Victims of violence

A review of the Protection of Civilians concept and its relevance to UNHCR's mandate

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Policy Development and Evaluation Service

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Executive summary

The classical context for the discussion of protection of civilians in armed conflict is to be found in the Geneva Conventions of 1949 and their Additional Protocols. The road to these instruments was long and contested as the recognition of the special status of the civilian came only slowly to the fore in the humanitarian tradition of war. It is also in these Conventions and Protocols that the so-called humanitarian imperative is grounded (para. 8). Within the category of civilian, there are two groups with a protected status, namely refugees and internally displaced persons (IDPs).

In 1998, in a report on *The causes of conflict and the promotion of durable peace and sustainable development in Africa*, the then Secretary-General spoke for the first time, in an extensive manner and, in an analysis of what he considered as humanitarian imperatives, of the protecting civilians in situations of conflict; this theme preceded a consideration of the need to address refugee security issues.

In the same year, the Secretary-General presented to the Security Council a Report on the *Protection for Humanitarian Assistance to Refugees and Others in Conflict Situations*. In its deliberations on these Reports in 1998, and as reflected in Security Council (SC) Resolution 1208 (19 November 1998), the Security Council focused to a large extent on the issues of refugees, and the civil and humanitarian nature of refugee camps and settlements.

Since 1999, the theme of protection of civilians in armed conflict has been the subject of a twice-yearly open debate in the Security Council and of a Report of the Secretary-General every eighteen months. The last debate was held in July 2010 and the Secretary- General's last report was issued on 29 May 2009 (S/2009/277).

In its Resolution 1894 (11 November 2009), the Security Council, referring to the Secretary-General's Report, listed the core challenges to the effective protection of civilians (PoC) as: enhancing compliance with international law; enhancing compliance by non-State armed groups with their obligations under international law; enhancing protection through more effective and better resourced United Nations peacekeeping and other relevant missions; enhancing humanitarian access; and enhancing accountability for violations.

While the many references throughout the Resolution to international law include references not only to international humanitarian and human rights law, but also refugee law, one is left with the impression that the subject of refugees, including their physical protection, has lost something of the importance in the Security Council's deliberations and in other fora that it initially enjoyed when the theme of PoC was first taken up by the Council.

In fact, it has been observed that, while the protection of civilians – and IDPs in particular – is now a regular item before the Security Council, and in the policy statements of aid agencies and donors, refugee protection and asylum policy has been strikingly absent from these deliberations.

As international awareness and recognition of the protection needs of IDPs and other civilians has increased, concern with refugee protection appears to have waned, despite the fact that refugee protection is supported by a far more elaborate and developed regime of

international laws and institutions. Increasingly, questions related to the treatment of refugees, including access to asylum, *non-refoulement* and burden-sharing, are considered in policy fora concerned with matters of immigration control rather than civilian protection (para. 2).

This rather sweeping statement occasions the question as to what extent UNHCR as an institution, and as the Lead Agency of the Global Protection Cluster has been engaged in the PoC debates. Somewhat surprisingly, it has not been the ICRC or UNHCR that is seen as having the lead on PoC, but rather OCHA which is regarded as having the policy franchise on this subject.

While it is obvious that effective protection requires a range of humanitarian assistance measures, especially concerted efforts to ensure humanitarian access, it is recognized that quality protection is more than better-coordinated humanitarian assistance; it is a question of human rights (including those of refugees), and comprehensive efforts to ensure their respect.

Currently, the theme of civilians in armed conflict is at the centre of discussions in the General Assembly, the Security Council and a number of international fora, primarily in the context of efforts on the part of the United Nations (DPKO and DFS) to give new impetus to peacekeeping operations through the *New Horizon* Project. A key part of this Project is the elaboration of an Operational Concept of Protection of Civilians.

This close linkage between PoC and peacekeeping mandates dates back to 1999 when the Security Council in authorizing the United Nations Mission in Sierra Leone (UNAMISIL) issued its first specific mandate "to afford protection to civilians under imminent threat of physical violence". Since then, ten UN peacekeeping operations have received similar mandates.

Thus the UNAMISIL mandate can be seen as marking a new phase in the evolution of peacekeeping. In fact, prior to 1999, the mandates in relation to PoC were less specific; this phase has been described as "traditional peacekeeping" with missions deployed to monitor cease-fire and peace agreements and rarely straying from the core peacekeeping principles of consent, impartiality and non-use of force.

Thus, while peacekeeping is only one of the tools of the United Nations, and particularly of the Security Council, to ensure the protection of civilians in armed conflict, it has come to be regarded as a key tool. But the protection of civilians in armed conflict as an objective is primarily grounded, from a historical and legal perspective, in the humanitarian agenda.

This does not mean that a constructive and mutually beneficial partnership between humanitarian actors and UN peacekeeping forces is not desirable and, in certain contexts, even necessary. An important recent study *Protecting Civilians in the Context of UN Peacekeeping*, sponsored by DPKO and OCHA, noted that the UN peacekeeping missions do not and cannot, however, 'own' the concept of protection.

They bring their skills and assets to operational arenas in which other protection actors are present, including the host government, mandated UN protection agencies, non-governmental organizations, and the International Committee of the Red Cross (ICRC). UNHCR as a mandated protection agency (as distinct from its role as lead of the Global Protection Cluster), while involved in the PoC discourse, could be more engaged on this subject of the nature of protection.

The close association of the PoC with UN multidimensional peacekeeping missions, and more particularly with integrated missions, could partly explain why the engagement of UNHCR with PoC as a theme (as distinct from its actual involvement in a range of activities aimed at ensuring the protection of refugees and IDPs in the context of conflict) has not been so prominent. It is also explained by the fact that OCHA has come to assume a key role in briefings of the Security Council on PoC issues.

On the other hand, UNHCR, in its capacity as Lead of the Global Cluster for Protection, has been involved closely with the PoC agenda, especially as it relates to peacekeeping. Clearer policy guidance on UNHCR's involvement with integrated missions, using the findings of the UNHCR Workshop on Integrated Missions held on 20-21 November 2008, would be a help in a number of respects, including a more proactive approach to PoC, and thereby contributing to its agenda in its own right; moreover, UNHCR's work could profit from the extra leverage the Security Council could bring to the range of issues currently subsumed under the PoC theme and as set out in the related Aide-mémoire (25-26; 50-51) which are of direct relevance to the work of the Office.

The main actors in relation to PoC as a *theme* are obviously the Security Council, the Secretary-General with his related reports, the General Assembly's Special Committee on Peacekeeping and OCHA. If one looks at PoC from an operational viewpoint, then the main actors are the relevant parties to a conflict, including states and non-state actors, ICRC, the three protection-mandated UN agencies (OHCHR, UNHCR, UNICEF), UN peacekeeping missions and humanitarian NGOs.

Of the three UN protection agencies, UNHCR stands out as the agency without an explicit relationship to an aspect of the PoC "process", as compared to UNICEF with its role in relation to Children in Armed Conflict (Graça Machel study) and OHCHR's support for the human rights components of peacekeeping missions. While UNHCR is making significant contributions as an agency to addressing the real issues operationally, its contribution to PoC as a theme is basically that of contributor to related ERC-OCHA reports. UNHCR should consider assuming a higher profile in the PoC process, given its role of protector of a significant proportion of civilians affected by conflict. Such a role would be another expression of its protection concerns.

From a strategic perspective, this would require greater involvement from the early stages of the formulation of a peacekeeping mandate, and enlisting the support of key Security Council members for regular briefings by UNHCR on relevant agenda items. UNHCR, as lead for the Global Protection Cluster, provides further basis for seeking this more direct engagement in the PoC process.

PoC has the merit of providing an integrating concept for UNHCR's work for both refugees and IDPs. However, it does so in a limited manner as it relates only to situations of armed conflict. The Office needs to integrate its work in relation to refugees, IDPs and stateless persons under one concept, thereby avoiding work for IDPs and the stateless being considered as "add-ons".

The underlying objective of UNHCR's work with refugees, IDPs and stateless persons is to work to overcome their vulnerability through the creation of an effective protection regime, be it international or national. Perhaps in the concepts of vulnerability and the establishment of effective protection, there might be the nucleus of an integrating theme for the Office's work. PoC, as a concept that integrates UNHCR's work with refugees and IDPs in armed

conflict situations, through a range of activities, including the restoration of the rule of law, could be seen as a stepping stone along this path to greater integration of the Office's work .

1. Introduction

1.   In April 1998, against a background of disillusionment with the international community's inability to act in defense of civilians as borne out by the genocide in Rwanda (1994) and the ongoing civil war in Sierra Leone (1991-2002), the then Secretary-General, Kofi Annan, introduced, in a far-ranging report on Africa,[1] the "humanitarian imperative" of Protecting Civilians in Situations of Armed Conflict (PoC).

2.   Other themes listed under the heading "humanitarian imperatives" were: addressing refugee security issues; mitigating the social and economic impact of refugees on host countries; and humanitarian coordination. From the outset, PoC discourse proceeded hand in hand with issues related to refugees, a category of civilians, especially those who are women and children, most affected by conflict.[2]

3.   As an objective, like the notion of the humanitarian imperative, the concept of PoC is anchored in the Geneva Conventions and their Additional Protocols. In the United Nations discourse, PoC, in addition to being an objective, is as an overarching concept, although never clearly defined, which embraces a range of issues which are of particular significance for UNHCR, both in its capacity as the UN mandated protection organization for refugees, and as the Lead of the Global Protection Cluster.

4.   However, the discourse on PoC is seen by some as having neglected topics pertaining to refugees and asylum: "[W]hile the protection of civilians – and IDPs in particular – is now a regular item before the Security Council, and in the policy statements of aid agencies and donors, refugee protection and asylum policy has been strikingly absent from these deliberations.

