

# The COESPU MAGAZINE

The online quarterly Journal of Stability Policing



**THE ROLE OF THE INTERNATIONAL POLICE  
DURING THE PANDEMIC**

**POS RUN BY UN AND BY REGIONAL  
ORGANIZATIONS:**  
- POs supported by the UN and by Regional Organizations  
- NATO SP: a new model of peacekeeping

**POS: POLICING IDP/REFUGEE CAMPS**  
- PEACE OPERATIONS: The Role of UN Police in IDP  
- Where Are the Women?

**INTERNATIONAL CRIMES: ROLE OF POS  
IN ASSURING JUSTICE**  
- Support for the Rol by United nation POs  
- Corrections Component in the (Re)-Establishment of the Rol

**CONSTRAINTS AND RESTRAINTS AS LIMITATION OF  
FREEDOM OF ACTION IN PERFORMING A MISSION**  
- The "Core" International Crimes  
A Chat with Lt. Victor Kashai (Tanzania Police)

**COVID-19: The role of rapid diagnosis**



3-2020

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THE CoESPU COMPOUND MEMORIAL



# FOREWORD



*Dear CoESPU Magazine readers, the circumstances are still very complicated because of the constant number of Coronavirus infections, which are still afflicting our world. In Europe the numbers are rising. Our hope is that science finds an effective cure and a vaccine as soon as possible so that the situation we have become accustomed by the pandemic, in this “new normal” made of precautions, constraints, infections and death, can quickly improve. As always, my hope is that you and your dear ones are fine. Despite all the great difficulties, we did a lot in terms of taking the necessary measures to ensure that our staff can continue to work in the healthiest environment possible and for our infrastructure, we are updating our protection systems. We are also modernising our infrastructure to make it safer. We have welcomed with great enthusiasm the recent release by the UNSC Counter-Terrorism Committee Executive Directorate of the document “The impact of the Covid-19 pandemic on terrorism, counter-terrorism and countering violent extremism” was crucial, because it provided a concise analysis*

*of the short and long-term impact of the virus on such threats.*

*As for our regular activities, we have made great efforts to take the necessary measures that have allowed CoESPU to reopen its doors also to local foreign attendees. In July, 30 Carabinieri officers attended the “Police Advisor Teams” (PATs) course, aimed at their future deployment in Afghanistan, within the NATO Resolute Support Mission. In September, we started the 13th edition of the “International Military Police Course” (IMP13), with attendees coming from the European Gendarmerie Force (Eurogendfor) Permanent Headquarters and the United States Army, together with Carabinieri officers. Another big effort we made it has been to give you this brand new issue of the Magazine where we sought to deepen the concept of the Rule of Law in Peace Operations, with the contributions of various qualified academics, practitioners and top senior officials belonging to various international organizations. Among the contributors, Commissioner Luis Carrilho, UN Police Adviser, paid homage to CoESPU writing two very interesting articles on the Peace Operations supported by the United Nations and by Regional Organizations and the role of United Nations Police in Internally Displaced Persons and Refugee camps and Protection of Civilians Sites. Stéphane Jean provides a meticulously researched article highlighting the support for the Rule of Law by United Nations Peace Operations, with a focus on the development of national law enforcement, prosecutorial, judicial and corrections institutions and access to justice. Sofia Sutera makes a thorough and critical analysis of the “UN Zero Tolerance Policy” on sexual exploitation and abuse.*

*Furthermore, Giuseppe De Magistris, NATO SP CoE Director, analyses the requirements that must be held by the modern peacekeeper, highlighting the flexibility of the Gendarmerie-type forces and the importance of the Stability Policing as a new model of peacekeeping. Moving towards another subject, Michael Langelaar and Claudia Croci, in their article concerning the role of the personnel belonging to the corrections component in the re-establishment of the Rule of Law, introduced some concrete cases, emphasizing all the challenges they have been facing along the various missions.*

*The “Health and well-being” section features an extremely interesting article, where the author, Professor Mario Plebani, one of the 100 most influential pathologists in the world, in relation to the Coronavirus, addresses the issue of the essential role of rapid diagnosis and the appropriate use of personal protective equipment.*

*Finally, in the “Alumni” section, Vito Franchini, the former CoESPU Magazine Managing Editor and actual EU-ACT Regional Coordinator in Tanzania, interviewed Lieutenant Victor Kashai, a former CoESPU attendee from Tanzania Police.*

*Please, allow me to add a thought. As we transition to the “new normal”, I believe none of us will be the same as before. I am confident that this pandemic will prove to be the most significant event of globalized civilization to date. But our world has overcome so many challenges, and it will prevail again. Indeed, we will prevail again! I wish you a pleasant reading.*

*BG Giovanni Pietro BARBANO  
CoESPU Director*



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The CoESPU Magazine is devoted to the publication of professional concepts and issues, research and doctrinal products developed by the Carabinieri Center of Excellence for Stability Police Units, in collaboration with other international research Centers. The Magazine addresses topics of professional, technical, operational and juridical nature in the field of Stability Policing within Peace Operations. Based on the core values of ethics, integrity, professionalism and respect for diversity, harmonically inflected and informed by the traditions of over two hundred years of Carabinieri history, the Magazine fosters Human Rights and gender mainstreaming, while seeking to enhance current police peacekeeping doctrine and promoting international police peacekeeping interoperability, cognizant of Lessons Learned and best practises. The CoESPU Magazine is constantly committed to upholding UN standards, norms, procedures and curricula, while endorsing self-sufficiency of the participating Police Contributing Countries. Consequently, its editorial policy promotes the principles of representativeness, responsiveness, and accountability, as well as effectiveness, efficiency, transparency, and accessibility, to provide the highest professional standards to build trust and legitimacy of beneficiary Law Enforcement Institutions.

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THE ROLE OF THE INTERNATIONAL  
POLICE DURING THE PANDEMIC





# THE ROLE OF THE INTERNATIONAL

# POLICE DURING THE PANDEMIC

*The pandemic as a threat to global peace and security: the role of international Police between old and new challenges.*

By Giovanni Pietro BARBANO  
David M.V. Fontana Barberis

The global spread of Covid-19 – officially recognised as a pandemic by the World Health Organization on 11 March 2020 – has significantly impacted on the way of living of the world population at all social levels, heavily affecting health, public and socio-economic systems within individual nations, as well as in entire macro-areas. Therefore, the eyes of the world have turned towards the United Nations, looking for responses to the distressing escalation of the crisis, more and more perceived also as a potential threat to international security. Indeed, as early as 2014, in response to the unprecedented extent of the spread of Ebola in Africa, the UN Security Council Resolution 2177 – for the first time in history – stated that an epidemic event could pose a threat to international peace and security, pursuant to Art. 39 of the United Nations Charter, thus calling on the Member States to respond urgently to the resulting

crisis<sup>1</sup>. However, in order to avoid precedents that would have affected the Security Council's role, the Resolution merely recommended some relevant countering measures, not envisaging specific obligations for Member States. With the escalation of the emergency connected to new Coronavirus spreading, the same Security Council has been criticised for its failure both in reaching a shared position and in supporting the call for a global cease fire to all conflicts made by the Secretary-General on 23 March 2020<sup>2</sup>, arguing that the abovementioned Resolution 2177 – considered by the doctrine as the culmination of a process of securitization of health – was still a not established practice.

## THE ONGOING EMERGENCY SITUATION HAS NEGATIVELY AFFECTED THE INTERNATIONAL COMMUNITY'S EFFORTS TO PROTECT WORLD PEACE

On the following 9 April, the Secretary-General, getting back on the topic, among other aspects, invited the Security Council to overcome internal divisions, in order to promote a logic of multilateralism, at the same time expressing strong concern about the current financial contingency of the United Nations, as a potential obstacle to the implementation of possible strategies and actions to tackle the health emergency.<sup>3</sup>

Then, on 1 July 2020, with the adoption of Resolution 2532, the UN Security Council eventually reaffirmed its primary responsibility for maintaining international peace and security, expressing serious concern about the devastating impact of the pandemic, especially in countries plagued by armed conflicts, calling for an immediate and general cessation of all hostilities in all conflict situations<sup>4</sup>. Most recently, the Secretary-General shared the innovative expectation that – despite all the new, dare challenges posed by the current crisis – the pandemic may paradoxically represent an occasion to create new opportunities for peace<sup>5</sup>. As it can be easily inferred, pending the abovementioned United Nations' decisions and their subsequent operationalisation, the ongoing emergency situation significantly spoiled the international community's efforts to protect world's peace. In summary, the negative effects of the pandemic on UN peacekeeping missions have been considerable and have led to the substantial paralysis of some of them and to the drastic redirection of others towards new objectives, more connected to the Covid-19 crisis than to peace and stabilization<sup>6</sup>. In addition to the necessary recon-





## THE ROLE OF THE INTERNATIONAL POLICE DURING THE PANDEMIC

sideration of the priorities established by the mandates, since the very beginning of the crisis it has been also essential to ensure that international personnel did not become themselves an additional menace for the health of both the local population and other peacekeepers. As a natural consequence, contingents' rotations have been suspended in order to reduce the risk of contagion<sup>7</sup>, in some cases as early as March 2020<sup>8</sup>, while individual staff arriving in and leaving the theatres of operation have been quarantined for 14 days<sup>9</sup>, this with severe repercussions on the efficiency of the different components. Furthermore, the global health and economic crisis has led governments to focus their human and financial resources on the respective national emergencies, which caused a contraction in terms of contributions of staff and money to international peacekeeping missions, with a consequent – and unavoidable – decrease of their effectiveness, just when the worsening of the general situation would have required the opposite. In this context, Police components have proven not to be immune to these issues as well. As an example, the UN Under-Secretary-General for Peace Operations, Mr Jean-Pierre Lacroix, highlighted the hindrances encountered on the ground while deploying Police units to the UN Interim Security Force for Abyei, due to the containment measures imposed by the spread of Covid-19<sup>10</sup>.

Still, Mr Luis Carrilho, United Nations Police Adviser, pointed out how it is unthinkable, in principle, that police practitioners, like medical staff, can operate only through smart-working or “telecommu-

te”<sup>11</sup>: the international Police, while implementing their mandates, are called to face the new challenges with extreme flexibility and adherence, remembering that, within

the UN Police have been actively involved in supporting the enforcement of lockdown measures in various theatres of operation, always maintaining a strongly



the limits of the possibilities and constraints imposed by the conditions, the peacekeeping missions must continue to ensure their role. Moreover, the same UN Police Commissioner Carrilho stressed that, in this emergency situation,

community-oriented approach, working side by side with local police, as in the case of the components deployed to the Democratic Republic of Congo, where awareness-raising campaigns have been organized, and masks





and sanitizers have been distributed to those who were in need<sup>12</sup>. At the moment, the only case that seems to differ from this paradigm is represented by the African

and continue operating at full capacity<sup>13</sup>. As for the civilian missions of the European Union, which include the Police ones, even more significant setbacks have been repor-

the effects of the pandemic in the host nations<sup>14</sup> and all the expiring mandates have been renewed<sup>15</sup>. In addition to what has been so far outlined, the health crisis has also brought to light new challenges and critical issues which fall under the competence of the various international Police components, like the imaginable increase in violations of fundamental human rights, which can result in discriminations of minorities when accessing to health services or their economic and social exploitation. Therefore, it is necessary that Police acknowledge these problems, which are new in their entity rather than in their substance, since they no longer refer only to defined groups of individuals, but to entire communities, that could act suddenly and in an unstructured way, as well as be easily exploited by extremist groups of various kinds. Furthermore, given the plausible reduced functionality of the various local Police services, likewise suffering as a result of the pandemic, it cannot be entirely excluded that the scope of the police mandates can be extended. Moving towards a conclusion – though there are still no lessons identified or learned – what emerged at the outset of the pandemic was the resigned impotence and apparent inability of missions to cope with the emergency, with particular reference to the operational level, where the only countermeasures adopted – pending directives from the strategic level – were the interruption of all activities and the imposition of lockdown on the staff. This has substantially highlighted a lack of readiness in dealing with new crises, which will reasonably lead to an organisational, doctrinal and procedural



Union mission in Somalia: there, despite the introduction of all the new necessary health measures, the pandemic has not significantly impacted on the implementation of the mandate, allowing the different components to con-

tinued, which seems to have substantially caused the contraction of their activities to the strictly essential ones. However, this was presented as a reshaping of the Common Security and Defence Policy missions to help mitigate







**ON THE SIDE OF TYPICAL POLICE ACTIVITIES,  
THERE IS A SUBSTANTIAL NEED TO STRENGTHEN  
THE CAPACITY FOR INFORMATION  
COLLECTION, ANALYSIS AND PLANNING**

shift, with the consequent adaptation of the training programs for the various mission components and the relevant equipment. As for the typical Police activities, what has emerged is a substantial need for improved capacities of information gathering, analysis and planning, even where the possibilities of movement and con-

tact with the population are limited, in order to provide the necessary support to operational planning, on the basis of adherence to the situation, optimization of resources, risk reduction and achievement of objectives. As a final aspect, this global crisis – which presents peaks distributed over time and space – has

even more highlighted the already recognized potential of the Stability Police Units, which – thanks to their cohesive and mono-national composition, logistics self-sufficiency and inherent projection aptitude – are extremely flexible and likely to maintain adequate operational capability and autonomy even in unpredictable and destabilising times like these.

PICTURES:  
-CoESPU Magazine Team







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# THE RULE OF LAW IN PEACE OPERATIONS

- POS RUN BY UN AND BY REGIONAL ORGANIZATIONS TO COORDINATION
- POS: POLICING IDP/REFUGEE CAMPS
- INTERNATIONAL CRIMES: ROLE OF POS IN ASSURING
- CONSTRAINTS AND RESTRAINTS AS LIMITATION ON ACTION IN PERFORMING A MISSION



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ATIONS: FROM COMPETITION

URING JUSTICE  
OF FREEDOM OF







*Peace Operations supported by the United Nations and by Regional Organizations*

By *Luís Miguel Carrilho*

**Introduction**

United Nations Police (UNPOL) are often at the frontlines when environmental and socio-economic crises strike or when armed conflicts escalate. No country survives or thrives in isolation. Sustainable solutions require concerted efforts with neighbors, as well as effective multilateral action, such as the Secretary-General's Action for Peacekeeping Initiative and the *Declaration of Shared Commitments*, which has reached over 150 endorsements, including regional and other organizations, and provides a shared roadmap

for strengthening peacekeeping. To illustrate further, transnational organized crime, including the illicit trafficking of humans, drugs or weapons, which often crosses multiple borders and regions, can only be prevented or effectively addressed through coordinated policing responses. Cooperation with regional organizations has long been a cornerstone of the work of the United Nations, as reflected in Chapter VIII of the 1945 United Nations Charter and numerous resolutions of the General Assembly and the Security Council.<sup>1</sup> The United Nations and regional organizations offer unique and complementary capacities in particular in the area of policing and other crime prevention and criminal justice<sup>2</sup>. We have seen again and again that, when coordinated well, these joint efforts contribute to the effective preven-

tion and management of crises. In this article, I will reflect on how the collaboration between the United Nations and Regional Organizations in the area of international and United Nations policing has evolved and matured through the increasing convergence of respective operations and doctrines. While I will focus on our cooperation between the African Union (AU) and the European Union (EU), I will also touch upon United Nations Police (UNPOL) partnerships with other entities, such as the Association of Southeast Asian Nations (ASEAN) and ASEANA-POL, the Collective Security Treaty Organization (CSTO), the International Criminal Police Organization (INTERPOL), the North Atlantic Treaty Organization (NATO), the Organisation internationale de la Francophonie (OïF), and the Organization for Security and





Co-operation in Europe (OSCE).

*“The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.”*

*United Nations Charter Article 52.3*

### **Knowledge Hub: The Strategic Guidance Framework for International Policing**

When I became the United Nations Police Commissioner in Timor-Leste in 2009, there were no SOPs, handbooks or manuals available. It was trial and error all the way. Even though we have existed since 1960, UNPOL faced a daunting task of establishing and training a new police service in a newly independent country. What policing model do we choose? Should we teach, for example, an Australian, Senegalese or Thai approach to investigations? How would we ensure consistency when we source our officers from over 90 countries, from different policing cultures, backgrounds and training? We improvised. We were creative on a daily basis. UNPOL deployments before Kosovo<sup>3</sup> and Timor-Leste were no easy undertakings. They mainly focused on monitoring the behavior of the host-State colleagues and recording and raising cases of violations. New tasks were more sophisticated. They required a much more nuanced understanding of police operations and capacity-building in a new era in which UNPOL may even substitute for a police service of the host-State. Starting in 2006, our Strategic Po-

licy and Development Section headed by Andrew Carpenter brought together the world’s best policing minds and, in this sea of diversity, got them to agree on a common denominator, a doctrine which would be acceptable no matter where: in Cairo, Lisbon or Lahore. The *Strategic Guidance Framework for International Policing (SGF)* strengthens the effectiveness of police peacekeeping through more consistent, harmonized approaches to the provision of public safety, police reform and support to host-State police services. It was developed with the assistance of world renowned academics of the Global Police Policy Community and senior police executives from over 100 Member States and key regional and professional organizations such as the AU, the EU, INTERPOL, the OSCE, and the International Association of Chiefs of Police (IACP). Our efforts of achieving guidance coherence and interoperability so that police officers deployed for international service can easily transition between operations led by organizations like the AU or the EU without the need for re-training has been recognized by the Security Council through its resolutions *S/RES/2167 (2014)* on regional organizations and *S/RES/2185 (2014)* and *S/RES/2382 (2017)* on United Nations policing, which have additionally called for strengthening partnerships and closer coordination and cooperation on policing issues. **Greater than the sum of its parts** Until 2005, the relationship between the United Nations and Regional Organizations manifested itself first and foremost through periodic consultations and impromptu initiatives to enhance operational cooperation on specific conflict si-

tuations.<sup>4</sup> During the World Summit that year, Member States in the General Assembly committed themselves to further consolidate this partnership during the *Sixth High-Level Meeting between the United Nations and Regional and other Intergovernmental Organizations*<sup>5</sup>, which first convened in 1994<sup>6</sup> and, subsequently, on average every other year. Similarly, interactions with the Security Council commenced in 2003 and became an annual occurrence in 2005, following the passing of *Security Council resolution 1631* that year. In this spirit, consulting and coordinating policing requirements and priorities with police-contributing countries (PCCs), which are the very same members of the organizations considered in this article, is an essential part of my daily work.

### **Cooperation with the African Union (AU)**

Collaboration dates back to 1965, when the first Cooperation Agreement was signed between the respective secretariats. In 2006, the two organizations signed the *Ten-Year Capacity-Building Programme for the African Union (TYCBP-AU)*, which was the first strategic framework to address the issues pertaining to human security in Africa. By 2013, the operations of both organizations had grown in scale and complexity. The re-examination of the partnership culminated in the *2017 Joint UN-AU Framework for Enhanced Partnership in Peace and Security* (“UN-AU Framework”) followed by the *2018 AU-UN Framework for the Implementation of Agenda 2063 and the 2030 Agenda for Sustainable Development*.<sup>7</sup> The UN-AU framework explicitly seeks collaboration on policing through a shared vision.













*“Develop[ing] a shared vision for UN-AU Policing and collaborate in areas related to police doctrine and training, assessment and planning, as well as where necessary operational implementation”.*  
*UN-AU Framework – Section on Preventing and Mediating Conflict and Sustaining Peace*

To this end, since 2008, UNPOL have been supporting assessments, planning efforts, deployments, policy and guidance development, as well as operations of the police components of the African Union Mission in Somalia (AMISOM), the African Union Mission in Sudan (AMIS) and its successor, the hybrid United Nations-African Union Mission in Darfur (UNAMID). With respect to transitions, the Police Division worked closely with the police components of the AU-led International Support Mission in Mali (AFISMA) and International Support Mission in the Central African Republic (MISCA) prior to their re-hatting to the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) and the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA).

**Joint Assistance Towards a Federated Policing Model in Somalia**  
In Somalia, the Police Section of the United Nations Assistance Mission in Somalia (UNSOM) works hand in glove with the AMISOM Police Component, providing strategic policy advice to the Federal Government of Somalia and its Federal Member States (FMS) on police reform aspects that are embedded in wider security sector reform efforts. Within the framework of the *Uni-*

*ted Nations Global Focal Point for Rule of Law*, the *Joint Police Programme* was set up for 2018-2022 to support the Federal and FMS police to implement the *New Policing Model* by increasing the police presence and visibility across the major population centers and their supply routes in the FMS through patrols and facilitating positive interactions with their communities. Additional assistance efforts focus on the constitutional review process and subsequent referendum on the constitution and preparations for elections. In Addis Ababa, our Police Liaison Officers in the United Nations Office to the African Union are supporting the work of the AU’s Peace Support Operations Division and Defense and Security Division, which also oversees AFRIPOL, and lends advisory services to the AU Member State police forum called the Police Strategic Support Group (PSSG). Recent initiatives included Police Command Development Courses held jointly with the AU in Ethiopia in 2017 and Senegal in 2018. With respect to police planning aspects of the African Standby Force (ASF) and the Regional Economic Commissions /Regional Mechanisms, the Police Division has worked with AU Police counterparts in the development of the ASF police and rule of law elements. This entailed the development of a long-term institutional capacity to plan, deploy and manage complex multidimensional peace operations through technical and expert policing advice and training.

#### **Collaboration with the European Union (EU)**

With this partnership dating back to 1951<sup>8</sup>, the first deployment of an EU civilian and military opera-

tion in 2003 marked the beginning of Common Security and Defence Policy missions and operations. That year, a *Joint Declaration on EU-UN Cooperation in Crisis Management*<sup>9</sup> was issued, which welcomed the existing co-operation in particular in the Balkans and in Africa and commended the hand-over of responsibilities from the United Nations International Police Task Force to the European Union Police Mission in Bosnia and Herzegovina and the EU’s intention to assist the establishment of an integrated police unit in Kinshasa to provide security to the transitional government. Many joint initiatives have since been launched<sup>10</sup>, including the *2012-2014 priorities to reinforce the UN-EU strategic partnership on peace operations and crisis management*, which brought forward the idea of bundling EU and UN capacities, for example, in UNPOL pre-deployment assistance efforts to Member States and the development of the SGF, as well as recognized joint efforts in Afghanistan, the Democratic Republic of the Congo and Somalia.<sup>11</sup> The *priorities for 2015 to 2018* furthered the previous commitment to cooperate, on a trilateral basis, in the operationalization of the SGF and related training materials, which are now encapsulated in the UNPOL Training Architecture Programme. They also reaffirmed the EU commitment to “continue to offer different platforms to the UN Under-Secretary-General for Peacekeeping Operations (and Military and Police Advisers) to directly address the EU Member States” including through the Informal Defence Ministerial, Political and Security Committee, EU Military Committee, at Chiefs of Defence





level, or the Committee for Civilian Aspects of Crisis Management and the Politico-Military Group.<sup>12</sup> More recently, the joint 2019-2021 priorities to reinforce the UN-EU strategic partnership on peace operations and crisis management, provide for the “further strengthening of cooperation on policing .., including on border management ... [to] enhance[e] resilience of fragile states and their societies to avoid conflict”<sup>13</sup>. In Brussels and New York, regular high-level dialogues in the form of the EU-UN Steering Committee on Crisis Management are undertaken biannually and are supported by regular working-level interactions between missions and headquarters, to facilitate cohesion. Accordingly, our police cooperation in the Central African Republic, Kosovo, Libya, Mali or Somalia are supporting host-State counterparts and communities in attaining the policing services they desire.

#### Where the rubber hits the road: Cooperation in the Central African Republic and Mali

In the Central African Republic, in 2014, the EU military operation (EUFOR-RCA) provided bridging capacities in parts of Bangui before the deployment of MINUSCA. Since 2016, UNPOL has been liaising and closely working with the EU Military Training Mission in the Central African Republic (EUTM-RCA) and other stakeholders to support the operationalization of the Unités spéciales mixtes de sécurité (USMS) through training of trainers. Through UNPOL’s nationwide colocation, this included supporting the USMS in conducting investigations, escorts, and other required policing services. EUTM-RCA has been providing



training to the Forces armées centrafricaines (FACA) in cooperation with the MINUSCA Force. Through the interoperability pillar of the EUTM-RCA, assistance efforts to the Internal Security Forces (ISF) have been coordinated with UNOPL to ensure complementarity with EUTM-RCA gendarmes. In December 2019, the Council of the European Union, in *Decision (CFSP) 2019/2110*, approved the deployment of EU Advisory Mission in the

Central African Republic (EUAM-RCA), which deployed in July and replaced EUTM-RCA. Meanwhile, UNPOL is consulting with the EU through the national Comité des Chefs d’État-Major in charge of coordination police and military operations between the ISF, FACA, and the MINUSCA uniformed components, in partnership with other national and international entities. Building on Security Council resolution 2480 (2019), MINUSMA





Police efforts continue to focus on the centre of Mali, where they help restore state authority through the redeployment of the Malian Defence and Security Forces (MDSF) to create conditions conducive for the rule of law. Accordingly, our UNPOL collaborate with the EU civilian mission, EUCAP Sahel Mali, on building MDSF capacities, including through the delivery of joint training programs at the Malian Police and Gendarmerie training schools in Bamako, and support for the establishment of secure areas in the well-known triangle Bandiagara-Bankass-Koro, with similar efforts being extended to the Mopti area. Together with the International Organization for Migration (IOM), UNPOL and EUCAP Sahel are also working on a common strategy on border management and the fight against cross-border crime. UNPOL engage in high-level technical support for investigations and forensic analyses conducted by the Malian Brigade d'Investigations Spécialisées through professional expertise and resources including a forensic laboratory. UNPOL and EUCAP Sahel Mali also assist the MDSF and judicial authorities in their efforts to fight impunity and reaffirm a Malian-owned security and rule of law system in support of the implementation of the Peace Agreement and stabilization efforts. L'Instance de Coordination au Mali, to which MINUSMA Force and Police provide secretariat services, was set up to facilitate coordination between the MDSF and international forces and actors, including the G5 Sahel Joint Force, MINUSMA, Barkhane and EUCAP Sahel Mali.

### Diversity is our strength

UNPOL's collaboration with its

partners has not just evolved but also expanded. It now includes a wide range of partners in areas like guidance development, training, planning and preparations for operational readiness. Further to longstanding UN-wide collaboration efforts with the OSCE<sup>14</sup>, UNPOL and the Department of Peace Operations' (DPO) Integrated Training Service continue to operationalize the SGF through advancing the UNPOL Training Architecture Programme. Building on the signing of a Joint Declaration of on Cooperation in 2010 and a Memoranda of Understanding with DPO<sup>15</sup>, we are working with the Collective Security Treaty Organization (CSTO), amongst others, on preparing its Member States, including women police officers at all ranks, for police assessments for mission service required for deployment to United Nations peace operations. During the first visit of its kind to United Nations Headquarters in December 2019, CSTO experts were briefed on United Nations peacekeeping and avenues for cooperation, including United Nations rules and regulations regarding the possible contribution of CSTO stand-by capacities and methods for enhancing interoperability. With our long-standing partner INTERPOL and further to General Assembly resolutions 71/19, 72/1, 73/11, we recently collaborated on a training for Central African Republic police and other law enforcement officers at the country's international airport on technical tools to enhance border security and the fight against transnational organized crime. Collaboration with INTERPOL National Central Bureaus (NCB) is key for addressing international and national cri-

minality. Accordingly, our MINUSMA Police Component has been working closely with the Malian INTERPOL NCB and the Brigade des Investigations Spécialisées (BIS) on investigations following the abduction of the opposition leader Soumaila Cisse during the period of elections in Mali. Additionally, in 2019, our Standing Police Capacity, facilitated a training course on "Human Rights and Law Enforcement" for INTERPOL Staff jointly organized by the Methodology Education and Training Section (METS) of the Office of the High Commissioner for Human Rights and Capacity Building and Training section of INTERPOL in Singapore. Further to NATO and UN cooperation in the Balkans in the 1990s<sup>16</sup> and in Afghanistan, including capacity-building and development assistance to the Afghan National Police in the early to mid-2000s, and as acknowledged in the updated 2018 Joint Declaration on UN-NATO Secretariat Cooperation, we are also cooperating with the NATO-affiliated Stability Policing Centre of Excellence (NSPCoE) including on performance and transition questions. The International Organisation of La Francophonie (OIF), which represents more than one third of the members of the General Assembly<sup>17</sup>, is an essential partner for us to attain francophone police officers for our operations, which are predominantly located in francophone settings. For example, in October 2019, the OIF supported a training course in MINUSMA, which aimed at expanding the recruitment of francophone women police officers in line with the DPO Uniformed Gender Parity Strategy 2018-2028. A total of 28 senior police officers, including 50 per-





cent women, from 12 PCCs received guidance on all aspects of the recruitment process. Similarly, our collaboration with ASEAN Member States resulted in the convening of an SGF women police command development course in Malaysia in January 2018, in co-operation with ASEANAPOL, to help increase the participation of senior women police commanders from Asia in United Nations peace operations.

## Conclusion

Over the years, our collaboration with regional and other organizations has greatly progressed. We have and continue to learn from each other on overcoming the evolving challenges in the contexts we serve, and to amend our guidance, training and planning efforts accordingly. Our institutionalized interactions support us in this tall order, and the 2021 United Nations Chiefs of Police Summit (UNCOPS) will be an excellent opportunity to further our common agenda of keeping those requiring our support safe.

PICTURES:  
-CoESPU Magazine Team  
-Vito Franchini  
-UNPOL

1. These include the Declaration of the General Assembly of December 1994 on the enhancement of cooperation between the United Nations and regional arrangements or agencies (A/RES/49/57); the Security Council meeting on "The Security Council and Regional Organizations: Facing the New Challenges to international Peace and Security" on 11 April 2003; the Security Council debate on "Cooperation between the United Nations and regional organizations in stabilization processes" on 20 July 2004;

2. For further details, please see the High-level Thematic Debate of the General Assembly on "The Role of Regional Organizations in Strengthening and Implementing Crime Prevention Initiatives and Criminal Justice Responses", 6 June 2019, <https://www.un.org/pga/73/event/the-role-of-regional-organizations-in-strengthening-and-implementing-crime-prevention-initiatives-and-criminal-justice-responses/>; the Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation, Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, 12-19 April 2015; or the forthcoming Fourteenth United Nations Congress on Crime Prevention and Criminal Justice on "Advancing crime prevention, criminal justice and the rule of law: towards the achievement of the 2030 Agenda" (A/RES/72/192 and A/RES/74/550B).
3. This designation is without prejudice to positions on status and is in line with S/RES/1244 (1999) and the ICJ Opinion "Reviewing Chapter VIII: The United Nations and Regional Organizations - Partners for Peace", International Peace Academy, [https://www.ipinst.org/wp-content/uploads/publications/reviving\\_chapterviii\\_final.pdf](https://www.ipinst.org/wp-content/uploads/publications/reviving_chapterviii_final.pdf), April 2006. on the Kosovo declaration of independence.
4. Letters dated 29 August 2005 from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council on the meeting, A/60/341-S/2005/567, 8 September 2005.
5. Declaration of the General Assembly of December 1994 on the enhancement of cooperation between the United Nations and regional arrangements or agencies (A/RES/49/57).
6. Increasingly, the African Union has mainstreamed rule of law and security sector reform aspects into its policies and frameworks, such as in the Silencing the Guns by 2020 – Towards a Peaceful and Secure Africa initiative or Agenda 2063.
7. Agreement between the Council of Europe and the Secretariat of the United Nations, 15 December 1951 and successive agreements and resolutions.
8. Joint Declaration on UN-EU Co-operation in Crisis Management, C/03/266, New York, 24 September 2003.
9. These include the 2007 Joint Statement on UN-EU cooperation in crisis management, Council of the European Union, Brussels, 7 June 2007.

