

# Unpacking the “culture of protection”

A political economy analysis of OCHA and the protection of civilians

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## List of Acronyms and Abbreviations

C-34	The Special Committee on Peacekeeping Operations
CAP	Consolidated Appeals Process
CERF	Central Emergency Response Fund
CO	Country Office
CRD	Coordination and Response Division
DDR	Disarmament, Demobilization and Reintegration
DHA	Department of Humanitarian Affairs
DPA	Department of Political Affairs
DPKO	Department for Peacekeeping Operations
DRC	Democratic Republic of Congo
ECHA	Executive Committee for Humanitarian Affairs
ECOSOC	Economic and Social Council
ERC	Emergency Relief Coordinator
GA	General Assembly
IASC	Inter-Agency Standing Committee
ICRC	International Committee of the Red Cross
IHL	International Humanitarian Law
MFA	Ministry of Foreign Affairs
MONUC	United Nations Organization Mission in the Democratic Republic of the Congo
MSF	Médecins Sans Frontières
NUPI	Norwegian Institute of International Affairs
OCHA	Office for the Coordination of Humanitarian Affairs
ODSG	OCHA Donor Support Group
OHCHR	Office of the High Commissioner for Human Rights
PDSB	Policy Development and Studies Branch
PoC	Protection of Civilians
RO	Regional Office
UNAMSIL	United Nations Mission in Sierra Leone
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNMIS	United Nations Mission in Sudan
UNSC	United Nations Security Council
USG	Under Secretary-General
WFP	United Nations World Food Programme

# 1. Introduction

The standard story of the genesis of the concept of the protection of civilians (PoC) goes something like this: In the late 1990s, UN member states and the UN Security Council recognized that the protection of civilians in conflicts is central to international peace and security. This new view of the scope for the Council's agenda, and the task of UN peace operations, reflected painful lessons from Yugoslavia, Rwanda, and Sierra Leone in the 1990s, where the international community had failed to halt systematic attacks on civilians, including genocide. In 1999, the UNAMSIL in Sierra Leone was the first UN peace operation to have a mandate to protect civilians, explicitly stating that it should 'afford protection to civilians under imminent threat of physical violence'. Since then, more than ten UN peace operations have been mandated to protect civilians – most notably MONUC, which has the protection of civilians as its primary objective.

Against this standard background story, most studies of protection move on to discuss the challenge of rendering PoC operational, the differing perspectives of humanitarian and military actors in this regard, and the lack of adequate training and resources of military actors to perform protection tasks. A central finding from these studies is that the meaning of PoC is unclear, and that different actors have diverging views about what it is and what should be prioritized.<sup>1</sup> True, there are many historically oriented studies of humanitarianism and also of 'protection' as a foundational theme for humanitarian action. But the bulk of the literature on protection of civilians, particularly as it pertains to peace operations, have largely overlooked the specifics of its genesis in favour of a focus on more contemporary organizational and operational issues. A case in point is the OCHA-DPKO commissioned study on the protection of civilians that was published in late 2009, the contents of which served as the basis for the ensuing work by DPKO and OCHA in developing new best practices and operational guidelines for PoC work. A central finding of the OCHA-DPKO study – echoed in other studies – is that there is a persistent uncertainty and vagueness among practitioners about what PoC means, and that different actors – military, political, humanitarian and developmental – privilege different aspects of PoC. This vagueness and uncertainty of

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<sup>1</sup> See for example, Victoria Holt, Glyn Taylor and Max Kelly, *Protecting civilians in the context of UN peacekeeping operations - successes, setbacks and remaining challenges*, Independent study jointly commissioned by the Department of Peacekeeping Operations and the Office for the Coordination of Humanitarian Affairs (New York: United Nations, 2009). See also Justin McDermott and Måns Hanssen, *Protection of civilians: Delivering on the mandate through civil-military coordination* (Stockholm: Swedish Defence Research Agency (FOI), 2010).

what PoC means, it is said, represents a central obstacle to rendering PoC operationally effective as an integral part of peace operations.

While we agree that the vagueness of PoC inhibits operational effectiveness, our focus here is on *why* the term has been defined in the way that it has. In short, we want to move from a description to explanation: Why is PoC defined in such broad and comprehensive terms? Why do different actors advance partly differing views on what PoC should be? We focus on the *interests* of key actors involved in formulating and advancing different aspects of the PoC, and how an actor's political and institutional environment shapes those interests.<sup>2</sup> Bodies like OCHA, DPKO, UNHCR and others are certainly bureaucratic organizations, but they must nonetheless compete for influence and resources, and as such they must be understood as political actors in their own right. Thus, rather than using the conceptual vagueness as an implicit explanation for the lack of operational effectiveness, we focus on the interests of the actors involved in formulating and advancing it. We offer an account of how OCHA has used and defined PoC in ways that reflect its efforts to secure political influence in relation to other UN agencies and UN member states. This is not to suggest that OCHA has an instrumental relation to the plight of civilians in conflict areas. Far from it. We want to highlight a central feature of how *all* UN actors seek to do good while also advancing organization-specific interests.<sup>3</sup> Certainly, the ERC – as head of OCHA – has a mandate to advance humanitarian principles, key among which is the protection of civilians. But *how* to define and operationalize protection, and how to advance it in relation to other actors, such as the UNSC, cannot be read from the ERC mandate.

As a heuristic, we can identify three ideal-typical interpretations of 'protection of civilians'. We then seek to explain how and why OCHA has privileged one of them (and by implication why other actors, such as OHCHR and UNHCR, have privileged others). The three interpretations of PoC are as follows:

*i) Protection of Civilians in armed conflict – the IHL approach*

The protection of civilians in armed conflict is grounded in International Humanitarian Law. It is described in the 4<sup>th</sup> Geneva Convention Relative to the Protection of Civilian Persons in Time of War and later

<sup>2</sup> Of course, this is not unique to PoC: all policy concepts have an element of ambiguity and vagueness, and part of our motivation for advancing this mode of analysis is precisely that the dynamics described here can be found across a variety of issue-areas. But how and why different actors advance different interpretations of a concept necessitates detailed empirical analysis of their resources, key constituencies, and the competition faced in their policy environment.

<sup>3</sup> For a highly instructive analysis using such an analytical framework, see Ben Ramalingam and Michael Barnett, 'The humanitarian's dilemma: collective action or inaction in international relief (London: ODI Background Paper, 2010).

supplemented by the Additional Protocols of 1977. These treaties are designed to protect persons who do not participate in hostilities, or are no longer participating. To this end, it elaborates on the protected status of civilians, victims and non-combatants in armed conflict through detailed provisions as to their treatment, status and rights.<sup>4</sup> In situations not covered by these treaties, internal disturbances in particular, civilians are protected by other international bodies of law (notably, human rights law and its inalienable rights),<sup>5</sup> by national laws compatible with international laws and by the principles of humanity. International refugee law and, more recently, international criminal law as described in the Rome Statute also form part this approach to civilian protection in armed conflict. The ICRC, as the guardian of international humanitarian law, and the Office of the High Commissioner for Human Rights subscribe to this approach.

*ii) Protection – the Humanitarian approach*

A second approach to civilian protection is the concept of Humanitarian Protection that has developed in parallel with the IHL approach. Along with the rest of the international community, humanitarians were hit hard by their failure to stop the genocide, war crimes and crimes against humanity committed in the last decades of the twentieth century. There was an increasing awareness that humanitarian assistance had become a complex endeavour with the potential for doing both good and, in some cases, considerable harm. Providing food and material aid when deliberate attacks upon civilians was the central issue was not only an ineffective response, but also a 'smokescreen for political inaction'.<sup>1</sup> Many humanitarians believed that more could be done in the field to mitigate violations in the absence of political will to stop violence against civilians.<sup>6</sup> In late 1996, the ICRC invited a group of agencies to a series of workshops on protection with the idea to develop professional standards for protection. The intention was to foster a better understanding of the various roles and practices of these actors in protection.<sup>7</sup> The result of these workshops was a definition of protection formulated by the Inter-Agency Standing Committee (IASC) – comprising all main humanitarian actors within and outside the UN – as follows: 'all activities aimed at ensuring full respect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of law (i.e. human rights law, international human-

<sup>4</sup> DPKO/DFS, United Nations Peacekeeping Operations: Principles and Guidelines (2008), 15.

<sup>5</sup> Rights that are considered as universal standards and to which no derogation is admitted, even in time of public emergency and other exceptional circumstances. Those rights comprise: the right to life; the prohibition of torture and other cruel, inhuman or degrading treatments or punishments; the prohibition of slavery and forced labour; the principle of legality and non-retroactivity of punishments, ICRC, *Enhancing protection for civilians in armed conflict and other situations of violence* (2008), 7.

<sup>6</sup> IASC, *Growing the sheltering tree - protecting rights through humanitarian action* (Geneva: UNICEF, on behalf of the IASC, 2002).

<sup>7</sup> Christian Captier, 'What does humanitarian protection really mean?', *Humanitarian Exchange Magazine*, 23 (March 2003).



itarian law and refugee law)'.<sup>8</sup> The IASC definition of protection is broad enough to include all humanitarian partners. In practice, however, the definition is so wide that it serves the purpose of bringing the humanitarian actors together, but at the expense of a definition that can be rendered operational and specific: the more specific it becomes, the more likely it is that the consensus will fall apart.

*iii) Protection of Civilians – the comprehensive approach*

A third approach to civilian protection is one where PoC is seen as 'a complex and multi-layered process involving a diversity of entities and approaches'.<sup>9</sup> This understanding of PoC is comprehensive in the sense that it embraces a range of different activities and actors with diverging understandings, means and methods to implement civilian protection. In addition to the two understandings of civilian protection described above, it includes the use of coercive means to ensure civilian protection in armed conflict. It states that 'relevant activities may include the delivery of humanitarian assistance; the monitoring and recording of violations of international humanitarian and human rights law, and reporting these violations to those responsible and other decision makers; institution building, governance and development programmes; and, ultimately, the deployment of peacekeeping troops'.<sup>10</sup> This approach brings international human rights, humanitarian and refugee law together with military protection, physical security and humanitarian assistance. This mix of activities is seen as problematic by actors subscribing to the other two understandings, who argue that it threatens to dilute the legal basis of protection of civilians in IHL or that it threatens the humanitarian principles that serve as the basis of humanitarian protection.

