

## FROM THE COUNCIL TO THE FIELD: NAVIGATING MANDATES AND RULES OF ENGAGEMENT

*A suicide attacker posing as a beggar wounded three soldiers from the NATO-led peacekeeping force and killed an Afghan girl Saturday on a street popular with Western souvenir shoppers.<sup>172</sup>*

**S**oldiers must make split second decisions about whether and how to use force in the face of immediate threats to themselves or others. Military personnel make these difficult choices in environments in which it may be nearly impossible to differentiate aggressors and non-combatants.

Political and military leaders use two main tools to guide such determinations: the mandates provided for the mission and the rules of engagement (ROE)—legally binding instructions on when, where, and how soldiers may use force. Both mandates and ROE help the operation’s leadership and field personnel define the mission and its goals. ROE ensure that national policy and objectives are reflected in the action of commanders in the field, particularly under circumstances in which communication with higher authority is not possible. Likewise, mission mandates provide a clear framework of the mission’s goals and tasks to help guide decision making by actors in the field. Other components of mission planning provide guidance to forces—such as the formal strategic estimates, the commander’s intent, contingency plans, and standard operating procedures. But at the core of shaping the operation are the mandate, from which all planning begins, and the ROE, where that mandate is put into action. The *UN Handbook* tells field personnel that:

[U]se of force by the military component will depend on the mandate of the peacekeeping operation and the rules of engagement; sometimes the Security Council will authorize a peacekeeping operation to use armed force in situations other than in self-defense. The circumstances under which the operation may use armed force will then be spelt out in the relevant resolution in the Council. The rules of engagement for the peacekeeping operation will clarify the different levels of force that can be used in various circumstances,

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<sup>172</sup> Wesal Zaman and Paul Watson, “Blast Kills Afghan Girl, Hurts 3 NATO Soldiers,” *Los Angeles Times*, 24 October 2004.

how each level of force should be used and any authorizations that may need to be obtained from commanders.<sup>173</sup>

Appropriate use of force depends on a soldier's understanding of the ROE and the use of force allowed beyond self-defense. NATO defines ROE as "[d]irectives issued by competent military authority which specify the circumstances and limitations under which forces will initiate and/or continue combat engagement with other forces encountered."<sup>174</sup> UN guidance has defined ROE as "[d]irectives issued by DPKO that specify the way how units in PKO's [peacekeeping operations] have to act with hostile parties and the population."<sup>175</sup> Good decisions also require an understanding of the environment, knowledge of the mission goals, and prior training in dealing with potential threats. Even after deployment, military personnel may adjust their understanding of the parameters and compare notes on how to react to challenging situations. An entry on a website used by forces in Iraq, for example, identified ROE as the key to determining the appropriate course of action. [See Box 5.1.]

## GETTING ROE RIGHT FOR PEACE OPERATIONS AND CIVILIAN PROTECTION

Modern peace and stability operations exist somewhere between traditional combat and traditional peacekeeping, presenting their personnel with particularly uneasy choices about how to act. ROE limit the use of force—and those for peace operations are more restrictive than those for regular combat. Consider, for example, a US Army view of the legal aspects of ROE:

ROE provide restraints on a commander's action consistent with both domestic and international law and may, under certain circumstances, impose greater restrictions on action than those required by the law.<sup>176</sup>

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<sup>173</sup> Peacekeeping Best Practices Unit, *Handbook on United Nations Multidimensional Peacekeeping Operations*, 57.

<sup>174</sup> NATO, "NATO Glossary of Terms and Definitions," AAP-6(V), North Atlantic Treaty Organization, 7 August 2000, [www.dtic.mil/doctrine/jel/other\\_pubs/aap\\_6v.pdf](http://www.dtic.mil/doctrine/jel/other_pubs/aap_6v.pdf).

<sup>175</sup> UN Department of Peacekeeping Operations, "Glossary of UN Peacekeeping Terms," DPKO Training Unit, September 1998, [www.un.org/Depts/dpko/glossary/r.htm](http://www.un.org/Depts/dpko/glossary/r.htm).

<sup>176</sup> Major Joseph B. Berger III, Major Derek Grimes, and Major Eric T. Jensen, eds., *Operational Law Handbook*, JA 422, International and Operational Law Department, The Judge Advocate General's Legal Center and School (Charlottesville, Virginia: US Army, 2004), 90. They point out that "[f]or many contemporary missions, particularly peace operations, the mission is stated in a document such as a UN Security Council Resolution, e.g., UNSCR 940 in Haiti or UNSCR 1031 in Bosnia. These Security Council Resolutions also detail the scope of force authorized to accomplish the purpose stated therein."

Box 5.1

**SCENARIO: CHECKPOINT ROE TROUBLE**

The following text appeared on a website used by US military personnel in Iraq in 2004:

*You are a company commander deployed to Iraq after ground combat has ended.*

*Several weeks into your deployment, one of your soldiers at the vehicle checkpoint is searching a truck when he finds what he believes to be a gun in the floor of the cab. He locks and loads his weapon and points it at the driver standing near the vehicle, screaming for him to hit the ground. The squad leader searches the vehicle only to find that the gun is really a toy and not dangerous. The civilian is obviously shaken by the scare. Your battalion commander hears of the incident and wants to do an investigation to determine if the soldier has broken the rules of engagement by his actions. What should you do? Rate the following courses of action:*

- *Let the platoon leader take care of the matter.*
- *Give the soldier an Article 15 for excessive display of force against a friendly civilian.*
- *Review the rules of engagement with your key leaders to ensure they are correct and that everyone knows them.*
- *Award the soldier for taking the appropriate action in this case.*
- *Convince your battalion commander that there is no need for an investigation.*
- *Wait for the investigation to determine if there was an actual violation.*
- *Ask your battalion commander to allow you to conduct an informal inquiry into the situation and give your recommendation to her.*

Of more than 200 respondents, the majority selected “review the rules of engagement” as the favored answer. Interestingly, one commentator wrote about the need for more ROE training for the scenarios troops face in Iraq:

*I'd suggest using an incident where civilians were killed as a basis for your ROE training. The ROE situations the platoon commanders went over were good, but only as a start. Many of the ones from higher were simplistic and did not address real world issues and concerns of the troops. I'd say we were very successful—we did not have one Marine killed or wounded because he failed to act, or any ROE violations.*

Source: US Department of the Army, Company Commander website, October 2004, [www.companycommand.army.mil/cc.php](http://www.companycommand.army.mil/cc.php).

