither in the context of ongoing temporal hostilities leading to forced displacement covered clearly under IHL. It cannot be categorised under reverberating effects in the aftermath of hostilities. Nevertheless, assistance is being provided by the international community on a humanitarian needs basis,

[136] Security Council Reports, "UN Documents for Protection of Civilians: Secretary General's Reports", Online: https://www.securitycouncilreport.org/un_documents_type/secretary-generals-reports/?ctype=Protection%20of%20Civilians&cbtype=protection-of-civilians .

[137] Refer for back-ground reading: OHCHR, "International Commission of Human Rights Experts on Ethiopia Reports" (September 2022 and 2023), online: https://www.ohchr.org/en/hr-bodies/hrc/ichre-ethiopa/index.

similar to Honduras.

Today, the orthodox displacement framework's application faces challenges such as the increase of conflict in urban centres and the impact of climate change in contexts of fragility and violence. In recent years, conflicts have centred around cities like Mosul (Iraq), Raqqa (Syria) and Khartoum (Sudan), as well as various cities in Ukraine and Gaza. This has led to comparatively higher levels of displacement than in semi-urban or non-urban contexts. This is attributable to the sheer population density, as well as the scale of destruction of housing and other infrastructure, making it difficult to resume life. As a result, displacement is prolonged longer than is strictly necessary. This must propel a question of whether the cost of this complete destruction of an area environment and a way of life is worth it, beyond immediate targeting objectives for overall military strategy. Moreover, it necessitates an application of legal, moral, and political (including strategic) calculations by the belligerent vis-à-vis their gains from this act. This trifocal approach to military planning is central to NATO militaries and could enable more strategic thinking on preventing displacement as a vital consideration for the belligerent's war fighting aims. Rather than using the oft-contested reverberating effects approach, this approach would make it less difficult to dismiss displacement.

On the impact of climate change, there is a convergence of triggers for displacement in an increasing number of places, like Somalia. There, climate change is propelling conflict, drought, flooding and locust cycles.[138] The orthodox framework is yet to tackle pressing doctrinal questions of classification of displaced populations, given the fine line between climate-related migration and disaster-related displacement. Additionally, there is a question about which aspects of this displacement would come under a protection of civilians doctrine and not just humanitarian protection that is, upholding of rights in all kinds of crisis contexts beyond conflict.

[138] Nick Truse, Climate Change and Conflict are wrecking havoc in Somalia, *The Intercept* (31 May 2023), https://theintercept.com/2023/05/31/somalia-drought-conflict-civilian-displacement/.

Chapter Three

Orthodox displacement framework and NATO's Protection of Civilians Policy

This section will examine the approach of NATO regarding Protection of Civilians and displaced populations in policy and practice, including the implementation of NATO's 2016 Protection of Civilians Policy and opportunities to incorporate the harm of displacement into NATO doctrine. It concludes by contrasting NATO's approach to Protection of Civilians and displacement vis-à-vis approaches taken by the UN Department of Peace Operations and the AU. The latter have influenced NATO's thinking on Protection of Civilians in various ways, as is reflected in NATO's ACO Handbook, which was released following the adoption of the Protection of Civilians Policy 2016.[139] I have not covered the Protection of Civilians approach of the European Union (EU) in this research, as it is not referenced in NATO's Protection of Civilians documents. However, it is worth taking note of the EU's capacity-building-centred Protection of Civilians engagement in situations of violence.[140]

The 2016 Protection of Civilians Policy was noted as being progressive and welcomed by most interviewed in this research. It draws on the experiences of NATO in Bosnia and Kosovo, as well as Iraq and Libya. However, Hill and Manea note that it is primarily based on the experiences in Afghanistan and NATO's counterinsurgency operations there.[141]

2.1. NATO's approach to Protection of Civilians and displacement

The 2016 Protection of Civilians Policy defines *Protection of Civilians* as, "all efforts taken to avoid, minimize and mitigate the negative effects that might arise from NATO and NATO-led military operations on the civilian population and, when applicable, to protect civilians from

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[139] Protection of Civilians Allied Command Operations (ACO) Handbook , March 2021, SHAPE/NATO, Belgium, online: https://shape.nato.int/news-archive/2021/the-protection-of-civilians-allied-command-operations-handbook.

[140] European Union external Action Service, *Concept on Protection of Civilians (PoC) in EU-led Military Operations*, 2 March 2015, Brussels, online (pdf): https://data.consilium.europa.eu/doc/document/ST-6730-2015-INIT/en/pdf.

[141] Steven Hill & and Andrea Manea, *Protection of Civilians: A NATO Perspective*, Utrecht Journal of International and European Law, 34(2),2018, pp.146–160. DOI: http://doi.org/10.5334/ujiel.461.

conflict-related physical violence or threats of physical violence by other actors, including through the establishment of a safe and secure environment".[142] It is a concept that is relevant to NATO's Three Core Tasks of deterrence and defence, crisis prevention and management, and cooperative security, as outlined in its Strategic Concept Note of 2022.[143]

The Policy applies along a continuum from peacetime to crisis situations (including generalised violence and natural disaster) to conflict situations in all NATO military operations.[144] It requires NATO operations and NATO-led operations to take precautions to protect civilians against harm from others (e.g. those opposing NATO), as well as to take precautions to protect civilians from their own actions. The latter was an innovative step by NATO, since it is only in 2023 that the UN's Department of Peace Operations also included protecting civilians from their own actions in their updated Protection of Civilians Policy.[145] As one interviewee notes, the policy for the first time incorporates the perspective of the civilian population as part of the human environment, rather than assuming that the human environment is divided in Manichean terms, into NATO forces as the "good guys" and the enemy as targets. Many interviewees noted that the policy also marks the first time that NATO would also police its partners under NATO-led operations on the issue of protection of civilians.[146]

The policy notes the application of all relevant frameworks; that is, IHL, International Human Rights Law (IHRL), and refugee law.[147] In reality, however, many interviewees acknowledged the comfort zone for militaries with IHL, given their focus on war. They noted that human rights felt more abstract to the militaries and they struggle to incorporate or accommodate IHRL. Historically, there has been a reluctance on the part of the military and military lawyers alike to fully embrace decades of international legal argument, including

[142] *Supra* note 1 at para 9.
[143] *Supra* note 15.
[144] *Supra* note 1 at para 8.
[145] At para 32, *Policy 2023 Protection of Civilians in United Nations Peacekeeping*, Department of Peace Operations, United Nations, May 1, 2023, online: https://peacekeeping.un.org/sites/default/files/2023_protection_of_civilians_policy.pdf.
[146] *Ibid* at para 15 and 16
[147] *Supra* note 1 at para 5.

judgments of the International Court of Justice, to the effect that IHRL informs the content of IHL and, moreover, that IHL is not the sole regime that applies in armed conflict. At the same time, it was also noted that IHL is understood as the core minimum of obligations. Sadly, today the adherence to even these minimums has become a significant challenge.

In addition to law, the policy also states that "NATO's approach to the protection of civilians is based on legal, moral and political imperatives," with the latter including strategic imperatives.[148] I would also argue that ethical standards are part of this tri-focal approach drawn from moral or other considerations. Interviewees noted that this tri-focal approach has a deep resonance for many of the militaries in NATO as it enables them to fill gaps where the law is insufficient. The contents of the US military Law of War Manual provide a clear example of this trifocal approach. A recent press release on the manual's revision quotes the Department of Defence's General Counsel as noting: "Protection of civilians is vital to the success of our military operations in keeping America safe — and doing so is both a moral necessity and a strategic imperative (along with law)".[149]

While the 2016 Protection of Civilians Policy remains guided by all relevant bodies of law, the only civilian harms clearly mentioned are civilian casualties, sexual and gender-based violence (women, peace and security) and children and armed conflict. All these mentioned harms also have separate NATO policies to guide institutional response. There is no specific reference to the harm of displacement or displaced populations in the 2016 policy. However, in NATO's ACO Handbook, its key Protection of Civilians Framework which guides military operations, "forced displacement" is listed as a second order effect, as opposed to the three primary order effects of civilian casualties, infrastructure damage and sexual violence.[150] Forced displacement is listed along with other harms deemed second order, such as lack of access to health services, curtailing of freedom of movement, severing of family ties, destruction of other infrastructure such as schools, and market disruption.

[148] *Supra* note 1 at para 4.
[149] US department of Defence, "Defence Department Updates its Law of War Manual, July 31, 2023, online: https://www.defense.gov/News/Releases/Release/Article/3477385/defense-department-updates-its-law-of-war-manual/.
[150] *Supra* note 139 at 25.

Nobody interviewed in the course of the research was able to explain conclusively the logic of this listing. Some interviewees expressed surprise that displacement was viewed this way. Explanations provided for the rationale of this "secondary" classification were, among others, that displacement needs to be dealt with case by case, as it is not always a direct result of hostilities, or that displacement is not per se a physical harm like civilian casualties and sexual and gender-based violence.

Davidovic notes that displacement is not viewed as equal to taking a life when weighing collateral damage calculation for military actors, given the latter's primacy in law and morality.[151] She argues for a re-think on this, given that life in displacement for many people leads to harms like increased mortality rates, etc.[152] Saving lives should include a life with dignity, and being alive but being displaced is generally not a life that can be led with dignity.

Unlike the 2016 Protection of Civilians Policy, the ACO Handbook specifically references forced displacement and provides guidance to military planners on dealing with displaced populations. It reflects the experience of various NATO, AU and UN operations with displaced populations. Most interviewees conceded that the ACO Handbook focused primarily on displaced populations after the harm of displacement has occurred (one interviewee actually realized this in the course of the interview while looking up the document as we spoke). Almost everyone interviewed agreed that more details on displacement responses and engagement could be included in the ACO Handbook. What is already included covers, for example, the provision of humanitarian corridors for people to leave a zone of conflict and ensuring their security in displacement (including taking views of the vulnerable displaced). The measures of response to displaced populations outlined in the ACO Handbook reflect the prevailing dominant orthodox displacement framework and introduce nothing new.

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[151] Davidovic, Jovana, "Displacement as Significant Collateral Harm in War", (2018) 11:1 Global Justice 64, online: https://www.theglobaljusticenetwork.org/index.php/gjn/article/view/136 .

[152] Miliband, David & Mesfin Teklu Tessema , "The unmet needs of refugees and internally displaced people", *The Lancet* 392: 10164 (December 2018), http://dx.doi.org/10.1016/S0140-6736(18)32780-6 ; Ibrahim, et all, "Report of the UCL–Lancet Commission on Migration and Health: the health of a world on the move", The *Lancet* 392: 10164, December 2018, http://dx.doi.org/10.1016/S0140-6736(18)32114-7 .

There is a recognition in NATO doctrine today that a lack of consideration for protection of civilians issues will have a negative impact on any engagement for NATO, as well as hindering consideration of the root causes of the conflict or crisis. The ACO Handbook notes that NATO could play a role in conflict prevention, however there is no linkage of this to displacement. While there is a reference to preventing displacement by addressing root causes at the end of NATO's online comprehensive training module, there is no deeper examination of this topic. In the ACO Handbook, displacement is also noted as one of the threats to civilian populations, and also as an indicator (outcome) of the operational environment (threat scenarios).[153]

While NATO's Protection of Civilians Policy derives inspiration from boots on the ground operations, there is a question about it being applicable to the increasing trend of grey zone conflicts. The Australian military defines grey zone conflict as "activities designed to coerce countries in ways that seek to avoid (direct) military conflict".[154] This involves activities like political and election meddling, cyber threats and attacks, economic coercion, use of proxies, etc.. Anthony Robertson notes that a grey zone conflict uses the ambiguity of international law and the ambiguity of actions and attribution as a cloak.[155] It includes disinformation and vitriol which cause people to flee a certain area without any armed hostilities involved, such that this may be mischaracterized by some as "voluntary movement", rather than forced displacement. It remains unclear how the NATO Protection of Civilians Policy 2016 would apply to such a situation, in NATO's operational area or in areas neighbouring NATO, like Ukraine.

NATO and Human Security: At NATO, Protection of Civilians is linked to its Human Security Approach adopted at its Strategic Summit in 2022 and elaborated in its Human Security

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[153] *Supra* note 139 at 68.
[154] Australian Government, *"Department of Defence: 2020 Defence Strategic Update",* online(pdf): *https://www.defence.gov.au/sites/default/files/2020-11/2020_Defence_Strategic_Update.pdf*.
[155] Anthony Robertson, "What is Grey Zone Confrontation and why is it important?" (18 July 2022), online (blog): https://cove.army.gov.au/article/what-grey-zone-confrontation-and-why-it-important#:~:text=Grey%20zone%20confrontation%20is%20the,other%20measures%20–%20including%20military%20action .

Agenda 2024 ('the Agenda').[156] Through this Human Security Approach, connections are also made to NATO's Resilience Framework 2021, as well as to NATO's engagement on climate change.[157] This joining up with resilience could potentially cover hybrid/grey zone conflicts that do not currently come within the purview of the Protection of Civilians Policy 2016, an interviewee noted.

The NATO resilience framework has different pillars aimed at strengthening abilities of member states to withstand stress from crisis occurring and to recover from aftershocks. It also includes a reference to the stress of "mass movement", defined as occurring when 2% of the total population of a country is impacted. An interviewee noted that this framework is still very much in a nascent stage of implementation and was built on the hybrid experience of Ukraine. The climate paper by NATO does not mention displacement or the mass movement of people.

The inspiration for NATO 's conception of Human Security is derived from the UN's concept of Human Security. Which the Agenda notes is, "a multi-sectoral approach that focuses on the protection of people and communities from a range of threats and vulnerabilities… allows to account for the root causes, by- products and instruments that exacerbate conflict and instability".[158] Moreover, this approach recognises that "security is not only about military capabilities, but also about the underlying social, economic, and political factors that contribute to it." The definition of the " term human security (for NATO) refers to the risks and threats to civilian populations which may arise in all that the Alliance does … especially in situations of crisis and conflict".[159]

The concept of Human Security was mooted as an umbrella concept at NATO, with all thematic policy issues, including protection of civilians, coming within its scope. It is a

[156] NATO, "Human Security Agenda", (30 August 2024), online (pdf): https://www.nato.int/nato_static_fl2014/assets/pdf/2024/8/pdf/240830-human-security-en.pdf .
[157] NATO, Strengthened Resilience Commitment, 14 June 2021, online: https://www.nato.int/cps/en/natohq/official_texts_185340.htm .
NATO, "Environment, climate change and security" (12 January 2024), online: https://www.nato.int/cps/en/natohq/topics_91048.htm.
[158] *Supra* note 156 at 5.
[159] *Supra* note at 6.

portfolio managed by Office of the Secretary-General's Special Representative for Women, Peace and Security (WPS) and Human Security. Interviewees raised a few questions on this Human Security Approach, namely, how does it work for NATO as a military and political entity, and what were the reasons for adopting it in 2022. It was also unclear why all the thematic policy issues at NATO have been placed under the umbrella of Human Security. Last, the connection between Human Security and WPS at NATO was questioned.

The 'Human Security Agenda' released by NATO in the run up to its Washington Summit in July 2024 appears to answer some of the questions raised by interviewees.[160] While the broad UN definition of Human Security served as an inspiration, the Agenda notes that the concept will be adapted to suit NATO's needs as a political-military organization. Therefore, one can safely assume that the quintessence of Human Security is likely to veer towards the "freedom from fear" track of Human Security. The Agenda further notes that the concept applies to all levels of NATO as a political-military alliance, including its core tasks; that is, deterrence and defence, crisis prevention and management, and co-operative security.

The Agenda explains why Human Security is important for NATO; it helps the organization in understanding the operational context (human terrain) better, and it helps the organization avert unintended consequences that could hamper its operations (a similar rationale propelled the development of its Protection of Civilians Policy 2016).[161] It brings in a strategic dimension beyond the operational one by noting that this approach will help NATO to move beyond state-centric security priorities and look at the well-being of people as being part of better security (not just making their military operations more successful through a "hearts and minds approach). By doing this, NATO could also pay attention to addressing the root causes of conflict and stability.

The Agenda notes that NATO has engaged with the Human Security concept for a decade

[160] *Supra* note at 156.
[161] **Definition of human terrain** :" 'the social, ethnographic, cultural, economic, and political elements of the people among whom a force is operating… defined and characterized by sociocultural, anthropologic, and ethnographic data', Roberto J. González, 'Human terrain' Past, present and future applications", ANTHROPOLOGY TODAY Vol 24 No 1, February 2008, online (PDF): https://people.duke.edu/~ldbaker/classes/uxresearch/humanterraingonz.pdf .

and that the adoption of the Human Security Approach and the Agenda is a natural progression. It clarifies that the Human Security Approach and WPS agenda "complement and reinforce each other as both ... reflect a people-centred and human rights-based approach … (and) recognise the disproportionate or distinct impact of conflict or crisis on different segments of the population".[162] The former deals with a wider group of people, while latter with women and girls.

Most of the Agenda is devoted to explaining the current work of NATO under its thematic policy areas in their individual silos. The Agenda notes thematic areas are "areas of work" that encompass NATO's Human Security work. However, the Agenda fails to explain how these various areas of work will interact with each other, as they were adopted at different points of time and for varying reasons. It also fails to explain how they will be prioritised and applied by those planning and conducting military operations, since it may be a challenge to apply all these areas to each and every scenario. One interviewee noted that this burden of having to consider all work areas by soldiers in combat is as an issue of concern.

The Agenda notes that the main drivers of its Human Security Approach will be the civil-military officers (CIMIC) in the outward engagement with external partners.[163] This makes one wonder how exactly this could be linked to the war fighting aims of NATO militaries and be incorporated into NATO military operational planning.

The conflict in Ukraine and the support to its protection of civilians work is provided as a case study in the Agenda.[164] However, the case study appears to highlight regular protection of civilians engagement and again it is not clear what value is added by a Human Security lens to the activities.

The harm of displacement to both individuals and communities is clearly mentioned in the Agenda. It is referenced in the nexus with climate change and sexual violence in conflict –

[162] *Supra* 156 at 11.
[163] *Supra* 156 at 9.
[164] *Supra* 156 at 19.

areas NATO has dealt with extensively. The Agenda recognises climate change as a driver of deepening conflict and displacement, as well as gender-based violence being a trigger of displacement.

The scope of Human Security covers pre-conflict, conflict and post-conflict environments since it seeks longer term stability and security. Therefore, an opportunity opens up for NATO to centre prevention of displacement in its work to foster overall security and stability for people. As noted earlier, Human Security also conceptually enables addressing pre-emptive displacement prior to conflict and displacement long after the end of conflict, including repeated displacement in areas where people have returned or in areas of their displacement.

2.1. Implementation status of NATO Protection of Civilians Policy 2016: Opportunities for strengthening the prohibition of the harm of displacement

The adoption of the Protection of Civilians Policy 2016 from political to actual operations has not been entirely seamless and it is likely to take years for effective integration into NATO operations. A quick review of gains and challenges till date is undertaken here, in order to assess how the harm of displacement can be included effectively in NATO's operations.

As noted earlier, Protection of Civilians as a topic was initially situated within military operations at NATO and then removed a step away and subsumed as one of the thematic areas, managed by the Office of the Special Representative of the NATO's Secretary-General for Women, Peace and Security and for Human Security. All the thematic areas are placed under an overarching umbrella of a Human Security Approach. A NATO expert interviewee noted that the thematic policy areas (including protection of civilians) have evolved individually with their own policies and action planning and coexist alongside each other. Therefore, there is limited clarity on the cross-functional linkages of the thematic areas to each other and how their application would work in military operations via the newly adopted Human

Security approach.

The Protection of Civilians Policy's 'foundational documentation' (core doctrine) has been completed and includes: the Protection of Civilians Policy 2016, the Protection of Civilians Action Plan and the ACO Handbook. These are to be read alongside the documents on the Human Security approach and Human Security Agenda. An interviewee noted that for NATO military actors, beyond awareness of it, the Protection of Civilians Policy per se is not the critical document. More important is the military concept framework which translates the policy into military tasks and is contained in chapter 1 of the ACO Handbook.[165]

Today, implementation is ongoing with extensive training programs at various levels -- however, interviewees stressed that the key target for protection of civilians indoctrination should be commanding officers, as they set the tone for respect and protection of civilian populations. The training for troops lower down on protection of civilians is cursory and that is acceptable, given that this topic is one among many other topics included in their training. The key guiding document most relevant for troops is, the Rules of Engagement for a given operation.

As noted earlier, NATO operations work in crisis response, collective defence and cooperative security with partners. At the time of interviewing for this research, only the crisis response scenarios were being trained on protection of civilians. However, the key trainings for the NATO militaries are the collective training defence exercises and there, protection of civilians was not yet part of the curricula.

Apart from training, there is a real need for a mind shift among military actors. As one interviewee notes, "For them it's still about winning, defeating the enemy and getting on with the traditional military tasks." Moreover, changing mindsets does not occur in a couple of years, therefore the constant short term rotation every few years of personnel on NATO deployments is a challenge. A number of interviewees also cautioned that it was not an easy

[165] *Supra* note 139 at 8.

task to get buy-in for protection of civilians, as militaries feel over- burdened with the various thematic policy areas being proposed for their consideration. As a result, a certain defensiveness or hunkering down in focusing on their expertise in application of force occurs.

Under the principles of inter-operability NATO cannot oblige member states to incorporate the Protection of Civilians Policy 2016 in their militaries.[166] This policy is only applicable to those forces deployed within NATO or NATO-led operations. However, interviewees expressed a hope that NATO- trained staff would take this doctrine back to their own national militaries.[167] Interviewees noted that protection of civilians requires individual nations to act as champions for it to be advanced within NATO. Unfortunately, country missions at NATO usually relegate this topic for engagement by lower level staff interviewees noted. Given these challenges within NATO, perhaps a focus on the development of National Protection of Civilians Policies could be a way forward, in order to entrench protection of civilians doctrine contained in the NATO's 2016 policy into national militaries doctrine.[168]

2.3. NATO vis-à-vis UN peace operations and African Union approaches to Protection of Civilians and displacement

UN Peace Operations approaches to Protection of Civilians and displacement

Comparatively, the UN's Protection of Civilians engagement is much more advanced than NATO and the AU in doctrinal development and practice. Both UN peace operations and the wider UN system engagement on protection of civilians has influenced NATO and AU thinking. Activities undertaken by the wider UN system include, protection of civilians monitoring and reporting by political missions such as, the UN Assistance Mission in

[166] "NATO defines "interoperability" as the ability for Allies to act together coherently, effectively and efficiently to achieve tactical, operational and strategic objectives. " NATO, "Interoperability: Connecting Forces" (11 April 2023), online: https://www.nato.int/cps/en/natohq/topics_84112.htm#:~:text=NATO%20defines%20%22interoperability"%20as%20the,tactical%2C%20operational%20and%20strategic%20objectives .

[167] *Supra* note 4. In another research paper the researcher worked on, Canada claims it follows all NATO policies but the question is how far has it actually incorporated protection of civilians policy into its military operations and there is no clarity on this.

[168] Sarah Khan, "Canada should walk the talk to help shield civilians from violence", *Policy Options* (28 November 2023) online: https://policyoptions.irpp.org/magazines/november-2023/gaza-israel-order/.

Afghanistan (UNAMA), and programming undertaken in the UN-led cluster system to address harm to civilians. The UN has been engaged with Protection of Civilians for longer than NATO and has been assisted by robust civilian staffing in its peace operations. On this NATO struggles, with the military dominating civilian engagement and a paucity of staffing on the political and civilian side.[169] One interviewee noted that many policies that NATO has formulated (including the Protection of Civilians Policy 2016), may suffer in their implementation as a result of this civilian staffing paucity.

The key documents for UN peace operations on Protection of Civilians are the Protection Policy 2023 and the Protection of Civilians Handbook 2020.[170] The Protection of Civilians mandate in UN peace operations is defined as "Integrated and coordinated activities …to prevent, deter or respond to threats of physical violence against civilians within mission's capabilities (both civilian, police and military) and areas of deployment through use of all necessary means … Including deadly force".[171] The approach is legalistic with an adherence to IHL, IHRL and refugee law and the UN Charter. While the political nature of peace operations is acknowledged, the primary focus is on averting physical violence similar to NATO, in conflict and other settings of violence. The Protection Policy 2023 lays out a clear detailed three tier approach to protection of civilians engagement. The tiers are dialogue and engagement; physical protection; and enabling a protective environment. Joachim Knoops and Christian Patz note that, with this layered multi-dimensional approach, UN peace operations approach protection of civilians as part of their overall strategic goals -- be that to achieve peace or establish a secure environment for the civilian population.

In contrast, NATO's roots of protection of civilians are derived from counterinsurgency (COIN operations) primarily in Afghanistan --- where the engagement on protection of

[169] NATO, **"**A comprehensive approach to Crisis**"** (07 March 2024**)**,online: https://www.nato.int/cps/en/natohq/topics_51633.htm.
[170] *Policy 2023 Protection of Civilians in United Nations Peacekeeping*, Department of Peace Operations, United Nations, May 1, 2023, online: https://peacekeeping.un.org/sites/default/files/2023_protection_of_civilians_policy.pdf ; Department of Peace Operations, *The Protection of Civilians in United Nations Peacekeeping Handbook*, United Nations, 2020 (PDF), online: https://peacekeeping.un.org/sites/default/files/dpo_poc_handbook_final_as_printed.pdf.
[171] *Ibid* at 5.

civilians is viewed as an operational necessity to enable smooth military operations rather than centred on protecting civilians. Therefore, for example, the winning over of the local population in Afghanistan ("hearts and minds"), mitigating harm in hostilities was not considered central to its war fighting aims, but rather to avoid civilian hostility in their location of operations.[172] A more strategic approach to protection of civilians by NATO could occur with its adoption of the Human Security Approach. This would enable it to view the situation of civilians as being critical outcomes of its engagement in hostilities both, in the immediate and longer term. In Chapter Four, this gap in protection of civilians as a strategic aim will be further examined.

Over the last decade, Protection of Civilians has increasingly become central to UN peace operations, where it has become a key indicator of success. This evolution was in sync with the evolution of peace operations being viewed as a primary means to maintain international peace and security, although the last couple of years has witnessed a pushback on peace operations deployments.

In peace operations, protection of civilians is not just a military task but a political one focused on the resolution of conflict and peace. Historically, UN peace operations have achieved success in ending conflicts and upholding peace agreements; as a result, civilian harm reduces significantly or ends, including displacement. In the last decade, however, UN peace operations have had more successes in protecting civilians and averting further displacement via local conflict resolution, for example, by negotiating localized peace agreements in the Central African Republic or through community dialogue in South Sudan. UN peace operations recently lamented that they were "doing damage control— preventing conflicts from spiralling out of control rather than resolving them".[173] Contributing factors

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[172] Joachim A. Knoops & Christian Patz, UN, EU, and NATO Approaches to the Protection of Civilians: Policies, Implementation, and Comparative Advantages (New York: March 2022), online : https://www.ipinst.org/2022/03/un-eu-and-nato-approaches-to-the- protection-of-civilians .

[173] United Nations Peacekeeping, ""Peacekeepers need peacemakers": UN Peacekeeping Chief on what the UN and member states owe the blue helmets" (3 September 2024), online: https://peacekeeping.un.org/en/peacekeepers-need-peacemakers-un- peacekeeping-chief-what- un-and-member-states-owe-blue-helmets .

for this demise of UN peacekeeping is the changing nature of conflict (new technologies, non-state actors looking to spark disorder without political aims, etc.), as well as limited political will, due to fraying multilateralism among UN member states.

Unlike NATO, UN peace operations require authorization by the UN Security Council for a protection of civilians mandate. These mandates have been authorized in various situations of violence, from armed conflict to communal disturbance. Also, protection of civilians mandates are separate from humanitarian assistance delivery activities. That said, the latter could be viewed by some as a broad protection of civilians measure of ensuring that assistance is accessed by affected populations. This is not the case with NATO, where humanitarian assistance delivery is part of its protection of civilians doctrine. Furthermore, peace operations are never made parties to a conflict, although they may inadvertently become one. This occurrence has precipitated in recent decades, as a result of embracing robust postures and undertaking stabilization mandates, which result in operations alongside the government in country.[174] Unlike peace operations, NATO has worn multiple hats, ranging from peacekeeping to peace support (stabilization) and being a direct party to a conflict.

Displacement is a key protection of civilians harm for the UN peace operations and is specifically mentioned in its Peace Operations Protection Policy 2023. The document lists the Guiding Principles on Internal Displacement as one of the "Normative or Superior references".[175] The topic of displacement is as a cross-cutting theme, which works across different units in a peacekeeping mission, that is, protection of civilians, child protection, conflict-related sexual violence and human rights and rule of law units. Displacement is viewed as a harm that is either caused by others -- or caused by the UN peacekeepers themselves. The latter is a recent evolution for the UN with its latest protection policy, while NATO was an early adaptor on taking responsibility for its own actions. The triggers for

[174] Alex J Bellamy and Charles T. Hunt, Twenty-first century UN peace operations: protection, force and the changing security environment(Nov 2015)91:6 International Affairs (Royal Institute of International Affairs 1944-) 1277, online: https://www.jstor.org/stable/24539055 .

[175] *Supra* note 170 at 20.

displacement in peace operations response are not just conflict but also violence and other threats, much wider than IHL's forced displacement. An interviewee noted that climate advisors are being onboarded by department of Peace Operations in order to cover the intersection of displacement and conflict.

One interviewee reflecting on UN peace operations' strategic approach to protection of civilians noted that the configuration of displacement in peace operations could be viewed as almost opposite to the spirit of IHL, meaning that it is based on proactive action to stop hostilities and not just to manage the conduct of hostilities. Therefore, there is a strong focus on preventing the harm of displacement which, as the Protection Policy 2023 notes, "should prevention activities fail to prevent displacement, (then) missions may seek to ensure the protection of displaced populations during flight, in refugee or IDP camps or settlements, upon return to their places of origin or relocation."[176] Prevention activities include community early warning systems for possible displacement in the Democratic Republic of Congo; and deployment of small bases in various locations in order to bolster security and thus prevent displacement, in Mali.

This proactive prevention mode also extends to supporting the return of displaced populations and avoiding re-displacement. Interventions to support this include improving access to justice for addressing land disputes, which if not settled could cause displacement (Mail and Sudan); punishing perpetrators of serious crimes to potentially deter further displacement, which may be caused due to the occurrence of such crimes (Democratic Republic of Congo); and supporting community policing to maintain community cohesion and minimize violence, which could trigger displacement (South Sudan). The purpose of this paper is not to evaluate the success of these efforts but merely to map them.

Comparing UN peace operations with NATO, I concur with Knopps and Patz, that NATO's approach to protection of civilians is less ambitious in scope than UN peace operations. The focus is on averting the negative impact of military operations, including by ensuring physical

[176] *Ibid* at 14.

security and limited political and environment building considerations. Although, as noted earlier, this may change with its adoption of a Human Security Approach. Furthermore, NATO has a less articulated approach to the harm of displacement and displacement prevention, and the focus is more on responses to displacement.

While NATO's Protection of Civilians Policy does not reference displacement explicitly, its ACO Handbook references displacement as a protection of civilians issue. The handbook outlines similar interventions to UN peace operations in relation to populations that have already been displaced, including provision of security around camp sites, facilitation of humanitarian corridors to ensure freedom of movement and support for the return of displaced populations to a location. There is a passing mention of prevention and addressing root causes but no concrete exploration of this in NATO documentation.

In conclusion, it is recommended that NATO examine further the strategic approach of UN peace operations to protecting civilians beyond just a focus on conduct of hostilities, including, proactive action to prevent the harm of displacement from occurring and averting repeated displacement.

African Union approaches to Protection of Civilians and displacement

The shift to adopting a robust Protection of Civilians doctrine in the AU began in 2009. Andrew Tchie and Liezelle Kumalo note that this was reflective of the shift from the more neutral stance of the Organization of African Unity to the AU's more political and interventionist stance.[177]

The key document guiding the AU today on Protection of Civilians is the AU Policy on Protection of Civilians in Peace Support Operations 2023, building on earlier doctrine.[178]

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[177] Andrew .E. Yaw Tchie and Liezelle Kumalo, *Transferring Policy: The African Union's Protection of Civilians Policy in Peacekeeping Missions in Somalia and South Sudan* (Durban: The African Centre for the Constructive Resolution of Disputes (ACCORD) 2023), online: https://reliefweb.int/report/somalia/transferring-policy-african-unions-protection-civilians-policy- peacekeeping-missions-somalia-and- south-sudan .

[178] "This includes the African Union Doctrine on Peace Support Operations (2021) making a series of reference on POC issues, the Draft Guidelines for the Protection of Civilians in African Union Peace Support Operations developed in 2010 and the Aide-Mémoire for the Consideration of Issues Pertaining to the Protection of Civilians in Africa": African Union, *African Union Policy on Protection of Civilians in Peace Support Operations*, Addis Ababa, 2023.

The AU defines protection of civilians as "activities undertaken to improve the security of the population and people at risk and to ensure the full respect for the rights of groups and the individual".[179] This definition is broader than both UN peace operations and NATO. Similar to UN peace operations, it has a detailed tier-based approach to Protection of Civilians, and it covers various situations of violence. The four tiers are: protection as part of the political process; protection from physical violence; rights-based protection; and the establishment of a protective environment. The aim of AU doctrine is to mainstream Protection of Civilians into the work of its peace and security architecture and its peace support missions.