As we shall see, OCHA has opted for different interpretations and uses of the term 'protection', but it generally advances a position that approximates the comprehensive approach described above. We argue below that given its mandate, funding situation, and relationship with other humanitarian actors, OCHA places a premium on comprehensiveness as it accords the organization a position from which to address a host of issues, to secure influence with the UN Security Council, and to conform to the demands of the broader humanitarian community. We bring this insight about the political economy of policy evolution to bear on on-going debates about how to reduce the vagueness and uncertainty about what PoC entails. Analysts have called for a specification of what PoC is, as a stepping stone to produce a consensus on which better training, coordination and also integration are to take place. Our argument implies that this assumption may not be

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<sup>8</sup> ICRC, Third Workshop on Protection, Background Paper (7 January 1999), 21.

<sup>9</sup> UN Secretary General, Report of the Secretary-General to the Security Council on the protection of civilians in armed conflict, S/2001/331 (30 March 2001), 2.

<sup>10</sup> Ibid.

valid: inasmuch as central actors, like OCHA, have had an interest in defining and advancing a broad and comprehensive concept of PoC, there is little reason to expect the emergence of a more specific and operational concept of PoC to which all actors will commit. There are interests at stake for all actors involved in advancing a particular reading of PoC. Given the status of the ideal of protecting civilians, a range of actors – OCHA, DPKO, UNHCR, OHCHR – will want to highlight different aspects of it as a means of being heard, getting access to resources gaining influence in relation to member states. The upshot of all this is that before we can begin to contemplate how to improve the effectiveness of the UN in addressing PoC, it is necessary to understand why, and how, different actors relate to and use PoC for organization-specific purposes. In a nutshell, the reported uncertainty and vagueness of the term is caused not so much by the inherent challenges of protecting civilians, as by the doings of different actors who hold different views of, and interests in, the concept of PoC.

We begin with a fairly detailed account of the history and organizational set-up of OCHA and move on to describe its mandate. We then go through its main constituencies, since these are here assumed to be central in shaping how the interests of UN actors are formulated and advanced. We examine OCHA's work on, and use of, the PoC concept, and detail some of the consequences for other actors – such as DPKO, UNHCR and the OHCHR.

## 2. About OCHA

The Kurdish refugee crisis following the Gulf War in 1990–91 was a wake-up call for humanitarians and donors alike. It revealed the complexity of getting multiple UN agencies and NGOs to coordinate their activities effectively to help civilians affected by war. In December 1991, the General Assembly responded to these shortcomings by adopting resolution 46/182, designed to ‘strengthen the United Nations response to both complex emergencies and natural disasters while improving the overall effectiveness of humanitarian operations in the field.’ The resolution also created the high-level position of Emergency Relief Coordinator (ERC)<sup>11</sup> combining the functions carried out by representatives of the Secretary-General for major and complex emergencies, as well as the UN’s natural disaster functions. The Secretary-General went on to establish the Department of Humanitarian Affairs (DHA) and assigned the ERC the status of Under-Secretary-General (USG) for Humanitarian Affairs, with offices in New York and Geneva to provide institutional support. However, the DHA was under-staffed and under-resourced, and by most accounts made little practical difference in humanitarian crises.<sup>12</sup>

In January 1998 the DHA was replaced by the Office for the Coordination of Humanitarian Affairs (OCHA) as part of Secretary-General Kofi Annan’s reform programme. OCHA was relieved of most of its operational tasks, with responsibility for mine action, demobilization and disaster mitigation transferred to UNDP and the Department of Peacekeeping Operations. OCHA’s core functions were now to be coordination, advocacy and policy development. The rationale was – and still is – that further ‘improvement in the coordination and management of humanitarian actions can be achieved to ensure greater coherence, while enhancing accountability.’<sup>13</sup>

OCHA has an Executive Office in New York close to the UN’s political centre of gravity, and an Administrative Office in Geneva where the majority of humanitarian organizations have their headquarters. Under the overall strategic direction of the head of the Executive Of-

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<sup>11</sup> This includes coordination of the protection and assistance to IDPs.

<sup>12</sup> Sarah Longford, ‘OCHA One Year On: Is Humanitarian Coordination any Better,’ *Humanitarian Exchange Magazine*, no. 13 (1999). and Thomas G. Weiss, ‘Civilian-military interactions and ongoing UN reforms: DHA’s past and OCHA’s remaining challenges,’ *International Peacekeeping* 5, no. 4 (1998). Interview, former senior OCHA Official, (Oslo: January 2011).

<sup>13</sup> United Nations Secretary General, ‘Renewing the United Nations: A Programme for Reform (A/51/950),’ in *Secretary General's Report (1997)*, 186.para.

office, the Administrative Office is responsible for supporting field operations. The Director of the Coordination and Response Division (CRD) in New York oversees the day-to-day management of all OCHA Regional and Country Offices (ROs/COs) and is responsible for coordinating all country-level humanitarian strategies. Through the geographic desks, CRD provides technical support to Resident Coordinators/Humanitarian Coordinators. CRD serves as the main conduit of information and support between the field and headquarters, facilitating effective interaction among all OCHA branches and its ROs/COs. OCHA has a network of regional, subregional and country offices responsible for coordinating the international humanitarian effort at the country level. Through their coordination activities on the ground and interaction with governments and other partners, OCHA's Country Offices aim to support a more enabling environment for humanitarian action and a more effective humanitarian coordination system.

Broadly speaking, OCHA has two mechanisms for directly coordinating humanitarian action. The Inter-Agency Standing Committee (IASC), chaired by the ERC, is where OCHA primarily carries out its coordination functions. Participants include all humanitarian partners, from UN agencies, funds and programmes, to the Red Cross Movement and NGOs. The IASC objectives are to develop humanitarian policies, agree on a division of responsibility for the various aspects of humanitarian assistance, identify and addresses gaps in response, and advocate for effective application of humanitarian principles. Together with Executive Committee for Humanitarian Affairs (ECHA), the IASC forms the key strategic coordination mechanism among major humanitarian actors. The heads of all IASC member agencies – the IASC Principals – meet twice a year in conferences chaired by the ERC. Their main tasks include making strategic policy and major operational decisions and bringing issues to the attention of the Secretary-General and the Security Council through the ERC. The IASC working-group level makes non-strategic policy and operational decisions, and prepares options and recommendations for the meetings of IASC Principals.

The Consolidated Appeals Process (CAP) is one of the main coordination tools for complex emergencies at the field level. It serves to bring together aid organisations to jointly plan, coordinate, implement and monitor their response to natural disasters and complex emergencies. Through the CAP, organizations working in crisis regions produce appeals which they present to the international community and donors. Humanitarian agencies are thus supposed to appeal for funds cohesively instead of competitively. The CAPs have been criticized for serving as 'shopping lists' of aid projects, rather than representing coordinated, prioritized and well-founded plans for the delivery of hu-

humanitarian aid. Together with IASC members, OCHA invested much effort in 1998 in strengthening each stage in the preparations for appeals. Despite considerable improvements resulting from OCHA's procedural improvements and training, signals of support from donors and increased buy-in and participation from UN agencies, the progress did not lead to the hoped-for increase in contributions to projects included in the appeal.<sup>14</sup> This remains a challenge to the CAP.

Since its establishment, OCHA has been constantly evolving and expanding its resources and operations. The downgrade from department to office in 1998 also meant a slash in budget and staffing. From the late 1990s to 2011, however, OCHA's budget increased from around USD 50 mill. to some USD 252 mill., while the staff more than doubled, from 964 to 1980. Headquarters level in New York and Geneva saw an increase in staff from 246 to 441.<sup>15</sup> In 2005, then-ERC Jan Egeland initiated a large humanitarian reform based on consultations with the members of the IASC. The humanitarian reform programme rested on four pillars: (1) Developing the cluster approach, where humanitarian organizations are intended to cooperate and coordinate activities within themselves according to nine different issues including Health, Protection, and Water and Sanitation. (2) More predictable funding through the re-launch of the Central Emergency Response Fund (CERF) to ensure a minimum of economic resources available to the ERC in order to start up and continue urgent operations as well as to 'top up' the CAP when it is not sufficiently funded. (3) Improved recruitment and training of Humanitarian Coordinators in relief operations. (4) Improved partnerships with national and local NGOs to make international humanitarian cooperation less centred on the UN and the Western states.

## 2.1 OCHA mandate and mission

OCHA's mandate consists of three core tasks:

*(a) policy development and coordination functions in support of the Secretary-General, ensuring that all humanitarian issues, including those which fall between gaps in existing mandates of agencies such as protection and assistance for internally displaced persons, are addressed (...) (b) advocacy of humanitarian issues with political organs, notably the Security Council; and (c) coordination of humanitarian emergency response, by ensuring that an appropriate response mechanism is established, through [Inter Agency Standing Committee] consultations, on the ground.<sup>16</sup>*

<sup>14</sup> Toby Porter, 'An External Review of the CAP: Commissioned by OCHA's Evaluation and Studies Unit,' (OCHA, 2002).

<sup>15</sup> These figures include regular and extrabudgetary staff as well as UN volunteers.

<sup>16</sup> United Nations Secretary General, 'Renewing the United Nations: A Programme for Reform (A/51/950).'

