Enhancing Stabilization and Strategic Partnership in a Post-Conflict Environment

A Comprehensive Approach to Human Security

Edited by

Ludovica Glorioso
Susan Pond

Associate co-editors

Borja Montes Toscano
Edoardo Gimigliano

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NATO Security Force Assistance
Centre of Excellence
Rome, Italy

**Enhancing Stabilization and Strategic Partnership
in a Post-Conflict Environment**

A Comprehensive Approach to Human Security

NATO SFA COE, Rome, 2024

LEGAL NOTICE

About NATO Security Force Assistance Centre of Excellence

NATO Security Force Assistance Centre of Excellence (NATO SFA COE) is an International Military Organisation accredited by NATO with Italy, Albania and Slovenia as Sponsoring Nations and Austria as a Contributing Participant. Its role is to assist NATO Nations, Partners and other bodies by supporting NATO's capability development process, mission effectiveness and interoperability by providing comprehensive and timely expertise on SFA and improving the effectiveness of the Alliance in promoting stabilization and reconstruction efforts in conflict and post-conflict scenarios. The Centre fulfils its mission through a holistic and multidisciplinary approach, fostering the continuous self-development of the Centre by taking advantage of both military and civilian capabilities for granting unceasing and prompt support to the Alliance in all four pillars of the NATO transformation (Concept Development and Experimentation, Doctrine Development and Standardisation, Education and Training and Analysis and Lessons Learned).

Following its own peculiar approach, the Centre delves into all matters related to Security Force Assistance. Amongst others, human security issues play a crucial role in all kinds of NATO operations, ensuring a population-centric prospect and approach to the well-being and safety of individuals in crisis-affected regions.

The Centre helps leader development, learning methodology, organisational effectiveness, innovation and readiness, through the study, analysis and research aimed at improving the capabilities of NATO personnel in the field of SFA and related areas of interest at any level of operations.

To broaden its spectrum and provide a unique capability, the Centre collaborates with universities, international civilian and military organisations and think tanks. Over these years its community of interest has grown and now its huge network represents the actual and more relevant added value for NATO and Member Nations in terms of access to human resources, expertise and knowledge.

In this regard, I am delighted to particularly thank the NATO Allied Command Operations Office of Legal Affairs at the Supreme Headquarters Allied Powers Europe and the International Institute of Humanitarian Law for their tireless endeavour and support.

Thanks to its efforts, the Centre sustains NATO's Transformation by promoting the *learning + changing + adapting cycle*.

> *'To improve is to change; to be perfect is to change often'*
>
> - Winston Churchill

Col. Matteo Luciani
Director, NATO Security Force Assistance Centre of Excellence

Foreword

I am honoured to introduce the new editorial project of the NATO Security Force Assistance Centre of Excellence (SFA COE) on *Enhancing Stabilization and Strategic Partnership in a Post-Conflict Environment. A Comprehensive Approach to Human Security*.

My supervising role for all NATO Centres of Excellence has allowed me to witness first-hand SFA COE's remarkable efforts in broadening its community of interest. The COE has consolidated over the years a wide relational network and has created an effective collaboration with many organizations, think tanks, academia and institutions, thus expanding its outreach and its resources, to the benefit of NATO as well.

This project sets a new step on the path to the confirmation of SFA COE's authority and international standing, representing a valuable opportunity to the designing and developing of future SFA-focused initiatives.

Since its establishment, SFA COE has represented a vital contribution to strengthening NATO's capability in the field of *Security Force Assistance*, by providing subject matter expertise to NATO efforts. It accomplishes this by improving mission effectiveness and interoperability through lessons learned, education and training analysis, and through the development of concepts and doctrine.

A unique synergy allows *Allied Command Transformation* (ACT) and all NATO COEs to benefit from a mutually dynamic exchange of skills and knowledge. ACT leverages the extensive network of military and civilian expertise within the COEs to further deepen its comprehensive understanding of emerging challenges and to develop innovative solutions. Concurrently, COEs gain from ACT's strategic oversight and expertise in guiding the Alliance's overall military transformation in adapting to the future challenges of a constantly evolving operating environment.

NATO's transformation in a Multi-Domain Alliance calls for enhanced interoperability among Member States and Partners, broadening the concept itself of security under a new cooperative approach over all modern instruments of power (IOPs), not limited to a military environment anymore. A seamless orchestration of diplomatic, informational, military, economic, financial, intelligence and law enforcement (DIME-FIL) instruments is paramount, and SFA has an important

role in the relationships with a Host Nation (HN), particularly with its military forces.

Human and humanitarian aspects, including loss of lives and widespread displacement, are compounded by the destruction of infrastructure, economic instability, and social fragmentation. Additionally, the enduring psychological and emotional impacts on populations in conflict can perpetuate the cycle of violence, hindering long-term recovery and peacebuilding efforts. These consequences highlight the need for effective strategies in post-conflict stabilization to mitigate the severe repercussions on societies. Nevertheless, stabilization in a post-conflict environment is a lengthy and costly process, even through Strategic Partnership, requiring all stakeholders to adopt a more diverse and integrated approach between domains, disciplines and nations.

As highlighted by AJP-3.16 *Allied Joint Doctrine for Security Force Assistance (SFA)*, stabilization endeavours seek to address intricate challenges in fragile, conflict, and post-conflict environments. These initiatives adhere to several fundamental principles, as underlined in AJP-3.28 *Allied Joint Doctrine for the Military Contribution to Stabilization*, including the primacy of politics, prioritizing the well-being of the population, while fostering host nation governance and capacity. The insights conveyed in this book highlight the critical significance of these guiding principles. Indeed, the book is structured to reflect these core themes, beginning with an analysis of the Security Sector Reform (SSR) and the associated risks and challenges, followed by an exploration of post-conflict environments through reconstruction, interreligious dialogue, human security, resource management, and capability development.

SFA COE prioritizes human security and capability development to ensure comprehensive support in conflict and post-conflict environments. By integrating human security principles, SFA COE aims to protect and empower individuals and communities, fostering stability and resilience. Through tailored training programs and strategic guidance, the goal is to enhance the capabilities of security forces, enabling them to address complex security challenges effectively and sustainably.

Moreover, the SFA approach includes training, advising and assisting host nation security forces. Fostering local ownership and sustainable development is the key strategy to a HN able to master security and stability on its own, which does represent a *condicio sine qua non* for comprehensive long-term indepen-

dence. Post-conflict stabilization, in particular, is very important in today's geo-political context, where dynamics and challenges are multifaceted and complex.

In the writing of this book, SFA COE collaborated with a wide variety of experts, practitioners, and scholars. Their collective insights have significantly deepened our understanding of stabilization processes in post-conflict environments, re-calling how tackling the root causes of a conflict is the only reliable insurance to prevent relapses.

This book aims to serve as a valuable resource for comprehending the challenges inherent in stabilizing and rebuilding countries affected by violence and insta-bility. Through this collaborative effort, the objective is to promote the adoption of optimal practices and foster ongoing cooperation. The proposed insights may serve to catalyse sustainable development efforts in assisted nations and their in-stitutions.

I am confident in this initiative, which has seamlessly integrated diverse per-spectives from the NATO SFA COE Director, editors, esteemed experts and ded-icated peer reviewers, supported by the contributions of students from prestigious universities, to whom I am profoundly grateful. Finally, I would like to give spe-cial thanks to the NATO Allied Command Operations, Office of Legal Affairs (ACO OLA) at the Supreme Headquarters Allied Powers Europe (SHAPE) and the International Institute of Humanitarian Law (IIHL) for their endeavours and support.

The insights curated within this book hold tangible relevance and are an inspira-tion for future practical applicability.

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Table of Contents

PART I
Security Sector Reform
Risk Mitigation, Collaboration and Contracted Contributions

PART IV
On the Road to Reconstruction:
A Detailed Examination of Lessons and Programmes

Introduction

This manual is provided by the NATO Security Force Assistance Centre of Excellence (SFA COE), located in Rome (Italy) with the support of the NATO Allied Command Operations Office of Legal Affairs (ACO OLA) at the Supreme Headquarters Allied Powers Europe (SHAPE) and the International Institute of Humanitarian Law (IIHL). While the views expressed by the individual authors do not necessarily reflect the position or policy of the North Atlantic Organisation nor those of its supporting institutions, this compendium is an effort to collect diverse views on a crucial topic. It comprises 13 Chapters analysing the various aspects and challenges of SFA in *Enhancing Stabilization and Strategic Partnership in a Post-Conflict Environment*. *A Comprehensive Approach to Human Security.*

It starts by providing a framework for the strategic context of SFA operations, focusing on best practices to guarantee the establishment of a stable and safe post-conflict environment. Within this framework, **Abigail Watson** reflects on the lessons learned in Security Sector Reform. In her chapter, she highlights two major problems of such reforms: providing military training without addressing structural issues and a lack of monopoly on force.

In the following chapter, **Jerry Lane** discusses training and equipping the post-conflict peacekeepers. He underscores the importance of integrating effective assessment methodologies, accurate performance measurements and recognition of the diverse actors involved in peacebuilding and stabilization. In her chapter, **Whitney Grespin** reflects on the role of private contracting firms in contributing to building partner military capacity, the limitations such co-operation brings and the lessons learned from contracted assistance.

Khrystyna Holynska, **Jay Balagna** and **Krystyna Marcinek** discuss post-conflict trade-offs using Ukraine as a case study. They highlight the importance of good governance in reconstruction efforts and provide guidance on the timing of rebuilding, the speed and pace of reconstruction, the prioritisation of particular beneficiaries, the leadership of reconstruction efforts and the funding sources for the post-war rebuilding process.

Elie Abouaoun and **Molly Gallagher** write about the importance of interreligious dialogue for peacebuilding in the MENA region and the challenges it has faced during the years. In their chapter, the relevance of such dialogue is examined for its potential to become the foundation for long-term peace by reducing tensions and enhancing social cohesion.

Yasmine Abdel Moneim studies the importance of integrating cultural heritage restoration and protection in the post-conflict peacebuilding process. The significance of such an operation lies in the promotion of reconciliation, economic development and social solidarity. The protection of cultural heritage may also respond both to the collective and individual psychological needs of affected populations, even generating a shared sense of belonging that becomes essential in a post-conflict environment.

In their chapter, **Mara Tignino** and **Tadesse Kebebew** discuss the importance of freshwater and the safeguarding of related infrastructure within conflict and post-conflict settings. Since the absence of such protection leads to further social instability, the state should be able to deliver the basic public services as they are a source of normalcy and a promotor of long-term peace.

Clare Hutchinson discusses Human Security and she recognises that, on top of being a base for any operation, the use of this concept in the contemporary international security community's response is a key element that currently needs to be developed.

Yael Vias Gvirsman focuses on theoretical and practical guidance that any entity having a role in responding to sexual and gender-based crimes or violence, either in armed conflict or peacetime, should possess. This chapter recognises sexual and gender-based violence not only as an international crime but also as a community-destabilising factor.

Lucy Hall reflects on the intersections between gender, internal displacement and post-conflict transitions, highlighting how individuals of different genders experience internal displacement differently. She emphasises the importance of understanding, including and listening to internally displaced persons during post-conflict transitions to establish peace and stability.

Pavithra Rajendran's chapter provides an overview of ensuring childhood in the

aftermath of the armed conflict. The chapter describes the effects that armed conflicts have on children, their integration and involvement in the juvenile justice system in the post-war scenarios while taking into account the existing international law.

Esther Grisnich discusses how to advise the ministries of defence in developing a Protection of Civilians Strategy as a part of capacity-building efforts for the Iraqi Armed Forces, through the lenses of five shared lessons identified in this project.

Finally, **Caroline Baylon** and **Iryna Gerasymenko** examine the effects of corruption, displacement and transnational movement of people on reconstruction, focusing on the Ukraine Scenarios 2040 Project as a case study. In this chapter, decentralisation and digitalisation are considered as ways of reducing corruption. Repatriation policies and information technology's role in remote reconstruction efforts are examined, while possible scenarios of people's return to liberated territories are highlighted.

SFA is a mission focused on fostering a stable, equitable, transparent and predictable security environment that adheres to international laws and standards. This is crucial in regions recovering from crises, armed conflicts, natural disasters and other threats to regional stability. NATO is actively committed to ensuring a robust and inclusive SFA programme as part of its Defence Capacity-Building efforts for its Allies and Partners.

Maj. Ludovica Glorioso
NATO SFA COE Legal Advisor

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PART I

Security Sector Reform
Risk Mitigation, Collaboration and Contracted Contributions

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CHAPTER I

Abigail Watson

MITIGATING THE RISKS OF 'WICKED PROBLEMS' IN SECURITY SECTOR REFORM

</div>

Abstract

This chapter concentrates on the aftermath of conflict and the processing of peace-building, especially through training. In societies recovering from conflict, achieving lasting peace involves more than just ending fighting or signing peace deals. In such environments, small-scale efforts that do not grapple with structural issues are unlikely to be effective and may even sow the seeds of the next conflict. You cannot train a few officials to be less corrupt when they exist in a system that is little more than a patronage network serving a few elites. It is not enough to train a few soldiers to protect civilians, leaving systematic racism, sexism and impunity untouched.[1] Worse, you cannot arm an ethnically one-sided army and then be surprised when they continue to commit atrocities.[2] In each case, training without work on wider issues is likely to exacerbate ethnic, political, economic and social divisions and may increase the risk of violent conflict or the chance that civilians are harmed. It is now hard to find someone within national and international militaries who does not accept these stated truths, and yet the problems persist.

The difficulty is dealing with two ever-present 'wicked problems': first, training in military or police tactics (or even in human rights or gender sensitivity) will

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[1] Abigail Watson and Megan Karlshøj-Pedersen, 'Fusion Doctrine in Five Steps: Lessons Learned from Remote Warfare in Africa' (Saferworld, November 2019), https://www.saferworld-global.org/resources/publications/1295-fusion-doctrine-in-five-steps-lessons-learned-from-remote-warfare-in-africa.

[2] Jordan Street and Larry Attree, 'No Shortcuts to Security: Learning from Responses to Armed Conflicts Involving Proscribed Groups' (Saferworld, May 2022), https://www.saferworld-global.org/resources/publications/1389-no-shortcuts-to-security.

be unable to achieve anything when better-trained officials go back to unreformed institutions;[3] and second, international training is almost exclusively delivered in situations deeply fragmented by conflict and civil war and a monopoly on the use of force does not exist.[4] However, experience has shown some success in mitigating the risks of these two problems. Small training efforts can have more of a positive effect even without huge investment in structural reform when they use cross-departmental teams to develop strategies at the strategic, operational and tactical levels and plan across longer timelines, even if the amount per year is not transformational. Intervening states can better grapple with the lack of a monopoly of force through more localised solutions such as working at the village level to build and engage with security forces and more granular monitoring such as building an understanding of security forces at the same level.

Keywords: security sector reform, post-conflict societies, tactical training, monopoly on violence, capacity building.

1. Introduction

In post-conflict societies, socio-economic issues and grievances that led to violent conflict, continue to permeate society and thus must be front and centre of approaches to rebuilding lasting and positive security. This is especially true when it comes to training their security forces, be they military personnel or police. Training, then, is never enough alone and must 'be undertaken as a component of a holistic [security sector reform] approach aimed at tackling underlying or root causes of conflict'.[5]

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[3] Ibid.

[4] Erica Gaston et al., 'Militias or Partners? Local, Hybrid and Sub-State Forces in Afghanistan and Iraq' (The Global Public Policy Institute (GPPi), October 2019), https://gppi.net/issue-area/peace-security/militias.

[5] Jack Watling and Nick Reynolds, War by Others' Means: Delivering Effective Partner Force Capacity Building (Routledge & CRC Press, 2020), https://www.routledge.com/War-by-Others-Means-Delivering-Effective-Partner-Force-Capacity-Building/Watling-Reynolds/p/book/9780367766405.

This has been recognised by many national strategies such as those of the United States (US),[6] the United Kingdom (UK)[7] , and Germany,[8] and it is increasingly hard to argue that it is a lack of understanding or failure to engage in the political nature of violence which hinders these states from delivering on these promises.

This article poses an alternative reason: the difficulty of dealing with two ever-present 'wicked problems', that is issues which are 'a symptom[s] or result[s] of multiple, contingent and conflicting issues'.[9] The first problem is that training in military or police tactics, human rights or gender sensitivity will be unable to achieve anything when better-trained officials go back to institutions that require reform.[10] The second problem is that international training is almost exclusively delivered in contexts deeply fragmented by conflict and civil war and so a monopoly of the use of force does not exist.[11] These 'wicked problems' have led to much ink being spilled on what training in conflict-affected areas can deliver.[12]

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[6] US Department of State '2022 Prologue to the United States Strategy to Prevent Conflict and Promote Stability',, April 1, 2022, https://www.state.gov/2022-prologue-to-the-united-states-strategy-to-prevent-conflict-and-promote-stability/.

[7] Christine Cheng, Jonathan Goodhand, and Patrick Meehan, 'Elite Bargains and Political Deals Project / Synthesis Paper: Securing and Sustaining Elite Bargains That Reduce Violent Conflict', UK Stabilisation Unit, April 2018, https://assets.publishing.service.gov.uk/media/5c18e70ce5274a 46704bdb72/Elite_Bargains_and_Political_Deals_Project_-_Synthesis_Paper.pdf.

[8] German Federal Foreign Office, 'Shaping Stabilisation: Foreign and Security Policy Concept for an Integrated Action for Peace', December 2022, https://www.auswaertiges-amt.de/blob/2586726/4810ccbbc8aa4d2140817311f68afe74/aussen—und-sicherheitspolitisches-konzept-fuer-ein-integriertes-friedensengagement-data.pdf.

[9] Tim Marshall, 'Wicked Problems', in *Design Dictionary: Perspectives on Design Terminology*, ed. Michael Erlhoff and Tim Marshall, Board of International Research in Design (Basel: Birkhäuser, 2008), 447–447, https://link.springer.com/referencework/10.1007/978-3-7643-8140-0.

[10] Jordan Street and Larry Attree, 'No Shortcuts to Security: Learning from Responses to Armed Conflicts Involving Proscribed Groups' (Saferworld, May 2022). https://www.saferworld-global.org/resources/publications/1389-no-shortcuts-to-security.

[11] Erica Gaston et al., 'Militias or Partners? Local, Hybrid and Sub-State Forces in Afghanistan and Iraq' (The Global Public Policy Institute (GPPi), October 2019), https://gppi.net/issue-area/peace-security/militias

[12] Lewis Brooks, 'Playing with Matches? UK Security Assistance and Its Conflict Risks' (Saferworld, October 2021), https://www.saferworld-global.org/resources/publications/1374-playing-with-matches-uk-security-assistance-and-its-conflict-risks.; Stephen Tankel, With Us and Against Us: How America's Partners Help and Hinder the War on Terror (New York: Columbia University Press, 2018); Daniel Mahanty et al., 'The Protection of Civilians in U.S. Partnered Operations' (Centre for Strategic & International Studies, 30 October 2018), https://www.csis.org/analysis/protection-civilians-us-partnered-operations.

One expert remarked after a review of past capacity-building efforts: 'Don't do it. Don't build partner military capacity in vulnerable states. Don't even think about it unless you are willing to spend an immense amount of time directly involved in a foreign military's most sensitive decisions'.[13]

Certainly, with limited resources small but well-intentioned training efforts can do more harm than good in the face of these two problems. However, experience has also shown some efforts which have had success in mitigating the risks of both issues. This article seeks to re-examine these problems in more detail and begin to explore how, with limited resources, the ambitions laid out in national strategies can be delivered in countries emerging from violent conflict.

To do so, it takes each problem in turn and examines ways in which states and non-governmental organisations (NGOs) have attempted to mitigate against the potential risks they pose. First, it examines the issue of tactical training in the face of much-needed structural reform, highlighting the dangers of such efforts for long-term prospects of peace and civilians. It then unpicks how small training efforts can have more of a positive impact without a huge investment in structural reform by creating cross-departmental teams to develop strategies at the strategic, operational and tactical levels and planning over longer timelines, even if the amount per year is not transformational. Second, it looks at the risks of training in countries emerging from violent conflict where there is rarely a united military or security force. It then examines how intervening states can better grapple with the lack of a monopoly of force through more localised solutions such as working at a village level to build and engage with security forces and more granular monitoring by building an understanding of security forces at a very local level.

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[13] Jason Fritz et al., 'Book Review Roundtable: Building Militaries in Fragile States', Texas National Security Review, 27 March 2019, https://tnsr.org/roundtable/book-review-roundtable-building-militaries-in-fragile-states/.

2. Wicked Problem One: Tactical Training in the Face of Structural Problems

In 2018, the US Stabilization Assistance Review stated:

> *'In support of counter-terrorism objectives, the international community is providing high volumes of security sector training and assistance to many conflict-affected countries, but our programs are largely disconnected from a political strategy writ large and do not address the civilian-military aspects required for transitional public and citizen security.'*[14]

Such an admission regarding US security sector assistance highlights the challenges of providing military training to weak and fragile countries without addressing structural issues. In the short-term, it can undermine human security when populations are trapped 'between increased violence of abusive security forces and the terror of non-state armed groups'.[15] In the longer term, building the capacity of predatory armed forces can feed a self-perpetuating cycle of violence and conflict. Nigeria scholar Jean Herskovits noted that while 'approximately 25 percent of Nigeria's budget for 2012 [was] allocated for security forces […] the military and police routinely respond to attacks with indiscriminate force and killing'.[16] In the case of Kenya, human rights groups have reported that Kenyan security forces have committed human rights violations including extrajudicial killings and enforced disappearances during counter-terrorism operations. These alleged acts have mainly targeted Muslim communities in the northeast and coastal regions of the country. One Somali expert in-

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[14] US State Department, US Department of Defense, and USAID, 'Framework for Maximizing the Effectiveness of U.S. Government Efforts to Stabilize Conflict-Affected Areas', 2018. https://www.state.gov/reports/stabilization-assistance-review-a-framework-for-maximizing-the-effectiveness-of-u-s-government-efforts-to-stabilize-conflict-affected-areas-2018/.

[15] Emily Knowles and Jahara Matisek, 'Western Security Force Assistance in Weak States', *The RUSI Journal* 164, no. 3 (April 16, 2019): 10–21, https://doi.org/10.1080/03071847.2019. 1643258.

[16] Jean Herskovits, 'Opinion | In Nigeria, Boko Haram Is Not the Problem', *The New York Times*, January 3, 2012, sec. Opinion, https://www.nytimes.com/2012/01/02/opinion/in-nigeria-boko-haram-is-not-the-problem.html. .

terviewed in Nairobi in 2022 said of the Kenyan security forces: 'How do they distinguish between Somalis and al-Shabaab? To them, we are all the same'.[17] Interviews with UK soldiers delivering training in Somalia, Kenya, Mali and Nigeria reveal major concerns around providing greater military capacities to those countries' armies as doing so was a 'huge recruitment tool' for violent non-state armed groups.[18]

This also reflected the findings of a study on young Fulani people in the regions of Mopti (Mali), Sahel (Burkina Faso) and Tillabéri (Niger). International Alert found that 'real or perceived state abuse is the number one factor behind young people's decision to join violent extremist groups'.[19] According to Herskovits, for many Nigerians from the northeast of the country 'the army is more feared than Boko Haram'.[20] Another expert based in Kenya noted that 'al-Shabaab uses police brutality in Kenya to recruit people'.[21]

There are no easy fixes to these challenges, but it is worth exploring how some of them have been mitigated by developing cross-departmental planning teams and by working to longer timelines, even if constrained by limited budgets. For the first, bringing a diverse group of stakeholders together is likely to provide a better overview from the outset of how tactical efforts could fit within national

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[17] Abi Watson, Camilla Molyneux, and Abdullahi Hassan, 'Scaling up Insecurity? Risks of the UK's Persistent Engagement Strategy in Kenya and Somalia', https://www.saferworld.org.uk/resources/publications/1405-how-to-scale-up-the-ukas-persistent-engagement-strategy-in-kenya-and-somalia.

[18] Abigail Watson and Megan Karlshøj-Pedersen, 'Fusion Doctrine in Five Steps: Lessons Learned from Remote Warfare in Africa' (Saferworld, November 2019), https://www.saferworld-global.org/resources/publications/1295-fusion-doctrine-in-five-steps-lessons-learned-from-remote-warfare-in-africa.

[19] Luca Raineri, 'If Victims Become Perpetrators: Factors Contributing to Vulnerability and Resilience to Violent Extremism in the Central Sahel',, (International Alert, 5 June 2018). https://www.international-alert.org/publications/if-victims-become-perpetrators-violent-extremism-sahel/.

[20] Jean Herskovits, 'Opinion | In Nigeria, Boko Haram Is Not the Problem', *The New York Times*, January 3, 2012, sec. Opinion, https://www.nytimes.com/2012/01/02/opinion/in-nigeria-boko-haram-is-not-the-problem.html.

[21] Abi Watson, Camilla Molyneux, and Abdullahi Hassan, 'Scaling up Insecurity? Risks of the UK's Persistent Engagement Strategy in Kenya and Somalia', https://www.saferworld.org.uk/resources/publications/1405-how-to-scale-up-the-ukas-persistent-engagement-strategy-in-kenya-and-somalia.

social and political dynamics and, more importantly, how such efforts could potentially exacerbate structural issues. In the UK, Joint Analysis of Conflict and Stability (JACS) processes bring together a range of UK government officials to establish a shared understanding of the key issues and risks in places the UK is engaging around the world through joint assessment.[22]

The advantage of these is that there is a shared strategic understanding of risks early on, the disadvantage is that they are not easily adapted as programming develops. The UK has also developed cross-departmental working groups at lower levels to tackle this issue and has openly blended civilian and military advisory missions working in conflict-affected countries.[23] In Somalia, it developed the Somalia Stabilization Team which consisted of officials from the UK Foreign Office, the Department for International Development and the Ministry of Defence and focused on stabilization through 'short-term, targeted and catalytic assistance'.[24] In December 2019, the US recognised the benefits of a cross-government commitment to conflict prevention in the development of the Global Fragility Act (GFA) which calls for all parts of the US government to work out a coherent strategy and repurpose foreign assistance toward averting conflict.[25] The US and the UK have also seen increased chances of success when training has been part of longer-term political efforts. The GFA also dedicated $1.15 billion over 10 years

[22] Abigail Watson and Megan Karlshøj-Pedersen, 'Fusion Doctrine in Five Steps: Lessons Learned from Remote Warfare in Africa' (Saferworld, November 2019), https://www.saferworld-global.org/resources/publications/1295-fusion-doctrine-in-five-steps-lessons-learned-from-remote-warfare-in-africa.

[23] Jack Watling and Nick Reynolds, War by Others' Means: Delivering Effective Partner Force Capacity Building (Routledge & CRC Press, 2020), https://www.routledge.com/War-by-Others-Means-Delivering-Effective-Partner-Force-Capacity-Building/Watling-Reynolds/p/book/9780367766405.

[24] UK Stabilisation Unit, 'Monitoring and Evaluation of Conflict and Stabilisation Intervention', What Works Series, October 2014. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/765613/What_Works_-_Monitoring_and_Evaluation_of_Conflict_and_Stabilisation_Interventions.pdf.

[25] US State Department, US Department of Defense, and USAID, 'Framework for Maximizing the Effectiveness of U.S. Government Efforts to Stabilize Conflict-Affected Areas'., https://www.state.gov/reports/stabilization-assistance-review-a-framework-for-maximizing-the-effectiveness-of-u-s-government-efforts-to-stabilize-conflict-affected-areas-2018/.

to programmes in five countries or regions. For the US, this is a relatively modest sum – for instance, compare it to the Department of Defense's 2024 budget request of $842 billion[26] – but it commits the US to stay for longer in the hope of building momentum for structural change. This was also a key factor in the success of the UK's efforts to train security forces in Sierra Leone. In 2002, the UK signed a 10-year Memorandum of Understanding (MoU) with the government of Sierra Leone and deployed the International Military Advisory and Training Team (IMATT) which included a promised £40 million a year for the duration of the MoU. Despite several significant and enduring problems, IMATT has achieved many successes. For instance, Sierra Leone conducted a generally violence-free election only seven years after the end of a civil war.[27] Many also account for UK training for enabling the Republic of Sierra Leone Armed Forces to effectively 'step up to the mark' during the Ebola outbreak in 2014.[28]

3. Wicked Problem Two: No Monopoly on Violence

In countries deeply fragmented by civil war, there is rarely a united security force. In Nigeria, John Campbell – US Ambassador to Nigeria from 2004 to 2007 – noted that 'the military and police are made up of various ethnic, religious and regional groups, few […] native to the areas in which they serve'.[29] UK soldiers in Somalia interviewed in 2018 claimed the Somalia National Army was 'just another militia, albeit an apparently legitimate militia'.[30] By 2014, many Iraqis bemoaned

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[26] US Department of Defense, 'Department of Defense Releases the President's Fiscal Year 2024 Defense Budget',, (March 13, 2023), https://www.defense.gov/News/Releases/Release/Article/3326875/department-of-defense-releases-the-presidents-fiscal-year-2024-defense-budget/.

[27] Peter Albrecht and Paul Jackson, *Security System Transformation in Sierra Leone, 1997-2007*, 2009.

[28] Abigail Watson and Megan Karlshøj-Pedersen, 'Fusion Doctrine in Five Steps: Lessons Learned from Remote Warfare in Africa' (Saferworld, November 2019), https://www.saferworld-global.org/resources/publications/1295-fusion-doctrine-in-five-steps-lessons-learned-from-remote-warfare-in-africa.

[29] John Campbell, 'To Battle Nigeria's Boko Haram, Put Down Your Guns', *Foreign Affairs*, September 9, 2011, https://www.foreignaffairs.com/articles/africa/2011-09-09/battle-nigerias-boko-haram-put-down-your-guns.

[30] Emily Knowles, 'Falling Short of Security in Somalia', *Oxford Research Group*, January 1, 2018, https://www.academia.edu/35813373/Falling_short_of_security_in_Somalia.

that the Iraqi Army would be 'lucky if it can be considered the fourth strongest army in Iraq – behind, Kurdistan's Peshmerga forces, the Popular Mobilisation Forces (PMF, largely Shia paramilitaries) and Iraqi tribal fighters'.[31]

Providing training in these circumstances can have some short-term good in, for instance, 'improving military interoperability, building tactical military capacity or securing other forms of immediate counter-terrorism assistance', but there is a risk it comes at the expense of long-term 'achievement of viable political outcomes in unstable countries'.[32] In Mali, the European Union (EU) trained large numbers of local troops in basic soldiering without exerting much pressure on the government in Bamako to introduce structural reforms despite accusations of ethnic bias.[33] In Syria, US forces trained the Kurdish group the People's Defence Units (YPG) which was a majority Kurdish and 'was intrinsically linked to the Kurdistan Workers' Party (PKK)', a group designated by the US and others as a terrorist organisation.[34] Efforts to broaden the membership to include more non-Kurdish fighters led to a re-labelling of the group the Syrian Democratic Forces (SDF) but were limited.[35] Such training can sow the seeds of the next conflict by exacerbating social, ethnic, political and religious tensions by, for example, strengthening some militias over others.

This has had a hugely destabilising impact on Iraq where various militias 'have a

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[31] Faleh A. Jabar and Renad Mansour, 'The Popular Mobilization Forces and Iraq's Future', Carnegie Middle East Center, April 28, 2017. https://carnegieendowment.org/research/2017/04/the-popular-mobilization-forces-and-iraqs-future?lang=en.

[32] Jack Watling and Nick Reynolds, War by Others' Means: Delivering Effective Partner Force Capacity Building (Routledge & CRC Press, 2020), https://www.routledge.com/War-by-Others-Means-Delivering-Effective-Partner-Force-Capacity-Building/Watling-Reynolds/p/book/9780367766405.

[33] Abigail Watson and Megan Karlshøj-Pedersen, 'Fusion Doctrine in Five Steps: Lessons Learned from Remote Warfare in Africa' (Saferworld, November 2019), https://www.saferworld-global.org/resources/publications/1295-fusion-doctrine-in-five-steps-lessons-learned-from-remote-warfare-in-africa.

[34] Jack Watling and Nick Reynolds, War by Others' Means: Delivering Effective Partner Force Capacity Building (Routledge & CRC Press, 2020), https://www.routledge.com/War-by-Others-Means-Delivering-Effective-Partner-Force-Capacity-Building/Watling-Reynolds/p/book/9780367766405.

[35] Emily Knowles and Abigail Watson, 'No Such Thing as a Quick Fix: The Aspiration-Capabilities Gap in British Remote Warfare' (Saferworld, July 2018), https://www.saferworld-global.org/resources/publications/1294-no-such-thing-as-a-quick-fix-the-aspiration-capabilities-gap-in-british-remote-warfare.

new-found hold on the Iraqi state'.[36] Similarly, in Libya, after years of international support to different and often competing groups 'militias have become the state' with 'pragmatic arrangements' between leading military actors harbouring 'considerable potential for conflict'.[37] In Yemen between 2001 and 2011, the fact that President Saleh disproportionately assigned new, internationally supplied 'equipment to military units under the command of his family members' convinced many tribal leaders that he 'was seeking to weaken them and enable his family to rule without tribal support' which eventually led to him being forced from office.[38]

In many cases, civilians have paid the price as international firepower has been manipulated to pursue ethnically driven agendas. The Malian government 'used newly furnished formations to attack Fulani herders in late 2014 and early 2015'.[39] In Syria, while the SDF 'proved effective […] in pretending there was a meaningful difference between [the YPG and SDF], the US played down, rather than clamped down upon, the alleged ethnic cleansing by the YPG'.[40] In Somalia, groups often used US counter-terrorism raids to settle clan disputes by accusing competing clans of being part of al-Shabab.[41]

For instance, an investigation into one US raid near Bariire in August 2017 in which civilians were allegedly killed because of false information that they were connected to al-Shabab, found that the group supplying the information was

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[36] Jack Watling and Nick Reynolds, War by Others' Means: Delivering Effective Partner Force Capacity Building (Routledge & CRC Press, 2020), https://www.routledge.com/War-by-Others-Means-Delivering-Effective-Partner-Force-Capacity-Building/Watling-Reynolds/p/book/9780367766405.

[37] Wolfram Lacher, 'Libya's Militias Have Become the State', *Stiftung Wissenschaft und Politik (SWP)* No. 44 (July 2023), https://www.swp-berlin.org/publikation/libyas-militias-have-become-the-state.

[38] Jack Watling and Nick Reynolds, War by Others' Means: Delivering Effective Partner Force Capacity Building (Routledge & CRC Press, 2020), https://www.routledge.com/War-by-Others-Means-Delivering-Effective-Partner-Force-Capacity-Building/Watling-Reynolds/p/book/9780367766405.

[39] Ibid.

[40] Ibid.

[41] Emily Knowles and Abigail Watson, 'Remote Warfare: Lessons Learned from Contemporary Theatres' (Saferworld, June 2018), https://www.saferworld-global.org/resources/publications/1280-remote-warfare-lessons-learned-from-contemporary-theatres.

linked to a rival clan.[42] Again, there are no easy answers to these challenges, but some past and current efforts may give insight into better mitigating the risks of training in complex political environments in the future. There have been some successes in developing localised responses to security and in monitoring changes at a more granular level. First, several states and NGOs have developed localised approaches to security which, because they have focused on local priorities and cleavages, were better able to account for societal differences than national efforts. For instance, Saferworld, connects communities, local community and religious leaders, the media, informal security providers, police, authorities and government officials to find joint solutions through its community security process, ensuring a gender-sensitive approach.[43] In one example, it helped support Somalia Police Advisory Committees which included improving community-police relations, monitoring prison conditions and providing services to detainees.[44] In a much more kinetic illustration, US Special Operations Forces (SOF) ran a programme called Village Stability Operations which involved supporting communities that wanted to resist the Taliban, and working with them to build and support local defense forces.[45]

There were issues with the model, with strongmen often selected based on their ability to fight the Taliban (or at least groups categorised as Taliban) rather than on legitimacy among local communities. However, some examples

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[42] Christina Goldbaum, 'Strong Evidence That U.S. Special Operations Forces Massacred Civilians in Somalia', *The Daily Beast*, November 29, 2017, sec. world, https://www.thedailybeast.com/strong-evidence-that-us-special-operations-forces-massacred-civilians-in-somalia.

[43] Abigail Watson, 'Different Strategy, Same Mistakes? The UK Persistent Engagement Strategy' (Saferworld, November 2021), https://www.saferworld-global.org/resources/publications/1375-different-strategy-same-mistakes-the-uk-persistent-engagement-strategy.

[44] Abi Watson, Camilla Molyneux, and Abdullahi Hassan, 'Scaling up Insecurity? Risks of the UK's Persistent Engagement Strategy in Kenya and Somalia', https://www.saferworld.org.uk/resources/publications/1405-how-to-scale-up-the-ukas-persistent-engagement-strategy-in-kenya-and-somalia.

[45] Sam Wilkins, 'The Rise and Fall of Village Stability Operations in Afghanistan: Lessons for Future Irregular Warfare Campaigns', Modern War Institute, 9 August 2022, https://mwi.westpoint.edu/the-rise-and-fall-of-village-stability-operations-in-afghanistan-lessons-for-future-irregular-warfare-campaigns/.

of good practice showed the 'potential effectiveness of this local force model where there is a well-respected local commander, who has the support of the community and who consults with local leaders', although these efforts may have been despite US efforts rather than because of them.[46]

Second, more granular monitoring of the legitimacy of different military groups can, if used to make decisions effectively, lead to more nuanced and localised policies. Several governments including the US, the UK, and Germany have commissioned private companies who usually employ researchers based in the region, though unfortunately sometimes only in capitals to analyse local conflict dynamics more frequently.[47] 'These specialist organisations use many of the same techniques as development or humanitarian third-party monitoring services, but focus on more continuously monitoring changes in the politics of local conflict (at a village or household level)'.[48]

One of the first and to date the largest local political analysis system of this kind was the Helmand Monitoring and Evaluation Programme (HMEP).[49]

USAID's Office of Transition Initiatives (OTI) has run a few similarly designed programmes, albeit on a smaller scale, in Libya, Ukraine, Honduras and elsewhere. The Stabilization Platform (SPF) of the German Federal Foreign Office (GFFO) has also developed tailor-made monitoring systems in Syria and the Sahel. By regularly tracking data, these systems provide information about how key local conflict trends in-

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[46] Erica Gaston, 'Legal Pluralism and Militia Regulation in Afghanistan', *The Global Public Policy Institute (GPPi)*, 29 April 2019, https://gppi.net/2019/04/29/legal-pluralism-and-militia-regulation-in-afghanistan.

[47] Elias Sagmeister and Julia Steets, 'The Use of Third-Party Monitoring in Insecure Contexts', *Global Public Policy Institute (GPPi)*, 9 November 2016, https://gppi.net/2016/11/09/the-use-of-third-party-monitoring-in-insecure-contexts.

[48] Philipp Rotmann and Abi Watson, 'Close the Gap: How to Leverage Local Analysis for Stabilization and Peacebuilding', *Global Public Policy Institute (GPPI)*, October 2023. https://reliefweb.int/attachments/d7c30a8c-9cd0-4670-a999-cb81acc8d36c/Rotmann_Watson_2023_Close-the-Gap_final.pdf.

[49] UK Department for International Development (2015) Dataset for the Helmand Monitoring and Evaluation Programme, (UK Government, January 1 2015), https://www.gov.uk/research-for-development-outputs/dataset-for-the-helmand-monitoring-and-evaluation-programme-hmep.

cluding social cohesion, faith in government, the prevalence of non-state forces and the competency of state forces are changing over time. This data, if used correctly, provides decision-makers with a powerful tool for improving strategic decision-making, mitigating risks of investment and improving diplomatic engagement in post-conflict societies.[50]

4. Conclusion

In post-conflict societies, the peace is fragile and any intervention needs to carefully consider the political consequences of its actions to avoid sowing the seeds of the next violent conflict. Training has the potential to improve the capacity of partner militaries and security forces to deal with internal threats and eventually become a legitimate, united and accountable force that can secure lasting peace. However, if done in isolation without considering the larger systematic and political issues, it won't work and may be counterproductive. This chapter has examined two continual issues facing such training in post-conflict societies: the fact that training often happens in the face of larger structural issues and that training is often delivered when there is a lack of a monopoly over the use of force. For many commentators, these two problems have been too unsurmountable for capacity building to have an effect and the risks remain too high to invest unless a state is willing to commit an 'immense' amount of money.[51] The current political climate has made the likelihood of such funding being invested in most post-conflict areas even smaller and funding for SFA in post-conflict societies is often insufficient to address structural or institutional issues effectively. As one soldier in Kenya described it to us in 2018, the ap-

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[50] Philipp Rotmann and Abi Watson, 'Close the Gap: How to Leverage Local Analysis for Stabilization and Peacebuilding', *Global Public Policy Institute (GPPi)*, 17 October 2023, https://gppi.net/2023/10/17/how-to-leverage-local-analysis-for-stabilization-and-peacebuilding.

[51] Jason Fritz et al., 'Book Review Roundtable: Building Militaries in Fragile States', Texas National Security Review, 27 March 2019, https://tnsr.org/roundtable/book-review-roundtable-building-militaries-in-fragile-states/.

proach has sometimes been one of 'just throw[ing] some men here and some men there'.[52] And now as international attention shifts to Eastern Europe and great power competition, there is even less chance that funding for post-conflict stabilization and peacebuilding in places like the Horn of Africa, the Sahel or the Middle East will be transformational. Yet, it continues to be unlikely (and arguably undesirable) that countries like the US, the UK, and Germany pull out of these regions entirely.

It is, then, worth investigating what successes have existed in mitigating the risks of these two wicked problems. Small training efforts can have more of a positive impact – even when there is not a huge investment into structural reform – by creating cross-departmental teams to develop strategies (at a strategic, operational and tactical level) and planning in longer timelines (even if the amount per year is not transformational).

Intervening states can better grapple with the lack of a monopoly of force through more localised solutions (i.e. working at a village level to build and engage with security forces) and more granular monitoring (i.e. building an understanding of security forces at a much more local level). While none of these efforts provides the panacea in addressing these wicked problems, they do point to ways in which smarter investments can maximise the benefits training can do in countries emerging from violent conflict and civil war.

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[52] Abigail Watson and Megan Karlshøj-Pedersen, 'Fusion Doctrine in Five Steps: Lessons Learned from Remote Warfare in Africa' (Saferworld, November 2019), https://www.saferworld-global.org/resources/publications/1295-fusion-doctrine-in-five-steps-lessons-learned-from-remote-warfare-in-africa.

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CHAPTER II

Jerry Lane

**COMPLEXITY NEEDS COLLABORATION:
PREPARING OPERATORS FOR THE POST-CONFLICT
ENVIRONMENT**

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Abstract

The world of conflict is changing and with it the nature and inherent challenges of peacebuilding and stabilisation. These areas incorporate a wide spectrum of needs and have become a specialised and intricate activity. This paper recognises the complex nature of the post-conflict environment and the need for specialised training and preparation for our personnel. Providing tailored systems of training and preparation should accommodate methodologies for assessment, evaluation and the accurate measurement of performance. There also must be a recognition of the range of actors that occupy the post-conflict space which includes those that provide SFA. The UN and NATO have moved towards a positive and detailed collaboration model and this paper argues for a recognition of the benefits of the same and a suggestion of further ongoing projects between the NATO SFA and the UN.

Keywords: peacebuilding, post conflict environment, security sector reform, SFA, UN-NATO collaboration.

1. Introduction

The post-conflict environment (PCE) is an ambiguous and 'grey' space. This manifests as a period of fragile transition to peace and stability wherein must be sown the seeds for the long-term rebuilding needs of the political, security, social and economic dimensions of societies emerging from armed conflict or civil

war. This necessitates a consideration of PCE requirements, including deployment and engagement of military and security forces and an articulation of operations preparation for peacebuilding stakeholders in any PCE. Strengthening the security and justice areas with the benefit of a structured study of the local context and environment is a necessary precondition for the satisfactory delivery of the other aspects of stability and reconstruction in a PCE.[53] Many military and security forces, acting under the authority of the UN Security Council, traditionally adopt a well-practised regime in preparation for their deployment and their conduct of military and security operations. Such standardised approaches work to varying degrees of success or achievement depending on a variety of conditions and contribute to the benefit of future Security Sector Reform (SSR)[54] and peacebuilding. However, these approaches are changing in response to the operating environments and changing geopolitical and global trends.

The NATO SFA initiative also offers valuable potential to operations in the rebuilding and PCE and it is appropriate to address SFA in the context of its relationship to UN peacekeeping.[55]

The term 'peacekeeping' is used in this paper in a generic sense and is intended to include peace and peace support operations pursuant to Chapters

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[53] Nadia Gerspacher & Ludovica Glorioso, (Eds). Insights on Strategic Advising for Security Force Assistance (Rome: NATO SFA COE, 2022), Chap. 3, "Understanding the Local Context on a Mission as a Key Aspect to Provide Advisory and Capacity Building Support", p. 62, https://www.nsfacoe.org/download/.

[54] SSR (Security sector reform) is a comprehensive set of programs and activities undertaken to improve the way a host nation (HN) provides safety, security and justice. SSR is a long-term effort conducted by the HN government requiring extensive resources and participation of many security sector actors. NATO contributes to the HN's SSR through security sector assistance, which refers to the activities of NATO members and forces to engage with foreign partners to help shape their policies and actions and build and sustain HN capacity and effectiveness in the security sector. SSR requires stabilization and reconstruction to provide a stable environment. NATO, AJP-3.16, 'Allied Joint Doctrine for Security Force Assistance', Edition 1, May 2016, preface at paragraph (a), pave VII.

[55] SFA (Security force assistance) includes all NATO activities that develop and improve, or directly support, the development of local forces and their associated institutions in crisis zones. Local forces comprise indigenous, non-NATO military security forces and will be defined by the NAC (North Atlantic Council). NATO, AJP-3.16, 'Allied Joint Doctrine for Security Force Assistance', Edition 1, May 2016 at paragraph 0101.

VI and VII of the UN Charter. Collaboration and partnership initiatives are central to strengthening operations outcomes in the PCE and this paper highlights initiatives such as the current UN-NATO SFA collaboration. In addition to the collaboration highlighted, there are many other forms of military security and justice initiatives aimed at collaboration, e.g., DDR[56] and SSR[57] initiatives.

2. Crisis, chaos and the grey space

Addressing the challenging nature of our world, our UN Secretary-General Antonio Guterres reflected that '[o]ur world is becoming unhinged. Geopolitical tensions are rising. Global challenges are mounting. And we seem incapable of coming together to respond.

We confront a host of existential threats – from the climate crisis to disruptive technologies – and we do so at a time of chaotic transition […] instead of ending the scourge of war, we are seeing a surge of conflicts, coups and chaos'.[58]

The words of the Secretary-General reflect the state of crisis in the world today. Further challenges are presented in the nature and manner of ever-changing conflict dynamics over the past 20 years. Such dynamics have necessitated an evolution in UN peace operations that can be said to have travelled some considerable distance from the traditional missions of the late 20th century.

This is the grey and ambiguous space referred to earlier. Adam Day, the Head of

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[56] Glorioso, L (Ed.), Promoting the Rule of Law and Good Governance: SFA Implications in International Initiatives, NATO SFA COE, Rome, 2021. See website: https://www.nsfacoe.org/download/.

[57] Gerspacher, Nadia, & Glorioso, Ludovica (Eds), Insights on Strategic Advising for Security Force Assistance, NATO SFA COE, Rome, 2022. See website: https://www.nsfacoe.org/download/.

[58] UN, Secretary Generals Address to the United Nations General Assembly, 19th September 2023. https://www.un.org/sg/en/content/sg/speeches/2023-09-19/secretary-generals-address-the-general-assembly.

the Geneva Office of the UN University Centre for Policy Research, describes the evolution in outline as:

> *Originally designed to support inter-state ceasefires and peace agreements, modern peace operations have shifted over time increasingly to address intra-state conflicts, failed/fragile states and settings involving asymmetric use of force, including from violent extremist groups. The rise of multi-dimensional peace operations in the 1990s reflected this shift, as the UN gradually expanded its roles into state-building, stabilisation, the protection of civilians, human rights monitoring, institutional capacity building and (as necessary) the robust use of force.*[59]

Such integrated and multi-dimensional missions need careful and deliberate evaluation, with comprehensive preparation and training to prepare the post-conflict operator or, in the case of the UN, the 'peacekeeper'. The NATO approach is worthy of consideration. The SFA methodology places considerable emphasis on training and evaluation, as seen in AJP-3.16, 'To be successful, SFA must be based on solid, continuing assessment and include generating, organising, training and educating, enabling, advising and mentoring the forces involved'.[60] Of particular assistance is the range of 'After-Action' or 'Lessons Learned' reports available. A recent example and one worth further study is the 2021 Report from the US SIGAR (Special Inspector General for Afghanistan Reconstruction).[61]

The purpose of such training is to deliver the broader perspective required of the

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[59] Adam Day, 'The Future of UN Peace Operations in a changing conflict environment', pp 1. https://peace-keeping.un.org/sites/default/files/future_of_peacekeeping_operations_in_a_changing_conflict_environment.pdf.

[60] NATO, AJP-3.16, 'Allied Joint Doctrine for Security Force Assistance', Edition 1, May 2016 at paragraph 0107.

[61] John F. Sopko., 'What we need to learn: Lessons from twenty years of Afghanistan Reconstruction', Special Inspector General for Afghanistan Reconstruction, August 2021.https://www.nsfacor.org/library.

PCE with a broader perspective focused on the following (non-exhaustive) criteria:

   a. The reconstruction of physical infrastructure, both state and non-state.

   b. Engendering confidence and trust among the population and the trust of the population for security and justice actors.

   c. Strengthening the democratic, political and security and justice processes.

   d. The rehabilitation and recovery of civil society.

   e. Reinvigorating the economy to a self-sustaining model.

3. Engagement of military and security forces

> *Peacekeeping is a lifesaving undertaking. It has contributed to reducing the number of ongoing wars in the last 15 years and is an essential instrument for fostering global peace and stability […] Worldwide, almost 200,000 soldiers, police officers and civilians are serving as peacekeepers. They are sent by international organisations and governments into different conflict areas, with the aim of making the world safer. Since the end of the Cold War, such peace interventions have grown massively into a complex global undertaking'.[62]*

The complexity to which Swiss political scientist, former diplomat and politician Tim Guildimann refers represents a challenge for both military and security forces who traditionally have adopted a well-practised regime for deployment and military and security operations.

Troop-Contributing Nations (TCNs) place reliance on various models of standardised training materials such as the UN Standardised Training Material

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[62] Tim Guldimann, 'Peacekeeping under Strain: Coping with Evolving Contradictions?' *Peace & Conflict Review*, Volume 4, Issue 2, 2010 at pages 1-2. https://www.academia.edu/ 79805688/Peacekeeping_Under_Strain_ Coping_with_Evolving_Contradictions.

(STMs). This model works to varying degrees depending on a variety of conditions.

The list or statement of security-related requirements and considerations in the post-conflict landscape is varied and lengthy and includes:

> a. Strengthening accountability and effectiveness of security forces (military forces, civilian police, etc.).
> b. Sharing of information and security coordination.
> c. DDR (Disarmament, demobilisation and reintegration).
> d. SSR.
> e. Protection of civilians (POC).[63]

The deployment of peacekeeping units and components by the UN is undergoing a significant transformation in the shape of Action for Peacekeeping (A4P) and Action for Peacekeeping Plus (A4P+).

It is the Secretary-General's agenda for the reform of peacekeeping and the 'Declaration of Shared Commitments on UN Peacekeeping Operations' made by 130 countries in support of this agenda. A4P has, since 2018 afforded a focus on peacekeeping and by extension training for peacekeeping.[64]

Speaking at the Security Council in 2021, the UN Secretary-General included an emphasis on the training of peacekeepers:

> *We are damaging the instrument of peacekeeping and indeed multilateralism itself, in creating unrealistic expectations. Lives and*

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[63] POC includes concepts such as human security and cross-cutting topics. For more information see: https://www.nato.int/cps/en/natohq/topics_181779.htm.