5.   As international awareness and recognition of the protection needs of IDPs and other civilians has increased, concern with refugee protection appears to have waned, despite the fact that refugee protection is supported by a far more elaborate and developed regime of international laws and institutions. Increasingly, questions related to the treatment of refugees, including access to asylum, *non-refoulement* and burden-sharing, are considered in policy fora concerned with matters of immigration control rather than civilian protection."[3]

6.   This interesting observation is true in part about the tendency for issues related to refugees to be increasingly relegated to discussions about the asylum/migration nexus and migration control; however, it is too sweeping a statement in regard to the place of refugees in the discourse about protection of civilians in armed conflict, especially in the Security

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[1] A/52/871-S/1998/318 of 13 April 1998, *The causes of conflict and the promotion of durable peace and sustainable development in Africa*.

[2] SC Resolution 1894 (2009), in a preambular paragraph, states: "Stressing the particular impact that armed conflict has on women and children, including refugees and internally displaced persons, as well as on other civilians who may have specific vulnerabilities…".

[3] Collinson S., J. Darcy, N. Waddell, A. Schmidt, *Realising protection. The uncertain benefits of civilian, refugee and IDP status*, Humanitarian Policy Group, Overseas Development Institute, London, 2009, p. 1.

Council. There is the regular inclusion of the subject of refugees in the Reports of the Secretary-General to the Security Council on this theme.[4]

7.   The statement does prompt, however, the question as to the degree of UNHCR's involvement and interest in the theme of PoC, both as the UN refugee agency and in its role as Lead of the Global Protection Cluster. This paper looks at this issue and makes some proposals as to how UNHCR might position itself in relation to PoC, so as to benefit more from the current focus on this issue, especially in the context of UN peacekeeping.

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[4] See the first such Report (S/1999/957), paras. 11-12, 14-15, 18, 36, 64; in the last Report (S/2009/277), the subject of refugees is taken up in paras. 16, 17.

2. Context and legal framework

8.   The broader context of the theme of Protection of Civilians in Armed Conflict is that of Protecting the Vulnerable[5] as described in the Millennium Declaration[6] and the Secretary-General's road map for the implementation of the Millennium Declaration;[7] it is also related to efforts to develop a "culture of protection",[8] so as to redress a "culture of impunity."[9]

9.   As Security Council Resolutions often note, the legal framework for the PoC in armed conflict is provided by international humanitarian law (IHL), human rights law and refugee law.[10] In addition, in terms of assuring accountability and combating a culture of impunity, international criminal law, and the creation of institutions such as international tribunals, including the International Criminal Court (ICC) with its Rome Statute, are increasingly important, In addition to this international legal framework, the UN Security Council has also adopted a number of relevant resolutions relating to the protection of civilians in armed conflict (which mentions specific groups such as refugees and IDPs, women and children affected by armed conflict).

10.   In discussing the PoC concept, it should be noted that refugees and IDPs are *civilians*, who by virtue of their particular situation have been given a special protected status. Here the emphasis by UNHCR on the civilian and humanitarian nature of asylum is relevant.[11] According to the 1951 Refugee Convention, however, conflict or generalized violence is not grounds *per se*, for granting refugee status.

11.   Nevertheless, some regional protection instruments, namely the then Organization of African Unity (OAU) in its Convention Governing the Specific Aspects of Refugee Problems in Africa[12] and the Cartagena Declaration,[13] do admit conflict as a basis for the granting of

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[5] The criterion of vulnerability is very much a term of reference for the International Federation of Red Cross and Red Crescent Societies; see, for example, *Strengthening National Societies and Delivering a more Effective Service. A Change Strategy for the Secretariat*, Geneva, March 2003.
http://www.ifrc.org/docs/pubs/who/secretariat/sfc.pdf#xml=http://search.ifrc.org/cgi/texis.exe/webinator/search/pdfhi.txt?query=vulnerability&pr=english&prox=page&rorder=500&rprox=500&rdfreq=500&rwfreq=500&rlead=500&sufs=0&order=r&cq=&id=43d5095c7

[6] A/RES/55/2, Section VI, para. 26.

[7] A/56/326, Section VI.

[8] Idem, para. 226.

[9] S/1998/883, *Report of the Secretary-General on Protection for Humanitarian Assistance to Refugees and Others in Conflict Situations.* While the original context for both of these phrases is one of working to address the impunity of those who attack civilians by holding these people accountable, the term is used by some writers in a very general sense of a shared appreciation of protection as being at the heart of all efforts to give effect to the humanitarian imperative anchored in the first Geneva Convention; see, for example, *Protecting Civilians*, p. 9.

[10] SC Resolution 1894, operative paragraphs 1, 5, 7 (a).

[11] EXCOM Conclusion 94 (LIII) 2002. One of the preambular paragraphs of this Conclusion refers to the United Nations Security Council Resolutions S/RES/1208 (1998) and S/RES/1296 (2000) and the two Reports of the United Nations Secretary-General on the Protection of Civilians in Armed Conflict, noting in particular the recommendations made therein with respect to enhancing the security of refugee camps and settlements.

[12] Article I.2: "The term "refugee" shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality."

[13] Hence the definition or concept of a refugee to be recommended for use in the region is one which, in addition to containing the elements of the 1951 Convention and the 1967 Protocol, includes among refugees persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence,

refugee status. Moreover, refugees in their country of asylum, in the event of armed conflict in that country,[14] also enjoy the protection afforded by international humanitarian law, human rights law and the 1951 Refugee Convention, provided they maintain their civilian (non-combatant) status.[15] Internally displaced persons (IDPs) as nationals displaced within the borders of their own country, enjoy a particular protected status as civilians, although this IDP status is less elaborated than that of refugees, from an international law perspective.

12.   The Guiding Principles on Internal Displacement[16] are derived from international humanitarian law and human rights law and have universal applicability, although they are non-binding. The African Union has adopted on 22 October 2009 a Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention). It should be pointed out that ICRC, the guardian of the Geneva Conventions and their Additional Protocols, does not formally recognize the distinction between those who are displaced and those who remain in their home, as far as civilians affected by conflict are concerned.

13.   As refugees and IDPs are a sub-set of the civilian category affected by armed conflict, the Geneva Conventions and their Additional Protocols are particularly relevant. In fact, given that many contemporary refugee flows result from armed conflict, international humanitarian law should be of increasing importance both for the protection of refugees caught up in fighting and for the prevention of displacement, either internally within a country, or across its borders. .[17]

14.   One senses, however, a certain reluctance on the part of UNHCR[18] to invoke the provisions of the Geneva Conventions and their Additional Protocols in the protection of refugees.[19] On the other hand, the 2008 *Handbook for the Protection of Internally Displaced* produced by the Global Protection Working Group led by UNHCR is replete with relevant provisions enshrined by these legal instruments. This apparently inconsistent attitude on the part of UNHCR is partly due to some of the restrictions of the Conventions and their Additional Protocols themselves.[20]

15.   There exists, however, the potential for the PoC theme to be a way of better integrating UNHCR's work with refugees and IDPs in the context of armed conflict; but it has to be recognized that the PoC theme covers only a part of UNHCR's work in relation to refugees and is in general more useful in dealing with IDPs displaced by conflict, a group for which UNHCR is responsible under the UN Humanitarian Reform[21] Cluster Arrangements.[22]

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foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order.

[14] The role of the ICRC in such cases and other refugee situations is set out in Jean-Philippe Lavoyer, "Refugees and internally displaced persons: International humanitarian law and the role of the ICRC", *International Review of the Red Cross*, no. 305, 30 April 1995, pp.162-180.

[15] For some nuances to this statement see text referred to in fn. 17 below, pp.54 ff.

[16] E/CN4/1998/33/Add.1 of February 11 1998.

[17] UNHCR, *The Challenge of Protection. State of the World's Refugees*, Geneva, 1993, Box 4.1.

[18] As with all general statements, one can adduce examples or arguments to the contrary; for example, the UNHCR, *Handbook for the Protection of Women and Girls*, Geneva, 2008.

[19] A UNHCR draft text, entitled *Refugees in Armed Conflict. International Humanitarian Law and Refugee Protection. A Reference Manual for UNHCR Staff*, Geneva, November 1999, was never published.

[20] See *Refugees in Armed Conflict*, *op.cit.*, p.56, on Article 73 of the Additional Protocol I.

[21] http://www.reliefweb.int/library/documents/2005/ocha-gen-02sep.pdf

[22] IASC, *Guidance Note on Using the Cluster Approach to Strengthen Humanitarian Response,* 24 November 2006.

3. Development of the PoC concept

16.   The classical context for the discussion of protection of civilians is the Geneva Conventions of 1949 and their Additional Protocols. The road to these instruments was long and contested as the recognition of the special status of the "civilian" came only slowly to the fore in the humanitarian tradition of war. It is in these Conventions and Protocols that the so-called "humanitarian imperative" is grounded.[23]

17.   "The ideas of distinction, restraint, non-combatance and innocence are, therefore, the key ingredients in the civilian idea."[24] It is these concepts that lie at the heart of the notion of the civilian as distinct from the combatant. Historically, the idea of the civilian as a category deserving of special treatment in conflicts can, theoretically, be mapped;[25] however, as today, innocent civilians have for thousands of years been victims, sometimes deliberately so, of conflict, with little concern on the part of the belligerents to distinguish them from the enemy, and to show restraint in their regard in the conduct of any conflict.[26] The humanitarian tradition of war is characterized by the endeavour to distinguish combatants from civilians.[27]

Humanitarian tradition of war

18.   The protection of civilians as a concept in the legal-philosophical consideration of the rules on the conduct of war can be subsumed under the heading of *jus in bello*, as distinct from *jus ad bellum*, which refers to the right to wage war.