Additionally, GA resolution 46/182 includes a set of principles for humanitarian action, stating that the responsibility for people affected by emergency lies first and foremost with their respective states; states in need are expected to facilitate the work of responding organizations; and that humanitarian assistance must be linked to the humanitarian principles of humanity, neutrality, impartiality and independence.<sup>17</sup>

However, while these core functions and principles serve as a basis for OCHA's activities, they do not delineate a clear boundary as to *the substantial content* of its work – what should and should not be included among its operational tasks. OCHA states that its mission is to:

*mobilize and coordinate effective and principled humanitarian action in partnership with national and international actors in order to alleviate human suffering in disasters and emergencies; advocate for the rights of people in need; promote preparedness and prevention; and facilitate sustainable solutions.*<sup>18</sup>

What exactly constitutes 'humanitarian action' is not clear. OCHA's own dictionary defines humanitarian action as 'aid that addresses the immediate needs of individuals affected by crises'.<sup>19</sup> This raises the question of what is meant by 'immediate needs', and where are the limits to less immediate needs. Of course, there are good reasons for this vagueness in the OCHA mandate. Humanitarian work must necessarily be based on pragmatic considerations and reported needs on the ground, rather than rigorous definitions with no regard for the operational context. Tasks that might be seen as outside the mandate in one crisis might prove to be critical in another. However, it does complicate interactions with other actors, because divisions of labour are not clarified and controversies over areas of responsibility may arise, with the relationship between humanitarian relief and developmental projects being a recurrent theme between OCHA and UN development agencies.

This characteristic of OCHA's mandate is not unique, neither for UN agencies nor humanitarian NGOs. Nevertheless, it does seem that this feature influences OCHA's actions more than the case with other UN organizations. While the mandate of the United Nations High Commissioner for Refugees (UNHCR) is explicitly codified in the Refugee Convention of 1951<sup>20</sup> and the Office of Commissioner for Human

<sup>17</sup> The principle of independence was added later.

<sup>18</sup> See <http://ochaonline.un.org/tabid/5838/language/en-US/Default.aspx> and A/RES/46/182 (1991) and A/RES/45/100 (1990) and A/RES/2816 (1971)

<sup>19</sup> Irin reliefweb glossary: [www.reliefweb.int/glossary/pageloader.aspx?lista=H](http://www.reliefweb.int/glossary/pageloader.aspx?lista=H)

<sup>20</sup> Although the mandate has not been changed, UNHCR's activities have been altered somewhat since the 1950s. Along with new regional focuses, the group receiving aid has expanded beyond the convention to include asylum seekers, refugees seeking to return

Rights (OHCHR) can refer to the various treaties and declaration on Human Rights, OCHA has no equivalent reference document. Hence, ever since OCHA was founded, it has been imperative for the organization to assert its role and develop its own prerogatives among the UN agencies, and vis-à-vis the humanitarian NGOs and other actors.<sup>21</sup>

## 2.2 Funding

Originally it was intended that OCHA would receive its funding over the UN's regular budget through the 5th committee. Today, the organization receives only approximately 5 per cent of its budget from the regular budget. This chronic underfunding of OCHA's activities on the UN regular budget has made the organization highly dependent on voluntary contributions, the bulk of which come from Western donors through the OCHA Donor Support Group (ODSG). This is an informal group of UN member states that provide OCHA with 'financial, political and technical support'.<sup>22</sup> Members commit to annual funding of a minimum threshold, currently \$0.5 million.

The voluntary contributions from member states cover 94 per cent of the OCHA global budget. DPKO and DPA, by contrast, receive about 95 per cent of their funds from the regular budget, and only 5 per cent from voluntary contributions. Some 20 countries now contribute the bulk of OCHA's funds. Since 2002, Sweden, the UK, the USA, the European Commission and Norway have been among OCHA's main donors.

OCHA has a reoccurring problem of funding for its core activities and providing sufficient cash to maintain predictability. The amount of regular budget funding appropriated for use by OCHA decreased from 12 per cent of OCHA's budget in the 2002–2003 biennium to 6 per cent for 2008–2009. This has consequences for staffing as well. During 2009, OCHA faced repeated cash challenges. The causes included late disbursements against pledges, heavy earmarking, depleted cash reserves following two years of underfunding, and the overall mismatch between donor income and OCHA expenditure.

## 2.3 Identity

In the words of one former senior staff member, OCHA is seen as the 'NGO of the UN'. This organizational identity is closely linked to

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home, IDPs and populations affected by armed conflict. See UNHCR, *Protecting Refugees & the Role of UNHCR*, (2009), 3.

<sup>22</sup> The ODSG currently consists of Norway (chair), Australia, Belgium, Canada, Denmark, Finland, France, Germany, Ireland, Italy, Japan, Luxembourg, New Zealand, the Netherlands, Republic of Korea, Spain, Sweden, Switzerland, United Arab Emirates, the United Kingdom, the United States and the European Commission.

three aspects of the organizations. First, OCHA's mandate, with its focus on the humanitarian principles of humanity, neutrality, impartiality and independence, distinguishes the organization from other UN organizations in that OCHA defines itself, as do other humanitarian actors, as a-political. OCHA, like most humanitarian NGOs and agencies, receives contributions from private donors and corporations. Compared to other humanitarian agencies, however, these contributions are rather negligible.<sup>23</sup> Nevertheless, this feature illustrates the difference between OCHA and the other key actors in the UN secretariat in the ambit of international peace and security, such as the DPKO and the DPA. Simultaneously, and adding to the split identity of OCHA, the organization is still subject to the cumbersome rules of the UN Secretariat and therefore does not enjoy the same type of independence as do the other UN specialized agencies.

Second, OCHA's staff is to a large extent made up of people with backgrounds in humanitarian organizations and agencies like MSF, ICRC, UNICEF and UNHCR. Others have worked with humanitarian issues within the civil service of member states. In broad terms, DPKO staffers generally have a background in the foreign service, military or police of member states, whereas employees in the DPA come from academic or diplomatic careers.<sup>24</sup>

Third, OCHA's identity is also dependent on the personality and background of the ERC. Over the years, these have been both activists and diplomats. Sérgio Vieira de Mello (1998–2001) had a long background from both field and headquarters work within UNHCR, interspersed with experience from UN missions. Kenzo Oshima (2001–2003) was a career diplomat from Japan, where he, among other positions, had worked with Japan's peacekeeping and humanitarian assistance programme. Jan Egeland (2003–2006) had been State Secretary in the Norwegian Ministry of Foreign Affairs during the 1990s, but was Secretary General of the Norwegian Red Cross when appointed and had a strong NGO background from a decade of working for Amnesty International, the Red Cross and solidarity movements. Sir John Holmes (2007–2010) was a British diplomat who had worked with a range of issues during his career in the Foreign and Commonwealth Office. Like his assistant, Katharine Bragg, Holmes had little or no field experience. The current ERC, Valerie Amos, made a career in the British Labour Party, as Chief Executive of the Equal Opportunities Commission and as Secretary of State for International Development.

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<sup>23</sup> In 2009, OCHA received approx USD 0.03 mill from private donors. In comparison, UNHCR secured a total amount of USD 21 mill to the organization from private donors the same year.

<sup>24</sup> Interview, former senior OCHA Official.



### 3. The emergence of Protection of Civilians as Theme

Over the last decade, the issue of protection of civilians in armed conflict (PoC) has become a regular feature of Security Council deliberations. Protection of civilians as a separate thematic issue in the UN context was first articulated in 1998 in two reports of the Secretary-General, one on Africa<sup>25</sup> and the other on protection for humanitarian assistance to refugees and others.<sup>26</sup>

Several events during the 1990s had contributed to highlight the plight of civilians in armed conflict: the war in Somalia, the 1994 genocide in Rwanda and the war in the Balkans. In the late 1990s, the conflicts in Sierra Leone, Liberia, Timor-Leste and Kosovo further spurred international interest in protection issues. These events were illustrative of a longer-running trend in conflicts globally. In the last century, the ratio of civilian casualties to military casualties as a result of conflict had risen steadily, until civilian deaths outnumbered those of combatants.<sup>27</sup> Several factors contributed to this trend: First, a shift from small and decentralized wars into war as state-driven enterprises involving whole populations. Second, a shift from interstate to intrastate war. Third, an increase in unconventional conflict involving one or more irregular armed groups. This resulted in a blurring of the distinction between combatants taking part in hostilities, on the one hand, and civilians on the other, raising the death toll of civilians relative to combatants. Such casualties are not only the unintended consequences of conflict – as in the on-going debates about ‘collateral damage’ – but also the result of civilians being deliberately targeted by armed groups. Lastly, the prevalence of affordable, high-quality and portable small arms and light weapons, making killing quicker, easier and more efficient.

#### 3.1 Human Security and Protection of Civilians

As Security Council Resolutions often note, the legal framework for the PoC in armed conflict is provided by international humanitarian

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<sup>25</sup> ‘The causes of conflict and the promotion of durable peace and sustainable development in Africa’, (United Nations 1998).

<sup>26</sup> ‘Protection for Humanitarian Assistance to Refugees and Others in Conflict Situations’, (United Nations, 2008).

<sup>27</sup> Milton Leitenberg, ed., ‘Deaths in Wars and Conflicts in the 20th Century’, Occasional Paper (Cornell University Peace Studies Program, 2003). These estimates are in the middle range.

law (IHL), human rights law and refugee law,<sup>28</sup> and more recently also international criminal law. Equally important for the emergence of PoC on the Security Council agenda was the concept of ‘human security’ and how it made its way into international politics in the mid-1990s. The United Nations Development Programme’s 1994 Human Development Report is seen as a milestone publication for the idea of human security. It argued that ensuring ‘freedom from want’ and ‘freedom from fear’ for all persons is the best path to tackle the problem of global insecurity.<sup>29</sup> Thus, PoC can be said to have taken on a dual character – long-established in international law on the one hand (since 1949), and later introduced in conjunction with political debates about international peace and security, with specific reference to human security. Canada was here a key actor.

Canada was one of the first countries to incorporate ‘Human Security’ in its own foreign policy. This move has been linked to Lloyd Axworthy, who was appointed foreign minister in 1996. When Canada announced its campaign for a seat on the Security Council in 1999–2000, Human Security became one element, if not the central one, in Canada’s efforts to differentiate its foreign policy from others. Canada already had a good track record in this respect, not least through its work on the convention on antipersonnel landmines (1997), the issue of child soldiers, the international trade in small arms, and the statutes to create an International Criminal Court (signed in July 1998). Security Council membership was seen as an effective way to promote Canada’s human security objectives, while also bolstering the country’s international prestige.<sup>30</sup> The concept of PoC served as an efficient vehicle for this strategy.

