

STUDY GUIDE



SECURITY COUNCIL



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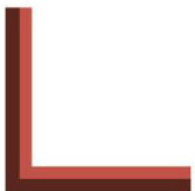


UNITED NATIONS SECURITY COUNCIL

AGENDA: Protection of Civilians in an Armed Conflict and Conflicts of Self Determination



For your Convenience, the Agenda Guide has been divided into 5 parts namely A, B, C, D and E.



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PART A

Best Practices for Research and Conduct

(You can take these best practices into account, not only for Security Council at BITS MUN Hyderabad but for other MUNs as well.)

- Read the Agenda Guide, least 15 days prior to the conference and make a note of everything that needs to be understood. Do read the Background guide.
- Google/Search everything and find relating documents (UN, News articles, Scholarly articles) for whatever was not really understood.
- After wholly understanding (subject to how in depth you wish to go for the research), try understanding your allotted country's perspective on the agenda.
- Make the stance in accordance with the country's perspective on the agenda which shall also define your foreign policy.
- Understand the cues and hints that are given minutely in the Background Guide that may come handy while presentation of contentions in committee. Google them too.
- Take a good look at the mandate of council as to what you can discuss and what you can do in this council. This point is placed here, just because your knowledge base shouldn't be limited to the mandate of the council. Know everything, speak whatever the mandate allows.
- Follow the links given alongside and understand why they were given.
- Predict the kind of discussions and on what subtopics can they take place, thereby analysing the subtopic research you have done and prepare yourself accordingly.
- Ask the Executive Board your doubts, if you have any, least 10 days before the conference by means of the given email ID and make sure to not disclose your allotted country, until you want to understand the policy of your country.
- Download the United Nations Charter, the Geneva Conventions of 1949 and additional protocols there to and other relative treaties.
- Ask questions regarding procedure, if you have any, at the day of the conference.





Important Documents

Following is the list of documents that need to be perused by all delegates before they come to the council. Please understand that you need to know the following aspects regarding each of the mentioned documents:

- **The reason** why this document exists (for e.g. the Geneva Conventions were enacted to lay down the rules of war and for the treatment of all parties concerned in the wars.)
- **The nature** of the document and the force it carries, i.e. whether it is a treaty, a convention, a doctrine, or a universally accepted custom or norm.
- **The areas** where the document can be applied or has jurisdiction on (for e.g. international humanitarian law applies only to situations of armed conflict, whereas the human rights laws applies at all times of war and peace alike.)
- **The contents** of the document at hand. You need not memorize any articles or rules of any convention or treaty, but should know what the document has to say in various situations that may arise in the council.

The delegates must have the understanding of the following:

1. UN Charter

The Charter of the United Nations was signed on 26 June 1945 at San Francisco by the nations represented at the United Nations Conference on International Organisation, most of them earlier allies in the Second World War. The allies began being referred to as the 'United Nations' towards the end of that war. The Charter came into force on October 24 1945. Since that time all members joining have had to declare themselves bound by both documents - though practice has demonstrated on too many occasions that that declaration has not been taken too seriously.

<http://www.un.org/en/documents/charter/>

<http://research.un.org/en/docs/charter>

2. Geneva Conventions of 1949

The Geneva Conventions and their Additional Protocols are at the core of international humanitarian law, the body of international law that regulates the conduct of armed conflict and seeks to limit its effects. They specifically protect people who are not taking part in the hostilities (civilians, health workers and aid workers) and those who are no longer participating in the hostilities, such as wounded, sick and shipwrecked soldiers and





prisoners of war. The Conventions and their Protocols call for measures to be taken to prevent or put an end to all breaches. They contain stringent rules to deal with what are known as "[grave breaches](https://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/overview-geneva-conventions.htm)". Those responsible for grave breaches must be sought, tried or extradited, whatever nationality they may hold.

<https://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/overview-geneva-conventions.htm>

3. Principle of Self Determination

However the Principle has attained the status of *jus cogens* and finds a mention in MANY treaties/resolutions, and has been put to practice under the UN regime, for the sake of keeping it concise we have only mentioned a few instances given in the Charter, but that shouldn't limit your knowledge of it.

[Art. 1 \(2\) UN Charter](#) states that it is one of the purposes of the UN to 'develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace'. In [Chapter IX UN Charter](#) on International Economic and Social Cooperation, [Art. 55 UN Charter](#) lists several goals the organization should promote in the spheres of economics, education, culture, and [human rights](#) with a view, as is noted in the introductory clause, 'to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples'. The UN Charter also implicitly refers to the principle of self-determination in the part concerning colonies and other dependent territories. [Art. 73 UN Charter](#) affirms that

“[m]embers of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories.”

