Policy Brief

The Tension between UN HQ and the Field in Implementing the Protection of Civilians

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Summary

Ever since the concept of the Protection of Civilians (PoC) was coined by then UN Secretary-General Kofi Annan in an attempt to place civilians in armed conflict at the core of UN peacekeeping, there have been diverging interpretations of the meaning of the concept and its intended application. Simply put, PoC has meant different things in theory at UN headquarters and practice in the field. In the present brief we retrace the trajectory of PoC with a special emphasis on how the concept is embedded at headquarters level and how it has been applied in the field (UNMIS). At headquarters, PoC language and measures are increasingly to be found in peacekeeping mandates. This in spite of the fact that resolution drafters rarely pay any attention to PoC.

At the mission level, however, the concept remains blurred, fuzzy, and its application is largely left to interpretation. Nevertheless, people involved in peacekeeping missions all agree that protecting civilians is at the core of their tasks. This points to a shared culture of protection between actors at headquarters and in the field, rather than a common understanding of the specific concept of PoC. Given that the strict application of UNSC mandates which include measures allowing the use of force to protect civilians under imminent threat potentially erase the distinction between Chapter VI and Chapter VII peace operations, such a culture of protection rather than a specified set of actions may be the best way to manage the uneasy balance between sovereignty and intervention.

For ten years now, the UN – notably its Security Council (UNSC) and UN OCHA – has addressed the issue of how to make the Protection of Civilians (PoC) a central concern of UN peacekeeping. While this agenda has come a long way, with the UNSC adopting the third edition of the *Aide Memoire for the Consideration of Issues Pertaining to the Protection of Civilians in Armed Conflict* and the establishment of the long awaited expert group on protection of civilians under the UNSC, a number of challenges remain to be overcome, especially in terms of how concepts and policies adopted at the headquarters level translate into practice in peacekeeping missions. More specifically, how can PoC concerns be addressed more consistently in UNSC deliberations and when authorising peacekeeping mandates, and how can such a broad concept as PoC be translated into practice without undermining the sensitivity to local contexts and understandings. The paradox which arises if those challenges are overcome is that while UN peacekeeping will be all the stronger and have the protection of civilians at its core, it may also become more controversial and political, as the implementation of PoC can contribute to wither the distinction between Chapter VI and Chapter VII mandates.

Protection in Theory and Practice
In the present brief we argue that while there is a shared and comprehensive understanding among actors about the importance of the Protection of Civilians (PoC) in UN peacekeeping missions, the very same actors do not share any notion of what the concept is, means and entails in practice. This is partly due to the broadness of PoC and its lack of a definition, with the consequence that PoC is understood differently within various institutional and organisational cultures responsible for implementing PoC. In international policy-making processes it is conven-

tionally assumed that the work is done once a concept or norm has gone through the process of initiation, debate and negotiation before finally being affirmed and adopted at the structural and macro level. In this is the belief that once a concept has been endorsed at capital and HQ level, it is transferred to operational levels uncontested. Such a faith in centralised policy making processes is illustrated by the Under-Secretary-General for Humanitarian Affairs John Holmes when stating, in reference to establishing the mentioned UNSC PoC expert group, that "the challenge now is to realise that ambition and ensure the systematic consideration of protection of civilians issues in the Council's work" (UN OCHA 2008). New principles and norms, thus, are generally seen to cascade down to other actors once a critical number of key actors have adopted them. In the anthropology of policy and the anthropological literature on international organisations a common claim is that there tends to be a disconnect between theory and practice – or between concept and implementation. Diffusion of concepts and ideas usually tends to involve processes of contestation, translation and contextual interpretation, as concepts 'travel' from HQ-level and to operational agencies and actors 'on the ground'. The point here is that strengthening PoC deliberations at the central level do not necessarily translate unambiguously to mission level.

Based on our data collection among various actors dealing with PoC in the context of Sudan and the United Nations Mission to Sudan (UNMIS) as well as among protection officers at the UN secretariat in New York, we have explored the implementation of policies from headquarters all the way to the field (Lie and de Carvalho 2008; 2009). Throughout our fieldworks it became clear that the scope, range, implications and historical and political trajectory of PoC were largely unknown to many protection staff working in different UN agencies at field level. Those familiar with PoC and its policy framework had, moreover, highly different notions of the concept. Consequently, whereas PoC is a policy framework firmly rooted in the humanitarian segment of the international community, at UN headquarters level by OCHA, the Secretary General and underpinned by various UN Security Council Resolutions, it is a highly challenging concept for operational field staff. As a consequence, the meaning of the concept and the policies which are meant to flow from it are often challenged when meeting the practice on the ground.