11. 2012-2014 Joint Action Plan to enhance EU CSDP support to UN peacekeeping, Council of the European Union, 24 November 2011.
12. 2015-2018 Priorities to strengthen UN-EU strategic partnership on peacekeeping and crisis management, Council of the European Union, 27 March 2015, paragraph 2e.
13. Council Conclusions on UN-EU strategic partnership on peace operations and crisis management priorities for 2019-2021, 18 September 2018.
14. See General Assembly resolutions 57/298 of 6 February 2003 and the framework for cooperation and coordination between United Nations and the Conference on Security and Cooperation in Europe of 26 May 1993 (A/48/185, annex II, appendix).
15. For further details, see General Assembly resolutions on the Cooperation between the United Nations and the Collective Security Treaty Organization 64/256 of 2 March 2010, 65/122 of 13 December 2010 and 67/6 of 31 January 2013.
16. UNPROFOR was authorized to use force in self-defence in reply to attacks and to coordinate the use of air power in support of its activities with NATO. UNPREDEP established a working relationship the NATO Kosovo Verification Coordination Centre and the NATO
17. For further details, see General Assembly resolution 71/289 of 31 May 2017.



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## NATO SP: A NEW MODEL

## OF PEACEKEEPING

*NATO STABILITY POLICING:  
A NEW MODEL OF PEACEKEEPING*

*By Giuseppe De Magistris*

### Introduction

Peacekeeping (PK)<sup>1</sup> in NATO falls within the wider remit of Crisis Response Operations (CROs), which effectively address challenges arising mainly from post-conflict situations and aim at providing long-term security to populations. Peacekeeping Operations support weak institutions and local governments, by preventing the resumption of hostilities, and involving other International Organizations, regional and local, public and private actors through a 360 degree-inclusive, comprehensive

approach. They also support the reorganization of State institutions, disarmament, demobilization and reintegration activities as well as the return of internally displaced persons (IDPs) and refugees. Over time, peacekeeping operations have evolved from persuading the parties to stop fighting and preventing any return to conflicts, into missions deeply involved in intra-

state conflicts to rebuild national structures and civil society while ensuring lasting peace and security. In this vein, within the NATO Stabilization Force (SFOR) in Bosnia and Herzegovina under the UN aegis, a new and unique tool was conceived and then deployed to achieve long-lasting stabilization. On August 6th, 1998 the first Multinational Specialized Unit (MSU) deployed; it was and still is<sup>2</sup> a robust police regimental-size unit equipped and trained to carry out

**SP OPERATORS, WHO CAN BE EMPLOYED AS PEACEKEEPERS, ARE CHARACTERIZED BY HAVING A CIVILIAN-ORIENTED, POLICE-LIKE MIND-SET, AND POSSESSING EXPERIENCE AND EXPERTISE IN POLICE MATTERS**

state conflicts to rebuild national structures and civil society while ensuring lasting peace and secu-

a wide span of police and military tasks across the full spectrum of operations and ranging from the





replacement to the reinforcement of Indigenous Police Forces (IPF) to restoring the rule of law and protecting human rights<sup>3</sup>. This idea in time evolved into the current concept of Stability Policing (SP) and its members can be valid contributors to PK due to their inherent characteristics, particularly their military status as well as their civilian- and policing-oriented mind-set.

### SP as a new solution in peacekeeping

It was indeed a new model of peacekeeping, more flexible and close-fitting the needs of the local population, oftentimes met by simply delivering basic community policing and empowering members of civil society. In fact, this new holistic approach set conducive conditions to addressing the root causes of conflicts, by ensuring the protection of civilians and humanitarian assistance, as well as re-establishing the rule of law. It was then a natural consequence to bridge with the MSU the so-called “policing gap”, i.e. the capability/capacity enforcement void between the policing-related needs of the Host Nation (HN) populace, and the inability or unwillingness of the IPF<sup>4</sup> or of other relevant actors (including the UN) and the NATO conventional, combat and warfighting instru-



ment of power to address them properly. In this regard, it is worth noting that the requirement for a robust policing capability in CROs, and consequently PK, was confirmed by the famous UN Brahimi report<sup>5</sup>. Then, in 2016, the NATO “Allied Joint Doctrine for Stability Policing” followed. This publication defines SP as “police related activities intended to reinforce or temporarily replace IPF in order to contribute to the restoration and/or upholding of the public order and security, rule of law, and

safe and secure environment, restore public order and security, and contribute to create the conditions for meeting longer term needs with respect to governance and development (especially in the Security Sector Reform - SSR), all significant PK building blocks. In fact, SP contributes with its police-oriented approach to “Human Security”, to the protection of civilians<sup>7</sup> and to a wide array of cross-cutting topics ranging from Women, Peace and Security and Children in Armed Conflict to Conflict-Related Sexual and Gender Based Violence as well as Cultural Property Protection (CPP). In doing so, SP helps preventing countries from slipping back into turmoil and provides stability for reconstruction, recovery and development.

### SP peacekeepers

SP operators, who can be employed as

peacekeepers, are characterized by having a civilian-oriented, police-like mind-set, and possessing experience and expertise in police matters. This is of critical importance, since they focus on both IPF and the local populace. Hybrid threats<sup>8</sup>, the crime-war overlap as well as terrorism and insurgency (the so-called irregular activities<sup>9</sup>), threats to human security and cultural property, including within PK scenarios, are significant and likely

the protection of human rights”. The two SP missions of replacing and/or reinforcing the IPF are applicable across the full spectrum of conflicts and crises, hence also in PK. If the IPF are unable to carry out their duties, SP can monitor, mentor, advise, reform, train or partner with them to improve their performance. Should they be absent or unwilling to act, SP can temporarily replace them<sup>6</sup> with the main aim to support the re-/establishment of a





## POs RUN BY UN AND BY REGIONAL ORGANIZATIONS: FROM COMPETITION TO COORDINATION

to become even more relevant in the future. These asymmetric challenges require SP members to be flexible and adaptive to overcome a rigid, combat-only response, whilst SP offers complementary, innovative and scalable solutions expanding the reach of the military in-



strument into the remit of policing. The SP peacekeepers' effectiveness is enhanced by a tailored curriculum, which improves interoperability and, in addition, endows them with a particular set of a cutting-edge "police-like" skills that match the actual needs of the HN population, including, *inter alia*:  
- **Cultural awareness:** an in-depth comprehension of the HN culture

to inform the interaction with local institutions, police and population.

- The **Protection of Civilians:** paramount to prevent and mitigate negative effects on civilians of military operations.

- The **SP framework** encompasses an understanding of the mission, its activities and tasks. It requires familiarity with Rule of Law concepts, HN legal system and NATO relevant policies, doctrines and Technical Tactical Procedures (TTPs), which may differ significantly from their own. As

a consequence, the SP peacekeeper needs to undergo:

• **Procedural training:** SP peacekeepers must be prepared to be interoperable with, and implement, the same TTPs used by the supported Force such as combat lifesaving TTPs, Casualty Evacuation (CASEVAC), Counter-Improvised Explosive Device (C-IED), Close Air Support (CAS) drills, *et similia*.

• **Subject Matter training:** It is essential for SP peacekeepers to understand their mission, tasks and subject matter, as well as to be familiar with the HN legal system, as it may significantly differ from their own.

- **CPP** embraces a large host of activities aimed at identifying, respecting and safeguarding sites and objects of cultural significance as a vital part of people's identity and of importance for all of humanity. In a nutshell CPP protects the HN heritage. In fact, by preventing, deterring and investigating crimes such as iconoclasm, unauthorised excavations, looting, forgeries and fencing, SP operates in the remit of policing the civilian populace, hitherto neglected by NATO. SP assets identify relevant trafficking routes, investigate and bring suspects to justice, the latter often belonging to Organised Crime or Terrorist Groups (but also war criminals), as well as disrupt their networks.  
- **Language skills** facilitate and foster daily communication and relations with local authorities, population and Police as well as with International Organizations.  
- **Building Integrity** provides for moral and ethical standards to build transparent and accountable institutions, to promote good governance, integrity and transparency.

### Conclusions

Since its creation, the profile of the peacekeeper has been continuously adapting to the changing world, evolving and responding to longer-term and complex requirements of populations and nations in post-conflict scenarios. History shows how pivotal assisting the HN in rebuilding war shattered societies is. A holistic and comprehensive peace-building approach

*"I strongly believe that this article on the Evolution of the Police International Engagement should be of special interest to those who are studying the contemporary aspect of peace operations, as many matters relevant today actually stem from of the past and the lessons learnt in previous operations. As the author is aware, the end of the Cold War also brought the active involvement of the international police not only in the safeguarding of human rights, but also in the conduct of the elections, training of the local police forces, local and central governance, security sector reform, protection of women/children, etc. Moreover, this period brought about a tremendous increase in the international police cooperation, training and exchanges - and COESPU was a pioneer and remains a leader in this regard".*

*Mr. Dmitry Titov, Retd UN Assistant Secretary General*







addresses the most immediate military and humanitarian concerns, as well as longer-term requirements such as state re-building, SSR, strengthening civil society and promoting social reintegration. From its very first CRO experience in Bosnia, and then in Kosovo, to the Article-5 operation in Afghanistan, NATO has changed its approach to military interventions in destabilized countries by realizing that from a human security perspective, post conflict strategies must not only include a guarantee of security, but - to protect civilians and to pave the way for longer reconciliation endeavours – they also have to provide humanitarian relief, building social capital, nurturing the reconciliation and coexistence of divided communities and restoring governance. In this vein, the NATO SP peacekeeper strives for building peace by virtue of his/her expertise in law enforcement within a military framework, the so-called “*soldiers of the law*”<sup>10</sup>, definition that somehow symbolizes all the Gendarmerie-type forces<sup>11</sup>, which additional value lies in their flexibility to deliver a military capability focused on the police-related needs of the local population<sup>12</sup>. This multi-pronged, innovative and 360°

approach requires a reshaped military strategy that focuses on providing basic security to local communities preyed upon by criminal and insurgents (typically financed by illegal revenues). Indeed, by filling the public security gap and by refocusing the Force’s centre of gravity accordingly, governance improves, and alternative, legal livelihoods thrive. As public support and the battle of narratives are won by the Alliance, the outlook of NATO’s success is significantly enhanced, ensuring long-term peace, security and development.

PICTURES:  
NATO-led NTM-A Mission (training ANP and ANCOP)

1. “A peace support effort designed to assist the implementation of a ceasefire or peace settlement and to help lay the foundations for sustainable peace. Note: Peacekeeping is conducted with the strategic consent of all major conflicting parties.” NATO Agreed
2. Currently deployed within the NATO Kosovo Force (since 10 June 1999)
3. See AJP-3.22
4. IPF, “Local police”, “Host Nation Police Forces” and “Law Enforcement Agency” are all understood as having the same meaning
5. 13 November 2000, [https://www.un.org/en/events/pastevents/brahimi\\_report.shtml](https://www.un.org/en/events/pastevents/brahimi_report.shtml)
6. MC 362/1 and MC 362/2 infer that civilian law enforcement is not a NATO function, but NATO may support or

conduct it, if so directed by the North Atlantic Council (NAC), see also AJP-3.22, the “Allied Joint Publication for Stability Policing”

7. NATO Policy for the Protection of Civilians, endorsed at the NATO Warsaw Summit 8-9 July 2016, paragraph 16
8. A type of threat that combines conventional, irregular and asymmetric activities in time and space. NATO Agreed Term
9. The use or threat of force by irregular forces, groups or individuals, frequently ideologically or criminally motivated, to effect or prevent change as a challenge to governance and authority. NATO Agreed Term
10. Straight translation of the French expression “soldats de la loi”, which in France directly refers to the gendarmerie
11. For the purpose of this paper, “gendarmerie” is intended as “a military force performing civilian law enforcement/policing civilians”
12. “which are the logical first choice” for any SP asset, as per AJP-3.21 “Allied Joint Doctrine for Military Police” para 2.6.3

Disclaimer: this paper is a product of the NATO Stability Policing Centre of Excellence and its content does not reflect NATO policies or positions, nor represent NATO in any way, but only the NSPCoE or author(s) depending on the circumstances.



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## PEACE OPERATIONS:

# THE ROLE OF UN POLICE IN IDP

*Peace Operations: The Role of United Nations Police in Internally Displaced Persons and Refugee camps and Protection of Civilians Sites*

*By Luís Miguel Carrilho*

### Introduction

United Nations Police (UNPOL) play a key role in protecting internally displaced persons (IDPs) and refugees, who are increasingly concentrated in or around the settings we serve. Forced displacement stands at a record high as we approach the 70th anniversary of the 1951 Convention Relating to the Status of Refugees and the 60th anniversary of the 1961 Convention on the Reduction of Statelessness.<sup>1</sup> The coronavirus disease (CO-

VID-19) pandemic has exacerbated vulnerabilities of the least protected in societies, including the elderly and persons with pre-existing medical conditions; women and children with reduced access to health care and livelihoods, or of increased risk for domestic and gender-based violence; persons with disabilities facing challenges to attain the services and support to which they are entitled<sup>2</sup>; and the 79.5 million (or one per cent of the world's population) forcibly displaced people around the world, who are often living in overcrowded camps and settlements with inadequate sanitation and health services<sup>3</sup>. In this article, I lay out the interaction between UNPOL and IDPs and refugees through a protection of civilians (POC) lens<sup>4</sup> by

considering the normative evolution of the POC concept as it relates to our work and by providing a number of case studies.

### Learning the hard way

Hard lessons learned from the experiences in the Balkans, Liberia, Rwanda and Somalia called for urgent and concerted international action to protect civilians more effectively. In 1999, the United Nations Security Council added POC to its agenda and set overall parameters that still hold true today: (i) enhancing compliance with applicable international law and relevant Security Council decisions in the conduct of hostilities; (ii) facilitating access to humanitarian assistance; (iii) protecting forcibly displaced persons, women and children; (iv)





responding to violations through targeted measures and the promotion of accountability; and (v) providing protection through United Nations peace operations.<sup>5</sup> Recognizing the central role of UNPOL at the front lines of POC, the Security Council, in its first such resolution, “underlined the importance of [UNPOL] as a component of peacekeeping operations” and “recognize[d] the role of [UNPOL] in assuring the safety and well-being of civilians”, along with other important actors.

*“Underlines the importance of [civilian] police as a component of peacekeeping operations, recognizes the role of police in assuring the safety and well-being of civilians”*  
Security Council resolution 1265 (1999) paragraph 15

### **The POC Lens: Working with internally displaced persons and refugees**

When we think of UNPOL in peacekeeping operations and special political missions (peace operations) or other contexts, many immediately envision us operating in a post-conflict setting with the aim to engage in protection while seeking to stabilize the security situation. This includes working with IDPs and refugees, who are often particularly vulnerable segments of the societies we serve, through a community-oriented policing approach. Our POC efforts are far more wide-ranging, starting with helping to prevent conflict in the first place, rather than just responding after the fact. Over the past 20 years, both the POC framework and the nature of United Nations policing have changed significantly. United Nations policing has equally evol-

ved: from more static monitoring activities of host-State police services and other law enforcement institutions -- for example, when we first deployed to the Democratic Republic of the Congo 60 years ago and in the Balkans in the early to mid-1990s<sup>6</sup> -- to more pronounced, proactive engagements through capacity building and development and operational support to host-State counterparts by the late 1990s<sup>7</sup>. Throughout, our core functions remain:

1. Prevention, detection and investigation of crime;
2. Protection of persons and property; and
3. Maintenance of public order and safety.<sup>8</sup>

Our work is entrusted to currently more than 11,000 civil servants who are members of police or other law enforcement agencies of national, regional or local governments from 94 Member States. Through the *Strategic Guidance Framework for International Policing* (SGF), UNPOL operate in adherence to the rule of law<sup>9</sup> and have the obligation to respect and protect human rights<sup>10</sup>. Our UNPOL are the driving force behind our mission, which is to “enhance international peace and security by supporting Member States in conflict, post conflict and other crisis situations to realize effective, efficient, representative, responsive and accountable police services that serve and protect the population”<sup>11</sup>.

*“Supporting Member States in conflict, post conflict and other crisis situations to realize effective, efficient, representative, responsive and accountable police services that serve and protect the population.”*  
*The Mission of United Nations Police*

Currently, 95 per cent of our UNPOL personnel operate in missions under a POC mandate<sup>12</sup> in settings that also host large numbers of forcibly displaced persons and refugees.<sup>13</sup>

### **En route to professionalization**

Our SGF, a continuously evolving body of standardized guidance on United Nations policing developed by the United Nations Police Division with Member States, the African Union, European Union, Organization for Security and Co-operation in Europe, INTERPOL, the International Association of Chiefs of Police, United Nations Agencies, Funds and Programmes and leading members of the Global Police Policy Community serves as the unifying platform of our diverse workforce. *Its 2014 Policy on United Nations Police in Peacekeeping Operations and Special Political Missions* recognizes that the protection of civilians is a mandated task that requires concerted action from all mission components<sup>14</sup> and establishes that UNPOL components closely align their efforts with missions’ overall protection of civilians strategies. Recommending that peacekeeping missions first seek to prevent displacement by addressing threats at their origin, *the 2019 Policy on the Protection of Civilians in Peacekeeping Operations*<sup>15</sup> establishes that missions may seek to ensure the protection of displaced populations during flight, in refugee or IDP camps or settlements, or upon return to their places of origin. *The 2017 Guidelines on the Role of United Nations Police in the Protection of Civilians* (under review) reiterate that protecting civilians is a task for all categories of United Nations Police officer<sup>16</sup> and give





direction on the role of UNPOL in all three tiers of protection of civilians, namely: dialogue and engagement; physical protection; and establishment of a protective environment, and across the four phases of prevention, preemption, response and consolidation. The scenarios in which UNPOL are expected to protect civilians vary greatly in terms of the authority granted to them, the degree of host-State police capability and presence, and the extent to which the government itself constitutes a threat to civilians. In this regard, the Guidelines provide some direction on the protection of IDP, refugee and returnee sites, camps or settlements. They note that UNPOL “may be required to contribute to security in and around sites, where host-State police is present as a support function, or where the latter is either ineffective or not trusted and the cooperation between UNPOL and host-State police colleagues may be problematic.”

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where host-State police is present as a support function, or where the latter is either ineffective or not trusted and the cooperation between UNPOL and host-State police colleagues may be problematic.”

### Protecting Internally Displaced Persons and Refugees<sup>17</sup>

The *2019 Policy* and the *2020 Protection of Civilians in United Nations Peacekeeping Operations Handbook* set out priorities for the provision of physical protection in areas of displacement: (i) outside United Nations premises, including in IDP, refugee and returnee sites, camps or settlements or with host communities; (ii) in areas adjacent or close to existing mission premises identified for that purpose; and (iii) in extremis, including due to a lack of preparedness or where

the mission has insufficient military or police capacity to secure a site outside the mission compound, in ‘protection of civilian sites’ within existing mission premises. Each of these require UNPOL to play a role. Where IDPs are located in areas adjacent or close to existing mission premises, UNPOL will likely be required to maintain public security amongst the IDPs, if possible in conjunction with host-State police. However, it is important to recognize that the role of UNPOL goes beyond simple facilitation of the work of the host-State police to that of a protective presence. Where civilians are within

## HARD LESSONS LEARNED FROM THE EXPERIENCES IN THE BALKANS, LIBERIA, RWANDA AND SOMALIA CALLED FOR URGENT AND CONCERTED INTERNATIONAL ACTION TO PROTECT CIVILIANS MORE EFFECTIVELY

United Nations premises, given the inviolability of such premises, UNPOL will be required to independently maintain public security, including through detentions where necessary in line with the directive on the use of force and compliance with *the Interim Standard Operating Procedures on Detention in United Nations Peace Operations*. UNPOL should actively (i) participate in joint assessments on the threats facing displaced populations and risks of various options, (ii) provide inputs to planning assumptions and, together with the military, on respective abilities to protect civilians under the various situations, (iii) coordinate with IDP/refugee representatives, national police and military, as well as UNHCR and camp management partners to establish security ar-

rangements in and around the site(s) and maintain its civilian and humanitarian character; (iv) participate in joint patrols that may include POC advisers, child protection advisers, women protection advisers, human rights, etc. as well as military and police, where necessary, to facilitate civilians’ gathering of firewood, water or food, or access to markets or services, in consultation with the community, UNHCR, local authorities and/or camp management, and with translation support, as required; and (v) help delineate responsibilities with United Nations military personnel in line with the *2019*

*Guidelines on Combined Military and Police Coordination Mechanisms in Peace Operations*, with the military only providing security outside of the IDP/refugee site(s) except

when faced with an imminent threat to the population, and police entering IDP/refugee sites, in coordination with civilian components of the mission and the IDP/refugee community, in consultation with UNCHR and local authorities and/or camp management. Projection, through an integrated civilian, military and police presence, formed police unit (FPU) patrols, military/police patrols, or military patrols is to be preferred, bringing protection to civilians rather than requiring them to displace to or near United Nations premises for safety. United Nations Police should assist in the identification of risks and measures to minimize or eliminate them. Building on General Assembly Resolution *A/RES/49/37* (1995), according to which Member States have the responsibility for the





delivery of pre-deployment training for uniformed personnel deploying to United Nations operations, the Secretariat developed United Nations Pre-deployment Training Standards, which comprise core pre-deployment materials containing lessons related to the protection of civilians, including child protection and conflict-related sexual violence, as well as specialized training materials, namely the United Nations Comprehensive Protection of Civilians for Police for police-contributing countries, which includes exercises and scenario-planning for different personnel types.

**Making a difference**

*A multi-faceted response to IDP and refugee protection: the Democratic Republic of the Congo*

Armed groups activities and intercommunal conflict in the provinces of Tanganyika, Ituri and the two Kivus have resulted in massive population displacements since the early 1990s to other localities perceived to be safer. This has led to the proliferation of IDP sites in Ituri and Tanganyika, some of which are beyond the reach of humanitarian actors due to inaccessibility and ongoing violence. For example, inter-ethnic clashes

between Twa and Baluba, particularly in the Manono-Nyunzu territories, made Tanganyika province a major IDP hub, hosting at one point more than 95,000 IDPs at 14 sites. In Ituri, following the conflict between Lendu and Hema and armed group activities, more than 235,000 IDPs continue to stay in



87 sites, located in Djugu, Irumu, Mahagi and Bunia. Furthermore, the territories of Fizi and Uvira host about 40,000 Burundian refugees, some of whom fled to Minembwe as a result of intercommunal clashes involving Banyamulenges, Banyindu, Babembe and Bafulero in Lusenda and are facing exceptionally dire circumstances. In many instances, IDP and refugee communities live in make-

shift settlements and congested quarters and are confronted with criminal activity, including sexual and gender-based violence, and retaliatory attacks by rival groups. While sites are managed by the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM) under the *Cluster Approach*, UNPOL efforts focus on concentration points and include physical protection in and around the sites and camps within their area of responsibility through day and night patrolling. To this end, MONUSCO Police conducted 239 such patrols in Kalemie, 158 in Bunia and 159 in Uvira between January and June 2020 alone, which helped deter systematic attacks by rival groups and instilled a sense of security amongst IDPs. To facilitate dialogue and engagement (tier I), as well as a sustainable protective environment (tier II), MONUSCO

Police, together with the Police nationale congolaise (PNC), undertakes community-oriented policing in the Kalemie, Bunia and Uvira IDP camps. Daily interactions with respective communities enable the PNC and MONUSCO Police to maintain oversight on vulnerable persons and prevent exploitation. For example, suspicions or incidents of sexual and gender-based violence (SGBV) are closely monitored





by the MONUSCO Police Gender and Child Protection Officers who interact with communities at risk on a regular basis. When it comes to supporting an enabling environment, MONUSCO Police are monitoring the humanitarian situation and issue alerts on infringements of human rights. This aspect is particularly important when the residents of aforementioned sites opt for or ask to voluntarily return to their place of origin. In these instances, MONUSCO Police assess and report on whether the conditions of voluntary return are met.

### A partnership approach to IDP protection: the case of South Sudan

Since the political crises and outbreaks of violence in December 2013 and subsequently in 2016, which divided South Sudan along ethnic grounds, claimed thousands of lives and caused massive displacements, the United Nations Mission in South Sudan (UNMISS) has been providing protection to around 200,000 IDPs in five POC sites on UNMISS premises in Juba, Malakal, Bentiu, Bor and Wau. The overall responsibility for management of the protection of civilians sites rests with the Mission's Relief Reintegration and Protection Section. UNMISS Police are responsible for the safety and security of IDPs within such sites with the support of the Mission's military component and the United Nations Department for Safety and Security (UNDSS). To this end, UNMISS Police are in charge of access controls and the safety and security of IDPs within and outside the immediate periphery of sites while the

military are responsible for the outer perimeter security, and UNDSS for safety and security of United Nations personnel working within the sites. Collaboration between

## UNPOL HAVE A BROAD ROLE WORKING WITH IDPS AND REFUGEES, INCLUDING IN THE AREA OF POC

UNMISS Police and Community Watch Groups comprised of IDPs is essential for promoting and enforcing site rules through joint foot patrols, reporting on disputes among IDPs, the sensitization of IDPs to safety messages, and support to the Informal Mediation and Dispute Resolution Mechanism, which resolves minor breaches of camp rules and offences. UNMISS Police respond to serious breaches of security or criminal cases, which may result in expulsion or handover of suspects to the local authority after careful consideration of each case. UNMISS Police prevent and respond to threats of physical violence to IDPs residing in the sites, irrespective of their sources, while ensuring the civilian and humanitarian nature of the sites through a range of activities, including FPU patrols (tier II) and community engagement activities by individual police officers and the Specialized Police Team on SGBV (tier I). Complementary to access control duties, patrols, cordon and search operations, UNMISS Police deter and mitigate violence against civilians in the sites and beyond through sensitization workshops on conflict management, reconciliation, social cohesion, sexual violence, human rights, and the promotion of the role of women, leaders, and youths in peacebuilding. To reinforce the civilian character of the

POC sites, UNMISS Police facilitate information-sharing meetings with community leaders on responses to security incidents and promote active community involvement in curtailing criminal activity. Further, through community-oriented policing, UNMISS Police conduct crime prevention and trust-building activities in sites focusing primarily on radicalized youths. Through gender-responsive, confidence and trust-building programmes, UNMISS Police also initiated sports and recreational activities for IDPs to mobilize and bring together communities, as well as generate livelihood opportunities.

### Enabling safety and security: the case of the Central African Republic

Decades of strife, coupled with the latest crisis igniting in 2013, when the primarily Muslim coalition of armed groups, Séléka, installed its leader as president, have contributed to more than a million people, or 20 per cent of the Central African Republic's population, being displaced, about half as IDPs and half as refugees. While UNHCR and IOM are in charge of the management of IDP sites MINUSCA Police supports the Internal Security Forces in ensuring security within 30 IDP sites under the Mission's area of responsibility. Specifically, since their arrival in 2015, MINUSCA Police have supported the international community's assistance efforts to redeploy and restore state authority. Specific activities have included (i) ensuring security in IDP sites and enforcing respect for their civilian humanitarian character by prohibiting





the presence of firearms including through regular sensibilization campaigns; (ii) the creation of 19 temporary police stations in 11 IDP camps in Bangassou, Kaga-Bandoro, Ndele and Bambari, which are helping facilitate trust between the ISF and IDP populations while contributing to early warning, (iii) dialogue through community-oriented policing between IDP communities to increase social cohesion and the peaceful resolution of disputes, and (iv) joint patrols with the ISF and the military, including for example in Batangafo last September to facilitate humanitarian relief activities and help reverse the trend of insecurity, as highlighted in the March 2020 report of the Inter-Cluster Coordination Group. During moments of crisis, MINUSCA Police have also managed IDP sites, including for example, in Birao and Ndele earlier this year, when more than 35,000 persons were displaced.

## Conclusion

As illustrated in this article, the interaction between UNPOL and IDPs and refugees varies greatly. UNPOL have a broad role working with IDPs and refugees, including in the area of POC. In this regard, integrated and coordinated responses between civilian, including humanitarian and human rights personnel, military and police components in peace operations continue to be essential to effectively protect displaced persons.

PICTURES:  
-UNPOL

1. UNHCR, *Global Forced Displacement Trends 2019*, page 6, <https://www.unhcr.org/5ee200e37.pdf>
2. Report of the Secretary-General to the Security Council, "The Protection of Civilians in Armed Conflict", (S/2020/366), 6 May 2020.
3. UNHCR Figures at a Glance <https://www.unhcr.org/en-us/figures-at-a-glance.html> 30 June 2020.
4. The Security Council has affirmed the central role of the protection of civilians in the work undertaken by United Nations police in its resolutions 2382 (2017, paragraph 6) and 2185 (2014, paragraph 17).
5. Security Council resolution, "Protection of Civilians in Armed Conflict", (S/RES/1265), 17 September 1999.
6. United Nations Protection Force (UNPROFOR) between 1992 and 1995 with authorized 803 UNPOL, followed by United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES) from 1996 to 1998 with 404 authorized UNPOL, United Nations Preventive Deployment Force (UNPREDEP) in Macedonia from 1995 to 1998 with 26 authorized UNPOL, and the United Nations Confidence Restoration Operation in Croatia (UNCRO) from 1995 to 1996 with 296 authorized UNPOL.
7. These paved the way for more active engagements, including training and vetting in United Nations Mission in Bosnia and Herzegovina (UNMIBH) from 1995 to 2002 with 1,721 authorized UNPOL, and the executive mandate in United Nations Mission in Kosovo (UNMIK) from 1999 to present with 10 authorized UNPOL.
8. Report of the Secretary-General on United Nations policing S/2016/952 paragraph 7, 10 November 2016.
9. The rule of law refers to "a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards" (see S/2004/616, para. 6).
10. Including police, gendarmerie, customs, immigration and border services, as well as related oversight bodies, such as ministries of the interior or justice.
11. Report of the Secretary-General on United Nations policing, S/2016/952, paragraph 8, 10 November 2016.
12. Missions with a protection of civilians mandate are: UNAMID, MONUSCO, UNMISS, UNISFA, MINUSMA, MINUSCA, and UNIFIL. Previous missions: UNAMSIL, MONUC, UNMIL, ONUB, UNOCI, MINUSTAH, MINUJUSTH.
13. Charles Hunt, "To Serve and Protect: The Role of UN Police in Protecting Civilians", <https://theglobalobservatory.org/2019/09/to-serve-and-protect-the-role-of-un-police-protecting-civilians/> 20 September 2019.
14. With further details on military-police cooperation in the protection of civilians reflected in the 2019 Guidelines on Combined Military and Police Coordination Mechanisms in Peace Operations.
15. 2019 Policy on the Protection of Civilians in Peacekeeping Operations, 1 November 2019.
16. From Heads of Police Components (HOPCs) and other officers on professional posts, to all Individual Police Officers (IPOs) and formed units including formed police units (FPU), protection and support units (PSUs) and specialized teams, to civilian experts deployed within police components to all staff in the Police Division.
17. The text of this box is directly derived from the 2017 POC Guidelines, the 2019 POC Policy, and the 2020 POC Handbook.



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## WHERE ARE THE WOMEN?