4. International Court of Justice documents

The International Court of Justice acts as a world court. The Court has a dual jurisdiction : it decides, in accordance with international law, disputes of a legal nature that are submitted to it by States (jurisdiction in contentious cases); and it gives advisory opinions on legal questions at the request of the organs of the United Nations





or specialized agencies authorized to make such a request (advisory jurisdiction).
Both, Protection of Civilians in Armed Conflict or in a way, the Geneva Convention principles and the Principle of Self Determination have found their way in certain jurisdictional decisions of the ICJ.

<http://www.icj-cij.org/jurisdiction/index.php?p1=5&p2=1&p3=2>

5. Responsibility to Protect Doctrine

Recognizing the failure to adequately respond to the most heinous crimes known to humankind, world leaders made a historic commitment to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity at the United Nations (UN) 2005 World Summit. This commitment, entitled the Responsibility to Protect, stipulates that:

- a. The State carries the primary responsibility for the protection of populations from genocide, war crimes, crimes against humanity and ethnic cleansing.
- b. The international community has a responsibility to assist States in fulfilling this responsibility.
- c. The international community should use appropriate diplomatic, humanitarian and other peaceful means to protect populations from these crimes. If a State fails to protect its populations or is in fact the perpetrator of crimes, the international community must be prepared to take stronger measures, including the collective use of force through the UN Security Council.

<http://www.un.org/en/preventgenocide/adviser/responsibility.shtml>

<http://www.responsibilitytoprotect.org/index.php/about-rtop/learn-about-rtop>

6. Provisional Rules of Procedure of the Security Council

Article 30 of the Charter stipulates that the Security Council shall adopt its own rules of procedure, and in 1946 the Council adopted its Provisional Rules of Procedure (S/96). Subsequently the Provisional Rules of Procedure were modified on several occasions; the last revision was made in 1982 (S/96/Rev.7) in order to add Arabic as the sixth official language, in conformity with General Assembly resolution 35/219 of 17 December 1980



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We shall be conducting business through the Provisional Rules however, for the sake of practicality and addressing gaps within these Rules, we would be also taking into consideration the UNA USA Rules of Procedure.

7. Montevideo Convention on Rights and Duties of a State

This treaty was signed at the International Conference of American States in Montevideo, Uruguay on December 26, 1933. It entered into force on December 26, 1934. The treaty discusses the definition and rights of statehood.

<http://www.cfr.org/sovereignty/montevideo-convention-rights-duties-states/p15897>

8. Capstone Doctrine, Brahimi Report and New Horizon:

In March 2000, the Secretary-General appointed the Panel on United Nations Peace Operations to assess the shortcomings of the then existing system and to make specific and realistic recommendations for change. The panel was composed of individuals experienced in conflict prevention, peacekeeping and peacebuilding.

The result, known as the “[Brahimi Report](#)”, after Lakhdar Brahimi, the Chair of the Panel, called for:

- a. renewed political commitment on the part of Member States;
- b. significant institutional change;
- c. Increased financial support.

Following the Brahimi report, UN Member States and the UN Secretariat continued major reform efforts, including through:

- “[Capstone Doctrine](#)” (2008), outlining the most important principles and guidelines for UN peacekeepers in the field;
- [Peace operations 2010](#) (2006), containing the reform strategy of the Department of Peacekeeping Operations (DPKO);
- [2005 World Summit \[A/RES/60/1\]](#), establishing the Peacebuilding Commission;
- [High-level Panel on Threats, Challenges and Change \[A/59/565\]](#), setting out a broad framework for collective security for the new century.

The most recent reform documents – The [New Partnership Agenda: Charting a New Horizon for UN Peacekeeping](#) (2009) and its [Progress Reports No.1](#) (2010) and [No.2](#) (2011) – assess the major policy and strategy dilemmas facing UN peacekeeping today and in the coming years.





Please note that the list of issues, legal principles, concepts and constructs, challenges and affected regions mentioned is not exhaustive in nature. Delegates are highly encouraged to explore as many areas of debate as possible, since it constitutes the core of our discussion.

Again, the delegates are reminded about how simple terms have great impacts. For example the difference between Peace operations and Peacekeeping Operations is huge. Kindly notice terminology.

PART B

Part B.1: Letter from the Executive Board

Dear Delegates,

It is an honour to be serving as a part of the Executive Board of the Security Council at BITS MUN Hyderabad MUN 2015. Please consider that the following guide, as the name suggests, is merely to provide you with the background of the agenda and cannot serve as the credible source of information. Your real research lies beyond this guide and we hope to see some strong content and debate come our way. The agenda at hand is technical, legal and complex, and a successful discussion on it would entail the collective participation of all of you. It shall be your prerogative to decide the direction in which you want to take this committee. However, do consider that the committee must not live in the past and must debate constructively for future policies. Also, at the outset, kindly consider that you are to consider this agenda from a policy and legal standpoint.