The humanitarian crises of the 1990s had made humanitarian action closely associated with meeting the material needs of the civilian population. Systematically lacking, however, was the provision of safety for civilians in war zones. The paradox was that the recipients of humanitarian aid often ended up as the so-called ‘well-fed dead’. With the failures of the international community, and the Security Council, to halt the atrocities in Rwanda and the Balkans as a background, Canada argued that a shift towards the protection of individuals in conflict zones – human security – would have to be central to the Council’s work.<sup>31</sup>

<sup>28</sup> SC Resolution 1894, operative paragraphs 1, 5, 7 (a).

<sup>29</sup> For a comprehensive analysis of all definitions, critiques and counter-critiques, see Shahrbanou Tadjbakhsh and Anuradha Chenoy, *Human Security: Concepts and Implications* (New York: Routledge, 2007).

<sup>30</sup> David M. Malone, ‘Eyes on the Prize: The Quest for Nonpermanent Seats on the UN Security Council’, *Global Governance* 6, no. 1 (2000).

<sup>31</sup> Elissa Golberg and Don Hubert, ‘The Security Council and the Protection of Civilians’ in *Human Security and the New Diplomacy: Protecting People, Promoting Peace*, ed. Robert Grant McRae and Don Hubert (Montreal: McGill-Queen’s University Press, 2001), 224, 224.

However, human security was not necessarily a winning ticket among all actors in the General Assembly, given many UN member states' fears of a weakening of the principle of state sovereignty. Canada managed to win over enough states in part by calling for reform of the Council's working methods – an issue of concern to most non-members.<sup>32</sup> Running an effective campaign, Canada won the seat of the Western European and Other States Group with 131 votes.

### 3.2 Placing PoC on the Security Council Agenda

The UN Security Council is a conservative forum, where the principles of sovereignty and territorial integrity have historically outweighed those of human rights. However, the cumulative impact of Council decisions during the 1990s eroded and re-defined the concept of state sovereignty.<sup>33</sup> There was also a growing acceptance among Council members for the Council president, during a given month, to promote a specific substantive theme for broad-ranging discussion, as distinct from the Council's usual crisis-response mode of interaction. Canada was assisted by other non-permanent members of the Security Council in placing PoC on the Council agenda. On 21 January 1999, Brazil, as president of the Security Council, invited the ERC and director of OCHA, Sérgio Vieira de Mello (a Brazilian national), to give an open briefing on humanitarian activities relevant to the Security Council.

Canada held the presidency in the following month, and prepared a two-pronged approach to promote the protection of civilians as part of its focus on human security. First, on 12 February 1999, it chaired an open debate on the Protection of Civilians in Armed Conflict. The Canadian delegation worked closely with the UN ERC, de Mello and the ICRC, and gathered support for the debate through diplomatic démarches of Council members to their respective capitals. The presidential statement that was adopted consolidated the Council's commitment on a range of protection issues and, importantly, established a follow-up process, by calling on the Secretary-General to submit a report on the topic by September during the Dutch presidency.

<sup>32</sup> Malone, 'Eyes on the Prize: The Quest for Nonpermanent Seats on the UN Security Council'. For an alternative view of Canada's motivations for pursuing a foreign policy on Human Security, see Nikola Hynek and David Bosold, 'A History and Genealogy of the Freedom from Fear Doctrine', *International Journal* 64, no. 3 (2009). They argue that the Canada's policies were shaped by a political economy of power that existed in Canadian society, rather than as a response to shifts in global security dynamics.

<sup>33</sup> David M. Malone, 'The Security Council in the Post-Cold War Era: A Study in the Creative Interpretation of the UN Charter', *New York University Journal of International Law and Politics (JILP)*, 35, no. 2, 487–517, Winter 2003.

OCHA was tasked with writing the Secretary-General's report on Protection of Civilians in Armed Conflict.<sup>34</sup> Sérgio Vieira de Mello and OCHA were instrumental in establishing the current regime where OCHA is responsible for drafting the Secretary-General's report every 18 months and the ERC provides an oral brief to the Security Council every six months.

The Secretary-General's report, presented in September 1999, had been drafted by OCHA. It aimed at improving the legal and physical protection of civilians before and during situations of armed conflict. The report put forward forty recommendations and provided a graduated menu of options ranging from diplomatic and political initiatives to peacekeeping and enforcement operations. While placing the onus of responsibility on the warring parties, the report also highlighted the clear responsibilities of the international community.<sup>35</sup> On 17 September, Security Council resolution 1265 was adopted, following the debate of the report. In December 1999, Canada began chairing an informal working group tasked with reviewing the report's recommendations and reporting on to the Council on proposals for further action during Canada's next presidency in April 2000. Preparing the follow-up resolution proved extremely contentious. Matters pertaining to legal protection were transferred to the General Assembly, and a detailed resolution on physical protection was drafted.<sup>36</sup> On 19 April 2000, the council agreed to resolution 1296 calling for peacekeeping mandates, 'when appropriate', to be provided with adequate human and financial resources to protect civilians under 'imminent physical threat'. The resolution also called on the newly-created Council working group to consider the Secretary-General's recommendations on mitigating the humanitarian impact of sanctions.

These resolutions re-affirmed the Council's presidential statement that outlined a set of issues that were to become the core of PoC (UNSC 1999): (i) the need to ensure safety of civilians, (ii) ensure compliance with IHL, (iii) address impunity and injustice, (iv) unimpeded access and safety of humanitarian personnel, and (v) address the proliferation of small arms and the problems by conventional armaments.

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<sup>34</sup> 'OCHA in 2000: Office for the Coordination of Humanitarian Affairs - Annual Plan and Budget', (United Nations, 2000).

<sup>35</sup> Golberg and Hubert, 'The Security Council and the Protection of Civilians', 226.

<sup>36</sup> *Ibid.*

## 4. OCHA seizing the opportunity

OCHA is neither an operational organization nor a mandated protection agency.<sup>37</sup> Still, it became instrumental in placing and *maintaining* Protection of Civilians as a theme on the agenda of the UN Security Council. This was, and still is, done to the extent that OCHA is now seen as owning the policy franchise of PoC and serving as its conceptual anchor within the UN.<sup>38</sup>

An important factor in this development was de Mello's identification of the potential that lay in the concept of PoC to advance humanitarian issues in the Security Council. As recounted by his biographer, de Mello came to the position as head of OCHA from a long career at UNHCR. At the time of being appointed USG for OCHA, he had grown frustrated with those in the humanitarian community that maintained a 'purist' stance and wanted to use his position as head of OCHA to be engaged in strategic, political decision-making.<sup>39</sup> He seized the opportunity presented to him by the Canadian initiative and other members of the Security Council to regularly brief the Council on PoC, which by virtue of its broad scope could include a host of issues hitherto not on the Council's agenda.<sup>40</sup> As an organization, OCHA occupies a precarious position – being part of the UN secretariat yet at the same time part of, and ultimately dependent upon, humanitarian organizations both inside and outside the UN. PoC represented an opportunity to assert its position as central in, indeed owning, what seemed to be a potentially powerful policy concept.

It is noteworthy in this context that a 2006 OCHA policy instruction on protection notes that 'As a coordination entity, OCHA does not provide *direct* protection services as do protection-mandates agencies such as UNHCR, OHCHR, UNICEF, or ICRC.' This is followed by a reference to the importance of protection for humanitarian action: 'However, it is widely agreed that attention to protection is essential for effective humanitarian action and, as such, all humanitarian actors – including OCHA – have a role to play.'<sup>41</sup> The implication here is that even though OCHA does not do direct protection work, it has a central role to play *because* protection is important.

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<sup>37</sup> The protection-mandated UN agencies are OHCHR, UNHCR, UNICEF

<sup>38</sup> Jon Harald Sande Lie and Benjamin de Carvalho, 'Protecting Civilians and Protecting Ideas: Institutional Challenges to the Protection of Civilians', in NUPI Working Paper 760 (Norwegian Institute of International Affairs, 2009), 9.

<sup>39</sup> Samantha Power, *Chasing the Flame: Sergio Vieira de Mello and the Fight to Save the World* (New York: Penguin Press, 2008), 221.

<sup>40</sup> Interview, former senior OCHA Official.

<sup>41</sup> 'OCHA's Role in Supporting Protection: International and Field Level Responsibilities', Policy Instruction. New York. OCHA (2006) p. 2.

This is not to question the convictions of OCHA staff and leadership and their genuine aspirations for the implementation of the Protection of Civilians. As we also document below, other actors, among them OHCHR and UNHCR, have exhibited the same tendencies, and our focus here on OCHA is meant to illustrate this more general dynamics. The specific point as regards OCHA is how its particular institutional position – with an unstable funding situation, vague mandate and a challenging task of coordinating other humanitarian actors (who often do not want to be coordinated) – has shaped its decisions on PoC. Against this backdrop, we contend that the OCHA leadership placed a premium on securing political influence, and saw PoC as an effective means to that end.

#### 4.1 Addressing the Security Council

One of OCHA's core functions is to advocate for humanitarian issues with political organs, notably the Security Council. Having access to the Council means being heard by the five permanent members and getting issues to the top of the international agenda. The Security Council is also an important stage from which OCHA and the ERC can launch their messages and appeals to actors *outside* the UN. By showing that it is heard by the Council, OCHA can bolster its legitimacy as a representative of the humanitarian community and advocate for the effectiveness of humanitarian work. However, gaining *regular* access to the Council has proved a challenge for representatives of the humanitarian community, and here the ERC has been no exception.

During the early 1990s, the Security Council was all but closed to input from others than its current members. Over the years, Council members increasingly came to recognize that inputs would have to be broader than those of the 15 members in order to secure quality in decision-making. The Council therefore opened up the consultation process to a range of other actors, including troop-contributing countries, the wider UN membership, ECOSOC, the secretariat and nongovernmental organizations.<sup>42</sup> Throughout the 1990s, the number of open meetings rose, as the result of a considerable increase in the workload and members' efforts to promote openness and transparency in the work of the Council. In late 1998, the Council decided, in the interest of enhancing the transparency of its working methods, that briefings by the Secretariat or other persons could be held during public meetings.<sup>43</sup>

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<sup>42</sup> Susan C. Hulton, 'Council Working Methods and Procedures', in *The UN Security Council: from the Cold War to the 21st century*, ed. David M. Malone (Boulder, CO: Lynne Rienner, 2004), 241.