Peacekeepers must strike a delicate balance between excessive and inadequate force, for example. One DPKO official described how he raised this issue with future peacekeepers by posing a scenario to military personnel: *Imagine a young teenage boy is pointing a Kalashnikov gun at you: do you shoot or not?* Future peacekeepers wonder if they should risk their own lives in such a situation, or face a potential court-martial for a hostile act against a child.

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*Peacekeepers' ROE have at times been too restrictive, limiting their ability to intervene to protect groups or individuals under threat.*

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ROE will also be critical in situations where peacekeepers witness or are made aware of preventable abuses against the local civilian population; many ROE are the “bottom line” for using force to protect civilians in operations.<sup>177</sup> Additional

factors—the wording of the mandate, the doctrine of the intervening force, the level of troop training—may matter less than having sufficiently robust and well-understood rules of engagement. NATO doctrine for peace support operations, for example, sees appropriate ROE as pivotal to forces’ ability to protect civilians under threat:

The sensitive issue for PSF [Peace Support Forces] is whether to intervene in response to human rights abuses directed at civilians “on the ground.” Any authorization so to do [sic] would be found in applicable ROE. Such an intervention would only be legally permissible if authorized by applicable ROE and/or mandate. In formulating ROE, however, it should be borne in mind that a narrow and neutral concept of operations which limits itself to observation and reporting may not be appropriate in circumstances of widespread violations of human rights and ethnic cleansing even if it does reduce the risk of casualties to the PSF.<sup>178</sup>

This can be tough terrain for military forces directed to protect civilians in modern operations.

In situations where civilians face extreme violence, peacekeepers’ ROE have at times been too restrictive, limiting their ability to intervene to protect groups or individuals under threat.<sup>179</sup> In 1994, during the US-led intervention in Haiti, US

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<sup>177</sup> Colonel Michael Dooley, acting director, Peacekeeping and Stability Operations Institute, US Army War College, Carlisle, Pennsylvania, interview with author, June 2004.

<sup>178</sup> NATO, *Peace Support Operations*, AJP-3.4.1, Chapter 3 Fundamentals of Peace Support, North Atlantic Treaty Organization, [web.archive.org/web/20050325095751/http://www.pronato.com/peacekeeping/AJP-3.4.1/Chapter3.htm](http://www.pronato.com/peacekeeping/AJP-3.4.1/Chapter3.htm).

<sup>179</sup> Trevor Findlay, *The Use of Force in UN Peace Operations* (Oxford: Oxford University Press for the Stockholm International Peace Research Institute, 2002).

Army personnel stood by while personnel from the former Haitian army beat local people celebrating the arrival of the Americans. At the time, the US rules of engagement were understood to mean that the troops should not intervene in Haitian-on-Haitian violence—although the ROE were already under review at the time of the incident. This stance was attributed to the fact that the US Army was instructed not to get involved in law and order issues and to focus on its own force protection, both lessons from prior US experience in Somalia.<sup>180</sup> Televised internationally, the incident in Haiti changed the US posture, if not the actual ROE.<sup>181</sup> A Department of Defense workshop on the Haiti operation recognized the “hidden dangers” when troops and the chain of command have different understandings of the ROE, and urged that training be used to align those views more closely, especially during coalition operations.<sup>182</sup>

On the other hand, creative thinking and courage can sometimes work effectively despite restrictive ROE. Peacekeepers in traditional, Chapter VI missions have protected civilians while operating under mandates understood to allow force only in self-defense.<sup>183</sup> Various contingents in UNPROFOR in the former Yugoslavia sometimes intentionally positioned themselves in the line of fire when Serb forces bombarded Bosnian towns. They could then legally return fire as a form of self-defense to protect civilians. Similarly, in his memoir *Shake Hands with the Devil*, Canadian General Roméo Dallaire explains how he defended civilians without the ability to use force at all: he instructed his unarmed military observers within the undermanned and overwhelmed UNAMIR to stand guard in front of a hotel and protect the civilians inside it during the Rwandan genocide.<sup>184</sup> The Rwandan militias turned back rather than attack UN personnel. Even without bullets or Chapter VII authority, the UN observers managed to defend the hotel through sheer grit and presence.

## DRAFTING MANDATES AND ROE

In missions led by multinational organizations like the United Nations or NATO, the drafting of ROE requires delicate political negotiation. For UN-authorized interventions, the mission’s mandate and ROE are derived from Security Council resolutions.

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<sup>180</sup> Margaret Daly Hayes and Rear Admiral Gary Wealty, eds., *Interagency and Political-Military Dimensions of Peace Operations: Haiti—A Case Study* (Institute for National Strategic Studies, National Defense University, February 1996), 21.

<sup>181</sup> *Ibid.*, and US Army Colonel, JAG (retired), involved in the ROE negotiations for Haiti, interview with author, February 2006.

<sup>182</sup> Hayes and Wealty, eds., *Interagency and Political-Military Dimensions of Peace Operations*.

<sup>183</sup> British and Norwegian troops in UNPROFOR interpreted their mandate as one supporting the protection of civilians, and took action to do so, in contrast to other contingents who interpreted their mandates very narrowly as excluding response to human rights violations or threats to civilians. Findlay, *The Use of Force in UN Peace Operations*, 226-231.

<sup>184</sup> Dallaire, *Shake Hands With the Devil*, 268-269.

UN rules of engagement are not standardized. The United Nations has developed *draft* ROE that are then adapted for each operation, based on the authorizing resolutions. The mission ROE are formulated by the DPKO Military Advisor's office and the UN Office of Legal Affairs. The UN Under-Secretary-General for Peacekeeping Operations approves them and provides them to the mission's Force Commander, who can request changes to the rules of engagement.