This agenda essentially is established to address the problems associated while protection of civilians during an armed conflict and conflicts of Self Determination, addressing to the question of legal perspectives on the Protocol I of the Geneva Convention and Wars of Self Determination and also about defining policies to implement Self Determination principle by providing with guidelines to determine legitimacy during conflicts of Self Determination.

If you are doing an MUN for the very first time, do not hesitate. Many legal documents have been identified within this Background Guide. Do not feel taken aback on the research, foreign policy and other details of the allotted country. Take the initiative to research properly. However, if a delegate does not research, then, he/she/they may be the failing the purpose of attending this conference.



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The agenda is open to interpretations and there shall be no direction of debate that shall be provided by the Executive Board. Delegates are required to direct the council at all stages, unless stagnation occurs.

We hope to see a great level of effort and enthusiasm from you all, so that we all can take back a great experience.

This Background has been created some time prior to the conference and it is in best interest to stick to Reuters/CNN/BBC/UN News and documents to find more after you have researched. Do research the updated information on various news agencies.

Happy Researching!

Regards,

Angad Singh Madan

President

E: angadmadan2@gmail.com

Part B.2: Nature of proof and evidence

Documents from the following sources will be considered as credible proof for any allegations made in committee or statements that require verification:

- Reuters: Appropriate Documents and articles from the Reuters News agency will be used to corroborate or refute controversial statements made in committee.
- UN Document: Documents by all UN agencies will be considered as sufficient proof. Reports from all UN bodies including treaty based bodies will also be accepted.
- Government Reports: Government Reports of a given country used to corroborate an allegation on the same aforementioned country will be accepted as proof.

All other types of documents submitted/recalled to support your argument shall be classified as persuasive and not credible. The persuasive document might support your argument but might not stand as credible for the burden of proof in for a Point of Order.





Part B.3: Committee: Security Council

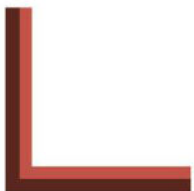
The United Nations Security Council has primary responsibility, under the Charter, for the maintenance of international peace and security. It is so organized as to be able to function continuously, and a representative of each of its members must be present at all times at United Nations Headquarters. When a complaint concerning a threat to peace is brought before it, the Council's first action is usually to recommend to the parties to try to reach agreement by peaceful means. In some cases, the Council itself undertakes investigation and mediation. It may appoint special representatives or request the Secretary-General to do so or to use his good offices. It may set forth principles for a peaceful settlement. When a dispute leads to fighting, the Council's first concern is to bring it to an end as soon as possible. On many occasions, the Council has issued cease-fire directives which have been instrumental in preventing wider hostilities. It also sends United Nations peace-keeping forces to help reduce tensions in troubled areas keep opposing forces apart and create conditions of calm in which peaceful settlements may be sought. The Council may decide on enforcement measures, economic sanctions (such as trade embargoes) or collective military action.

The Presidency of the Council rotates monthly, according to the English alphabetical listing of its member States.

Functions and Powers

Under the Charter, the functions and powers of the Security Council are:

- to maintain international peace and security in accordance with the principles and purposes of the United Nations;
- to investigate any dispute or situation which might lead to international friction;
- to recommend methods of adjusting such disputes or the terms of settlement;
- to formulate plans for the establishment of a system to regulate armaments;
- to determine the existence of a threat to the peace or act of aggression and to recommend what action should be taken;
- to call on Members to apply economic sanctions and other measures not involving the use of force to prevent or stop aggression;
- to take military action against an aggressor;
- to recommend the admission of new Members;
- to exercise the trusteeship functions of the United Nations in "strategic areas";





- to recommend to the General Assembly the appointment of the Secretary-General and, together with the Assembly, to elect the Judges of the International Court of Justice.
- <http://www.un.org/en/sc/repertoire/actions.shtml>
- <http://www.un.org/>
- <http://www.un.org/en/sc/>

Delegates are also advised to look into the practice of the UN Security Council and how the Charter affects the same. This will be highly informative as to the inner workings of the SC and hence, debate on it.

PART C

Protection of Civilians during an Armed Conflict

“This is not simply as a thematic item on the agenda of the Security Council but also as a fundamental objective that we must all — parties to conflict, States, the United Nations and other partners — work tirelessly to achieve. Ensuring the protection of civilians requires uncompromising respect for international humanitarian and human rights law and serious efforts to ensure such respect.”

