

- » Calling upon international actors and organs of the United Nations itself to live up to their (*Pillar Two* and *Pillar Three*) responsibilities.

#### **Office of the UN Secretary-General: POC**

Since the 1990s the Office of the UN Secretary-General has emerged as a crucial advocate and agent with respect to POC. One of the most important roles the Secretary-General has played since 1999 is his regular thematic reports on POC to the Security Council. This role allows the Secretary-General to frame and develop the perspective on POC that guides Council decision-making, and to urge Council action on POC matters.

The perspective on POC developed by the Secretaries-General and OCHA (the main drafters of the reports) is both wide and deep. It is wide inasmuch as the scope of Broad POC is extensive – in particular it is not limited to “armed conflict” narrowly construed, but any cases where civilian’s lives are subject to large-scale armed assault. Vulnerable groups such as IDPs, refugees, women and children are earmarked for special concern. So too, the range of threats to civilians targeted by the Reports is wide: the Secretary-General’s recent reports discuss the increasing threats posed by improvised explosive devices, drones, and private military and security companies, and highlighted further areas of human concern – such as housing, land and property issues.

The perspective on POC is deep inasmuch as it includes a wide array of responses open to the Security Council: statements of concern, demand and condemnation, sanctions, arms embargoes, separation of civilians and combatants, ensuring access for humanitarian aid, establishing safe zones, protection of refugees, monitoring and reporting, counteracting hate media and more.

#### **Secretary-General 1999 POC Report (S/1999/957)**

¶2 “Hardly a day goes by where we are not presented with evidence of the intimidation, brutalization, torture and killing of helpless civilians in situations of armed conflict. Whether it is mutilations in Sierra Leone, genocide in Rwanda, ethnic cleansing in the Balkans or disappearances in Latin America, the parties to conflicts have acted with deliberate indifference to those conventions.”

A further major role of the Secretary-General is as an advocate and diplomat for POC. The Secretary-General brings cases to the attention of UN organs – especially the Security Council – and to the attention of the international community more generally. He advocates for action on behalf of vulnerable civilians, including by direct negotiation and diplomacy with Heads of State.

The POC role of the Secretary-General thus includes:

- » Framing and developing the perspective taken on POC by the Security Council;
- » Bringing cases where civilian life is endangered by large-scale threats to the attention of the international community, and to the Security Council more specifically;
- » Raising awareness of POC, and mainstreaming it throughout the United Nations;
- » Engaging through negotiation and diplomacy with Heads of State for the cessation and amelioration of attacks on civilians.

Perhaps most importantly, the Secretary-General is a key driver of institutional and practical reform to further the POC objective. For example, his “five core

challenges” – first laid out in his 2009 POC Report – have helped to direct and frame further POC efforts. The five challenges are:

1. Enhancing compliance of IHL by parties to the conflict,
2. Enhancing compliance by non-State armed groups,
3. Enhancing protection by UN peacekeeping and other relevant missions,
4. Enhancing humanitarian access,
5. Enhancing accountability for violations of the law.

His most recent Report investigates and calls attention to long-standing POC issues, including arms-trading and accountability, while also drawing attention to increasingly worrisome practices such as the use of explosive weapons in populated areas, and to developing strategies to aid civilian protection, such as civilian casualty reporting.<sup>137</sup>

#### **§4.2.i Office of the UN Special Advisor on the Prevention of Genocide: R2P**

The *Office of the Special Advisor on the Prevention of Genocide* (OSAPG) was formed by Secretary-General Annan in 2004. In 2007 with the appointment of Francis Deng as Special Advisor, the position was expanded and raised to the level of Under-Secretary-General. Over 2007–8, the post of *Special Advisor to the Secretary-General with a focus on the Responsibility to Protect* was created, and subsequently filled by Edward Luck. Over 2009–2010, a *Joint Office* was established under the OSAPG head.

The OSAPG has developed an *Analysis Framework* consisting of eight categories of factors that cumulatively determine a risk of genocide in a given situation. The OSAPG uses the *Analysis Framework* to conduct its risk assessments on specific regions. These assessments are used by the UN Secretariat internally. Through the Secretary-General, the assessments of the Joint Office are provided to the

137 Secretary-General, S/2012/376.

Security Council. Additionally, the Joint Office can release press statements when it judges public release of its assessments necessary in a specific instance.

