The CoESPU Magazine Advanced Studies 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 Advanced Studies 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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**Dear CoESPU Magazine Readers,**

In this second issue of a special series of our journal, “The CoESPU Magazine – Advanced Studies”, you will find many interesting articles. Among them: Alessandra Vicari, a CoESPU intern conducting research on Child Protection and the Right to Education in conflict and destabilized areas and graduating student in Law at “Università degli Studi Roma Tre”, in her article “Mandated to protect: safeguarding children and their right to education in UN Peace Operations (UN POs)”, makes a thorough analysis of the international community efforts to strengthen the protection of children affected by armed conflict within UN POs by including child protection provisions in the mandate of several UN missions.

Driscole Nenenga, legal consultant specialized in international peace, security and preventive diplomacy, in his article titled “The credibility, integrity and success of a POC mandate under the impulse of UN Peacekeeping Intelligence”, illustrates how the protection of civilians is at the very centre of all global strategies and policies in the domain of international peace and security since civilians are directly or indirectly the targets of security threats and challenges.

Carabinieri Colonel Michele Lippiello Liaison Officer at the Italian Ministry of Education and Ministry of University and Research and Sirio Zolea, Senior researcher in Comparative Private Law, Roma Tre University, Department of Law, Superior Officer at the Italian Ministry of Education and Ministry of University and Research, in their article “Predictive Justice: between opportunities and dangers” offer a comprehensive exploration on how predictive justice opens up to new possibilities but can also represents a potential danger associated to the application of algorithmic
computer tools to the legal field, stressing the fact that in constitutional democracies, the role of artificial intelligence in the activities of the police and judicial authorities must remain a form of support and enhancement of human decision-making and cannot replace it.

Alberto Altomare, CoESPU intern, in his article titled “DDR programs and gender mainstreaming in sustainable ecosystems management”, states that despite their involvement during different phases of conflict, the predominant and narrow definition of “combatants” has been to the detriment of women, limiting the understanding of the centrality of their roles as soldiers and victims both in armed groups and during the post-conflict phase urging that DDR planning be sensitive to issues of women combatants must relate to the entire peace process, from negotiations to peacekeeping and subsequent reintegration activities.

Dear readers, before wishing you a fruitful reading, it is with some sadness that I am announcing that my experience in leading CoESPU has come to an end. It has been seven years of hard work that has made it possible for us to achieve numerous milestones in the international scene. As for my future, fate is taking me to Kosovo, where I will be leading the EULEX mission.

What lies ahead of me will be a new, exciting challenge that comes as a capstone to my career, where the experience gained in more than 40 years will have to support me in leading such a complex civilian mission that consists of a judicial branch, which works to strengthen the Kosovar legal system and promote the rule of law in the Country, and two pillars, operational and monitoring which include, among others, a Criminal Intelligence and International Police Cooperation Unit, a Formed Police Unit, a Witness Security Unit, and a Correctional Unit. It will be a commitment that I will honour with the utmost dedication to best face the demanding task that awaits me in the Balkans, in a delicate and challenging moment.

I leave you to read this journal with the motto that has always accompanied my course of action: ad maiora semper!

MG Giovanni Pietro BARBANO
CoESPU Director
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Abstract:
This article considers the notion of predictive justice, assessing the new possibilities it opens up and, at the same time, the potential dangers associated to the application of algorithmic computer tools to the legal field. These issues are to be considered distinguishing the use of predictive justice by judges and police authorities from its use by the parties, their lawyers and legal advisors. Furthermore, we envisage the current norms, institutional statements and legislative propositions concerning predictive justice within the European common legal space. We conclusively assert that, in constitutional democracies, the role of the intelligent machine in the activities of the police and judicial authorities must remain a form of support and enhancement of human decision-making and cannot replace it.

Keywords: predictive justice, Artificial Intelligence, transparency, black box problem, algorithmic bias

1. Introduction
Predictive justice is today at the forefront of debates on the innovation of judicial systems, while legal systems are slowing yet unevenly adapting to this challenge. This article\(^1\) focuses on the techniques of predictive justice and their (potential) use by judges and police authorities and by the parties (and their lawyers and other legal advisers), highlighting the potential benefits and dangers of such technologies.

\(^1\) See, amplius, the working paper Zolea, S. (2022) The European Courts Faced with the Unknowns of Predictive Justice. Roma Tre Law Review, 2, 80-95. The present article develops and updates the content of the general part of this previous publication.
The capability to grant a certain degree of rational predictability is paramount for the success and the effectiveness of every legal order and, particularly, as pointed out by Weber (1978), for the stability of the legal orders in modern (capitalist) societies, because rational calculability – through clarity and coherence both in lawmaking and in case law (Irti, 2016) – is the necessary ground for business. Legal doctrine is aware of it for a long time now, yet contemporary debate about predictive justice particularly focuses on how certain cutting-edge Artificial Intelligence (AI) technologies, such as machine learning and natural language processing, analyze through complex algorithms a large number of judicial decisions, in order to make probabilistic projections on the outcome of new legal cases and help the parties and even the judge make the (allegedly) best choices. According to the most radical views, algorithmic decisions, realized through these and other AI technologies, should even replace the role of the judge, or a part of it. These are developments not only concerning the common law legal orders, traditionally based on a case-by-case inductive approach, but also the civil law legal orders, where it cannot anymore be denied the real role of case law as a substantial source of law (Calzolaio, 2021).

2. What is predictive justice?

In a few words, assuming an easy access to judicial decisions, predictive justice is an in-depth computer analysis by algorithms of a massive scale of legal precedents, an analysis aimed to calculate and preempt the probabilities of the outcomes of present litigation, reducing the uncertainty of the judgement (and possibly avoiding and preventing

the judgment itself).

The idea of using mathematical models and calculation methods to compute the probability of different possible outcomes of litigation was not previously unknown, but contemporary computer science enormously increases the opportunities of calculation at accessible costs. In fact, new technologies offer to legal actors an appearance of restored certainty in the middle of a confusing time of multiplication and overlapping of the formal and of the de facto (national, transboundary, global, hard law, soft law, etc.) sources of law. Predictive justice poses several ethical and regulatory problems, even more so when the debate concerns tools available to use by judicial and police authorities (or even replacing them), particularly in the criminal law field, where fundamental liberties of the individual are directly implied.

3. Utilizations of predictive algorithms by judges and police authorities

There are several worries concerning the replacement (in whole or in part) of the self-critical judgements of reason by the algorithmic rules of rationality (Noto La Diega, 2018). First of all, we remark the difficulties in the selection (e.g., include or not to include old and very old cases? And cases judged before the advent of the democratic regimes? And, when available, the concurring and dissenting opinions? etc.) and in the hierarchy (how to weigh decisions coming from judges of different levels of jurisdiction? And a decision of an ordinary judge against a decision of an administrative judge?) of the relevant precedents (Battelli, 2020; Mattera, 2019). There may be risks of computer errors and cyber-attacks impacting on the course of justice (Filiol, 2018). Furthermore, the idea that non-human AI decisions are not affected by passions and ideologies is misleading, because algorithms are as biased as the people who trained them, but in a less transparent and accountable way (Noto La Diega, 2018).


7 Cf. the reflections of Habermas, J. (1976) Legitimation Crisis, Cambridge: Polity Press, p. 46, on a «rationality crisis in which the administrative system does not succeed in reconciling and fulfilling the imperatives received from the economic system».

8 See also Resta, G. (2019) Governare l’innovazione tecnologica: decisioni algoritmiche, diritti digitali e
The opacity in the functioning of the algorithms is a serious question which particularly stands out in relation to their utilizations in the legal field: the black box problem not only arises from the intentional lack of transparency of the designer (Carlson, 2017) and from intellectual property rights, but also from the objective complexity of these mechanisms for the public of non-computer scientists (Oswald et al., 2018), leading people to a blind deference to the machine’s decision, believing its answer as a transcendental truth, instead of a subjective one (Harkens, 2018). And as for some very advanced AI technologies (we can think about neural network and deep learning) capable of autonomously learning, even their programmers cannot precisely know how (the path through which) the machine reached a solution for the question submitted to it.

The judge, mostly but not only in the civil law world, has to apply not simply punctual norms and legal precedents, but also more discretionary legislative principles and general clauses, very difficult to be applied by a machine. We should also consider the fact that algorithms tend to equate several kinds of factual inputs (legal norms, precedents, facts and other elements of the folder, temperament of the judge, etc.) obtained from the mass of jurisprudential big data, associating all these elements in mathematical correlations which are stranger to the legal concept of causal link and to the legal hierarchy of the sources of law (Garapon and Lassègue, 2018). Algorithmic results are perceived as based on facts, more impartial, impersonal, and free from external influences, but their ability to interpret the law and provide proper explanations for decisions is questionable and they lack an understanding of context, intuition, and social practices (Razmetaeva, 2022).

Authors and legal professionals, in the debate about predictive justice, should not underestimate the importance of the social legitimacy of the judicial decision, product of the wisdom and of the experience of the judge, who must clearly justify the reasons of it, which, at a later time, might be evaluated by a higher judge (Bichi, 2019).
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goes for the democratic legitimacy of the judicial decision, challenged by the threat of a solely technical legitimacy (Garapon and Lasségue, 2018; Menecœur, Barbaro, 2022). Finally, it is fundamental, while elaborating predictive algorithms for the legal field, to understand how to face the existing contradictions in case-law and how to avoid to stop any possible evolution and democratic pluralism of the jurisprudence through the creation of an indissoluble bond to the previous decisions (Dondero, 2017; Battelli, 2020). And could not, through such AI proceedings, a misinterpretation (or, in any case, a disputable interpretation) of one or more judges become more authoritative than the law itself, in the eyes of the other judges and of the police authorities, contradicting even the fundamentals of the État de droit?

It is important to remember that «the task of solving cases and the task of judging cases are not the same, even if their results usually overlap. (...) The judge is a product of his/her time and interprets it with the awareness of a man/woman who moves in a logical system of probable knowledge. In this context, the judge makes full use of his/her experience to understand the current times and ways of our society, which are continuously transforming. Furthermore, the judge should be immersed in society, instead of alienated from it or unaffected by its ideas and forces. The role of the judge requires a constant fight between what is scientifically certain and what is fair and aspiring towards justice» (Vagni, 2020, pp. 200-201). In any case, a fundamental innovation in the system of the sources of law should pass through the constitutional democratic mechanisms and should not be introduced in the judicial procedure as a neutral, impersonal, objective product of technological innovation.

4. Utilizations of predictive algorithms by the parties

Utilizations of predictive algorithms by the parties (and their lawyers and other legal advisers) involve less critical issues. Calculators just make more precise and scientific something that has always, empirically, been the work of experienced legal professionals. Nevertheless, in countries where such kind of services are already being offered to the public by the so-called LegalTechs (legal technology start-ups), some
worries among authors and judicial institutions regard inequalities, because, at least in the next future, predictive justice services are likely to be accessible and affordable only for the wealthiest legal actors on the market (Garapon and Lassègue, 2018). Moreover, there are important issues of personal data protection, requiring a more or less intense anonymization of the decisions, also to comply with the European GDPR, and risks related to the lack of regulation and control of the reliability and of the neutrality of the AI-based algorithms offered to the legal professionals (Gaudemet, 2018). Fears also concern potential opportunistic behaviors of forum shopping based on systematically profiling the judges (Deumier, 2019). One may wonder how the implementation in the market of legal services of these technologies, implying both sustaining and disruptive functions for the lawyers, will defy and change the legal professions and their ethics.

From the one side, the real potential advantages of predictive justice – providing legal actors, including judges and police authorities, with a more complete knowledge of precedents and perhaps reducing judicial litigation – should not make legislators forget the hazards and the desirable limits of the utilization of such algorithms in the legal field, as their responsible and informed utilization is paramount. But, on the other side, such hazards should not make the legislators forget the advantages and introduce irrational, hasty and exorbitant prohibition rules, as it seems to be the case of France. Indeed, in this country, the law currently prohibits and punishes as a criminal offence any activity of profiling and classifying judges and chancellor’s officers, through data elaborations aiming to evaluate, analyze, compare or predict their professional conduct, real or presumed. Several scholars criticize such an untransparent choice (Perroud, 2019; Zagorski, 2020; Janicot, 2021).

in contrast to the general French tendency towards the open data in the field of justice. Moreover, some authors note that the risk of forum shopping is overestimated in relation to the existing processual rules on competence.

Many legal systems witness the actual application of AI tools affecting the operation of courts. To name just a few most important cases, the Chinese judicial system largely and increasingly uses predictive and other AI tools, arousing the interest of legal doctrine, while in some States of the USA and in the UK, frequent utilizations of predictive algorithms by judicial and police authorities have been severely criticized by practitioners and scholars as relevantly biased. Some EU countries are experimenting similar technologies in their tribunals too.

Services of predictive justice are offered for a few years now to legal practitioners also in European civil law countries such as France.

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16 See also Zolea, S. (2022) Pubblicità e accesso alle decisioni giudiziarie alla prova delle nuove tecnologie. Politica del diritto, 3, 461-504.
22 About the French project DataJust, aiming to elaborate a jurisprudential database serving as point of reference for judges, lawyers and other legal professionals on the amount of compensations for bodily harm, see F. G’sell (2020) Les progrès à petits pas de la «justice prédictive» en France, ERA Forum, 2020, 299-310. However, in France, according to art. 47 of the law n. 78-17 of 6 January 1978, in its current version, no judicial decision implying an assessment on the behavior of a person can be based on automatic processing of personal data aiming to appreciate some aspects of his personality.
23 It is important to mention the services offered to the legal professionals by legal startups such as Predictice. Available at: https://predictice.com/fr [Accessed 12 February 2023]. As for French legal doctrine, see, in addition to the authors already referred, Menecueur, Y. (2018) Quel avenir pour la «justice prédictive» ? Enjeux et limites des algorithmes d’anticipation des décisions de justice. JCP, étude 190; Ferrière, S.-
Spain and now in Italy too, legal orders where the precedents, even those of the supreme courts, are traditionally supposed not to be binding.

5. Predictive justice within the European legal space (1): the Council of Europe

The European legal space (EU and Council of Europe) is confronted with the issues of predictive justice too, and several European institutions are putting in place norms, plans and strategies in order to manage this technological challenge. According to the European Convention of Human Rights (art. 6), everyone, in the determination of his civil rights and obligations or of any criminal charge against him, is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law and judgment shall be pronounced publicly.

In 3-4 December 2018, at its 31st plenary meeting, the European Commission for the Efficiency of Justice (CEPEJ, 2018) of the Council of Europe adopted a European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems and their environment. The Charter was intended for public and private stakeholders responsible for the design and deployment of Artificial Intelligence tools and services that involve the processing of judicial decisions and data (machine learning or any other method deriving from data science), and also concerned public decision-makers in charge of the legislative or regulatory framework, of


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the development, audit or use of such tools and services. It was observed in this document that, in 2018, the use of AI algorithms in European judicial systems remained primarily a private-sector commercial initiative aimed at insurance companies, legal departments, lawyers and individuals, while the use of AI in the judicial field already appeared to be quite popular in the United States, which had invested in these tools in a fairly uncomplicated way, both in civil and criminal matters. It was noted that the use of such tools and services in judicial systems seeks to improve the efficiency and quality of justice, and should be encouraged, but also be carried out responsibly, with due regard for the conventional European frameworks about human rights and protection of personal data. As reported in the Charter, judicial decision processing by artificial intelligence, according to their developers, is likely, in civil, commercial and administrative matters, to help improve the predictability of the application of the law and consistency of court decisions, while, in criminal matters, their use must be considered with the greatest reservations, in order to prevent discrimination based on sensitive data and grant a fair trial. Whether designed with the aim of assisting in the provision of legal advice, helping in drafting or in the decision-making process, or advising the user, it is essential that processing is carried out with transparency, impartiality and equity, certified by an external and independent expert assessment. The Charter established five principles:

- Principle of respect for fundamental rights: ensure that the design and implementation of artificial intelligence tools and services are compatible with fundamental rights.

- Principle of non-discrimination: specifically prevent the development or intensification of any discrimination between individuals or groups of individuals.

- Principle of quality and security: with regard to the processing of judicial decisions and data, use certified sources and intangible data with models elaborated in a multi-disciplinary manner, in a secure technological environment.

- Principle of transparency, impartiality and fairness: make data processing methods accessible and understandable, authorize external audits.

- Principle under user control: preclude a prescriptive approach and ensure that users are informed actors and in control of the choices they
Finally, in the Charter, possible uses of AI in European judicial systems were classified into a number of different groups: to be encouraged (case-law enhancement, access to law, creation of new strategic tools); requiring considerable methodological precautions (help in the drawing up of scales in certain civil disputes, support for alternative dispute settlement measures in civil matters, online dispute resolution, use of algorithms in criminal investigation in order to identify where criminal offences are being committed); to be considered following additional scientific studies (judge profiling, anticipating court decisions); to be considered with the most extreme reservations (use of algorithms in criminal matters, in order to profile individuals, and the idea of quantity-based norm, which means providing each judge with the content of the decisions produced by all the other judges and claiming to lock his future choice into the mass of these precedents, actually adding to or acting in place of the law). A more recent study of the CEPEJ (2020) concerns the possible introduction of a mechanism for certifying artificial intelligence tools and services in the sphere of justice and the judiciary: an objective, neutral certification aiming at upholding fundamental rights and freedoms.\textsuperscript{26}

6. Predictive justice within the European legal space (2): the European Union

In the European Union, according to its Charter of Fundamental Rights (art. 47), everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law and everyone shall have the possibility of being advised, defended and represented. According to the General Data Protection Regulation of 2016 (art. 23), the protection of judicial independence and judicial proceedings is among the reasons authorizing restrictions by the EU or member states legislations to the scope of some obliga-

\textsuperscript{26} The certification of artificial intelligence systems in the judicial sphere could also make it possible to support private and public projects and to establish standards that reach beyond Europe, justifying, for example, the development of international mechanisms for the recognition and enforcement of foreign decisions or arbitral awards made by or with the assistance of artificial intelligence.
tions and rights of the Regulation,\textsuperscript{27} when such a restriction respects the essence of the fundamental rights and freedoms and is a necessary and proportionate safeguard measure in a democratic society.

The European Network of Councils for the Judiciary (ENCJ, which unites the national institutions of the member states of the European Union which are independent from the executive and legislative powers, and which are responsible for the support of the judiciaries in the independent delivery of justice), in the framework of its project about digital justice, showed interest for the issues of predictive justice in its meetings of Amsterdam (2018), where the debate dealt with the relationship between prediction and due process in compliance with art. 6 ECHR (ENCJ, 2018),\textsuperscript{28} and Lisbon (2019), where it was stated that AI is, at this point, a fact of life. We need to address the risks, but also to address how it could be used in the judicial sector, as it is not always incompatible with judicial reasoning. In the Lisbon meeting (ENCJ, 2019), it was also noted that the benefits of AI need further scrutiny. Predictive justice based on judges’ own data on decisions could be interesting in order to assist judges dealing with large numbers of similar cases and machines might be useful for standardized cases that normally would be settled before they go to court. In countries where there is pressure on judges, profiling them could be a danger. In criminal cases, a system capable of assisting in having more uniform sentences might eventually strengthen the trust in the judiciary and its position in society. These judges finally wondered if predictive justice should be left to private commercial providers, or public authorities should use it and, in the latter case, if there are dangers.