While the scope is ambitious, in reality commentators note a gap in implementing these guidelines effectively in AU peace support missions.[180] The AU missions in reality focus more on militarised protection with a focus on physical security, similar to NATO. These missions have had some small- scale human rights monitoring, and response to child protection and sexual and gender-based violence. However, they have been stymied due to inadequate personnel, funds and processes.[181] The paucity of civilian staff to execute this vision is a challenge for the AU. Similar to NATO, the AU is challenged by a limited civilian footprint. Moreover, like both NATO and the UN, the export of these standards to shape individual member states' doctrine on protection of civilians remains limited; as such, supporting the drafting of National Protection of Civilians Policies may be a way forward to ensure doctrinal integration in national militaries.

Like the UN and unlike NATO, the AU specifically references displacement in its Protection Policy 2023. The AU's position on displacement is guided by IHL and IHRL, as well as adhering to regional legal instruments, such as the Kampala Convention on Internal Displacement. Therefore, one can summarise that displacement is understood as having a

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[179] **The Protection of Civilians definition in AU documentation:** "The concept of 'Protection of Civilians' (PoC) includes activities undertaken to improve the security of the population and people at risk and to ensure the full respect for the rights of groups and the individual recognised under regional instruments, including the African Charter of Human and Peoples' Rights, the AU Convention for the Protection and Assistance of Internally Displaced Persons, and the Convention Governing the Specific Aspects of Refugee Problems in Africa, and international law, including humanitarian, human rights and refugee law. *Ibid.*

[180] Jide Martyns and Paul D. Williams, ed, *Protecting Civilians in African Union Peace Support Operations: Key Cases and Lessons Learnt* (Addis-Ababa: African Union Commission, 2017), online: https://www.academia.edu/32107365/Protecting_Civilians_in_African_Union_Peace_Support_Operations_Key_Cases_and_Lesson s_Learned.

[181] *Ibid.*

wide variety of violence and non-violence- related triggers and the AU will respond to all such situations.

There is no guidance document like NATO's ACO Handbook that translates the vision for protection of civilians into concrete outcomes for military operations, although some details are contained within the Protection Policy 2023, read alongside previous AU documentation. A review of the Protection Policy 2023 indicates that similar to NATO, engagement on displacement is primarily on protecting already displaced persons. The suggested response measures are largely similar to those in NATO's ACO Handbook. These include averting displacement by making an area secure (similar to the counterinsurgency doctrine of 'clear and hold'); facilitating camp security; facilitating humanitarian assistance; and support for returnees. However, unlike NATO, the AU Protection Policy 2023 is more explicit on prevention of displacement centred around ensuring physical security. This is an improvement on previous AU protection of civilians documentation.[182]

However, the AU policy makes a unique contribution, which NATO could benefit from. That is, by tying protection of civilians into a wider political anti-atrocity agenda and factoring it into considerations of peace and security and regional stability, reflecting a clear strategic approach to protection of civilians, including the harm of displacement. This is more ambitious than even UN efforts, since it's peace and security architecture is not as clearly laid out as the AU. Moreover, it reflects the AU's forward thinking on connecting protection of civilians beyond local level conflict reduction measures to broader peace processes and not relying instinctively on militarised engagement to protect civilians.

The AU's 2013 Aide Memoire outlines how Protection of Civilians is central to the AU's larger peace and security architecture (it is referenced in the AU Protection Policy 2023 as one of the foundation documents).[183] The Aide Memoire provides a clarity of centralising protection of civilians and connecting the dots among the role of the various AU bodies. This is an even

[182] *Supra note* 178.
[183] African Union, "Aide Memoire for the Consideration of Issues Pertaining to the Protection of Civilians in Africa", online: https://www.peaceau.org/uploads/01-aide-memoire.pdf .

clearer approach than the slightly more obtuse placement of Protection of Civilians within the UN's more disjointed peace and security architecture, as noted previously. As Bridgette Conley notes, this is in reaction to "[c]ontinental disappointment with the response of the organization's predecessor, the Organization for African Unity (OAU), to the Rwandan genocide (and) played an important role in the conceptualization of the AU's new norms and capacities".[184]

The focus of the AU's conflict prevention is centred on developing processes that are suited to the milieu of the continent, reflecting the philosophy of "African solutions, for African crisis". A primary tool of engagement is via political mediation undertaken by an elder statesman or through a group delegation. A successful political mediation to stop or prevent violence would immediately translate into preventing displacement. This approach has yielded some success in Kenya, Burundi and Ethiopia in recent times. Although, the crisis in Sudan, considered the world's largest humanitarian crisis today (over 8 million internally displaced and 3 million across borders as of 2024), has eluded AU's efforts. One interviewee noted this emblematic of the recent relative demise of AU peace making from previous years, primarily due to structural challenges within the AU, in addition to the global headwinds of fragmenting multilateralism impacting the continent.[185]

Moreover, it is historically instinctive second nature for the AU to resolve conflicts and protect civilians without an application of force. This was evident in 2011, when military action was first mooted against Libya. The AU first proposed mediation rather than military intervention in Libya, which was overruled by the other parties at the UN Security Council level and led to NATO being mandated to intervene militarily.[186] This history of comfort in exploring various methods to protect civilians, rather than an instinctive resort to use of force is something that NATO could learn from the AU.

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[184] Bridget Conley, "The 'Politics of Protection': Assessing the African Union's Contributions to Reducing Violence Against Civilians" (2017) 24:4, International Peacekeeping, 566, online: https://www.tandfonline.com/doi/full/10.1080/13533312.2017.1345311.

[185] A read of the last five years of International Crisis Group's annual priorities for African Union list provides a good insight into the institutional and peace making challenges of the AU. Providing one example here. Eight Priorities for the African Union in 2024, online: https://www.crisisgroup.org/africa/african-union-regional-bodies/b195-eight-priorities-african-union-2024 .

[186] Alex De Waal, "The African Union and the Libya Conflict of 2011" (Dec 19, 2012), online: https://sites.tufts.edu/reinventingpeace/2012/12/19/the-african-union-and-the-libya-conflict-of-2011/.

Chapter Four

Responding effectively to the harm of displacement: operational challenges for NATO beyond the orthodox framework

Even if the limitations of the orthodox dominant framework are addressed, effective implementation of this framework will depend on having a clear understanding of the operational reality within which NATO military commanders operate. I divide this operational reality into two categories: a comprehension gap and an institutional gap. Both these may stymie an effective response to the harm of displacement, even under an "improved" orthodox displacement framework.

3.1.Harm of displacement in the planning and conduct of military operations: A critical gap

Almost everyone interviewed noted there could be more in-depth integration of the harm of displacement in military planning, especially focused on prevention, in addition to mitigation. The challenge for achieving this as identified by interviewees is as follows: First, there is a limited understanding of the harm of displacement and its relevance to military operations within NATO. Rather, displacement is often viewed as an unfortunate and inevitable occurrence; second, doctrinally, military operation planners are not equipped to factor in the harm of displacement at the planning stage of military operations, which is the stage at which mitigation measures are endorsed.

Comprehending the costs of the harm of displacement

Some interviewees expressed a helplessness in comprehending how the harm of displacement as an issue would be addressed in military operations, in terms of either direct linkage to the conflict dynamics, or overall strategic aims. This incomprehension dovetails with strategic planners in many militaries expressing that this is the concern of politicians and not their work. The reasons for this are varied; for some, the harm of displacement in large displacement crisis may be viewed as a "tidal dynamic" of numbers and speed that overwhelms. For others, it is just a background indicator of instability in a conflict situation

or resignedly viewed as unfortunate collateral damage.

Additionally, the challenge in tangibly making links between cause and effect for displacement is vexing for military actors, given their conditioning to act in the immediate term to find solutions and as a result may not take responsibility for the harm except in the clearest instances. For example, if 3000 people left from two population centres and one of these population centres received a direct order to evacuate for military necessity. Another population centre may not have received a direct order, nevertheless the hostilities make the residents insecure enough to flee. In both situations, no IHL violation has occurred per se. However, this 'voluntary' displacement by one population centre will be viewed as unfortunate by military actors – but they will not take ownership for this 'harm', or account for it in their planning. This may not even come within the reverberating effects doctrine that is now emerging within the dominant orthodox framework on the harm of displacement.

An additional challenge noted was that displacement is often caused by a multitude of precipitating factors and there is often uncertainty on what is unlawful displacement under the orthodox framework, and what is not.

Part of these concerns could be addressed with better data one interviewee experienced with engaging military actors noted. What was needed is an informed and nuanced story of displacement being told inside the military to comprehend the nature and magnitude of this harm. For example, clear and compelling stories can be narrated about the harm in terms of the injury of leaving one's home and community, the horrific consequences in displacement especially, as the length of time in displacement grows.

Even if the harm of displacement is acknowledged and understood by NATO military operations, there are challenges within the institution in crafting an effective response, explained interviewees. For example, the institutional response has been to cluster together all the thematic policy areas including protection of civilians (includes displacement), sexual violence in conflict and children in armed conflict, and to place them into the CIMIC sphere. As a result, these issues are quite siloed and do not truly trickle down into the main planning

or execution of military operations. The key, as many interviewees noted, is to tie displacement into the real aim of the military: war fighting.

Additionally, a military commander often has a legal advisor but not always a CIMIC person in the command group. A commander is the central figure – and they direct what gets decided in a mission. They are hence the key for how protection of civilians is applied in operations. The position of CIMIC, as noted elsewhere in the paper, is often an outward facing role aimed at interaction with humanitarian and other actors and not directed at the core mission of war fighting.

Displacement as a harm in Targeting identification

Interviewees provided some illustrations high-lightening the gap in military operations planning vis- à-vis the harm of displacement. One interviewee noted that the focus of military actors in operational planning is on target identification and the harm of displacement is a secondary consideration.[187]

The reason for this is logical and based on the methodology of targeting, which is a legalistic subject matter based on considerations of proportionality, necessity and distinction under IHL. The focus is on a single individual attack, where the cause and effect are relatively easy to pinpoint, with a predictive analysis of numbers of civilians harmed in the immediate vicinity of a targeting action. This targeting methodology is applied with the belief that it enables clear identification of responsibility and based on this, subsequent reparations for the harm are made. However, this targeting methodology would struggle even more to capture the often fickle pattern of displacement. As a result, the harm of displacement could be avoided or discounted altogether when examining instances of targeting like air strikes.

One interviewee explained the challenge to address the harm of displacement through their experience of the lodestar civilian casualty tracking mechanism developed by NATO's

[187] Targeting under International Humanitarian Law refer : ICRC, "How does law protect in war, Online case book", on-line: https://casebook.icrc.org/highlight/targeting-under-international-humanitarian-law .

International Security Assistance Force (ISAF) in Afghanistan.[188] They noted that ISAF was quite apt at quantifying protection of civilians in terms of the number of dead or injured and as a result, the humanitarians too ended up engaging on this issue with ISAF along those lines of quantification. They kept the focus on documenting the quantifiable harms, while leaving aside other more ambiguous and difficult-to-decipher harms. As a result, the overall engagement also became more about examining the outcomes of targeting for all, rather than pressing for "feasible precautions" in advance. This also concurs with my experience of interacting with ISAF on displacement as a humanitarian and the information blank spots apparent vis-à-vis this harm.

Even if a targeting analysis does factor in displacement in harm identification – there are still challenges notes an interviewee. Citing the example of use of explosive weapons and the issue of reverberating effects. They note, that while the conversation around reverberating effects has grown in recent years, there is still a reticence to connect the dots on the occurrence of the harm of displacement. The predictive targeting analysis is often confined to accounting for a knock on effect of the harm of displacement, following homes being destroyed. It does not extend to accounting for destroyed, or other places of shelter in the vicinity where people may have taken shelter.

Another issue raised was the assumption made in large-scale operations, traditionally the setting for a military planning. The assumption is that civilians are not present in the area of hostilities because they would have been given evacuation orders (issued as a last resort). Military operational planning does not account for people who remain in such circumstances. Such an assumption of total relocation of people after an evacuation order was applied in the military campaign for Mosul, Iraq, against the Islamic State (ISIL) militant group. A 'lessons learnt' exercise after the campaign recommended that there be a revision to this assumption and that it should be presumed that there are always some civilians present, even if an

[188] Andrew Hyde and Marc Garlasco, "Civilian Harm Mitigation: An Opportunity for Values-Based U.S. Leadership at NATO" (2 February 2023), online (blog): https://www.lawfaremedia.org/article/civilian-harm-mitigation-an-opportunity-for-values-based-u.s.- leadership-at-nato.

evacuation order is given.[189]

In addition, some interviewees noted that on the issues of displaced returning to their homes post an evacuation order or relocation and their ability to resume a dignified life is viewed as a "civilian issue". Little responsibility is assumed for this lawful displacement by military actors, even if this displacement is prolonged for longer than necessary.

Even if the military actors identify carefully that there may be potential for displacement during a military operation, the question of how to respond is a challenge on its own. Often, displacement occurs alongside other harms in a given situation and the other harms often feel easier to address. One interviewee described a scenario that played out often in their experience: soldiers at the grassroots level see a population centre displacing itself and they wonder how to respond. It may be possible to understand the cause and address it, like by moving your checkpoints or bases away from the population centre, thereby preventing further attacks near the village by opposing forces. Instead, the soldiers opt to focus on harms such as sexual assault, because there is a standard procedure for these harms and they are familiar with them. The logic is that these harms are easier to deal with than the more nebulous issue of potential displacement, which "result[s] in a sort of almost bureaucratic inertia". I conclude here by noting that my point in no way undermines the gravity of sexual violence in conflict.

A similar sentiment was echoed in the context of UN peace operations, where displacement is often viewed as a significant yet complex contextual indicator by both the military and policy makers. However, preventing displacement is challenging to address except for some instances -- although doctrinally UN peace operations are more predisposed to this, thus it becomes easier and more tangible to focus on protecting IDP camps and protecting population centres or concentrating on other important responses to displaced populations that are doable, given standard operating procedures and funding envelopes for them. Such

[189] Interaction, *Protection of Civilians in Mosul: Identifying Lessons for Contingency Planning* (Washington D.C.: A Center for Civilians in Conflict (CIVIC) and InterAction Roundtable 2017) , online (PDF): https://www.interaction.org/blog/protection-of- civilians-in-mosul- identifying-lessons-for-contingency-planning-2/.

as, programs focusing on the particular vulnerability and needs of displaced women and/or children, etc. Conversely, the expectations of humanitarians and others that are placed on peacekeepers to deal with displacement sometimes feel unrealistic.

Similarly, another interviewee familiar with peace operations noted that displacement ranks low on the radar, even below property destruction. This is reflective of the well-developed jurisprudence on destruction of property starting from the Lieber Code and Hague laws, especially for cultural property. The latter is a thematic policy area for NATO alongside protection of civilians and both placed under the Human Security umbrella.[190] Protection of cultural property also has a deeper historical legal and moral footprint among most western militaries. Today, there is also an increasing focus on health infrastructure protection due to primarily the conflicts in Syria and it is also an area of focus for some NATO member states like Canada. Moreover, property destruction fits targeting calculations better than displacement does.

I conclude this part by noting that IHL experts for this research acknowledged that IHL on displacement needs to evolve and IHL does play catch up from time to time, recent examples being urban conflicts and terms like reverberating effects. At the same time, it was underlined that not all the answers for the harm of displacement are embryonically present in IHL.

Harm of displacement in military strategy

An interesting issue raised by a few interviewees was the need to think anew about military strategy vis-à- via the harm of displacement, referencing the relative sparing of Prague in the second world war in contrast to the all-out destruction of Caen in France with aerial bombardment. This was raised in relation to the conduct of hostilities -- that is, all out destruction versus the preservation of life and need to leave something for civilians living post hostilities. Taking one into a moral hazard realm deeper than civilian and combatant distinction or refining the targeting balance of IHL rules of proportionality and distinction and military necessity or

[190] Rule 38 and Rule 50, ICRC "International humanitarian law data base", online: https://ihl-databases.icrc.org/en/customary-ihl/v1.

even reverberating effects. It is questioning whether a particular harm outcome outweighs the strategic imperative for the use of force.

Charles S. Maier studying the blanket bombing of European cities in the second world war by the Americans concluded that the justification of military necessity and strategic efficacy began to ring hollow in such situations.[191] The harm of displacement flowing from such destruction often results in loss of not just home and community, but multiple other harms, such as increased mortality and increased sexual violence during displacement.[192] It makes resuming life with dignity extremely challenging post hostilities and in some cases impossible.

Leading one to conclude that the harm of displacement should be a strategic consideration for military operations, and there is a need to develop a "habit" of a prohibitionary culture centring on prevention, even if an absolute ban on causing displacement is not realistic. Therefore, NATO must embrace a strategic approach to protection of civilians that is integrated into war fighting aims and not just an operational tool needed to engage in conflict. Such a strategic approach was also discussed earlier when examining UN peace operations.

However, interviewee familiar with NATO military forces noted that it is difficult to push on these broader strategic concerns. The reaction can be protective and defensive and questions of what you can do in the stress of the battlefield invariably are expressed: "The challenge will be getting these actors to understand why this is relevant to them as a strategic objective and … 500,000 displaced people, … potentially destabilizing things. Because you (the military) don't feel this is really your job … you've been sent by the politicians."

Once convinced of strategic upsides to avoiding or minimizing displacement, making an informed decision on concretely what to do vis-à-vis the harm of displacement would require a

[191] Charles S. Maier, " Targeting the city: Debates and silences about the aerial bombing of World War", (2005) 2:97 International review of the Red Cross 859, online: https://international-review.icrc.org/articles/targeting-city-debates-and-silences-about-aerial- bombing-world- war-ii.
[192] *Supra* note 11.

deep understanding of the human environment. Response measures applied could include developing a robust displacement early warning system to watch for potential displacement; and responding to forced displacement inevitably resulting from warfare with proactive humane evacuation options, including plans for dignified living in displacement and ensuring timely return. While this is not an easy ask, interviewees familiar with the topic noted it is feasible to have such pre-planning for large military operations.

3.1.Institutional gap: responding to the harm of displacement in military planning and operations

Interviewees in this research flagged some of the institutional gaps that both militaries and others (e.g. like humanitarians) need to address. They felt that by addressing such issues the harm of displacement would be responded to more effectively in the course of military operations.

Data and Intelligence gathering gaps in military operations planning

A significant impediment to a nuanced understanding of the harm of displacement was limited data and selective intelligence gathering, interviewees noted. Despite the last decade witnessing huge strides in data collection on displacement, there continues to be different levels of data collected, some more granular than others, as well as tending to differences in output based on various goals, including political ends.[193] There are also challenges in ensuring coherence on figures and common understandings of data interpretation by all actors in conflict, which is key for ensuring responsibility and accountability for the harm of displacement.

While it is challenging to gather data on conflict, it becomes even more difficult when other

[193]Lews Sida et all, *Independent review of the humanitarian response to internal displacement* (London: Overseas Institute for Development (ODI) 2024), Online: https://odi.org/en/publications/independent-review-of-the-humanitarian-response-to-internal- displacement/.

factors are intertwined, like climate change.[194] So the harm of displacement data story remains not entirely fit for purpose for the needs of military actors. That is, data that can be integrated with their military needs is not readily available. Urgent clarity is required from military actors on what is needed for data to be useful and sufficient. Moreover, the demand for data by military actors should not become an excuse for not taking action to avert the harm of displacement, because data does not ever tell the entire story.

Among military actors, intelligence gathering could contribute to comprehending the harm of displacement for planning. However, those familiar with NATO militaries noted that in hostilities, the focus for intelligence gathering is on their adversary (enemy terrain) and a narrow analysis of the civilian environment (human terrain) prior to carrying out a strike. The latter is not a holistic or comprehensive analysis of the civilian environment, including gathering information on second or third order effects of a military action, which is where the harm of displacement is usually found.

It was further noted that intelligence actors may well understand displacement causes and issues but nevertheless do not deem these to be a priority in some instances. This is where humanitarians and others with knowledge of displacement need to engage more robustly with military operations planning personnel. Such robust engagement has occurred in some instances, for example, in Afghanistan and Ukraine vis-à-vis civilian causalities tracking. An emphasis on strengthening human terrain intelligence gathering in NATO's Human Security Agenda is a welcome development.

Information sharing in zones of conflict by all actors remains limited. There is a reluctance from military intelligence to share information since they want to protect knowledge sources and methods. This was something the researcher also saw playing out in Afghanistan while working on tracking displacement across the country. One kept running into firewalls when requesting information on new displacements in areas with limited humanitarian presence

[194] Rand Corporation, "Climate Change and Conflict – Implications for US Central Command", online: https://www.rand.org/nsrd/projects/climate-change-and-conflict.html.

where military operations had occurred. This was despite trying engaging with UN's Joint Mission Analysis teams (JMAC). Even in the most robustly coordinated military operation planning among military and non-military actors such as Mosul, Iraq, there appeared to be an inevitable intelligence gaps. For example, information on civilians choosing not to displace themselves through evacuation corridors was received from local sources by humanitarians but was not factored into collective planning (assuming because these were unvetted sources). [195]

The UN or NGOs and others find it hard to criticize intelligence since they often do not know how it functions. Even if they do know how it functions, they simply do not have access to the channels through which it is gathered. For their part, these non-military actors are themselves reticent to share what they learn from their own sources and methods, and I speak from first-hand experience here, as well as experience of some of the interviewees. There is a suspicion about how this information may be used, including how uses could potentially compromise their humanitarian principles and operability in conflict zones. This clearly produces a humanitarian dilemma given that targeting is developed based on what an operational commander knows at the point of planning, prior to the actual conduct of hostilities. Therefore, a commander could easily claim ignorance of the displacement data available with humanitarian actors and others, since the latter failed to share.

Engagement gap between Military and Humanitarians: the right people talking to each other

One interviewee noted that perhaps humanitarians often do not have the clarity on who has what responsibility in an armed conflict. So, they fail to engage with the right actors on protection of civilians issues, including the harm of displacement. The military interlocutor for humanitarians in most conflict areas is a Civ-Mil officer (CIMIC or J9). However, military operations personnel are another step removed from Civ-Mil and so it makes one wonder if humanitarians are engaging with the right interlocutor. One interviewee challenged this and noted there is a no issue with Civ-Mil as interlocutors. Rather, the issue is that protection of civilians as a broad concept -- beyond IHL, is something militaries struggle

[195] *Supra* note 189.

with. They see it analogously to tree-hugging or as window dressing for public messaging, rather than an as an operational lens. At least four interviewees confirmed this aspect of "tree hugging". An interviewee noted a similar challenge for UN peacekeeping, where Protection of Civilians was intentionally deprioritised by some of the military commanders based on similar views.

Another impediment is not all humanitarians have the same understanding on displacement, as a protection of civilians harm. As one interviewee noted, humanitarians really have not invested in a framework or a language that enables them to engage with parties to conflict about these about this issue. This contributes to trepidation and ineffectiveness in raising the issue with any degree of confidence, let alone identifying practical measures that can and should be taken to avoid causing this harm.

On the humanitarian side, my experience was also echoed by some interviewees who noted that the UN's Civil Military Coordination (UN-CMCOORD) are not well versed on this harm of displacement. UN- CMCOORD staff act as the primary interlocutor on behalf of the humanitarian community with military actors in zones of conflict. One interviewee noted that UN-CIMCOORD was potentially being underutilized in influencing the norms and behaviours of weapons bearers, and their focus appeared to tilt towards facilitating humanitarian access. Conversely, there have been instances of engaged UN- CIMCOORD officers, with a demonstrated willingness to help foster direct wider subject matter based dialogue between humanitarians and military actors which has facilitated positive breakthroughs. I was part of these regular dialogues in Afghanistan on Protection of Civilians.

One recommendation on how to address this communication gap on protection of civilians issues between military and humanitarians is better military education. This includes militaries learning how to translate their operational gains into the political task that they have been given, thereby improving dialogue with external interlocutors. The same could also be done for humanitarians and other civilians since many have limited understanding of what the military is for and how it can be used. There are also some training opportunities to

enhance coordination, for example, the UN/NATO training course and UN training for troop-contributing countries. All interviewed testified to the benefits of such trainings and urged more is needed.

However, training is not the only solution and there is a need for awareness of each other's roles, which can only occur through establishing direct contacts with each other. This also helps in trust building – a vital ingredient in any dialogue. It was suggested that in crisis zones there is a need for establishing clear communication via enhanced and deep coordination.[196] Some efforts have already been made, like the enhanced coordination efforts seen in the Mosul campaign in 2017 and a staff secondment to NATO HQ undertaken by the UN World Food Program, however, much more needs to be done.

What is required is smart engagement, with a recognition that both sides inhabit the same space in crisis zones. In these locations there is a need to communicate much more on displacement triggers, numbers, movements, and so on. Moreover, entities such as NATO and the AU should be invited to provide input in global strategic engagements, where significant deliberations on displacement are occurring, like UN high level panels. For example, the UN High Level Panel on Internal Displacement 2019-2021 received input from UN peace operations but not from other entities like NATO or the AU. In recent years, some UN agencies are attending security forums like the Munich conference, so there is perhaps an opening for reciprocation. As one interviewee noted rightly, relationship building and trust is the key at all levels.

Expertise gap: straddling displacement and protection of civilians

Displacement is viewed as being a humanitarian-led process, with limited military actors' involvement. There is a paucity of expertise which straddles both areas of 'protection of civilians and displacement'. This was obvious to me as a researcher when undertaking interviews for this research, most interviewees noted that they were familiar with either

[196] Interaction, "Optimizing Armed Actor Engagement for Protection Outcomes" (8 April 2024), online: https://www.interaction.org/blog/optimizing-armed-actor-engagement-for-protection-outcomes/.

displacement or protection of civilians. As one interviewee familiar with NATO and protection of civilians noted: "There are actually a ton of people who are experts in [displacement]; they're just not the same people who are protection of civilians experts".

Within the UN itself, in UN peace operations, there has been no dedicated expertise developed on displacement, despite a more robust civilian side to UN peace operations. Therefore, there are no displacement advisors, unlike for child protection or sexual violence. It was noted that if need for input on displacement arises, the humanitarians are consulted since they own the issue fairly strongly. One interviewee familiar with peace operations noted: "[peace operations] come in without opinions and let OCHA or UNHCR tell you what to do and what the situation is. Because it feels like you're crossing…boundaries of your expertise."

Although the Guiding Principles are referenced in the UN Peace Operations Protection Policy, they are not a well cited reference point to guide the work of peace operation components and remain more on paper, noted one interviewee. Additionally, there has been a paucity of common displacement guidance between the humanitarian and military/political sides of the UN and only in 2017 did UNHCR, OCHA and DPO conduct a first roundtable on IDP camp standards, although recent years have seen a significant increase in such dialogue.

I conclude by reiterating once more that humanitarian leadership of displacement issues has led to military actors not owning displacement as their issue. As a result, they do not necessarily feel the strong accountability of duty bearers.

Chapter Four
Recommendations and Conclusion

Recommendations: The way forward for regulating the harm of displacement

The primary aim of this paper was to map out the coverage and gaps in protection of civilians and the harm of displacement in the orthodox displacement framework, through the prism of NATO's Protection of Civilians Policy 2016. Throughout, I have made suggestions for future action but I would be remiss not to share a few key recommendations that emerged organically in the course of this research.

1.Creating a habit of prohibition on the harm of displacement

The harm of displacement requires moving towards a habit of prohibition situated on legal, moral and political grounds, especially by embedding protection of civilians and the harm of displacement into the strategic aims of war fighting. Such a habit would inevitably veer towards the prohibition of displacement, which could then be operationalized de jure and de facto. At the very least, a presumptive prohibition is workable until such time as an absolute prohibition becomes law. This would also require a mindset shift from a permissibility culture within the orthodox displacement framework, with its acceptance of some displacement (occasionally considerable displacement), both de facto and de jure. Operationally, the focus must shift away from primarily responding to displacement that has already occurred, toward prevention as the starting point for engagement with the harm of displacement. Viewing the harm through the prism of absolute prohibition would also enhance a sense of accountability and responsibility, without the constant examination of what is acceptable and what is not. In making this argument, I am in no way ignoring the realism of conflict and the inevitably of some displacement.

For NATO, such a habit of prohibition of the harm of displacement can emerge if it embraces the protection of civilians definition and aims as outlined in its Protection of Civilians Policy 2016 coupled with its Human Security approach. This requires moving away from aiming to adhere to the minimums stipulated in IHL—a natural comfort zone for most NATO and other militaries—as a major first step. Furthermore, cultivating such a habit of prohibition will

require conversations within NATO on issues of the sort of human terrain intelligence and data required. It will also include examining precautions and restraints to be taken in military operations beyond individual targeting, given the unpredictability of displacement, etc. Such a shift in approach will require NATO to develop a prevention ethos in relation to displacement. This includes not just stopping the harm from occurring but also ending the impact of the harm in the immediate term, so as not to cause displacement longer than necessary. Prolonged displacement leads to multiple harms as noted earlier, such as increased mortality. Even where return occurs, it becomes more and more difficult for displaced persons to resume their previous lives.

As this research was being finalised, the UN Security Council Protection of Civilians Annual Debate and the UN Secretary-General's Report both positively echoed the need to ensure Protection of Civilians as paramount. They emphasised not mere compliance with law (since harm could still be done within the letter of the law) but the actual impact on civilians with "full protection".[197] Here, we do well to remind ourselves that law often permits (or fails to prohibit) certain conduct in conflict, but nothing in the law precludes morally or pragmatically motivated actors from deciding not to stand on their formal rights. That IHL allows – without requiring – supererogatory moral conduct on the part of warring parties may just be the starting point for IHL to move to some form of prohibition in law.

2.Integrating the harm of displacement into NATO's institutional DNA

The Protection of Civilians Policy 2016, coupled with the Human Security Approach (and its link to resilience), is expansive enough to cover various situations of violence that trigger displacement, as well as displacement prior to and post hostilities. NATO should seek to integrate the harm of displacement in its institutional DNA -- some suggestions: first, the harm of displacement should be placed within the military strategy and military operational planning of NATO more robustly. This is a timely opportunity with the Protection of Civilians

[197] *Annual Protection of Civilians Debate*, UNSC/15702(2024) 9632 Mtg., Online: https://press.un.org/en/2024/sc15702.doc.htm.
The concept of "Full protection" was further elaborated in the 2025 Annual Protection of Civilians report: *The Protection of Civilians in armed conflict*, UNSC, S/2025/27115 May 2025, online(pdf): https://docs.un.org/en/S/2025/271.

Policy implementation still rolling out. This paper observes that many of the challenges of internalising the harm of displacement are the same as for integrating protection of civilians into NATO doctrine. However, some adjustments are uniquely needed and doable for strengthening integration of the harm of displacement, such as comprehending the non-temporality of displacement distinct from the temporality of hostilities; and establishing accountability for this harm beyond the limitations of the current orthodox framework, where accountability is most robust for forced displacement in IHL.

Second, NATO needs to make its engagement on displacement as a significant protection of civilians harm "fit for purpose" for itself. In other words, NATO needs to own the engagement that suits it institutionally and not always take external cues and tick boxes that appear acceptable to other actors, thus reacting to this harm as an outward-facing exercise. I concede that NATO faces similar issues vis-à-vis sexual violence and child protection and also civilian causalities, although these issues have been more integrated into NATO's institutional DNA with set procedures. I agree with the assessment of most interviewees that there was no need for NATO to have a detailed paper on displacement. Rather, the focus should be on its military strategy and operations planning and incorporating the harm at that level, rather than yet another paper.

Last, apart from NATO-level engagement, engagement at the NATO member state level should be pursued to integrate the harm of displacement firmly into the military command structure. One method suggested as an example by an interviewee was from the US government, where there was a whole of government approach on atrocities prevention, which could serve as an example of how to address displacement. At a minimum, individual militaries must incorporate standards that NATO established for protection of civilians and also for the harm of displacement. The best way forward would be for NATO to encourage adoption of National Protection of Civilians policies by member states. In other research I undertook on Canadian Armed Forces and the protection of civilians, it was unclear how NATO's policy had actually been incorporated concretely.[198] Canada's assurance that, as a

[198] *Supra* note 4.

NATO member state, it always incorporates NATO standards was not enough.

3. NATO and International Community engagement on the Harm of Displacement

While displacement is dealt with by NATO as one of a myriad of protection of civilians harms, its integration into NATO doctrine for miliary operations requires deeper engagement by the wider international community with NATO. The example of how civilian casualties (CIVCAS), children and armed conflict and sexual violence in conflict have become integral to NATO's institutional lexicon offers many insights. Momentum around CIVCAS has involved a combination of military and humanitarian engagement, as well as media spotlight and consequent public pressure directed at military and political establishments in the post-9/11 wars, in light of these deaths. Children and armed conflict and conflict-related sexual violence have been absorbed by NATO in part due to their high political profile within the international community, via dedicated UN Security Council resolutions and mechanisms, coupled with a consistent presence of a wide network of NGOs who have engaged on these issues with NATO and rotation of UN personnel with expertise on these issues into NATO.[199]

Another avenue for deeper engagement on displacement by NATO is by involving them in the international community's deliberations on displacement as an actor that shares the space in a crisis zone. This could include inviting them to UN high level panel deliberations for input, in addition to attendance of humanitarians and others at NATO-led events. This interaction at a policy and political level is different from engagement on the ground in zones of violence, as there is careful observation of humanitarian principles as the guide for all armed actors. That said, as I have noted earlier in this paper, there is a need for further engagement, co-ordination, understanding of positions and trust building at all levels.

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[199] Security Council Reports, "UN documents for Children and Armed Conflict", online: https://www.securitycouncilreport.org/un- documents/children-and-armed-conflict/ ; Security Council Report, UN documents on Women, Peace and Security, online: https://www.securitycouncilreport.org/un-documents/women-peace-and-security/.

crisis zone. This could include inviting them to UN high level panel deliberations for input, in addition to attendance of humanitarians and others at NATO-led events. This interaction at a policy and political level is different from engagement on the ground in zones of violence, as there is careful observation of humanitarian principles as the guide for all armed actors. That said, as I have noted earlier in this paper, there is a need for further engagement, co-ordination, understanding of positions and trust building at all levels.