[64] UN, 'Action for Peacekeeping (A4P)'. https://peacekeeping.un.org/en/action-for-peacekeeping-a4p. In March 2021, strengthening the initial roll-out of A4P, the Secretary-General António Guterres launched Action for Peacekeeping 'Plus' (A4P+) at an event to mark the third anniversary of A4P. It is the implementation strategy of the Action for Peacekeeping (A4P) initiative for 2021-2023, which aims to focus on key priorities that are designed to be catalytic and enhance our missions' impact. Peacekeeping is among the eight identified priorities.

> *credibility are being lost. These challenges require strong, collective action. We should focus our efforts in three areas: First, to refocus peacekeeping with realistic expectations; Second, to make peacekeeping missions stronger and safer; And third, to mobilise greater support for political solutions and for well-structured, well-equipped, well-trained forces.*[65]

The subsequent UN Security Council Resolution n. 2436 of 2018 (UNSCR) recognised that deficiencies in training, equipment and performance can increase risks to the safety and security of peacekeepers, including leading to an increased risk of fatalities.[66] In contrast to peacekeeping, SFA programmes typically aim to strengthen the recipient forces' ability to address security challenges. SFA has been further explained as 'a set of activities of an external actor (provider) equipping and training an armed unit (recipient) with a stated aim to strengthen the recipients' operational capacity and professionalism'.[67]

Clearly, the training and equipping of a particular nation's troops is not the overall goal of peacekeeping. In certain UN-authorised missions such as the recently closed United Nations Multi-dimensional Integrated Stabilisation Mission in Mali (MINUSMA),[68] there are similarities to SFA and there is an overlap between SFA and reforms of the military, the police and other security institutions that may follow within the PCE. Such efforts generally attempt to reform the police and the military

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[65] UN, 'Secretary-General's remarks to Security Council High-Level Debate on Collective Action to Improve UN Peacekeeping Operations', (28th March 2018). https://www.un.org/sg/ en/content/sg/statement/2018-03-28/secretary-generals-remarks-security-council-high-level-debate.

[66] UN, Security Council Resolution 2436 of 2018, adopted by the Security Council at its 8360th meeting, on 21 September 2018. http://unscr.com/en/resolutions/doc/2436. A4P also informed the adoption of several Security Council resolutions, which includes resolution 2436 (2018) [on peacekeeping performance], resolution 2518 (2020) [on safety and security] and resolution 2538 (2020) [on women in peacekeeping].

[67] Øystein H. Rolandsen, Maggie Dwyer, and William Reno. 'Security Force Assistance to Fragile States: A Framework of Analysis'. *Journal of Intervention and Statebuilding* 15, no. 5 (2021): 563–79. doi:10.1080/17502977.2021.1988224.

[68] MINUSMA (French: Mission multidimensionnelle intégrée des Nations Unies pour la stabilisation au Mali). The mission closed on the 31st of December 2023. https://minusma.unmissions.org/en.

but the training of security forces is often only one aspect of these programmes. What is significant is a recognition of the operating environment occupied by both the UN peacekeeping effort, any SFA initiative and the contribution to peacebuilding that is possible thereafter from a shared and collaborative approach.

4. Training and preparation

'Prior Preparation Prevents Poor Performance'[69] is a maxim that is also true in the peacekeeping sense; such preparation derives from adequately designed, appropriate and tailored training.

In outline, training has been described by Kiran Bedi, the former Chief Police Adviser to the UN and Head of the Police Division, as 'the provision of the technical and procedural knowledge and skills required in the performance of assigned duties; it is the development of a predictable response to a predictable situation'.[70]

Similarly, AJP-3.16 describes training as activities to teach a person or organisation a skill or type of behaviour, through regular practice and instruction.[71]

As far back as 2000, the Report of the Panel on UN Peace Operations (the Brahimi Report),[72] highlighted the pressing need for UN peacekeepers to be well-trained to

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[69] Peter T. Kilborn, 'Washington Talk: The Secretary of the Treasury; James Baker Likes the Odds of Staying Where He Is', *New York Times*, (9th April 1987).https://www.nytimes.com/ 1987/04/09/us/washington-talk-secretary-treasury-james-baker-likes-odds-staying-where-he.html.

[70] Bedi, Kiran, 'The Importance of Education and Training in Modern Peace Operations', IAPTC, Keynote Address at the 2003 IAPTC Conference and Meetings at paragraph 3. 'The Yearbook of International Peace Operations', Vol 9, 2003.

[71] NATO, AJP-3.16, 'Allied Joint Doctrine for Security Force Assistance', Edition 1, May 2016 at paragraph 0317.

[71] UN, Secretary Generals Address to the United Nations General Assembly, (19th September 2023). https://www.un.org/sg/en/content/sg/speeches/2023-09-19/secretary-generals-address-the-general-assembly.

[72] Dr. Lakhdar Brahimi, a UN diplomat who served as the UN and Arab League Special Envoy to Syria until 14 May 2014. He was Minister of Foreign Affairs of Algeria from 1991 to 1993. He served as chairman of the UN Panel on UN Peace Operations in 2000. Its highly influential report 'Report of the Panel on UN Peacekeeping' is known as 'The Brahimi Report'.

face the increasingly complex tasks they are expected to undertake.[73] Interestingly, the Report also recommended that units that did not meet the minimum standards of training and equipment should not be deployed. The Integrated Training Service of the Department of Peace Operations (ITS-DPO) was established in 2007 as the designated centre for UN peacekeeping training. Its activities include the development of training standards, policies and guidance materials. It also formulates and delivers peacekeeping training and has an oversight role in the provision of peacekeeping training activities and related technical support. ITS training materials are used in pre-deployment training, in-mission reinforcement training[74] and specialised training. Cedric De Coning, a Research Professor with the Peace, Conflict and Development Research Group at the Norwegian Institute of International Affairs (NUPI), highlights training as a critical tool for the dissemination of new policies, processes and tools, especially in highly diversified organisations or systems and those engaged in post-conflict endeavours.

Training can be used as a tool to introduce the multinational and integrated mission concept to existing UN and similar missions and those working alongside them, and to prepare those who will deploy to such missions in the future.[75]

The complexity and challenges of integrated and multinational peacekeeping are increasingly evolving as UN peace operations are tasked to carry out an ever-increasing and diversified array of activities. In 2014, Dr Annalisa Creta, currently a Senior Research Fellow in Public International Law at the San-

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[73] UN, 'Report of the Panel on United Nations Peace Operations (the 'Brahimi Report')', A/55/305, (21st August 2000). https://peacekeeping.un.org/sites/default/files/a_55_305_e brahimi report.pdf.

[74] Reinforcement Training Packages (RTP) comprise of training materials for (a) strengthening priority cross-cutting thematic area relevant to a specific category of the personnel deployed or are to be deployed in missions mandated to carry out tasks related to the area or (b) enhancing skills in certain areas of specialisation. https://peacekeepingresourcehub.un.org/en/training/rtp/introduction.

[75] Cedric de Coning, 'Implications of a Comprehensive or Integrated Approach for Training in United Nations and African Union Peace Operations'., page 11 (2009). https://www.researchgate.net/publication/255661972_The_Implications_of_a_Comprehensive_or_Integrated_Approach_for_Training_in_United_Nations_and_African_Union_Peace_Operations.

t'Anna School of Advanced Studies, found that the multi-dimensional mandates of most of the operations then underway entailed a strengthened investment in quality human resources, hence manifesting a need to ensure that staff deployed are adequately equipped with the knowledge, trained with the skills and possessed of the attitudes required to perform their assigned duties. She also found that the growing involvement of other actors in peacekeeping such as the EU and African Union required coordinated efforts to ensure understanding and compatibility of approaches to work between organisations.[76]

In terms of the effective and efficient management of such missions, De Coning adds that specialised training is also needed to prepare those currently working in the areas of assessments, planning, management, coordination, monitoring and evaluation:

> *These areas represent the critical areas of interface across the multiple agencies engaged in the various peacebuilding dimensions (political, security, development and human rights). As such they represent the most important nodes that need to be influenced in order to improve mission- and system-wide coherence.*[77]

A particular factor highlighted is the need for 'legal consistency' (in AJP-3.16) in that the assistance provided, must promote the knowledge and respect of international law, especially the Law of Armed Conflict, as part of military skills. This should include basic information on the:

a. Authorised Means of Warfare, in compliance with the Hague Treaties.

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[76] Annalisa Creta, 'More coherence in Peacekeeping Training? The global Peacekeeping architecture Project' in *International Commentary* 'Peacekeeping: Trends and challenges in Africa'. ITPCM Vol. X no. 36 ISSN. 2239-7949, page 3 (July 2014).

[77] Cedric de Coning, 'Implications of a Comprehensive or Integrated Approach for Training in United Nations and African Union Peace Operations', page 11 (2009). https://www.researchgate.net/publication/255661972_The_Implications_of_a_Comprehensive_or_Integrated_Approach_for_Training_in_United_Nations_and_African_Union_Peace_Operations.

b. Main principles of international law as laid down in the Geneva Conventions (humanity, distinction, proportionality and military necessity); and

c. Criminal and disciplinary consequences of breaches of this law (war crimes, genocides, crimes against humanity) before National or International Courts that have jurisdiction over local forces.[78]

Such consistency has obvious dividends, including awareness of the applicable law, but also standardisation of training and commonality of international legal requirements. The EU has likewise stressed the need for more effective training for its civilian and military personnel. For instance, both the EUMTG (EU Military Training Group) and EUCTG (EU Civilian Training Group) have been conducting Training Requirement Analyses in designated EU Training Areas to meet the needs of their deployed personnel. Results of both processes were adopted (in 2021) by the Council in a synchronised and commonly agreed First EU Training Programme for Common Security and Defence Policy (CSDP).

This training is not limited to pre-deployment but is itself a never-ending cycle and also occurs when deployed in the mission Area of Responsibility.

To maximise the benefits of such preparation, programmes should coordinate all aspects of multinational and national activities and these should contribute to and connect with the wider peacebuilding framework. This requires that commanders and those delivering training have an understanding of the wider comprehensive training programme and how they contribute to it.[79]

Richard Gowan, previously UN Director at the International Crisis Group, and Paul Williams, Professor of International Affairs at the George Washington University, suggest that training and the resultant capacity-building must be:

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[78] NATO, AJP-3.16, 'Allied Joint Doctrine for Security Force Assistance', Edition 1, May 2016 at paragraph 0315.

[79] Ibid, at paragraph 0319.

a. *Sustainable: by offering the trainees realistic lessons that they will carry into the field (to allow operational sustainability) in an affordable fashion (to enable financial sustainability) while developing training cadres and institutions, not just one-off courses (to ensure continuity and promote local self-sufficiency).*

b. *Systematic and standardised: by teaching common lessons using shared standards but also: developing all elements of national force structures, including professional military/ police units; and education institutions that improve women's access to training and as instructors.*

c. *Specialised: by satisfying the increasing need for mission- and task-specific training, including for civilians, staff officers, senior leadership teams, as well as operational and tactical skills such as medical support, the application of Intelligence Security and Reconnaissance (ISR) techniques, and, an awareness of and countering of Improvised Explosive Devices (IEDs), etc.[80]*

Forms of delivery of such training needs would include an analysis of Lessons Learned and After-Action Reports and those needs particular to the PCE to which the military component is deploying. Such a methodology then proceeds to the formulation of policy and doctrine leading to the development of lessons and instruction, means of delivery and associated pedagogic formulation.

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[80] Richard Gowan, and Paul D. Williams, 'Innovation in Training and Capacity-Building for United Nations Peace Operations' 14 August 2017, Paper commissioned by the Government of Canada for a preparatory meeting on training and capacity building for the UN Peacekeeping Defence Ministerial, Tokyo, 23-25 August 2017, at page 1.

5. Types of training

The former Lieutenant Governor of Puducherry, Kiran Bedi, regretted that difficulties had occurred because little attention had been paid to the specific nature of training; it was too one-dimensional and lacking in depth and scope. She opined that:

> *The national peacekeeping training centres still follow the old patterns, having in their curricula standard list of 'English language', 'Communication Procedures', 'UN Charter' and 'Driving'. The challenge of modern peacekeeping requires much more. We do need training for our officers in mentoring, monitoring, advising, training, managing, restructuring, team building, enforcing.*

Bedi proposed a detailed and deliberate approach, incorporating management and supervision and oriented to the various levels of output.

> *In short, it's training strategic, operational and tactical, followed by evaluation, based on effective and efficient methodologies, in other words based on systems approach to training, that is the needs, design, development, conduct and evaluation.[81]*

The author Richard Gowan and the political scientist Paul D. Williams raised the incidence of divergent training needs within post-conflict environments. The deployment of more peace operations by regional and other organisations, especially in Africa, has generated somewhat divergent training needs from those traditionally associated with UN peacekeeping.

For example, the African Union training needs for its mission in Somalia or its authorised operations in Central Africa, the Lake Chad Basin and the Sahel

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[81] Bedi, Kiran, 'The Importance of Education and Training in Modern Peace Operations', IAPTC, Keynote Address at the 2003 IAPTC Conference and Meetings at paragraph 3. 'The Yearbook of International Peace Operations', Vol 9, 2003.

are significantly different from most UN operations in their emphasis on countering insurgencies, terrorism and even organised criminal networks. This has generated renewed interest in how UN training standards might be adapted for the specific needs of different organisations and raised the issue of how the UN deals with training for re-hatted regional forces. The existence of numerous training providers and capacity-builders is already raising issues of coordination and interoperability and underlines once more the question of integration.[82]

An initial scoping exercise would indicate that such training and educational needs tend to include a wide range, well beyond what might be termed standard military training. These needs might include cultural awareness, an awareness of the law, human rights and fundamental freedoms particular to the PCE in question and the incorporation of the gender perspectives into operations and activities, but also interaction with transitional justice actors and standards of behaviour required of the military component itself.

Specialised pre-mission training should include practical exercises and realistic role-plays as they can contribute to acquiring and practising soft skills (e.g. inter-cultural communication) through participatory approaches.[83] Other considerations might include the 'integrated approach' as referenced by De Coning, interoperability with military and security partners such as the UN Police and local Law Enforcement Officials and the particular 'use of force' approach authorised to address the particular PCE at issue. Victoria Firmo-Fontan, Professor of Peace and Conflict Studies and Provost at the American University of Afghanistan, summarised the discussion

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[82] Richard Gowan, and Paul D. Williams , 'Innovation in Training and Capacity-Building for United Nations Peace Operations' 14 August 2017, Paper commissioned by the Government of Canada for a preparatory meeting on training and capacity building for the UN Peacekeeping Defence Ministerial, Tokyo, 23-25 August 2017, at page 4.

[83] Nadia Gerspacher & Ludovica Glorioso, (Eds). Insights on Strategic Advising for Security Force Assistance (Rome: NATO SFA COE, 2022), Chap. 3, "Understanding the Local Context on a Mission as a Key Aspect to Provide Advisory and Capacity Building Support," p.70, https://www.nsfacoe.org/download/.

from the International Association of Peacekeeping Training Centres (IAPTC) and outlined the benefits of joint training coupled with joint activities as follows: [84]

> a. Joint training overlapping military, police and civilians into an integrated approach. The range of topics to be addressed includes: awareness; roles and mandates; cultural and religious awareness; rules of engagement; refugee issues; gender issues; child protection; human rights; disarmament; demobilisation and reintegration; mediation and negotiation; mission briefings; lessons learned; medical issues; security and protection; case study exercises; live exercises; ethics; legal framework; conditions of employment; leadership and management; logistics; humanitarian law; communication; information management; UN Civil-Military Coordination (UN-CMCoord);[85] and humanitarian mission analysis.[86]
>
> b. Joint activities intended to complement and build upon such joint training. This includes several examples of viable joint activities including Exercise Viking in Sweden.[87] This Exercise has been established by the Swedish military to both enhance and promote the interoperability for peace operations including civil-military co-operation and to further develop the Peace Simulation Network (PSN) concept while promoting in-

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[84] The 2003 annual meeting of the IAPTC was be held during the period 19-24 October 2003 at the Baden-Wurttemberg Police Academy in Wertheim, Germany. Its theme was 'Enhancing the Effectiveness of Peace Operations through Education and Training'. Three sub-themes included 'Creating Common Ground', 'Building Partnerships', and 'Evaluating Success'.

[85] UN Civil-Military Coordination (UN-CMCoord) had Civil-Military Co-operation (CIMIC) as its forerunner, and arises as a need when '*Humanitarian organizations, State security forces and non-State armed groups increasingly operate in the same space in emergencies, whether they are caused by conflict, extreme weather events or other human-made disasters. Effective dialogue between these entities is critical to obtain and maintain humanitarian access to people in need and ensure their protection. UN Civil-Military Coordination (UN-CMCoord) formalizes this essential dialogue and interaction to protect and promote humanitarian principles, avoid competition, minimize inconsistency and, when appropriate, pursue common goals'.* https://www.unocha.org/civil-military-coordination.

[86] Possible recommendations for future inclusion include Leadership & Management/ Command & Control, Hybrid threats & Cyber Crime, Protection of cultural heritage, and climate change.

[87] Swedish Armed Forces, 'Viking 22 – the world's largest international computer aided staff exercise' (2022). https://www.forsvarsmakten.se/en/news/2022/03/viking-22-the-worlds-largest-international-computer-aided-staff-exercise/.

teroperability and civil-military co-operation in international peace operations. Interestingly and as a measure of its impact, many international and domestic organisations also participate in the exercise.[88]

There are some areas deserving of particular mention. First, UNSCR 2436 (2018) encourages Member States to provide training to potential peacekeepers on issues related to sexual violence in conflict, trafficking during armed conflict and gender expertise and to ensure that these considerations are fully integrated, as appropriate, into performance and operational readiness standards.[89]

Recent years have seen many TCNs increase the number of women in peace operations (POs), including the introduction of all-female units as part of an effort to mainstream gender on UN operations. However, Olivera Simi'c, Associate Professor at Griffith University, Queensland, Australia, believes that these efforts are largely isolated and ad hoc.

She argues that to increase the meaningful participation of women in POs, they need to be actively integrated into senior decision-making and leadership posts. All-female contingents should be trained, deployed and integrated into mixed-gender environments and such female deployments should be empowered to influence substantial change in the PCE environment.[90]

Pre-deployment and in-mission training should include activities that develop, improve and integrate leadership at individual, leader, collective and staff levels.

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[88] Victoria Firmo-Fontan, 'Enhancing the Effectiveness of Peace Operations through Education and Training' IAPTC Annual Meeting and Conference, 19 – 24 October 2003, Wertheim, Germany. https://www.academia.edu/3635203/The_importance_of_education_and_training_in_modern_peace_operations.

[89] United Nations, UNSCR 2436, paragraph 18, (2018) . http://unscr.com/en/resolutions/2436.

[90] Olivera Simi'c, 'Moving beyond the numbers: integrating women into peacekeeping operations', NOREF: Norwegian Peacebuilding Resource Centre, Executive summary at page 2 (March 2013). https://www.peacewomen.org/sites/default/files/olivera_simic_0.pdf.

6. Measuring effectiveness

Gowan and Williams argue that there are significant challenges to the effectiveness of any proposed integrated training approach. These include:

a. TCNs will not always deliver on their training obligations.

b. There are limited resources whether training capability, equipment or dedicated training personnel.

c. Prioritisation of short-term operational training for deployment rather than building upstream capacities.

d. Imbalance between generic (pre-deployment) and mission-specific/specialist training.

e. Ignorance about the operational effects of female peacekeepers.

f. Deployment of ad hoc or composite Units for peacekeeping obligations by TCNs.[91]

In consideration of these challenges, a further question that has been raised is the evaluation of the success or otherwise of peacekeeping operations and by what metrics, e.g., qualitative, quantitative, change of behaviour or conduct. Creta opined that the issue of determining the effectiveness of peacekeeping education and training is a difficult one.

The IAPTC examined how their various member peacekeeping centres evaluate their individual training, how specialised training is followed up and the success of international organisations in evaluating collective training. They identified a range of challenges but concluded that among the best practices were standardisation of practice, harmonisation of training, embracing the idea of training as a

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[91] Richard Gowan, and Paul D. Williams , 'Innovation in Training and Capacity-Building for United Nations Peace Operations' 14 August 2017, Paper commissioned by the Government of Canada for a preparatory meeting on training and capacity building for the UN Peacekeeping Defence Ministerial, Tokyo, 23-25 August 2017, at page 6.

continuum and not merely pre-deployment, and the adoption of systems of evaluation of effectiveness. This is especially true for specialised in-mission training which should adopted to the local situation.[92]

Unanimously adopted in September 2018, UNSCR 2436 called on the Secretary-General to ensure that peacekeeping missions improve mission performance and address performance challenges including deploying the most capable and willing units to peacekeeping, and in implementing a performance policy framework and reporting on performance.[93] The Resolution called for objective measures to be used for the assessment of the performance of both uniformed and civilian staff and for these measures to have an effect in terms of recruitment and force generation. Subsequently, the UN DPO instigated an evaluation programme entitled the Evaluation Framework.[94] The results of the evaluation are intended to inform management, policy development, programme management and planning and training activities, with the aim of improving programme effectiveness. In addition, the evaluation results are intended to provide improved feedback, from the perspective of integrated mission, on operational issues to troop and police contributing countries, Member States and others such as legislative bodies.

Gowan and Williams also point to the need to assess whether current training and capacity-building programmes are producing enhanced performance by peacekeepers in the field and leading to the creation of training self-sufficiency in the recipient states.

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[92] Annalisa Creta, 'More coherence in Peacekeeping Training? The global Peacekeeping architecture Project' in *International Commentary* 'Peacekeeping: Trends and challenges in Africa'. ITPCM Vol. X no. 36 ISSN. 2239-7949, page 6 (July 2014). https://www.academia.edu/103804308/More_coherence_in_peacekeeping_training_The_Global_Peacekeeping_Architecture_project.

[93] United Nations, UNSCR 2436 of 2018.

[94] The UN Evaluation Framework, at https://peacekeepingresourcehub.un.org/en/evaluation. Within this framework, a DPO Evaluation Team, as the in-house evaluation capacity, manages the Department's evaluation plan, and conducts programme and thematic evaluations. In ensuring the involvement of stakeholders and utilising in-house expertise within the DPO, evaluations are usually conducted by an integrated team comprised of staff from the Evaluation Team and specialists from the DPO. Depending on the scope of the evaluation, external consultants may also be utilised, as well as specialists from other departments in the Secretariat.

They believe that Member States should strive to develop a culture of monitoring, assessment and accountability throughout all their training and capacity-building programmes.[95]

7. Collaboration and partnership

The UN is not alone in catering for specific training and preparation for those who engage in the PCE. An example of such an initiative is the NATO Security Force Assistance Centre of Excellence (SFA COE).[96] The Centre promotes stability efforts for post-conflict scenarios by delivering specialised insights to NATO, Allies and Partners. The initiatives aim to prevent regional crises and conflict by providing military assistance to local security forces to generate and maintain sustainable capabilities and create legitimate institutions.[97] The Defence and Related Security Capacity Building (DCB) initiative reinforces NATO's commitment to partners and helps project stability by providing support to countries requesting assistance from NATO. DCB helps partners[98] improve their defence and related security capacities and resilience and therefore contributes to the security of the Alliance. It can include various types of support, ranging from strategic advice on defence and SSR and institution-building to the development of local forces through education and training or advice and assistance in specialised areas such as logistics or cyber defence.

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[95] Richard Gowan, and Paul D. Williams , 'Innovation in Training and Capacity-Building for United Nations Peace Operations' 14 August 2017, Paper commissioned by the Government of Canada for a preparatory meeting on training and capacity building for the UN Peacekeeping Defence Ministerial, Tokyo, 23-25 August 2017, at page 10.

[96] A NATO-accredited Centre of Excellence (COE) is a multi-nationally or nationally established and sponsored entity, which offers recognized expertise and experience within a defined subject matter area to the benefit of the Alliance within the four pillars of NATO's COE programme. A COE is not a part of the NATO Command Structure (NCS) or of other NATO entities, but forms part of the wider framework that contributes to the functioning of the Alliance. The idea for NATO-accredited COEs originated in Military Committee (MC) 324/1, 'The NATO Military Command Structure', dated 14 May 2003. The Military Committee (MC) refined this idea into the MCM-236-03; 'MC Concept for Centres of Excellence (COE)' dated 04 December 2003.

[97] NATO, Defence and Related Security Capacity Building (DCB) Initiative, (5 June 2023). https://www.nato.int/cps/en/natohq/topics_132756.htm The DCB Initiative was launched in September 2014 at the NATO Summit in Wales.

[98] NATO, 'NATO's partnerships', (7 March 2024). https://www.nato.int/cps/en/natohq/topics_84336.htm.

In April 2020, NATO Foreign Ministers endorsed the DCB Package for UN Peace-keeping Training.[99] This support consists of four areas: military performance evaluation; medical care; Counter of Improvised Explosives Devices (C-IED); and signals and information and communications technology. Within this package, NATO and the UN have agreed to enhance their practical co-operation on capacity building for UN peacekeeping. The overall goal is to enhance operational performance and the safety and security of UN peacekeepers and the implementation of the United Nations Secretary-General's 'Action for Peacekeeping' initiative, which NATO has supported.[100]

The NATO-UN collaboration and partnership and DCB package are outlined in a 'Joint Declaration on UN-NATO Secretariat Co-operation' enabling staff-to-staff co-operation on a range of technical matters, notably countering IEDs, military medicine, disarmament, the women, peace and security agenda, protection issues, counter-terrorism, and reform of defence structures and institutions.[101] The Declaration is intended to formalise the collaborative initiative and:

> a. Support UN peacekeeping training delivery by providing experts to join UN teams in delivering training for peacekeeping personnel.
>
> b. Contribute to the implementation of UN Security Council Resolution 2436 (2018) on enhancing the performance of peacekeeping personnel.
>
> c. Strengthen UN training capacity at the UN Regional Service Centre in Entebbe, Uganda, which serves as a hub for UN peacekeeping in Africa.
>
> d. Provide an opportunity for NATO experts to benefit from the UN's experiences and lessons learned.[102]

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[99] NATO, 'NATO strengthens support for United Nations peacekeepers', (8 April 2020). https://www.nato.int/cps/en/natohq/news_174981.htm?selectedLocale=en.

[100] UN, 'Action for Peacekeeping (A4P)'. https://peacekeeping.un.org/en/action-for-peacekeeping-a4p.

[101] NATO, Defence and Related Security Capacity Building (DCB) Initiative, (5 June 2023). https://www.nato.int/cps/en/natohq/topics_132756.htm. The DCB Initiative was launched in September 2014 at the NATO Summit in Wales.

[102] Ibid.

8. Conclusion

Today's global challenges are many and varied as parts of our world lurch from chaos to crisis placing an omnipresent responsibility on the international community. The dynamics of POs have undergone a seismic and enforced evolution. At the end of the 20th century, most 'blue helmeted' peacekeepers were engaged in implementing comprehensive peace agreements. However, most current UN POs have undergone a significant phase shift and are now focused on stabilisation and protection taskings and operations. Standards, however, remain, uneven and in part imprecise, though much good work has been done by stakeholders such as the UN and NATO.

The traditional model of peacekeeping training is changing but it is unclear whether it is meeting the needs of the PCE that it is increasingly called upon to address. Inter-institutional collaboration and consultation are key and should enable a 'common understanding of peacekeeping challenges, widely accepted standards and the sharing of information and expertise'.[103]

It is agreed that 'peacekeeping has never been more relevant and its success more urgent'.[104] Effective standardisation and the accurate measurement of effectiveness within an integrated framework should assist in addressing the myriads of challenges confronting peacekeeping training and preparedness and influence better operational outcomes.

Continuing collaboration and partnership between training and service providers is both welcome and invaluable. In particular, the ongoing strategic collaboration of UN peacekeeping with endeavours such as that offered by the NATO SFA

[103] Annalisa Creta, 'More coherence in Peacekeeping Training? The global Peacekeeping architecture Project' in *International Commentary* 'Peacekeeping: Trends and challenges in Africa'. ITPCM Vol. X no. 36 ISSN. 2239-7949, page 3 (July 2014). https://www.academia.edu/103804308/More_coherence_in_peacekeeping_training_The_Global_Peacekeeping_Architecture_project.

[104] UN, 'At Seoul meeting, Guterres urges greater support for peacekeeping amid mounting threats', Secretary General Gutierrez, (7 December 2021). https://news.un.org/en/story/2021/12/1107362.

can only assist and bear positive fruit in SSR and the post-conflict operating environment and is a signpost to the future; collaboration and co-operation bring strength and consistency to the challenge of peacebuilding.

Looking to future training needs, the institutions might consider including topics training on new threats such as climate change or cybercrime. It is also worth recalling the importance of structured understanding of conflict and cultural sensitivity in training our operators that brings a welcome dividend 'on the ground' and facilitates building trust in relationships and in turn encourages sustainable results.

Suggested further reading

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NATO, AJP-3.16, *Allied Joint Doctrine for Security Force Assistance*, Edition 1, May 2016.

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CHAPTER III

Whitney Grespin

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CONTRACTED CONTRIBUTIONS TO THE SECURITY FORCE ASSISTANCE ENTERPRISE

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Abstract

Understanding the roles, responsibilities and unique utility of contracted personnel assistance in complex environments is essential for actors in modern conflict and stabilization operations. Following the drawdown of conventional military operations in both Iraq and Afghanistan, many uniformed personnel separated from military service and have sought related employment in the private sector. This has resulted in a significantly enlarged pool of individuals with specialised training being available for employment to deliver sensitive skills transfers to host country law enforcement, military and defence establishment personnel.

While private contracting firms can contribute to building partner military capacity and may be a useful foreign policy tool, the effect that these non-state actors have must be taken into consideration before the decision is made to employ them. Although the use of contractors to supplant traditional approaches to building partner capacity has utility, on balance it is neither unbounded nor without lasting repercussions that may hamper the efficacy of broader capacity-building efforts in the longer term. Discussion of contributions, limitations and lessons learned from contracted assistance will seek to familiarise readers with best practices for interacting with contracted personnel as well as salient aspects of procurement and oversight processes.

Keywords: contracting personnel, security force assistance, security sector reform, outsourcing, non-state actors.

1. Introduction

Defence is not the exclusive purview of state military and domestic security forces as contracted security personnel are now a fixture of the international system. Many of the foundational actors in complex environments are no longer uniformed or even direct government personnel and many international military training programmes are delivered by contractors.[105] This industry is commonly referred to as contingency contracting.[106] Contingency contractors provide many benefits to their sponsors, particularly in terms of continuity, cost, expediency and risk aversion. Ranging from surge capacity for specialised skill sets to continuity of relationships to the ability to avoid troop cap limitations and highly publicised casualty reporting, sponsors can avoid some of the less palatable aspects of SFA programming through the use of contractors.[107]

Although the contracting industry has faced intense scrutiny from the public, press and scholarly research, governments continue to use contractors because their services are both essential and viable alternatives to many of the services that governments once provided themselves. The delivery of military training by civilian personnel is a noteworthy phenomenon as it alters the character of civilian-military (civ-mil) relations, particularly for recipients of the training.

The expanding use of contracted security actors poses both challenges and oppor-

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[105] See Whitney Grespin, '*U.S. Contingency Contracting in the Total Defence Force: Framing the Industry*'. in Eds. Joakim Berndtsson, Irina Goldenberg and Stéfanie von Hlatky. 'Total Defence Forces in the 21st Century'. McGill-Queen's University Press. 2023. P. 377. https://www.mqup.ca/total-defence-forces-in-the-twenty-first-century-products-9780228019299.php?page_id=&.

[106] 'Contingency contracting is the process of obtaining supplies, services, and construction via contracting means in support of contingency operations. It is a force multiplier and a significant component in achieving OCS in support of mission objectives. OCS is the overarching process that plans for and obtains supplies, services, and construction in support of combatant commander (CCDR)–directed operations through the related contract support integration, contracting support, and contractor management functions'. *Defense Contingency Contracting,* 5th ed., (Washington: April 2017), 33, https://www.acq.osd.mil/dpap/ccap/cc/jcchb/DCC_Handbook_v.5_April2017.pdf.

[107] Whitney Grespin. 'How the United States military can improve its use of contingency contractors'. International Affairs. 12 August 2021. https://medium.com/international-affairs-blog/how-the-united-states-military-can-improve-its-use-of-contingency-contractors-34f58cce4f86.

tunities to their sponsors as well as other actors in their operating environments.[108]

The dynamics between principals (sponsoring states) and agents (contracted service providers) can affect a conflict's initiation,[109] duration and severity.[110] For these reasons, it is important to understand the characteristics and character of private sector actors who are providing contracted support personnel for SFA activities. Now is the time to address both the practical and policy implications of the use of contractors in complex environments.[111]

2. Understanding the industry

The use of contractors to deliver military training and advisory services is widespread. Incentives in continuity, cost, expediency and risk aversion exist for contracting firms to provide support, training and advisory services for partner military capacity enhancement, but appropriate, legitimate and accountable entities must perform such work when acting on behalf of a state sponsor. On balance, the use of contractors to supplant traditional approaches to building partner capacity has utility, but it is neither unbounded nor without lasting repercussions that may hamper the efficacy of such programming in the longer term. The key to the enduring utility of contracted support to government security operations lies in the understanding of the sponsoring officials to appropriately direct and oversee the unique skillsets of contractors.[112] By understanding the accurate

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[108] See Whitney Grespin, '*U.S. Contingency Contracting in the Total Defence Force: Framing the Industry*'. in Eds. Joakim Berndtsson, Irina Goldenberg and Stéfanie von Hlatky. 'Total Defence Forces in the 21st Century'. McGill-Queen's University Press. 2023. https://www.mqup.ca/total-defence-forces-in-the-twenty-first-century-products-9780228019299.php?page_id=&. P. 377.

[109] Ulrich Petersohn (2021) Onset of new business? Private military and security companies and conflict onset in Latin America, Africa, and Southeast Asia from 1990 to 2011, Small Wars & Insurgencies, 32:8, 1362-1393, DOI: 10.1080/09592318.2020.1866404.

[110] Ulrich Petersohn (2014) The Impact of Mercenaries and Private Military and Security Companies on Civil War Severity between 1946 and 2002, International Interactions, 40:2, 191-215, DOI: 10.1080/03050629.2014.880699.

[111] See Whitney Grespin, '*U.S. Contingency Contracting in the Total Defence Force: Framing the Industry*'. in Eds. Joakim Berndtsson, Irina Goldenberg and Stéfanie von Hlatky. 'Total Defence Forces in the 21st Century'. McGill-Queen's University Press. 2023. https://www.mqup.ca/total-defence-forces-in-the-twenty-first-century-products-9780228019299.php?page_id=&.

[112] Whitney Grespin. 'The Contractor Continuum of Security Actors in Africa: From Mercenary Activity to Industry Support Organizations' Roles in Regime Reinforcement'. IPSS. 2023.

categorisations within an organised typology of actors in this space and differentiating their designations even when their activities superficially appear to be similar, consumers can better understand how the different entities can be engaged to retain, improve and enable their work in support of the collective goals of the sponsor states.[113] Relevant actors can be viewed on a spectrum of outfits that are distanced from representing a state's interests or a state itself to the highly regulated companies that perform work that is designed, directed and overseen by the state within well-established legal structures and communities of practice.[114] The author's previous work provides a typology to understand the spectrum of contracted actors engaging in security sector work and the regulatory frameworks (or lack thereof) under which they operate.[115]
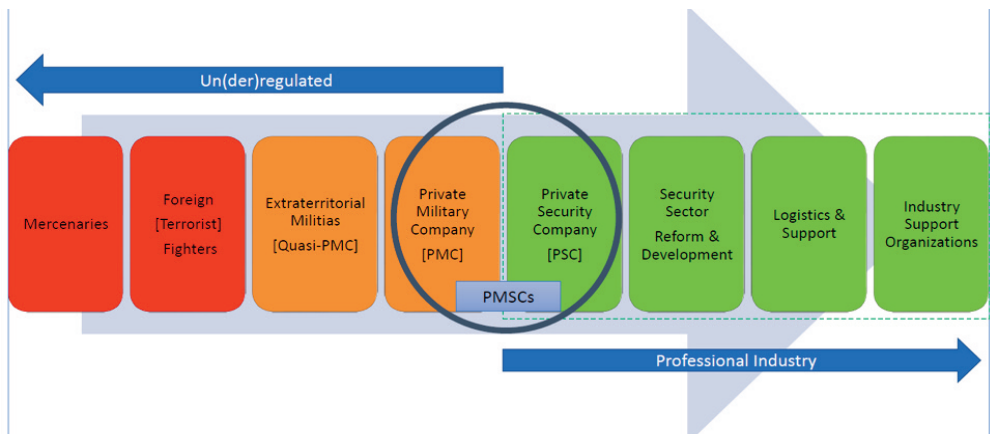
Figure 1: Different typologies of non-state security actors

The typology differentiates the non-state security actors ranging from unregulated or underregulated actors who do not hold themselves accountable to state oversight or international legal frameworks, to highly professionalised industry actors con-

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[113] Ibid.

[114] See Whitney Grespin, '*U.S. Contingency Contracting in the Total Defence Force: Framing the Industry*'. in Eds. Joakim Berndtsson, Irina Goldenberg and Stéfanie von Hlatky. 'Total Defence Forces in the 21st Century'. McGill-Queen's University Press. 2023. https://www.mqup.ca/total-defence-forces-in-the-twenty-first-century-products-9780228019299.php?page_id=&.

[115] Whitney Grespin and Caroline Batka. 'Words Mean Things: categorizing non-state international security actors'. International Affairs. 2024. https://medium.com/international-affairs-blog/words-mean-things-categorizing-non-state-international-security-actors-4f079f7d07ec.

cerned with the credibility of their work. Contracted support personnel has become an increasingly essential part of the model for success in complex environments, particularly given the requirements of the wars in Iraq and Afghanistan for comprehensive, large-scale, ground war troop support. Within the established contingency contracting industry, the following categorisations provide a useful framework from which to understand industry offerings and responsibilities:[116]

Describing the Contingency Contracting Industry

PRIVATE SECURITY COMPANIES	SECURITY SECTOR REFORM & DEVELOPMENT	LOGISTICS & LIFE SUPPORT	INDUSTRY SUPPORT ORGANIZATIONS
▪ Site Protection	▪ Training	▪ Logistics	▪ Law Firms
▪ Convoy	▪ Economic Development	▪ Aviation	▪ Insurance
▪ Private Security Detail	▪ Crisis Mitigation & Recovery	▪ Construction	▪ Consultants Accounting or Financial
▪ Threat Assessment	▪ Governance	▪ Maintenance	▪ PR/Marketing
▪ Intelligence	▪ Rule of Law	▪ UXO/Demining	▪ Reputational
▪ Risk Management	▪ Law Enforcement	▪ Transport	▪ Staff Augmentation/Recruitment
	▪ Development	▪ Medical Services	
		▪ Supply	
		▪ Shelter	

Figure 2: Describing the Contingency Contracting Industry

Those offering the above services engage via international agreements between recognised states and registered companies that are vetted to perform work for governments and international organisations.[117] However, the legitimacy of these actors does not guarantee that their goals are strictly aligned with those of their sponsors.

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[116] Underregulated or unregulated entities such as mercenaries, foreign fighters, legionnaires, extraterritorial militias/quasi-PMCs, and private military companies (PMC) receive treatment in another piece by the author, which frames the discussion by providing an overview of current literature regarding nonstate and private sector entities in complex environments before interrogating the unique characteristics of actors involved in or adjacent to the use of force by providing a typology of such actors, arranged on a spectrum from illegitimate to legitimate corporate entities. Whitney Grespin, '*U.S. Contingency Contracting in the Total Defence Force: Framing the Industry*'. in Eds. Joakim Berndtsson, Irina Goldenberg and Stéfanie von Hlatky. 'Total Defence Forces in the 21st Century'. McGill-Queen's University Press. 2023. https://www.mqup.ca/total-defence-forces-in-the-twenty-first-century-products-9780228019299.php? page_id=&.

[117] It is critical to note that none of the companies involved in delivering security force assistance under the auspices of state sponsorship meet the United Nation's definition of a 'mercenary' outfit. De Preux, Jean. 1987. 'Article 47 – Mercenaries'. In *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, edited by Yves Sandoz, Christophe Swinarski, and Bruno Zimmerman, 571–83. Geneva: Martinus Nijhoff.

Government employees and uniformed military personnel need to understand the different characteristics of these actors, as the activities of contracted personnel inside operational environments have the potential to affect the dynamics of civil-military relations and may also pose unique obstacles or opportunities to the environment and actors therein.[118]

3. The extent of contracted activity across the Security Force Assistance enterprise

The use of contractors can enable cost savings, continuity, expedience and risk dispersal. As Doug Brooks, founder and president emeritus of the International Stability Operations Association (ISOA), is oft quoted as saying, '[y]ou hire the private sector because they're faster, better or cheaper or some combination of that. Often all three'.[119] Given a competitive market, contracted services should reduce both economic and political expenditures. Economically, efficiencies are recognised via reduced military force structure, increased efficiency per proportion of combat units and lower cost per service provided. Incentives for the use of contractors have driven the growth in their use and for this reason, it is useful to highlight the types of circumstances in which contractors have been used as of late.

The use of such vignettes intends to be illustrative[120] in educating readers about the types of services and the geographic engagement of contracted service providers.

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[118] The topic of civ-mil relations within contingency environments and relating to contractors is rich for future research. Some efforts to this end have been initiated by scholarship such as Caroline Batka, Christopher Kinsey, and Stefan Schilling, 'Examining the Positive and Negative Aspects of US Military/Contractor Bonds in the Operational Environment', *The Journal of Political and Military Sociology, 48(2)*, 135-173, (2022). https://doi.org/10.5744/jpms/2001.

[119] Whitney Grespin, '*U.S. Contingency Contracting in the Total Defence Force: Framing the Industry*'. in Eds. Joakim Berndtsson, Irina Goldenberg and Stéfanie von Hlatky. 'Total Defence Forces in the 21st Century'. McGill-Queen's University Press, p. 377, (2023). https://www.mqup.ca/total-defence-forces-in-the-twenty-first-century-products-9780228019299.php?page_id=&.

[120] Because many contract documents are not available for examination, the use of public media reporting can be used as a barometer for public opinion and other general atmospheric tone.

Some examples include:

- NATO contracted out extensive functions to contractor execution during its leadership of the International Security Assistance Force in Afghanistan (ISAF) from 2001–2014.[121]

- US Department of State-funded opportunities with a ceiling of $1.2 billion for 'training, equipment procurement, logistical and technical support and construction services to African countries and regional organisations'[122] in support of contingency and POs.[123]

- Counter improvised explosive device (cIED) training provided to the Somali National Army 'as part of the UK government's technical support to the Federal Government of Somalia'.[124]

- Private armoury[125] services in international waters of the Red Sea, though it is considered 'a legal grey area in arms trade and the law of the sea'[126] and some permits have been revoked.[127]

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[121] See ELKE KRAHMANN, 'NATO contracting in Afghanistan: the problem of principal–agent networks', *International Affairs*, Volume 92, Issue 6, Pages 1401–1426, (6 November 2016). https://doi.org/10.1111/1468-2346.12753.

[122] Entities designated for receipt of such support included: Benin, Botswana, Burkina Faso, Burundi, Cameroon, Chad, Congo-Brazzaville, Djibouti, Ethiopia, Gabon, Ghana, Guinea, Kenya, Malawi, Mali, Mauritania, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Tanzania, Togo, Uganda, and Zambia supporting UN missions such as: AMISOM, MINUSCA, MINUSMA, MONUSCO, UNAMID, UNIFIL and UNMISS. See IDIQ, 'African Contingency Operations Training and Assistance 2 (ACOTA 2)'. https://www.highergov.com/vehicle/african-contingency-operations-training-and-assistance-2-acota-2-1025/.

[123] See IDIQ, 'Africa Contingency Operations and Training Assistance 2 (ACOTA 2)'. https://govtribe.com/award/federal-vehicle/africa-contingency-operations-and-training-assistance-2-acota-2.

[124] See Facility for Talo and Leadership, 'Demining Company from the UK to Train SNA Soldiers on IED', (February 18, 2021). https://www.ftlsomalia.com/demining-company-from-the-uk-to-train-sna-soldiers-on-ied/.

[125] See Avant Garde Maritime Services, 'FLOATING ARMOURY IN RED SEA'. http://www.avantmaritime.com/services/past-experiences/red-sea/.

[126] See Alexis Wilpon, 'Floating Armories: A Legal Grey Area in Arms Trade and the Law of the Sea', (2018). https://www.law.georgetown.edu/international-law-journal/wp-content/uploads/sites/21/ 2018/05/ 48-3-Floating-Armories.pdf.

[127] See Cahal Milmo, 'Security fears over weaponry as UK pulls licences for 'floating armouries' used to counter Somali pirates', *i news*, (July 31, 2023). https://inews.co.uk/news/security-fears-weaponry-uk-licences-somali-pirates-2516595.

- The United Nations has also availed itself of the services of contractors[128] to provide life support, security services and skills transfers, although this has not come without criticism.[129]

4. Tensions with the use of contractors

The application of principal-agent (P-A) theory provides useful insights as to why states contract out work rather than relying on their own militaries to provide services to build partner capacity. P-A theory structures incentives for contracting firms (the agent), through which the sponsoring government (the principal) can take actions that affect the incentives of the agent to act in one way or another.[130] Different types of P-A models may address either a moral hazard or hidden action or might consider adverse selection or hidden information.[131]

If the agent has taken an action that affects the principal's utility, the principal and agent have different interests and preferences over the agent's actions and the principal may no longer be able to directly control the agent's actions then this is a moral hazard problem. In circumstances with asymmetric access to information between the principal and the agent, it is an information problem in which agents may pursue strategies to increase their own benefits. In information problems, there is asymmetric access to information between the principal and the agent. Here, agents may pursue opportunistic strategies to increase their own benefits. Both of these

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[128] See Anne-Marie Buzatu and Benjamin S. Buckland, Private Military & Security Companies: Future Challenges in Security Governance, DCAF HORIZON 2015 WORKING PAPER NO.3, The Geneva Centre for the Democratic Control of Armed Forces (DCAF), (2015). https://ciaotest.cc.columbia.edu/wps/dcaf/0033102/f_0033102_26953.pdf.

[129] See Tom de Groot and Salvador Santino F. Regilme, Jr., 'Private Military and Security Companies and The Militarization of Humanitarianism'. *Journal of Developing Societies*, *38*(1), 50-80, (2022). https://doi.org/10.1177/0169796X211066874.

[130] Whitney Grespin, 'The Problem Is the Contract, Not the Contractor', Inkstick, 2022, https://inkstick-media.com/the-problem-is-the-contract-not-the-contractor/.

[131] Jean-Jacques Laffont and David Martimort, *The Theory of Incentives: The Principal-Agent Model,* (Princeton: Princeton University Press, 2015), 3-4 and Sean Gailmard, 'Accountability and Principal-Agent Models', (August, 2012, 4). https://www.law.berkeley.edu/files/csls/Gailmard_-_Accountability_and_Principal-Agent_Models(2).pdf.

types of hazards are critical for contracting authorities to understand and avoid.[132]

There is also a risk that firms may be underqualified or unreliable, a risk that is increased through the 'lowest price technically acceptable' (LPTA)[133] award practice instead of selecting based on the best value continuum.[134] In short-term contracting, the selection of poor agents results in high transaction costs for correction. This is somewhat less problematic in long-term contracting, as the principal has a general authority to direct (or redirect) the work of the agents, but still risks significant inefficiency.[135] In sum, given that contingency contracting firms do not have interests that are identical to those of their sponsors, the more that contracting firms are relied on to execute state policies, the more vulnerable the sponsor becomes to having firms pursue their own interests. This misalignment of interests between the contracting firm surrogate and the state sponsor is important given that contractor actions can and have incurred major agency loss and reputational damage[136] that have limited their contributions to the achievement of sponsor objectives. Avant and Neu document that abuses have been perpetrated by private contractors on nearly every continent.[137]

The Blackwater Nisour Square massacre of 2007[138] and more recent widespread

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[132] Ibid.

[133] See Federal Acquisition Regulation',15.101-2 Lowest Price Technically Acceptable Source Selection Process', Acquistion.gov, General Services Administration, accessed October 4, 2020. https://acquisition.gov/far/15.101-2.

[134] See Federal Acquisition Regulation, '15.101 Best Value Continuum', Acquisition.gov, General Services Administration, accessed October 4, 2020. https://www.acquisition.gov/far/15.101/.

[135] Jan-Erik Lane, 'The Principal-Agent Approach to Politics: Policy Implementation and Public Policy-Making', *Open Journal of Political Science*, 3, 85-89 (2013). DOI: 10.4236/ojps.2013.32012.

[136] For example, events such as the 2007 Nisour Square Massacre, wherein 'Blackwater security personnel shot and killed 17 Iraqi civilians have found that at least 14 of the shootings were unjustified and violated deadly-force rules in effect for security contractors in Iraq, according to civilian and military officials briefed on the case'. David Johnston and John Broder, 'F.B.I. Says Guards Killed 14 Iraqis Without Cause', *The New York Times*, November 14, 2007, https://www.nytimes.com/2007/11/14/world/middleeast/14blackwater.html.

[137] Deborah Avant and Kara Kingma Neu, 'The Private Security Events Database'. *Journal of Conflict Resolution*, *63*(8), 1986–2006, (2019). https://doi.org/10.1177/0022002718824394.

[138] Katia Snukal and Emily Gilbert, 'War, law, jurisdiction, and juridical othering: private military security contractors and the Nisour Square massacre'. *Environment and Planning D: Society and Space*, *33*(4), 660–675, (2015). https://doi.org/10.1177/0263775815598077.

abuses by the Wagner Group[139] have deservedly generated denunciations. International law applies to these companies in addition to the legal code of the company's home state, as well as parameters outlined in the bilateral or multilateral agreements of the sponsoring government and the host nation.

5. Industry regulation

Although well-behaved contractors rarely make the news,[140] communities within the legitimate contingency contracting industry have taken steps to differentiate their services from those of less professional offerors.[141]

For example, the International Code of Conduct Association[142] (ICoCA) and the Montreux Document on Private Military and Security Companies[143] (International Committee of the Red Cross) provide the opportunity for good faith corporate actors to excel by certifying adherence with best business guidance and ethical practices.

The US-based ISOA[144] and UK-centric Security in Complex Environments Group

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[139] UN, 'CAR: Russian Wagner Group harassing and intimidating civilians – UN experts', (2021). https://www.ohchr.org/en/press-releases/2021/11/car-russian-wagner-group-harassing-and-intimidating-civilians-un-experts; US Department of the Treasury 'Treasury Sanctions Illicit Gold Companies Funding Wagner Forces and Wagner Group Facilitator', (2023). https://home.treasury.gov/news/press-releases/jy1581#:~:text=The%20United%20States%20has%20sanctioned,across%20multiple%20countries%20in%20Africa.

[140] Whitney Grespin, 'Well-Behaved Defense Contractors Seldom Make History', *War on the Rocks*, (April 21, 2016). https://warontherocks.com/2016/04/well-behaved-defense-contractors-seldom-make-history/.

[141] See Whitney Grespin, 'The Evolving Contingency Contracting Market: Private Sector Self regulation and United States Government Monitoring of Procurement of Stability Operations Services'. U.S. Army War College. 2016. https://apps.dtic.mil/sti/citations/AD1004033.

[142] ICoCA (International Code of Conduct Association). 'The Code'. Accessed 20 February 2021. https://icoca.ch/the-code/.

[143] ICRC (International Committee of the Red Cross), 'The Montreux Document on Private Military and Security Companies', (2020). https://www.icrc.org/en/publication/0996-montreux-document-private-military-and-security-companies#:~:text=The%20Montreux%20Document%20is%20the,are%20present%20in%20armed%20conflicts.

[144] 'ISOA continues to be the only association representing the stability sector exclusively – those companies and organizations whose work lays the foundation for long term stability and growth in the world's most unstable places. We serve the implementing community, providing member services focused on contracting, partnerships, regulatory and legal developments, research initiatives, policy movement, and whatever else our members deem important. We exist to serve our membership'. See International Stability Operations Association, accessed February 20, 2021, https://stability-operations.org/.

