

# **UN Peace Operations: Peace-keeping and Peace-enforcement in Armed Conflict Situations**



**DR. GENTIAN ZYBERI**  
**NORWEGIAN CENTRE FOR HUMAN RIGHTS**  
**UNIVERSITY OF OSLO**

# Collective Security Operations

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- **Issues discussed:**
- Legal framework for peace operations (POs)
- Peacekeeping: Historical evolution and key features
- Peacekeeping v. peace enforcement
- Peacekeeping and the protection of civilians
- Peacekeeping: Mandate and applicable legal frameworks.

# Some Figures and Facts: DPKO

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- Workforce in the field consisted of (as of **31 August 2012**):
- **82,820** serving troops and military observers;
- **13,485** police personnel;
- **5,392** international civilian personnel (31 July 2012);
- **12,573** local civilian staff (31 July 2012);
- **2,245** UN Volunteers.
- **115** countries contributed military and police personnel.
- **16** UN peace operations deployed on four continents.

# Examples of Peace Operations

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- Somalia (UNOSOM I & II);
- Bosnia and Herzegovina (UNMIBH & UNPROFOR);
- Democratic Republic of the Congo (MONUSCO);
- Darfur (Sudan) (UNAMID);
- South Sudan (UNMISS);
- Côte d'Ivoire (UNOCI);
- Haiti (MINUSTAH);
- Kosovo (UNMIK);
- Timeline of [Peace Operations](#).

# The Legal Framework (I)

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- *Which rules apply?*
  - International humanitarian law?
  - International human rights law?
  - International criminal law?
  - National criminal law?
    - ✦ Of the host state?
    - ✦ Of the sending state?
  - “UN Law”?
- *Who can be held accountable?*
  - The individual soldier?
  - His superior officer(s)?
  - The Troop Contributing State?
  - The United Nations?

# The Legal Framework (II)

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- *The UN Charter*
- *PO specific arrangements*
  - Mandates / Security Council Resolutions
  - Status of Forces (Missions) Agreements (SOFA / SOMA)
  - Participating States Agreements (PSA) / Memorandum of Understanding (MOU)
  - Rules of Engagement (ROE)
- *National law*
  - Host State
  - Sending State
- *International law*
  - International humanitarian law (IHL)/ International human rights law (IHRL)/ International criminal law (ICL)
  - The UN Immunity Convention 1946
  - The UN Personnel Safety Convention 1994/ Protocol of 2005
  - Other international law regimes.

# Peacekeeping: Historical Evolution and Key Features

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- The development of POs
  - Peacekeeping
  - Peace enforcement
  - Peace building / transitional administrations
- Legal basis: The UN Charter
  - No mention of peacekeeping in the Charter
  - “Chapter VI ½”, Chapter VII, Chapter VIII (cooperation with regional organizations/ arrangements)
- Civilian, military, police components
- Operations with and without UN mandates
  - POs as ‘subsidiary organs’ of the UN (UNTAET, UNMIK)
  - POs with a UN mandate, but an independent operational structure
    - ✦ Or combinations of the two

# Peacekeeping: Main General Principles

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- Legitimacy
- Consent
- (Minimal) Use of force
- Impartiality and neutrality



# Peacekeeping v. Peace Enforcement

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- Peace-keeping
- Chapter VI
- Consent
- Peace enforcement
- Chapter VII
- No consent required
- UN/Regional organization

# Applicability of IHL to POs

- The Secretary-General's Bulletin on Observance by United Nations Forces of International Humanitarian Law (6 August 1999 – ST/SGB/1999/13).
  - 'The *fundamental principles and rules of international humanitarian law* set out in the present bulletin *are applicable to United Nations forces* when in situations of armed conflict they are *actively engaged therein as combatants*, to the *extent and for the duration of their engagement*. They are accordingly applicable in *enforcement actions*, or in peacekeeping operations when the use of force is permitted *in self-defence*.' (Section 1.1)
  - 'The present provisions do not constitute an exhaustive list of principles and rules of international humanitarian law binding upon military personnel ...' (Section 2)

# Interim Remarks

- The legal framework applicable to PKOs and peacekeepers is quite complex:
  - *Awareness*: Difficult for all actors involved to know what the applicable law is!
  - *Enforcement*: Difficult for injured parties to present claims and get reparations for harm suffered!
- “If *legal norms* are to be effective in a military context, the norms *must be clear and not so complex* as to be incapable of practical application. *Law enforcement mechanisms must be in place to deal promptly with offenders.*”
  - Attacks against peacekeepers are prosecuted before the ICC – e.g. Abu Garda case (Darfur situation).