According to the EU 2019-2023 Strategy on e-Justice, «legal tech domains such as Artificial Intelligence (AI), blockchain technology, e-Translation or virtual reality, for example, should be closely monitored, in order to identify and seize opportunities with a potential positive impact on e-Justice. In particular, Artificial Intelligence (AI) and blockchain technology could have a positive impact on e-Justice, for example by increasing efficiency and trust. Any future development and deployment

\textsuperscript{27} In particular, restrictions to artt. 12 to 22, concerning the rights of the data subject, art. 34, concerning communication of a personal data breach to the data subject, art. 5, concerning principles relating to processing of personal data, in so far as its provisions correspond to the rights and obligations provided for in artt. 12 to 22.

\textsuperscript{28} V. Santosuosso, A. (2020) Intelligenza artificiale e diritto. Perché le tecnologie di IA sono una grande opportunità per il diritto. Segrate: Mondadori.
of such technologies must take risks and challenges into account, in
particular in relation to data protection and ethics» (2019/C 96/04, nn.
30-31).29 Furthermore, there are several references to using AI in the
It is observed in this plan that interlinked legal data allows users to find
relevant information in a fast and reliable way. Legal data can be used
in open data format to help citizens, businesses and judicial authorities
study and collate data, in order to analyze it and contribute to applica-
tions using this data, including by taking advantage of AI. Artificial
Intelligence is envisaged in the plan as one of the major developments
in information and communication technologies in recent years, to be
further developed in the coming years. Its implications in the field of
e-Justice need to be further defined. Two projects specifically concern
AI: Artificial Intelligence for Justice, aiming to define the role which AI
might play in the justice field and to develop an AI tool for analysis of
court decision, and ChatBot for the e-Justice Portal, aiming to develop
a ChatBot that would assist the user and direct him to the information
he is looking for. It is also indicated to develop tools using AI technology
to automatically anonymize or pseudonymize court decisions for open
data reuse. Finally, with regard to semantic interoperability (facilitating
communication between systems by aligning terms used in metadata
and standards, also to reduce the impact of language differences by
providing automatic translation), it is indicated that the processing of
data and discoverability of information can be further enhanced and
rendered more efficient by using controlled vocabularies (lists of terms
used to index contents and make it easier to retrieve information), iden-
tifiers such as European Legislation Identifier or European Case Law
Identifier, AI and analysis of legal open data and big data.

Finally, in the Proposal for a Regulation of the European Parliament
and of the Council laying down harmonized rules on Artificial Intelli-
gence (COM/2021/206 final),31 «AI systems intended to assist a judi-
cial authority in researching and interpreting facts and the law and in
applying the law to a concrete set of facts » are classified, in the Annex
III, as high-risk AI systems, which must necessarily comply with several

29 Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019XG0313(01)&
from=ES [Accessed 12 February 2023].
30 Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019X-
G0313(02)&rid=6 [Accessed 12 February 2023].
31 Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52021PC0206-&
from=IT [Accessed 12 February 2023].
requirements, concerning: risk management system, data and data governance, technical documentation, record keeping, transparency and provision of information to users, human oversight, accuracy, robustness, and cybersecurity.

6. Concluding remarks

In conclusion, predictive justice is a complex topic that scholars and public decision-makers should face through a pragmatic approach. AI applied to justice should be considered avoiding reverential fear, avoiding uncritical enthusiasm, and avoiding irrational worries. The support of such tools could be useful not only for the parties and their legal advisers, but also for judges, prosecutors, and police authorities to speed up and make more precise the research of legal precedents and other forms of association of relevant factual and legal elements. However, in constitutional democracies, the role of the machine must remain a form of support and enhancement of human decision-making and cannot replace it. «Ensuring human rights in the implementation and use of technology is not only a task of law – it is the legal view that may be of interest to all those involved in human rights discourse. (...) It is possible that the introduction of new technologies with a global impact should lead to a preliminary examination of ‘digital risks’, which would take into account the possibility of human rights violations and the availability of means to prevent and minimise harm. Human rights, fundamental values and the rule of law must remain in the spotlight and, at the same time, have a realistic embodiment. Ultimately, this is the only way to achieve a just society and strengthen individuals’ confidence in technology». (Razmetaeva, Barash, Lukianov, 2022, p. 55). It is the task of the lawmaker to determine, according to the political will of the people and to the fundamental rights, where exactly to draw the line between enhancement and mortification of the human decision. Furthermore, the algorithms used in delicate fields such as the justice must be fully transparent, non-discriminant and subject to control, supervision and certification by public authorities (possibly under the form of an independent authority). More in particular, algorithms used by judicial and police authorities should not be protected by trade secrets and other

32 Artt. 8 ff.
intellectual property rights.

The reflections and the cues coming from the European level can help create a common ground, with the circulation of ideas and regulatory models among countries sharing some similarities in their constitutional and political cultures. But this does not exempt the national authorities and the lawmaker from their task to provide an appropriate national legal framework, which must be able to welcome innovation in order to strengthen and streamline the Italian system of justice, affected by several problems. At the same time, it is paramount to ensure respect of our constitutional principles and fundamental rights in the sector of justice, starting with art. 111 Constitution. Any innovation in this field should be preceded by the broader debate, involving the whole society, and in particular legal doctrine and legal professionals alongside computer experts, in a virtuous synergy capable of enhancing the efficiency, the social legitimacy and the democratic legitimacy of the judicial decision as it is conceived in our society.

References list:


Abstract:

Despite their involvement during different phases of conflict, the predominant and narrow definition of "combatants" has been to the detriment of women, limiting the understanding of the centrality of their roles as soldiers and victims both in armed groups and during the post-conflict phase. DDR planning sensitive to issues of women combatants must relate to the entire peace process, from negotiations to peacekeeping and subsequent reintegration activities. This process should include issues such as establishing inclusive criteria for their entry into DDR processes; raising awareness of the particular issues of gender dimensions, access to economic opportunities including sustainable management of natural resources. Indeed, in all societies, women and men use and manage natural resources differently, having different knowledge and specific needs. Very often, contributions of women have been undervalued in the management of integrated environmental policies. Increasingly, the need for integrated and sustainable approaches to natural resource management are being met with demands for inclusion and gender sensitivity. This analysis highlights how the natural resources sector can be an important catalyst in the immediate post-war phase for the creation of employment opportunities and an equitable division of labor for ex-combatants, when embedded in broader support for the post-crisis recovery of entire communities. It highlights the importance to ensure a proactive role and greater inclusion of women in access to natural resources and their management, as well as in participation in decision-making processes, both central factors in determining gender inequality.
1. Introduction

Post-conflict peace-building is a complex process involving the adoption of programs to achieve a secure environment, the strengthening of a legitimate government, the promotion of economic and social revitalization and reconciliation. Usually they operate in a context characterized by uncertainty, insecurity and weak and sometimes non-existent political and economic structures. In this sense, disarmament and demobilization involve short-term processes of separating combatants from weapons and military structures, while reintegration is a more complex and lengthy process: sustainably integrating ex-combatants into their home communities. The success of DDR process lies in the integration of these medium and long-term goals as part of the overall transition from conflict to peace. While disarmament and demobilization should initially provide a secure and stable environment, the sustainability of DDR depends on the long-term social and economic development prospects of former combatants and affected civilians. However DDR should not only be considered as a security issue. With this narrow and limiting approach, vulnerable groups, in particular women and child soldiers, could potentially be excluded from the reintegration process. Indeed, it is necessary to strike a balance between security and socio-economic objectives, which should be tailored to and determined by the specific context. In the current post-crisis recovery processes, there is a need to incorporate the issue of natural resources in all phases of DDR assessment and planning as well as the relationship between natural resources and armed groups. The promotion of effective and integrated management of ecosystems and related natural resources is prioritized due to their role as a trigger for conflict or as a source of funding for conflict. By financing the rise of militias and terrorist rebel groups in fragile contexts, natural resources have always played a significant role in prolonging violence. When mismanaged and misused, they can have a multiplier effect on conflicts and triggers, including fragile institutions and governance deficits, and social divisions, penalizing certain groups of people more than others, making them more vulnerable in emergency situations. Multi-disciplinary natural resource management, while particularly complex in contexts of generally high degradation, offers enormous potential for driving and economic recovery to help people in crisis-affected countries build more resilient societies.

This analysis highlights how the natural resources sector can be an
important catalyst in the immediate post-war phase for the creation of employment opportunities and an equitable division of labour for ex-combatants, when embedded in broader support for the post-crisis recovery of entire communities, including women and other vulnerable groups. All analyses and related actions must be gender-sensitive and consider the different interests and priorities of women and men, and how their needs may differ.

Article 8 of the Convention on the Elimination of All Forms of Discrimination against Women (known as CEDAW) emphasizes that it “shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the right to participate in decisions process” as well as “the opportunity to represent their Governments at the international level and to participate in the work of international organizations”. In Agenda 21, women are, in fact, identified as a ‘disadvantaged group’ or ‘vulnerable group’ and therefore a primary target of educational, health and reintegration programmes, among others. The Agenda also emphasizes the importance of ensuring a greater role and inclusion of women in access to natural resources and their management as well as participation in decision-making processes, both central factors in determining gender inequality.

Beyond stereotypes, even if men take part in the conflict in a more obvious way by constituting the largest number of combatants, women too have always and in various capacities participated in every aspect of conflicts, in particular in internal conflicts and enlisted as part of militias and non-state armed groups. Even if not personally involved in armed forces and groups, women nevertheless play supporting roles during conflicts and are, in any case, strongly influenced by decisions made during demobilization. They are often forced to participate in wars as a form of social redemption or as a consequence of the prevailing cultural and religious component. Despite their participation, very often female ex-combatants are not actively encouraged to participate in DDR programmes, let alone included in their planning. In the reconstruction period, it is therefore advisable to focus resources equally on women and men, in particular towards potential combatants, and to carefully consult representatives of both sexes during planning and related reintegration activities by not categorically applying existing gender norms. However, women can be an important resource in the reintegration period, playing broader roles in the security sector, as well as in the mana-
gement of natural resources. As natural resources are the basis of people’s livelihoods in post-crisis contexts, DDR programmes should ensure access, use and enjoyment in a productive and sustainable manner for all regardless of gender.

Indeed, gender issues mainstreaming are crucial for economic sustainability when it comes to natural resource management as gender norms can influence the division of labor between men and women, the distribution of wealth and participation in decision-making with a negative impact on women. Gender can also be a discriminating factor in access to and use of resources; for example, women living in rural areas in developing countries are particularly vulnerable as they are the main force behind the agricultural work, water supply and subsistence farming on which the livelihoods of local communities depend. Unbalanced access to resources and lack of participation in decision-making processes contribute to worse their condition. The access to sectors of natural resources, including agriculture, mineral extraction and silviculture, is fundamental for the success of the reintegration of women- and men too-in their communities and to provide an alternative source of income preventing them from endangering security or stability again in the future. Very often by directly taking care of the cultivation of the land, the gathering of herbs and wild fruits they have substantial and more extensive knowledge than men - especially in African culture - in terms of species diversity, harvesting and hunting patterns, seasonal availability, uses for various purposes, and conservation practices. But in spite of this, they are not only sidelined from the decision-making process but also find themselves excluded from the possibility of owning the land they work, and thus also from the economic benefits, that could be derived. Therefore, by facilitating access to natural resources for those belonging to organized armed groups, DDR programmes can ensure equal decision-making opportunities, improve livelihood security and ensure an equitable gender division of labor.

2. Gender issue in conflict situations: women addressed in irregular armies and non-state armed groups

Gender stereotypes have overlooked the variety of women’s roles in
conflicts by exacerbating their experiences in DDR programmes. The image of women’s role as ‘merely’ supportive has minimized the extent and importance of women’s role in armed groups, with the result that participation in war has often been ignored and excluded in the design and implementation of reintegration programmes for ex-combatants. This was most evident for women working as combatants in irregular armies, guerrilla warfare or various armed liberation movements. This is in spite of the fact that paragraph 13 of the United Nations (thereinafter UN) Security Council Resolution 1325 2000, and subsequent resolutions, encourages “all those involved in the planning for disarmament, demobilization and reintegration to consider the different needs of female and male ex-combatants and to take into account the needs of their dependants”. Recently, the topic of gender and armed conflict has been placed on the international agenda and there has been a growing awareness, at the political and practical level, of the crucial and active role that women play in irregular armies and thus become the target and beneficiaries of reintegration programmes.

Women combatants have been active in various scenarios and in different contexts such as Nepal, El Salvador, Sudan, South Kordofan, Burundi, Colombia, Mozambique, Sierra Leone, Liberia and Darfur. Although they constitute the minority of active combatants in the armed forces (including formal government forces, rebel movements, paramilitary forces and militias), the percentage of women involved is substantially significative. For instance, in El Salvador, during the Salvadoran civil war, it is estimated that up to 29% of the fighters of the Frente Farabundo Martí para la Liberación Nacional (FMLN) were women. In general, as has been amply demonstrated, there is a tendency to recruit more women, young women and children if the conflict drags on and the availability of male recruits is reduced. Girls who participate directly in hostilities are trained in the use of weapons of all kinds, but are rarely given access to management or leadership roles, but rather are exploited and relegated to marginal roles. For instance in the African context, in Nigeria and the Lake Chad region “armed groups used abducted girls as person-borne improvised explosive devices (used as suicide-bombers). These girls accounted for

2 Pampell Conaway,C., Martinez,S., Adding Value:Women’s Contributions to reintegration and reconstruction in El Salvador, January 2004, p.8
75% of suicide attacks in Nigeria between 2014 and 20163.

Within (ir)regular armed groups, women play a variety of roles, alternating between armed responsibilities and activities, such as frontline combat or field defence, support functions (see figure 1) and essential services such as medical or messenger work or jobs such as cooking or farming and trading. Women are very often directly involved in the management of natural resources, cultivation of the land and crops, having a greater role in the allocation and distribution of food. This work certainly does not cease during the conflict phase, perpetuating an essential role in the sustenance of armies and the war effort. The marginalization of the majority of women in cultural, economic, social and political life relegated them to worrying about the daily subsistence of extended households even during wartime, playing the role of collaborator-dependent but not becoming less deserving of protection and reintegration programs. It should be emphasized that during crises, there is a disproportionate and illegal exploitation of natural resources as well as unsustainable use and contamination of fields due to conflict dynamics, and women, together with men and other vulnerable groups, become both active and passive subjects of this uncontaminated exploitation of the ecosystems involved. Hence the need for DDR programs to also focus on natural resources in order to counter the poaching and trafficking of wildlife and natural resources that are perpetuated in the immediate aftermath of conflicts.

However, there is no doubt that the roles played by women in the armed forces are not peripheral or merely dependent, but are in fact critical to the functioning and maintenance of war operations. The reasons why

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women join armed groups and actively support the conflict are varied. Sometimes they are driven by the same political motivations as men such as support for the cause of war or the desire for self-government and autonomy. Although the reasons for joining may appear more or less the same for men and women, there are factors that are more prevalent among women, particularly young women. Very often, there are ideological or religious motivations or traditional gender roles. The cultural component and persistent religious affiliation, which in various contexts places women in a state of subalternity, can become the driving factor that prompts women to embrace a weapon. Indeed, some of them enlist as an alternative or escape from oppression: joining the army is often the only way to survive, to escape domestic violence, abuse and poverty. But in some cases, women enlist to obtain equal rights and freedoms that are denied, as well as to escape or fight economic and social oppression. In addition, disputes over natural resources can contribute to a heightened level of awareness on issues of gender and social exclusion by motivating people to join armed groups. In Nepal, for example, during the Nepalese civil war, lack of access to credit and land was one of the problems that plunged them back into the poverty they knew before the war, which many had joined to escape⁴. In fact, many women and girls from rural areas traditionally excluded from land ownership joined the Maoist insurgency as a way to access the benefits of natural resource distribution.

As pointed out, many women are not directly engaged in combat as active participants and therefore tend not to use or carry a weapon. Without a weapon, however, it was often difficult in the past to prove active participation in conflicts, especially when belonging to irregular armies, and to have been part, directly or indirectly, of armies. Consequently, as many women in supporting roles were not perceived as combatants, they were excluded from post-conflict disarmament, demobilization and reintegration assistance programmes. The “one-person-one-weapon” approach has proven to be largely limiting for reintegration plan as well as worsening for the conditions of both women and men. Recently the national DDR programme agreed in May 2015 “in the Central African Republic is also based on the “no weapon, no entry” criterion, so many female ex-combatants are at risk of being excluded”⁵.

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⁵ Tarnaala, E., Women in armed groups and fighting forces: lessons learned from gender-sensitive DDR
So the handover of a gun or arms was required in some cases to be considered eligible to participate in DDR programmes. Therefore, as was later highlighted in the UN operational guides, there is a significant need to develop more inclusive eligibility criteria for women in support roles - rather than just the criterion of having delivered a weapon - to ensure that they have access to the DDR programme. “Entry into a DDR programme should not depend on and/or ammunition, as participants may include individuals in non combat and support roles. Some may have had their weapons redistributed either as a result of an incapacitating injury or because commanders may not wish to acknowledge their role as combatants, as is sometimes the case for women, children and the disabled⁶.”

3. Inclusive DDR Program and post conflict setting: gender responsive approach to gender balance natural resources management

One of the main challenges of a DDR programme that can be qualified as inclusive is the gender approach. In particular, identifying and targeting all women who have joined, voluntarily or involuntarily, the (ir)regular armies and providing them with development assistance and adequate reintegration after the conflict. In its 2015 global study on the implementation of Security Council resolution 1325 (UN Global Study), UN Women concludes that its research “comprehensively demonstrates that the participation of women at all levels is key to the operational effectiveness, success and sustainability of peace processes and peace-building efforts”.

Women ex-combatants probably remain the most affected following a cease-fire, as they continue to be at risk of exploitation, suffer violence and remain disadvantaged in social terms and earning capacity compared to men. Past experience shows that the failure to take gender issues into account was a significant deficiency in previous DDR plan. This resulted in both a deficit in programmes addressing the specific needs of women in a post-conflict context and, in many cases, women

⁶ UN Inter-Agency Working Group on Disarmament, Demobilization and Reintegration, The Operational Guide to the Integrated Disarmament, Demobilization and Reintegration Standards (IDDRS), New York 2010, p.44.
combatants self-mobilizing without the range of benefits and assistance made available to their male counterparts due to exclusion by political design.  

Given the diversity of functions performed by women in conflict contexts, promoting gender-sensitive DDR through meaningful participation of women in all phases of DDR is essential for the success and sustainability of interventions for several reasons. First, there is the need to ensure peace and security in highly fragile contexts not only in the short term but also and especially in the long term. In the stabilization phase - in the immediate and short term - DDR programs focus primarily on restoring security. They target armed combatants by providing disarmament and demobilization assistance. In the next, more intensive phase of peace-building and development - i.e. in the long term - DDR programmes, with a stronger focus on reintegration, should, on the other hand, provide a solid basis for sustainable and structured development.