(SCEG)[145] also offer venues for best practice exchange and pursuit for industry actors. A standard of quality has also been established by the American National Standards Institute and ASIS International. "This standard builds on the Montreux Document and the International Code of Conduct for Private Security Providers to provide requirements and guidance for a management system with auditable criteria for quality of private security company operations, consistent with respect for human rights, legal obligations and good practices related to operations of private security service provider companies in conditions where governance and the rule of law have been undermined by conflict or disaster. It provides auditable requirements based on the Plan-Do-Check-Act model for third-party certification of private security service providers working for any client".[146]

Both ICoCA and ISOA have public complaint mechanisms where users can flag problematic activities for further investigation. These efforts are also relevant to NATO as it emerges from NATO Building Integrity Policy (2016)[147] and NATO Military Concept for Building Integrity in Operations (2021)[148], which highlight how corruption and mismanagement affect stabilization missions and collective defence scenarios.

At the urging of these communities of practice, clients across multiple sectors may require ICoCA certification in the selection of their service provider and recognise signatories of the Montreux Document as being compliant with relevant international legal obligations and good practice. Company pursuit of these measures exemplifies the good faith efforts of contracting firms to provide quality of

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[145] See SCEG (Security in Complex Environments Group), 'From the UK Government Foreign Travel Advice: Ukraine'. https://www.sceguk.org.uk/.

[146] See ANSI-ASIS, 'American Traditional Standard', (2012). https://webstore.ansi.org/preview-pages/ASIS/preview_ANSI+ASIS+PAP.1-2012.pdf .

[147] NATO BI, "NATO Building Integrity Policy", (July 2016) 2.3.2 - NATO Building Integrity Policy_en.pdf. https://www.nato.int/nato_static_fl2014/assets/pdf/2021/3/pdf/1612-BI-Policy-en.pdf.

[148] NATO SHAPE, 'Building Integrity in Operations', (Allied Command Operations Handbook, 2020), https://shape.nato.int.

service that is above and beyond bidding requirements because there is no expectation of remuneration for these efforts.

However, recent activities and atrocities on the part of entities operating outside the professionalised industry have continued to overshadow the good deeds of members of the legitimate industry. Some such examples include:

• Malhama Tactical assembled a 'consortium of elite, well-paid fighters from across the former Soviet Union'[149] to train jihadis in Syria. In February 2024, a Manhattan jury found a woman guilty of having provided thousands of dollars to Malhama Tactical, which is reported to have 'fought alongside Hayat Tahrir al-Sham, a jihadist group designated a terrorist organisation by the State Department'.[150]

• The United Nations' Office of the High Commissioner for Human Rights (OHCHR) asserted in 2021 that, '[c]ivilians, including peacekeepers, journalists, aid workers and minorities in the Central African Republic (CAR) have been violently harassed and intimidated by so-called 'Russian instructors' from the Wagner Group'.[151] Subsequent reporting alleged that the group 'committed war grimes and crimes against humanity',[152] while other reports highlight that Wagner's African hosts regret engaging with them.[153]

• Russia's Organisation of the Main Intelligence Administration (GRU) is al-

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[149] See Rao Komar, Christian Borys, and Eric Woods, 'The Blackwater of Jihad', *Foreign Policy*, (2017). https://foreignpolicy.com/2017/02/10/the-world-first-jihadi-private-military-contractor-syria-russia-malhama-tactical/.

[150] Jonah E. Bromwich. 'Manhattan Woman Convicted of Using Crypto to Fund Terror Groups in Syria'. *New York Times*, (February 2024). https://www.nytimes.com/2024/02/01/nyregion/nyc-crypto-syria-terrorism.html.

[151] UN, 'CAR: Russian Wagner Group harassing and intimidating civilians – UN experts', (2021). https://www.ohchr.org/en/press-releases/2021/11/car-russian-wagner-group-harassing-and-intimidating-civilians-un-experts.

[152] Africa Defense Forum (ADF), 'Evidence Mounts of Wagner Group Atrocities in the CAR', *AFD Magazine*, (2022). https://adf-magazine.com/2022/05/evidence-mounts-of-wagner-group-atrocities-in-the-car/.

[153] Jack Detsch, 'Wagner's African Hosts Regret Letting Them In', *Foreign Policy*, (2023). https://foreignpolicy.com/2023/09/25/wagner-africa-mali-libya-car-prigozhin-putin-russia/.

legedly using a fictitious private military company as a front to recruit and deploy soldiers for the Kremlin's war in Ukraine.[154] The entity known as Redut is a recruitment system for combat units that is coordinated and funded by the Russian military, in particular its GRU intelligence agency.

Unlike Russian entities[155] which have achieved a notorious reputation in the West, Chinese companies receive only occasional coverage in Western media, but as China's presence and influence and congruent use of contractors to provide physical security grows along the various routes of the Belt and Road Initiative, so too does the number of challenges it will face.[156]

6. Conclusion

Over recent decades, contractors personnel have become embedded in the ecosystems of national security and international stability. The use of contractors to provide SFA and related institutional capacity building affects state actors and international organisations such as the UN, multinational corporations and individual citizen interests.

Understanding the spectrum of these actors and appreciating the discrepancies in their limitation or freedom of engagement – permissions that might superficially appear similar – is foundational to understanding not only what activities these entities might undertake, but how they can be expected to perform in the operating environment. It is the responsibility of the sponsoring government to understand the true nature of the entity that they are hiring to operate within their borders and to direct their activities thoughtfully.

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[154] See Schemes and Systema, 'How Russia's GRU Set Up A Fake Private Military Company For Its War In Ukraine', *RadioFreeEurope RadioLiberty*, (2023). https://www.rferl.org/a/russia-gru-fake-private-military-company-ukraine-redut-investigation/32630705.html.

[155] Including other entities with quasi-PMC characteristics; see https://www.rferl.org/a/russia-other-mercenary-companies-ukraine/32424520.html.

[156] See the extensive work of the Jamestown Foundation on this topic at https://jamestown.org/programmes/gbr/.

The following considerations might be explored for policy development to improve outcomes of the practice of hiring contractors to support SFA endeavours:

• Conducting consultations with industry experts and good faith actors during strategic and policy development related to the use of contractors can mitigate problematic engagements.

  ○ Given the different interests between state and non-state security actors and the risk of agency loss and reputational damage, the clarity of state permissions to private actors is critical.[157]

  ○ Efforts to improve the selection, management and evaluation of contractors require sponsors, industry and international organisation coordination.

  ○ Procurement officials might seek to better understand the extent to which their dependence on imperfect information is problematic for contract design and how to better mitigate information asymmetries. Improved programme design and deliverable requirements would benefit all stakeholders.[158]

• Ensuring free speech protections for investigative media reporting and required past performance histories in bidding procedures may reduce the uncertainty about hiring specific firms.

  ○ Transparency reduces the likelihood of adversely selecting a poor-performing agent.[159] Requiring these components improves the sponsor's bargaining position throughout the contracting process.

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[157] Whitney Grespin. 'The Contractor Continuum of Security Actors in Africa: From Mercenary Activity to Industry Support Organizations' Roles in Regime Reinforcement'. *IPSS*, (2023).

[158] Whitney Grespin. 'How the United States military can improve its use of contingency contractors'. *International Affairs*, (12 August 2021). https://medium.com/international-affairs-blog/how-the-united-states-military-can-improve-its-use-of-contingency-contractors-34f58cce4f86.

[159] Based on experience, USG solicitations often require comprehensive 'past performance' narratives and references to allow for vetting of firms prior to contract award.

- Identifying 'lessons learned' to address shortcomings in contracted assistance is a necessary and ongoing process.

  ○ This is complementary to improving contract oversight or management practices via improved monitoring and evaluation.

  ○ Increased conditionality imposed on the agent by the principal might also address asymmetries by ensuring that contracted entities do not misconstrue the permissions and responsibilities delegated to them by the sponsoring state.[160]

  ○ Principals seeking to limit the negative potential consequences of contracting may restrict the types of services they procure/authorise.

- Governments should invest in cultivating a cadre of specialised contracting personnel who understand both the particularities of the environments their programmes are operating in, and the business side of the services that they're soliciting.[161]

  ○ Sponsors might explore how companies can be incentivised to work themselves out of a project or whether engaging specialised non-profit organisations might be more appropriate than the retention of for-profit firms, given their general organisation and operation for a collective, public or social benefit.

  ○ This reorientation of agents working to put themselves out of business via the handover of capability primacy to host nation personnel might counter the criticism of contractors seeking mission expansion and improve programme outcomes.[162]

  ○ LPTA procurement practices should be limited, with a preference for a 'best value' award system.

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[160] Whitney Grespin. 'The Problem is the Contract, not the Contractor'. *Inkstick Media*, (28 January 2022). https://inkstickmedia.com/the-problem-is-the-contract-not-the-contractor/.

[161] Whitney Grespin. 'How the United States military can improve its use of contingency contractors'. *International Affairs*, (12 August 2021). https://medium.com/international-affairs-blog/how-the-united-states-military-can-improve-its-use-of-contingency-contractors-34f58cce4f86.

[162] Whitney Grespin. 'How the United States military can improve its use of contingency contractors'. International Affairs. 12 August 2021. https://medium.com/international-affairs-blog/how-the-united-states-military-can-improve-its-use-of-contingency-contractors-34f58cce4f86.

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PART II

Navigating the Post-Conflict Environment

CHAPTER IV

Jay Balagna, Khrystyna Holynska and Krystyna Marcinek

TRADE-OFFS OF RECONSTRUCTION
IN A POST-CONFLICT ENVIRONMENT

Abstract

This chapter highlights lessons from disaster scholarship and past recovery examples to inform post-war rebuilding, approaching the results of the armed conflict as a nationwide disaster. As such, it contributes to the ongoing discussion on lessons for the international community in strengthening post-conflict stabilization and reconstruction efforts. We examine the risks, vulnerabilities and shortcomings accompanying all reconstruction decisions: when to start; how to prioritise people, locations and other projects; who should take the lead in directing reconstruction efforts; and who should fund reconstruction. Using Ukraine as an example, we explore how, given the magnitude of community and economic damage Ukraine has endured, recovery stands as an immense challenge requiring careful consideration and good governance. We pair this deep dive into the Ukrainian case study with additional, less-detailed examples to show the applicability of the ideas in other settings. Understanding these trade-offs embedded in recovery choices in this case or any other cases of post-conflict reconstruction can improve the quality of decisions and contribute to the process's transparency and integrity, supporting national unity and trust in the government and civil society.

Keywords: recovery, post-disaster, post-conflict, disaster risk reduction, Ukraine.

1. Introduction

Any undertaking as complex as post-conflict or post-disaster recovery will inevitably face a series of decisions, each with its own sets of decisions: someone's home will be rebuilt first; someone's business chosen over another for construction contracts; someone will pay the bill. Even the most well-meaning and competent of actors make plans that will benefit some over others. The fact that this landscape of uneven benefit is the norm also creates ample cover for grift, fraud and corruption from less-well-meaning actors. When the reasons for these trade-offs are not made clear to stakeholders and motives are not adequately explained, the risk of corruption escalates. Sceptical observers might suspect such malpractice hiding behind even the best of decisions.

It is therefore prudent for decision-makers to conceptualise and communicate the reasons for recovery decisions in a way that fully captures their inherently trade-off-laden natures. Doing so creates a culture of transparency that both fights corruption by shining light on where and why good decisions might be made and fights the perception of corruption by allowing sceptical actors to see the logic behind various choices. Disaster scholarship literature offers insights into the types of decisions and trade-offs. Findings from the disaster risk reduction (DRR) tradition that focuses on the nexus with conflict show that both disasters and violent conflict share intertwined causal pathways with risk and vulnerability both forming in similar ways.[163] Disaster researchers have long viewed conflict as within their academic remit, seeing it as a damaging event like many others that affects particularly vulnerable groups more than those insulated by position, privilege or circumstance. This body of literature therefore stands as a rich source of potential lessons on post-conflict recovery dynamics.

This turn to DRR scholarship brings with it a fundamental focus on the concept

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[163] Laura E. R. Peters, 'Beyond Disaster Vulnerabilities: An Empirical Investigation of the Causal Pathways Linking Conflict to Disaster Risks', *International Journal of Disaster Risk Reduction* 55 (1 March 2021): 102092, https://doi.org/10.1016/j.ijdrr.2021.102092.

of vulnerability as the driving force behind risk creation. Any disaster risk is derived from the interaction of a hazard which could be a natural event such as a storm, a technological event such as a power grid failure, or widespread violence such as that from armed conflict and the underlying social vulnerability in a community. Expressed through the pseudo-equation Risk = Hazard x Vulnerability, such an understanding fundamentally recognises that while certain hazards such as wars, storms or accidents might be unpredictable or even unpreventable, their occurrences are only disastrous when the communities they strike are sufficiently vulnerable.[164]

It is from this focus on vulnerability and examples of key policymakers around the world making choices with it in mind in recent decades[165] that we derive the following depiction of key decision spaces. This construct is a refinement of existing analysis and critiques of concepts such as resilience offered as replacements or augmentations to the fundamental idea of vulnerability described above.[166] It was first published in 2023[167] in analysis of the early stages of recovery in Ukraine. We refine our description of the decision space here and dive deeper into the Ukrainian example to show its applicability in conflict- and post-conflict settings. We also offer additional examples of conflict-affected and post-

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[164] Ben Wisner et al., *At Risk: Natural Hazards, People's Vulnerability and Disasters - 2nd E*, 2nd Edition (London: Routledge, 2004), https://www.routledge.com/At-Risk-Natural-Hazards-Peoples-Vulnerability-and-Disasters/Blaikie-Cannon-Davis-Wisner/p/book/9780415252164.

[165] Glenn Fernandez and Iftekhar Ahmed, ''Build Back Better' Approach to Disaster Recovery: Research Trends since 2006', *Progress in Disaster Science* 1 (1 May 2019): 100003, https://doi.org/10.1016/j.pdisas.2019.100003.

[166] Susan L Cutter, 'Resilience to What? Resilience for Whom?', *The Geographical Journal* 182, no. 2 (2016): 110–13, https://doi.org/10.1111/geoj.12174. Raven Cretney, 'Resilience for Whom? Emerging Critical Geographies of Socio-Ecological Resilience', *Geography Compass* 8, no. 9 (2014): 627–40, https://doi.org/10.1111/gec3.12154. Sara Meerow and Joshua P. Newell, 'Urban Resilience for Whom, What, When, Where, and Why?', *Urban Geography* 40, no. 3 (16 March 2019): 309–29, https://doi.org/10.1080/02723638.2016.1206395.

[167] Holynska, Khrystyna, Jay Balagna, and Krystyna Marcinek. 'The Trade-Offs of Ukraine's Recovery: Fighting for the Future'. RAND Corporation, May 2, 2023. Khrystyna Holynska, Jay Balagna, and Krystyna Marcinek, 'The Trade-Offs of Ukraine's Recovery: Fighting for the Future' (RAND Corporation, 2 May 2023), https://www.rand.org/pubs/research_reports/RRA2370-1.html.

conflict settings that provide additional insight and evidence of these ideas' applicability in a variety of scenarios.

The decision space, shown below in Figure 1, breaks down recovery into a series of four deceptively simple questions. It is in transparency around these four questions – when and how fast recovery should take place; who directs said recovery; who, where and what should be said recovery focus on first; and who pays for recovery – that we see the opportunity for transparent, just decision-making. In our explanations below of each quadrant in the decision space, we demonstrate that all four depict fundamental questions all disaster and conflict recovery plans must answer with trade-offs inherent in any path chosen.
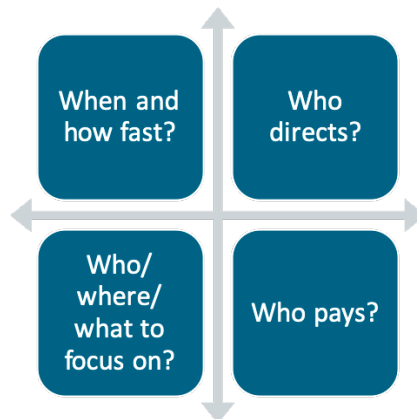
Figure 1: The recovery decision space as published in Holynska, Balagna, and Marcinek 2023 as part of analysis during the conflict's early stages.

When turning to this decision space, we also argue that the existence of trade-offs should not imply that some recovery pathways are better than others. The fact that someone will be helped more than their neighbours or helped first does not mean that the plan is inequitable. However, by making clear choices with the trade-offs brought to the forefront of decision-making processes, planners can ensure that the most vulnerable – those with the most need following an event or at the most risk in the face of the next one – are at the centre of choices made.

Finally, we see the decision space and the insight it holds for key stakeholders and decision-makers as a core element of the promotion of law and good governance falling in line with lessons from the organisation's publications guiding the addressing of corruption in post-conflict situations.[168]

2. Decision Spaces

2.1 When and how fast?

The first of the decision space's four quadrants presents a series of trade-offs related to the speed and timing of any recovery effort. As with many conflicts, the timelines of disaster are long. Disasters are not acute events but rather long histories of social and community vulnerability that meet a hazard incidence with effects that reverberate long thereafter. Referred to with terms such as 'slow disaster',[169] this conceptualisation paints grey marks, rather than stark dashes on the timeline of any event. The beginning and end of a disaster are hard to pin down and answers about when to begin any recovery efforts are unclear.

Certain aspects such as short-term emergency sheltering, the reestablishment of minimum standards of medical care and food and water provision should, obviously, be pursued as quickly as possible. In more foreseeable events such as drought or conflict, this might mean that some recovery efforts should begin even before a triggering event ends. For the more permanent aspects of recovery, using an earthquake as an example, it might not make sense to begin the reconstruction of housing or the relocation of displaced people back to their homes until the

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[168] Valli, Laura. 2021. 'Addressing Corruption in Post-Conflict Situations'. In *Promoting the Rule of Law and Good Governance: SFA Implication in International Initiatives*, edited by Ludovica Glorioso (Rome: NATO SFA COE, 2021), 173-189. Laura Valli, 'Addressing Corruption in Post-Conflict Situations', in *Promoting the Rule of Law and Good Governance: SFA Implications in International Initiatives*, Edited by Ludovica Glorioso (Rome: NATO SFA COE, 2021), 173–89, https://www.nsfacoe.org/wp-content/uploads/2021/09/Promoting-the-Rule-of-Law-and-Good-Governance.-SFA-Implications-in-International-Initiatives..pdf.

[169] Scott Gabriel Knowles, 'Slow Disaster in the Anthropocene: A Historian Witnesses Climate Change on the Korean Peninsula', *Daedalus* 149, no. 4 (1 October 2020): 192–206, https://doi.org/ 10.1162/ daed_a_01827.

damaged infrastructure has been repaired. Delaying community-focused recovery efforts until roads and other support systems are fixed means a slower, longer timeline than other options might bring. However, such an order carries obvious benefits by facilitating the movement of people and goods and ensuring important utilities are available.

In addition to slowing community timelines, though, the trade-off of prioritising infrastructure repair also facilitates commerce and might even directly benefit those who own or operate the infrastructure in question. Without fully describing the reasons for this ordering and pursuing it as part of a comprehensive plan focused on helping vulnerable communities, such a choice might appear corrupt to some observers. A clear description of the trade-offs and why plans are chosen helps to fight this impression.

Trade-offs around the timing of recovery are also deeply important in times of conflict. In cases of territorial gains or losses, the return of displaced populations to their communities of origin can signal a return to normalcy after victory. Elongating timelines in such cases can thus risk weariness in a population losing patience with the conflict and even exacerbate the psychological and cultural impacts of war.

2.2 Direction of efforts

The second quadrant of the decision space carries questions of sovereignty and community control. Disaster recovery, whether following a natural hazard event or a war, is among the fundamental charges of modern nations and these recovery efforts decide the future shapes of states and communities. However, recovery decisions are not always made by actors commonly seen as those holding sovereign authority; for example, debates have raged for years as to whether states should be compelled to accept humanitarian aid following a disaster, quite literally taking decision-making power about recovery efforts away from sovereign

governments and placing it instead with the international community.[170] Even in less extreme cases, local governance structures might themselves be unstable or unable to lead following a disaster.

Additionally, far-off actors such as central governments, neighbouring states or even foreign adversaries might offer needed assistance with strings attached. In many cases, outside leadership or direction might be warranted and even welcome but without a clear understanding of who is making decisions and to what ends they are being made, recovery plans can seem like shadowy attempts to exert control. Building transparency, regardless of the choices made, helps to establish accountability for actors and to avoid subversive or corrupt attempts to use recovery as a tool of political competition. These trade-offs around sovereignty are important in the case of conflict, specifically. Is a war over territorial sovereignty, for example, truly won if the victorious power must turn over decision-making power on recovery and rebuilding efforts to foreign funders or even allies?

2.3 Who, where and what to focus on

The decision space's third quadrant brings focus to the targets of any recovery effort. Even the quickest, most expansive recovery efforts must include prioritisation decisions. Natural hazard events are often structured around exposure and vulnerability. Homes and businesses in repetitive flood zones, for example, might not be rebuilt as was with relocation taking on a higher priority in plans and rebuilding efforts instead aimed at other affected areas. Such efforts might be conceptualised as a focus on future hazard incidence or building resistance to the unknowns brought on by anthropogenic climate change. In such cases, the slow timeline of disaster is apparent. Though a single storm might have passed, the

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[170] Williams, Sarah. 2017. 'Humanitarian Assistance and Changing Notions of State Sovereignty'. Netherlands International Law Review 64 (1): 183–87. Sarah Williams, 'Humanitarian Assistance and Changing Notions of State Sovereignty', *Netherlands International Law Review* 64, no. 1 (1 April 2017): 183–87, https://doi.org/10.1007/s40802-017-0074-5.

underlying vulnerabilities of the built environment to flooding and the potential that conditions will worsen in the future drive decision-making as if the disaster is still ongoing. However, the flooded areas are those in most need of recovery attention. The trade-off of focusing efforts on places outside the most affected area of the ongoing disaster means more efficient recovery that potentially leaves some of the most vulnerable behind. These same decision processes exist in cases of conflict. Though fighting might have moved on from an area, there is no guarantee it will not return. However, areas close to a front line are those same areas that are most in need of recovery efforts and attention. Directing attention to places far from the fighting that are the most secure means that efforts will not be undone if that front line shifts but risks leaving the most affected behind. Without clear, explained reasoning for any choice made in this space, there is a risk of corrupt actors far from the places most in need siphoning recovery resources or the perception from a sceptical public that efforts are wasted on areas still in danger.

2.4 Financial responsibility

Finally, the fourth portion of the decision space illustrates the importance of where funding for recovery efforts comes from. Related to the discussions above about control and sovereignty in decision-making, funding often comes with stipulations or requirements. There are also elements of justice inherent in the choices within this quadrant of the decision space. Certain communities might, for example, bear certain burdens of industrial activity or worsening weather activity without having enjoyed the benefits or economic gains from the actions that created their vulnerability. It might be expected that others pay for recovery efforts as a matter of environmental justice.

Such concerns are even more salient in examples of conflict. Those in invaded or damaged territories might view it as an ethical imperative that the invading actors pay for recovery.

3. The Decision Spaces on the Ground

On February 24, 2022, Russia launched its invasion of Ukraine. With no end in sight, the price Ukraine has already paid is enormous. Thousands have been killed or injured; millions have been displaced.[171] Economic damage estimates are measured in hundreds of billions of dollars with the number still rising as this is written.[172]

Although the war grinds on, post-conflict reconstruction has been at the centre of attention since its early days. As Ukraine's sovereignty and nationhood are at stake, the successes and failures of the reconstruction can be powerful weapons, shaping the perceptions of the populations of both Ukraine and Russia, as well as the international community. Restoring the destroyed infrastructure and bringing back the quality of life Ukrainians had before the war is important, but rebuilding Ukraine holds great significance beyond that. This is a one-time opportunity for the country and the West supporting it to invigorate the democratic aspirations of the Ukrainian people and build, transparent and sustainable institutions based on the rule of law.

From this perspective, Ukraine can serve as an illustrative case study, highlighting the importance of transparency in reconstruction. Its ability to publicly acknowledge the trade-offs and remain fully open about the winners and losers of each decision made can become an explanatory example of how to address reconstruction. Ukraine can draw lessons from the DRR literature on navigating the decision space it enters when developing and implementing its recovery plans.

This section will outline the trade-offs that Ukraine faces in each quadrant and underscore why efforts to mitigate them should focus on embedding transparency.

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[171] UN News. ''Grim Milestone' as Ukraine War Reaches 500-Day Mark', July 7, 2023.https://news.un.org/en/story/2023/07/1138442.

[172] World Bank. 'Updated Ukraine Recovery and Reconstruction Needs Assessment', March 23, 2023. https://www.worldbank.org/en/news/press-release/2023/03/23/updated-ukraine-recovery-and-reconstruction-needs-assessment.

3.1 When and how fast?

Two days after Russian troops crossed the border, Ukraine's President Volodymyr Zelenskyy declared the determination to rebuild all that had been destroyed and bring normalcy to the Ukrainian people.[173] Such early recovery has been somewhat controversial in many conflict situations. In countries such as Syria, humanitarian aid is sometimes treated as hindering the efforts for a political settlement.[174] The use of these resources can raise questions around whether such support disincentivises encouraged governments to adopt necessary reforms. In some countries, despite the will of the providers, aid can be spent on major infrastructure projects beyond immediate needs without any oversight.[175] While these issues are less likely to apply to Ukraine, the trade-off between immediate restorative goals and an intent to use this opportunity to build for the future and not simply rebuild the past is a pertinent one.

From the first days of the war, the world witnessed the Ukrainian population's resolve to restore their communities, from clearing the rubble to restoring businesses, schools and major infrastructure.

These intentions and initiatives received support from national and local governments and international donors. However, with the war continuing, there remains a great deal of uncertainty about the future. Ukrainians continue to fear waning attention from the international community and increasing domestic political costs for foreign leaders providing support.[176] Food insecurity, rising inflation and energy uncertainty intermittently take over these supporters'

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[173] Official website of the President of Ukraine. 'We Withstood: Address by the President of Ukraine on the Third Day of the War', February 26, 2022. https://www.president.gov.ua/en/news/mi-vistoyali-zvernennya-prezidenta-ukrayini-u-tretij-den-vij-73197.

[174] Samy Akil and Dr. Karam Shaar, 'The Politics of Early Recovery Aid in Syria. Is It Actually Reconstruction Aid?', *Atlantic Council* (blog), 8 February 2022, https://www.atlanticcouncil.org/blogs/menasource/the-politics-of-early-recovery-aid-in-syria-is-it-actually-reconstruction-aid/.

[175] Ibid.

[176] Ellen Francis and Annabelle Timsit, 'As Prices Rise, Europeans Divided over How Ukraine War Should End', *Washington Post*, 15 June 2022, https://www.washingtonpost.com/world/2022/06/15/ukraine-war-support-inflation-europe-poll-yougov/.

agendas.[177] This might push Ukrainians to pursue opportunities while they are available, even if the uncertainty of war can make many such available opportunities suboptimal or even futile.

Neither can Ukraine afford to lose the millions of refugees and internally displaced people who are unlikely to return if some semblance of normalcy has been restored.[178] A high number of those returning to their homes bring with them higher demands for services, starting with basic needs like shelter, schools and medical care. As shelling and attacks continue, transparency about the prioritisation of reconstruction options can reduce uncertainty and increase trust. Simply speaking, if a school is to be rebuilt now, the money might be spent on an air raid shelter as opposed to a well-equipped science lab that could have been created if the school were to be rebuilt when the peace is fully restored. But having an operating school now, even one built differently from the peacetime ideal, can bring life back to a community, build residents' skills, and boost its recovery. Many Ukrainians have no resources to rely on while waiting and no skills to adjust to a fluid war economy. Thus, transparency about reconstruction decisions and clear communication about rationales and anticipated timelines are crucial for ensuring that rebuilding goes beyond transforming rubble back into cities and contributes to making Ukraine's government, economy and society more sustainable and resilient.

3.2 Control and direction

In the case of Ukraine's reconstruction, the most important decision is who is to direct it. The literature actively debates possible scenarios ranging from full in-

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[177] Yuriy Lukanov. 'Sentiment in the USA. Who and How Supports Ukraine and Why Are the Trumpists Against It [Настрої в США. Хто і як підтримує Україну і чому трампісти проти]'. Texty.org.ua, August 9, 2023. https://texty.org.ua/articles/110367/nastoroyi-v-ssha-hto-i-yak-pidtrymuye-ukrayinu-i-chomu-trampisty-proty/.

[178] UNHCR Ukraine. 'Majority of Displaced Ukrainians Plan or Hope to Return Home as War Hits 500-Days Mark', July 10, 2023. https://www.unhcr.org/ua/en/59293-unhcr-intensions-survey.html#:~:text=As%20the%20full%2Dscale%20war,)'s%20latest%20survey%20reveals.

ternational control over the process to empowering the agents closest to the disaster with minimal donor oversight.

The Ukrainian government has already been involved in various initiatives to collect and assess needs, presenting its vision and plans at international high-level conferences and starting various immediate-term solutions.[179] Implementation of such a large-scale recovery effort requires the expertise that some local communities might lack and situational awareness that the international community might not fully possess. However, the government has also developed suggestions for oversight mechanisms involving the international community and representatives of Ukrainian civil society while declaring its openness to further improvements and increasing capacity.

Despite the ongoing war, Ukraine's anticorruption initiatives are actively progressing. High-level officials are being dismissed or prosecuted for reported violations, ensuring accountability at the top levels of government.[180] The digitalization of reconstruction processes has been exemplified by the systems such as eRecovery and Digital Restoration EcoSystem for Accountable Management (DREAM)[181] Additionally, local officials are receiving anticorruption and compliance training to enhance their ability to manage resources transparently.[182] At the time of writing, the Ukrainian government still enjoyed unprecedented trust and support from the population.[183] The public, including typically

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[179] For example, at Ukraine Recovery Conferences held in July 2022 in Lugano, Switzerland, and in June 2023 in London, UK. Ukraine Recovery Conference. 'URC 2023 Info'.. https://www.urc-international.com/urc-2023-info.

[180] Dan Peleschuk, 'Ukraine's Anti-Graft Police Zero in on Major Wartime Corruption', *Reuters*, 21 August 2023, sec. Europe, https://www.reuters.com/world/europe/ukraines-anti-graft-police-zero-major-wartime-corruption-2023-08-21/.

[181] "eRecovery: Financial Assistance From the State for Repairing Housing Damaged by Hostilities (єВідновлення — Грошова допомога від держави на ремонт житла, пошкодженого через бойові дії)," accessed September 5, 2024, https://erecovery.diia.gov.ua/; "DREAM," accessed September 5, 2024, https://dream.gov.ua/.

[182] "Prevention of Corruption (Запобігання корупції)," Ministry of Infrastructure of Ukraine, accessed September 5, 2024, http://mtu.gov.ua/timeline/Protidiya-korupcii.html.

the most vocal civil society institutions, are united in their belief that the current government should continue to lead the country during the war, even though normally scheduled elections in 2024 did not take place.[184] The government can use this mandate to implement much-needed reforms, increase transparency and fight corruption so that, once the reconstruction enters its most active phase, it is fully equipped to return to peacetime democratic standards.

This puts Ukraine in a different position than some other areas affected by conflict. For instance, in Yemen, the government's rebuilding efforts proved inefficient, so the need for an international body overseeing the reconstruction was clearly articulated.[185] In Syria, local communities stepped up in the face of the threat to protect their inhabitants and continue operating. Thus, more targeted support for their efforts to rebuild resilient towns and cities was believed to be beneficial.[186] Otherwise, the reconstruction process might be used for political gains or not reflect the most urgent needs at a local level.[187] In Ukraine, the reconstruction process itself has the potential to have lasting effect by strengthening the capacity of the country's government at all levels and embedding transparency into its processes and procedures. Since this war is an existential threat to Ukraine's sovereignty and nationhood, a working formula combining Western oversight and expertise, local awareness about needs and priorities, and

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[183] Emilia James. 'IRI Ukraine Poll Shows Strong Confidence in President Zelensky, a Surge in Support for NATO Membership, Russia Should Pay for Reconstruction'. International Republican Institute, March 22, 2023. https://www.iri.org/news/iri-ukraine-poll-shows-strong-confidence-in-president-zelensky-a-surge-in-support-for-nato-membership-russia-should-pay-for-reconstruction/.

[184] Oleg Sukhov, 'Why Ukraine Likely Won't Hold Elections next Year', *The Kyiv Independent*, 28 September 2023, https://kyivindependent.com/holding-elections-during-full-scale-war-doesnt-make-sense-experts-say/.

[185] https://www.rand.org/pubs/research_reports/RRA733-1.html. Daniel Egel et al., 'Building an Enduring Peace in Yemen: Lessons from Five Years of RAND Research' (RAND Corporation, 22 February 2021), https://www.rand.org/pubs/research_reports/RRA733-1.html.

[186] Wa'el Alzayat, 'Reimagining Syria: Rebuild the North Now', *Middle East Institute*, 21 March 2022, https://www.mei.edu/publications/reimagining-syria-rebuild-north-now.

[187] Steven Heydemann, 'Rules for Reconstruction in Syria', *Brookings*, 24 August 2017, https://www.brookings.edu/articles/rules-for-reconstruction-in-syria/.

effective and transparent government bridging them together and effectively implementing the plans are important components of any victory.

3.3 Who, where and what to focus on

Since Russia invaded Ukraine, the frontline has shifted several times.[188] Although no part of the country can be considered safe at the time of writing, some regions still endure active ground combat while others face periods of relative calm between air strikes. Such a range of war damage can lead to inequitable distributions of available resources. The regions that suffered the most are also likely to be where active phases of reconstruction will start last, contingent on the outcome of the war. Rebuilding itself can serve as a multiplier of available opportunities, prompting internal migration by attracting even more people to some territories and further depopulating others. Distribution of aid in conflict areas has often suffered from such issues.

In Syria, despite humanitarian aims to relieve the entire population of at least some hardships, resources were frequently channelled to more 'loyalist' parts of the country.[189] A similar situation was seen in Sudan where aid flowing to the capital city fuelled already skyrocketing corruption while other regions of the country continued to remain underfunded.[190]

At the same time, the Syrian Idlib province, underfunded by the government for years, is unlikely to see population returns to pre-conflict, raising the question

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[188] Several media outlets and organizations conduct regular analysis and publish maps showing the state of the battlefield. Some examples are Institute for the Study of War. 'Interactive Map: Russia's Invasion of Ukraine', https://www.understandingwar.org/interactive-map-russias-invasion-ukraine and *The New York Times*. 'Maps: Tracking the Russian Invasion of Ukraine'., https://www.nytimes.com/interactive/2022/world/europe/ukraine-maps.html.

[189] Samy Akil and Dr. Karam Shaar, 'The Politics of Early Recovery Aid in Syria. Is It Actually Reconstruction Aid?', *Atlantic Council* (blog), 8 February 2022, https://www.atlanticcouncil.org/blogs/menasource/the-politics-of-early-recovery-aid-in-syria-is-it-actually-reconstruction-aid/.

[190] David Wessel and Elijah Asdourian, 'What Lessons Do Past International Efforts at Rebuilding War-Torn Countries Hold for Organizing the Reconstruction of Ukraine?', *Brookings*, 19 December 2022, https://www.brookings.edu/articles/what-lessons-do-past-international-efforts-at-rebuilding-warn-torn-countries-hold-for-organizing-the-reconstruction-of-ukraine/.

of how much funding should be provided there in the near term.[191] Implementing reconstruction during an ongoing war amidst these issues, Ukraine should ensure the transparency of every decision made to minimise internal friction that the inevitable prioritisation of regions, communities and groups can cause. Somebody's home, school, hospital, manufacturing facility or farm will have to be rebuilt first.

Existing recovery plans emphasise the importance of distributing funding between communities on a competitive basis.[192] Equipping communities with the skills to compete equally and providing full openness about the rationales underlying each choice are crucial to ensuring that reconstruction does not erode Ukrainian civic identity and that the country now enjoys a moment of its greatest strength.[193]

The ability to minimise corruption and increase transparency in the reconstruction process can serve as a foundation of the 'national idea' that Ukraine has sought since regaining independence in 1991. Regional differences (perceived and real) have traditionally stood as the largest obstacles to the country's internal cohesion and unity.[194] Reconstruction as an effort where all parts of the country share the burden and the benefits can finally cement this civic identity.

[191] Islamic Development Bank, 'The Road from Conflict to Reconstruction, Recovery and Resilience in the MENA'. July 13, 2021. https://reliefweb.int/report/world/road-conflict-reconstruction-recovery-and-resilience-mena-region-november-2020.

[192] Centre of Economic Recovery, *Policy Briefs on Ukraine's Recovery: Extended Background Analytics,* Ukraine Recovery Conference, July 2022. https://uploads-ssl.webflow.com/621f88db25fbf24758792dd8/62c34015d547cf2a36b65fe5_URC_Background_Analytics_final_compressed.pdf.

[193] Sociological group 'Rating'. 'Sociological Research for Independence Day Perception of Patriotism and the Future of Ukraine (August 16-20, 2023)', August 24, 2023. https://ratinggroup.ua/en/research/ukraine/soc_olog_chne_dosl_ dzhennya_do_dnya_nezalezhno_uyavlennya_pro_patr_otizm_ta_maybutn_ukra_ni_16-20_se.html.

[194] Sociological group 'Rating'. 'The Generation of Independence: Values and Motivation [Покоління Незалежності: Цінності Та Мотивації]', August 19, 2021. https://ratinggroup.ua/research/ukraine/pokolenie_nezavisimosti_cennosti_i_motivacii.html.

3.4 Funding

Ukraine's reconstruction will be costly. Periodic recovery conferences discuss a combination of mechanisms to fund efforts. International assistance in the form of grants, stabilization funds or even private sector development investments[195] is expected to cover a large share of expenditure.

This model has been repeatedly used in the past starting with the post-World War II Marshall Plan which enabled the US to provide economic aid for Europe's recovery[196] and ranging to more recent reconstruction efforts such as the Stability Pact for Southeastern Europe aimed at supporting the Balkans and with Europe predominantly footing the bill.[197] However, this funding would likely need to be augmented with additional sources. Using Russia's frozen assets or imposing some type of reparations on Russia remains controversial.[198] It requires walking a thin line between the seemingly ethically justified demands that an aggressor pay for damages and the need to ensure that the rules of international, liberal order are not violated.[199]

The options outlined in this chapter have one feature in common; they will likely take time to be adopted and implemented. This is particularly concerning given that Ukraine is rebuilding while also maintaining a war economy all while requiring resources to sustain the everyday functioning of the country. To speed up funding,

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[195] Howard J. Shatz et al., 'Reconstructing Ukraine: Creating a Freer, More Prosperous, and Secure Future' (RAND Corporation, 14 June 2023), https://www.rand.org/pubs/research_reports/RRA2200-1.html.

[196] National Archives. 'Marshall Plan (1948)', September 28, 2021. https://www.archives.gov/milestone-documents/marshall-plan .

[197] Richard W. Stevenson, 'CRISIS IN THE BALKANS: REBUILDING; A Relief Plan for Yugoslav Neighbors', *The New York Times*, 5 June 1999, sec. World, https://www.nytimes.com/1999/06/05/world/crisis-in-the-balkans-rebuilding-a-relief-plan-for-yugoslav-neighbors.html.

[198] Steven Erlanger, 'How Will Ukraine Rebuild (and Who Should Pay)?', *The New York Times*, 7 September 2022, sec. World, https://www.nytimes.com/2022/09/07/world/europe/how-will-ukraine-rebuild-and-who-should-pay.html.

[199] Howard J. Shatz et al., 'Reconstructing Ukraine: Creating a Freer, More Prosperous, and Secure Future' (RAND Corporation, 14 June 2023), https://www.rand.org/pubs/research_reports/RRA2200-1.html.

Ukraine can choose to rely on private investments from foreign or domestic investors.

Both groups have the same demands for transparency, anticorruption measures, the rule of law and an independent judiciary.[200] Meeting these requirements also involves curtailing the ability of powerful political actors in Ukraine to shape processes. However, if implemented, these decisions can have a longer-term positive effect beyond the reconstruction period by increasing the transparency of decision-making and the attractiveness of Ukraine for business.

4. Conclusion

Decision spaces derived from an understanding of DRR literature and thinking are useful ways to consider recovery from major, adverse events. Even when applied to the unique circumstances of conflict, the four quadrants of the decision space – when to start rebuilding and how fast it will be done, who will take the lead, on whom to focus and who should pay – lay out the trade-offs inherent in any recovery plan and offer a way to conceptualise clear transparent thinking behind plans to reduce even the suggestion of corruption.

Russia's war on Ukraine can serve as a useful example of how these lessons from the disaster literature can be applied in high-uncertainty high-stakes situations. It spotlights the decision space in which any post-conflict reconstruction effort is likely to operate. Recognising this war and the damage it causes as an existential attack on Ukraine's sovereignty, Ukrainian leadership and society started work on restoring some semblance of normalcy as soon as the sounds of the first air raid sirens faded. In making decisions about reconstruction, Ukraine will face trade-offs regarding timelines, prioritisation of efforts, leadership and funding.

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[200] Khrystyna Holynska, Jay Balagna, and Krystyna Marcinek, 'The Trade-Offs of Ukraine's Recovery: Fighting for the Future' (RAND Corporation, 2 May 2023), https://www.rand.org/pubs/research_reports/RRA2370-1.html.

Making choices in any of these spaces will inevitably create winners and losers. Transparency around these four questions can contribute to the overall process' integrity and effectiveness, supporting national unity and trust in the institutions. Post-disaster recovery, be it following a natural hazard or armed conflict, can be successfully implemented in a myriad of ways. Each community and situation is different and accounting for the circumstances is essential to ensuring that needs are met and goals are achieved. However, experience shows that transparency forms the underlying foundation upon which the recovery should be grounded.

Suggested further reading

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Egel, Daniel, Trevor Johnston, Ashley L. Rhoades and Eric Robinson. 'Building an Enduring Peace in Yemen: Lessons from Five Years of RAND Research'. RAND Corporation, February 22, 2021. https://www.rand.org/pubs/research_reports/RRA733-1.html.

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CHAPTER V

Elie Abouaoun

Molly Gallagher

INTER-RELIGIOUS DIALOGUE FOR PEACEBUILDING IN THE MENA REGION: CHALLENGES, SUCCESSES AND FUTURE PROSPECTS

Abstract

The Middle East and North Africa (MENA) region is rich with ethnic, religious and cultural diversity, rooted deeply in its history shaped by the intertwined relationship between religious and political identities. The region's diversity has brought both challenges and opportunities as religious differences – when mismanaged or even exploited – have undermined social cohesion and often led to violent conflict.

This paper will begin with a historical overview of religious diversity in MENA and emphasise the enmeshment of religious and political identities. It will discuss the impact of the region's religious diversity on social norms, values, inclusion, cohesion and violence and will highlight inter-religious dialogue as a valuable tool, when the right figures are brought to the table, for peacebuilding. The analysis will cover several cases of success and failure of inter-religious dialogue initiatives in the MENA, including how the Marrakech Declaration, the King Abdullah bin Abdulaziz International Centre for Inter-religious and Cultural Dialogue[201] (KAICIID), the Alexandria Declaration[202] and the Abu Dhabi Declaration[203] are shaping the inter-religious landscape. It will also delve into the co-optation of religious elites by politicians and autocratic

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[201] https://www.kaiciid.org/

[202] https://www.usip.org/programs/alexandria-declaration

[203] The Document on Human Fraternity for World Peace and Living Together http://www.vatican.va/content/francesco/en/travels/2019/outside/documents/papa-francesco_20190204_documento-fratellanza-umana.html.

regimes, issues of lack of legitimacy in some cases and power dynamics that hinder both the implementation and enforcement of outcomes derived from inter-religious dialogues.

The conclusion will include suggestions and recommendations for improving the relevance and impact of inter-religious dialogue processes in MENA, emphasising the need for participation, grassroots engagements and more empowered religious communities playing larger roles in shaping the process. By addressing these challenges, inter-religious dialogue can produce long-term peaceful dividends that reduce tension, improve social cohesion and prevent future waves of violence in the region.

Keywords: peacebuilding, inter-faith dialogue, MENA Region, identity-based politics, religious minorities.

1. Introduction

The MENA region has been a crossroad of civilisations[204] and religions that have influenced the course of human history for millennia. Religious diversity, while being a source of cultural richness, has also historically been a breeding ground for conflict in a turbulent region. Judaism, Christianity, Islam, Baha'ism, the Druze faith, Yezidism and a myriad of other faith groups and subsects of each group make up the intricate religious landscape in MENA. In a region that is witnessing epic levels of irregular migration, rampant corruption, economic despair, inequality and violent extremism, it is not surprising that when religious diversity is mismanaged[205] or even manipulated by politicians to fearmonger and scapegoat, the social cohesion of communities in MENA deteriorates further and rates of violence increase.

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[204] Sotirović, Vladislav. (2023). From the History of the Middle East on the Crossroads of Cultures: The Ancient Civilizations of the Middle East (up to Islam). 10.13140/RG.2.2.23092.83847.

[205] Ibrahim, Saad Eddin. 'Management and Mismanagement of Diversity: The Case of Ethnic Conflict and State-building in the Arab World'. MOST Discussion Paper Series, UNESCO no. 10. 1997.

The question this chapter seeks to answer is whether religion can be part of the solution rather than the problem in MENA and, if so, the potential role of inter-religious dialogue as a peacebuilding tool in MENA. It will explore the extent to which the potential of inter-religious dialogue is being harnessed by delving into examples of success and failure in the region. Ultimately, it aims to advance key recommendations for how to involve religious actors in peacebuilding efforts to ensure the continued viability of results.

2. Historical overview of religious diversity in MENA

Religious diversity in MENA can be traced back to ancient civilisations as early as 3000 BCE when the ancient Sumerians, Phoenicians, Persians and Egyptians each had their own pantheon of deities and separate religious customs and practices. Centuries later, the region witnessed the birth and rise of three monotheistic religions: Judaism, Christianity and Islam. Around 1000 BCE, Judaism emerged in the ancient near eastern territory of the southern Levant, which today encompasses Israel, the Palestinian territories, parts of Jordan and Lebanon and introduced the concept of worshipping one God.

Thus, was born the foundation of the subsequent Abrahamic religions. As Christianity spread throughout the region in the 1st century CE, early Christian communities from Jerusalem to Antioch to Alexandria established churches, monasteries and theological schools. Similarly, as Islam arose in the Arabian Peninsula in the 7th century, it expanded across the MENA region and led to the Islamic Golden Age during which Islamic empires such as the Umayyad and Abbasid Caliphates promoted religious tolerance[206] and often allowed non-Muslims (i.e. Christians and Jews) to practice their religions under specially protected statuses (dhimmi). During this era, the MENA region flourished as the epicentre of

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[206] The Medina Declaration. https://historiaislamica.com/en/the-constitution-of-medina-islams-first-legislative-treaty/.

scholarship and intellect. Between the 15th and 19th centuries under the Ottoman Empire and its millet system, religious communities in MENA were granted autonomy enough to essentially manage their own religious and personal affairs including laws pertaining to education, religious matters, taxation and personal status.[207] Over time, this system resulted in a trend of communities forming around identity-based affiliations. Social divisions subsequently formed and so too did the sense of fear, scepticism and resentment of the 'others'. Then, during the post-WWI colonial era, the region's borders were arbitrarily redrawn by European powers giving little mind to the ethnic, religious, linguistic, tribal and cultural realities. This contributed to much of the division, conflict and complexity that still ails the region today, with profound global implications.

3. The enmeshment of religion and political identity in the MENA

The enmeshment of religion and political identity is a phenomenon that sets the MENA region apart from many other societies. Since the inception of the three Abrahamic religions,[208] political power and religious leadership have been closely connected. The religions in the region at that time believed in a dual function for religious leaders, encompassing both spiritual and temporal responsibilities.

In Islam, the concept of religious leadership is closely intertwined with temporal authority through the institution of the caliphate. Historically, the caliph or successor to the Prophet Muhammad, held both spiritual and temporal authority, serving as both the religious leader and the political head of the community. In Islamic tradition, the 'ulema' (العلماء) or religious scholars, are highly influential community figures with the power to shape and influence laws and regulations. In certain inter-

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[207] Elie Abouaoun, et al., \2\1Islam and human rights: key issues for our times\2\1, *Atlantic Council*, (2017). https://www.atlanticcouncil.org/in-depth-research-reports/report/islam-and-human-rights-key-issues-for-our-times/.

[208] Ali Aslan Guemuesay, 2016: The Impact of Distinct Attributes of Abrahamic Religions on Leadership Theory. Proceedings, 2016, https://doi.org/10.5465/ambpp.2016.14284abstract.

pretations of Islam, the concept of the ummah (الأمة) or global Muslim 'nation', emphasises the unity of religious and political identity under the leadership of the caliph.

Conversely, the dominant theological understanding in Christianity emphasises the distinction between the 'realm of God and the realm of Caesar'.[209] None of the Christian official religious texts attributes a temporal authority to religious leaders, whose tasks are primarily focused on spiritual guidance and pastoral care rather than direct involvement in governance. However, the MENA region deviated from this trend. In practice, the historical influence of Ottoman rule, coupled with the policies of subsequent colonial powers, impeded the adoption of the principle of Church and State separation that was prevalent in 19th and 20th century Europe. Consequently, Christian religious leaders in the MENA region frequently found themselves entangled in political, economic, and social roles that extended beyond their purely spiritual duties, fostering a unique dynamic that diverged from the prevailing Western model of secularism.[210]

In Judaism, chief rabbis are Jewish religious scholars. They hold positions of authorities in some communities and provide guidance on religious and legal matters with significant influence. Although the theory that Islam is a framework of both 'Religion and State'[211] affairs (Al-Islam Deen wa Dawla الاسلام دين ودولة) was explicitly proclaimed by the founding father of the Muslim Brotherhood in the first half of the 20th century, both the legal texts and religious practices have historically emphasised the idea that Islam encompasses both a spiritual and a temporal dimension to the extent that the religion and the state became culturally inseparable

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[209] 'Render, therefore unto Caesar the things which are Caesar's; and unto God the things that are God's' (Matthew 22:21).

[210] Whalen, Brett Edward. The Two Powers: The Papacy, the Empire, and the Struggle for Sovereignty in the Thirteenth Century. University of Pennsylvania Press, 2019. http://www.jstor.org/stable/j.ctv 16t6gh0.

[211] The concept of the 'State' (Al-Dawla) in Islam is not bound to the geographical borders as we know them. They essentially refer to the 'Umma' (literally translated as the 'Nation') so the principle as it is stated (that Islam is a framework for both religion and state') refers to 'state affairs' not 'state' as a country.

for most Muslims. Therefore, it is common, for even moderate Muslims in the region, to view civil and religious authorities as congruent and under the auspices of the same institutions. This dual-spiritual and temporal- function of religion has actually been codified in most of the constitutions in the MENA by granting the Islamic law or Sharia[212](الشريعة) a determining role in the constitutional and legislative realms.

For centuries, religious groups finding themselves in a position of strength tyrannised other groups. This systemic persecution was multidirectional and did not spare any community, whether numerically big or small. Shias[213] and Druze[214] were persecuted by Sunnis[215] and Christians, while Muslims groups terrorised and excluded Christians[216] and other non-Muslim groups. The recent experiences of the Yazidi community in Iraq are a modern example of the horrors faced by a minority group for their religious beliefs when in 2014 the so-called Islamic State (IS) brutally kidnapped, enslaved and murdered thousands.[217]

Similarly, the Christians in Iraq and Syria have been targeted for their religious identity by extremist groups in recent history. Jews in most MENA countries have also faced discrimination, with many expelled from their own countries due to threats of violence.[218]

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[212] Sharia: https://rpl.hds.harvard.edu/faq/sharia.

[213] Understanding the branches of Islam: Shia Islam: https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2016)573914.

[214] Who are the Druze: https://www.ifcj.org/learn/resource-library/who-are-the-druze.

[215] Understanding the branches of Islam: Sunni Islam: https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2016)577963.

[216] Matija Šerić, 'Christians In The Middle East: A Persecuted And Forgotten People – Analysis', *Eurasia Review* (blog), 2023, https://www.eurasiareview.com/16032023-christians-in-the-middle-east-a-persecuted-and-forgotten-people-analysis/.