Other avenues worth exploring to strengthen NATO's engagement on displacement includes increased attention to urban conflict and issues connected to it, such as the use of explosive weapons which could trigger displacement.[200] Additionally, climate and displacement could be another entry point to engage on the harm of displacement, as the issue of climate change has political attention with NATO member states.[201]

Conclusion

In this thesis, I have fleshed out the following characteristics of the orthodox displacement framework. First, it does not fully cover the temporal nature of displacement with respect to what occurs prior to and after a conflict (even well after). Second, it provides only partial accountability and responsibility for the harm of displacement by centering on "forced displacement" under IHL and allowing a certain permissiveness around other kinds of displacement.

Third, it has a limited attention span with respect to the harm of displacement, as noted in the various conversations that divert attention from the harm of displacement to focus on containing migration and so on. Fourth, apart from a brief moment in the post-Cold War period where it was considered a threat to international peace and security, today displacement is

[200] Political Declaration on strengthening the protection of civilians from the humanitarian consequences arising from the use of explosive weapons in populated areas, November 2022, Foreign Affairs, Ireland, online: https://www.gov.ie/en/publication/585c8- protecting- civilians-in-urban-warfare/.
[201] Refer: Climate Change and Security Action Plan, 2021 by NATO and subsequent number of developments building on that action plan at: NATO, "Environment, climate change and security", online: https://www.nato.int/cps/en/natohq/topics_91048.htm.

viewed primarily as humanitarian issue, removed from high politics of conflict and peace, with limited engagement of armed actors as duty bearers.

As a result, the harm of displacement has not been internalised as a clear prohibition by NATO. Moreover, limited accountability and responsibility has been taken for it within its protection of civilians doctrine. This is compounded further by the ways of working in conduct of military operations, be it target selection or intelligence gathering, etc.

As noted at the outset, the orthodox framework regulating the harm of displacement is protean and has evolved over time. It began taking shape after the Second World War and was partly reshaped again after the Cold War. In each period, it was a response to massive conflict-generated human displacement and shifting global orders. Therefore, it can change further in light of the highest numbers of displacement ever on record, as an endemic challenge of our own turbulent times. In its Protection of Civilians Policy 2016 and its new Human Security Approach, NATO starts with the right tools to contribute to such an evolution.

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Bibliography

Legislation: Foreign (Treaties)

1. *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa ("Kampala Convention")*, 23 October 2009, Treaty series, 6 December 2012, online: https://au.int/en/treaties/african-union-convention-protection-and-assistance-internally-displaced- persons-africa .
2. *Convention Relating to Status of Refugees*, 28 July 1951, Treaty series, 22 April 1954 and *Protocol Relating to Status of Refugees*, 4 October 1967, Treaty Series, vol.189, 4 October 1967, online: https://www.refworld.org/legal/modellaw/unhcr/2011/en/83363?prevDestination=search&prevPath =/search?keywords=Convention+Relating+to+Status+of+Refugees+and+protocol&order=desc&so rt=score&result=result-83363-en.
3. *Convention (IV) relative to the Protection of Civilian Persons in Time of War*, Geneva, 12 August 1949, online: https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949.
4. *Indigenous and Tribal People's Convention, 1989 (C169), June 27, 1989 Treaty Series, 1989 September 5, 1991, online:* https://www.refworld.org/legal/agreements/ilo/1989/en/19728.
5. *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977*, online: https://ihl- databases.icrc.org/ar/ihl-treaties/api-1977 .
6. *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol* II), 8 June 1977**,** Online: https://ihl- databases.icrc.org/en/ihl-treaties/apii-1977 **.**
7. *Statute of the International Criminal Court*, United Nations Treaty Series, vol. 2187, 17 July 1998, online: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-10&chapter=18&clang=_en .

Government Documents: Policies and documents

1. *Canada's Defence Policy, Strong, Secure, Engaged*, Minister of National Defence, 2017, online: https://www.canada.ca/en/department-national-defence/corporate/policies-standards/canada- defence-policy.html .
2. *DOD Law of War Manual*, Office of General Counsel, Department of Defence, June 12, 2015 (Updated December 2016), Online: https://ogc.osd.mil/Leadership/oldHome/ .
3. *Political Declaration on strengthening the protection of civilians from the humanitarian consequences arising from the use of explosive weapons in populated areas*, November 2022, Foreign Affairs, Ireland, online: https://www.gov.ie/en/publication/585c8-protecting-civilians-in- urban-warfare/.

Government Documents: News releases /website updates

1. The Inter-governmental Panel on Climate Change (IPCC), Human Security (2014), online: https://www.ipcc.ch/report/ar5/wg2/human-security/ .

2. United States Department of Defence, "Defence Department Updates its Law of War Manual, July 31, 2023, online: https://www.defense.gov/News/Releases/Release/Article/3477385/defense- department-updates-its-law-of-war-manual/ .

United Nations Documents

United Nations Documents: Meetings

1. Annual Protection of Civilians Debate, UNSC/15702(2024) 9632 Mtg., Online: https://press.un.org/en/2024/sc15702.doc.htm.

UN Official Records (SC/GA resolutions)

1. *Security Council resolution 2699 (2023) [on authorization to Member States to form and deploy a Multinational Security Support Mission in Haiti (MSS) for an initial period of 12 months]*, UNSC, S/RES/2699 (2023), online: https://digitallibrary.un.org/record/4022890?ln=en&v=pdf .

2. *UN General Assembly Resolutions and Debates, and Reports of the Secretary-General on Human Security*, UN Trust Fund for Human Security, online: https://www.un.org/humansecurity/reports-resolutions/ .

3. *Resolution adopted by the General Assembly on 10 September 2012*, *Resolution adopted by the General Assembly on 10 September 2012 [Follow-up to paragraph 143 on human security of the 2005 World Summit Outcome],* A/RES/66/290, 25 October 2012, online: https://documents.un.org/doc/undoc/gen/n11/476/22/pdf/n1147622.pdf .

4. *2005 World Summit Outcome Document, Resolution adopted by the General Assembly on 16 September 2005*, A/RES/60/1, Sixtieth session Agenda items 46 and 120, online: https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompa ct/A_RES_60_1.pdf.

UN Official Records (others)

1. *Internally displaced persons : compilation and analysis of legal norms : report of the Representative of the Secretary-General, Francis M. Deng, submitted pursuant to Commission on Human Rights resolution*, ECOSOC, 51st session, ECOSOC,E/CN.4/1996/52/Add.2, December 1995, online: https://digitallibrary.un.org/record/227755?ln=en .

2. *The Protection of Civilians in armed conflict*, UNSC, S/RES/1265 (1999), 17 September 1999, Online: http://unscr.com/en/resolutions/1265 .

3. *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, UNGA, A/HRC/27/60, 13 August 2014, https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/CoISyria/A.HRC.27.60 _Eng.pdf .

4. *Report of the open-ended intergovernmental expert working group on indicators and terminology relating to disaster risk reduction*, UNGA, A/71/644, 1 December

2016, online: https://www.preventionweb.net/files/50683_oiewgreportenglish.pdf .
5 Report of the Secretary General on Protection of Civilians in armed conflict, UNSC, S/2012/376, 22 May 2012, online (pdf):https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2012_376.pdf.
6. *Report of the Secretary-General, Protection of Civilians in Armed Conflict*, UNSC, S/2019/373 7 May 2019, online: https://documents.un.org/doc/undoc/gen/n19/119/30/pdf/n1911930.pdf?token=Ra5N6q1ilN00Kl4If K&fe=true.
7. *Annual Protection of Civilians Debate*, UNSC/15702(2024) 9632 Mtg., Online: https://press.un.org/en/2024/sc15702.doc.htm.
8. *Report of the Secretary-General, Protection of Civilians in armed conflict*, UNSC, S/2025/27115 May 2025, online(pdf): https://docs.un.org/en/S/2025/271.
9. *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Balakrishnan Rajagopal, in accordance with Human Rights Council resolution 43/14*, UNGA, A/77/190, 19 July 2022, online: https://documents.un.org/doc/undoc/gen/n22/431/55/pdf/n2243155.pdf?token=cSKDMs1C6Vodzv F9b0&fe=true .
10. *Report of the Special Representative of the Secretary General, Mr. Francis M. Deng, submitted pursuant to Commission resolution 1997/39*, *Addendum Guiding Principles on Internal Displacement GE.98-10493 (E)*, EOSOC, E/CN.4/1998/53/Add.2, 11 February 1998, online: https://www.refworld.org/legal/otherinstr/unchr/1998/en/18487.

UN Masthead documents (Mimeographs)

1. *Global Compact on Refugees December 2018*, United Nations, New York, online: https://www.unhcr.org/about-unhcr/who-we-are/global-compact-refugees.
2. *Global Compact for Safe Orderly and Regular Migration*, United Nations, July 13 July 2018, adopted in inter-ministerial conference Dec 2018, online: https://refugeesmigrants.un.org/migration-compact .
3. *Guidelines – Monitoring and Reporting Mechanism on Grave Violations against Children in Situations of Armed Conflict*, UNICEF, June 2014, on-line(pdf): https://childrenandarmedconflict.un.org/wp-content/uploads/2016/04/MRM_Guidelines_-_5_June_20141.pdf .
4. *Policy 2023 Protection of Civilians in United Nations Peacekeeping*, Department of Peace Operations, United Nations, May 1, 2023, online: https://peacekeeping.un.org/sites/default/files/2023_protection_of_civilians_policy.pdf .
5. *Policy Brief on the Security Council's Consideration of the Protection of Civilians in Armed Conflict* (2019 - 2023) (New York: OCHA 2024), online: https://www.unocha.org/publications/report/world/policy-brief-security-councils-consideration- protection-civilians-armed-conflict-2019-2023.
6. *Shining a light on Internal Displacement: A vision for the Future (September 2021)*, UN Secretary General High Level Panel on Internal Displacement, online:

https://internaldisplacement- panel.org/index.html .
7. *The centrality of Protection in Humanitarian Action Statement*, IASC, 17 December 2013,Geneva, online: https://www.unhcr.org/media/centrality-protection-humanitarian-action- statement-inter-agency-standing-committee-iasc.
8. *United Nations Agenda for Protection*, Office of High Commissioner for Human Rights, United Nations, February 2024, online: https://www.ohchr.org/en/documents/tools-and-resources/united- nations-agenda-protection-strengthening-ability-united-nations.
9. *UNHCR Note on Externalization of International Protection*, Office of High Commissioner for Refugees, 28 May 2021, online: https://www.refworld.org/policy/legalguidance/unhcr/2021/en/121534.
10. Sendai Framework Terminology on Disaster Risk Reduction, UN Office for Disaster Risk Reduction, online: https://www.undrr.org/terminology.

UN Sales Publications
1. Department of Peace Operations, *The Protection of Civilians in United Nations Peacekeeping Handbook,* United Nations, 2020 (PDF), online: https://peacekeeping.un.org/sites/default/files/dpo_poc_handbook_final_as_printed.pdf.
2. Global Protection cluster working group, *Handbook for Protection of Internally Displacement Persons*, (Geneva: United Nations High Commissioner for Refugees (UNHCR), June 2010), online: https://www.unhcr.org/protection/idps/4c2355229/handbook-protection-internally-displaced-persons.html.
3. Leonie Arendt, *Building a culture of Protection: 20 years of Security Council Engagement on the Protection of Civilians*, (New York: UN Office of Coordination of Humanitarian Affairs (OCHA) May 2019), online: https://reliefweb.int/report/world/building-culture-protection-20- years-security-council-engagement-protection-civilians.
4. UNICEF Data and Analytics Section, Division of Data, Analytics, Planning and Monitoring, *Lost at Home – The risks and challenges for internally displaced children and the urgent actions needed to protect them*,(New York: United Nations Children's Fund (UNICEF), May 2020) online:https://data.unicef.org/resources/lost-at-home-risks-faced-by-internally-displaced-children/.

UN Websites
1. IASC, "Inter-Agency Standing Committee (IASC)- who we are" ,online: https://interagencystandingcommittee.org/the-inter-agency-standing-committee.
2. OCHA, "Cluster Coordination", online: https://reliefweb.int/topics/cluster-coordination.
3. OHCHR, "International Commission of Human Rights Experts on Ethiopia Reports" (September 2022 and 2023), online: https://www.ohchr.org/en/hr-bodies/hrc/ichre-ethiopa/index.
4. UN documents for Children and Armed Conflict, Security Council Reports website, online: https://www.securitycouncilreport.org/un-documents/children-and-armed-conflict/.
5. UN Office for Disaster Risk Reduction, "Sendai Framework Terminology on Disaster Risk Reduction", online: https://www.undrr.org/terminology.

6. UN, Office on Genocide Prevention and Responsibility to Protect, online: https://www.un.org/en/genocideprevention/about-responsibility-to-protect.shtml .
UNHCR, "Brief on Protection Mainstreaming" (August 2021), online: https://reliefweb.int/report/sudan/brief-protection-mainstreaming?gclid=EAIaIQobChMI_aemzL2UgQMVSUZBAh0rZwHMEAAYASAAEgL52PDBwE.
7. UNHCR, "Conflict Induced Displacement in Afghanistan - Interpretation of Data as of 31 May 2012" (July 2012), online (pdf): https://reliefweb.int/report/afghanistan/conflict-induced-internally- displaced-persons-afghanistan-interpretation-data-31
8. UNHCR, Focus Area Strategic Plan of Action 2024-2030, Advance Copy (Geneva: United Nations High Commissioner for Refugees (UNHCR) Dec 2023), online: https://data.unhcr.org/en/documents/details/106704#:~:text=UNHCR's%20newly%20released%20 Strategic%20Plan,forcibly%20displaced%20and%20stateless%20people.
9. UNHCR , "Refugee Coordination Model"(11 July 2019), online: https://emergency.unhcr.org/coordination-and-communication/refugee-coordination-model/refugee- coordination-model-rcm.
10. United Nations, "UN Secretary General Statement – on the situation in Gaza"(28 October 2023), online: https://www.un.org/sg/en/content/sg/statement/2023-10-28/un-secretary-generals- statement-%E2%80%93-the-situation-gaza.
11. United Nations Peacekeeping, ""Peacekeepers need peacemakers": UN Peacekeeping Chief on what the UN and member states owe the blue helmets" (3 September 2024), online: https://peacekeeping.un.org/en/peacekeepers-need-peacemakers-un-peacekeeping-chief-what-un- and-member-states-owe-blue-helmets .
12. Security Council Reports, "Protection of Civilians: Secretary General's Reports", Online: https://www.securitycouncilreport.org/un_documents_type/secretary-generals-reports/?ctype=Protection%20of%20Civilians&cbtype=protection-of-civilians .
13. Security Council Report, "UN documents on Women, Peace and Security", online: https://www.securitycouncilreport.org/un-documents/women-peace-and-security/.

African Union Documents

1.African Union, *Aide Memoire for the consideration of issues pertaining to the Protection of Civilians in Africa, December 2013*, Addis Ababa, online: https://www.peaceau.org/uploads/01- aide-memoire.pdf.
2.African Union, *Draft Guidelines on the Protection of Civilians in African Union Peace Support Operations,* Addis Ababa, March 2010, online (PDF): https://www.peaceau.org/uploads/draft-au- poc-guidelines-english.pdf.
3.African Union, *African Union Policy on Protection of Civilians in Peace Support Operations*, Addis Ababa, 2023.

European Union Documents

1.European Union Training Mission in Mozambique, "About European Union Training Mission in Mozambique", online: https://www.eeas.europa.eu/eutm-mozambique/about-european-union- training-mission-mozambique_en?s=4411
.

2.*Concept on Protection of Civilians (PoC) in EU-led Military Operations*, European Union external Action Service, 2 March 2015, Brussels, online: https://data.consilium.europa.eu/doc/document/ST-6730-2015-INIT/en/pdf .

Organisation for Economic Co-operation and Development (OECD) Documents

1. OECD*, The role of political will in enabling long term development approaches to forced displacement (no. 53)*, Development policy papers, (Paris: OECD March, 2024).

North Atlantic Treaty Organization Documents: Official records

1. *NATO Climate Change and Security Action Plan*, North Atlantic Treaty Organization, June 2022, online: https://www.nato.int/cps/en/natohq/official_texts_185174.htm .
2. NATO, "Environment, climate change and security" (12 January 2024), online: https://www.nato.int/cps/en/natohq/topics_91048.htm .
3. NATO, "Human Security – approach and guiding principles", (14 October 2022), NATO website, online: https://www.nato.int/cps/en/natohq/official_texts_208515.htm?selectedLocale=en .
4. *NATO Human Security*, North Atlantic Treaty Organization, 20 July 2023, online: https://www.nato.int/cps/en/natohq/topics_181779.htm
5. NATO, "Interoperability: Connecting Forces" (11 April 2023), online: https://www.nato.int/cps/en/natohq/topics_84112.htm#:~:text=NATO%20defines%20%22interoperability"%20as%20the,tactical%2C%20operational%20and%20strategic%20objectives .
6.*NATO Policy on Children and Armed Conflict*, North Atlantic Treaty Organization, 12 July 2023, online: https://www.nato.int/cps/en/natohq/official_texts_217691.htm?selectedLocale=en.
7. *NATO Policy for Protection of Civilians*, North Atlantic Treaty Organization, 2016, online: https://www.nato.int/cps/en/natohq/official_texts_133945.htm .
8. *NATO Strategic Concept Note*, North Atlantic Treaty Organization, 29 June 2022, Madrid, online: https://www.nato.int/strategic-concept/ .
9.NATO, "Factsheet on Grave violations mechanisms for children in armed conflict" (24 January 2023), online: https://www.nato.int/cps/en/natohq/news_211158.htm?selectedLocale=en.
10.NATO, Strengthened Resilience Commitment, 14 June 2021, online: https://www.nato.int/cps/en/natohq/official_texts_185340.htm .
11.NATO, "Women, Peace and Security" (7 March 2024), Online: https://www.nato.int/cps/en/natohq/topics_91091.htm .

North Atlantic Treaty Organization Documents: Handbook

1. *Protection of Civilians Allied Command Operations (ACO) Handbook* , North Atlantic Treaty Organization, March 2021, SHAPE/NATO, Belgium, online: https://shape.nato.int/news- archive/2021/the-protection-of-civilians-allied-command-operations-handbook

North Atlantic Treaty Organization Documents :Website

1. NATO, "A comprehensive approach to Crisis" (07 March 2024),online: https://www.nato.int/cps/en/natohq/topics_51633.htm .

Secondary Materials and Other Materials Secondary Materials: Articles (Legal Journals)

1. Ahlborn, Christiane, "The Normative Erosion of International Refugee Protection through UN Security Council Practice" (2011) 24:4 *Leiden Journal of International Law* 1009, online: https://www.cambridge.org/core/journals/leiden-journal-of-international-law/article/abs/normative- erosion-of-international-refugee-protection-through-un-security-council- practice/C8EE3847B05BEBCFD365908BB92F935B.
2. Davidovic, Jovana, "Displacement as Significant Collateral Harm in War", (2018) 11:1 Global Justice 64, online: https://www.theglobaljusticenetwork.org/index.php/gjn/article/view/136 .
3. Dickey, Rebecca, "The Evolution of Forced Displacement in International Criminal Law", (2019) PKI Global Just J 58, online: https://globaljustice.queenslaw.ca/news/the-evolution-of- forced-displacement-in-international-criminal-law .
4. Eslava, Luis and Sundhya Pahuja, "Beyond the (Post)Colonial: TWAIL and the Everyday Life of International Law " (2012) 45:2 Verfassung und Recht in Übersee /Law and Politics in Africa, Asia and Latin America 165, online: https://www.jstor.org/stable/43256852 .
5. Hill, Steven and Andrea Manea, "Protection of Civilians: A NATO Perspective", (2018), 34 (2) Utrecht Journal of International and European Law, 147 online: https://utrechtjournal.org/articles/10.5334/ujiel.461.
6. Maier, Charles S., " Targeting the city: Debates and silences about the aerial bombing of World War", (2005) 2:97 International review of the Red Cross 859, online: https://international- review.icrc.org/articles/targeting-city-debates-and-silences-about-aerial-bombing-world-war-ii .
7. Martin, Joelle .A. & Robert M. 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", (2009) 27:2 Windsor Yearbook of Access to Justice 347, Online: https://wyaj.uwindsor.ca/index.php/wyaj/article/view/4531 .
8. Mickelson, Karin, "Rhetoric and Rage: Third World Voices in International Legal Discourse" (1998) 16:2 Wis Int'l LJ 353, online: https://commons.allard.ubc.ca/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1226&context= fac_pubs .
9. Modirzadeh, Naz K., "[L]et Us All Agree to Die a Little: TWAIL's Unfulfilled Promise" (March 31, 2023) Harvard International Law Journal, Forthcoming, Available at SSRN: https://ssrn.com/abstract=4406477 .
10. Muhammedally, Sahr, "Minimizing civilian harm in populated areas: Lessons from examining ISAF and AMISOM policies",(2016) 98:1 International Review of the Red Cross 225, online: https://international-review.icrc.org/articles/minimizing-civilian-harm-populated-areas-lessons- examining-isaf-and-amisom-policies .
11. Mutua, Makau and Antony Anghie, "What is TWAIL, American Society of

International Law", (2000) 94 Proceedings of the Annual Meeting (American Society of International Law) 31, online: https://www.jstor.org/stable/25659346 .
12. Queguiner, Jean-Francois, "Precautions under the law governing the conduct of hostilities", (2006) 88: 864 December 2006, International Review of the Red Cross 794, online (pdf): https://international-review.icrc.org/sites/default/files/irrc_864_5_0.pdf.
13. Vite, Sylvie, "Typology of armed conflicts in international humanitarian law: legal concepts and actual situations" (2009) 91:873 International Review of the Red Cross 69, online (pdf): https://www.icrc.org/en/doc/assets/files/other/irrc-873-vite.pdf .
14. Woldemariam, Samuel Berhanu, Amy Macguire and Jason Von Meding, "Forced Human Displacement, the Third world and International law: A TWAIL Perspective" **(**2019) 20 MelbJIL 248, http://classic.austlii.edu.au/au/journals/MelbJIL/2019/10.html.

Secondary Materials: Books

1. Bijl, Erin, Welmoet Wels & Wilbert van der Zeijden, ed, *On Civilian Harm - Examining the complex negative effects of violent conflict on the lives of civilia*n, (Utrecht: Pax June2021), https://protectionofcivilians.org/on-civilian-harm/ .
2. Chatty, Dawn, *Displacement and Dispossession in the Modern Middle East* (Cambridge: Cambridge University Press, 2010), online: https://www.cambridge.org/core/books/displacement- and-dispossession-in-the-modern-middle-east/EEEF0CA28DF9D0448310517340E8F4CB .
3. Cohen, Roberta, and Francis M.Deng, *Masses in Flight – Global Crisis of Internal Displacement* (Washington D.C: Brookings Institution Press, 1998).
4. Delgado, Richard, et all, "Hallmark Critical Race Theory Themes", *Critical Race Theory (Third Edition): An Introduction*, (New York: NYU Press, 2017) 19. *JSTOR*, online: https://doi.org/10.2307/j.ctt1ggjjn3.7.
5. Haidi, Willmot, et all, ed, *Protection of Civilians* (Oxford: Oxford University Press, 2016), Online: https://global.oup.com/academic/product/protection-of-civilians-9780198729266?cc=us&lang=en& .
6.ICRC, *ICRC's study on customary IHL*, (Cambridge: Cambridge University Press, 2005), online: https://ihl-databases.icrc.org/en/customary-ihl/v1/rule5.
7. Jide, Martyns and Paul D. Williams, ed, *Protecting Civilians in African Union Peace Support Operations: Key Cases and Lessons Learnt* (Addis-Ababa: African Union Commission, 2017), online: https://www.academia.edu/32107365/Protecting_Civilians_in_African_Union_Peace_Suppor t_Ope rations_Key_Cases_and_Lessons_Learned .
8. Kalin, Walter, ed, *Internal Displacement and the law* (Oxford: Oxford University Press, 2023), online: https://academic.oup.com/book/46446/chapter/407726224 .
9. Kennedy, David, *Of Law and War* (Princeton: Princeton University Press, 2006), online: https://press.princeton.edu/books/hardcover/9780691128641/of-war-and-law .
10. Moyn, Samuel, *Humane* (New York: Farrar, Strauss and Giroux, 2021), online: https://press.princeton.edu/books/hardcover/9780691128641/of-war-and-law .
11. Orchard, Phil, *A Right to Flee -Refugees, States, and the Construction, of International Cooperation* (Cambridge: Cambridge University Press, 2014).

12. Orchard, Phil, ed., *Construction the Responsibility to Protect - Contestation and Consolidation*, (London: Routledge, 2020), online: https://www.taylorfrancis.com/books/edit/10.4324/9780429352430/constructing-responsibility- protect-phil-orchard-charles-hunt?refId=ff1679a9-ab5a-42fc-a0cc-8a743584ea28&context=ubx .
13. Newman, Edward, and Joanne van Selm*, eds.,* *Refugees and forced displacement: International security, human vulnerability, and the state*, (Tokyo: United Nations University Press, 2003), online (pdf): https://collections.unu.edu/eserv/unu:2434/nLib9280810863.pdf .
14. Proukaki, Elena Katselli, ed, *Armed Conflict and Forcible Displacement: Individual Rights under International law* (London: Routledge, 2018), online: https://www-taylorfrancis-com.ezproxy.library.yorku.ca/books/edit/10.4324/9781315629391/armed-conflict-forcible- displacement-elena-katselli-proukaki .
15. Stutton, Rebecca, *The Humanitarian Civilian* (Oxford: Oxford University Press, February 2021), online: https://global.oup.com/academic/product/the-humanitarian-civilian- 9780198863816?cc=ca&lang=en&# .
16. Wheeler, Nicholas, *Saving Strangers: International Intervention in International Society* (Oxford: Oxford University Press, 2000), online: https://academic.oup.com/book/276.

Secondary Materials: Electronic sources (website/blog)

1. Steele, Abbey, et all, "The politics of Forced Displacement and how states respond" (11 April, 2024), online: https://researchinginternaldisplacement.org/short_pieces/the-politics-of-forced- displacement-and-how-states-respond/ .
2. Dorenge, Cordula, "War and what we make of the law", (10 July 2024), online (blog):https://www.justsecurity.org/97582/war-law/ .
3. Ferris, Elizabeth, "Gangs, Violence and Displacement in Central America", (Nov 7, 2013), Online (blog): https://www.brookings.edu/articles/gangs-violence-and-displacement-in-central- america/ .
4. Asplet, Mike & Meghan Bradley, "Strengthened Protection for Internally Displaced Persons In Africa: The Kampala Convention Comes Into Force", (6 December 2012), online: https://www.brookings.edu/articles/strengthened-protection-for-internally-displaced-persons-in-africa-the- kampala-convention-comes-into-force/ .
5. Ferris, Elizabeth & Sanjula Weerasinghe, "The UN Security Council and Prevention of Displacement" (1December 2012), online: https://www.brookings.edu/articles/the-u-n-security- council-and-prevention-of-displacement/ .
6. Fortin, Katharine, et all, Beyond Compliance Symposium – Why and how to go "beyond the law" to address negatively lived experiences of armed conflict, September 17 2024, online: https://lieber.westpoint.edu/why-how-go-beyond-law-address-negative-lived-experiences-armed- conflict/ .
7. Hyde, Andrew & Marc Garlscano, "Civilian Harm Mitigation: An Opportunity for Values-Based U.S. Leadership at NATO" (2 February 2023), online (blog): https://www.lawfaremedia.org/article/civilian-harm-mitigation-an-opportunity-for-values-based- u.s.-leadership-at-nato .
8. Human Rights Watch, "Syria: Landmines Kill, Injure Hundreds in Raqqa", (12 February 2018), online , https://www.hrw.org/node/314843/printable/print .
9. ICRC, "How does law protect in war, Online case book",

https://casebook.icrc.org/highlight/targeting-under-international-humanitarian-law
ICRC, "War in cities; what is at stake?", (4 April 2017), online: https://www.icrc.org/en/document/war-cities-what-stake-0 .
10. ICRC "International humanitarian law data base", online: https://ihl- databases.icrc.org/en/customary-ihl/v1 .
11. IDMC, GRID Report 2023, (Geneva: Internal Displacement Monitoring Center (IDMC) 2023), online: https://api.internal-displacement.org/sites/default/files/publications/documents/IDMC_GRID_2023_Global_Report_o n_Internal_Displacement_LR.pdf#page=8.
12. Interaction, "Optimizing Armed Actor Engagement for Protection Outcomes" (April 8, 2024), online: https://www.interaction.org/blog/optimizing-armed-actor-engagement-for-protection- outcomes/.
13. Kaldor, Mary, Human Security : A relevant concept?, Politiques étrangère, 4:2006, p.901online: https://shs.cairn.info/journal-politique-etrangere-2006-4-page-901?lang=en .
14. MacLachlan, Karolina, "Protection of Civilians: a constant in the changing security environment" (June 17, 2022) online: https://www.nato.int/docu/review/articles/2022/06/17/protection-of-civilians-a-constant-in-the- changing-security-environment/index.html
15. MacLachlan, Karolina, "The NATO Strategic Concept and Protection of Civilians" (23 June 2022 online), (blog):https://www.rusi.org/explore-our-research/publications/commentary/nato- strategic-concept-and-protection-civilians.
16. Mabera, Faith, "Ethiopia's Tigray Conflict Peace Deal Showcased the African Union's Peace Diplomacy, but Several Sticking Points Remain" (15 February 2023), online (blog) : https://www.wilsoncenter.org/blog-post/ethiopias-tigray-conflict-peace-deal-african-union .
17. Mourad, Sara, "Aftershock , Rusted Radishes – Beirut literary and art journal" (2021), online (blog): https://www.rustedradishes.com/aftershock/ .
18. Orr, Clark, "Reverberating Effects and International Law",(2021), online (blog): https://civiliansinconflict.org/blog/reverberating-effects-and-international-law/?utm_source=rss&utm_medium=rss&utm_campaign=reverberating-effects-and-international- law .
19. Rand Corporation, "Climate Change and Conflict – Implications for US Central Command", online: https://www.rand.org/nsrd/projects/climate-change-and-conflict.html .
20. Robertson, Anthony, "What is Grey Zone Confrontation and why is it important?" (18 July 2022), online (blog): https://cove.army.gov.au/article/what-grey-zone-confrontation-and-why-it-important#:~:text=Grey%20zone%20confrontation%20is%20the,other%20measures%20–%20including%20military%20action .
20.Siemon, James C., "Enhancing Refugee Protection Through the Criminalization of 'Mass Forced Displacement'" (2 August 2018), online (Blog): https://rli.blogs.sas.ac.uk/2018/08/02/enhancing-refugee-protection-through-the-criminalization-of- mass-forced-displacement/ .
21.Simmons, Claire, Displacement in Armed Conflict and Protection of Civilians,

(Washington D.C.: Center for Civilians in Armed Conflict (CIVIC), 5, online (pdf): https://civiliansinconflict.org/wp-content/uploads/2023/09/CIVIC_Displacement_Brief_Draft2.pdf.
22. Simonovic,Ivan,"The Responsibility to Protect",(December 2016), online: https://www.un.org/en/chronicle/article/responsibility-protect#:~:text=The%20responsibility%20to%20protect%20(commonly,and%20the%20responsibil ity%20of%20the.
23.Waal, Alex De, "The African Union and the Libya Conflict of 2011" (Dec 19,2012), online: https://sites.tufts.edu/reinventingpeace/2012/12/19/the-african-union-and-the-libya-conflict-of-2011/ .

Secondary Materials: Essay

1. Zapater, Josep, "Prevention of forced displacement: the inconsistencies of a concept", (April 2010), United Nations High Commissioner for Refugees, online (PDF): https://www.unhcr.org/4bbb2a199.pdf .

Secondary Materials: Magazine

1. Cheung, Samuel & Sebastian von Einsiedel," Internal displacement: reflections on prevention, protection and solutions", *Forced Migration Revie*w 65 *(*November 2020), online: https://www.fmreview.org/recognising-refugees/cheung-voneinsiedel .
2. Friedersdorf, Conor, "Every Person Is Afraid of the Drones': The Strikes' Effect on Life in Pakistan", *The Atlantic* " (25 September 2012), online: https://www.theatlantic.com/international/archive/2012/09/every-person-is-afraid-of-the-drones- the-strikes-effect-on-life-in-pakistan/262814 .
3.Gopal, Anand, "America's War on Syrian Civilians", *The New Yorker*(14 Dec 2020), online https://www.newyorker.com/magazine/2020/12/21/americas-war-on-syrian-civilians .
4.Hathway, Oona, "War Unbound- Gaza, Ukraine and the Breakdown of International law", *Foreign Affairs* (April 23, 2024) Online: https://www.foreignaffairs.com/ukraine/war-unbound-gaza- hathaway.
5.Ibrahim, et all, "Report of the UCL–Lancet Commission on Migration and Health: the health of a world on the move", The *Lancet* 392: 10164, December 2018, http://dx.doi.org/10.1016/S0140- 6736(18)32114-7 .
6.Khan, Sarah, "Canada should walk the talk to help shield civilians from violence", *Policy Options* (28 November 2023) online: https://policyoptions.irpp.org/magazines/november-2023/gaza-israel-order/
7. McAdam, Jane, "Evacuations a form of disaster displacement?", *Forced Migration Review* 69 (March 2022), online: https://www.fmreview.org/climate-crisis/mcadam .
8.Milliband, David & Mesfin Teklu Tessema , "The unmet needs of refugees and internally displaced people", *The Lancet* 392: 10164 (December 2018), http://dx.doi.org/10.1016/S0140-6736(18)32780-6 .
9.Nick Truse, Climate Change and Conflict are Wrecking havoc in Somalia*, The Intercept* (31 May 2023), https://theintercept.com/2023/05/31/somalia-drought-conflict-civilian-displacement/.
10.Oona Hathway, "War Unbound- Gaza, Ukraine and the Breakdown of International law",

Foreign Affairs (April 23, 2024) Online: https://www.foreignaffairs.com/ukraine/war-unbound- gaza-hathaway.
11.Omoka, Rita, "I See My Work as Talking Back": How Critical Race Theory Mastermind Kimberlé Crenshaw Is Weathering the Culture Wars, Vanity Fair, July 29, 2021, online: https://www.vanityfair.com/news/2021/07/how-critical-race-theory-mastermind-kimberle-crenshaw-is-weathering-the-culture-wars
12.Tyler, Dan & Nassim Majidi, "Domesticating the Guiding Principles in Afghanistan", *Forced Migration Review* 56 (October 2018) online: https://www.fmreview.org/GuidingPrinciples20/majidi-tyler.