Therefore, they cannot be separated from broader rehabilitation programmes that aim at restoring human security. In fact, the implementation of DDR instruments related to security sector reform (SSR) enables the strengthening of democratic governance of the security sector, thus contributing to (physical) security in the long run. It also enables DDR components to mobilize and empower women to mitigate local conflicts, prevent recruitment into armed groups and build community resilience, including its capacity to absorb ex-combatants. If the main rationale of disarmament and demobilization is to restore and increase security by disarming combatants and integrating them with social objectives, women as well as men must also be directly considered a major security threat. Therefore, these programmes can not only focus on armed (male) combatants, but also on women, including those who are dependents of male combatants, should be targeted for such programmes.

Furthermore, providing complementary development assistance to all vulnerable groups, including women and men, and not only to a portion of them, will reduce the possibility of their re-recruitment. This is

7 See DPI – Democratic Progress Institute, DDR and Former Female Combatants, London, United Kingdom, 2016; UN, Integrated Disarmament Demobilization and Reintegration Standards, Module 2.30, para 5.4.
particularly important because in post-conflict societies, peace processes and the resulting peace agreements establish the foundation for the functioning of societies. In many cases, as highlighted before, women and young girls join armed groups to escape oppression and gain gender equality and as a form of freedom. Returning to contexts where they are no longer able to enjoy the same equality for which they have fought can create significant social tensions and lead to conflict. In terms of the DDR, women ex-combatants (including combatants, supporters and dependants) refused to participate in anything that could politically and socially undermine what they had fought or fought for. With no viable alternatives to earn a living and build a future for themselves, these women and men could be drawn back to the (ir)regular armies and become a real threat to stability and security. In this context, natural resources are of significant importance. They go beyond the economic recovery and are important factors that can make a positive contribution to ensuring social reintegration by supporting greater gender equality, and to overcome prejudices and promote planning that meets these needs. In post-conflict economies, natural resources underpin people’s livelihoods and are the driving force behind social-economic development, industry and the main source of gross domestic product (GDP) and foreign exchange earnings in peace-building contexts.\(^8\)

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management of these resources along with the exclusion or non-exclusion of certain groups from access to them will have an effect on the overall recovery in the long term.

However, conflicts almost always have an impact on the availability and use of natural resources such as land, agricultural crops and water, which underpin society’s basic needs. Women - particularly those living in rural settings - tend to be disproportionately affected by these changes, as they generally depend on these resources for their livelihoods and are very often responsible for the acquisition and use of these resources to meet the daily needs of the family. At the same time, it is important to reiterate that natural resources and high value commodities are often the main cause of conflict, either as a source of funding or as a source of motivation for engaging in conflict. For instance, the exploitation of oil, gas, rare logs and precious minerals is often a key factor in triggering or sustaining wars. Moreover, the race to grab renewable resources is on the rise, exacerbated by environmental degradation and climate change. In turn, this environmental degradation, deforestation or encroachment on forests and protected areas, can limit women’s access to essential resources, such as medicinal plants, further marginalizing impoverished communities. Disputes over natural resources thus constitute a potential flywheel for violence and for motivating people to (continue) joining armed groups. Inefficient and ineffective natural resource management can hinder peace-building and recovery through limited access to productive resources, disputes over land ownership, unequal distribution of wealth, issues over the use of other renewable resources, such as water, and the sharing of benefits from extractive resources. When the exploitation of natural resources has been used to finance armed groups, there is an inherent risk that former combatants will continue these activities after a peace agreement.

But depending on the environmental and economic conditions under which DDR takes place, natural resources may present different risks and opportunities. For example, if ex-combatants have been involved in the looting or trafficking of natural resources, the perpetuation of such practices may pose a significant threat to stability and peace-building. Furthermore, the exclusion or restrictions imposed on certain groups of people, including women, to own, access and enjoy natural resources are examples of structural inequalities and discrimination. Gender issues, in particular, are crucial when it comes to natural resource mana-
gement as gender norms in a given society can influence the division of
labour between men and women and the distribution of capital goods,
including land, credit and participation in decision-making, which often
have an unfavorable impact on women.” Gender is an important part
of understanding these dynamics, as men and women tend to use and
enjoy the benefits of natural resources according to the roles and re-
sponsibilities determined by their gender, as well as economic and so-
cial status 9. Gender can also affect their ability to access and use natu-
ral resources safely; for instance, the supply of such essential resources
for daily subsistence, such as collecting wood or water, often puts them
at risk of sexual and gender-based violence (SGBV). Crisis situations
and violent conflicts often cause a change in gender roles and respon-
sibilities. Where families have been displaced by the conflict, women
can become the main sources of income for their families when they
are able to continue or even expand economic activities traditionally as-
associated with their gender roles, like small business and selling in local
markets. From this emerges the need to ensure the adoption of a gen-
der-sensitive inclusive approach to all issues relating to natural resource
management during the various stages of a DDR program, from initial
evaluation to the implementation and implementation of the projects
themselves. This holistic approach is necessary to understand the risks
and opportunities presented by the management of natural resources
and incorporate them into the planning, design and implementation
of the process. “Since natural resources are the basis of livelihoods for
the vast majority of populations in post-conflict contexts, DDR practitio-
ners [have to ensure] that they analyze all ways in which special needs
groups - such as women, youth, people with disabilities or various vul-
nerable populations - can safely access and productively utilize natural
resources 10 and economic opportunities (e.g. certain roles in forestry
or mining). Links between organized criminal groups, armed groups
and illicit trade should also be considered. These include the potential
for mismanagement of natural resources, which, combined with weak
governance, can exacerbate violence.

Effective natural resource management has, on the other hand, the po-
tential to generate important opportunities for peace-building through

9 UNEP, UN WOMEN, UN PBSO, UNDP, Women and Natural Resources Unlocking the Peacebuilding Po-
tential, November 2013, p.16.
10 UN DDR, Integrated Disarmament, Demobilization and Reintegration Standards (IDDRS) 6.30: DDR and
Natural Resources Management, UN DDR Resource Centre web site, p.6.
economic recovery and employment.

In the evaluation and planning of a sustainable and effective DDR process, the rehabilitation and restoration of degraded and compromised natural resources offers, in fact, potential employment opportunities and can support the development of basic livelihoods. Reforestation projects, restoration of coastal areas, reclamation of potentially mined soils and degraded areas, and soil improvement activities are practical examples of this. In addition, the creation of adequate infrastructure, such as irrigation canals, or the adoption of projects to rehabilitate basic infrastructure such as improved sanitation systems will allow for better resource management as well as bring additional benefits to economic activities and health. These activities and the consequent improvement of specific sectors such as agriculture, fisheries, water and sanitation, and ecosystem rehabilitation can offer more opportunities for productive utilization of these resources. This helps to sustain employment, of men and women, within the value chain of products and services derived from natural resources: employment, among others, is crucial to ensuring stability in the immediate post-war period. Within the MONUSCO Mission context in Democratic Republic of Congo, two women-led NGOs in Ituri province received capacity building in project development and successfully delivered two CVR projects. The projects improved livelihoods of 38 vulnerable women and provided temporary employment for 56 at-risk boys and girls. DDR-led outreach and sensitization campaigns have led to women gradually taking part in programming, project design, mediation efforts and sensitization endeavors\(^\text{11}\). According to DDR Bulletin, after receiving training on how to install and maintain solar energy devices, 197 female beneficiaries are now a dependable and accessible workforce in the local market in Bunia, capital of the Ituri province. The CVR public solar lighting projects implemented in Bunia, Bule and Jina have contributed to a significant reduction in cases of rape, nighttime violence and banditry facilitated by darkness, the presence of armed groups and unemployment. MONUSCO established a Gender and Women, Peace and Security (WPS) Unit to integrate gender perspectives and the needs and rights of women and girls into all aspects of their work.

If former members of armed groups are not (adequately) demobilized and reintegrated into sustainable livelihoods, they may continue

\(^{11}\) The DDR Bulletin, Gender-Responsive DDR, Issue 1, 2023.
to exploit and attempt to control natural resources, potentially leading to a return to conflict. The social aspects arising from such activities, including the integration of different groups and cooperation between them, can be a key opportunity to bring together participants to benefit from DDR plans and local community members to generate peace dividends.

4. Enabling conditions for ecosystem recovery in post conflict assistance: from victims to decision makers

A DDR program is deployed in a dynamic and complex environment in which transitional authorities are established or existing but compromised administrative structures are revitalized. Bodies and institutions at the local level may also be reformed and re-established. This phase is a critical period for political stability as key management choices are made in which governance structures are established to guide reform processes. The governance of natural resources is also subject to reforms related to decision-making, sustainable use, and the distribution and sharing of the benefits derived from their exploitation. Therefore, the reintegration and peace-building phase is a phase in which the management of ecosystems, natural resources and related economic sectors can, if properly addressed, provide a potential opportunity to increase women’s participation in political decision-making processes. The structured and regular involvement and engagement of women in the resource management process should therefore begin at the stage of informal peace negotiations. Efforts to involve and increase the representation of women as both mediators and negotiators in decision-making bodies should also and especially target those who are particularly vulnerable to changes in resource use and access, such as women far from the center, living in rural areas, protected natural areas, ethnic or indigenous groups.

The 2018 Secretary-General’s Action for Peacekeeping (A4P), in particular Action for Peacekeeping Plus 2021-2023 (A4P+) initiative and the related resolution 2538 (2020) “On women in peacekeeping” emphasize “the importance of increasing the number of women in leadership positions and of ensuring that the needs and participation of women are
integrated in all stages of mission planning and implementation through the inclusion of appropriate gender technical expertise\textsuperscript{12}. In order to promote and sustain women’s full participation in peace-building, sustaining peace initiatives should promote “the gender dimensions of peacebuilding, including through the delivery of gender-sensitive and targeted programming, through the strengthening of women’s meaningful participation in peacebuilding, supporting women’s organizations and through monitoring, tracking and reporting achievement\textsuperscript{13}.” The 2030 Sustaining Peace Agenda, then, underscore “the importance of a comprehensive approach to sustaining peace, particularly through the prevention of conflict and addressing its root causes\textsuperscript{14}.” The impacts on resources and ecosystem can be increasingly recognized as a potential factor of conflict, in combination with other socio-economic or political factors.

Decisions affecting the management of resources, including natural resources, can be taken at several levels, both local and national, and through various institutions, such as national ministries, regional representative bodies, commissions and provisional bodies established by the peace missions themselves, but also by specific commissions such as land commissions or forestry committees. As experience shows, the involvement of women in peace negotiations leads to the prioritization of the inclusion of environmental issues and land issues, environmental degradation and restoration in peace-building processes. They bring recommending measures for improving the system for planning and development of land, water, forestry and other natural resources to the appropriate level of governance. For example, in the 2006 Darfur Peace Agreement, women emphasized the deleterious impact of the war on agriculture and animal resources, and on the livelihoods of women and children\textsuperscript{15}. Consequently, the agreement directed the Darfur Reconstruction and Development Fund to develop mechanisms such as the creation of investment opportunities; capacity building; and provision of credit, production inputs and capacity building for women\textsuperscript{16}.


\textsuperscript{13} Ibid.

\textsuperscript{14} Ibid.

\textsuperscript{15} Government of Sudan, Darfur Peace Agreement, October 2006, par.109,142.

\textsuperscript{16} UNEP, UN Women, UN PBSO, UNDP, Women and Natural Resources Unlocking the Peacebuilding Potential, November 2013,p.35; Government of Sudan, Darfur Peace Agreement, 2006, par.109,142.
Too often, however, the specific knowledge and roles of women and related organizations are not recognized, limiting their ability to inform, influence and benefit from negotiations. Women’s participation in formal peace negotiations has historically been low: between 1992 and 2019, as the chart below shows, women made up, on average, 14% of negotiators, 6% of mediators and 6% of signatories in major peace processes around the world. For example, women made up only about 10% of negotiators in the Afghan talks, only 20% of negotiators in the political discussions in Libya, and 0% of negotiators in the military talks in Libya and the recent Yemen process.\textsuperscript{17}

The Myanmar case study, for example, shows that during the peace processes following the post-independence conflict (there have been four Panglong Conferences in total 2016, 2017, 2018 and 2020), women led campaigns to address issues at the heart of the conflict, in-

\textsuperscript{17} Council on Foreign Relations Database, website 2023 [last access: 12/05/2023]
Including land rights and the equitable sharing of natural resources. In Kenya, women have also played key roles in resource protection. After the disputed 2007 elections in Kenya, widespread violence broke out until 2008 when a national transitional government was established. Kenyan women formed the Women’s Consultation Group (WCG), one of four bodies consulted by the mediators during the process, which provided concrete suggestions to the mediators, including a call for action to resolve the humanitarian crisis as well as to address the root causes of the violence, such as the distribution of land and natural resource benefits and constitutional reform.

So the presence of female members at peace talks improve the attention on the important issue of natural resources highlighting that natural resource management and environmental protection are integral factors to the achievement of peace and sustainable development. With regard to environmental leadership SDG 5.5 highlights women’s political participation as a key component of women’s empowerment — and understanding trends, gaps and progress in the environment sector is also critical. However, as highlighted above, women and men have different experiences, roles and knowledge in relation to the use, management and conservation of natural resources. Several studies and field experiences have shown that valuing and supporting this differentiated knowledge improves strategies to reverse the trend of environmental degradation. IUCN’s work in West Africa in the governance of shared water shows that women are effective in devising and implementing solutions to increase sustainable livelihoods by reducing conflict. For example on the border between Guinea and Liberia in West Africa, where communities have been in conflict for generations, fisherwomen from each country have worked together to devise a timetable that allows women on each side of the border to fish on certain days and at certain times, thus ensuring more sustainable livelihoods for both groups of women and their families.

While other studies show that women are more likely than men to use specific farming techniques to adapt to climate change, and that when more women are involved in group land management decisions, the community as a whole benefits. This is the case of USAID/Ghana’s Sustainable Fisheries Management Programme (SFMP) on the Densu

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River estuary in Ghana concerning the management of oysters that face threats from overfishing, habitat destruction, and lack of waste management facilities. Sharp declines in small pelagic fish and oysters are threatening the livelihoods of communities living by this river. Women members of the Densu Oyster Pickers Association (DOPA) have learnt how to conduct monitoring tests and record data for their oyster sanctuaries, with the aim of restoring a once-thriving habitat. They have used this knowledge to support and implement a closed fishing season to allow oyster populations to recover. Ongoing work in Ghana illustrates the importance of addressing and empowering women in improving natural resource governance. In addition, in Gambia, the task of shellfish harvesting, processing, and selling traditionally falls on uneducated, rural, and/or refugee women. Together, they formed a network to educate and equip one another with better knowledge of sustainable practices, as well as storage and marketing techniques. Working with the national government, and with USAID support, a co-management plan was established, granting the TRY Oyster Women’s Association exclusive rights to harvesting areas—the first-ever African women’s fisheries organization to secure such rights. As a result, women’s incomes increased due to visibility in and expanded access to markets and increased negotiation and bargaining power in setting prices. In 2012, the TRY Oyster Women’s Association received the Equator Prize, a honor given by the United Nations Development Programme (UNDP) to recognize community based efforts to reduce poverty through the sustainable use of biodiversity

These examples highlight fundamental implications. Firstly, involving women as key stakeholders and protagonists in resource management and improving access to technical tools and financial resources provides significant pathways to women’s empowerment. On the other hand, the empowerment of women through access to such tools results in better ecosystem management outcomes than programmes without such elements. Women’s meaningful and effective participation and leadership in environmental efforts can also increase women’s political, social and personal empowerment. Thus, the failure to involve women in formal and informal peace processes and negotiations, as well as the failure to consult women’s organizations and networks, can not only have the effect of weakening the way in which natural resour-

ce issues are addressed, but moreover can seriously limit the potential for women to benefit from the positive outcomes of land distribution, resource use reforms adopted during the peace-building process. Efforts at conflict resolution and addressing cross-cutting issues affecting DDR as well as the links between gender, climate and security should therefore support the meaningful participation of women as well as the work of women’s groups and marginalized groups. This is necessary to empower women to participate directly in the negotiation process of national policy-making and planning and legal reforms concerning the distribution of natural resources in conflict-affected countries. This may also include, but is not limited to, supporting the advocacy efforts of women’s organizations to address climate-related security risks, training women negotiators in negotiation skills, and drafting legislation and institutional policy. Ensuring women’s engagement in decision-making processes, however, requires awareness for advocacy to address and overcome both deeply rooted socio-cultural barriers and cultural beliefs and practices that may create resistance to their participation. Discriminatory laws and policies that marginalize women and women’s organizations also need to be reviewed in the institutional reform process by the peacekeeping mission following a crisis in order to ensure women’s ability to participate in decision-making bodies at multiple sub-national, national and regional levels.

5. Current and future challenges and proposal

The adoption of UN Security Council Resolution 1325 (2000) and subsequent resolutions on women, peace and security (WPS) underpins a wide range of initiatives by member states and international organizations to increase the participation of women in peace processes. Despite progress, the proportion of women participating in informal and formal negotiations remains low despite their representation in an increasing number of peace processes. There was no immediate increase in numbers following the adoption of UNSCR 1325, although this resolution stimulated initial normative and institutional developments in this regard. There have been small steps forward in recent years, as the UN, regional organizations and Member States have actively promoted women’s participation in peace negotiations, introduced institutional
reforms in their structures and implemented a wide range of policies in this regard. In this regard, the 2021-2022 Women, Peace, and Security Index (WPS) global report, the third since the inaugural edition in 2017, notes a slowdown in the pace of improvement of the WPS and an increase in disparities between countries. The range of scores is much wider than in 2017, when the score of the best performer was about twice that of the worst performer. This widening gap reflects the growing inequality in the status of women across countries: the countries at the top, i.e. developed countries, continue to improve while those at the bottom, that is underdeveloped or developing countries (major recipients of peace operations) worsen, reflecting global trends in wealth and income inequality. Another Index, the Gender Gap Index, in 2022, amid multi-layered and compounding crises including the rising cost of living, the ongoing pandemic, the climate emergency and large-scale conflict and displacement, the progress towards gender parity is stalling. In 2022, the global gender gap has been closed by 68.1%. At the current rate of progress, it will take 132 years to reach full parity. This represents a slight four-year improvement compared to the 2021 estimate. However, it does not compensate for the generational loss which occurred between 2020 and 2021: according to trends leading up to 2020, the gender gap was set to close within 100 years. Despite this, the global average share of women in ministerial positions nearly doubled between 2006 and 2022, increasing from 9.9% to 16.1%. Similarly, the global average share of women in parliament rose from 14.9% to 22.9%. The use of indices, such as those just mentioned, can therefore allow for sensitive and issue-specific data research through which it is possible to understand the trend and compare the performance of a specific sector, within a specific country with the general trend. In fact, the objective is to offer peacekeepers a useful tool to assess various parameters, including gender-related issues, of the specific context in which they operate and to support them in evaluating management performance.