Individual mission ROE include one or more general permissions for the use of force selected from the ten numbered options on the UN Master List. These include authorization to use force for self-defense and to protect other UN personnel; to defend UN or designated installations, areas, and goods; to prevent the escape of a detainee; and against those who limit freedom of movement. One rule (no. 1.8) allows force to protect civilians:

Use of force, up to, and including deadly force, to defend any civilian person who is in need of protection against a hostile act or hostile intent, when competent local authorities are not in a position to render immediate assistance, is authorized. When and where possible, permission to use force should be sought from the immediate superior commander.<sup>185</sup>

Before approving a mandate for a UN-led peace operation, the Council is briefed by the Secretary-General and his staff, especially from DPKO, who offer recommendations for the mission and help shape an appropriate mandate. The Council then crafts mandates reflecting the views of its members and what the political environment will bear. The resulting resolution may provide greater or lesser responsibilities and authority than recommended by the Secretariat. The DPKO is next instructed to organize a peacekeeping force to achieve the goals established by the Council. The interpretation of the Council mandate by political leaders greatly influences the mission's organization and shapes how the use of force is understood by its leadership, including the Special Representative of the Secretary-General—who leads the peace operations—as well as by the DPKO and the Secretary-General. Peacekeeping contingents recruited for the operation, their commanders, and the UN Force Commander in turn also interpret the mandate.

When UN resolutions authorize the protection of civilians under imminent threat, there is little evidence that either the Secretary-General or the Council establishes the operational meaning of such language. The political leadership for a new mission or intervention is unlikely to have direct guidance about what

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<sup>185</sup> UN Department of Peacekeeping Operations, "United Nations Master List of Numbered ROE," *Guidelines for the Development of ROE for UNPKO, Provisional Sample ROE*, Attachment 1 to FGS/0220.001, United Nations, April 2002.

is expected in terms of protecting civilians.<sup>186</sup> The transition of authority for the protection of civilians—and a clear understanding of what that authority means—from a Security Council mandate, to the negotiated official ROE for the mission, to the small, laminated ROE card provided each peacekeeper is not a clear and direct path.

### **“PROTECT CIVILIANS”: AN EVOLUTION IN MANDATES AND ROE**

Even before the end of the Cold War, the principle that peacekeepers could only use force in self-defense had broadened.<sup>187</sup> Personnel in UN peacekeeping operations were allowed to resist attempts to impede their duties and to defend the mission, for example. Mandates expanded further with the greater use of Chapter VII authorization in the 1990s.

Prior to 1999, however, no Security Council mandate instructed a UN peacekeeping or multinational force to “protect civilians.” Mandates for operations typically authorized peacekeepers to promote a “secure and stable environment” or to protect the civilians associated with

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the mission, such as humanitarian aid workers or UN civilian personnel. UN resolutions sometimes called for the establishment of “humanitarian areas”<sup>188</sup> or “safe areas,”<sup>189</sup> but stipulated that peacekeepers defending these areas could use force only to reply to attacks and were expected to act in self-defense.<sup>190</sup> Sometimes it seemed that if the peacekeepers themselves were not directly threatened by attacks against a civilian population, such mandates seemed to require that they decline to act.

Beginning in late 1999, UN mandates began to change. The Security Council explicitly authorized the protection of civilians for the first time for the UN peace operation in Sierra Leone, UNAMSIL, stating that the mission:

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<sup>186</sup> Translations of the Council’s mandate into ROE can be hampered by the lack of a common peacekeeping doctrine, especially for missions with Chapter VII authority.

<sup>187</sup> Findlay, *The Use of Force in Peace Operations*.

<sup>188</sup> S/Res/918, 17 May 1994.

<sup>189</sup> S/Res/836, 4 June 1993.

<sup>190</sup> Findlay, *The Use of Force in Peace Operations*, 227. In his excellent study of the use of force in UN peace operations, Findlay points out that “UNPROFOR was never given the explicit mandate or the requisite forces or firepower to comprehensively and robustly protect the civilian population.” *Ibid.*, 226.

[M]ay take necessary action to ensure the security and freedom of movement of its personnel and, within its capabilities and areas of deployment, to afford protection to civilians under imminent threat of physical violence, taking into account the responsibilities of the Government of Sierra Leone and ECOMOG.<sup>191</sup>

Since then, the Security Council has increasingly referenced the protection of civilians in operations; UN mandates and ROE have become more explicit in allowing—and directing—peacekeepers to protect civilians.

Table 5-1 lists UN-mandated peace operations that include “protect civilians” language, beginning with the first case, UNAMSIL in October 1999. The UN

***The operations with civilian protection mandates have important caveats that limit what they are expected to do.***

has cited the protection of civilians “under imminent threat of physical violence” for six other UN-led peacekeeping missions authorized under mandates for Chapter VII.<sup>192</sup> The table includes regionally-led operations, such as two African Union

missions, in Burundi (AMIB) and Sudan (AMIS), which the Security Council endorsed but whose mandates are found in AU communiqués.

The operations with civilian protection mandates have important caveats that limit what they are expected to do. First, the Council usually recognizes that the protection of civilians is primarily the responsibility of the host government where the mission is operating—regardless of whether it is a highly functioning state or one bordering on collapse. The mandate for the UN Mission in Burundi (ONUB), for example, directs peacekeepers to protect civilians “without prejudice to the responsibilities of the Government of National Reconciliation.” There are a few exceptions, such as mandates for MONUC in the DRC and the French-led *Operation Licorne* in Côte d’Ivoire.

Second, the Council also limits the realm of the mission’s responsibility to protect civilians to “within its area of deployment” and “within its capacity” for nearly all operations. [See Table 5-2].

<sup>191</sup> S/Res/1270, 22 October 1999.

<sup>192</sup> Operations include Côte d’Ivoire (UNOCI), Burundi (ONUB), Haiti (MINUSTAH), Liberia (UNMIL), the Democratic Republic of Congo (MONUC), and the Sudan (UNMIS). Only three new peacekeeping missions since 1999 have not included this language: Ethiopia/Eritrea (UNMEE) and East Timor/Timor-Leste (UNTAET) and (UNMISSET).