Secondary Materials: News Report

1. Anand, Gopal, "America's War on Syrian Civilians", The New Yorker(14 Dec 2020), online https://www.newyorker.com/magazine/2020/12/21/americas-war-on-syrian-civilians
2. Gutman, Roy, "US helps drive 200,000 Syrians from their home", The daily beast (02 June 2017), Online: http://www.thedailybeast.com/us-helps-drive-200000-syrians-from-their-homes .
3.Murphy, Dan, "No evidence of Libya Viagra war claims. But war crimes plenty", *Christian Science Monitor* (24 June 2011), online: https://www.csmonitor.com/World/Backchannels/2011/0624/No-evidence-of-Libya-Viagra-rape- claims.-But-war-crimes-Plenty .
4.Rashid, Tania and Neil Brandvold, "Famine propelled by conflict and climate change threatens millions in Somalia", *PBS* (21 November 2022), online:
https://www.pbs.org/newshour/show/famine-propelled-by-conflict-and-climate-change-threatens- millions-in-somalia .

Other material: Articles (Non-Legal Journals)

1. Ali, Ali, "Conceptualizing displacement: the importance of coercion" (2022) 49:5, Journal of Ethnic and Migration Studies 1083, online: https://www.tandfonline.com/doi/full/10.1080/1369183X.2022.2101440 .
2. Arnold-Fenandez, Emily, "The Global Compact on Refugees: inadequate substitute or useful complement?" (2023) 5 Front. Hum. Dyn., online: https://www.frontiersin.org/articles/10.3389/fhumd.2023.1238186/full
3. Bellamy, Alex J, "The humanization of security? Towards an International Human Protection Regime", (2016) 1:1, European Journal of International Security, 112 at 113, online: https://www.cambridge.org/core/journals/european-journal-of-international-security/article/abs/humanisation-of-security-towards-an-international-human-protection-regime/DE55C50D1DBF2EE2469816BB33E81DB7 .
4. Bellamy, Alex J and Charles T. Hunt, Twenty-first century UN peace operations: protection, force and the changing security environment(Nov 2015)91:6 International Affairs (Royal Institute of International Affairs 1944-) 1277, online: https://www.jstor.org/stable/24539055 .
5. B.S. Chimni, Aid, Relief and Containment: The first asylum country and beyond, Intl Migration, Vol 40 (5), SL2/2002 online (pdf): https://onlinelibrary.wiley.com/doi/abs/10.1111/1468- 2435.00212 .
6. Cohen, Roberta, "Developing an International System for Internally Displaced Persons"

(2006) 7 International Studies Perspectives 87, Online (pdf): https://journals-scholarsportal- info.ezproxy.library.yorku.ca/pdf/15283577/v07i0002/87_daisfidp.xml_en
7. Cohen, Roberta, "The Guiding Principles on Internal Displacement: An Innovation in International Standard Setting global governance" (Oct-Dec 2004) 10: 4 Global Governance 459, online: https://www.jstor.org/stable/i27800535 .
8.Conley, Bridget, "The 'Politics of Protection': Assessing the African Union's Contributions to Reducing Violence Against Civilians" (2017) 24:4, International Peacekeeping, 566, online: https://www.tandfonline.com/doi/full/10.1080/13533312.2017.1345311
9. Dron, Walter, "Protecting civilians with force Dilemmas and lessons from the UN stabilization mission in Haiti", in Peter Nadin, ed., *The Use of Force in UN Peacekeeping* (2018(New York: Routledge, 2018) at 124, online: https://walterdorn.net/pdf/POC-Haiti_Dorn_Ch6-Nadin-Use-of- Force-in-UN-Peacekeeping_10Sept2018.pdf.
10. González, Roberto J., "Human terrain' Past, present and future applications", (Feb 2008) 24:1, Anthropology Today, online (pdf): https://people.duke.edu/~ldbaker/classes/uxresearch/humanterraingonz.pdf.
11. Robert, Johns and Graeme A. M. Davies. "Civilian Casualties and Public Support for Military Action: Experimental Evidence" (2019) 63:1 The Journal of Conflict Resolution 251, online: https://www.jstor.org/stable/48596927 .
12. Weir, Erin A., "Policies That Protect: The African Union and the Protection of Civilians", Norwegian Institute of International Affairs (July 2013) 7, online (pdf): https://www.files.ethz.ch/isn/168422/NUPI%20Policy%20Brief-7-13-Weir.pdf .

Other Materials: Reports

1. Adlparvar, Naysan, *Humanitarian Civil-Military Information-Sharing in Complex Emergencies Realities, Strategies, and Risks*, (Providence: Watson Institute for International Affairs - Brown University 2020), online (pdf): https://watson.brown.edu/chrhs/files/chrhs/imce/research/Humanitarian%20Civil-Military%20Information-Sharing%20in%20Complex%20Emergencies_Adlparvar.pdf .
2. Arendt, Leonie, *Building a Culture of Protection: 20 years of Security Council Engagement on the Protection of Civilians*, Office of Coordination of Humanitarian Affairs (New York: OCHA 2019), online (pdf) : https://reliefweb.int/sites/reliefweb.int/files/resources/Building%20a%20culture%20of%20protecti on.pdf.
3. Caterina, Martina, *Global Report on Law and Policy on Internal Displacement – Implementing National Responsibility*, Geneva: Global Protection Cluster/UNHCR 2022) 16,online (PDF): https://www.unhcr.org/sites/default/files/legacy-pdf/6401d5624.pdf
4. Cocking et all, Jane, *Independent Review of the humanitarian response to internal displacement*, (London: Overseas Institute for Development (ODI) 2022), online (pdf): https://interagencystandingcommittee.org/sites/default/files/2024-03/Independent%20review%20of%20the%20humanitarian%20response%20to%20internal%20dis placement.pdf .
5. Cotter, Cédric, *Displacement in times of Armed Conflict- How International Humanitarian Law protects in war, and why it matters* (Geneva : ICRC 2019), online: https://shop.icrc.org/displacement-in-times-of-armed-conflict-how-international-humanitarian-law- protects-in-war-and-why-it-matters-print-fr.html .

6. Dziedzic, Michael J., & Michael K. Seidl, Provincial Re-Construction teams: Military Relations with International and Non-Governmental Organizations in Afghanistan (United States Institute for Peace (USIP) 2005), online: https://www.usip.org/publications/2005/08/provincial-reconstruction- teams-military-relations-international-and.
7. Dionigi, Filippe and Domenico Tabasso, *Academic Trends in Forced Displacement* (Geneva: UNHCR 2020), online (pdf): https://www.unhcr.org/people-forced-to-flee-book/wp- content/uploads/sites/137/2021/10/Filippo-Dionigi-and-Domenico-Tabasso_Academic-Trends-in- Forced-Displacement.pdf .
8. Dock, Kathleen.H., *Origins, Progress, and Unfinished Business: NATO's Protection of Civilians Policy* (Washington D.C.: The Stimson Center 2021), online (pdf): https://www.stimson.org/wp- content/uploads/2021/03/StimsonNato_PoC_FINAL319.pdf.
9. IDMC, *A Decade of Displacement in the Middle East and North Africa* (Geneva: Internal Displacement Monitoring Center (IDMC) 2009-2019), online: https://www.internal- displacement.org/publications/a-decade-of-displacement-in-the-middle-east-and-north-africa/ .
10. Interaction, *Protection of Civilians in Mosul: Identifying Lessons for Contingency Planning* (Washington D.C.: A Center for Civilians in Conflict (CIVIC) and InterAction Roundtable 2017) , online (PDF): https://www.interaction.org/blog/protection-of-civilians-in-mosul-identifying- lessons-for-contingency-planning-2/ .
11. Jackson, Ashley, Jackson & Simone Haysom, *The search for common ground: Civil–military relations in Afghanistan, 2002–13* (London: Overseas Institute for Development (ODI) 2013), online: https://www.jstor.org/stable/resrep50438?seq=2.
12. Kalin, Walter, *Guiding Principles Annotations* (Washington D.C.: American Society of International Law January 2008), online (pdf): https://www.brookings.edu/wp-content/uploads/2016/06/spring_guiding_principles.pdf .
13. Knoops, Joachim .A. & Pantz, Christian, *UN, EU and NATO approaches to the Protection of Civilians: Policies, Implementation, and Comparative advantage* (New York: International Peace Institute 2022), online (pdf): https://www.ipinst.org/wp-content/uploads/2022/03/UN-EU-NATO- Approaches.pdf .
14. Lilly, Damian, *The UN Agenda for Protection: Policy, Strategic and Operational Priorities* (New York: International Peace Institute, 2022), online (pdf): https://www.ipinst.org/wp- content/uploads/2022/03/UN-Agenda-for-Protection-PDF.pdf .
15. Nicolau, Ilena, *Making Arbitrary Displacement a Crime: Law and Practice* (Geneva: Global Protection Cluster/UNHCR 2022), online (pdf): https://www.globalprotectioncluster.org/sites/default/files/2022-07/gpc_making_arbitrary_displacement_a_crime_law_and_practice_mc.pdf .
16.Sida, Lewsi et all, *Independent review of the humanitarian response to internal displacement* (London: Overseas Institute for Development (ODI) 2024), Online: https://odi.org/en/publications/independent-review-of-the-humanitarian-response-to-internal- displacement/ .
17. Sida, Lawsi et all, *Independent review of the humanitarian response to internal displacement* (London: Overseas Institute for Development (ODI) 2024), Online: https://odi.org/en/publications/independent-review-of-the-humanitarian-response-to-

internal- displacement/ .
18. Simmons, Claire, Displacement in Armed Conflict and Protection of Civilians, (Washington D.C.: Center for Civilians in Armed Conflict (CIVIC), 5, online (pdf): https://civiliansinconflict.org/wp-content/uploads/2023/09/CIVIC_Displacement_Brief_Draft2.pdf.
19. Steele, Abbey et all, "The politics of Forced Displacement and how states respond" (11 April, 2024), online: https://researchinginternaldisplacement.org/short_pieces/the-politics-of-forced- displacement-and-how-states-respond/ .
20. Sutton, Rebecca and Emanuela Chiara-Gillard, *Beyond Compliance: International Humanitarian Law, Humanitarian Need and Civilian Harm in Armed Conflict* (Edinburgh: The Peace and Conflict Resolution Platform at University of Edinburgh 2022), online (pdf): https://peacerep.org/wp-content/uploads/2022/11/Beyond-Compliance-International-Humanitarian- Law-in-Armed-Conflict.pdf.
21. Tchie, Andrew .E. Yaw and Liezelle Kumalo, *Transferring Policy: The African Union's Protection of Civilians Policy in Peacekeeping Missions in Somalia and South Sudan* (Durban: The African Centre for the Constructive Resolution of Disputes (ACCORD) 2023), online: https://reliefweb.int/report/somalia/transferring-policy-african-unions-protection-civilians-policy- peacekeeping-missions-somalia-and-south-sudan .
22. U.S. Naval War College, *The Conduct of Hostilities and International Humanitarian Law: Challenges of 21st Century Warfare* (Johannesburg: International Law Association Study Group on the Conduct of Hostilities in the 21st Century 2017), online: https://digital-commons.usnwc.edu/ils/vol93/iss1/12/ .
23. Vine et all, *Creating Refugees: Displacement Caused by the United States Post-9/11 wars* (Providence: Watson Institute for International Affairs- Brown University 2020), online (pdf): https://watson.brown.edu/costsofwar/files/cow/imce/papers/2020/Displacement_Vine%20et%20al_ Costs%20of%20War%202020%2009%2008.pdf .
24. World Bank, *The Mobility of Displaced Syrians: An Economic and Social Analysis* (Washington, DC: World Bank 2020), online: https://www.worldbank.org/en/country/syria/publication/the-mobility-of-displaced-syrians-an- economic-and-social-analysis.

Appendix A

Background Note on Research Study

Appendix A – Background Note on Research Study

(Below shared with individuals to be interviewed)

Background Note on Research Study: <u>The orthodox legal and policy framework on harm of displacement and NATO's Policy for the Protection of Civilians 2016</u>

This research aims to examine the orthodox international legal and policy framework regulating the harm of displacement[202] as a protection of civilians concern[203] applied in contemporary contexts of violence and large-scale displacement[204] by various actors such as the North Atlantic Treaty Organization (NATO), United Nations (UN), African Union (AU), Red Cross, etc. The study seeks answers to the question whether the evolution and current application of this harm, with its focus on International Humanitarian Law (IHL) and limited human rights law, coupled with varying policy and practice by different actors, has resulted in the failure of NATO to comprehend the scale, gravity, and multi-faceted nature of displacement. As a result, displacement as a key protection of civilians' harm is not specifically noted in NATO's landmark Policy for the Protection of Civilians 2016,[205] alongside harms such as, sexual and gender-based violence.

The 9/11 wars have resulted in mass displacements and some of this is attributable to the actions of NATO member states[206]. There is a need for recognition and understanding of this harm by

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[202] **Displacement definition in the research:** "(displacement) occurs when individuals and communities have been forced or obliged to flee or to leave their homes or places of habitual residence as a result of or in order to avoid the effects of events or situations such as armed conflict, generalized violence, human rights abuses, natural or man-made disasters, and/or development projects. It both includes situations where people have fled, as well as situations, where people have been forcibly removed from their homes, evicted or relocated to another place not of their choosing, whether by State or non-State actors. <u>The defining factor is the absence of will or consent</u>." UNHCR, Handbook for Protection of Internally Displacement Persons, June 2010, at 134, https://www.unhcr.org/protection/idps/4c2355229/handbook-protection-internally-displaced-persons.html

Note the above defined displacement will also include some situations where displaced have crossed international borders as well.

[203] There is no common definition of protection of civilians. For the purposes of this research the UN humanitarian definition https://www.unocha.org/themes/protection#:~:text=The%20protection%20of%20civilians%20is,UN%20Security%20Council%20resolutions%2C%20as and the broader NATO definition in its policy will be used as guides (Refer Infra 4 at IV.9.).

[204] There is no agreed definition of violence in international law. From various readings, violence can be defined as all other situations below the threshold of armed conflict as defined in the Geneva Convention 1949 and Additional Protocol 1 &2, 1977) and it includes, gray zone or hybrid conflicts, counterterrorism or general break down of law and order.

[205] Policy for the Protection of Civilians, North Atlantic Treaty Organization (NATO), 09 July 2016, https://www.nato.int/cps/en/natohq/official_texts_133945.htm

[206] Vine et all, Creating Refugees: Displacement Caused by the United States Post-9/11, Brown University, Sept. 2020, at 4, on-line:

NATO member states for current and future situations of violence with a potential to cause mass displacements, as we are witnessing in Ukraine. How NATO interprets and responds to this harm will influence how it is dealt with by the international community as well, given the membership of influential countries in it. Moreover, NATO has shown that it can be a trailblazer on the application of new approaches, as it has done with civilian casualties tracking. This is indicative of the adaptability of institutions to new norms, standards, and methods[207].

In my research till date, I have undertaken two avenues of inquiry. First, I have examined how international law and policy coupled with practice has been interpreted and applied to the harm of displacement by various actors including NATO, UN humanitarians, UN peacekeeping, the African Union, and the Red Cross movement within the context of Protection of Civilians. I then situated this law and policy approach coupled with practice, within the context of four situations of recent displacement which were: (i). large-scale in numbers; (ii). involved NATO or NATO member states in contexts of armed conflict and violence (and natural disasters); (iii). and where NATO member states were active in responding to different stages of the displacement cycle, namely: Afghanistan (2012-2014); Pakistan (2012-2014); Iraq (Mosul 2016-2017); and Syria (Raqqa 2017).

The aim of the semi-structured one on one interviews is to verify some of the preliminary observations I have arrived at, based on my desk research of primary and secondary data. Specific questions will be shared with you based on the organization and area of expertise you represent. Thank you again for your time.

https://watson.brown.edu/costsofwar/files/cow/imce/papers/2020/Displacement_Vine%20et%20al_Costs%20of%20War%202020%2009%2008.pdf

[207] CIVIC, Civilian Harm Tracking: Analysis of ISAF Efforts in Afghanistan, 2014, on-line: https://civiliansinconflict.org/wp-content/uploads/2017/09/ISAF_Civilian_Harm_Tracking.pdf

Appendix B

Questionnaires used in Interviews

Annex 2: Questionnaires used in one-on-one semi structured interviews

(*Below was shared with individuals to be interviewed in empirical data stage of research*)

Research Topic: The orthodox legal and policy framework on harm of displacement and NATO's Protection of Civilians Policy 2016

Questionnaire for one-on-one interviews:

The questions are indicative to guide the semi-structured interview which will be undertaken. Other, more individualized questions may also be asked during the interview.

Question set 1: For non-NATO interviews group

1. How do you define the term protection of civilians? How do you define the term displacement?

2. What are the gaps in international humanitarian law (IHL) protection vis-à-vis displaced persons[208] in your opinion during, before and after conflict? Does the human rights framework cover these adequately?

3. How do you see the interface of IHL with human rights standards in the context of displacement arising out of armed conflict and why is it still a contested issue? Is the concept of "reverberating harm"[209] a way to cover this gap?

4. Displacement is not a temporally or geographically confined issue; displacement is also caused due to violence below the Geneva Convention threshold of international and non-international conflict, and this is not covered within the ambit of displacement as a protection of civilians concern. Do you think such violence should be covered under protection of civilians, for example, drone strikes outside active zones of conflict that cause displacement?

[208] Includes both internally displaced persons, as well as refugees.
[209] Orr, Clark, "Reverberating Effects and International Law", CIVIC, (2021), on-line: https://civiliansinconflict.org/blog/reverberating-effects-and-international-law/?utm_source=rss&utm_medium=rss&utm_campaign=reverberating-effects-and-international-law

5. The Secretary General's High Level Panel report on Internal Displacement[210] provides a pertinent observation that Internally Displaced Persons (IDPs) have been invisibilised. Do you think there has been an invisibilising of IDPs? Why and how do you think this has happened and do you think this might be a contributing factor for the limited understanding among armed actors, like member states of the North Atlantic Treaty Organization (NATO) have vis-à-vis IDPs?

6. What are the next steps from the SG's High Level panel report recommendations or observations that already being implemented?

7. Is there need for an international displacement treaty incorporating the displacement challenges of today from natural disasters, to conflict to violence? Need for such a treaty has been observed in the SG High-level Panel on Internal Displacement Report.

8. The worlds of displacement are colliding with natural disasters (exacerbated by climate change), conflict and other human-made disasters such as the COVID pandemic, all occurring in proximity to each other. Is there a need for unfiled approach for all the multiple types of displacement rather than siloing them based on the trigger factor?

9. Are there limitations in the current framework governing displacement for military actors within the NATO alliance, who work primarily within IHL in your opinion?

10. What kind of engagement should humanitarians and others be providing military actors to internalize the gravity, scale, and multifaceted nature of displacement situations today and in the future, including, in grey zone and hybrid conflicts of tomorrow?

11. Are you familiar with NATO's protection of civilians policy 2016[211]? Should displacement be referenced specifically as a key harm in this policy, similar to sexual and gender-based violence or civilian casualties? if so why, and if not, why not?

12. NATO's engagement in Afghanistan led to the development of some effective procedures for addressing protection of civilians harm, for e.g., with civilian casualty (CVICAS) tracking.[212] Are there any lessons from that process of CIVCAS that could be used to help NATO address displacement?

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[210] Report of the UN Secretary-General's High-Level Panel on Internal Displacement, Shining a light on Internal Displacement – A vision for the future, Sep 2021, New York, on-line: https://reliefweb.int/report/world/shining-light-internal-displacement-vision-future-report-un-secretary-general-s-high

[211] Policy for the Protection of Civilians, North Atlantic Treaty Organization, 09 July 2016, Warsaw, on-line: https://www.nato.int/cps/en/natohq/official_texts_133945.htm

[212] Keene, Jennifer, "Civilian Harm Tracking: Analysis of ISAF Efforts in Afghanistan", CIVIC (2014), on-line: https://civiliansinconflict.org/wp-content/uploads/2017/09/ISAF_Civilian_Harm_Tracking.pdf

13. What role can NATO member states militaries play in displacement situations, beyond immediate response? What have the experiences been to date, both in conflict, as well as natural disasters?

14. Intervention on displacement throughout the displacement cycle (prevention, response, and solutions) can also involve non-military means as a protection of civilians issue. Can you explain this with reference to UN peace operations and/or African Union operations or NATO?

15. Should we move beyond the natural disasters and conflict distinction in dealing with responding to disasters and putting the affected at the heart of response? Can we get beyond the civilian and military binary roles?

16. Contemporary crises, including Afghanistan, Syria and Iraq, show us that patterns of displacement are complex. For example, we see displacement occurring prior to armed conflict, during armed conflict, and continuing after armed conflict. We further see that the reasons for displacement are multiple and cannot be reduced to armed conflict. How can we address the protection of civilians' harm of displacement in a way that considers this complexity?

17. Do you think displacement is a singular or uniquely serious harm, compared to other protection of civilian harms, given the nature of its impact?

18. Is there any reading or persons to interview you would recommend on this topic?

19. Is there anything else you would like to add on this topic?

Additional question for African Union actors/experts

1. What is unique in the approach that the African Union (AU) has crafted towards displacement as a protection of civilians harm?

2. What is the implementation status of AU's draft protection of civilians document 2012and aide Memoire on Protection of Civilians 2013[213]?

[213] Draft Guidelines for the Protection of Civilians in African Union Peace Support Operations, African Union, March 2012, Addis Ababa, on-line: https://www.peaceau.org/uploads/draft-au-poc-guidelines-english.pdf ; Aide Memoire for the Consideration of Issues Pertaining to the Protection of Civilians in Africa, African Union, December 2012, Addis Ababa, on-line: https://www.peaceau.org/uploads/01-aide-memoire.pdf

3. How does responding to the harm of displacement look in practice in African Union interventions, both in military and non-military[214] contexts?

4. What legal frameworks guide the work of the African Union in their military operations including, peace operations?

5. NATO operations are similar to African Union peace operations in that, both are regional entities with a footprint, where the civilian aspect is more limited in comparison to the military component. What advice could the AU provide NATO as it develops its protection of civilians approach?

6. How much are AU peace operations aligned to UN peace operations? Is there value in the AU have its unique approach to peace operations as a regional organization?

Additional question for UN peace operations actors/experts

1. What is the UN peace operations approach to displacement as a protection of civilians harm, and how is this different from the approach of the non-peace operations part of the? How do these approaches interact with each other?

2. What is mission inter-operability on protection of civilians at the military level and with the civilian component of a mission?
3. As recommended by the High-Level panel on Internal Displacement, should UN missions be given strong mandates to address the harm of displacement in all peace operations and political missions? Is that not already occurring? If not, what would that look like?

4. Where a protection mandate has been given to a peace operation on preventing or minimizing displacement as a harm, how has the mandate evolved and played out in reality?

5. The 2019 policy on protection makes clear that International Humanitarian law, International human rights law and refugee law will guide UN peace operations[215]. In implementing this edict how is the tension between these bodies of law addressed?

6. What could a regional entity like NATO learn from UN peace operations experience in terms of addressing displacement as a protection of civilians harm in your view?

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[214] Conley, Bridget, "The 'Politics of Protection': Assessing the African Union's Contributions to Reducing Violence Against Civilians, International Peacekeeping,2017, on-line: https://www.tandfonline.com/action/showCitFormats?doi=10.1080%2F13533312.2017.1345311

[215] The Protection of Civilians in United Nations Peacekeeping, 2019, UN Department of Peace Operations, https://peacekeeping.un.org/sites/default/files/poc_policy_2019_.pdf

Question set 2

For NATO actors/ experts

1. How is protection of civilians defined? Does this encompass conflict as per the Geneva conventions threshold for international and non-international conflict and as well as situations of violence, where NATO military actors are active?

2. How do you define the term displacement?

3. How is displacement as a harm viewed at NATO HQ and among member states - is there coherence in the various approaches?

4. Is displacement factored into planning for NATO operations and how?

5. Why is displacement not referenced as a specific harm in NATO's Protection of Civilians (POC) policy 2016?

6. NATO's military operations and that of its member states are primarily guided by international humanitarian law (IHL). When does human rights law apply? and what is the interface between the two bodies of law like?

7. What role can NATO member states play in displacement beyond immediate response to displaced populations? What have the experiences been to date, both in conflict, as well as natural disasters and other settings?
8. Is there a value in including displacement as a specific harm in the NATO POC policy?

9. If displacement were acknowledged as a specific harm in NATO POC policy, how could this translate into actual operational response and concrete guidance for soldiers in the field?

10. The fundamental nature of NATO is that it is a regional political and military grouping of certain states with specific political and strategic goals. This is distinctly different from the UN's mandate of being a 'neutral' entity representing the international community. This fundamental distinction means that NATO cannot just choose to apply UN approaches on something like protection of civilians even when it is in a peace-operation posture. Rather, NATO needs to develop and adopt its own unique approaches on protection of civilians, including where it has gaps, such as the harm of displacement. Do you agree with this statement?

11. Today displacement numbers are at a record high and the worlds of displacement situations are colliding with one another, with natural disasters and conflict and other human-made disasters such as the COVID pandemic all occurring in proximity to each other. Would it be useful for NATO to articulate and define clearly how it will engage with displacement as a major challenge of our times, as it has done on climate change[216]?

12. NATO is now considering adopting a Human security approach[217]. How will NATO be defining this concept? What would it look like for the conduct of military operations?

13. Human security as understood by the UN and its member states is a broad concept that goes beyond the immediate conflict context. Is there scope for embracing displacement under this concept due to violence and natural and other manmade disasters?

14. Member states may have POC policies independent of NATO policy. If such policies do not align with NATO POC policy does this defeat the purpose of a common policy? Can NATO compel member-states to align based on principles of inter-operability?

15. NATO member states have learnt a lot from their time in places like Afghanistan on protection of civilians issues, especially their ground-breaking refinement of civilian casualty response and procedures. Can the same learning be done for the harm of displacement? What would be required to achieve that?

16. Is there anyone I should speak to further on this topic or would you recommend any writing I should read for my research?

17. Do you have any final thoughts you would like to share?

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[216] NATO Climate Change and Security Action Plan, North Atlantic Treaty Organization, 14 Jul 2021, On-line: https://www.nato.int/cps/en/natohq/official_texts_185174.htm .

[217] NATO to step up work on Human Security Approach, 25 Feb. 2021, on-line: https://www.nato.int/cps/en/natohq/news_181798.htm.

NATO has yet to define this concept for its purpose. The UN definition is centred around: ""Freedom from Fear", (violent threats to populations), "Freedom from Want," (poverty and absence of basic needs), and "Freedom from Indignity," (including human rights abuses). The concept also covers pre- and post-conflict phases, examining early warning mechanisms as well as responding to and stabilizing violent situations". Beatrice Godfrey, NATO's New "Human Security" Umbrella: An Opportunity for Better Civilian Protection?, Dec 4, 2019, https://civiliansinconflict.org/blog/nato-human-security-umbrella/ .

Appendix C

NATO Protection of Civilians Policy 2016

NORTH ATLANTIC TREATY ORGANIZATION

NATO Policy for the Protection of Civilians

Endorsed by the Heads of State and Government participating in the meeting of the North Atlantic Council in Warsaw 8-9 July 2016

09 Jul. 2016 - | Press Release (2016) 135 Issued on 09 Jul. 2016 |
Last updated: 24 Jun. 2021 12:55

I. INTRODUCTION

1. In the past decade, the commitment of NATO and its partner nations to the protection of civilians in the planning and conduct of operations and missions has been underpinned by the development of a diverse body of policies and guidelines, in areas such as Children and Armed Conflict, Women Peace and Security, and Conflict-related Sexual and Gender-based Violence. Furthermore, NATO and its operational partners have learned important lessons from the effort to mitigate civilian casualties during the ISAF operation.

2. Allies and partner nations have acknowledged the need to bring together such policies, guidelines and lessons learned under one overarching policy that would address, in a more coherent way, the protection of civilians in relevant NATO operations, missions and activities. Therefore, in November 2015, Council tasked the Operations Policy Committee to proceed with the development of a NATO Policy for the Protection of Civilians (PoC) to be completed in time for the Warsaw Summit.

3. Protection of civilians is a cross-cutting concept, be it when the Alliance defends its borders, enhances security through capacity building and partnerships, or engages in crisis management through operations, missions or other Council–mandated activities. Therefore, PoC is relevant to all three core tasks of NATO set out in its Strategic Concept. Furthermore, the growing strategic and operational significance of the successful implementation of PoC-related measures in operations and missions shows that a sound approach to PoC by NATO is important for its continued credibility and legitimacy.

II. GUIDING PRINCIPLES

4. NATO's approach to the protection of civilians is based on legal, moral and political imperatives.

5. NATO's approach to PoC is consistent with applicable legal frameworks. All NATO and NATO-led operations, missions and other Council-mandated activities are conducted in accordance with applicable international law, which may include international human rights law and international humanitarian law, as applicable.

6. NATO's fulfilment of its responsibilities under this policy is subject to the legal basis for the specific NATO operation, mission or activity, and to the specific Council-approved mandate, without prejudice to force protection and collective defence obligations.

7. NATO recognizes that all feasible measures must be taken to avoid, minimize and mitigate harm to civilians. When planning and implementing such measures, NATO should give consideration to those groups most vulnerable to violence within the local context. NATO recognizes that, in general, children constitute a particularly vulnerable group during conflict and women are often disproportionately affected by violence.

III. AIM AND SCOPE

8. The aim of an overarching Policy for the Protection of Civilians is to instil a coherent, consistent and integrated approach to PoC in NATO and NATO-led operations, missions and other Council-mandated activities. This includes the planning and conducting of operations and missions, training, education and exercises, lessons learned, as well as defence and security-related capacity building activities. The NATO Policy for the Protection of Civilians in NATO and NATO-led operations, missions and other Council-mandated activities (henceforth the PoC Policy) brings together several strands of work through which NATO and partner nations have already successfully addressed different aspects of PoC.

IV. NATO PROTECTION OF CIVILIANS CONCEPTUAL FRAMEWORK

9. In this policy, in accordance with paragraphs 5 and 6 above, Protection of Civilians (persons, objects and services) includes all efforts taken to avoid, minimize and mitigate the negative effects that might arise from NATO and NATO-led military operations on the civilian population and, when applicable, to protect civilians from conflict-related physical violence or threats of physical violence by other actors, including through the establishment of a safe and secure environment.

10. Promoting long-term, self-sustained peace, security and stability is best achieved in cooperation with the local authorities, population and civil society, for example relevant organizations working for human rights, including gender equality. Avoiding, minimizing and mitigating harm to civilians is an indispensable element of this approach.

11. The protection of civilians, where applicable, includes a range of activities up to and including the use of force, as appropriate, to prevent, deter, pre-empt, and respond to situations in which civilians suffer physical violence or are under threat of physical violence.

12. NATO has a robust framework of policies and guidelines to guide its objectives on Women, Peace and Security, Children and Armed Conflict, and conflict-related Sexual Gender-Based Violence. The integration of PoC in NATO and NATO-led operations, missions and other Council-mandated activities will complement and reinforce these existing efforts.

13. To be effective in integrating PoC, NATO efforts need to take into account the roles and activities of other international actors. Such a need was reflected through the Comprehensive Approach Action Plan. Interaction with other actors and understanding how they perform their mission can ensure complementarity and boost objectives in NATO and NATO-led operations, missions and other Council-mandated activities. Some international organisations may also be interested in assistance from NATO in building their own institutional capacity.

V. INTEGRATING THE PROTECTION OF CIVILIANS

14. Drawing on the experience and tools at its disposal, NATO and its partner nations, shall, as appropriate, integrate the protection of civilians from the outset of NATO and NATO-led operations, missions and other Council-mandated activities. As such, a PoC perspective should be included in the planning and conduct of operations and missions, training, education and exercises, lessons learned, as well as defence and security-related capacity building activities. The elements listed below form the basis of NATO's approach to PoC and should be considered in NATO's current and future operations, missions and other Council-mandated activities.

15. **Civilian harm mitigation from own actions**: In the planning and conduct of military operations and missions, NATO will continue to take measures, including institutionalizing civilian harm mitigation measures, based on lessons learned and best practices. NATO will also continue to engage local authorities, populations and civil society, for example relevant organizations working for human rights, including gender equality, as to the most suitable and effective harm mitigation activities in the local context. Civilian harm mitigation measures should be developed and incorporated in NATO Command Structure and NATO Force Structure processes.

