

The Protection of Civilians and Accountability

Workshop Report on the Ninth Workshop on the Protection of Civilians

Hosted by the Permanent Missions of Australia and Uruguay to the United Nations and the Australian Strategic Policy Institute on 18 November 2016

On 18 November 2016, the Permanent Missions of Australia and Uruguay to the United Nations, co-hosted their ninth workshop on the protection of civilians (POC) in UN peacekeeping together with the Australian Strategic Policy Institute (ASPI). The workshop provided a forum for over 120 participants to share their perspectives about ongoing efforts to address accountability when implementing a mandate to protect civilians in peacekeeping operations. The theme was chosen following the recent failures by the mission in South Sudan (UNMISS) to respond to attacks on civilians in February 2016 in Malakal and July 2016 in Juba.¹ The workshop program is provided in Attachment A.

Workshop panelists explored issues related to performance, leadership, training and capabilities, and safety and security. This included discussion of efforts to strengthen accountability among stakeholders with responsibility for implementing POC mandates, drawing on the findings of the Secretary-General's Independent Special Investigation into violence in Juba and UNMISS response (Special Investigation Report). Panelists also reflected on the approaches on the ground in different mission contexts and provided analysis about how recommendations provided by the High-level Independent Panel on Peace Operations (HIPPO) Report could contribute to efforts to improve accountability for POC.

The discussions among workshop participants examined the concept of accountability; discussed the limits of peacekeeping and differing expectations when it came to POC; explored efforts to improve performance; highlighted the importance of leadership and responsibility among all stakeholders; and made some recommendations to strengthen accountability in an effort to ensure missions were more effective in implementing POC mandates. Several participants noted the importance of the incoming Secretary-General personally engaging on these challenges early on in his term in 2017.

Ensuring accountability for protection of civilians: matching political commitments with action

Participants agreed that the events that had unfolded in Juba in July 2016 serve as an alarming reminder of the need to improve efforts by peacekeeping missions to protect civilians. This applies not only within UNMISS, where there have been recent failures, but across UN peacekeeping more broadly, where similar shortcomings have been identified in missions. While the issues identified by the Special Investigation Report are specific to the political context and situation in South Sudan, the findings nonetheless reflect the systematic and ongoing challenges across missions in protecting civilians. Incidents highlighting failures to respond to threats to civilians by UN peacekeepers have raised questions about the chain of accountability when implementing protection mandates.

High-level political support for POC efforts has been demonstrated through a range of commitments and platforms throughout 2016. Examples have included endorsement of the Kigali Principles, and the commitments made at the Peacekeeping Defence Ministerial in London reaffirming the importance of peacekeepers fulfilling their mandated responsibilities to protect civilians. However, many panelists expressed concern that these high-level commitments were not being matched by a willingness to translate those words into action on the ground. Shortfalls cited include troops not conducting foot patrols or refusing to undertake patrols after dark. Many units are not being proactive, and civilians continue to come under attack – yet there are few consequences for these apparent failures. This was

¹ United Nations, 'Executive Summary of the Independent Special Investigation into the violence which occurred in Juba in 2016 and UNMISS response', November 2016 (hereafter 'Special Investigation Report').

acknowledged in the Special Investigation Report, which noted that DPKO, DFS and the Executive Office of the Secretary-General need to address peacekeepers' failure to protect civilians.²

The role of leadership and the responsibilities of different stakeholders

As one panelist noted, accountability must address mission, unit and individual responsibility. The decision to remove the UNMISS Force Commander was welcomed by some participants. In their view, it was part of the responsibility that comes with being a mission leader, rather than a statement on their individual competency. It reflected the HIPPO report's vision of strong and capable mission leaders with an effective chain of command that ultimately carries responsibility for the missions' actions.³ It is imperative that troop contributing countries understand this and don't respond to these decisions as personal affronts and react by withdrawing troops or support from missions. Nonetheless, there were concerns expressed that the decision to remove the Force Commander in this instance lacked transparency to the wider peacekeeping community. While there is often an accountability expectation of military personnel, frameworks to hold civilian components of the mission accountable are often less clear. As a consequence, actions such as removing the Force Commander could be interpreted as implying that only the military component had responsibility for POC, when it is the responsibility of the entire mission. Selection processes for mission leaders need to be more rigorous matching essential mission-specific skill-sets with candidates. Similarly, mission leaders need to know they can rely on political support from headquarters and the Security Council when they made difficult decisions.