- Ban Ki-moon, Secretary-General of the United Nations

Introduction

The current state of the protection of civilians leaves little room for optimism. Civilians continue to account for the vast majority of casualties in current conflicts. They are regularly targeted and subject to indiscriminate attacks and other violations by parties to conflict. Vulnerable groups such as women, children, elderly, minorities and journalists face the brunt of conflicts the most. It has been observed that the number of civilian casualties, wounded and displaced continues to rise yearly in conflicts across the globe. At the same time the number of conflicts (International as well as non-International) is also consistently increasing. Many major conflicts are currently prevalent in Africa, Middle East and South Asia. The reason for occurrence of these conflicts are (but not limited to) sectarian tensions, involvement of armed Non-State actors, ethnic clashes, political unrests, sharing of natural resources or ideological clashes and differences. Impact of a conflict on civilians are (but not limited to) casualties, displacement (specially internal displacement), recruitment of child





soldiers, maiming of innocents (specially children who at a tender age find it difficult to comprehend and react to the situations), gender-caste-religion-ethnicity-race based violence, torture and arbitrary arrests and detentions and damage to civilian livelihood and vital public infrastructures such as hospitals and schools. Many factors (but not limited to) such as corruption within state machineries such as armed forces, poor implementation of United Nations actions and plans such as to provide Humanitarian Aid or Peacekeeping through authorized Forces, involvement of violent non-state armed groups and militias, political differences within the Security Council or lack of available data from the ground further escalates the problem at hand. Hence, from the above explanation it must be understood that Protection is an umbrella term which is not just about protecting lives of civilians, but about protection from wide-range of violations against civilians specified under the International Human Rights and International Humanitarian Law regimes.

What is Civilian Protection?

Protecting civilians has emerged as a central purpose of many contemporary peace operations. Both civilian and military peacekeepers increasingly recognize the moral duty and operational importance of protecting threatened civilian populations during peacekeeping operations. As peacekeeping missions have grown in number, frequency, size and mandate, the UN has made increasingly concerted efforts to put civilian protection at the heart of these operations. How well peacekeeping missions protect civilians is often an important benchmark for evaluating a mission's effectiveness. There are legal, political, and operational aspects of protecting civilians as well as accompanying challenges. Protecting civilians is a complex process involving many different actors (international, regional, and local stakeholders) over time (from planning into execution).

The challenges to civilian protection are vast, ranging from the scale of the needs on the ground and the challenging security environment, to the lack of infrastructure. Often, lack of operational clarity hampers the ability of UN peacekeepers to protect civilians that suffer the effects of armed conflict. Peacekeepers are often responsible for protecting large populations spread over vast territories, but they usually lack personnel and material resources to do so effectively, such as a deficiency of resources like helicopters, which allow them to access remote areas relatively quickly.

Why Civilian Protection Matters?

Consensus is forming around the importance of protecting civilians not only because of the humanitarian obligation to shelter endangered populations from the effects of armed conflict. Overall, civilian protection is essential because it is critical to the perceived success of





peacekeeping operations and therefore the UN's ability to work credibly in the field of peace and security. Many groups deliberately target civilians as a tactic to achieve their political goals, including government forces, armed rebel groups, and terrorist organizations. The security of the population is also a prerequisite for an enduring political arrangement between two warring groups. Thus civilian protection is important to the broader political goals of creating and upholding peace agreements. Preventing attacks on civilians also pre-empts spoilers from creating instability and weakening fragile peace processes in post-war environments. Moreover, humanitarian assistance cannot be provided by relief agencies, international and regional organizations, and NGOs when civilians and third party providers are at risk of being attacked. The security of civilians is also a key aspect of providing development assistance in post-conflict situations.

What is Peacekeeping?

Peacekeeping by the United Nations is a role held by the Department of Peacekeeping Operations as "a unique and dynamic instrument developed by the Organization as a way to help countries torn by conflict to create the conditions for lasting peace." It is distinguished from both *peace-building* and *peace-making*. Peacekeepers monitor and observe peace processes in post-conflict areas and assist ex-combatants in implementing the peace agreements they may have signed. Such assistance comes in many forms, including confidence-building measures, power-sharing arrangements, electoral support, strengthening the rule of law, and economic and social development. Accordingly UN peacekeepers (often referred to as Blue Berets because of their light blue berets or helmets) can include soldiers, police officers, and civilian personnel. The United Nations Charter gives the United Nations Security Council the power and responsibility to take collective action to maintain international peace and security. For this reason, the international community usually looks to the Security Council to authorize peacekeeping operations. Most of these operations are established and implemented by the United Nations itself, with troops serving under UN operational control. In these cases, peacekeepers remain members of their respective armed forces, and do not constitute an independent "UN army," as the UN does not have such a force. In cases where direct UN involvement is not considered appropriate or feasible, the Council authorizes regional organizations such as the North Atlantic Treaty Organization (NATO), the Economic Community of West African States, or coalitions of willing countries to undertake peacekeeping or peace-enforcement tasks.