19.   The Western doctrine war of *bellum justum* originated in early Roman era. Whereas at that time it had essentially a procedural meaning,[28] Saint Augustine (354-430), seen by many as the originator of the theological war theory, laid the foundations of a substantive concept of just war.[29] His scarce comments on what nowadays would be considered as *in bello* issues were not independent of, but intertwined with, *jus ad bellum*.

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[23] The humanitarian imperative, as defined in the Humanitarian Charter of the Sphere Project, is as follows: "We reaffirm our belief in the humanitarian imperative and its primacy. By this we mean the belief that all possible steps should be taken to prevent or alleviate human suffering arising out of conflict or calamity, and that civilians so affected have a right to protection and assistance. It is on the basis of this belief, reflected in international humanitarian law and based on the principle of humanity, that we offer our services as humanitarian agencies. We will act in accordance with the principles of humanity and impartiality, and with the other principles set out in the *Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organizations (NGOs) in Disaster Relief* (1994)."

[24] Hugo Slim, "Why protect civilians? Innocence, immunity and enmity in war", International Affairs 79, 1 (2003), pp. 481-501.

[25] Howard S. Levie, "History of the Law of War on Land", International Journal of the Red Cross, no.838, 30 June 2000, pp. 339-350.

[26] Hugo Slim, op. cit., pp. 486-492.

[27] Geoffrey Best, War and Law since 1945, Oxford, 1994, p. 257.

[28] Under Roman law, a war was deemed just when it was preceded by a solemn action taken by the collegiums fetialium, a body of special priests, the fetiales, who would certify to the senate under oath that "a foreign nation had violated its duty towards the Romans."

[29] Augustine mentioned five conditions for a war to be just: i) just cause (avenge injuries, punish evildoers), ii) right intention, iii) competent authority, iv) war as a last resort, v) peace as the ultimate goal.

20.   In the Middle Ages, Thomas Aquinas (1225-1274), while disapproving of the deliberate slaughter of noncombatants, did not offer a coherent *jus in bello* concept as a set of legal or ethical injunctions. Hugo Grotius's (1583-1645) *temperamenta belli* (restrictions on warfare) applied only to belligerents resorting to war for a just cause.[30] Thus, although the late scholastic thinker Francisco Suarez (1548-1617) provided an embryonic form of *jus in bello*,[31] up until the end of Thirty Years' War the justness of the resort to war determined to a large extent the limits on the conduct of war.

21.   It is only with the rise of the sovereign state that, in the 18th century, *jus in bello* become a distinct concept in regard to *jus ad bellum*. In fact, each state's by-then recognized sovereign right to wage war as a means of pursuing its policy engendered a general indifference as to the reasons for resorting to war. Therefore "armed violence came to be seen first and foremost as a process to be regulated in itself, regardless of its causes, motives and ends."[32] What is more, the sovereign equality of states precluded the existence of a single arbiter as to the justice of the conflicts between them.

22.   This in turn required the separation of *jus ad bellum* and *jus in bello* since otherwise each belligerent would claim to be the victim of aggression and thus deny his adversary the benefits procured by the laws and customs of war. Emer de Vattel (1714-1767) pointed to this consequence;[33] thus, without expressly rejecting it, he deprived the just war concept of its effectiveness. Vattel was the first jurist to incorporate into the law of nations a series of rules setting legal restrictions on means of warfare.[34] Subsequently and especially as of the second half of the 19th century, a distinct body of humanitarian law began to emerge.

23.   The inspiration for the foundation of the Red Cross can be traced back to the publication in 1862 by Henri Dunant of his book, *A Memory of Solferino*, in which he describes his experiences of the horrors of war. It made two related proposals: (1) a permanent humanitarian relief agency to provide help in times of war, and (2) a government treaty recognizing the neutrality of the agency and allowing it to provide aid in a war zone. These proposals lie at the origin of the International Committee of the Red Cross (ICRC), and the first Geneva Convention (and derivatively of the 1949 Geneva Conventions and their 1977 Additional Protocols).[35]

24.   In the words of the SC resolution 1894 (11 November 2009), these instruments constitute the basis for the legal framework for the protection of civilians in armed conflict. They also continue to be of enduring relevance.[36] In the face of new developments in the nature of warfare, the ICRC has issued guidance[37] on the fundamental principle of

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[30] Hugo Grotius, *De jure belli ac pacis* (1625), book III, chaps. XI-XVI. See also Peter Haggenmacher, *Grotius et la doctrine de la guerre juste*, Paris, 1983, pp. 600 ff.

[31] This representative of the Salamanca School affirmed the legitimacy of any means to subjugate the enemy, except the one of killing innocents. See *De charitate*, Disput. XIII, *De bello*, chap. VII, §6.

[32] Haggenmacher, op. cit., p. 599.

[33] "Since […] Nations are equal and independent, and can not set themselves up as judges over one another, it follows that in all cases open to doubt the war carried on by both parties must be regarded as equally lawful, at least as regards its exterior effects and until the cause is decided." E. de Vattel, *The Law of Nations or Principles of Natural Law Applied to the Conduct and Affairs of Nations and Sovereigns*, 1st ed. London 1758, translated by Charles G. Fenwick, Washington D.C., Carnegie Institution 1916, book III, chap. III, paras. 39 and 40.

[34] *Ibid.*, book III, chap. VIII.

[35] Among these texts, the Fourth Geneva Convention, "relative to the Protection of Civilian Persons in Time of War", and the 1977 Protocol II, which extends legal protection to victims of non-international armed conflicts, are of particular interest for this study.

[36] http://www.irinnews.org/Report.aspx?ReportId=84994

[37] http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/direct-participation-ihl-feature-020609

distinction (between combatant and civilian); moreover, to address the implications of the growth of private military and security companies and the applicability of international law to them, the Montreux Document[38] was developed in 2008.

The United Nations and PoC

25.   For the last eleven years, the issue of protection of civilians in armed conflict (PoC) has been a regular feature of the Security Council's deliberations.[39] 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 and the other on protection for humanitarian assistance to refugees and others.[40]

26.   In 1998, in a Report[41] on *The causes of conflict and the promotion of durable peace and sustainable development in Africa*, the Secretary-General spoke for the first time of the protecting civilians in situations of conflict; this theme preceded a consideration of the need to address refugee security issues. In the same year, the Secretary-General presented to the Security Council a Report on the *Protection for Humanitarian Assistance to Refugees and Others in Conflict Situations*.[42] In its deliberations in 1998 on these Reports, and as reflected in SC resolution 1208 (19 November 1998), the Security Council focused to a large extent on the issues of refugees, and the civil and humanitarian nature of refugee camps and settlements.[43]

27.   The first SC Presidential Statement (S/PRST/1999/6) on PoC was made on 12 February 1999. On 8 September of the same year, the Secretary-General issued his first Report on PoC (S/1999/957). The scope of the Report, namely the issues addressed[44], would largely remain unchanged in the subsequent Reports, up to and including the most recent (S/2009/277 of 29 May 2009). What would change were the importance and priority attached to the integrating concept of protection underlying the Report, and the role given to a more comprehensive concept of peacekeeping in relation to protection.

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[38] http://www.eda.admin.ch/psc
[39] For an excellent summary of where the Security Council is at in its deliberations on Protection of Civilians (PoC), see the various publications of the independent organization Security Council Report at:
http://www.securitycouncilreport.org/site/c.glKWLeMTIsG/b.6115659/k.3FB8/July_2010brProtection_of_Civilians.htm
A chronology of the Security Council's deliberations on PoC may be found at:
http://www.securitycouncilreport.org/site/c.glKWLeMTIsG/b.4012209/k.2BD8/Protection_of_Civilians_in_Armed_ConflictbrHistorical_Chronology.htm
[40] Protection of Civilians, Security Council Report. Cross-Cutting Report, 2008 No 2, 14 October 2008, p. 8: http://www.securitycouncilreport.org/site/c.glKWLeMTIsG/b.4664099/k.1776/CrossCutting_Report_No_2brProtection_of_Civiliansbr14_October_2008.htm
[41] A/52/871-S/1998/318 of 13 April 1998.
[42] S/1998/883 of 22 September 1998.
[43] This Resolution noted in one of its preambular paragraphs the close link between the Council's own work of maintaining international peace and security and the security of refugees, including the maintenance of the civilian and humanitarian character of refugee camps and settlements. It emphasized that "the provision of security to refugees and the maintenance of the civilian and humanitarian character of refugee camps and settlements is an integral part of the national, regional and international response to refugee situations and can contribute to the maintenance of international peace and security." The Resolution went on to recognize that it is "the primary responsibility of the UNHCR, with the assistance of other relevant international bodies and organizations, to support African States in their actions directed towards the full respect and implementation of the provisions of international law relating to the status and treatment of refugees, and requests the UNHCR, as needed, to keep in close touch with the Secretary-General, the OAU, subregional organizations and the States concerned in this regard."
[44] Protection of Civilians, Security Council Report. Cross-Cutting Report, 2008 No 2, 14 October 2008, Annex IV.

28.   Between 1999 and 2006, the concept of PoC had a certain vogue and attracted a reasonable degree of support. OCHA promoted the concept through a series of regional workshops;[45] however, since 2006, according to some commentators, this impetus has slowed down, and although PoC issues have increasingly become part of Security Council peacekeeping mandates, things remain largely where they were in 2006.[46]

29.   An important development in relation to PoC has been the launch by the Department of Peacekeeping Operations (DPKO) and the Department of Field Support (DFS) of the New Horizon Project[47] aimed at addressing the crisis in peacekeeping. One of the issues on its agenda is the elaboration of an operational concept of PoC, which is discussed more fully below. This has breathed new life into the debate on PoC.