16. **Protection of civilians from others' actions**: Understanding the nature of the threat against civilians is critical for identifying if the use of military force, including a Stability Policing dimension, can protect the civilian population. By identifying the threats, including type of perpetrators, their motivation, strategies and tactics, capabilities, and the expected outcome for civilians, including through a gender-sensitive approach, NATO planners at all levels would recommend military response options for NATO and NATO-led operations, missions and other Council-mandated activities. In line with the mandate of the mission, and in accordance with NATO operations planning procedures, political guidance for the protection of civilians should be developed. Such guidance and planning on PoC should be fully integrated into the conduct of NATO and NATO-led operations, missions and other Council-mandated activities. PoC can be more effectively implemented by engaging local authorities, populations, and civil society, as appropriate.

17. **Support to Humanitarian Action**: Threats to the physical safety of humanitarian workers

can negatively impact the provision of humanitarian aid and imperil civilian populations. The NATO or NATO-led force, in accordance with its mandate, can play an important role by contributing to the provision of a safe and secure environment. In exceptional circumstances, and based on humanitarian considerations, NATO may also respond to requests for assistance by humanitarian actors. NATO recognizes that all feasible measures must be taken to avoid, minimize and mitigate harm to humanitarian actors, in line with paragraph 7 above.

18. **Lessons Learned on PoC**: NATO shall identify and implement lessons learned on protection of civilians, including through a gender-sensitive approach, in all relevant areas of operations and missions, as well as in training and education. NATO should continue to discuss PoC lessons learned and best practices with operational partner nations, as appropriate. Furthermore, NATO may seek to engage with other relevant partner nations, and international organizations in line with paragraph 13 above, on PoC lessons learned and best practices, as this contributes to NATO-partner interoperability.

19. **Strategic communications**: Establishing a clear communications and public information strategy to address PoC is critical for the credibility of an operation or mission. NATO will make every effort to communicate known civilian casualties to the host nation authorities, local population, and media. In addition, NATO should communicate measures it is taking to protect civilians, as appropriate, to the host nation authorities, local population and civil society. By being first with the facts, NATO can counter false information, demonstrate transparency and strengthen its credibility.

20. **NATO Headquarters-level and joint exercises**: During NATO HQ-level and joint exercises, Allies and NATO Military Authorities are encouraged to continue to include, as appropriate, PoC elements as part of the greater exercise scenario. This will serve to raise awareness at the highest levels of the Alliance of the potential risks posed to civilians in conflict to enhance a PoC mind-set among the NATO civilian and military leadership.

21. **Training of forces participating in NATO and NATO-led Operations and Missions**: NATO Education and Training Facilities (NETFs) should continue to develop specific PoC-related modules in strategic- and operational-level curricula that will take into account the differential impact of conflict on women, men, girls and boys. The implementation of specific NATO Education, Training, Exercises and Evaluation (ETEE) programmes, plans, activities and events will consider the optimal usage of the available resources. NATO will continue utilizing NETFs, NATO-accredited Centres of Excellence (CoEs) and NATO-recognized Partnership Training and Education Centres (PTECs) in accordance with their capabilities and potential within the scope of their mandates, their Military Committee/ North Atlantic Council (MC/NAC) approved concepts and policies and within their respective area of excellence. NATO will also utilize National/ Multinational training institutions from NATO nations, and other education and training facilities from partner nations and NON NATO Entities (NNEs) that are in compliance with NATO procedures and standards, as complementary training assets to fulfil recognized NATO ETEE requirements.

22. **Training of local forces**: When training local security forces is part of the Council-agreed

mandate, NATO should share best practices and experiences on PoC, particularly civilian harm mitigation, including and in line with existing NATO policies and guidelines on Women, Peace and Security, Children and Armed Conflict and Conflict-related Sexual and Gender-based Violence, as well as on the implementation of international human rights law and international humanitarian law, as applicable. If so directed by the Council, the training of the local security forces can comprise the training of local police forces, through Stability Policing (SP), which can be critical to protect the civilian population during or after a conflict.

23. **Defence and Related Security Capacity Building**: In line with the needs of the requesting nation, advice, assistance, support, training and education included as part of a Defence and Related Security Capacity Building package could comprise elements on PoC, in particular, existing NATO policies and guidelines on Women, Peace and Security, Children and Armed Conflict and Conflict-related Sexual and Gender-based Violence, as well as the implementation of international human rights law and international humanitarian law, as applicable.

24. **Partnership tools and programmes**: PoC capabilities are of common interest to Allies and partner nations. Partner nations with an interest in developing interoperability on PoC with NATO are encouraged to make use of partner programmes, tools and mechanisms and include PoC-related objectives as part of their partnership goals and objectives. Contributors to the Partnership Cooperation Menu should consider widening their PoC-related training offer in this field, including on such issues as civilian harm mitigation and casualty tracking.

Appendix D

UN DPO Protection of Civilians Policy 2023

DECLASSIFIED

United Nations
Department of Peace Operations
Ref. 2023.05

Policy

The Protection of Civilians in United Nations Peacekeeping

Approved by:	Jean-Pierre Lacroix, USG DPO
Effective date:	1 May 2023
Contact:	POC/PBPS/DPET/DPO (pbps-poc-unhq@un.org)

DPO POLICY ON
THE PROTECTION OF CIVILIANS IN UNITED NATIONS PEACEKEEPING

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A. PURPOSE AND RATIONALE

1. The purpose of this policy is to provide the conceptual framework, guiding principles, and key considerations for the implementation of protection of civilians (POC) mandates by United Nations (UN) peacekeeping operations and related support by the Department of Peace Operations (DPO). Additional guidance materials, including the DPO Handbook on Protection of Civilians in United Nations Peacekeeping (2020), provide further practical guidance on the implementation of POC mandates, particularly in various specific contexts.

2. Applicable to UN peacekeeping operations with a Security Council mandate to protect civilians, this policy promotes consistency in approach to the protection of civilians. At the same time, it also recognizes the varied operational contexts faced by UN peacekeeping operations and the requirement for flexibility to respond to changing environments and the different resources available across the life cycle of a mission.

3. The policy aims to clarify and operationalize the protection of civilians as mandated by the Security Council. As recognized by the Special Committee on Peacekeeping Operations of the General Assembly, the protection of civilians by UN Peacekeeping Operations requires a comprehensive and integrated approach.[1] For the purposes of this policy, a **comprehensive approach** to the protection of civilians is one which takes into account and addresses the range of factors that influence and underpin threats to civilians in both the short- and long-term, including political, security and socio-economic factors, as well as gender dynamics. Such an approach recognizes that the protection of civilians requires the full range of capacities and capabilities available to the mission and other actors. An **integrated approach** to the protection of civilians requires the effort of all mission components - civilian, police and military – and, where relevant and appropriate, coordination with other UN actors including the UN Country Team (UNCT), including in the contexts of early transition planning. Integrated analysis and planning are critical to ensure that the mission is able to implement a comprehensive approach to POC. POC Advisers[2] play a key role supporting the coordination among actors for the operationalization of the POC mandate. Moreover, mission-specific POC strategies guide the mission's approach to POC, strengthening the comprehensive and integrated approach (see paragraph 75 for further details on POC strategies).

4. This policy articulates the roles and expectations of the mission leadership and relevant mission components so that POC can be fully integrated into mission planning and activities (also see Annex A "Roles and Responsibilities"). It also stresses the requirement for both institutional and individual accountability for the effective implementation of POC mandates.

B. SCOPE

5. Compliance with this policy, under the overall authority of the Head of Mission, is mandatory for all UN personnel, civilian and uniformed, working in UN peacekeeping operations with a mandate to protect civilians. Civilian personnel include all staff members, seconded civilian personnel, United Nations Volunteers, civilian experts on mission, individual contractors, and consultants. Uniformed personnel include all members of the police, military, and corrections components, whether contracted or seconded.

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[1] Report of the Special Committee on Peacekeeping Operations (A/75/19) (2021) para 129.

[2] Senior POC Advisers can be supported by POC Officers. In missions without a Senior POC Adviser, many of these functions will be carried out by a POC mission Focal Point. See paragraph X for further details on their roles.

6. This policy also applies to personnel in DPO under the authority of the Under-Secretary-General (USG) in their support to the protection of civilians by UN peacekeeping operations.

7. The POC mandate in UN peacekeeping often intersects with other mandated tasks – including support to peace processes, promotion and protection of human rights, building the rule of law and security, mandates on child protection and conflict-related sexual violence (CRSV) and creating conditions conducive to the delivery of humanitarian assistance. POC is also fundamentally linked to the gender equality and women, peace and security, and youth, peace and security agendas. Specific methodologies, tools, policies and guidance have been developed to support the implementation of these mandates and related tasks, and dedicated expert personnel are deployed to implement most of them. While this policy applies specifically to the mandate to protect civilians, the implementation of mandated tasks should be aligned and complementary, and respective experts within the mission must be engaged to ensure coordinated responses.

C. POLICY

C.1 Background

8. The POC mandate in UN peacekeeping is grounded in international law, including international humanitarian law, international human rights law and international refugee law, and reflects the desire of the Security Council to protect civilians from harm. Noting that civilians continue to account for the vast majority of casualties in situations of armed conflict, the Security Council has passed regular resolutions on the protection of civilians, children and armed conflict (CAAC) and CRSV. These resolutions have contributed to firmly establish the role of peacekeeping operations in protecting those most vulnerable in conflict-affected situations and confirmed these protective functions as a priority objective of peacekeeping.

9. Security Council resolutions on the protection of civilians in armed conflict have stressed the need to address the root causes of armed conflict, to enhance the protection of civilians on a long-term basis. The most effective and sustainable way of protecting civilians is to ensure stability, peace and security through inclusive political processes and sustainable solutions to conflict and to support host states to fulfil their responsibility to protect civilians and respect, protect and fulfil the human rights of individuals on their territory. Proactive protection of civilians by peacekeeping operations can enable inclusive political processes and facilitate equal and meaningful participation, including by women and youth, in decision-making and peace and security processes. It can also mitigate harm to civilian populations while those processes may be stalled.

10. The protection of civilians by UN peacekeeping operations takes place alongside broader UN protection efforts, including the promotion and protection of human rights and humanitarian protection, which seek to prevent, mitigate and stop threats to individuals' human rights and fundamental freedoms, ensure that these rights are respected and protected by duty bearers and ensure access to basic services and humanitarian assistance.

11. The protection of civilians constitutes a common objective shared by UN actors to protect civilians from risks and threats to their physical integrity, including those arising from armed conflict. As such, to ensure coherence in UN support, there needs to be strategic coordination at both UN Headquarters and mission level on the protection aims of UN peace and security, development, human rights and humanitarian actors operating in the same area.

C.2 Definitions and Guiding Principles

a. Defining the protection of civilians mandate: main elements and key terms

12. In accordance with mission-specific Security Council resolutions, peacekeeping operations with POC mandates are required to protect civilians under threat of physical violence, within the limits of the capabilities of a peacekeeping operation and within its areas of deployment.[3] The mandates of individual missions may vary in language and include specific tasks and approaches to POC that will guide the implementation of the mandate and the strategic approach taken by the mission. These mandates do not, in any way, limit or detract from the primary responsibility of the host state to protect civilians on its territory. However, missions with a POC mandate are typically authorized under Chapter VII of the UN Charter to use all necessary means to protect civilians under threat of physical violence, regardless of the source of the threat.[4] The Security Council has specified that the mandate to protect civilians applies.

13. With a view to ensuring an operational definition for UN peacekeeping that takes these features into account, while focusing on key elements in line with the guiding principles for implementing POC mandates (see paragraphs 22-36), the protection of civilians mandate in UN peacekeeping is defined as: **"without prejudice to the primary responsibility of the host state, integrated and coordinated activities by all civilian and uniformed mission components to prevent, deter or respond to threats of physical violence against civilians within the mission's capabilities and areas of deployment through the use of all necessary means, up to and including deadly force"**.

14. Peacekeeping operations are deployed and mandated to protect civilians in multiple contexts. The following definitions and principles apply in determining the scope of the POC mandate in all contexts:

15. **Civilian:**[5] For the purposes of this policy and the POC mandate in peacekeeping, everyone is to be considered a civilian, except persons falling in one of the following categories:
    - members of the armed forces;
    - members of an organized armed group with continuous combat function; and
    - civilians directly participating in hostilities, for such time as they do so.

    In case of doubt whether a person is a civilian, that person shall be considered a civilian. [6]

    When international humanitarian law applies to UN forces, they must comply with it, including the principles of distinction, proportionality and precaution. This obligation is independent of the POC mandate.

16. **Threats of physical violence against civilians**: Such threats encompass all hostile acts or situations that are likely to lead to death or serious bodily injury of civilians, including sexual violence, regardless of the source of the threat. This includes, inter alia, threats posed by non-state armed groups, extremist groups, self-defence groups, domestic and foreign state defence and security forces and other state agents and state-sponsored armed actors, as well as communities. It includes both direct and indiscriminate attacks, and attempts to kill, torture, maim, rape or sexually abuse and exploit, forcibly displace, starve, pillage, abduct or

[3] Note that some mandates may require protection of civilians under "*imminent* threat of physical violence".
[4] The Security Council has not always explicitly referenced Chapter VII of the UN Charter when authorizing all necessary means.
[5] The following definition is for the purposes of the protection of civilians mandate in UN peacekeeping only and is without prejudice to the definition of "civilian" under international humanitarian law.
[6] ST/SGB/1999/13 Observance by United Nations forces of international humanitarian law. Guidance on whether international humanitarian law applies to a specific peacekeeping operation will be developed on a case-by-case basis and as required by the Office of Legal Affairs, in consultation with DPO and the relevant Mission.

arbitrarily detain, kidnap, disappear or traffic persons or recruit and use children. It also includes harm associated with the presence of explosive ordnance including mines, explosive remnants of war and improvised explosive devices. "Threat" includes both violence against civilians that has materialised and is ongoing and violence that has the realistic potential to occur. The threat need not be imminent unless the specific Security Council mandate requires this.

17. **Within capabilities:** As directed by the Security Council, the protection of civilians must be prioritized in decisions regarding the allocation, deployment and use of available mission capacities and resources.[7] The POC mandate also recognizes that peacekeeping operations have limited resources and capabilities and may therefore face situations where they are unable to effectively prevent, stop, or even mitigate certain threats. When faced with multiple concurrent threats to civilians, missions will prioritize those that have a greater potential impact on the civilian population (including potential mass atrocities) or a greater destabilising effect. They must therefore prioritize their resources and prevention and response activities across the three tiers outlined below based on the nature of the threat, the full range of civilian, police and military capabilities available to the mission and the capacities of other protection actors, including the host state.

18. **Within areas of deployment**: 'Areas of deployment' includes the area of operational responsibility of any particular unit (civilian or uniformed) of the mission, even though that unit may not have established a physical presence in the location concerned. 'Within areas of deployment' recognizes that peacekeeping operations typically have a limited physical range. There may be regions where a mission has no presence or locations that it is unable to reach. Nonetheless, missions must always prevent and respond, if possible, to threats of physical violence against civilians where they have the capability to do so effectively, including where this can be done through advocacy and political engagement activities that may not require physical presence in the area at risk. Where a threat to civilians is within range of a mission presence or base, the mission must intervene within its capabilities. At the mission headquarters (Mission HQ) and Field Office/Sector levels, missions must be prepared to redeploy resources within the mission area to prevent or respond to threats to civilians as needed, with the support of DPO and DOS as required.

b. Guiding principles for implementing POC mandates

19. The POC mandate is guided by a set of legal and practical principles and is rooted in the UN Charter and international law. The following principles apply to all missions implementing POC mandates:

20. **Grounded in international law**: POC mandates are a manifestation of the international community's determination to prevent the most serious violations of international humanitarian law, international human rights law and international refugee law and related standards and must be implemented in both the letter and spirit of these legal frameworks.

21. **A priority mandate**: In mandated missions, POC must be prioritized in decisions regarding the allocation and use of available capabilities and resources.

22. **Primary responsibility of the host state:** The host state always has the primary responsibility to protect civilians on its territory. The mission's POC mandate does not replace, affect or limit this responsibility in any way. The mission will, as far as possible, support the host state's POC efforts but may act independently to protect civilians when the host state is deemed unable or unwilling to do so, or where government forces themselves

[7] S/RES/1894 (2009).

pose a threat to civilians. When supporting host state security forces or other non-UN security forces, peacekeeping operations must respect the UN human rights due diligence policy on United Nations Support to non-United Nations security forces.[8]

23. **Consonant with the principles of peacekeeping**: UN peacekeeping operations are guided by three inter-related and mutually reinforcing principles: consent of the parties, impartiality and non-use of force except in self-defence and defence of the mandate. The protection of civilians is fully consonant with these principles, including the authorization of the use of force. As such, the principles of peacekeeping can never be an excuse for failure to protect civilians.

24. **Under effective leadership, command and control:** Senior leaders in missions and in UN Headquarters are ultimately accountable for the implementation of the POC mandate and must set the strategic direction and ensure accountability for its effective delivery by all mission components. For uniformed components, the Force Commander and Police Commissioner are responsible for the application of the Rules of Engagement (ROEs) and Directives on the Use of Force (DUFs), respectively, and contingent commanders must also ensure all those under their command understand and comply with these as well as this policy.

25. **An active duty to protect:** Activities to protect civilians must be planned, deliberate and ongoing. All mission components must constantly work to prevent, pre-empt and respond to threats to civilians, and not just react to attacks. This includes dialogue and engagement, presence in areas under greatest threat, creating a credible deterrent posture and supporting national POC capacities.

26. **A whole-of-mission activity:** Protecting civilians requires a comprehensive and integrated approach that involves jointly planned and coordinated action by civilian and uniformed mission components, grounded in structured and regular information-sharing, an integrated analysis and a common understanding of the threat environment. A POC lens should be applied across the mission's integrated analysis (e.g., early warning, threat assessments, forecasting and predictive analysis, after action reviews, etc.) to inform planning and decision-making. The different components should implement activities in an integrated, complementary and sequenced manner to leverage comparative advantages and maximise effects on the ground. As it is a priority mandate, all components must integrate and prioritize POC activities in their workplans, activities, training, and monitoring and evaluation. Additionally, the mission's POC Adviser should be systematically included in the mission's integrated information-sharing, planning and analysis mechanisms and fora.

27. **A coordinated approach:** Due to the multitude of actors who contribute to protection of civilians both within and outside of the mission, peacekeeping operations must take into account the comparative advantage, optimal positioning and appropriate modes of engagement vis-à-vis local, national, regional and international protection actors, and systematically share information with such actors as appropriate. This requires multiple actors coordinating and carrying out distinct activities simultaneously.

28. **In cooperation with humanitarian and development actors and in respect of humanitarian principles:** UN humanitarian and development agencies and NGOs undertake a broad range of activities to protect civilians.[9] In addition, like all civilians, humanitarian personnel are entitled to protection under the POC mandate. Close and

[8] Human Rights due diligence policy on United Nations support to non-United Nations security forces (A/67/775-S/2013/110).
[9] Humanitarian actors define protection as "all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law"; see IASC Policy on Protection in Humanitarian Action (2016).

systematic coordination and information-sharing with these actors through established mechanisms, including the relevant UN Humanitarian Civil-Military Coordination platforms, and UN integrated coordination mechanisms,[10] is therefore essential and will remain pivotal for transition planning. Humanitarian actors rely upon the principles of humanity, neutrality, impartiality and operational independence (the humanitarian principles) to discharge their mandates effectively and safely and it is therefore necessary to maintain a clear distinction between their role and that of political and military actors, including peacekeeping operations. While the creation of security conditions conducive to the delivery of humanitarian assistance can support the protection of civilians, this objective, often a separately mandated task of peacekeeping operations, goes beyond the scope of the present policy.

29. **A tailored, community-based approach:** Actions, plans and programmes to protect civilians must always be informed by consultation with local communities. This takes place through regular, meaningful, safe and respectful engagement with women, men, girls and boys, with a view to understanding and taking into account their concerns, strategies and capacities; empowering local actors and organizations; and supporting existing protection mechanisms in order to contribute to a sustainable impact. Analysis and planning for POC must consider the protection needs and threats faced by different groups of civilians including, but not limited to, women, men, children, older persons, youth, people with disabilities, ethnic, religious and minority groups, as well as displaced populations. Community engagement needs to happen at every stage of the implementation cycle. Special consideration should be given to the end of protection initiatives and how these can be transitioned to the community or other third parties. Community Liaison Assistants (CLAs) can support uniformed and civilian personnel in their interactions with communities, local authorities and other local actors. They can assist with information gathering, threat or needs assessments, conflict mediation, early warning, local-level protection planning, coordination of and follow up on field visits and patrols/operations and strengthening the resilience of local communities.

30. **Gender-responsive POC:** All strategies, actions, plans and programmes related to the implementation of the POC mandate must be gender-responsive. This requires appreciating that there are gendered differences in status and power and that this informs and shapes the immediate and long-term protection needs of women and men, girls and boys. Gender-responsive POC takes account of these differences by adjusting POC efforts in ways that appropriately respond to or eliminate a threat or mitigate the risk to civilians. This approach utilizes a gender analysis,[11] including a gender-responsive conflict analysis, to inform all POC efforts and should be integrated across the three tiers of the mission's POC initiative. A gender analysis facilitates the identification of specific roles and capabilities (including women's and girls' varied roles in peace and conflict), risks and vulnerabilities of all community members as well as the appropriate POC intervention. Gender-responsive POC is inclusive of and supports the women, peace, and security mandate (WPS) priorities such as increasing meaningful engagement of women and women's organizations, at all levels of conflict prevention, management and resolution efforts.

31. **Undertaken with mainstreamed child protection concerns:** The specific protection needs of children (boys and girls) must be considered and responded to when implementing the POC mandate, including by mainstreaming child protection considerations into joint

[10] As required by the UN Policy on Integrated Assessment and Planning (2023).
[11] Gender analysis is an analytical framework that assess the impact of policies or actions on women, men, boys, girls, and non-binary people by investigating the unequal social, political and economic power dynamics that exist within society. It includes power variables (e.g., age, (dis)ability, etc.) and recognizes the cumulative and reinforcing effects brought to bear by these different systems of power.

analysis (threat assessments, early warning), information-sharing, joint planning and community engagement.[12]

32. **Do no harm:** All mission components must be mindful in their activities and engagement with individuals and communities not to expose civilians to risk or to cause harm, including by exposing civilians to possible reprisals for cooperation with the mission. Confidentiality must be respected for any information that could be used to identify sources. In addition, cases of human rights violations and abuses can be reported, referred or pursued only if the sources of information grant their informed consent and upon assessment that the disclosure of information would not pose a protection risk for the victims, witnesses or other individuals. When conducting police and military operations, all efforts must be taken to mitigate harm to civilians. Sexual exploitation and abuse is strictly prohibited and must be addressed in accordance with relevant procedures.[13] Zero tolerance for sexual exploitation and abuse is a requirement for the effective protection of civilians.

33. **Enabled by technology and informed by data:** New technologies can help peacekeepers anticipate, prevent and respond to threats to civilians, as well as to better engage local populations. POC should be at the centre of decisions related to the deployment and tasking of assets, and in the acquisition, analysis and sharing of derived information. New enabling technologies can support missions' POC efforts and help build collective mission capacity for data-driven, evidence-based analysis, planning and decision-making.

C.3 Operational Concept

34. Peacekeeping operations mandated to protect civilians have a range of instruments and approaches at their disposal. These are categorized in three tiers which are mutually accommodating and reinforcing and are implemented simultaneously and strategically in accordance with the mission mandate, mission phase and the circumstances on the ground. There is no inherent hierarchy or sequencing between the tiers. The protection of civilians' mandate is implemented at all levels of the missions and all components of the mission have a role to play in each of the tiers. Action across all three tiers will emphasize prevention and pre-emption as well as the primary responsibility of the host state to protect civilians. The three tiers of POC action are:
    - Tier I: Protection through dialogue and engagement
    - Tier II: Provision of physical protection
    - Tier III: Establishment of a protective environment

35. Across all three tiers, UN peacekeepers utilize both armed and unarmed approaches to protect civilians. Unarmed Approaches to Protection (UAP) include the full range of protection activities undertaken by civilian and uniformed personnel that do not involve the projection of military power, or the threat or use of force.[14] UAP should be carried out as part of a larger comprehensive and integrated approach that includes high level political engagement and the threat or use of force by uniformed peacekeepers.

36. The protection of civilians requires actions with both short- and long-term outlooks, based on an analysis of the environment, the phase of the conflict, if any, and the mission's life cycle, as well as the nature of the threat. The strategic approach to POC, and the three tiers, are therefore implemented along four phases:

[12] DPKO/DFS/DPA Policy on Child Protection in United Nations Peace Operations (2017.11), in particular, paragraphs 10 and 19.4.
[13] ST/SGB/2003/13 Special measures for protection from sexual exploitation and sexual abuse.
[14] These can include conflict resolution activities at national and local level; human rights monitoring, investigations, reporting and capacity building; engagement with armed actors to persuade them to cease or at least mitigate harm to civilians; protection through unarmed presence to deter violence against civilians; capacity building of protection actors, including state security forces and civil society; as well as other related activities.

(i) prevention: where no clear threat to civilians has been identified (longer term),
(ii) pre-emption: where likely threats are identified and attacks against civilians are anticipated (short term),
(iii) response: where threats to civilians are imminent or occurring (short term), and
(iv) consolidation: where violence against civilians is subsiding (longer term).

37. The phases do not necessarily occur in sequential order and approaches relevant to different phases may be undertaken simultaneously or independently. Activities and objectives under each phase will vary along with the specific content of each country-specific mandate. Within one mission, different approaches may be necessary in different geographical areas depending on the situation on the ground. Actions across all three tiers may be taken within each operational phase.

a. Tier I: Protection through Dialogue and Engagement

38. Tier I activities include active, structured and regular dialogue with perpetrators or potential perpetrators of violence against civilians; conflict resolution and mediation between parties to the conflict; advocating with the host government, its security institutions and other relevant actors to intervene to protect civilians; local conflict resolution and social cohesion activities; reconciliation initiatives; strategic communication; investigation; advocacy; reporting on human rights and other protection concerns; and other initiatives that seek to protect civilians through communications, dialogue and direct or indirect engagement.

39. Tier I reinforces the **primacy of politics** in the resolution of conflict and the role of peacekeeping in the pursuit of **sustainable solutions**. The Mission's overall political strategy should contribute to the POC mandate and POC considerations should underpin the Mission's political efforts. Dialogue and political engagement with political, security or other actors or spoilers who may instigate or have influence over potential perpetrators of violence shall be utilized to prevent and mitigate threats to civilians, including through calls for compliance with international humanitarian law and international human rights law. Good offices, political engagement, advocacy and dialogue should immediately be used to prevent threats of attacks on civilians before they become imminent, or to end them once they occur. Prevention through regular dialogue and engagement is the most effective way to reduce the need for reliance on physical protection by the mission.

40. To advance the protection of civilians, the mission should advocate for the systematic integration of human rights and other specific protection-related concerns, including those related to gender and children, into peace processes and peace agreements. All relevant mission components must engage host state interlocutors on their responsibility to protect civilians and protect, promote and respect international humanitarian law (where relevant) and international human rights law and to hold alleged perpetrators accountable. At UN Headquarters, the Secretariat will support the mission by engaging international actors including UN entities, the Security Council, Member States, regional and subregional organizations and others who may positively influence those involved in the conflict to ensure the protection of civilians.

41. Dialogue and engagement are carried out by all mission components, civilian and uniformed, at the local and national levels. It can include engagement with communities, including women's organizations and networks, and potential perpetrators, including non-state armed actors.

42. Local engagement may allow for early detection of threats or tensions that can inform mission early warning systems and prevention actions. Engagement with communities should be an inclusive, two-way exercise that begins with listening to communities about

their protection needs and capacities. It should identify, support and bolster existing structures and mechanisms to resolve and respond to conflict and be inclusive of the protection needs of all community members.[15] Where appropriate, it should also reinforce trust by building relations between authorities and the population and preventing security vacuums. Engagement strategies should consider potential risk or harm that engagement may pose to individuals and communities and how to address them.

43. The mission can support inclusive **dialogue and mediation efforts**, including community-based mechanisms, such as informal justice mechanisms, which aim to peacefully settle disputes that may otherwise trigger intercommunal conflicts. In situations where other actors may be better placed to provide support or where the mission does not have access or if its presence may put civilians at risk, it can support third party organizations. Missions should identify links between local, national and regional level conflicts and threats to civilians and seek to address the threats at multiple levels, while aiming to address root causes of conflict.

44. The mission should **engage with the host state security sector** on the protection of civilians. The mission's aim should be to assess risks stemming from institutional and governance weaknesses within the security sector and seek to develop and support the implementation of security agreements, policies and mechanisms, including at the local level, aiming at fulfilling the state's primary responsibility to protect civilians. The mission should, as appropriate, advocate for the deployment by host state authorities of national security forces to locations where their absence results in increasing threats to vulnerable groups.

45. Appropriate approaches to **engagement with non-state armed actors (NSAGs)** on the protection of civilians, including the role of different mission components, will be decided at mission level with guidance from DPO on request.[16] When engaging with non-state armed groups on POC, the mission's aim should be to prevent or stop attacks on civilians, change a group's behaviour so that they no longer threaten civilians, seek a group's meaningful commitments to desist from attacks on civilians, and improve understanding and respect for international humanitarian law and international human rights law, as well as to diffuse tensions, identify grievances and build confidence between parties to the conflict.

46. **Monitoring and reporting** on protection concerns, which creates a transparent and objective basis for dialogue with all parties to the conflict, should be used to positively influence the actions and behaviours of state authorities and non-state armed groups or to engage other influential actors. This includes human rights monitoring, reporting and investigation, including public reporting and advocacy at national and local levels, which should incorporate a gender analysis. Human rights monitoring and reporting enables the identification of protection threats and needs that inform mission POC strategies and activities, and also forms the basis for accountability. Similarly, the monitoring, analysis and reporting arrangements on conflict-related sexual violence (MARA) and the monitoring and reporting mechanism on grave violations against children in situations of armed conflict (MRM) can contribute to influencing actors on protection concerns. Collection of sex- and age-disaggregated data is crucial to effective monitoring and reporting and therefore should be prioritized whenever possible.

47. The mandatory application of the **United Nations human rights due diligence policy on United Nations support to non-United Nations security forces** may also be used as leverage to strengthen compliance with international humanitarian law, international human

[15] Including women, men, children, older persons, youth, people with disabilities, ethnic, religious and minority groups, as well as displaced populations and other marginalized communities.
[16] The DPA/PMD and DPKO/DPET aide mémoire on Engaging with Non-State Armed Groups for political purposes (2017) sets out some of the options and considerations that missions should take into account when designing a strategy to engage with NSAGs.

rights law and international refugee law by non-UN security forces, including police, military and other security actors. All UN support to non-UN security forces, including in the context of fulfilling the protection of civilians' mandate, must be implemented in compliance with the HRDDP. Mitigating measures under the HRDDP, such as background checks of individuals and units, strategic and policy advice on security sector reform, capacity building of host state security forces, joint planning of operations and after-action reviews, have a direct impact on the implementation of the protection of civilians' mandate.

48. **Public information activities and strategic communications** will be used to prevent or stop attacks on civilians by influencing behaviour, contributing to shape perceptions and control narratives, and responding to issues such as hate speech, misinformation and disinformation, which may lead to threats to civilians. Public information can be used to encourage respect for international humanitarian law, international human rights law and international refugee law, strengthen support to peace and reconciliation initiatives, promote gender equality, and provide a reliable and impartial source of information. The mission's communication strategy must include concrete objectives and activities on POC using contextually appropriate media and languages to target specific actors, including potential perpetrators and communities at risk. Information shall be provided equally to women and men, girls and boys. The mission must engage with the media on the POC mandate and communications must also be used to manage expectations about the role and capacities of the mission.

C. Tier II: Provision of Physical Protection

49. Tier II encompasses activities by all mission components to physically protect civilians, whether through armed or unarmed approaches, including protective presence, interpositioning, the threat or use of force, or facilitating safe passage or refuge. While Tier II notably includes activities by uniformed components involving the show or use of force to prevent, deter, pre-empt and respond to threats to civilians, civilian mission components can also act as a protective presence through their regular, visible, direct engagement with civilian populations at risk. All actions under Tier II should be informed by an integrated analysis, including gender analysis, and implemented as part of a comprehensive and integrated approach, with close coordination between civilian and uniformed components, to jointly determine priority areas for deployment, presence and actions; to guide the objectives and conduct of police and military operations; to inform operational and contingency planning; and to undertake complementary activities such as political and community dialogue and engagement.

50. To prevent and deter threats to civilians, uniformed mission components must have a **proactive posture and mindset**. Even when a threat is not identified, the mission should have a visible presence, particularly in high-risk areas and those where state security forces are not present, as an important deterrent and confidence-building measure. This presence should be accompanied by assurances to the population of the mission's intent to protect civilians from physical violence and the establishment of community engagement and alert mechanisms in coordination with civilian components, particularly CLAs where they are deployed. The protection of civilians must be prioritized in decisions on location, posture, length and type of deployment and patrolling and must be systematically included in operational orders. Joint threat assessments and effective and timely information-sharing, early warning and coordination among civilian and uniformed components at senior and working levels, as well as consultation with other relevant protection actors, will facilitate preventive actions and effective responses.

