

R2P IDEAS in brief



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Responsibility to Protect and UN Peacekeeping: A Challenge of Particularized Protection

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Introduction

According to a recent report by the Secretary-General of the United Nations (UNSG) on the Responsibility to Protect (R2P), “[a]cts that may constitute genocide, war crimes, ethnic cleansing and crimes against humanity are occurring in several countries, including the Central African Republic, the Democratic Republic of the Congo, the Democratic People’s Republic of Korea, Iraq, Libya, Nigeria, South Sudan, the Sudan, the Syrian Arab Republic and Yemen.”¹ What is striking about these and earlier references to R2P by the UN, regional organizations, and civil society actors is that the majority of R2P concerns arise in the conditions of ongoing civil wars.² Yet, the relationship between R2P and the Protection of Civilians in Armed Conflict (POC)—a separate thematic issue at the UN focused on threats to civilians in times of war—remains undertheorized, and practical challenges of protecting civilians from the specified mass atrocity crimes in situations of armed conflict are rarely discussed in the context of R2P.

This policy brief identifies one set of situations in which R2P and POC concerns overlap, namely, armed conflict situations with UN peacekeeping missions mandated to protect civilians where R2P crimes may be or are occurring, and addresses the challenge of “particularized protection” in such situations.³ This refers to the direction of international protection efforts by the UN Security Council (UNSC) and peacekeeping missions on the ground to specific groups in the civilian population at risk. The significance of recognizing this challenge lies in the limited protection that UN peacekeeping missions in armed conflicts provide to civilian populations at large, even when mandated to do so by the UNSC in the context of potential or actual mass atrocity crimes—some of the gravest violations of human rights.

Where R2P and POC Overlap: UN Peacekeeping Missions with a Protection Mandate

While R2P and POC have developed in parallel at the UN and share the normative commitment to the protection of human lives in times of crises and practice in accordance with the UN Charter, these related sets of issues have a different scope and emphasis. POC refers to “measures... to protect the safety, dignity, and integrity of [civilians] in times of war which are rooted in obligations under international humanitarian law (IHL), refugee law, and



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Table 1. R2P and POC: Scope and Emphasis

	R2P	POC
Scope	Genocide, war crimes, ethnic cleansing and crimes against humanity in and outside of armed conflict	Breaches of international law in armed conflict
Emphasis	Populations	Civilians*

* Generally understood as non-combatants⁴

human rights law.”⁵ On the other hand, R2P refers to “the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.”⁶ In short, POC implies the protection of civilians from breaches of international law in times of war, often through UN peacekeeping; R2P reflects the primary responsibility of the state, but also an imperative of the international community, to prevent and respond to the four specified mass atrocity crimes faced by populations in and outside of the context of war.⁷ Table 1 (above) summarizes the differences relevant here.

Despite these differences, R2P and POC concerns overlap in practice in certain situations. As Vesselin Popovski exemplifies in the case of Libya, “[UNSC Resolution] 1970 (of 26 February 2011) describes atrocities against peaceful demonstrators in Libya—not yet an armed conflict—and raises R2P (crimes against humanity) concerns; but this, technically, is not yet a POC situation. A second resolution, 1973 (of 17 March 2011) describes the situation in Libya as a civil war...; thus, POC now comes into consideration, in parallel with R2P.”⁸

While response to such situations may range across the UN peacekeeping tools and R2P’s three-pillar implementation structure,⁹ the cases where R2P and POC overlap discussed here are armed conflicts where UN peacekeeping missions are tasked with the protection of civilians (a POC aspect) and R2P mass atrocity crimes may be or are committed against civilians (an R2P aspect). Figure 1 (below) captures this overlap. Peacekeeping missions in these situations “are based on the principle of consent and generally deploy in support of and with the overall consent of the host State. As such, they fall under [R2P’s] pillar two, [international assistance to the state,]... [and] may contribute to the achievement of RtoP goals.”¹⁰

Côte d’Ivoire is an example. The conflict in Côte d’Ivoire recently saw two periods of escalation to civil war, one in the early 2000s and another in the early 2010s, both fought primarily over the control of the government, with “widespread and egregious abuses against civilians.”¹¹ In response to the unfolding crisis, the SC established the UN Operation in Côte d’Ivoire (UNOCI) in Resolution 1528 (of 27 February 2004). The UN peacekeeping mission was given a POC mandate, authorized “to protect civilians under imminent threat of physical violence, within its capabilities and its areas of deployment.”