**TABLE 5-1: UN MANDATES FOR PEACE OPERATIONS SINCE UNAMSIL**  
Since 22 October 1999

MISSION	COUNTRY	DATES	UN-LED	CHAPTER VII	“PROTECT CIVILIANS” MANDATE <sup>193</sup>
UNAMSIL	Sierra Leone	10/22/99 - 12/31/05	√	√	√
UNTAET	Timor-Leste	10/25/99 - 5/20/02	√	√	
MONUC <sup>194</sup>	DR Congo	11/30/99 - present	√	√	√
UNMEE	Ethiopia & Eritrea	6/31/00 - present	√		
ISAF	Afghanistan	12/20/01 - present		√	
UNMISSET	Timor-Leste	5/20/02 - 5/20/05	√	√	
Operation Licorne <sup>195</sup>	Côte d'Ivoire	9/22/02 - present		√	√
ECOMICI	Côte d'Ivoire	2/4/03 - 4/4/04		√	√
AMIB	Burundi	4/2/03 - 6/1/04			
Operation Artemis	DR Congo	6/12/03 - 9/1/03		√	√
ECOMIL	Liberia	8/1/03 - 10/01/03		√	
UNMIL	Liberia	10/1/03 - present	√	√	√
MIFH	Haiti	2/29/04 - 6/1/04		√	
UNOCI	Côte d'Ivoire	4/4/04 - present	√	√	√
MINUSTAH	Haiti	4/30/04 - present	√	√	√
ONUB	Burundi	6/1/04 - present	√	√	√
AMIS <sup>196</sup>	Sudan (Darfur)	7/8/04 - present		√	√
EUFOR	Bosnia-Herzegovina	12/2/04 - present		√	
UNMIS	Sudan	3/24/05 - present	√	√	√
<b>Percentage of operations with components in mandates</b>			53%	89%	58%

<sup>193</sup> See Annex 1 for specific mandate language, which varies. Where mandates have changed since 1999, the most recent is cited here.

<sup>194</sup> Civilian protection language added to mandate on 24 February 2000.

<sup>195</sup> France began expanding its presence in Côte d'Ivoire in September 2002; the Council recognized its mission with S/Res/1464 in February 2003. Selections in table reflect language from S/Res/1528, 27 February 2004.

<sup>196</sup> The AMIS mandate is found in AU communiqués and mentions civilian protection; the Security Council also recognizes AMIS and its role.

The United Nations has authorized action by coalitions and regional organizations with similar “protect civilians” language. The Australian-led intervention in East Timor in 1999, for example, was authorized to “ensure the protection of civilians at risk.”<sup>197</sup> Four coalition- and regionally-led missions in Africa have included protection language identical or similar to that of UN-led operations.<sup>198</sup> The French-led *Artemis* mission to the DRC in 2003 was authorized to use “all necessary measures...to ensure the protection of the airport, the internally displaced persons in the camps in Bunia, and if the situation requires it, to contribute to the safety of the civilian population.”<sup>199</sup> The mandate for ECOWAS forces in Côte d’Ivoire (ECOMICI) directed it “to ensure, without prejudice to the responsibility of the Government of National Reconciliation, the protection of civilians immediately threatened with physical violence within their zones of operation, using the means available to them.”<sup>200</sup>

There are exceptions too. Longstanding missions, such as those in Cyprus (UNFICYP) and in Western Sahara (MINURSO), are not organized under Chapter VII and have not been changed to include protection of civilians during mandate renewals. The mandate of ISAF operation in Afghanistan calls for the “maintenance of security.” ISAF conducts patrols, often alongside Afghan security forces, to help provide security to protect civilians within Kabul and its surrounding areas, and aims to assist in the reconstruction of Afghanistan, slowly expanding to cover other parts of the country. The US-led multinational force *Operation Secure Tomorrow* intervened in Haiti in 2004 without such direction; its mission was to help provide security and stability, and to assist with humanitarian aid.<sup>201</sup> The UN mission that followed it there, however, has a clear mandate to protect civilians under imminent threat.<sup>202</sup>

Table 5-2 identifies language in UN mandates to “protect civilians,” noting which mandates call for protecting civilians “without prejudice to the responsibility” of the host government, within the mission’s “capabilities and areas of deployment,” and using “all necessary means.” Like Table 5-1, it includes AMIS and AMIB, whose mandates are in African Union communiqués.

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<sup>197</sup> S/Res/1264, 15 September 1999.

<sup>198</sup> These four missions are: the French-led *Operation Licorne* in Côte d’Ivoire, the ECOWAS mission ECOMICI in Côte d’Ivoire, the EU and French-led *Operation Artemis* mission in the DRC, and the AU-led operation AMIS in Darfur, Sudan.

<sup>199</sup> S/Res/1484, 30 May 2003.

<sup>200</sup> S/Res/1464, 4 February 2003.

<sup>201</sup> S/Res/1529, 29 February 2004.

<sup>202</sup> S/Res/1542, 30 April 2004.

**TABLE 5-2: CHARACTERISTICS OF UN “PROTECT CIVILIANS” MANDATES SINCE OCTOBER 22, 1999<sup>203</sup>**

MISSION	COUNTRY	DATES	UN-LED	“WITHOUT PREJUDICE TO RESPONSIBILITY OF HOST	“WITHIN CAPABILITIES & AREA OF DEPLOYMENT”	“ALL NECESSARY MEANS”
UNAMSIL	Sierra Leone	10/22/99-12/31/05	√	√	√	√
MONUC <sup>204</sup>	DR Congo	11/30/99-present	√		√	√
Operation Licorne <sup>205</sup>	Côte d'Ivoire	9/22/02-present			√	√
ECOMICI	Côte d'Ivoire	2/4/03-4/4/04		√	√	√
Operation Artemis	DR Congo	6/12/03-9/1/03				
UNMIL <sup>206</sup>	Liberia	10/1/03-present	√	√	√	
UNOCI	Côte d'Ivoire	4/4/04-present	√	√	√	√
MINUSTAH	Haiti	4/30/04-present	√	√	√	
ONUB	Burundi	6/1/04-present	√	√	√	√
AMIS <sup>207</sup>	Sudan (Darfur)	7/8/04-present			√	√
UNMIS	Sudan	3/24/05-present	√	√	√	√
Percentage of mandates with component			64%	64%	91%	73%

Some mandates have also identified broad tasks and named categories of civilians under the rubric of civilian protection. The mandate for the UN Mission in Sudan stipulates that it may “coordinate international efforts towards the protection of civilians with particular attention to vulnerable groups including internally displaced persons, returning refugees, and women and children.”<sup>208</sup>

While rules of engagement are not usually made public, interviews with DPKO personnel suggest that if the phrase “protect civilians under imminent threat” is in a UN mandate, such authorization also exists in the mission’s ROE. In the case of the UN Stabilization Mission in Haiti (MINUSTAH), the ROE for that mission (as of May 2004) identified that force may be used beyond self-defense

<sup>203</sup> See Annex 1, *UN Security Council Resolutions for Missions Involving Aspects of Civilian Protection*, for specific mandate language, which may vary. Where mandates have changed since 1999, the most recent mandate is cited here.