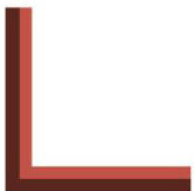


Origins of Protection of Civilians as a thematic agenda at the UN Security Council

At the beginning of the 1990s the Cold War ended and hope emerged that the once-paralyzed UN Security Council could now fulfil its role as guardian of international peace and security. This hope was reflected in the first Chapter VII intervention in Somalia in 1992, in response to the violence that was hampering relief efforts in the face of famine. President Bush (senior) indicated that it was time for ‘a new world order’ that would not tolerate the neglect or abuse of civilian populations. However, this hope was short-lived and soon a series of new threats and challenges facing the UN and the international community emerged. There was a proliferation of internal armed conflicts where civilians increasingly became targets of violence; genocide in Rwanda; forced rape and impregnation in Bosnia; and the massacre of 8000 men and boys in Srebrenica led to calls of ‘never again’. The failure of the international community to protect was evident. Despite the framework of international humanitarian law and international human rights and refugee law that aimed to protect civilians and vulnerable populations, the challenges facing the UN seemed insurmountable. The fundamental principles of sovereignty and non-intervention in the affairs of another State – pillars of the UN Charter – demonstrate a corollary belief that the international community was limited in how far it could intervene between a State and its population.

Throughout the 1990s there were unresolved debates regarding the right to humanitarian intervention in the corridors of power at the UN and elsewhere, but at the same time a new discourse began. In 1998, Kofi Annan – Secretary-General to the UN – in a report to the Security Council on the Situation in Africa, noted that ‘protecting civilians in situations of conflict’ was a ‘humanitarian imperative’. He referred to protection within the framework of human rights protection and noted that both monitoring and reporting needed to be undertaken along with support for international mechanisms that would put an end to impunity. He did not, at that time, propose material protection for civilians in the form of military force, but he acknowledged that Protection of Civilians (PoC) required the attention of the UN Security Council.

Ten months later, on 12 February 1999, the UN Security Council held the first Open Debate on the Protection for Civilians in Armed Conflict in which it *‘affirm[ed] the need for the international community to assist and protect civilian populations affected by armed conflict.’* The Council went on to note that it was willing to respond, in accordance with the UN Charter, to situations where civilians had been deliberately targeted, or where relief and assistance had been deliberately obstructed. While it made no indication of what such a response might entail, the Council asked the Secretary-General to report back with concrete recommendations as to how the Council ‘could improve the physical and legal protection of civilians in armed conflict’. The report was to determine whether there were any gaps in legal





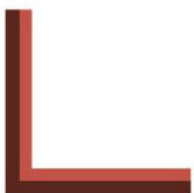
norms, and describe how international law might be more effectively implemented. The Protection of Civilians in Armed Conflict became a thematic concern of the Security Council.

In September 1999, the Secretary-General presented his first report on the PoC in Armed Conflict, noting that such protection would be ‘largely assured if combatants respected the provisions of international humanitarian and human rights law’. The report concentrated on how the Security Council could promote respect for and adherence to existing legal regimes. Activities included urging member States to ratify the relevant international treaties; to consider using enforcement measures in cases of non-compliance; to encourage States to ratify the new Statute of the International Criminal Court; and to urge Member States to ‘adopt legislation for the prosecution of individuals responsible for genocide, crimes against humanity and war crimes’.

In certain instances—such as in the Former Yugoslav Republic of Macedonia—the Secretary-General recommended that the deployment of preventive peacekeeping forces might be appropriate, and he urged the early investigation of disputes. He suggested that the media should be included in all peacekeeping, and peace-making operations and that, wherever possible, ‘appropriate measures [should be] adopted to control or close down hate media assets’. Targeted sanctions should be used more to ‘deter and contain those who commit egregious violations of international humanitarian and human rights law’ and against those who continually flout the authority of the Security Council.