*A CRITICAL ANALYSIS OF THE "UN ZERO TOLERANCE POLICY" ON SEXUAL EXPLOITATION AND ABUSE*

*By Sofia Sutera*

**Abstract:**

The aim of this paper is to critically reflect on the approach of the UN to the scandal of sexual exploitation and abuse in peacekeeping operations by analysing the non-inclusion of women in the "UN Zero Tolerance Policy". While the UN has moved towards a victim-centred approach, acknowledging how women are particularly affected by this scourge, this inquiry is committed to a specific women's human

rights perspective, observing if and how women are represented in the UN narrative. Indeed, looking at the whole policy and particularly at the data being collected, a question which arises quite explicitly is: "Where are the women?"

**Keywords:** Sexual Exploitation and Abuse, Peacekeeping Operations, Women's Human Rights, UN Zero Tolerance Policy, Feminist perspective

**1. Introduction and Methodology**  
 Conflict-related Violence against Women and Girls (VAWG) has been the focus of increasing attention in these last decades, in particular as a tactic of war, with a specific emphasis placed on sexual violence and intimate par-

tner violence (IPV), and less on wider forms of VAWG, such as socioeconomic harms. Moreover, as a result of the UN Security Council resolutions (UNSCRs) constituting the WPS agenda, particularly UNSCR 1325 (2000), 1820 (2008), 1888 (2009), 1960 (2010), 2106 (2013) and 2467 (2019), peacekeeping missions are increasingly being specifically mandated to address sexual violence. The UN Zero Tolerance Policy, which arose in the context of sexual exploitation and abuse (SEA) in peacekeeping operations (PKOs), is surely an attempt to realize a global public policy in framing this issue inside the larger perspective of a new and different approach to women and security in humanitarian crisis and confli-





cts (Neudorfer 2014). According to the definition of Stone and Ladi, global (public) policy refers to

*A set of overlapping but disjointed processes of public-private deliberation and cooperation among both official state-based and international organizations and nonstate actors around establishing common norms and policy agendas (Stone and Ladi 2015, 2).*

Taking into account the shift towards a victim-centred approach in the official UN stance against SEA, which does not imply a reflection on the deeply gendered paradigms of peacekeeping and collective security, the focus of this analysis is on observing how the failed authentic inclusion of women in the UN policy concretely impacts the human rights of the victims of SEA. Indeed, the perpetuation of stereotyping language in these documents removes women's agency and maintains them in the subordinated position of victims. As a result, women are not seen as actors and agents of change in post-conflict environments but "as sexual violence problem-solving forces" in PKOs (Simić 2010, 188). A "noteworthy aspect of the Secretary-General's victim-centred strategy is the requirement 'to view sexual exploitation and abuse through a human rights lens'" (Oswald 2016, 156). At the same time, though, acknowledging how SEA specifically impacts women, this inquiry is committed to a women's human rights perspective, observing if and how women are

represented in the UN Zero Tolerance narrative. Indeed, looking at the whole policy, a question which arises quite explicitly is: Where are the women?<sup>2</sup> Not only the numbers lack but also any discussion about the discriminations experienced by women and the structures of socioeconomic inequality, which fuel insecurity and violence. Undoubtedly, it is important to consider the whole range of women's rights' concerns, including VAWG in all its forms and the structures of socio-economic inequality, when seeking a sustainable, positive peace for the entire international community, in collaboration with both military and civilian staff. Feminist scholarships

## IN 2016, THE GENERAL ASSEMBLY DEMANDED "THAT ALL PEACEKEEPING OPERATIONS IMPLEMENT FULLY THE UNITED NATIONS POLICY OF ZERO TOLERANCE OF SEXUAL EXPLOITATION AND SEXUAL ABUSE IN UNITED NATIONS PEACEKEEPING OPERATIONS"

affirm that women experience continuums of gendered harm from conflict to peace and from public to private spheres (Cockburn 2004; Moser and Clark 2001). In order to try to address this query, it is necessary to further explore the UN Zero Tolerance Policy, an endeavour carried out by means of a critical discourse analysis (CDA), which puts its focus on power relations and it is 'critical' because it aims "to contribute to social change along the lines of more equal power relations in communication processes and society in general" (Jorgensen and Phillips 2002, 63-64). Particularly, feminist theorists defined power as "the dynamic interplay

between domination and empowerment, between power and counterpower" (Allen 1999 as in Kantola and Lombardo 2017, 1). The UN Zero Tolerance Policy represents a clear expression of how power relations within UN bodies re-produce the dominant patriarchal discourses on women and sexual exploitation in armed conflict and humanitarian crisis, without considering how the sexual division of labour and the use of women's bodies - their sexuality or their reproductive functions - determine the 'naturalization of women's exploitation' by means of gender based violence.

## 2. The development of the UN Zero Tolerance Policy

Particularly, the wars of the 1990s in the former Yugoslavia played a fundamental role in favouring the entry of the issue of VAWG in the international political arena. Feminists arguments were employed with the aim of supporting international police operations and the role of the Security Council as necessary to protect women, mostly from sexual violence, and promote their rights. By creating a transnational advocacy network (Rolandsen Agustin 2013), feminists demanded the equal participation of women and men in conflict-related decision-making and the adoption of measures to prevent the many adverse effects of war on women (Heathcote 2011). The conflicts in these territories were also decisive with respect to the development of an international criminal law perspective regarding



crimes against women and more generally to the development of a women's human rights discourse (Murphy and Månsson 2006). Simultaneously, though, since the 1990s allegations of SEA by UN peacekeepers started to emerge (Kanetake 2010, 200; Oswald 2016, 144; Mudgway 2017, 1454). While since 1999 the UN Security Council has finally mandated every multidimensional UN PKO to use force in defence of the civilian population under Chapter VII of the UN Charter; it has taken a clear stance against SEA, acts which seriously affect the local population, only in 2003 thanks to UN Secretary General Kofi Annan's Bulletin on special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13) which introduced the UN Zero Tolerance Policy that requires both zero complacency in fully investigating allegations and zero impunity in case of substantiated allegations (Kanetake 2010, 200). Not only, though, it required more than a decade for the UN to adopt a clear response to SEA, but in 2005 the Zeid Report (UN General Assembly 2005), issued by the then Personal Adviser to the UN Secretary-General, confirmed a culture of sexual exploitation in UN peacekeeping (Mudgway 2017, 1454) and still in 2015 the report completed by a special panel to investigate allegations of SEA in the Central African Republic by peacekeepers stressed the UN "institutional failure to respond immediately and effectively to incidents of sexual violence" (UN Secretary-General 2016, 5). Looking at the text of the 2003 Bulletin, the Section 1 contains the definitions of sexual exploitation and sexual abuse in the

context of the specific UN policy:

*The term 'sexual exploitation' means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. Similarly, the term 'sexual abuse' means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions (UN Secretary-General 2003)*

In Section 2 'Scope of application', the same document specifies that acts of SEA are prohibited and in Section 3 the Secretary-General recognizes that SEA violate international legal norms and standards (UN Secretary-General 2003, para.3.1) and he asserts that in order to protect the most vulnerable populations, especially women and children

(a) *Sexual exploitation and sexual abuse constitute acts of serious misconduct and are therefore grounds for disciplinary measures, including summary dismissal;*

(b) *Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally. Mistaken belief in the age of a child is not a defense.*

(c) *Exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour, is prohibited. This includes any exchange of assistance that is due to beneficiaries of assistance.*

(d) *Sexual relationships between United Nations staff and beneficiaries of assistance, since they are*

*based on inherently unequal power dynamics, undermine the credibility and integrity of the work of the United Nations and are strongly discouraged (UN Secretary-General 2003, para.3.2)*

Moreover, in 2016 the Security Council adopted the Resolution 2272, dealing exclusively with SEA by peacekeepers and underlining that SEA by UN peacekeepers undermines the implementation of peacekeeping mandates, as well as the credibility of the whole UN peacekeeping (UN Security Council 2016, Preamble), while representing unacceptable forms of serious misconduct (UN Security Council 2016). In the same year, the General Assembly demanded "that all peacekeeping operations implement fully the United Nations policy of zero tolerance of sexual exploitation and sexual abuse in United Nations peacekeeping operations" (UN General Assembly 2016, para.70). Furthermore, the Secretary-General has issued a Report on 'Special measures for protection from sexual exploitation and sexual abuse' since 2004, in compliance with General Assembly resolution 57/306 of 15 April 2003. The last Report was published on 17 February 2020<sup>9</sup>. The policy adopted by the UN has a very broad and comprehensive approach which has been criticized for a lack of proper legal clarity. For example, Jennings argued that the policy displays a "one size fits all" approach to sexual acts and relationships in peacekeeping missions which undermines its legitimacy, "as moral equivalency is being drawn between consensual and non-consensual, even violently abusive sex" (Jennings 2015). It is important to distinguish more





clearly and systematically between sexual exploitation and sexual abuse even if these conducts are related to each other. As a matter of fact, the use of the umbrella term SEA conflates multiple issues contingent on a specific context and country. Sexual abuse and sexual exploitation may be the result of very different behaviours and motivations, requiring different types of prevention strategies, policy solutions, and sanctions or penalties. In other words, the risk of these umbrella terms could be that of obscuring significant differences in the form, function and causes of the behaviours they encompass (Westendorf and Searle 2017). Indeed, this discourse utilizes over inclusive broad definitions of sexual exploitation and sexual abuse,

which include consensual sex between peacekeepers and local people, and is justified in terms of protecting women (indeed the policy recurs to the old conflation of women and children as the quintessentially vulnerable group) and does not permit to distinguish between legal consensual sex and serious criminal offences of a sexual nature. Similarly questionable is the adoption of the age of 18 as the age of consent in sexual relationships and the hetero-normativity dimension (Otto 2007a).

All these elements are framed in a way which constructs a response characterized by a negative idea of sexuality in all its aspects rather than by the political will to address the human rights violations and the individual/social vulnerabilities

even if in a context characterized by “extreme deprivation, desperation and insecurity”, where social, familial and economic structures are destroyed and thus can create situations of dependency (Westendorf and Searle 2017, 371-372).



that armed conflicts and humanitarian crisis exacerbate. Indeed, while the UN stresses that in some countries women can be trafficked and forced to work in the commercial sex industry, and thus that buying sex can further human trafficking and organized crime (UN 2019b), there is no consideration for the reality of prostitution as ‘survival sex’ or a way of supplementing low family income or the low wages paid to women. In fact, transactional sex can involve some level of agency and negotiation

### 3. The UN Zero Tolerance Policy: towards a victim-centred approach

In June 2015, the Secretary-General appointed an independent panel to review SEA allegations made against peacekeeping forces serving in the Central African Republic, which recommended that SEA should be treated as human rights violations and the response to allegations should be within the UN’s human rights framework (Mudgway 2017, 1453; Oswald 2016,



151). Among its recommendations, it asked for a trust fund to be established to provide specialized services to victims of conflict-related sexual violence, which was indeed arranged in 2017. In the same year, with the announcement that “First, the United Nations will elevate the voice of victims themselves and put their rights and dignity at the forefront of our efforts” (UN General Assembly 2017, para.13), the official discourse started putting a particular emphasis on victims. Indeed, the Secretary-General expressed his intention to appoint a victims’ rights advocate, required to collaborate with local authorities and civil society organizations and to be assisted by special victims’ rights advocates in the field (particularly in the four PKOs with the highest numbers of cases of SEA, namely, the UN Multidimensional Integrated Stabilization Mission in the Central African Republic, the UN Stabilization Mission in the Democratic Republic of the Congo, the UN Stabilization Mission in Haiti and in South Sudan) with the specific function to “ensure that a victim-centred, gender- and child-sensitive and non-discriminatory approach is integrated into all activities to support and assist victims” (UN General Assembly 2018, para.26). But it is only in the 2018 Report that the Secretary-General, considering the victims of SEA, recognized that “responses to sexual exploitation and abuse will have little impact if we fail to address the root causes and risk factors” (UN General Assembly 2018, para.74), stressing the need for a more holistic commitment of the UN bodies to promote and protect human rights (UN General Assembly 2018, para.75). The fo-

cus on human rights is crucial as, contrary to humanitarian law, this framework applies both in peacetime and during conflict, while individuals are rightsholders under international human rights, thus states are directly and legally required to protect and respond to rights violations whether committed by state and non-state actors (Mudgway 2017, 1459-1460), on the other hand the parallel focus on women only as victims remove any consideration of their agency. Moreover, the 2017 Report explicitly recognized SEA as a form of sexual violence, as well as, in some circumstances, of gender-based violence (GBV) that can be contrasted by promoting gender balance and women’s empowerment, in order to counteract the conditions that can give rise to VAWG (UN General Assembly 2017, para.10). Even if at the international level there is a gap regarding any legal response to VAWG (Manjoo and Jones 2018), the latter has explicitly been identified as a human rights violation during the 1993 UN World Conference on Human Rights (Manjoo 2018, 76) and defined by the UN Declaration on the Elimination of Violence against Women (DEVAW) of 1993<sup>4</sup> as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life”. Further, according to the Beijing Platform for Action of 1995, violence against women is “the manifestation of the historically unequal power relations between men and women” (para.118). Therefore it is understood as being rooted in

social and cultural structures and as being an expression of the historic subordination of women, social and economic inequalities, and cultural justifications; it is thus not just a private issue between individuals, but a public issue requiring state action (Mudgway 2017, 1460) as stated also in the Report of the Secretary-General on all Forms of Violence against Women of 2006 (UN General Assembly 2006, particularly paras 65-92). Still in 2017, the Committee on the Elimination of Discrimination against Women<sup>5</sup>, published the general recommendation (GR) n. 35 on gender-based violence against women which introduces an intersectional approach by underlining how women’s lives may be affected adversely by many aspects of contemporary life, including environmental degradation, militarisation, displacement, globalisation of economic activities, foreign occupation, armed conflict, violent extremism and terrorism (para 14) in different spaces and spheres of human interaction such as the family, the community, the public spaces, the workplace, the politics, sport and health services, educational settings, but also the Internet and digital spaces (para 20). The dominant discourse on SEA, though, does not consider the multiple forms of discrimination which affect women, it reproduces an essentialist perspective of women as a social group, while a clear correlation between GBV and women’s sexual exploitation is nowadays largely reported by agencies working with victims of trafficking and broader intersectional dimensions of discriminations. As a matter of fact, violence erupts ‘unexpectedly’ in the grey zones where public/private, identity/dif-





ference, material/cultural layers overlap. On the other hand, though, in October 2019, the UN Security Council adopted a resolution (UNSCR 2493), in the context of the WPS agenda, asking “to promote all the rights of women, including civil, political and economic rights” (UN Security Council 2019) which shows a more holistic approach to understanding discrimination against women. Moreover, in 2013 the CEDAW Committee had issued the GR n. 30 on women in conflict prevention, conflict and post-conflict situations, asserting the application of the CEDAW to conflict prevention, conflict and post-conflict situations, at territorial and extraterritorial level, to State and non-State actors, and stressing the complementarity of the CEDAW and international humanitarian, refugee and criminal law, also in the framework of the WPS Agenda. Nonetheless, despite this last consideration on the connection between women and security, over the past ten years there have been only two instances where SEA by peacekeepers has been addressed in the context of international human rights; both by the CEDAW Committee, in its concluding observations on Côte d’Ivoire in 2011 and in its concluding observations on Haiti in 2016 (Mudgway 2017, 1463-1464).

#### 4. Women’s agency in the UN Zero Tolerance Policy

In his 2017 Report, the Secretary-General acknowledged that unequal gender relations lie at the heart of SEA and that the potential for this behaviour poses a threat to the women and the vulnerable wherever they live or work (UN General Assembly 2017, para.9). It is, though, necessary to frame

correctly the concept of vulnerability, in particular for what concerns women’s victimization for facts of violence and exploitation. For instance, while being aware of the reasons supporting the UN ban on prostitution, such as the long-lasting possibility of related social stigma, a different discourse could be proposed in order to frame prostitution as sex work. Moreover, the understanding of ‘victimization’ is characterized by contingent societal and political factors, different cultural perceptions and an increasing politicization of policy-making (Hall 2017). At the same time, only assuming the ordinary dimension of women’s discrimination and subjugation, the intersection of women’s life experiences before, during and after humanitarian emergencies can be explained. Indeed, while during conflicts and emergencies women face social and economic difficulties that increase their vulnerability, for many women, the relationship between the physical violence experienced during conflict and the

security of the post-conflict environment are not discontinuous realities (Degani and Pividori 2019). The focus of the UN policy, though, risks portraying women only as victims in need of protection who lack any possibility of agency. Indeed, the text of the 2003 Secretary-General’s Bulletin explicitly refers to “a particular duty of care towards women and children” (UN Secretary-General 2003, para. 2.2) and to “the most vulnerable populations”, identified as “especially women and children” (UN Secretary General 2003, para. 3.2). The Bulletin, which states the beginning of the whole UN policy on SEA, does not present any other representation of women than one of victims in need of protection. Otto, for example, has criticized the Zero Tolerance Policy by asking “as to whether the ‘problem’ is sex itself, rather than sexual harm” (2007b, 34). The scholar stressed that the Bulletin proposes a protective representation of women that have long been recognized as inconsistent with the realization of women’s human rights, and revives the conflation of women and children seen in early international legal texts, when it was still accepted that women and children were the property of men (Otto 2007b, 35). The reduction of women to victims “who need paternalistic protection in the form of a ban on sex with peacekeeping personnel denies women the dignity of sexual agency” (Otto 2007b, 43), while in order to remove situations of SEA it is necessary to take women’s autonomy and equality seriously, recognizing the importance of realizing economic and social rights and enforcing the rule of law and democratic institutions (Otto 2007b, 38). Similarly, referring to the fact that





the Zero Tolerance Policy forbids almost all sexual activity between UN peacekeeping personnel and local women in order to prevent SEA, Simić talks of a “sex panic” (2009, 288). Moreover, she argues that measures which aim to protect the victims of SEA by regulating

territories (Kanetake 2010, 209). The choice to completely ignore the possibility for self-agency in the construction of the whole policy has been underlined also by the OIOS which reported that the Zero Tolerance Policy was considered as an intrusion of privacy and some

the predatory sexuality of the militaries without paying any kind of attention to the idea of sex as a possible work or as a way to ‘survive’ and/or as a form of pleasure in which engage women able to freely express consent and act with personal agency (Otto 2007b).



the erotic and sexual behaviour of local women, like the UN Zero Tolerance Policy, distract from the real problems such as the feminization of poverty and the lack of alternative options for women in post conflict societies (Simić 2009, 289). Correspondent arguments have been pointed out also by Kanetake, who argues that by treating them all equally as victims the UN’s zero tolerance project risks covering the underlying causes that breed SEA in war-torn

staff “raised the issue of sexuality as a human right” (UN Office of Internal Oversight Services 2015, para. 56). While this statement does not explicitly discuss the condition of local women, nonetheless it reveals the acknowledgment, within the UN Institution itself, of the patency of the issue. Indeed, the whole construction of this policy does not address poverty but appears based on stereotyped assumptions about the sexual vulnerability of women and girls and

Feminist scholars and activists have shown that the dominant discourse on security tends to perpetuate the highly problematic gender constructions of men as violent and powerful and women as vulnerable and in need of protection. A perspective which can be observed also in the Women, Peace and Security (WPS) framework. Hence not only in the overall UN policy women lack any agency as active actors in relation to sex but they are also denied





the possibility of a real recognition as human rights holders. While there is, as observed above, a strong emphasis on women as 'victims' and as subjects 'in need of protection' and 'vulnerable', there is almost no consideration of them as conscious actors who take action to have their rights recognized by other actors. At the same time, though, most UN military personnel, while considered a subsidiary organ of the Security Council and under a UN mandate, still, remain part of an organ of their troop-contributing country (TCC) which maintains criminal and disciplinary jurisdiction over its troops. Therefore, in relation to military contingents committing crimes in UN mission host states, the implementation of the UN's zero tolerance relies essentially on TCCs (Burke 2014, 71). This structure makes it extremely hard to guarantee "transparency and accountability", "prevent and address the profound betrayal through such acts by UN personnel against the people they are charged with protecting" (UN 2019) and for women and girls, as primary victims of SEA, to act in order to implement their human rights. Indeed, "the availability and effectiveness of procedures to seek redress and the likelihood that such procedures, if available, will end up providing adequate compensation would completely depend on which state the peacekeeper in question is from" (Okada 2019, 290). Still, as observed so far, the possibility for women to be seen as persons with agency is denied not only by this legal structure but also by the construction of the understanding of the role of women as 'characters' within it. Notwith-

standing the rhetoric of the official UN statements, and their call for 'empowerment', women are repeatedly pictured as passive points of reference with serious concerns for the effectiveness of the UN policy itself and its implementation. Similarly, also when addressing the necessity of developing a new approach to accountability by "refocusing on the victim rather than on the perpetrator" (Freedman 2018, 985), the label put on women is always that of victims. Thus, considering how language constructs the reality itself, the choice of the words utilized plays a major role in perpetuating the status quo or bringing about societal change (Jorgensen and Phillips 2002). In fact, by depriving women of their sexual agency on the assumption that it is based on 'inherently unequal power relations', the Bulletin upholds a specific balance of power, a balance of power which looks backwards and not forward, thus risking prosecuting violence against women, defined and thus clearly acknowledged as "the manifestation of the historically unequal power relations between men and women" in the Beijing Platform for Action of 1995.

### 5. Where are the women in the UN Zero Tolerance Policy?

Looking eventually at the raw data, the major issue of the whole UN Zero Tolerance Policy is the fact that while record-keeping and data tracking of allegations of misconduct and subsequent actions started in 2006 (UN 2019) so far all the Secretary-General Reports on Special measures for protection from sexual exploitation and sexual abuse, so as the official Conduct and Discipline Unit website which presents all the statistics<sup>6</sup> on alle-

gations of SEA, and all other allegations of misconduct, do not contain any disaggregated data on victims on the basis of sex. The only distinction among victims is made between children (any victim under the age of 18) and adults. Thus, it is striking to observe how in a policy which, at this moment at least, mostly concerns women (and girls), women do not even exist. In fact, data which are categorized by reporting the sex of the victims of SEA can be found only in the Supplementary information to the report of the Secretary-General on special measures for protection from sexual exploitation and abuse (A/74/705), published in 2020, and in the Supplementary information to the report of the Secretary-General on special measures for protection from sexual exploitation and abuse (A/73/744), published in 2019, but exclusively in relation to allegations reported by the United Nations entities other than peacekeeping operations and special political missions. For all the previous years, only some sporadic glimpses on the sex of victims are mentioned by the Secretary-General reports. The overall policy, as outlined throughout this paper, not only lacks any critical consideration about gender but it completely fails to represent women in the collection of data on the victims of SEA, making consequently women just disappear. The text itself of the 2003 Bulletin keeps a standard gender-neutral tone which is abandoned only in the two aforementioned references to women as objects of "a particular duty of care" by UN forces and as part of "the most vulnerable populations". These mentions are rather superficial and void; apart from characterizing



women as victims of the phenomenon of SEA, they do not reveal any gender- or women-perspective. In fact, in the 2018 Report the Secretary-General mentioned a working group on SEA chaired by the Office of the Special Coordinator required to focus on the linkages among gender and SEA (UN General Assembly 2018, para. 10). Further, he underlined that the working group on SEA is preparing a study to analyse the causes and consequences of SEA from a gender perspective, so as to inform the development of strategies and responses to advance the Organization's broader goals on women's human rights, gender equality and women's empowerment (UN General Assembly 2018, para.21). As stated in the 2019 Report, though, this gender study on the causes of SEA, whose concept was finalized in February 2018, is currently ongoing. It is necessary to recognize that, even if it remains a very difficult task to distinguish between consensual sexual relationships and sexual exploitation in the context of peacekeeping missions characterized by peculiar power relationships and socioeconomic conditions in the interactions among UN peacekeeping personnel and local women (Simić 2009, 294), misconduct of a sexual nature is more likely to attract social condemnation than other kinds of misconducts thus compromising the winning of confidence from local communities which is crucial for the safety of UN personnel and the effectiveness of peacekeeping missions (Kanetake 2010, 209). Indeed, in June 2013, the UN Security Council, charged with the primary responsibility for the maintenance of international peace and

security, adopted a resolution (UN Security Council 2016) on women, peace, and security in which it requested "the Secretary-General to continue and strengthen efforts to implement the policy of zero tolerance on sexual exploitation and abuse by UN personnel and urges concerned Member States to ensure full accountability, including prosecutions, in cases of such conduct involving their nationals" (Ferstman 2013, 2). As the Security Council reiterates, sexual exploitation and abuse "have a detrimental effect on the fulfilment of mission mandates" (UN Security Council, 2005). Still, in 2018 the Security Council adopted another resolution (UNSCR 2436) on peacekeeping performance where it expressed "deep concern about the serious and continuous allegations and underreporting of sexual exploitation and abuse by United Nations peacekeepers" (UN Security Council 2018). Considering consequently, the necessity for the institution itself of combatting SEA, it is particularly problematic, not only to observe how in the official documents, which constitute the UN Zero Tolerance Policy, women only appear as empty signifiers, but also to acknowledge the limited reach of the solutions suggested by the UN so far. While, the 2017 Report states that an "increased numbers of women in peace operations also appear to lead to a decrease in the number of cases" (UN General Assembly 2017, para.24) which expresses a quite criticized essentialist approach based on a 'add women and stir' strategy, the overall approach is the banning of every possible contact between peacekeepers and locals and with members of at-risk populations, such as refugees and

internally displaced persons, who fall under UN protection mandates (UN General Assembly 2018, para.20), and of even any possible "fraternization" (Otto 2007b, 46). Indeed, according to the OIOS one factor that can contribute to SEA is "encouraging interaction between the military and the general Population" (UN Office of Internal Oversight Services 2005, para.44). In 2007 OIOS observed that the only contingent which effectively implemented measures designed to prevent SEA was the one which installed wire mesh within the military camp perimeter fencing to prevent direct contact between the peacekeepers and the local population, "a problem identified by OIOS in 2004" (UN Office of Internal Oversight Services 2007, para.17). Acutely, Simić points out that, considering operational effectiveness, isolating personnel from the local population by means of wire fencing is not an effective way to build a relationship of trust between the UN and local community (Simić 2009, 291). Thus, the disappearance of women, in terms of the consideration paid to their agency or in their position as the main victims of SEA, can be observed in the broader context of a policy which removes completely the local population from the scene in a logic which, requiring the total ban of any contact between peacekeepers and the local population, suggests to completely put apart the locals, perceived as tempting factors in the commission of these crimes rather than persons to be protected. A reasoning which gravely endangers the effectiveness of the mission, the protection of the victims, the efficacy of the policy of zero tolerance and the UN system itself.





## 6. Conclusions

If the individuals are rights-holders under the international human rights framework where the UN is required to be firmly placed and, furthermore, if the UN is working to implement a victim-centred approach, because SEA can only be eliminated by addressing the perpetrators while simultaneously considering the victims of them, it is not an effective approach to merely ban almost every kind of inte-

sex and, consequently, re-framing the concept of vulnerability, secondly it does not confront which these 'inherently unequal power relations' are. Indeed, while there is much talk about human rights, a view which gives the possibility to bring the emphasis on the individuals and their agency, this discussion is quite superficial and the dominant language is that of criminal law, an approach which is fundamental but which is not

makers too and thus "defined and shaped by men's interests and needs" (Sjoberg and Via 2010, 6). It is quite not of a divisive issue to agree with the considerations that the UN cannot but have a zero tolerance policy towards sexual exploitation and abuse, which must not be accepted (Oswald 2016, 164). This implies that "the UN cannot afford to dismiss this issue as being 'not necessarily a crime' or 'a matter of individual responsi-



raction among peacekeepers and the local population on the premise that they are based on "inherently unequal power dynamics" (UN Secretary-General 2003, para. 3.2). First of all, as examined, the narrative of the UN policy focuses on the dichotomy victims-perpetrators in addressing SEA without opening to any other narrative, such as the even remote possibility of considering the reality of free engagement in sex work and consensual

appropriate to change the status quo (Gardam 2019, 12), starting from the understanding of the situation of the persons involved. In fact, feminist scholars have underlined a "disconnection between symbolic woman-friendly policies and the results in women's lives": women are included in areas of global politics which are actually male dominated, such as the area of conflict(s) and security, in terms of public discourses and decision

bility", because sexual misconduct by peacekeepers" undermines the reputation of UN peacekeeping, a very important asset of the whole UN system (Kanetake 2010, 202). Still, in order to eradicate this plague, the first paramount step is to acknowledge women, starting from a different narrative and the adoption of a gender based approach articulated in a way that can be expected to influence policymaking at any stage.





Considering that the fundamental UNSCR 1325 which in 2000 introduced the Women, Peace and Security Agenda, requested the Secretary-General to include in his reporting to the Security Council “progress on gender mainstreaming throughout peacekeeping missions and all other aspects relating to women and girls” (UN Security Council 2000, para.17), a concept which has become central in the work of the whole UN system, in order to reach a gender perspective and particularly, in connection to addressing SEA, a women’s perspective, it is necessary to start by the preliminary step of actually collecting data to count the number of women. Only by doing this it will be possible to finally reach the point of being able to understand where the women, in the overall UN Zero Tolerance Policy, are. It is, therefore, prerequisite to begin with a disaggregated collection and publication of data according to sex, as a first step in changing the narrative on SEA in the UN Zero Tolerance Policy. When women appear in the policy, then a real gender analysis, jointly with a focus on the whole local population, can and has to be conducted. A gender-analysis on the causes and consequences of SEA which cannot limit itself at the border of acknowledging ‘inherently unequal power dynamics’ but which needs to walk through them and see what these power dynamics are and how do they interact, in a view able to see also the possibility of sexual agency and not only focusing on persons as ‘victims’. Furthermore, to give voice to women, it is particularly relevant the appointment in 2018 of the first Victims’ Rights Advocate, aimed at

prioritizing advocacy, engagement and consultations, whose role needs though to be fully supported, not only by effective Field Victims’ Rights Advocates, but by the whole UN system, starting from the completion of the gender study on the causes of SEA mentioned above.