51. When a **concrete threat of an attack against civilians is identified**, proactive and timely measures must be taken to eliminate or mitigate the threat before violence occurs, including

through credible **deterrent actions** such as reinforced presence and patrolling, show of force, securing key sites, interpositioning, psychological operations and proactive military and police operations, which may extend to pre-empting and neutralising the source of the threat in accordance with the mandate, rules of engagement (ROE), and directives on use of force (DUF). Contingency plans shall be developed in advance to enable rapid response.

52. When **physical violence against civilians is either imminent or in progress**, the mission has a responsibility to act to the full extent of its capabilities by **deploying rapidly to secure the civilian population**, including through the dispatch of quick reaction forces. Peacekeepers must be ready at all times to act swiftly and decisively, in accordance with their ROE or DUF, with the full degree of force needed to protect civilians. While doing so, efforts should be taken to avoid or minimize casualties. While every reasonable effort must be made to resolve the situation by other means, there will be circumstances where the use of force is the most effective and adequate course of action at an early stage. Where armed force is used, it must be limited in its intensity and duration to ensure that civilians are protected and civilian casualties avoided or at least minimized. In accordance with the mission's ROE and DUF and consistent with DPKO/DFS Guidelines on the Use of Force by Military Components in United Nations Peacekeeping Operations[17] and the DPKO/DFS Policy on Formed Police Units in United Nations Peacekeeping Operations[18], the use of force should be graduated, unless this would place the civilians to be protected or mission personnel themselves at risk of death or serious bodily injury, or clearly be ineffective in the circumstances. In this context, the level of force used by the mission may be higher than the level of the force threatened or used by the attacker, if necessary to achieve the authorized objective.

53. Security activities and operations to deter, prevent or stop attacks on civilians may be conducted either jointly or in coordination with the host state security forces (or other third-party forces, if the mandate permits) or unilaterally, as appropriate. In cases where operations are conducted jointly, all activities must be in conformity with the HRDDP.

54. When carrying out any police and/or military operations UN peacekeeping operations must take steps to protect civilians and **mitigate potential harm to civilians** that could arise from those operations, before, during or after. As a starting point, mission ROE and DUF contain a number of important restrictions on the use of force, for example collateral damage must be avoided or in any case minimized, fire must be limited in duration and intensity to that necessary to achieve the authorised objective and unobserved indirect fire is prohibited. Beyond the minimum obligations of international humanitarian law (where applicable), peacekeeping operations shall anticipate, prevent, track, minimize and address direct and indirect harm to the safety and security of civilians or civilian objects and infrastructure.

55. Efforts to mitigate harm to civilians shall inform operational planning and the conduct of operations and shall be taken before, during and after the implementation of operations. Before an operation, a full **risk assessment** must be conducted and **contingency plans** for the protection of civilians developed in systematic consultation with the POC Adviser and relevant civilian components and, where appropriate, host state authorities and UN and non-UN humanitarian actors. This exercise will identify and analyse direct and indirect negative consequences, including civilian displacement, impact on livelihoods, health and education, possible reprisals against the civilian population and resulting explosive remnants of war. Mitigation measures to address these consequences shall be identified and included in

[17] DPKO/DFS Guidelines on the Use of Force by Military Components in United Nations Peacekeeping Operations (2016.24).

[18] DPKO/DFS Policy on Formed Police Units in United Nations Peacekeeping Operations (2016.10).

operational plans, contingency plans and other orders. This exercise should be informed by a gender analysis in order to address, integrate and account for the differentiated impacts of operations on different groups of the population. Operations should be followed by an after-action review that analyses the impact of the operations, including community perceptions, and identifies lessons learned for future operations.

56. Under the POC mandate, UN peacekeeping operations are mandated to protect civilians regardless of the source of the threat, including where that **threat is from elements of host state security forces** or their proxies. This includes the provision of physical protection by military and/or police components. However, it is recognized that a robust response to threats posed by the host state may be beyond the mission's capabilities, may result in insecurity for peacekeepers and can affect the host state's strategic consent to the mission. For an effective and sustainable restoration of security for civilians, from the early stages of deployment, missions must prioritize activities aimed at enhancing and supporting the intent, capacity and accountability of the host state to respect international humanitarian law (where relevant) and international human rights law and to fulfil its responsibility to protect civilians (activities under Tiers I and III of the POC concept).

57. Responses to specific threats to civilians posed by elements of host state security forces should normally include political engagement, early and at the highest levels, with the political, security and justice sectors, including by sharing information and analysis on the perpetrators and violations of international humanitarian law and international human rights law monitored by the mission. However, where such engagement is fruitless, clearly ineffective or simply not an option in the time available, the mission must be prepared to intervene physically to protect civilians at risk. The rapid deployment and presence of mission forces may be sufficient to deter or stop host state security forces from harming civilians. In other cases, effective interposition of mission forces between civilians at risk and host state security forces may be necessary, combined with demonstration of resolve and determination to maintain position. In situations where host state authorities continue to refuse to recognize and address violations of international humanitarian law or international human rights law or oppose the mission's efforts to protect civilians, DPO will provide guidance on request to the mission and will support advocacy efforts, including by engaging with the Security Council.

58. In cases of credible threats of physical violence against individual mission interlocutors (including, inter alia, human rights defenders, victims and witnesses of human rights violations, community workers, journalists, lawyers or other civil society representatives) or notable personalities or figures, missions may consider instituting specific measures to **protect individuals**. Such measures may include, for example, measures to prevent and address intimidation and reprisals for cooperation with the mission, advice and guidance on self-protection measures, documentation and reporting of cases and, in certain cases, the static deployment of armed units outside the individual's residence or the regular patrolling of its environs. Guidance on such measures must first be sought from UN Headquarters.

59. Conflict, violence and threats to civilians may cause **displacement of the population**, which further increases vulnerability to protection threats, including harassment, child and forced recruitment by armed groups, and sexual and gender-based violence. Vulnerable groups, including women and children, are often more affected by such threats. Peacekeeping missions should first seek to prevent displacement by addressing threats at their origin. However, should prevention activities fail to prevent displacement, missions may seek to ensure the protection of displaced populations during flight, in refugee or IDP camps or settlements, upon return to their places of origin or relocation.

60. Civilians at risk may seek the direct physical protection of a peacekeeping mission by

gathering outside or **seeking entry to UN premises**. In anticipation of such, all bases (however temporary) of UN peacekeeping missions must have contingency plans in place to provide physical protection in both scenarios in consultation with relevant partners including, as appropriate, the host state, the UNCT and humanitarian actors. In order of priority, physical protection should be provided:

(1) On non-UN premises, including in camps or settlements, or with host communities;
(2) In areas adjacent or close to existing mission premises identified for that purpose; or
(3) In extremis, including due to a lack of preparedness or where the mission has insufficient police or military capacity to secure a site outside the mission compound, within existing premises. A decision to provide physical protection within UN premises must be taken by the Head of Mission, in consultation, if time permits, with the USG DPO. This option shall be enabled for the minimum duration possible, normally for the extent of the threat.[19]

61. Civilians at risk may also request the assistance of the mission in facilitating their **transfer, evacuation or relocation** to more secure areas. In consultation with the UNCT and humanitarian actors, missions should assist the safe and dignified movement of civilians at risk within available resources, through the provision of route and area security or conducting escorts or extractions, where feasible. The physical relocation of civilians by the mission should be limited to in extremis situations and consulted with UN Headquarters, time permitting.

62. Each situation described above may pose risks to the civilians to be protected and/or UN personnel. All such risks must be identified, and measures taken to eliminate or mitigate them, including through advance planning, political engagement or the allocation of specific mission resources.

63. Where displaced civilians reside in camps, sites or settlements, these should be protected when at risk of attack. Maintaining the civilian and humanitarian character of such camps is essential, and protection risks for their inhabitants, such as the risk of child and forced recruitment, must be carefully addressed in accordance with humanitarian principles, in coordination with humanitarian actors and national law enforcement agencies, as appropriate. Where feasible, the mission should contribute to **creating the conditions for interim and durable solutions**, which can be achieved through informed and voluntary return, local integration, or settlement elsewhere in the country.

64. UN peacekeeping operations may be obliged to temporarily detain individuals in the course of carrying out their protection of civilians' mandates. Any such **detention**, in addition to complying with relevant international human rights laws, must be in accordance with the Standard Operating Procedure on the Handling of Detention in United Nations Peacekeeping Operations and Special Political Missions,[20] including safeguards relating to the detention of children, and relevant mission- specific policies or Standard Operating Procedures (SOPs) where they exist.

65. **UN Headquarters** shall contribute to Tier II activities by supporting and engaging with Troop and Police-Contributing Countries (T/PCCs) on the necessary capacities, resources, training, capabilities and mindsets of deployed troops and police in line with the Operational Readiness Assurance Framework.[21] Such efforts will include support to T/PCCs for screening and training on international humanitarian law and international human rights

[19] The decision to relocate IDPs shall lie with the mission leadership, acting in close consultation with the Humanitarian Country Team (HCT). Relocations must be voluntary.
[20] DPO/DPPA/DSS Standard Operating Procedure on the Handling of Detention in United Nations Peacekeeping Operations and Special Political Missions (2020.13).
[21] DPKO/DFS Policy on Operational Readiness Assurance and Performance Improvement (2015.16).

law, the operational requirements of the POC mandate and, where required, other relevant training. Headquarters shall also engage with Member States to ensure that there is political support for the activities of the mission.

b. Tier III: Establishing a Protective Environment

66. Tier III activities are frequently programmatic in nature and designed with committed resources for peacebuilding and conflict prevention/resolution objectives. Sometimes presented as separate mandated tasks under country-specific resolutions, activities under Tier III help create a protective environment for civilians, prevent the (re-)emergence of threats of physical violence, support the legitimacy of the host state and its capacity to protect civilians and support the (re-)establishment of the rule of law and criminal justice chain.

67. While Tier III activities can be undertaken at any time, they are particularly relevant in areas where conflict may be prevented, has subsided or when most imminent threats to civilians have decreased but protection gains need to be consolidated and future outbreaks of violence prevented. Tier III activities should therefore be prioritized as soon as conflict has subsided in a given area and conditions are conducive. They should also be undertaken with a view to ensure that adequate national and international capacities are present during and following the transition of peacekeeping missions, recognising that reconfigurations of UN presences may entail increased risks for civilians.

68. Activities that contribute to Tier III are generally planned and undertaken jointly with other partners, for example, as rule of law support activities within the ambit of the Global Focal Point for the Rule of Law (GFP) arrangement or alongside or in coordination with programmes by the UNCT. When designing and delivering these joint activities, mission components should examine the extent to which they contribute to the protection of civilians in the short-, medium-, and long-term, design them in a way that maximises the protective impact and identify and mitigate any risks to civilians associated with the activity.

69. Many Tier III activities are conducted in support of host state authorities and their responsibility to protect civilians. These can include **security sector reform** and **capacity building** in areas such as professionalism and integrity, administrative systems to support the delivery of state services, legal and policy frameworks, human rights, gender equality, accountability mechanisms, democratic governance, civilian oversight, engagement with stakeholders, weapons and ammunition management, and the maintenance of public order and safety, in adherence with the rule of law and international human rights law.

70. Establishing a protective environment also includes support to political processes, including the full, equal and meaningful participation of women, and ensuring that they are implemented in a way that furthers the long-term protection of civilians. It includes the disarmament, demobilization and reintegration of ex-combatants, with particular attention to children; the implementation of community violence reduction programmes; the promotion and protection of human rights and fundamental freedoms; the survey and clearance of explosive ordnance; the cessation of illicit exploitation of natural resources; the prevention of illicit proliferation and trafficking of small arms and light weapons and the countering of serious and transnational organized crime.

71. A key aspect of Tier III is strengthening of the **rule of law** through fighting impunity and strengthening criminal accountability for serious crimes, improving law enforcement and judicial processes, including investigations, victim and witness protection and programmes on reparations and rehabilitation of victims; restoring, extending and strengthening state authority in the criminal justice sector; improving prison conditions; and strengthening

security to reduce the risk of prison riots, mass escapes and the radicalization of detainees.[22]

72. At the local level, Tier III includes enhancing community protection capacities and specialist referral resources to meet the particular needs of the conflict affected population; building capacity of civil society, women's organizations, journalists and human rights defenders; contributing to creating the conditions conducive to voluntary, safe, dignified and sustainable solutions for refugees and internally displaced persons (IDPs); and economic development activities. It can also include rehabilitation of basic infrastructure through Quick Impact Projects (QIPs) and programmatic funding. Activities at the local level must be implemented in coordination and consultation with local communities in order to address the different protection needs of women, men, girls and boys and to ensure their sustainability and effectiveness as POC tools. Such activities should also be coordinated with relevant humanitarian and development actors in the mission area. Working together with the UNCT and humanitarian actors and depending on the specific mandate, the Mission can help establish security conditions conducive to the delivery of humanitarian assistance and the provision of host state services.

C.4 Implementing the Mandate

73. As a whole of mission-mandate, protection of civilians' analysis, planning and response is a shared responsibility within the mission under the authority and guidance of mission leadership. It requires structured and regular information-sharing and joint assessment, analysis and planning of activities and actions among civilian and uniformed components, as well as systematic engagement and coordination with UNCT and humanitarian actors. All missions with a POC mandate shall establish POC **planning and coordination fora** at the Mission HQ and Field Office/Sector levels. In addition to all relevant mission components, these fora should include, as appropriate, OCHA and the protection cluster. Where relevant, other representatives of the UNCT and other humanitarian actors may also be included.

74. All missions with a POC mandate shall also have **POC Advisers and POC focal points**[23] to support the mission leadership in POC analysis, planning and response and coordinate POC mandate implementation, including liaison and engagement with the UNCT and humanitarian protection actors, including the protection cluster. The post of the POC Adviser should be placed in the office of the Head of Mission to facilitate coordination across components as well as enable proximity to high-level and strategic decision-making.

75. Missions with a POC mandate shall develop a **POC strategy**. The strategy should set out the required strategic objectives; assess threats, risks and capacity; prioritize among threats; and define the mission approach, activities, roles and responsibilities for POC as well as coordination mechanisms both internally and with other actors. The mission's POC strategy must be informed by an age and gender-sensitive analysis and its core elements must be integrated into mission planning documents, including the mission concept, strategy/plan, component/section level planning documents, conflict analysis, results-based budget and Comprehensive Performance Assessment System (CPAS), as appropriate. In exceptional cases, Heads of Missions can decide to fully integrate the required elements of POC strategies (as above) into other mission planning documents (without having a

[22] DPKO/DFS Policy on Prison Support in United Nations Peace Operations (2015.11) and DPKO/DFS Policy on Justice Support in United Nations Peace Operations (2016.22).
[23] POC focal points are personnel from the mission sections/components that support the coordination and mainstreaming of POC into mandated activities. They are distinct from the Mission POC Focal Point, who carries out the responsibilities of a Senior POC Adviser when there is no dedicated Senior POC Adviser post in the mission.

standalone POC strategy) but this should not in any way dilute or reduce the prioritization of POC. Guidance from UN Headquarters should be sought before such a decision is made. The POC strategy should be reviewed annually following the mandate renewal and revised and updated accordingly as necessary. It should also be reviewed and revised in response to significant changes in the operating context.

76. As missions cannot protect all civilians at all times in all places, mission components must jointly identify the **priority threats** to address at the Mission HQ and Field Office/Sector levels, in close consultation with communities, humanitarians and other actors. This integrated assessment and prioritization, which shall be reflected in the mission POC strategy, will form the basis of the mission's strategic approach to POC and must be reviewed on an ongoing basis to guide the use of mission resources for POC. Missions shall prioritize threats to civilians that pose the highest level of risk to civilians. Prioritization of threats does not, however, equal a choice between addressing and not addressing them. Missions should consider complementary use of resources and actions across the three tiers to address various threats simultaneously. Planning for POC requires the collective contribution of all components (including uniformed, substantive and support components) to design and execute appropriate courses of action.

77. At the Field Office/Sector level, missions shall establish structured and regular **information-sharing** and **early warning** mechanisms to enable shared analysis and understanding as well to coordinate response. These mechanisms should involve community members, including women, taking into account their particular security threats and concerns. At the Mission HQ level, a forward-looking and data-driven **threat assessment** conducted by the mission POC coordination structure will be shared at least quarterly with senior leadership and UN Headquarters in order to ensure strategic coherence and enable dialogue as appropriate with Member States and the Security Council on major threats of violence against civilians.

78. At all times, peacekeeping operations with a POC mandate must show a high level of readiness for POC, including through the development and management of relevant contingency plans, in-mission guidance and SOPs, coordination mechanisms, information management, early warning and response tools and processes, strategic communication and training activities and other preparedness activities such as rehearsals and table-top exercises. These mechanisms will be set out in the mission POC strategy. Integrated Mission Training Centres should be utilized for conducting and supporting POC related training and exercises.

79. As required, the mission's POC activities shall be supported and prioritized by the Director/Chief of Mission Support, including enabling technology and ensuring appropriate logistical support to deployments of civilian and uniformed components in priority POC areas. Any mission asset can and should be mobilized to implement the POC mandate, as necessary.

D. PERFORMANCE AND ACCOUNTABILITY

80. In missions with a POC mandate, all relevant personnel, civilian and uniformed, and, in particular, senior leadership, including in UN Headquarters, have roles and responsibilities with respect to the implementation of the POC mandate. **For a full description of those roles and responsibilities, see Annex A to this policy.**

81. The Secretariat is institutionally - and the Secretary-General individually - accountable to

the political organs of the UN for the effective implementation of the Organization's mandates, including those of peacekeeping operations. This accountability cascades in the Organization so that **senior leaders at UN Headquarters and in mission are responsible** for both their own strategic actions and guidance and for ensuring that organizational and individual performance management systems are fully utilized to ensure that all relevant personnel in missions are accountable for their responsibilities for the delivery of POC mandates. Security Council resolution 2436 (2018) called for a comprehensive and integrated performance policy framework that identifies clear **standards of performance** for evaluating all UN civilian and uniformed personnel working in and supporting peacekeeping operations, including POC-mandated peacekeeping operations. The Integrated Peacekeeping Performance and Accountability Framework (IPPAF) (2022) captures the key peacekeeping policies and standards and explains the consequences of failures to meet them, the incentives and recognition for outstanding performance, as well as the related steps that are taken by all parties for different types of personnel and areas.[24]

82. In accordance with the requirement to prioritize resources for POC, the strategic and operational plans of peacekeeping missions with a POC mandate shall reflect clear objectives, expected accomplishments, performance indicators and actions with defined responsibilities, towards its implementation, in line with the mission's POC strategy. **POC objectives and indicators** shall be agreed by the mission components and reflected in CPAS and/or other strategic planning documents. These plans form the framework against which the mission will monitor, evaluate and account for its organizational performance in the implementation of its POC mandate. Dedicated mission- wide monitoring of POC mandate implementation shall be undertaken regularly.

83. In a peacekeeping operation, the **Head of Mission is accountable** to the Secretary-General, through the USG for Peace Operations, for the implementation of the mandate of the mission, including its POC mandate. In turn, the Head of Mission will delegate the relevant responsibility, authority and accountability. Ensuring accountability thus requires that the Head of Mission hold those reporting to him or her accountable for the proactive and effective performance of their responsibilities in the implementation of the POC mandate. **All relevant personnel** in missions with POC mandates shall include specific and achievable goals and/or actions related to their responsibility for the delivery of the POC mandate in their appropriate performance management document. These goals should be derived from the mission strategic and operational plans, including the mission POC strategy. Performance of personnel shall be monitored and evaluated accordingly.

84. Senior leaders in missions with POC mandates who have a Compact, including DSRSGs and Force Commanders at the ASG level, shall include a **strategic objective on POC in their Compact** aligned with mandate priorities, the mission's strategic objectives and their oversight role. Senior leaders, including Police Commissioners, Chiefs of Staff and Directors/Chiefs of Mission Support (D/CMS) in missions with POC mandates, shall include a **priority objective in their workplan** reflecting their specific responsibilities for the implementation of the POC mandate, aligned with the strategic objectives of the mission. Similar responsibilities, based on the mission strategic and operational plans, should be included in the workplans and performance appraisals of all other relevant staff, as appropriate.

85. Some personnel serving in UN peacekeeping operations with POC mandates, in particular **members of national military contingents or formed police units**, are not appraised through UN performance management systems. Nonetheless, they are expected to perform their responsibilities to implement the mandate of the mission effectively and with

[24] Integrated Peacekeeping Performance and Accountability Framework, para 9.

professionalism and integrity. The performance of Police Units, and Force Headquarters and subunits in implementing the POC mandate are measured in accordance with relevant SOPs. Police Commissioners and Force Commanders must ensure that subordinate units are ready, able and willing to implement the POC mandate. Performance issues related to the implementation of the POC mandate should be brought to the attention of UN Headquarters.

86. There should be continuous learning on the protection of civilians, including through **regular after-action reviews and lessons learned assessments**. Reflections on POC should be included in the end of assignment reports of senior management.

87. In situations where civilians have been killed or subject to physical violence (including sexual violence) in proximity to a UN base or in a situation where the mission knew or should have known about an imminent threat to civilians and failed to respond within their capabilities, **an inquiry or after-action review must be undertaken** as soon as possible to identify gaps in integrated mission information gathering, analysis, coordination and/or response. A full investigation followed by a board of inquiry shall be initiated in case of a POC-related contravention of the ROE or DUF. Where necessary, UN Headquarters will support an investigation or conduct an independent investigation. After any evaluation or investigation, remedial or corrective measures must be taken to avoid reoccurrence and/or improve the POC response of the mission.

88. In accordance with relevant UN rules, regulations and procedures, in the case of poor performance of duties or misconduct related to the implementation of the POC mandate, by civilian or uniformed personnel, the full range of relevant administrative processes, remedies and consequences will be applied. Any situation associated with POC that involves alleged misconduct, including contravention of the ROE or DUF, must be referred for a determination on the need for an additional and separate investigation into the alleged misconduct, in accordance with applicable procedures.

E. REFERENCES

Normative or Superior References

- United Nations Charter (1945)
- Security Council resolution on the Protection of Civilians: 1265 (1999), 1270 (1999), 1296 (2000), 1674 (2006), 1894 (2009), 2145 (2014), 2222 (2015), 2286 (2016), 2417 (2018), 2475 (2019), 2573 (2021)
- Security Council resolution on Children and Armed Conflict: 1261 (1999), 1314 (2000), 1379 (2001), 1460 (2003), 1539 (2004), 1612 (2005), 1882 (2009), 1998 (2011), 2068 (2012), 2143 (2014), 2225 (2015), 2427 (2018), and 2601 (2021)
- Security Council Resolutions on trafficking in persons in conflict situations: 2331 (2016) and 2388 (2017)
- Security Council Resolutions on Women, Peace and Security, in particular resolutions: 1325 (2000), 1820 (2008), 1888 (2009), 1889 (2009), 1960 (2010), 2106 (2013), 2122 (2013), 2242 (2015), and 2467 (2019).
- Reports of the Special Committee on Peacekeeping Operations and its Working Group: A/55/305 (2000), A/63/19 (2009), A/64/19 (2010), A/65/19 (2011), A/66/19 (2012), A/72/19 (2018)
- ST/SGB/1999/13 Observance by United Nations forces of international humanitarian law
- ST/SGB/2014/1 UN Staff Rules and Regulations
- ST/AI/2010/5 Performance Management and Development System

- ST/SGB/2017/2/Rev.1 Protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations
- ST/SGB/2003/13 Special measures for protection from sexual exploitation and sexual abuse
- A/67/775 Human rights due diligence policy on United Nations support to non-United Nations security forces,
- United Nations Guiding Principles on Internal Displacement (2001)
- United Nations Policy on Human Rights Screening of United Nations Personnel (2012)
- United Nations Policy on Integrated Assessment and Planning (2023)

Related policies, procedures or guidelines

- DPO Guidelines on Gender and Peacekeeping-Intelligence (2022.07)
- DPO UN Engagement Platoon Handbook (2022.11)
- DPO/DFS SOP on Assessment and Evaluation of Formed Police Unit Performance (2022.10)
- DPO Policy on Joint Mission Analysis Centres (JMAC) (2020.06)
- DPO/DPPA/DSS Standard Operation Procedure (SOP) on the Handling of Detention by UN Peacekeeping Operations and Special Political Missions (2020.13)
- DPO Guidelines on Joint Operations Centres (JOC) (2019.21)
- DPO Policy on Joint Operations Centres (JOC) 2019.20)
- DPO/DOS/DMSPC Integrated Peacekeeping Performance and Accountability Framework (IPPAF)
- DPO/DPPA/OHCHR/OSRSG-SVC Policy for United Nations Field Missions on Preventing and Responding to Conflict-Related Sexual Violence (2019.35)
- DPO Policy on Peacekeeping-Intelligence (2019.08)
- DPO Manual on Community-Oriented Policing in UN Peace Operations reference (2018.04)
- DPKO/DFS Joint Mission Analysis Centre Field Handbook (2018.03)
- DPKO/DFS Policy on Gender Responsive United Nations Peacekeeping Operations (2018.01)
- DPKO/DFS Guidelines on the role of United Nations police in protection of civilians (2017.12)
- DPKO/DFS/DPA Policy on Child Protection in United Nations Peace Operations (2017.11)
- DPKO/DFS Guidelines on the Use of Force by Military Components in United Nations Peacekeeping Operations (2016.24)
- DPKO/DFS Policy on Formed Police Units in United Nations Peacekeeping Operations (2016.10).
- DPKO/DFS Policy on Justice Support in United Nations Peace Operations (2016.22)
- DPKO/DFS SOP on Evaluation of Force Headquarters in Peacekeeping Operations (2016.16)
- DPKO/OMA SOP on Force and Sector Commander's Evaluation of Subordinate Military Entities in Peacekeeping Operations (2016.02)
- DPKO/DFS Policy on Operational Readiness Assurance and Performance Improvement (2015.16).
- DPKO/DFS Policy on Prison Support in United Nations Peace Operations (2015.11)
- DPKO/DFS Guidelines on Protection of Civilians: Implementing Guidelines for Military Components of United Nations Peacekeeping Missions (2015.02)
- OHCHR/DPKO/DPA/DFS Policy on Human Rights in UN Peacekeeping Operations and Political Missions (2011.20)

Other related references

- Reports of the Secretary-General on the protection of civilians in armed conflict
- Protecting Civilians in the Context of UN Peacekeeping Operations: Successes, Setbacks and Remaining Challenges - Victoria Holt, Glyn Taylor and Max Kelly DPKO/OCHA (2009)
- Inter-Agency Standing Committee Statement on the Centrality of Protection in Humanitarian Action (2013)
- Inter-Agency Standing Committee Policy on Protection in Humanitarian Action (2016)
- International Committee of the Red Cross, Professional Standards for Protection Work (2020)
- UN Strategic Results Framework on Women, Peace and Security 2011-2020 (2011)
- DPO Gender Equality and Women, Peace and Security Resource Package (2020)

F. MONITORING AND COMPLIANCE

89. Compliance with this policy will be monitored by the Protection of Civilians Team within the Policy and Best Practices Service (PBPS), a branch of the Division of Policy, Evaluation and Training (DPET) within DPO.

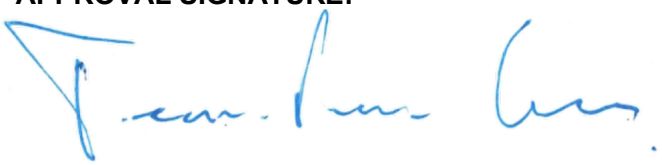
I. CONTACT

90. This policy was developed by the Protection of Civilians team within the Policy and Best Practices Service, a branch of the Division of Policy, Evaluation and Training within the Department of Peace Operations (pbps-poc-unhq@un.org). It was developed through close consultation within DPO as well as with DOS, UNOCC, OCHA, OHCHR, UNICEF, UNHCR, and OLA policy focal points.

J. HISTORY

91. In 1999, the United Nations Security Council passed its first resolution on the protection of civilians (S/RES/1265, 1999) and, for the first time, gave a peacekeeping operation the explicit mandate to take necessary action to protect civilians under threat of physical violence (S/RES/1270, 1999 on the United Nations Mission in Sierra Leone, UNAMSIL). Requests from the Special Committee on Peacekeeping Operations (A/64/19, 2010) and the Security Council (S/RES/1894, 2009) recognized the need for operational guidance to inform the implementation of POC mandates. This led to the development of the Operational Concept on the Protection of Civilians in United Nations Peacekeeping Operations in 2010 and the first DPKO/DFS Policy on the Protection of Civilians in United Nations Peacekeeping in 2015. These documents drew on operational experience and have formed the core of doctrine and guidance on the protection of civilians in UN peacekeeping. The policy was updated in 2019 to reflect the recommendations of the General Assembly Special Committee on Peacekeeping Operations and broader commentaries and recommendations on UN peacekeeping, such as the High-Level Independent Panel on Peace Operations (S/2015/446), the Report on Improving Security of United Nations Peacekeepers (2017) and the Declaration of Shared Commitments on Action for Peacekeeping (2018).This policy supersedes the 2019 DPO Policy on the Protection of Civilians in United Nations Peacekeeping.

APPROVAL SIGNATURE:



DATE OF APPROVAL:

17 April 2023

Annex A: Roles and Responsibilities

1. Overarching responsibilities for all senior leaders in implementing POC mandates

a. To take all necessary and available actions, to use all necessary and available means and to exercise his or her full authority to ensure proactive, coordinated, efficient and effective implementation of POC mandates;
b. To ensure that workplans for substantive and relevant support sections and field offices have clearly defined POC objectives and tasks based on the strategic plans of the mission, including the mission's POC strategy;
c. To issue clear, timely and relevant guidance and instructions to guide the implementation of the POC mandate by the different sections, field offices, and/or units, including when the operational environment presents new POC challenges;
d. To hold those reporting to him or her accountable for the performance of their respective POC responsibilities by using applicable performance accountability frameworks and, where appropriate, including POC responsibilities in job terms of reference and workplans;
e. To ensure sufficient, practical and context-specific training and exercises on POC for all personnel;
f. To ensure that all reports of POC underperformance are reported and investigated in accordance with applicable procedures;
g. To ensure compliance with the Human Rights due diligence policy (HRDDP) and to put in place processes and create the necessary conditions for the implementation of this policy;
h. To promote effective and appropriate coordination and complementarity with relevant humanitarian and development actors on POC in line with respective mandates and principles;
i. To ensure that POC mandate implementation is informed by a gender analysis and age considerations and clearly communicate to those reporting to her or him the requirement for the integration of these considerations in POC strategies, objectives, tasks, and activities.

2. Core responsibilities of the Under-Secretary-General for Peace Operations in implementing POC mandates

a. To ensure, in collaboration with the USG/DOS, that appointed senior leaders fully understand POC mandates through briefings and mandatory pre-deployment and continuous training;
b. To ensure, in collaboration with the USG/DOS and OHCHR, that adequate pre-deployment and induction training material on POC, UN standards of conduct, international humanitarian law and international human rights law is made available to all relevant UN personnel;
c. To support Heads of Missions' efforts at political outreach and engagement relating to the POC mandate and host state responsibility to protect civilians, including through strategic-level engagement with the Security Council, T/PCCs, host states, regional organizations and other Member States with political leverage to prevent and halt threats to civilians;
d. To ensure, with field missions, the appropriate prioritization of POC in relevant directives, mission concepts, police and force concepts of operations (CONOPS), POC strategies, Comprehensive Performance Assessment System (CPAS), Results-based budgeting frameworks (RBB), mission-specific rules of engagement (ROE) and police directives on use of force (DUF), statement of unit requirements (SUR), memoranda of understanding with Troop and Police-Contributing countries (T/PCCs) and other mission documents**,** in consultation with OLA, OHCHR, DOS and other relevant protection actors;
e. To ensure, with the USG/DOS and field missions, that all components are operationally

ready, able and willing to perform their responsibilities to implement POC mandates and to work to address any gaps, including through regular reviews of POC performance; periodic review of cross-cutting POC training requirements and provision of pre-deployment and in-mission training, scenario-based exercises, simulations/rehearsals and table-top exercises;

f. To ensure provision of technical advice on specific POC concerns to missions and sharing best practices and tools across missions;
g. To provide overall leadership and ensuring accountability for the integration of gender considerations in all POC processes and activities;
h. To ensure, in collaboration with the USG/DOS, the conduct of assessments into incidents of alleged failure to protect civilians and to effectively address the relevant findings and recommendations of any Boards of Inquiry or other investigations in relation to POC-related incidents, including through communication and follow-up with relevant T/PCCs**.**

3. Core POC responsibilities for civilian senior mission leadership: Heads of Mission (HOMs)/Special Representatives of the Secretary-General (SRSGs), Deputy Heads of Mission, including Deputy SRSGs (DSRSGs), and Chiefs of Staff

The SRSG/HOM retains the ultimate responsibility for the implementation of the POC mandate by the mission. She/he is responsible for setting **the overall vision, strategy and operational direction of a mission and making informed decisions on resource allocation in the face of competing priorities. She/he should be supported by an established and effective mission resource allocation structure that should meet on a regular basis to review and prioritize mandate implementation activities and to allocate/re-allocate, monitor and prioritize/re-reprioritize available resources as needed.**

While retaining this responsibility, in terms of the role of the civilian component, the SRSG/HOM can delegate certain tasks, including to his or her deputies, the chief of staff, chiefs of section, **Heads of Field Offices and the Director/Chief of Mission Support. Where relevant, a DSRSG/RC/HC will help ensure strategic coherence and coordination of the protection approaches between the mission and humanitarian and development partners.**

Core responsibilities of civilian senior leadership for the implementation of POC mandates include:

- Strategic

  a. To ensure that POC is prioritized in key mission documents and plans including the Mission plan, CPAS, CONOPS, result-based budgeting (RBB) and component workplans;
  b. To ensure that the Mission has a mission-wide POC strategy, that roles and responsibilities for implementing POC mandates across mission components are clearly articulated and that component specific workplans are based on this POC strategy;
  c. To ensure that the performance assessment frameworks of heads of civilian components and sections and of sector commanders explicitly include responsibilities, objectives and indicators for delivering the mission's POC strategy.