30.   More recently, however, the specificity of this concept is becoming blurred as proponents of related concepts such as Responsibility to Protect (R2P) and Human Security, seek to attach themselves, in the face of criticism of these two last-mentioned concepts, to the PoC discourse. The EU Presidency statement in the January 2009 Open Debate on the Protection of Civilians presumes the opposite situation, namely one in which PoC needs to be buttressed by the R2P and Human Security concepts: "The EU emphasizes the need to develop in parallel additional concepts based on the aim to protect civilian populations - human security and responsibility to protect.

31.   The EU welcomed the endorsement of the principle of responsibility to protect by the Heads of States and Governments, called for the full implementation of this principle by the Security Council as well as by the General Assembly. "The EU is ready to contribute and commends other organizations or groups for taking initiatives to advance this principle into a norm in international relations."[48] One could argue that PoC has a firm foundation in international humanitarian law, human rights law and refugee law, and has a "stand-alone" quality that does not require buttressing by other concepts such as R2P or the notion of human security.

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[45] See the OCHA chronology on this theme:
http://ochaonline.un.org/HumanitarianIssues/ProtectionofCiviliansinArmedConflict/ChronologyofProtectiono fCivilians/tabid/1198/language/en-US/Default.aspx
[46] Culture of Protection, p.6
[47] See DPKO website: http://www.un.org/en/peacekeeping/
[48] EU Presidency Statement 14 January 2009; see http://www.europa-eu-un.org/articles/en/article_8416_en.htm

4. Meaning of the PoC concept

32.   The phrase and related concept of "protection of civilians" has come to assume so many meanings for different people that the first challenge is to ascertain the meaning and scope of the protection being spoken about. On this subject, there is, broadly speaking, two schools of thought.[49] The traditional school would align itself with the understanding of protection with that found in the Geneva Conventions and their Additional Protocols, the heart of international humanitarian law (IHL). Here, "protection of civilians" is a relative concept and is grounded in the principle of distinction between civilians (non-combatants) and combatants, which is, as mentioned, the cornerstone of these legal instruments.[50]

33.   The second school of thought focuses on human rights – a subject on which there is almost nothing in the Geneva Conventions. This broader concept of protection involves proactive protection, requiring active intervention by third parties in certain circumstances to protect civilians, including prevention of violent conflicts and post-conflict reconstruction, as well as response to violations. These differing visions of protection have been especially evident in discussions in the Security Council on the theme of protection of civilians.

34.   Speaking of the debates in the Security Council on the issue, it has been noted that "[at] times, some in the Council seemed inclined to an ever broadening scope of the concept. Some occasionally seemed to merge protection of non-combatants with a wide range of other issues such as disarmament, demobilization and reintegration; collaboration with regional organizations; curbing hate media; controlling armaments; special treatment for women and children; tending to the peace building needs of society, the safe return of refugees and justice and accountability. Others seemed to be steering the concept into areas such as conflict prevention, as well as the provision of adequate resources to peacekeeping operations and the appropriate use of sanctions.

35.   By late 2008, however, it is now possible to look back at the Council's actual practice and the associated frameworks of international law, and to identify a relatively clear conceptual basis for a more limited spectrum of international activity that can be seen, classically, as protection of civilians."[51] All of these issues have found their way since 1999 into Security Council resolutions on peacekeeping as objectives, strategies and means. But they do not constitute effective protection itself. They are rather themes/issues and strategies to ensure the physical security and rights of individuals which constitute effective protection in both its physical and legal sense.

36.   In the context of armed conflict, a description or definition of protection derived from a multi-year (1996-2000) consultative process of the International Committee of the Red Cross to determine professional standards to strengthen protection in war,[52] has found widespread acceptance among humanitarian organizations; in this, protection is understood as: "all activities, aimed at obtaining full respect for the rights of the individual in accordance with

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[49] See IRIN interview with James Darcy, Research Fellow, Humanitarian Policy Group of the Overseas Development Institute, UK: http://www.irinnews.org/InDepthMain.aspx?InDepthId=31&ReportId=70567

[50] The same principle also requires that a distinction be made between civilian objects and military targets.

[51] *Protection of Civilians*, Security Council Report, Cross-Cutting Report, 2008 No 2, 14 October 2008, p. 4

[52] S. Giossi Caverzasio (ed.), Strengthening Protection in War: A Search for Professional Standards: Summary of Discussions among Human Rights and Humanitarian Organizations, Workshops at the ICRC, 1996-2000, ICRC, Geneva, 2001, p. 19.

the letter and the spirit of the relevant bodies of law (i.e. human rights, humanitarian law and refugee law). Human rights and humanitarian actors shall conduct these activities impartially and not on the basis of race, national or ethnic origin, language or gender."

37.   The DPKO/DFS Operational Concept on Protection of Civilians in United Nations Peacekeeping Operations, basing itself on the DPKO/OCHA independent study,[53] sees this definition as representing the first of three paradigms that frame peoples' understanding of PoC in peacekeeping. A second group of actors believes that PoC is about ensuring that civilians are safe from physical harm. A third group feels that POC is the inherent end result of peacekeeping, and that it is therefore redundant as a distinct mandated task.[54]

38.   In relation to this third school of thought, the position has been summed up as follows: "Protection of civilian": what does it mean? To me it is a symptom of a conceptual confusion. When the UNSC tasks the UN to "protect civilians in imminent physical danger", at once it states the obvious and sets a very ambitious goal without giving guidance on how to reach it. It states the obvious because soldiers witnessing threats against civilians, and having the capability to do something about it, who would do nothing would be guilty of criminal negligence. It states the obvious because the minimum one can expect from an organization whose charter starts with "we the people" is to have as its ultimate goal the welfare of the people.

39.   But at the same time it sets a very ambitious goal because no UN force is sized to properly protect civilians. As we know from counter-insurgency manuals that make protection of civilians the central goal, that requires a force of a different order of magnitude. The only sensible strategy to protect civilians is therefore an indirect strategy aiming at consolidating a legitimate state. But the Security Council does not tell the UN how to get there, thus transferring an enormous burden of responsibility to the Secretariat, which has to prioritize and make the strategic choices".[55]

40.   The recent (and second) evaluation of the Cluster Approach that grew out of the Humanitarian Response Review has made an observation that in the case of protection, important humanitarian actors have adopted different and conflicting definitions and modes of action (ranging from advocacy to military intervention) concerning protection due to differences in their mandates and experiences. As a result, they disagree on which issues the Protection Cluster should deal with.

41.   Despite efforts to clarify the definition, for example in the cluster terms of reference, the question remains controversial and clusters at country and local level return to the debate of what is protection over and over again.[56] One of the main areas of tension in the work of the Protection Cluster in the Field derives from the relation of protection actors to peacekeeping forces and in the context of integrated missions.

42.   A recent study has noted that "there has been progress on defining and operationalizing the evolving humanitarian concept of protection and coordinating protection activities between humanitarian actors. However, gaps remain in policy

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[53] Holt, V., G. Taylor and M. Kelly, *Protecting Civilians in the Context of UN Peacekeeping Operations,* 2009, United Nations, DPKO-OCHA, New York.

[54] *Draft DPKO/DFS Operational Concept on the Protection of Civilians in United Nations Peacekeeping Operations* (without date).

[55] J.-M. Guéhenno, Challenges Forum Patron and former Under-Secretary-General for Peacekeeping Operations, United Nations: "Concluding Remarks for the Challenges Forum 2009".

[56] Streets, J. *et al.*, *Cluster Approach Evaluation Phase 2: Synthesis Report,* by the u.r.d. Groupe and GPPI, Berlin-Plaisians, April 2010, p.76.

coherence, understanding roles and responsibilities and coordination between humanitarian actors and the civilian and military components of peacekeeping missions responsible for protection."[57]

43.   The same study noted that the UN peacekeeping missions do not and cannot, however, 'own' the concept of protection. They bring their skills and assets to operational arenas in which other protection actors are present, including the host government, mandated UN protection agencies, non-governmental organizations, and the International Committee of the Red Cross". It has been suggested that this lack of coherence is in part a symptom of the evolving nature of integrated missions.[58] This issue will be further examined below when integrated missions will be more fully discussed.

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[57] Holt, V. *et al.*, *op. cit.*, p. 69.
[58] *Ibid*, p. 70.

5. Key issues in the PoC discourse

44.   While it might not be easy to find agreement on a definition of protection or of PoC, there should be no difficulty in describing what is covered under this overarching concept. The Secretary-General in his first PoC Report (8 Sept. 1999)[59] gave a comprehensive analysis of the threats and violence against civilians in armed conflict. He listed a range of issues that have become key points of reference in any discussion of protection of civilians in armed conflicts:

- attacks against civilians;

- forced displacement;

- combatants and armed elements mixed with civilians in camps for refugees and internally displaced persons;

- specific problems faced by children and women;

- denial of humanitarian assistance and humanitarian access;

- targeting of humanitarian and peacekeeping personnel;

- widespread availability of small arms and continued use of anti-personnel landmines; and,

- the humanitarian impact of sanctions.

45.   This listing would form the nucleus of what has become known as the *Aide-mémoire* of issues that the Security Council sees as an important tool for improved analysis and diagnosis of key protection issues, particularly during deliberations on peacekeeping mandates. The first such *Aide-mémoire* was produced in March 2002 and the third and most recent was attached to the Statement of the President of the Security Council (S/PRST/2009/1 of 14 January 2009). Over the years, this list would remain basically the same, with only the addition of some new elements, or modification of presentation of contents, as set out below:

- protection of, and assistance to conflict-affected populations;

- the conduct of hostilities;

- small arms and light weapons, mines and explosive remnants of war;

- compliance, accountability and the rule of law; and,

- media and information.

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[59] S/1999/957 (8 September 1999)

46.   Most of these points are of direct relevance to the mandated work of UNHCR, and to responsibilities it has as Lead of the Global Protection Cluster.