However in order to ensure that women are equally represented in the various relevant segments and take part in consultations, it may be useful to provide for the establishment of gender quotas to be included in the mandates of new missions, or to amend the mandates of existing missions to include such clauses, or to consolidate these gender quotas.

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for an existing mission. These practices align with the UN Sustainable Development Goals (as can be seen in Figure 4), especially SDG 5 on gender equality. The political and military leadership will have to take note of these requirements, as their involvement is crucial since they will have to be the first to share the values expressed in internal policies in order to implement them in practice. One of the present challenges is the gender stereotyping of women in relation to their role in peace processes. If women are considered to represent only women (or certain issues), there is a risk that their expertise is neglected or limited to more general community or social issues. For example, the management of natural resources or land tenure and the benefits derived from them is not only in the interest of women but of society as a whole. These are ultimately stereotypes that do not help to ensure gender-sensitive peace processes. Therefore, it is a question of promoting women’s skills and knowledge beyond the traditional concept that sees them as only spokespersons for other women and experts exclusively on gender equality issues. In any case, natural resources can be a factor in strengthening dialogue and expanding cooperation between divided communities, as well as within and between states. Addressing and resolving common challenges and concerns, such as access to land or exploitation of mineral resources, can be a very influential catalyst and peace-building tool and can help mitigate the risk of further conflict between users of natural resources.

A further, among the most thorny and significant, aspect concerns the eligibility criteria for DDR programmes for female soldiers. The section entitled ‘Women, Gender and DDR’ of the Integrated Disarmament, Demobilisation and Reintegration Standards (IDDRS) states that “Women who are familiar with the needs of female fighters, veterans and other community-based women peace-builders should attend and be allowed to raise concerns in the negotiation process. In circumstances where the participation of women is not possible, DDR planners should hold consultations with women’s groups during the planning and pre-deployment phase (...)”. This paragraph does not mention the representatives of the women soldiers but only ‘women who are familiar with’ and thus it is expected that it is the women’s groups that should take charge of the demands and issues of the women soldiers. The expression should be allowed to raise is also noteworthy since wo-

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21 UN DDR, Integrated Disarmament, Demobilization and Reintegration Standards (IDDRS) 5.10: Women, Gender and DDR, UN DDR Resource Centre web site 1 August 2006, p.9, para. 6.1.2.
men should not be allowed but moreover must take part in the negotiations as protagonists and recipients of decisions and others must be encouraged to participate. In a further paragraph of the IDDRS it is stated that “[...]women take on a variety of roles during wartime. For example, many may fight for brief periods and then return to their communities to carry out other forms of work that contribute to the war. These women will have reintegrated and are unlikely to present themselves for DDR. Nor should they be encouraged to do so, since the resources allocated for DDR are limited and intended to create a foundation of stability on which longer-term peace and SSR can be built. It is therefore appropriate, in the reconstruction period, to focus resources on women and men who are still active fighters and potential spoilers”. From this paragraph it emerges that women involved for short periods are not encouraged to take part in DDR programmes. Even those who have joined an irregular army for short periods, either voluntarily or involuntarily, must be targeted for reintegration programmes, as very often in culturally backward and rural contexts these women are marginalized or may find it difficult to be accepted again. Very often, in fact, it can be difficult to reintegrate into their groups, as they are also subject to violence. Ensuring that they have access to land and resources will be important to ensure that they have access to basic livelihood resources. But also and above all to establish their social status so that they are properly reintegrated. In rural areas DDR practitioners should recognize the connection between land and social identity especially for women and young people who often have few alternatives or find it difficult to establish their place in society.

In the implementation phase, a focus on technical capacities should include cooperation with agencies (national and international) with experience and expertise in gender-related DDR issues. The different agencies, funds and coordination programmes of the UN system that contribute to the sustained success of a mission can provide, each for its field of action, should be specifically consulted and included in integrated task forces and peace-building processes. In any case women in leadership positions at local levels, including representatives of women’s non-governmental organizations (NGOs) and female community leaders, all of whom will support the return of male and female ex-combatants to civilian life, are stakeholders in the peace process, and so they should be enlisted and mobilize as partners in the DDR and SSR
processes as part of any stabilization effort. These actors, then, can also provide DDR actors with specific knowledge and skills as well as the necessary tools to operate properly in the field. Alongside this action, there is another significant element: providing specialized attention to demobilized female combatants to develop gender skills and increase the capacities of local authorities. For example in the context of the United Nations Integrated Office in Haiti (BINUH) mission established by the Security Council in its resolution 2476 of 25 June 2019, 119 women actively participated in 13 community dialogue platforms supported by the Peacebuilding Fund, UN agencies and BINUH, in neighborhoods of Port-au-Prince deeply affected by gang violence. In February 2023, 11 regional consultations have been organized, under the leadership of the DDR-CVR Task Force and with support from the Peacebuilding Fund, with the participation of at least 204 women and 20 women organizations. These consultations will inform the elaboration of the National Action Plan on DDR-CVR with recommendations on the protection of vulnerable groups, including women and girls, and the prevention of sexual and gender-based violence. Thus, working with the authorities in charge of natural resource management can help to increase, also through persuasive actions, the participation of women in decision-making processes at local and national level.

Other governance tools for natural resource management in peacebuilding contexts to support women’s capacity to utilize natural resources in a productive and sustainable manner include technical support or access to credit and benefits from natural resource exploitation. This is essential for improving women’s economic productivity, which in turn is crucial for their economic empowerment in interventions at all levels. However, given the volatility of the contexts in which missions operate, it should be ensured that initiatives aimed at women’s economic empowerment are carefully assessed from the perspective of their social, regulatory and cultural feasibility, with respect to the specific characteristics of the intervention context. Equally regulatory and formal recognition as well as legal support for the enforcement of land rights and other resources underpins women’s ability to productively utilize natural resources for their recovery. In this respect, it could also be a part of appropriate and careful support for the demands of women’s movements that claim land ownership and inheritance rights for women. As known,
the DDR has as its basic objective the promotion of security, support the general peace process and lays the foundations for a sustainable recovery by targeting members of the regular and irregular armed forces who could pose a significant risk to stability in fragile contexts. As highlighted in this analysis, while not intending to specifically address issues related to the environment, a DDR program, to be defined as sustainable, must necessarily address risks and opportunities related to natural resources. Ecosystem management is a very broad field that apparently could be considered outside the ambit of the DDR. But failing to adequately support reintegration in various economic activities and in a series of sectors, including those linked to natural resources, can adequately compromise the success of a peace process or at least certainly cannot be defined as a holistic programme. DDR can thus act as gender equality tools and adopt redistributive approaches to bridge the gender gap. Gender–balance natural resources management should become a complementary and indispensable aspect of future DDR agenda to make women’s full, equal and meaningful participation a reality.

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UN Resolutions
The credibility, integrity and success of a POC mandate under the impulse of UN Peacekeeping Intelligence

Abstract:

The success of a PKO with a POC mandate lies in the effective protection of civilians, which equally stands as the barometer of the credibility of the POC mandate and the PKO latu sensu. Moreover, the credibility and success of POC mandates are critical to their existence within PKO in the long run. In this light, the military and police components deployed on PKO with POC mandates resort to various mechanisms such as intelligence, for the optimum attainment of their mission objectives. The UN principle of non-clandestine intelligence embedded in the Peacekeeping Intelligence Policy Framework is the backbone of the use of intelligence in PKOs aimed specifically at ensuring transparency and legality. However, from an operational point of view, this task becomes increasingly difficult in the face of inherent threats on the civilian population, thereby creating room for the resort to clandestine intelligence to attain the optimum goal of protecting civilians as well as UN personnel, especially when threats to the civilian population are imminent. What role does peacekeeping intelligence have to play in the effective and efficient execution of a POC mandate? Cognisant of the UN principle of non-clandestine intelligence, the objectives of this article are to bring out the rationale, significance and link between a POC mandate and peacekeeping intelligence; analyse the use of intelligence during the POC in the face of inherent threats on the civilian population; and explore prospects for capacity building on the use of intelligence in a POC mandate.

Key words: POC mandate, non-clandestine intelligence, civilian population and rationale.
INTRODUCTION

Peace operations generally have the goal of aiding warring and conflicting communities avoid the scourge imposed on them by the armed conflict they could be currently experiencing and ensure they regain the peace and stability they once experienced, which has obviously been distorted by the armed conflict. The greatest victims and targets of these scourges are the civilian population, which suffers from a wide range of vices, that threaten their physical, human, moral and psychological integrity. It is in this light that Protection of Civilians (POC) mandates are usually part of peacekeeping operations, which actually lay particular emphasis on the need to avoid or mitigate the negative impact of conflicts on the civilian population as generally stipulated by International Humanitarian Law and more specifically the Fourth Geneva Convention of 1949.

For the purpose of clarity, the POC within UN Peacekeeping is defined as without prejudice to the primary responsibility of the host State, integrated and coordinated activities by all civilian and uniformed mission components to prevent, deter or respond to threats of physical violence against civilians within the mission’s capabilities and areas of deployment through the use of all necessary means, up to and including deadly force. Though the goal here is clearly stated, however, the parameters are not. Nonetheless, the above definition of POC stipulates that the peacekeepers can use all necessary means within the mission’s capabilities. Hence, owing to the evolution of PKOs over the years, the Security Council, Member States and the UN Secretariat have resorted to peacekeeping intelligence (PKI) as a facilitator of POC mandates and the success of PKOs. This however traces its roots back in time, after the failure of the peacekeeping operations in Somalia, Rwanda and Bosnia in the 1990s, when the Brahimi Report recommended in 2000 that UN forces should be afforded the field intelligence and other capabilities needed to mount an effective defence against violent challengers. This is equally an evidence of the evolution of safety and security threats in PKOs as well as their stakes thereby creating room for updating the modus operandi of UN peacekeepers for the optimum attainment of their POC mandates. Updating techniques and operational mechanisms to

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better serve the civilian population.

Paying particular attention to PKI, it can be generally ascertained that this innovation and evolution in PKOs is a giant step towards ensuring not only the POC within a PKO, but it is equally a declaratory willingness to see to the success of PKOs, thereby corroborating the fundamental necessity of PKOs within the global framework of conflict resolution mechanisms. Hence, PKI could be defined as the non-clandestine acquisition and processing of information by a mission within a directed mission intelligence cycle to meet requirements for decision-making and to inform operations related to the safe and effective implementation of the Security Council mandate\(^3\). PKI should be carried out concomitantly with other safety and security measures; must uphold the principles of the UN Charter and of peacekeeping; respect the sovereignty of host and neighbouring States; and the security and confidentiality of sensitive information must be carefully managed\(^4\). The above definition and specificities on the use of PKI within a PKO translates the vision of decision makers regarding this strategy. Hence, the strict respect and observation of these prescriptions is instrumental in highlighting the credibility and integrity of PKI in PKOs, thereby justifying its continuity in the latter. Taking this into account, the fundamental purpose of PKI in United Nations PKO is to enable missions to take decisions on appropriate actions to fulfil mandates effectively and safely\(^5\).

The emphasis laid on non-clandestine acquisition and processing of information, buttresses the intention and willingness of PKI to ensure the POC as well as the success of a PKO legally and honourably. Hence, the sacrosanct UN Principle of non-clandestine intelligence. Moreover, in as much as the credibility, integrity and success of a POC mandate is to some extent dependent upon the transparency and legality of PKI, so too does the effective protection of civilians depict the success of a PKO with a POC mandate. The nexus between the POC and PKI is therefore highlighted and will be further elaborated in the course of this study.

Despite the existence of guiding principles, within an Operating Environment (OE), the complexity and imminent nature of safety and security threats to the civilian population, culminated with the firm ambition

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\(^3\) DPKO-DFS POLICY ON Peacekeeping Intelligence, United Nations Department of Peacekeeping Operations / Department of Field Support, Ref. 2017.07, para 1, page 2.

\(^4\) Ibid, para 5, page 3.

\(^5\) Ibid, para 6, page 3.
of fulfilling the POC mandate could further complicate the smooth functioning of affairs. This has led to the problem statement which seeks to know; what role does peacekeeping intelligence have to play in the effective and efficient execution of a POC mandate? In a bid to seek answers to the above question, this study intends bringing out the rationale, significance and link between a POC mandate and PKI; analyse the use of intelligence during the POC in the face of inherent threats on the civilian population; and explore prospects for amelioration of the use of intelligence in a POC mandate.

The rationale, significance and nexus between a POC mandate and PKI:

The relevance of a POC mandate

The significance and relevance of a POC mandate within a PKO came to the limelight in 1999, when the United Nations Security Council passed its first resolution on the protection of civilians (S/RES/1265, 1999) and, for the first time, gave a peacekeeping operation the mandate to take necessary action to protect civilians under imminent threat of physical violence (S/RES/1270, 1999 on the United Nations Mission in Sierra Leone, UNAMSIL). This has become a landmark resolution in the history of PKOs, marking the birth of POC mandates and the consideration of protecting civilians within the global framework of peace operations. Worthy of note here is the fact that the Security Council Resolution that attributes a POC mandate to a given PKO is the legal framework of the said POC mandate. It is however worth nothing that the safety and security of civilians is the very essence of peace operations. Upon requests from the Special Committee on Peacekeeping Operations (A/64/19, 2010) and the Security Council (S/RES/1894, 2009) the need for operational guidance to inform the implementation of POC mandates was earmarked. This led to the development of the Operational Concept on the Protection of Civilians in United Nations PKOs in 2010 and the first DPKO/DFS Policy on the Protection of Civilians in United Nations Peacekeeping in 2015. These documents can

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7 Ibid.
8 Ibid.
be considered the Magna Carta of the POC in PKO by virtue of the fact that they are the pioneer documents on the operationalisation of the POC on the field. Moreover, they represent the legal framework of the general practice of the protection of civilians in PKOs.

Overtime, the practice of POC has evolved, taking into account operational and contextual realities, such as the increase in safety and security threats to civilians in PKO, thereby creating the need for policy recommendations at both HQ and tactical levels. It is in this light that the recommendations of the General Assembly Special Committee on Peacekeeping Operations and broader commentaries and recommendations on UN peacekeeping, such as High-Level Independent Panel on Peace Operations (S/2015/446), the Report on Improving Security of United Nations Peacekeepers (2017) and the Declaration of Shared Commitments on Action for Peacekeeping (2018) were all considered in updating the POC policy9.

For the purpose of this study, it will be proper to underline the fact that within a POC mandate, an integrated and comprehensive approach ought to be applied in the POC. An integrated approach entails the combined effort of all mission components: civilian, police and military, and where relevant and appropriate, coordination with other UN actors including the UN Country Team (UNCT)10. On the other hand, a comprehensive approach considers and addresses the range of factors which influence and underpin threats to civilians in both the short- and long-term, including political, security and economic factors11.

From the above paragraphs, it could be deduced that the significance of POC mandates within PKOs is that they stress the pre-eminence and the imperative to put in place substantive measures to protect civilians taking into account the specificities and particularities of the OE. Moreover, going by the definition of POC as well as the prescription of integration and comprehension in the POC within a POC mandate, the resort to a plethora of mechanisms by UN peacekeepers for the effective and efficient protection of civilians justifies the use of PKI in the fulfilment of POC mandates. The failure to protect civilians under an imminent or ongoing attack or threat of violence diminishes the integrity and strategic vision of PKOs.

9 Ibid, para 6, page 3.
11 Ibid.
POC and PKI nexus

Regarding PKI, the evolving circumstances of PKOs led the decision-making organs of the UN to consider PKI to be a critical enabler to permit missions operate safely and effectively\(^\text{12}\). Hence, within resolution 1894 of 2009, the Security Council drew the Secretariat’s attention to the “priority in decisions about the use of available capacity and resources, including information and intelligence resources, in the implementation of mandates” for the protection of civilians\(^\text{13}\). Furthermore, as per the UN Military Peacekeeping Intelligence (MPKI), the fundamental purpose of MPKI is to enhance situational awareness and enable UN decision making for the protection of UN personnel and the protection of civilians\(^\text{14}\). It goes without saying that the POC is one of, if not the fundamental motif for advent of PKI within PKOs. This however, creates an indelible link of originality and dependence between PKI and POC. In order words, the imperative to protect civilians paved the path for PKI within PKOs, whereby the former ensures the success of the effective and efficient POC, which in turn serves as a scale of measurement for the success of a PKO, ensuring the continuity and longevity of PKOs within the global framework of conflict resolution mechanisms.

The operationalisation of PKI in favour of the POC:

On the backdrop of the remoteness, fragility and vulnerability in which UN peacekeepers are called to operate, within United Nations Staff Officers (UNSO), Military Peacekeeping-Intelligence Officers (MPKIO) have emerged, required to undergo a robust pre-deployment training programme in accordance with DPO’s Operational Readiness Assurance and Performance Standards. The main concern being intelligence frameworks to supplement and expand on the UNSO lessons to better prepare the MPKIO for UN peacekeeping missions\(^\text{15}\). Moreover, the 2017 General dos Santos Cruz report highlights and proposes the new face of PKOs and the POC. As per the report, “Chapter VI-style” peacekeeping is outdated and Troop / Police Contributing Countries

\(^{13}\) Ibid.
\(^{15}\) https://peacekeepingresourcehub.un.org/en/training/rtp/MPKIO, visited on 03/05/2023 at 05:53.
need to change their mind set, take risks and show willingness to face these new challenges, hence they will be deliberately sending troops to their doom\textsuperscript{16}. Faced with this state of affairs, the report suggests peacekeeping missions need tactical intelligence, UN forces must translate intelligence into tasks and actions that support security\textsuperscript{17}. A clear and comprehensive idea of threats enables peacekeeping missions with POC mandates achieve their mandated goals.

**Operational and functional hindrances of PKI**

Form a tactical and operational point of view, the above paragraph further highlights the imperative presence of PKI in PKOs particularly for the POC. In a bid to get into the reality of using PKI to protect civilians, despite the existence of the policy guidelines aimed at regulating the conduct of PKI in PKOs, the realities on the field hinder the immediate replication of the prescriptions of these policy guidelines. Hence, MPKIOs face certain challenges in the implementation of these policies such as coordination across the peacekeeping-intelligence mechanisms in multidimensional missions; data management; information sharing; and gender mainstreaming\textsuperscript{18}.

Regarding the first challenge of coordination, there is a lack of coherence amongst the senior officials tasked with coordinating PKI. Instructions are not clearly given and as such operators on the field have no clear idea of what is to be done. In another light, field operators carry out intelligence in their own way, without coordinating with other units. This could lead to the repetition of report, analyses and patrols on areas that have already been patrolled whereas there are areas yet to be patrolled. By so doing, intelligence on imminent threats on the civilian population could be very difficult to get and as a result in order to cover up the loop holes created, officers could resort to clandestine intelligence which is contrary to the PKI policy. These hindrances to smooth coordination could be as a result of the incoherence between the time tasks are assigned and their required period of execution, the

\textsuperscript{16} Ibid.
\textsuperscript{17} Ibid.
\textsuperscript{18} SARAH-MYRIAM MARTIN-BRÛLÉ, Finding the UN Way on Peacekeeping-Intelligence, International Peace Institute, April 2020, page 14.
deadline for the availability of an information and the status quo on the field, the lack of competent intelligence officers, and the lack of an adequate mechanism to follow up on intelligence tasks and activities.