#### PICTURES:

-United Nations  
-Pasqual Gorriz/UNIFIL  
-<https://www.youbabyandi.com/women-abuse/>

1. For instance, in the 62 allegations reported against personnel in UN PKOs in 2017 the overall 130 victims resulted to be women and girls, specifically 21 girls and 109 women (UN General Assembly 2018, para.62).
2. A question which has always characterized the specific feminist curiosity and has been asked through time by feminist scholars, see for example the work of Enloe (1990).
3. Likewise, this last report mentions that the Inter-Agency Standing Committee, created by the UN General Assembly resolution 46/182 in 1991, as the highest-level humanitarian coordination forum of the UN, revised in 2019 its six core principles relating to sexual exploitation and abuse to ban any sexual relationship between providers of humanitarian assistance and protection and beneficiaries, when involving improper use of rank or position (UN General Assembly 2020, 5).
4. As subsequently reiterated during the Beijing Platform for Action in 1995 (at para.113) and in the General Assembly Resolution on Violence against Women of 2007 (UN General assembly 2007, para.
5. Part of the homonymous Convention, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) adopted in 1979 by the United Nations General Assembly.
6. Available at: <https://conduct.unmissions.org/data>

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## SUPPORT FOR THE RO

## BY UNITED NATIONS POs

*Building capacities, extending  
State authority and fighting im-  
punity*

*By Stéphane Jean'*

### Introduction

The soldiers were lined up, in a rudimentary courtroom, facing their judges for the unspeakable crimes they had committed a year and a half earlier. On 5 May 2014, a Congolese military court convicted 26 personnel of the Armed Forces of the Democratic Republic of the Congo for the murders and rapes of at least 126 women, including 24 girls, in the town of Minova in the conflict-plagued province of North Kivu<sup>2</sup>. This was a landmark decision in the fight against impunity in a country that had faced decades of instability and massive human rights violations. Such

convictions would not have been possible without the leadership of Congolese military justice authorities and support from the Prosecution Support Cells of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO). In many ways, this case illustrates the critical importance of support from United Nations peacekeeping operations and special political missions ("peace operations") for the rule of law. Such support is essential to mitigate potential drivers of conflict (particularly where there is a desire for people to take justice in their own hands and a lack of trust between the population and state representatives); to improve the credibility, legitimacy, and accountability of state institutions in the eyes of the population; and to uphold human rights. These substantively contribute to improve security and stability in conflict-affected areas. Conversely,

the absence of justice directly fuels conflicts: the young man whose parents, friends or relatives were victimized may become a readily available recruit for illegal armed groups. A lack of justice, actual or perceived, is a direct cause of resentment, a major, and often underestimated, cause of conflict at both individual and societal levels<sup>3</sup>. Overall, supporting national rule of law institutions remains a major priority for the United Nations. In 2018, the General Assembly adopted a resolution that emphasized "the importance of adherence to the rule of law at the national level and the need to strengthen support to Member States, upon their request, in the domestic implementation of their respective international obligations through enhanced technical assistance and capacity-building in order to develop, reinforce and maintain domestic institutions active in the promotion of rule of law at





the national and international levels, subject to national ownership, strategies and priorities”<sup>4</sup>. This paper provides a brief overview of support for the rule of law by United Nations peace operations, with a focus on the development of national law enforcement, prosecutorial, judicial and corrections institutions (“justice institutions”) and access to justice. These justice institutions are key for preventing violence and fighting impunity in conflict and post-conflict societies.

### Conceptual approaches

#### *Doctrine*

Justice and the rule of law are closely related, but different, concepts. Fundamentally, justice can be conceived as a principle in which individuals are held accountable for their actions. It is intrinsically a form of fairness<sup>5</sup> and a central tenet of the social contract in societies, particularly from the perspective of the state’s asserted monopoly on the use of violence. An actual or perceived impartial justice system can

dissuade citizens from resorting to violence.<sup>6</sup> The fundamental assumption is that one’s security is guaranteed and punishment will be imposed on those who damage the safety of others, or their property. Deterrence from breaking the law is key and acts as a disincentive to destabilizing the social order. The United Nations approaches the concept of justice in conflict and post-conflict societies as “an ideal of accountability and fair-

ness in the protection and vindication of rights and the prevention and punishment of wrongs”<sup>7</sup>. Such notions are exacerbated in countries hosting peace operations. Furthermore, the rule of law functions as a medium for achieving justice, at both societal and individual levels<sup>8</sup> as well as an end in itself. Remarkably, there is no agreed international definition of justice or the rule of law. The United Nations views the rule of law as a principle of governance<sup>9</sup>. From this perspective, the rule of law is a broad and systemic



DEMOCRATIC REPUBLIC OF THE CONGO  
Graduation ceremony for personnel of the Congolese National Police trained by MONUC (Source: United Nations, 19 July 2006)

## IN THE CONTEXT OF PEACE OPERATIONS, ACTIVITIES IN SUPPORT OF THE RULE OF LAW HAVE LARGELY BEEN FOCUSED ON SUPPORT TO HOST-COUNTRIES FOR THE DEVELOPMENT OF THEIR LAW ENFORCEMENT, PROSECUTORIAL, JUDICIAL AND CORRECTIONS INSTITUTIONS

concept which encompasses: constitutional and legislative reform; the development of law enforcement, prosecutorial, judicial and corrections institutions, as well as civil and commercial dispute mechanisms; and the promotion of good governance. In the context of peace operations, activities in support of the rule of law have largely been focused on support to host-countries for the development of their law enforcement, prose-

cutorial, judicial and corrections institutions. Both in terms of personnel deployed, and funds disbursed, this has remained by far the largest engagement of the United Nations in the rule of law sector. Currently, more than 11,000 police, justice or corrections personnel are providing such support in 17 peace operations.

#### *United Nations Sustainable Development Goals*

At the strategic level, the engagement of Member States of the United Nations in support of the rule of law is informed by national and international justice and human rights norms and standards. Central to this engagement is the ‘Sustainable Development Goals’ agenda designed as a global plan





DEMOCRATIC REPUBLIC OF THE CONGO

Military court hearing in North Kivu organized with advisory, security and logistic support from MONUSCO and other partners (Source: United Nations, 5 September 2013)

of action “for people, planet and prosperity” that “seeks to strengthen universal peace in larger freedom”<sup>10</sup>. This strategic endeavour for the international community covers a broad range of social, economic and environmental development issues, with tangible objectives to be achieved by 2030. Such goals are “global in nature and universally applicable, taking into account different national realities, capacities and levels of development and respecting national policies and priorities”<sup>11</sup>. Member States have also specifically committed to “foster peaceful, just and inclusive societies which are free from fear and violence” and noted that “there can be no sustainable development without peace and no peace without sustainable development”<sup>12</sup>. Sustainable Development Goal 16 aims to “promote peaceful and inclusive societies for sustainable

development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”<sup>13</sup>. This goal pertains primarily to the rule of law<sup>14</sup> and includes a total of 12 targets and 23 indicators which have been agreed upon by the Member States<sup>15</sup>. These targets cover a broad range of rule of law and security issues, based to a very large extent on existing international and regional criminal justice and human rights norms and standards. The targets include: a reduction in all forms of violence and related death rates; the promotion of the rule of law and access to justice; a reduction in corruption and bribery in all its forms; the development of effective, accountable and transparent institutions; and a reduction of illicit financial flows. Progress towards these targets is measured through specific indicators including: the intentional homicide rate; victimi-

zation reporting; the percentage of unsentenced detainees as a proportion of overall prison population; and the total value of inward and outward illicit financial flows.

**Strategic and operational aspects for support**

*Nature of mandates*

The most common political and legal instrument that authorizes the deployment of a peace operation, and outlines its mandate, is a Security Council resolution. Resolutions are adopted by the United Nations Security Council as part of its primary responsibility for the maintenance of international peace and security<sup>16</sup>. In 2018, the Security Council adopted a resolution which underscored “the importance of integrating UN support to police, justice and corrections areas into the mandates of peacekeeping operations and special political missions from the outset, as necessary, to assist national governments in the re-establishment or restoration of police, justice and corrections services to support achievement of peacekeeping operations and special political missions’ strategic goals, where and as mandated, and to address the root causes of each conflict, including through strengthening the rule of law at national and international levels”<sup>17</sup>. In the same resolution, the Security Council called on “Special Representatives of the Secretary-General and on Resident Coordinators, as appropriate, to ensure, when United Nations Peacekeeping operations or special political missions are mandated, full coherence of police, justice and corrections assistance, avoid fragmentation and maximize integration of efforts, including through joint work”<sup>18</sup>.





Peace operations in support of the rule of law in hosting countries are governed by a resolution or a similar authorization emanating from the Security Council. Such mandates, insofar as they relate to justice institutions, fall within three broad categories: 1) executive; 2) development support; and 3) direct security support. All have the objective of building national capacities and extending the authority of the State with a view to prevent violence and fight impunity. At its core, therefore, are political and security objectives. Conceptually, this assistance is provided primarily from the perspective of reinforcing the criminal justice chain, i.e. the fundamental linkages between arrest, prosecution, adjudication and detention, a central component for stabilization and security in conflict and post-conflict contexts. It should be emphasized that such mandates are always in support of political and security objectives of the Security Council. In the first category, a limited number of peacekeeping operations were given authorization in the past to exercise functions in the justice and security sectors, akin to the responsibilities entrusted to national institutions. This was the case with peace operations in West New Guinea (1962-1963), Kosovo (1999 to 2008) and Timor-Leste (1999-2004 and 2006-2012). In each, United Nations police officers were given the authority to arrest, detain and search individuals, and conduct investigations, in a similar capacity as national law enforcement officials. In addition, in Kosovo international judges, prosecutors and corrections personnel were deployed with similar executive functions in their realm of work. In the second category, peace

operations are given broad responsibility to provide support for the development of justice institutions. This is done through specialized advisors, mentors and trainers who are often co-located with their national counterparts. In the case of peacekeeping operations, programmatic funding, including for the refurbishment of facilities, training programmes or the provision of equipment, is often made available through budgetary resolutions of the General Assem-

They also perform other operational functions that require a formed response or specialized capacities including canine handling, close protection, crime analysis, forensics, investigation, special weapons and tactics (SWAT), guard units and riverine policing<sup>19</sup>. In some specific instances, such as with the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), individual police officers or corrections person-



DEMOCRATIC REPUBLIC OF THE CONGO  
Support from MONUSCO for the refurbishment of the Offices of the Public Prosecutor in Lubumbashi (Source: United Nations, 29 June 2017)

bly. Whilst the specific formulation may vary, this is by far the most common type of such mandate. In the third category, peace operations provide direct security support to national institutions. This is primarily done through the deployment of Formed Police Units. Such units assist national law enforcement agencies in the performance of their functions, particularly in regard to crowd-management.

nel have also been authorized to provide direct security support to national counterparts as part of their mandated responsibilities.

*Guidance of the Secretary-General*  
In 2008, the United Nations Secretary-General issued a guidance note on the Organization's approach to rule of law assistance<sup>20</sup>. This guidance was largely driven by the United Nations growing



engagement at the time in providing support to countries hosting peace operations. Eight guiding principles for assistance by the United Nations were outlined therein: 1) base assistance on international norms and standards; 2) take account of the political context; 3) base assistance on the unique country context; 4) advance human rights and gender justice; 5) ensure national ownership; 6) support national reform constituencies; 7) ensure a coherent and comprehensive strategic approach; and 8) engage in effective coordination and partnerships. This document also identifies six fundamental elements in the framework for strengthening the rule of law: 1) a constitution or equivalent; 2) a legal framework and the implementation thereof; 3) an electoral system; 4) institutions of justice, governance, security and human rights; 5) transitional justice processes and mechanisms; and 6) a public and civil society that contributes to strengthening the rule of law and holds public officials and institutions accountable. In 2012, the Secretary-General issued a decision on rule of law arrangements in the United Nations system<sup>21</sup> in which heads of peace operations were designated as responsible and accountable for guiding and overseeing United Nations rule of law strategies, resolving political obstacles and for coordinating United Nations country support on the rule of law<sup>22</sup>. In addition, the Department of Peace Operations and the United Nations Development Program-

me are designated as the Global Focal Point for country-level assistance to police, justice and corrections institutions in post-conflict and other crisis situations. These entities have a responsibility to ensure a coherent and coordinated approach to such assistance from

In addition to its co-chairs, the Global Focal Point mechanism is comprised of representatives from the Executive Office of the Secretary-General, the Office of the High Commissioner for Human Rights, the United Nations High Commissioner for Human Rights, the Uni-



DEMOCRATIC REPUBLIC OF THE CONGO  
Military court hearing in the province of North Kivu (Source: United Nations, 12 March 2020)

the United Nations system, including other departments, agencies, funds and programmes. They

ted Nations High Commissioner for Refugees, the United Nations Office on Drugs and Crime, the

**PEACE OPERATIONS IN SUPPORT OF THE RULE OF LAW IN HOSTING COUNTRIES ARE GOVERNED BY A RESOLUTION OR A SIMILAR AUTHORIZATION EMANATING FROM THE SECURITY COUNCIL**

United Nations Office for Project Services and UN Women. Most recently, the Secretary-General noted that the “Global Focal Point partners have sparked innovative and

are accountable and responsible for country-level requests with timely and quality assistance in terms of “global knowledge, people and advice on assessments, planning, funding and partnerships”<sup>23</sup>.

cost-neutral changes in the way United Nations entities collaborate, as its core operational modality consists in pooling existing expertise and resources spread across various entities” and that this cre-







HAITI  
Haitian National Police officers are pictured prior to a security operation in Croix-des-Bouquets (Source: United Nations, 17 September 2010)

ated “a more coherent, gender responsive, efficient and field-driven United Nations rule of law service delivery platform, including by resolving interoperability challenges and advocating for the use of sustainable financial resources”<sup>24</sup>.

#### *Internal doctrine of peace operations*

Activities of peace operations in support of justice institutions, and access to justice, are based on guidelines, directives, standard operating procedures and other issuances from the Department of Peace Operations (for peacekeeping operations), the Department of Political and Peacebuilding Affairs (for special political missions), the Department of Operations Support and the concerned mission. National law enforcement institution guidance is provided for support for: the census, identification, vetting and certification of personnel, policy formulation; outreach; the modalities for training and advisory support; budget and human resources management; and the development of accountability me-

chanisms<sup>25</sup>. This is part of a broader Strategic Guidance Framework for International Policing (SGF), which has been developed by the Department of Peace Operations in consultation with Member States. In the case of assistance to host countries’ prosecutorial and judicial institutions, and for access to justice, there is specific guidan-

ce covering support inter alia for: basic justice delivery; criminal investigations and prosecution of serious crimes; the efficiency and effectiveness of the judiciary; strategic reform of the rule of law architecture; mapping and assessing national justice systems; missions plans and strategic frameworks; the modalities for mentoring, advising and training of national justice personnel; and the composition and structure of justice components in the field<sup>26</sup>. In the areas of corrections, detailed guidance has been issued with regard to support inter alia for: mapping and assessing prison systems; the development and implementation of national strategies; strategic policy and planning; leadership, management and administration; life sustaining services; prison security; infrastructure; addressing prison overcrowding and prolonged and arbitrary detention; and the mobilization of resources<sup>27</sup>. Specific assessments tools have also been developed to evaluate



HAITI  
Women’s Prison in Pétionville (Source: United Nations, 9 May 2012)



justice institutions, including progress or lack thereof in their development over time. The most comprehensive of such tools is the *United Nations Rule of Law Indicators Implementation Guide and Project Tool*<sup>8</sup>, which was issued in 2011 and endorsed by all major United Nations entities involved in rule of law assistance. This particular instrument comprises 135 indicators for assessing the capacity, performance, integrity, transparency and accountability of these institutions and how they treat vulnerable social groups. It is based on multiple data sources including public perception and expert surveys, documentation reviews, administrative data and field observations data. It was implemented to-date in Afghanistan, Haiti, Liberia and South Sudan.

From a strategic and programmatic perspective there is a growing realization, including through the Sustainable Development Goals agenda, of the importance of having a data-driven approach for support to security and justice institutions through the use of empirically-validated tool. This is critical, both for a basic understanding of the functioning of these institutions, and the

impact of their performance, and for evaluating progress, or the lack thereof, over time. Similarly, there is an increased focus on the quality and efficiency, as opposed to the numbers, of police, justice and corrections experts deployed. The overall internal doctrine of peace operations is also informed by the agenda of the United Nations in other key related aspects of the work of the Organization. This includes, notably, the United Nations strategic plans and ini-

justice and security institutions, job creation and the prevention and mitigation of cycles of violence<sup>29</sup>. This is certainly the case in conflict and post-conflict societies. Leadership at the State level and a clear vision are critical for developing justice institutions. In contrast, the absence of leadership and/or resistance to reform by key stakeholders can constitute significant or insurmountable obstacles for meaningful development<sup>30</sup>. The time required for the funda-

mental reform of justice institutions, including changing mindsets and expectations of the population, can be measured in decades. As such, there is an inherent tension between this timeframe and the mandate of most peace operations, which are generally renewed on an annual basis. These challenges are exacerbated



HAITI  
Personnel from the Bangladesh all women Formed Police Unit of MINUJUSTH in Miragoâne  
(Source: United Nations, 30 October 2018)

ted by the fact that, as a result of conflict, justice institutions may have collapsed and required to be rebuilt *ex nihilo*. This typically comes in a context where financial and human capital is limited and the State and its international partners have to manage and reconcile competing budgetary priorities, including in the security, health and education sectors.

tiatives related to gender equality, the prevention of violent extremism and counter-terrorism, migration and juvenile justice.

### *Key challenges and opportunities*

In a landmark report issued in 2011, the World Bank demonstrated, through detailed data and thorough analysis, critical links between the strengthening of ju-

ted by the fact that, as a result of conflict, justice institutions may have collapsed and required to be rebuilt *ex nihilo*. This typically comes in a context where financial and human capital is limited and the State and its international partners have to manage and reconcile competing budgetary priorities, including in the security, health and education sectors.





In the particular case of judicial institutions, the political and economic elite may be satisfied with the ways that they operate. Corruption and patronage often serves vested key interests for those in power who may want to maintain the *status quo*. In addition, the reform of these institutions fundamentally affects the balance of power within the State, and there is often little political will to empower the judicial branch of the Government. Most critically, perhaps, the absence of a tradition of an independent judiciary can constitute a fundamental cultural obstacle for reform. The prevalence of non-state or traditional justice systems can also in some circumstances be viewed as a more credible and legitimate alternative to formal justice institutions<sup>37</sup>. Furthermore, prison reform is rarely considered as a major priority and those detained tend to be amongst the most disenfranchised individuals in society. Hence, the prevalence of inhumane detention in many such circumstances. There are, however, several opportunities for reform in conflict and post-conflict societies. Peace agreements and constitutional reform initiatives, in conjunction with adequate leadership at the highest political level, can provide genuine reform. The fact that institutions may need to be re-built *ex nihilo* as a result of the conflict, also creates opportunities for the vetting, selection, recruitment and training of a new generation of personnel. This is particularly important for individuals at the helm and mid-management level of these institutions. The appointment of qualified, well-trained personnel, in conjunction with the establishment of adequate administrative support mechanisms can be a unique



HAITI  
Court hearings in Port-au-Prince, focused on gender justice issues, organized with support from MINUJUSTH (Source: United Nations, 8 March 2018)







**KOSOVO**

Security Council adopts its resolution 1244 authorizing the establishment of the United Nations Interim Administration Mission in Kosovo (Source: United Nations, 10 June 1999)

opportunity for reform. This, along with the establishment of functional internal and external accountability and disciplinary institutions, can create a new paradigm.

**Field engagements**

*General*

As of 1 October 2019, there were approximately 11,000 police, 245 justice and 434 corrections personnel deployed in 17 peace operations<sup>32</sup>. This is out of an overall presence at that time of more than 100,000 United Nations personnel in such operations, most of whom were military member of national contingents. Whilst police, justice and corrections personnel only represented approximately 10% of overall deployments in peace operations at that time, their activities were and remain critical for the achievement of sustain-

able peace and security, and the successful implementation of the mandate of these missions. Resolution 2447 of the Security Council specifically emphasized that assistance should be provided “to police, justice and corrections institutions in peacekeeping operations and special political missions on both the rapid re-establishment of essential services to respond to people’s justice and security needs, and longer term institutional reform based on transparency, efficiency and sustainability”<sup>33</sup>.

*Case study 1 – The Democratic Republic of the Congo*

The United Nations Operation in the Congo (ONUC), deployed between 1960 and 1965, was one of the first major peacekeeping operations of the Organization. The mandate of ONUC al-

lowed its personnel to use force to achieve its objectives. It was also, arguably, the first peace operation with a substantive rule of law component, through the deployment of formed police units from Ghana and Nigeria. In 1999, the Security Council established the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), primarily as a good offices and military observation mission. Subsequently, the Security Council authorized the deployment of police personnel with MONUC<sup>34</sup>. Such personnel, who first deployed in October 2001, were primarily tasked with the preparation of an assessment of policing institutions in the country as well as liaison functions with their Congolese counterparts. The mandate of the police component of MONUC was expanded over the years to include aspects related to support to the Congolese National Police for the deployment of its personnel in conflict-affected areas (Kisangani and the Ituri) as well as for the establishment of security arrangements in Kinshasa and electoral security<sup>35</sup>. Given the critical importance of support to justice and corrections institutions, MONUC established its rule of law component in 2004. MONUC was replaced in 2010 by MONUSCO. The mandate of this mission included an increased focus on the protection of civilian and the strengthening of state institutions in conflict-affected areas, primarily in North Kivu, South Kivu and the Ituri. The Security Council also authorized the deployment of the Prosecution Support Cells (PSCs), an innovative mechanism mandated to assist Congolese military justice au-







**KOSOVO**  
Secretary-General Kofi Annan meeting with Police cadets being inducted into the Kosovo Police Service (Source: United Nations, 19 November 2002)

other strategic priorities. This included security support through the deployment of formed police units and training and advising on specific technical areas (eg. crowd-management and community policing). Advice was also provided for the development of a national justice reform strategy and an Action Plan (2018-2022), including aspects related to oversight and accountability. Technical assistance was provided to reduce arbitrary and prolonged detention in conflict-affected areas. MONUSCO also assisted national authorities in the development and implementation of the Prison Biennial Plan (2019-2021), and for improving security and access to food and health services in key detention centres.

thorities in their efforts to bring perpetrators of war crimes and other serious crimes to justice<sup>36</sup>. Between 2011 and 2019, the PSCs provided assistance to Congolese authorities in relation to 940 cases that resulted in 1,260 convictions and sentences for serious crimes, including homicides and sexual assaults. The PSCs are comprised of multi-disciplinary teams of experts including +international police, prosecutors and judges. The trials in such cases often took place close to the locations where the crimes were committed and, as such, demonstrated the willingness of Congolese authorities to ensure accountability for such acts. Remarkably, in 2019, approximately 133 soldiers of the Armed Forces of the Democratic Republic of the Congo (FARDC), 113 national police and 59 members of armed groups were convicted for human rights violations and abuses<sup>37</sup>. In addition to these efforts, speci-

fic assistance was provided to the Congolese National Police for the vetting and certification of its personnel and the implementation of

#### *Case study 2 – Haiti*

United Nations peace operations have been extensively involved in the provision of support to the Haitian National Police (HNP),



**KOSOVO**  
A student officer at the Kosovo Centre for Public Safety, Education and Development (Source: United Nations, 21 March 2007)



## INTERNATIONAL CRIMES: ROLE OF POs IN ASSURING JUSTICE

as well as national prosecutorial, judicial and corrections institutions for 24 of the last 27 years in Haiti. The United Nations Stabilization Mission in Haiti (MINUSTAH), which was deployed from 2004 to 2017, had a particularly important role for the re-establishment of justice institutions after the February 2004 political crisis and collapse of the HNP. It also played a key role for humanitarian assistance and recovery after the January 2010 earthquake.

ments, notwithstanding the important political and security challenges faced by the country during this period. By 2019, it had assisted Haitian authorities in: increasing the HNP by 10% compared to 2017, up to 15,400 personnel; reducing the number of detainees held in pre-trial detention; certifying four prisons based on international standards; promulgating a new legal aid law; and achieving an increase of 300% in the same-day processing of cases in

impunity and a challenge to good governance<sup>40</sup> and that “extreme overcrowding and poor hygiene conditions” in most prisons facilities contributed to “health problems, which are compounded by irregular food deliveries and a shortage of medical staff and medication<sup>41</sup>. Recognizing the importance of these challenges, the Security Council authorized the deployment of the United Nations Integrated Office in Haiti (BINUH) in October 2019. This mission is mandated inter alia to assist the Government of Haiti in its efforts to “reinforce the capacity of the Haitian National Police”, “strengthen the justice sector” and “improve penitentiary administration<sup>42</sup>. This successor mission to MINUJUSTH has been actively providing support in these areas since its inception. Specific benchmarks, indicators, targets and baselines were also developed for the implementation of its mandate including for: an increase in government investment to sustain and further develop the Haitian National Police; improving oversight and accountability mechanisms for police, justice and corrections institutions; certifying prisons based on international standards; and reducing unsentenced detainees as a proportion of the overall prison population<sup>43</sup>. Overall, while progress towards building the capacity and integrity of the Haitian National Police since 2004 has been significant, the development of Haitian justice and corrections institutions remains a serious challenge. According to most observers, this is primarily due to the lack of genuine political will for reform. While substantive investments were made in the past decades by the United Nations and other international partners



MALI  
A guard at a prison in Gao (Source: United Nations, 14 February 2018)

The United Nations Mission for Justice Support in Haiti (MINUJUSTH) was the last peacekeeping operation deployed in the country. It was a transition mission between a large peacekeeping operation and a special political mission and had a comprehensive mandate in support of Haitian justice institutions. During its deployment from 2017 to 2019, MINUJUSTH provided extensive support to Haitian authorities in the rule of law sector and had some significant achieve-

ments, notwithstanding the important political and security challenges faced by the country during this period. By 2019, it had assisted Haitian authorities in: increasing the HNP by 10% compared to 2017, up to 15,400 personnel; reducing the number of detainees held in pre-trial detention; certifying four prisons based on international standards; promulgating a new legal aid law; and achieving an increase of 300% in the same-day processing of cases in





in support of these institutions, the sustainability of these efforts has proven elusive in the absence of a social contract in this regard, and willingness for change. The adoption of a new criminal code and criminal procedure code in June 2020 is seen by many observers as an opportunity to initiate fundamental changes. However, this will only take place if clear political and economic incentives are in place for progress towards a new paradigm. Similarly, the potential politicization of the police could seriously undermine this institution, and could act as a de-stabilizing factor, as was the case between 2001 and 2004. As in many other contexts, political and economic incentives, and leadership at the highest-level, are keys for the sustainability of achievements. In addition, social and economic factors, particularly youth unemployment and corruption, have a fundamental role for the continued security and stability of the country.

### *Case study 3 – Kosovo*

The United Nations Interim Administration Mission in Kosovo (UNMIK) was deployed in June 1999, in the immediate aftermath of the conflict between the North Atlantic Treaty Organization, the Federal Republic of Yugoslavia and local armed groups. Under Security Council resolution 1244, the mission was given a broad mandate for performing “basic civilian administrative functions where and as long as required”, “organizing and overseeing the development of provisional institutions for democratic and autonomous self-government” and “maintaining civil law and order, including establishing local police forces and meanwhile through the de-



#### MALI

Heavy artillery holes on the walls of what was once the Justice Court of Gao (Source: United Nations, 29 August 2013)

ployment of international police personnel to serve in Kosovo”<sup>44</sup>. As a result of the conflict, justice institutions had to be reconstructed ad nihilo. As a provisional measure, more than 3,700 international police, justice and corrections experts were deployed by May 2000, in essence to fill the rule of law vacuum. By this time, the mission had managed to train 794 Kosovo Police officers, appoint more than 400 judges, prosecutors and lay judges and employ 350 local correctional officers, all from the different communities of Kosovo<sup>45</sup>. This was a major achievement, given the extraordinarily challenging political, security and humanitarian circumstances under which UNMIK was deployed. In the following years, UNMIK had a lead role in the establishment of the Kosovo Police Service as well as prosecutorial and judicial institutions and the Kosovo Corrections Service. This was done in support of

Kosovo stakeholders and in close cooperation with other international partners. By 2004, it was estimated that Kosovo’s justice institutions were comparable for the most to their counterparts in the region<sup>46</sup>. Following Kosovo’s declaration of independence, UNMIK was restructured in 2008 and its rule of law executive tasks were transferred to the European Union Rule of Law Mission in Kosovo (EULEX). The authorities of Kosovo had already assumed by that time most of the earlier UNMIK responsibilities in the area of rule of law. From 2016 onward, UNMIK initiated new programmes in the rule of law sector in support of key priorities of Kosovo’s authorities. This was done as part of a joint approach with other United Nations entities involved in the rule of law sector, and in complement of initiatives from other international partners including the European Union and the United States.



## INTERNATIONAL CRIMES: ROLE OF POs IN ASSURING JUSTICE

Specific assistance was provided in regard to counter-terrorism financing, anti-money laundering programmes, international law enforcement assistance, case management, legal aid, the certification of documents and the prevention of radicalization in prisons. While significant progress has been achieved, important challenges remain in regard to the capacity, integrity and performance of Kosovo's justice institutions. In 2004, the United Nations assessed that "judges and prosecutors of the Kosovo judiciary had faced a certain amount of pressure in specific circumstances, particularly in cases involving members of Kosovo's minorities, terrorism and organized crime, and that this impacted strongly on their ability to remain independent and impartial"<sup>47</sup>. This has remained a challenge ever since. As noted in a 2019 report of the European Commission, "the judiciary is still vulnerable to undue political influence" and "the administration of justice remains slow and inefficient and rule of law institutions need sustained efforts to build up their capacities"<sup>48</sup>. At the same time, most observers would concur that Kosovo's justice institutions compares quite favourably to other institutions in conflict and post-conflict societies.

### *Case study 4 – Mali*

As a result of the 2012-2013 conflict, rule of law and security institution in northern Mali had all but collapsed. Personnel from Malian law enforcement, judicial and corrections institutions left the region during this period and illegal armed groups established parallel institutions in areas under their control. It was in this context that the United Nations Multidimension-

al Integrated Stabilization Mission in Mali (MINUSMA) was created in April 2013. One key aspect of its mandate was to support the restoration and extension of state authority, and the extension of the rule of law in northern Mali<sup>49</sup>.

dition, a total of 2,026 gendarmes and police officers were deployed by that date in the north, compared with 469 in 2012<sup>51</sup>. This was achieved in the midst of significant security challenges and a notable increase during this period in ter-



By June 2014, five tribunals and five prisons in the north had re-opened with extensive assistance of MINUSMA<sup>50</sup>. This represented more than half of such institutions compared to prior to the 2012 crisis. In ad-

dition, a total of 2,026 gendarmes and police officers were deployed by that date in the north, compared with 469 in 2012<sup>51</sup>. This was achieved in the midst of significant security challenges and a notable increase during this period in ter-





enforcement and justice services, and the operations of prisons, in northern and central Mali. Given developments on the ground, MINUSMA was specifically mandated “to help ensuring the effectiveness of justice and corrections officials

as well as Malian judicial institutions, particularly regarding the detention, investigation and prosecution of individuals suspected of, and sentencing of those found responsible for terrorism-related crimes, mass atrocities and trans-

national organized crime activities (including trafficking in persons, arms, drugs and natural resources, and the smuggling of migrants)”<sup>52</sup>. Dedicated support was also provided for the strengthening of national law enforcement and strategies for justice reform, as part of the 2015 Peace Agreement. By early 2020, 16 of the 19 tribunals in the North and Centre regions were partially operational despite the deteriorating security situation and approximately 82% of judicial personnel were re-deployed in March 2020<sup>53</sup>. Similarly, there was a significant increase in the past years in the presence of Malian law enforcement personnel in conflict affected areas in the north and centre of the country, with support from MINUSMA. It should particularly be noted that MINUSMA provided increased assistance in recent years to the Malian Specialized Judicial Unit to Combat Terrorism and Transnational Organized Crime (PJS) in its investigations and in scaling up its criminal analysis and case management capacity. As noted in a letter of the Secretary-General to the Security Council, as of 20 May 2020 a total of 618 cases were being investigated by the Unit, including 319 terrorism cases and 77 transnational organized crime cases<sup>54</sup>. As of December 2019, 60 individuals charged for terrorism-related crimes had been brought to trial by the PJS before the Criminal Court of Bamako, leading to 51 convictions. Nevertheless, Mali continues to face important political and security challenges. In 2020, there was a significant increase in terrorist-related crimes in the north and inter-community violence in the Centre. Whilst the mandate of



MALI  
Member of a formed police unit of MINUSMA in Gao (Source: United Nations, 15 May 2014)



MINUSMA remains geographically focused on conflict and post-conflict areas, the challenges faced by Malian law enforcement, judicial and corrections institutions are deep and widespread. These include the limited confidence of the Malian population in these institutions –in part due to the prevalent impunity for serious crimes and limited inclusivity-, structural problems related to their capacity, integrity and performance, as well as their absence from key conflict-affected areas that remain under the control of non-state armed groups. These challenges are further compounded by the deterioration of the social and economic situation throughout the country, and political instability in Bamako, culminating with the military coup and ousting of President Keïta and his government on 18 August 2020.