[217] When terrorist groups rise in the name of a 'particular' interpretation of the Quran, they arrogate to themselves the right to assume power over other Muslims and Non-Muslims; and to force them to submit, they terrorize them by persecuting minorities.

[218] UNESCO. Records of the General Conference: Resolutions. Paris: UNESCO, 1970. Accessed August 22, 2024. https://unesdoc.unesco.org/ark:/48223/pf0000037808.

Obviously, each wave of violence pushes the victimised group to find safety in numbers. For most, they still perceive themselves to be under existential threats from other groups and from outside actors and therefore seek protection in political representation. This victimisation reinforces the deep-seated grudges against each other for the violence and suffering inflicted on them.

In political philosophy, the concept of the 'social contract' explores the relationship between a state and its citizens.[219] In a well-functioning society, citizens willingly forfeit some of their freedoms in exchange for the protection of their remaining rights and the various benefits of living in an organised society. The social contract also necessitates that citizens agree to live under the authority of the government and therefore confers the government its legitimacy. However, the social contract erodes when the government is seen as underserving or outright neglecting communities, working against unity rather than towards it and with hidden agendas and self-serving interests. A great deal of conflict and tension in the MENA region stems from the lack of a social contract and the subsequent atmosphere of distrust that it creates. Despite the relative autonomy granted to various religious and ethnic communities during the Ottoman Empire (1299-1922), the overarching governance was typically distant and primarily exclusive in nature, with a social contract imposed from the top down. This resulted in repeated uprisings, a lack of loyalty to the state and the emergence of nationalistic movements in the 19th and 20th centuries.[220] When the masses do not feel protected by the common law and by state institutions, they naturally seek protection elsewhere. In the past, when marginalised groups sought both physical and political protection and basic social services, it was religious institutions that filled those gaps. Religious institutions at the time had robust resources and power due to the fact that most of them were used by

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[219] Naushad Sajnani, \2\1The Social Contract Theory\2\1, *Medium*, (2023). https://medium.com/@realistkul/social-contract-theory-227574960803.

[220] Quataert, Donald. The Ottoman Empire, 1700-1922. 2nd ed., Cambridge University Press, 2005.

regional and international powers as spearheads for their colonial ambitions. The French, for example, supported the establishment of the Jesuits and other France-based congregations in the Middle East to expand French influence. Simultaneously, the protestants levelled-up their presence and influence in the Middle East through missionaries and through educational institutions such as the American University of Beirut, the American University of Cairo and protestant colleges in Beirut, Syria, Egypt and Iraq. In this way, the MENA region became the venue of a sort of European religious proxy war[221] – and it worked. Napoleon conquered Egypt in 1798 and the French attempted to take Syria a few months later pushing the British and Ottoman armies to join efforts to defeat Napoleon's forces. As the population in the region became enmeshed with religious institutions by receiving social services, salaries and physical protection, their sense of belonging to these groups grew stronger regardless of their faith and became the cornerstone of their political identity[222].

Under the Ottomans and in the 20th century when many new nation-states were forcefully pushed onto local populations by colonial powers, various political leaders grappled with consolidating power and attempting to cultivate a sense of national identity. The contradiction between religious and national identity was often highlighted to justify the relevance of authoritarian one-party political models such as both the Iraqi and Syrian Ba'ath parties.[223]

Communities in the newly formed nation-states continued to live in fear and were hesitant to embrace the concept of a secular, Western-style nation-state. They were particularly sceptical about whether the new model of a nation-state plagued

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[221] Alam Payind, Melinda McClimans, and Stephen Cory, *Keys to Understanding the Middle East*, Cleveland State University, (2022). https://pressbooks.ulib.csuohio.edu/religionsofmiddleeast1/.

[222] Cole, Juan. *Napoleon's Egypt: Invading the Middle East.* Palgrave Macmillan, 2007.

[223] Nada Yasser Sharkawy, \2\1Identity and Its Political Manipulation in Syria Identity and Its Political Manipulation in Syria.\2\1, American University in Cairo, Master's Thesis, (2017). https://fount.aucegypt.edu/cgi/viewcontent.cgi?article=2400&context=etds.

by favouritism, nepotism and fledgling corruption would protect them and address their needs. Instead of adopting a unified national identity, these communities entrenched themselves further into their sub-national – mostly sectarian – identities and forged close relationships with authoritarian regimes to seek protection. The relationship between non-Muslim communities in Iraq, Syria and Egypt and their respective regimes became purely transactional based on a loyalty-for-protection paradigm.

This phenomenon was exacerbated by poor diversity management and led to increased sectarian discrimination. In the 1970s and 1980s, which saw the preponderance of jihadism as an anti-Soviet rule[224] and, under the same precept of containing the Soviet Union and its communist agenda, a Western complacency with Iran's Islamic revolution,[225] the tensions between the Sunnis and the Shias intensified leading to rivalry across the region, especially in countries such as Iraq, Lebanon, Bahrain, Saudi Arabia and Kuwait, where Sunni and Shia communities coexist and fuelled sectarian discrimination, violence and exclusion.[226]

The result of all this is that today's political landscape in the region is shaped first and foremost by people's affiliations to sub-national identities such as their religious, ethnic or linguistic affiliations more so than any political or ideological consideration.[227]

People's political behaviour is dictated by who they believe will protect the rights and interests of the group to which they are affiliated, not by who em-

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[224] Daniel Byman, 'Comparing Al Qaeda and ISIS: Different goals, different targets', *Brookings*, (2015). https://www.brookings.edu/articles/comparing-al-qaeda-and-isis-different-goals-different-targets/.

[225] Kyle Balzer, \2\1Policy, Perception, and Misconception The United States and the Fall of the Shah\2\1, *Marine Corps University Press*, (2019). https://doi.org/10.36304/ExpwMCUP.2019.03.

[226] Council on Foreign Relations, \2\1The Sunni-Shia Divide\2\1, (2023). https://www.cfr.org/article/sunni-shia-divide.

[227] For instance: Tunisia post-2021 is a concrete example how pervasive is identity based politics, even in countries that were about to become functioning democracies.

bodies a certain political ideology or advocates for certain moral causes.

Thus, it is unsurprising that, in the MENA region, political constituencies and affiliations form primarily around religious, ethnic and other sub-national (sectarian, ethnic, tribal) identities rather than around specific ideological stances or political ideologies. For many religious groups in the region, strength and safety will always be found in numbers. From Coptic Christians in Egypt to Christians or Kurds in Iraq, groups have had to cement their own communities and look at enhancing their political representation in the governance structures to avert further persecution, survive and protect their heritage and interests. For this reason, it is not conceivable for any political process in any of these countries to be legitimate if it dismisses or ignores the reality of identity-based politics and its roots in the region's history.

4. The potential of inter-faith dialogues in MENA

When discussing the potential tools of peacebuilding, it is important to first define peacebuilding. The UN defines it as a 'process aimed at preventing the recurrence of conflict and addressing its root causes to establish a stable and lasting peace'. Peacebuilding encompasses a range of activities and initiatives designed to rebuild societies affected by conflict, promote reconciliation, strengthen the rule of law and support socio-economic development.[228] One of these initiatives is inter-faith dialogue.

4.1 The Marrakech Declaration

A contemporary example of inter-faith dialogue in MENA is the Marrakech Declaration[229] signed in 2016 as part of the Marrakech Conference on the Rights of Reli-

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[228] Ho-Won Jeong, *Peacebuilding in Post-conflict Societies: Strategy and Process*, Lynne Rienner Publishers, (2005). https://www.rienner.com/title/Peacebuilding_in_Postconflict_Societies_Strategy_and_ Process.

[229] The Marrakech Declaration, (2018). https://ganhri.org/wp-content/uploads/2019/11/Marrakech-Declaration_ENG_-12102018-FINAL.pdf.

gious Minorities in Predominantly Muslim Majority Communities. The Declaration states key principles and objectives such as the protection of religious minorities; it asserts that the rights to life, security and religious freedom are fundamental and should be upheld for all people regardless of their religious beliefs. The Declaration also affirms religious freedom as an essential element of the Islamic faith and states that religious diversity and inclusion are part of the divine will. The document calls for the protection of religious minorities and their heritage, sharply condemns violence and extremism carried out in the name of any religion and calls for a stronger response to radical and violent ideologies. Forced conversion and coercion in religious matters were also explicitly rejected in the document, stating that faith should be a personal choice and a matter of personal conviction. Finally, the Declaration emphasises the need for more inter-religious dialogue and for a stronger spirit of cooperation among religious leaders, scholars and figures to set an example of mutual understanding, peaceful coexistence, acceptance and tolerance for the other. The process by which the Marrakech Declaration came to life involved the creation of an organising committee that oversaw the logistics and coordination of the conference and included various representatives of Islamic institutions and organisations and academics who specialised in Islamic jurisprudence and interfaith dialogue.[230] The committee coordinated the invitations to ensure the participation of a diverse group of prominent Muslim leaders and experts from around the world. Once in Morocco, they engaged in a series of discussions that laid the foundation for the Declaration. A committee comprised of human rights experts and Islamic scholars drafted the Declaration which was then subject to review by the participants. The Declaration was endorsed by the participants and was publicly disseminated, receiving significant global attention. It was seen as a progressive, healing step at a time of divisiveness and heightened fear and it

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[230] Susan Hayward, 'Understanding and Extending the Marrakesh Declaration in Policy and Practice', United States Institute of Peace, (September 30, 2016). https://www.usip.org/publications/2016/09/understanding-and-extending-marrakesh-declaration-policy-and-practice.

serves as a powerful example of how religious tradition and international human rights law can reinforce each other.[231]

The framework of the Marrakech Declaration, created by Sheikh Abdullah bin Bayyah, was inspired by the Charter of Medina which was drafted by the Prophet Muhammed in the year 622 CE. In Medina at the time, Muslims constituted a small minority of the population and the Charter was an attempt to enshrine the rights and freedoms of all people in Medina. Since then, it has served as a framework for conflict resolution and peaceful coexistence between and among tribes and religious communities. The Marrakech Declaration draws parallels between the Charter of Medina and international human rights law.[232]

Many initiatives have been inspired by the Marrakech Declaration including a 2018 initiative called the Alliance of Virtue[233] launched by the Abu Dhabi Forum for Peace which convened representatives of Jewish, Muslim and Christian communities to contribute to the human rights discourse with examples from their own religious traditions. This initiative aimed to further counter the perception that human rights and some religious traditions are incompatible. A conference was held in Washington, D.C. and resulted in the Charter of the New Alliance of Virtue, which affirmed and asserted many concepts of tolerance and peace. The Organisation of Islamic Cooperation[234] (OIC) endorsed the Declaration and encouraged member states to establish internal entities to promote religious tolerance in alignment with it. The Network for Religious and Traditional Peacemakers[235] has also set up programmes to implement the Declaration in countries

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[231] Susan Hayward. *Understanding and Extending the Marrakesh Declaration in Policy and Practice*. Special Report 392. (United States Institute of Peace. 2016). Understanding and Extending the Marrakesh Declaration in Policy and Practice | United States Institute of Peace (usip.org).

[232] Ibid.

[233] The Charter of the New Alliance of Virtue. https://www.allianceofvirtues.com/english/charter.asp.

[234] The Organization of Islamic Cooperation. https://new.oic-oci.org.

[235] The Network for Religious and Traditional Peacemakers (Peacemakers Network): https://www.peacemakersnetwork.org/.

including Egypt, Indonesia, Nigeria, Pakistan, Senegal, Sudan and Tunisia.[236] While the Marrakech Declaration was indeed a positive stride forward, it had its shortcomings that have become visible over time. For starters, it lacked any enforcement mechanism which limits the possibility of holding governments accountable for upholding the principles it declares. It also lacked a roadmap for how to implement the stated calls for protection for minority groups. In the MENA region, there are plenty of political, social and economic barriers that may prevent the implementation of protective measures for minority groups and without going as far as describing how to practically apply protection, the effectiveness of the agreement cannot be assessed or tracked. As it was a non-binding document, there was also little incentive for the MENA leaders to adhere to the agreement. This shortcoming was even expressed during the conference as activists and government officials were debating the implementation of the agreement which was intended to be a call to action. Because the role of the Muslim scholars in attendance was limited, activists and peacebuilding organisations were looked to as the future implementers of the agreement.

4.2 The Alexandria Declaration

Another contemporary example of an inter-faith dialogue effort is the Alexandria Declaration, which was proclaimed in Egypt in 2002 by more than a dozen Christian Jewish and Muslim leaders from the Holy Land. The Declaration emphasises interfaith dialogue as a constructive way to address religious and ethical issues and as a means to foster mutual respect and understanding among members of different religious belief systems. The joint Declaration pledged to work together for a just and lasting peace.[237] Like the Marrakech Declaration, it calls for the upholding of religious

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[236] Esme Partridge. *The Marrakesh Declaration and UK Policy: Introducing a Muslim Paradigm of Religious Freedom.* (Forum for Peace – London).

[237] The United States Institute of Peace, *The Alexandria Declaration*, (2002). https://www.usip.org/programs/alexandria-declaration.

freedom, condemns religious persecution and articulates the common values preached by almost all religions such as justice, compassion, forgiveness and love. The Declaration commands religious leaders to use their influence and their following to be more vocal about promoting peace and tolerance. The Alexandria Declaration highlights the key role that the media must play in countering negative stereotypes and the key role that inter-faith dialogue can play in conflict resolution and reconciliation.

Similar to the Marrakech Declaration, the Alexandria process stopped short of proposing concrete next steps to implement the agreement. To date, it seems that the Declaration has only indirectly inspired initiatives by non-state actors (academia and education, civil society organisations, faith-based organisations) on educational reform, advocacy and community engagement. For example, in recent years, some countries in MENA have introduced reform to their curricula to promote tolerance, diversity and inter-faith understanding. Although these efforts were not direct outcomes of the Declaration, they are congruent with its values, principles and goals and it could be argued that the Declaration influenced education leaders. Critics of the agreement also argue that without the necessary resources, it would be difficult to expect concrete results.

4.3 The King Abdullah bin Abdulaziz International Center for Inter-religious and Cultural Dialogue (KAICIID)

The King Abdullah bin Abdulaziz International Center for Inter-religious and Cultural Dialogue (KAICIID), established by Saudi Arabia, Austria and Spain in 2012, was the product of a 2007 meeting between Pope Benedict XVI and King Abdullah of Saudi Arabia. The two leaders, with support from other world leaders, agreed on the need for more opportunities to promote inter-faith tolerance and understanding through dialogue. Over the course of seven years, KAICIID's mandate and structure were created to promote dialogue among people of different faiths and cultures to overcome tension and animosity, reduce fear and cultivate mutual respect and understanding.

The Centre has launched a substantial number of activities in MENA including conferences, workshops, dialogue initiatives and high-level meetings bringing together leaders of different faiths to promote religious tolerance to reduce tensions and division in the region. Aside from this, the Centre has run several capacity-building opportunities such as training programmes and the dissemination of tools for practitioners to employ during inter-religious interactions. As of 2021, it had trained 7,000 dialogue practitioners and graduated over 400 fellows from 74 countries. KAICIID has established five dialogue platforms around the world and six inter-religious dialogue networks. In the MENA region, it runs 28 projects that promote common citizenship, diversity and education through inter-religious dialogue. KAICIID also runs 40 projects that focus on countering hate speech and four on preserving cultural heritage. In response to the COVID-19 pandemic, it launched new projects that considered the role of inter-religious dialogue in responding to the health crisis.

KAICIID's programming in MENA offers a course called Journalism for Dialogue which seeks to train religious leaders and activists on how to harness the power of social media for dialogue and bring new voices into dialogue, especially women and youth. KAICIID also trains women of different faiths from five MENA countries (Egypt, Iraq, Lebanon, Saudi Arabia and Syria) on dialogue and peacebuilding.

The Centre emphasises the need to include youth and women in inter-faith and peacebuilding activities, and civil society non-governmental organisations, governments and other key partners that allow the Centre to reach further into MENA, raise awareness and advocate for peace. The establishment of the Centre was a symbolic and heartening gesture of inter-faith cooperation, understanding and tolerance.

A specific example of KAICIID's impact on MENA is the response of Palestinian women to the COVID-19 pandemic. In Palestine, where women were dispro-

portionately negatively affected by the pandemic, many women's organisations were reporting funding cuts, the level of unemployment was rising and the rates of gender-based violence increased. In the face of these challenges, KAICIID sponsored a Palestinian organisation that mobilised 100 Palestinian women from diverse religious backgrounds to craft a humanitarian and policy response to the pandemic. Participants spread awareness about the role of women in preventing the spread of the virus and they distributed sanitary equipment such as masks, soap and other essentials.

The group also held five dialogue sessions that discussed women's participation in policymaking and the role of women in confronting the long-term effects of unemployment, hate speech, gender-based violence and barriers to education. The dialogue sessions resulted in a strategy document that was endorsed by 300 female leaders, religious actors, community and political officials and members of the media. The document included recommendations to conduct monthly reviews of the needs of women in Palestine critically affected by the pandemic, improve social services that are not based on religious affiliation, reduce hate speech and to call on the Ministry of Education to promote religious tolerance in their curricula.[238]

4.4 The Abu Dhabi Declaration: the Document on Human Fraternity for World Peace and Living Together

Another historic moment for inter-faith relations was the 2019 signing of the Abu Dhabi Declaration, otherwise known as the Document on Human Fraternity for World Peace and Living Together, which was signed by Pope Francis and the Grand Imam of Al-Azhar, Sheikh Ahmed El-Tayeb. The joint signing by two powerful symbols in Christianity and Islam signified the intent for greater cooperation and unity between communities of the two faiths. The document declared that

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[238] KAICIID Dialogue Centre, '2021-2022 Annual Report' (Lisbon, 2022). https://www.kaiciid.org/resources/publications/2021-2022-annual-report.

as human beings, all belong to the 'human family' and therefore kindness, empathy and compassion must be upheld while violence, terrorism and exclusion must be rejected. Like the Declarations, the importance of religious freedom was emphasised and the need for more inter-faith engagements in the form of a dialogue between religions and cultures was encouraged. It especially called on religious leaders and scholars to prompt respectful inter-faith discussions and on world leaders to protect the world's minority groups and ensure their human rights and dignity are respected.

4.5 Grassroot efforts

In addition to large-scale, international inter-religious dialogue efforts, local grassroots efforts can also yield fruit when the right actors and resources are brought to the table. One such example is the case of the Christian and Shabak community-based dialogue in the city of Bartella, Iraq, formerly held by the so-called IS. Bartella is a small sub-district of Hamdaniya situated 13 miles east of Mosul. Historically, it is a predominantly Christian community but on the outskirts of the community are locations populated by the Shabaks, a subsect of Islam. The Shabak community[239] has been living in Iraq for centuries, particularly in the Nineveh plain area, in a triangular territory east of Mosul between the rivers Tigris and Greater Zab. The common identity of the Shabak as a cohesive social group has changed over time and is a source of tension within the community itself. Although historically the Shabaks could be identified as a particular ethno-religious group, the community has faced severe pressure to adopt an overarching ethnic identity as either Arabs or Kurds. At present, around 30% of Shabaks are believed to be Sunni Muslims and 70% are Shias but upward social mobility, combined with the unravelling of traditional inter-community power relations appears to have led Shabaks to conform to a more orthodox Twelver Shia-ism religious identity.[240]

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[239] Minority Rights Group, Shabak in Iraq. https://minorityrights.org/communities/shabak/.

The Christian neighbourhoods in Bartella enjoy sturdier infrastructure, more reliable service provision and access to better schools and for this reason, Shabak families have gradually moved deeper and deeper into predominantly Christian areas, causing demographic shifts that many Christians perceive as threatening their cultural heritage and identity. For example, Shabak holidays, traditions and places of worship are all being practised and constructed in Christian neighbourhoods. For Christians, a heavily persecuted minority in Iraq that suffered immensely from the brutality and cruelty of ISIS, their religious identity is highly sensitive. Preserving a majority presence and cultural distinctiveness in the Nineveh plain, including Bartella, was not just important, but an existential matter for the Christians as it offered them a sense of safety in numbers, security and a sense of belonging in Iraq. In 2012, even before the rise of ISIS in Northern Iraq, a dialogue process was initiated in Bartella to address the growing tension between the Christian and Shabak communities. Through a facilitated dialogue process led by the US Institute of Peace and its network of local facilitators, the Christians and Shabaks were able to establish a joint contact group that monitored tension and grievances from their respective communities and successfully helped the two communities reach an agreement on how to allow each to celebrate their holidays and practice their traditions publicly in peace. Later in 2018 in the aftermath of the war on ISIS, a similar mechanism was used to avert violence. The Christian representative in an informal contact group formed between the communities was able to raise a concern regarding a Shabak cleric in Bartella who purchased a plot of land and construction materials to build a Hussainiya (a congregation hall for Twelver Shia Muslims) in a predominantly Christian neighbourhood. The informal dialogue created the space for the Christian representative to express how this would be seen as incitement, inflammatory and symbolically painful to the Christians in the area. This resulted in

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[240] Dave Van Zoonen, Khogir Wirya. *The Shabaks, Perceptions of Reconciliation and Conflict.* Middle East Research Center. 2017. https://www.meri-k.org/publication/the-shabaks-perceptions-of-reconciliation-and-conflict/.

an internal discussion between Shabak leaders who ultimately decided to halt the construction and sell the materials for the greater good of the community. This example shows that the community leaders were willing to make gestures of goodwill towards each other, to hear the other's point of view and to contemplate the wider implications for the community. Such actions may catalyse a virtuous cycle and the real possibility of peaceful coexistence.

In both cases, the contact group did not include any clerics or religious figure, but its composition and work were endorsed or at least blessed by religious figures in the area.

5. Prospects for the Future

As the region is characterised by blurred lines between religion and political identities and since the latter often form around sub-national identities rather than conventional political causes, inter-faith dialogue cannot be the sole tool of conflict resolution when the root causes of the conflict are essentially political, not religious. In such cases, Inter-faith dialogue can be one useful element of a larger comprehensive approach to conflict management around political issues. Conflicts rooted in communal identities and fears require political solutions in the end[241] and as much as political figures may give lip service to inter-religious dialogue processes, they will almost certainly abandon the cause if it becomes politically expedient to do so. This selective political obedience can derail peace processes if there are no other binding factors holding agreements together. To maximise the effectiveness and ensure the sustainability of dialogue processes it is important to begin by clearly outlining the goal and articulating the intended outcomes. This will inform participant selection and process design and will ensure that the dialogue stays focused on its intended objectives.

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[241] Jay Rothman and Marie L. Olson. 'From Interests to Identities: Towards a New Emphasis in Interactive Conflict Resolution'. *Journal of Peace Research* 38, no. 3 (2001): 289–305. http://www.jstor.org/stable/425002.

The success of any inter-faith dialogue hinges not only on the willingness of participants to engage in constructive conversation but also on the careful selection of individuals who can authentically represent their communities and uphold the integrity of the dialogue process. Setting precise criteria for participants' selection is essential to avoid conflicts of interest and to ensure that a diverse array of viewpoints from each constituency is included. The credentials may involve shown dedication to dialogue and peacebuilding, a history of fostering diversity and tolerance in their communities, but most importantly being seen as influential and recognised representatives of their constituency. Without enough influence and leverage over their own constituency, they will not be able to effectively convey the outcomes of the dialogue and push for the fulfilment of the agreements or actions that resulted from the process.

The Bartella example is useful in that it shows how excluding religious figures from dialogue initiatives can be counterproductive but that their involvement must remain within boundaries and in support of civilian actors. In general, a trend in the region is the unfortunate reality that some of the religious figures are coopted by political elite figures. They hold their positions because of political patronage rather than true representation of their communities. Giving excessive agency to a cast of religious figures who are not necessarily seen as legitimate by their own constituency will undoubtedly undermine both the credibility and viability of the dialogue process they are involved in.

Both the Christian and Shabak representatives present for the dialogue in Bartella had the legitimacy and the connections within their respective communities, to advocate for the best outcome and generate the buy-in of the right people. For example, the Shabak representative was not only a well-known community leader, but he was also a prominent politician with significant leverage. The same applies to the Christian representative who enjoyed a solid social status and was well

plugged into the web of decision-makers. Had the participants of the dialogue not had the social and political sway, it is unlikely that the dialogue would have yielded the steps that de-escalated tension and likely prevented violence.

One of the fundamental challenges when designing and implementing dialogue initiatives is that some of the parties invited to take part are not committed to the principles of inclusivity and tolerance that underpin such endeavours. Instead of upholding the norms of dialogue and peaceful coexistence, several religious figures openly promote exclusionary notions and even vilify other religious or ethnic groups. Some even promote violence, justifying their conduct with distorted interpretations of religious texts. In more than one country there have been reports of religious leaders providing assistance to local armed groups with well-documented histories of war crimes and human rights violations. Thus, while dialogue may aim to bring together representatives from various faith traditions for constructive engagement, the presence of such actors emphasises the complex and often fraught nature of inter-faith dialogue in situations where spiritual and temporal roles are intertwined especially in contexts where religious extremism and intolerance are common.

When the entire premise of the peacebuilding process is not genuinely embodied or fully committed to by those at the table, it is not surprising that any outcome from the process is not sustained in their communities. Instead, the high-visibility peace processes in the region have served as strategic public relations stunts to boost the image of some states in the eyes of both their citizenry and the international community. Inter-faith dialogue processes are intended to do more than just merely remain words on paper. The outcomes require action, behavioural change, education, advocacy and awareness campaigns and in some cases even legislative change, legal action and other large-scale efforts. None of these can be done without resources. In the MENA region, one often sees well-intentioned

initiatives that are never brought to life due not to a lack of will, but rather a lack of resources. Part of the overall design process of the dialogue from the beginning stages should be the identification of potential resources to implement the eventual agreement of the dialogue, including monitoring and evaluation. Identifying the available resources from the beginning will inform the scope and scale of what can realistically be agreed to during the discussions.

Finally, one of the main shortcomings of contemporary inter-faith dialogue initiatives has been the lack of accountability measures to ensure that the entities represented in the process do in fact implement the agreement on the ground. There must be strong incentives for governments and other stakeholders to uphold the agreement and there should be clearly articulated mechanisms to track their progress. Without these efforts, it is unlikely that political actors on their own will commit to undertaking such changes.

6. Conclusion

Religion and religious affiliation are at the crux of society in the MENA region. Leveraging the vast influence and legitimacy of the right set of leaders of religious communities and institutions in the region to promote peaceful principles of tolerance, coexistence, cultural diversity, acceptance, non-violence and other values has the potential to foster stability, prosperity and peace at local and national levels. In the cases discussed throughout this chapter, inter-faith dialogue has served as a tool for peacebuilding endeavours, albeit to varying degrees of effectiveness and sustainability. More work is needed by the international community, government bodies, grassroots organisations and faith-based organisations in the implementation of agreements born out of inter-faith dialogue processes. A shift in reframing peacebuilding efforts as a cost-effective alternative to war may be necessary for global powers to allocate more resources as a preventative measure.

The complex nature of the religious, cultural and political dynamics in the region necessitates a holistic approach to conflict resolution that encompasses these three elements and transcends sectarian divides.

History and tradition offer us ancient spiritual technologies such as compassion, empathy, tolerance and acceptance and the present offers us modern-day technologies such as social media, film, podcasts, webinars and other modalities of breaking down the barriers of distance and language. With this in mind, one could argue the potential of inter-faith dialogue is greater than ever. Progress on this front not only has the potential to alleviate current tension but may also cultivate the conditions for future efforts towards peace and prosperity in the region. Certainly, inter-faith dialogue alone cannot adequately address the region's complex social, political and economic distress, but it can serve as one valuable tool in the toolbox for leaders, practitioners and the international community committed to building sustainable peace and a less violent future.

Suggested further reading

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CHAPTER VI

Yasmine Abdel Moneim

DIRECT THREATS TO HUMAN SECURITY IN POST-CONFLICT SCENARIOS: RECONSTRUCTION OF CULTURAL HERITAGE

Abstract

This chapter focuses on cultural heritage in post-conflict reconstruction. It emphasises that the peacebuilding process in the aftermath of conflicts must integrate sustainable heritage conservation and protection. It stresses that there has been significant recognition of the importance of reconstructing cultural heritage in the post-conflict period as a vehicle for sustainable peace and a means to promote reconciliation, economic development and social cohesion. This reconstruction is not a luxury step to complete the image of the recovery process, but a crucial pace that can strengthen the resilience of affected states and consolidate the psychological needs of their population. It can also be a tool and a step in the healing process which can take the form of rehabilitation, recovery, restoration or preservation. However, it generally encounters challenges due to lack of funds, insecurity, looting and illicit cultural heritage trafficking, and the complexity and difficulty associated with the reconstruction process. The chapter also highlights the role of international organisations in post-conflict reconstruction, drawing on lessons identified from different countries' experiences to assess the diverse approaches by focusing on governmental efforts, community-based projects and international initiatives.

Keywords: cultural heritage, reconstruction and sustainability, peacebuilding process, people-centred approach, bottom-up reconstruction approach.

1. Introduction

Cultural heritage is a significant component of a society's identity and social cohesion. It is expressed in its civilisation, history, culture and values and plays a crucial role in promoting economic growth and sustainable development.[242] At the international level, cultural heritage is the common heritage of humankind. As mentioned in the preamble of the Convention Concerning the Protection of the World Cultural and Natural Heritage (World Heritage Convention) 'deterioration or disappearance of any item of the cultural or natural heritage constitutes a harmful impoverishment of the heritage of all the nations of the world'.[243] Cultural heritage is also valorised in its relationship to human rights, considering the obligation to its protection as related to cultural rights. It is also a precondition for the enjoyment of a number of rights and a 'fundamental resource for other human rights also, in particular, the rights to freedom of opinion and expression, freedom of thought, conscience and religion, and the economic rights of the many people who earn a living through tourism related to such heritage, the right to education and the right to development'.[244] Therefore, the UNCHR Council has adopted resolutions[245] that promote cultural heritage protection.

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[242] Sustainable development can be defined as 'development which meets the needs of the present without compromising the ability of future generations to meet their own needs'. Gro Harlem Brundtland, 'Report of the World Commission on Environment and Development: Our Common Future' United Nations General Assembly Document A/42/427 (1987). https://sustainabledevelopment.un.org/content/documents/5987our-common-future.pdf.

[243] UNESCO, Convention Concerning the Protection of the World Cultural and Natural Heritage, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO), 17th session, (Paris, 16 November 1972), Volume 1037-I-1511. https://treaties.un.org/doc/Publication/UNTS/Volume%201037/volume-1037-I-15511-English.pdf.

[244] Karima Bennoune, UN Human Rights Council Special Rapporteur in the Field of Cultural Rights, and UN Human Rights Council Secretariat. 'Report of the Special Rapporteur in the Field of Cultural Rights', thirty-first session, agenda item 3 : Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, A/HRC/31/59, (3 February 2016), p. 12. https://digitallibrary.un.org/record/831612?ln=en.

[245] UNGA, Human Rights Council Resolution 33/20 on 'Cultural rights and the protection of cultural heritage', thirty-third session, 30 September 2016, A/HRC/RES/33/20. https://documents.un.org/doc/undoc/gen/g16/227/55/pdf/g1622755.pdf?token= HMVxsZiHlBtPIYa4TZ&fe=true.; UNGA, Human Rights Council Resolution 37/17, thirty-seventh session, 22 March 2018, A/HRC/RES/37/17. https://documents.un.org/doc/undoc/gen/g18/099/ 81/pdf/g1809981.pdf?token= tkGbD58zI4r2hNoTge&fe=true.

Various concepts are used interchangeably in international and national texts to describe valuable national cultural assets and objects such as cultural heritage, cultural property, cultural patrimony and cultural goods. The concept of cultural heritage is recognised to be broader[246] and widely used by anthropologists, historians, archaeologists and researchers of human life, although the concept of 'cultural property' is usually used in a legal context.[247] The term 'property' refers to ownership,[248] while the term 'heritage' implies a sense of duty[249] to preserve and protect. For this chapter, the concept of cultural heritage[250] will be used to encompass both tangible and intangible heritage. Cultural heritage 'includes artefacts, monuments, a group of buildings and sites, and museums that have a diversity of values including symbolic, historic, artistic, aesthetic, ethnological or anthropological, scientific and social significance, it includes tangible heritage (movable, immobile and underwater), intangible cultural heritage (ICH) embedded into cultural and natural heritage artefacts, sites or monuments'.[251] It also extends to issues such as customs and folklore.

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[246] Manlio Frigo, 'Cultural Property V. Cultural Heritage: A 'Battle of Concepts' in International Law?', *Revue Internationale de La Croix-Rouge/International Review of the Red Cross* 86, no. 854 (June 2004): 367, https://doi.org/10.1017/s1560775500180861.

[247] Lucas Lixinski, 'Definitions: From Cultural Property to Cultural Heritage (and Back?)', in *International Heritage Law for Communities: Exclusion and Re-Imagination*, Cultural Heritage Law and Policy (Oxford: Oxford University Press, 2019), 28. https://doi.org/10.1093/oso/9780198843306.003.0002.

[248] Property connotes ownership and this has been defined in the Common Law as meaning the right to exploit, alienate or exclude. Lyndel V. Prott and Patrick J. O'Keefe, ' 'Cultural Heritage' or 'Cultural Property'?', *International Journal of Cultural Property* 1, no. 2 (July 1992): 310, https://doi.org/ 10.1017/s094073919200033x.

[249] Evelyne Lagrange, Stefan Oeter, and Robert Uerpmann-Wittzack, *Cultural Heritage and International Law: Objects, Means and Ends of International Protection* (Cham: Springer, 2019), 4. https://doi.org/ 10.1007/978-3-319-78789-3.

[250] Cultural heritage 'includes not only tangible heritage composed of sites, structures and remains of archaeological, historical, religious, cultural or aesthetic value, but also intangible heritage made up of traditions, customs and practices, aesthetic and spiritual beliefs, vernacular or other languages, artistic expressions and folklore'. Karima Bennoune, UN Human Rights Council Special Rapporteur in the Field of Cultural Rights, and UN Human Rights Council Secretariat. 'Report of the Special Rapporteur in the Field of Cultural Rights', thirty-first session, agenda item 3 : Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, A/HRC/31/59, (3 February 2016), p. 12. https://digitallibrary.un.org/record/831612?ln=en.

[251] UNESCO Institute for Statistics, 2009 UNESCO Framework for Cultural Statistics. https://uis.unesco.org/en/glossary-term/cultural-heritage.

It is evident that cultural heritage is being politicised and is 'increasingly threatened with destruction'[252] by being a target of intentional destruction during wars as part of erasing cultural identity, demoralising and humiliating the enemy. The intentional destruction is qualified by UNESCO as 'cultural cleansing' [253] and was also described as 'identicide'[254] and 'memoricide'[255] against the community's heritage.

This destruction is considered an international crime[256] of global concern, affecting not only national society but also the international community. These serious crimes fall under the jurisdiction of the International Criminal Court (ICC).[257] Cultural heritage is also being threatened by the proliferation of smuggling and looting. Although this phenomenon is not new, it has become part of organised crime in recent years and has given rise to a rapidly evolving transnational market for illicit antiquities.

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[252] United Nations, Preamble of the Convention Concerning the Protection of the World Cultural and Natural Heritage, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO), 17th session, Paris, 16 November 1972, Volume 1037-I-1511. https://treaties.un.org/doc/Publication/UNTS/Volume%201037/volume-1037-I-15511-English.pdf.

[253] Caitlin V. Hill, 'Killing a Culture: The Intentional Destruction of Cultural Heritage in Iraq and Syria under International Law', *Georgia Journal of International & Comparative Law* 45, no. 1 (2016): 216. https://digitalcommons.law.uga.edu/gjicl/vol45/iss1/7.

[254] Identicide is '*a strategy of warfare that deliberately targets and destroys cultural elements through a variety of means in order to contribute to eventual acculturation, removal, and / or total destruction of a particular identity group, including its contested signs, symbols, behaviours, values, places and performances*'. Sarah Jane Meharg, 'IDENTICIDE AND CULTURAL CANNIBALISM: WARFARE'S APPETITE FOR SYMBOLIC PLACE', *Peace Research* 33 no. 2 (2001): 89-98. http://www.jstor.org/stable/23608075.

[255] Memoricide is the killing (genocide) or eradication of collective memory. It is closely aligned with concepts like cultural genocide, cultural cleansing and ethnocide. Scott Webster, 'Revisiting Memoricide: The Everyday Killing of Memory', *Memory Studies* 00, no. 0 (2023): 5. https://doi.org/10.1177/17506980231184564.

[256] International Criminal Court, *Rome Statute of the International Criminal Court (ICC)*,Arts. 8 (2) (b) (ix), 8 (2) (e) (iv), (17 July 1998), in force on 1 July 2002. https://www.icc- cpi.int/sites/default/ files/RS-Eng.pdf.; United Nations, Treaty Series, vol. 2187, no. 38544, http://treaties.un.org.

[257] Mark S. Ellis, 'The ICC's Role in Combatting the Destruction of Cultural Heritage', *Case Western Reserve Journal of International Law* 49, no. 1 (2017): 39. https://scholarlycommons.law.case.edu/jil/vol49/iss1/5 .

2. Impact of cultural heritage on post-conflict reconstruction

Conservation[258] of cultural heritage is a broad concept that includes various approaches such as preservation,[259] maintenance,[260] reconstruction, restoration,[261] recovery and adaptation.[262] Reconstruction and restoration are usually implemented in a post-conflict period and aim to repair damaged or destroyed heritage.

Post-conflict reconstruction is 'conceptualised as a set of interconnecting social, cultural, political and economic components within a multi-dimensional process, located at local, provincial, national and international levels'.[263] Post-conflict reconstruction of cultural heritage is a 'range of holistic activities in an integrated process designed not only to reactivate economic and social development but at

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[258] Conservation of cultural heritage refers to the 'measures taken to extend the life of cultural heritage while strengthening transmission of its significant heritage messages and values. In the domain of cultural property, the aim of conservation is to maintain the physical and cultural characteristics of the object to ensure that its value is not diminished and that it will outlive our limited time span'. UNESCO Institute for Statistics, 2009 UNESCO Framework for Cultural Statistics and International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM), Risk Preparedness: A Management Manual for World Cultural Heritage, UNESCO, Traditional Restoration Techniques: A RAMP Study, 1988. https://unesdoc.unesco.org/ark:/ 48223/pf0000191061. It can also be defined as 'all measures and actions aimed at safeguarding cultural heritage while ensuring its accessibility to present and future generations. All measures and actions should respect the significance and physical properties of the cultural heritage item'. ICOM␣CC (International Council for Museums – Conservation Committee), Terminology to Characterize the Conservation of Tangible Cultural Heritage, 2008. https://www.icom-cc.org/en/terminology-for-conservation.

[259] Preservation means 'maintaining a place in its existing state and retarding deterioration'. Australia ICOMOS. 2013. 'Burra Charter & Practice Notes'. Article 1.6. Icomos.org. 2013. https://australia.icomos.org/publications/burra-charter-practice-notes/.

[260] Maintenance means 'the continuous protective care of a place, and its setting. Maintenance is to be distinguished from repair which involves restoration or reconstruction'. Australia ICOMOS. 2013. 'Burra Charter & Practice Notes'. Article 1.5. Icomos.org. 2013. https://australia.icomos.org/publications/burra-charter-practice-notes/.

[261] Restoration means 'returning a place to a known earlier state by removing accretions or by reassembling existing elements without the introduction of new material'. Australia ICOMOS. 2013. 'Burra Charter & Practice Notes'. Article 1.7. Icomos.org. 2013. https://australia.icomos.org/publications/burra-charter-practice-notes/.

[262] Adaptation means 'changing a place to suit the existing use or a proposed use'. Australia ICOMOS. 2013. 'Burra Charter & Practice Notes'. Article 1.9. Icomos.org. 2013. https://australia.icomos.org/publications/burra-charter-practice-notes/.

[263] Sultan Barakat, 'Necessary Conditions for Integrated Approaches to the Post-conflict Recovery of Cultural Heritage in the Arab World', *International Journal of Heritage Studies* 27, no. 5 (2021): 437. https://doi.org/10.1080/13527258.2020.1799061.

the same time to create a peaceful environment that will prevent a relapse into violence'. [264] It 'becomes part of political processes shaping post-conflict communities, contributing to confirming or creating new identities'.[265]

Cultural heritage serves thus as a way to rebuild communities and enhance sustainable reconciliation that 'must be built from the bottom-up rather than imposed from the top-down and the change of dynamics must be recognised'. [266] This approach regards cultural heritage as the driving force for peace and a potential starting point for the entire reconstruction process.

> '*Intangible cultural heritage is particularly important in recovery and reconstruction processes for its power in rebuilding the social fabric and for effectively maintaining and managing cultural diversity, fostering intercultural dialogue and enabling the effective monitoring of cultural change in post-conflict situations.*'[267]

Generally, the post-conflict process is a multi-stage approach that is tailored to the specific circumstances of each conflict. There are usually three to four phases starting with the transition period and concluding with stabilisation and restoration of peace. Every situation is unique and necessitates an individualised strategy to ensure sustainable peace. The impact of cultural heritage may differ at each stage but it is important to acknowledge its significance in post-conflict as

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[264] Sultan Barakat, *After the Conflict: Reconstruction and Development in the Aftermath of War* (London: I.B. Tauris, 2005), 11. https://www.researchgate.net/publication/285593857_After_the_Conflict_Reconstruction_and_Development_in_the_Aftermath_of_War.

[265] Mattias Legnér, 'Post-Conflict Reconstruction and the Heritage Process', *Journal of Architectural Conservation* 24, no. 2 (2018): 78, https://doi.org/10.1080/13556207.2018.1463663.

[266] Lorika Hisari, Kristen Barrett-Casey, and Kalliopi Fouseki, 'The Role of Heritage in Post-War Reconciliation: Going Beyond World Heritage Sites', in *50 Years World Heritage Convention: Shared Responsibility – Conflict & Reconciliation* (Switzerland: Springer Nature, 2022), 197. https://doi.org/10.1007/978-3-031-05660-4_15.

[267] UNESCO and The World Bank, Position paper 'Culture in City Reconstruction and Recovery (CURE)', , (2018), p. 12. https://unesdoc.unesco.org/ark:/48223/pf0000265981 .

it serves as a catalyst for the transition towards sustainable peace and also acts as a vehicle for promoting socio-economic development.

2.1 Transitional phase

The transnational phase:

> '*typically occurs within multinational and inter-agency environ-ments, with multiple actors and agencies working within a HN (host nation) on security, governance and rule of law. This envi-ronment creates dependencies between actors [… in such a way that] no one actor will have the freedom to plan and execute tran-sition activities alone'.*[268]

It is thus facilitated by the intervention, assistance and support of international ac-tors alongside the local communities and is characterised by its fragile status and military intervention. The main objective of this stage is to establish stability, peace and reconciliation and to ensure security and safety for all involved ac-tors. The role of international organisations is crucial at this stage in helping with defining priorities and providing financial funds, and the required expertise and technical assistance.

They contribute to consolidating confidence-building measures (CBM) and ad-dressing fundamental social and economic needs, including emergency relief and the restoration of basic services. During this phase, a preliminary evaluation of the status of cultural heritage can be prepared with an assessment of its level of destruction or damage. It may 'concentrate on consolidating and protecting mon-uments, fostering local skills and materials rather than hastily restoring them

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[268] NATO, Allied Joint Doctrine for Security Force Assistance (SFA), NATO Standard Allied Joint Publi-cation AJP-3.16, Edition A Version 1, NATO Standardization Office (NSO), May 2016, p. 2-8, 2-9. https://www.gov.uk/government/publications/allied-joint-doctrine-for-security-force-assistance-sfa-ajp-316a .

using external resources which may prove unsuitable and will not assist in livelihoods recovery'.[269]

2.2 Peacebuilding phase

The primary responsibility to restore peace and establish security is attributed to national actors to prevent the re-occurrence of violence and conflict. With the stabilization of the situation, efforts are shifting from humanitarian emergency aid to the preservation of cultural heritage. There is an urgent need to maintain the territorial integrity of the state by reinforcing boundary monitoring measures to control illicit trafficking and stop the looting of cultural heritage. The establishment of a stable and legitimate political governance and justice system are preconditions for starting the reconstruction and restoration of cultural heritage with the full engagement of local communities. The lack of such 'adequate engagement' risks the 'local population and their heritage sites' to be exposed to 'further waves of violence and iconoclasm',[270] as 'when regimes have employed heritage to support state power and nationalism'[271] or 'when political involvement acts as 'strategic manipulation'[272] corresponding to various agendas and aims'.[273]

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[269] Sultan Barakat, 'Necessary Conditions for Integrated Approaches to the Post-conflict Recovery of Cultural Heritage in the Arab World', *International Journal of Heritage Studies* 27, no. 5 (2021): 441. https://doi.org/10.1080/13527258.2020.1799061.

[270] Benjamin Isakhan and Lynn Meskell, 'UNESCO's Project to 'Revive the Spirit of Mosul': Iraqi and Syrian Opinion on Heritage Reconstruction after the Islamic State', *International Journal of Heritage Studies* 25, no. 11 (2019): 1193. doi:10.1080/13527258.2019.1578988.

[271] Lejla Hadžić and Jonathan Eaton, 'Rebuilding the Broken: Regional Restoration Camps as a Meeting Platform in the Western Balkans' in *Heritage and Peacebuilding*, eds. D. Walters, D. Laven and P. Davis (Suffolk: Boydell & Brewer, 2017), 206. https://www.cambridge.org/core/books/abs/heritage-and-peacebuilding/rebuilding-the-broken-regional-restoration-camps-as-a-meeting-platform-in-the-western-balkans/A6A103D30457C8CFB1ED8D5A5674445C.

[272] Gertjan Plets, 'Violins and Trowels for Palmyra: Post-conflict Heritage Politics', *Anthropology Today* 33, no. 4 (2017): 22. https://doi.org/10.1111/1467-8322.12362.

[273] Lorika Hisari, Kristen Barrett-Casey, and Kalliopi Fouseki, 'The Role of Heritage in Post-War Reconciliation: Going Beyond World Heritage Sites', in *50 Years World Heritage Convention: Shared Responsibility – Conflict & Reconciliation* (Switzerland: Springer Nature, 2022), 195. https://doi.org/10.1007/978-3-031-05660-4_15.

2.3 Developmental phase

The principal focus is on fostering the economy in general, with a special emphasis on stimulating heritage tourism to encourage the community's involvement in the country's economic development. The goal is to ensure that the cultural heritage contributes to social cohesion and economic growth and creates employment opportunities. It is important to ensure that local communities are fully involved in the process and that equity and justice principles are promoted through a multi-disciplinary approach that incorporates both short-term and long-term strategies to safeguard sustainable development.

2.4 Sustainability phase

The emphasis in this phase is entirely on national efforts, with very limited international intervention or withdrawal of international actors. The objective is to foster an inclusive and sustainable society by promoting constructive dialogue between local communities and enhancing opportunities for participation in the entire process. The population must acquire ownership of the long-term reconstruction of cultural heritage projects. Heritage reconstruction projects are completely implemented, and the focus will be shifted towards enhancing conservation measures and sustainable heritage preservation.

3. Post-conflict challenges to cultural heritage reconstruction

The post-conflict period is a 'transitional period bounded by past war and future peace, a period which introduces a number of new challenges'[274] and is characterised by the cessation of hostilities and the opportunity for peace and stability to be rebuilt. If this period is not properly managed and controlled, violence may recur. This phase is dominated by multi-dimensional challenges that vary from one country to another.

The intensification of atrocities in many countries has had devastating consequences

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[274] Andrew J. Cunningham, 'Post-conflict Contexts and Humanitarian Organizations: the Changing Relationship with States', *Journal of International Humanitarian Action* 2, no. 7 (2017): 1, https://doi.org/10.1186/s41018-017-0022-3.

for tangible and intangible heritage. This can be assessed in light not only of the damages caused to cultural heritage due to the conflict itself, but also in terms of the intentional destruction[275] of significant cultural sites in these countries.

3.1 Insecurity

Security is a major challenge in post-conflict reconstruction. There are instances in which insecurity, violence and crimes persist even after the conclusion of peace agreements, thereby complicating the recovery process. The 'lack of sustainable peace in nominally "post"-conflict societies has long challenged efforts to make cultural heritage a priority'. [276] The absence of security affects fieldwork intervention, restricts access to destroyed or damaged sites and even hinders communication with local communities, all of which hinders international organisations' projects, as in Iraq and Syria.

Many heritage sites remain inaccessible in Afghanistan even after the fall of the Taliban because of insecurity, a result of which 'isolation of these sites and the poverty of local people lead to further damage such as illegal excavation and neglect which leads to the deterioration of historic rural and urban centres'.[277] Restoring security is a precondition for the success of the reconstruction process.

3.2 Cross-cultural conflicts and social fragmentation

Post-conflict societies are marked by conflicting national positions that can influ-

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[275] Intentional destruction is defined as 'an act intended to destroy in whole or in part cultural heritage, thus compromising its integrity, in a manner which constitutes a violation of international law or an unjustifiable offence to the principles of humanity and dictates of public conscience'. UNESCO, *Declaration concerning the Intentional Destruction of Cultural Heritage,* Article II.2, General Conference of the United Nations Educational, Scientific and Cultural Organization meeting in Paris, thirty-second session, 2003, (Doc. 32 C/Res. 33). https://unesdoc.unesco.org/ark:/48223/pf0000133874 .

[276] Sultan Barakat, 'Necessary Conditions for Integrated Approaches to the Post-conflict Recovery of Cultural Heritage in the Arab World', *International Journal of Heritage Studies* 27, no. 5 (2021): 436. https://doi.org/10.1080/13527258.2020.1799061.

[277] Brandenburgische Technische Universität Cottbus-Senftenberg, in cooperation with Helwan University, 'Catastrophe and Challenge : Cultural Heritage in Post-Conflict Recovery', Proceedings of the Fourth International Conference on Heritage Conservation and Site Management, (2017), BTU COTTBUS, edited by Peter Schneider, p. 45. urn:nbn:de:kobv:co1-opus4-43734.

ence social cohesion and, consequently, the peacebuilding process. The absence of intercultural dialogue and mutual understanding challenges the reconciliation process. This situation is an obstacle to the reconstruction of heritage sites. The need to provide equal employment opportunities and meet the basic needs of local communities must be addressed regardless of religious or ethnic differences.

3.3 Absence of accurate identification or proper documentation of cultural heritage

This problem carries severe repercussions, including the destruction or loss of valuable heritage. Moreover, it limits public access to their cultural heritage and impedes initiatives aimed at safeguarding cultural heritage against exploitation and unlawful activities. Additionally, it will also be difficult to enforce laws and regulations that protect heritage and to develop strategies for the conservation, protection and promotion of cultural heritage. This will have an economic impact as tourism and other activities related to cultural heritage may be adversely affected.

3.4 Contradictory international objectives

In the course of the process, there may be differences and contradictions in perceptions and understandings of the conflict between the different organisations involved in the reconstruction process. The selection of reconstruction sites may also be affected by different agendas and priorities. Reconstruction of buildings or sites must not only be accomplished in terms of their physical or material appearance, but people's psychological relations should also be re-established, and this is a difficult task, especially if the deliberate destruction occurred as part of a cycle of cultural, ethnic or religious violence. As part of this challenge, there is also a lack of coordination among stakeholders that often results in contradictions in the implementation of heritage reconstruction strategies, which can lead to conflicting approaches difficult to reconcile.