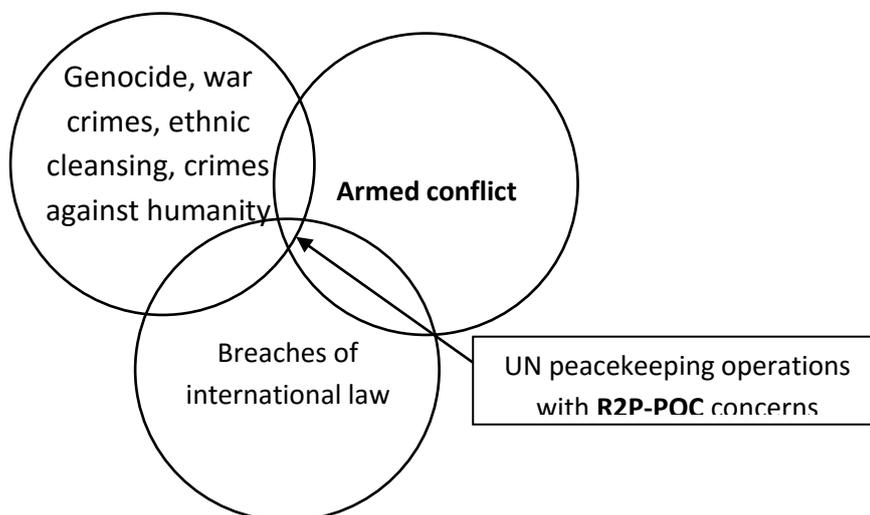
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Figure 1. R2P and POC in Armed Conflict



In 2011, the crisis that followed the stalemate over the 2010 presidential election in the country prompted the SC to further extend the UNOCI's POC mandate in Resolution 1962 (of 20 December 2010) and to refer to R2P in Resolution 1975 (of 30 March 2011) as "the attacks... taking place in Côte d'Ivoire against the civilian population could amount to crimes against humanity." The SC "reaffirm[ed] the primary responsibility of each State to protect civilians" and "stress[ed] its full support given to the UNOCI, while impartially implementing its mandate, to use all necessary means to carry out its mandate to protect civilians." While Resolution 1975 invoked only the first pillar of R2P, the state responsibility to protect its population, the UN peacekeeping mission was mandated to protect civilians from threats beyond the R2P-specified mass atrocity crimes but would also contribute to R2P goals of civilian protection from such crimes. R2P and POC in this case overlapped as a result.

The Challenge of Particularized Protection

In cases, such as Côte d'Ivoire, where R2P and POC concerns overlap, and more broadly in situations where UN peacekeepers are authorized to protect civilians, missions face a critical challenge of particularized protection. Specific groups are afforded protection, leaving the bulk of civilian populations, whose suffering attracts initial international attention, with little effective protection on the ground, even when mentioned in UNSC mandates.

This challenge is not simply due to the insufficient resources peacekeepers have at their disposal or the limitations to the provision of protection within capabilities and areas of deployment introduced in UNSC mandates.¹² The notion of particularized protection goes beyond such limitations and captures a political dynamic at the UN whereby UNSC mandates and peacekeeping missions direct protection to specific groups, including UN

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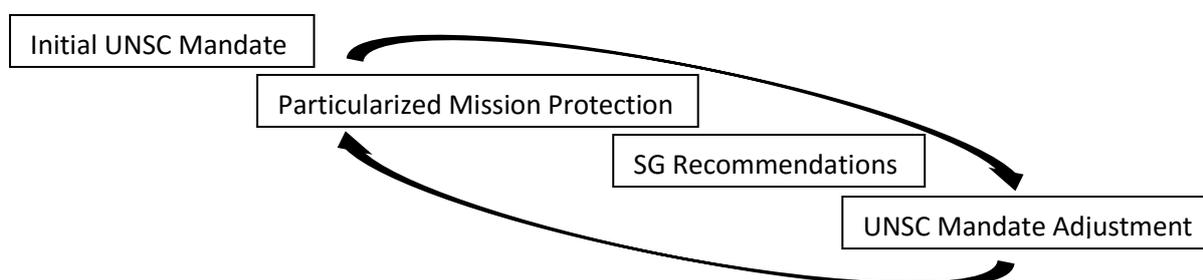
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personnel, host state officials, nationals of other states, humanitarian workers, and journalists. These groups are typically of concern to external actors, rather than local civilians. The protection of foreign nationals caught up in the crisis is a vivid example.¹³