<sup>43</sup> Presidential Note S/1998/1016 of 30 October 1998

Since the establishment of OCHA in 1992, the Security Council received regular briefings from the ERC on the humanitarian aspects of situations on the Council's agenda. However, these briefings were *ad hoc* and related to specific situations rather than broad themes. In contrast, the UN High Commissioner for Refugees had, since 1992, briefed the Council on a regular basis on developments concerning refugees and displaced persons.<sup>44</sup> As noted, the prospect of the opportunity for regularly briefing the Council was much valued – perhaps especially for OCHA, given its lack of own substantive mandate – and was an important motivation for Sérgio Vieira de Mello's decision to accept the position of ERC in 1998.<sup>45</sup>

## 4.2 Strengthening legitimacy, increasing funding

The opportunity to directly address the Security Council was also seen as a priority among two of OCHA's key constituencies: OCHA's Donor Support Group and the humanitarian community.<sup>46</sup> OCHA relied on the former for its financial stability, and the latter for its legitimacy, both as spokesperson on humanitarian issues within the UN and elsewhere and as a humanitarian coordinator.

### The humanitarian community

As the designated coordinator of humanitarian emergency response, OCHA's main constituency is the community of humanitarian organizations. These include the relevant UN agencies, such as UNHCR, UNICEF, WFP and UNDP, as well as the humanitarian NGOs<sup>47</sup> under the umbrellas of the International Council of Voluntary Agencies<sup>48</sup> and Interaction.<sup>49</sup> OCHA interacts with these organizations largely through the Inter-Agency Standing Committee (IASC) at the global level and through the Consolidated Appeals Process (CAP) at country level. OCHA's relationship with the humanitarian community affects the organization's standing and legitimacy in two distinct ways. For advocacy vis-à-vis the Security Council and UN member states, it is important for OCHA to be seen as a legitimate spokesperson for the humanitarian community. Simultaneously, OCHA's success in coordinating the humanitarian community is heavily contingent on its ability to show that it safeguards the interests of these organizations, par-

<sup>44</sup> Hulton, 'Council Working Methods and Procedures', 244.

<sup>45</sup> S. Power, *Chasing the Flame*, 221.

<sup>46</sup> Interview, former senior OCHA Official.

<sup>47</sup> The ICRC is an exception, as it is the only institution explicitly named under International Humanitarian Law (IHL) as a controlling authority. The legal mandate of the ICRC stems from the four Geneva Conventions of 1949, as well as its own Statutes.

<sup>48</sup> The International Council of Voluntary Agencies is a global network of non-governmental organisations that advocates effective humanitarian action.

<sup>49</sup> InterAction is the largest alliance of US-based international nongovernmental organizations (NGOs) focused on the world's poor and vulnerable.

ticularly in relation to the UN Secretariat and of course the Council member states. This is a complicated balancing act.

Although OCHA has greatly increased its field presence in recent years, it is still relatively weak compared to the other large humanitarian agencies and NGOs.<sup>50</sup> It relies on the humanitarian organizations both in order to implement humanitarian action and in order to collect and return information about the situation on the ground back to headquarters and further to the Security Council and the international community, including the media.

The humanitarian NGOs feel a sense of ownership of OCHA. One official at a humanitarian NGO noted, for example, that they very much see OCHA as ‘their’ organization, and that they voice criticisms of its operation bilaterally because they want to help and improve its work.<sup>51</sup> While the IASC is intended to serve as an inclusive and representative mechanism for humanitarian coordination, many NGOs still regard it as a ‘blue team’ – dominated by the UN agencies.<sup>52</sup> Moreover, many in the humanitarian community remain sceptical of the expertise and authority of OCHA’s non-operational coordination staff and the additional layers of bureaucracy entailed.<sup>53</sup> OCHA’s handling of recent crises, such as the 2007 floods in Pakistan and the earthquake in Haiti in 2009, are cited as examples where OCHA has not always contributed to improve that view. In Haiti, for example, interviewees were concerned that OCHA contributed inexperienced personnel without the proper experience and contextual knowledge to coordinate agencies and NGOs with long experience in the field.<sup>54</sup>

Moreover, there is an inherent difficulty in being charged with coordination, as the actors that are to be coordinated will necessarily have to conform to guidelines and decisions by the coordinator.<sup>55</sup> Other humanitarian NGOs, such as Médecins Sans Frontières (MSF), have not necessarily seen coordination as a blessing. They fear that UN and donor policies of coherence, mission integration and the politicization of aid in contexts such as Angola, the DRC, Sierra Leone and Afghanistan, undermine humanitarian ideals and effectiveness.<sup>56</sup> This – the *humanitarian dilemma* – reflects a tension between the partiality involved in UN support for a political transition process and the impar-

<sup>50</sup> Many interviewees, both from OCHA itself and from other UN agencies, commented upon its comparatively weak field presence. OCHA’s field staff by 2010 numbered 1539, whereas, UNCHRC has more than 6000. In Sudan, ICRC has 143 expatriates and 1,488 national staff (daily workers not included). OCHA has 224 expats and 42 national staff.

<sup>51</sup> Interview, senior NRC official, (Oslo: December 2010).

<sup>52</sup> Interview, humanitarian organization, (New York: December 2010).

<sup>53</sup> Longford, ‘OCHA One Year On: Is Humanitarian Coordination any Better’.

<sup>54</sup> Interview, senior NRC official.

<sup>55</sup> Interview, OCHA official, (December 2010).

<sup>56</sup> Penny Harrison, ‘The Strategic Framework and Principled Common Programming: A Challenge to Humanitarian Assistance’, *Humanitarian Exchange Magazine* 19 (2001).



tiality needed to protect humanitarian space.<sup>57</sup> Such concerns were reinforced by the humanitarian reforms introduced in 2006. The creation of thematic clusters led by a UN agency in the field and the re-launch of the CERF were criticized for increasing the layers of coordination and funding, while lacking accountability and consistent evaluation of the impact. Likewise, it was questioned whether NGOs should be accountable at all to the UN system and the Humanitarian Coordinator in the field.<sup>58</sup> Nevertheless, there is an understanding among the NGOs that the humanitarian effort needs stronger coordination, and that OCHA is – and will continue to be – the vehicle for achieving this,<sup>59</sup> particularly because OCHA is in a position to identify gaps and improve humanitarian response in a way that NGOs cannot do individually.<sup>60</sup>

The UN humanitarian agencies have been somewhat sceptical of OCHA's role as coordinator, policy developer and advocate for the humanitarian community. When OCHA was established, the leadership within UNHCR in particular feared that OCHA would take over many of its tasks.<sup>61</sup> The executive heads of UNHCR, WFP, UNICEF and the UNDP each preside over resources, human and financial, that dwarf those of OCHA. If coordination means losing autonomy, they are less than willing to accept OCHA's coordination authority.<sup>62</sup> Moreover, many of these organizations do not need OCHA in order to gain access to key policymakers within the UN secretariat or member states. They have their channels, even to the UN Security Council. In the development of humanitarian policy at headquarters level in New York, however, the picture seems to be more nuanced. There, UN agencies, Secretariat departments and the ICRC cooperate and coordinate actively. Respondents within these organizations also see OCHA at headquarters level as more pragmatic and ready to go further in policy development than many of the IASC members.<sup>63</sup>

It seems that both OCHA and the humanitarian community are aware that OCHA is more dependent on the cooperation of the humanitarian NGOs and UN agencies than vice versa. So far, cooperation on the CAP has not led to any major increase in contributions from donors, thereby undermining the incentive for the humanitarian community to cooperate with OCHA. Thus, OCHA's success as a coordinating

<sup>57</sup> Espen Barth Eide et al., Report on Integrated Missions: Practical Perspectives and Recommendations', (May 2005). Oslo: Norwegian Institute of International Affairs.

<sup>58</sup> Katharine Derderian et al., 'UN humanitarian reforms: a view from the field', *Humanitarian Exchange Magazine*, no. 39 (June 2007).

<sup>59</sup> 'Interview, Norwegian Ministry of Foreign Affairs Official,' (Oslo: December 2010).

<sup>60</sup> Interview, humanitarian organization.

<sup>61</sup> Weiss, 'Civilian-military interactions and ongoing UN reforms: DHA's past and OCHA's remaining challenges,' and Interview, former senior OCHA Official.

<sup>62</sup> Weiss, 'Civilian-military interactions and ongoing UN reforms: DHA's past and OCHA's remaining challenges.'

<sup>63</sup> Interview, humanitarian organization.

agency, in sharing information and in providing services, hinges crucially on the goodwill of the humanitarian community. However, increasingly, donors are looking to OCHA as a guarantor to improve accountability; they prefer to channel contributions through OCHA's various mechanisms such as the CAP and the clusters. Nevertheless, many organizations that have other sources of funding, notably private donors, are hesitant to follow OCHA's provisions if they see them as counter to the interests of their organizations.<sup>64</sup> A continuing challenge for OCHA is therefore to prove that it serves the interests of the humanitarian community, not only when it comes to country-level coordination, but also in policy development and advocacy in headquarters and capitals.<sup>65</sup>

### **The OCHA Donor Support Group**

The ODSG was not involved in OCHA's decision to take an active part in promoting the PoC agenda, but the group of donors did endorse it *post factum*.<sup>66</sup> Individually, however, some of OCHA's largest donors, like Norway (on the Security Council from 2001 to 2002) Canada (1999–2000) and the UK (permanent member), were important drivers for the PoC agenda. This increased the incentives for a financially constrained OCHA to further follow up the PoC agenda.