The Analysis Framework shows that human rights actors (especially Human Rights Commissions on the global, regional and national levels) can play an indispensable role in gathering relevant information. However, the indicia of risks of genocide also include specific elements that prioritize the significance of certain rights (e.g. discriminatory laws against an ethnic group) and that include factors outside the normal scope of concern of human rights actors or conventional conflict resolution mechanisms.<sup>138</sup> As such, the OSAPG plays a role in early warning and analysis for genocide that is distinct from the roles played by human rights organizations more generally.

The OSAPG's existing methodologies for genocide-prevention – of which the Analysis Framework is one example – can play a role in the larger prevention of all four atrocity crimes. The Secretary-General in his 2010 Report described how the OSAPG could function as a key node in the UN in terms of early warning and risk assessment for atrocities. Similarly, the OSAPG can recommend courses of action to the Secretary-General, and through him to the Security Council, on crises that are already or could develop towards atrocity and genocide. On a broader structural level, the OSAPG can liaise with other UN organs on specific activities and capacities that contribute to atrocity-prevention, and the mainstreaming of atrocity-prevention concerns through those organs. One final role of the OSAPG is drafting the Secretary-General Reports on R2P, which comprise a key mode of development of the principle, and informs and frames General Assembly debates on it.

138 Payam Akhavan, "Preventing Genocide: Measuring Success by What Does Not Happen," *Criminal Law Forum* 22 (2011): 1-33. Payam Akhavan, "Report on the Work of the Office of the Special Adviser of the United Nations Secretary-General on the Prevention of Genocide," *Human Rights Quarterly* 28.4 (2006): 1043-70.

**The OSAPG Analysis Framework describes Eight Factors jointly indicative of a risk of genocide:**

1. Inter-group relations that include a record of discrimination and/or other human rights violations committed against a group;
2. Circumstances that affect the capacity to prevent genocide;
3. Presence of illegal arms and armed elements;
4. Motivation of leading actors in the State/region, and acts which serve to encourage divisions between national, racial, ethnic, and religious groups;
5. Circumstances that facilitate the perpetration of genocide;
6. Genocidal acts;
7. Evidence of intent "to destroy in whole or in part ..."
8. Triggering factors.

**§4.2.j Office for the Coordination of Humanitarian Affairs (OCHA): POC**

The UN Office for the Coordination of Humanitarian Affairs (OCHA) is the key global organization for the coordination of international action in the face of humanitarian crises. OCHA serves as the Secretariat for the *Inter-Agency Standing Committee*, which develops policy and allocates focal responsibilities amongst UN and non-UN humanitarian actors such as the Red Cross and Red Crescent Societies.

Humanitarian crises can be caused by violence against civilians (for instance, if civilians are forced off their land by attacks, and lose their means of subsistence) and can be the cause of violence against civilians (given the increased vulnerability of civilians during such crises and their aftermaths, particularly if they are displaced). As such,

OCHA plays a significant role in POC on a variety of inter-connected levels. OCHA's roles include:

- » Coordinating between different protection actors – in particular with respect to the role that humanitarian actors can play in promoting civilian protection in crisis situations;
- » Drafting the biennial reports of the Secretary-General to the Security Council on the Protection of Civilians in Armed Conflict: these reports in turn help frame Security Council resolutions on POC;
- » Publishing the *Aide Memoire: For the consideration of issues pertaining to the protection of civilians in armed conflict* (most recent edition in 2011), outlining in detail the Security Council's past responses and resolutions with respect to all aspects of its POC agenda;
- » Developing doctrine and policy regarding POC in situations of humanitarian crisis, and commissioning studies to evaluate current capacities, gaps and challenges – for instance the important 2009 independent report: *Protecting Civilians in the Context of UN Peacekeeping Operations: Successes, Setbacks and Remaining Challenges*.<sup>139</sup>

139 Holt, Taylor, and Kelly, *UN Peacekeeping Operations*.