The outcome of particularized protection evolves in interaction between the UNSC, the SG, and peacekeeping missions.¹⁴ The initial UNSC mandate authorizes peacekeeping missions to protect civilians under imminent threat of violence, which is an “active” POC mandate. It typically extends rhetorical, declaratory protection to broad civilian groups, such as women and children, and designates specific groups, such as UN personnel and host state officials, for protection. The result on the ground is mission protection that is directed to the designated groups and those selected by mission commanders based on the circumstances they face. As the crisis unfolds, the SG offers recommendations based on the evolving circumstances on the ground and influences subsequent particularized UNSC mandates and peacekeeping mission operations. Figure 2 (below) is a simplified representation of this dynamic.

Figure 2. The Dynamics of Particularized Protection at the UN



As a result of this dynamic, limited groups receive actual protection, with civilian populations at large and broad groups within civilian populations, such as women and children, remaining at risk—a significant outcome for the UN as an organization whose legitimacy in important part depends on the protection it provides to those at risk of physical violence, including mass atrocity crimes.¹⁵

This outcome is evident in the case of Côte d’Ivoire (see Table 2 below). The initial UNSC Resolution 1528 gave UNOCI an active POC mandate for the civilian population at large and signaled attentiveness, but did not direct specific POC actions, to women and children at risk of violence. At the same time, the mandate directed UNOCI to protect UN personnel and “support... the provision of security for the ministers of the Government.” Depending on the progress in the political process, the SG recommended changes to the mandate in the course of the conflict, with the escalation of violence around the 2010 presidential elections bringing the mandate full circle to an active POC mandate in Resolution 1962 and invocation of R2P in Resolution 1975. These resolutions called upon all parties to protect women and

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children and the new broad group of displaced persons, and focused UNOCI protection on the Government ministers. “The main driver behind... UN peacekeeping was not [POC],” a report concluded, “but rather ‘protection’ of the [Transitional Federal Government].”¹⁶

The result on the ground reflected these multi-level mandates. UNOCI’s main strategy of preventive patrols afforded partial protection, if at all, to civilians at large and the broad declaratory groups of women and children and displaced persons. On the other hand, deterrent force, or robust intervention, among other tools, effectively protected state officials when violence escalated in 2004 and, even more so, in 2010, when the UNSC recognized Alassane Ouattara as president and UNOCI got actively involved in the war on Ouattara’s side. Those loyal to Ouattara’s opponent, Laurent Gbagbo, were often harmed by peacekeepers, rather than protected, and violence against the civilian population persisted.

Table 2. Particularized Protection in Côte d’Ivoire

	UNSC Mandate		Mission Protection (examples)
	POC	POC-R2P Overlap	
	1528 (2004)	1962 (2010); 1975 (2011)	
Declaratory protection	Women and children	Women and children Displaced persons	Preventive patrols
Designated protection	UN personnel Government	Government	Deterrent force

The Significance of Particularized Protection

While “civilian protection has... become critical not only to the legitimacy... [of] peacekeeping operations but also to the credibility of the entire UN system,” important challenges of protection are still not fully appreciated.¹⁷ This policy brief points to one such challenge, namely, particularized protection. Even when noted in UNSC mandates, civilian populations at large and broad civilian groups, such as women and children, receive limited protection on the ground, as international efforts are directed to specific groups, especially those of interest to external actors. This outcome is prevalent not only in the context of POC, but also in relation to R2P concerns that arise in armed conflict situations with UN peacekeeping forces authorized to protect civilians, and should be brought to bear in the discussions of R2P.

This analysis points to the political dynamics, rather than simply resource limitations, in particularized protection, and suggests the need to recognize the difference between rhetorical, declaratory calls for protection in UNSC mandates and designation of those groups whose protection takes priority on the ground. This recognition may help address the expectations gap that exists between UNSC mandates and the outcomes of mission protection. As the latest High-Level Independent Panel on Peace Operations corroborates,

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“[t]he credibility gap that has opened between the ambitious mandates and high expectations of peace operations on the one hand and the challenges on the ground and at times flawed performance of some missions on the other must be addressed.”¹⁸

BIOGRAPHY

Dr. Anastasia Shesterinina is a Visiting Fellow at Yale University, affiliated with the Program on Order, Conflict, and Violence at the Whitney and Betty MacMillan Center for International and Area Studies, and holds a Ph.D. in Political Science from the University of British Columbia. Dr. Shesterinina’s main research areas include the internal dynamics of and international intervention in armed conflict. Her research has been published in such journals as the *American Political Science Review*, *International Peacekeeping*, and *Cambridge Review of International Affairs* and has been supported by the Social Sciences and Humanities Research Council of Canada, the MacMillan Center at Yale University, and the Liu Institute for Global Issues at the University of British Columbia, among other sources.