On the issue of data management, there is a lack of harmonisation of information into a central data base which will be accessible to all and ensure the continuity of the intelligence cycle even after there is a change of staff. On the contrary, there is a multiplicity of data bases which are usually official, unofficial and ad hoc\(^{19}\). This state of affairs is a fertile ground for indiscretion and lack of secrecy in the manipulation of intelligence, as well as a gateway for false intelligence to be infiltrated into the system, and as such the civilian population becomes vulnerable to imminent threats aimed at them. Worthy of note is the fact that from a general stand point, in the domain of international peace and security, the lack of pragmatism and realism will lead to the unfortunate death of a considerable number of people, hence a recipe and a strategy for failure.

Furthermore, the very essence of intelligence or information is sharing and communication for the attainment of common goals in a team spirit. The mutuality of the goals aimed at depicts the imperative for trust and unity to reign within an intelligence unit. Officers and experts need to trust one another to be able to share information as well as trust its veracity, within an operational framework, a civil-military coordination and a security context, under the same motivation to protect civilians and contribute to the success of the PKO. In addition, staying faithful to UN principles and values, UN Security Council adopted Resolution 1325 on women, peace, and security should be taken into account in all the steps and processes involved in PKI.

The deployment of PKI to protect civilians on the field

A proactive posture and mind-set is an imperative for intelligence personnel in order to deter and prevent threats to civilians. Despite the non-identification of a threat, there should be visible presence of forces particularly in vulnerable areas, followed by continuous and repeated assurance to the civilian population to win their hearts and minds for

\(^{19}\) Ibid, page 17.
eventual cooperation and collaboration with PKI. When a concrete threat of an attack against civilians is identified, proactive and timely measures must be taken to eliminate or mitigate the threat before violence occurs, including through credible deterrent actions such as reinforced presence and patrolling, show of force, securing strategic areas, interpositioning, psychological operations and proactive military and police operations which may extend to pre-empting and neutralising the source of the threat in accordance with the mandate, ROE and DUF. Comprehensive and integrated planning, timely decision making and rapid response are crucial for intelligence to effectively ensure the protection of civilians. When missions fail to react to alerts or adjust their mission patrolling and presence to reflect threat analysis, civilians are left exposed to harm and may face death or injury.

At the operational level, patrolling is a commonly used tool by missions to ensure threat prevention and protection. Despite the early warning and alert systems missions put in place to ensure the collection and circulation of information, poor road and communications infrastructure however hinder rapid response to alerts. Moreover, troops are usually reluctant to endanger their lives and lack incentives to do so. This means the actual problem is not lack of information, but lack of coordination and structural framework within PKOs. Hence, civilians are left to die or injured as a result of the imminent threats they are exposed to. In addition to the issue of information sharing highlighted above, civilian experts are not able to influence strategic planning and as such they are not encouraged to share information.

Following the use of PKI in MINUSMA and UNMISS in 2016 which had POC mandates, intelligence structures were not resourced to collect, analyse and disseminate information on POC and the flow and circulation of information was not efficient. In UNMISS, no intelligence doctrine or guide exists to specify how exactly intelligence is supposed to assist the goal of protecting civilians. The very concept of POC seemed to be interpreted differently by different actors.

21 DATA-DRIVEN PROTECTION Linking Threat Analysis to Planning in UN Peacekeeping Operations, Centre for Civilians in Conflict, November 2018, page 44.
23 Ibid page 25.
In the case of MINUSMA on the other hand, the All Sources Information Fusion Unit’s (ASIFU) related work is likely to involve identification of possible IED locations and/or how to avoid them, work supported not only the military component in MINUSMA, but also improved civilian security in general, since IEDs posed just as grave a threat to civilians as to military personnel\textsuperscript{24}. This is obviously an important task, but this activity does not entirely cover what intelligence in support of a POC mandate is. Being able to provide short term tactical intelligence, the ASIFU had the capacity and capability of to provide timely intelligence in support of MINUSMA’s POC mandate is present in the ASIFU, but it is not prioritised\textsuperscript{25}. Moreover, civilian informants risked being punished by armed groups of terrorists. This made civilians reluctant to share information with mission personnel, which further complicated the use of PKI to ensure the protection of civilians.

Haven already elaborated on the link between POC and PKI above, on the backdrop of the analyses of this section, it could be generally considered that the inefficiency of PKI to ensure the success of a POC mandate lies in the lack of an effective operational and structural coordination, the prioritisation of the protection of civilians by the intelligence services of a PKO with a POC mandate and a weak civil-military cooperation. Within a PKO, the success of the POC mandate being the measurement unit of the global mission success, protection of civilians should be primordial in the agenda of all mission components, as it will serve as a motif for organisation and coherence in the various steps involved in protecting civilians\textsuperscript{26}.

Arenas for the improvement of PKI efficiency and effectiveness for the success of POC mandates

There is the need for a clear definition of the responsibilities at all levels of analysis, strategic operational and tactical preferable within each mission owing to the fact that each mission has its specificities and

\textsuperscript{24} Ibid.
\textsuperscript{25} Ibid.
context. Moreover, PKOs should be given full capacity to cover the full spectrum of the intelligence process to avoid units being re-directed to other levels of analyses which could lead to counterproductive results. There should be a considerable clarity in the dialogue between decision makers and intelligence agencies in PKOs so that intelligence agencies will know exactly what type of information is needed by decision makers. In return, decision makers should be informed of the capacity and capability of intelligence agencies to obtain information.

Intelligence agencies will need to envisage possible scenarios upon receiving information of a possible threat. By so doing, it would be tactically and operationally easier for troops to effectively and efficiently prevent and protect civilians from imminent threats. It would equally be advisable for troops and civilian experts to be well trained prior to their deployment on PKOs with POC mandates, where PKI will be used in order to make sure they are fully aware of what awaits them on the ground. As such, UN Centres of Excellence all around the world should update their curriculum to include PKI in their Core Pre-Deployment Training Materials and POC courses to identify, analyse, and prioritise threats to civilians. Intelligence services within PKOs need to be well established from an institutional and functional perspective not just to ensure efficiency of the work, but to equally see to the continuity of the process in case personnel are replaced.

Measures should be taken to ensure PKOs develop strategies for achieving mandated tasks, including protection of civilians tasks, and are developing methods for tracking the impact of protection response activities. In that respect, strategic guidance outlining protection priorities and objectives should be made available to staff and should be inserted into operational planning processes. In addition, it would be suitable for strong leadership and development of strategies to align the political and operational efforts of PKOs to ensure these efforts strengthen each other and contribute to protection of civilians and ensure field offices have coordinated strategies based on threat analysis. On a regular basis, the impact of PKOs should be reviewed in order to determine if the location of field offices and bases are briefed by strategic protection objectives and assessments of current and forecasted threats.

Furthermore, decision makers within a PKO should ensure that the importance of protection priorities among other tasks is clearly articulated,
provides an overarching, integrated strategy for achieving protection objectives and provide guidance on which, among the many protection threats, are priorities for the mission. At HQ level, there should be a revision of the policies and guidance developed at on how missions can prioritise and forecast threats to civilians to ensure tools are useful to peacekeeping mission leadership and personnel.

CONCLUSION

The protection of civilians is at the very centre of all global strategies and policies in the domain of international peace and security wing to the fact that civilians are directly or indirectly the targets of security threats and challenges. Paying particular attention to POC mandates within PKOs, their success is not negotiable owing to the humanitarian foundation of PKOs. And to better buttress their credibility for future missions, the onus is on mission personnel to effectively and efficiently attain the objectives of POC mandates. The necessity of PKI to ensure the effectiveness of POC mandates can never be highlighted enough, but this could be questioned further if in the long run it is established that PKI rather constitutes a structural and operational burden on PKOs in light of the protection of civilians due to the difficulties elaborated above. Hence, under the prism of PKI, the obligation of positive results on the protection of civilians should be engraven in the minds of mission personnel for the success, credibility and integrity of PKOs not only lie on the success of POC mandates, but on the exemplary and tactful manner through which it is attained.

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ANALYSIS OF SEXUAL EXPLOITATION AND ABUSE COMMITTED IN THE SCENARIO OF THE MALIAN CONFLICT

by Erica Rubiu

Abstract:
This work analyses the causes of rapes and sexual abuse perpetrated by peacekeepers in the United Nations mission MINUSMA. The number of these abuses is high, although there are other UN missions with a higher number of sexual assaults committed by UN personnel against civilians. The general idea that the causes of these rapes are linked to environmental factors is underestimating and does not take into consideration the complicated reality, such as the military culture of the country of origin of the soldiers, and the laws put in place by the United Nations to fight the phenomenon from 2007 to today. The work takes into consideration the variables that lead to an increase in sexual abuses against civilians, consequently both environmental and external phenomena are considered here. Through a study of the phenomenology of abuses, the aim is to understand how to identify solutions to assess the phenomenon in peace missions in general, not only specifically the peace mission in Mali. The specific analysis of rapes and sexual abuse in Mali was conducted using official data released by the United Nations and in one specific case compared with the Women’s Media Center data. The scarcity of data relating to this type of crimes led to analyse the phenomenon of sexual abuse through articles in newspapers on some cases relating to the MINUSMA mission. Thanks to the statistical data, the articles published, and by comparing other similar situations, the analysis identifies two types of rapes and sexual abuses committed by the peacekeepers against the Malian population: Survival rape; Gang rapes.

Keywords: Sexual exploitation abuse, rapes, peacekeeping missions, training, MINUSMA, Africa.
ANALYSIS OF SEXUAL VIOLENCE IN MALI

Common points with other contexts

In this very complex context of war and armed conflict, the female component also plays a role, sometimes active, sometimes passive. Women are also involved in the conflict in Mali, especially in the North, where they fight or act as a link for the different sides or illegally transport weapons. In Mali, women also form alliances with marriages, for example as it happens in the city of Gao, with members of the terrorist group MUJAO\(^1\), that began to marry girls from the Wahhabi villages of Kadji, on the outskirts of Gao, and in the end managed to settle down in the center of Gao. According to some residents, marrying a jihadist is not only prestigious for the bride, but also for her family.\(^2\) Despite what has been said, the majority of the Malian female population suffers passively from this conflict. Their living conditions have drastically worsened since 2012, since the beginning of the clashes, with food insecurity, unemployment, and deterioration of medical services. In addition, there has been a sharp increase in gender-based violence perpetrated against women by all actors involved in the clashes. According to the UN\(^3\) the number of cases of sexual violence related to the conflict has reached an all-time high. UN reasserts that this number is underestimated due to the stigmatization of this issue by the Malian population. In addition, the proliferation of illicit small arms and an increase in intercommunity violence have repeatedly displaced civilians, making women and girls more vulnerable to violence of all kinds. Rape and forced marriages were particularly common during the Islamist occupation of 2012-2013. Moreover, in 2015, straight afterwards the peace and reconciliation agreement, there were many delays in the implementation of the agreement which led to further exacerbating instability in the northern and central regions of the country and made humanitarian

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\(^{1}\) Mouvement pour l’Unification et le Jihad en Afrique de l’Ouest (MUJAO) was a Salafi-Jihadist militant organization operating in Mali and more broadly the African Sahel region, until 2013. Stanford Center for International Security and Cooperation (CISAC), Available at:https://cisac.fsi.stanford.edu/mappingmilitants/profiles/mujao [Accessed 15th November 2022].


\(^{3}\) UN, Mali, United Nations Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, Available at: https://www.un.org/sexualviolenceinconflict/countries/mali/ [Accessed 15th November 2022].
access difficult for a long time. Populations in areas with weak State presence are particularly vulnerable to attacks by armed groups and extremist elements, leading to forced displacement. There are reports of allegations of sexual slavery, forced marriage, castration, and forced pregnancy, as well as numerous rapes. And, as of 2020, these allegations are even increasing. Anyway, they occurred also in the regions of Gao, Kayes, Ménaka, Mopti, Ségou and Timbuktu, where there is a stronger State and international presence (Minusma mission, Barkane).

Victims reported the perpetrators being members of the Mouvement du Salut de l’Azawad, the Coordination des Mouvements de l’Azawad, Malian security forces, the Ganda Izo, the Groupe d’autodéfense des Touaregs Imghad, violent extremist groups, and unidentified gunmen⁴.

In addition to the challenges posed by war, Mali has also become a transit country for migration flows. Several violations have been reported on migration routes that pass through the country, particularly on migration routes that cross through mining areas, where migrant women have been abused and forced into prostitution by their traffickers. Currently, some forms of sexual abuse associated with occupation by jihadist groups appear to be in decline, also due to their defeat in some parts of the country.

During the occupation of Malian territories by jihadists, the daily life of women in these areas has changed radically. Some very restrictive laws have been enacted that prohibit women from wandering alone or going to the market to sell products, even though most of the women in Mali make their living from trade. For them, a woman does not need to work. She must stay at home, clean and cook to take care of her husband and children. Consequently, women who went alone to work in the fields or to the market were not women of sane principles and, in this case, they were more likely to be mistreated.

Malian women reported in 2019 that harassment and violence by their intimate partners were on the rise nationwide. Domestic violence ten-⁴ Abhijit Mohanty, Geopolitical monitor Intelligence Corp, Mali Crisis: A Historical Perspective of the Azawad Movement, February 13, 2018 https://www.geopoliticalmonitor.com/mali-crisis-a-historical-perspective-of-the-azawad-movement/
ded to increase when women were displaced and moved to live with distant relatives and when occupying groups began to govern the area or when there were problems between them. In urban and rural areas, the dynamics in which these assaults occur are different. In small villages, for example, Malian women were assaulted and raped by various armed groups when they left the house or when their partner was not present for various reasons, when they went to work, when they collected wood or water, and when they worked in the fields. Instead, in densely populated places such as cities, women are more likely to be raped by criminal groups in public, in the market, or on public transportation.

According to the testimony of a woman interviewed in Mopti in April 2018, she said:

“...about a month ago, the bandits captured some women and burned their arms with flaming knives to scar them.”

The same study also shows that with the conflict, forms of violence have not only increased, but have become more as a matter of commonplace and “banal” year by year in the eyes of Malians. The normalization of violence is of real concern to society because it makes it more difficult for victims to seek justice.

Victims’ ability to seek justice and treatment is limited by reliance on families with traditional views, social stigma, the normalization of gender-based violence, and the lack of health and justice services that understand and address issues related to sexual violence.

Belonging to a particular social group or family sometimes results in survivors being discouraged from reporting or not reporting the abuse they have suffered for fear of ruining community relations. In addition, it is important to consider that after a sexual rape, if the woman is not yet married, she may be considered no longer attractive/desirable for marriage because of religious or cultural motivations.

We have already seen a situation very similar to that in Mali with the conflicts in the Democratic Republic of Congo (DRC). Of course, these are two different nations with histories and cultures that are not simi-

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6 Idem.
7 SIPRI–CONASCIPAL project in Apr. 2018 on the economic impacts of the crisis on women in Mopti, Ségou and Gao. See Fomba and Niambele.
lar nor comparable, but in both situations, we can observe how history repeats itself and how it can be avoided. I chose to compare Congo because it is a country where rape is very prevalent, because rape as a weapon of war has been practiced in that country for years, and there are plenty reports of sexual violence by peacekeepers.

War rapes began in the Republique of Congo during the interethnic war fought between 1996 and 2003, during which the population was cruelly killed, starved, and racialized. Rape began as early as the First Congo War (1996 - 1997) but became increasingly even more brutal during the Second Congo War (1998 - 2003). Unfortunately, this ethnic hatred is still the cause of a high number of rapes. According to Amnesty International, these figures are incomplete because they represent only those women who were able to ask for help. It is likely that the actual number of victims suffering the consequences of rape is much higher than these estimates. These rapes have several points in common with those in Mali. The first is that they are committed by armed groups of different factions and by the regular Congolese army. Moreover, even in the Democratic Republic of Congo, murders and rapes are now so frequent that they have become the norm, an integral part of everyday life, a habit to which the community is slowly becoming accustomed. Moreover, sexual violence against minors and women is perpetrated mainly during everyday activities, while working on one’s own land, at the well, or in one’s own home. Like all wars, this clash has produced many displaced people, with nearly 100,000 people forcibly relocated since 2006. While fleeing, civilians are more vulnerable and more likely to be victims of rape by armed groups. Furthermore, even in this case, the numerous acts of sexual violence in public cause the raped women to fear consequences over time, especially in the form of ostracism and rejection by the local community. This causes victims to leave their homes and birthplaces. The same happens when victims become pregnant by their attackers. They often move away voluntarily, but sometimes they are sent away by the family because it brings shame to the household. According to Amnesty International,

10 Idem, pag.20
which has been working in Congolese territory since the beginning of the conflict, many the pregnant patients who visited their medical centers reported they became pregnant after being sexually assaulted.\textsuperscript{11}

In this context of poverty and insecurity created by the rapes and abuses committed by the peacekeepers, most of the testimonies given by the victims to the volunteers of the associations or journalists report the ease with which the personnel of UN exploited the weakness of women who had already been previously abused by armed groups and were used to sexual violence. One of these statements was reported by journalists Kate Holt and Sarah Hughes for The Independent newspaper.\textsuperscript{12}

The victim in question is named Faella. In 2004 she was only 13 years old, but she already had a baby, named Joseph, of about six months.

“The soldiers, different ones, were coming every night and we didn’t know what was going on, we were all scared. Every night the soldiers would come to our hut and make my sisters and I do it with them. We had no choice. If we said no, then they would hurt us. Sometimes they put their guns against my chest and sometimes between my legs. I was really scared.”

After the discovery of her pregnancy, Faella was forced to leave her family for cultural reasons. Thus, she gave birth to Joseph on the road between her village and the Bunia IDP camp, where she sought refuge.

“My father cannot help me anymore - he is ashamed of me because I had this baby when I am not married. He has my brothers and sisters to look after. […] I had Joseph in the forest,”

A refugee camp has been established in the town of Bunia for displaced Congolese fleeing the brutality of war. The refugee camp is located near the UN base, in an old airport. The refugees have settled there to gain more protection from the blue helmets and to take advantage of the proximity to the UN base. Instead of receiving protection and care, civilians like Faella continue to be abused and exploited, even by employees of UN.

“We have no men to look after us. We have been dirtied by the soldiers who came to our villages. No one will now take us as their wives and it is hard to get food in the camp for us.”

“If I go and see the soldiers at night and sleep with them, then they

\textsuperscript{11} Idem.

\textsuperscript{12} Kate Holt and Sarah Hughes, “Sex and Death in the Heart of Africa,” The Independent, May 25, 2004.
sometimes give me food, maybe a banana or a cake, [...] I have to do it with them because there is nobody to care, nobody else to protect Joseph except me. He is all I have and I must look after him.”

In the same article there is also another testimony of a 15-year-old girl Maria, also in the same situation, with a small child and she too was removed from her family.