### Conclusion

This paper provides a succinct overview of one critical area of the United Nations support for rule of law assistance. Based on experience to-date of peace operations, some key lessons-learned have emerged. This included, first, the importance for the United Nations in having an inclusive and collaborative approach for such assistance, based on national plans and priorities with adequate human and financial resources for mandate implementation. Secondly, any initiative should be informed by, and in support of, clear political and security objectives. The reform of justice institutions is rarely a purely technical matter. Thirdly, an incremental approach can be useful, by building momentum in specific sectors that can act as a model for other areas. Fourthly, such initiatives are always a long-term ende-

avour which requires a significant investment in human and financial capital, often in the midst of other important competing priorities. Lastly, and most importantly, leadership is key. It is critical to have a clear vision, at the highest level of the state, which can instill changes in the mindset of all segments of the population, towards a culture of respect for the rule of law.

PICTURES:  
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1. The views expressed herein are those of the author and do not necessarily reflect the views of the United Nations.
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5. John Rawls, *A Theory of Justice*, 1971.
6. Jared Diamond, *The world until yesterday*, 2012, pages 97 and 98.
7. Report of the Secretary-General, *The rule of law and transitional justice in conflict and post-conflict societies*, 23 August 2004, S/2004/616, paragraph 7.
8. Randy E. Barnett, *Can Justice and the Rule of Law Be Reconciled?*, Foreword to the "Symposium on Law and Philosophy," 11 *Harvard Journal of Law and Public Policy* 597 (1988), pages 598-599.
9. The then United Nations Secretary-General noted in 2004 that concepts such as justice and the rule of law "serve both to define our goals and to determine our methods". He further noted that the rule of law is "is a concept at the very heart of the Organization's mission" that it "...refers to a principle of governance in which

all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards" and "requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency" (see: Report of the Secretary-General, *The rule of law and transitional justice in conflict and post-conflict societies*, supra, paragraph 6)

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11. Idem, paragraph 55.
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24. Report of the Secretary-General, *Strengthening and coordinating United Nations rule of law activities*, A/74/139, dated 11 July 2019, paragraph 80. As of 2020, the Global Point had conducted at least 51 joint assessment missions, completed 42 deployments of experts in 15 countries and supported the development





- 10 joint United Nations programmes (see: [https://peacekeeping.un.org/sites/default/files/gfp\\_factsheet.pdf](https://peacekeeping.un.org/sites/default/files/gfp_factsheet.pdf)). See also the 2018 Declaration of Shared Commitments on UN Peacekeeping Operations, whereas the Secretary-General committed to “seek greater coherence among UN system actors including through joint platforms such as the Global Focal Point on Police, Justice and Corrections” (paragraph 16, available at: <https://peacekeeping.un.org/sites/default/files/a4p-declaration-en.pdf>).
25. United Nations Department of Peacekeeping Operations and Department of Field Support, *Guidelines on Police Capacity-Building and Development*, 1 April 2015 (available at: [https://police.un.org/sites/default/files/sgf-guidelines\\_police\\_cbd-2015.pdf](https://police.un.org/sites/default/files/sgf-guidelines_police_cbd-2015.pdf)).
  26. United Nations Department of Peacekeeping Operations and Department of Field Support, *Policy on Justice Support in United Nations Peace Operations*, 1 August 2016 (available at: [https://peacekeeping.un.org/sites/default/files/2016\\_policy\\_justice\\_support\\_in\\_un\\_peace\\_operations.pdf](https://peacekeeping.un.org/sites/default/files/2016_policy_justice_support_in_un_peace_operations.pdf)).
  27. See: United Nations Department of Peacekeeping Operations and Department of Field Support, *Policy on Prison Support in United Nations Peace Operations*, 1 September 2015 (available at: [www.friendsofcorrections.com](http://www.friendsofcorrections.com)). In practice, prison support also involves helping national authorities recruit and train prison staff, support development of prisoners’ vocational training programmes, rehabilitation and reintegration initiatives and the development of alternatives to incarceration. In some instances, missions are further mandated to operate detention facilities (in South Sudan) or to have a quasi-executive role in support of national authorities in their oversight of prisons (in the Central African Republic). All these activities aim to make the prison institutions safe, secure and humane in accordance with national and international criminal justice and human rights norms and standards.
  28. Available at: [https://www.un.org/en/events/peacekeepersday/2011/publications/un\\_rule\\_of\\_law\\_indicators.pdf](https://www.un.org/en/events/peacekeepersday/2011/publications/un_rule_of_law_indicators.pdf).
  29. World Bank, *World Development Report 2011: Conflict, Security and Development*, 2 June 2011.
  30. See: Stéphane Jean, *Leadership and the rule of law in conflict and post-conflict societies*, supra.
  31. In a few instances missions have provided support to customary justice mechanisms. This was the case, for example, in Darfur (see: <https://unamid.unmissions.org> and Special report of the Chairperson of the African Union Commission and the Secretary-General of the United Nations on the African Union-United Nations Hybrid Operation in Darfur, S/2020/202, dated 12 March 2020, paragraphs 31 and 32)
  32. In Abyei (UNISFA), Afghanistan (UNAMA), the Central African Republic (MINUSCA), Colombia (UNVMC), Cyprus (UNFICYP), Darfur (UNAMID), the Democratic Republic of the Congo (MONUSCO), Guinea-Bissau (UNIOGBIS), Haiti (MINUJUSTH), Kosovo (UNMIK), Lebanon (UNIFIL), Libya (UNSMIL), Mali (MINUSMA), Somalia (UNSOM), South Sudan (UNMISS), Western Sahara (MINURSO) and Yemen (UNMHA).
  33. Supra, paragraph 4.
  34. See: Security Council resolution 1355, *The Democratic Republic of the Congo*, S/RES/1355 (2001), dated 15 June 2001.
  35. For an analysis of the role of MONUC and challenges during this period related to policing and the rule of law in the Democratic Republic of the Congo see: Colonel Mamadou Gueye Faye and Stéphane Jean, *Police reform in the Democratic Republic of the Congo in Providing Security for People: Security Sector Reform in Africa*, Global Facilitation Network for Security Sector Reform, 2003. For a broader analysis on security sector reform in Africa during this period see: Stéphane Jean, *Security Sector Reform and Development: an African perspective*, Security Dialogue, 30 June 2005.
  36. Under paragraph 12 (d) of its resolution 1925, S/RES/1925(2010), dated 28 May 2010, the Security Council mandated MONUSCO to “Support national and international efforts to bring perpetrators to justice, including by establishing Prosecution Support Cells to assist the FARDC [Armed Forces of the Democratic Republic of the Congo] military justice authorities in prosecuting persons arrested by the FARDC”.
  37. Report of the Secretary-General, *United Nations Organization Stabilization Mission in the Democratic Republic of the Congo*, S/2020/214, dated 18 March 2020, paragraph 45.
  38. Report of the Secretary-General, *United Nations Mission for Justice Support in Haiti*, S/2019/805, dated 9 October 2019, Annex I.
  39. Report of the Secretary-General, *United Nations Mission for Justice Support in Haiti*, S/2019/198, dated 1 March 2019, paragraph 57.
  40. Idem, paragraph 59.
  41. Idem, paragraph 32.
  42. Security Council resolution 2476, *The question concerning Haiti*, S/RES/2476 (2019), dated 25 June 2019, paragraph 1.
  43. Report of the Secretary-General, *United Nations Integrated Office in Haiti*, S/2020/123, dated 13 February 2020, Annex.
  44. Security Council resolution 1244, *Kosovo*, S/RES/1244 (1999), dated 10 June 1999, paragraph 11.
  45. Report of the Secretary-General, *The United Nations Interim Administration Mission in Kosovo*, S/2000/538, dated 6 June 2020, paragraphs 37 and 57.
  46. *United Nations Development Programme, Assessment of Administrative Capacity in Kosovo*, April 2005 (available at: [https://www.un.org/ruleoflaw/files/Assessment%20Admin%20Capacity\\_Kosovo.pdf](https://www.un.org/ruleoflaw/files/Assessment%20Admin%20Capacity_Kosovo.pdf)).
  47. *United Nations Development Programme, Assessment of Administrative Capacity in Kosovo*, Idem, page 63
  48. *European Commission, Kosovo\* 2019 Report*, SWD (2019) 216 final, dated 29 May 2019, page 4.
  49. Security Council resolution 2100, *Mali*, S/RES/2100 (2013), dated 25 April 2013, paragraph 16.
  50. Report of the Secretary-General, *The situation in Mali*, S/2014/403, dated 9 June 2014, paragraph 27.
  51. Idem, paragraph 29.
  52. Security Council resolution 2531, *The situation in Mali*, S/RES/2531 (2020), dated 29 June 2020, paragraph 28 (a) (iv).
  53. Report of the Secretary-General, *Situation in Mali*, S/2020/223, dated 20 March 2020, paragraph 22.
  54. Letter dated 1 June 2020 from the Secretary-General addressed to the President of the Security Council, S/2020/481, page 2.



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## CORRECTIONS COMPONENT IN

## THE (RE)-ESTABLISHMENT OF THE ROL

*When Small Becomes Essential:  
The Role of Corrections Compo-  
nent in the (Re)-Establishment of  
the Rule of Law*

*by Michael Langelaar  
Claudia Croci*

**2**<sup>33</sup> Government Provided Corrections Personnel (GPP), on loan from approximately 28 Member States, are deployed today in eight different peace operations. These men and women have the opportunity of a lifetime - to contribute to public safety as well as the protection of the rights and dignity of prisoners, who become a particularly vulnerable group in conflict- and post-conflict contexts.

However, are these commendable aspirations and strong motivation adequately complemented by the required knowledge and skills? Do those sent on missions feel well prepared to take on the multitude of challenges and capitalise on the exciting opportunities presented in these unique environments for the (re) establishment of the rule of law?

### **The case of the United Nations Multidimensional Integrated Sta- bilization Mission in the Central African Republic (MINUSCA)**

Addressing the challenges posed by high-risk prisoners in a vastly underfunded and significantly overcrowded prison system is one of the most important responsibilities of corrections officers in the

Justice and Corrections Section of the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA). After a mass escape of over 700 prisoners from the central prison in Bangui and under a new UN concept of Urgent Temporary Measures developed to support CAR nationals in maintaining law and order, a team of 68 specialised Government Provided Corrections Personnel (GPP), from 6 contributing Member States, were deployed to support with the identification and management of security incidents in both Ngaragba Prison and its annex facility in Camp de Roux. For corrections officers in MINUSCA, the line between operational





engagement and mere advising, mentoring, and training quickly become blurred as they were requested to perform “Enhanced Mentoring and Training” with national uniformed personnel, and maintain “good order” and “control” in these facilities. Equipped with basic protective and security tools, the 68 GPP, worked - and continue to work - in partnership with national uniformed personnel - to thwart mass escapes, riots, assaults and planned hostage takings, while enhancing the capacity of national prison personnel to assume these functions without infringing upon the rights and dignity of prisoners. **The case of the United Nations Mission in South Sudan (UNMISS)**

In May 2014, the United Nations Mission in South Sudan (UNMISS) experienced a significant shift in priorities following a security crisis that drove hundreds of thousands of citizens into internally displaced people (IDP) camps adjacent to the UN bases in various parts of the country. As a result of large clusters of IDP located in relatively small areas, the issue of security and criminality in the camps became of concern. The Mission responded by establishing “holding facilities” to safely, securely and humanely hold those posing a security threat inside the IDP camp, until they could either be handed over to national authorities or be released back into the camps. Despite the lack of budget, the need to use converted sea containers as cells and a significantly weak single perimeter chain link fence, the

corrections component of UNMISS quickly stepped up to operationalise these facilities while ensuring they were managed in accordance with international human rights standards. This new role pushed then deployed UN corrections officers from co-locating with the na-



degree of specialised training, conflicts in the holding facilities were either addressed prior to escalating or, should security incidents happen, these were managed appropriately with minimal force required and with a due respect to detainees’ rights and dignity.

tional prison officers as mentors and advisors on a significant range of important prison administrative and managerial issues, including

**PRISON SYSTEMS ARE FOUND AT THE BOTTOM OF MOST MEMBER STATES’ LIST OF PRIORITIES AND OFTEN LACK POLITICAL WILL AND RESOURCES NEEDED TO MEET EVEN THE MOST BASIC NUTRITIONAL AND HEALTH NEEDS OF PRISONERS**

prisoner rehabilitation, vocational and agricultural programmes, to being directly responsible for the full “care and custody” of detainees who were oftentimes inebriated, verbally aggressive, and physically violent at time of admission. The early days of the holding facilities witnessed multiple escapes, assaults on staff and general disorder. Yet, as UNMISS was able to support corrections officers with appropriate policy and a significant

**The role of corrections in re-establishing the rule of law**

The two examples above demonstrate just some of the challenging realities GPP typically face when deployed in peace operations. While each conflict- and post-conflict environment in which peace operations are active, is uniquely different, the similarities are overwhelming. In most cases, prison systems are found at the bottom of most Member States’ list of priorities and often lack political will and resources needed to meet even the most basic nutritional and health needs of prisoners. Unfortunately, a high prevalence of disease in many prisons has the potential to spill over into neighbouring communities, resulting in bigger out-



breaks and subsequent major socioeconomic costs. The systemic under-prioritisation of prison services also results in poor management, ill-treatment, high rates of violence and mortality, corruption, security breaches, mass escapes, instability, criminal contamination and in some cases, radicalisation to violence. In conflict and post-conflict settings, this can further fuel and exacerbate already ongoing conflicts and instability. Properly funded and managed prison systems thus remain a critical

detention facilities. Wherever criminal justice institutions are instrumentalised against political opposition and civil society to detain individuals in life-threatening detention facilities, this can serve as a catalyst for further unrest and politically motivated violence.

### The importance of preparation

Corrections officers in peace operations contribute to the maintenance of sustainable peace and security through building the capacity of national prison staff to de-



element of sustaining security and the rule of law in peace operations. The ability to securely detain perpetrators of conflict-related and other serious crimes is not only crucial to the protection of civilians, which a key part of the mission mandate, but also - in cooperation with other mission components - fundamentally supports the initiatives undertaken by national authorities to improve the overall security, rule of law and public order in a country. Efforts to degrade armed groups, deter spoilers and hold state security forces accountable for serious crimes are immediately undermined without properly functioning

develop and manage a viable, safe, secure and humane prison system. This is achieved by strengthening: strategic leadership; oversight and accountability; recruitment and training; prison security and the management of high-risk prisoners (violent extremists and perpetrators of conflict-related crimes); prison infrastructure; and basic prison conditions (subsistence of life and protection of basic human rights). Corrections support in the environments described above requires significant patience, persistence, and creativity, which renders comprehensive and efficient pre-deployment preparation essential.

Such preparation involves not only providing GPP with the right knowledge and skills, but also with a specific mindset suitable for this kind of job - whereby mindset is understood as a mental state that entails beliefs, values and dispositions to act in effective ways in the given operational environment to achieve mandated tasks'. Equipping GPP with a proper mindset is possibly the most challenging task of those organisations mandated to deliver pre-deployment training. According to 1994 UN General Assembly Resolution 49/37 {A/RES/49/37}, the provision of pre-deployment training is a national responsibility. Beyond this, the Justice and Corrections Service of DPO, in partnership with the United Nations Institute for Training and Research (UNITAR) and the Swedish Prison and Probation Service (SPPS) provide pre-deployment training to better prepare GPP with the knowledge and skills, attitudes and behaviours required to adequately contribute to mandate delivery. Pre-deployment training is offered to all GPP in either French or English and focuses on critical aspects of their potential engagement with their national counterparts. The pre-deployment training consists of:

- Integrated Training Service (ITS) endorsed Core Pre-deployment Training Materials that serve as the foundation to orient participants to the values and priorities of the United Nations.
- International human rights standards, namely the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) and The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders.





ders (Bangkok Rules). These standards establish the human rights framework for all prison administrative and managerial functions for various prisoner populations, including: prison leadership; recruitment and training; security and discipline; conditions of detention; health and hygiene; prisoner admission, classification, regimes; vocational training and programmes, and a variety of other aspects of prison management. Advising and mentoring, the key modality of working with national counterparts and likely the most challenging aspect of working in the field. Other specialised training modules, for example those addressing the evolving expectations placed on GPP as described in both the cases of CAR and South Sudan above. These modules can include basic security techniques (handcuffing, searching, escorting) as well as more advanced skills, including contingency planning, use of force management models, and emergency intervention (shield and baton, cell extraction, arrest and control, self-defence) for higher-risk prisoner populations.

### Conclusions

United Nations corrections personnel are a small yet extremely proud uniformed group, placed in challenging environments, with little recognition and resources. While guided by their mandate and workplan, corrections personnel are trained to create spaces that would be conducive to positively influencing ways of thinking and working, providing adequate protection to prisoners, prison staff, and the public and at the same time aligning it with applicable international human rights standards. Im-



portantly, these spaces are shared with their national counterparts. In doing this, corrections personnel directly contribute to the (re) establishment of the rule of law in countries torn by decades of conflicts and violence. Strong and sustainable justice, corrections and other law enforcement institutions are indispensable for the effective protection of civilians and state-building as well as for the success of broader stabilisation efforts. Law and order cannot be established, and the safety and security of citizens cannot be preserved, without law enforcement agencies operating in conjunction with functioning justice and corrections systems. Taken all together, these aspects dictate the need for more political attention and resources being dedicated to prison systems and prison reforms in challenging conflict-affected environments as well as to the related preparation and capacity-building efforts.

PICTURES:  
JCS/DPO

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## THE “CORE” INTERNATIONAL CRIMES

*The “Core” International Crimes: a brief introduction to International Criminal Law*

by Marco Sutto

International criminal law (ICL) is a quite new and constantly developing branch of public international law, which deals with the criminal responsibility of individuals for the most serious violations of international human rights and humanitarian laws. ICL, identifying a certain number of “international crimes”, wants to expose perpetrators of such serious violations to personal criminal liability and provides for criminal sanctions that apply to all offenders.

The concept of “international crimes” is not defined by a universally accepted formulation, however they are usually referred to as “breaches of international rules entailing the personal criminal liability of the individuals concerned (as opposed to the responsibility of the State of which the individuals may act as organs)”, “crimes that involve direct individual criminal responsibility under international law”<sup>2</sup> or even “punishable acts or conduct proscribed by international law”<sup>3</sup>. ICL outlines four main categories of international crimes: genocide, crimes against humanity, war crimes and the crime of aggression. These are defined as ‘core’ international crimes to distinguish them from other categories crimes such

as terrorism and piracy (to just name a few) which are still object of controversy among the members of the international community. Criminal accountability for those “core crimes” is considered by the international community of fundamental importance with regard to respect for the rule of law, deterrence of future violations, and the provision of redress and justice for victims. These criminal conducts are considered to affect the international community as a whole and, consequently, all states have an interest to prevent the occurrence of these particularly heinous crimes and in holding the perpetrators accountable. Indeed, perpetrators of international crimes may





be convicted on the basis of their own direct acts or omissions, or when ordering and facilitating a crime. This includes those who directly commit the crimes as well as those who, at the highest political and military levels, are involved in the planning and authorization of such acts. Thus, the individual criminal responsibility for international crimes can be held in parallel with the responsibility of the state. The international crimes have been defined over time in a range of international conventions and agreements, beginning with the first Hague Convention, at the end of the 19th century, which established rules for military conduct during wartime, up to the Rome Statute<sup>4</sup>

that, in 1998, established the International Criminal Court (ICC) with jurisdiction over the four "core crimes" (genocide, crimes against humanity, war crimes and the crime of aggression.)

It is on the base of the Rome Statute provisions, which represent the most comprehensive modern codification of international crimes, that the following paragraphs will synthetically explore the features of the four "core crimes".

### Genocide

Genocide is defined by the Rome Statute as one of the following acts : (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d)

Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group, committed with "the intention to destroy, in whole or in part, a national, ethnic, racial or religious group"<sup>5</sup>. Genocide is essentially considered an attack upon human diversity<sup>6</sup>. The term was crafted with the Holocaust in mind, it is composed of the Greek word 'geno' (tribe or race) and the Latin verb 'caedere' (to kill)<sup>7</sup>. The essence of genocide is the destruction of the cohesion and moral dignity of a group as collective entity, as an element of international society.<sup>8</sup> In the Nuremberg judgment, the Holocaust was punished under the

tribunals for the former Yugoslavia<sup>11</sup>, Rwanda<sup>12</sup> and, lastly, the ICC. The spirit of the crime of genocide lies in the attack on specific protected groups of victims. It can only be committed against national, ethnic, racial or religious groups<sup>13</sup>. Other groups, such as political or cultural groups, are not recognized as protected groups per se<sup>14</sup>. Genocide does not require the actual destruction of a protected group. However, according to the Convention, the enumerated acts must be committed with the 'intent' of the perpetrator to destroy the group in whole or in part' ('specific intent'). Moreover, Genocide is the only crime in which incitement is expressly prohibited<sup>15</sup>. The prohibition takes into

account that genocide is often spread through mass mobilization. While drafting the Genocide Convention, the delegates of the State parties decided to criminalize public and direct incitement to genocide in order to counter emerging

patterns of genocide and take into account the specific risks of incitement of an indeterminate group of persons (e.g. through speeches, radio, press or other media)<sup>16</sup>. As cultural factors, such as social, historical and linguistic features, are often necessary to explain whether a group qualifies as a racial, ethnic, religious or national group, the definition of the extent to which cultural destruction may amount to genocide has generated a long debate<sup>17</sup>. As a matter of facts, the cultural dimension play an important role in the de-

**"INTERNATIONAL CRIMES " ARE USUALLY REFERRED TO AS "BREACHES OF INTERNATIONAL RULES ENTAILING THE PERSONAL CRIMINAL LIABILITY OF THE INDIVIDUALS CONCERNED" , "CRIMES THAT INVOLVE DIRECT INDIVIDUAL CRIMINAL RESPONSIBILITY UNDER INTERNATIONAL LAW" OR EVEN "PUNISHABLE ACTS OR CONDUCT PROSCRIBED BY INTERNATIONAL LAW"**

notion of 'crimes against humanity', which includes persecution and extermination. Only one year after the Nuremberg judgment, in 1946, the UN General Assembly adopted a resolution in which it 'affirmed' that genocide is a crime under international law<sup>9</sup>. The UN Convention on the Prevention and Punishment of the Crime of Genocide eventually defined the crime as an independent conduct in 1948<sup>10</sup>. The definition of the Convention was then reproduced in the Statutes of international criminal courts and tribunals, such as the "ad hoc"



termination of genocide and, technically, the *actus reus* of genocide is not confined to killing. Physical and biological destruction are then often complemented by the elimination of cultural features, property or symbols.

### Crimes against humanity

Crimes against humanity are identified by the art.7 of the Rome Statute, which contains their most comprehensive modern treaty codification<sup>18</sup>, as the following acts: (a) Murder; (b) Extermination; (c) Enslavement; (d) Deportation or forcible transfer of population; (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; (f) Torture; (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; (i) Enforced disappearance of persons; (j) The crime of apartheid; (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health. Paragraph 1 of art.7 requires that the mentioned acts, part of which are also recognized as common crimes by many national legal frameworks, must be

committed as part of a widespread or systematic attack directed against any civilian population. It appears clear that the concept of crimes against humanity retains some features of genocide, such as the idea of extermination. However, crimes against humanity differ from genocide, as while the latter focuses on the collective nature of the victims as a group, identified by nationality, ethnicity, race or religion, they are inclined to penalize the collective nature of the perpetration of crimes<sup>19</sup>. Crimes against humanity are attacks on civilian populations that are at risk because of their pre-

**CRIMINAL ACCOUNTABILITY FOR THOSE "CORE CRIMES" IS CONSIDERED BY THE INTERNATIONAL COMMUNITY OF FUNDAMENTAL IMPORTANCE WITH REGARD TO RESPECT FOR THE RULE OF LAW, DETERRENCE OF FUTURE VIOLATIONS, AND THE PROVISION OF REDRESS AND JUSTICE FOR VICTIMS.**

sence in the targeted population. The basic idea is that, where exists a collective action of an organization that causes harm to the civilian population throughout a widespread or systematic violence, a crime is no longer simply an ordinary crime under domestic law but an international crime. Therefore, the peculiar element that distinguishes crimes against humanity from domestic crimes is the context in which they are committed, as part of a widespread or systematic attack against the civilian population. Marking a significant development in international law, crimes against humanity were codified, for the first time, in the Charter of the Nuremberg Tribunal. Indeed, until then, the conduct of a state towards its

own citizens was strictly considered a matter of internal affairs. Nevertheless, in the first codification, the crimes against humanity could not be charged independently of a nexus to other crimes, they had to be linked to war crimes or crimes against peace (aggression). As seen in Statutes of major international criminal courts and, lastly, in the Rome Statute, the concept of crimes against humanity was then unbound from its war-related nexus and was developed more in line with the human rights tradition. Indeed, Crimes against humanity can now be committed in both the context of armed conflict

and in peacetime. The reference to the concept of 'civilians' in the definition of the crime is the only reminiscence of the historical linkage to war crimes. Crimes against humanity could be differentiated in two categories of offences. The first one encompasses the so-called murder-type offences. They include murder, extermination, enslavement, deportation or forcible transfer of population, torture, acts of sexual violence or enforced disappearance of persons. Some but not all of them are criminal offences in national legal systems. They were banned internationally because of their cruelty and barbarity. The second type of offences is 'persecution'-related. They are typically geared at persecution of a specific group of people on racial, religious or political grounds<sup>20</sup> and often may not be considered criminal or even prohi-





bited in national legal systems. The notion of attack against civilian population of the crimes against humanity is understood in an extensive way, including the use of armed force and any form of mistreatment or discriminatory practices. An attack is considered 'widespread' if it is conducted on a large scale and, even if there is no specific numerical threshold, it results in a large number of victims<sup>21</sup>. The term 'systematic' used to define the attacks refers to their organized nature, such as the repetition of similar criminal conduct on a regular basis.<sup>22</sup> In absence of the repetitive element, the systematic nature of the attacks could be also substantiated by the existence of a plan concerning attacks or other factors such as, for instance, the existence of a particular policy or ideology to destroy or weaken a community, discriminatory measures, measures changing the demography of the population, or the involvement of high-level political and/or military leaders in the establishment of the plan<sup>23</sup>.

### War crimes

War crimes are the oldest category of international crimes. They are grounded in international humanitarian law (IHL), traditionally known as *ius in bello* (the law of war), an independent branch of

public international law. IHL regulates the conduct of parties engaged in an armed conflict and seeks to minimize suffering and harm. It is based on a balance between military necessities and humanitarian considerations. Indeed, in armed conflict, certain acts of violence, such as attacking enemy's military objectives, are allowed (lawful) and others prohibited (unlawful).

ration of the condition of wounded combatants. The body of IHL rules was then complemented by the 'Hague law'<sup>26</sup>, on the rights and obligations of belligerents in the conduct of military, and the 'Geneva law'<sup>27</sup> designed to protect victims of armed conflict and specific categories of persons, such as prisoners of war, detainees, civilians and humanitarian



International humanitarian law regulates both lawful and unlawful acts of violence reconciling the two different perspectives: on one side, the humanitarian commitment 'to prevent or mitigate suffering', on the other, the pragmatic warfare necessity of overcoming the enemy. Historically, a turning point in the codification of international humanitarian law has been identified in the battle of Solferino<sup>24</sup> and the subsequent issue of the first Geneva Convention<sup>25</sup> for the amelioration

of the condition of wounded combatants. Nowadays, nearly every state in the world has agreed to be bound by IHL provisions and the core of them is considered as customary international law. However, only specific and serious violations of international humanitarian law are criminalized as "war crimes". The initial IHL provisions failed to specify whether a violation entailed criminal responsibility and the "War crimes law" was developed incrementally and through practice in the twentieth century. Even the Geneva Conventions and





## CONSTRAINTS AND RESTRAINTS AS LIMITATION OF FREEDOM OF ACTION IN PERFORMING A MISSION

its Protocols, by qualifying the so-called grave breaches as 'war crimes', created a certain initial confusion from a conceptual point of view, since the idea of "grave breaches" implies a hierarchy, whereby certain violations are considered grave enough to qualify as crimes, whilst others do not. One of the key prerequisites of a war crime is that the crime is connected to the armed conflict. This is a necessary requirement to distinguish war crimes from ordinary offences<sup>28</sup>. Upon war crimes is established a universal jurisdiction<sup>29</sup>, which entitles a State to prosecute offenders even in the absence of any link between the crime committed and the prosecuting state. In order to make this principle effective, States are required to establish universal jurisdiction for war crimes in their national legislation. The basis for the assertion of universal jurisdiction over war crimes is found in both treaty law and in customary international law.<sup>30</sup> The ICC Statute consider the war crimes in art. 8, providing a comprehensive list of them and containing an additional element that specifies the ICC has jurisdiction 'in particular' when war crimes are 'committed as part of a plan or policy or as part of a large-scale commission of crimes'. The large majority of war crimes can be traced back to the violation of certain fundamental principles of international humanitarian law grounded in the protection of persons and property<sup>31</sup>. A first fundamental principle is the principle of protection of non-combatants that requires parties to an armed conflict to treat civilians, prisoners of war and wounded or sick former combatants humanely. A second key principle is the principle of distinction. It requires parties to a

conflict to distinguish, at all times, between civilians and combatants and direct the attacks only against combatants and military objects. They must not be directed against

are entitled to civilian protection<sup>32</sup>. A third fundamental principle under international humanitarian law is the principle of proportionality. It prohibits an attack on a military



civilians or civilian objects, such as churches, hospitals or private residences that are not used for military purposes. The ICC Statute also expressly prohibits attacks on humanitarian assistance and peacekeeping missions, as long as they

objective if such an attack may be expected to cause excessive collateral damage (such as loss of civilian life, injury to civilians and damage to civilian objects) in relation to the concrete and direct military advantage anticipated. Lastly, the





fourth fundamental principle is the prohibition on employing weapons, ammunition, materials and methods of warfare of a nature to cause superfluous injury and un-

a relatively high *mens rea* standard stating that, unless otherwise provided, intent in relation to consequence exists only if the person 'means to cause that consequen-

it is essentially connected to armed violence. Still, aggression does not involve a breach of the *jus in bello*, but a criminalization of certain forms of recourse to force (*jus ad bellum*). Aggression is usually defined as the most serious and dangerous form of illegal use of force by a state against the sovereignty, territorial integrity or political independence of another state<sup>35</sup>. The crime of aggression highlights the trend towards a *jus contra bellum* in the international legal order, characterized by the restriction of the use of armed force in international relations. Despite that, the crime has a troubled past and in most historical cases, it has been prosecuted after the fact. In the first version of ICC Statute the crime of aggression was just symbolically included in Article 5, but its exercise of jurisdiction remained pending on the formulation of a proper definition. Only after years of debates and negotiations, at the Kampala Review Conference (2010), the participant States reached agreement on a definition of the crime and the conditions under which the Court can exercise jurisdiction. The new definition identifies as "crime of aggression" the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations<sup>36</sup>. The Kampala definition describes aggression as a leadership crime and extends individual criminal responsibility from the traditional concept of 'war of aggression' to 'acts of aggression' according with General Assembly Resolution 3314 defini-



necessary suffering to members of the armed forces and civilians who directly participate in hostilities. To be held accountable of war crimes, the required mental elements may differ in terms of their thresholds. On this matter, the ICC sets

ce or is aware that it will occur in the ordinary course of events' <sup>33</sup>.