3.5 Looting of cultural heritage and illicit trafficking

The proliferation of illicit trafficking of cultural heritage is a result of the massive looting, theft, smuggling and trading of many historical sites, antiquities and cultural objects, which constitutes transnational organised crimes.[278] These types of crimes cause material, psychological and ethical harm. The UN Security Council (UNSC) has considered the destruction and illegal trafficking of cultural heritage as a threat to international peace and security [279] while addressing the linkages between them and terrorism.[280] There is a strong connection between the illicit trafficking of heritage in the black-market trade and illegal criminal activities, including terrorism, money laundering, corruption, violence and organised crime. [281] As stated by the European Commission in the EU's 2020 Security Union Strategy 'trafficking in cultural goods has become one of the most lucrative criminal activities, a source of funding for terrorists and organised crime and it is on the rise'.[282] UNESCO has highlighted the 'acceleration of illicit trafficking of cultural property' and emphasised the importance of fighting it and called for 'an open and inclusive

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[278] Transnational organized crime is a serious threat to long-term stability, which undermines the establishment of functioning legitimate institutions in almost every theater where there are UN peace operations. Walter Kemp, Mark Shaw, and Arthur Boutellis, The Elephant in the Room: How Can Peace Operations Deal with Organized Crime? (New York: International Peace Institute, 2013), 6. https://www.ipinst.org/2013/06/the-elephant-in-the-room-how-can-peace-operations-deal-with-organized-crime.

[279] UNESCO, United Nations Security Council Resolution 2347, S/RES/2347 (2017), CL/4210, 09/06/2017. https://unesdoc.unesco.org/ark:/48223/pf0000249838. This resolution is 'the first to focus exclusively on the protection of cultural heritage and its necessity for peace and security'.

[280] Counter-Terrorism Committee Executive Directorate (CTED), Counter-Terrorism Week Side Event 'Addressing the linkages between the destruction and illicit trafficking of cultural property and terrorism: scope of the threat and responses to the phenomenon', CTED-United Nations Educational, Scientific and Cultural Organization-Italy, 22 June 2023, https://www.un.org/securitycouncil/ctc/sites/www.un.org.securitycouncil.ctc/files/ed_remarks_cted-unesco-italy_side_event_on_cultural_property_ct_week_2023_cleared_2.pdf.

[281] The Council of Europe stresses in para. 3 of its explanatory report that '*the trafficking of cultural property is, by its nature, a transnational phenomenon with artefacts often being trafficked through organised crime networks. The black market trade in antiquities, art and artefacts by unscrupulous dealers who do not care about the illicit provenance of such cultural objects can end up funding corruption, terrorism, violence and other crimes. After arms and drugs trafficking, according to some estimates, the illicit trade in cultural objects is one of the most profitable forms of transnational organised crime*'. Council of Europe. (2017b). *Explanatory report to the Council of Europe Convention on Offences relating to Cultural Property* (Council of Europe Treaty Series – No. 221)*,* Nicosia: 19.V.2017, https://rm.coe.int/ 1680a55237.

[282] EU Security Union Strategy, European Commission, Brussels, 2020, COM/2020/605, p. 19. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0605.

international dialogue for the return and restitution of cultural property, including illegally exported property, to countries of origin under UNESCO's aegis'.[283]

Recently, many sites have been looted, such as the Baghdad Museum in Iraq in 2004, Cambodian temples in 2013, Palmyra in Syria since its destruction in 2015, the Benghazi bank vault in Libya and almost all known major sites in Afghanistan.[284]

3.6 Limited resources and Lack of technical expertise

In the aftermath of a conflict, the economy of the country will have suffered significantly, limiting the national authority's ability to provide the required funds to restore or reconstruct its heritage:

> '*Attempts to protect and recover cultural heritage were rendered significantly harder, especially in Afghanistan and Iraq, where not only unclear war objectives but also ineffective pre-war planning for post-war recovery left cultural heritage neglected with minimal resources allocated to it, as the focus was on instability and security challenges that seemed to be never-ending.*'[285]

In addition, there is a lack of expertise among the bodies involved in the conser-

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[283] UNESCO World Conference on Cultural Policies and Sustainable Development, Mondiacult Final Declaration (28-30 September 2022, Mexico City), MONDIACULT-2022/CPD/6. https://www.unesco.org/sites/default/files/medias/fichiers/2022/10/6.MONDIACULT_EN_DRAFT%20FINAL%20DECLARATION_FINAL_1.pdf This Declaration was in response to the Resolution 76/16 of the United Nations General Assembly on 'Return or restitution of cultural property to the countries of origin', and which calls to 'strengthen and implement comprehensive crime prevention and criminal justice responses to illicit trafficking in cultural property for the purpose of providing the widest possible international cooperation to address such crime'. United Nations General Assembly Resolution 76/16 on the 'Return or restitution of cultural property to the countries of origin' adopted unanimously on 6 December 2021, A/RES/76/16.

[284] Frederik Rosén, NATO and Cultural Property. Embracing New Challenges in the Era of Identity Wars, NATO SPS Programme and the Nordic Centre for Cultural Heritage and Armed Conflict, 2017, p. 24. https://www.academia.edu/35782118/NATO_AND_CULTURAL_PROPERTY_Embracing_New_Challenges_in_the_Era_of_Identity_Wars_Report_of_the_NATO_Science_for_Peace_and_Security_Project_Best_Practices_for_Cultural_Property_Protection_in_NATO_led_Military_Operation.

[285] Sultan Barakat, 'Necessary Conditions for Integrated Approaches to the Post-conflict Recovery of Cultural Heritage in the Arab World', *International Journal of Heritage Studies* 27, no. 5 (2021): 436. https://doi.org/10.1080/13527258.2020.1799061.

vation process as a whole, which challenges the reconstruction of destroyed heritage. In this perspective, the role of international organisations, NGOs and donors is crucial to providing the necessary financial and technical support.

4. Strategies for cultural heritage conservation

The development and implementation of cultural heritage conservation strategies must be guided by careful consideration of the historical-cultural context and socio-economic aspects of both tangible and intangible heritage. They should also examine the multicultural diversity environment and the needs and expectations of local communities. It is also important to understand the cultural value and religious significance of cultural heritage to develop an appropriate strategy. The strategies should emphasise cultural heritage restoration and recovery rather than its replacement to preserve its authenticity and originality. Authenticity 'refers to both material authenticity and functional authenticity, which pertains not only to the reconstruction of cities but also to the reconstruction of societies'.[286]

Cultural heritage protection strategies require comprehensive planning, the identification of potential risks, the suggestion of appropriate measures to eliminate or mitigate them and an assessment of the needs of the local communities. These strategies can be summarised as follows.

4.1 Creation of cultural heritage inventories

The preservation of cultural heritage necessitates the creation of accurate inventories, registers or databases to identify and list all tangible and intangible heritage within a country or region. To achieve this, it is necessary to conduct assessments and collect data using various techniques and digital technologies. The creation

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[286] Gustavo Araoz, Paper presented at the Colloquium on 'Post-Trauma Reconstruction', Volume I, ICOMOS Headquarters, Charenton-le-Pont-France, 4 March 2016, p. 3. http://openarchive.icomos.org/1707/1/ICO-MOS-Post-Trauma_Reconstruction_Proceedings-VOL1- ENGok.pdf.

of comprehensive inventories is of utmost importance to conserving cultural heritage and ensuring its survival for the benefit of future generations.

4.2 Developing the digital heritage preservation

The integration of digital technology has become increasingly important in the fields of heritage conservation, protection and sustainability as it can efficiently document and analyse both tangible and intangible heritage. For heritage conservation:

> '…*modern digital (geo)technologies such as satellite and drone data, digital applications for processing spatial data, geographic information systems (GIS)[287] or GPS-supported surveying techniques can help to provide documentation about World Heritage properties, to record and analyse their state of conservation, thus contributing to their long-term preservation.*'[288]

Heritage conservation professionals can leverage cutting-edge technology to capture high-resolution images and precise measurements, construct detailed models, analyse data and disseminate information in diverse formats. This digital approach enables the virtual restoration and manipulation of delicate artefacts, thereby playing a critical role in their sustainable preservation.

The integration of digital technology in heritage conservation is indispensable in safeguarding our cultural heritage and historical legacy. The digitisation of heritage services raises cultural awareness about the values and morals of heritage and the

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[287] NATO Joint Alliance Lessons Learned Center concluded that the GIS data that was provided to NATO by external actors during Operation Unified Protector (OUP) was decisive for NATOs success with CPP in OUP. Based on NATO lessons identified and current developments in GIS technology, it may be relevant for NATO to consider a GIS as a CPP tool. NATO Science for Peace and Security (SPS) Advanced Research Workshop (ARW) 'Best Practices for Cultural Property Protection in NATO-led Missions', Workshop findings, Sarajevo, Bosnia-Herzegovina, 15—18 June 2015, p. 2.

[288] Alexander Siegmund and Anca Claudia Prodan, 'Technological Change – Risk or Opportunity for UNESCO World Heritage?', in *50 Years World Heritage Convention: Shared Responsibility – Conflict & Reconciliation* (Switzerland: Springer Nature, 2022), 296-297.

wide dissemination of knowledge regarding cultural heritage. It also contributes to the economic development of the country. UNESCO recognises the importance of heritage digitalisation and thus adopted a Charter for the Preservation of the Digital Heritage[289] in 2009 to emphasise digital heritage and digital preservation.[290]

4.3 Enhancing community capacity building

An effective conservation process necessitates the engagement and involvement of local communities, including governmental institutions, civil society and religious associations. It is evident that 'capability and capacity building typically involve long-term and complex processes necessitating the development of local forces and infrastructure'.[291]

This can be guaranteed through a strategy of enhancing community capacity building[292] which helps foster a sense of belonging, ownership and empowerment for the local community. It also optimises both short- and long-term sustainability benefits. Proper training for the national community is vital in enabling them to participate in the decision-making and implementation processes.

4.4 Strengthening community inclusion and intergenerational equity

The post-conflict period aims to enhance cohesion, coexistence and reconciliation

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[289] Charter on the Preservation of the Digital Heritage, 2009, CL/3865. https://unesdoc.unesco.org/ark: /48223/pf0000179529.page=2.

[290] Digital preservation is 'all those processes aimed at ensuring the continuity of digital heritage materials for as long as they are needed'. https://en.unesco.org/themes/information-preservation/digital-her-itage/concept-digital-preservation.

[291] NATO, Allied Joint Doctrine for Security Force Assistance (SFA), NATO Standard Allied Joint Publication AJP-3.16, Edition A Version 1, NATO Standardization Office (NSO), (May 2016), p. 1-4. https://www.gov.uk/government/publications/allied-joint-doctrine-for-security-force-assistance-sfa-ajp-316a .

[292] Gamini Wijesuriya, Jane Thompson and Sarah Court, 'People-Centred Approaches: Engaging Communities and Developing Capacities for Managing Heritage', Essay in *Heritage, Conservation and Communities: Engagement, Participation and Capacity Building*, ed. Gill Chitty (London: Routledge, 2017). https://www.taylorfrancis.com/chapters/edit/10.4324/9781315586663-13/people-centred-approaches-engaging-communities-developing-capacities-managing-heritage.

principles to strengthen inclusion and equity. Collaboration and participation are important to encourage people to plan for the reconstruction of their heritage with or through a shared vision. This vision is unique and customised to the needs and expectations of the people, not based on the objectives and agendas of outsiders. There is a 'necessity for "people-centred" or "people-led" approaches with a need for continuous dialogue with the local population'. [293] Whenever reconstruction heritage-based projects are being developed, they should be designed 'through' the local communities rather than just 'on behalf of them' to ensure they are completely integrated as active players and build trusting relationships with them.

The post-conflict period should also focus on the reconstruction and revitalisation of the affected communities by providing access to justice, education and employment opportunities. The adopted strategies should recognise and respect the ethnic and religious values of the local communities to facilitate their inclusion and integration in the reconstruction process. Equality and inclusion promote understanding and collaboration across different cultures and identities.

4.5 Good planning and project management

Planning and management are prerequisites to the successful implementation of cultural heritage conservation projects. It is important to have a feasibility study that defines the goals and objectives, the costs and funding opportunities, and the impacts of the projects on society. The project plan should be flexible to deal with unexpected situations and mobilise the necessary funds.

4.6 Fighting corruption and illicit trafficking

The post-conflict strategies must promote governmental efforts to fight corrup-

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[293] Lorika Hisari, Kristen Barrett-Casey, and Kalliopi Fouseki, 'The Role of Heritage in Post-War Reconciliation: Going Beyond World Heritage Sites', in *50 Years World Heritage Convention: Shared Responsibility – Conflict & Reconciliation* (Switzerland: Springer Nature, 2022), 194. https://doi.org/10.1007/978-3-031-05660-4_15.

tion and stop illicit trafficking. International actors also have to support national authorities in enacting legislation aligned with international legal rules that guarantee strong legal enforcement.

This enhancement should be promoted through international co-operation, especially by international enforcement bodies. Proper training is required to ensure the efficacy of the implementation of legal rules. Supporting the civilian local authorities in the prevention of cultural heritage looting and trafficking through training is of the utmost importance. For example, 'in Dhi Qar (Iraq) units of the Carabinieri Tutela Patrimonio Culturale (TPC) cooperated with the Iraqi State Board of Antiquities and Heritage (SBAH) to train guards in protecting archaeological sites'.[294] National authorities should create a database with the stolen objects and ensure good coordination, especially with the International Criminal Police Organisation (Interpol). In addition, 'steps should be explored to improve the online and offline traceability of cultural goods in the internal market and co-operation with third countries where cultural goods are looted and providing active support to law enforcement and academic communities'.[295]

4.7 Promoting reconciliation, social justice and accountability

Reconciliation[296] is an ongoing process that concerns various levels, rang-

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[294] Furthermore, the Polish forces also trained and equipped the Iraqi archaeological police (FPS or Facility Protection Service) and repaired the destroyed offices of the State Board of Antiquities and Heritage. Jolien Berends, Cultural Property Protection Makes Sense, Civil-Military Cooperation Centre of Excellence (CCOE), The Hague, Second edition 2020, pp. 63-64. https://www.cimic-coe.org/resources/make-sense-series/cpp-makes-sense-final-version-29-10-15.pdf.

[295] EU Security Union Strategy, European Commission, Brussels, 2020, COM/2020/605, p. 19. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0605.

[296] The UN Secretary-General, Antonio Guterres, emphasized the importance of a successful reconciliation that 'contributes to preventing a recurrence of conflict and to building more peaceful, resilient and prosperous societies, particularly in the aftermath of large-scale violence and human rights violations'. United Nations Security Council, Peacebuilding and Sustaining Peace: The Role of Reconciliation in Maintaining International Peace and Security, 19 November 2019, 8668th Meeting, S/PV8668. https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_pv_8668.pdf.

ing from national to international and regroups them:

> '*Successful restoration projects do not themselves mean that rec-*
> *onciliation has been achieved, as the Cyprus case[297] demon-*
> *strates; but they can be important confidence-building measures*
> *and indicators of progress having been achieved towards that rec-*
> *onciliation.*'[298]

The adopted strategies should promote sustainable post-conflict reconciliation, which aims to adopt a cultural heritage perception that renders it 'inclusive, safe, resilient and sustainable' (SDG 11).[299] This is a precondition for sustainable peace by enhancing relationships among parties involved in the conflict and establishing co-operation and communication between them.

Dialogue and trust-building policies are crucial to encouraging and strengthening intercultural and inter-community dialogue. The adoption of corrective measures for a proper social justice system and accountability policies fosters long-term peace strategies. These measures address social injustices and contribute significantly to creating a more equitable society.

4.8 Creation of an integrated approach

The post-conflict period must include the creation of an integrated approach that

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[297] In the Cyprus case, the restoration plan wouldn't be possible until the end of hostilities. The restoration projects took many years to be achieved, as a part of a long-term reconstruction process. In such cases, 'the healing of bitter memories and the restoration of trust is a delicate, highly complex process that cannot be rushed and may take generations to achieve'. Sultan Barakat, 'Post-war reconstruction and the recovery of cultural heritage: critical lessons from the last fifteen years', in *Cultural Heritage in Post-war Recovery*, Papers from the ICCROM FORUM held on October 4-6, 2005, p. 36. https://www.researchgate.net/publication/285597098_Postwar_reconstruction_and_the_recovery_of_cultural_heritage_critical_lessons_from_the_last_fifteen_years.

[298] Nicholas Stanley-Price, 'The thread of continuity: cultural heritage in post-war recovery', in *Cultural Heritage in Post-war Recovery*, Papers from the ICCROM FORUM held on October 4-6, 2005, p. 11.

[299] United Nations Sustainable Development Goal 11 'Sustainable Cities and Communities', Target 11.4: 'Strengthen efforts to protect and safeguard the world's cultural and natural heritage'. https://www.un.org/sustainabledevelopment/cities/.

encompasses both cultural heritage reconstruction and conservation. This approach requires a thorough and synchronised assessment of the current status of heritage to determine the appropriate action to be taken. To ensure a successful implementation, the entire process should be managed by qualified professionals with adequate resources.

The funding of the project can integrate international actors to guarantee the availability of funds and the required expertise. An effective post-conflict recovery programme 'must follow an integrated approach that combines developmentalism with societal transformation and reconciliation'.[300]

5. Role of international organisations

Several international organisations play a significant role in cultural heritage reconstruction. In first place comes the United Nations Educational, Scientific and Cultural Organisation (UNESCO) which is the leading UN agency specialising in encouraging the 'identification, protection and preservation of cultural and natural heritage around the world considered to be of outstanding value to humanity'. [301] UNESCO 'has consistently led international efforts to safeguard heritage in crises, as in the case of leading emergency safeguarding efforts in many countries such as Lebanon, Iraq, Yemen, Brazil, Mali, Peru, Afghanistan, Haiti, Nepal and Bosnia'.[302] In response to the increasing number of intentional attacks against cultural heritage,[303] in 2003 UNESCO developed the Declaration concerning the Intentional Destruction of Cultural Heritage.[304] This Declaration is

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[300] Sultan Barakat, 'Necessary Conditions for Integrated Approaches to the Post-conflict Recovery of Cultural Heritage in the Arab World', *International Journal of Heritage Studies* 27, no. 5 (2021): 437. https://doi.org/10.1080/13527258.2020.1799061.

[301] UNESCO World Heritage, https://whc.unesco.org/en/about/#:~:text=The%20United%20Nations%20Educational%2C%20Scientific,of%20outstanding%20value%20to%20humanity.

[302] UNESCO, Culture: Protecting Our Heritage and Fostering Creativity, https://en.unesco.org/sites/default/files/info_sheet_heritage.pdf.

[303] This was the case of the destruction of Dubrovnik in Croatia (1991), the city hall of Sarajevo in Bosnia (1992), and the Statues of Buddhas of Bamiyan in Afghanistan (2001).

the first UNESCO standard-setting document that aims to establish universal jurisdiction for cultural heritage crimes and to strengthen co-operation in criminal sanctions.[305] As a reaction to the destruction of Iraq's most iconic city, in 2018 UNESCO launched the initiative 'Revive the Spirit of Mosul'[306] with the EU to recover the city and enhance social cohesion by creating dialogue and communication platforms. This initiative 'exemplifies "heritage as resilience" policy, which imagines recovering Mosul's key cultural and religious sites will help renew shared values, collective memories and communal solidarity'.[307]

With the help of international organisations, several states organised awareness sessions and developed training programmes for their military forces focused on cultural heritage protection during conflict in operational contexts to mitigate the negative impacts of military operations on cultural sites.

The UNSC has for the first time integrated the safeguarding of cultural heritage into the mandate of the United Nations peace operation in Mali (MINUSMA) to 'assist the transitional authorities of Mali, as necessary and feasible, in protecting from attack the cultural and historical sites in Mali, in collaboration with UNESCO'.[308] It unanimously adopted Resolution 2347 which covers 'the full range of threats to cultural heritage, without any geographical limitations and regard-

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[304] UNESCO, Declaration concerning the Intentional Destruction of Cultural Heritage, General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO), meeting in Paris, thirty-second session, 2003, (Doc. 32 C/Res. 33). https://unesdoc.unesco.org/ark:/48223/pf0000133874. As per Section 4 of the Declaration, during peacetime activities, states have the obligation to 'take all appropriate measures to conduct them in such a manner as to protect cultural heritage' and this should be in conformity with the objectives and principles of UNESCO treaties and recommendations.

[305] Federico Lenzerini, 'The UNESCO Declaration concerning the Intentional Destruction of Cultural Heritage: One Step Forward and Two Steps Back', *The Italian Yearbook of International Law Online* 13, no. 1 (2003): 131–145. https://doi.org/10.1163/221161303X00074.

[306] UNESCO Initiative 'Revive the Mosul', https://www.unesco.org/en/fieldoffice/baghdad.

[307] Craig Larkin and Inna Rudolf , 'Memory, Violence and Post-conflict Reconstruction: Rebuilding and Reimagining Mosul', *Peacebuilding* 11, no. 2 (2023):10, https://doi.org/10.1080/21647259.2023. 2247722.

[308] United Nations, Article 16.f, United Nations Security Council Resolution 2100, S/RES/2100 (2013), 6952nd meeting, 25/04/2013. https://minusma.unmissions.org/en/resolution-2100.

less of whether the perpetrators of the crimes are terrorist groups already on UN lists or belong to other armed groups'.[309]

The Resolution also affirmed the importance of UN peacekeepers' assistance to the 'relevant authorities, upon their request, in the protection of cultural heritage from destruction, illicit excavation, looting and smuggling in the context of armed conflicts'. [310]

Additionally, 'other multilateral organisations, including NATO[311] and the EU, have also developed new policy guidance on heritage issues'.[312] The protection of cultural property is set in the preamble of the North Atlantic Treaty as one of its goals,[313] NATO considers cultural property an essential part of the security environment that can constitute a crucial element in strategic, operational and tactical considerations.[314]

The importance of cultural property protection (CPP) for NATO has increased significantly due to legal, strategic and ethical considerations, in light of some re-

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[309] UNESCO, 'A historic resolution to protect cultural heritage' (2017). https://www.unesco.org/en/articles/historic-resolution-protect-cultural-heritage-0.

[310] Article 19 affirms 'that the mandate of United Nations peacekeeping operations, when specifically mandated by the Security Council and in accordance with their rules of engagement, may encompass, as appropriate, assisting relevant authorities, upon their request, in the protection of cultural heritage from destruction, illicit excavation, looting and smuggling in the context of armed conflicts, in collaboration with UNESCO, and that such operations should operate carefully when in the vicinity of cultural and historical sites'. United Nations Security Council Resolution 2347, S/RES/2347 (2017), CL/4210, 09/06/2017, https://unesdoc.unesco.org/ark:/48223/pf0000249838.

[311] Civil-Military Cooperation Centre of Excellence, The Hague (CCOE). 'Cultural Property Protection (CPP) A CCOE Fact Sheet'. https://www.handbook.cimic-coe.org/8.-annex/8.2-factsheets/final-ccoe-fact-sheet-cpp.PDF.

[312] Richard Gowan, 'Peace Operations and the Protection of Cultural Heritage', in *Cultural Heritage and Mass Atrocities*, eds. Cuno, James, and Thomas G. Weiss (Los Angeles: Getty Publications, 2022), 518. https://www.getty.edu/publications/cultural-heritage-mass-atrocities/part-5/30-gowan/.

[313] The preamble of the North Atlantic Treaty states that the Allies 'are determined to safeguard the freedom, common heritage and civilisation of their peoples, founded on the principles of democracy, individual liberty and the rule of law'. North Atlantic Treaty, Washington DC, (4 April 1949). https://www.nato.int/cps/en/natohq/official_texts_17120.htm.

[314] Frederik Rosén, 'NATO and Cultural Property: A Hybrid Threat Perspective'. PRISM 10, no. 3 (2023): 44–58. https://www.jstor.org/stable/48743422.

cent developments.[315] This was shown in integrating cultural property into its approach to countering hybrid threats, with broad attention to CPP moving beyond the Law of Armed Conflict (LOAC) and building on lessons identified from NATO and non-NATO military operations. The focus on CPP shifted from environmental protection to viewing CPP as a separate cross-cutting issue placed along with other protection issues within the NATO Human Security Framework and then towards a broader operational issue.[316] NATO also has a crucial role in preventing looting and illicit trafficking of cultural heritage by guarding CP sites themselves.

For example, in Kosovo, the Kosovo Force (KFOR)[317] was tasked with the protection of patrimonial sites and units of the Italian Carabinieri were deployed to KFOR in 2002 and 2003 to stop the looting of churches and mosques, establishing checkpoints and border control themselves (as was the case in Afghanistan), arresting looters and recovering stolen artefacts and registering and reporting stolen CP.[318]

NATO is also committed to raising awareness about cultural property protection, conducting military educational training programmes and setting military regulations, NATO member state ministries of defence are obliged to include a unit

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[315] The importance of CPP for NATO legally is due to the obligations of the Hague Convention (1954) and its two Protocols. Strategically, CPP is regarded as an element of mission success, and the destruction of CP may cause increased violence and an escalation of conflict. The ethical perspective is related to the necessity of CPP as part of the identity of people because it constitutes a societal memory that cannot be repaired or recovered when removed or destroyed. Jolien Berends, 'Cultural Property Protection Makes Sense', Civil-Military Cooperation Centre of Excellence (CCOE), The Hague, Second edition 2020, pp. 8-9. https://www.cimic-coe.org/resources/make-sense-series/cpp-makes-sense-final-version-29-10-15.pdf.

[316] Frederik Rosén, 'NATO and Cultural Property: A Hybrid Threat Perspective'. PRISM 10, no. 3 (2023): 44–58, p.2. https://www.jstor.org/stable/48743422.

[317] The Kosovo Force (KFOR) is 'the NATO-led peacekeeping mission, operating in Kosovo since June 1999 to build peace and stability in the area'. https://www.nato.int/cps/en/natohq/topics_48818.htm.

[318] Jolien Berends, 'Cultural Property Protection Makes Sense', Civil-Military Cooperation Centre of Excellence (CCOE), The Hague, Second edition 2020, pp. 8-9, p. 64. https://www.cimic-coe.org/resources/make-sense-series/cpp-makes-sense-final-version-29-10-15.pdf.

with CPP specialists in their armed forces.[319] The particular engagement of NATO in CPP projects and initiatives makes it 'the most progressive defence organisation when it comes to developing military approaches for handling challenges related to cultural property in armed conflicts', which is different from other military organisations that 'generally lack policy, doctrine and dedicated capacities for addressing CPP'.[320] The Alliance has demonstrated its CPP policies in several NATO-led military operations, such as Kosovo, Afghanistan and Libya.[321]

Effective collaboration between different international organisations is developed on various aspects of heritage conservation. For example, the collaboration between UNESCO and the World Bank results in the coordination of many reconstruction projects[322] and scientific co-operation as in the publication of research and reports focused on recovery and reconstruction strategies.[323] Also, the co-operation between the military and humanitarian sectors for the protection of cultural heritage as in the signing of formal agreements between the Blue Shield and NATO and the International Committee of the Red Cross (ICRC).[324]

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[319] This unit should secure respect for cultural property and cooperate with the responsible civilian authorities in the event of armed conflict. Jolien Berends, 'Cultural Property Protection Makes Sense', Civil-Military Cooperation Centre of Excellence (CCOE), The Hague, Second edition 2020, pp. 8-9, p. 16. https://www.cimic-coe.org/resources/make-sense-series/cpp-makes-sense-final-version-29-10-15.pdf.

[320] Cultural Property Protection: NATO and other Perspectives, the NATO Legal Gazette, Monte DeBoer, ACT Legal Advisor, Issue 38, September 2017, p. 27. https://www.act.nato.int/wp-content/uploads/2023/05/legal_gazette_38.pdf.

[321] Frederik Rosén, NATO and Cultural Property. Embracing New Challenges in the Era of Identity Wars, NATO SPS Programme and the Nordic Centre for Cultural Heritage and Armed Conflict, 2017, pp. 23-25. https://www.academia.edu/35782118/NATO_AND_CULTURAL_PROPERTY_Embracing_New_Challenges_in_the_Era_of_Identity_Wars_Report_of_the_NATO_Science_for_Peace_and_Security_Project_Best_Practices_for_Cultural_Property_Protection_in_NATO_led_Military_Operation.

[322] UNESCO and the World Bank collaborated to rebuild the Old Bridge and restore the Old City of Mostar, Bosnia and Herzegovina. Amra Hadzimuhamedovic and Mounir Bouchenaki, 'Reconstruction of the Old Bridge in Mostar', in *World heritage review*, 86, p. 20-26, illus (2018).https://unesdoc.unesco.org/ark:/48223/pf0000261515. Additionally, they cooperated on the rehabilitation of Mosul in Iraq on the basis of UNESCO's project 'Revive the Spirit of Mosul'.

[323] In 2018, UNESCO and the World Bank published a joint position paper on 'Culture in City Reconstruction and Recovery' (CURE Framework) that proposes a post-conflict framework focused on 'people-centered' and 'place-based policies'. UNESCO and The World Bank, Position paper, 'Culture in City Reconstruction and Recovery (CURE)', World Bank–UNESCO, (2018), p. 8. https://unesdoc.unesco.org/ark:/48223/pf0000265981 .

6. Lessons from heritage reconstruction experiences

Previous post-conflict experiences demonstrate that each country presents a unique experience in terms of its culture, circumstances, plans, projects and communities. Hence, the post-conflict scenario and strategy for heritage recovery that addresses policy responses, priorities, appropriateness and timing may differ from one case to another and each requires a tailored approach that is considered on its own merits. There are, for example, cases in which the cultural heritage recovery process may require the intervention of multiple international actors alongside the local community. Some may also have large international implications and interests, whereas others are primarily the responsibility of national institutions.

The use of heritage as a 'diplomacy tool' in the aftermath of conflict has significantly increased. We may differ between 'charismatic archaeology'[325] 'which identifies those sites — like Palmyra, the Al Nuri Mosque, the Stari Most bridge — that are recognised as highly symbolic, as icons of a past culture […] These sites are useful to international donors' and 'careful heritage diplomacy' 'which is less spectacular as donors fund high-risk projects, often dealing with communities and intangible heritage that are- quite simply- hard to work with'.[326]

Although it is generally accepted that 'heritage is an integral part of reconstruction and should therefore be synchronised with the evolving process of societal recon-

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[324] Peter G. Stone, Protecting Cultural Property in Armed Conflict: The Necessity for Dialogue and Action Integrating the Heritage, Military, and Humanitarian Sectors, in Cultural Heritage and Mass Atrocities, edited Cuno, James, and Thomas G. Weiss. Los Angeles: Getty Publications, 2022, p. 542. https://www.getty.edu/publications/cultural-heritage-mass-atrocities/part-5/31-stone/.

[325] Nour A. Munawar, 'Reconstructing cultural heritage in conflict zones: Should Palmyra be built?', *EX NOVO Journal of Archaeology* 2, (2017): 41. https://archaeologiaexnovo.org/2016/wp-content/uploads/2017/12/3_Munawar_Ex_Novo_2.pdf.

[326] Jasper Chalcraf, 'Into the Contact Zones of Heritage Diplomacy: Local Realities, Transnational Themes and International Expectations', *International Journal of Politics, Culture, and Society* 34, no. 4 (2021): 488. https://doi.org/10.1007/s10767-020-09391-3.

structions',[327] it should be admitted that 'restoration or conservation should not always be the default position…this will be the correct response on occasion, but not always and perhaps not even often'. [328] In all cases, efforts should be made to consider the needs of the local community, which bears the greatest responsibility for the reconstruction of its heritage and the shaping of its future. Many situations have witnessed the success of reconstruction strategies 'in which international resources, together with local inputs, have positively impacted material conditions in post-war communities, for example, Mostar, Pocitelj, the Babur Gardens in Kabul, revitalisation of the Old City of Jerusalem and Hebron City Centre'. [329]

For the question of preventing looting and illicit trafficking of cultural property, NATO for example plays an important role in protecting heritage through different strategies, such as the collection of data and providing information on the location of cultural heritage, in addition to supporting civilian authorities in safeguarding cultural heritage. One successful example was the role played by the Carabinieri TPC, the Italian unit for the Protection of Cultural Property, which was deployed to Kosovo in 2002 and in Iraq in 2003. "The Italian Carabinieri TPC, deployed to Kosovo in 2002, were tasked with the monitoring of churches and mosques to keep them from being plundered.

In Iraq, Spanish forces put seven kilometers of wire around the archaeological site at Tell Nuffar to prevent looting of the artefacts there. With helicopters, Polish forces regularly reviewed the cultural sites they were responsible for during their

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[327] Alvaro Higueras, 'Aid and Reconstruction of Heritage in the Context of Post-Conflict Societies', *Archaeologies: Journal of the World Archaeological Congress* 9, no. 1 (2013): 95. https://doi.org/10.1007/s11759-013-9224-5.

[328] John Schofield, 'People first?: Reassessing heritage priorities in post-conflict recovery', in *Catastrophe and Challenge:Cultural Heritage in Post-conflict Recovery*, ed. Peter Schneider, International Conference on Heritage Conservation and Site Management, 05-07 Dec 2016, BTU-Cottbus , DEU , p. 221. https://eprints.whiterose.ac.uk/143207/.

[329] Sultan Barakat, 'Necessary Conditions for Integrated Approaches to the Post-conflict Recovery of Cultural Heritage in the Arab World', *International Journal of Heritage Studies* 27, no. 5 (2021): 446, https://doi.org/10.1080/13527258.2020.1799061.

2003 deployment in South Iraq. Besides, they embedded archaeologists, who used satellite imagery to keep track of the state of the archaeological sites in the areas under multilateral control. Dutch forces, during their employment in Iraq starting in 2003 (Stabilisation Force Iraq), made sure that the local Bedouin custodians of the archaeological site Uruk continued to receive salaries for guarding the site so that there would be no risk of looting". [330]

There are many other examples that demonstrate the role played by NATO in protecting the CP from looting and smuggling, at UNESCO's request, the peacekeeping mission undertook efforts to restore social order by involving, among others, "the protection of CP by supporting capacity-building in countering looting and site protection. The Carabinieri identified all key sites with CP in the region to enhance protection. Besides, they successfully trained the Iraqi Facilities Protection Service (FPS), including providing new uniforms and supplies. After six years, six visits were conducted to measure the results; the looting had ended and in various other measures of social stability the region performed significantly better". [331]

Lessons learned from past conflict experiences reveal that 'rebuilding or restoration work should consider local perspectives, competing ideologies that may contest a particular piece of heritage and the roles and meanings of that heritage within communities'.[332] It is important to understand the site's history, cultural significance and architectural features. As heritage is a socially complex structure, the reconstruction process should consider not only the physical and material aspects, but also the physiological and social environment, both of which are cru-

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[330] Jolien Berends, "Cultural Property Protection Makes Sense", Civil-Military Cooperation Centre of Excellence (CCOE), The Hague, Second edition 2020, p. 56. https://www.cimic-coe.org/resources/make-sense-series/cpp-makes-sense-final-version-29-10-15.pdf.

[331] *Ibid*, p. 27.

[332] Luke Kelly, Lessons Learned on Cultural Heritage Protection in Conflict and Protracted Crisis, K4D Helpdesk Report, Institute of Development Studies, 2021, p. 7. DOI: 10.19088/K4D.2021.068.

cial for the success of reconstruction projects. This means that the impact of the material reconstruction, which should respond to social and cultural needs, depends on the role and value of heritage in society.

On the other side,

> '*The failure to engage with the diverse range of public opinion on heritage issues in (post) conflict environments has meant that such projects are often plagued by several significant problems: They can inadvertently legitimise oppressive regimes and exclusionist forms of nation-building; they prioritise monumental reconstruction over broader humanitarian and developmental needs; they tend to privilege the opinions of heritage experts over those of local peoples; they are premised on the 'universalist' value of heritage and its supposed power to promote peace and reconciliation in societies still riven with division and conflict and, in the worst cases, they leave both local people and their heritage sites exposed to further violence.*'[333]

The experience from the Balkans shows that the reconstruction process should be advised and planned with the engagement of local communities, as in many situations they were not even consulted on the reconstruction priorities. This was the case in the rebuilding project of the Stari Most Bridge in Mostar (Old Bridge), Bosnia-Herzegovina[334] which was led by UNESCO and a partnership of international actors including the World Bank, NGOs and donor countries.

This project was criticised because 'the UNESCO-led reconstruction was a stage-managed affair designed to promote the multilateral body to international

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[333] Benjamin Isakhan and Lynn Meskell, 'Rebuilding Mosul: Public Opinion on Foreign-led Heritage Reconstruction', Cooperation and Conflict 00, no. 0 (2023): 7, https://doi.org/10.1177/00108367231177796.

[334] After the reconstruction, UNESCO, 'the Old Bridge Area of the Old City of Mostar was inscribed on the World Heritage List (WHL) in July 2005, in the name of 'human solidarity for peace and powerful cooperation in the face of overwhelming catastrophes'. https://whc.unesco.org/en/story-mostar-bridge.

audiences'[335] since the reconstruction was 'regarded as an international symbol and a staged reconciliation in Mostar'.[336] The process was also promoted in 'an institutionally "divided city" that represents a disengagement between the local political and social divisions'[337] as the Dayton Agreement[338] 'delivered a "negative peace" in which it provided the cessation of active violent conflict but implemented geo-institutional divisions'. [339]

> '*Local responses and solutions have significant benefits of harnessing local materials, skills and know-how and thereby help in restoring dignity, confidence and faith in local capacities […] Accordingly, they are more effective, more sustainable and frequently cheaper than externally imported solutions.*'[340]

This was illustrated in the reconstruction project in Timbuktu, which 'efficiently adopted a holistic approach, giving equal importance to tangible and intangible facets of Timbuktu culture with the participation of local community'. [341]

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[335] Benjamin Isakhan and Lynn Meskell, 'UNESCO's Project to 'Revive the Spirit of Mosul': Iraqi and Syrian Opinion on Heritage Reconstruction after the Islamic State', *International Journal of Heritage Studies* 25, no. 1 (2019): 4, https://doi.org/10.1080/13527258.2019.1578988.

[336] Susan Forde, 'The Bridge on the Neretva: Stari Most as a Stage of Memory in Post-conflict Mostar, Bosnia–Herzegovina', *Cooperation and Conflict* 51, no. 4 (2016): 467. https://doi.org/10.1177/001083671665243.

[337] Annika Björkdahl and Ivan Gusic, 'The Divided City – a Space for Frictional Peacebuilding', *Peacebuilding* 1, no. 3 (2013): 317-333, https://doi.org/10.1080/21647259.2013.813172.

[338] United Nations, The General Framework Agreement for Peace in Bosnia and Herzegovina 'Dayton Agreement', was initiated in Dayton on 21 November 1995 and signed in Paris on 14 December 1995. https://peacemaker.un.org/sites/peacemaker.un.org/files/BA_951121_DaytonAgreement.pdf.

[339] Susan Forde, 'The Bridge on the Neretva: Stari Most as a Stage of Memory in Post-conflict Mostar, Bosnia–Herzegovina', Cooperation and Conflict 51, no. 4 (2016): p. 473. https://doi.org/10.1177/ 001083671665243.

[340] Sultan Barakat, 'Necessary Conditions for Integrated Approaches to the Post-conflict Recovery of Cultural Heritage in the Arab World', *International Journal of Heritage Studies* 27, no. 5 (2021): 443. https://doi.org/10.1080/13527258.2020.1799061.

[341] Thierry Joffroy and Ben Essayouti, 'Lessons learnt from the reconstruction of the destroyed mausoleums of Timbuktu, Mali', HERITAGE2020 (3DPast | RISK-Terra) International Conference, Sep 2020, Valencia, Spain. p. 919. https://isprs-archives.copernicus.org/articles/XLIV-M-1-2020/913/2020/isprs-archives-XLIV-M-1-2020-913-2020.pdf .

This has had a positive impact on promoting and sustaining peace in Mali and is an 'example of the successful integration of culture in peacebuilding'.[342] The intervention of the ICC in prosecuting the perpetrators responsible for the intentional destruction of mausoleums in Timbuktu[343] enhanced the internal situation. Despite all of this, the project was criticised because 'by prioritising the protection of cultural heritage, UNESCO has mostly airbrushed out the extreme poverty and poor sanitary conditions faced by the inhabitants of the sites'.[344]

7. Conclusion

Cultural heritage serves as a driver of sustainable development by promoting economic growth, providing employment opportunities and stimulating tourism. The protection and sustainability of cultural heritage are embodied in the UN Sustainable Development Goals (SDGs, Goal 11).

Post-conflict cultural heritage reconstruction and protection are multifaceted, challenging, long and arduous processes. The reconstruction of cultural heritage is largely related to socioeconomic, political and cultural recovery and the integration of heritage into the reconstruction process is an essential component of societal reconstruction and political stability, especially in states experiencing heritage destruction such as Afghanistan, Iraq, Kosovo, Syria, Mali and Ukraine.

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[342] The reconstruction project of the Mausoleums of Timbuktu was undertaken by UNESCO 'with the support of numerous financial and technical partners including the European Union, Switzerland, Norway, France and the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA)'. UNESCO news, 'Director-General praises the people of Timbuktu for the reconstruction of the city's mausoleums', (19/07/2015). https://whc.unesco.org/en/news/1324. .

[343] This was the first case related to the intentional destruction of cultural heritage at the ICC. On 22 August 2016, in the case 'The Prosecutor v. Ahmad Al Faqi Al Mahdi', 'Mr. Al Mahdi was found guilty as a co-perpetrator of the war crime consisting of intentionally directing attacks against religious and historic buildings in Timbuktu, Mali, between around 30 June 2012 and 11 July 2012'. He was sentenced to nine years' imprisonment. International Criminal Court, 'Mali: Situation in the Republic of Mali', ICC-01/12. https://www.icc-cpi.int/mali.

[344] Charlotte Louise Joy, 'Crimes against cultural heritage in Timbuktu', *Anthropology Today* 34, no. 1 (2018): 17. https://doi.org/10.1111/1467-8322.12404.

It is also important to promote an integrated comprehensive approach that addresses both short-term needs and long-term development goals.

In post-conflict situations, there is no standard blueprint or fixed strategy to follow or adopt; each case requires a different approach designed to overcome emerging and potential reconstruction challenges[345] and 'cultural heritage recovery is not a quick fix limited to physical restoration but an integrated component of development (and protection) processes that begin long before ceasefires are brokered and that needs to be sustained through years of recovery'. [346] It is important to note that, 'both restoration and restitution can contribute substantially to healing the wounds of war, but they are processes that take time and that must be integrated with larger social reconstruction projects'.[347]

The beginning of the post-conflict period is usually led by the international community, which might have its own agendas, making reconstruction a complex process with a high failure risk and thus damaging cultural heritage.[348] Consequently, an effective post-conflict strategy should be based on a collaborative approach incorporating governmental authorities and local communities with the assistance of international organisations and NGOs.

Building sustainable partnerships between all the different actors is thus essential. Many reconstruction experiences have revealed that the full engagement of the local community in the reconstruction and protection processes is key to its

[345] Tigran Hasic, *Reconstruction Planning in Post-Conflict Zones: Bosnia and Herzegovina and the International Community* (Stockholm: Royal Institute of Technology, 2004), 12. https://kth.diva-portal.org/smash/get/diva2:14256/FULLTEXT02.pdf.

[346] Sultan Barakat, 'Necessary Conditions for Integrated Approaches to the Post-conflict Recovery of Cultural Heritage in the Arab World', *International Journal of Heritage Studies* 27, no. 5 (2021): 437, https://doi.org/10.1080/13527258.2020.1799061.

[347] Nicholas Stanley-Price, 'The thread of continuity: cultural heritage in post-war recovery', in *Cultural Heritage in Post-war Recovery*, Papers from the ICCROM FORUM held on October 4-6, 2005, pp. 11-12. https://www.iccrom.org/sites/default/files/ICCROM_ICS06_CulturalHeritagePostwar_en_0.pdf.

[348] Mattias Legnér, 'Post-Conflict Reconstruction and the Heritage Process', *Journal of Architectural Conservation* 24, no. 2 (2018): 87, https://doi.org/10.1080/13556207.2018.1463663.

success in the sense that it incorporates its own perception of culture, its needs and its expectations into the process. As part of reconstruction projects, it is important to ensure that the local community and the nation as a whole will have great value and benefits. The strategic decision should be made by involving those who are directly concerned with the process throughout all stages, from the initial discussion of priorities and site selection to the final implementation of the project and the post-completion phase.

Suggested further reading

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CHAPTER VII

Mara Tignino

Tadesse Kebebew

DROPS OF HOPE: FRESH WATER AND ITS RELATED SERVICES IN POST-CONFLICT PEACEBUILDING ACTIVITIES

Abstract

Safeguarding fresh water and related water systems is crucial in protecting post-conflict populations where water-related challenges such as shortages, displacement from rural to urban areas, and the absence of water, sanitation and hygiene services (WASH) pose key obstacles to social wellbeing. Lack of essential services leads to social instability, hindering the resumption of everyday life and further complicating peacebuilding efforts. Ensuring the functionality of such services not only addresses the immediate post-conflict needs and provides short-term stability, but also facilitates conflict transformation, longer-term peace and sustainable development. Enhancing the state's capacity to deliver essential public services signifies the return to normalcy, increases resilience and has fundamental implications for successful peacebuilding. This contribution highlights the positive role of water systems in peacebuilding in times of conflict and post-conflict. It examines how these aspects have been previously considered in peacebuilding initiatives and demonstrates the need to shift the peacebuilding approaches that view freshwater as a technical issue to recognising it as a broader governance issue, including its human rights and transboundary aspect. The article presents practical examples that portray how restoring water systems, including WASH services in early post-conflict interventions, contributes to long-term stability and sustainable peace.

Keywords: infrastructure, water systems, human rights to water and sanitation, international water law, WASH services.

1. Introduction

Peacebuilding reduces the risks of lapsing or relapsing into conflict by strengthening national capacities for conflict management and by enabling communities to address the root causes of conflict, restore broken relations and reset them on a peaceful path towards sustaining peace and development.[349] Peacebuilding is a multidimensional (security, political and socioeconomic) process designed to effectively manage conflicts, mitigate their impact and prevent them from escalating. In the aftermath of conflicts, rehabilitation of natural resources emerges as a cornerstone of peacebuilding efforts.[350] Among these resources, water stands out as an essential asset in post-conflict societies as it plays a vital role in sustaining food security, stimulating economic recovery, poverty alleviation and sustainable development.[351] Beyond these immediate benefits, long-term peace and stability are closely intertwined with ensuring universal access to water and sanitation services.[352] Recognising this significance, international bodies like the United Nations (UN) have acknowledged the need to support essential services, including water and sanitation, as a fundamental component of peacebuilding.[353]

The UN Security Council (UNSC) has further encouraged states to consider the human rights dimensions of peacebuilding, emphasising the importance of equi-

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[349] United Nations, 'Terminology,' United Nations Peacekeeping, accessed October 2, 2023, https://peacekeeping.un.org/en/terminology.

[350] See Daniëlla Dam-de Jong, 'Building a Sustainable Peace: How Peace Processes Shape and Are Shaped by the International Legal Framework for the Governance of Natural Resources,' *Review of European, Comparative & International Environmental Law* 29, no. 1 (2020): 21–31. https://doi.org/10.1111/ reel.12307.

[351] Jessica Troell and Erika Weinthal, 'Harnessing Water Management for More Effective Peacebuilding: Lessons Learned,' in *Water and Post-Conflict Peacebuilding*, ed. Erika Weinthal, Jessica Troell, and Mikiyasu Nakayama (Routledge, 2013), 406. https://doi.org/10.4324/9781849775809.

[352] UNGA, 'Transforming Our World: The 2030 Agenda for Sustainable Development,' A/RES/70/1 § (2015), 2 and Goal 6. https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda% 20for%20Sustainable%20Development%20web.pdf?ref.

[353] See Fantini C et al., 'Infrastructure and Peacebuilding: The Role of Infrastructure in Tackling the Underlying Drivers of Fragility' (Copenhagen, Denmark: UNOPS, September 2020), 9–29. https://content.unops.org/publications/Infrastructure_Peacebuilding_EN_Web.pdf?mtime=20201117122357; and UNGA/UNSC, 'Peacebuilding and Sustaining Peace,' Report of the Secretary-General, A/74/976– S/2020/773, July 30, 2020, paras. 25 & 28. https://digitallibrary.un.org/record/3879706?v=pdf.

table access to essential resources such as water during the post-conflict recovery phase.[354] Ensuring access to water, sanitation and the reconstruction of water systems positively contribute to conflict prevention and cooperation, symbolising a return to normalcy and fostering an environment conducive to peace.[355] Accordingly, the transformative significance of restoring water services to promote long-term stability and sustainable development cannot be overstated.[356]

Stabilization and reconstruction endeavours must adopt a comprehensive crisis management approach that integrates security, development and governance.[357] Amid the challenges of fragility and conflict-affected regions, building resilience to water-related issues is essential for disaster recovery, stabilization and overall peacebuilding success. Ensuring the continuity of WASH services is both practical and strategic. Yet, challenges persist, particularly concerning the issue of legitimacy in Fragile and Conflict-affected States (FCAS). Weak legitimacy can result in diminished acceptance, the emergence of opposition, increased repression, service delivery breakdowns, heightened conflict and further erosion of state legitimacy. Effective service delivery, including in the critical water and sanitation sector, plays a pivotal role in rebuilding citizens' trust in government institutions, thereby setting the stage for the legitimation process.

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[354] UN Peacekeeping, 'Resolution 2282 (2016)' (2016), para. 11. http://unscr.com/en/resolutions/doc/2282.

[355] UNGA, 'Water as an Argument for Peace, Twinning and Cooperation, Report of the Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation, Pedro Arrojo Agudo,' A/78/253, July 28, 2023, para. 35. https://www.ohchr.org/en/documents/thematic-reports/a78253-report-special-rapporteur-human-rights-safe-drinking-water-and.

[356] See UN Water, 'Summary of the Proceedings of the United Nations Conference on the Midterm Comprehensive Review of the Implementation of the Objectives of the International Decade for Action, 'Water for Sustainable Development' 2018–2028' (UN, 2023), 17–18; and Mara Tignino and Tadesse Kebebew, 'Access to Water and Peacebuilding,' in *Research Handbook on International Law and Environmental Peacebuilding* (Edward Elgar Publishing, 2023), 332–34. https://www.unwater.org/publications/un-2023-water-conference-summary-proceedings.

[357] See NATO, Allied Joint Doctrine for Security Force Assistance (SFA), NATO Standard Allied Joint Publication AJP-3.16, Edition A Version 1, NATO Standardization Office (NSO), May 2016, p. 2-8, 2-9. https://www.gov.uk/government/publications/allied-joint-doctrine-for-security-force-assistance-sfa-ajp-316a.

Infrastructure is a complex system composed of assets, consumables, people and knowledge that ensures the provision of essential services and goes beyond physical assets.[358] Freshwater (including rivers, lakes and groundwater) should also be protected as an essential component of the environment and of life. Integrating water issues into peacebuilding is a multifaceted endeavour that contributes to stability, economic development and conflict prevention, emphasising that water is not only a technical sector but also a governance issue grounded in international law, including human rights.

This chapter highlights how and to what extent fresh water and related infrastructure (water systems) have been integrated into peacebuilding efforts. In so doing, this contribution also indicates areas that need to be strengthened. The authors argue the need to shift the peacebuilding approaches that view freshwater as a technical issue to recognising it as a broader governance issue, including its human rights aspect. This chapter presents practical examples portraying that restoring water systems, including fresh water and related essential WASH services and water management in early post-conflict interventions, contributes to long-term stability and sustainable development.

2. The rehabilitation and reconstruction of water systems

Armed conflict often takes a heavy toll on essential services and infrastructure, including water and sanitation services. In its aftermath, states grapple with the monumental task of repairing damaged water systems and establishing governance structures for fresh water. This is primarily because water resources and infrastructure are increasingly being misused during armed conflicts and becoming casualties themselves, depriving civilians of essential water supplies and exacer-

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[358] See ICRC, 'Urban Services during Protracted Armed Conflict: A Call for a Better Approach to Assisting Affected People' (Geneva, 2015), 17–19. https://www.icrc.org/en/publication/4249-urban-services-during-protracted-armed-conflict.

bating the challenges of water scarcity intensified by climate change.[359] Amidst these challenges, the breakdown of governance becomes apparent, leading to a need for more incentives for water users to adhere to established international and domestic rules and norms, including the human right to safe drinking water and international water law.[360]

Infrastructure has become a central tool in stabilization efforts across FCAS. According to some statistics, infrastructure influences the achievement of 92% of the Sustainable Development Goals.[361] Infrastructures are described as 'magnets for social and political aspirations'.[362] However, it seems legitimate to question if the construction or reconstruction of infrastructure without the support of governance mechanisms based on norms of international law will be sufficient to contribute to the stability of an area, a country, or a region.