“I go over the fence when I need food, [...] Nothing bad happens to us over there - the soldiers are kind and they give us things. In this camp there isn’t much. I came to Bunia to be safe and to get away from soldiers who attacked my village. [...] But it is hard to get food sometimes - if you don’t have a husband or someone to fight for you. I don’t have anyone else to turn to. The UN soldiers help girls like me - they give us food and things if we go with them.”

There are at least thirty other testimonies of rape victims of peacekeepers who report the same dynamic. These victims are unaware that what they are experiencing is rape because they are used to all kinds of wartime violence. Prostituting themselves for a banana or a piece of cake has become obvious for them.

Many young Malian girls and women find themselves in the same situation as Congolese women. They are raped by armed groups and forced to move away from their families in different regions of the country, where their low education and poverty make them an easy prey for sex offenders and pedophiles. At this point, the peacekeepers who sexually abuse them almost become saviors for these girls because they provide them with food and false security. Obviously, the victims do not report these crimes to the proper authorities, and the soldiers go unpunished and continue to abuse poor girls and women in the various theaters of war.

As above mentioned, most of these women are expelled from their original household. Some of them often ends up in the big cities of Mali in seeking for a shelter. Particularly in the city of Bamako it is easy to find young girls who have run away from their families and have no one. They find shelter in refugee camps scattered throughout the city and try to survive by doing various jobs, as collecting SIM phone cards, bottles of water, cans, and other items. Some of them become part of the prostitution racket, even when they are still minors. In Mali, prostitution is neither illegal nor legal, consequently the authorities know that the
phenomenon is well present, in Bamako and in other cities, but leave these realities undisturbed. In the capital, especially, there are numerous karaoke bars run by Chinese nationals: inside those bars and pubs it is easy to find real brothels. These venues are seen by poor Malian women and many immigrant women from Burkina Faso as a place to earn some money. The cost of a sexual performance is very low, this denotes the fact that there are many women in conditions of poverty who prostitute themselves to survive, even lowering the price of the service to get some wage. Prostitution within these karaoke bars is managed by the owners, who are not checked on the prostitution ring but only on the legal activities related to the bar, in this way they can cover up their unofficial activity. The fact that prostitution does not exist under Malian law is problematic, as it determines that no checks are made on the age and health conditions of the prostitutes and whether it is voluntary prostitution or not. This activity in Mali does not only take place in bars but, as you can imagine, it is a phenomenon that after the outbreak of war has become widespread due to rampant poverty. Consequently, this uncontrolled prostitution also represents a problem for UN personnel who, with little money, can quickly and easily find women or young girls willing to prostitute themselves.13

Gang rapes

If we analyze the data, we can figure out that most of the reports exposed see only one victim and several culprits, for this reason, it is easy to predict that we are dealing with rapes and gang violence. Unfortunately, not having access to the judgments of the cases, it is not possible to know for sure how many gang rapes there were compared to single rapes, but I still think this is an important considera-

tion to keep in mind when analyzing the matter of the SEAs in Mali.

Gang rape is an act which is mainly carried out by males to the detriment of females, despite the dynamics of gang

Group dynamics make in fact easier for the individual to do what he would not do if he was alone. In several cases, one might take part in a rape to show others his own masculinity, identified with dominant and impersonal sexuality. Thus, violence against women serves not only to show off one’s masculine power but it is also something that is even bolstered by the other members of the group. Gang rape is indeed a moment in which the group creates a very strong bond between its members. The rapists involved do not simply get excited by submitting and humiliating the victim, but their excitement is given, above all, by the mutual support of the group and through the virility they express and demonstrate to their companions. The victim is nothing more than an intermediary body for rapists: woman body is in fact not even a proper human body for them, but just a mere object as if one woman is as good as another: what really matters to them is indeed solely to affirm their male identity through female oppression.

In the military field gang rapes are very frequent, in the British army where there is a strong female presence (15% of the army is made up of women) gang rapes are very a disturbingly common phenomenon.¹⁴

But British Army isn’t the only one, also in the US army, it was possible to count a high number of gang rapes aimed not only at female soldiers but also at male soldiers\textsuperscript{15}. Within the army these gang rapes are originated from a twisted idea of power relationship between the different ranks, rapes are indeed often used as an educational “tool”, where the subject (soldier) is raped when he has disobeyed to older companions or has done something wrong to them or yet, in several cases, because he is considered too effeminate. Through sexual violence, his superiors and fellow soldiers are intended to make him learn his behavior is unfitting with a suitable “male demeanor” and that he’s not supposed to repeat it again otherwise he will be raped again. In some cases, the victim is abused only because he is not considered as one who belongs to the same contingent, often for futile reasons, like when they find him not funny as the rest of the company; here the rapists strengthen their team spirit by excluding and bullying more and more the abused soldier through the practice of haze.\textsuperscript{16} What emerges as pivotal from the stories of survivors, and from most of the studies that go through this specific aspect, is that all kind of sexual abuses are often related to a matter of power, where, especially in the military field, the idea of respect for the hierarchy, together with the obsession for obedience, serve as a justification and validation of violence and exaltation of force. Those listed above, are nowadays all elements that are part of the founding concept of the army itself: in this cultural context, the rape of some soldiers, or even civilians, is not a deviance, but it is an essential constitutive element of the identity of the armies. Obviously, it should be noted that in some armies and military institutions gang rape is practiced more than in other armies. Consequently, when soldiers work with civilians, they tend to reproduce the same social dynamics

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\textsuperscript{16} U.S. Department of Defense (2020b, p. 10) defines hazing as, “a form of harassment that includes conduct through which Service members … physically or psychologically injures or creates a risk of physical or psychological injury to Service members for the purpose of: initiation into, admission into, affiliation with, change in status or position within, or a condition for continued membership in any military or DoD civilian organization.”
they have with each other. Furthermore, as said above and as a further demonstration of my thesis, according to recent studies they have with each other. Furthermore, as said above and as a further demonstration of my thesis, according to recent studies it has been established that gang rapes of civilians occur when the fellow soldiers’ group is not yet cohesive enough: in front of a lack of group cohesion you will see indeed a rise in gang rapes, as an attempt to strengthen the group bond. For this late aim this dynamic in some groups is to be considered quite effective, as it surely solves the problem of weak group cohesion, because in most of the rape groups the violence within the rapists is redirected to the victim, namely the vector body: this is the moment when internal aggressiveness among the members of the group turns into complicity through the members of a gang rape.

An episode of gang rape committed by peacekeepers against Malian women can be reconstructed thanks to the articles published by newspapers that have dealt with the matter, unfortunately also in this case no legal document or official statement emerges from the contributing country to which the peacekeepers belong. The event occurred in September 2013 in Gao, where a group of Chadian soldiers, after violating their military superior’s order, left the UN base and went to spend their free time in the city center, where they committed gang rape. According to the BBC which writes on this subject, the group of soldiers had argued with their high-ranking over salary issues, probably, this dispute led the group of soldiers to have aggressive attitudes towards each other, and when they reached the city of Gao they unleashed their aggression on the local population. At the beginning, according


20 The salary of UN uniformed personnel is distributed by the home state of the soldier or police officer.
to the Women’s Media Center\textsuperscript{21}, there were around a dozen suspects, but only two Chadian soldiers were convicted for rape by their own country (official UN data\textsuperscript{22}). Unfortunately, we cannot know why the Chadian court only found two soldiers guilty and not the whole group or if the decision to process only two out of 10 soldiers was a decision taken during the investigation. Clearly, this lack of transparency on the part of both the contributing State and the United Nations does not allow the phenomenon to be observed and studied to seek good solutions in this regard. The gang rape emerged when the victim requested medical help from the United Nations immediately after the violence. When she reported the incident, the competent authorities began to investigate. The articles revealed the presence of witnesses to the crime who declared that the rape had taken place, that there was more than one victim, and that the rapes took place in a room next to a bar where the soldiers amuse themselves. The other raped women did not report the fact to the competent authorities, consequently, these rapes do not appear in official statistics. As emerges from this case of gang rape reconstructed from journalistic articles and from UN data, gang rapes are widespread in all armies, and rape victims rarely report it.

CONCLUSION:

With this study I would like to widen the discussion of the sexual abuse committed by peacekeepers against local populations, emphasizing how gang rapes, are rarely covered by studies relating to this problem. In the reality they are important to analyze and understand this sad phenomenon.

As written above, in the specific case of the conflict in Mali, gang rapes are very frequent, they constantly merge with survival rapes, but by separating the two matters and making an analysis including data and witnessing, what emerges from the situation in Mali is that poverty and the context of war (environmental factors) leads the local population to be victims of abuse and sexual exploitation not only by pe-


\textsuperscript{22} UN website, Sexual exploitation and abuse, Data Minusma, Available at: https://conduct.unmissions.org/sea-data-introduction [Accessed 3rd December 2022]
ace-keepers but also by other armed groups involved in the conflict. The problem of sexual violence committed by UN personnel on missions is a weakness to the objectives and results of peace missions, sexual abuses decrease the credibility of the UN institution consequently lessening the trust of locals to the mission personnel. This can create tensions and problems in the work of the deployed contingents.

If we look closely at the Malian situation and analyze the dynamics of gang rapes, very practical short and long-term solutions can be found to stop the problem, which comes with the legal solutions of the zero-tolerance policy created by the United Nations.

A short-term solution would be to rearrange the administrations and the organization of peace missions so as not to cause discontent and problems among the soldiers.

The long-term solution should be aimed to readjust troop training, sensitizing soldiers not only with courses and training provided by the United Nations on peacekeeping missions but even before23, at the beginning of their military careers, for example already in their first years of military service. Contributing states should take more interest in the issue of sexual abuse committed by their contingents, in order to readjust training and rebuilding a more inclusive military culture no longer connected to dynamics of abuse of power to others. This would lead to an improvement in the quality of life for soldiers working in national armies as well.

I hope this writing can be useful for reflecting on military training and crime of sexual abuse, to improve the intervention of the UN in the various world contexts in the future.

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Mandated to protect: safeguarding children and their right to education in UN Peace Operations

Children; Right to Education; Armed Conflicts; Peace Operations; United Nations.

by Alessandra Vicari

Abstract:

In times of armed conflict and insecurities, children are those who suffer the most. During 2021, the United Nations verified alarming trends and data on grave violations committed against children in times of conflict by State and non-state actors. This led the international community to reflect upon the need to reinforce the already existing regulations on protection of children during armed conflict through both binding and non-binding instruments.

Having acknowledged the crucial role UN peace operations can play in the protection of children and of their respective rights, among the initiatives undertaken, the UN Security Council has since adopted multiple resolutions, calling for the inclusion of child protection provisions in UN peace operations’ mandates. Thus, it established what is known as the ‘child protection mandate’. Moreover, the protection of children in UN peace operations has been the object of a series of policies and guidelines adopted especially, but not only, at the UN level. The most significant being the 2017 Policy on Child Protection in United Nations Peace Operations.

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In recent times, law and policy makers have been paying a significant attention also to a specific and vital right for the physical, psychological and social development of children, i.e. the right to education, which lamentably finds itself subject to dire attacks in times of armed conflict. Therefore, aware of the potential UN peace operations and the relative personnel have in fostering the safeguard of such right when conflict occurs, key provisions on the protection of the right to education during UN missions were included in several leading resolutions, policies and training materials. This was the case for Security Council resolution 2601 (2021), on the facilitation, continuation and protection of education in armed conflict, which lays down crucial prohibitions for, inter alia, UN deployed personnel when coming into contact with schools, school-children and educational staff, in order to avoid any interference with children’s enjoyment of the right to education.

The present work will firstly provide an overview of what UN peace operations are, as well as a brief description of the relative normative framework and founding principles. A mention of the different categories into which UN peace operations have developed in time will be made. Section two will then proceed to deal more specifically with the child protection mandate of UN peace operations, by first introducing what is meant by ‘child protection’ and then providing a description of its legal basis. Subsequently, the applicable legal framework to be observed by UN peace operations’ personnel when implementing the discussed mandate will be outlined, with a special focus on the 2017 Policy. Finally, section three will be entirely dedicated to the protection of the right to education in UN peace operations: after an introduction on how such right deeply links to the grave violations against children committed during armed conflicts and a description of its legal framework, the crucial documents on its protection during UN missions will be illustrated. The final section will conclude with an illustrative description of practical cases in which UN peace operations successfully ensured the continuation of education in times of conflict, thus upholding its tremendous value. This will serve to prove how the implementation by UN peacekeepers of both hard and soft law instruments developed in this regard is not only due, but also undeniably possible.
1. General overview of UN Peace Operations

Over the past seven decades, United Nations-led peace operations (henceforth: UN POs) have helped countries transitioning from crisis scenarios to a state of peace and stability, through the creation of conditions for sustainable development and political solutions. Despite some shortcomings and problems related to it, empirical data show that this unique mechanism has been, on several occasions, successful in reducing the duration of the conflict locally (A. Ruggeri et al., 2017), halting battlefield hostilities between the belligerents. Furthermore, studies revealed that the presence of UN military and police personnel in conflict-affected countries greatly decreases violence against civilians by both governments and non-state actors (L. Hultman et al., 2013).

The expression “UN peace operations” refers to field missions, in a given country during a designated time period, mandated by the Security Council (thereafter: UNSC) and operated under UN command (S. Sheeran, 2015). As a matter of fact, it is the UNSC’s primary responsibility to maintain international peace and security. However, the General Assembly has a secondary competence to mandate peacekeeping forces, allowing the UN to effectively respond even when there are permanent members involved in the crisis to be faced (N.D. White, 2015). Peacekeeping functions are likewise carried out by the Secretary-General who, besides bringing to the Council’s attention anything that may threaten international peace and security, coordinates, directs and controls an established force and delegates its command. On the field, each mission functions on the coordinated action of military, police and civilian components. Specialized agencies, funds and programmes are also key actors for the success of the missions. Such partners are required to engage in proactive interventions in the countries where peace operations are deployed and together they make up the UN Country Team (UNCT).

Peace operations are not explicitly envisaged in the UN Charter, however the UNSC, in fulfilling its aforementioned primary responsibility, may resort to a range of measures that include the establishment of a UN PO. Thus, the legal basis for this tool is to be found in Chapters 2 ‘Five ways that UN Peacekeeping partnerships drive peace and development’, United Nations Peacekeeping, accessed 11 March, 2023 via <https://peacekeeping.un.org/en/five-ways-un-peacekeeping-partnerships-drive-peace-and-development>.


4 For the complete list, visit <https://betterworldcampaign.org/resources/briefing-book-2022/united-nations-programs-funds-agencies>. 
VI, VII and VIII of the Charter. The traditional peacekeeping can be said to be derived from Chapter VI, the latter being concerned with the Council’s peaceful settlement of dispute, and Chapter VII, which allows the Council to take military action to respond to “any threat to the peace, breach of the peace, or act of aggression”.

Under Chapter VIII, regional organizations and arrangements can be involved in the effort to maintain international peace and security. An additional component of the normative framework of UN POs is International Human Rights Law (hereinafter: IHRL), whose provisions apply in times of both peace and armed conflict. The main instruments under IHRL applicable to UN POs are the Universal Declaration of Human Rights (1948), the two Covenants of 1966, i.e. the “International Covenant on Economic, Social and Cultural Rights” and the “International Covenant on Civil and Political Rights”, and all the relevant UN specialized human rights treaties. Therefore, UN POs are required to be conducted in respect of human rights and should seek to implement them in the mission field. UN POs personnel are further expected to comply with the principles and rules enshrined in International Humanitarian Law (IHL), which applies only in times of armed conflict and regulates the means and methods of warfare as well as protects individuals who do not engage in hostilities or no longer do so. Legal sources under IHL are the four Geneva Conventions (1949), their two Additional Protocols (1977) and the treaties and conventions on the protection of cultural property and the environment during armed conflict, as well as the protection of victims of conflict. Moreover, a detailed illustration of the tasks to be conducted within the peace operation is contained in the UNSC mandate establishing the operation itself. Its content depends on the challenges the mission presents each time. Peace operations are further regulated by numerous other ad hoc agreements with the host State and Troop Contributing Countries (TCCs), such as, inter alia, the Memorandum of Understanding (MOU) and the Status of Forces Agreement (SOFA). With regard to the use of force, the Rules of Engagement (ROE) for the military, and the Directives on the Use of Force (DUF) for the police component, are instrumental for the mission.

5 UN Charter, supra note 3, art. 39.
6 Ibid. art. 52, para. 1.
7 For a complete list, see https://www.ohchr.org/en/core-international-human-rights-instruments-and-their-monitoring-bodies
Since 1948, when the Security Council authorized what it can be considered the first peace operation, UN peacekeeping has evolved into a global and heterogeneous phenomenon: from the deployment of lightly armed troops, it has in time embraced a multidimensional nature and scope (United Nations, 2008). This is primarily due to the transition in the nature of conflicts from international to non-international armed conflicts (P. I. Labuda, 2014). Consequently, nowadays peace operations encompass: conflict prevention, which is directed at identifying and monitoring the potential causes of conflict; peacemaking, a diplomatic action undertaken to secure a ceasefire or a peace agreement when the conflict has erupted; peace enforcement, aimed at ending the hostilities through coercive measures, including the use of military force; peacekeeping per se, a peace support effort designed to assist the implementation of the ceasefire or peace settlement; and peacebuilding, designed to reduce the risk of a relapse into violence by addressing the underlying causes of the conflict.

Finally, three basic principles, interconnected and mutually reinforcing, govern UN POs, i.e. consent, impartiality and non-use of force except in self-defense and defense of the mandate. According to the principle of consent, UN POs are to be deployed with the host State’s consent, unless the threat to international peace and security derives from the State itself, thus requiring enforcement action. Such consent provides the operation the necessary freedom of action to implement the mandate. Impartiality means implementation of the mandate without favor or prejudice to any of the involved parties and it is crucial to uphold the mission’s credibility. Finally, the principle of non-use of force with the two aforementioned exceptions allows peacekeepers, when the situation requires so and under certain conditions, to resort to force at the tactical level, especially because the theater of operations often include the presence of militias and other criminal spoilers that pose a threat for the peace process. Nevertheless, force should always be a measure of last resort as well as precise, proportional and appropriate in its use (United Nations, 2008).

2.1 - Introduction to child protection in UN POs

The promotion and protection of human rights are key components of UN POs (C. Michaelsen, 2016). This is reflected in the fact that the mandates of more than half of the current peace operations envisage human rights tasks. And it goes without saying that human rights constitute a core function of these operations regardless of whether missions have an express human rights mandate. Additionally, in order to overcome the issue of mission mandates being too generic in formulation and, consequently, problematic to implement, “Protection of civilians” (POC) and “Child Protection” (CP) mandates were developed: in 1999, the UNSC passed its first resolution on the protection of civilians (S/RES/1265) and, for the first time, gave a peacekeeping operation the mandate to take necessary action to protect civilians under imminent threat of physical violence. In the same year, the UN Secretary General proposed to include CP provisions in peacekeeping mandates and to deploy child protection advisers. As a result, with resolution 1379 (2001), for the first time UNSC called for the inclusion of such provisions and advisers in the mandates of UN POs.