Although the ODSG does not have formal authority over OCHA's dispositions, it does wield considerable indirect power by being able to earmark contributions to certain activities. That is: the individual states that comprise the ODSG – not the ODSG as a group – typically earmark funds for activities they see as important. Currently, 60 per cent of voluntary contributions from the ODSG are earmarked – down from 70 per cent in 2003. This affects OCHA's operations and autonomy in several ways. Creating new staff positions within the bureaucracy is a cumbersome process that has to pass the UN's 5<sup>th</sup> committee. Since the committee accepts few alterations, and only rarely allows increases in staff, most new OCHA positions are funded by voluntary contributions from the ODSG. This helps explain why, for example, 371 out of 441 positions at OCHA headquarters were extra-budgetary. These dynamics are also seen in allocations of resources between headquarters and the field. Since the beginning, the core activities of headquarters have remained consistently under-funded, compelling OCHA to borrow from other non-earmarked accounts to support these activities. In the field, some offices are over-funded – but with earmarked funds that cannot be used to meet funding gaps in other offic-

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<sup>64</sup> Interview, senior NRC Official.

<sup>65</sup> Interview, OCHA Official.

<sup>66</sup> Interview, former senior OCHA Official.

es or activities.<sup>67</sup> When such contributions are given at the request of OCHA, they enhance the autonomy of the organization. When they reflect donor wishes and come in the form of earmarked contributions, OCHA's autonomy is constrained.

Being dependent on contributions from a limited set of donors with roughly similar political agendas, such as the ODSG, provides OCHA with incentives to prioritize activities that have already received earmarked funding, in order to please donors and secure continued funding. It also creates an incentive to seek out and promote policies that are assumed to be popular with donors, in a proactive effort to secure funding. This dynamic jeopardizes not only OCHA's autonomy, but also its relations with the humanitarian community, by calling into question OCHA's commitment to the humanitarian principles of independence, impartiality and neutrality.

When OCHA decided to spearhead the PoC agenda, the ODSG soon followed up with increased funding – most notably to the activities of the Policy Development and Studies Branch (PDSB) in New York, which would do many of the tasks related to OCHA's new PoC responsibilities.

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<sup>67</sup> 'OCHA in 2011: Office for the Coordination of Humanitarian Affairs - Annual Plan and Budget,' (United Nations, 2010).

## 5. OCHA and the PoC Agenda: Dynamics and Effects

Fronting the PoC agenda meant that OCHA would have to serve the humanitarian NGOs, the UN agencies, and the Security Council. This included preparing the biannual briefings of the ERC to the Security Council, writing the Report of the Secretary-General on PoC, updating the Aide Mémoire,<sup>68</sup> and developing policy for both the IASC and the UN system. Here OCHA was operating in an environment where more specific and diverging interpretations of PoC began to emerge and be advanced by various actors. Some, such as OHCHR, came to see PoC as defined by and through international humanitarian law and human rights, and thus as an overarching and legally focused objective. Another set of actors, found *inter alia* in DPKO, saw PoC as a new task to be carried out alongside the overarching objective of building peace. A third set of actors, often found in development organizations such as UNDP, have viewed PoC as synonymous with peacebuilding. To this latter group of actors, PoC is redundant as a separate task.<sup>69</sup>

### 5.1 The Growth of the PDSB and the PoC Section

The PDSB adapted quickly to the new situation, aided by earmarked contributions from key donors. In 2000, the PDSB started up a project on Internally Displaced Persons. In 2001, in response to the issues raised in S/Res 1265 (para. 16) and the SG Report on PoC in September 1999, this was followed by an additional project on the Humanitarian Impact of Sanctions. In 2002, these projects were replaced by the Humanitarian Impact of Sanctions & Protection of Civilians Project, in 2003 renamed the Protection of Civilians Project. Towards the end of 2007, the project became an independent section under the PDSB with two staff members. In late 2010, the PoC Section merged with the Geneva-based Displacement and Protection Support Section to become the Protection and Displacement Section. By 2011, the PoC section had eight staff members. In this period, the annual budget of

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<sup>68</sup> The Aide Memoire highlights specific issues for consideration in addressing protection of civilians in armed conflict and lists previous Council resolutions and statements with reference to similar concerns. The document is meant as a practical tool assisting the Council in analysing and diagnosing protection issues as well as in drafting resolutions and designing peacekeeping mandates. Security Council Report, *Protection of Civilians in Armed Conflict, Monthly Forecast* (New York: December 2005).

<sup>69</sup> See Holt, Taylor, and Kelly, *Protecting Civilians in the Context of UN Peacekeeping Operations - Successes, Setbacks and Remaining Challenges*, chapter two.

the PoC project and later PoC section increased from USD 402,280 to USD 1,656,000, largely a result of donor contributions, most of it in the form of earmarked contributions.<sup>70</sup>

The ODSG was instrumental in strengthening OCHA's policy development on PoC in New York. Contributions from donors were followed by the obligation to produce relevant outputs in the form of policy advice and documents. While standards and policy setting for the IASC was led by the Global Protection Cluster headed by UNHCR<sup>71</sup> but also by DPSS in Geneva, the PoC section in New York – closer to the political dynamics and considerations of the Security Council – was to focus on policy development for the UN Secretariat. However, PoC in peacekeeping operations was a controversial issue amongst troop-contributing countries and the DPKO was reluctant to collaborate with OCHA on the matter.<sup>72</sup> Thus, until the late 2000s, PoC in peacekeeping operations had scarcely been conceptualized beyond the language of mandates and the Secretary-General's reports on PoC.<sup>73</sup>

## 5.2 Resistance to Defining PoC

The Security Council is generally unwilling to commit to language that will bind it and its members to specific interpretations and obligations. This was also the case in approaching the PoC was approached: Some states feared that a clear definition would prove too binding. Others, among them China and Russia, feared that a specific definition would undermine state sovereignty and territorial integrity.<sup>74</sup> This interest on the part of Council members to operate with a loose definition so as not to commit them to specific tasks and obligations as regards PoC was also found among another central constituency, the humanitarian community, as well as OCHA and the ERC itself. This is so because the humanitarian community – seeing protection as an overarching, even foundational norm for their work – would stand to lose jurisdictional control should protection be defined in more precise, operational terms.

The humanitarian community consists of a diverse set of actors with different understandings of PoC. They have, through the IASC definition, agreed to an all-encompassing definition of protection that is broad enough to include all humanitarian partners. According to the IASC definition, protection is 'all activities aimed at ensuring full re-

<sup>70</sup> Interview, former senior OCHA Official.

<sup>71</sup> An important development in this regard was the inter-agency *Handbook for the Protection of Internally Displaced Persons* released by the Protection Cluster in 2007.

<sup>72</sup> Interview, OCHA official, and Interview, DPKO official, (New York, December 2010).

<sup>73</sup> Holt, Taylor, and Kelly, *Protecting Civilians in the Context of UN Peacekeeping Operations - Successes, Setbacks and Remaining Challenges*, 212–13.

<sup>74</sup> Security Council Report, 'Protection of Civilians,' in *Cross-Cutting Report* (New York: October 2010), 29.

spect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of law (i.e. human rights law, international humanitarian law and refugee law)<sup>75</sup>. In practice, this definition is so wide that it serves the purpose of bringing the humanitarian actors together, but at the expense of a definition that could be rendered operational and specific: the more specific it becomes, the more likely it is that the consensus will fall apart. There was thus a clear interest on the part of humanitarian actors in keeping the definition broad so as to bolster humanitarian concerns in the Council. Moreover, OCHA, and the ERC, have few incentives for promoting a more restricted definition of PoC, as that would strain the relationship with partners in the IASC. It would also limit the ERC's opportunities to present a range of issues under the theme of PoC in the regular reports and briefings to the Security Council.

OCHA's concerns – loosening the constraints on its operating environment and advancing its organization-specific interest in broadening its scope in relation to the Council – were addressed in the 2001 Secretary-General's report on PoC. The Report, drafted by OCHA, formulated the idea that the UN, and other actors, should promote a 'culture of protection', rather than developing an exact definition of PoC. In 2002, OCHA drafted – at the Security Council's request – an *Aide Memoire* to help guide the Council in keeping track of issues pertaining to protection in its 'deliberations on the establishment, change or close of peacekeeping mandates'.<sup>76</sup> The Memoire was updated in 2003, 2009 and in most recently in November 2010.<sup>77</sup> Due to the relative novelty of the PoC concept, and OCHA being charged with developing guidelines through the *Aide Memoire* and regularly briefing the Council, it was for OCHA more than any other actor to give concrete substantive content to PoC.

Under ERC Jan Egeland, OCHA used the PoC briefings to the Security Council to expand the range of themes that could be addressed in the conservative context of the Security Council.<sup>78</sup> Unlike actors such as the OHCHR (see below), Egeland and his team did not wish a limited or legalistic definition of PoC, because that would serve to constrain OCHA's room for action. Instead, they wanted a broad term that would enable them to raise a range of humanitarian issues with the Security Council without being obstructed by the Council's definition of 'security' or any strict IHL definition of Protection of Civilians. In

<sup>75</sup> ICRC, Third Workshop on Protection, 21.

<sup>76</sup> The first *Aide Memoire* on PoC in 2002 was developed in a joint effort with the Norway, at the time an elected Council member, and the UN Secretariat Security Council Report, *Protection of Civilians in Armed Conflict*.

<sup>77</sup> See S/PRST/2010/25 of 22 November 2010.

<sup>78</sup> Interview, former senior OCHA official.

fact, many members of the Security Council welcomed this broad concept of PoC.<sup>79</sup>

The gap between the understanding of PoC in peacekeeping operations, on the one hand, and among humanitarian agencies, on the other, further complicated relations between these actors – a relationship already strained by the debate over integrated missions.<sup>80</sup> Moreover, as will be discussed below, in keeping with its mandate and attendant organizational interests, the OHCHR sees Protection of Civilians as linked to *armed conflict*, and covered by International Humanitarian Law and International Human Rights Law.<sup>81</sup> It has argued for clarifying the legal regime and its implications for the operational work on the Protection of Civilians, but what has prevailed until now has been the aforementioned dynamics of an interest in a broad concept among OCHA and other humanitarian actors.<sup>82</sup>

### 5.3 Tensions with other Agencies

The growth in OCHA's PoC section was not matched by a growth in dedicated reporting personnel in the field. For the Secretary-General's report and preparations for the biannual briefings in the Security Council on PoC, OCHA relies on information provided by its field offices. However, the UNHCR – as head of the global protection cluster and with a larger field presence than OCHA – provides a substantial and by many accounts the most important input to these reports and briefings. This arrangement creates tensions with UNHCR staff, who report some frustration that OCHA takes credit for their work.<sup>83</sup>

There are also reports that other humanitarian actors see OCHA's prominent role in promoting PoC in relation to the Security Council as preventing them from getting access to advance *their* key priorities and interests.<sup>84</sup> This is also a concern with regard to the informal Security Council Expert Group on PoC that was established in 2009.<sup>85</sup> The Group is intended to serve as an informal forum that brings together Security Council member states at the expert level, for systematic and timely consultation on protection of civilians, generally in advance of the renewal of Security Council mandates for UN peace-

<sup>79</sup> Lie and Carvalho, 'Protecting Civilians and Protecting Ideas: Institutional Challenges to the Protection of Civilians,' 11.