47.   On the tenth anniversary of the Security Council's consideration of the theme of PoC, the Secretary General in his Report noted that: "To date, the Council has considered six such reports. These have raised a range of issues, reflecting the fact that improving the protection of civilians is not a purely humanitarian task; rather, it is a task that requires focus and action in the peacekeeping, human rights, rule of law, political, security, development and disarmament fields. The reports have also underlined the fact that improving the protection of individuals and communities is not a substitute for political processes aimed at preventing or ending conflict and building sustainable peace."[60]

48.   The challenge for UNHCR, whose mandate is exclusively of an entirely non-political character and of a humanitarian and social nature,[61] will be how to creatively and strategically use the range of resources and tools currently committed to the protection of civilians to help, in a spirit of partnership, in the discharge of UNHCR's particular mandate vis-à-vis the protection of refugees and of others of concern to the Office, and, furthermore, with those responsibilities accruing to it in its capacity of Lead of the Global Protection Cluster. Among these tools is that of United Nations Peacekeeping Forces whose role in the protection of civilians is currently the focus of much debate, especially in the Security Council.

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[60] S/2009/277 of 29 May 2009, para. 8.
[61] Statute of the Office of the High Commissioner for Refugees, art. 2: "The work of the High Commissioner shall be of an entirely non-political character; it shall be humanitarian and social…"

6. PoC and peacekeeping

49.   It is repeatedly asserted that "while there is a shared and comprehensive understanding among actors about the importance of the Protection of Civilians (PoC) in UN peacekeeping missions, the very same actors do not share any notion of what the concept is, means and entails in practice. This is partly due to the broadness of PoC and its lack of a definition, with the consequence that PoC is understood differently within various institutional and organizational cultures responsible for implementing PoC."[62]

50.   While peacekeeping is only one of the tools of the United Nations, and particularly of the Security Council, to ensure the protection of civilians in armed conflict,[63] it has come to be a key tool. It has been observed, however, that "[w]hile at least thirteen UN missions have been mandated by the Security Council to protect civilians in some way, the entire protection of civilians' agenda cannot be reduced to the actions of peacekeepers."[64]

51.   This is a salutary reminder, as the current focus on renewal of UN peacekeeping through the New Horizon Project,[65] including its elaboration of an operational concept of PoC, could leave one with the impression that peacekeeping is the only tool for ensuring the protection of civilians. However, it is the seeming disparity of cultures and approaches between the two main groups of actors, namely the humanitarian/civilian and the military, especially arising in the context of integrated missions, that partly explains the somewhat ambivalent relationship of humanitarian actors to peacekeeping.[66]

52.   The DPKO/DFS non-paper, *A New Partnership Agenda. Charting a New Horizon for Peacekeeping* (July 2009) contains a section dealing with protection of civilians. There it is stated that UN missions and the Secretariat are moving toward a more comprehensive definition of the PoC concept that goes beyond mere physical protection.[67] In this regard, a *Draft DPKO/DFS Operational Concept on the Protection of Civilians in United Nations Peacekeeping Operations*, as mentioned above, has been developed.

53.   UNHCR has attempted to help shape this draft by providing extensive inputs into this document. In its comments on a first draft, UNHCR noted that "[t]he concept of POC in peacekeeping should be limited in scope with a clear emphasis on physical protection (and other tasks in the Security Council resolution(s) with the specific mission mandate). It should clearly differentiate between the roles of peacekeepers and humanitarian actors.

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[62] Sand Lie J. H., and B. de Carvalho, "The Tension between UN HQ and the Field in Implementing the Protection of Civilians", NUPI Policy Brief No. 4, 2000.

[63] SC Resolution 1894 (2009) notes in a preambular paragraph: "United Nations peacekeeping missions constitute one of several means at the United Nations disposal to protect civilians in situations of armed conflict."

[64] Global Centre for the Responsibility to Protect, "The Relationship between the Responsibility to Protect and the Protection of Civilians in Armed Conflict", Policy Brief, January 2009.

[65] See DPKO website: http://www.un.org/en/peacekeeping/

[66] See UNHCR's Note on International Protection (EC/61/SC/CRP.10 of 31 May 2010), para. 6: "The support of peacekeepers was often crucial to providing security for humanitarian activities, and to ensuring the physical security of refugees and IDPs as well as the civilian and humanitarian character of camps." Ibid., para. 7: "At the same time, the presence of peacekeepers has its limitations. It is the re-establishment of effective national and local structures that allows affected populations to return in safety and dignity and to create a stable society. Additionally, the more agencies depend on military actors to guarantee relief operations, the greater the risk of aid workers being considered partial, thus further endangering humanitarian operations."

[67] Idem., p.20.

54.   A clarification of the concept of PoC in peacekeeping should specifically recognize the mandates and expertise of other protection actors. It should also be clear that peacekeeping missions do not supplant other specialized regimes and mandates. These regimes and mandates as well as expertise and spaces occupied by the rather extensive group of protection actors, UN and non-UN, could also be referenced in the Note in detail to prevent confusion and enhance efficiency of protection efforts more broadly."[68]

55.   In 1999, the Security Council in authorizing the United Nations Mission in Sierra Leone (UNAMISIL) issued its first specific mandate "to afford protection to civilians under imminent threat of physical violence". Since then, ten UN peacekeeping operations have received similar mandates. Thus the UNAMISIL mandate can be seen as marking a new phase in the evolution of peacekeeping. Prior to 1999, the mandates in relation to PoC were less specific; this phase has been described as "traditional peacekeeping" with missions deployed to monitor cease-fire and peace agreements and rarely straying from the core peacekeeping principles of consent, impartiality and non-use of force.[69]

56.   A further new aspect in the development of peacekeeping operations has been the appearance of "integrated missions". These represent a strategic partnership between a multi-dimensional peacekeeping operation or political mission/office and the United Nations Country Team (UNCT) "that ensures that all components [of the UN system] operate in a coherent and mutually supportive manner, and in close cooperation with other partners".[70]

57.   Integrated missions have become the typical institutional form for UN engagement in countries emerging from conflict. However they have posed considerable challenges for the neutrality and independence of humanitarian actors working in the area of protection alongside multidimensional peacekeeping missions, or rather, in strategic partnership with them.

58.   The Special Committee on Peacekeeping in its 2010 Report to the General Assembly called for the Secretariat to develop a strategic framework containing elements and parameters for mission-specific strategies to guide senior mission leadership in elaborating a comprehensive protection strategy aligned with the mission's concept of operations.[71] UNHCR, in its capacity of Global Protection Cluster Lead, has been working with DPKO, OCHA and the Special Committee on this.[72]

59.   Rather than promoting a strategy common to all peacekeeping missions, UNHCR and its UN partners have been urging a differentiated approach that takes into account the situation of each mission. The elaboration of a strategic framework for PoC will help individual missions develop their own mission-specific strategies.

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[68] UNHCR memorandum of 18 December 2009.

[69] Sherman J. and B. Tortolani, "Implications of Peacebuilding and Statebuilding in United Nations Mandates. A Commissioned Background Study for the Third International Forum of the Challenges of Peace Operations", Queanbeyan, A. C. T., Australia, 27-29 April 2010: *Challenges of Protecting Civilians in Multidimensional Peace Operations*. See: http://www.challengesforum.org/cms/Challenges_Forum_2010.do?pageId=182

[70] Decision of the Secretary-General, No 2008/24, 26 June 2008.

[71] A/64/19, *Report of the Special Committee on Peacekeeping Operations*, 2010 Substantive Session, 22 February-19 March 2010, para. 149.

[72] On 31 May 2010, Norwegian Institute for International Studies and the African Centre for the Constructive Resolution of Disputes (ACCORD), together with DPKO, OCHA and the Global Protection Cluster, held a Workshop in Addis Ababa to look at the question of mission-wise protection strategies.

Integrated UN missions and UNHCR's mandate

60.   UNHCR held a Workshop in Geneva on 20-21 November 2008 so as to look at the Organization's experience with integrated missions. This Workshop was part of an ongoing process of reflection on the changing institutional context within which the Office discharges its mission. Discussions were structured around a draft policy guidance note which sought to identify eight key policy goals which might be pursued by UNHCR. The Workshop proceedings have been published.[73] The envisaged policy note has not been, as yet, approved.

61.   Among the participants in the Workshop, there was a pragmatic acceptance of the fact that integrated missions were a part of the future operational landscape of UN operations aimed at peace-stabilization and peacebuilding. Among the risks identified for UNHCR in this development were: the undermining of the specificity of the High Commissioner's mandate and related reporting arrangements/accountabilities; the de-prioritization of humanitarian action, etc.

62.   The question of security risks arising for humanitarian workers by their apparent association with UN military and/or political actors was also highlighted. Moreover, it has been asserted that integration gives rise to tensions between a mission's political objectives and the neutral and independent activities of humanitarian actors.[74]

63.   Hence the so-called "humanitarian dilemma": to what extent should humanitarians compromise their independent, impartial and neutral role by associating with the political and peacekeeping components of an integrated mission? Some in UNHCR would support this viewpoint.[75] Others consider this position as unfounded and believe that "some of the arguments still being made against integration have been overtaken by events, or are not always supported by convincing evidence."[76]

64.   On the other hand, Workshop participants readily admitted to advantages both in relation to UNHCR's protection mandate, namely assuring humanitarian access, protection of refugee camps, ensuring the civilian and humanitarian character of camps etc., and in regard to the search for durable solutions and linking these to broader peacebuilding initiatives.

65.   The importance of the issue of integrated missions which have become a regular feature of most UN peacekeeping/DPA missions, gives particular importance to the eight policy goals considered at the Workshop; they are as follows:

> i.   To maximize opportunities presented by integration for better delivery of UNHCR's protection and solutions responsibilities through effective

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[73] Tennant, V. (ed.), UNHCR's Engagement with Integrated Missions. Report of a Lessons Learned Workshop, PDES/2009/4.