‘Child protection’ is defined in the UN language as the prevention of and response to all forms of violence against children (UN Convention on the Rights of the Child, 1990), as well as the safeguard of their physical, mental and psychosocial needs, including in settings affected by armed conflict and other emergencies. Such protection shall be guaranteed to all children without distinction on any ground.

Child protection is imperative in peacekeeping missions, being a fundamental peace and security concern, as formally acknowledged by the UNSC in resolution 1261 (1999). As a matter of fact, it is during armed conflicts that children need protection the most, being physically, mentally, and emotionally affected by armed violence. Moreover, the need for a special safeguard is justified by children’s natural condition of vulnerability. Being still in the process of growing up and

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developing, they depend on their family, community and government structures for care and protection. However, child protection considerations should not be mainstreamed into peace operations exclusively when the threshold of armed violence is high. It is, indeed, a common mistake to overlook child protection’s issues in the peacemaking and peacekeeping process (I. Cohn, 1999). Sure enough, peace processes can be a common ground where discussing children’s issues generates the necessary political will to resolve or mitigate conflict. For instance, peace processes are the only opportunity to address the situation of child soldiers during the demobilization and reintegration phases. On this note, interestingly enough, of the several resolutions the UNSC adopted on children and armed conflict, many of them mention incorporating child protection measures throughout peace processes. Yet, it can be claimed that child advocates have failed to translate such intention into practice, having focused mainly on protecting children during the violence, with less attention placed on their protection and needs in the post-conflict scenario (A. Asokan, 2021).

2.2 - The legal basis for the child protection mandate

2.2.1 - Establishing the CAAC mandate: General Assembly resolution 51/77 (1996)

The UN ‘Children and Armed Conflict’ agenda can be traced back to General Assembly resolution 51/77 of 1997, which established the mandate of the Special Representative of the Secretary-General on Children and Armed Conflict (SRSG-CAAC). The mandate aims at strengthening the protection of children affected by armed conflict and fostering international cooperation to improve their protection. One of the most effective ways to ensure such protection in a peacekeeping

12 They can be found in the following link: <https://www.securitycouncilreport.org/un_documents_type/security-council-resolutions/page/2?ctype=Children+and+Armed+Conflict&cbtype=children-and-armed-conflict#038;cbtype=children-and-armed-conflict>.
13 For instance, para. 9 of UNSC resolution 2143 (2014) urges Member States and all the other concerned entities to “ensure that child protection provisions, including those relating to the release and reintegration of children formerly associated with armed forces or armed groups, are integrated into all peace negotiations and peace agreements”.
scenario is for the SRSG-CAAC to ensure that principles and obligations on child protection are integrated into all operational decisions, activities and processes of UN peace missions. In this regard, an example of strong collaboration between the SRSG-CAAC, UN POs personnel and civil society is the “ACT to Protect Children Affected by Conflict”, a child protection-awareness global campaign launched in 2019 by the SRSG-CAAC in response to a rise in grave violations committed against children affected by war. In the same year, the campaign was integrated into MINUSCA’s frame of action in order to provide support to the Central African Republic’s authorities for the implementation of international agreements, such as the Optional protocol to the UNCRC on the involvement of children in armed conflict, the Paris Principles, Safe Schools Declaration and Vancouver Principles.

2.2.2 - Establishing and implementing child protection in UN POs’ mandates: the relevant Security Council resolutions

A further step towards the implementation of the discussed mandate was the adoption of several resolutions by the UNSC. With resolution 1379 (2001) and subsequent ones, the UNSC called for the inclusion of child protection provisions in UN POs’ mandates and for the deployment of Child Protection Advisers (CPAs), whose role will be dealt with later on. Among these resolutions, worth of mention is UNSC resolution 1612 (2015) which identified and condemned six grave violations committed against children in times of armed conflict, i.e. i) attacks on schools and hospitals; ii) killing and maiming; iii) abduction; iv) recruitment and use of children by armed forces and armed groups; v) sexual violence; vi) denial of humanitarian access for children. All UN POs personnel

16 MINUSCA is the multidimensional UN peacekeeping operation established in the Central African Republic on 10 April 2014.  
18 For a list of the most relevant resolutions, visit <https://peacekeeping.un.org/en/child-protection>.  
are required to monitor and report on these violations. As for the latest one, resolution 2427 (2018), it firmly acknowledges the role of UNPOs and political missions in the protection of children. More specifically, the said resolution hailed the launch of a process aimed at providing guidance on how to incorporate child protection issues into peace processes. Such process resulted in the 2020 ‘Practical Guidance for Mediators to Protect Children in Situations of Armed Conflict’, which highlighted how child protection language should be incorporated early on in peace processes. Therefore, resolution 2427 efficiently led to progress in prevention of violations against children. Moreover, many Member States enthusiastically welcomed the resolution’s focus on practical guidance and its links to Secretary-General’ conflict prevention agenda.

2.2.3 - Child protection mandate: authorisation to act or obligation for the mission?

To this date, child protection has been incorporated into the mandate of five UN POs: Mali (MINUSMA), DRC (MONUSCO), Central African Republic (MINUSCA), Darfur (UNAMID, now concluded) and South Sudan (UNMISS) and into four Special Political missions: Afghanistan (UNAMA), Iraq (UNAMI), Darfur (UNITAMS) and Somalia (UNSOM). An interesting question that has been raised within the academia in reference to POC mandates of UN missions, which can be raised in relation to CP mandates likewise, is whether such a mandate creates obligations for the mission’s actors (M. Zwanenburg, 2016). The debate focused on the mission’s potential responsibility in case of failure in achieving its POC tasks. The majority believes that the discussed mandates do not set any legal obligations per se. Rather, they provide an authorisation to act for those called to implement the mandate itself. Nonetheless, the supporters of this view consider some provisions laid out in the mandates intended to be compulsory, e.g. the obligation to report grave violations

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21 Ibid., para. 22.
against the protected group immediately. A different view on the issue is the one considering that UN POs create obligations to protect the vulnerable group(s), regardless of a specific task in the mandate. It can be concluded that UNSC resolutions are not treaties, thus breaching them does not amount to a non-performance of a treaty obligation. However, even though various opinions remain on this matter, it is widely agreed that, unlike the General Assembly, the Security Council has the power to create obligations binding upon Member States of the United Nations, in accordance with Article 25 of the UN Charter (T. Mori, 1997).

Most certainly, when failure to protect children occurs, it is challenging to establish precise responsibilities arising from the acts and omissions of the deployed UN POs’ personnel. This is particularly true given that the relationship between the obligations and responsibilities of the UN, those of the troop contributing countries (TCCs) and those of the individuals materially carrying out the mandate is still at the center of an ongoing debate (S. Wills, 2009).

2.3 The applicable legal framework of child protection

2.3.1 - International Humanitarian Law

In order for peace operations to operate within the legal framework of child protection, the UN peacekeeping forces must comply with child protection provisions derived from IHL in all the situations described in the 1999 Secretary-General’s Bulletin on the Observance of UN Forces of International Humanitarian Law. A general protection, both during international armed conflict (IACs) and non-international armed conflict (NIACs), is afforded to children as members of the civilian population. For instance, during IACs, children benefit from all the provisions relating to the treatment of protected persons under the Fourth Geneva Convention and Additional Protocol I. In NIACs, children enjoy the fundamental guarantees relating to the treatment of persons taking no active part in the hostilities, as set forth in Com-

24 According to Section 1, para. 1.1 of the Bulletin: “The fundamental principles and rules of international humanitarian law set out in the present bulletin are applicable to United Nations forces when in situations of armed conflict they are actively engaged therein as combatants, to the extent and for the duration of their engagement. They are accordingly applicable in enforcement actions, or in peacekeeping operations when the use of force is permitted in self-defense.”
mon Article 3 to the four Geneva Conventions and in Additional Protocol II. Moreover, principles of special protection of children during conflict are laid down in Protocol I\textsuperscript{25} and Protocol II.\textsuperscript{26} IHL further foresees and elaborates on specific rights that all the parties to an armed conflict should provide children with.\textsuperscript{27} Among them, the right to education is paramount for children’s cognitive development and safety, therefore it will be the focus of section three of the present work.

2.3.2 - International Human Rights Law

Under IHRL, peacekeepers’ observance and implementation of the Convention on the Rights of the Child (1989), hereinafter “UNCRC”, alongside with its optional protocols,\textsuperscript{28} is instrumental for the safeguard of children. According to Article 1 of the UNCRC, “a child means every human being below the age of eighteen years”. This is the standard that every entity working under the UN must adhere to, irrespective of national legislation in the mission area or the legislation of the TCC/PCC. Article 19 UNCRC, following a comprehensive paradigm (J. Tobin, I. Chasmore, 2020), demands all ratifying States to take all appropriate means to ensure an effective protection, in order to prevent, repress and prosecute any form of children’s subjection to violence, abuse, neglect or exploitation in any context. Other main instruments relating to children under IHRL, to which UN POs personnel are bound, include: ILO Worst Forms of Child Labour Convention (1999) which aims to secure the prohibition and elimination of the worst forms of child labour; as well as the African Charter on the Rights and Welfare of the Child (1990), which replicates most of the UNCRC provisions and is legally binding on ratifying African States.

The normative framework for child protection further encompasses In-
international Refugee Law, whose main legal sources are The Convention relating to the Status of Refugees (1951) and its Optional Protocol (1977), and International Criminal Law. The latter, which applies to individuals, finds its main source in the Rome Statute of the International Criminal Court (1998). The Statute, in articles 6, 7 and 8, specifically defines as international crimes against children the following conducts: the forcible transfer of children from one group to another as the crime of genocide; trafficking and enslavement of children as crimes against humanity; deliberate attacks on schools and conscription or enlistment of children under 15 years by armed forces and armed groups as war crimes.

2.3.3 - Policies and guidelines

In addition to international legally binding instruments, the international community has developed a series of international guidelines related to child protection. Owing to the fact that they are guidelines, they provide minimum standards for how children should be treated. Among them, particularly noteworthy are the Guidelines for Protecting Schools and Universities from Military Use During Armed Conflict (2014) and the Safe Schools Declaration (2015), an inter-governmental political commitment to protect students, teachers, schools, and universities from the worst effects of armed conflict. Both instruments were promoted by the General Coalition to Protect Education from Attack (GCPEA) and have received support from States and high-level UN officials. Such non-binding instruments have played a role to foster compliance with international law in relation to the protection of education during armed conflicts and are meant to be used by all parties to armed conflict, States and armed non-State actors (ANSAs) alike, as well as by peacekeeping personnel for wide dissemination and implementation (A. Ferrelli, 2016).


A landmark step towards including child protection issues within UN POs’
concerns, was the adoption of the 2017 Policy on Child Protection in United Nations Peace Operations (hereinafter: Policy), issued by the UN Department of Peacekeeping Operations (DPKO), Department of Field Support (DFS) and Department of Political Affairs (DPA). The purpose of the 2017 Policy is to reiterate the role of the three Secretariat Departments active in UN POs, i.e. DPKO, DFS and DPA, in the protection of all children affected by armed conflict in the UN missions. The Policy has been mentioned in the 2022 Annual Report of the Secretary General on Children and Armed Conflict (CAAC) as the main document of reference when incorporating child protection provisions in the mandates of UN POs.\(^\text{29}\)

Pursuant to the Policy, the observance of the provisions therein outlined is compulsory and the adherence of the UN POs to the international normative framework and standards for child protection is reiterated. Furthermore, particular emphasis is placed upon the idea that protection of children in UN missions is a shared responsibility. In other words, a plethora of actors within the operation, the UN, governments and NGOs, lead, monitor, report, and advocate in a coordinated frame of action.

On top of this system, the Special Representative of the Secretary General / Head of the mission (SRSG/HOM), inter alia, assures that all operational decisions and procedures take child protection obligations and principles into account, as well as carries the overall responsibility for child protection planning, training, monitoring, reporting and dialogue with Parties to the conflict. For instance, as a result of the advocacy of Bintou Keita, SRSG/HOM of the UN Stabilization Mission in the Democratic Republic of the Congo (DRC),\(^\text{30}\) progress was recorded in the implementation of the DRC’s National Action Plan of 2018 aimed at fighting all forms of discrimination against women.\(^\text{31}\)

Moreover, the primary interface on child protection issues between the mission and external child protection actors is the Child Protection Adviser (CPA). The Policy codified the already existing role played by CPAs in implementing the child protection mandate of UN POs in mission set-


tions. The Adviser’s main tasks envisage: advising on child protection within the mission; representing the mission focal point for monitoring and reporting on six grave violations; engaging in dialogue with parties to conflict for release of children associated with armed forces and armed groups and other violations; as well as mainstreaming of child protection among mission components. For instance, the resolution establishing the UN Mission in the Congo (MONUC) calls upon the Secretary-General to deploy a sufficient number of CPAs in order to “ensure consistent and systematic monitoring and reporting on the conduct of the parties to the conflict as concerns their obligations under humanitarian and human rights law”. Illustrative in this regard is the CPA-led dialogue in the DRC, which resulted in the cessation of offending practices perpetrated against children by the national armed forces.

Other protection actors can be found within the other mission components. For instance, military force commanders must make sure that all military personnel under their command are aware of what actions can and cannot be taken to protect children. Within the police component, the UN Police Child Protection Focal Points ensure that child protection is integrated into the work of UN Police, for instance by providing guidance on child sensitive interviewing techniques.

The Policy proceeds to describe child protection prohibitions and obligations for UN POs personnel in relation to the following acts: i) sexual exploitation and abuse (SEA); ii) child labour; iii) detention of children; iv) use of schools by peace operations. Each mission component should prevent, protect and support victims of such conducts.

To summarize, what can be inferred from the Policy is that child protection in UN POs is achieved primarily through the deployment of CPAs and the mainstreaming of child protection considerations into all mission activities. The Monitoring and Reporting mechanism (MRM), proposed by the Secretary-General and endorsed by the 2005 Security Agreement.

32 The first Child Protection Adviser to assume the position was within United Nations peacekeeping operation in Sierra Leone, UNAMSIL, pursuant to Security Council resolution 1260 (1999).
34 As of 1 July 2010, MONUC was renamed the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO).
Council Resolution 1612 (SCR 1612), also plays a crucial role. The MRM is established when parties in a conflict-affected state are listed in the annexes of the Secretary-General’s annual report on CAAC, known as the ‘list of shame’, for committing grave violations against children. The mechanism includes the establishment of an action plan, which outlines the commitments to be undertaken by the offending party to cease practices that violate children’s rights, and possible delisting (T. Karimova et al., 2013). Interestingly enough, while in the past uniformed peacekeepers’ contribution to the MRM was generally disregarded, in recent years much emphasis has been placed on their paramount role in relation to this mechanism (V. Falco, A. Wargo, 2020). This is due to the fact that UN military and police personnel are often the mission’s only components able to reach remote areas, or capable of guaranteeing their presence in key locations regarded as unsafe for civilian components. Thereby, they manage to provide early alarms on suspected violations and abuses against children to the mission’s Child Protection staff.

2.3.3.2 - Other relevant UN guidelines and policies

Child protection considerations have also been systematically integrated into other UN guidelines and policies specifically dedicated to children’s rights. For instance, the Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups (2007) aim at preventing the use and exploitation of children in armed conflicts and at better protecting them in such contexts. These guidelines are particularly helpful in the design and implementation of disarmament, demobilization and reintegration (DDR) programmes within the UN POs (O. Bamidele, 2012). On the same line, the Vancouver Principles on Peacekeeping and the Prevention of the Recruitment and Use of Child Soldiers (2017), geared towards troop and police contributors operating under UN peacekeeping mandates, calls for the creation of child protection provisions and for appropriate training for peacekeepers. These initiatives represent an important step in raising the level of political commitment of States and armed non-state actors to ensure children are effectively protected in conflict (R. Burchill, 2017).
2.3.4 - National laws

In conclusion, it is of tremendous importance for the deployed UN personnel to also familiarize with national laws of the State hosting the UN PO, including those pertaining to child protection. UN personnel are not empowered to change the host State’s legal system, but they can advocate to change the national laws and practices, given that all UN peacekeeping personnel must always uphold the highest international standards for protecting children. Moreover, it is within UN mission’s capability and duty, as established in the 2013 United Nations Human Rights Due Diligence Policy (HRDDP), to provide operational support, intelligence sharing and financial support to the host State’s security forces, as well as to exercise pressure on the host State’s entities to align with international human rights standards, refraining from collaborating with them if they commit grave human rights violations.

Despite this largely articulated legal framework for child protection in UN POs, there are still serious gaps between the institutional progresses and the actual field impact (M. G. Smith et al, 2011). In 2021, the UN verified an overall number of 23,982 grave violations against children. A total of 19,165 children were victims or survivors of at least one of the following four grave violations: recruitment and use; killing and maiming; rape and other forms of sexual violence; and abduction. Numerous attacks on education and episodes of military use of schools and universities were globally reported as well (GCPEA, 2022).

3. Protection of the right to education in United Nations peace operations

3.1 - Introduction

3.1.1 - Education as a cross-cutting theme in all the six grave violations

Armed conflicts, as well as terrorism, civil unrest and disasters caused by natural hazards pose a serious threat to the right to education

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37 UN Doc. A/77/143, ‘Report of the Special Representative of the Secretary General for Children and Armed Conflict’, 27 July 2022, para. 3.
of school-age children and university students. This analysis will solely focus on the impacts that armed conflicts cause on children’s right to education and what is UN POs’ role in the protection of such right.

Firstly, the right to education is a cross-cutting theme in all the previously identified six grave violations against children that UN POs are continuously called to monitor and report, being gravely impacted by all of them as well as representing a safe haven for children affected by such violations. Given the fact that they interfere with education directly and detrimentally, all of the six grave violations can amount to education-related violations, intended as those acts which undermine the conditions necessary to exercise the right to education, hindering its fulfillment (British Institute of International and Comparative Law, 2008).

Besides the attacks on education by the actors in the conflict, the use of schools and other education institutions by peacekeeping forces can be equally negative for children’s right to education. A study revealed that, since 2005, schools and universities have been used as bases and barracks even by peacekeepers in several countries affected by armed conflict (GCPEA, 2015). For instance, in 2013, a contingent of peacekeeping troops from Niger who were part of the UN Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) established a military base in a vocational training center, where they remained until December 2014. Likewise, in two cases dating back to late 2016 and early 2017, UN peacekeepers have occupied schools and set up military bases nearby educational facilities in the Central African Republic, interfering with the pupils’ right to education. However, since then, no reports of military use of schools or universities by UN POs forces have been identified (GCPEA, 2022).

On a more positive note, schools are a fundamental component of building a protective environment free from grave violations. Indeed, simply holding the status of ‘student’ can protect a child from forced recruitment or from being a victim of other damaging behaviors. Moreover, schools provide children with physical protection, being learning environments free from exposure to landmines, forced recruitment and sexual violence. Basic skills, such as literacy and numeracy, as well as useful knowledge concerning health, nutrition, HIV and landmine dangers, can be crucial for children to protect themselves during conflict (J. Alexander et al, 2014).

Under this understanding, it must be a top priority in the UN POs’ tasks to prevent educational facilities from becoming battlefields and to protect educational environments and staff as a means of offering wider protection to children.