- Political/substantive

  a. To ensure that the mission's political strategy reflects and complements its POC

mandate and that the mission's good offices are leveraged to prevent and mitigate threats to civilians;
b. To emphasize the host government's primary responsibility to protect civilians and, where the mission has a mandate to do so, to ensure that assistance and support are provided to the host government to strengthen its capacity to do so;
c. To engage politically to promote protection and prevent threats to civilians, including through engagement with national and regional actors, non-state armed groups, and communities, including women's organizations.

- Operational

a. To ensure that timely decision and action are taken to protect civilians and to prevent threats to civilians;
b. To ensure an overall framework for coordination and cooperation between police, military, substantive and support mission components, including for the joint planning and integrated execution of operations;
c. To ensure regular training and exercises, including annual simulations, scenario-based and table top exercises and rehearsals take place and contingency plans are developed;
d. To ensure the establishment and functioning of integrated mission threat assessments and early warning and response mechanisms;
e. To ensure that a gender analysis is used to inform early warning analysis, risk and threat assessments as well as strategic and operational planning and interventions;
f. To ensure that allegations of violations of international humanitarian law and international human rights law, including CRSV and grave violations against children, are documented and that they inform early warning analysis, risk and threat assessments as well as strategic and operational planning;

- Resources/mission support

a. To ensure that resource priorities for POC are identified and included in missions' budgetary processes;
b. To ensure regular engagement with other senior mission leaders and UN Headquarters on any identified resource gaps specific to POC;
c. To ensure that POC is prioritized in mission support concepts and plans.

4. **Core POC Responsibilities of the Director/Chief of Mission Support**
a. To prioritize POC in decisions regarding the allocation, deployment and use of mission assets and resources within the operational exigencies;
b. To respond to POC-related requests as a priority, understanding the unpredictability and urgent nature of the issue;
c. To participate, as necessary, in coordination mechanisms related to the implementation of the mission POC strategy;
d. To ensure that the mission's capacities for implementing the POC mandate are adequately resourced, including the deployment of uniformed and/or civilian components to remote locations for temporary or extended periods of time.

5. **Core POC responsibilities of the Force Commander**
a. To develop and implement a strategy and operational plans for the military component to fulfil its responsibilities for implementing the POC mandate, in line with the mission plans and POC strategy, and in consultation with civilian and police components, including POC coordination mechanisms;
b. To ensure that Sector, company and unit commanders civilian and police components,

under the coordinating authority of Heads of Field Offices, where applicable;

c. To issue, disseminate and ensure compliance with all necessary orders, directives and guidance to effectively implement the POC mandate, and to ensure that Sector Commanders have developed POC-related plans and issued necessary orders;
d. To ensure prioritization of resources for POC-related tasks;
e. To ensure and periodically review the military component's operational readiness and preparedness for POC and to identify and address any gaps in capacity, training and resources;
f. To ensure, along with the Police Commissioner and civilian sections, the development of an overall framework for coordination, planning and cooperation between the Force, UN Police (including formed police units) and civilian components, including as participants in POC coordination structures
g. To ensure that training exercises, simulations, scenario-based and table top exercises and rehearsals on POC take place at least once per year, with civilian participation where possible, and that contingency plans are developed, reviewed and revised;
h. To ensure that all personnel under her/his command have a common understanding of the POC mandate and the actions that should be taken to protect civilians, including through specific in-mission training, and that they are operationally ready, able and willing to perform their POC responsibilities and to identify and seek to address any gaps in capacity, training and resources;
i. To ensure that threat assessments, situational awareness and operational planning on POC are informed by a gender analysis that prioritizes regular engagement between the Force and local communities, including with civil society groups such as youth groups and women's groups, in close coordination with relevant civilian components, while ensuring that such engagement does not expose civilians to harm;
j. To ensure follow up of cases of human rights violations by national security forces to advocate for accountability, in close coordination with human rights components and Senior Child Protection and Women's Protection Advisers;
k. To provide information and early warning to mission coordination mechanisms on threats to civilians and information on allegations of violations of international humanitarian law and international human rights law to the human rights component and to the specialized protection capacities (i.e. child protection and CRSV);
l. To order the conduct of proactive preventive measures as well as response measures to early warning and alerts, including as a response to recommendations arising from integrated coordination mechanisms;
m. To ensure that POC Advisers are included in military planning processes both to ensure that military operations are planned to effectively protect civilians and to contribute to CHM measures;
n. To ensure that the military is systematically preventing, tracking, mitigating and addressing harm to civilians resulting from the mission's own military operations, including those conducted jointly with host state forces;
o. To oversee that the coordination of the military's participation in the various mechanisms for the implementation of the POC mandate is effectively carried out by the Deputy Force Chief of Staff Operations (DFCOS Ops) at the Force headquarters level and by the Sector/Battalion Chief of Staff at the Sector/Unit level, unless specifically otherwise designated;
p. To ensure periodic evaluations of subordinate units in line with the DPKO/DFS standard operating procedure (SOP) on Force and Sector Commanders' evaluation of subordinate military entities in peacekeeping operations.

6. **Core POC responsibilities of the Police Commissioner**

a. To develop and implement a strategy and operational plans for the police component to fulfil its responsibilities for implementing the POC mandate, in line with the mission plans and POC strategy and in consultation with the military and civilian components,

including POC coordination mechanisms;

b. To ensure that FPU commanders understand the integrated approach to POC and work in close coordination with military and civilian components, under the coordinating authority of Heads of Field Offices, where applicable;
c. To issue, disseminate and ensure compliance with all necessary orders, directives, and guidance to effectively implement the POC mandate;
d. To ensure prioritization of resources for POC-related tasks;
e. To ensure and periodically review the police component's operational readiness and preparedness for POC and to identify and address any gaps in capacity, training and resources;
f. To ensure, along with the Force Commander and civilian sections, the development of an overall framework for coordination, planning and cooperation between UN Police (including formed police units), the Force and civilian components including as participants in POC coordination structures;
g. To ensure that training exercises, simulations, scenario-based and table top exercises and rehearsals on POC take place at least once per year, with civilian participation where possible, and that contingency plans are developed, reviewed and revised;
h. To ensure that all personnel under her/his command have a common understanding of the POC mandate and the actions that should be taken to protect civilians, including through specific in-mission training, and that they are operationally ready, able and willing to perform their POC responsibilities and to identify and seek to address any gaps in capacity, training and resources;
i. To ensure that threat assessments, situational awareness and operational planning on POC are informed by a gender analysis that prioritizes regular engagement between UN Police and local communities, including with civil society groups such as youth groups and women's groups, in close coordination with relevant civilian components, while ensuring that such engagement does not expose civilians to harm;
j. To ensure that UN Police pursue a community-oriented and peacekeeping-intelligence-led approach to POC, as per relevant policy and guidance, in line with the "do no harm" principle;
k. To ensure follow up of cases of human rights violations by host state police elements to advocate for accountability, in close coordination with human rights components and Senior Child Protection and Women's Protection Advisers;
l. To provide information and early warning of threats to civilians to mission coordination mechanisms and information on allegations of violations of international humanitarian law and international human rights law to the human rights component and to the specialized protection capacities (i.e. child protection and CRSV);
m. To order the conduct of proactive preventive measures as well as response measures to early warning and alerts, including as a response to recommendations arising from integrated coordination mechanisms;
n. To ensure that POC Advisers are included in police planning processes both to ensure that police operations are planned to effectively protect civilians and to contribute to CHM measures;
o. To ensure that the police are systematically preventing, tracking, mitigating and addressing harm to civilians resulting from the mission's own police operations, including those conducted jointly with host state forces;
p. To mainstream POC, international humanitarian law and international human rights law into mentoring, monitoring, advising, capacity building and operational support and any other relevant activities conducted with host state police counterparts;
q. To ensure periodic evaluations of police units in line with the DPO/DFS standard operating procedure (SOP) on Assessment and Evaluation of Formed Police Unit Performance;
r. To oversee that the coordination of the police's participation in the various mechanisms for the implementation of the POC mandate is effectively carried out at the

headquarters level and the at the field/sector level through appropriate delegation.

7. Core responsibilities of POC Advisers

In missions that have a POC Adviser[25], the Adviser's function is to provide advice, support and guidance on the implementation of the POC mandate; facilitate the development, and implementation of the mission POC strategy and related guidance for the protection of civilians by all components; and coordinate all POC efforts undertaken by mission civilian, police and military components, in liaison with other protection actors. This includes responsibilities:

a. To ensure overall compliance of the Mission's POC efforts with relevant UN or DPO and DOS policies and guidelines;
b. To ensure that senior mission leadership is regularly updated on current and emerging threats against civilians and response options to inform timely decision-making;
c. To ensure that a comprehensive and integrated approach is adopted on all POC matters in order to effectively leverage resources within the Mission for POC objectives;
d. To provide support to relevant components and sections, including police and military, at Mission HQ and Field Office level to ensure that protection of civilians concerns are adequately reflected in the planning and execution of mission operations;
e. To ensure close coordination and strengthening of cooperation with relevant partners including development and humanitarian actors in POC analysis, implementation of the strategy and local protection plans;
f. To ensure that adequate POC analysis is included in relevant mission planning, performance and reporting systems;
g. To ensure that POC guidance, analysis, reporting, and briefings are informed by gender analysis;
h. To coordinate the establishment/monitoring and implementation of POC coordination forums;
i. To work with the relevant staff in the mission to conduct and support after action reviews and lessons learned studies on the mission's POC efforts;
j. To support the assessment of training needs on protection of civilians issues within the mission, as well as the design and delivery of tailored POC modules with relevant mission components, in close consultation with the Integrated Mission Training Centre.

8. Core POC responsibilities of Heads of Field Offices and civilian components

In line with the mission plan and POC strategy, field offices are expected to develop strategic, operational and contingency plans for integrated activities in support of the implementation of the POC mandate. These POC responsibilities and objectives must be reflected in the terms of reference, individual workplans and evaluations of Heads of Field Offices and heads of civilian mission components.

Heads of Field Offices ensure overall coherence of POC mandate implementation in their area of responsibility (AoR), and coordination among civilian sections and between the civilian, police and military components.

Recognizing that the specific responsibilities of mission components vary according to the particular mandate and structure of a peacekeeping mission, this section sets out illustrative responsibilities of components who play a particular role in implementing the POC mandate. These can be adjusted in accordance with mission-specific POC strategies.

[25] In missions without a Senior POC Adviser, many of these functions will be carried out by a POC mission focal point

9. Core POC responsibilities of Heads of Field Offices

a. To exercise their coordinating authority to ensure an integrated approach to POC at the field office level;
b. To provide strategic guidance to field offices on the implementation of the POC mandate in line with the mission plan and POC strategy in the AoR of the field office and based on the particular threats in the AoR, in consultation with the POC Adviser;
c. To emphasize the host government's primary responsibility to protect and, where the mission has a mandate to do so, to coordinate field office assistance and support to the host government in order to strengthen its capacity to do so;
d. To develop a field office-specific strategy and workplan on the implementation of the POC mandate in the AoR, including through engagement with political actors, armed actors and communities;
e. To ensure coordination between relevant components (civilian, police and military) of information-sharing, analysis and response to threats through POC coordination mechanisms at field office level;
f. To ensure that field office level threat analysis, early warning and response mechanisms are in place and to escalate threats and situations to mission HQ when necessary;
g. To ensure outreach to relevant humanitarian and development actors to promote effective and appropriate coordination and complementarity on POC;
h. To ensure that any POC related guidance, strategies, information, analysis, or outreach has been adequately informed by a gender analysis.

10. Core POC responsibilities of Political Affairs Components

a. To ensure the development, regular update and implementation of a mission-specific political strategy that includes political activities and public messaging for POC;
b. To promote political solutions and prioritize POC in mission political strategy/messaging;
c. To engage perpetrators or potential perpetrators of violence against civilians in structured and regular dialogue;
d. To analyse and share information on political trends and emerging tensions to inform early warning, risk and threat assessments, contingency and operational planning;
e. To use good offices to promote the host government's primary responsibility to protect civilians;
f. To advise, support and implement inclusive political dialogue activities for POC in coordination with POC coordination mechanisms.

11. Core POC responsibilities of Human Rights Components

a. To support POC data-driven analysis, planning and decision-making through documentation, investigation and reporting on allegations of violations of international humanitarian law and international human rights law, where applicable, including sexual violence and violations against children, in particular where there are no dedicated child protection and/or CRSV mission capacities;
b. To share relevant information and trend analysis with mission coordination and analysis bodies, including POC coordination mechanisms, to inform early warning, prevention, risk and threat assessments, as well as planning at the Mission HQ and Field Office levels, with a view to mitigate the risk of violence against civilians;
c. To engage with parties to conflicts (both State and non-State actors) to promote the upholding of their obligations under international humanitarian law and international human rights law, raise allegations of violations and abuses in particular of the rights to life and physical integrity, and seek corrective action, including accountability, with a view to build and maintain a protective environment in the long-term;
d. In high-risks contexts, to consider establishing a protection programme for individuals who engage with the mission, including human rights defenders, victims and witnesses

of human rights violations, community workers, women's organizations, journalists, lawyers and other civil society representatives, in consultation with UN Headquarters. Develop concrete measures and tools to prevent and address intimidation and reprisals as well as to ensure adequate documentation and internal reporting of incidents;

e. To strengthen, in line with the mission's mandate, the capacity of host state authorities to protect civilians, including support to security forces (defence, police and gendarmerie) to comply with international humanitarian law and international human rights law, to judiciary personnel to perform their functions, and to lawmakers to support institution-building/reform and legislative frameworks;
f. To inform the SRSG and High Commissioner for Human Rights of any allegations of violations of international humanitarian law or international human rights law by UN personnel;
g. To provide secretariat functions for the Human Rights Due Diligence Policy (HRDDP) Task Force and support the development of risk-assessments.

12. Core POC responsibilities of Civil Affairs Components

a. To ensure regular engagement with local communities and local authorities for early warning and conflict resolution activities, particularly with civil society groups such as youth groups or women's groups, in close coordination with relevant civilian, police and military components;
b. To support the establishment and development of community alert networks (CANs) and community protection plans (CPPs) to enhance early warning and conflict prevention;
c. To ensure that Community Liaison Assistants (CLAs), where they are deployed, have the necessary training and resources to effectively support civilian and uniformed components in the implementation of POC activities;
d. To gather, analyse and share information on root causes of conflict, local dynamics and interests of various actors to inform early warning, risk and threat assessments as well as contingency and operational planning;
e. To support peace and reconciliation initiatives to mitigate the risk of escalation of violent conflicts, reduce threats to civilian populations and promote social cohesion;
f. To sensitize local and national authorities, civil society actors, community leaders and international partners on local conflict patterns as well as actions required to address root causes, overcome obstacles and reach agreements;
g. To support conflict management roles of local authorities by fostering inclusive dialogues and building trust between local authorities and their constituents;
h. To support infrastructure development to mitigate conflicts caused by competition over natural resources;
i. To build confidence of local communities on UN police and military activities and POC mandate implementation.

13. Core POC responsibilities of JMACs

a. To monitor, collect and evaluate information relevant to the implementation of the POC mandate, including information from a variety of sources;
b. To generate timely integrated analysis products, including trend / incident analyses; threat assessments; forward-looking assessments; scenarios; profiling; and risk mapping. This includes (but is not limited to) analysis of conflict dynamics and trends, as well as possible or emerging threats to the civilian population;
c. To ensure that analysis and forecasting incorporates a gender analysis and that reporting consistently includes data disaggregated by sex and age;
d. To ensure that the peacekeeping-intelligence cycle supports POC outcomes, including through the incorporation of POC-related information requirements in Mission

Information Acquisition Plans;

e. To share information on conflict trends and emerging threats to civilian populations with relevant mission components, POC coordination mechanisms and non-mission protection actors, as appropriate, as directed by senior leadership and in accordance with the JMAC policy, to inform early warning, risk and threat assessments;
f. To provide senior mission leadership with an understanding of issues and trends and their potential implications for POC mandate implementation;
g. To ensure an appropriate level of confidentiality in the acquisition, handling and sharing of information (including source protection), and the appropriate dissemination of final products;
h. To participate in and where possible provide forward-looking analysis to regular coordination forums on protection, such as protection working groups (PWGs), Senior Management Groups on Protection (SMG-Ps), and other similar meetings.

14. Core POC responsibilities of JOCs

a. To consolidate, maintain and disseminate, as appropriate and in a timely manner, information on threats to civilians in the mission area, including providing timely operational information to mission POC coordination and early warning fora and mechanisms;
b. To ensure that situational awareness is informed by a gender analysis and that reporting consistently includes data disaggregated by sex and age;
c. To act as a crisis management centre and support an integrated mission response in the event of a crisis involving the protection of civilians;
d. To coordinate and facilitate joint operational planning and execution to protect civilians, in missions where the JOC serves a coordination function for cross-component operations;
e. To ensure timely operational reports to senior mission managers and UNHQ on situations where civilians are under threat, including through ad hoc issuance of Special Incident (“Flash”) Reports and inclusion in integrated Situation Reports.

15. Core POC responsibilities of Security Sector Reform Components

a. To engage in regular analysis of the threats to civilians deriving from the weaknesses of the national security governance system and from specific security institutions, including the defence sector;
b. To advise mission leadership and coordinate engagement with national authorities and international partners, where relevant, to ensure that the development of national SSR policies is consistent with the overarching objective of the host state’s responsibility to protect civilians, and to ensure that international support to national security forces prioritizes POC needs and objectives;
c. To advise and implement approaches, as appropriate, to reduce risks to civilians stemming from national security forces, including through support to relevant accountability mechanisms and confidence building measures;
d. To provide advice and coordinate with the mission military component in the planning and review of joint operations with national security forces to ensure that these are aligned with the broader objectives of SSR and contribute to strengthening the commitment and capacity of the host state to protect civilians.

16. Core POC responsibilities of Disarmament, Demobilization and Reintegration Components

a. To share relevant information and analysis on non-state armed groups with mission coordination and analysis bodies to contribute to early warning, risk and threat assessments with a view to mitigate the risk of violence against civilians;
b. To advocate for the protection of civilians in all engagements with armed forces and groups;

c. To support the implementation of a DDR programme as part of a peace process, taking into consideration protection of civilians;
d. To ensure that the implementation of a DDR programme is informed by a gender analysis in order to effectively support the protection of civilians;
e. To prioritize or sequence the implementation of DDR and Community Violence Reduction (CVR) activities in such a way as to address first the areas where the threat to civilians is the most acute ("hotspots");
f. To implement CVR programmes and, where possible, provide alternative livelihoods to members of armed groups and communities, including youth at risk of being recruited into armed groups, to prevent them from engaging in violence;
g. To bolster the capacity and social cohesion efforts of communities of return to integrate demobilized combatants.

17. Core POC responsibilities of Justice and/or Corrections Components

a. To engage in regular analysis on the functioning of rule of law institutions and rule of law-related dynamics and developments that are likely to have wider political and security implications;
b. To assess the functioning of the criminal justice sector and identify the capacity and willingness of these actors to respond to serious crimes committed against civilians, including through the investigation and prosecution of crimes and the arrest and detention of suspects;
c. To support the restoration of basic rule of law services in priority areas where the absence of functioning rule of law institutions results in increasing threats of violence against civilians;
d. Without prejudice to state sovereignty and in complementarity with ordinary justice mechanisms, to engage with state and/or local institutions to support community-based mechanisms that aim to peacefully settle intercommunal disputes;
e. To ensure the safe, humane and secure detention of those apprehended by the mission for serious crimes perpetrated against civilians and other high-risk detainees;
f. To engage with domestic institutions to strengthen judicial oversight;
g. To assist in/support the investigation and prosecution of perpetrators of conflict-related serious crimes committed against civilians, and support the safe, secure and humane detention of such perpetrators.

18. Core POC responsibilities of Mine Action Components

a. To assess, analyse and share information, including with POC coordination mechanisms, on explosive ordnance contamination to highlight critical risks to civilians that take into consideration gendered and age-related risks;
b. To share relevant information gathered through regular engagement with local communities while carrying out survey and/or risk education;
c. To recommend potential mine action projects that could support protection of civilians and/or confidence building measures to reinforce humanitarian and political priorities;
d. To manage the delivery of risk education, clearance of explosive ordnance and survivor assistance;
e. To engage with state and/or local institutions to build capacity to mitigate the threat posed by explosive ordnance;
f. To support weapons and ammunition management efforts, where relevant;
g. To support the implementation of a mine action programme as part of a peace process, where relevant.

19. Core POC responsibilities of Strategic Communications and Public Information Components

a. To include key messages on the protection of civilians in strategic mission documents and plans on public information;

b. To develop and disseminate messaging that explains the mission's role in protecting civilians and manages expectations;
c. To use public information tools to encourage respect for international humanitarian law and international human rights law as well as peace and reconciliation and discourage attacks on civilians;
d. To use strategic communications tools to influence behaviors, shape perceptions, and promote narratives contributing to POC, including through proactive efforts to counter disinformation and misinformation and hate speech;
e. To gather and share relevant information with mission POC coordination forums, for example on the use of disinformation, misinformation and hate speech.

20. Core POC responsibilities of Strategic Planning Units

a. To integrate POC into strategic and operational mission planning processes;
b. To support whole-of-mission planning and coordination of mission-mandated activities, including through collaboration among POC advisers, police, military and other mission personnel;
c. To provide advice, as required, for the development or revision of mission POC strategies, in order to ensure alignment with wider strategic documents and plans;
d. To ensure that POC priorities and activities are adequately reflected in strategic planning documents, including the mission concept, strategy/plan, conflict analysis, results-based budget and CPAS, as appropriate, and that these are aligned with the mission's POC strategy;
e. To work with colleagues to ensure the integration of POC indicators in CPAS, and to help monitor and report on mission impact in areas of POC;
f. In the context of transitions, to ensure that POC is included in planning processes and strategies. Support the identification of clear, realistic and measurable benchmarks, informed by the host state's capacity to protect civilians, and in coordination with UN, international, national and local stakeholders.

21. Core POC responsibilities of Legal Advisers

a. To provide advice on the applicable legal framework(s) and consequent implications for the implementation of the POC mandate and the planning and conduct of operations;
b. To advise and support on the interpretation of the mission mandate, ROE, DUF, SOFA and other key documents that guide the implementation of the POC mandate;
c. To advise and assist in the drafting of mission-specific SOPs and other key documents that guide the mission implementation of the POC mandate;
d. To provide training to mission uniformed personnel on key POC, international humanitarian law and international human rights law compliance and provisions.

22. Core POC responsibilities of Child Protection Advisers

In missions that have a Child Protection Adviser, her/his function is to implement the child protection mandate of UN peace operations, including by advising and facilitating the mainstreaming of child protection into the broader protection efforts of the mission. In support of POC mandate implementation, she/he will have the following responsibilities:

a. To advise senior mission leadership, including SRSG/HOMs, DSRSGs, Force Commanders and Police Commissioners, and police and military focal points, on child protection issues and relevant actions to be taken;
b. To monitor and share information, including with POC coordination mechanisms, on protection threats faced by children and grave violations against children in situations of armed conflict;
c. To engage in dialogue with parties to the conflict on the signing and implementation of Security Council mandated action plans to halt and prevent grave violations against children;

d. To support the release and reintegration of children associated with armed forces and armed groups, as part of action plan dialogue, peace negotiations and peace agreements, disarmament, demobilization and reintegration (DDR) programmes or other relevant processes;
e. To advocate for protective, preventive and remedial measures in relation to other violations of children's rights identified as key child protection concerns by the mission (i.e. security detention of children and use of schools for military purposes);
f. To advocate with host state governments, diplomatic and donor communities, regional and international organizations, including through the release of public advocacy reports on children affected by armed conflict;
g. To provide training, guidance and expertise on child protection issues, tools and methodologies, in close cooperation with the Integrated Mission Training Centre;
h. To contribute to the development of the mission's POC strategy and other plans related to its implementation.

23. Core POC responsibilities of Women's Protection Advisers

In missions that have a Women's Protection Adviser, her/his function is to implement the CRSV mandate of UN peace operations, including by advising and facilitating the mainstreaming of CRSV concerns into the broader protection efforts of the mission. In support of POC mandate implementation, she/he will have the following responsibilities:

a. To advise senior mission leadership, including SRSG/HOMs, Deputy SRSGs, Force Commanders and Heads of United Nations Police (UNPOL) components, and police and military focal points on the implementation of the CRSV mandate and on relevant CRSV issues and actions to be taken;
b. To ensure the integration of information and analysis of specific CRSV threats faced by women, men, girls and boys into POC analysis and decision-making for timely and effective preventive actions by the Mission;
c. To provide advice on POC activities and courses of action to ensure that they take into account risks and threats of CRSV;
d. To monitor and analyse CRSV concerns with a view to provide up-to-date CRSV risk analysis and early warning for use by the mission in protecting civilians;
e. To engage in dialogue with parties to conflict on the signing and implementation of commitments to halt and prevent CRSV, in line with Security Council resolutions, supporting parties to conflict in the implementation of commitments to address CRSV, and regularly reviewing progress with parties to conflict and the UN system;
f. To advocate for timely, dignified and quality assistance for CRSV survivors;
g. To provide training, guidance and expertise on CRSV prevention and response through POC mechanisms, in close cooperation with the Integrated Mission Training Centre;
h. To contribute to the development of the mission's POC strategy and other plans related to its implementation.

24. Core POC responsibilities of Gender Advisers

In missions that have a Gender Adviser, her/his function is to implement the gender equality and Women, Peace and Security (WPS) agenda, including by advising and facilitating the mainstreaming of gender and WPS concerns into the broader protection efforts of the mission. In support of POC mandate implementation, he/she will have the following responsibilities:

a. To advise senior mission leadership, including SRSG/HOMs, Deputy SRSGs, Force Commanders, and Heads of the United Nations Police (UNPOL) components, and police and military focal points on the integration of gender and WPS considerations into all Mission POC mechanisms, processes and activities;
b. To provide strategic advice and technical support on the implementation of gender analysis, including a gender-responsive conflict analysis, and the meaningful

participation of women, across the three tiers of POC action;

c. To ensure the integration of information and analysis of specific gender-based threats and gender-responsive early warning indicators into POC analysis, planning, reporting and decision-making;
d. To provide technical advice and support that ensures mission POC activities and courses of action are gender-responsive and integrate WPS considerations;
e. To support training efforts, provide guidance and expertise on gender equality and WPS, including how to conduct and integrate a gender analysis in POC activities, in close cooperation with the POC Adviser and Integrated Mission Training Centre;
f. To provide strategic advice and technical support to the POC Adviser on gender-responsive POC and contribute to the development of a gender-responsive POC strategy and related implementation plans;
g. To contribute to the development of the mission's POC strategy and other plans related to its implementation.

Appendix E

AU Policy on Protection of Civilians in Peace Support Operations 2023

AFRICAN UNION POLICY ON PROTECTION OF CIVILIANS IN PEACE SUPPORT OPERATIONS

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I. ACRONYMS AND ABBREVIATIONS

APSA	African Peace and Security Architecture
AU	African Union
AUC	African Union Commission
C&D	Conduct and Discipline
CRSV	Conflict Related Sexual Violence
HoM	Head of Mission
HAS	Host State Authorities
IHL	International Humanitarian Law
IHRL	International Human Rights Law
MoU	Memorandum of Understanding
NGO	Non-Governmental Organisation
PAPS	Political Affairs, Peace and Security
PCC	Police Contributing Country
PoC	Protection of Civilians
PSC	Peace and Security Council
PSOD	Peace Support Operations Division
PSO	Peace Support Operations
RECs	Regional Economic Communities
RMs	Regional Mechanisms for Conflict Prevention, Management, and Resolution
SEA	Sexual Exploitation and Abuse
STCDSS	Specialized Technical Committee on Defence, Safety and Security
TCC	Troop Contributing Country
UN	United Nations
UNSCR	United Nations Security Council Resolution

II. TERMS AND DEFINITIONS

For the purpose of this policy, the following definitions shall apply:

Chairperson means the Head of the African Union Commission (AUC).

Constitutive Act: the Constitutive Act of the African Union (AU), adopted in Lomé, Togo, on 11 July 2000.

Civilian comprises any individual who does not or no longer participates in hostilities, namely:

- civilians who are not taking direct part in hostilities;
- former fighters who have surrendered their arms and uniforms;
- fighters who have become hors de combat due to sickness, wounds, detention or any other cause.

For the purpose of this policy and without prejudice to the definition of civilian under IHL, any person who is not or no longer directly participating in hostilities or in other acts of organized violence *shall be considered a civilian, unless he or she is a member of armed forces or groups. In case of doubt whether a person is a civilian, that person shall be considered a civilian and shall be protected.*

Civilian Personnel comprises of all individuals in the service of the PSO, regardless of their contractual arrangement, who are not members of the police or military component and includes staff members of the African Union Commission when deployed to the mission area.

External Protection Actors comprises all entities undertaking activities in relation to the protection of civilians that are not part of the African Peace and Security Architecture (APSA), including the United Nations (UN) entities operating in the field, the International Committee of the Red Cross (ICRC), international governmental organisations, non-governmental organisations (NGOs), corporations, security companies and the media. The protection of civilians remains the primary and ongoing responsibility of host State authorities.

Injury means any harm caused to any person or institution, in body, mind, reputation, or property.

Mandate means the decision by the multinational organisation, entity or the decision-making bodies that decides on the deployment and has command and control of a PSO.

Military Personnel means all members of the military component, including military contingent members, Military Staff Officers, Individual Military Personnel and other members of armed forces deployed to the PSO.

Misconduct is any act, omission, or negligence, including criminal acts, that is a violation of:

a. the core principles and norms of the AU, as elaborated upon in the Constitutive Act, protocols, policies, and directives;
b. Mission specific directives, Standard Operating Procedures, Rules of Engagement (ROEs), Directives on the Use of Force or applicable rules, Regulations or Administrative issuances;
c. Status of Forces Agreement/Status of Mission Agreement;
d. relevant and applicable local laws that are not contrary to human rights norms and standards; and
e. international humanitarian law, international and regional human rights law and international refugee law.

Protection of Civilians refers to the range of activities undertaken to improve the security of the population and people at risk and to ensure the full respect for the rights of groups and the individual recognised under regional instruments, including the African Charter of Human and Peoples' Rights, the AU Convention for the Protection and Assistance of Internally Displaced Persons, and the Convention Governing the Specific Aspects of Refugee Problems in Africa, and international law, including international humanitarian law, International human rights law and refugee law.

Protection of Civilians Mandate refers to the sum of all aspects of protection concerns reflected in a PSO mandate, including physical, legal, and other relevant protection activities aimed at enhancing the level of protection afforded to civilians in the area of operations.

Sexual abuse refers to any action or behaviour of a sexual nature that coerces, threatens or forces a person to engage in a sexual activity (penetrative and non-penetrative), that they would not otherwise have engaged in, and often without being able to give their consent. Sexual abuse includes the actual or threatened physical intrusion of a sexual nature, and occurs under coercive conditions, which are often reflective of unequal power relations and harmful behaviour.

Sexual exploitation refers to the inducement, incitement, coercion and/or compelling of another person to undertake a sexual activity through abuse of a position of vulnerability, differential power, dependency or trust. Sexual exploitation includes, but is not limited to, actual or attempted exploitation of material, monetary, social, psychological and political advantages to induce a person to engage in a sexual activity. An act of sexual exploitation occurs when the particular person would have had no substantial option, and no reasonable choice but to succumb to pressure to engage in a sexual activity. Sexual exploitation is harmful and exploitative behaviour which occurs in the context of hierarchical interactions and relationships.

Sexual violence includes acts of sexual nature against one or more persons or that cause such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, or by taking of advantage of coercion environment or such person's or persons' incapacity to give genuine consent. Forms of sexual violence include

rape, sexual slavery, enforced prostitution, forced pregnancy, forced sterilisation, or any other form of sexual aggression of comparable gravity.

Victim refers to an individual or group of individuals who has been harmed, either intentionally or inadvertently as a consequence of armed conflict where the PSO is deployed. In this context, victims are therefore individuals or groups that IHL seeks to protect during armed conflict due to their vulnerabilities and the risks they are exposed to, which the PSO shall use its best endeavours to prevent or mitigate.