<sup>204</sup> Civilian protection language added to mandate on 24 February 2000.

<sup>205</sup> Selections in table reflect language from S/Res/1528, which instructs forces to protect civilians within their deployment areas but does not include the caveat “within capabilities.”

<sup>206</sup> Mandate language does not include “within its areas of deployment.”

<sup>207</sup> The AU Communiqué in March 2006 makes no reference to the protection of civilians being the responsibility of the Government of Sudan, which the previous AU mandate included.

<sup>208</sup> S/Res/1590, 24 March 2005.

only in specific circumstances, including “to protect civilians under imminent threat of physical violence, within its capabilities and areas of deployment, without prejudice to the responsibilities of the Transitional Government and of police authorities.”<sup>209</sup>

Annex 1 provides a chart, *UN Security Council Resolutions for Missions Involving Aspects of Civilian Protection*, which looks at selected mandates for UN-authorized or UN-led missions that involved resolutions providing for the use of force and the protection of civilians. These mandates are a good starting point for analyzing the actual application of the mandates and ROE in the field.

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***The specific civilian protection language of these mandates has grown clearer and more robust over time.***

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The specific civilian protection language of these mandates has grown clearer and more robust over time in some cases, such as for MONUC (as described at length in Chapter 8 of this study.) For its first few months, MONUC operated

without Chapter VII authority, making it a *de facto* Chapter VI operation. In February 2000, however, the Council added the direction and authority to protect civilians. Acting under Chapter VII, the Council authorized MONUC to protect UN personnel, facilities, installations and equipment; ensure the security and freedom of movement of its personnel; and protect civilians under imminent threat of physical violence.<sup>210</sup>

Even with a clear reference to civilian protection, however, the Council left the decision to protect civilians up to the mission leadership in the field, who were to “deem” if such protection was within MONUC’s “capabilities.” It was not clear whether the capabilities, from the beginning, were deemed sufficient to protect civilians—or were planned to be so. In essence, the mandate gave MONUC the *option* to protect civilians, but left it with a limited capacity since the Council authorized no more than 5,537 military personnel in a country the size of Western Europe.

As crises continued to occur and attacks on civilians persisted, the Council gave MONUC increasingly stronger civilian protection mandates throughout 2003 and 2004. In March 2005, the Council authorized specific, robust military tactics, and directly authorized the use of *preventive* force to protect civilians,

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<sup>209</sup> UN Department of Peacekeeping Operations, “MINUSTAH-ROE: Rules of Engagement of the Military Component of the United Nations Stabilization Mission in Haiti (MINUSTAH),” UN Restricted, DPKO Military Division, 24 May 2004.

<sup>210</sup> S/Res/1291, 24 February 2000.

calling on MONUC to use “all necessary means, within its capabilities and in the areas where its armed units are deployed...to ensure the protection of civilians under imminent threat of physical violence, from any armed group.”<sup>211</sup>

MONUC has the most assertive mandate yet regarding the protection of civilians, but other UN mandates have become increasingly robust and direct in their calls for civilian protection. The 2004 ONUB mandate stated without exception that the AU operation would use “all necessary means...without prejudice to the responsibility of the transitional Government of Burundi, to protect civilians under imminent threat of physical violence.”<sup>212</sup> In Darfur, the AU mission was instructed to “[p]rotect civilians whom it encounters under imminent threat and in the immediate vicinity, within resources and capability, it being understood that the protection of the civilian population is the responsibility of the Government of Sudan.”<sup>213</sup> In 2006 that role was revised to contribute to the “general security situation” for humanitarian assistance, provide support to IDPs and refugees, and “take all necessary steps...in order to ensure a more forceful protection of the civilian population.”<sup>214</sup>

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## INTERPRETING MANDATES AND ROE

Political leaders also interpret Council mandates as they see fit, influencing mission organization and leadership, and thus, how the legitimate use of force is understood. There are many leaders within a UN operation in addition to the Special Representative of the Secretary-General (SRSG). The mandate interpretation is influenced by DPKO and the Secretary-General, and interpretations by the various peacekeeping contingents recruited for the operation, their commanders, and the UN Force Commander further impact their execution. Force commanders in multilateral operations also remain tied to their political leaders at home. All have understandings of what the mandate calls for and, without a single chain of command, those interpretations can tug personnel in different directions.

Thus, mandates and ROE that allow for the use of force to protect civilians do not guarantee that such force will in fact be exercised. The interpretation of ROE and the actual force capacity to protect civilians may be more important to their

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<sup>211</sup> S/Res/1592, 30 March 2005.

<sup>212</sup> S/Res/1545, 21 May 2004.

<sup>213</sup> AU Peace and Security Council, Communiqué of the 17<sup>th</sup> Ordinary Session, 20 October 2004.

<sup>214</sup> AU Peace and Security Council, Communiqué of the 46<sup>th</sup> Ordinary Session, 10 March 2006.

implementation than their language. Even after UNAMSIL became the first UN operation mandated to “protect civilians under imminent threat,” its peacekeepers themselves were taken hostage in 2000 by the brutal Revolutionary United Front (RUF) rebel group, which had terrorized the civilian population. The Secretary-General told the press that peacekeepers lacked cohesion and a common understanding of the force’s purpose and rules of engagement, in addition to facing a difficult environment and logistical challenges.<sup>215</sup>

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*Thus, mandates and ROE that allow for the use of force to protect civilians do not guarantee that such force will in fact be exercised.*

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Lacking a common understanding of the purpose and ROE of a mission is, unfortunately, familiar territory. Without common peacekeeping doctrine for UN missions, the translation of Council mandates into ROE can vary greatly, particularly for missions with Chapter VII authority where force is directly used to compel compliance or protect individuals.<sup>216</sup> For missions not led by the United Nations, NATO, or nations with advanced militaries, mission-wide rules of engagement for forces may not exist. When Nigerian troops deployed on the ECOWAS mission to Liberia, ECOMIL, in 2003, the force reportedly landed on the ground without any written ROE from ECOWAS because the regional organization had “none.”<sup>217</sup>

Contingents in a peace support operation may operate under different national ROE as well and those ROE are interpreted differently—some nations consider them orders, others mere guidance. Interpretations of ROE can impact individual soldiers subject to multiple chains of authority (e.g., both a multinational institution and their home nation) whose understandings of ROE may not coincide. NATO doctrine states that “a commander at any level must always act within the ROE received but is not bound to use the full extent of the permission granted.”<sup>218</sup> Even if robust, effective ROE are negotiated for a multilateral mission, a nation may order its forces to follow more restrictive national ROE or

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<sup>215</sup> Edith Lederer, “UN Chief Calls Sierra Leone ‘Dangerous and Volatile,’” Associated Press, 2 August 2000.