[74] Idem, p. 7.

[75] Tennant, V., op. cit., Executive Summary, p.1: "Participants nevertheless highlighted the potential risks of integration in situations where conflict is still ongoing or a peace consolidation process has not yet taken root. In such situations too close an alignment between humanitarian agencies and UN political and peacekeeping actors may undermine the perceived neutrality and impartiality of humanitarian action and pose a threat to humanitarian space."

[76] Ulich, O., "Integration: recent developments and persistent misconceptions", Humanitarian Exchange Magazine, no. 46, March 2010. The article refers to the previous report of the UNHCR Workshop.

partnerships, whilst maintaining the autonomy and operational effectiveness of UNHCR's refugee mandate;[77]

    ii.   Integration arrangements should enable and facilitate humanitarian action, with a particular focus on protecting humanitarian space and maintaining a flexible approach to the location of humanitarian coordination;[78]

    iii.   Security management arrangements should be designed to enable and facilitate humanitarian action;[79]

    iv.   Where appropriate, multi-dimensional peacekeeping missions should undertake responsibility for ensuring the physical security of refugees and IDPs, working in close collaboration with UNHCR;[80]

    v.   To secure an effective information-sharing platform, and access to public information services, as crucial elements of integration;[81]

    vi.   To develop strategic partnerships with missions on the voluntary return and reintegration of IDPs and refugees, and local settlement of IDPs, and to secure the inclusion of this function in mission mandates where appropriate;

    vii.   To develop partnerships on reconciliation, rule of law and human rights as part of a broader strategy for promoting the restoration of national protection capacity;[82]

    viii.   To harness the use of mission services and assets including flights, logistics, GIS and other technical support, in support of UNHCR's operations and those of other humanitarian actors.

66.   These findings need to be revisited as they provide a good entry point for setting out a nuanced UNHCR position on PoC which is becoming more and more identified with integrated peacekeeping missions as the strategy to realize the protection of civilians.

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[77] This goal was validated by the Workshop, with emphasis on the need for strong strategic support from UNHCR's senior management.

[78] This goal was validated by the Workshop, with reference to be made to the link between UNHCR's "solutions mandate" and broader peace consolidation processes.

[79] This goal was validated by the Workshop, but asked for an emphasis on the need to consider staff and beneficiary security together, linked to Goal 4.

[80] Validated by the Workshop, but with the term "ensuring" to be replaced by "contributing to".

[81] In principle validated by Workshop, but to be re-worded to reflect a two-way process of information-sharing.

[82] Validated by Workshop, but explanatory text to be expanded.

7. Key PoC actors

67.   Obviously a theme as broad as PoC involves many actors. The key actors in assuring the effective protection of civilians in armed conflict are obviously those agencies, intergovernmental and non-governmental, with a protection mandate e.g. OHCHR, UNICEF, UNHCR, Nonviolent Peaceforce,[83] etc. OCHA is a key actor and is seen as having the policy franchise on the concept,[84] and a recognized role in relation to protection coordination and support.[85]

68.   Equally important are those bodies that provide the means to enable those with a protection mandate to discharge their tasks, and who have been given an ad hoc protection mandate themselves e.g. peacekeeping missions, supported by DPKO and DFS. Finally, there are the mechanisms for determining the normative framework for initiatives related to PoC, e.g. the General Assembly and its Special Committee on Peacekeeping, and the Security Council. This section of the paper will look at the specific contribution of some of these actors to the protection of civilians in armed conflict.

General Assembly

69.   Since 2009, the Special Committee on Peacekeeping has included the theme of Protection of Civilians in its deliberations[86]. This Committee was established in 1965 through resolution 2006 (XIX) to conduct a comprehensive review of all aspects of peacekeeping. It reports to the General Assembly through the Fourth Committee. It is made up of 144 Members, who are mainly troop-contributing countries to peacekeeping. 13 other Member States or entities, including ICRC, participate as observers.

70.   In its last Report, the Committee underlined again the fact that the primary responsibility for the maintenance of international peace and security rested with the United Nations, and that UN peacekeeping is one of the key instruments available to the United Nations to discharge this responsibility.

71.   Moreover it reiterated that "the Special Committee, as the only United Nations forum mandated to review comprehensively the whole question of peacekeeping operations in all their aspects, including measures aimed at enhancing the capacity of the Organization to conduct United Nations peacekeeping operations, is uniquely able to make a significant contribution in the area of issues and policy relating to United Nations peacekeeping operations."[87] Here one senses a turf issue vis-à-vis some of the subsidiary mechanisms of the Security Council, such as the Working Group on Peacekeeping, and the Informal Expert Group.

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[83] www.nonviolentpeaceforce.org/

[84] Sand Lie, J. H., and B. de Carvalho, "Protecting Civilians and Protecting Ideas. Institutional Challenges to the Protections of Civilians", NUPI, Security in Practice No. 4, Oslo 2009, p. 9.

[85] OCHA, OCHA's Role in Supporting Protection: International and Field Level Responsibilities, Policy Instruction, September 2006.

[86] A/63/19, Report of the Special Committee on Peacekeeping Operations and its Working Group (2009 Substantive Session: 23 February-20 March 2009), paras. 125-128.

[87] A/64/19, Report of the Special Committee on Peacekeeping Operations, 2010 Substantive Session 22 February-19 March 2010, para 18.

72. Following on from its 2009 report where it acknowledged for the first time that protection of civilians is one of the mandated tasks of UN peacekeeping operations, requiring integration and a comprehensive approach, the Committee returned again to a number of key points in its 2010 deliberations. Among these was the request for the Secretariat to develop a strategic framework containing elements and parameters for mission-specific strategies to guide senior mission leadership in elaborating a comprehensive protection strategy aligned with the mission's concept of operations.[88]

73. One commentator has raised the question as to whether this new interest of the Special Committee in the protection of civilians will lead quickly to better guidelines on protection tasks for UN peacekeeping operations. "While the signs are encouraging, bringing all these strands together and creating a common understanding on protection of civilians between all stakeholders involved, including the Council, troop-contributing countries, the General Assembly and host countries will be a significant challenge.

74. A related question is whether the Council should itself seek to drive the process or develop detailed operational guidance to UN missions on the consistent interpretation and implementation of protection mandates or whether this should be done in a partnership with the Special Committee on Peacekeeping Operations, or indeed even left to the Secretary-General." [89]

Security Council

75. The principal venue for consideration of issues relating to the theme of Protection of Civilians is the Security Council. Each year, since 1999, there has been two open debates on the theme of Protection of Civilians; the last was convened on 7 July 2010. Once a year, the Secretary-General presents a Report on the theme to the Security Council. Some of these debates result in a thematic SC resolution, and more often a Statement from the President of the Security Council.

76. Of the various issues on the PoC agenda, that of dialogue with non-state actors still encounters resistance on the part of some. Although the Secretary-General in his opening statement to the latest Open Debate drew a distinction between engaging non-state actors for humanitarian purposes as distinct from political dialogue, there is little appetite among some SC Members to explicitly support such dialogue.

77. As noted by the Emergency Relief Coordinator (ERC) in his last address to the Security Council, the Council has played an important role in expanding the weight of international jurisprudence in relation to a number of the above key areas. But a recurring question in his various presentations to the Security Council has been: Have these positive developments actually improved the condition of civilians in armed conflict? Or have normative advances merely widened the gap between international rules and reality on the ground, or created a new gap, and called further into question the relevance of the law and the credibility of Security Council pronouncements?

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[88] *Ibid.*, para. 149.
[89] *Protection of Civilians*, Security Council Report. Cross-Cutting Report, 2008 No 2, 14 October 2008, p. 19: http://www.securitycouncilreport.org/site/c.glKWLeMTIsG/b.5556213/k.BED2/CrossCutting_Report_No_4br Protection_of_Civilians_in_Armed_Conflictbr30_October_2009.htm

Working Group on Peacekeeping Operations

78.   The Working Group was established in January 2001 to address both generic peacekeeping issues relevant to the responsibilities of the Council, and technical aspects of individual peacekeeping operations, without prejudice to the competence of the Special Committee on Peacekeeping Operations.

Informal Expert Group on Protection

79.   In his Report on PoC to the Security Council in 2007, the new Secretary-General, Ban Ki-moon proposed the establishment of a Working Group on the Protection of Civilians.[90] This proposal did not gain the necessary support of key Members of the Security Council. However, an informal Expert Group on Protection was established by the Security Council at the 14 January 2009 Open Discussion. The Group held its inaugural meeting on 16 January 2009. Its role is to review the mandates of new peacekeeping missions. It is briefed by OCHA. There have been some suggestions that DPKO will also be invited in the future to brief the Expert Group.

80.   Most Council members seem to find the informal Expert Group on Protection a very useful beginning, both as a means to improve information to the Council on protection issues and as a way to enhance internal coordination between thematic and geographic experts, in particular by bringing thematic expertise more into the negotiation process. Russia seems to be positively but cautiously engaged, but is perhaps not yet fully convinced of the added value. China's non-participation is not yet seen as a major issue. Most members seem happy to keep the informal nature of the group for now.[91]

UN agencies and entities

OCHA

81.   The ERC addresses the Security Council when it holds its biannual Open Debates on Protection of Civilians. OCHA also briefs the Informal Expert Group on behalf of the entire UN system, focusing on what are considered to be the most pressing protection issues for the peace-keeping mandate under discussion. Based on the revised *Aide-mémoire* of 2009,[92] OCHA is also invited to make suggestions on agreed language that the Council might want to include in the mandate resolution.