III. REFERENCES

1. African Charter on Human and People's Rights (ACHPR), 1981
2. African Union Charter on the Rights and Welfare of the Child (ACRWC), 1999
3. African Union Commission Harassment Policy, 2016
4. African Union Commission Standard Operating Procedures for the Conduct of Investigations, 2015
5. African Union Doctrine on Peace Support Operations, 2021
6. African Union Policy on Conduct and Discipline for Peace Support Operations, 2018
7. African Union Policy on Prevention and Response to Sexual Exploitation and Abuse for Peace Support Operations, 2018
8. African Union Staff Regulations and Rules, 2010
9. Aide-Mémoire for the Consideration of Issues Pertaining the Protection of Civilians in Africa, 2013
10. Code of Ethics and Conduct, 2016
11. Constitutive Act of the African Union, 2000
12. Convention Against Torture and Other Cruel, Inhumane and Degrading Treatment or Punishment, 1984, and its Optional Protocol, 2002
13. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979
14. Convention on the Rights of the Child (CRC), 1989
15. Convention Relating to the Status of Refugees, 1951, and its Protocol, 1967
16. Draft Guidelines on the Protection of Civilians in African Union Peace Support Operations, 2013
17. Geneva Conventions, 1949, and its Additional Protocols, 1977
18. International Convention on the Protection of the Rights of All Persons from Enforced Disappearance, 2006
19. International Covenant on Civil and Political Rights (ICCPR), 1966, and its Optional Protocols, 1966 and 1989

20. International Covenant on Economic, Social and Cultural Rights (ICESC), 1966

21. International Convention on the Elimination of All Forms of Racial Discrimination (CERD), 1965

22. Kigali Principles on the Protection of Civilians, 2015

23. OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969

24. Peace and Security Council Communiqués 689 (2017), 461 (2014), 245 (2010), 28 (2005)

25. Peace and Security Council Press Statements 859 (2019), 841 (2019), 775 (2018), 326 (2012), 279 (2011)

26. Protocol Relating to the Establishment of the Peace and Security Council of the African Union, 2002

27. Protocol to the African Charter on Human and People's Rights on the Rights in Africa, 2003

28. Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol), 2005

29. United Nations Secretary-General Bulletin on Special Measures for Protection from Sexual Exploitation and Abuse, 2003

30. United Nations Security Council Resolutions 1674 (2006), 1631 (2005), 1325 (2000), 1296 (2000), 1265 (1999)

31. United Nations International Legal Protection of Human Rights in Armed Conflict, 2011

32. Universal Declaration of Human Rights, 1948

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In an effort to promote peace and security, the African Union has since 2003 conducted several Peace Support Operations (PSO), the largest of which have been deployed in Somalia. These operations have been deployed both to provide support to political processes, and to provide protection to the civilian populations which are most affected by conflict. Indeed, the AU PSO in Darfur and in Somalia were, and remain, specifically mandated to ensure the protection of displaced persons and the delivery of humanitarian assistance, and to prevent serious human rights abuses from being committed against the civilian population.

While the protection of civilians has thus gained increasing importance in the AU context, to date we have addressed the challenges being faced by our operations on the ground in a largely ad hoc manner. Recent and ongoing events in the continent have necessitated the development of a structured and systematic approach whereby we understand the risks being faced by civilian populations affected by conflict, and the manner in which we should address these, in particular when we have deployed a PSO to an area of conflict. Yet the question may be asked: why should we give serious consideration to the protection of civilians in conflict zones?

For one, civilian security is critical to the legitimacy and credibility of a PSO. Importantly, it should also be borne in mind that a peace process that does not bring a level of security to the civilian population cannot succeed. For another, AU PSOs rely upon their legitimacy with the local civilian population and with external partners alike to help to build the peace, and to sustain political momentum behind a peace process. We should not forget that, wherever PSO are deployed, expectations are raised among the local population that the PSO are there to protect the most vulnerable amongst them. Finally, we should remember that the protection of civilians is not a new concept, but an articulation of existing rights, and responsibilities, under human rights and international humanitarian law.

In this regard, and to enhance AU's effectiveness in protecting civilians, various normative and institutional framework on the protection of civilians have been developed and established. This includes the African Union Doctrine on Peace Support Operations (2021) making a series of reference on POC issues, the Draft Guidelines for the Protection of Civilians in African Union Peace Support Operations developed in 2010 and the Aide-Mémoire for the Consideration of Issues Pertaining to the Protection of Civilians in Africa developed in 2013 to serve as a guide to all Protection of Civilians actors on the Continent. Furthermore, an Integrated Protection of Civilians Training Standards was also developed in 2018 to familiarize relevant personnel with AU Protection of Civilians framework, policies and mechanisms for effective implementation and monitoring of Protection of Civilians considerations. In a further demonstration of AU commitment to the imperative of protection of civilians in conflict situations, the civilian protection elements have been incorporated into mission specific documents of various PSOs.

We therefore come to understand that the success of AU PSO rests on the ability of the operation to anticipate, mitigate, and put a halt to harm to the civilian population.

Successful operations are those that respect and uphold the rights of the civilian population, and that includes the protection of civilian populations as a part of their mandate.

Drawing from these experiences and as per the direction from the PSC in its Press Statement 775 (2018), the African Union Commission has since 2018 worked on the review of the Draft Guidelines for the Protection of Civilians in African Union Peace Support Operations (2010). It is in this regard that I am pleased to draw attention to this **African Union Policy on Protection of Civilians in Peace Support Operations** and I strongly encourage Member States, our Regional Mechanisms and Regional Economic Communities, members of civil society and academia, and relevant stakeholders to support the Commission in the implementation of this Policy and to utilize this Policy in facilitating their respective activities relating to the Protection of Civilians.

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African Union Commission
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A. BACKGROUND AND CONTEXT

1. The urgency and necessity of Protection of Civilians (PoC) is found in numerous documents of the African Union (AU). Notably, the Preamble of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union (PSC Protocol) states that "*no single internal factor has contributed more to [...] the suffering of the civilian population than the scourge of conflicts within and between our States*".[1]

2. In its 326th meeting (2012) and its corresponding press statement, the Peace and Security Council (PSC) stressed the importance of *"mainstreaming the Protection of Civilians in standard operating procedures of AU peace support operations"* and added that *"PoC must form part of the mandate of all future AU missions"*.[2] To ensure a structured and systematic approach by the AU to PoC and to enhance the AU's effectiveness in protecting civilians, normative and institutional frameworks on PoC have been developed and established. These include the African Union Doctrine on Peace Support Operations (2021), the Integrated Protection of Civilians Training Standards (2018), the Aide-Mémoire for the Consideration of Issues Pertaining to the Protection of Civilians in Africa (2013) and the Draft Guidelines for the Protection of Civilians in African Union Peace Support Operations approved following the AU Protection of Civilians in Conflict Zones Symposium (2009).

3. The PSC further emphasised that all PSOs "*should uphold the AU Protection of Civilians Principles and ensure broader compliance and accountability to International Humanitarian Law, Human Rights and Conduct and Discipline"*.[3] The Council also requested the Commission to expeditiously update the Draft Guidelines for the Protection of Civilians in African Union Peace Support Operations (2010) and harmonize them with all other relevant documents on the protection of civilians, including the Kigali Principles on the Protection of Civilians, for approval by the appropriate AU policy organ. As requested by the PSC, the AU has revised the Draft Guidelines for the Protection of Civilians in AU Peace Support Operations and harmonised it with other relevant documents,[4] including the Kigali Principles on the Protection of Civilians.

4. With the aim of supporting effective mission-wide PoC mandates for PSOs, this policy shall guide missions in (1) determining the specific PoC needs of the given context; (2) developing and implementing a comprehensive mission-specific strategy by all AU PSOs (3); designating roles and responsibilities to the different mission components; (4) monitoring, reporting, and ensuring compliance and accountability by all AU PSO; (5) guiding the interaction of the PSO with relevant PoC actors.

B. RATIONALE

[1] Protocol Relating to the Establishment of the Peace and Security Council, Preamble.
[2] PSC Press Statement PSC/PR/BR/1.(CCCXXVI).
[3] PSC Press Statement PSC/PR/BR.(DCCLXXV).
[4] PSC Press Statements PSC/PR/BR.(DCCLXXV), PSC/PR/BR.(DCCCXXXIII), PSC/PR/BR.(DCCCXLI) and PSC/PR/BR.(DCCCLIX).

5. The AU repeatedly recognised the crucial, essential and urgent role of PoC in its responses to conflict situations on the continent.[5] In 2018, the PSC requested the African Union Commission (AUC) to "*expeditiously update the Draft Guidelines for the Protection of Civilians and harmonize them with all other relevant documents on the protection of civilians [...] for their urgent consideration and adoption".*[6] The PSC reiterated the decision that *"the protection of civilians must form an integral part of the mandate of all future AU Peace Support Operations"*[7] in the press statement adopted at its 775th meeting (2018) and other successive press statements.[8]

6. Civilians are frequently the victims of hostilities and are often targeted by some parties to the conflict. PoC has therefore become central to conflict management processes and to most contemporary PSOs. This policy aims to enhance, coordinate and consolidate strategies of AU PSOs with regard to PoC at all levels. The ability of AU PSOs to implement effective PoC strategies is closely linked with their legitimacy and credibility and is essential for supporting peace.

7. While the AU has standardised PoC in its PSO mission documents, it is forthwith crucial to further develop and build on these extant steps.[9] PoC is a fundamental element of International Humanitarian Law (IHL) and International Human Rights Law (IHRL), and therefore effective PoC in the field requires an enhanced focus on the security and rights of individuals affected by conflict. This includes the special protection of particularly vulnerable groups such as women, children, persons with disabilities, elderly and displaced persons.[10] There is a need to strengthen the normative framework to intensify the actions of PSOs with regard to the protection of those who require it most. The PoC is broader than responding to imminent threats and relates to the protection from physical violence, the protection through political process, a rights-based approach, as well as an environment that contributes to protection (pillared approach).

C. PURPOSE

8. This policy seeks to "*strengthen the implementation of PoC mandates".*[11] The policy spearheads the mainstreaming of PoC within the APSA and shall reflect the values, principles and laws pertaining to PoC.[12]

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[5] Idem.

[6] PSC Press Statement PSC/PR/BR.(DCCLXXV).

[7] PSC Press Statement PSC/PR/BR.(DCCLXXV).

[8] PSC Press Statements PSC/PR/BR.(DCCCXXXIII), PSC/PR/BR.(DCCCXLI) and PSC/PR/BR.(DCCCLIX).

[9] Including Concept of Operations (CONOPs), Rules of Engagement (RoE), Standard Operating Procedures and mission-wide PoC strategies.

[10] PSC Press Statement PSC/PR/BR.(DCCLXXV).

[11] The Kigali Principles on the Protection of Civilians.

[12] This policy has drawn inspiration from, in particular, the following documents: *Draft UNMIS Protection of Civilians Strategy Concept*, 12 May 2009; UNAMID *Mission Directive No: 2009/01: Protection of Civilians in Darfur*; MONUC/Protection Cluster *Protection in Practice: Practical Protection Handbook for Peacekeepers*; *Draft Code of Conduct for the Armed Forces and Security Services of West Africa* adopted by the ECOWAS Committee of Experts, April 2006; Aide-*Memoire for the Consideration of Issues Pertaining to the Protection of Civilians in Armed Conflict,* annexed to the Statement by the President of the Security Council, 14 January 2009, UN Doc. S.PRST/2009/1 (2009); United Nations Security Council Resolution 1894 (2009) of 11 November 2009. The policy observes the lessons learned outlined in Victoria

9. This policy is intended to serve as a tool at the disposal of the AU Policy Organs, inclusive of the PSC and the Assembly of Heads of State and Government of the African Union, as appropriate, in mandating PSOs and the Peace Support Operations Division (PSOD) of the AUC in planning, launching, sustaining and monitoring of PSOs, including the development and implementation of mandates and additional strategic documents. The drafting of all strategic documents shall reflect the AU PSO's PoC mandate. These include, among others:

    a. Concepts of Operations;
    b. Directives on the use of force;
    c. Directives to the Head of Mission (HoMs);
    d. Status of Forces Agreements (SOFA) and Status of Mission Agreements (SOMA); and
    e. Memorandum of Understanding (MoUs) between the AU and Member States and Regional Mechanisms (RMs) and Regional Economic Communities (RECs).

10. This policy also intends to provide guidance on developing a consistent and effective strategy to implement PoC objectives, in coordination with external PoC actors, the host State and local communities.

11. While PoC strategies of AU PSOs are tailored to the specific situations and circumstances of the conflict and mission, this policy outline key considerations that should be applied in all PSOs to aid in developing mission specific strategies.

12. This policy will be implemented in line with Constitutive Act of African Union (Constitutive Act), the PSC Protocol and other AU strategic documents and are not intended to revise the mandate or the procedures of the existing organs in the APSA. Rather, they aim to reinforce, complement, and enhance the activities of the AU in implementing PoC mandates.

D. SCOPE

13. The PoC mandate shall be implemented within the umbrella of the broader framework of compliance and accountability to IHL, IHRL and Conduct and Discipline (C&D) for PSOs that intends to address violations of IHL, violation of IHRL, particularly gender based violence against women and children including SEA, and any other form of misconduct with a view to ensuring accountability, as well as redress and justice for the victims of misconduct by PSOs personnel and violations committed by parties to a conflict.

K. Holt & Glyn Taylor, *Protecting Civilians in the Context of UN Peacekeeping Operations: Successes, Setbacks and Remaining Challenges*, jointly commissioned by the United Nations Department of Peacekeeping Operations and the Office for the Coordination of Humanitarian Affairs, November 2009. As for the legal framework governing protection see footnotes 3-5.

14. The effective implementation of a PoC mandate requires a mission-wide strategy. This strategy shall be implemented as part of the broader AU efforts and takes into account all actors, as well as the specific context of:

    a. IHL and IHRL;
    b. Conflict Related Sexual Violence (CRSV);
    c. Sexual Exploitation and Abuse (SEA);
    d. Child soldier recruitment and children associated with armed conflict;
    e. Refugees and internally displaced persons (IDPs);
    f. The threats to, and vulnerabilities of, civilian populations.

15. PoC requires considerable resources, as well as numerous specialised capabilities. To assist with resourcing, a percentage of funds from the AUC itself, the Peace Fund and other relevant funds should be made available for the PoC as a matter of priority and additional resources should be sought from the international community.[13]

E. PRINCIPLES

16. The guiding principles of the AU ensure AU PSOs contribute *"to stability and in creating the conditions and enabling environment for political process and sustainable peace"*.[14] This policy is guided by the values and principles stipulated in the Constitutive Act, the PSC Protocol and the commitments of the AU Heads of State and Government, AU Organs, RECs, RMs, African Union Doctrine on Peace Support Operations and other AU statutory provisions and relevant bodies of international law, including:

    a. Primacy of human rights at all times;
    b. Compliance with all applicable IHL provisions;
    c. Proactive protection of civilians at all times, including particularly vulnerable civilian populations, such as women, children, people with disabilities, refugees and IDPs;
    d. Dignity, integrity, confidentiality, and mutual respect for others;
    e. Good governance, accountability, inclusiveness, and meaningful engagement of key stakeholders in AU institutions, including civil society, organizations, and other non-governmental actors;
    f. Rule of law, justice and primacy of due process and the timely and effective administration of justice;
    g. Zero tolerance to sexual violence in all its forms;
    h. Principle of subsidiarity to ensure the effective and efficient implementation of the guideline at all levels;
    i. **Non-discrimination**, which determines that PSO personnel must abide by the principle of non-discrimination by ensuring that all civilians are afforded equal opportunities for protection, without distinction of any kind as to race, colour, sex, language, religion, gender, ethnicity or any other political, social or any other status;

[13] The Kigali Principles on the Protection of Civilians, Article 6.
[14] African Union Doctrine on Peace Support Operations.

j. **Do no harm**, as a universally accepted principle in humanitarian action, calls upon actors to ensure that their interventions do not have a negative impact on the communities that they serve. It entails anticipating and preventing such harm, as well as taking measures to mitigate the negative consequences of any action already taken. During the course of PSO missions, military operations should be designed in a way that preserves life, property and the provision of essential services, minimising the direct and indirect impact of such operations on civilians. PSO personnel must be aware of, and respect, the cultural and religious sensibilities of the communities they serve, avoiding practices that could expose civilians stigmatisation;
k. **Participation**, as a principle articulating the right of the civilians to be heard and to have their views taken into account in the implementation of the PoC mandate;
l. **Impartiality**, which refers to the objectivity and fairness of a PSO which is expected to not take sides in the implementation of the PoC mandate.

F. KEY ACTIONS IN RESPECT OF POC IN PSOS

17. To ensure the successful mainstreaming of PoC in AU PSOs, a multi-dimensional and comprehensive approach is necessary. Such an approach takes into account an array of factors that can pose threats to civilians, including both short-term and long-term political and security issues. In addition, an effective PoC strategy requires a coordinated collaboration amongst all the mission personnel, Host State Authorities (HCA), and other external PoC actors to ensure the mission fully benefits from the entire range of capabilities available. The PoC strategy shall ensure that all PoC-mandated tasks and responsible mission components are closely coordinated through dedicated coordination mechanisms. The PoC strategy shall moreover emphasise the importance of liaison with the HSA, civilian populations, external PoC actors and the parties to the conflict.

a. Four-Pillar Approach to PoC

18. The AU has adopted a four-pillar approach to PoC in order to ensure a comprehensive and overarching approach. The pillars are the following: 1. protection as part of the political process; 2. physical protection from violence; 3. rights-based protection; 4. establishment of a protective environment. These pillars provide a framework within which PoC mandated activities can be planned, conducted, and reported on. Different situations often exist in different geographical areas within a mission's area of operations. At any one time, in any one region, the focus may be on the protection from physical violence, while in another, the focus may be on the establishment of a secure environment. The requirement for flexibility and initiative at the tactical level shall be promoted through the delegation of authority. The PoC strategy and any other mission documents that outline PoC tasks for different mission components should consider this multi-pillared approach. The conduct of PoC activities on the basis of this pillared approach shall be adapted to the context of a particular mission and its operating environment.

19. The four pillars, and the activities falling within each pillar, shall be pursued in a continuous, concurrent and mutually supporting manner. For example, protection from physical violence shall support the observance of a rights-based approach to protection, as well as self-sustaining solutions within the protective environment pillar. Self-sustaining solutions shall in turn support a rights-based approach and protection from physical violence. In order to secure sustainability, PoC as well as wider mission effort must be part of an accepted and legitimate political process. The pillars and the activities falling within each pillar should not be viewed as implying a sequential approach to PoC. Rather, the PoC activities under each pillar need to be conducted in a simultaneous and holistic manner.

Pillar 1: Protection as part of the political process

20. Protection as part of the political process is crucial to the success of a PSO, and lies at the centre of an operation's work to ensure that a State emerging from conflict establishes lasting and sustainable peace. It is also essential to the mission's efforts to protect civilians, given that the rights and physical safety of civilians cannot be fully protected in an environment in which conflict is ongoing or reignites. A well-managed peace process that provides for justice and accountability is potentially the best form of protection for a civilian population, and crucially underscores PoC activities and the wider mission effort in legitimacy and acceptance by perpetrators of violence. Activities under this pillar may include:

- Support to the implementation of the political process;
- Conflict mediation and advocacy with conflict parties;
- Intensified political pressure, dialogue and diffusion of hostility;
- Continued and/or intensified political pressure and the negotiation of ceasefires;
- Initiation of support to reconciliation efforts.

Pillar 2: Physical protection from violence

21. Physical protection of civilians from violence (including sexual violence) can be broken down into four phases. It is important to note that these phases may not be sequential and may co-exist across the mission area. Activities under this pillar may include:

- **Prevention:** activities undertaken to discourage groups from designing hostile activities (e.g. patrols which include and are coordinated with all three mission components, as well as activities that address the needs of the communities and help prevent threats to their fundamental human rights). Prevention efforts aim to minimise the risk of escalation/uncontrolled escalation of conflict;
- **Pre-emption**: measures to preclude or defeat any imminent threat or to gain advantage over a spoiler group before it launches a designed violent activity (e.g. the tactical redeployment of troops). In this context, imminent threat is based on an assessment of time (i.e. about to happen) and indication (i.e. factual information) that feed into mitigation strategies and activities;

- **Response:** measures to ensure a quick and robust response to any violence. The response shall be underscored by the mandate and based on IHL/IHRL. PSO personnel should be "*prepared to use force to protect civilians, as necessary and consistent with the mandate*".[15] The use of force shall always be proportionate to neutralise or render ineffective a spoiler group after the outbreak of violence (e.g. self-defence or the stop harm to civilians under imminent threat of violence); "*such action encompasses making a show of force as deterrent, interpositioning forces between armed actors and civilians, and taking direct military action against armed actors with clear hostile intent to harm civilians"*.[16] To avoid undue delay in PoC, the contingent commander should be invested "*with the authority to use force in accordance with the RoE to protect civilians in urgent situations without the need for further consultations with Headquarters"*.[17] Moreover, response includes the facilitation of humanitarian access and protection of aid workers and assets;
- **Consolidation**: activities necessary to manage a post-conflict situation, including denying threatening groups the ability to restore fighting capability (e.g. disarmament, demobilisation and reintegration (DDR) activities, joint deployments with HSA, holding ground, mentoring national security forces to build and/or strengthen national capabilities, etc.).

Pillar 3: Rights-based protection

22. The rights-based protection approach shall be applicable to both individuals and groups and shall be mainstreamed from the outset. The mission's rights-based approach shall involve the monitoring, reporting, and intervention in cases of violations of IHL, IHRL and S/GBV in the mission area and the development of local capacity to promote and protect human rights (e.g. supporting the conduct of investigations into human rights abuses and IHL violations, supporting the creation of a human rights commission and the establishment of transitional justice mechanisms). Activities under this pillar may include:

- Support the capacity building of security forces of the Host State, including police force on IHRL, IHL and C&D;
- Capacity building of line ministries, CSOs etc of the Host State in different thematic areas;
- Quick Impact Projects (QIPs) to respond to the needs of the local communities;
- Support the Host State in the design of pathways for treatment of disengaged fighters, including treatment of Children Associated with Armed Conflict (CAAC);
- Support the Host State in the review of existing human rights laws of the country;
- Targeted DDR;
- Engagement with potential aggressors;
- Maintenance of a human rights monitoring capacity by the PSO.

[15] The Kigali Principles on the Protection of Civilians, Article 3.
[16] *Ibidem*.
[17] The Kigali Principles on the Protection of Civilians, Article 7.

Pillar 4: Establishment of a protective environment

23. Establishing a protective environment is comprehensive and broad, and includes a peace-building dimension through a triple security-development-humanitarian nexus. The mission shall assist in building state capacity in whatever way possible. It starts with early recovery and should lead to self-sustainable solutions. It should include capacity-building measures, broad-based reform measures, support to resilience of populations, enhancing reconciliation and social cohesion, aiding socio-economic activities, strengthening the rule of law, securing and assuring humanitarian support and access, and should be tied to the political process. Activities under this pillar may include:

- Transfer of mission's capacities to the Host State;
- Support to the legislative reform;
- Support to the security sector reform;
- Support to the justice sector reform;
- Support the Host State to establish human rights commission and mechanisms to monitor and respond to allegations of human rights violations;
- Support the Host State to protect and promote human rights;
- Support to DDR;
- Support to electoral reform and security;
- Support to the establishment of transitional justice mechanisms.

a. Mission-Specific PoC Strategies

24. To implement these guidelines, all AU PSO shall develop mission-specific PoC strategies tailored to the context, conflict and mandate of each mission.

25. The primacy of human rights in the implementation of security measures shall be recognised throughout the phases of implementation of the mission mandate.

26. In the design of the mission specific PoC strategies, there should be close collaboration between administrative authorities, security and police forces, humanitarian actors and the affected populations.

27. PoC plans, policies and reports must be guided by a gender and age analysis. Decision-making processes must be inclusive.

28. The PoC strategy should require the collection and analysis of timely, reliable and widely-sourced information in order to understand the threats against, and vulnerabilities of, civilians. The analysis should be used to inform and review the PoC strategy and shall be acted upon as a matter of urgency when required.

b. The Protection of Vulnerable Civilian Populations in Conflict

29. Special attention shall be given to groups of victims and specifically vulnerable people, to ensure that their specific protection needs are taken into account. PSOs must identify the specific protection needs of vulnerable groups. These vulnerable groups could include, survivors of SGBV, women, children (including those at risk of recruitment by armed actors), people with disabilities and the elderly and other vulnerable groups as may be identified by the PSO.

c. Gender mainstreaming in PoC

30. Conflict affects male and female differently. All AU PSOs must therefore ensure gender is mainstreamed in the POC strategies. These guidelines shall be implemented in line with the relevant AU normative and legal frameworks on gender.

d. Training and Support

31. All PSO personnel shall be trained on PoC prior to and during their deployment to missions.[18] All PSO training related to AU missions and activities must include instruction on PoC, IHL, IHRL, C&D and SGBV, in the form of both collective and individual training at all levels. Relevant AU policy documents shall form the basis for training at national, regional and continental levels.

32. The mission leadership, including sector and contingent commanders, shall be trained on their roles and responsibilities in implementing the PoC mandate of the mission.

G. ROLES AND RESPONSIBILITIES

33. The AU and its PSOs shall uphold the highest international standards of conduct, behaviour, integrity and accountability in the implementation of their mandate. All mission components involved in the implementation of a PoC mandate shall respect IHRL, IHL, the rule of law, and the sanctity of human life. This is required by Article 4(c) of the PSC Protocol. The roles and responsibilities should clarify how the components can befully integrated into the mission planning and implementation of PoC mandates. They shall stress the obligation of individual and institutional accountability for the successful implementation of PoC mandates. The following components and their respective roles and responsibilities are non-exhaustive.

34. Every mission component has the duty to prevent, pre-empt, and react to threats and/or violence to civilians. Consequently, the implementation of the PoC mandate in AU PSO shall have a multi-dimensional and coordinated approach with clear and differentiated tasks for military, police and civilian components to support the PoC responsibilities of the Host State and those of other PoC actors. The implementation of the PoC mandate shall be strengthened by the political support of the PSC, the UN Security Council and other relevant stakeholders.

[18] The Kigali Principles on the Protection of Civilians; the African Union Doctrine on Peace Support Operations.

a. Host State Authorities (HSA)

35. The primary responsibility for the PoC invariably lies with the HSA. The AU's PoC mandate never replaces or limits such responsibility, it only supports the HSA, when applicable. The PSO shall have the obligation to protect civilians in circumstances where the HSA is either unable to do so.

b. Peace and Security Council

36. The PSC, in fulfilment of the directives contained in the Press Statement adopted at its 326th meeting (2012), shall include explicit PoC reference in mandating AU PSOs. With respect to its communiqués mandating or authorising/approving/endorsing99i the deployment of AU PSOs, the PSC should release a communiqué with generic formulations on IHRL and IHL, as well as on C&D and PoC, by making appropriate references to the Constitutive Act, PSC Protocol provisions and the African Union Doctrine on Peace Support Operations. A clear and achievable mandate is critical to the effective implementation of PoC strategy. The PoC mandate should be described in detail. The threats to, and vulnerability of, civilian population should inform the scope of PoC mandates. The relationship between the PoC mandate and other mandated tasks needs to be clear.

c. African Union Commission

37. The AUC shall ensure that all PSO mandates address PoC issues. The AUC should furthermore facilitate the inclusion of a 'Compliance Issues' section in the situation reports from the AU PSOs and the Chairperson's report on PSOs to the PSC. The Chairperson of the AUC shall task the Head of Mission to develop a mission-wide strategy for PoC. This mission-wide strategy shall specify PoC activities and should integrate the PSO's military, police, and civilian efforts.

38. The AUC shall disseminate this policy, together with other compliance documents, to AU Members States, RECs, RMs and Troop and Police Contributing Countries (T/PCCs). In the cases of violations of the PoC mandate and standards by PSO personnel, the Chairperson should encourage T/PCCs to rapidly investigate personnel accused of misconduct and hold them accountable.

d. Commissioner for Political Affairs, Peace and Security (PAPS)

39. Under the authority of the AUC Chairperson, the Commissioner for PAPS shall be responsible for ensuring the implementation of the African Union Doctrine on Peace Support Operations and the PoC elements enshrined therein. S/he drives the formulation and implementation of the PAPS policies, programs, and strategies, which include PoC. The Commissioner for PAPS shall lead the engagement with AU Member States and strategic partners in the delivery of PoC mandate and shall provide regular reports to the AUC Chairperson on the delivery of the PoC mandates.

e. Head of the Peace Support Operations Division (HPSOD)

40. HPSOD shall take leadership in oversight and monitoring of the PoC mandate and provide the necessary strategic direction to the PSO. The HPSOD should facilitate the development of strategic documents on the PoC and provide the appropriate guidance to AU PSOs in the implementation of their PoC mandate.

f. Head of Mission (HoM)

41. HoM shall oversee the implementation of the PoC mandate and provide necessary operational direction to the PSO. S/he is accountable to the chairperson ofthe AUC for the effective implementation of such mandates. The HoM determines the comprehensive strategy, vision and viable direction of the mission and its implementation plan. To this end, s/he shall clearly define the roles and responsibility of the Mission Support Team and the Civilian Coordinator with the senior leadership team, who will oversee PoC mandate implementation across their respective components. S/he has the overall responsibility for ensuring the timely identification of, potential threats to civilians and proactively taking steps to mitigate such threats.[19] S/he is responsible for overseeing the designing of a matrix to track the implementation of the PoC strategy in the PSO.

g. Protection Officers (POs)

42. POs shall serve as the technical level implementing entities of the mission's PoC mandates. They will work with the mission leadership to mainstream PoC issues into the mission's operational planning documents like the CONOPs, Rules of Engagement (RoE), Force Commanders Directives, Police Guidance on the Use of Force, etc.

43. POs coordinate PoC activities at the technical level within the PSO and ensure efficient collaboration with relevant external actors, including humanitarian actors and local State and non-State actors at the technical and strategic levels.

44. The POs shall advise on potential threats, as well as on PoC strategies, the practical approach to the 4-pillar approach of PoC and how the components approach these. Their roles/responsibilities include advising on prevention and response to IHL, IHRL, and gender issues as related to PoC.

45. POs shall ensure action is taken with regard to risks and threats of SGBV on all levels of PSOs. POs shall provide training on PoC to all mission personnel/components. They shall also provide guidance to PSOs in the development of the mission PoC strategies. They should moreover advocate for and assist survivors of SGBV, as well as monitor, analyse and report on concerns of SGBV with the aim to provide signs of early warning to the missions.

i. AU PSO Personnel

46. Any action taken by personnel of AU PSOs shall be in conformity with relevant international laws, including IHL and IHRL. This requires civilians to be respected and protected from attacks at all times, unless and for such time as they actively participate in hostilities.[19] In accordance with the RoE, AU PSO personnel shall not hesitate to take action to protect civilians. All appropriate measures shall be put in place in order to avoid – or minimise – the loss of civilian life, the injury to civilians or damages to civilian infrastructure. It is of paramount importance to strictly adhere to IHRL, IHL in the implementation of the PSO mandate. This includes special attention to the rights of women, children, refugees, IDPs, and persons with disabilities. PSOs shall, at all times, respect and implement the PoC mandate to the highest degree.

j. Troop and Police Contributing Countries

47. T/PCCs are bound by the international obligations, as well as by their national legislation. They are obliged to put in place necessary institutions to address violations of IHL, IHRL, including SGBV. T/PCCs shall ensure accountability for any form of misconduct by their personnel in the PSO, including redress and justice for victims of misconduct by such personnel.

48. T/PCCs should ensure PSO personnel they deploy have received adequate training on PoC and are able and willing to proactively implement the PoC mandates of the PSO. Similarly, T/PCCs shall ensure that personnel to be deployed into the PSO do not include persons indicted and found guilty of violating the obligation to protect civilians in previous missions.

49. PSOs are expected to mainstream PoC in the planning, conduct and after action reviews including military and police operations.

k. Reginal Economic Communities and Regional Mechanisms

50. RECs and RMs shall ensure that all PSO mandates address PoC issues. RECs and RMs should furthermore facilitate the inclusion of a Compliance Issues Section in the situation reports from their PSOs. RECs and RMs that deploy PSO shall task their Heads of Missions to develop mission-wide strategies for PoC. Mission-wide strategies shall specify PoC activities and should integrate the PSO's military, police, and civilian efforts.

51. RECs/RMs shall disseminate these guidelines, together with other compliance documents, to Members States and T/PCCs. In the cases of violations of the PoC mandate and standards by PSO personnel, the leadership of RECs/RMs should encourage T/PCCs to rapidly investigate personnel accused of misconduct and hold them accountable.

[19] The Geneva Conventions.

H. ACCOUNTABILITY

52. Accountability shall be included in the implementation of PoC mandates. The PSC recognises that breaches, committed wherever or by whomsoever, further erodes respect of IHL and IHRL and stresses the duty of all States to put an end to impunity and to prosecute, in accordance with their obligations under international law, those responsible for all violations.[20] The AU shall hold its personnel to the highest standards of conduct, and vigorously investigate any incidences of abuse.[21] T/PCCs shall take disciplinary/criminal accountability action against their own personnel where appropriate.[22]

53. Accountability concerns all personnel in AU PSO and rises within the AU institution. Consequently, senior leaders and commanders within missions, as well as within AU headquarters, shall be held responsible for both their own actions and directions, as well as for assuring the relevant systems are appropriately applied for holding relevant personnel accountable for their actions and responsibilities in implementing the PoC mandate. An inquiry shall be undertaken immediately, in cases where civilians have been harmed (including sexual violence) in circumstances where the AU PSO was aware – or should have been aware – of potential threats, though did not take appropriate action. T/PCCs are fully responsible to hold their nationals accountable for misconduct and violations of IHL and IHRL.

I. MONITORING AND EVALUATION

54. A monitoring and evaluation tools shall be developed for the continued assessment and review of the implementation of this policy. These tools will include a Monitoring and Evaluation (M&E) result framework, M&E plan, instruments for M&E data collection and guidelinesand templates for reporting and dissemination.

APPROVAL SIGNATURE NAME, TITLE, DEPARTMENT
DATE OF APPROVAL:

[20] PSC Press Statement PSC/PR/BR.(DCCLXXV).
[21] The Kigali Principles on the Protection of Civilians.
[22] The Kigali Principles on the Protection of Civilians.