<sup>216</sup> Findlay makes this point in his comprehensive book, *The Use of Force in Peace Operations*, which reviews the specific mandates for UN operations and analyzes how UN-led or UN-authorized missions actually operated in the field in regards to force, and the variance of interpretation of ROE and mandates. Findlay, *The Use of Force in Peace Operations*, 360-361.

<sup>217</sup> Military advisor, DES-PADS, ECOWAS Secretariat, interview with author, Abuja, Nigeria, June 2004.

<sup>218</sup> NATO, *Peace Support Operations: Techniques and Procedures*, ATP-3.4.1.1, North Atlantic Treaty Organization, 28 May 2003, 1-9.

require permission from their national leadership for specific types of action. UN contingent commanders have been known to phone their capitals when situations require a robust response by peacekeepers.

Many countries are reluctant to send troops as peacekeepers to use force to protect civilians in violent trouble spots—or send personnel who are constrained by national limits on their use of force.<sup>219</sup> In some cases, troops may be prohibited from acting in more volatile regions, or in roles for which they are ill-prepared. Japan, for example, sent troops to Somalia and Iraq, but these troops were not permitted to use force except in self-defense.<sup>220</sup>

Interpretation is especially problematic when ROE themselves are silent or lack detail on key issues. The long version of the ROE for *Operation Restore Hope* in Somalia, for example, made explicit that troops can use force in self-defense—and to protect civilians. “Deadly force may be used to defend your life, the life of another US soldier, or the lives of persons in areas under US control,” the ROE instructs troops. “You are authorized to use deadly force in self-defense if...armed elements, mobs and/or rioters threaten human life,” it continues.<sup>221</sup> But this is not explicit in the “short” version of the ROE card, which is what most soldiers refer to in decision-making situations. [See Box 5.2.]

Troop actions may be affected by other agreements between the troop contributing country, the UN and the host country. For example, Status of Forces Agreements (SOFAs) between the receiving country and the UN may constrain how troops are deployed. Nations may negotiate separate Memoranda of Understanding (MOU) ordering that their forces not engage in certain types of behavior.

## **MONUC: INTERPRETATIONS MATTER IN THE DRC**

Once again, MONUC demonstrates the challenges of protection. Effective civilian protection by MONUC suffered from cautious implementation of and internal confusion regarding the mission’s ROE. Since 2000, MONUC had relatively permissive rules of engagement (under Resolution 1291) that allowed peacekeepers to use force beyond self defense to protect civilians under imminent threat of physical violence. Nevertheless, following the crisis in Ituri—in which a land dispute between armed factions associated with the Hema

<sup>219</sup> In nations such as the Netherlands and Italy, the parliament controls authorization of militaries to be offered to peace operations. Countries such as Ireland only provide troops if the UN authorizes the mission.

<sup>220</sup> Takahisa Kawakami, Japanese Mission to the United Nations, interview with author, June 2004.

<sup>221</sup> Excerpt from TF Mountain OPLAN 93-2 (*Operation Restore Hope*), TC-7-98-1, US Army Stability and Support Operations Training Circular, Slide 4.1.

and Lendu ethnic groups led to mass killings of civilians belonging to the ‘wrong’ group<sup>222</sup>—the Uruguayan battalion reported to the UN that it could not have done more to protect civilians because MONUC was a Chapter VI mission with ROE that proscribed the use of force beyond self defense.<sup>223</sup> Uruguayan soldiers in Bunia argued, for example, that ROE restricted them to simply controlling the UN compound, protecting UN personnel, and using force exclusively in self-defense. Uruguay and Morocco had issued MOU restricting their troops from participating in the more robust aspects of the MONUC mission. The Uruguayans were nationally barred from participating in Chapter VII UN operations and could not take part in certain types of mission tasks.<sup>224</sup> Even if a fighter pulled a pin from a grenade, argued one, the ROE proscribed any use of force until it was actually thrown. “And even then the threat is the

*Box 5.2*

**ROE Card**  
***ROE FOR OPERATION RESTORE HOPE***  
Joint Task Force for Somalia Relief Operations  
Ground Forces Rules of Engagement

Nothing in these rules of engagement limits your right to take appropriate action to defend yourself and your unit.

1. You have the right to use force to defend yourself against attacks or threats of attack.
2. Hostile fire may be returned effectively and promptly to stop a hostile act.
3. When US forces are attacked by unarmed hostile elements, mobs, and/or rioters, US forces should use the minimum force necessary under the circumstances and proportional to the threat.
4. You may not seize the property of others to accomplish your mission.
5. Detention of civilians is authorized for security reasons or in self-defense.

**Remember:** The United States is not at war. Treat all persons with dignity and respect. Use minimum force to carry out the mission. Always be prepared to act in self-defense.

*Source:* Joint Chiefs of Staff, *Joint Tactics, Techniques, and Procedures for Peace Operations*, Joint Publication 3-07.3 (Washington, DC: US Joint Chiefs of Staff, 12 February 1999), A-D-6 from Annex D to Appendix A (Figure A-D-1).

<sup>222</sup> Amnesty International, “The Human Rights Crisis in Ituri,” (no date), Amnesty International website, [web.amnesty.org/pages/cod-040803-background\\_2-eng](http://web.amnesty.org/pages/cod-040803-background_2-eng).