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[90] There are currently six Working Groups: Working Group on Peacekeeping Operations; Working Group established pursuant to resolution 1566 (2004);Working Group on Children and Armed Conflict; Ad hoc Working Group on Conflict Prevention and Resolution in Africa; Informal Working Group on Documentation and other Procedural Questions; Informal Working Group on International Tribunals.
The Secretary-General's Report S/2007/643 (28 October 2007) called for the establishment, consistent with resolution 1674 (2006), of a dedicated, expert level working group to facilitate the systematic and sustained consideration and analysis of protection concerns, and ensuring consistent application of the *Aide-mémoire* for the consideration of issues pertaining to the protection of civilians in Council deliberations on the mandates of UN peacekeeping and other relevant missions, draft resolutions and presidential statements, and in Council missions.
[91] Opinion expressed in the Security Council Report 2009 Cross Cutting Report, p. 20; see:
http://www.securitycouncilreport.org/atf/cf/{65BFCF9B-6D27-4E9C-8CD3-
CF6E4FF96FF9}/XCutting%20PoC%202009.pdf
[92] For the latest *Aide-mémoire*, see:
http://www.humanitarianreform.org/humanitarianreform/Portals/1/cluster%20approach%20page/clusters%2
0pages/Protection/Aide%20Memoire-2009.pdf

82.   The *Aide-mémoire* is intended to serve as a diagnostic tool to assist the Council "in ensuring that the protection needs and rights of civilians are reflected in relevant resolutions and the mandates of peace-keeping operations."[93] The *Aide-mémoire* is also intended to help the Field as a tool for systematic analysis and reporting.

DPKO/DFS

83.   The work of DPKO and DFS is quite central to the PoC theme, not only in terms of support to UN peacekeeping operations, but in view of the New Horizon Project and its objective of making operational the concept of protection discussed in paragraphs 23 and 30 above.

84.   In support of UN peacekeeping, an independent International Forum for the Challenges of Peace Operations was created to promote dialogue between key stakeholders on peacekeeping issues. Its most recent Forum was dedicated to the "Challenges of Protecting Civilians in Multidimensional Peace Operations".[94]

OHCHR

85.   Given the underpinnings of the PoC in human rights law (along with international humanitarian law and refugee law), the Office of the High Commissioner has a key role in the monitoring and promotion of the core international human rights instruments.[95] These are seen as complementary to international humanitarian law.[96]

86.   Furthermore, the engagement of OHCHR in peacekeeping missions is key to ensuring peacekeeping missions' ability to address the PoC agenda. Currently OHCHR is supporting the 17 human rights components of Peace Missions in Afghanistan, Burundi, the Central African Republic, Côte d'Ivoire, Democratic Republic of the Congo, Ethiopia/Eritrea, Georgia/Abkhazia, Guinea Bissau, Haiti, Iraq, Liberia, Sierra Leone, Somalia, Sudan, Tajikistan, Timor-Leste, and the UN Office for West Africa (Senegal). The challenge for OHCHR is to improve its operational capabilities to ensure effective protection.

87.   The High Commissioner's Representative, in her address to the last Open Debate in the Security Council on PoC, stressed the importance of combating the culture of impunity by more decisive action.[97] It has been suggested that the High Commissioner for Human Rights, given the relationship of the PoC theme to human rights, should again provide briefings to the Security Council, as was the case between 1990 and 2002.[98]

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[93] S/RES/1894, operative paragraph 30. See also Statement of President of the Security Council, S/PRST/2009/1 (14 January 2009).

[94] See http://www.challengesforum.org/cms/rootpage.do?pageId=11

[95] http://www2.ohchr.org/english/law/

[96] A/HRC/11/31, para. 5: "In line with recent international jurisprudence and the practice of relevant treaty bodies, the Council acknowledged that human rights law and international humanitarian law were complementary and mutually reinforcing."

[97] For statement see :
http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10197&LangID=e

[98] Security Council Cross-Cutting Report, No. 4, 2009, pp. 21-22. "While OCHA's role remains useful, the issue of protection is broader than the humanitarian mandate and in some cases OCHA is not best placed to analyse or report on the issues. Having the Human Rights Commissioner directly address the Council on this could often provide added value".

88. One can detect a certain reticence on the part of UNHCR vis-à-vis the PoC concept in discharging its refugee mandate, although this has not been the case in relation to its role of Global Protection Cluster Lead. The ambivalence derives, in part, from the importance the concept in question has come to assume in the mandates of UN peacekeeping missions, especially integrated missions, the perception that PoC is an OCHA - owned concept,[99] and the growing resistance in the Security Council to giving the concept further normative character.

89. Refugees and IDPs are a sub-set of the civilian category, and share the common characteristic of "displacement". It is for this reason that UNHCR should be at the heart of the ongoing discourse on PoC. One has the impression that UNHCR has stayed in the comfort zone of its clearly defined 1951 Refugee Convention, and the UN system-wide agreement on the division of labour for IDPs, rather than push the envelope for a more comprehensive, unified mandate in relation to displacement, including that caused by natural disasters.

90. However, one should not underestimate the array of interests against the clear designation within the UN system of who is responsible overall for addressing displacement. The 60th anniversary celebrations for the Convention might be an occasion to revisit this gap (only provisionally filled by the provisions under the Cluster Arrangements).

91. UNHCR understandably places great weight on the humanitarian nature of its work, without denying the role of the political in achieving enduring solutions to displacement. Hence the relevance of the Security Council and its mandates given to peacekeeping missions, for the effective discharge of its different responsibilities as the UN refugee agency and as the Lead of the Global Protection Cluster.

92. PoC is of particular importance to both, especially in ensuring the civil and humanitarian nature of camps and settlements (both for refugees and IDPs), and assisting in finding durable solutions through return and reintegration activities. In his address to the Security Council on 8 January 2009, the High Commissioner touched on these two issues.[100]

93. In terms of UNHCR's solutions mandate, again PoC in the form of peacekeeping (or rather peacebuilding mandates) has a lot to offer. The clearest assessment of these advantages and risks can be found in the Report of the Workshop on UNHCR's experience with integrated missions.[101]

94. UNHCR has nothing to lose by re-engaging with renewed interest in the PoC debate. Rather than being reactive, with UNHCR's Liaison Office in New York (LONY) providing endless inputs to reports that come out in as the work of OCHA, UNHCR would have nothing to lose by lobbying to give inputs to the SC and the Informal Expert Group in its own name and that of Head of the Global Protection Cluster.

95. Another key point of entry is through the Technical Assessment Mission (TAM) of the Integrated Mission Planning Process (IMMP); here UNHCR Field Offices can play an important role in ensuring that issues of relevance to populations of concern are addressed.

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[99] Sand Lie, J. H., and B. de Carvalho, "Protecting Civilians…", p. 9.
[100] http://www.unhcr.org/496625484.html
[101] Tennant, V. (ed.), *UNHCR's Engagement with Integrated Missions. Report of a Lessons Learned Workshop*, PDES/2009/4.

If this input does not get into the report of the TAM, it is almost impossible to remedy things later. UNHCR Field Offices have another means of influencing debate in the SC by ensuring that the regular reports from the Field on a particular mission reflect the concerns of UNHCR. At the end of the day, however, UNHCR must focus on trying to ensure that the rhetoric of resolutions and statements are reflected in the changed realities on the ground. This means finding the right entry point at the mission level and nurturing it. It also means developing a closer working relationship on issues of common interest with the relevant ICRC delegation.

96.   Many of the themes listed in the revised *Aide-mémoire* of 2009 are of direct relevance to UNHCR's mandate to provide international protection to refugees and to find a durable solution to their problems.

UNICEF

97.   One area of specific consideration by the Security Council has been children affected by armed conflict, an issue of particular relevance to the mandate of UNICEF.[102] The landmark study on the "Impact of armed conflict on children" by Graça Machel was presented to the General Assembly in 1996.[103] In 2009 a further major study has been published, namely, *Machel Study 10-Year Strategic Review: Children and conflict in a changing world*,[104] undertaken by the Office of the Special Representative of the Secretary-General for Children and Armed Conflict in collaboration with UNICEF.

98.   In addition to the work of the Special Representative of the Secretary-General for Children and Armed Conflict, the issue of children and conflict, and the work of UNICEF in this area, has also benefited from the contribution of the *Security Council's Working Group on Children and Armed Conflict* (see S/RES/1612 (2005); S/RES/ 1882 (2009)). The Cross-Cutting Security Council Report on this theme gives a detailed evaluation of the Security Council's work in this area.[105]

Special Representative on Sexual Violence in Conflict.

99.   On 2 February 2010, the Secretary-General announced the appointment of Margot Wallström of Sweden as his Special Representative on Sexual Violence in Conflict. Although this function is quite recent, the issue of sexual violence has been a recurrent theme in the Reports of the Secretary-General and the deliberations of the Security Council.[106]

100.   As noted by Amnesty International: "Like most violence that occurs in the course of armed conflict, violence against women is not accidental. It is a weapon of war, a tool used to achieve military objectives such as ethnic cleansing, spreading political terror, breaking the resistance of a community, rewarding soldiers, intimidation, or to extract information. Many forms of violence that women suffer during armed conflict are gender specific in both nature and result."[107]

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[102] See *Aide-mémoire*, Sections II and III.
[103] A/51/150.
[104] UNICEF, 2009.
[105] *Children and Armed Conflict*, Security Council Report. Cross-Cutting Report, No.1, 2 June 2010. See http://www.securitycouncilreport.org/atf/cf/{65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9}/XCutting%20CAC%202010.pdf
[106] See *Aide-mémoire*, Section III
[107] Amnesty international Fact Sheet on Violence Against women in Armed Conflict:

101.   In addressing the Security Council debate on sexual violence in June 2008, the SG said the problem had reached pandemic proportions in some countries. Key SC resolutions on the issue of women and sexual violence in armed conflict are 1325 (October 2000), 1820 (June 2008) and 1888 (September 2009). SC resolution 1325 was the Security Council's first resolution that required parties in a conflict to respect women's rights and to support their participation in peace negotiations and in post-conflict reconstruction.