This report was the first report at the UN focusing solely on the requirements for enhanced PoC. The Secretary-General recommended that the Security Council improve the capacity of the UN to plan and deploy rapidly, ensuring all contingents being deployed are appropriately trained in human rights and humanitarian law issues. Mindful of the mistakes made in Rwandan refugee camps, the Secretary - General proposed the separation of combatants and armed elements from civilians in refugee and internally -displaced person’s camps, including the deployment of international military observers, increasing support for national security forces, and the relocation of camps that are too close to international borders. He made recommendations to ensure that all UN peacekeeping missions include ‘specific measures for disarmament, demobilization and destruction of unnecessary arms and ammunition’. The Secretary -General further recommended that, as a last resort, *‘in the face of massive and ongoing abuses, [the Security Council] consider the imposition of appropriate enforcement action.’* In this recommendation the Secretary-General outlined five factors for consideration to *‘enhance confidence in the legitimacy and deter perceptions of selectivity or bias towards one region or another’* if enforcement action was required.

In conclusion, the Secretary-General secured the place of PoC in the international discourse for the coming decades when he noted, ‘The plight of civilians is no longer something that can be neglected ... It is fundamental to the central mandate of the Organization. The





responsibility for the protection of civilians cannot be transferred to others.’ This statement passes over the fact that in the first instance the responsibility for PoC lies with the State under both International Humanitarian Law (IHL) and international human rights law (IHRL) and with parties to the conflict under IHL. In the period since 1949 there has been an emerging global sense of responsibility for civilians in armed conflict. The protective role increasingly adopted by the UN through the Security Council’s thematic concerns could be seen as a reflection of this. The Security Council responded to the Secretary-General’s report on PoC with the first UN Security Council Resolution on the theme of Protection of Civilians in Armed Conflict: Security Council Resolution 1265. This Resolution emphasised the importance of *‘implementing appropriate preventive measures to resolve conflicts’*, urged all parties to comply with their obligations under International Humanitarian Law or IHL and human rights law, the need to end impunity for genocide and crimes against humanity, as well as ensuring safe access for humanitarian relief. The Security Council welcomed the Secretary-General’s report and decided that the Council would remain seized of the matter. A month later the UN peacekeeping force in Sierra Leone was established, and included authorization by the Security Council under Chapter VII to *‘take necessary action ... to afford protection to civilians under imminent threat of physical violence’*. This was the first peacekeeping mission with Chapter VII authorization to use force to protect civilians, and it was considered a significant advance over the limited protective mandates of past peacekeeping missions.





PART D

Challenges and Issues

Five Core Challenges

The five core challenges to enhancing the protection of civilians remain relevant.

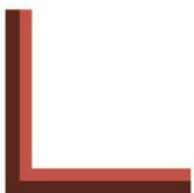
They have been highlighted by the UN Secretary-General (in his report [S/2013/689](#) dated 22 November 2013 to the UNSC)

- Enhancing Compliance (withholds compliance with the law by all parties to the conflict)
- Enhancing compliance by non-State armed groups (Part E of this guide)
- Enhancing the role of peacekeeping and other missions
- Enhancing humanitarian access to civilians
- Enhancing accountability of the UN peacekeepers, Governments, non-State actors, NGOs, civil societies and groups involved.

Continuing or Emerging Concern – New Weapons Technologies

Full respect for the law is essential in all conflicts. Just as we must be concerned with the reality of today, we must also consider the future, including the implications of emerging weapons technologies for the protection of civilians.

One such weapons technology is the remotely piloted aircraft, or drone. Many concerned reports have emerged of civilian casualties resulting from armed drone attacks in Afghanistan, the occupied Palestinian territory and Pakistan, for example, which raise questions over compliance with international human rights law and with the international humanitarian law rules of distinction, proportionality and precaution, in addition to the obligation to investigate grave violations resulting from drone attacks. There is a continuing lack of transparency surrounding attacks involving armed drones and the consequences thereof for, among other things, accountability and the ability of victims to seek redress. That the surveillance capabilities of drones are said to significantly improve overall situational awareness before an attack, coupled with the use of precision weapons and the strict



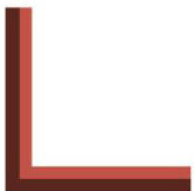


application of international humanitarian law, should reduce the risk of civilian casualties resulting from an attack. The lack of transparency concerning the use of such weapons, however, renders it extremely difficult to verify the extent to which this is the case.

Concerns, including important human rights concerns, have also emerged regarding the broader impact of drones on individuals, children, families and communities in areas of Pakistan (and potentially elsewhere). They include the interruption of education as families keep children home from school out of fear of attacks, the undermining of religious and cultural practices as community members avoid gathering in groups and a reluctance to assist the victims of drone strikes for fear of being caught in secondary strikes. As more States and, potentially, non-State armed groups possess armed drone technology, these issues will become increasingly acute.