#### **Crime of aggression.**

Aggression is one of the most controversial crimes in international criminal law<sup>34</sup>. Likewise war crimes,





## CONSTRAINTS AND RESTRAINTS AS LIMITATION OF FREEDOM OF ACTION IN PERFORMING A MISSION



tions<sup>37</sup>. The idea of individual criminal responsibility is closely linked to unlawful state action in international relations. Therefore, an individual cannot incur responsibility in the absence of an act of aggression under international law.<sup>38</sup> In practice, types of aggression may vary from mere violations of sovereignty (e.g. targeted air strikes) to interventions with on-site presence or other unlawful uses of force. These acts may involve high civilian casualties or loss of life and disturb peace and security. In other cases, they may cause limited human damage, or even be exercised with the intent to protect peace and security or human rights.<sup>39</sup> However, several are the factors that limit the definition of a conduct as “act of aggression”. As stated in art.8 bis of the ICC Statute, the crime of aggression requires an act which ‘by its character, gravity and scale’ constitutes ‘a manifest violation of the Charter’. These factors distinguish the crime of aggression from general violations of the prohibition of the use of force, resulting in the fact that not every illegal use

of force entails individual criminal responsibility for aggression. For the crime of aggression, compared to the other crimes, the ICC has limited jurisdiction in state referral or proprio motu proceedings<sup>40</sup>. Indeed, the Court cannot exercise jurisdiction over persons of states which are not party to the Rome Statute or have not accepted the aggression amendment<sup>41</sup>. In these circumstances, exercise of jurisdiction over aggression is tied to the prospect of a Security Council referral<sup>42</sup>. Moreover, another peculiar feature of this crime under the Rome Statute entails that State parties do not enjoy protection by the ICC against crimes of aggression committed by non-state parties against them (i.e. on their territory), although they enjoy such protection for other categories of crimes<sup>43</sup>. In conclusion, as highlighted with this brief analysis of the “core crimes”, it appears clear that the approaches towards international crimes are quite new and still in progress. International criminal law has evolved significantly since its first steps in the late eighteenth

and early nineteenth centuries and the creation of a permanent Court, the ICC, able to exercise an international jurisdiction over the four “core crimes”, represents, despite its legal and practical limitations, an achievement of paramount importance in the advancement of human rights protection. The modern interpretation of international criminal law has proved able to develop in a dynamic way, covering both the ‘public’ and ‘private’ sides of violence thus protecting different interests: state interests, the autonomy and dignity of individuals and group rights.

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-UN  
-<https://www.flickr.com/>

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3. Terje Einarsen, *The Concept of Universal Crimes in International Law*: Torkel Opsahl Academic EPublisher Oslo 2012.
4. *Even ICC-International Criminal Court Statute*.
5. *Rome Statute, Article 6*.
6. Stahn, C. (2018). *A Critical Introduction to International Criminal Law*. Cambridge: Cambridge University 2018.
7. first officially used in 1944 by Polish-Jewish lawyer R. Lemkin in his “*Axis Rule in Occupied Europe*” (Washington, DC: Carnegie Endowment for International Peace, 1944).
8. *Ibid*, 1.3.1.1 *Origin of genocide*
9. See GA Res. 96 (I), UN Doc. GA/Res/96(I), 11 December 1946.
10. Art. 2 *Convention on the Prevention and Punishment of the Crime of Genocide*, 9 December 1948, 78 UNTS 1021  
“In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:  
(a) Killing members of the group;  
(b) Causing serious bodily or mental harm to members of the group;  
(c) Deliberately inflicting on the group conditions of life calcu-





- lated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.”
11. Art. 4, Updated Statute of the International Criminal Tribunal for the Former Yugoslavia, S/Res/827 (1993) of 25 May 1993.
  12. Art. 2, Statute of the International Tribunal for Rwanda, S/Res/955 (1994) of 8 November 1994.
  13. On difficulties of the concept of race, see C. Lingaas, ‘Elephant in the Room: The Uneasy Task of Defining “Racial” in International Criminal Law’ (2015) 15 *International Criminal Law Review* 485.
  14. Stahn, C. (2018). *A Critical Introduction to International Criminal Law- Nature of the crime of genocide*. Cambridge: Cambridge University
  15. Art.3 Convention on the Prevention and Punishment of the Crime of Genocide, 9 December 1948 : The following acts shall be punishable: (a) Genocide; (b) Conspiracy to commit genocide; (c) Direct and public incitement to commit genocide; (d) Attempt to commit genocide; (e) Complicity in genocide.
  16. The Russian Delegate stated: ‘It was impossible that hundreds of thousands of people should commit so many crimes unless they had been incited to do so ... The peoples of the world would indeed be puzzled if ... those who incited others to commit the concrete acts of genocide, were to remain unpunished.’ Summary Records of the meetings of the Sixth Committee of the General Assembly, 21 September-10 December 1948, Official Records of the General Assembly, statements by Mr Morozov, 241.
  17. See generally, E. Novic, *The Concept of Cultural Genocide* (Oxford: Oxford University Press, 2016); L. Bilsky and R. Klagsbrun, ‘The Return of Cultural Genocide?’ (2018) 29 *EJIL* 373–396. Russia made a proposal to cover it in the Genocide Convention as follows: ‘In this Convention genocide also means any deliberate act committed with the intent to destroy the language, religion or culture of a national, racial or religious group on grounds of national or religious origin, or religious beliefs such as: (a) Prohibiting the use of the language of the group in daily intercourse or in schools or the printing and circulation of publications in the language of the group; (b) destroying or preventing the use of libraries, museums, schools, historical monuments, places of worship or other cultural institutions and objects of the group.’ See General Assembly, Agenda Item 32, UN Doc A/766, 5 December 1948, in H. Abtahi and P. Webb, *The Genocide Convention: The Travaux Préparatoires* (Leiden: Brill Nijhoff 2008), 2039.
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  20. See generally F. Pocar, ‘Persecution as a Crime under International Criminal Law’ (2008) 2 *Journal of National Security Law & Policy* 355.
  21. Idib. Citing ITY-Prosecutor v. Blaškić, IT-95–14, Judgment, 3 March 2000, para. 206 (Blaškić Trial Judgment).
  22. Idib. Citing ITY Kunarac Appeal Judgment, para. 94-95.
  23. Idib. Citing Blaškić Trial Judgment, para. 203.
  24. The Battle of Solferino (referred to in Italy as the Battle of Solferino and San Martino) on 24 June 1859 resulted in the victory of the allied French Army under Napoleon III and Sardinian Army under Victor Emmanuel II (together known as the Franco-Sardinian Alliance) against the Austrian Army under Emperor Franz Joseph I.
  25. The First Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field, 22 August 1864.
  26. 1899 and 1907 Hague Conventions on means and methods of combat.
  27. The four Geneva Conventions of 1949.
  28. For instance, there is no reason why crimes committed by certain civilians not taking part in hostilities against other civilians should automatically qualify as war crimes.
  29. Universal jurisdiction refers to the assertion of jurisdiction over offences regardless of the place where they were committed and the nationality of the perpetrator or the victim.
  30. ICRC-ADVISORY SERVICE ON INTERNATIONAL HUMANITARIAN LAW-Universal jurisdiction over war crimes –(03/2014): “The treaty basis for the assertion of universal jurisdiction was first introduced by the four Geneva Conventions of 1949 for the protection of war victims in relation to those violations of the Conventions defined as grave breaches. Under the relevant article of each Convention (Arts 49, 50, 129 and 146, respectively), States are required to search for alleged offenders “regardless of their nationality,” and either bring them before their own courts or hand them over for trial by another State Party which has made out a prima facie case. ....While the relevant treaty law provisions are restricted to grave breaches, universal jurisdiction in customary international law may be regarded as extending to all violations of the laws and customs of war which constitute war crimes.”Stahn, C. -1.3.3.6 Types of War Crimes - A Critical Introduction to International Criminal Law. Cambridge: Cambridge University 2018.
  31. Stahn, C. -1.3.3.6 Types of War Crimes - A Critical Introduction to International Criminal Law. Cambridge: Cambridge University 2018.
  32. Arts. 8 (2) (b) (iii) and 8 (2) (e) (iii), ICC Statute.
  33. See Art. 30. ICC Statute.
  34. Stahn, C. -1.3.4 The Crime of Aggression.
  35. See GA Resolution 3314 of 14 December 1974.
  36. Article 8 bis3.
  37. The UN General Assembly adopted Resolution 3314 in 1974, in order to guide the practice of the Security Council in relation to findings on aggression. The Resolution remained minimal in relation to individual criminal responsibility, however. It simply reconfirms the Nuremberg holding that a ‘war of aggression’ constitutes a crime of aggression (Art. 6 of GA Res. 3314 ).
  38. Stahn, C. citing Jens David Ohlin ‘Organizational Criminality’, 107, 118.
  39. Stahn, C. 1.3.4.3.1 State Act of Aggression.
  40. See artt. 13 and 15bis ICC Statute.
  41. Which still represent the majority of the International community. Currently only 39 state parties ratified the amendment ([https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mdsg\\_no=XVII-1-10-b&chapter=18&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mdsg_no=XVII-1-10-b&chapter=18&clang=_en)).
  42. See art. 15 ter ICC Statute.
  43. Art. 8 bis and 12 ICC Statute.



**Marco Sutto**  
Lt.Col. - Italian Carabinieri  
CoESPU IHR/IHRLChair

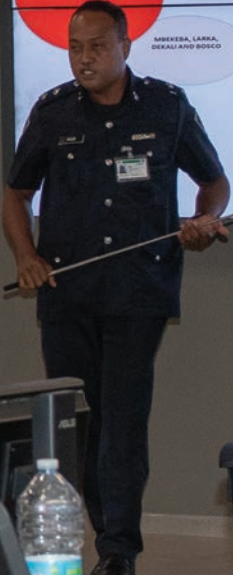




# ALUMNI













# DEPUTY DIRECTOR'S CORNER

**FOR SUCH A LARGE PLACE, THE WORLD IS VERY SMALL!**

Just over a year ago, I had the great fortune to join the team here at the Center of Excellence for Stability Police Units (CoESPU). Within a few short months of my arrival, I was highly impressed by the number of my personal friends who were already CoESPU Alumni members or current followers of CoESPU activities. Also, as I visited our courses, I met many attendees that served on the same missions, attended the same conferences, or completed the same schooling as I had in the past. Though our paths did not cross until we met on the CoESPU campus, we share specific experiences and I have enjoyed 'catching up' and collaborating with old friends and new. It is interesting to see first-hand the broad reach we gain being a member and Alumni of CoESPU. These meetings have opened my eyes to just how small the world is, and specifically the Stability Police Community.

So, it should not have come as such a big surprise to me (but it did) when we were contacted by Captain Vito Franchini, the former CoESPU Chief of Public Affairs and Managing Editor of the CoESPU Magazine, to let us know he had met some Alumni members. Vito is currently serving on a mission abroad and recently took some time to get to know CoESPU Alumni member, Lieutenant Victor Kashai. Initially, Captain Franchini did not personally know Lieutenant Kashai, now they have established an important connection where they can work together and share experiences to support the global Stability Police mission.

I do not want to share too much about this important opportunity for collaboration, because Captain Franchini tells the story much better. Please continue reading this quarter's Alumni section to see how small our Stability Policing Community really is - and the positive impacts, as well as personal professional development, we can achieve as we build our professional networks.

You never know when a friendship grown at CoESPU will bloom again or when a new friendship will bud, from a classical exchange of business cards to the use of many social network platforms, the opportunities to connect and reconnect are plentiful. I make it a point to avoid saying goodbye and use the phrase 'say see you later' because it does not matter if we served on the same mission, similar missions at different times, or if we work on different continents on opposite sides of the globe, with technology, social networks, and strong friendships, we will meet again! The world is small – and that is good!

No matter where you are serving, at home, or on an overseas mission, please continue to share these unique stories as our paths continue to cross in the Stability Policing World.



**Rebecca D. Hazelett**  
Col. - US Army MP  
CoESPU Deputy Director



## A CHAT WITH LT. VICTOR KASHAI

(TANZANIA POLICE)

*A chat with Lt. Victor Kashai (Tanzania Police), FPU Coordinators Course 04 at CoESPU in 2018.*

*By Vito Franchini*

A few months ago, I was asked to depart CoESPU to be appointed as the Regional Coordinator of EU-ACT Project in Tanzania (European Union action against drug and crime). I knew the Country quite a bit, so I decided to accept and to move to Dar Es Salaam with no hesitations. On my way to getting in touch with the people, the culture, and the wonderful places, all that make this Country so unique among other African States, I decided to ask my former colleagues in Vicenza for a

list of Tanzanian CoESPU Alumni. That is how I got the email address of Lieutenant Victor Kashai, who attended the FPU Coordinators Course 04 at CoESPU in 2018. Once you are part of the CoESPU Community, even for few days like he did some years ago, you can't simply forget it. So even though we did not meet during his time at CoESPU, Victor was immediately interested in creating a new professional connection with me. He came to visit me in my office, where I was happy to share with him information on my mission. Afterwards, he drove me to his office, a Police Department in Tabata, a highly populated area of the Dar es Salaam district, where he is serving as the Deputy Commander, running investigations on common and *High-level* crimes. I met

members of his unit (and his boss), visited several offices, then he offered me a "Chai" (local tea) and he drove me back after a couple of hours of interesting conversation. I asked him some questions about his deployment missions and about the impact his CoSEPU training made on his experiences. He was happy to answer as follows:

### QUESTION 1

**Regarding your experience at CoESPU as participant in the FPU Coordinator Course 04 in 2018, could you please tell us if the face-to-face exchange of experience with colleagues from all other UN Missions was beneficial for your job in the field?**

The personal exchange of experience with colleagues from the other UN Missions was very bene-





ficial to me in the field, because as FPU Coordinator I had overall managerial responsibilities for FPUs and the support office. I liaised with all partner agencies and other UN components in UNAMID, to manage administrative and operational issues related to timely deployment, rotation, relocation, and co-location. I also planned and coordinated the mandated activities of four (4) FPUs (Burkina Faso FPU, Bangladesh FPU, Pakistan FPU, and Nepal FPU) to ensure that were in accordance with FPU policy, and guidelines. As the FPU coordinator I also provided support of humanitarian activities, dynamic patrols, and other pertinent tasks directed by the police Commissioner Monitor, monitored the level of serviceability of the Contingent Owned Equipment (COE), and reported, in collaboration with respective FPU Commanders, to ensure that all FPU members are treated in accordance with United Nations rules regulations guidelines and other directives and issuance. Therefore, the face to face exchange of experiences with colleagues and the dedicated facilitators and facilities offered by COESPU, was very beneficial to me personally in my career and during missions. The face to face exchange and experience sharing, during the course, gave me increased knowledge of the United Nations Core



documents for FPUs, such as, The Policy on Formed Police Unit 2016, Guidelines for FPUs on Assignment with UN Peace Operations 2006, Policy on Authority, Command and Control in UN Peace Keeping Operations 2008, SOP on Assessment of Operational Capability of FPUs

at concrete ways to reduce fatalities in field, those documents were essential tools for day to day operations as formed police unit management is concerned. The model adopted by COESPU facilitators for presentations, brainstorming, and group discussions of the challenges, gaps and the strategies to overcome identified challenges and gaps helped me in the field to achieve smoothly coordinated Sector south FPUs, in Nyara, to achieve UNAMID mandated activities.

The interaction created friendships and relationships among participants to communicate and share information about challenges and strategies to overcome those challenges. And that experience, I am currently using it to prepare an FPU from Tanzania, the first time Tanzania is to participate in a UN mission. The face to face exchange of experience equipped me with knowledge, skills,

values, strategies, integrity professionalism, and diversity along with confidence related with Formed Police Unit management.

2017, Assessment of Operational Capability (AOC), FPAT Contingent Owned Equipment (COE), and the Manual on Policies and Procedures Concerning the Reimbursement and Control of Contingent Equipment for Troops/Police. Also, the course work introduced me to different UN reports related to reducing fatalities and improving Security of United Nations peace keepers such as the Santos Cruz Report which looks

values, strategies, integrity professionalism, and diversity along with confidence related with Formed Police Unit management.

## QUESTION 2

**The Formed Police Units are specialized assets of high value, but they are not always used and considered in the proper way in the field. Do you have any suggestions on how they could be used more efficiently?**







*FPU Coordinators Course 04 at CoESPU in 2018*

The Formed Police Units are Specialised Assets of high value but they are not always used and considered in the proper way in the field. No doubt, Formed Police Units are deployed as a trained and equipped cohesive and fully self-sustained units. A *standard composition and organization of FPU* consists of three components: 1) *command and operation*; 2) *logistical support*; and 3) *executive component, to make up a desired minimum strength of 160 officers*. They are deployed as specialised units and their expertise and ca-

pacities includes canine handling, close protection, crime analysis, forensics, investigations public order management, special weapons and tactics (SWAT) guard unit and riverine policing in accordance with mandated tasks. So, you can see, Formed Police Units are specialised Assets of high value and can be used in various ways. I believe FPU are used proper depending on the particular mission mandated activities. Take an example in UNAMID where military down sized troops and their roles and duties were taken by

Formed Police Units instead of military. Therefore, they can be used more efficiently but it depends on mission mandated activities.

### QUESTION 3

The spreading CoViD19 disease is a challenge for most of the world Countries. How has this pandemic impacted in the daily job of the UN Police officers deployed in international missions such as UNAMID?

The impact of the spread of COViD-19 in the daily duties of the UN police officers is obvious. The







long term the ability of missions to achieve mandated activities and objectives will be impaired. Almost all missions are all in crisis management mode and are adapting to radical new situations while ensuring the safety of civilian, police and military peace keepers. Most of the countries where these missions are deployed have closed their borders and have imposed social distancing measures. Some countries have asked the United Nations not to rotate new troops into their countries especially from countries that seen as high risk. In response to the pandemic Peace Operations are assessing which functions and Operational activities are critical and need to continue as normal and which can be paused until the crisis is over. The staff, that arrived in the missions before the travel was suspended, were isolated until medical cleared. It created some inconvenience for staff, most National and International staff in Peace Operations either work from home or their accommodation in same locations. Working from home may create some challenges

most of Tanzanian people are. *Karibu Sana, Captain!*

PICTURES:  
 -Vito Franchini  
 -UN Photo/Evan Schneider  
 -CoESPU Magazine Team



**Victor Kashai**  
 Lt. - Tanzania Police  
 Former CoESPU Attendee



essential functions across missions include police patrols, activities related to protection of civilian, convoy escorts and other forms of Support to humanitarian assistance, force protection, protecting vital installations, and support to host State institutions and local authorities, in some missions have been suspended. Their quick impact project plans and funds are now reallocated to support the efforts of local and National institutions to contain the spread of COVID-19. Limiting operations to the essential will help to prevent and contain the virus, but in the medium to

As the result different missions should anticipate the increase potential criminal threats, such as Domestic violence SGBV. Police relationship with the community were impacted by the enforcement of COVID-19 measures. *Asate sana, Victor (thanks a lot in Swahili), you have been very kind, talkative and positive, like*



**Vito Franchini**  
 Capt. - Italian Carabinieri  
 EU ACT Regional Coordinator in Tanzania



**IN DEPTH**









## EVOLUTION OF POLICE

# INTERNATIONAL ENGAGEMENT

**The development of Police commitment to Peace Operations: from the early international presence to end of the 1990s.**

*By Luca Volpi  
David M.V. Fontana Barberis*

**F**rom a broad perspective, the Police commitment to Peace Operations is no recent invention, yet the policing within the United Nations framework did not begin with the early Peacekeeping Missions in the 1950s. In fact, the first international presence of Police personnel under the UN's aegis was in the 1960s within the United Nations Operation in the Congo and the first Police Component was deployed in 1964 in the UN Peacekeeping Force in Cyprus. However, from their initial appearance and until the end of Cold War, the functions of the international Police Components – at that time known as CIVPOL – centred on the mere monitoring of the respect of the ceasefire and reporting on human rights violations.

As it is common knowledge, the events following the fall of the Berlin Wall, in summary, produced a significant transformation of the global equilibrium, which contributed to a sudden transition towards an increasingly multipolar and multidimensional world, forcing mission mandates to adjust accordingly. As a result from the Police perspective, in the 1990s, after a relatively long period of stillness, as peacekeeping mandates grew in number and complexity, so did the number of UN Police personnel deployed and their functions. One of the first and major changes entailed the inclusion of executive policing tasks in peacekeeping mandates. These involved complete responsibility in the maintenance of law and order, and the performance of the whole spectrum of Police-related activities, such as powers of arrest and detention, evidence collection and information gathering, investigation of crime, border security, riot and crowd control, robust patrolling and so on. These mandates pushed UN Police “to serve as the national Police Service until dome-





stic capacities [were] developed”, as stated in the 2003 edition of the Handbook on United Nations Multidimensional Peacekeeping Operations. As a result, this produced a radical transformation of the Peace Operations’ context, where new and multiple security challenges and threats ensued, requiring the international Police to operate in a whole new scenario and in highly unstable environments – where, in some cases, conflicts led the entire institutional and social structure to collapse. Even if in recent times executive mandates have been rarely authorized – as a conceivable result of political sensitivities about host-State sovereignty and the operational challenges associated with them – the variety

of tasks assigned to Police Officers deployed in the field, as well as their number, has continued to grow. Broadly speaking, UN Police were progressively called also to contribute to supporting the reform and restructuring of a new responsive, representative and accountable host-State Police, as well as to promoting Human Rights and protecting civilians. As a consequence of this epochal transformation, the establishment of a stable, safe and secure environment for the local population became one of the main challenges that characterized - and that continues to characterize - the efforts of the Police Components engaged in Peace Operations.

*An overview of the evolution of Police international engagement and its political scope*

*By David M.V. Fontana Barberis*

**The detection of the “Public Security Gap”, the advent of Stability Policing and the ensuing structural and doctrinal reform of the United Nations Police**

In this new scenario that has been outlined, a serious flaw emerged in the prompt realization of a satisfactory public security framework in the various theatres of operations, this attributable to the gap existing between the capabilities and aptitudes expressed by the typical Civilian Police Components deployed so far and those possessed by the Military Forces in the field. This weakness can be suitably termed the “Public Security Gap”, which, in its turn, is the result of three different gaps detected between the Police and Military functions. The first gap can be defined as the “deployment gap”, which consists of the substantial incapacity of a typical Civilian Police Component to deploy quickly along with – or, at least, close to – the deployment of the Military Forces.

This delay is not just a consequence of the – generally speaking – less structured and projectable logistic chain of the typical Civilian Police Units, but it is also due to the difficulty encountered by the Police Contributing Countries in finding personnel who is at the same time adequately trained, readily deployable and available to be diverted from domestic policing. The second gap is the “time-efficiency gap”, which is the consequence of the considerable amount of time necessary for the typical Civilian Police Components before they can reach an – albeit minimal – operational capability, if compared to the military forces deployed. This is not just attributable to the unstable environment where the Police personnel is called to operate, for sure significantly different from the domestic setting, but also it is a consequence of their multifaceted composition, thus needing a conspicuous amount of time to eventually operate with the same standards. In this sense, it has to be taken into account how a typical international Civilian Police Component generally consists of personnel coming from different countries, with dif-

ferent Police culture, procedures, equipment and, of course, with no common policing background, as it normally refers to their domestic criminal justice systems. Finally, the “capability gap” emerged as the difference between the capabilities expressed by a typical Civilian Police Component, generally unarmed and with no executive powers, and those possessed by the Military Components, basically responsible for ensuring the areal security and which are mainly intended to perform “combat” tasks. This gap also comprises the dynamics that may have affected the host nation’s Police in a post-conflict environment, such as the conceivable degradation of their facilities and equipment, the potential collapse of their organizational structure or, even, their possible involvement in Human Rights violations. As a result, the “Public Security Gap” is represented by the grey area of insecurity given by the sum of the three gaps as above defined, which none of the typical components of an international Peace Operation had historically proved to be able to bridge. In this context, stemming from the experience of the Italian Carabi-



nieri in the Balkans, the idea of Stability Police came to light, as an innovative and essential tool for bridging this security gap that had affected all the previous international Police endeavours, at the same time highlighting the added value of gendarmerie-type – or Carabinieri-like – Police Services and their specific capabilities, such as their quick deployment capacity, flexibility, interoperability and cohesiveness, as well as their aptitude to operate in highly destabilised environment and to interact with the Military Forces on the ground. As for the United Nations perspective, the evolving international scenario entailed a parallel reform of the UN bodies devoted to Peace Operations.

From the Police side, in the year 2000, after the issuing of the “Brahimi Report”, which stressed the need for a doctrinal shift in the use of civilian Police

with an integrated, holistic approach, the UN CIVPOL Unit was elevated to Police Division, being separated from the military branch. Furthermore, in order to respond to the increasing need for UN Police and the complexity of the tasks involved, a Standing Police Capacity (SPC) was created in 2006, to contribute to mission planning, speed of response and start-up capability. Then, in 2007, the Office of Rule of Law and Security Institutions was established within the UN Department of Peacekeeping Operations – now Department of Peace Operations – which, among other responsibilities assigned to it, oversees the UN Police Division. Against this background, despi-

te the growing importance of UN Police in Peace Operations – to the extent of being involved since the planning phase of the various missions – little doctrinal guidance on “Police Peacekeeping” was generated until recently. It was only in 2014 with the UNSC Resolution 2185, which was the first resolution ever adopted on Police – and the subsequent report of the High-Level Independent Panel on Peace Operations – better known as “HIPPO Report” – that it was clearly emphasized the need to promote system-wide coherence and to develop further standards. Once again, this need for guidance is even more clear while considering how multifaceted the Police Component could be.

**EVEN IF IN RECENT TIMES EXECUTIVE MANDATES HAVE BEEN RARELY AUTHORIZED, THE VARIETY OF TASKS ASSIGNED TO POLICE OFFICERS DEPLOYED IN THE FIELD, AS WELL AS THEIR NUMBER, HAS CONTINUED TO GROW**

In this sense, if on the one hand the diversity that characterizes the United Nations Police – for sure – represents one of its greatest strengths, on the other hand it also poses some substantial challenges as mentioned before, which, eventually, could affect their performance. As a result, a remarkable and huge effort has been made by the United Nations in this direction and a doctrinal series consisting of Policies, Guidelines and Manuals has been released, named “Strategic Guidance Framework for The United Nations Police in Peacekeeping Operations and Special Political Missions” or simply SGF, which is currently being operationalized by the UN Poli-

ce Division and Integrated Training Service through the “UNPOL Training Architecture Program”.

**The political scope of Police engagement in Peace Operations.**

Having so far outlined the evolution of the Police international engagement and their progressively increasing roles and functions within the UN system, it becomes clearer and clearer how the Police endeavour in Peace Operations has – by its own nature – an intrinsic political impact. In this context, the same 2016 “External Review of the Functions, Structure and Capacity of the United Nations Police Division” states that “while United Nations engagement with host-States’ Police

is technical, it is also inherently political in nature, and needs to be understood as such”. In this view, the political dimension of Po-

lice engagement needs to be better appreciated, at all levels, as clearly identified in the United Nations Policy on Police in Peacekeeping Operations and Special Political Missions. In fact, in the current Peace Operation scenario it is quite evident how Police tasks do not just involve activities related to crime and security, but also to the promotion of Rule of Law and a culture of Human Rights, eventually encompassing what David Bayley – former Dean and Professor of the School of Criminal Justice, State University of New York at Albany, NY, USA, who, sadly, has recently passed away – termed “democratic political development”, meaning the







reform of foreign Police institutions so as to encourage and support democratic political development. According to Professor Bayley, the Police cannot be made democratic through policies that focus exclusively on the Police. Hence, paraphrasing his own words, since the democratic development is political by its very nature, the involvement with foreign Police that does not take into account the political context will conceivably fail to make

any contribution to democratic political goals and could be easily perverted to nondemocratic ends. In short, the development of democratic policing cannot be left to the Police nor can it involve only the Police. In this direction, it is no surprise that the same Strategic Guidance Framework for UN Police acknowledges the political context of the Police engagement, explicitly stating that re-establishing

or restoring policing and other Law Enforcement is fundamentally political – as it involves shifting power and access to key state institutions – and the control over Police enhances power and influence for those both outside and within the Police organization. In the end, the ability of the Police Components to work effectively in peace situations is dependent on their understanding of the specific political context of the mission.

**The desirable – and beneficial – mutually supportive interaction between Police Components and Political Advisers.**

Acknowledging the Political dimension of the Police engagement in international context as so far delineated, it is now advantageous to briefly elaborate on how the Police Components deployed to Peace Operations and the missions' Political Advisers can – and should – be mutually supportive in order to fulfil the respective mandates toward the eventual and paramount goal of a long lasting peace. In this perspective, there are two questions that instinctively arise:

1. In what way can Political Advisers enhance the effectiveness of the action of Police Components?
2. And, on the other hand, in what way can Police Components be a strategic resource for Political Advisers?

In the end, it is possible to answer these two questions by investigating on how the Political Advisers and the Police Components should successfully interact. Starting from the general perspective toward a more practical dimension, it is fundamental for Police practitioners deployed to Peace Operations to have a clear awareness of the political context





of the concerned area, as well as a sound understanding of the political goals of the mission mandate. Since, as outlined before, the implementation of Police mandates inherently entails political implications, as it involves access to key state institutions, shifting power and allocating economic resources, it seem fairly consequential that Political Advisers are the natural interlocutors of the Police Component in these contexts.

**“PUBLIC SECURITY GAP” IS THE RESULT OF THREE DIFFERENT GAPS DETECTED BETWEEN THE POLICE AND MILITARY FUNCTIONS.**

More specifically, Political Advisers, in order to effectively usher the action of the Police Component, can beneficially provide a political overview of the operational environment, considering both the internal and external or international balances at stake, in this context giving a clear illustration of the po-

litical objectives to be pursued according to the mission mandate. Moreover, Political Advisers can share an overall outline of the potential key counterparts and related political assessment in the light of the mission mandate, consequently contributing to elaborating the necessary “speaking notes” for interacting with Police-related stakeholders, in order to eventually achieve the “Police goals” with no prejudice to the overall mission mandate, or vice-versa.





Of course, as mentioned before, this is not a one-way interaction. In fact, if from the one hand Political Advisers play a key role in making Police Components aware of the political status quo, from the other hand Police Components represent an invaluable antenna to monitor the development of the local situation. In this view, benefitting from the scattered distribution of the various Police assets and from their proximity to local communities, Political Advisers can adjust their assessments in accordance with the information and feedbacks gathered from the Police personnel and, ideally, already processed through their technical know-how and, partially, on the basis of their political awareness acquired while interacting with the same Political Advisers in the first place. To conclude, it is quite evident how this is a cycle. A never-ending and virtuous cycle, where these two complementary actors work side by side towards the most effective implementation of the respective mandates.