<sup>80</sup> Eide et al., 'Report on Integrated Missions: Practical Perspectives and Recommendations.'

<sup>81</sup> Interview, OHCHR official, (New York: December 2010).

<sup>82</sup> Ibid.

<sup>83</sup> 'Interview, UNHCR Official', (New York: December 2010). See also Bryan Deschamps, 'Victims of violence - A review of the Protection of Civilians concept and its relevance to UNHCR's mandate,' (UNHCR Policy Development and Evaluation Service, 2010), 27.

<sup>84</sup> 'Interview, UNHCR official.

<sup>85</sup> Ibid.

keeping and other missions.<sup>86</sup> The DPKO is present to answer questions pertaining to peace operations, while OCHA gives briefs on the most important protection concerns in the situations under consideration based on inputs received from a wide array of organisations in the humanitarian community, including UN agencies and NGOs. OCHA also makes suggestions for Security Council action, including possible language for inclusion in the resolutions based on the reviewed aide-mémoire endorsed by the Council in January 2009.<sup>87</sup> As such, the expert group serves as yet another exclusive channel for OCHA to represent both UN agencies and humanitarians in more thorough discussions with Council members on PoC issues. It seems that the efforts of OCHA – and the DPKO – in the group have made a difference. Several of the mandate renewals discussed in the expert group in 2009 ended up with strengthened protection language.<sup>88</sup> However, some Council members have voiced concerns about the quality of information provided by OCHA, and wish to invite additional UN agencies such as the UNHCR or the OHCHR to brief the group.<sup>89</sup>

Until 2007, the SG's Reports on PoC received little input from DPKO and focused mainly on non-coercive strategies for protection. The 2007 Report presented the five core challenges of PoC as follows: enhancing access; a more robust response to sexual violence; a more effective response to housing, land and property issues; and eliminating the humanitarian impact of cluster munitions. The DPKO/OCHA study published in 2009 pointed out that the role of peacekeepers was not discussed, noting that the SG reports

could be leveraged in a joint effort with DPKO to brief the Council on the challenges for peacekeeping and the operational aspects of protection as part of such missions. It does not appear that this has happened, nor does it appear that there was substantial dialogue about the effort to link protection activities identified in these studies specifically to DPKO's role in developing missions.<sup>90</sup>

Subsequent reports have paid more attention to the role of peacekeepers. In the SG's Report of May 2009 and in the latest report from November 2010, the 'protection of civilians by United Nations peacekeeping and other operations' is presented as one of five core challenges to ensuring more effective protection for civilians. The five core challenges are identified as 'enhancing compliance by parties to

<sup>86</sup> China does not participate because this could open the way for a formalization of the group. See Security Council Report, *Protection of Civilian/Children/Women in Situations of Armed Conflict*, in *Cross-Cutting Report* (New York: February 2011).

<sup>87</sup> Security Council Report, *Protection of Civilians in Armed Conflicts*, (New York: 2010).

<sup>88</sup> *Ibid.*, 8.

<sup>89</sup> Security Council Report, 'Protection of Civilians', in *Cross-Cutting Report* (New York: October 2010).

<sup>90</sup> Holt, Taylor and Kelly, *Protecting Civilians in the Context of UN Peacekeeping Operations*, 73.



conflict with international law, enhancing compliance by non-State armed groups, enhancing protection by United Nations peacekeeping and other relevant missions, enhancing humanitarian access and enhancing accountability for violations of the law.<sup>91</sup> These new core challenges are more focused around international law and UN peacekeeping, whereas the ‘softer’ issues of housing, land and property issues are given less weight in these recent reports.

### 5.3. Overloading PoC?

As the actor with main responsibility for the PoC agenda in New York, OCHA’s PoC section has not only sought to define the concept in a way that could accommodate many of its organization-specific interests. It has also tried to balance and mediate *other* actors’ diverging conceptions of it, for example, by seeking a middle ground between the various understandings of protection. For some actors that have a specific mandate, like the UNHCR and OHCHR, PoC is not so much an overarching agenda as it is a central dimension of more specific tasks.<sup>92</sup> The OHCHR sees PoC in terms of (legal) protection of human rights; the UNHCR is primarily concerned with refugee concerns, and the DPKO focuses on security aspects. This also means that OCHA’s understanding of PoC encompasses many of the core activities performed by the humanitarian community, the UN agencies in particular. As regards peacekeeping operations, OCHA considers a wide range of activities to be related to the protection of civilians.<sup>93</sup> The DPKO, however, sees them as part of other categories, such as rule of law, DDR, accountability and peacebuilding.<sup>94</sup> Over time, this has given rise to concerns that PoC as fronted by OCHA has come to overshadow *other* issues.

Within OHCHR, there is concern about the blurring of the more specific concept of ‘protection of civilians in armed conflict’, which refers to IHL, and broader human rights protection. The reference for this is the use of ‘protection of civilians’ as an umbrella under which human rights are to be subsumed. PoC appeared on the agenda of the Security Council in 1999, but the OHCHR was comparatively slow in linking human rights to PoC. From 1990, the High Commissioner for Human Rights gave regular briefings to the Security Council,<sup>95</sup> but this stopped in 2002, around the time that the PoC agenda had become

<sup>91</sup> United Nations Secretary General, ‘Report of the Secretary General to the Security Council on the Protection of Civilians in Armed Conflict’ (November 2010).

<sup>92</sup> ‘Interview, OCHA official.

<sup>93</sup> United Nations Secretary General, ‘Report of the Secretary General to the Security Council on the Protection of Civilians in Armed Conflict’, (1999): para. 57

<sup>94</sup> Holt, Taylor and Kelly, *Protecting Civilians in the Context of UN Peacekeeping Operations*, 72.

<sup>95</sup> Deschamps, ‘Victims of violence - A review of the Protection of Civilians concept and its relevance to UNHCR’s mandate,’ 27.

established.<sup>96</sup> In the three most recent debates, the High Commissioner has also been invited to brief the Council.<sup>97</sup>

Concerns have been raised that the PoC discourse risks replacing that of human rights. For example, in Security Council resolution 1925 (2010) mandating the UN stabilization mission to the Democratic Republic of Congo (MONUSCO), human rights were placed under the broader umbrella of PoC, whereas in previous resolutions (SCR 1468, 2003), human rights had a separate section. This also has effects on operations in the field, where human rights monitoring is subsumed under monitoring of 'protection' performed by civilian and uniformed personnel.<sup>98</sup> During the Security Council debate on PoC on 7 July 2010, ERC John Holmes floated the idea of establishing a permanent mechanism 'somewhere in the UN system' to conduct inquiries on breaches of international humanitarian law and human rights law. Commissions of inquiry have traditionally been one of the tasks of the OHCHR (along with the DPA and the Office of Legal Advice) and met considerable resistance from that agency.<sup>99</sup> The ERC's intention was that a more automatic response to such incidents would prevent issues from being politicized by being treated on a case-by-case basis.<sup>100</sup> In the SG's report of November 2010, the ERC's initiative was moderated somewhat to entail requesting Secretariat departments directly involved in launching and supporting inquiries to undertake a review of the UN experience in these processes, and to seek to identify 'how such processes might be used on a more consistent and less politically influenced basis'.<sup>101</sup> On the other hand, such developments have led the OHCHR to take a more active part in defining and developing the PoC agenda.

Similarly, the UNHCR has moved to guard its mandated tasks from becoming constrained by efforts to expand the PoC agenda. Centrally-placed sources from several agencies have noted that OCHA in 2007 proposed the creation of a refugee cluster – an issue-area hitherto covered by the UNHCR. The initiative gave rise to tensions with and reactions from the UNHCR, and was finally discarded.<sup>102</sup> This is one example of how OCHA's efforts to assert its position have generated

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<sup>96</sup> For an overview of sporadic briefings, see Security Council Report, 'Briefings by the High Commissioner for Human Rights to the Security Council and the Peacebuilding Commission,' in *Update Report* (New York: 29 May 2007).

<sup>97</sup> Security Council Report, 'Protection of Civilians in Armed Conflicts,' 5.

<sup>98</sup> Interview, OHCHR Official.

<sup>99</sup> *Ibid.*

<sup>100</sup> United Nations Security Council 6354th meeting, S/PV.6354, (7 July 2010), 8. and Security Council Report, 'Protection of Civilians in Armed Conflicts', 6.

<sup>101</sup> General, 'Report of the Secretary General to the Security Council on the Protection of Civilians in Armed Conflict', 19.

<sup>102</sup> Interview, senior NRC official.

reactions from another UN actor wanting to preserve its own mandate and influence.<sup>103</sup>

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<sup>103</sup> Ibid.

## 6. Towards a more Peacekeeping-Oriented PoC

In the late 2000s, the PoC agenda changed. As described above, OCHA pushed a particular reading of PoC and succeeded in getting onto the agenda of the UNSC. Without a substantive humanitarian mandate, OCHA was driven in no small part by a concern to strengthen its position vis-à-vis other UN actors and humanitarian NGOs. As we describe below, however, the inclusion of PoC on the UNSC's agenda significantly raised the stakes about the contents and meaning of PoC also for other actors, causing them to become more actively involved in pushing for *their* particular view of PoC.