The Protection Agenda

It is widely acknowledged that Protection is a core element of all humanitarian action. The latest acknowledgement of this was the third edition of the *Aide Memoire for the Consideration of Issues Pertaining to the Protection of Civilians in Armed Conflicts* passed by the UNSC in January 2009. Protection is broadly defined as "all activities aimed at ensuring full respect for the rights of the individual in accordance with international human rights law, international humanitarian law, and refugee law". Although Protection relates to the humanitarian imperative drawing its discursive genealogy back to the first Geneva convention of 1864, the current Protection of Civilians agenda first gained momentum during the 1990s through processes internal to UN. Within the UN, OCHA owns the policy franchise of PoC, so to speak, and serves as its conceptual anchor and thus enjoys important prerogatives in PoC deliberations. However, OCHA does not provide direct protection activities, but rather serves as a supporting body designated with the task of creating an effective and coordinated approach to Protection-issues.

PoC evolved as a response to urgent humanitarian needs worldwide as wars became less a matter of interstate conflicts and more a struggle between intrastate parties. In 1998, the UN coined the 'protection of civilians' concept, noting that 'the civilian toll relative to that suffered by combatants in situations of armed conflict has increased dramatically, but civilian casualties in conflicts today are increasingly the result of deliberate targeting by fighting parties rather than indirect victims' (Vogt, de Carvalho, et al 2008). Attention was directed to 'the extreme levels of suffering for civilians caught up in situation of armed conflict where the protagonists were demonstrating lower and lower levels of respect for IHL norms' (Security Council Report 2008: 6).

The Security Council, however, was reluctant to decide on any clear definition of PoC since this was considered to be too binding (Security Council Report 2008). Rather, different UN reports and Council Resolutions have outlined a set of issues that later were to become the core of PoC. These include (i) the need to ensure the safety of civilians, (ii) the unimpeded and safe access of the UN and other humanitarian personnel to those in need, (iii) the situation of children in armed conflict, (iv) the need for justice, (v) and the proliferation of small arms.

A Culture of Protection?

PoC is broad in scope and draws on a comprehensive notion of security that transcends mere physical protection. UNSC Resolution 1296 emphasizes the need for PoC to 'proceed on a case-by-case basis'. Although this seemed to signal more intensive attention to PoC by the Council, it also reflects growing caution with regard to the norm-setting role of PoC. The Council was reluctant to decide on criteria, benchmark and the content of PoC out of fear of making a too binding commitment. The lack of a definition and the UNSC's contextual treatment of protection issues have led to disagreement as to the extent to which it ought to be binding for the international community as a whole, or whether these issues ought to be the responsibility of individual member states.

Rather than defining PoC, it was decided that to promote a Culture of Protection – both internally to the UN and vis-à-vis the international community. As such, PoC became somewhat curtailed compared to the original intent of a robust framework for civilian protection. The Culture of Protection has, nevertheless, been quite instrumental as it over the last decade has conveyed increased attention to the civilian dimension of conflicts. Consequently, UN-authorized peace operations, with both civilian and military components, now include protection language in their mandates. Since 1999 the phrase 'protect civilians under imminent threat of physical violence' has become an integral part of just about all UN mandated peace operations.

Interpreting Protection: UNMIS
There is, however, an important factor to consider regarding protection mandates and this protection language. Although the Security Council's authorisation for civilian protection is clear, the Council's resolution leaves the decision to protect civilians up to the Special Representative of the Secretary General (SRSG), the force commander or another actor further down the chain to "deem" it to be within the scope of "its capabilities". What is not clear, however, is whether the capabilities – as signalled by the protection phrase included in mandates – from the beginning were deemed sufficient to protect civilians or were planned to be so. It is thus not enough to consult mandates when addressing protection issues: one needs to investigate these as they are shaped and articulated in practice. Although one can make the claim that POC-promoters have been effective in streamlining protection concerns, the inclusion of Protection-language in mandates is no guarantee for civilian protection in practice.

In the context of UNMIS, it was clear that the humanitarian segment claimed 'ownership' over PoC issues vis-à-vis the military side of the UN mission. In practice, however, PoC issues must be taken into account by both military and humanitarian actors involved in peacekeeping environments for a number of reasons. Firstly, UNMIS, which is authorized by the UNSC as a Chapter VI mission, has 'protection of civilians under imminent threats of physical violence' among its mandated tasks. Second, it is an integrated mission and thus – at least nominally – comprises the formalized interface between the civilian and military components of an UN-led peace operation. Being an integrated mission also means the integration of non-UN agencies coordinate with non-UN agencies. In terms of protection, OCHA is responsible for coordinating protection efforts. Third, UNMIS had a protection unit dedicated solely to mainstreaming PoC issues throughout the mission.

But cooperating in providing protection is difficult, especially when actors do not share an understanding of what protection entails. Between the actors involved in and around UNMIS, there is no unified understanding of PoC, although all actors subscribe to the overarching idea of the concept. Even within the UN family, there are different understandings of what PoC entails between the military component of UNMIS, its Protection Unit, UN OCHA, UNHCR and UNICEF – in spite of them all subscribing to the primacy of the concept. Thus, while actors from the military, development and humanitarian segments all share the basic values and tenets of PoC, they all interpret them differently in practice.