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REFERENCES

¹ UN General Assembly, “A Vital and Enduring Commitment: Implementing the Responsibility to Protect. Report of the Secretary-General,” UN doc. A/69/981–S/2015/500 (13 July 2015), para. 1.

² Darfur and Mali are examples of previous crises. For a list of cases invoked by the UNSC, see Jess Gifkins, “R2P in the UN Security Council: Darfur, Libya and Beyond,” *Cooperation and Conflict* 51, no. 2 (2016): 148-65. For an extended list of references to R2P beyond the UN, see International Coalition for the Responsibility to Protect, “Crises,” available at <http://responsibilitytoprotect.org/index.php/crises>.

³ The argument on particularized protection is developed in depth in Anastasia Shesterinina and Brian L. Job, “Particularized Protection: UNSC Mandates and the Protection of Civilians in Armed Conflict,” *International Peacekeeping* 23, no. 2 (2016): 240-73.

⁴ For a discussion of what “civilian” means in armed conflict, see Anicee Van Engeland, *Civilian or Combatant? A Challenge for the Twenty-First Century*, Oxford: Oxford University Press, 2011.

⁵ 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), p. 1.

⁶ UN General Assembly, “World Summit Outcome Document,” UN doc. A/RES/60/1 (24 October 2005), para 139.

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⁷ For further discussion of the relationship between R2P and POC, see Hugh Breakey, Angus Francis, Vesselin Popovski, Charles Sampford, Michael G. Smith and Ramesh Thakur, *Enhancing Protection Capacity: Policy Guide to the Responsibility to Protect and the Protection of Civilians in Armed Conflicts*, Queensland: Griffith University, 2012; Angus Francis, Vesselin Popovski and Charles Sampford, *Norms of Protection: Responsibility to Protect, Protection of Civilians and their Interaction*, Tokyo: UNUP, 2012.

⁸ Vesselin Popovski, "Siblings, but Not Twins: POC and R2P," United Nations University (1 November 2011), <http://unu.edu/publications/articles/siblings-but-not-twins-poc-and-r2p.html>.

⁹ The pillars include the state's protection responsibility and the international community's commitment to assist the state and consider non-coercive or coercive response if the state fails to protect its population. See UN General Assembly, "Implementing the Responsibility to Protect. Report of the Secretary-General," UN doc. A/63/677 (12 January 2009).

¹⁰ UN General Assembly, "Responsibility to Protect: Timely and Decisive Response. Report of the Secretary-General," UN doc. A/66/874-S/2012/578 (25 July 2012), para. 16.

¹¹ Human Rights Watch, "Trapped between Two Wars: Violence Against Civilians in Western Côte d'Ivoire," (August 2003), p. 1.

¹² For this line of argument, see, for example, Victoria K. Holt and Tobias C. Berkman, *The Impossible Mandate? Military Preparedness, the Responsibility to Protect and Modern Peace Operations*, Washington, DC: Stimson Center, 2006.

¹³ For a discussion of the protection of foreign nationals abroad, see Anastasia Shesterinina, "Evolving Norms of Protection: China, Libya and the Problem of Intervention in Armed Conflict," *Cambridge Review of International Affairs* (forthcoming).

¹⁴ The argument is based on the analysis of 34 UN and UN-authorized missions in 18 conflict areas since 1999.

¹⁵ On the question of legitimacy, see, for example, Michael N. Barnett and Thomas G. Weiss, *Humanitarianism in Question: Politics, Power, Ethics*, Ithaca: Cornell University Press, 2008.

¹⁶ Security Council Report, *Cross-Cutting Report No. 3*, 2010.

¹⁷ UN General Assembly, "Report of the Panel on United Nations Peace Operations," UN doc. A/55/305-S/2000/809 (21 August 2000), p. 5.

¹⁸ UN General Assembly, "Report of the High-level Independent Panel on Peace Operations on Uniting our Strengths for Peace: Politics, Partnership and People," UN doc. A/70/95-S/2015/446 (17 June 2015), para. 36.



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