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## PROHIBITION OF TORTURE:

## THE TICKING BOMB SCENARIO

*Prohibition of torture: analyzing and defusing the ticking bomb scenario. The reasons why torture is never an option, even if it seems the only one.*

*By Marco Sutto*

In the previous edition of the Co-ESPU Magazine I examined the difficulties associated with the implementation of an effective torture prohibition and its importance in a capacity building mission context<sup>1</sup>. In that context I even introduced the concept of “ticking bomb scenario” to support the necessity of the absolute prohibition of torture far beyond the legal constraints and to highlight the pointlessness and the hazards of permitting this practice. It is my intention, in this few pages, to properly expand the

“ticking bomb scenario”, to elucidate it and to debunk its assumptions in order to logically support the necessity of the absolute prohibition of torture. For the purpose of this essay, I assume the reader is already familiar with the international legal framework based on the provisions and definitions of the United Nations Convention Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)<sup>2</sup>. I suggest, otherwise, before proceeding, to consult the above-mentioned article. It is a fact that the legal prohibition of torture and similar practices is absolute and Law Enforcement Institutions and peacekeepers must uphold this position anywhere and always. However, despite the clear rules, some people deem a

certain degree of torture application helpful in saving innocent lives, at least in specific serious situations. Those, who support the possible advantages of torture, are the ones who commonly propose the “ticking bomb scenario”. The scenario, a hypothetical “thought experiment”<sup>3</sup>, is designed to logically question the absolute prohibition of torture and to challenge its supporters. Indeed, in recent years, it has been at the core of the debate on torture and, particularly since the 9/11 events, it has prompted extensive inquiry into the legal, moral and practical issues surrounding the use of torture as an anticipatory means of preventing the use of unlawful violence and, thus, of protecting lives. The scenario involves the capture





of a terrorist by the police, on suspicion of having placed a bomb due to explode imminently in the middle of a large city. It is usually proposed to a torture opponent as follows: "Suppose that a perpetrator of an imminent terrorist attack, that will kill many people, is in the hands of the authorities and that he will disclose the information needed to prevent the attack only if he is tortured. Should he be tortured?"<sup>4</sup>. This question is often directly posed to someone in front of an audience, putting him/her in a struggling moral dilemma:

**THERE IS TOO MUCH TO LOSE BY CREATING LEGAL EXCEPTIONS TO ACCOMMODATE SOME SORT TICKING BOMB SCENARIO, THAN THERE IS BY MAINTAINING THE ABSOLUTE PROHIBITION OF TORTURE, EVEN IF THAT MEANS ASSUMING SOME HYPOTHETICAL RISK.**

"...the only way to prevent the attack, to defuse the ticking bomb, is to torture the prisoner. Would you jeopardize innocent lives just to observe the absolute prohibition of torture, when you could easily have access to the necessary information to stop the attack?". Its intended effect is to create doubts about the wisdom of the absolute prohibition of torture, leading the people involved in the discussion to accept the creation of a legal exception to the prohibition, or at least to accept non-application of the criminal law against torture in particular cases. For this purpose, torture is considered applicable only to obtain information to save lives in serious cases of terrorism; any other objective such as infliction of punishment or procurement of confessions remains excluded. Clearly, the scenario, as proposed, works by manipulating the emotional reactions of those involved. It builds a condition of fear and anger. It artificially tilts the circum-

stances to evoke sympathy or even admiration for the torturer, and hatred or indifference towards the torture victim. Torture is presented a necessary evil in the pursuit of a greater good. It tries to force torture opponents to concede that such practice may be acceptable at least in some extreme cases. Pro-

ponents of the ticking bomb argument want to weaken the very idea that torture prohibition must be absolute both as a principle and as a practice. Truly, everyone involved in such circumstances, saving innocent lives applying torture or doing nothing leaving them at risk, would find himself in front of a harsh moral dilemma. However, considering the fact that even torture advocates want to limit its use to very strict and serious occasions, the ticking bomb hypothesis is not as simple as presented above and is based on a number of often hidden or only implied assumptions which must be disclosed and analyzed. Typically, the scenario, to penetrate the moral standards of those against torture, supposes certainty, or near certainty, as to all of the following<sup>5</sup>:

1. A specific planned attack is known to exist.
2. The attack will happen within a very short time (it is "imminent").
3. The attack will kill a large number of people.

4. The person in custody is a perpetrator of the attack.
5. The person has information that will prevent the attack.
6. Torturing the person will obtain the information in time to prevent the attack.
7. No other means exist that might get the information in time.
8. No other action could be taken to avoid the harm.
9. The motive of the torturer is to get information, with the genuine intention of saving lives, and nothing more.
10. It is an isolated situation, not often to be repeated.

The scenario, as articulated after the assumptions are spelled out, clearly describes a situation that would rarely, if ever, manifest in reality. The easy absence of one or more of these premises is the reason often leading the scenario advocates to amend the theoretical original conditions and make concessions in order to make it more lifelike and still contemplate the recourse to torture. Such exceptions inevitably lead to a much wider acceptance of torture than it was initially suggested, even far beyond the will of the "torture to save lives" supporters. Ultimately, the tendency to broaden the permissible circumstances become inevitable conducting to a dangerous escalation of its use, defined as the "slippery slope"<sup>6</sup>. However, to make clear that the best option is always not recurring to torture and that the risks overcome any possible advantage, the next paragraphs





will analyze and debunk the scenario assumptions one by one. Firstly, the consideration that a specific planned attack is known and will happen within a very short time rises serious concerns about the imminence of it (assumptions 1 and 2). How sure and imminent should it be to justify the application of torture? Are we sure that the bomb is placed and ticking or it is just a suspicion? The risk is to recur to torture for a bomb that does not even exist. Will the bomb explode in hours, days or months? The timing of attack should be far enough to allow authorities to do something to stop it and, on the other side, not so far off in the future that the loss of lives could be prevented in some other way (evacuation or humane interrogation methods, for instance). In both situations, the supposed "need" for torture simply disappears. Still, the issue, regarding the grounds on which it is determined whether alternative methods would not work in time or even faster than torture, remains open. The fact that the life of a large number of people should be threatened (assumption 3) opens the debate about the number of possible victims necessary to recur to torture (is it one, ten, hundreds?). And why only victims of terrorism? Many are the crimes endangering the life of innocent people. For instance, serious debates have been raised in kidnapping cases as happened in Germany with the Magnus Gäfgen case<sup>7</sup>. With this in mind, if we still want to apply torture, in order to proceed, we should consider the person in custody as a perpetrator of the attack and in possess of relevant information that will prevent it (assumptions 4 and

5). Torturers, though, are seldom likely to have such a degree of certainty that the person they are holding is a perpetrator or even that he has relevant information. Perversely, an "innocent" person, who has no connection to, or knowledge of the attack is likely to suffer the deepest and longest, having no means to satisfy tortures requests and stop his/her ordeal. In conceding such a possibility, the proponents of the "ticking bomb" scenario may soon accept the inevitability of applying torture to someone completely innocent, who ultimately is not involved in any terrorist activity and who may turn out not to have any relevant information. Admitting the latter option could easily create the "flexibility" to allow torture in the following circumstances: a person just suspected of a certain degree of involvement, persons not directly involved but who could have relevant information (for instance a relative of the suspected perpetrator). Falling down to the "slippery slope" could lead to the worst abomination of allowing torture even on a child, who has no relevant information, in the presence of the perpetrator to force him talk (maybe the father, member of an extremist group, who trained himself to resist torture). It appears that no matter how one tries to confine the use of torture to extreme, narrow circumstances, the temptation to broaden these conditions is inevitable. Without an absolute prohibition on the use of torture, it seems virtually impossible to ensure that "special cases" remain special.<sup>8</sup> In addition, if we consider torture as an investigation tool, we should take into account that it is far from been proven as an effective

method of acquiring reliable information (assumption 6). How can we be sure that the information released by the tortured suspect are correct and not designed to send authorities in the wrong direction? As the torture will stop as soon as the interrogator believes he has the information needed to prevent the attack, it seems likely that a perpetrator would be able both to stop his suffering and to misdirect authorities long enough for the bomb to go off. It is important to recognize that the types of persons who would plan and execute an attack are the very ones who are most likely trained to withstand torture until it is too late anyway. Professional interrogators have emphasized that interrogation can be conducted much more effectively without the use of torture<sup>9</sup>. Furthermore, if you intend to rely on torture you should create and maintain a professional class of torturers, and to equip them with continuously-updated torture techniques somehow diverting resources from other means of preventing such attacks. Needless to say that institutionalized professional "torture squads" would pose grave dangers to democracy and to individual freedoms which no one would easily accept. Besides, despite the just debated uncertain efficacy of torture, the scenario assumes it is the only available means that might get the information in time and no other action could be taken to avoid harm (assumptions 7 and 8). Is it really possible that there are no other leads to pursue? Why cannot other investigative techniques, such as humane methods of interrogation, search warrants, wiretaps and so on, be considered? This tunneled vision on torture re-





liability seriously risks to render detectives less active in exploiting other investigative opportunities.

With regard to the actions to be undertaken to mitigate the possible harm, is it actually not possible to evacuate the building, neighborhoods, or city under threat? If there is not enough time, as supposed, recurring to torture could lead us to the release of information appositely designed to misdirect the investigation as seen for assumption nr.6.

The “ticking bomb” exception also insists that the aim of torture is intelligence gathering, not punishment (assumption 9). In the real world, however, it is unrealistic to assume that interrogators’ motives will be pure. Anger and desire for payback have proven that can too-easily take over under extreme circumstances<sup>10</sup>.

Lastly, the scenario assumes the exceptionality of torture (assumption 10), nevertheless, as seen, any acceptance of torture, whether granted in advance through legal permissions or granted postfacto by non-prosecution or other means, conducts inevitably to a “slippery slope” where its use quickly becomes much more widespread<sup>11</sup>, thus no longer exceptional.

To sum up, the reasons of any exception to the absolute prohibition of torture, based on the “ticking bomb scenario”, have proven to be ineffective and dangerous, therefore, must be categorically rejected. There is too much to lose by creating legal exceptions to accommodate some sort ticking bomb scenario, than there is by maintaining the absolute prohibition of

torture, even if that means assuming some hypothetical risk. The erosion of democratic institutions and the destruction of any open, free and just society based on the modern Human Rights standards represent serious side effects of any theoretical torture acceptance.

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Original photo by Pressfoto / Freepik

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## POs: FROM COMPETITION

## TO COORDINATION

*POs run by UN and Regional organizations: from competition to coordination. A focus on the Africa continent.*

*By Nicola Carrera*

The Charter of the United Nations' includes, among its main objectives, the maintenance of international peace and security. Among the instruments that this Organization has developed over the years to achieve and guarantee this goal, there are the Peace Operations (POs). The Constitutive Act of the UN does not explicitly mention this type of operations which were already called, before the reform of the DPKO (Department of Peacekeeping Operations) in DPO (Department of Peace

Operations), peacekeeping operations (PKOs). The PKOs have evolved since 1948 as a result of the non-application of certain articles of the Charter, according to which each UN Member State should "make available to the Security Council, in accordance with special agreements, its armed forces, assistance and facilities necessary for the maintenance of international peace and security"<sup>2</sup>. These agreements concerning the provision of military contingents, which should have been "negotiated as soon as possible"<sup>3</sup>, have never found practical application. The General Staff Committee was never activated. This Committee was supposed to "assist and advise the Security Council on all military matters for peace and security, the use

and command of the forces at its disposal, the discipline of armaments and possible disarmament". The failure to activate Articles 43 et seq. of the Charter led the Security Council to intervene in international and internal crises through military and police measures: the famous Blue Helmets. These had the task of working for peacekeeping through the PKOs. This type of operation has developed and evolved over the years and is based on "a particular customary rule in Chapter VII - under which the Security Council has always acted when establishing a mission"<sup>4</sup> and therefore not directly defined within the UN Constitutive Act. Peacekeeping operations represent one of the measures through which the Security Council can act





to fulfill the task of maintaining international peace and stability. The first such operation was carried out in 1948, sending military observers to the Middle East and

was named *United Nations Truce Supervision Organization - UNTSO*. Since then there have been more than 60 UN peace operations of which, after 1990, 27

were deployed in the African continent: the most recent are the *UN Mission in Burundi (ONUB, 2004)*, *UN Operation in Cote d'Ivoire (UNOCI, 2004)*, *UN-AU Hybrid Operation in Darfur (UNAMID, July 2007)*, *UN Organization Stabilization Mission in the Democratic Republic of Congo (MONUSCO, July 2010)*, *UN Mission in the Republic of South Sudan (UNMISS, July 2011)*.<sup>5</sup>

Just to give an insight to the readers, here below I drop the past (pic nr.1) and the current operations (pic nr.2) updated at who UN is carrying on: The recruitment of military personnel for PKOs was managed through agreements between the United Nations and Member States, whenever necessary. Taking into account these procedures for the enlistment of the Blue Helmets, it can be easily noted that the model of peacekeeping operations does not correspond to the original idea provided for the UN Charter in fact the contingents, instead of being permanently available to the Security Council (Articles 43 et seq.), are constituted from time to time. Moreover, in order to use national contingents, the consent of the State on the deployment of personnel is always provided, thus excluding the coer-

cive characteristic of the operation. Finally, the use of force is limited to self-defense or, generically, to the protection of the mission. This type of missions, defined as 7<sup>st</sup>

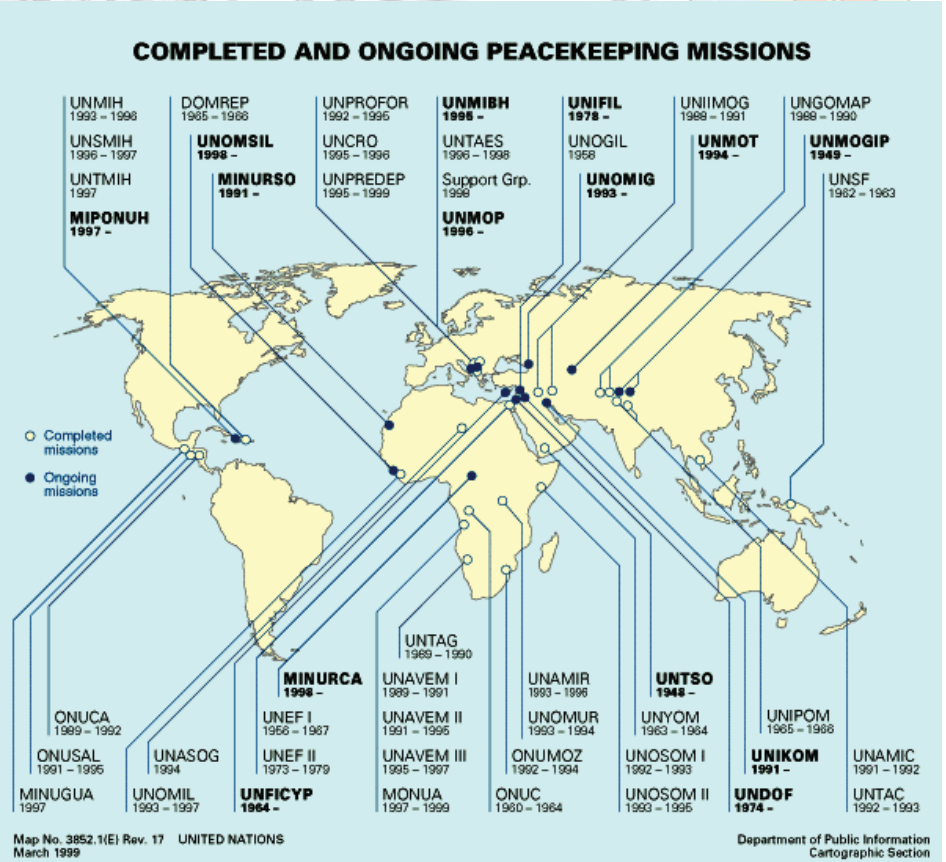
tainment and resolution of both regional and armed conflicts within states between opposing factions or political groups, or between enclaves, which today constitute the

**PEACEKEEPING OPERATIONS REPRESENT ONE OF THE MEASURES THROUGH WHICH THE SECURITY COUNCIL CAN ACT TO FULFILL THE TASK OF MAINTAINING INTERNATIONAL PEACE AND STABILITY.**

majority of wars. The transformation of the international environment has led to the development of a new generation of operations defined as

*Generation missions*, was mainly of a military nature and was limited only to overcome the current conflict. The forces employed never had a role for which they could have a political influence. With the end of the Cold War the international context changed and the United Nations was actively engaged in promoting the con-

*multidimensional*<sup>6</sup>. This definition was given because the United Nations did not only deploy military personnel but civilian and police contingents were also employed to support the implementation of far-reaching peace agreements signed by the states in conflict. Today, Africa is not only the poorest continent in the world but also



Pic nr.1





# Peacekeeping Operations Fact Sheet

31 March 2020

Peacekeeping operations since 1948	71
Current peacekeeping operations	13

**PERSONNEL**

Uniformed personnel (troops 69,230, police 8,942, military observers 1,143 and 2,055 staff officers)	81,203
Countries contributing uniformed personnel	121
International civilian personnel (as of 31 May 2018)	4,386
Local civilian personnel (as of 31 May 2018)	8,221
UN Volunteers	1,300
Total number of personnel serving in 13 peacekeeping operations	95,110
Total number of fatalities in all UN peace operations since 1948 *	3,928

**FINANCIAL ASPECTS (US\$)**

Approved budgets for the period from 1 July 2019 to 30 June 2020	About 6.5 billion**
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\*Includes fatalities for all UN peacekeeping operations, as well as political and peacebuilding missions.

Pic nr.2

the most affected by inter and intra-state conflicts. The causes of this situation are several and of different origins, but perhaps the main one concerns the effects of colonization on the entire territory. In fact, during the phase of European domination, Africa was subdivided in a superficial way, "at the table", without in any way taking into account the ethnic, tribal, cultural and linguistic differences of the population. This erroneous division led, once the colonization ended, to the outbreak of numerous conflicts between the various African tribes, which each tried to assert their sovereignty. Although the problem of borders is the most used motivation to justify the terrible situation in Africa, there are many problems of various kinds: political, economic and social. Since the end of the Second World War, 17% of the UN peaceke-

eping operations had concerned Africa, nowadays more than 60% of the missions deployed by the United Nations concern these areas, including 4 of the five largest operations ever managed, with the deployment of more than 50,000 troops between Congo, Sudan (Darfur), Liberia and Ivory Coast. Currently more than half of the peacekeepers, working for the UN, are present in African territories: in percentage, 84% of the current 104,000<sup>7</sup> peacekeepers. Since 1945, there have been 8 million victims in Africa for conflict-related reasons alone, not counting all deaths due to illness or famine, while approximately 9 million are refugees hosted in other states or in emergency camps and under international protection. African refugees represent 33% of world refugees. Genocides like the one of Rwanda have led to the

deaths of over a million people<sup>8</sup>. The current situation can be interpreted in a negative way and the peacekeeping system seems to be "under pressure". In fact, it has been calculated that the number of operations rose 6 times since 1998. A solution to this problem could be found in increased collaboration with regional or sub-regional organizations, which can allow or at least try to reduce conflicts within their areas of competence. I deem this conclusion could be considered a very good point, very pragmatic and adherent to the necessity on the field, field-led approach. The motto "try OUA/UA first" has accompanied African institutional life for decades: the willing to resolve their problems with their own means has represented and continues to represent the leit-motif in the history of the African continent. So, here is the key to





understand that it is not good to talk about competition between the global vision and the local necessities but what is needed is a cooperation-oriented approach. There are still many fears about foreign interventions: one example is certainly the Sudanese one, for the fear that the presence of foreign personnel could determine a return "to the times of colonial domination" that could lead the continent to be plundered of raw materials of which the continent is rich. However, the field of peacekeeping missions and conflict management in general represents one of the various sectors in which Africa is trying to assert its authority on its own territory, but there are still many problems that prevent the realization of 100% autonomy. The reasons: scarcity of resources, lack of qualified personnel, adequate technology and equipment, but also the lack of money to pay for the contingents employed, whether civilian, military or police, are just a few aspects that make it clear why Africa cannot make itself independent from *shareholders* (e.g. *donors*). Not only the UN, but also the individual states of the international community are working to ensure that Africa becomes more autonomous and succeeds in positioning itself as a dynamic and active player in the international political arena<sup>9</sup>. Despite the fact that there are many problems in Africa, there are just as many positive aspects or at least the attempts that are still being made to make the African continent better, more stable and safer. The OAU was the first organization in Africa at continental level to deal with issues related to peace and conflict resolution on the continent. Over the years, it has

developed different ways of dealing with conflicts, starting from 1963, the year of its birth, from ad hoc interventions, until 1993 to the creation of the *Cairo Mechanism for Conflict Prevention, Management and Resolution*. The twenty-first century will witness the legal and normative transformation of the African organization; in fact, since 2000 we will speak of African Union, AU and no longer of OAU. Within this renewed body, a new mechanism for crisis prevention and management, the *African Peace and Security Architecture*, APSA, was immediately developed, whose structure is reminiscent of that of the United Nations. Currently, 20 operations led by the *United Nations Department of Peace Operations* (DPO) involve more than 104,000 people on 4 continents and 12 different time zones, directly affecting the lives of hundreds of millions of people. The number of UN peacekeepers employed today is seven times greater than in 1999<sup>10</sup>. Most of the operations take place in the African continent. Examples include Angola (UNAVEM I, II and III, 1989 - 1995 and MONUA, 1997 - 1999), the Republic of Central Africa (1990 and 1994), Liberia (1993), Mozambique (1992 - 1994), Rwanda (1996), Sierra Leone (UNAMSIL 1998 - 1999), Somalia (UNOSOM I and II, 1992 - 1995), the Democratic Republic of Congo (MONUC, 1999) and Western Sahara (MINURSO, 1991). While in the 2000s, among the

most important interventions are: Darfur (July 2007), Democratic Republic of Congo (July 2010), South Sudan (July 2011), Libya (UNSMIL, September 2011), Mali (MINUSMA, April 2013), Central African Republic (MINUSCA, April 2014). In this sense, we can affirm that African regional organizations are more solicited than other organizations in other geographical areas. The UN has intervened in this continent through the deployment of many peace operations and beyond..., participation in mediation activities in the context of political crises that have degenerated



into civil war or are likely to turn into widespread violence are other examples of intervention. African crises occupy more than 60% of the monthly agenda of the Security Council. In these emergencies, the OAU and the AU have assumed the role of mediator by participating in conflict prevention missions. The transition from the Organization of African Unity to the African Union represents a historic decision by the African heads of state and government, who have promoted the creation of a new "continental" system of peace and security, designed as an instrument capable of ensuring the promotion





of “African solutions to African crises”. The evolution from *ad hoc* mechanisms, through a more specific mechanism, that of Cairo in 1993, to the current *African Peace and Security Architecture* <sup>11</sup> (APSA), underscores all the efforts made by both organizations to create a peaceful and stable environment that will enable Africa not only to face the new “*millennium challenges*” but also to position itself as a protagonist on the international stage. The African Organization focused its attention above all on peace-making and peace-building missions, leaving peacekeeping to the UN. The increase of the internal conflicts in Africa in the 1990s led to the evolution of some relevant regulatory aspects, the birth of the African Union and a new mechanism for conflict management and peace and security maintenance in Africa, the *African Peace and Security*

*Architecture*. Since the 2000s, the attitude of African countries has changed and this has been well emphasized in the *Constitutive Act of the African Union*<sup>12</sup>, which guarantees intervention within the sides involved without their direct consent. In general, *Chapter II* tries to present the main mechanisms that have been created in order to manage and then eliminate conflicts on the continent. The desire and ambition for a global partnership between the UN and regional organizations has always been tangible and externalized on many occasions. In order to give a legal framework to the intent, it is easy to find in the UN Charter, in Chapter VIII, the **article 52** that it mentions:

*the states concerned or by reference from the Security Council.*  
**4. This Article in no way impairs the application of Articles 34 and 35.** Then articles 53 and 54 respectively report:

**Article 53**

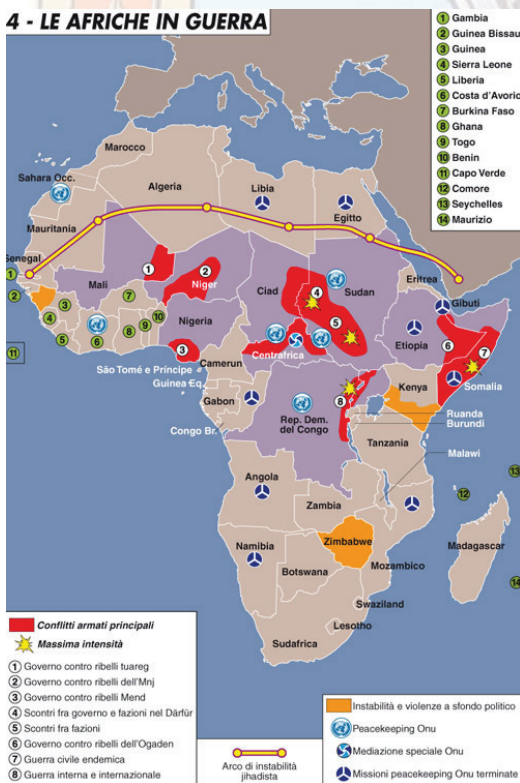
*1. The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.*

*2. The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.*

**Article 54**

*The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security. Chapter VIII of the Charter of the United Nations introduces the theme of “regional agreements”, without making any direct reference to regional organizations. From a more in-depth reading of the Charter it can be seen that Article 52 recognizes the existence of*

**4 - LE AFRICHE IN GUERRA**



Conflicts in Africa (source: Limes, *Le Afriche in Guerra*, 3/2010)

*to the maintenance of international peace and security as are appropriate for regional action provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.*  
**1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating**  
**2. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.**  
**3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of**





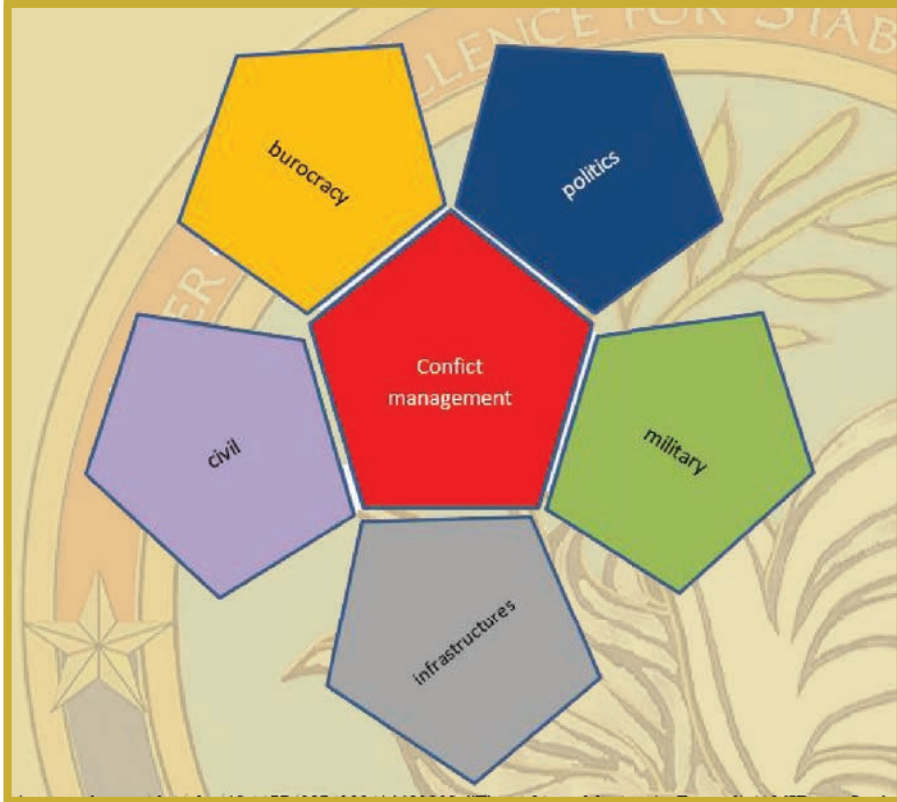
“regional arrangements or agencies” for dealing with those issues concerning the maintenance of international peace and security. This article highlights the role of regional actors in resolving, at the local level, issues between coun-

a distinction between the regional actions, which are coercive, decided and directed by the UN Summit, i.e. the Security Council, and those “originated” directly within the same regional framework, linked to actions of aggression

paragraph 1 without any advisory opinion, positive or negative, of the Security Council, it is considered illegitimate according to the UN Charter and may determine responsibilities for the Member States. It is necessary to emphasize that the authorization of the Security Council remains a necessary and fundamental element for a regional organization to use force. Finally, in Article 54, it is emphasized the obligation of regional organizations to inform the Security Council at any time of all actions they intend to take in order to ensure the maintenance of international peace and security. Since 1994, the year in which the “Declaration on Enhancement of Cooperation between the United Nations and Regional Arrangements or Agencies in the Maintenance of International Peace and Security” on the strengthening of cooperation between the United Nations and regional and sub-regional organizations in the maintenance of international peace and security was approved, regular “high level” consultations were agreed between the leaders of the respective organizations. Subsequently, in July 2005, during the 6<sup>th</sup> meeting between representatives of the UN and regional organizations, the proposal for a regional-global mechanism for peace and security began to be discussed in a more concrete way, recognizing the need to define a more structured system of relations between the UN and regional organizations, based on:

- the principle of comparative advantages;
- the implementation of precise cooperation agreements or “*memorandum of understandings*”.

In the “*Conclusions of the 6<sup>th</sup> hi-*



tries belonging to these groups of states. The use of regional organizations is also mentioned in Chapter VI of the Charter, referring to “Peaceful Dispute Resolution”, as an instrument for the peaceful settlement of conflicts. After defining the main task of regional organizations, Article 53 mentions those organizations that have as their objective the defense and mutual assistance between Member States. In addition, the Security Council may make use of regional organizations, which under its authority may be used for coercive measures. After reading this article, it is possible to make

against them: it is admitted the collective legitimate defense in case of armed attack. In this way, only if they are attacked directly, they can act coercively without the authorization of the Security Council; while in any other case the authorization of this authority is required. The authorization of actions involving the use of force against or within a State makes these regional organizations appear almost like as “decentralized bodies” of the Security Council, which, in order to have effective control over the action, must previously grant authorization. In the event that an action is taken on the basis of Article 53



gh-level meeting between the UN and regional and other intergovernmental organizations<sup>13</sup>, all participants recognized their commitment to organize subsequent sessions on the margins of the meetings between the Security Council and regional organizations in order to guarantee the maximization of the possibilities of complementarity of the initiatives; moreover, it was decided to set up a high level focal point within each organization. Subsequently, with Resolution 1625 of October 2005<sup>14</sup>, the Security Council not only started a process of strengthening its action in the field of "conflict prevention", but also recognized the urgency to promote a further and new deepening of cooperation and communication between the UN and the different regional organizations, in line with Chapter VIII of the UN Charter. Also in the same year, with a further resolution, 1631, the Security Council expressed its support for the consolidation of cooperation with regional organizations, inviting all Member States to strengthen their capacities, with particular attention to that of the African region:

- conflict prevention,
  - crisis management,
  - stabilization in the post-conflict phase,
  - the fight against terrorism and the small arms trade.
- This resolution reaffirmed, firstly, the role of the UN in the development of regional and sub-regional capacities in the field of peacekeeping and, secondly, the need to encourage the action of regional and sub-regional organizations in peaceful dispute resolution processes. The in-depth knowledge of local conflicts owned by regional organizations combined with the global legitimacy and authority

Le operazioni di pace dell'Unione Africana, 2003 – giugno 2011

Missione	Luogo	Durata	Compito principale	Stato intervenuto principale	Numero di truppe
AU Mission in Burundi (AMIB)	Burundi	2003/04	Peacebuilding	Sud Africa	3.250
AU Military Observer Mission in the Comoros (MIOC)	Comoros	2004	Observations	Sud Africa	41
AU Mission in Sudan (AMIS)	Darfur	2004/07	Peacekeeping Civilian Protection	Nigeria, Rwanda, Sud Africa, Senegal, Ghana	7.700
Special Tasks Force Burundi	Burundi	2006/09	VIP protection	Sud Africa	750
AU Mission for Support to the Elections in the Comoros (AMISEC)	Comoros	2006	Election Monitor	Sud Africa	1.260
AU Mission in Somalia (AMISOM)	Mogadiscio	2007/ 12	Regime Support	Uganda e Burundi	9.000
AU Electoral and Security Assistance Mission to the Comoros (MAES)	Comoros	2007/08	Election Support	Sud Africa	350
Democracy in Comoros	Comoros	2008	Enforcement	Tanzania Sudan	1350 (+ 450 Comoros)
AU – UN Hybrid Operation in Darfur (UNAMID) (UN pays)	Darfur	2008/12	Peacebuilding Civilian Protection	Nigeria, Rwanda, Egitto, Etiopia	23.000

vested in the Security Council, according to the Secretary General, could have increased the margins of success of the efforts conducted by the entire international community to defend peace and security. The African Union, compared to the OAU, has had the opportunity to conduct a significant number of peacekeeping operations, but still suffers today from some major structural impediments, such as dependence on external funding, lack of bureaucracy and intervention forces adequate and well trained to the various tasks of the mission and lack of

logistical capabilities: all these elements have hindered the proper functioning of some operations. The following table summarizes the peacekeeping missions managed by the African Union between 2003 and June 2011.