While this may be problematic in terms of the implementation of PoC policies in line with the concept and the *Aide Memoire* produced by OCHA, it nevertheless makes the case for the *de facto* existence of a *culture* of protection, as originally intended by then UN Secretary-General Kofi Annan. The culture of protection is, however, extremely heterogeneous – various actors relate to different aspects of the protection realm as it becomes interpreted and shaped within the specific institutional contexts when articulated. Actors tend to interpret and apply the culture of protection with regard to their own organisational mandate and scope.

A Malleable Concept?
The vast divergence of organizational cultures, mandates and institutional trajectories among actors conducting protection activities has critical implications for the formation of a culture of protection. To a considerable extent, these differences hamper the possibility of establishing a coherent protection culture and a holistic approach to PoC. In particular, the lack of a clear definition of PoC presents severe challenges. On the other hand, it is precisely this lack of a clear definition and the advance of a culture of protection that have enabled a vast array of actors to subscribe to the comprehensive protection realm. A more rigid conception might promote integration among advocates of that particular definition, but would also entail the risk of excluding actors whose mandate and core competence fall outside such a definition – and that could undermine the actor-wide comprehensiveness needed for optimal protection in complex situations.

So, while a clear definition of PoC with a clear commitment from the UNSC would create a more robust protection framework, it would simultaneously jeopardize the inclusion of all non-UN agencies working with protection, within the humanitarian field. At the same time, promoting a culture of protection would be inclusive and complimentary to the comprehensiveness needed in complex peace operations, but as there is no shared basic idea of what protection entails, turf protection, window dressing, duplication of efforts, in addition to challenging coordination and harmonisation efforts remain so far the fate of PoC. There is a paradox inherent in the PoC agenda, namely that the aims of the concept require the concept to be made

more palpable, while the need to include all actors involved in these actions calls for a more elusive concept.

Protection Overlooked?

The Aide Memoire has suffered from the fact that it was not taken into account by those drafting UNSC resolutions. When asked what attention they paid top the *Aide Memoire* when writing, most of those we spoke with replied "none". The excuse they gave was that PoC was too broad. The third edition of the *Aide Memoire*, however, is in line with the previous version in that it does not prioritize PoC issues. Nor does it give a more specific or concrete understanding of the PoC concept. It could be argued that this is not the objective of the document, as the stated aim is "not intended as a blueprint for action" but to provide guidance on which issues to address on a "case-by-case basis." As such, where the previous *Aide Memoire* suffered from the fact that UNSC resolution drafters did not know its content or pay much attention to it, as they thought it too broad, there are no guarantees that this will change with the revised version.

One development which may change this is the establishment of the Security Council Expert Group on the Protection of Civilians. As stated by Under-Secretary-General for Humanitarian Affairs John Holmes to the Security Council, this group is not a "subsidiary body of the Council" but an "informal forum that would bring together *all* of the Council Member States at the expert level for transparent, systematic and timely consultation on protection of civilians concerns, particularly but not only in the context of the establishment or renewal of peacekeeping mandates." While the group has met a few times in 2009, it is still too early to assess whether it will have an effect on the drafting of resolutions, and how the

Council's deliberations filter down to mission level. At the same time, protection language is already increasingly becoming part of UNSC Resolutions. The question the UN and member states now have to address is how the important part PoC has come to play in resolutions and impact the legitimacy of peace operations. While previously there was a clear distinction between Chapter VI and Chapter VII operations, with the latter involving the UNSC allowing the use of force without the consent of the sovereign states involved, this distinction is increasingly blurred by the inclusion of protection language in mandates.

At the end of the line, the main challenge is *how* PoC can be incorporated in-mission and on the ground. For with protection language included in mandates, even Chapter VI mandates can involve the use of force against the sovereignty of a state.

Literature

Lie, Jon Harald Sande and Benjamin de Carvalho (2008) A Culture of Protection? Perceptions of the Protection of Civilians from Sudan. Oslo: NUPI.

Lie, Jon Harald Sande and Benjamin de Carvalho (2009) Protecting Civilians and Protecting Ideas: Institutional Challenges to the Protection of Civilians. Oslo: NUPI.

Security Council Report (2008) Protection of Civilians. Cross-cutting Report. New York, Security Council Report. No 2. 14 October.

UN OCHA (2008) "Security Council Open Debate on the Protection of Civilians in Armed Conflict. Statement by Mr. John Holmes Under-Secretary-General for Humanitarian Affairs", 27 May.

UN OCHA (2009) Protection of Civilians in Armed Conflict. Aide Memoire. For the consideration of issues pertaining to the protection of civilians in armed conflict. 14 January. Annex to S/PRST/2009/1. New York, UN.

Vogt, Andreas, Benjamin de Carvalho, Petter Hojem, and Marit A. Glad (2008) The Protection of Civilians and the post-conflict security sector. A conceptual and historical overview. Oslo: NUPI.

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