<sup>223</sup> Peacekeeping Best Practices Unit, *Operation Artemis: Lessons of the Interim Emergency Multinational Force*, Peacekeeping Best Practices Section, UN Department of Peacekeeping Operations, October 2004, 9.

grenade,” he said. “We can’t even shoot the person. We have to shoot the grenade.”<sup>225</sup>

MONUC’s revised mandate and rules of engagement in 2003 allowed the mission to pursue and challenge militia even when it was not directly attacked, to interpose peacekeepers between parties in conflict, and to arrest and detain civilian and militia elements caught committing obviously criminal acts.<sup>226</sup> ROE

1.7 reads, “Forces may use up to deadly force to protect civilians when competent local authorities are not in a position to do so.”<sup>227</sup>

According to Col. Lawrence Smith, Commander of MONUC Sector 5, however, the most important change was not in the ROE, but in the perceptions of

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*While MONUC had authority on paper to protect civilian lives, in practice mission personnel operated as a more traditional monitoring mission.*

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soldiers and commanders on the ground. Prior to the 2003 Ituri crisis, not all MONUC personnel seemed aware of the permissive 2000 mandate. While MONUC had authority *on paper* to protect civilian lives, *in practice* mission personnel operated as a more traditional monitoring mission. “Although the previous Rules of Engagement did not need a major change with the new mandate,” Col. Smith has argued, “their interpretation and application at ground level needed to be adjusted very quickly.”<sup>228</sup> Even with the more robust ROE, the lack of a unified conception of MONUC’s mandate and responsibilities continued to cause internal confusion and to a failure to protect civilians, as seen in Chapter 8.

## MINUSTAH: USING FORCE IN HAITI

The importance of mandate and ROE interpretation is visible in other missions as well. In Haiti, UN forces from different contingents have varied considerably

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<sup>224</sup> The Uruguayans’ defense of civilians in Ituri in 2003 is noteworthy, where forces prepared for guard duty were deployed into a dangerous environment. They were not the right force for that mission, which was eventually taken on by the EU-authorized French-led forces.

<sup>225</sup> Sudarsan Raghavan, “UN forces watch bloodshed in Congo,” Knight Ridder Newspapers, 2 July 2003.

<sup>226</sup> Henri Boshoff, “Overview of MONUC’s military strategy and concept of operations,” in Mark Malan and Joao Gomes Porto, eds., *Challenges of Peace Implementation: The UN Mission in the Democratic Republic of the Congo* (Pretoria: Institute for Security Studies, 2004), 136; Roberto Ricci, “Human rights challenges in the DRC: A view from MONUC’s Human Rights Section,” in Malan and Porto, eds., *Challenges of Peace Implementation*, 100; Alpha Sow, “Achievements of the Interim Emergency Multinational Force and Future Scenarios,” in Malan and Porto, eds., *Challenges of Peace Implementation*, 216.

<sup>227</sup> MONUC military official, interview with author, 27 November 2005.

<sup>228</sup> Lawrence Smith, “MONUC’s Military Involvement in the Eastern Congo (Maniema and the Kivus),” in Malan and Porto, eds., *Challenges of Peace Implementation*, 233.

in their use of force to protect civilians facing local violence. The Brazilian contingent has appeared to view its role in MINUSTAH as a traditional peacekeeping mission where force is used only in self-defense, while the Chilean and Sri Lankan contingents have engaged in robust combined military/military police operations targeting criminal gangs in Cap Haitien and elsewhere.

Events in Haiti demonstrate the difficult situation confronting peacekeeping missions where civilians face violence, and why clarity is needed for civilian protection mandates and the application of ROE. MINUSTAH has a mandate and ROE “to protect civilians under imminent threat of physical violence, within its capabilities and areas of deployment, without prejudice to the responsibilities of the Transitional Government and of police authorities.”<sup>229</sup> It is also intended “to support the Transitional Government as well as Haitian human rights institutions and groups in their efforts to promote and protect human rights,

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*MINUSTAH has been criticized both for being too passive – and failing to fulfill its mandate to protect civilians – and for being too aggressive and harming civilians.*

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particularly of women and children, in order to ensure individual accountability for human rights abuses and redress for victims.”<sup>230</sup> The mission operates in an intense, insecure environment, where the state provides little security and the Haitian National Police (HNP) remain corrupt while gangs and former military adherents are still armed.

MINUSTAH has been criticized both for being *too passive*—and failing to fulfill its mandate to protect civilians—and for being *too aggressive* in its actions and harming too many civilians. NGOs such as Refugees International and Amnesty International have called for the mission to take a more robust stance against spoilers, rather than be “neutral” during attacks on civilians.<sup>231</sup> The Brazilian UN commander expressed discomfort with such criticisms: “We are under extreme pressure from the international community to use violence. I

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<sup>229</sup> S/Res/1542, 30 April 2004.

<sup>230</sup> *Ibid.*, para. 7.

<sup>231</sup> Refugees International, “Haiti: Brazilian troops in MINUSTAH must intervene to stop violence,” *Refugees International Bulletin*, 17 March 2005; Amnesty International, “Haiti: Disarmament Delayed, Justice Denied,” *AI Index: AMR 36/005/2005*, 28 July 2005. One human rights group accused the mission of being in legal breach of its mandate by failing to use force to protect civilians under imminent threat. Pooja Bhatia and Benjamin S. Litman, *Keeping the Peace in Haiti? An Assessment of the UN Stabilization Mission in Haiti Using Compliance with its Prescribed Mandate as a Barometer for Success* (Harvard Law Student Advocates for Human Rights & Centro de Justicia Global, March 2005), 19-20, 27-34.

command a peacekeeping force, not an occupation force... We are not there to carry out violence.”<sup>232</sup> Indeed, the UN reported that in January 2005 UN police officers were coming under attack during patrols.

Beginning in March 2005, MINUSTAH demonstrated a more robust view of its mandate, by trying to disarm ex-soldiers and their supporters with raids on three towns. MINUSTAH and the Security Council declared the effort a success while critics complained that the results were meager.<sup>233</sup> One day later, Special Representative to the Secretary-General Juan Gabriel Valdes demanded that Haitian gangs disarm or MINUSTAH would deal with them “with the same line of firmness that we have followed in the last week vis-à-vis the former military.”<sup>234</sup> The UN force commander again defended MINUSTAH’s position: “I have been accused of not being aggressive enough, and now I have been labelled as timid. I don't know if that's true, but I do know that I am prudent, thank God, because imprudence can lead to a court martial,” the Brazilian general reportedly told a Uruguayan media delegation.<sup>235</sup>