# Peacekeeping and the Protection of Civilians

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- **Some relevant Security Council Resolutions :**
- First report to the Security Council by the Secretary-General in 1999.
- Women and Peace and Security, (S/RES/1325), 2000.
- Concerning Children and Armed Conflict, (S/RES/1612), 2005.
- Protection of Civilians in Armed Conflict, (S/RES/1674), 2006.
- Protection of Civilians in Armed Conflict, (S/RES/1894), 2009.
- Women and Peace and Security, (S/RES/1960), 2010

# Protection of Civilians: Layers of Responsibility

- **Strategic:** The high level political decision-making (UN Security Council) and management (UN DPKO) of a UN peacekeeping operation at UN HQ.
- **Operational:** The field-level management of a peacekeeping operation at the Mission Headquarters is considered to be the operational level. This is the level at which strategic level objectives are translated into plans that prioritize and maximize the use of scarce resources.
- **Tactical:** The day-to-day management of military, police and civilian operations below the level of Mission Headquarters as well as the supervision of individual personnel is considered to be at the tactical level.

# The Responsibility to Protect

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- Failures of the UN after the Cold War (Rwanda and Srebrenica).
- 2001 ICISS Report
- 2004 High-Level Panel
- 2005 World Summit Outcome Document (paras. 138-140)
- States have the primary responsibility to protect their population from genocide, war crimes, ethnic cleansing and crimes against humanity.
- When States *manifestly* fail, that duty passes on to the international community.
- Examples: Kenya, Côte d'Ivoire, Libya.

# Changes in the Rules of Engagement (RoE)

- **Rules on the use of force:**
- *Hostile act*: an attack or other use of force, intended to cause death, bodily harm or destruction.
- *Hostile intent*: the threat of imminent use of force, which is demonstrated through an action which appears to be preparatory to a hostile act.
- Use of force, up and including deadly force, to defend oneself and other UN personnel (and other international personnel) against a hostile act or a hostile intent, is authorized.
- Use of force, up to and including deadly force, to *resist attempts to abduct or detain other UN personnel, is authorized.*
- Use of force, up to and including deadly force, to *resist attempts to abduct or detain other international personnel, is authorized.*
- Use of force, up to and including deadly force, to *protect civilians under imminent threat of physical violence.*

# Some Mandate Tasks

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- Monitor cease-fire or cessation of hostilities
- Protect civilians
- Provide operational support to law enforcement agencies
- Assist in the restructuring and reform of the armed forces
- Facilitate the implementation of a peace agreement
- Assist with DDR programs
- Support the delivery of humanitarian assistance
- Supervise and assist with the organization of elections
- Strengthen the rule of law, including assistance with judicial reform and training of civilian police
- Promote respect for human rights and investigate alleged violations
- Assist with post-conflict recovery and rehabilitation
- Assist with mine action
- Promote national dialogue and reconciliation.



# Protection of Civilians: Between Aspirations and Reality

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- The protection of civilians is intrinsic to UN peacekeeping missions.
- UN peacekeeping missions have a unique responsibility and role to play in the protection of civilians.
- UN peacekeeping missions must do more to protect civilians.
- Peacekeeping operations cannot ‘protect everyone from everything’ — and they need to manage expectations.
- The role of peacekeeping missions as protection actors must be defined for operational purposes.
- The lack of follow-up to Security Council peacekeeping mandates to protect civilians is widespread across the UN system.
- Leadership matters at all levels. Across the system, in the field, within the UN Member States, and on the Security Council, leadership makes a substantive difference in how these mandates to protect are perceived and implemented.

# Concluding Remarks

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- Peace operations are an important part of UN's activity and budget.
- Maintenance of peace and security as one of the main aims of the UN intrinsically linked to peace operations.
- Security Council is closely involved with the doctrine of POC and seems to include POC as a matter of routine in the PKO mandates.
- Legal developments not matched by commitment in terms of personnel and logistical support at the disposal of (D)PKOs.

# Relevant Literature

- Handbook on United Nations Multidimensional Peacekeeping Operations, Department of Peacekeeping Operations, United Nations. December 2003.
- Trevor Findlay, *The Use of Force in UN Peace Operations*, SIPRI, (Oxford University Press, 2002), 486 pp.
- Lisa Morje Howard, *UN peacekeeping in civil wars*, (Cambridge: Cambridge University Press, 2008), 402 pp.
- Alex J. Bellamy et al, *Understanding peacekeeping*, (Cambridge: Polity Press, 2010), 337 pp.