The African Union is still facing many problems today, trying to adapt to the needs and challenges in progress: conflict prevention, management and resolution remain three main targets for the African political and academic world, always in a collaborative and partnership key with the Uni-





ted Nations. One thing on top of the other priorities is the strengthening of the regional organizations such as the African Union. To be mentioned the resolution Resolution 2457 (2019) adopted by the Security Council at its 8473rd meeting, on 27 February 2019. With this meaningful resolution UN put a spotlight on the situation in Africa emphasizing the role and the action to be taken by the countries and the regional partners together with the Security Council to manage and solve conflicts, troubles and diplomatic issues. In any case, the new structure of the AU has been created along the lines of that of the UN and is designed to act where the UN is unable or unwilling to operate. The cases of Burundi<sup>15</sup>, Somalia<sup>16</sup> and Sudan<sup>17</sup> represent three different situations in which the African Union has intervened directly. The OAU, before, and the AU, now, have always tried to develop a mechanism for managing tensions and peacekeeping, peace-making and peace-building operations with a continental matrix based on the motto “Try Africa First” and on the conviction that an African solution to African problems should be found, excluding or limiting interference from actors outside the continent. Unfortunately, this remains today a purpose rather than a result achieved. Over the past decades, the APSA has taken many steps forward in its implementation and although much still needs to be done. Conflict-related issues in Africa continue to be a central element in continental policy and destabilizing for other key sectors such as socio-economic development: the expectations of the African Union to be qualitatively better than the

OAU are very high. A negative aspect in the work of the African Union is the poor capacity to cope with humanitarian disasters, as in the case of Darfur, where UN aid has been crucial. This gap has a negative impact on the perspectives of the international community *vis-à-vis* the continental organization and reinforces the idea of Africa’s inability to deal with some issues related to *conflict prevention and management*. The management of the security business therefore remains inseparable from the relationship of cooperation with the Glass Palace. The reasons for the previous statement in the article are based on five key points to be addressed and resolved, summarized in the diagram below. These are the new challenges to be overcome in the coming years. No more time for competition, we need cooperation!

PICTURES:  
-Vito Franchini  
-UN

1. The UN Chart was signed in San Francisco on the 26th June 1945 at the end of the conference of the United Nations about the international organization, but it came into effect on the 24 October 1945.
2. Article 43 Chapter VII of the UN Chart.
3. Article 47 Chapter VII of the UN Chart.
4. Conforti B. e Focarelli C., “Le Nazioni Unite”, Cedam 2012.
5. <https://peacekeeping.un.org/en/current-peacekeeping-operations>.
6. To date, PKOs are defined as a technique both to preserve peace, however fragile, in areas where tensions have ended, and to assist the implementation of peace agreements reached through diplomatic mediation. From an initial military instrument of observation and monitoring and interposition, peacekeeping operations have incorporated a vast complex of components, both civilian and police, who cooperate with military personnel to ensure the definition of a lasting peace. United Nations Department of Peacekeeping and Department of Field Support, “United Nations Peacekeeping Operations – Principles and Guidelines”

- (2008).
7. <https://peacekeeping.un.org/en/infographics>.
8. In the period following independence in Africa, the number of conflicts grew inexorably: since the 90s the number of deaths in Sudan, Congo, Ethiopia and Nigeria exceeded 8 million, while in mid-2005 as many as 10 million refugees were estimated to be present throughout Africa.
9. [https://ambwashingtondc.esteri.it/ambasciata\\_washington/it/sala-stampa/dall\\_ambasciata/mou-operazioni-pace.html](https://ambwashingtondc.esteri.it/ambasciata_washington/it/sala-stampa/dall_ambasciata/mou-operazioni-pace.html).
10. <https://archive.unric.org/it/pace-e-sicurezza/74>.
11. <http://peaceau.org/en/topic/the-african-peace-and-security-architecture-apsa>.
12. <https://au.int/en/treaties/constitutive-act-african-union>.
13. UN General Assembly, “Conclusions of the Chairman of the sixth high-level meeting between the United Nations and regional and other intergovernmental organizations”, 8th September 2005, A/60/341-S/2005/567.
14. UN Security Council, “Resolution 1625 – Declaration on Strengthening the effectiveness of the Security Council’s role in Conflict Prevention, particularly in Africa”, 14th September 2005.
15. <https://journals.sagepub.com/doi/abs/10.1177/0974928416683038> “The African Mission in Burundi (AMIB): A Study of the African Union’s Peacekeeping Success and ‘Triangular Area of Tension in African Peacekeeping’”.
16. <https://amisom-au.org/>.
17. <https://www.un.org/press/en/2017/sc12993.doc.htm>.



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# HEALTH AND WELL-BEING







MEDICAL

Health  
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Pharm  
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Dentist  
First Aid  
Surgeon  
Emergency





# COVID-19: THE ROLE OF RAPID DIAGNOSIS

## *COVID-19: THE ESSENTIAL ROLE OF RAPID DIAGNOSIS AND APPROPRIATE USE OF PERSONAL PROTECTIVE EQUIPMENT.*

*By Mario Plebani*

### Introduction

The coronavirus disease 2019 (COVID-19) pandemic caused by the novel severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) represents a major healthcare challenge threatening global public health, social stability, and economic development. One of the most striking aspects of COVID-19 is the stark and poorly explained differences in experien-

ces of the disease as some people never develop symptoms whereas others, sometimes apparently healthy, have severe or fatal pneumonia. Manifestations of COVID-19, in fact, include asymptomatic carriers, patients with mild symptoms and fulminant disease characterized by sepsis and acute respiratory failure. Approximately 5% of patients, and 20% of those hospitalized, experience severe symptoms necessitating intensive care<sup>1</sup>. Transmission of SARS-CoV-2 occurs primarily via respiratory droplets from face-to-face contact and, to a lesser degree, via contaminated surfaces. Exposure during talking, coughing, or sneezing is the most common mode of transmission, being an exposure longer than 15 minutes to an infected person associated with higher risk for tran-

smision<sup>2</sup>. The clinical significance of SARS-CoV-2 transmission from inanimate surfaces is more difficult to interpret without knowing the minimum dose of virus particles that may initiate infection. However, available evidence highlights that the virus detected on surfaces decays rapidly within 48 to 72 hours, but reinforces the need for adequate environmental hygiene<sup>3</sup>.

### **Diagnosis: accurate and timely**

The accurate and timely diagnosis of the disease is crucial to the effective management of patients, control of the pandemic and the establishment of appropriate infection control measures particularly as presymptomatic transmission is thought to be a major contribution to the spread of the infection. Modelling studies from





Singapore and China estimated the percentage of infection transmitted from a presymptomatic individuals as 48 to 62%<sup>4</sup>. Reverse transcription polymerase chain reaction-based SARS-CoV-2 RNA detection from respiratory samples, in particular nasopharyngeal and oropharyngeal swabs, is the gold standard for diagnosis but the sensitivity of testing varies with timing of testing relative to exposure and other pre- and analytical variables. According to a modelling study, estimated sensitivity varies from 62% on the day of symptom onset to 33% four days after exposure. Molecular testing, therefore, should be initially ne-

gative in patients with SARS-CoV-2 infection, especially in those who will later develop over COVID-19 as well as after symptom relief, highlighting the two grey zones

at the early beginning and in the final phase of the infection (Figure 1). rRT-PCR assays developed in-house and/or commercially available may differ for the specific target(s) adopted that should be the RNA-dependent RNA polymerase (RdRP), the viral Envelope gene (E), the orf1a and orf1b, and, finally the nucleocapsid (N)<sup>5</sup>. Limitations and vulnerabilities of nucleic acid simplification tests (NAAT) for SARS-CoV-2 detection in biological fluids have been described, emphasizing the need for a more careful standardization and control of both pre- and intra-analytical procedures. The main potential vulnerabilities are presented in Table 1<sup>6</sup>. A very recently published paper on an international external quality assessment survey highlights

the need for a better standardization of molecular test as only 86.3% of participating laboratories reported correctly the results for all core samples and incorrect false-positive results were reported for a true negative samples by 2.7% of participant laboratories<sup>7</sup>. In a recently published paper, our group have evaluated some pre-analytical issues, namely the effects of sampling procedures, time and temperature of the primary nasopharyngeal swabs storage on real-time reverse-transcription polymerase chain reaction (rRT-PCR) results. In addition, we have demonstrated that swabs sampling is

## TRANSMISSION OF SARS-COV-2 OCCURS PRIMARILY VIA RESPIRATORY DROPLETS FROM FACE-TO-FACE CONTACT AND, TO A LESSER DEGREE, VIA CONTAMINATED SURFACES

a critical step, and especially in case of low viral load, might be a potential source of diagnostic errors<sup>8</sup>.

### Rapid tests

Timely and accurate diagnosis are the main goals, particularly in the early phase of epidemics and are the first step towards limiting the propagation of the infection. However, one of the major drawbacks of the available molecular assays for the diagnosis of severe acute respiratory syndrome Coronavirus-2 (SARS-CoV-2) is the need for viral nucleic acid extraction from clinical specimens. For overcoming these procedures and reducing the analytical turnaround-time (TAT), a newly designed real-time RT-PCR (Simplexa™ COVID-19 Direct assay) was developed and validated

<sup>9</sup>. Overall, the test resulted to be fast, easy-to-use, does not need extra-equipment such as centrifuges or an extraction system, and can be handled by laboratory personal with very little extra training for the procedures and interpretation of results. Furthermore, the simplicity of design and the all-in-one coupled with easy-to-use design, makes it suitable for the field settings, and for near-to-patient diagnosis. In the previously cited paper, all the 99 SARS-CoV-2 samples tested positive with the reference test showing median cycle threshold (Ct) of 24.2 (range 16.6–36.9), also resulted positive with Simplexa™ COVID-19 Direct assay, with a clinical sensitivity of 100%. Notably, Simplexa™ COVID-19 Direct assay was able to detect 8 ad-

ditional positive samples resulted negative with Corman's method. Moreover a 100% of clinical specificity was observed against swabs resulted positive to other viruses, particularly human coronaviruses, indicating no cross-reactivity with other similar viruses. Key advantages of this assay are simple operation procedures and high-speed of detection in just over an hour, which is significantly faster than the up to seven hours currently required by traditional extraction followed by amplification technologies. The only limitation of the assay is the small number of samples which can be tested in a run, since each instrument can support a ring of maximum eight position; this limitation is offset by the rapidity of the assay, due to the lack of extraction.



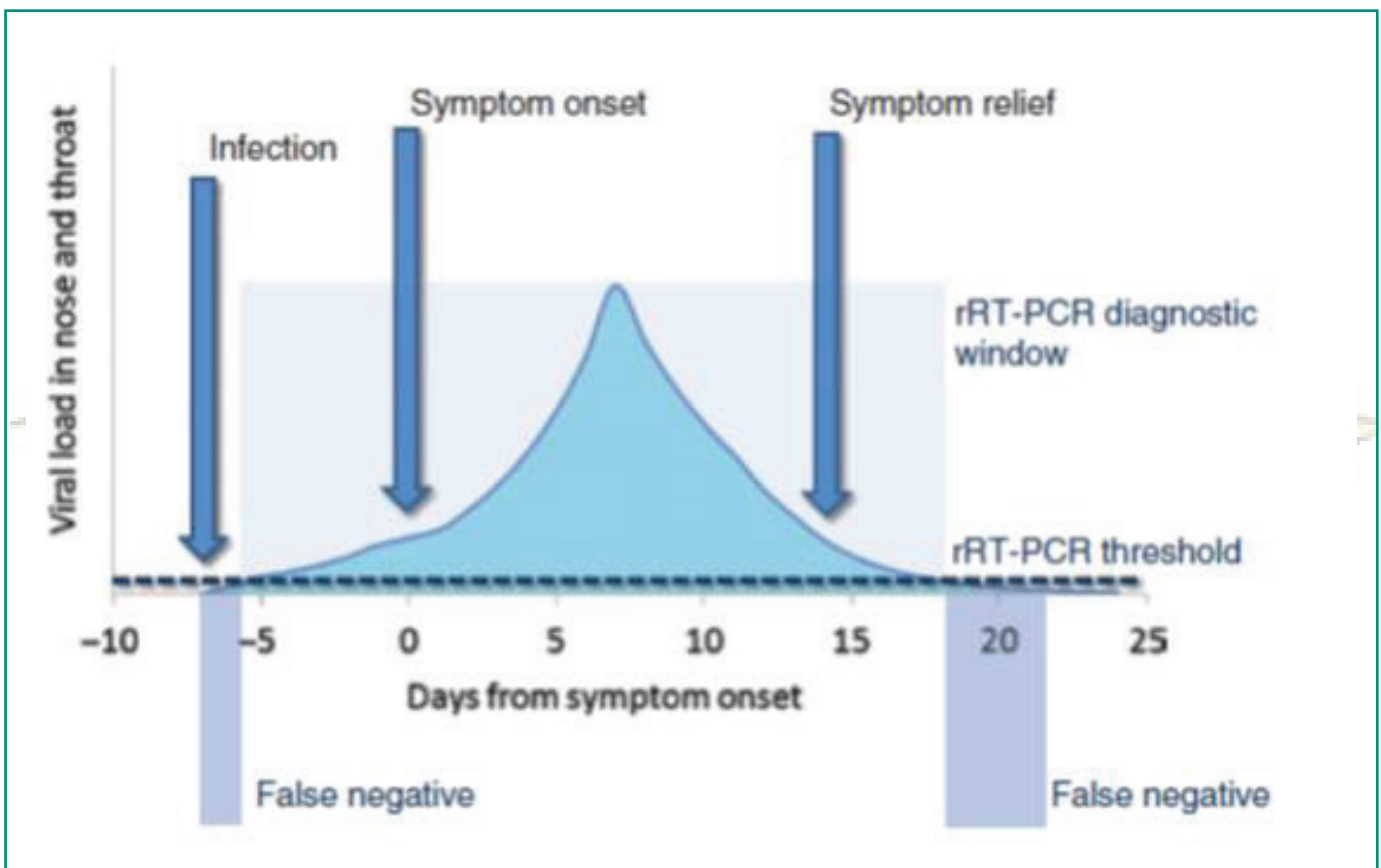


Figure caption:

Figure 1: Diagnostic window for the detection of SARS-CoV-2 infection by using rRT-PCR (from reference 6, modified)

Table 1. Potential pre- and intra-analytical vulnerabilities in rRT-PCR assays (from reference 6, modified)

Pre-analytical

a) General

Lack of patient identification/misidentification

Wrong timeframe and diagnostic window (too early, too late)

Inadequate procedure for sample collection, handling, transport and storage

Interfering substances

Manual errors (e.g. pipetting)

b) Specific

Sample contamination

Testing patients under antiretroviral therapy

Analytical

Use of non-or poorly validated assays

Complex manual procedures

Lack of harmonization of primers and probes

Instrument malfunction

Lack of quality control procedures

Non-specific PCR annealing

Misinterpretation of expression profiles





Other point-of-care testing (POCT) systems for SARS-CoV-2 molecular assays, have been developed such as the BioFire Fil Array (BioMerieux), Cobas Liat (Roche Diagnostics and GeneSper (Cepheid). In particular, the Xpert Xpress SARS-CoV-2 test (Cepheid) has received FDA EUA (Emergency Use Authorization) and is performed on a widely used platform

100x lower than Abbott ID Now<sup>11</sup>. Due to current infrastructure limitations and supply shortages which limit testing capacity access to molecular diagnostic tests, some rapid qualitative or semiquantitative in vitro diagnostics have been designed to give results 10-20 minutes rather than hours as is the case with molecular assays. They are usually direct antigen-de-

July 2020), the non-governmental organization Foundation for Innovative New Diagnostics (<https://www.finddx.org/>) has listed four CE-marked rapid SARS-CoV-2 antigen detection tests, which are primarily lateral flow immunochromatographic assays based on the presence of a colloid gold conjugate pad and a membrane strip pre-coated with antibodies specific



(GeneXpert) for tuberculosis and HIV testing, especially in low-and middle-income countries<sup>10</sup>. However, other POC tests do not provide satisfactory results. In particular, the Abbott ID Now using isothermal amplification, appeared to have an unsatisfactory relative limit of detection (LOD) as both Roche Cobas and DiaSorin Simplexa have LODs at least 10x and

detection or indirect antibody tests which should be performed either in the laboratory or POCT. Antigen test may detect virus early in infection in both nasopharyngeal swabs and saliva samples but major limitations are due to the sensitivity relative to nucleic acid amplification tests and potential cross-reactions with other coronavirus<sup>12</sup>. At the time of writing (20

to SARS-CoV-2 antigens on a test line. If SARS-CoV-2 antigens are present in the specimen withdrawn from a nasopharyngeal swab, a visible band appears on the test line as antibody-antigen-antibody gold conjugate complex forms. Available data emphasize that the sensitivity of these tests is lower than that of RT-PCR, with previous antigen-detecting enzyme-lin-



ked immunosorbent assays (ELISA) developed for SARS-CoV having limits of detection of 50 pg/ml. Furthermore, clarification of their specificity for SARS-CoV-2 is awaited, given the potential for cross-reaction with other human CoV. Despite these limitations, the chief advantages of antigen tests, including their rapidity (10–30 min compared with hours for NAAT testing), ease of interpretation and limited technical skill and infrastructure required compared with NAAT-based testing, continue to make them worth pursuing<sup>13</sup>. Accurate serologic tests to detect host antibodies to severe acute respiratory syndrome-related coronavirus-2 (SARS-CoV-2) will be critical for the public health response to the coronavirus disease 2019 pandemic. Whereas the utility of antibody detection tests for the diagnosis of active COVID-19 is limited<sup>8</sup>, serologic assays are crucial for documenting prior infection and the presence of antibodies, which may indicate immunity. Yet, despite an explosion in the number and availability of serologic assays to test for antibodies against SARS-CoV-2, most have undergone minimal external validation to date. This hinders assay selection and implementation, as well as interpretation of study results<sup>14</sup>. Serological assays should be grouped in two categories that are: a) laboratory-based assays (usually chemiluminescent (CLIA) or enzyme-linked immunosorbent (ELISA) assays; and b) point-of-care tests, usually lateral flow assays (LFA). POCTs provide rapid results but are qualitative and reading-dependent. High-throughput and less expensive laboratory-based assays may provide semiquantitative or quantitative results, thus

allowing the identification of the best cut-off to be used for the rule-out and/or rule-in of the disease: this, in turn, may lead to improve the harmonization and standardization of results<sup>15,16</sup>. The relationship between specific antibody levels and neutralizing activity is under evaluation and we recently demonstrated a strong correlation between IgM and neutralizing activity measured using plaque reduction neutralization test (PRNT)<sup>17</sup>.

#### Personal protective equipment

Healthcare workers use personal protective equipment (PPE) to shield themselves from droplets from coughs, sneezes or other body fluids from infected patients and contaminated surfaces that might infect them. PPE may include aprons, gowns or coveralls (a one-piece suit), gloves, masks and breathing equipment (respirators), and goggles. In epidemics of highly infectious diseases, such as coronavirus 2019 (COVID-19), PPE can reduce the risk by covering exposed body parts. However, it is unclear which type of PPE protects best, what is the best way to put PPE on (i.e. donning) or to remove PPE (i.e. doffing), and how to train healthcare workers to use PPE as instructed<sup>18</sup>. We investigated the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) specific antibody titers in 133 healthcare providers working in a tertiary academic center in Veneto Region, North Italy, at the Department of Laboratory Medicine which is characterized by a workload of around 34,000 tests per day of both inpatients and outpatients. It has to be underlined that in accordance with the recommendations of

the World Health Organization, personal protective equipment together with social distancing and preventive hygiene measures were applied by all our staff since the spread of the pandemic in our country. All the enrolled healthcare professionals underwent, simultaneously to the blood sampling, a nasopharyngeal swab for molecular testing with quantitative reverse transcriptase-based polymerase chain reaction (RT-PCR). Among 133 examined asymptomatic healthcare professionals working in our unit (117 females, mean age  $47 \pm 10$  years), only one (0.75%) was positive for SARS-CoV-2 at the RT-PCR. Moreover, all had negative levels of IgM and IgG (negative cut-off  $<1.000$  kAU/L and  $<1.100$  kAU/L, respectively) except six healthcare providers (4.5%) who showed an increased level of IgG ( $>1.100$  kAU/L). The majority of healthcare professionals with positive IgG titers work at the phlebotomy center, as nurses or nursing assistants. These data confirm the low prevalence of seroconversion in our geographic area, as obtained in a survey on healthcare workers of the University-Hospital of Padova and Verona (unpublished data). In fact, in this survey the prevalence of seroconversion was lower than 4% highlighting the evidence that the rational use of PPE may strongly decrease the risk of infection (18). In two surgical units of the University-Hospital of Padova, two surgical units were equipped with simple surgical masks to be worn at work, while FFP2 or FFP3 masks were rationed and used only when dealing with high-risk patients. Gloves were worn only during patient contacts and screen or goggles were not provided. Staff has swab tests





every 20 days and serological test for both IgM and IgG. Out of 94 personnel (surgeons, nurses and administrative staff) only two tested positive for SARS-CoV-2 infection and were quarantined, being asymptomatic. No further cases occurred among surgical staffs<sup>19</sup>.

Therefore, available evidence shows that personal protective equipment together with social distancing and preventive hygiene measures may reduce the risk of COVID-19, the spreading of the infection and further challenges to public health.

### Conclusions

Coronavirus disease 2019 (COVID-19) caused by severe acute respiratory syndrome (SARS-CoV-2) represents a major healthcare challenge threatening global public health and social stability. Major differences in experiences of the disease, as some people never develop symptoms whereas others, sometimes apparently healthy, suffer from severe or fatal pneumonia are still poorly explained. Rapid and accurate diagnosis play a key role in reducing the morbidity and mortality caused by the new virus but a better understanding of the host defense and immune response to SARS-CoV-2 is needed and serological tests may add insights in this field. The appropriate use of personal protective equipment and preventive hygiene measures may decrease the spread of the infection.

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# COESPU TRAINING

# MaGISTra





## “POLICE ADVISOR TEAMS” (PATs)

**JULY 13 -17, 2020.**

30 Carabinieri officers attended a one-week theoretical course – NATO 2nd phase - aimed at their future deployment to Afghanistan in the framework of the “Police Advisor Teams” (PATs) within the NATO Resolute Support Mission.



## 13<sup>TH</sup> INTERNATIONAL MILITARY POLICE COURSE (IMP13)

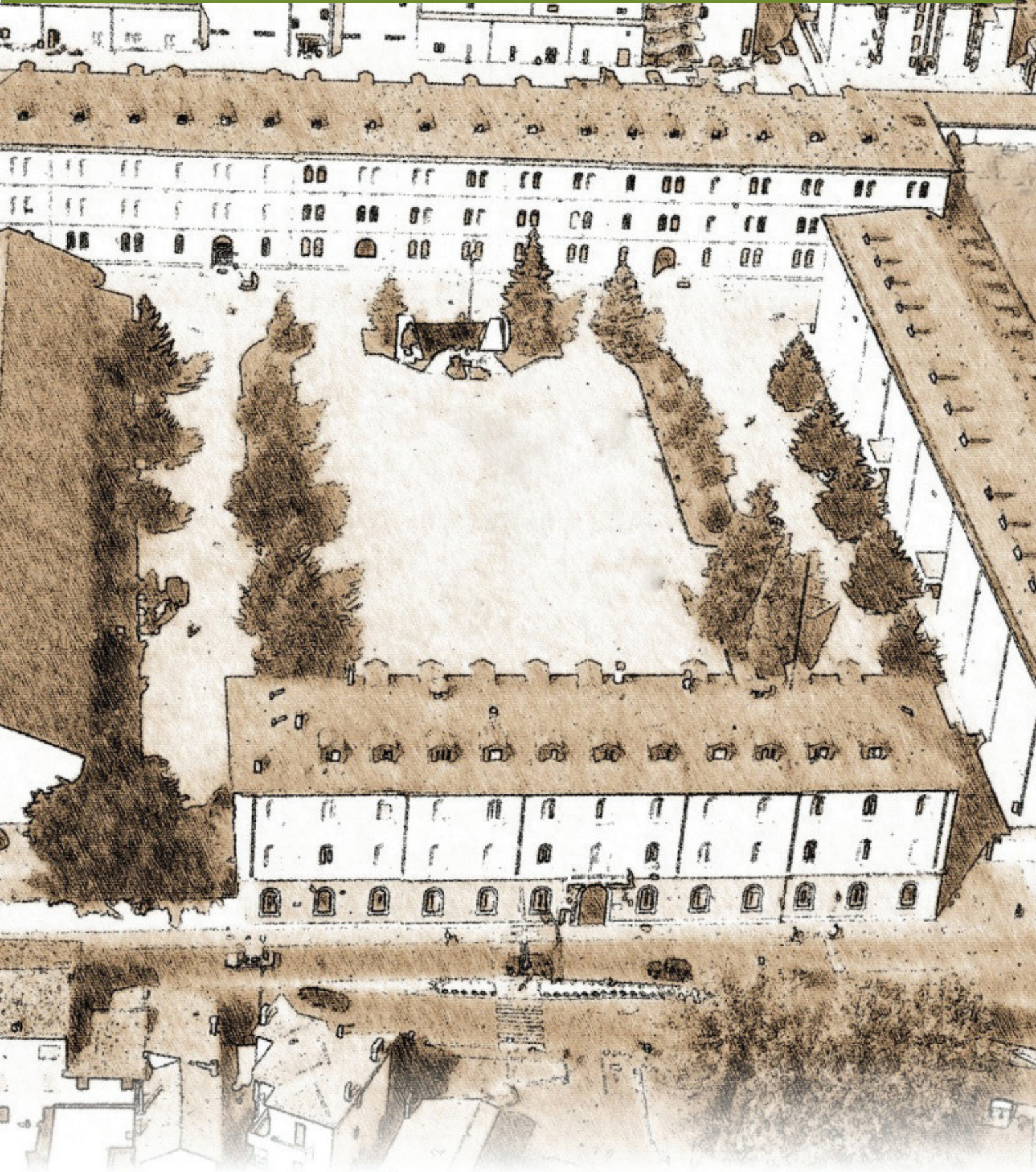
**SEPTEMBER 21 – OCTOBER 2, 2020.**

13th edition of the International Military Police Course (IMP13), whose 18 attendees came from the European Gendarmerie Force Permanent Headquarters (Eurogendfor), the United States Army, and the Carabinieri Corps. The 2-week training activity enhanced the participants’ knowledge of the broad role of the International Military Police and provided a venue for collaboration on lessons learned and best practices.





# COESPU ONSITE VISITS





Ms. ELISABETH BRAW

**SEPTEMBER 28-29, 2020**

Ms. Elisabeth Braw, Swedish journalist, director of the RUSI (Royal United Services Institute) Modern Deterrence project, within the framework of a comprehensive visit to the Vicenza Stability Policing Hub, met Brig. Gen. Giovanni Pietro Barbano, CoESPU Director, and the highest representatives of the European Gendarmerie Force Permanent Headquarters (Eurogendfor) and of the NATO Stability Policing Centre of Excellence (NATO SP CoE).





# Stability Policing Centre of Excellence

NATO's recognized focal point and hub of expertise for a Community of Interest in the field of Stability Policing



## Assessment of Spoiler Threats Report Published 15 June 2020

SP COE PROJECT FACTSHEET

### Project Overview

Global developments and the ever-changing security environment require NATO and the entire International Community to continuously transform and adapt. Under the auspices of NATO Supreme Allied Transformation HQs and with the involvement of the main international organisations (United Nations, European Union and African Union), US SIGAR, Academia, the NATO Stability Policing Centre of Excellence hosted an one-day conference and a three-day workshop intended to identify the requirements for developing **a sharable methodology for the assessment of Spoiler Threats**.



**Spoilers** are individuals that have the power to negatively impact the peace process both willingly or unwillingly. Spoiling behaviours may include violent and non-violent methods – **working definition**.

### Main Recommendations

- ✓ International Organisations should improve their capacity to strategically assess the implementation environment, particularly the motives, intentions, and capabilities of parties to a peace agreement and spoilers, by conducting a proper assessment prior to any decision to intervene and by including the results of the assessment in the mission mandate
- ✓ There is a need for the International Community to develop a methodology to assess spoiler threats bearing in mind that the lack of this capability may undermine the peace process
- ✓ The methodology for assessing spoiler threats, as a living instrument, should start during the planning process and continue during and after the so-called "golden hour"<sup>1</sup> throughout the full spectrum of activities, which range from reaching a peace agreement to its implementation
- ✓ Stability Policing can play an important role in the early assessment and identification of spoilers, by virtue of its intelligence-led poling capabilities.

<sup>1</sup> The term "golden hour" is derived from medical science and is defined as "the hour immediately following traumatic injury in which medical treatment to prevent irreversible internal damage and optimize the chance of survival is most effective (Merriam Webster).

Vicenza (Italy), 8 October 2019







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SP COE PROJECT FACTSHEET

### Way a-head

The NATO SP CoE will host a Subject Matter Experts' **Forum from 1 to 5 February 2020** (COVID-19 permitting) aiming to:

- ✓ Develop an ad-hoc tool to assess Spoiler Threats
- ✓ Provide the foundation to develop a procedure for its use by analysts and planners, prior to any deployment in crisis response operations and unstable scenarios
- ✓ Develop a doctrinal framework, relevant terminology and consequent training curricula

### Desired Strategic Outcomes

- ✓ Increase the likelihood of success of the Alliance's Efforts
- ✓ Pave the way for sustainable peace and long-term security
- ✓ Encouragement of decision makers to implement a Spoiler Assessment Methodology to set an effective and sustainable End State, ensuring long-term peace and development



**NATO SP COE**  
DOCTRINE FORUM  
[www.nspcoe.org](http://www.nspcoe.org)



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# NEWS FROM THE CoESPU CAMPUS





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NEXT CoESPU MAGAZINE ISSUE WILL FOCUS ON:

*Training (and learning) Architecture*

*“Capacity Building in POs”*

*“Join training and cooperation for the maintenance of peace and security”*

*“UN Performance Evaluation”*

*Crossing subjects: Duty of care principles in POs,  
Child-gender-environmental protection.*

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