The proliferation of drone technology and the increasing resort to such weapons systems will also further sharpen the asymmetry that exists in many conflicts between State and non-State parties. As technology allows one party to become increasingly removed from the battlefield, and the opportunities to fight against it are reduced, we may see technologically inferior parties increasingly resort to strategies intended to harm civilians as the most accessible targets. Moreover, drone technology increases opportunities to conduct attacks that might otherwise be considered unrealistic or undesirable through other forms of air power or the deployment of ground troops. As the ability to conduct attacks increases, so too does the threat posed to civilians.

In the future, these concerns, and others, may apply also to the use of autonomous weapons systems, or what are known as “killer robots”, which, once activated, can select and engage targets and operate in dynamic and changing environments without further human intervention. Important concerns have been raised as to the ability of such systems to operate in accordance with international humanitarian and human rights law. Their potential use provokes other questions of great importance: is it morally acceptable to delegate decisions about the use of lethal force to such systems? If their use results in a war crime or serious human rights violation, who would be legally responsible? If responsibility cannot be determined as required by international law, is it legal or ethical to deploy such systems? Although autonomous weapons systems as described herein have not yet been deployed and the extent of their development as a military technology remains unclear, discussion of such questions must begin immediately and not once the technology has been developed and proliferated. It must also be inclusive and allow for full engagement by United Nations actors, International Committee of the Red Cross (ICRC) and civil society.



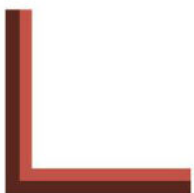


The Future of Civilian Protection

Numerous other challenges and shortcomings impede the capacity of peacekeepers to effectively protect civilians on the ground. As UN Secretary-General Ban Ki-moon recently acknowledged, the relevant actors continue to struggle over what it means for peacekeeping operations to protect civilians, in both definition and practice. The perennial problem of many operations is summarized best by the Brahimi Report from 2000: peacekeepers may not be able to justifiably use force against attackers in order to protect civilians when they feel “morally compelled” to do so. Despite developments in peacekeeping mission mandates, it is not always clear how these mandates translate into operations on a case by case basis, creating situations wherein troops and police are not clear on what is expected of them. As a result, there is a lack of cohesion between mandates, intentions, and expectations, especially if civilian protection requires the use of force. A continuing challenge is the division between human rights and humanitarian organizations that envision civilian protection being a broader concept that includes humanitarian assistance and guarantees of human rights standards, whereas militarily-oriented institutions see protection as preventing physical harm. So far, the official guidelines from the UN provide little detail on what defines civilian protection. In the future, the greatest challenge will be how peacekeepers can deter attacks on civilians. Continuing to maintain relations with host countries is also going to be an important issue in the coming years. For example, how can civilians be protected when the host government bans peacekeepers from entering the country, or if a host government decides to expel peacekeepers before they have completed their mandates? It will also be essential to future missions to be able to reflect on past successes and failures. For future missions, it will be increasingly crucial for information to be gathered from current missions in order to evaluate, analyse, and contextualize their work on civilian protection.

Regional challenges

Many regional challenges have developed in the recent times from the areas in Middle East to the African continent. Eruption of armed confrontations in areas such as Syria, Iraq, Yemen, Somalia etc. between many parties comprising of both state and non-state actors have increased the challenges and problems before the UN Security Council to address the issue of protection of civilians at a regional level. Many such regional confrontations have also led to deadlock in the UN Security Council due strategic importance of these regions, bilateral relations and other such reasons to come to consensus and thus impeding efforts to protect civilians. Emergence of entities like the Islamic State or Islamic State of Iraq and Syria equally make the future of civilian protection a much more complex issue than in the last decade.





PART E

Armed Struggle for Self Determination

“Women and children belonging to the civilian population and finding themselves in circumstances of emergency and armed conflict in the struggle for peace, self-determination, national liberation and independence, or who live in occupied territories, shall not be deprived of shelter, food, medical aid or other inalienable rights, in accordance with the provisions of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Declaration of the Rights of the Child or other instruments of international law.”

- General Assembly resolution 3318 (XXIX) of 14 December 1974

Self-determination denotes the legal right of people to decide their own destiny in the international order. Self-determination is a core principle of international law, arising from [customary international law](#), but also recognized as a general principle of law, and enshrined in a number of [international treaties](#). For instance, self-determination is protected in the United Nations Charter and the [International Covenant on Civil and Political Rights](#) as a right of “all peoples.”

The scope and purpose of the principle of self-determination has evolved significantly in the 20th century. In the early 1900's, international support grew for the right of all people to self-determination. This led to successful secessionist movements during and after WWI, WWII and laid the groundwork for decolonization in the 1960s.