102.   SC resolution 1820 of 19 June 2008 demands that all sides to armed conflicts stop using violence against women as a tactic of war and to take steps to protect women and girls from such attacks. In particular, it states that sexual violence should be excluded from amnesties reached at the end of conflicts.[108] SC resolution 1888 complements SC resolution 1820.

103.   SC resolution 1888 called for the appointment of a Special Representative of the Secretary-General, the formation of a task team of judicial experts to help post-conflict countries prevent impunity, the appointment of women protection advisors in relevant UN peacekeeping missions, proposals for a monitoring and reporting mechanism, and the production of an annual report that would name parties credibly suspected of committing patterns of sexual violence.

104.   As noted by UNIFEM, "[w]hile Security Council resolution 1820, passed in June 2008, establishes a strong link between sexual violence and sustainable peace and security, Security Council resolution 1888 (30 September 2009) provides concrete building blocks to advance its implementation. SCR 1888 signals a robust political commitment to addressing conflict-affected sexual violence as a peace and security issue."[109]

105.   *UN Action Against Sexual Violence in Conflict* brings together 13 UN entities to sustain global commitment to preventing and responding to sexual violence. Its aim is to strengthen alliances for international action in a way that is appropriate for the scale and magnitude of the threat. UN Action represents a holistic response to sexual violence. It was endorsed in June 2007 by the Secretary-General's Policy Committee as "the critical joint UN system-wide initiative to guide advocacy, knowledge building, resource mobilization, and joint programming" around sexual violence in conflict, and mandated by SCR 1820 to "coordinate efforts"; "create awareness" about sexual violence; and "ultimately, put an end to it".[110]

International Criminal Court

106.   The International Criminal Court (ICC) is governed by the Rome Statute (1998) and is the means whereby the international community is able to combat impunity. The ICC has the power to initiate criminal proceedings against perpetrators of the most serious crimes, in particular war crimes and crimes against humanity. The Security Council may refer cases to the ICC.

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http://www.amnestyusa.org/women/pdf/VAW_in_armed_conflict_fact_sheet.pdf

[108] *The Rome Statute* recognizes rape and other forms of sexual violence by combatants in the conduct of armed conflict as war crimes. When rape and sexual violence are committed as part of a widespread or systematic attack directed against any civilian population, they are considered crimes against humanity, and in some cases may constitute an element of genocide.

[109] UNIFEM Statement of 5 October 2009. See:
http://www.unifem.org/news_events/story_detail.php?StoryID=943

[110] For the related NU Trust Fund, see: http://mdtf.undp.org/factsheet/fund/UNA00

ICRC

107.   At the heart of the PoC enterprise, both historically and as a currently engaged actor is the ICRC, the custodian of the Geneva Conventions. Characterized by an independence of approach vis-à-vis the United Nations, especially its peacekeeping operations, the ICRC shares a range of common interests with UNHCR and should be its natural ally in the pursuit of the PoC agenda. As part of its promotion of international humanitarian law, the ICRC has produced a number of key tools, including, *Enhancing Protection for Civilians in Armed Conflict and other Situations of Violence*.[111]

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[111] ICRC, Geneva, September 2008.

8. Recommendations

108. At the end of this review of PoC, the relevance of the range of activities that are normally found under this overarching concept for UNHCR should be obvious. While it could be argued that any one of these activities might be pursued by UNHCR without reference to the theme of PoC (as would seem to be the case with UNICEF), there would be obvious benefits from more closely linking UNHCR's work to the theme of PoC, especially in the deliberations of the Security Council.

109. Such an approach would give greater coherence to the work of UNHCR in relation to conflict-induced or forced displacement as it would link its work for refugees and IDPs in a recognized thematic manner. In this way, work with IDPs would not be seen as an "add-on" to its mandate. The following recommendations could help in giving PoC greater relevance in the work of UNHCR:

> 1.   UNHCR should explore further, with the help of sympathetic SC Members, the possibility of its more systematic, formal involvement in the work of the Security Council and related bodies, namely through briefings by the High Commissioner and LONY.

> 2.   Although durable solutions represent the ultimate form of protection and relate especially to its specific protection mandate, UNHCR could make better use of peacekeeping mandates for assisting the Office in facilitating, on a case-by-case basis, the voluntary return and the reintegration of refugees, as well as of IDPs.

> 3.   The issue of refugee security, quite high on UNHCR's agenda at the time of the elaboration of the "Ladder of Options", has now received renewed attention in UNHCR.[112] This issue could benefit from being factored into Security Council mandates for peacekeeping operations on a case-by-case basis.

> 4.   UNHCR, in its capacity of Global Protection Cluster Lead, should engage in promoting more sustained dialogue between humanitarian actors, development actors and peacekeepers on case-by-case protection strategies.

> 5.   The findings of the UNHCR Workshop on its experiences with integrated missions should be reviewed with a view to promulgating a policy paper on this important topic.

> 6.   UNHCR should review its relationship with DPKO and draft a MoU to take into account the wide range of topics of mutual interest related to PoC.

110. PoC has the merit of providing an integrating concept for UNHCR's work for both refugees and IDPs. However, it does so in a limited manner as it relates only to situations of armed conflict. As pointed out, although conflict is increasingly the cause for displacement across an international border (refugees) or within a country (IDPs), this is merely one basis (according to certain regional instruments) for refugee status, and captures only one cause

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[112] EC761/SC/CRP.16, Staff Safety and Security Issues, including Refugee Security: UNHCR Security Management Plan of Action and Strategy for Implementation.

for internal displacement (excluding, for example, UNHCR's work of those displaced by natural disasters). The Office needs to integrate its work in relation to refugees and IDPs under one concept, thereby avoiding work for IDPs being considered as an "add-on". As the 60th anniversary of the Refugee Convention approaches, UNHCR could benefit from having a unifying concept of its mission that would embrace refugees, IDPs and stateless persons.

111.   The underlying objective of UNHCR's work with these three categories of beneficiaries is to work to overcome their vulnerability through the creation of an effective protection regime, be it international or national. PoC, as a concept that integrates UNHCR's work with refugees and IDPs in armed conflict situations, through a range of activities, including the restoration of the rule of law, could be seen as a stepping stone along this path to greater integration of the Office's work.

Annex 1: **Selected reports of the UN Secretary-General on PoC and related themes**

- S/2010/181 (13 April 2010) was the latest report on children and armed conflict.
- S/2010/173 (6 April 2010) was a report on women, peace and security, proposing a set of indicators to track implementation of resolution 1325 in line with resolution 1889.
- S/2009/277 (29 May 2009) was the seventh (and latest) report on protection of civilians.
- S/1999/957 (8 September 1999) was the landmark first report on protection of civilians.

Annex 2:   Security Council thematic resolutions on PoC

Among the most important outcomes of the Security Council's consideration of the theme of Protection of Civilians have been the series of thematic resolutions.

- S/RES/1894 (11 November 2009) reaffirms the Council's commitment to the protection of civilians while focusing in particular on humanitarian access, protection mandates in peacekeeping missions and the need for monitoring and reporting.

- S/RES/1738 (23 December 2006) condemned intentional attacks against journalists, media professionals and associated personnel, and requested the Secretary-General to include, as a sub-item in his next reports on protection of civilians, the issue of the safety and security of journalists, media professionals and associated personnel.

- S/RES/1674 (28 April 2006) *inter alia* reaffirmed the responsibility to protect as formulated in the 2005 World Summit Outcome Document and expressed the Council's intention to ensure that protection is clearly outlined and given priority in peacekeeping mandates.

- S/RES/1502 (26 August 2003) condemned all violence against humanitarian and UN and associated personnel, recalled obligations to protect such personnel under international humanitarian, refugee and human rights law, and called for unimpeded humanitarian access.

- S/RES/1296 (19 April 2000) reaffirmed the Council's commitment to protection of civilians and requested another report on the issue from the Secretary-General.

- S/RES/1265 (17 September 1999) was the Council's first thematic resolution on protection of civilians, condemning targeting of civilians, calling for respect for international humanitarian, refugee and human rights law, expressing willingness to take measures to ensure compliance and to consider how peacekeeping mandates might better address the negative impact of conflict on civilians.

Annex 3:   **Security Council Presidential statements on PoC**

(Summaries based on Security Council Report)

- S/PRST/2009/1 (14 January 2009) reaffirmed previous decisions on protection of civilians and contained an updated *Aide-mémoire*.

- S/PRST/2008/18 (27 May 2008) reaffirmed previous decisions on protection of civilians and requested a report from the Secretary-General by May 2009.

- S/PRST/2005/25 (21 June 2005) expressed concern about limited progress on the ground to protect civilians, stressed in particular the need to provide physical protection for vulnerable groups, and invited the Secretary-General to address challenges related to peacekeeping.

- S/PRST/2004/46 (14 December 2004) reaffirmed the Council's commitment to protection of civilians.

- S/PRST/2003/27 (15 December 2003) contained an updated *Aide-mémoire*.

- S/PRST/2002/41 (20 December 2002) underscored the importance of the *Aide-mémoire*, expressing its willingness to update it annually, and also addressed in particular issues related to humanitarian access, refugees and internally displaced persons and gender-based violence.

- S/PRST/2002/6 (15 March 2002) contained an *Aide-mémoire* to assist Council members in their consideration of protection of civilians issues.

- S/PRST/1999/6 (12 February 1999) was the first thematic decision on protection of civilians which also requested the first report from the Secretary-General on the issue.