Clear standards on performance are critical to ensuring responsibilities are clear to all parties. The UN has made significant progress in developing military and police capabilities and capacities to support POC. This includes mutually-reinforcing initiatives such as the Peacekeeping Leaders' Summits, the Operational Readiness Assurance Framework and the Peacekeeping Capability Readiness System. Yet these still require further strengthening. There needs to be clear guidance and direction to incoming Force Commanders setting out expectations of the mandate, rules of engagement and use of force.⁴ And there needs to be clear consequences for failure to meet these expectations. Some participants even suggested these may need to extend beyond repatriation in certain instances of failing to protect civilians, possibly even along the lines of criminal sanctions. Lack of action by peacekeepers should be treated and evaluated as seriously as excessive use of force. One of the contributing factors to the failure by some military components to respond to imminent threats of violence has been a lack of training and understanding of the directives on the use of force. Participants acknowledged there was a need for improved training and preparation among all mission staff. This included preparing for worst-case scenarios and running scenario-based exercises.

Clear expectations setting out the baseline requirements of peacekeepers delivering a POC mandate are essential to improve accountability. Core obligations need to be translated into guidance, mission plans and directives. This could include setting out the expected response of peacekeepers in certain scenarios. For example, peacekeeping missions with a POC mandate could be reasonably expected to take proactive measures to assess threats and deploy in areas of identified risks; liaise closely with local authorities and communities with a view to establishing early-warning and response mechanisms; and take action, including the use of force, where necessary, when civilians come under threat in their area of operations. At a more tactical level, there is also a need for guidance on what to do in certain

² Special Investigation Report, p.6.

³ Report of the High-level Independent Panel on UN Peace Operations, *Uniting Our Strengths for Peace: Politics, Partnership and People*, UN Doc. A/70/95-S/2015/446, 17 June 2015, para.100 (hereafter 'HIPPO Report').

⁴ Special Investigation Report, p.6.

situations, for example, responding to imminent threats of violence within a kilometre of a peacekeeping base, or standard operating procedures on encountering a checkpoint.

Although often overlooked, responsibility for the implementation of POC mandates extends well beyond the field. Within UN Headquarters, staff have responsibility for ensuring there is clear guidance and direction, that there is honest and complete reporting from the field, and that this information is shared with leadership and the Security Council. These responsibilities are important not only when there are threats to civilians and concerns about the inability of the mission to respond, but also where there are risks to the safety and security of UN personnel. The Security Council also has a responsibility to engage substantively on the political approach of the mission throughout its mandate lifecycle. In instances where the host government is interfering or obstructing the mission's freedom of movement (particularly medical evacuations), the Security Council has a responsibility to respond with political and economic pressure on those obstructing the mandate. Such restrictions risk the lives of peacekeeping personnel and undermine their willingness to take action to protect civilians. In these instances, the Security Council needs to engage with troop and police contributing countries to hear their concerns – and those countries need to be clear with the Council and Secretariat on what they are willing to deliver.

The 'outer-limits' of peacekeeping and divergent expectations

Participants acknowledged that the operating environment into which peacekeeping missions are deployed in the last decade has changed dramatically. Efforts to protect civilians have become more complex, particularly in environments where peacekeepers are targeted (e.g. Mali, South Sudan). While the host government has the primary responsibility to protect civilians and is ultimately accountable, many host governments are unable or unwilling to fulfil this responsibility.

The issue of eroding consent for peacekeeping missions creates protection challenges. Strategic consent often diminishes over time and grows into conditional or partial consent. In the case of South Sudan, constant violation of the Status of Forces Agreement (SOFA) impedes mission operations, thereby limiting the movement of personnel and the mission's ability to deliver the mandate. By restricting where the mission goes, there is a risk that a peacekeeping mission might be viewed as complicit with the actions being undertaken by the host government, or acting in favour of incumbent governments. It is crucial that the Security Council and mission leadership are vocal in calling out these interferences.

Ultimately, protection is part of an effort to establish and maintain a political settlement. For this reason, the HIPPO report acknowledges the need for protection mandates to be 'linked explicitly to political solutions'.⁵ The importance of accountability for protection of civilians must be set out within mission political strategies. A more thorough consideration of the 'outer-limits' of peacekeeping – what a mission can realistically achieve within the resources available – must be undertaken. There are circumstances where peacekeeping may not be the right tool to protect civilians, such as situations of massive or sustained violence; where host government security forces systematically attack civilians; or where threats are criminal in nature. As one panelist noted, organized crime is often a threat to civilians, but can't be tackled comprehensively by many missions. This does not mean these wider protection challenges should be ignored, but rather, that peacekeeping missions alone cannot address these threats.