Rebuilding damaged water systems plays a vital role in re-establishing peace and order in affected communities, providing vulnerable communities with 'greater control over their own lives [… and triggering] a quick influx of cash that can improve livelihoods, boost local economies and possibly discourage individuals from engaging in violent behaviour'.[363] At the regional level, the 2006 African Union Policy on Post-Conflict Reconstruction and Development offers an emblematic ex-

[359] See UNSC, 'Protection of Civilians in Armed Conflict, Report of the Secretary-General,' S/2022/381, May 10, 2022, paras. 10–12. https://digitallibrary.un.org/record/3973405?v=pdf.

[360] See Carl Bruch, Erika Weinthal, and Jessica Troell, 'Water Law and Governance in Post-Conflict Settings,' *Review of European, Comparative & International Environmental Law* 29, no. 1 (2020): 7–8. https://doi.org/10.1111/reel.12319.

[361] See Thacker S et al., 'Infrastructure: Underpinning Sustainable Development' (Copenhagen, Denmark: UNOPS, 2018), 41; and Jan Bachmann and Peer Schouten, 'Concrete Approaches to Peace: Infrastructure as Peacebuilding,' *International Affairs* 94, no. 2 (March 1, 2018): 381. https://content.unops.org/publications/Infrastructure_underpining_sustainable_development_EN.pdf.

[362] Jan Bachmann and Peer Schouten, 'Concrete Approaches to Peace: Infrastructure as Peacebuilding'. *International Affairs (Royal Institute of International Affairs 1944-)* 94, no. 2 (2018): 381–98. 393. https://www.jstor.org/stable/48587277.

[363] See Fantini C et al., 'Infrastructure and Peacebuilding: The Role of Infrastructure in Tackling the Underlying Drivers of Fragility' (Copenhagen, Denmark: UNOPS, September 2020), 9–29. https://content.unops.org/publications/Infrastructure_Peacebuilding_EN_Web.pdf? mtime=20201117122357.

ample regarding the centrality of the restoration and rebuilding of vital infrastructure, including water and sanitation systems.[364] The rehabilitation and reconstruction of water systems need to be prioritised as they send an important signal to local communities affected by conflicts that peace and development are arriving.[365] In 2023, the UN Peacebuilding Commission reaffirmed that delivering essential public services locally contributes to sustainable peacebuilding and facilitates peace and development.[366] The Commission, mandated to develop integrated strategies for post-conflict peacebuilding and recovery focusing on the reconstruction and institution-building efforts to lay the foundation for sustainable development,[367] has been using water as an entry point for dialogue and peacebuilding in FCAS.[368] In 2017, the Global High-Level Panel on Water and Peace, in its final report, 'A Matter of Survival,' emphasised the role of water in peacebuilding, remarking that the periodic reviews of the UN's peacebuilding should keep water issues as an ongoing priority in the effort to promote an integrated, strategic and coherent approach to peacebuilding.[369]

Effective post-conflict water governance extends beyond the mere restoration of infrastructure. It involves developing national legislation and institutions that ad-

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[364] African Union, 'Policy on Post-Conflict Reconstruction and Development (PCRD)' (Conflict Management Division, Peace and Security Department, Commission of the African Union, July 2006), 14, https://www.peaceau.org/uploads/pcrd-policy-framwowork-eng.pdf.

[365] Carl Bruch, Erika Weinthal, Jessica Troell, 'Water Law and Governance in Post-Conflict Settings'. *Review of European, Comparative & International Environmental Law* 29 (1): 7–20. https://doi.org/10.1111/reel.12319.

[366] See UNSC/UNGA, 'Report of the Peacebuilding Commission on Its Sixteenth Session,' A/77/720-S/2023/86, February 17, 2023, para. 19. https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/A_77_720%20S_2023_86.pdf.

[367] See UNSC, 'Resolution 1645 (2005)' (2005), para. 2. http://unscr.com/en/resolutions/doc/1645 ; and UNSC, Resolution 2282 (2016), para. 4. http://unscr.com/en/resolutions/doc/2282.

[368] Fantini C et al., 'Infrastructure and Peacebuilding: The Role of Infrastructure in Tackling the Underlying Drivers of Fragility' (Copenhagen, Denmark: UNOPS, September 2020), 9–29. https://content. unops.org/publications/Infrastructure_Peacebuilding_EN_Web.pdf?mtime= 20201117122357.

[369] UN Water, 'A Matter of Survival: Report of the Global High-Level Panel on Water and Peace,' Report of the Global High-Level Panel on Water and Peace, 2017, 28 & 69. https://www.genevawaterhub.org/news/matter-survival-report-global-high-level-panel-water-and-peace-draws-lot-attention-washington.

here to international standards. Water is not just necessary for restoring liveli-hoods and supporting post-conflict peacebuilding efforts, it is also a fundamen-tal human right.[370] Access to water and sanitation are essential for the full enjoyment of life and all human rights.

In this regard, the UN Special Rapporteur called for the adoption of a human rights-based approach, including in the context of transboundary waters, to ensure equal participation, transparency, accountability and access to information. This approach supports peacebuilding efforts by advancing water security and pre-venting conflicts associated with water scarcity, access or management.[371] Given that 'each post-conflict situation is unique', mechanisms for harnessing the role of water for peace must be 'tailored to the political, cultural, economic, institu-tional, legal and ecological context'.[372] Neglecting water-related priorities in post-conflict settings introduces many risks to peacebuilding, a concern further amplified by the pressing climate crisis.

3. Integrating fresh water and related services in peacebuilding efforts

Initially, the primary focus of peacebuilding was on security sector reform, polit-ical stabilization, economic restructuring and establishing functioning and ac-countable legal and administrative institutions.[373] Even when peacebuilding

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[370] Mara Tignino and Tadesse Kebebew. 'Access to Water and Peacebuilding'. In *Research Handbook on International Law and Environmental Peacebuilding*, 328–54. Edward Elgar Publishing, 2023.

[371] UNGA, 'Water as an Argument for Peace, Twinning and Cooperation, Report of the Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation, Pedro Arrojo Agudo,' A/78/253, July 28, 2023, para. 24. https://www.ohchr.org/en/documents/thematic-reports/a78253-report-special-rapporteur-human-rights-safe-drinking-water-and.

[372] Carl Bruch, Erika Weinthal, Jessica Troell, 'Water Law and Governance in Post-Conflict Settings*'. Review of European, Comparative & International Environmental Law* 29 (1): 12. https://doi.org/10.1111/ reel.12319•

[373] See UNICEF, 'Water Under Fire Volume 1: Emergencies, Development and Peace in Fragile and Con-flict-Affected Contexts' (New York: UNICEF, 2019), 23. https://www.globalwaters.org/sites/default/files/ Water-under-fire-volume-1-2019-unicef.pdf; and Ken Conca and Jennifer Wallace, 'Environment and Peacebuilding in War-Torn Societies: Lessons from the UN Environment Programme's Experience with Post-Conflict Assessment,' in *Assessing and Restoring Natural Resources in Post-Conflict Peacebuild-ing*, ed. David Jensen and Stephen Lonergan (USA and Canada: Routledge, 2012), 63–84.. http://www.jstor.org/stable/27800777.

projects have involved fresh water and WASH issues, the efforts have mainly concentrated on the technical challenges of water availability.[374] For instance, in the conflict in the Ferghana Valley in Central Asia, such efforts failed to produce the desired results because of the disregard for more intangible, broader socioeconomic and political circumstances.[375] This was also initially the case in post-war Kosovo, where the highly technical approach that the UN took to reconstructing the water and sanitation services and the disempowerment of the local actors by placing ownership with international actors hampered the peacebuilding process.[376]

Rebuilding state capacity to deliver public services, addressing the root causes of conflict and ensuring lasting peace are fundamental components of effective peacebuilding.[377] Notably, the 2009 UN Secretary-General's report on peacebuilding underlined that its focus should be on meeting 'the most urgent and important peacebuilding objectives [… including] delivering initial peace dividends,' including the provision of necessary water and sanitation services.[378] Peacebuilding interventions are starting to recognise the potential of fresh water and its related services and streamline the provision of WASH services in their activities.[379]

A 2015 study identified some of the sessions of the UN Peacebuilding Commis-

[374] Florian Krampe, 'Water for Peace? Post-Conflict Water Resource Management in Kosovo,' *Cooperation and Conflict* 52, no. 2 (June 2017): 147–65. https://doi.org/10.1177/0010836716652428.

[375] Oli Brown and Michael Keating, 'Addressing Natural Resource Conflicts: Working Towards More Effective Resolution of National and Sub-National Resource Disputes,' *Chatham House, the Royal Institute of International Affairs*, 2015, 6. https://www.chathamhouse.org/sites/default/files/field/field_document/20150619AddressingConflictResourcesBrownKeating.pdf.

[376] See UNICEF, 'Water Under Fire Volume 1: Emergencies, Development and Peace in Fragile and Conflict-Affected Contexts' (New York: UNICEF, 2019), 23. https://www.globalwaters.org/sites/default/files/Water-under-fire-volume-1-2019-unicef.pdf.

[377] Mara Tignino and Tadesse Kebebew. 'Access to Water and Peacebuilding'. 332. In *Research Handbook on International Law and Environmental Peacebuilding*, 328–54. Edward Elgar Publishing, 2023.

[378] See UNGA/UNSC, 'Report of the Secretary-General on Peacebuilding in the Immediate Aftermath of Conflict,' A/63/881–S/2009/304, June 11, 2009, paras. 15 & 18. https://digitallibrary.un.org/record/658907?v=pdf.

[379] See Daniëlla Dam-de Jong, 'Building a Sustainable Peace:How peace processes shape and are shaped by the international legal framework for the governance of natural resources'. *RECIEL*. 2020; 29: 21–32. https://doi.org/10.1111/reel.12307.

sion where the topic of water emerged, particularly in connection with good governance and reconciliation. For example, developing domestic 'water codes' can be tools for efficiently managing water resources.[380]

Within its mandate of ensuring international peace and security, the UNSC has addressed managing and protecting natural resources. UN peace operations are critical in addressing resource-related conflicts, including ensuring access to water and sanitation.[381] For instance, the UN Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) and the UN Mission in South Sudan (UNMISS) have been active in increasing water accessibility in their respective area of operations through the construction of boreholes and water towers and have extended their support to prevent tension between herders and farmers, creating an environment of peaceful coexistence.[382] In addition to taking measures 'to prevent, mitigate and remediate the harm to the environment resulting from those operations',[383] the mandates of peace operations should, where appropriate, include the protection, reconstruction and rehabilitation of water systems.[384] Ensuring access to water is a legal obligation under human rights law.[385]

Nevertheless, there is an inclination to consider it as a task left for humanitarian

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[380] Andrea Beck, 'The UN Peacebuilding Commission and the Potential of Water in Post-Conflict Development, Governance and Reconciliation,' *Water International* 40, no. 2 (February 23, 2015): 224. https://doi.org/10.1080/02508060.2015.1012284.

[381] United Nations Environment Programme, 'Greening the Blue Helmets: Environment, Natural Resources and UN Peacekeeping Operations' (UNEP, 2012), 42. https://wedocs.unep.org/bitstream/handle/20.500.11822/8840/UNEP_greening_blue_helmets.pdf?sequence=3&amp%3BisAllowed=.

[382] See UN Peacekeeping 'Four Ways Conflict Affects Water Resources and How UN Peacekeeping Helps,' United Nations Peacekeeping, March 22, 2023, https://peacekeeping.un.org/en/four-ways-conflict-affects-water-resources-and-how-un-peacekeeping-helps.

[383] International Law Commission, 'Protection of the Environment in Relation to Armed Conflicts, with Commentaries' (UN, 2022), Principle 7. https://legal.un.org/ilc/texts/8_7.shtml.

[384] Geneva Water Hub, 'The Geneva List of Principles on the Protection of Water Infrastructure,' 2019, Principle 22. https://www.genevawaterhub.org/resource/geneva-list-principles-protection-water-infrastructure.

[385] See Mara Tignino, 'The Right to Water and Sanitation in Post-Conflict Peacebuilding,' *Water International* 36, no. 2 (March 31, 2011): 399; and Tignino and Kebebew, 'Water and Peacebuilding,' 334–44. https://doi.org/10.1080/02508060.2011.561523.

agencies. The priority for humanitarian agencies is to ensure people's lives, including providing safe drinking water and appropriate sanitation services. Perspectives that exclusively frame access to water in the realms of development or humanitarian efforts run the risk of diminishing the intrinsic importance of the fundamental human right to water itself.[386] Under international law, access to water is a human right and it includes minimum core obligations. Other duties related to the realisation of the human right to water are framed to be realised progressively and the realities of the concerned states should also be considered.[387]

Integrating fresh water and related services in peacebuilding efforts, particularly by recognising a rights-based approach, enhances public participation and empowers vulnerable and marginalised groups to combat exclusion and discrimination.[388] Such an approach provides a clear normative framework, particularly in post-conflict states, to prioritise the population's needs and the representation of women, children and indigenous people.[389] Applying a human rights-based approach helps to significantly reduce tensions among community members regarding access to water, promote dialogue and strengthen community peacebuilding.[390]

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[386] Daniëlla Dam-de Jong, 'Building a Sustainable Peace: How peace processes shape and are shaped by the international legal framework for the governance of natural resources'. *RECIEL*. 2020; 29: 21–32. https://doi.org/10.1111/reel.12307.

[387] Louise Arbour, 'Economic and Social Justice for Societies in Transition,' *New York University Journal of International Law and Politics* 40 (2007): 21–26. https://www.escr-net.org/sites/default/files/Arbour_25_October_2006.pdf.

[388] See Geneva Water Hub, 'Contribution from the Geneva Water Hub Supporting the Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation,' August 2023, https://www.ohchr.org/sites/default/files/documents/issues/water/cfis/ga78/cfi-ga78-sr-water-submission-Geneva-Water-Hub.pdf.

[389] See UNHCR, 'The Challenge of Sustaining Peace: Report of the Advisory Group of Experts for the 2015 For the Review of the United Nations Peacebuilding Architecture,' June 29, 2015, para. 7 (j). https://www.refworld.org/reference/themreport/un/2015/en/110018; and Ekta Patel et al., 'Water and Conflict: A Toolkit for Programming' (USAID, November 2022), 17. https://www.globalwaters.org/sites/default/files/usaid_water_and_conflict_toolkit_2023_508.pdf.

[390] See UNICEF, 'Water Under Fire Volume 1: Emergencies, Development and Peace in Fragile and Conflict-Affected Contexts' (New York: UNICEF, 2019), 6 & 23. https://www.globalwaters.org/sites/default/files/Water-under-fire-volume-1-2019-unicef.pdf; and   Daniëlla Dam-de Jong, 'Building a Sustainable Peace: How peace processes shape and are shaped by the international legal framework for the governance of natural resources'. *RECIEL*. 2020; 29: 21–32. https://doi.org/10.1111/reel.12307.

This approach may further support the water sector by establishing international standards that political and economic decisions can use as a basis for developing water policies and making decisions.[391]

With transboundary waters, collaborative joint commissions and river basin organisations play a crucial role in addressing both developmental and humanitarian needs in the countries sharing the basin.[392] International tribunals and human rights courts also provide potential forums to redress violations of the human rights to water and sanitation during an armed conflict.

4. Restoring water systems for post-conflict peacebuilding: Some practices

There are examples of successful peacebuilding efforts that addressed, among other things, water-related conflicts and increased access to water through the active participation of the local communities in South Sudan, the Democratic Republic of Congo, Afghanistan and East Timor.[393]

4.1 Drinking water and sanitation enhancements in South Sudan

South Sudan has suffered from protracted conflicts for decades, including after independence in 2011. It has faced many challenges in providing essential water services mainly due to a lack of water sector governance and poor infrastructure and 'without equitable access to sustainable and safe water, existing tensions can per-

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[391] Mara Tignino and Tadesse Kebebew. 'Access to Water and Peacebuilding'. 337. In *Research Handbook on International Law and Environmental Peacebuilding*, 328–54. Edward Elgar Publishing, 2023.

[392] See UN, 'Peacebuilding Commission Reviews Its Approaches in Sahel, Lake Chad Basin, Mano River Union Areas, as It Holds Day-Long Annual Session,' *UN Press*, December 4, 2019, https://press.un.org/en/2019/pbc134.doc.htm.

[393] For list of examples where the involvement of the local positively contributed in the peacebuilding efforts, see UNGA/UNSC, 'Peacebuilding 2020,' paras. 25–37. https://www.un.org/peacebuilding/sites/ www.un.org.peacebuilding/files/documents/sg_report_on_peacebuilding_and_sustaining_peace.a.74.976 -s.2020.773.200904.e_4.pdf.; and Murray Burt and Bilha Joy Keiru, 'Strengthening Post-Conflict Peacebuilding through Community Water-Resource Management: Case Studies from Democratic Republic of Congo, Afghanistan and Liberia,' *Water International* 36, no. 2 (March 31, 2011): 232–234. https://doi.org/ 10.1080/02508060.2011.558885.

sist or turn into new conflicts'.[394] There have been several efforts made to address water-related challenges. For instance, the US Agency for International Development (USAID) 'Water for Recovery and Peace Programme' provided water services for peacebuilding by digging water points and contributed to enhancing community-level water management committees and these actions were important steps to post-conflict recovery.[395] Between 2012 and 2015, the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) and the KfW Development Bank helped construct mobile infrastructure using water kiosks, filling stations and trucks with water tanks.[396]

This programme improved service provision, reduced competition for water access and increased the legitimacy of state authority. UNMISS has also supported rehabilitating and building water systems in conflict-affected areas to increase access to safe drinking water and minimise potential conflicts. Through its Quick Impact Projects (QIPs), a solar-powered borehole was installed in Pau-Adhot and residents said that this alleviated the water-related tensions in the region.[397]

Other WASH development projects have also worked on restoring damaged water supplies to sustain livelihoods and to alleviate conflicts between farmers

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[394] SeeEkta Patel et al., 'Water and Conflict: A Toolkit for Programming' (USAID, November 2022), 17. https://www.globalwaters.org/sites/default/files/usaid_water_and_conflict_toolkit_2023_508.pdf..; and Sam Huston, 'Thirsty for Peace: The Water Sector in South Sudan,' in *Water and Post-Conflict Peacebuilding*, ed. Erika Weinthal, Jessica Troell, and Mikiyasu Nakayama (Routledge, 2013), 85–94. https://doi.org/10.4324/9781849775809.

[395] See USAID, 'Water for Recovery and Peace Program Equatoria (WRAPP Equatoria)' (USAID, October 2009), https://pdf.usaid.gov/pdf_docs/PDACP464.pdf.; and Ekta Patel et al., 'Water and Conflict: A Toolkit for Programming' (USAID, November 2022), 17. https://www.globalwaters.org/sites/default/files/usaid_water_and_conflict_toolkit_2023_508.pdf.

[396] See Emma Lauren Roach and Mohammad Al-Saidi, 'Rethinking Infrastructure Rehabilitation: Conflict Resilience of Urban Water and Energy Supply in the Middle East and South Sudan,' *Energy Research & Social Science* 76 (June 1, 2021): 102052. https://doi.org/10.1016/j.erss.2021.102052.

[397] Emmanuel Kele, 'UNMISS Hands over Much-Needed Water Point to Border Communities in Aweil,' UNMISS, May 15, 2023, https://unmiss.unmissions.org/unmiss-hands-over-much-needed-water-point-border-communities-aweil.

and herders, which has been a recurrent challenge in South Sudan.[398] For instance, in 2021, the WASH programme provided more than half a million people with 'access to safe drinking water through water trucking, the construction of new water points and the rehabilitation of non-functional water facilities'.[399]

With transboundary water management, the Jonglei Canal Project, initiated jointly by Egypt and Sudan to increase water flow from the Sudd swamp to the White Nile, has highlighted conflicting interests.[400] While Egypt and Sudan need more water, South Sudan has raised social and environmental concerns. The project presents an opportunity for transboundary water cooperation between states to address the challenges in line with the principles of international water law.

Challenges surrounding infrastructure and capacity limitations, constrained resource accessibility and the compounding impacts of conflict and climate change have significantly affected water security in South Sudan. Prolonged conflict has notably weakened the resilience of existing infrastructure and the community's ability to handle water-related risks, intensifying the consequences of climate-induced floods and droughts. Despite involving local actors, many community-based organisations lacked essential expertise in building and restoring water infrastructure, causing setbacks in project execution.[401]

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[398] See Tim Grieve, Thilo Panzerbieter, and Johannes Rück, 'WASH Resilience, Conflict Sensitivity and Peacebuilding: Joint Operational Framework' (IRC WASH, 2023), 42.
https://www.washnet.de/en/triple-nexus-wash/joint-operational-framework/; and Michelle Kooy and Leni Wild, 'Tearfund WASH Service Delivery in South Sudan:' (Overseas Development Institute, August 2012). https://www.refworld.org/reference/countryrep/odi/2012/en/97899.

[399] See UNICEF, 'Water, Sanitation and Hygiene (WASH) in South Sudan: Briefing Note' (UNICEF, 2021). https://www.unicef.org/southsudan/sites/unicef.org.southsudan/files/2020-04/WASH%20Briefing%20Note_FINAL.pdf.

[400] See Salman M.A. Salman, 'Water Resources in the Sudan North-South Peace Process and the Ramifications of the Secession of South Sudan,' in *Water and Post-Conflict Peacebuilding*, ed. Erika Weinthal, Jessica Troell, and Mikiyasu Nakayama (Routledge, 2013), 339–44. https://www.salmanmasalman.org/wp-content/uploads/2014/03/SudanWaterResourcesChapterPublishedELI.pdf.

[401] See USAID, 'Water for Recovery and Peace Program Equatoria (WRAPP Equatoria)' (USAID, October 2009), 18. https://pdf.usaid.gov/pdf_docs/PDACP464.pdf.

Escalating operational costs and delays in material supplies due to intricate procurement, customs processes and transportation constraints hampered efforts to restore and construct water infrastructure.[402] Complications arising from inadequate site selection, design deficiencies and maintenance issues added to these hurdles.[403] Drinking water and sanitation improvements also predominantly benefited urban areas, leaving a considerable portion of rural South Sudanese communities underserved and widening the urban-rural divide.

4.2 Designing resilient water infrastructures in the Democratic Republic of Congo

In the Democratic Republic of the Congo (DRC), an EU SAGE project implemented by 'Join For Water' in the Ituri province between 2014 to 2019 also highlights how intervention in WASH service delivery improved governance, enabled the inclusion of diverse groups and built 'accountability mechanisms to enhance integrity and build trust'.[404] This intervention strengthened social cohesion between the communities and authorities and created a foundation for building the resilience capacities of the local communities, which will ultimately enable sustainable WASH outcomes, thereby contributing to peace in the community.[405] Similarly, the ICRC's Goma West Resilient Water Supply Project has provided access to safe and affordable drinking water since 2019, which has resulted in mitigating conflict risks.[406]

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[402] Emma Lauren Roach, Mohammad Al-Saidi, 'Rethinking infrastructure rehabilitation: Conflict resilience of urban water and energy supply in the Middle East and South Sudan', *Energy Research & Social Science*, Volume 76, (June 2021). https://doi.org/10.1016/j.erss.2021.102052..; and USAID, 'Water for Recovery and Peace Program Equatoria (WRAPP Equatoria)' (USAID, October 2009), 18. https://pdf.usaid.gov/pdf_docs/PDACP464.pdf.

[403] See Edoardo Borgomeo et al., *Rising from the Depths: Water Security and Fragility in South Sudan* (The World Bank, 2023), 29, https://doi.org/10.1596/978-1-4648-1943-8.

[404] Tim Grieve, Thilo Panzerbieter, and Johannes Rück, 'WASH Resilience, Conflict Sensitivity and Peacebuilding: Joint Operational Framework' (IRC WASH, 2023), 41. https://www.washnet.de/en/triple-nexus-wash/joint-operational-framework/.

[405] Ibid. 11, 15 & 41.

[406] See ICRC, 'Goma West Resilient Water Supply Project, DRC,' 2022, https://www.icrc.org/en/document/partnerships-financing-solutions-boost-water-access-dr-congo.

This ongoing project underscored the centrality of designing a resilient system capable of absorbing shocks while ensuring continuous service and a sustainable business model that would allow the operator to cover all the running costs (avoiding dependence on external funding). Meanwhile, a lack of financing and restricted access because of the ongoing protracted conflict adversely impacted project implementation. The UN Stabilization Mission in DRC has also been providing water tanks and standpipes, rehabilitating infrastructure and improving access to essential services.[407] Such interventions are vital in areas where livelihood opportunities are scarce, people make a living through agriculture and livestock and conflicts over water resources are common.

4.3 The reconstruction and delivery of water services in East Timor

In East Timor, water supply infrastructure was severely damaged by the armed conflict in the late 1990s, with roughly 70% of buildings and utilities affected.[408] Following the deployment of the UN Transitional Administration in East Timor (UNTAET), immediate action was taken to establish the Water and Sanitation Service Unit to address these challenges.[409]

Recognising the provision of essential services including water as a fundamental state function, both the international community and UNTAET placed great importance on this aspect of the recovery process. However, they faced several hurdles including a shortage of skilled personnel due to the departure of Indone-

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[407] UN Peacekeeping, 'Four Ways Conflict Affects Water Resources and How UN Peacekeeping Helps'. (22 March 2023). https://peacekeeping.un.org/en/four-ways-conflict-affects-water-resources-and-how-un-peacekeeping-helps.

[408] See Florian Krampe and Suzanne Gignoux, 'Water Service Provision and Peacebuilding in East Timor: Exploring the Socioecological Determinants for Sustaining Peace,' *Journal of Intervention and Statebuilding* 12, no. 2 (April 3, 2018): 192. https://doi.org/10.1080/17502977.2018.1466945.

[409] See Florian Krampe and Suzanne Gignoux, 'Water Service Provision and Peacebuilding in East Timor: Exploring the Socioecological Determinants for Sustaining Peace'. Journal of Intervention and Statebuilding 12, no. 2 (2018): 185–207. doi:10.1080/17502977.2018.1466945.; and Tobias Ide, Lisa R Palmer, and Jon Barnett, 'Environmental Peacebuilding from below: Customary Approaches in Timor-Leste,' *International Affairs* 97, no. 1 (January 1, 2021): 108–9. https://doi.org/10.1093/ia/iiaa059.

sian staff who had managed the water infrastructure and obtaining baseline data on the status of the water sector.[410] The reconstruction and delivery of water services had a role in the peacebuilding process between 1999 and 2004.

Nevertheless, the peace dividend of such intervention was not significant because of three main shortcomings: first, the community management of water systems model did not fit the local reality; second, the water-user committees were not inclusive (mainly due to the exclusion of women); and third, lack of coordination among many actors and absence of a clear plan to link the short-term interventions with long-term sustainability.[411] These shortcomings are crucial lessons that should be carefully considered in harnessing the potential of reconstructing water infrastructure and providing water services in post-conflict environments for building peace.

4.4 The consequences of conflict on water in Afghanistan

In Afghanistan, the lingering effects of decades of conflict such as displacement, damaged or destroyed water points and irrigation systems, contaminated water sources, decades of underinvestment, inadequate management and water-related disasters (floods and droughts) continue to prevent people from building resilience and moving towards recovery and solutions.[412]

The lack of access to safe water and the conflict also harmed the legitimacy of local institutions. Afghanistan's development, security and stability depend on restoring such damaged water and irrigation systems through enhanced post-conflict water

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[410] Florian Krampe and Suzanne Gignoux, 'Water Service Provision and Peacebuilding in East Timor: Exploring the Socioecological Determinants for Sustaining Peace'. Journal of Intervention and Statebuilding 12, no. 2 (2018): 192. doi:10.1080/17502977.2018.1466945.

[411] Florian Krampe and Suzanne Gignoux, 'Water Service Provision and Peacebuilding in East Timor: Exploring the Socioecological Determinants for Sustaining Peace'. Journal of Intervention and Statebuilding 12, no. 2 (2018): 202. doi:10.1080/17502977.2018.1466945.

[412] See UN Office for the Coordination of Humanitarian Affairs, 'Afghanistan Humanitarian Needs Overview 2023' (OCHA, January 23, 2023), 6; and 'Natural Resource Management and Peacebuilding in Afghanistan' (United Nations Country Team in Afghanistan, 2013), 20. https://www.unocha.org/publications/report/afghanistan/afghanistan-humanitarian-needs-overview-2023-january-2023.

management which Afghanistan's 2004 Strategic Policy Framework for the Water Sector defined as one of the major national priorities.[413] Over the years, the Ministry of Rural Rehabilitation and Development and various international organisations including the UN have constructed water supply systems.[414] USAID has also been heavily involved though the evaluation of its projects depicts shortcomings in meeting targets because of budget cuts, unrealistic performance targets and higher than estimated costs.[415] The UN Assistance Mission of Afghanistan assisted and promoted inclusive peacebuilding, successfully resolving a longstanding water dispute in Nangarhar province through mediation and community engagement.[416]

4.5 Reimagining water initiatives for post-conflict stability

The initiatives described above were conceived to tackle pressing requirements, enhance living standards and garner local community support as integral components of comprehensive counterinsurgency and stabilization endeavours. While some projects did have benefits and contributed to localised stability, others faced challenges including security threats, corruption and sustainability issues. Afghanistan suffers from a continuous water crisis due to political instability and conflict, economic challenges, poor water management and global climate change.[417]

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[413] Transitional Islamic State of Afghanistan Ministry of Irrigation, Water Resources and Environment (MIWRE), 'A Strategic Policy Framework for the Water Sector,' May 2004, 3. https://faolex.fao.org/docs/pdf/afg175780.pdf.

[414] Habiburahman Haziq, 'Improved Operation and Maintenance and Revenue Collection from Metered Water Supply Systems: Lessons from Rural Afghanistan' (UNICEF, 2020), 2. https://www.unicef.org/rosa/media/11791/file.

[415] Special Inspector General for Afghanistan Reconstruction (SIGAR), 'Afghanistan's Water Sector: USAID's Strategy Needs to Be Updated to Ensure Appropriate Oversight and Accountability,' SIGAR 14-52 Audit Report (USAID, April 2014). https://www.sigar.mil/pdf/audits/SIGAR-14-52-AR.pdf.

[416] UNAMA, 'UN-Backed Local Peace Initiative Ends Longstanding Dispute in Nangarhar,' UNAMA, April 23, 2019, https://unama.unmissions.org/un-backed-local-peace-initiative-ends-longstanding-dispute-nangarhar.

[417] See Mohd Faizee and Susanne Schmeier, 'Navigating Water (In)Security in Taliban's Afghanistan: Insights into Local, National, and Regional Water Security Challenges' (Water, Peace and Security, August 2023), 2, https://waterpeacesecurity.org/files/380..

Fresh water may also be used as an entry point for peace between and within states. Following the conflict in the former Yugoslavia in the 1990s, efforts to rebuild and improve water infrastructure and management of water resources including those shared by two or more states gained greater emphasis which was believed to be crucial for rebuilding trust and fostering reconciliation. In 2002, the International Sava River Commission, established under the Framework Agreement on the Sava River Basin between Bosnia and Herzegovina, Croatia, Serbia and Slovenia, was the first joint mechanism created after the war in the former Yugoslavia and demonstrates the power of cooperation over water to drive and consolidate peacebuilding efforts.[418] This Framework Agreement involving all riparian states addresses cooperation on issues including the sustainable use and management of water, safe navigation and the mitigation of water-related hazards. It is often highlighted as an example where freshwater cooperation contributes to establishing peaceful relations following armed conflicts. Though the existing literature mainly focused on local and national level water services, this example demonstrates that water management across states, based on customary principles of international water law, also contributes to consolidating peace in post-conflict settings.

The restoration of water systems in post-conflict interventions has played a vital role in fostering long-term stability and sustainable peace. Interventions that engage local communities in early decision-making on planning, construction and maintenance have greater chances of contributing to peacebuilding efforts.[419] Additionally, it is important to ensure that the restoration of water systems is realised to ensure equal access to all segments of the population without discrimination and taking into account the needs of vulnerable groups. For ex-

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[418] See Bosnia and Herzegovina, Republic of Croatia, Republic of Slovenia and Federal Republic of Yugoslavia, 'Framework Agreement on the Sava River Basin' (2002), https://www.savacommission.org/UserDocsImages/05_documents_publications/basic_documents/fasrb.pdf.

[419] Fantini C et al., 'Infrastructure and Peacebuilding: The Role of Infrastructure in Tackling the Underlying Drivers of Fragility' (Copenhagen, Denmark: UNOPS, September 2020), 9–29. https://content.unops.org/ publications/Infrastructure_Peacebuilding_EN_Web.pdf?mtime=20201117122357.

ample, the issue of affordability,[420] which is also an element of the human right to water, should be adapted to the specific conditions of each case and post-conflict states should take measures to ensure the universality of access to WASH services. The cost of water and sanitation services should not endanger the realisation of other human rights, such as the rights to food, health and education. It is also necessary to engage with all stakeholders, including 'spoilers' who try to reduce water management as a purely technical area without legal and policy implications.[421]

5. Conclusion

Peacebuilding, a multifaceted process transcending traditional security and political confines, strives to bolster conflict management capabilities, address root causes and mend fractured relationships. Within this framework, the pivotal role of water cannot be overstated. The discourse on fresh water and water-related infrastructure in peacebuilding within FCAS unequivocally emphasises that access to safe drinking water and proficient water management is not simply a technical matter but a fundamental pillar for achieving enduring peace and sustainable development. Effective service delivery, notably in the water and sanitation sector, plays a central role in restoring trust and confidence in governmental institutions – a critical element for government legitimacy, especially in conflict-ridden regions where fragile institutions can exacerbate tensions, repression and service disruptions.

In times of armed conflict, fresh water and its infrastructure become both means and methods of warfare and a target in the hostilities, depriving communities of vital services while exacerbating the existing effects of climate change on water

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[420] See UN Committee on Economic, Social and Cultural Rights, 'General Comment No. 15: The Right to Water (Arts.11 and 12 of the Covenant),' UN Doc. E/C.12/2002/11 § (2003), para. 12 (c) & 27. https://digitallibrary.un.org/record/486454?v=pdf.

[421] See Carl Bruch, Erika Weinthal, Jessica Troell, 'Water Law and Governance in Post-Conflict Settings'. *Review of European, Comparative & International Environmental Law* 29 (1): 14 & 19. https://doi.org/10.1111/reel.12319.

management. Post-conflict restoration of fresh water and infrastructure emerges as both a practical necessity and a strategic imperative, as highlighted by examples from various conflict-affected regions. This emphasises the critical role of reinstating these resources in peacebuilding efforts. However, challenges and gaps persist. Successful peacebuilding in water services demands technical expertise, a deep understanding of socio-political landscapes and a sustained commitment to engagement, as evidenced by experiences in East Timor. Besides, bureaucratic hurdles, procurement complexities, transportation limitations, lack of coordination among stakeholders and policy reform issues create significant obstacles in regions like South Sudan and Afghanistan. Across all the examples presented, prolonged conflicts exacerbate resource scarcity, compelling skilled personnel to flee from affected areas. There are also notable deficiencies in building local capacity, aligning short-term actions with lasting sustainability and extending water services effectively into rural areas.

The predominant focus remains on WASH services, overlooking the broader scope of water management encompassing rivers, lakes and groundwater, a crucial but neglected priority for peacebuilders. Essential services cannot thrive if the water is contaminated or inequitably distributed among users. Over 60% of the global population relies on shared water sources, predominantly in volatile areas prone to conflict or fragile peace.[422] The management of these shared waters necessitates adherence to international water law principles outlined in conventions like the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes and the 1997 Convention on the Law of Non-Navigational Uses of International Watercourses. As observed in the Sava River Basin, integrating their principles and

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[422] UNGA, 'Water as an Argument for Peace, Twinning and Cooperation, Report of the Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation, Pedro Arrojo Agudo,' A/78/253, July 28, 2023, para. 2. https://www.ohchr.org/en/documents/thematic-reports/a78253-report-special-rapporteur-human-rights-safe-drinking-water-and.

customary international water law into peacebuilding efforts is imperative for reconstruction and stabilization.

To address the observed gaps and challenges, interventions in post-conflict peacebuilding related to freshwater must align with 'do no harm' principles, adopt a bottom-up approach leveraging traditional institutions, ensure policy coherence and link short-term interventions with long-term sustainability. Operationalising community management, sustainable funding models, cross-border collaborations and climate-resilient practices are all also key to expediting project timelines and ensuring equitable access. Bridging the urban-rural divide, enhancing rural infrastructure, integrating climate-resilient practices like rainwater harvesting and promoting social inclusion in infrastructure design are crucial steps toward sustainable peacebuilding in water services.

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PART III

Gender Equality, Internal Displacement and Child Protection

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CHAPTER VIII

Clare Hutchinson

HUMAN (IN)SECURITY: SEXUAL VIOLENCE AS AN IMPEDIMENT TO PEACE

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Abstract

In 1992, UN Secretary-General Boutros Boutros-Ghali published his report *An Agenda for Peace: preventive diplomacy, peacemaking and peacekeeping*, more commonly known as *An Agenda for Peace*.[423] The report highlighted the importance of securing justice and human rights and promoting social progress and better standards of life in larger freedoms.[424] The Secretary-General said 'that in an environment of global transition marked by uniquely contradictory trends nations need to deepen cooperation for strengthened security and recognise consequences of conflict require ceaseless attention and the highest priority in the efforts'.

> So at this moment of renewed opportunity, the efforts of the [UN] to build peace, stability and security must encompass matters beyond military threats in order to break the fetters of strife and warfare that have characterised the past. But armed conflicts today, as they have throughout history, continue to bring fear and horror to humanity, requiring our urgent involvement to try to prevent, contain and bring them to an end.[425]

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[423] United Nations, 'Our Common Agenda Policy Brief 9: A New Agenda for Peace', July 2023, https://www.un.org/sites/un2.un.org/files/our-common-agenda-policy-brief-new-agenda-for-peace-en.pdf.

[424] An Agenda for Peace Preventive diplomacy, peacemaking and peace-keeping Report of the Secretary-General pursuant to the statement adopted by the Summit Meeting of the Security Council on 31 January 1992.

[425] Ibid.

Despite fostering and promoting genuine reforms in political and military strategies, human security as a military and defence concept has remained marginalised. Criticism of human security and political expediency have challenged its implementation. Human security could provide a more robust foundation for security challenges and reshape a vision for peace. This chapter explores the practicality of using human security as a baseline for military operations, especially related to protection from conflict-related sexual violence. It asks what is the operational benefit of adopting an inclusive and effective human security agenda?. As the chapter highlights, Ukraine and other recent conflicts have demonstrated that, despite the rhetoric, human security is absent in the international community security response, as are women and robust gender perspectives.

Keywords: gender, conflict-related sexual violence, human security, NATO, peace and security.

1. Introduction on Human Security – a potential roadmap

A human security approach provides a new way of thinking about the range of challenges the world faces in the 21st century and how to respond to them. Human security provides a foundational recognition that there are diverse elements of security and places individuals at the centre.

The concept of human security is not new. Its genesis lies in many pre-existing doctrines and concepts including the establishment of the UN Human Security Unit (HSU) (2024) and the 2010 release of the first Secretary-General report on human security (A/64/701),[426] interestingly launched on International Women's Day, publicly associating human security with gender equality.

Over the years the UN has provided a blueprint for human security, promoting a

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[426] United Nations General Assembly, 'Human Security: Report of the Secretary-General', 8 March 2010, https://www.mofa.go.jp/mofaj/gaiko/oda/bunya/security/pdfs/hs_report_e.pdf.

shift in focus from traditional security to encompass new and emerging security issues such as economic security, food security, health security and environmental security.[427] These issues are known to fuel the drive to conflict and the creation of insecure societies. As the UN foundational policies recommend, addressing these collective issues can help salve the general injustices that simmer and then erupt.

The desire is to expand consideration of security from a global perspective rather than only from the perspective of individual nations – a people-centred aspect of these efforts.

The human security approach also takes into account that military force is necessary to ensure the territorial integrity of sovereign states, advancing defence policy mechanisms that can assist in preventing conflict.

As the global political environment has changed since the end of the Cold War, the challenges to peace and security have evolved and the enhanced safety of populations has driven the demand for new tools, new approaches and new strategic thinking. The General Assembly issued a resolution underscoring the importance of the new approach to people's security in 2012, stating that *'human security is an approach to assist Member States in identifying and addressing widespread and cross-cutting challenges to the survival, livelihood, and dignity of their people. It calls for "people-centred, comprehensive, context-specific and prevention-oriented responses that strengthen the protection and empowerment of all people" (General Assembly* 66/290).[428]

The concept of human security has therefore emerged as part of the holistic

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[427] United Nations Trust Fund for Human Security, 'What Is Human Security?', n.d., https://www.un.org/humansecurity/what-is-human-security/.

[428] UNGA, Resolution adopted by the General Assembly on 10 September 2012, A/RES/66/290, (25 October 2012). https://documents.un.org/doc/undoc/gen/n11/476/22/pdf/n1147622.pdf?token=QCRI3A4YJ5ta4MMfJ9&fe=tru.

paradigm of human development attempting to identify global threats to human life and ways to protect populations at risk.[429]

As the UN Secretary-General outlined in his report: [430]

> *Today's multiple, complex and highly interrelated threats affect the lives of millions of men, women and children around the globe. Threats such as natural disasters, violent conflicts and their impact on civilians, as well as food, health, financial and economic crises, tend to acquire transnational dimensions that move beyond traditional notions of security. While national security remains pivotal to peace and stability, there is growing recognition of the need for an expanded paradigm of security.*

This has been invaluable as a rallying point for the protection of civilians from many environmental, political, economic and social threats. Human security has also promoted the relevance of gender equality as a foundation for peace and stability. UN Secretary-General António Guterres reiterated, *'[i]n line with rights-based approaches, human security ensures a thorough understanding of the structural, geographic and identity-based conditions creating marginalisation and disadvantage'.*[431]

However, the broader thinking about human security has been limited, focusing

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[429] UNDP, *Human Development Report 1994: New Dimensions of Human Security*, New York (1994). https://hdr.undp.org/content/human-development-report-1994. Rethinking Human Security Author(s): Gary King and Christopher J. L. Murray Source: Political Science Quarterly, Vol. 116, No. 4 (Winter, 2001-2002), pp. 585-610 Published by: Oxford University Press.

[430] United Nations General Assembly, 'Human Security: Report of the Secretary-General', Sixty-fourth session, Agenda items 48 and 114, Integrated and coordinated implementation of and follow-up to the outcomes of the major United Nations conferences and summits in the economic, social and related fields, Follow-up to the outcome of the Millennium Summit, 8 March 2010, https://www.mofa.go.jp/mofaj/gaiko/oda/bunya/security/pdfs/hs_report_e.pdf.

[431] United Nations General Assembly, 'Human Security: Report of the Secretary-General', Sixty-fourth session, Agenda items 48 and 114, Integrated and coordinated implementation of and follow-up to the outcomes of the major United Nations conferences and summits in the economic, social and related fields, Follow-up to the outcome of the Millennium Summit, 8 March 2010, https://www.mofa.go.jp/mofaj/gaiko/oda/bunya/security/pdfs/hsreporte.pdf.

on the nexus between security and human development without recognition of a more extensive approach between militarisation, protection and human security. The protectionism of 'traditional' human security has diminished the appreciation and role of more expansive human security that includes the protection of civilians.

There has been long-established recognition of human security but divisive and damaging approaches have siloed the human security concept. Academic stand-off between purists and pragmatists, coupled with resistance and dismissal of the approach by military leaders has sidelined human security. However, it is hard to deny that conflict has changed and in its wake the appalling targeting of civilian populations. Security is no longer only state security between state actors. Security directed towards '*military defence of state interests and territory'*, is no longer separate from 'soft security' that embodies the everyday security of individuals and communities.[432] The blurring between human security and state apparatus, including traditional defence and security is ubiquitous. Today, especially in Ukraine, it would appear that a human security approach as a multidimensional analytical framework is more important than ever. Using this framework to assist the international community in assessing, developing, and implementing integrated responses to a broad range of issues is critical.[433] Promoting an overarching human security approach could provide a wider lens on security; one that places individuals at the centre of security analysis, including women.

As peace and security have evolved, so have human security approaches and recognition that a human-centric approach is critical. Different elements of human security have resonated with the international community and depending on the

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[432] Roland Paris, "Human Security: Paradigm Shift or Hot Air?" *International Security* 26, no. 2 (2001): 87–102. http://www.jstor.org/stable/3092123.

[433] Clare Hutchinson, in "Evolving Human Security. Framework and Considerations for Canada's Military"; Ed, Smith and Meharg, (2023), 68. Canadian Defence Academy Press. https://www.canada.ca/ en/department-national-defence/corporate/video/book-trailers/evolving-human-security-volume.html.

challenges of the day focus has pivoted between issues. Environmental security has a steep ascendancy in line with clear evidence of climate and environmental breakdown; global economic security and the financial crisis have motivated populist movements and challenged security services; health security has become preeminent since the COVID pandemic which demonstrated the weakness of nations and population displacement. Terrorism, cyber and energy security have all elevated awareness of cross-cutting security risks coupled with the knowledge that gender inequality is a root cause of instability. While it is commonly accepted that the security of states remains a necessary condition for overall security, it has become clear that national security as the protection of territorial integrity is insufficient on its own.[434] Lessons from Afghanistan and other crisis areas have intensified the need to address a broader understanding of security that goes beyond military response. Operations have highlighted the necessity of integrating a people-centric approach to security to enable Allies and partners to meet new threats. A new approach to new challenges is needed. Additionally, the need to apply a gendered lens to protection and security is also recognised, if not always implemented.

2. NATO – a human security innovator

The post-Cold War world conflicts have claimed the lives of millions of people, with civilians now constituting many war casualties. NATO Allies have been deployed to numerous international conflict situations where ethnic cleansing, failed and lawless states and massive refugee flows have all contributed to the urgent need for a coordinated international response. NATO Allies, under the auspices of the protection of civilians, have long advocated for and promoted the development of various elements of a generic human security agenda. NATO has constantly adapted to the changing

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[434] Clare Hutchinson, in "Evolving Human Security. Framework and Considerations for Canada's Military"; Ed, Smith and Meharg, (2023), 68. Canadian Defence Academy Press. https://www.canada .ca/en/department-national-defence/corporate/video/book-trailers/evolving-human-security-volume.html.

geo-political climate and attempted to integrate a more holistic approach to security which includes strengthening human security. Since 2018 there has been coordinated political agreement across NATO HQ on the importance of human security and its relevance to NATO's tasks. As NATO Secretary-General Stoltenberg emphasised in 2021:

> *Human security matters to NATO. It is at the heart of who we are and what we do: an Alliance working together to protect our people and our values – freedom, equality, human rights. […] Taking a human security approach is the best way to achieve lasting peace and security.*[435]

Building on the 2016 Protection of Civilians Policy,[436] NATO military authorities have drafted doctrine and guidance on different strands of human security that have been implemented in various degrees in North Atlantic Council-approved missions, operations and activities.[437] The UK was the first NATO nation to issue guidance with its *Human Security in Defence* (JSP 985) which provides direction for the incorporation of a human security approach into military operations (2021),[438] and the US has drafted a Civilian Harm Mitigation and Response Action Plan (CHMR-AP) that lays out a series of major actions the Pentagon will implement to mitigate and respond to civilian harm, calling it a '*strategic priority as well as a moral imperative*'.[439]

And Canada has long championed the Children and Armed Conflict agenda, in-

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[435] NATO, "A changing approach to security: Remarks by NATO Secretary General Jens Stoltenberg at the conference on Human Security hosted by NATO", (25 February 2021). https://www.nato.int/cps/en/natohq/opinions_181806.htm.

[436] NATO, "NATO Policy for the Protection of Civilians", NATO Official Texts (July 9, 2016). https://www.nato.int/cps/en/natohq/official_texts_133945.htm.

[437] Allied Joint Doctrine for the Military Contribution to Stabilization and Reconstruction, 2015, paras. 0203, 0205 (c). "when military force is used, every effort should be taken to minimise the risk of civilian casualties." 2021, Strategic Concept for the Defence and Security of the Members of the North Atlantic Treaty Organization, NATO Summit in Lisbon 2022. NATO MC 0688 Concept for the Protection of Civilians. April 2018.

[438] UK Ministry of Defence, 'Human Security in Defence (JSP 985)', 15 December 2021, https://assets.publishing.service.gov.uk/media/668d2b5fab5fc5929851bc2c/JSP_985.pdf.

[439] U.S. Department of Defense, 'Civilian Harm Mitigation and Response Action Plan (CHMR - AP)', 25 August 2022, https://media.defense.gov/2022/Aug/25/2003064740/-1/-1/1/civilian-harm-mitigation-and-response-action-plan.pdf.

cluding as a member of the United Nations Security Council in 1999-2000.

> *[H]uman security is a multi-sectoral approach to security that gives primacy to people*" and includes topics like "*combatting trafficking in human beings; protection of children in armed conflict; preventing and responding to conflict-related sexual violence; protection of civilians; and cultural property protection.*[440]

In 2019, the first Human Security Unit was established in the NATO Office of the Secretary-General to promote the concept of human security and to adopt and absorb policies related to 'other' security that were not included in the Emerging Security Challenges Division (renamed the Innovation, Hybrid and Cyber (IHC) Division) portfolio under one collective space.[441] This elevated the Alliance's commitment to human security in a public-facing way and demonstrated the Alliance's recognition of human security as critical and complementary to traditional defence. At the Madrid Summit in June 2022, NATO formalised its commitment to human security with the adoption of the Human Security Approach and Guiding Principles.[442] This provides the Alliance with a common understanding of human security encompassing five areas: combatting trafficking in human beings; protection of children in armed conflict; preventing and responding to conflict-related sexual violence; protection of civilians; and cultural property protection.[443] It is recognised that the collective areas of human security can serve to enhance the Alliance's reputation and assist in implementing tasks in operations better.

More recently at the Washington Summit (2024), the Declaration issued by the

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[440] NATO, "Human Security", (20 July 2023). https://www.nato.int/cps/en/natohq/topics_181779.htm.

[441] BI-Strategic Commands recognized Human Security much earlier, developing doctrine and training on elements of Human Security.

[442] NATO, "Human Security", (20 July 2023). https://www.nato.int/cps/en/natohq/topics_181779.htm.

[443] Ibid.

NATO Heads of State and Government declared that NATO would commit to 'integrating NATO's ambitious Women, Peace and Security (WPS) and human security agendas across all core tasks […] We will also continue to strengthen our human security approach related to the protection of civilians and cultural property'.[444]

The majority of NATO Allies have been explicit in their commitment to advance human security both within the Alliance and nationally, adopting cross-cutting themes that emphasise the broader protection of civilians. Many nations have advanced national protection frameworks and mechanisms. The UK adopted the Cultural Property (Armed Conflicts) Act 2017 and established a military unit of CPP specialists.[445] Canada has championed the Children and Armed Conflict agenda by launching the Vancouver Principles in 2017[446] and incorporating prevention of conflict-related sexual violence into pre-deployment training. Belgium has adopted a National Action Plan to Combat Gender-based Violence[447] and in the US, President Biden signed a Presidential Memorandum on Promoting Accountability for conflict-related sexual violence.[448]

While WPS is not a part of human security in any organisation including NATO, the Alliance has reiterated support for both human security and gender as an imperative. As Secretary-General Stoltenberg said, *"Communities have suffered from human trafficking, from conflict-related sexual violence, or from the de-*

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[444] Washington Summit Declaration, Washington, D.C. 10 July 2024.

[445] UK Government, 'UK Approach to Protection of Civilians in Armed Conflict', GOV.UK, 27 August 2020, https://www.gov.uk/government/publications/uk-paper-on-the-approach-to-protection-of-civilians-in-armed-conflict/uk-approach-to-protection-of-civilians-in-armed-conflict.

[446] Government of Canada, 'The Vancouver Principles', 21 February 2017,https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/human_rights-droits_homme/principles-vancouver-principes.aspx?lang=eng.