MINUSTAH struggled to disarm armed gangs and militias without harming civilians in the crossfire, but it came under criticism for its aggressive operations in poor neighborhoods friendly to former Haitian President Jean-Bertrand Aristide.<sup>236</sup> Highly robust MINUSTAH operations began in July 2005, with a raid in Cité Soleil aimed at uprooting a key gang leader, and involving over 300 soldiers and 41 troop transports and armored vehicles. The UN acknowledged that many shots were exchanged and the gang leader and four colleagues were likely killed, but denied outside reports that non-combatants were injured and killed and that force was used indiscriminately.<sup>237</sup> MINUSTAH pledged to investigate any use of unnecessary force, maintained that it did not target civilians, and reported unconfirmed HNP accounts that gang killings of civilians

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<sup>232</sup> Sarah Martin, Peter Gantz, and Braun Jones, “Haitian Voices: Response to the Brazilian Peacekeepers,” Refugees International, 4 March 2005, [www.refugeesinternational.org/content/article/detail/5297?PHPSESSID=5ce00f92779c166324e1d](http://www.refugeesinternational.org/content/article/detail/5297?PHPSESSID=5ce00f92779c166324e1d).

<sup>233</sup> Jane Regan, “Peacekeepers Stage Raids to Disarm Thugs,” *Miami Herald*, 22 March 2005.

<sup>234</sup> Nick Wadhams, “UN Official Warns Haiti Gangs to Disarm,” *Associated Press*, 23 March 2005.

<sup>235</sup> Darío Montero, “UN Mission Walks Thin Line Between Peacekeeping and Repression,” *Inter Press Service*, 15 June 2005, [www.ipsnews.net/news.asp?idnews=29085](http://www.ipsnews.net/news.asp?idnews=29085).

<sup>236</sup> Haiti Information Project, “UN Troops Massacre Civilians in Cité Soleil,” Haiti Information Project, 13 July 2005.

<sup>237</sup> Andrew Buncombe, “UN Peacekeepers Kill 5 in Crackdown on Haiti’s Gangs,” *The Independent (London)*, 8 July 2005. Others charged that more were killed by a “UN massacre.” Haider Rizvi, “Group Charges ‘Massacre’ in UN Raid,” *Inter Press Service*, 14 July 2005. Human Rights Watch noted allegations of indiscriminate force used by UN troops in its overview of human rights developments in 2005. Human Rights Watch, *World Report 2006*, (New York: Human Rights Watch, 2006), 198.

were attributed to MINUSTAH.<sup>238</sup> *The Washington Post* later reported that a confidential UN investigation concluded that “dozens” of civilians were injured.<sup>239</sup>

Médecins sans Frontières, which opened a trauma center in Port-au-Prince in December 2004, reported that almost half of those it treated by early July 2005 were women, children, or elderly who were most often injured during violent confrontations between the HNP or MINUSTAH and armed gangs.<sup>240</sup> The organization claimed that MINUSTAH was becoming an armed actor in the conflict, and that its use of force had caused an increase in threats to civilian lives.<sup>241</sup>

Such problems demonstrate the difficulty peacekeeping missions face in trying to integrate various contingents, uphold the mandate and establish greater security with some use of force. In a place like Haiti, where consent is partial, the mission needs a clear concept of civilian protection and of the use of coercive protection. Differing interpretations of ROE and mandates further complicate this job. Further, those on the ground may be left frustrated by the situation of insecurity while remaining equally ill at ease with peacekeepers using force.

## GAINING CLARITY ON PROTECTING CIVILIANS

The specific authorization to protect civilians in UN mandates and ROE is an important step forward. Many missions no longer lack sufficient legal authority for troops to use force to protect civilians. As the Brahimi Report suggested, ROE must be more than just responsive in nature:

Rules of engagement should not limit contingents to stroke-for-stroke responses but should allow ripostes sufficient to silence a source of deadly fire that is directed at United Nations troops or at the people they are charged to protect and, in particularly dangerous situations, should not force United Nations contingents to cede the initiative to their attackers.<sup>242</sup>

At the same time, troops on the ground may still not use force to protect civilians in areas of violence, and cite restrictive ROE and mandates to explain

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<sup>238</sup> UN News Service, “In Robust Fight Against Haiti’s Gangs, UN Peacekeepers Seek to Avoid Civilian Casualties,” UN News Center, 25 July 2005, [www0.un.org/apps/news/story.asp?NewsID=15135&Cr=Haiti&Cr1](http://www0.un.org/apps/news/story.asp?NewsID=15135&Cr=Haiti&Cr1).

<sup>239</sup> Colum Lynch, “UN Peacekeeping More Assertive, Creating Risk for Civilians,” *The Washington Post*, 15 August 2005.

<sup>240</sup> Pierre Salignon, “Violence Intensifies in Port-au-Prince, Haiti,” Médecins sans Frontières Press Release, 30 July 2005.

<sup>241</sup> *Ibid.*

<sup>242</sup> A/55/305-S/2000/809, paras. 62-64.

their behavior. Addressing the known areas of confusion—differing national ROE, for example, or a lack of capacity to act—could help improve the performance of missions with civilian protection mandates. Where troop contingents are operating under ROE that allow them to protect civilians with force, they should be well trained on these ROE; their political leadership should also be clear in understanding what application and use of coercion the ROE may engender. Current training programs to prepare peacekeepers, such as training by the UN Integrated Training Service and bilateral and regional training efforts, could better address how ROE work in the field. Recognition of military polices’ use of “rules of contact” for interacting with civilians, as opposed to ROE, could expand this area of research.

In many missions, the letter of ROE is less important than a clear, overall understanding of mission strategy and mindset. While improvements in the official, legal documents that dictate troop behavior are necessary for effective civilian protection, they are by no means sufficient. Effective

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*The exact rules of engagement may be less important than a clear understanding of the mission’s strategy.*

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communication with troops and contributing countries should ensure that all forces understand their responsibilities, the nature of the mission, and the types of situations they may encounter on the ground. Civilian leaders may also misunderstand mandates and rules of engagement. One UN official noted that political leaders would benefit from training in both ROE and mandates, since they direct missions and may easily misread the parameters of a peacekeeper’s legitimate use of force.

Development of common ROE associated with specific mandates could also help improve understanding of how forces can and should operate in hostile environments with civilians under threat. In turn, this could assist in the development of doctrine, training for deployment, scenario-building, simulations, and the better understanding by political and military leaders of the use of force in pursuit of civilian protection.