Peacekeeping missions need to be accountable to those local communities that are at risk of violence. If peacekeeping is to take forward the 'people-centered' approach identified in the HIPPO Report, then greater attention is needed to ensure missions are accountable to the local populations they are sent to protect. To do this more effectively, missions need to engage beyond national-level politics and look at

⁵ HIPPO Report, para 102.

people's needs and concerns at the local level. While it's not possible for peacekeeping missions to respond to every local-level conflict in a country, a concerted effort is needed to prioritise conflicts, considering those with the highest rates of violence or greatest risk of atrocities, or the ones likely to contribute to destabilizing the largest area of the country. It was important that peacekeepers remember those they are accountable to.

Participants generally agreed that more dialogue is needed to reach consensus on the limitations or 'outer-limits' of what peacekeeping missions with a POC mandate can achieve. This is essential to ensure there is a clear understanding of what different stakeholders are expected to achieve, the circumstances under which they will be considered to have failed, and how they are held accountable.

Ways forward for protection of civilians and accountability

Workshop panelists and participants offered the following recommendations to ensure accountability by all stakeholders engaged in peacekeeping:

- The incoming Secretary-General should make it a priority early in his term to work with UN headquarters and peacekeeping missions to **consider the recommendations from the Special Investigation Report and identify how to implement those recommendations.**
- The Secretary-General should **report to the Security Council when missions are failing to protect civilians** in line with the communique from the Peacekeeping Defence Ministerial held in London in September 2016.
- Building on the Kigali Principles, the UN Secretariat should **identify core POC obligations and translate these into guidance, mission plans and directives** to ensure expectations of those on the ground are clear and that they understand exactly what action (and inaction) they are accountable for. Lack of action by peacekeepers should be treated as seriously as excessive use of force.
- Drawing on the recommendation in the Special Investigation Report, the UN Secretariat should **develop clear guidance and direction for new incoming Force Commanders** setting out expectations on the mandate, rules of engagement and use of force.
- The UN Secretariat and mission leadership should **prepare for worst-case scenarios in missions** by running crisis management exercises and scenario-based training with military, police and civilian components on a regular basis.
- The UN Security Council should use its political leverage to raise concerns with the host government about actions that **interfere with the SOFA arrangements and the safety and security of personnel.** Peacekeepers need to know that they have strong strategic support and backing from Headquarters in New York.
- In order to strengthen accountability, the Security Council, the Secretariat, troop and police contributing countries, and other peacekeeping stakeholders, should **engage in a more substantive dialogue regarding their respective expectations when it comes to missions, units and individuals delivering on POC mandates.**

This workshop summary reflects the co-hosts' interpretation of the discussions and does not necessarily represent the views of all workshop participants. For further information, please contact Ms Simone Roworth, Permanent Mission of Australia to the UN (simone.roworth@dfat.gov.au), Mr Federico Gonzalez, Permanent Mission of Uruguay to the UN (federicogonzalezny@gmail.com) or Ms Lisa Sharland, Australian Strategic Policy Institute (lisasharland@aspi.org.au).



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Friday 18 November, 2016

8:45am – 12:00pm

PROGRAM

*New York Marriott East Side
525 Lexington Ave (at 49th St), New York, NY 10017*

0845	Participants arrive, registration and light breakfast
0930	<p>Welcome and Introductory Remarks</p> <ul style="list-style-type: none"> · HE Ms Gillian Bird, Ambassador and Permanent Representative of Australia to the UN · HE Mr Elbio Rosselli, Ambassador and Permanent Representative of Uruguay to the UN
0945	<p>Opening Address</p> <ul style="list-style-type: none"> · Mr Jack Christofides, Director, Division of Evaluation, Policy and Training, UN DPKO/DFS
1015	<p>Panel Discussion</p> <ul style="list-style-type: none"> · Major General (ret) Patrick Cammaert, Head of Independent Special Investigation into violence in Juba and UNMISS response (July 2016) · Ms Miriam Ghalmi, Head of Human Rights Office, UNMIK; former Senior POC Adviser MINUSMA · Ms Aditi Gorur, Director, Protecting Civilians in Conflict Program, Stimson Center
1100	Interactive Question and Answer Session with Panelists
1150	<p>Concluding Remarks</p> <ul style="list-style-type: none"> · Ms Lisa Sharland, Senior Analyst, Australian Strategic Policy Institute (ASPI)
1200	Event Concludes