Contemporary notions of self-determination usually distinguish between “internal” and “external” self-determination, suggesting that “self-determination” exists on a spectrum. *Internal self-determination* may refer to various political and social rights; by contrast, *external self-determination* refers to full legal independence/secession for the given 'people' from the larger politico-legal state.

Historically, Self Determination Principle has been applied in three scenarios:





1. Colonialism – Declaration on the Granting of Independence to Colonial Countries and Peoples¹
2. Foreign Military occupation
Resolution on Universal realization of the right of peoples to self-determination²
3. And finally, where a definable group is denied meaningful access to the government to pursue their political, economic, social and cultural development.

Most of the struggles in the 21st century pertain to the third category of scenario where a group, legitimate or otherwise (subject to perceptions and applicability of legality) is denied meaningful access to the government or the policy in the country under the constitutional laws, if any.

The Middle East and Northern Africa reflect this scenario. The case of Yemeni Houthi rebels claiming legitimacy as Yemen's righteous government have forced the current president to Riyadh in Saudi Arabia while US and allies launch air strikes and drone strikes in Yemen. The Western nations oppose the Houthi rebels and call them illegitimate.

In case of Syria, the Syrian Civil War is an ongoing armed conflict. The unrest began in the early spring of 2011 within the context of [Arab Spring](#) protests, with nationwide protests against President [Bashar al-Assad](#)'s government, whose forces responded with violent crackdowns. The conflict gradually morphed from prominent protests to an armed rebellion after months of military sieges.

The armed opposition consists of various groups that were formed during the course of the conflict, primarily the [Free Syrian Army](#), which was the first to take up arms in 2011, and the [Islamic Front](#), formed in 2013. In 2013, [Hezbollah](#) entered the war in support of the [Syrian Army](#).

The West, in this case fully supports the opposition to Bashar Al Assad's regime and has even supplied defence aid in form of military vehicles to the Free Syrian Army. However, the whole scenario is currently shadowed because of the ISIS presence in the East of Syria.

These two scenarios dictate the applicability of Self Determination and armed conflicts arising out of mistrust in the present forms of government.

¹ <http://www.un.org/en/decolonization/declaration.shtml>

² <http://www.un.org/documents/ga/res/43/a43r105.htm>

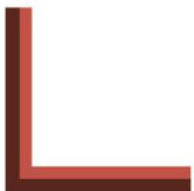
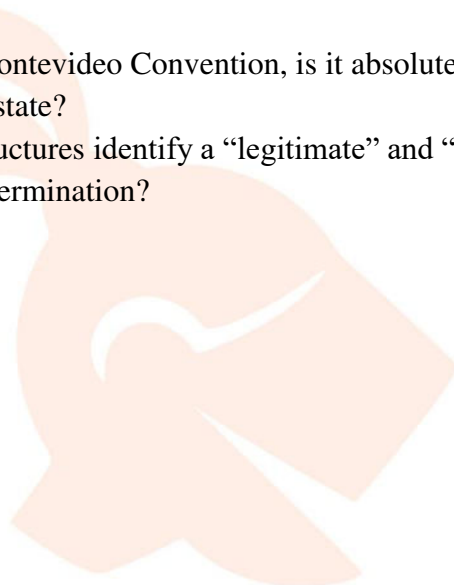




Questions to Consider

(These may/ may not formulate your debate structure or your resolution, however may help you to understand the agenda in a better way)

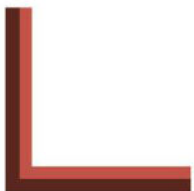
1. How to enhance compliance of protection of civilians during conflicts between non-state armed groups and state armed groups?
2. How to define peoples in the principle of Self Determination? Can they be the definable armed group exercising the Right to Self Determination?
3. How can we aim to minimize loss of civilian life and property during an armed conflict?
4. How do you perceive the Montevideo Convention, is it absolute in terms of defining statehood and elements of a state?
5. What parameters or legal structures identify a “legitimate” and “definable” group that can claim its right to self-determination?





Bibliography:

- http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2013_689.pdf
- <http://www.un.org/en/peacekeeping/>
- http://en.wikipedia.org/wiki/United_Nations_peacekeeping
- <https://globalsolutions.org/files/public/documents/CP-Factsheet-Protecting-Civilians-in-Armed-Conflict.pdf>
- <http://www.securitycouncilreport.org/protection-of-civilians/> (INCLUDING ALL REPORTS/RESOLUTIONS/DISCUSSIONS BY UNSC ON THE ISSUE)
- <http://www.un.org/en/peacekeeping/issues/civilian.shtml>
- http://acmc.gov.au/wpcontent/uploads/2013/04/12515_ACMC_Oxfam_paper_5.pdf
- <https://www.icrc.org/en/what-we-do/protecting-civilians>





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