[447] Institute for the Equality of Women and Men, 'STOP VIOLENCE: NATIONAL ACTION PLAN TO COMBAT ALL FORMS OF GENDER-BASED VIOLENCE | 2015-2019', n.d., https://igvm-iefh.belgium.be/sites/default/files/press_file_0.pdf.

[448] The White House, 'Presidential Memorandum to Promote Accountability for Conflict-Related Sexual Violence', 28 November 2022, https://www.whitehouse.gov/briefing-room/statements-releases/2022/11/28/presidential-memorandum-to-promote-accountability-for-conflict-related-sexual-violence/.

struction of cultural property, an end to conflict is harder to achieve. And peace is more fragile."[449]

At the 2024 Washington Summit, the Allies also endorsed a new WPS policy that provides a political framework for NATO to further promote the agenda across all the Alliances' core tasks, as well as strengthening gender-responsive leadership and accountability and to protect women and girls against gender-based violence. It recognises the close linkages between NATO's WPS and human security agendas, notably in the area of conflict-related sexual violence (CRSV), as highlighted during the ongoing war in Ukraine.[450] Given the robust links between human security and gender equality, it would be beneficial to promote human security as a foundation for WPS. The collective approach can enhance both areas and advance work on the protection of civilians. However, the Alliance must also be vigilant in respecting the uniqueness of the WPS agenda. Human security will only be successful with gender perspectives at its core. Protection of human and cultural property must be designed with gender consideration and with women represented and heard. This is going to be a challenge for NATO in the future.

3. Human Security – a gendered lens and sexual violence security

Human security is a holistic approach to security addressing the whole threat to the whole community, women and men. Intrinsic to this approach is reforming the understanding of security to enable a broader conceptualisation of what constitutes security and often overlooked but just as important is the link between human security and women's rights.

As British academic Mary Kador explained, the changing nature of conflict is

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[449] NATO, "A changing approach to security: Remarks by NATO Secretary General Jens Stoltenberg at the conference on Human Security hosted by NATO", (25 February 2021). https://www.nato.int/cps/en/natohq/opinions_181806.htm.

[450] `NATO, 'NATO Policy on Women, Peace and Security (2024)', 10 July 2024, https://www.nato.int/cps/en/natohq/official_texts_227578.htm.

divided into 'old' and 'new' wars. While old wars were fought over territory, new wars are fought over resources.

Old wars had a clear distinction between combatants and civilians, while new wars significantly affect the whole population. [451]And while Ukraine is being fought with an old war mentality, it is using new war approaches.

CRSV lies in a protected space between the WPS and human security agendas; born of one, and entrenched in the other. It is a specific form of sexual violence that is strategic and targeted, can amount to a serious violation of international law, including international humanitarian law (IHL) and international human rights law (IHRL),[452] and can constitute a war crime, a crime against humanity or an act of genocide.[453]

Under the Rome Statute of the International Criminal Court, to qualify as a crime against humanity an act must be part of a '*widespread or systematic attack*' against a population.[454] The adoption of UN Security Council resolution 1820 (2008)[455] links the key elements related to rape and sexual violence in conflict situations to the use of rape as a weapon of warfare. The further adoption of UNSC resolutions on sexual violence[456] has elevated the topic to the highest political level. CRSV is recognised by the UN Security Council and the NATO North Atlantic

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[451] Shaw, Martin. "The Contemporary Mode of Warfare? Mary Kaldor's Theory of New Wars." *Review of International Political Economy*, vol. 7, no. 1, 2000, pp. 171–80. *JSTOR*, http://www.jstor.org/stable/4177336.

[452] IHL main treaty sources applicable in international armed conflict are the four Geneva Conventions of 1949 and their Additional Protocol I of 1977. The main treaty sources applicable in international armed conflict are article 3 common to the Geneva Conventions and Additional Protocol II of 1977. NATO, "NATO Policy on Preventing and Responding to Conflict-Related Sexual Violence", (31st May 2021). https://www.nato.int/cps/en/natohq/official_texts_184570.htm?selectedLocale=de.

[453] International Humanitarian Law Databases, 'Practice Relating to Rule 93. Rape and Other Forms of Sexual Violence', n.d., https://ihl-databases.icrc.org/en/customary-ihl/v2/rule93.

[454] Rome Statute of the International Criminal Court, Article 8 (xxii), https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf.

[455] United Nations Security Council, 'Resolution 1820 (2008)', 19 June 2008, https://documents.un.org/doc/undoc/gen/n08/391/44/pdf/n0839144.pdf?token=QkaYe64zBcABO3N3JB&fe=true.

[456] While all UNSCR's on WPS reference sexual violence, UNSC resolutions 1820, 1888, 1960, 2106, 2467 are dedicated to addressing conflict-related sexual violence.

Council as a weapon to not only rape and brutalise individuals, but to destroy communities, intimidate, and terrorise populations and as a strategic tactic for displacing people. NATO efforts to combat sexual violence rely on the acceptance that CRSV has destructive effects on entire communities and consequently affects global peace and security. Rape and other incidents of sexual violence are likely to occur when there is an absence of rule of law. Incidents of CRSV have a long-term impact on communities, stalling any meaningful peace and destabilising communities. As Secretary-General Jens Stoltenberg said at the NATO Digital Dialogue on the Future of WPS in 2020:

> *We have made significant progress in the past. Now we must seize the opportunities in the future, to further implement the Women, Peace and Security agenda […] Because I am convinced that advancing this agenda will make NATO even stronger and fit for the future.*[457]

Although once excused as an integral part of war, the recognition that sexual violence in armed conflict is not a by-product of conflict and can be prevented has grown and provoked robust support from the international community. Over the last decade, political engagement and donor interest in the CRSV agenda have been considerable. The Secretary-General echoed the commitments of the Allies at both the Chicago (2012)[458] and Wales (2014)[459] summits when the Heads of States and Governments reaffirmed their commitment to responding to sexual violence, recognising that:

> *[w]idespread sexual and gender-based violence in conflict situations, the lack of effective institutional arrangements to protect women, and the con-*

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[457] NATO Secretary General Jens Stoltenberg at the Digital Dialogue on the Future of Women, Peace and Security at NATO, Oct. 2020, https://www.nato.int/cps/en/natohq/opinions_178808.htm.

[458] NATO Chicago Summit. https://www.nato.int/cps/en/natohq/official_texts_87593.htm

[459] NATO Wales Summit. https://www.nato.int/cps/en/natohq/official_texts_112964.htm.

> *tinued under-representation of women in peace processes, remain seri-*
> *ous impediments to building sustainable peace.*[460]

In a series of dialogues on how to adapt its work to prevent and respond to CRSV, Allies agreed to develop a policy to ensure that NATO has a more robust foundation and even better tools at its disposal to support the continued commitment to the fight against sexual violence in conflict. NATO's heightened attention to addressing CRSV culminated in the endorsement of the Policy on Preventing and Responding to Conflict-Related Sexual Violence 2021.[461]

The widely agreed policy reflected the views of the various Allies and mirrored ongoing commitments made to the UN. The UN Special Representative of the Sectary General for Sexual Violence in Conflict (SRSG-SVC) discussed the importance of NATO and other multilateral security institutions working to expand the circle of stakeholders and understanding of peace and security to include the perspectives and experiences of women. SRSG Patten also recognised that there is significant potential for an enhanced NATO contribution to the Security Council-mandated Monitoring, Analysis and Reporting Arrangements on CRSV, which provides timely information on incidents, patterns and trends as an evidence base for advocacy and remedial action.[462]

Additionally, many NATO Allies have adopted national policies and strategies to address and combat this heinous crime. The UK's Preventing Sexual Violence in Conflict Initiative (PSVI) launched in 2012 has worked to raise awareness of

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[460] NATO, Wales Summit Declaration, Heads of State and Government, North Atlantic Council, Wales 2014, Press Release (2014). https://www.nato.int/cps/en/natohq/official_texts_112964.htm.

[461] NATO Policy on Preventing and Responding to Conflict Related Sexual Violence, 2021, https://www.nato.int/cps/en/natohq/official_texts_184570.htm.

[462] Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, Remarks of SRSG Pramila Patten High-level opening segment Prevention and Response to CRSV: NATO Policy Development Workshop, United Nations, 2021. https://www.un.org/sexualviolenceinconflict/press-release/remarks-of-srsg-pramila-patten-high-level-opening-segment-prevention-and-response-to-crsv-nato-policy-development-workshop/.

the extent of sexual violence in armed conflict and to spotlight survivors. At its London 2022 conference, 54 countries including 22 NATO Allies signed the political declaration on CRSV and made national pledges.[463]

In Luxembourg, Her Royal Highness Maria Teresa developed an initiative known as 'Stand, Speak, Rise Up to End Sexual Violence in Fragile Environments' to give survivors a voice with the donor and diplomatic community. As the Grand Duchess stated during the NATO Digital Dialogue in 2020, '*We may never end war, but let us hold on to our ambition to, one day, end rape as a weapon'*.[464]

The US signed a memorandum in November 2022 that strengthened its commitment to ending impunity for CRSV and aimed to improve accountability.[465] Croatia, a country no stranger to CRSV, is supporting survivors and children born as a result of CRSV by promoting the Declaration of Humanity by Leaders of Faith and Leaders of Belief, and Jordan, in concert with many nations has included CRSV in its National Action Plan on WPS.

Combatting sexual violence in conflict and focusing on operationally effective responses to this appalling abuse is critical for NATO. Addressing CRSV will contribute to creating conditions for security that will allow women and girls to live free from abuse and violence and thereby fulfil NATO's international obligations to prevent the threat of violence.

Tackling sexual violence against women and girls does more than help individ-

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[463] UK Government, 'Preventing Sexual Violence in Conflict Initiative (PSVI) Conference 2022: A Political Declaration on Conflict-Related Sexual Violence', 1 June 2023, https://www.gov.uk/government/publications/conflict-related-sexual-violence-political-declaration-at-the-2022-preventing-sexual-violence-in-conflict-initiative-conference/preventing-sexual-violence-in-conflict-initiative-psvi-conference-2022-a-political-declaration-on-conflict-related-sexual-violence.

[464] Maria Teresa, Grand Duchess of Luxembourg, NATO Digital Dialgue, 2020.

[465] The White House. 2022. "Memorandum on Promoting Accountability for Conflict-Related Sexual Violence." The White House. November 28, 2022. https://www.whitehouse.gov/briefing-room/presidential-actions/2022/11/28/memorandum-on-promoting-accountability-for-conflict-related-sexual-violence/.

ual victims; it sets a tone for respect for fundamental dignities and human rights.[466]

Secretary Stoltenberg captured NATO sentiments:

> *[A]dvancing this agenda will make NATO even stronger and fit for the future [...] We must all do everything we can stop this intolerable violence used against so many women and men, boys and girls.* [467]

NATO also understands that sexual violence is central to the human security agenda because violence is rooted in gender inequality. WPS thus needs to be implemented, not just in the framework of military response, gender parity or traditional security, but within the wider context of human security.

> *Taking a human security approach is the way to achieve lasting peace and security. We know that when communities have suffered from human trafficking, from conflict-related sexual violence, or from the destruction of cultural property, an end to conflict is harder to achieve. And peace is more fragile. These crimes leave scars for generations.*[468]

However, the treatment of sexual violence as an issue that requires only protective and preventive solutions is insufficient. Sexual violence, commissioned as a tactic of war or not, stems from fundamental gender inequalities. Efforts to address and eradicate the use of sexual violence as a tactic of war rarely engage with the fundamental gender inequalities that form the underlying root causes of this violence.

Sexual violence in conflict is given the importance it deserves only in terms of

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[466] SGSR WPS statement, "NATO Statement in the UN Security Council on conflict-related sexual and gender-based violence", (23rd April 2019). https://www.nato.int/cps/en/natohq/opinions_165211.htm.

[467] Remarks by NATO Secretary General Jens Stoltenberg at the Digital Dialogue on Conflict-Related Sexual Violence online event, June 2020.

[468] NATO, "A changing approach to security: Remarks by NATO Secretary General Jens Stoltenberg at the conference on Human Security hosted by NATO", (25 February 2021). https://www.nato.int/cps/en/natohq/opinions_181806.htm.

response but exploring its 'inextricable [link] to women's participation' is not considered a priority. While the attention on combatting sexual violence in conflict is critical and focus must be always drawn to the timely and operationally effective methodologies for addressing the abysmal abuse of women and men, it should not take place at the expense of support for the empowerment of women. [469] And yet this appears to be the case. The international community, quick to react with horror at the heinous sexual acts perpetrated against women and girls, are less eager to support measures that would allow women to devise and reinforce their own protection.

The conflict in Ukraine has demonstrated the use of sexual violence in conflict and reaffirmed that sexual violence in conflict and crisis is ongoing and remains a global phenomenon. We have seen that the destructive nature of CRSV and its effect on entire communities poses significant threats to global peace and security. This has led to an increased expectation that actors operating in conflict and post-conflict environments, including NATO military personnel, must take a more prominent role in addressing this issue. At the Washington Summit, NATO Allies endorsed the *Revised NATO WPS Policy*[470] *and* the WPS agenda across NATO's core tasks and missions.

The updated policy addresses new security threats, including technology-facilitated gender-based violence and the misuse of new and emerging technologies, climate security and CRSV and also notes Russia's war of aggression against Ukraine and the threats it poses particularly to women on the frontlines of the conflict. NATO and its Allies have made great steps in promoting WPS and human security over recent years, especially with the protection from sexual violence under the rubric of human security.

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[469] Clare Hutchinson, "NATO Statement in the UN Security Council on conflict-related sexual and gender-based violence", (2019). https://www.nato.int/cps/en/natohq/opinions_165211.htm.

[470] NATO, 'NATO Policy on Women, Peace and Security (2024)', 10 July 2024, https://www.nato.int/cps/en/natohq/official_texts_227578.htm.

NATO's commitment to preventing and combatting CRSV is especially demonstrated through the development of operational doctrine, notably in the Military Guidelines on the Prevention of, and Response to, Conflict-Related Sexual and Gender-Based Violence (2016), which emphasises NATO's role in protecting civilians from conflict-related physical violence, or the threat of such violence.[471] Allies have further incorporated the fight against sexual violence into their military doctrines and practices recognising that CRSV requires greater understanding and respect for international law in conflict zones. The UK's PSVI aims to raise awareness of the devastating consequences of sexual violence. NATO's goal is ultimately to support the international community's efforts to prevent and respond to CRSV. For NATO, the approach to protection is through the lens of WPS and is a holistic attempt to address the wide issues that affect women both during and conflict and after conflict. The attention must be equally divided between the importance of protecting women and girls from violence but equally focused on the criticality of enhancing women's access to decision-making and representation. There clearly is no protection without participation and women must be visible in the engagement in voicing mechanisms for protection.

4. Conclusion

NATO is more relevant and crucial for maintaining transatlantic security than it has ever been. Since the start of the Ukraine war, the relevance of defence spending has increased with urgency, conversations about mobilisation across Allied nations are riding on insecurity, and NATO has expanded and extended in confidence and membership. It should be no surprise that NATO constantly adapts to changing geo-political climates, and reshapes to meet the challenges of the day. Recently, despite the more traditional conflict in the East, the Alliance is at-

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[471] North Atlantic Military Committee, "Military Guidelines On The Prevention Of, And Response To, Conflictrelated Sexual And Gender-Based Violence", Secretary General, North Atlantic Treaty Organization, MCM-0009-2015, IMSM-0059-2016, 01 June 2015, https://www.nato.int/issues/women_nato/2015/MCM-0009-2015_ENG_PDP.pdf.

tempting to integrate a more holistic approach to security which includes strengthening human-centric security. A new security framework has clearly emerged through the prism of a human security lens – a lens where states are committed to the promotion of human rights and democratic values.

Achieving human security starts with people. Human security depends on empowering people, especially women, to participate in making choices about how they can be most secure, now and over the longer term. It also requires norms and institutions that guarantee basic protections of human progress and safety, such as through good governance, the rule of law, and early warning mechanisms. Human security cannot occur without a strong defence, and defence must recognise that new challenges need new responses. They are mutually supportive, bound together by intrinsic values.

The goal of the WPS agenda, especially as it relates to CRSV is not just about increasing the numbers and the percentages of women, it is about normalising an inclusive approach between gendered security and all other forms of security.

> *NATO views the integration of gender perspective as the core method to implement and operationalise the NATO WPS agenda (composed of NATO policies on WPS, on Preventing and Responding to Sexual Exploitation and Abuse [SEA] and Conflict-Related Sexual Violence [CRSV] and related military guidelines, action plans and directives), into all NATO military operations, missions and activities, including into NATO warfare development activities.* (NATO Allied Command Transformation)[472]

CRSV is increasingly recognised as not only a weapon of war but a threat to international peace and security. It is frequently and deliberately used to target vulnerable populations. As conflict takes root, the vulnerability of women and girls increases including their vulnerability to CRSV.

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[472] NATO Allied Command Transformation, "HQ SACT Office of the Gender Advisor". https://www.act.nato.int/about/gender-advisor/.

From violent extremists in Syria to conflicts in the Balkans, state and non-state armed actors have used sexual violence to intimidate and terrorise populations and as a means of displacing people from contested territory, destroying communities and silencing victims.[473] Even after these wars ended, sexual violence often goes unaddressed which, in turn, undermines reconstruction efforts and the transition to more stable, secure and peaceful societies.[474] The wars in the Balkans in the 1990s showed the use of rape as a tactic of war to cause psychological and physical harm to women and girls and men and boys.[475] More than two decades after the end of the conflict, survivors of wartime sexual violence continue to suffer the enduring effects of the crime, including marginalisation and stigma.

While sexual violence continues to be inflicted on a massive scale, it is now recognised as a threat to development, peace and security, a violation of human rights and a crime under international law. The inability to protect women and girls in conflict and post-conflict environments represents a human rights failure and, despite the definitions, resolutions, commitments, endorsements and financing to address this scourge, sexual violence as a weapon of war continues to demoralise, destabilise and destroy individuals, communities and societies across the world.[476]

As a military and political Alliance, NATO must recognise and be vigilant in protecting people from this violation of human rights. It is not a women's issue; it is also a security challenge. Wartime rape fuels displacement, weakens governance and destabilises communities, thereby inhibiting post-conflict reconciliation and imperilling long-term stability.

For NATO, sexual violence in conflict has become central to efforts to protect

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[473] Inger Skjelsbæk, "Missing Peace Initiative", Prio, (February 2013). https://www.prio.org/projects/1769.).

[474] Ibid.

[475] Katrin Boeckh, and Sabine Rutar, eds. *The Wars of Yesterday: The Balkan Wars and the Emergence of Modern Military Conflict, 1912-13*. 1st ed. Berghahn Books, (2018). https://doi.org/10.2307/ j.ctvw04j9c.

[476] Clare Hutchinson, "NATO Statement in the UN Security Council on conflict-related sexual and gender-based violence", (23rd April 2019). https://www.nato.int/cps/en/natohq/opinions_165211.htm.

civilians in Council-approved missions and operations because there is an understanding that responding to the grievous and systematic sexual abuse of women and girls in and around conflict is mission-critical and essential to operational effectiveness. Preventing and responding to CRSV is not just a moral duty, it is key to achieving durable peace and security. That is why NATO has reiterated its commitment to reinforcing a policy framework to strengthen the political foundation for eliminating sexual violence in conflict to create the conditions for security that will allow women and girls to live free from abuse and violence.[477]

CRSV destroys lives, undermines stability and hampers the prospects for lasting peace. It is not an isolated issue. However, CRSV is not inevitable. Like any tactic of war, there are ways to counter it. As NATO Allies and Partners move forward through the Ukrainian crisis, reflections on the response and future engagement will take place. Reflections on protection under a gender lens must take place too. Sexual violence in conflict is not restricted to some crises or some people, it is endemic to all conflict. Despite the doctrine, policy, guidance and training, including for NATO, sexual violence is still not a constituent of political debate related to defence and security.

Looking ahead, the benefit of using a human security approach is clear. The principles of human security are aligned to NATO's commitments and values which are the foundation for democracy and on the foundation of human security rests the principles of gender equality.

As NATO evolves to take into account changing geo-political dynamics and respond to new security challenges, recognising the potential of human security will be key, one that needs stronger commitment of interest and resources to achieve its full potential.

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[477] NATO, "NATO Statement in the UN Security Council on conflict-related sexual and gender-based violence", (23rd April 2019). https://www.nato.int/cps/en/natohq/opinions_165211.htm.

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CHAPTER IX

Yael Vias Gvirsman

WOMEN, HUMAN SECURITY AND INTERNATIONAL CRIMINAL LAW: OBJECTS AND AGENTS IN STABILISATION AND RECONSTRUCTION

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Abstract

Sexual and gender-based violence (SGBV) is a serious threat to international peace and security and must be addressed for there to be reconstruction and stabilization in conflict and post-conflict situations. SGBV is committed systematically, whether by state or non-state armed groups, as a form of terrorism, a war crime, a crime against humanity or genocide. The International Criminal Court (ICC) has adopted a comprehensive approach to investigating and prosecuting SGBV, further structuring the case law of its predecessors, the *ad hoc* International Criminal Tribunals (ICTs) prosecuting atrocities committed systematically in the Balkans and Rwanda.

 The ICC is an improvement compared with previous ICTs but there is still much to do to provide victims of SGBV with effective remedies. In the 21st century, the UN provides a normative framework recognising SGBV as a threat to international peace and security against which states must act. It also offers mechanisms for investigating SGBV, enhancing domestic and international prosecutorial accountability mechanisms and striving to end impunity for international crimes of a sexual nature. Examples include the focus given to SGBV[478] by mechanisms such as the UN Counter-Terrorism Executive Directorate (UN-CTED), the establishment of specialising entities such as the UN Special Representative (UNSR) on SGBV and the UN Team of Experts on Gender-Based Crimes (GBCs).

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[478] UN Counter-Terrorism Executive Directorate (UN CTED), *Towards Meaningful Accountability: Sexual and Gender Base Violence linked to Terrorism*, November 2023, p.6.

International crimes of a sexual nature are referred to as sexual and gender-based violence, sexual and gender-based crimes, gender-based violence or gender-based crimes, often interchangeably. Not all violence constitutes an international crime but taken as a whole, it creates an environment conducive to the commission of crimes of a sexual nature. Gender-based violence or crimes can also be of a non-sexual nature.

Case studies offer best practices of victim-led or victim-inclusive justice initiatives for reconstruction. These include justice for Islamic State of Iraq and al-Sham (ISIS) crimes in Syria and Iraq against Yazidi women and girls, the Mukwege Foundation initiatives against widespread SGBV committed in the Democratic Republic of Congo (DRC); the Colombian Special Jurisdiction for Peace (JEP) special unit for SGBV; and the systematic and widespread SGBV committed as part of the attack launched by Hamas and other Palestinian militia on 7 October 2023.

Three case studies will be the focus of this chapter. The framework for accountability, reconstruction and strategic partnership presented in this chapter constitutes the result of past lessons and offers a forward-looking framework for future SGBV committed in conflict. The general framework for accountability must be implemented intelligently in close partnership with the affected communities to bring trust and greater impact to sustain reconstruction and stabilisation.

Keywords: SGBV, SGBC, victim-centred, ISIS, accountability.

1. Introduction

While the development of modern international criminal law can be traced back over two centuries based on the common understanding that international

crimes '*threaten the peace, security, and well-being of the world*',[479] crimes systematically targeting women and girls in armed conflict or in peacetime received official recognition as an international crime only much more recently. The role of women as both systematic targets of international crimes (objects) and agents for stabilization and reconstruction (agents) has only recently been recognised[480] and still deserves significant attention from scholars, decision-makers and policymakers. Rape in armed conflict or peacetime was not always considered a crime. Indeed, the first known recorded international prosecution of war crimes – the trial of Sir Peter van Hagenbach in 1474[481] – convicted him of rape committed by his soldiers only because 'he had instituted terror without first having declared war'.[482]

This shows that in certain circumstances of war, rape was even considered legal.[483] Historically, women were often considered the property of men, and 'to the victor goes the spoils'.[484] Some voices were raised against rape, notably the jurist Alberico Gentili (1555-1608)[485] and the forefather of international law, Hugo Grotius (1584-1645),[486] stating rape 'should not go unpunished in war any more than in

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[479] International Criminal Court (ICC) Rome Statute, Preamble, (1998). https://www.icc-cpi.int/sites/default/files/Publications/Rome-Statute.pdf. The first serious proposal for an International Criminal Court was made by Gustave Moynier on 3 January 1872 to enforce the obligations of Contracting Parties to armed conflict under the 1864 First Geneva Convention on Wounded Soldiers, see Gustave Moynier, '*Note sur la création d'une institution judiciaire internationale propre à prévenir et à réprimer les infractions à la Convention de Genève*', Bulletin international des Sociétés de secours aux militaires blessés, Comité international, No. 11, (avril 1872), p. 122. See further in Christopher Keith Hall, 'The first proposal for a permanent international criminal court', *International Review of the Red Cross*, No. 322, (31 March 1998). https://www.icrc.org/en/doc/resources/documents/article/other/57jp4m.htm.

[480] See for example UN Security Council Resolution 1325 on Women, Peace and Security, 2000.

[481] M Cherif Bassiouni, *International Criminal Law, A Draft International Criminal Code*, 1980 p. 8; and Bassiouni, *The Time has Come for an International Criminal Court*, International and Comparative Law Review, 1, 1 (1991).

[482] Donald A Wells, *War Crimes and Laws of War*, 2nd Edition 1991, pp 93-94.

[483] Kelly D. Askin, *War Crimes Against Women: Prosecution in International War Crimes Tribunals*, Leiden, Netherlands: Martinus Nijhoff Publishers, 1997, p. 29.

[484] Ibid, p. 21. Referencing to Peter Karsten, *Law, Soldiers and Combat*, 5, 1978.

[485] Ibid. pp 23-26; quoting Alberico Gentili, De Iure Belli Libri Tres, 1612; see also Theodore Meron, *Henry's Wars and Shakespeare's Laws*, 111-113, 1993.

peace'.[487] The 1945 International Military Tribunal (IMT) of Nuremberg largely ignored SGBV although sexual crimes were committed and reported to the IMT.[488]

The two *ad hoc* ICTs for former Yugoslavia (ICTY) and for Rwanda (ICTR) punish sexual crimes as war crimes and crimes against humanity. However, the Statute lists only 'rape' and 'enforced prostitution', taking a very narrow perspective on the issue. Nevertheless, ICTY's case law implemented the crimes and solidified future steps to prosecute SGBCs. ICTY raised the bar by recognising rape as a form of genocide, as will be discussed below. In 1998, the Rome Statute of the ICC offered new hope. Human rights organisations hailed the Rome Statute as offering a '*dramatic and long-awaited improvement in how international crimes against women are treated and greatly increases the possibility for redress*'.[489] To date, the ICC has yet to implement sanctions and convictions for such acts, as opposed to the crimes of torture or degrading treatment as war crimes and crimes against humanity.

This chapter provides theoretical and practical guidance for any entity considering a productive response to SGBV in armed conflict or peacetime. Part I describes the essential development of recognising SGBV against anyone – male or female – as an international crime (Part I).

It then focuses on why there is a need to recognise it as a factor destabilizing communities and reducing chances for sustainable peace and reconstruction. In Part II, the chapter examines recent normative developments. This includes the most recent policies and guidelines and the specialised mechanisms mandated to

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[486] Grotius, De Jure Belli Ac Pacis Libri Tres, 1646, pp 656-657.

[487] Ibid, quoted in Askin, *supra note 6*, p. 30.

[488] Kelly D. Askin, *War Crimes Against Women: Prosecution in International War Crimes Tribunals*, Leiden, Netherlands: Martinus Nijhoff Publishers, 1997, pp. 14 and 97.

[489] Human Rights Watch, 'International Justice for Women: The ICC Marks a New Era Human Rights', *Watch Backgrounder*, (July 1, 2002). https://www.hrw.org/legacy/campaigns/icc/icc-women.htm.

fight, sanction and prevent SGBV. Part III focuses on recent case studies of systematic SGBV, examples of good practice and means of redress. Special focus is given to building a victims-based approach, engaging civil society as complementary to state authorities, the importance of first responders, using strategic litigation for human rights to ensure accountability, building bridges for coordinated, interstate and international judicial cooperation, increasing expertise, and the need for specialised units to investigate, prosecute and prevent SGBV in every jurisdiction.

2. Solidifying Recognition of SGBV as an International Crime Threatening International Peace and Security

History shows us that sexual violence is something that can destroy towns, nations, communities, and can be used as a means of genocide to destroy groups.[490]

Patricia Sellers, Special Adviser on
Gender to the ICC Prosecutor, 2018

Every practitioner should master the main legal developments in the process of recognising SGBV as an international crime at the earliest stages of investigating atrocities in conflict-ridden areas. The fundamental understanding of the need to address past wrongs to build a stable future is a cornerstone of building stability in conflict situations.[491]

For centuries, and despite some recognition,[492] the prohibition of SGBV was

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[490] As reported in, Women's Initiative for Gender Justice, 'Blogpost: Calling it what it is: It is time to define sexual violence', (13 December 2018).

[491] See in general on the need to address past wrongs in a forward looking perspective, Ruti Teitel, *Transitional Justice*, Oxford University Press, 2000.

[492] See in Ancient Times the writings of Cicero, Gentilli, Grotius as mentioned in the *Introduction* above; or more recently, cf eg Article 44 of the 1863 Lieber Code which provides that all rape of persons in the invaded country is prohibited, *Instructions for the Government of Armies of the United States in the Field*, *prepared by Francis Lieber*, promulgated as General Order No. 100 by President Abraham Lincoln, Washington D.C., 24 April 1863.

not codified and sanctioned despite the widespread, systematic reality of armed conflicts that led to atrocities.[493] From Nuremberg[494] to The Hague,[495] international accountability for SGBV saw its codification and implementation, despite the challenges. The most significant development is that international accountability evolved from a state-centred to a victim-centred justice where victims are allowed a more active role as participants in the procedure who can bring to the opening of an investigation, provide evidence, communicate their concerns directly to judges independently from the prosecution, and can express their views at key moments of the criminal procedure.

2.1 International Recognition of Sexual and Gender-Based Crimes

At Nuremberg, sexual and gender-based evidence was brought before the IMT but rape was not included in the indictment nor the judgement of the major Nazi war criminals.[496] Nevertheless, Article II(1)(c) of the 1945 Allied Control Council Law No. 10, which was the main legal foundational act for the twelve Nuremberg trials that followed the judgement of the major Nazi war criminals, provided that '*rape, or other inhumane acts committed against any civilian population*' was a crime against humanity. While the three Geneva Conventions do not mention rape or any other form of SGBV, Article 27(2) of the 1949 Fourth Geneva Convention provides: '*Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault*'. Common Article 3(1)(c) of the

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[493] Kelly D. Askin, *War Crimes Against Women: Prosecution in International War Crimes Tribunals*, Leiden, Netherlands: Martinus Nijhoff Publishers, 1997, pp.12-13.

[494] The *ad hoc* International Military Tribunal was established in Nuremberg in 1945 to try the Major Nazi War Criminals, for more information see Holocaust Museum website at https://encyclopedia.ushmm.org/content/en/article/international-military-tribunal-at-nuremberg.

[495] The Hague refers to the establishment of the permanent International Criminal Court (ICC) by the 1998 Rome Statute.

[496] Nuremberg Trial Proceedings Vol. 1 Indictment, The Avalon Project, Yale Law School; INTERNATIONAL MILITARY TRIBUNAL (NUREMBERG) Judgment of 1 October 1946, *ICC Legal Tools*.

four 1949 Geneva Conventions (GCs) provides that '*outrages upon personal dignity*' are prohibited at any time and in any place whatsoever with respect to persons *hors de combat*.[497] The ICTR Statute recognised the *ad hoc* tribunal's jurisdiction to prosecute violations of common Article 3 of the 1949 GCs, *including rape, enforced prostitution, and any form of indecent assault*.[498]

2.1.1 ICTY and ICTR landmark cases on SGBV

ICTY issued several landmark cases relating to sexual and GBCs[499] in the application of Article 5(g) of the 1993 ICTY Statute, providing that: '*rape, when committed in armed conflict, whether international or internal in character, and directed against any civilian population, constitutes a crime against humanity*'.[500] It should be recalled that the widespread and systematic rapes and sexual violence committed during the Balkans War alongside 'ethnic cleansing' were the crimes the International Inquiry Commission led by Prof Mahmoud Cherif Bassiouni highlighted and what led to the establishment of the first international criminal tribunal since Nuremberg and Tokyo.

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[497] Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Geneva, 12 August 1949, Article 3(1)(c); Convention (II) for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, Geneva, 12 August 1949, Article 3(1)(c); Convention (III)relative to the Treatment of Prisoners of War, Geneva, 12 August 1949, Article 3(1)(c); Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949, Article 3(1)(c).

[498] Statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law in the Territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighboring States between 1 January 1994 and 31 December 1994, adopted by the UN Security Council, Res. 955, 8 November 1994, as amended by Res. 1165, 30 April 1998, and by Res. 1329, 30 November 2000, Articles 3(g) and 4(e).

[499] For further reading see, Valerie Oosterveld, *The Legacy of ICTY and ICTR on Sexual and Gender-Based Violence*, in Sterio M, Scharf M, eds. The Legacy of Ad Hoc Tribunals in International Criminal Law: Assessing ICTY's and the ICTR's Most Significant Legal Accomplishments, Cambridge University Press; 2019, pp.197-220.

[500] Statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, adopted by the UN Security Council, Res. 827, 25 May 1993, as amended by Res. 1166, 13 May 1998 and by Res. 1329, 30 November 2000, (herein ICTY Statute) Article 5(g).

The ICTR was established soon thereafter, in 1994. As one author emphasises [footnote added]:[501]

> *Rape was explicitly listed in the ICTR Statute, and implicitly listed in ICTY Statute, as a violation of the laws and customs of war, including as an outrage upon personal dignity.[502] [...] Prior to its consideration by ICTY and ICTR, rape had never before been defined in international criminal law.*

Rape was widespread during the 1994 genocide in Rwanda:

> *Women were raped in every prefecture of Rwanda, throughout the genocide, most often in the open in plain view, including at roadblocks, in official and governmental buildings such as military camps, churches, schools and university premises, hospitals, health clinics, stadiums and marketplaces.*[503]

The ICTR became the first international tribunal to grapple with the definition of rape. There was no precedent in international law and national laws varied and did not offer a single definition. Existing definitions in domestic laws did not address the complexities of rape in armed or mass atrocity. While rape was not initially charged in the ICTR's first case, *Prosecutor v. Akayesu*,[504] evidence of rape emerged during the trial and charges were added.[505] In the *Akayesu Case*, the ICTR prosecuted rape as genocide and convicted the former mayor

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[501] Valerie Oosterveld, *The Legacy of ICTY and ICTR on Sexual and Gender-Based Violence*, in Sterio M, Scharf M, eds. The Legacy of Ad Hoc Tribunals in International Criminal Law: Assessing ICTY's and the ICTR's Most Significant Legal Accomplishments, Cambridge University Press; 2019, p199.

[502] ICTY Statute, Article 3; Statute of the International Criminal Tribunal for Rwanda, 8th November 1994, UN Doc S/RES/955(1994), Annex, 1994, 33 ILM 1598 (herein ICTR Statute), Article 4(e).

[503] Linda Bianchi, The Prosecution of Rape and Sexual Violence: Lessons from the Prosecutions of the ICTR, in Sexual Violence As And International Crimes: Interdisciplinary Approaches 123, 135, Anne-Marie de Brouwer, Charlotte Ku, Rene ́e Ro ̈mkens & Larissa van den Herik, eds., 2013.

[504] Prosecutor v. Akayesu, Case No. ICTR-96–4-T, Judgment, para. 688 (Sept. 2, 1998).

[505] Prosecutor v. Akayesu, Case No. ICTR-96–4-T, Judgment, para. 688 (Sept. 2, 1998), paras 416-417.

Akayesu, for rape and other acts of sexual violence constituting genocide.[506]

ICTY confirmed this jurisprudence finding that given the correct contextual and mental elements, rape could constitute genocide.[507] ICTY carried out extensive investigations and prosecution of wartime sexual violence, raising several indictments for sexual violence committed in Bosnia and Herzegovina as early as 1995. Since then, more than 70 individuals have been charged with crimes of sexual violence including sexual assault and rape. As of early 2011, almost 30 had been convicted.[508] ICTY advanced the development of international justice in the realm of gender crimes by enabling the prosecution of sexual violence as a war crime, a crime against humanity and genocide. The *Duško Tadić* case,[509] the first international war crimes trial since Nuremberg and Tokyo, was the first international war crimes trial on sexual violence. The Trial Chamber convicted Tadić of cruel treatment and inhumane acts for the part he played in incidents of sexual violence.[510] Two years later, the Appeal Chamber additionally classified the acts as inhumane treatment and wilfully causing great suffering or serious injury to the body or health.[511] ICTY examined other incidents of sexual violence against men in several other cases including those against *Češić*, *Mucić et al.*, *Todorović* and *Simić*.

In *Mucić et al*,[512]ICTY convicted three of the four accused of rape and the use of

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[506] The ICTR record on prosecuting rape was mixed, for example, criticism see Binaifer Nowrojee, 'Your Justice Is Too Slow': Will the ICTR Fail Rwanda's Rape Victims? (UN Research Institute for Social Development Occasional Paper 10,November 2005), www.unrisd.org/80256B3C005BCCF9.

[507] See below in the *Furundzija case.*

[508] UN ICTY, Official Website on Landmark Cases. https://www.icty.org/en/features/crimes-sexual-violence/landmark-cases.

[509] ICTY Case Number: IT-94-1, Judgement convicting in May 1997.

[510] ICTY Prosecutor v. Duško Tadić, IT-94-1-T, *Opinion and Judgment*, (7 May 1997). https://www.refworld.org/jurisprudence/caselaw/icty/1997/en/40193.

[511] ICTY Prosecutor v. Duško Tadić, IT-94-1-A, *Appeal Judgment*, (15 July 1999). https://www.icty.org/x/cases/tadic/acjug/en/tad-aj990715e.pdf.

[512] ICTY Prosecutor v. Zdravko Mucić, Hazim Delić and Esad Landžo ICTY Case No.: IT-96-21-T, Judgement, (16 November 1998). https://www.icty.org/x/cases/mucic/tjug/en/981116_judg_en.pdf.

sexual violence as torture. One was convicted of command responsibility over acts committed by his subordinates. The crimes consisted of acts against male inmates of extreme cruelty relating to male genital organs and acts against two women detained in the camp during interrogations. The judges ruled that the purpose of the rapes was to obtain information, punish the women for their inability to provide information and intimidate and coerce them.

The Trial Chamber also found that the violence suffered by the two women had a discriminatory purpose – it was inflicted on them because they were women. When passing this judgement in 1998, the Trial Chamber considered '*the rape of any person to be a despicable act which strikes at the very core of human dignity and physical integrity*'.[513] The judges held that acts of rape constitute torture under customary international law and therefore it is a crime in international and non-international armed conflict and a prohibition applicable to all parties taking part in hostilities, whether state or non-state armed groups. The *Furundžija* case[514] made a significant step forward by recognising rape as genocide, following *Prosecutor v. Akayesu*. Additional notable cases are *Kunarać et al.*[515] which broadened the acts that constitute enslavement as a crime against humanity to include sexual enslavement and determined the relationship of gender crimes to customary law. The judgement recognised a 'campaign' of sexual abuse as a means for expulsion through terror and to ensure ethnic superiority or victory.[516] Finally, the *Krstić* case[517] established a link between rape and ethnic cleansing, which, in the Srebrenica crimes in July 1995, was closely associated with genocide.[518]

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[513] ICTY Case No.: IT-96-21-T, para. 495, Judgement, (16 November 1998). https://www.icty.org/x/cases/mucic/tjug/en/981116_judg_en.pdf.

[514] ICTY Prosecutor v Anto Furundžija IT-95-17/1-A, *Appeal Judgement*, (21 July 2000). https://www.refworld.org/jurisprudence/caselaw/icty/1998/en/20418.

[515] IT-96-23 & 23/1.

[516] See for the Trial Chamber Judgement of 2001, upheld by Appeal Chamber in 2002 and other key decisions in the case at https://www.icty.org/en/case/kunarac.

[517] IT-98-33

[518] Ibid, See case information sheet300 available at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.icty.org/x/cases/krstic/cis/en/cis_krstic_en.pdf.

2.1.2 The 1998 Rome Statute established the ICC and a comprehensive framework for investigating and prosecuting SGBV

In promoting the investigation and prosecution of SGBV, the ICC offers a comprehensive framework, whereas previous international courts or tribunals lacked the required expertise and structure to properly deal with these crimes. For instance, in previous tribunals, victims did not take an active role in the proceedings. At most, they could be witnesses and in certain instances were further humiliated and even mocked during the trial.[519]

Giving a more central role to victims of atrocity crimes, especially SGBV, empowers victims in their journey for reconstruction. The ICC framework marks an improvement in investigating and prosecuting SGBV in mass atrocity or armed conflict, although there are still improvements to be made in implementing the ICC mandate. First, the codification of crimes. The ICC criminalises SGBV as war crimes[520] and crimes against humanity[521] and expands the definition using the term 'other forms of grave sexual violence'.[522]

The ICC Rome Statute does not require to prove the absence of consent and recognises an act of sexual nature '*by force or by threat of force or coercion, … or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent*'[523] such as would generally exist during an attack against a civilian population. ICC codification of SGBV in mass atrocity better matches the

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[519] See B. Nowroojee, "'Your Justice is Too Slow' Will the ICTR Fail Rwanda's Rape Victims?', United Nations Research Institute for Social Development, November 2005.

[520] 8(2)(b)(xxii), and 8(2)(e)(vi) of the Rome Statute.

[521] Articles 7(1)g, 7(2) c and 7(2)e of the Rome Statute.

[522] ICC Elements of Crime, which serve judges and participants in the procedure, defines other forms of grave sexual violence to include 'acts of a sexual nature', Article 7(1)g-6, para.1 Elements of Crime, Official Records of the Review Conference of the Rome Statute of the International Criminal Court, Kampala, 31 May -11 June 2010 (International Criminal Court publication, RC/11). However, what acts are considered of a 'sexual nature' is not defined and is left to the interpretation of ICC case law, see for example Women's Initiative for Gender Justice, '*Blogpost: Calling it what it is: It is time to define 'sexual violence*', 13 December 2018.

[523] Ibid.

reality of the commission of crimes of this nature. Despite the milestone marked by the ICC's broad codification of sexual violence constituting war crimes or crimes against humanity, ICC case law is still shy of implementing this recognition in practice.[524] The conviction of Dominic Ongwen[525] on 61 counts, including as an indirect and direct perpetrator of sexual and GBCs and of Bosco Ntaganda[526] for indirect perpetration of rape, sexual slavery and persecution as war crimes and crimes against humanity, mark a new turning point for victims of SGBV in mass atrocity.

Second, the ICC offers procedural protections for victims and witnesses. Rule 17 of the Rules of Procedure and Evidence (RPE) entrusts the Victims and Witness Unit (VWU) with specific functions tailored to victims and witnesses of sexual violence. The Court is required to protect the safety, physical and psychological well-being, dignity, and privacy of victims and witnesses, with special regard to factors such as their gender and whether the crime involved sexual or gender violence.[527]

The Registry is specifically responsible for '*taking gender-sensitive measures to facilitate the participation of victims of sexual violence at all stages of the proceedings*'.[528] Other gender-sensitive measures are also in place that did not exist in previous international courts.[529]

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[524] In the *Bemba Case*, ICC-01/05-01/08, the prosecutor alleged sexual violence was committed as Bemba's soldiers subjected men and women to forced nudity to humiliate them. However, the Pre-Trial Chamber did not consider the acts constituted 'sexual violence' as it did not regard them to be of 'comparable gravity'. See, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo, ICC-01/05-01/08-424, June 15, 2009. In the *Kenyata Case*, the Pre-Trial Chamber rejected the qualification of 'sexual violence' for acts of forcible circumcision or amputation of men's genitals and rather qualified the acts as 'other inhumane acts' under Article 7 (1) (k) of the Statute.

[525] *Prosecutor v Dominic Ongwen*, ICC-02/04-01/15-1762-Red, 4 February 2021.

[526] *Prosecutor v. Bosco Ntaganda* ICC-01/04-02/06, convicted on 8 July 2019, as confirmed by the Appeal Chamber on 31 May 2021.

[527] Rule 86, RPE.

[528] Rule 16(1)d, RPE.

[529] For example, Rule 112(4) RPE encouraging the Prosecution to use video or audio recording to avoid retraumatisation of the victim and Rule 69(4), ICC Rules of Procedure and Evidence shields victims from damaging or intrusive attacks on their sexuality or credibility.

Third, the Statute requires the ICC Prosecutor and Registry to include staff with trauma-informed and legal expertise in crimes of a sexual nature. Fourth, and finally, the ICC provides a more adequate framework for victims of all international crimes, including of SGBV, since the role and rights of victims as participants are enshrined in the Statute, whereby victims can file communications to the Prosecutor, at the origin of investigations. They can communicate with the Court, provide evidence, question witnesses, provide legal and factual information throughout the trial and participate in the reparations stage following a conviction. This empowers victims allowing them to actively participate in accountability mechanisms carried out in their name, notwithstanding remaining challenges for an effective and meaningful victim role at the ICC.[530]

3. A Systemised Approach against Sexual and GBCs for Strategic Partnerships and Stabilization

If sexual violence is not addressed squarely in ceasefires and peace processes, there will be no peace for women.

> (Former Under-Secretary-General for Humanitarian Affairs Jan Egeland, at a New York meeting on peace talks and sexual violence organised by UN Action Against Sexual Violence in Conflict, June 2009)

In the aftermath of the groundbreaking UN Security Council Resolution 1325 (2000) – also known as the UNSC Resolution on Women Peace and Security – recognising the particular impact of war on women and the importance of women's full and equal participation in conflict resolution, peacebuilding, peacekeeping, humanitarian response and post-conflict reconstruction, several devel-

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[530] For further reading see, Kinga Tibori-Szabó and Megan Hirst, (Editors), *Victim Participation in International Criminal Justice Practitioners' Guide*, Springer 2017.

opments followed focusing specifically on SGBV in conflict or mass atrocity, the need for strategic partnerships and taking SGBV in peace processes, stabilization and reconstruction.

3.1 UN Security Council Resolutions dedicated to SGBV in armed conflict and mass atrocity

The UN Security Council adopted two resolutions addressing sexual violence as a tactic of war and the need to address it in peace processes. UNSC Resolution 1820, adopted in 2008, recognises sexual violence as a weapon and tactic of war. It notes that rape and other forms of sexual violence can constitute a war crime, a crime against humanity or a constitutive act concerning genocide and it stresses the need for the exclusion of sexual violence crimes from amnesty provisions in the post-conflict resolution processes. It also calls on member states to comply with their obligations to prosecute those responsible for such acts, to ensure that all victims of sexual violence, particularly women and girls, have equal protection under the law and equal access to justice and stresses the importance of ending impunity for such acts as part of a comprehensive approach to seeking sustainable peace, justice, truth and national reconciliation. UNSC Resolution 1888, adopted in 2009, on Women, Peace, and Security[531] stresses the UN's commitment to addressing the issue of SGBV in armed conflict, peace processes and mediation efforts. It calls on parties to armed conflict, including non-state actors, to protect civilians from sexual violence, enforce military discipline, uphold command responsibility and prosecute perpetrators. It also establishes effective support mechanisms such as the establishment of a rapid response team of judicial experts and improved monitoring and reporting mechanisms on trends, early warning indicators and patterns of attack.[532]

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[531] S/RES/1888 (2009), adopted by the Security Council at its 6195th meeting, on 30 September 2009, available at https://www.un.org/shestandsforpeace/content/united-nations-security-council-resolution-1888-2009-sres18882009#:~:text=%2F1888(2009)-,United%20Nations%20Security%20Council%20Resolution%201888%20(2009)%2C%20S%2F,situations%20of%20particular%20concern%20with.

[532] See especially Articles 4 and 8 for operative article, UN SC Res 1888(2009).

3.2 Dedicated UN mechanisms to address SGBV in armed conflict and mass atrocity

Following these UN Security Council Resolutions and others, several mechanisms were established, some directly under the UN Secretary-General. In 2007 the UN Action Against Sexual Violence in Conflict was established.[533] This is a network of 24 UN entities engaged, in line with their respective mandates, to prevent conflict-related sexual violence, enhance accountability and meet the needs of survivors. In 2010, under Article 4 of UN Security Council Resolution 1888, calling for the appointment of a:

> *Special Representative to provide coherent and strategic leadership*, *to work effectively to strengthen existing United Nations coordination mechanisms* and *to engage in advocacy efforts*, *inter alia with governments*, *including military and judicial representatives*, *as well as with all parties to armed conflict and civil society*, *in order to address*, *at both headquarters and country level*, *sexual violence in armed conflict*, *while promoting cooperation and coordination of efforts among all relevant stakeholders*, *primarily through the inter-agency initiative 'United Nations Action Against Sexual Violence in Conflict.*[534]

Since April 2017, the Special Representative of the Secretary-General (UN-SRSG) for Sexual Violence in Conflict, has been Ms. Pramila Patten of Mauritius. In the latest episode of conflict-related sexual violence that caught international attention related to sexual violence committed in the Hamas attack against civilians in Southern Israel on 7 October 2023, Ms. Patten issued the first UN report focusing on SGBV which recognised on reasonable grounds that SGBV was systematically committed during the attack and is most likely still

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[533] See official website at https://www.un.org/sexualviolenceinconflict/about-us/un-action/.

[534] Accordingly, in April 2010, the first Special Representative, Ms. Margot Wallström of Sweden, established the Office. In September 2012, Ms. Zainab Hawa Bangura of Sierra Leone took over the role.

being committed against hostages in captivity in Gaza at the time of writing this chapter.[535]

One of the main tools of action of the UNSRSG on conflict-related sexual violence is the monitoring, analysis and reporting arrangements (MARA) on conflict-related sexual violence in armed conflict, post-conflict and other situations of concern.[536]

A major aspect of MARA is the strategic partnerships it harnesses to gather accurate and timely information:

> *MARA draws on information gathered from a variety of sources, including local government authorities and institutions, health and psychosocial service providers, UN Civilian, Police and Military Peacekeeping presences, UN Country Team actors, local and international non-governmental organisations (NGOs), civil society organisations, religious institutions and faith-based networks.*

Additionally, under Article 8 of UN Security Council Resolution 1888 (2009), a UN Team of Experts on the Rule of Law and Sexual Violence in Conflict was established. It is composed of a Team Leader reporting to the UN SRSG on SVC and experts from the Department of Peace Operations (DPO), the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Office of the SRSG-SVC and the United Nations Development Programme (UNDP), each of whom report to both the Team Leader and their respective entities. The team's main focus and areas of work include: (i) criminal investigations and prosecu-

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[535] Office of the Special Representative of the Secretary General, Sexual Violence in Conflict, Mission report Official visit of the Office of the SRSG-SVC to Israel and the occupied West Bank 29 January – 14 February 2024, issued March 2024, accessible at chrome-extension: //efaidnbmnnnibpcajpcglclefindmkaj/ https://www.un. org/sexualviolenceinconflict/wp-content/uploads/2024/03/report/mission-report-official-visit-of-the-office-of-the-srsg-svc-to-israel-and-the-occupied-west-bank-29-january-14-february-2024/20240304-Israel-oWB-CRSV-report.pdf.

[536] The MARA was established based on UN Security Council Resolution 1960 (2010).

tions; (ii) military justice; (iii) legislative reform; (iv) protection of victims and witnesses; (v) reparations for survivors; and (vi) security sector oversight.[537] Since its inception, the Team of Experts has actively engaged in the Central African Republic (CAR), Colombia, the DRC, Guinea (Conakry), Iraq, South Sudan and other areas. The team's work is especially noteworthy in building strategic partnerships between international, domestic and civil actors.[538]

3.3 Multilateral Conventions for Strategic Partnerships and Cooperation against SGBV

Two central and recent international law instruments present a milestone in preventing and punishing SGBV domestically, in armed conflict and mass atrocity. First, the 2011 Istanbul Convention Against Violence Against Women[539] is an additional impetus for effectively combatting SGBV against women, girls, men and boys in armed conflict.