For almost ten years, the DPKO had been reluctant to support OCHA's PoC agenda with OCHA. Like OCHA, the DPKO is shaped in its operations by its central constituencies. Beyond the central role of the Security Council, the DPKO is also heavily dependent upon support and consent from the Special Committee on Peace Operations, the so-called C-34. The C-34, dominated by troop-contributing countries and more generally countries from the Non-Aligned Movement, has long argued that advancing the PoC agenda is tantamount to undermining state sovereignty. Lack of support from the C-34 helps explain why the DPKO initially were reluctant to get involved in formulating PoC, even though the Council had included PoC language in its mandates for peace operations for over a decade.

However, in 2009 the C-34 acknowledged the role of the PoC mandate in several UN peacekeeping missions. While OCHA had been highly successful in contributing to the inclusion of PoC in Council mandates on peacekeeping operations, the impact on the ground – in Sudan, Chad, the DRC and elsewhere – was less tangible.<sup>104</sup> The growing realization of this gap between discourse and practice was one of the reasons why the DPKO and OCHA jointly commissioned a report on Protecting Civilians in the Context of Peacekeeping Operations; this report was issued in January 2010.<sup>105</sup>

Both UNHCR and OHCHR were active in feeding into the 2010 DPKO/OCHA report. The study found that UN peacekeeping missions lacked a clear definition and conceptual understanding of civil-

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<sup>104</sup> ERC John Holmes in his brief to the UN Security Council, 7 July 2010, see Security Council Report, 'Protection of Civilians', 6.

<sup>105</sup> Holt, Taylor, and Kelly, *Protecting Civilians in the Context of UN Peacekeeping Operations*.

ian protection, as well as comprehensive strategies for implementing their mandates.<sup>106</sup> Many of the study's findings and recommendations made their way into Security Council resolution 1894 on the protection of civilians.<sup>107</sup> The DPKO/OCHA study has also served a starting point for increased intra-UN cooperation, bringing OCHA's PoC section and the DPKO Best Practices closer.<sup>108</sup> For several years, OCHA had sought to get the DPKO involved in developing PoC, so the new activity from DPKO was welcome – but it also presented some important challenges with regard to safeguarding humanitarian principles.<sup>109</sup> The OHCHR also became more active through the work on the DPKO/OCHA study and its follow-up: during 2010, OHCHR has proactively been seeking cooperation with the DPKO and OCHA in developing PoC policy.<sup>110</sup> Since 2009, this increasing interest in protection issues in UN peacekeeping operations seems to be reflected in actual decisions of the Security Council.<sup>111</sup>

Based on the recommendations of the 2010 study, the DPKO and the Department of Field Support (DFS), with input from UN humanitarian agencies, developed a Draft Operational Concept for the protection of civilians in peacekeeping missions. This was presented to the C-34 during their substantive session in March 2010.<sup>112</sup> The Committee suggested a number of ways in which the protection of civilians should be addressed by the UN Secretariat, including the development of a 'strategic framework' for protection strategies.<sup>113</sup>

According to the parties involved, the DPKO/OCHA study, the work on the Draft Operational Concept and the Strategic Framework all reflect 'serious organizational investments' in terms of institutionalizing cooperation among key UN actors. As of 2010, OCHA had monthly meetings with the UNHCR, OHCHR, UNICEF, and DPKO on the protection of civilians. The forum was started for development of the Strategic Framework, but has continued beyond this work to address other PoC issues. However, with the involvement of the DPKO, the organizational interest in comprehensiveness as a means to advance various humanitarian concerns under the heading of PoC sits uneasily with the military and its need for clarity in operational efforts.

With these recent developments, the sentiment among humanitarians and UN agencies interviewed for this project is that OCHA and the

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<sup>106</sup> Ibid., 6–9.

<sup>107</sup> Damian Lilly, 'Peacekeeping and the protection of civilians: an issue for humanitarians?', *Humanitarian Exchange Magazine*, no. 48 (2010).

<sup>108</sup> Interview, OCHA official.

<sup>109</sup> Ibid.

<sup>110</sup> Ibid.

<sup>111</sup> Security Council Report, 'Protection of Civilians', 8.

<sup>112</sup> Lilly, 'Peacekeeping and the protection of civilians: an issue for humanitarians?'

<sup>113</sup> Report of the Special Committee on Peacekeeping Operations (United Nations, 2010), para. 149.

PoC section have gone further on policy developments than intended by the IASC.<sup>114</sup> Many members of the IASC feel that OCHA has gone too far in compromising on humanitarian principles and interests in its efforts to render PoC operational in peacekeeping operations. The concern is that OCHA in New York has moved closer to the DPKO and the Security Council.<sup>115</sup> Many would have preferred for OCHA to follow a different approach, building a strong constituency with its humanitarian partners in Geneva and from there approaching the political community in New York to front the humanitarian aspects of PoC.<sup>116</sup>

However, it is important to note that not all members of the humanitarian community oppose OCHA's attempts at narrowing PoC to a more operationally effective concept in peace operations. Some have expressed a need for further clarification of the PoC concept and for strong leadership in this process. In the current situation, they fear that the PoC concept's many definitions and general lack of clarity contributes to Protection being used as a 'gap-filler' – a label for activities that fall within no other category.<sup>117</sup> This view might find resonance with those in OCHA who believe that asserting the organization's role, with clear standpoints on key issues, including its engagement with and adaptation to the DPKO and peace operations, would make OCHA a better partner in policy development fora.<sup>118</sup>

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<sup>114</sup> Interview, humanitarian organization.

<sup>115</sup> Interview, UNHCR official.

<sup>116</sup> Interview, NRC official, (Oslo, December 2010).

<sup>117</sup> Interview, IRC official, (New York, December 2010).

<sup>118</sup> Interview, OCHA official, (New York: December 2010).

## Conclusion

The protection of civilians – PoC – did not emerge as central to peace operations or on the agenda of the Security Council without deliberate, indeed strategic, action on the part of key actors, both states and UN actors. PoC was given prominence as part of a broader ideological or programmatic commitment to human security by Canada and other UN member states. Given OCHA's organizational position and attendant opportunities and constraints, PoC represented a central opportunity to secure political influence and resources by getting access to brief the Council regularly. Entrepreneurial tactics by OCHA helped define PoC in ways that secured influence in relation to the UNSC as well as support from the humanitarian community. But the inclusion of the PoC on the UNSC agenda has meant that other organizations, too, have become much more heavily involved. The OHCHR, UNHCR and DPKO in particular, have become more actively engaged in seeking to specify PoC in ways that reflect *their* particular organizational position and interests. When the C-34 supported a request from DPKO to move ahead with operationalizing PoC as a task for peacekeeping, PoC took on a meaning that OCHA would never have been able to sustain given its dependence upon support from the humanitarian community. This has made OCHA's position as a representative of the humanitarian community inside the UN, on the one hand, and as part of the UN Secretariat, on the other, more difficult as regards PoC.

For OCHA, important challenges lie ahead: First, to continue coordinating with the DPKO on operational and strategic issues on PoC while at the same time acknowledging that with regard to issues such as the use of force and political mandates, there is a limit to the depth of integration between the two.<sup>119</sup> Second, to maintain and/or regain the trust of key IASC and protection-cluster members regarding the definition and specification of PoC. While recent developments in delimiting and conceptualizing PoC within the UN system represent major breakthroughs, their importance will be weakened if the humanitarian community chooses to disregard them. One possibility voiced in the protection cluster is to keep PoC within the ambit of peacekeeping operations, while the humanitarian community focuses on 'humanitarian protection' – a more generic and encompassing term.<sup>120</sup> The UNHCR has accepted this divide between PoC/peacekeeping and refugee issues and the broader protection agenda. For the large humani-

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<sup>119</sup> Interview, former senior OCHA official.

<sup>120</sup> Interview, OHCHR official.

tarian agencies like the UNHCR, the risk involved in letting PoC/PK develop into a distinct task is that they might lose their relevance to the Security Council and major donors.<sup>121</sup> Moreover, this strategy would do nothing to remedy the current lack of communication between military and civilian sections of peacekeeping missions and the humanitarian community – including the UN country team. This lack of communication prevents the various actors from understanding each other's work methods and comparative advantages, and inhibits them from creating protection strategies (mission-wide and humanitarian) that can be mutually compatible – or at the least not contradictory.

As noted in the 2000 Brahimi Report, 'The secretariat must tell the Security Council what it needs to know, not what it wants to hear, when formulating or changing mission mandates.'<sup>122</sup> The Secretariat is far from an a-political or unitary actor: it is made up of different actors which have distinct interests in telling the Security Council different things. Just like the DPA and DPKO, OCHA seeks to get more resources, to expand its mandate and bolster its status as an advocate for its particular constituency. This shapes what OCHA conveys to the Council and other key actors, and in turn affects how debates on PoC evolve.

The upshot of this is that considerations of reforms to render the UN more effective in performing specific tasks, such as the protection of civilians, are unlikely to result from the establishment of new organizational units, or more coordination, or integration between tasks. In theory, more and better training, and integration of tasks will yield more comprehensive and effective efforts. In political practice, however, this analysis has shown that the actors involved in defining and developing a certain task or concept have distinct, and organizationally specific, interests that impede such reform efforts from being effective.

While all the actors involved in debating and performing protection work may share a *concept* of what protection is, they advance different *conceptions* of what it is and should be. And these conceptions are very much shaped not only by these actors' respective mandates, but also by the specific political, economic, and operational opportunities and constraints in their environments.

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<sup>121</sup> For an elaboration of this view, see Deschamps, 'Victims of violence - A review of the Protection of Civilians concept and its relevance to UNHCR's mandate'

<sup>122</sup> Report of the Panel on United Nations Peace Operations. Chairman: Lakhdar Brahimi. 17 August 2000. (Brahimi Report). United Nations (2000), 12.



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Office for the Coordination of Humanitarian Affairs, Sudan and New York

Office of the High Commissioner for Human Rights, Sudan and New York

Norwegian Refugee Council, Sudan and Oslo

UNMIS, Sudan

United Nations High Commissioner for Refugees, Sudan and New York

United Nations Children's Fund, Sudan