3.1.2 - The right to education’s legal framework

The right to education during armed conflict is protected through a number of declarations and conventions. Indeed, the general obligation to realize the right to education is a continuous one, applying during both times of peace and armed conflict, and it is established generally in IHRL. The right to education was first enshrined at a universal level under Article 26 of the Universal Declaration of Human Rights (UDHR) which recognises the right to access education and the right to receive a quality education. Although not legally binding, this provision represents the source of the right to education which was later codified in the ICESCR under articles 13 and 14 and the ICCPR under Article 18. Furthermore, the right to education is also protected by UNCRC. The treaty recognises education as a right for every child on the basis of equal opportunity. Notably, as one of the main international treaties guaranteeing the right to education for children, the UNCRC contains no provisions for derogation or suspension by States. The discussed right has also been reaffirmed in other UN treaties covering specific groups.39

As for IHL, this legal regime does not foresee a specific protection of the right to education. However, it contains several provisions which can have an impact on the protection and continuation of education during both IACs and NIACs. The foundational principle of IHL is the principle of distinction,40 pursuant to which attacks may only be directed towards military objectives. Given that both students and educational staff are civilians under IHL, this provides them with protection from direct attack. This protection ceases, however, upon their direct participation in hostilities. Nevertheless, attacks against military objects are still subject to the principle of proportionality. Accordingly, the armed forces

40 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, Article 48.
carrying out the operation shall refrain from it if the attack is expected to cause excessive damage to the right to education in relation to the concrete and direct military advantage anticipated. Moreover, during attacks, feasible precautions must be taken to avoid or minimize the harm to civilian students, staff and educational facilities. This is required by the principle of precaution, deeply interlinked with the one of proportionality. Additionally, IHL sets out more specific rules relating to the protection of children and education. For instance, Article 24 of the Fourth Geneva Convention requires the Parties to an IAC to facilitate the education and maintenance of all children under the age of fifteen who have been orphaned or separated from family as a result of the conflict in all circumstances. Similarly, Article 4 AP II states that children shall receive an education in keeping with the wishes of their parents. 

Finally, under International Criminal Law, the Rome Statute of the International Criminal Court includes protection for educational institutions under Article 8, which covers war crimes.

3.2 - Key documents on the protection of the right to education during UN POs

Being attacks on schools one of the six grave violations that the UN POs are required to monitor, prevent and report on, protection of education must be a key priority within the agenda of UN peacekeeping. The rationale behind the necessity to keep the fulfillment of the right to education among the prime concerns of UN POs lies in the fact that education is an essential driver for peace and security, as acknowledged by the UNSC on several occasions. Most recently, in the 2020 Statement by the President of the Security Council on CAAC, besides reiterating the right to education’s contribution to the creation of a stable environment free from hostilities, a grave concern about the severe increase of attacks against schools in recent years was expressed. Hence, the emphasis was placed on the resulting alarming number of children denied access to quality education.

41 Ibid., Article 51(5)(b).
Accordingly, a growing role has been recognised lately to UN POs in the safeguard of educational personnel and facilities in times of insecurities. Therefore, a broad range of documents mainstreaming the protection of education in the pre-deployment and in-mission training has been issued and will be now analyzed.

3.2.1 - UNSC Resolution 2601 (2021)

Security Council resolution 2601 (2021) is the first UNSC resolution “uniquely dedicated to the protection of classrooms and schools”. Never before had the UNSC placed this issue at the center of a thematic resolution. The main points of the resolution can be summarized as follows: it restates the invaluable role that education plays for peace and security as “life-saving safe spaces”, it calls upon Member States to protect schools and education facilities from attacks, it further urges all parties to fulfill their obligation to facilitate the continuation of education during conflict. Among other elements of the text, the UNSC requests key actors, including UN peacekeeping and political missions and UN country teams, to establish “appropriate strategies and coordination mechanisms for information exchange and cooperation relating to facilitating access to and the continuation of education as well as the protection and prevention of attacks against schools”. Additionally, the previously mentioned role of the UN POs in the protection of children generally, and in the safeguard of the right to education specifically, is tackled in resolution 2601. Particularly, the crucial role of CPAs in leading the monitoring, prevention and reporting efforts in the operations is praised. Indeed, the resolution calls upon the Secretary-General to ensure that the necessity, number and functions of CPAs are incorporated into the preparation and renewal process of all UN missions. The resolution additionally reiterates the UNSC’s decision to continue to include specific provisions

44 UN Doc. S/RES/2601, 29 October 2021, para. 3.
45 Ibid., para. 10.
46 Ibid., para. 6.
47 Ibid., para. 21.
for the protection of children in the relevant UNPOs’ mandates.\textsuperscript{48} In conclusion, the landmark resolution, among the child protection issues which the training of military, police and civilian peacekeepers must focus on, includes attacks on schools. It further demands the adoption of “appropriate comprehensive prevention and protection responses”\textsuperscript{49} in order to halt the growing number of attacks on education.

A first interesting follow-up to the analyzed resolution, within UN POs’ frame of action, is to be found in UNSC resolution 2605 (2021), which was issued only a month after resolution 2601. The resolution integrated into MINUSCA’s mandate the priority task “to mitigate and avoid the use of schools by armed forces, as appropriate, and deter the use of schools by parties to the conflict, and to facilitate the continuation of education in situations of armed conflict”;\textsuperscript{50} additionally, it requested the mission “to assist the CAR authorities in ensuring that the protection of children’s rights is taken into account, inter alia, in the DDR and SSR processes, including through quality education provided in a safe environment in conflict areas, in order to end and prevent violations and abuses against children”;\textsuperscript{51} finally, it condemned “the continued attacks as well as threats of attacks that are in contravention of international humanitarian law against schools and civilians connected with schools, including children and teachers” and it urged “all parties to armed conflict to immediately cease such attacks and threats of attacks and to refrain from actions that impede access to education”.\textsuperscript{52} It can be concluded that the inclusion of these education-centered provisions in a UN PO mandate may be read as an awareness-raising step undertaken by the UNSC in the ongoing process of recognising the valuable role played by the right to education for the achievement of reconciliation and durable peace in UN POs. Consequently, what can be expected from the landmark resolution is that, in the future, other UN POs’ mandates will adopt a more sensible approach in relation to the protection of the right to education, through the inclusion of provisions specifically dedicated to the issue.

\textsuperscript{48} Ibid., para. 22.
\textsuperscript{49} Ibid., para. 23.
\textsuperscript{50} UN Doc. S/RES/2605, 12 November 2021, para. 24 lett. a)(v).
\textsuperscript{51} Ibid., para. 46.
\textsuperscript{52} Ibid., para. 54.

Another key document that has significantly contributed to the protection of the right to education within UN POs is the 2017 DPKO Policy. The document, implementing on UNSC resolutions 1998 (2011) and 2143 (2014), in paragraph 34, renews the obligation for all components of UN POs to abstain from “all actions that impede children’s access to education”. Here, the Policy refers not only to the despicable act of attacking schools to achieve military goals, but also to the more subtle use of school premises in operational settings, which interferes with the enjoyment of the right to education likewise. The Policy specifies that such provision particularly pertains to uniformed personnel, being more likely for them to commit such abuses. Furthermore, the Policy acknowledges that such actions pose a threat, not only to the physical integrity of school children, but to the right to education wholly considered. Albeit the document firmly prohibits such conducts, under exceptional circumstances the occupation of school premises by UN POs is envisaged. In the said scenario, the Policy demands that such premises are vacated as quickly as possible to permit the restoration of education. Demilitarization of just-vacated schools is further deemed imperative.\(^{54}\)

The prohibition to interfere with children’s education was actually already included in the previous UN Infantry Battalion Manual (2012),\(^{55}\) but the Policy elaborates further on the issue, adding emphasis on the repercussions upon the right to education. Furthermore, what can be noticed is how specific the Policy goes in describing the comprehensive measures to be put in place to preserve the safe character of schools. Among them, in paragraph 35, it mentions “the development, adoption and dissemination of mission-specific directives and standard operating procedures to protect schools [...]”. Lastly, under paragraph 37, the analyzed document imposes on UN POs’ military personnel to avoid as far as possible “any presence at or in close proximity to schools”, as well as to abstain from establishing interactions with pupils and, in case of safety concerns, to opt for unarmed protection strategies.

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53 Para. 34 of the 2017 Policy reads: “[...] United Nations peace operations personnel shall at no time and for no amount of time use schools for military purposes [...].”
54 Ibid., para. 36.
55 Pursuant to section 2.13 of the Manual: “schools shall not be used by the military in their operations [...]”.
3.2.3 - DPO-DPPA ‘Manual for Child Protection Staff in UN Peace Operations’ (2019)

Complementary to the 2017 Child Protection Policy is the 2019 Manual for Child Protection Staff in United Nations Peace Operations. The Manual serves as a training tool to build the capacity of child protection staff in UN POs in order to ensure the effective fulfillment of the CP mandate. The Manual includes a sample directive on the protection of schools and universities against military use to be filled out by the SRSG and sent to Force Commanders and Police Commissioners, when required by the situation. Additional references to education are made throughout the Manual. For instance, stopping schools from being used for military purposes is indicated as an example of the SMART advocacy objectives. Moreover, in the sample advocacy plan outlined in Table 10 of the Manual, it reads: “to persuade the host government to adopt a new law to protect schools from being used for military purposes, in accordance with the Safe Schools Declaration”. Thus, it is quite evident that the SSD, and consequently the Guidelines likewise, are an integral part of the UN PO training materials.

3.2.4 - DPKO-DFS ‘PoC: Implementing Guidelines for Military Components of United Nations Peacekeeping Missions’ (2015)

Another reference document for deployed UN POs’ personnel concerning the protection of the right to education is the ‘Protection of Civilians: Implementing Guidelines for Military Components of United Nations Peacekeeping Missions’ of 2015. These guidelines are intended for military components in UN POs tasked with implementing mandates on the POC, however they also include security related CP scenarios. Particularly relevant is the section under the name: “Actions not to be carried out” where the prohibition to use schools for UN military operations is clearly stated.

57 SMART is an acronym for: Specific; Measurable; Achievable; Relevant; Time-bound.
3.2.5 - Training materials

Pursuant to para. 41 of the 2017 Policy, “DPKO, DFS and DPA shall ensure that specific training on child protection and respect for children’s rights are part of mandatory pre-deployment, in-mission and ongoing training for all United Nations peace operations personnel”. As a matter of fact, the most effective way to decrease the number of incidents relating to education is preventing them from happening through meticulous training of all the components of the UN mission that bear responsibilities for protecting children. Therefore, this paragraph will analyze the most relevant training materials containing education-related provisions.

As for the UNDPKO ‘Specialized Training Materials on Child Protection for Peacekeepers – Trainers Guide’, which is a set of training modules aimed at introducing CP concepts and providing CP mission-specific tactical situations for discussion, slide 23 and 24 are dedicated to “Attacks against schools and hospitals”. An imaginary scenario about the use of a school during a military operation is described: the aim is to advise trainees on how to respond should they encounter host nation’s forces based in the school and who invite the peacekeepers to join them in a collective operation. The UN company commander is encouraged to advocate for the unit to “immediately vacate the school premises”; inform the peacekeeping mission’s CPAs of the situation; and collect and share certain relevant facts about the occupation.

Moreover, the first module of the ‘Specialized Training Materials on Child Protection for UN Police: Trainer’s Guide’ (2016) contains a case study describing a militia’s attack on a school and subsequent use of it as a base. The trainees are then encouraged to reflect upon what could be the consequences of the school attack on the students and what is the likely impact of the school attack on the town’s community.

Further guidance on how to protect the right to education during a UN PO can be found in the ‘MRM Field Manual’ (2010), a guidebook meant to instruct the concerned actors on how to implement the MRM in relation to grave violations against children. On the assumption that the MRM is designed to trigger appropriate responses to such violations, among the programmatic responses developed to enhance the protective environment of children during a UN PO, the manual envisages “developing and implementing programmes to prevent and respond to attacks on schools and hospitals, such as the
‘Schools as Zones of Peace’ programmes implemented in Nepal”.  

To conclude, in the ‘Reinforcement Training Package on Child Protection for the United Nations Military’ (2020), which provides guidance on how peacekeepers must interact with children, building a school is indicated as an example of outreach and community engagement activities.

### 3.3 - Good practice examples

UN POs can actively support the right to education in four different ways: firstly, building new schools in locations affected by destruction or in rural areas can bring education where it would not be otherwise provided for. The same goes for delivering learning materials and school supplies to enable pupils to receive quality education, which is, moreover, one of 17 Global Goals that make up the 2030 Agenda for Sustainable Development (SDGs). In this regard, UNMISS remarkably contributed to boosting education in several provinces of South Sudan, where many obstacles hinder the enjoyment of the right to education. For instance, in Aweil East County, students were used to outdoor learning, with the rainy season making learning conditions much challenging. In 2017, UNMISS, as one of its Quick Impact Projects, i.e. low-cost initiatives funded by UN missions and planned to respond to the needs of the local communities, gifted a secondary school with two new classrooms and an office in the Gogrial area of South Sudan. Particularly, the Project was carried out at the Karic Secondary School, in Kuac, and involved the construction of classrooms as well as the gifting of several desks and chairs. The initiative contributed to the continuation of education for children that complete primary school, avoiding them having to go far for their secondary education.

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school education. The project benefited approximately 450 students from the county and neighboring communities.63 Similarly, in 2022, as part of the same project, new classrooms were built at Lietnhom Primary school, improving education for the thousand pupils therein studying.64 Moreover, in the same year, UNISFA’s personnel facilitated the opening of the first library to be ever created in Abyei, contributing to advance SDG 4. The new library hosts up to 1,500 students.65

Secondly, there have been many instances of peacekeeping personnel stepping in as teachers in schools located in the mission field, whenever a teaching shortage is recorded. For instance, in 2019, UNMISS personnel implemented a teaching program at Aweil Secondary School, where teachers abandoned their workplace due to low salaries.66 In 2019, the same mission rehabilitated Ngolembo primary school, located in a remote area in Western Bahr El Ghazal, where in 2016 all school facilities were destroyed. South Sudan’s Minister of Education, Simon Athuai, claimed that the rehabilitation of the school is an example of UN POs’ commitment to ensuring the provision of quality education to children.67 Moreover, this is one of 32 similar projects implemented in the same area of the country mission between 2021-2022.

The third way by which UN POs sustain education in conflict-affected areas of intervention is by protecting students, i.e. creating a safe environment preventing them from being affected by dangerous situations arising from armed conflict. A clear example of this is MINUSCA intervention in the Ouandja-Kotto sub-prefecture, in CAR, where students were able to finally return to school after 16 years. The concerned area has been governed by militias since 2006. This led to many instances of

65 UNISFA is a peacekeeping mission for the Abyei region on the border of Sudan and South Sudan.
forced recruitment of children and early marriage for girls, preventing them from accessing education. In October 2022, MINUSCA forces were deployed to the area to deter the armed groups. Furthermore, a MINUSCA donation of school supplies to more than 2,000 elementary and middle school students contributed to the restoration of schooling.\textsuperscript{69} The same UN mission had already shown great effort to protect the right to education in the past, by issuing the 2015 directive on the protection of schools from military use by UN peacekeepers and on the vital precautions to be taken to secure educational facilities.\textsuperscript{70} More specifically, the directive requests MINUSCA Force and Police not to use schools for any purpose, discouraging them from interfering with the security and education of children. The directive further provides guidance on the quick vacation and clearance of schools and university buildings previously occupied or used by the mission.\textsuperscript{71}

Lastly, educating prison detainees held in UN POs’ headquarters reiterates the idea that providing literacy programs in prison increases detainees’ prospects of social reintegration. Illustrative in this regard is MINUSMA initiative in the Timbuktu Remand and Correctional Center in Mali, where 60 detainees were given the opportunity to take literacy courses in French and English, as well as in the national languages of the region. The three-month literacy course has proved to significantly reduce the rate of illiteracy among prisoners who, after release, are ready to re-enter society with the necessary abilities to secure employment.\textsuperscript{72}

An additional way in which UN POs have, on several occasions, protected the right to education is by establishing a dialogue with armed groups occupying schools or other educational facilities, in order to obtain their rapid vacation. For instance, following the 2010 presidential elections in Côte d’Ivoire, various military groups occupied approximately 30 schools and teachers’ homes to use them as shelters, observation posts, ammunition storage, and training base (UN Office

\begin{footnotes}
\footnoteref{70} UN Doc. MINUSCA/OSRSG/046/2015, ‘MINUSCA directive on the protection of schools and universities against military use’, 24 December 2015.
\footnoteref{71} Ibid., paras. 3, 5, 6.
\end{footnotes}
for the Coordination of Humanitarian Affairs, 2011). In response, the Education Cluster\textsuperscript{73} collected data on a variety of attacks on education and shared information with the UN DPKO. The latter then advocated with the responsible state actors and non-state actors to vacate the occupied schools. Positive results were achieved through direct discussions with armed forces about the right to education, as well as the illegality of occupying schools. Indeed, fear of potential repercussions and reputation concerns led some actors to leave the schools (GCPEA, 2011). This proved how dialogue and mediation efforts can still be effective. Likewise illustrative of the effectiveness of engaging in dialogues is when, in 2016, MINUSCA verbally requested the armed groups occupying some schools in the west of CAR to leave the buildings. Initially, the occupying forces persisted in their actions. However, MINUSCA issued a press release on 27 September 2016, condemning the actions and demanding them to: immediately vacate the schools, moving their checkpoints away from the school premises, and not to impede the functioning of schools. The UN mission further stated that, if the armed groups continued in their behaviors, it would have resorted to the use of force. As a result of the pressuring statement, five schools were vacated by the armed groups (GCPEA, 2017).

Conclusions

In conclusion, we can surely affirm that the international community has made relevant progress to strengthen the protection of children affected by armed conflict within UN POs. This was essentially achieved by including child protection provisions in the mandate of several UN missions. In turn, such provisions have translated primarily into the deployment of Child Protection Advisers, the mainstreaming of child protection issues throughout all missions’ activities, the provision of adequate training on child protection to all mission’s components, and, finally, in the engagement of UN POs’ personnel in the implementation of the MRM.

In this regard, from a soft-law perspective, the 2017 UN Policy has

\textsuperscript{73} The Education Cluster, established in 2007, is an inter-agency coordination mechanism for agencies and organizations with expertise and a mandate for humanitarian response within the education sector in situations of internal displacement.
been instrumental to the heightening of standards for child protection in UN POs in general, and for the safeguard of the right to education in particular, by providing a clear frame of action for the UN deployed personnel. Moreover, a crucial development in the current legal framework of the right to education has been brought by UNSC resolution 2601 (2021). The landmark resolution has resulted in the integration in one of the most relevant UN POs’ mandate, MINUSCA’s, of the priority task to protect the right to education by mitigating and avoiding the use of schools by armed forces. Furthermore, the halt in the cases of military use of schools or attacks against educational facilities or personnel by UN peacekeepers has been persistent. Being very recent, it is yet to be seen whether and how TCCs will follow-up to this resolution. However, it can already be expected how it will pave the way for an increasing attention within the UN peacekeeping agenda toward this issue.

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