This regional convention, open only to member states of the European Council and associated states, aims to prevent, protect, prosecute and coordinate policies of fighting impunity for SGBV in member states. Second, in May 2023 in Ljubljana, states issued the Hague Convention on International Cooperation in the Investigation and Prosecution of The Crime of Genocide, Crimes Against Humanity, War Crimes and Other International Crimes, (Mutual Legal Assistance and Extradition or MLA Convention) listing rape and sexual violence as war crimes and crimes against humanity. The Convention seeks to reinforce state cooperation to better fight impunity against international crimes, including SGBV.

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[537] See UN Team of Experts on Rule of Law and Sexual Violence in Conflict official website, available at https://www.un.org/sexualviolenceinconflict/our-work/team-of-experts/.

[538] For further reading on UN SRSG and UN Team of Experts tools of action, including an annual report by the UN SRSG, please go to the UN SRSG on SVC website.

[539] Council of Europe Convention on preventing and combating violence against women and domestic violence Istanbul, 11.V.2011 [henceforth 'Istanbul Convention'].

3.4 Best Practice Guides against Conflict-Related Sexual Violence

For the past two decades, organisations specialising in organised crime, human rights, human trafficking, counter-terrorism and investigating and prosecuting international crimes have devoted substantial efforts to developing policies and lessons learned for good practice.[540] In November 2023 the UN Counter-Terrorism Executive Directorate (UN-CTED) released an updated study titled 'Towards Meaningful Accountability: Sexual and Gender Base Violence Linked to Terrorism'.[541] The report reiterates a broad definition of what constitutes sexual-based violence to include '*rape*, *sexual abuse*, *forced pregnancy*, *forced sterilisation*, *forced abortion*, *forced prostitution*, *sexual enslavement*, *forced circumcision*, *castration* and *forced nudity*'. The report recalls that *"the Security Council has recognized that SGBV is known to be part of the strategic objectives and ideology of certain terrorist groups"*.[542] Seeing the specific nature of terrorism, SGBV committed as part of a terrorist attack require a specific framework when addressing these crimes. Notably, The report underlines six dimensions of 'SGBV linked to terrorism', in such a comprehensive manner, that it is worth quoting in its entirety:

> The **first** dimension of SGBV linked to terrorism is where violent extremists and terrorist groups systematically commit SGBV in a manner that is integral to their operation. Examples include Al-Shabaab's use of abduction, rape, and forced marriage to subjugate those in areas under its con-

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[540] For further study, see for example UNDOC, dozens of guidelines and handbooks issued in the past decade available here https://www.unodc.org/unodc/en/justice-and-prison-reform/cpcj-tools-gender.html; alongside domestic and EU legislation and best practices, see the European Parliament Study on '*The legislative frameworks for victims of gender-based violence (including children) in the 27 Member States*', 2022; OSCE, *Preventing and Addressing Sexual and Gender-Based Violence in Places of Deprivation of Liberty Standards*, *Approaches and Examples from the OSCE Region*, 2019; IOM, *PROTECT – Preventing Sexual and Gender-Based Violence against Migrants and Strengthening Support to Victims, 2019;* International Commission of Jurists, *Women's Access to Justice for Gender-Based Violence A Practitioners' Guide*, 2016; ICC Policy on Gender Prosecution, 2022, ICC Policy Paper on Sexual and Gender-Based Crimes, 2014.

[541] UN Counter-Terrorism Executive Directorate (UN CTED), *Towards Meaningful Accountability: Sexual and Gender Base Violence linked to Terrorism*, November 2023 ('UN CTED Nov 2023 Report).

[542] UN CTED Nov 2023 Report, , p. 8 recalling Security Council resolutions 2242 (2015), 2331 (2016), 2388 (2017) and 2467 (2019).

*trol. The deliberate use of SGBV to spread terror is the **second** dimension. The **third** dimension is where SGBV is used to finance and sustain terrorist activity. This dimension may include using SGBV as a form of compensation and reward to fighters as well as ransoming trafficked and abducted women and girls back to their families. With the **fourth** dimension, terrorist groups deliberately use SGBV as a means of persecuting a group based on its political, ethnic, or religious identity. This dimension is now understood also to include persecution on the basis of gender, and which can be illustrated by targeted attacks by ISIL on members of the LGBTQ+ community.*

*Terrorist groups have also adopted SGBV as part of a strategy for radicalization, recruitment, and retention of its members, and this constitutes the **fifth** dimension of SGBV linked to terrorism. According to one of the interlocutors, an illustration of this fifth dimension that may easily be overlooked is the use of gendered narratives to indoctrinate and radicalize female students into Boko Haram for use as suicide bombers. Information collected for this study also suggests that human trafficking for the purpose of terrorist activities is another example of the fifth dimension. The **sixth** dimension of SGBV linked to terrorism is where these crimes are committed pursuant to and/or in furtherance of an ideology. Ideologies held by terrorist groups that entail SGBV include the subjugation of women in society and the control of their bodies and reproductive health to breed a generation of future group members or promote the survival of one ethnic or racial group over another.''*[543]

The report takes into account linkages between relevant international and national legal frameworks, identifies the main challenges detected in different contexts of

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[543] UN CTED Report November 2023, p.9. emphasis in the original text, footnotes omitted.

SGBV committed in linkage to terrorism and identifies best practice through case studies. The report identifies challenges in the criminal justice system, international cooperation, victims' access to justice and gender.According to the report, challenges to effective redress and accountability within the criminal justice system include a lack of coordination between practitioners as where counter-terrorism units are embedded in national or international investigation systems, they often lack expertise in SGBV. A better inter-agency approach is thus needed. Second, the report addresses the challenge of narrow investigative and prosecutorial strategies. There is the urge to act quickly in addressing crimes and a lack of in-depth study on the *modus operandi* of terrorist groups such as ISIL that is sufficiently connected to investigations. There is also little if any support and strategy for investigations focusing on SGBV and terrorist groups:

> *Failure to prioritise SGBV linked to terrorism could result in investigators overlooking essential evidence that could support such cases. Experts in investigating SGBV linked to terrorism recommend identifying and investigating all perpetrators, including high-level individuals. This approach ensures a thorough and effective investigation of SGBV, holding all those responsible accountable for their actions.*[544]

Evidentiary challenges are perhaps the most crucial. These include prosecuting SGBV outside their place of commission, domestic impediments and requirements such as proving specific use of force or lack of consent, whereas the general context is an attack and that of violence. There is also a seeming bias among investigators that perhaps there is a higher evidentiary requisite to prove systematic SGBV in any attack as opposed to systematic murder, torture or other crimes. The response should be of equal evidentiary requirements for SGBV as for any other crime. Challenges relating to engaging with victims of SGBV must be addressed. This is

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[544] UNCTED Nov 2023 Report, page 35.

due to the profound trauma, social stigma and the victim's wish to protect themselves and their family and community which could all lead to a lack of engagement by that victim. Creating a safe environment for the victim is crucial. International cooperation is essential in addressing SGBV especially when linked to terrorism by non-state armed groups operating and hiding across jurisdictions. Fighting and changing the social stigma associated with SGBV is also essential and victim reparation mechanisms outside the criminal justice system are ever more significant. These can include transitional justice mechanisms and processes where perpetrators and victims participate in a healing process based on truth and recognition of the wrongdoing, reparations for victims of SGBV linked to terrorism and international, regional or domestic sanctions to ensure there is no haven for members of organisations that employ SGBV as part of their attacks against civilian populations. In December 2023, the ICC issued its Policy on GBCs[545] aiming to provide stronger guidelines for investigating and prosecuting SGBV compared with the previous 2014 ICC Policy. It takes a survivor-centred trauma-informed approach. The guideline pursues five main objectives following Article 54 of the Rome Statute that imposes a duty upon the ICC Prosecutor when investigating and prosecuting crimes to '*take into account the nature of the crime, in particular where it involves sexual violence, gender violence, or violence against children*'.

4. Victim-led or victim-inclusive case studies to enhance post-conflict

In the challenge to investigate mass crimes and particularly SGBV committed in armed conflict, best practices do stand out. Clear good practices from specific situations of SGBV can be a lighthouse. To briefly name a few notable examples, we can learn from experience addressing: the most widespread and systematic commission of SGBV in armed conflict in the 20th and 21st centuries: the Democratic Republic of

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[545] International Criminal Court, 'Policy on Gender-Based Crimes', December 2023, https://www.icc-cpi.int/sites/default/files/2023-12/2023-policy-gender-en-web.pdf.

Congo[546] (DRC) or in Darfur-Sudan, ISIL SGBV committed against Yazidi women and girls in Syria and Iraq,[547] SGBV committed in Ukraine by Russian occupying forces in Bucha;[548] or the Colombian example of SGBV-focused justice and the Special Jurisdiction for Peace established as an integral part of the Colombian Peace Agreement.[549] There is an ever-growing understanding of the need to address SGBV, including in: (1) ensuring a victims-based, trauma-based approach in treatment, evidence collecting and reparations and in ensuring access to justice; (2) enhancing first responder capacity in the immediate response at a location of commission of the crimes (crime scene) which is often also a battlefield and where the number of casualties surpasses the response capacity; (3) training and building expertise through international and domestic cooperation; (4) structural investigations and inter-agency cooperation; (5) strategic litigation for human rights and victims of atrocities including SGBV; and (6) a role for civil society organisations, especially those with existing expertise in international crimes but also civil society specialising in victims of SGBV regardless of a mass context, where SGBV is systematic and the number of victims overwhelming.

Providing an in-depth examination of each of the needs and lessons listed above would require an entirely new chapter devoted entirely to this question, followed by training to implement these insights. Three case studies will highlight the current challenges and the way ahead based on best practice and the general framework developed to address SGBV, for stabilisation and the importance of a strategic, holistic, comprehensive and victim-centred response, including through strategic partnerships.

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[546] See for example Global Survivors Fund, 'Denis Mukwege', n.d., https://www.globalsurvivorsfund.org/who-we-are/our-board/denis-mukwege/.

[547] See for a victim led initiative Nadia's Initiative, 'About Nadia's Initiative', n.d., https://www.nadiasinitiative.org/nadias-initiative; followed by criminal trials in Sweden and Germany.

[548] See for more information Europol's official website: https://www.europol.europa.eu/media-press/newsroom/news/europol-participates-in-joint-investigation-team-alleged-core-international-crimes-in-ukraine.

[549] See the full text (English Translation) available at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://peaceaccords.nd.edu/wp-content/uploads/2023/02/Colombia-Final-Accord-Text-in-English.pdf . Chapter 5 of the Agreement establishes the Special Jurisdiction for Peace and the role and rights of victims.

4.1 Colombia's special jurisdiction for peace: A progressive approach to addressing SGBV in armed conflict

Colombia's Special Jurisdiction for Peace (JEP) stands out as a pioneering and progressive mechanism for addressing the complex issue of conflict-related sexual violence. Established as part of the peace agreement between the Colombian government and the Revolutionary Armed Forces of Colombia (FARC) in 2016, the JEP serves as an exemplary model for dealing with SGBV crimes within the framework of transitional justice. By examining the features of Colombia's JEP and drawing parallels with other conflict zones, it is evident that this approach holds significant promise for promoting accountability, reconciliation and justice in the aftermath of conflict-related sexual violence. One of the key strengths of Colombia's JEP lies in its comprehensive framework for accountability specifically tailored to address SGBV crimes. It acknowledges the unique nature of these crimes and ensures that they are not overlooked during the transitional justice process. According to the UN Team of Experts (mentioned above), the special unit for SGBV was one of the positive results of the strategic partnership between the UN Team of Experts and Colombian national authorities.[550] The team worked with the Office of the SRSG-SVC and UN Women to advocate for the inclusion of sexual violence as a key aspect of the peace and ceasefire agreements between the Government and the FARC in 2016 and the National Liberation Army (ELN) in 2017. The team also provided technical advice on Law 1719 on Access to Justice for Victims of Sexual Violence in Colombia (2014). Within the JEP, there is a specialised chamber known as the 'Special Jurisdiction for Peace Chamber for Recognition of Truth, Responsibility and Determination of Facts and Conduct' (Sala de Reconocimiento de Verdad, Responsabilidad y Determinación de los Hechos y Conductas) dedicated to investigating and prosecuting cases related to SGBV crimes that occurred during the armed conflict.

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[550] See the official website of UN Team of Experts on Rule of Law and Sexual Violence in Conflict available at https://www.un.org/sexualviolenceinconflict/our-work/team-of-experts/.

The specialised chamber is tasked with recognising the truth about the committed crimes, determining responsibility and establishing the facts and conduct surrounding these crimes. It focuses on the unique dynamics of SGBV, ensuring that these cases are treated with the specificity and sensitivity they require. Finally, Colombia's JEP is victim-oriented and takes steps to prevent stigmatisation and re-traumatisation. Consequently, it prioritises the inclusion of victims in the justice process, giving them a platform to share their experiences and seek redress. The use of closed-door hearings, protective measures for witnesses and the careful handling of testimonies contribute to creating a safe environment for survivors to come forward. Therefore the JEP is victim-inclusive and trauma-sensitive by design. Time will tell whether its results live up to its objectives.

4.2 ISIS crimes in Syria and Iraq against civilians and the Yazidi minority: a multifaceted response

SGBV and other crimes committed by ISIS are international crimes committed systematically in the pursuit of terrorism. The judicial response to the terror regime implemented by ISIS has been multifaceted. First, in the absence of international jurisdiction over these crimes due to the absence of membership or UN Security Council referral of these crimes to the ICC, the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL UNITAD was created. This is an international investigation and fact-finding mission for ISIS crimes committed in Iraq. In parallel, the International, Impartial and Independent Mechanism (IIIM) for Syria was established fulfilling a crucial mandate for accountability for victims and collecting and preserving evidence that will serve prosecutions internationally and domestically. The IIIM operates independently to investigate and document SGBV crimes perpetrated in Syria since March 2011, including those committed by ISIS. The mechanism employs a hy-

brid model involving international and national collaboration to ensure a comprehensive approach to addressing SGBV and other serious crimes. By focusing on the experiences of survivors, it seeks to provide a platform for their voices and for justice to be pursued. Both UNITAD and IIIM recognise the challenges and needs of victims of SGBV-related crimes and apply specialised procedures. Both institutions have been instrumental in empowering domestic courts of third parties, under the principle of universal jurisdiction. In 2021, a German Court found an ISIL member guilty of genocide in connection with the treatment of Yazidis held hostage, which resulted in the death of a five-year-old girl.[551]

Although the charges did not expressly reference the gendered nature of the crime, in dismissing the defendant's appeal in January 2023, the Federal Court of Justice confirmed that

> [i]*t was precisely the organised enslavement of women and girls*, *especially in connection with religious reeducation*, *that served to destroy the Yazidi religious minority in order to establish an Islamic caliphate. All in all*, *the approach was capable of bringing about […] the (partial) destruction of this group as such*.[552]

The UN Team of Experts also played a significant role in assisting domestic authorities in Iraq to promote accountability for ISIS crimes.[553] Finally, *Nadia's Initiative*, helping victims and survivors of SGBV includes judicial action or strategic litigation for victims and implements restorative and reconstructive

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[551] Doughty Street Chambers, 'German Federal Court of Justice Confirms the First-Ever Conviction of an ISIS Member for Genocide', 26 January 2023, available at www.doughtystreet.co.uk/news/germanfederal-court-justice-confirms-first-ever-conviction-isis-member-genocide.

[552] Ibid.

[553] United Nations, 'UN Team of Experts on Rule of Law and Sexual Violence in Conflict – United Nations Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict', Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, n.d., https://www.un.org/sexualviolenceinconflict/our-work/team-of-experts/.

programmes empowering victims, helping women and girls to rise from their victimhood to mass atrocity.

Nadia Murad, a Yazidi woman who survived captivity under ISIS, has become a prominent voice for her community. In 2018, she was awarded the Nobel Peace Prize for her efforts to end the use of sexual violence as a weapon of war and armed conflict. Her organisation, in cooperation with others, brought attention to the Yazidi genocide, advocated for justice and supported survivors. Murad's advocacy extends beyond raising awareness; she actively engages with world leaders, international organisations and legal institutions to promote accountability for ISIS crimes.

4.3 Systematic SGBV as part of Hamas October 7th attack: strategic partnerships for fact-finding and justice within an ostensibly politicised context

The 7 October attack orchestrated by Hamas and other armed groups included systematic rape and crimes of a sexual nature as part of the attack[554] This case study focuses on the main challenges, the response and the need to focus on victims' rights in reaching accountability (not revenge), in a politicised and polarised situation and the need to ensure strategic partnerships between stakeholders. First, it is important to address inherent and particular challenges. As in other SGBV situations, challenges in capturing the full nature and scale of crimes remain.[555] These relate to collecting and preserving evidence where the initial priorities was to secure the area during combat, rescue the survivors, iden-

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[554] See the statement of the ICC Prosecutor on the request for three arrest warrants against M. Mohamed Def, Sinwar and Hanya, 20 May, 2024 at https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-applications-arrest-warrants-situation-state; March 2024 Mission Report of the UN Special Representative of the Secretary General on Sexual Violence in Conflict, Mission report Official visit of the Office of the SRSG-SVC to Israel and the occupied West Bank 29 January – 14 February 2024, ('Patten Report March 2024')for example para. 44 available at: chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2024/03/report/mission-report-official-visit-of-the-office-of-the-srsg-svc-to-israel-and-the-occupied-west-bank-29-january-14-february-2024/20240304-Israel-oWB-CRSV-report.pdf.

[555] Patten Report March 2024, para. 56.

tify 3,200 missing people and gather and identify the bodies of 1,200 murder victims.[556]

The initial focus was not on preserving evidence. An additional double-challenge related to the broad dissemination of images of the atrocities over social media alongside extreme polarisation and fake news. This shaped international public opinion and stirred social unrest and violence, including in democracies far from where crimes were committed. Images of the crimes were captured on the body cameras the perpetrators were wearing during the attack and footage of summary executions and torture was posted on social media. This dissemination of the atrocities, including of SGBV, through Telegram and other social media was an element of the attack. The challenge of the widespread use of social media consists of establishing the truth amidst many counter-narratives while protecting victims and survivors from exposure. Additional challenges relate to truth-seeking and the difficulty of holding fair trials while armed conflict is going on and while Hamas is still holding hostages.

In terms of investigations and prosecutions, several jurisdictions are relevant. The primary authority to investigate and prosecute is the State of Israel but trials are at a standstill until a ceasefire is reached. Other jurisdictions, both international and domestic, are relevant to investigating and prosecuting international crimes. [557]

The ICC has jurisdiction and victims have been invited to express their views and concerns relating to the Prosecutor's request to issue arrest warrants.[558] German, French, US, Israel, UK and other jurisdictions are also seized. Faced with

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[556] See Human Rights Watch (HRW): offical summary of its July 2024 report "Human Rights Watch found evidence of acts of sexual and gender-based violence by fighters including forced nudity, and the posting without consent of sexualized images on social media..." available at https://www.hrw.org/report/2024/07/17/i-cant-erase-all-blood-my-mind/palestinian-armed-groups-october-7-assault-israel.

[557] The author is leading a pro bono strategic litigation front for the victims and estbalished a Non-Profit to ensure sustainable judicial action named October 7 Justice Without Borders (for more information see october7justice.org/en).

[558] Both Palestinian and Israeli victims expressed their views. For an example of victims' views submitted by Victims Representative of the Hamas attacks see, ICC-01/18-333, Views, Concerns and General Interests of Victims of the October 7 Attack under Article 68(3), 12 August 2024.

on-going challenges, the response needed to address SGBV relates to strategic partnerships between domestic, grassroot civil society organisations and international or third-state entities. The response must be victim-centred, as only a response relying on universal, established principles can provide a road map for independent and impartial justice. Given the politicised situation, victims' rights can be easily instrumentalised, presented as competitive between the suffering of innocent Palestinian civilians and innocent Israeli civilians: 'In a competition for pain, no one wins', Jon Goldberg-Polin, the father of since-murdered hostage, Hersh Golberg-Polin stated at a US election event. Faced with this reality, victims from all sides must be treated equally, regardless of the identity of the victim or the perpetrator.

All belligerents are bound by international humanitarian law and prohibited from committing acts amounting to war crimes or crimes against humanity. International and domestic investigators must be guided by universal humanitarian principles to alleviate all human suffering to investigate and prosecute international crimes. Most of all, investigative and prosecutorial authorities must exercise jurisdiction independently, impartially and based on tangible evidence. To begin any judicial action, there is dire need to collect and preserve evidence. Despite early outcries that all victims of SGBV were murdered and all evidence was lost or burned, forensic evidence remains.

The office of the UN Special Representative of the Secretary-General on Sexual Violence in Conflict concluded that there were 'reasonable grounds to believe that conflict-related sexual violence occurred during the October 7 attacks in multiple locations across Gaza periphery, including rape and gang rape, in at least three locations'.[559] The UN Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem and Israel (UN Commission of Inquiry) conducted an investigation into crimes including those committed dur-

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[559] See Patten Report, para 12.

ing the 7 October assault. In the Commission's June 2024 report, it wrote that it had 'documented cases indicative of sexual violence perpetrated against women and men in and around the Nova festival site, as well as the Nahal Oz military outpost and several kibbutzim, including Kfar Aza, Re'im and Nir Oz'.[560]

Strategic partnerships between international and domestic official and civil society organisations are needed to establish the truth, implement victims' rights and ensure accountability for SGBV under the highest judicial standards.

5. Conclusion: the state of the art and prospects ahead for stabilisation and reconstruction in SGBV mass atrocity

This chapter has provided a historical overview of the recognition of the threat posed by SGBV in armed conflict and mass atrocity to international peace and security and covered key international case law that contributed to this understanding.

Addressing the reality of widespread or systematic commission of SGBV is important in creating stability and preventing future mass atrocity. The chapter also highlighted the importance of recognising that when mass atrocity crimes are committed all are targeted but women and girls are targeted in additional ways for different reasons, including for the role they hold in traditional and modern societies. This is not to say that men and boys are not also subjected to gender-related crimes. The chapter reviewed the main tools in the hands of practitioners such as UN Security Council Resolutions, designated UN mechanisms and their tools as well as multilateral treaties providing a framework and guidelines which promotes state cooperation and strategic partnerships with international, domestic and civil society actors. Any action for redress must be led by the fundamental principle of 'do no harm'. Practitioners interacting with victims need to acquire the tools

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[560] Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel (COI) – Advance unedited version (A/HRC/56/26), para 25.

to help their actions be constructive, avoid re-traumatising victims, avoid corruption or duplication of evidence and provide victims with the necessary psychological support needed to ensure their resilience. Three case studies were highlighted and others mentioned as were victim-led initiatives for accountability. The courage of victims and those supporting victims stands out. The need to ensure norms and institutions fit the realistic needs of accountability, including avoiding barriers to justice such as requiring a higher threshold to prove the systematic nature of SGBVs, erasing the burden on victims to prove they did not consent and adopting a broad enough definition of SGBV to ensure accountability are all needed steps.

Experience has shown that accountability efforts must be strategic and multifaceted. Multiple actors can play a constructive role in partnership in support of victims, in fact-finding missions and in prosecuting crimes. Most recent events in Syria, Ukraine and Israel show that SGBV is not part of the past. Systematic and widespread SGBV committed in those regions are still to be accounted for. Efforts to collect and preserve evidence, including direct evidence, digital evidence and with the specific expertise in collecting evidence of SGBV, avoiding re-traumatization, contamination and duplication of evidence is key in any mass atrocity, and even more so in relation with SGBV, where victims suffer additional stigmatisation and are often reluctant to step forward and expose their painful experience. Strategic partnerships are key and international, interstate and inter-agency cooperation will be important to address the crimes committed and ensure stabilisation and reconstruction.

Punitive efforts are not enough. Prevention must be the focus of considerable resources in schools, youth movements, the public sphere, social media and politics. There must be zero tolerance for SGBV in daily life, the workspace, armed conflict and in any movement for national liberation. Governments participating

in hostilities must speak and act clearly against gender-based discrimination in their jurisdictions and must stand against inhumane acts committed in or outside their territory, regardless of the politics. Corporate entities also have a role to play in implementing a risk-based approach to avoid or end potentially funding state or non-state armed groups involved in any such crimes. If the free world based on democracy, basic freedoms and the rule of law holds a chance of surviving the shift of paradigms this generation is facing, universal values must be implemented fearlessly, demonstrating unconditional humanity in front of atrocity crimes, including those of a sexual nature. The response must be of equal standard, victim-centred and trauma-informed and placing women as agents of stabilisation, applying an inclusive approach.

Suggested further reading

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CHAPTER X

Lucy Hall

**GENDER, INTERNAL DISPLACEMENT
AND POST-CONFLICT TRANSITIONS**

</div>

Abstract

The integration of gender into NATO stabilisation and peace-building activities has the potential to reinforce the legitimacy and the rule of law and ensure that transitions from violence to peace are sustainable and long-lasting. Climate instability and armed conflict are creating displacement on an unprecedented scale.[561] It is therefore essential that those deployed on stabilisation and peace-building operations understand the rights of people who have been forcibly displaced due to political violence, armed conflict and disasters. This chapter outlines the intersections between gender, internal displacement, post-conflict transitions and post-complex emergencies to highlight how people experience internal displacement differently. Resolving and restoring the rights of Internally Displaced People (IDPs) and understanding how these rights are gendered is essential to ensuring post-conflict mechanisms are attuned to questions of justice that ensure a sustainable and resilient transition to peace and security. This chapter outlines the relevant normative and legal mechanisms that guide actors in post-conflict situations to address the rights and protection challenges IDPs experience. It offers examples and policy recommendations to ensure stabilisation missions properly address the protection challenges that arise for IDPs and how they are experienced differently depending on someone's gender.

**Keywords*:* gender, internal displacement, disasters, armed conflict, human rights.

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[561] UNHCR, Global Trends Report 2023, available online last accessed 17 June 2024 https://www.unhcr.org/global-trends.

1. Introduction

Climate change and disasters are creating and prolonging already high levels of internal displacement. In their 2023 midyear report, the Internal Displacement Monitoring Centre (IDMC) highlighted that the combination of conflict and disasters complicates the possibility for IDPs to achieve solutions.[562] This has important implications for how organisations like NATO understand its role in a dynamic and rapidly changing landscape.

There is evidence that when disasters and conflicts overlap it can create an escalation of violence but it can also deescalate violence.[563]

Civilian and military actors must be aware that while disasters are largely understood as threat multipliers, they can also be threat reducers.[564] Peacebuilding and stabilisation efforts need to understand the links between disasters and armed conflict and also how the occurrence of both political violence and disasters may create risks and opportunities for conflict resolution.

The meaningful integration of gender into NATO operations and peace-building activities would reinforce legitimacy and the rule of law. If we look to the Allied Joint Doctrine for Security Force Assistance,[565] it is clear that the links between gender approach, legitimacy and rule of law already exist within NATO doctrine:

> *Without legitimacy, SFA activities will be undermined. Legitimacy com-*

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[562] IDMC - Internal Displacement Monitoring Centre, '2023 Mid-Year Update on Internal Displacement' (Geneva, 2023), https://story.internal-displacement.org/2023-mid-year-update/.

[563] Joshua Eastin, 'Fuel to the Fire: Natural Disasters and the Duration of Civil Conflict', *International Interactions* 42, no. 2 (14 March 2016): 322–49, https://doi.org/10.1080/03050629.2016.1115402; Tobias Ide, 'Rise or Recede? How Climate Disasters Affect Armed Conflict Intensity', *International Security* 47, no. 4 (4 January 2023): 50–78, https://doi.org/10.1162/isec_a_00459.

[564] Ibid.

[565] Allied Joint Doctrine for Security Force Assistance (AJP-3.16, May 2016).

> *prises legal, cultural, historical, religious, social,* gender*, moral and political aspects and may be contested.*[566]

Legitimacy is integral to SFA actions and cannot be separated from the gender perspective. Enhancing legitimacy by engaging with gender issues would require NATO activities to integrate the voices, rights and responsibilities of all parts of the host national community fully and meaningfully. Security Sector Reform (SSR), for example, requires more efforts to balance the recruitment and retention of women in the security sector, '*because women are able to perform certain tasks that men are not*'.[567] For SSR to be successful requires NATO operations to include women in all levels of decision-making to ensure that certain tasks, like escorting women and girls to vote or to be vaccinated, can be carried out. A gender-sensitive approach to SSR will also ensure that the protection issues discussed in this chapter have a firm foundation in law. If SSR is carried out to create gender equality and ensure that people of all genders can access and enjoy rights in fragile post-conflict and disaster environments, then transitions to peace and security are likely to be more sustainable and robust. It is clear from the literature that 'women's participation in peace negotiations with voice and influence leads to better accord content, higher agreement implementation rates and longer lasting peace'.[568]

The connection between the rule of law and gender approach is also stated clearly in AJP-3.16 for SFA:

> *A country's security policies and practices must be founded upon rule of law and*

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[566] NATO Standardization Office (NSO), 'NATO Standard 1 AJP-3.16: Allied Joint Doctrine for Security Force Assistance (SFA)', May 2016, https://www.esercito.difesa.it/en/organization/The-Chief-of-General-Staff-of-the-Army/Training-Specialization-and-Doctrine-Command/Infantry-School/Documents/Doctrine-SFA/AJP-3-16-A-Allied-Joint-Doctrine-for-Security-Force-Assistance-SFA-Ed-maggio2016.pdf.

[567] Eirin Mobekk, 'Gender, Women and Security Sector Reform', *International Peacekeeping* 17 (1 April 2010): 278–91, https://doi.org/10.1080/13533311003625142.

[568] Jana Krause, Werner Krause & Piia Bränfors (2018) Women's Participation in Peace Negotiations and the Durability of Peace, International Interactions, 44:6, 985-1016, DOI: 10.1080/03050629.2018. 1492386 , page 1005.

> *linked to the broader justice sector. SFA activities should promote the rule of law, including applicable human rights laws and the gender perspective.*[569]

Rule of law activities and legal reform initiatives need to consider the experiences of people of all genders to ensure efforts are sustainable, legitimate and uphold the rights of displaced persons.

For example, citizenship and documentation laws need to ensure that parents of any gender can confer identity documents on their children. Statelessness is gendered and preventing statelessness through rule of law initiatives requires a gender analysis of the protection gaps that arise when ship and nationality laws discriminate against women. Sidelining the intersections of legitimacy, rule of law and gender risks undermining NATO's stabilisation efforts and its responsibilities towards displaced persons.

As opportunities for conflict resolution present themselves or as violence escalates, the gendered dynamics of conflict and disaster must not be side-lined. As Harris-Rimmer wrote in a collection of essays on NATO's relationship to the Women, Peace and Security (WPS) agenda:

> *The next phase must deal with more sophisticated and intersectional threat assessments, risk analysis and gender analysis that is fit for purpose to deal with the intersection of gender, climate and conflict.* [570]

This chapter will expand on her work. While Harris-Rimmer refers to climate, in

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[569] NATO Standardization Office (NSO), 'NATO Standard 1 AJP-3.16: Allied Joint Doctrine for Security Force Assistance (SFA)', May 2016, https://www.esercito.difesa.it/en/organization/The-Chief-of-General-Staff-of-the-Army/Training-Specialization-and-Doctrine-Command/Infantry-School/Documents/Doctrine-SFA/AJP-3-16-A-Allied-Joint-Doctrine-for-Security-Force-Assistance-SFA-Ed-maggio2016.pdf.

[570] Susan Harris-Rimmer, 'WPS – What's Next? Climate Risks and Gendered Reponses', in Women, Peace and Transforming Security: Visions of the Future of Women, Peace and Security for NATO (Office of the NATO Secretary General's Special Representative for Women, Peace and Security, 2020), page 40. https://www.nato.int/nato_static_fl2014/assets/pdf/2020/10/pdf/201110-wps-essay-transforming-security-e.pdf.

this chapter the focus is more specifically on disasters, which will become more severe and frequent with climate change.[571]

Disasters may occur before, during or after an armed conflict and creates both opportunities and limitations for stabilisation and peace-building missions. How a disaster overlaps with an armed conflict will vary depending on a variety of local, regional and global factors. Military and humanitarian actors are increasingly intervening in locations where disasters and armed conflict overlap. If we look at recent examples, in Syria we see that when armed conflict and an earthquake combine, they prolong displacement and complicate efforts to build peace.[572] The combination of armed conflict, disasters and displacement worsens gendered patterns of violence and discrimination.[573] This chapter will bring together literature on gender and displacement to unpack how conflict and disasters exacerbate existing gendered vulnerabilities.

This chapter refers to disasters and not *natural disasters.* This follows the work of researchers in the field of disasters and marginalisation Ksenia Chmutina and Jason von Meding who write:

> *A hazard becomes a disaster because its impact threatens the lives and livelihoods of people who are often vulnerable due to discrimination and marginalisation, inequitable access to resources, knowledge and support and rapid urbanisation, environmental degradation and climate change. A hazard cannot be prevented; disasters, however, can be.*[574]

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[571] Banholzer, S., Kossin, J., & Donner, S. (2014). The impact of climate change on natural disasters. Reducing disaster: Early warning systems for climate change, pages 21-49.

[572] IDMC - Internal Displacement Monitoring Centre, '2023 Mid-Year Update on Internal Displacement' (Geneva, 2023), https://story.internal-displacement.org/2023-mid-year-update/.

[573] Nahid Rezwana and Rachel Pain, *Gender-Based Violence and Layered Disasters: Place, Culture and Survival* (London: Routledge, 2022), https://doi.org/10.4324/9781003089780.

[574] Ksenia Chmutina and Jason von Meding, 'A Dilemma of Language: 'Natural Disasters' in Academic Literature', *International Journal of Disaster Risk Science*, 12 September 2019, https://d-nb.info/1204198683/34., pp, 284.

Earthquakes are indicative of this distinction between a disaster and a hazard. For example, the 2015 earthquake in Nepal resulted in over 9,000 deaths and $10 billion in damages, yet there have been stronger earthquakes causing fewer deaths and less damage.[575]

Making the distinction between natural hazards and disasters is the starting point for understanding how political, legal and economic interests are often tied to the scale of disasters. This approach also places questions of building regulations, disaster preparedness and environmental degradation at the forefront of questions concerning minimising the number of people who will die or be injured during a disaster such as a flood, earthquake or landslide. As disaster researchers have demonstrated:

> *In many places and societies, women are deprived of access to means of protection from natural hazards, which are available to men because of unequal power relationships at the local and international levels.*[576]

Men also face particular risks and vulnerabilities related to social expectations of masculinity, for example by risking their own lives in flood waters to save others. There is also an emerging field of research that explores the experiences of lesbian, gay, bisexual and transgender people in disasters, which highlights how heteronormative family values and expectations in everyday life and disasters can mean that members of the lesbian, gay, bisexual, transgender, intersex and queer (LGBTQI+) community are particularly vulnerable during and after disasters.[577]

Research from Canada, Japan, Nepal and Haiti shows that LGBTQI+ people are

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[575] Ibid.

[576] Gaillard, J.C, Kristinne Sanz, Benigno C Balgos, Soledad Natalia M Dalisay, Andrew Gorman Murray, Fagalua Smith, and Vaito'a Toelupe. 'Beyond Men and Women: A Critical Perspective on Gender and Disaster'. *Disasters* 41, no. 3 (2017): 429–47. doi:10.1111/disa.12209., page 431.

[577] Ibid.

often 'discouraged from accessing counselling services, evacuation centres or relief goods owing to the presence of discrimination, harassment and stigma when attempting to do [so]'.[578]

This chapter advances an understanding of the implications of armed conflict and disasters that will enable both researchers and practitioners to conceptualise gendered violence in broad terms, inclusive of people of all gender expressions, identities and sexual orientations.[579] Any attempt to resolve a crisis involving complex layers of political violence or armed conflict in combination with disasters requires careful thinking about how genders generate vulnerabilities and capabilities.

In disaster response and conflict resolution, understanding how, for example, legal norms concerning housing, land and property (HLP) rights discriminate against certain people and groups is important, but often overlooked. This chapter will expand on this below, with examples and experiences of LGBTQI+ persons from Colombia.

The chapter is organized across 4 sections. The introduction introduces the key themes, terms and policy and contextualises questions about the overlapping and layered nature of complex emergencies and internal displacement. Section 2 outlines the key policy and legal foundations relevant to gender and internal displacement.

It also discusses how gender is relevant to questions of identity documentation, statelessness, access to housing or shelter and democratic participation. Section 3 considers research and reporting on Colombia as a case study to illustrate the interconnectedness of gender, violence and human rights protections and

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[578] Ibid, page 432.

[579] See for example, Rezwana, N., & Pain, R. (2022). Gender-Based Violence and Layered Disasters: Place, Culture and Survival (1st ed.). Routledge. https://doi.org/10.4324/9781003089780.

their importance in stabilising post-conflict societies and building sustainable peace. The, fourth and final section offers conclusions and policy recommendations.

2. IDP Protection and Gender

At the end of 2022, we witnessed a 20 per cent increase in a year in the number of IDPs worldwide. IDMC reported that 71.1 million people were living in internal displacement, the highest number ever recorded.[580] Deng and Cohen, and Korn's studies explore in great detail the causes and impact of internal displacement, why IDPs do not become refugees, the legal framework, institutional arrangements, the role of non-governmental organisations (NGOs) and regional frameworks.[581]

The question of protecting IDPs is politicised because it is 'linked to the willingness of refugee-receiving states to contain refugee flows within the countries of origin'.[582] This raises the issue of balance between state sovereignty and the protection of civilians in particular regarding gender concerns.

The emergence of IDP protection coalesced in the late 1980s in conjunction with increased attention to the experiences of women refugees.[583] Civil Society and NGO activism in the early 1990s concerning the inclusion of women's rights as human rights resulted in the development of two key international developments: the United Nations (UN) General Assembly adopting the Declaration on the Elim-

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[580] IDMC - Internal Displacement Monitoring Centre, '2023 Mid-Year Update on Internal Displacement' (Geneva, 2023), https://story.internal-displacement.org/2023-mid-year-update/.

[581] Francis M. Deng, *Protecting the Dispossessed: A Challenge for the International Community* (Brookings Institution Press, 1993). Roberta Cohen and Francis M. Deng, *The Forsaken People: Case Studies of the Internally Displaced* (Brookings Institution Press, 1998). David A. Korn, *Exodus within Borders: An Introduction to the Crisis of Internal Displacement* (Brookings Institution Press, 1999).

[582] Catherine Phuong, *The International Protection of Internally Displaced Persons*, Cambridge Studies in International and Comparative Law (Cambridge: Cambridge University Press, 2005), https://doi.org/10.1017/CBO9780511494062.

[583] See inter alia, Alice Edwards, 'Transitioning Gender: Feminist Engagement with International Refugee Law and Policy 1950-2010', *Refugee Survey Quarterly* 29, no. 2 (2010): 21–45.

ination of All Forms of Violence Against Women (DEVAW) and the appointment of a Special Rapporteur.[584]

In the activist and NGO realm, the campaign against gender violence created and strengthened networks.[585] The parallels between 'women's rights as human rights' and the emerging IDP protection agenda reflect the increased attention to the effect of armed conflict on women and displaced persons and the engagement and entrepreneurial work of scholars, lawyers, advocates and NGOs directed at the UN, the institutionalisation of human rights issues in the form of Special Rapporteurs and formalised reporting mechanisms.[586]

The emergence of women's human rights protections and IDP protection can therefore be understood as evolving in the same historical moment, with similar legal and normative mechanisms. IDP protection is therefore best understood as deriving from and reproducing international human rights law (IHRL), international humanitarian law (IHL) and international refugee law (IRL). A useful guide to how these bodies of international law apply to IDPs and internal displacement is the *Handbook for the Protection of Internally Displaced Persons*[587] This Handbook draws from and elaborates on the legal and operational dimensions of IDP protection stemming from the UN Guiding Principles on Internal Displacements.[588] The Handbook is the result of a collaborative effort involving many colleagues serving in United Nations agencies, international or-

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[584] Jutta Joachim, 'Framing Issues and Seizing Opportunities: The UN, NGOs, and Women's Rights', *International Studies Quarterly* 47, no. 2 (2003): 247–74. https://www.jstor.org/stable/3693544.

[585] Ibid.

[586] For example, the non-coercive mechanism under CEDAW that creates the possibility for the expert committee's option to publicly voice criticism for insufficient state performance () (Susanne Zwingel, 'How Do Norms Travel? Theorizing International Women's Rights in Transnational Perspective', *International Studies Quarterly* 56, no. 1 (1 March 2012): 115–29, https://doi.org/10.1111/j.1468-2478.2011. 00701.x.).

[587] UNHCR, Handbook for the Protection of Internally Displaced Persons\2\1, March 2010, https://www.unhcr.org/sites/default/files/legacy-pdf/5ad5a43a7.pdf.

[588] Kälin, Walter. *Internal Displacement and the Law*. First edition. Oxford: Oxford University Press, 2023. doi:10.1093/oso/9780192899316.001.0001.

ganizations, non-governmental organizations and other humanitarian actors. and provides operational guidance and tools to support effective protection responses in situations of internal displacement.

The Handbook defines Protection as:

> *All activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of law, namely human rights law, international humanitarian law and refugee law.*[589]

The Handbook goes on that 'protection can be seen as an objective; a legal responsibility; and an activity'.[590] In the context of the Guiding Principles:

> *Protection is not limited to survival and physical security but covers the full range of rights, including civil and political rights, such as the right to freedom of movement, the right to political participation and economic, social and cultural rights, including the rights to education and health. Protection is a legal responsibility, principally of the State and its agents.*[591]

For IDPs, protection encompasses a wide array of activities, rights and responsibilities largely vested in the apparatus of the state.

While protection gaps for internally displaced women (IDW) persist, the Guiding Principles on Internal Displacement express a sensitivity towards gender, human rights and humanitarian law that provides a useful foundation on which to coordinate efforts in the interest of protecting IDW. For example, Article 19.2 states that:

> *Special attention should be paid to the health needs of women, including*

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[589] UNHCR, 'Handbook for the Protection of Internally Displaced Persons', March 2010., page 7. https://www.unhcr.org/sites/default/files/legacy-pdf/5ad5a43a7.pdf.

[590] Ibid.

[591] Ibid.

> *access to female health care providers and services, such as reproductive health care and appropriate counselling for victims of sexual and other abuses*.[592]

The Handbook also provides a detailed overview of gender inequality and gender and sexual violence in humanitarian programming, with guidance on civil-military cooperation.[593]

2.2 IDP protection and the WPS agenda

In addition to increased attention to LGBTQI+ protection, we also see increased attention to the specific protection needs of IDW in the UN Security Council's WPS agenda. For example, the 2013 the Report to the Human Rights Council from the Special Rapporteur on the Human Rights of IDPs, the thematic focus was women.[594] The report noted that 'The Council's resolutions on women, peace and security, including its landmark resolution 1325 (2000), are particularly important tools for strengthening and systematizing responses to the rights and needs of IDW'.[595]

The report also notes that National Action Plans for the implementation of 1325 presents a 'valuable opportunity' to include and engage IDW.[596] In addition to this thematic report, the former Special Rapporteur on the Human Rights of IDPs Chaloka Beyani was invited to address the 2014 Security Council Debates on WPS. He stated in his address that:

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[592] Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission resolution 1997/39, Guiding Principles on Internal Displacement, E/CN.4/1998/53/Add.2, UN Commission on Human Rights, 22 July 1998, page 11 https://www.refworld.org/legal/otherinstr/unchr/1998/en/18487 [accessed 17 June 2024].

[593] UNHCR, 'Handbook for the Protection of Internally Displaced Persons', March 2010, https://www.unhcr.org /sites/default/files/legacy-pdf/5ad5a43a7.pdf., see in particular chapter 4.

[594] Report of the Special Rapporteur on the human rights of internally displaced persons, A//HRC/23/44: Internally displaced women: progress, challenges and the way ahead. 2013. Page 9. [https://documents.un.org/doc/undoc/gen/g13/121/12/pdf/g1312112.pdf].

[595] Ibid.

[596] Ibid.

> *The intersection of peace and security, human rights and development is critical to dealing with the issue of internal displacement. We must not lose sight of the important role that internally displaced women can play in negotiating peace, ensuring their human rights and bringing about development in post-conflict situations.*[597]

The former Special Rapporteur continued to observe that much remains to be done to ensure the 'participation and leadership of IDW in finding durable solutions that address their very specific concerns'.[598]

The evidence concerning the connections between armed conflict, displacement and gendered violence[599] and disasters and gendered violence is overwhelming.[600] Gendered violence includes acts of sexual violence (rape, assault and trafficking), intimate partner violence, family violence, assaults on reproductive health including forced pregnancies and forced abortions, and forms of coercive control that include emotional, psychological or economic manipulation and exploitation. The term resists the conflation of gender with women and creates the possibility to consider violence towards sexual and gender minorities and people of all gender identities and expressions. As Loken and Hagen have argued, policy and scholarship on gender-based violence (GBV) have tended to overlook sexual orientation and gender identity.[601]

Some organisations continue to use the terms violence against women (VAW) and

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[597] United Nations, UN Security Council Debate on Women Peace and Security, Transcript, 7289th meeting Tuesday, 28 October 2014, 10 a.m., New York, S/PV.7289. page 6. https://www.peacewomen.org/sites/default/files/wpsdebateoctober2014.pdf.

[598] Ibid., page 7.

[599] . Rashida Manjoo and Calleigh McRaith, 'Gender-Based Violence and Justice in Conflict and Post-Conflict Areas', *Cornell International Law Journal 44 No. 1*, 2011, 11–31.

[600] Nahid Rezwana and Rachel Pain, *Gender-Based Violence and Layered Disasters: Place, Culture and Survival* (London: Routledge, 2022), https://doi.org/10.4324/9781003089780.

[601] Meredith Loken and James J. Hagen, 'Queering Gender-Based Violence Scholarship: An Integrated Research Agenda', *International Studies Review* 24(4), no. Article viac050 (2022), https://doi.org/10.1093/isr/viac050.

GBV interchangeably, but this chapter advocates that humanitarian and military organisations should move towards more inclusive definitions to ensure all those who experience violence based on their gender are included in policy and programming.[602] Definitions of GBV have become more inclusive and the most widely adopted and cited standards in humanitarian settings are the UN Inter-Agency Standing Committee (IASC) GBV Guidelines.[603]

The IASC defines GBV as 'an umbrella term for any harmful act that is perpetrated against a person's will and that is based on socially ascribed (gender) differences between males and females'.[604] As Graaf explains, this IASC definition includes violence against gender non-conforming individuals and others in the LGBTQI+ community and violence between and against men and boys based on social and political expectations of masculinities, which encourage or enable violence by and against men.[605] It is clear from the most recent report of the UN Special Rapporteur that definitions of GBV have become more inclusive.

The 2023 report from the current Special Rapporteur notes how discrimination, violence and displacement disproportionately affect the LGBTQI+ community.[606] There is a growing awareness reflected in policy and practice that the specific vulnerabilities and capacities of LGBTQI+ people in humanitarian emergencies need to be more carefully and consistently considered.

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[602] Karen Graaff, 'The Implications of a Narrow Understanding of Gender-Based Violence', *Feminist Encounters: A Journal of Critical Studies in Culture and Politics* 5 (5 March 2021): 12, https://doi.org/10.20897/femenc/9749.

[603] Ibid.

[604] Inter-Agency Standing Committee. 2015. *Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action: Reducing risk, promoting resilience and aiding recovery. Page 5.*

[605] Karen Graaff, 'The Implications of a Narrow Understanding of Gender-Based Violence', *Feminist Encounters: A Journal of Critical Studies in Culture and Politics* 5 (5 March 2021): 12, https://doi.org/10.20897/femenc/9749.

[606] Report of the Special Rapporteur on the human rights of internally displaced persons A/78/245: Thematic priorities of the UN Special Rapporteur on the human rights of internally displaced persons, Paula Gaviria Betancu, 2023. see pages, 4, 7, 8, 10, 20.

Two particular aspects of IDP protection are fundamental but often overlooked in complex emergencies. The first is identity documentation. When people are forced out of their homes due to disasters, armed conflict and human rights violations, they risk losing their identity documents. This affects women and marginalised groups differently and can result in them being denied access to health care, education and other essential social services. Transgender and non-binary people may find it difficult to access or maintain identity documents that align with their gender identity and expression, which can create risks of violence, imprisonment and discrimination.[607] For many women, losing their identity documents can create a risk that they will become stateless, especially if they are separated from their husbands, and their citizenship status is dependent upon that relationship.

In some cases, where citizenship laws are not gender neutral, women can also loose their citizenship when they marry a foreigner.[608] Gender discrimination in nationality and citizenship laws also pose a risk to children becoming stateless, as in some legal contexts mothers are unable to confer their nationality onto their children, meaning their children become stateless.[609] In conflict and disaster, nationality laws' effects are even greater on the protection concerns of IDPs who often experience family separation and the loss of civil documents, underscoring the need for each parent – regardless of gender – to have the right to confer nationality on their child.

In times of displacement, gender discrimination in nationality laws can result in

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[607] Ryan, J. Michael. 'Expressing Identity: Toward an Understanding of How Trans Individuals Navigate the Barriers and Opportunities of Official Identity'. *Journal of Gender Studies* 29, no. 3 (2020): 349–60. doi:10.1080/09589236.2019.1570841., page 350.

[608] Indira Goris, Julia Harrington, and Sebastian Köhn. Statelessness: what it is and why it matters. Forced migration review. University of Oxford, 2009., page 5.

[609] UN High Commissioner for Refugees (UNHCR), Background Note on Gender Equality, Nationality Laws and Statelessness 2024, 8 March 2024, https://www.refworld.org/reference/themreport/unhcr/2024/en/147696 [accessed 12 August 2024].

children becoming stateless for several reasons. For example, as a recent UNHCR report highlights statelessness can occur:

(i) where the father is stateless;

(ii) where the laws of the father's country do not permit conferral of nationality in certain circumstances, such as when the child is born abroad or is born out of wedlock;

(iii) where a father is unknown;

(iv) where a father has been unable to fulfil administrative steps to confer his nationality or;

(v) acquire proof of nationality for his children because, for example, he has died, has been forcibly separated from his family or cannot fulfil onerous documentation requirements; or

(vi) where a father has been unwilling to fulfil administrative steps to confer his nationality or acquire proof of nationality for his children, for example, if he has abandoned the family.[610]

Those lacking identity documents because of discriminatory nationality laws may be denied freedom of movement and often face obstacles in securing equal access to healthcare, education and other social services. Stateless women without ID face additional gendered violence exacerbated by a hostile labour market and the threat of trafficking or forced labour.[611]

2.3 Gender and post-conflict political participation

Linked to identification and the intersection between statelessness, internal dis-

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[610] Ibid., page 3.

[611] Ibid.

placement and gender is the right to vote and participate in public affairs. This right is codified in Guiding Principle 22 which confers the 'right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right'.[612] If IDWs face discrimination in accessing identity documentation, this will affect their right to participate in elections. As consultants in electoral design, organisation and management Grace and Fischer have argued that 'IDP political participation remains inconsistent and work is needed to articulate a clear set of IDP-specific standards on the human rights, operational and security issues associated with elections'.[613] In Burundi, for example, the biggest obstacle to democratic participation for women is poverty.[614]

Ensuring that women are included and can fully participate in the democratic process also requires addressing the underlying causes of poverty that disproportionately affect IDWs. As transitional justice scholar Niamh Reilly argues, 'the effect of these gender biases is to ignore structural social and economic inequalities, including global inequalities, which disproportionately disadvantage women in conflicts and transitions and impede their full and equal political participation'.[615] If the right to political participation is not respected, this will have gendered implications for post-conflict agreements, peace negotiations, criminal tribunals and truth-telling commissions.

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[612] UNHCR, 'Report of the Representative of the Secretary-General, Mr. Francis M. Deng, Submitted Pursuant to Commission Resolution 1997/39. Addendum: Guiding Principles on Internal Displacement', 11 February 1998, https://www.refworld.org/policy/otherinstr/unchr/1998/en/31759.

[613] Jeremy Grace and Jeff Fischer, 'Seeking Electoral Equality for IDP Voters', *Forced Migration Review* 27 (2008), https://www.fmreview.org/sites/fmr/files/FMRdownloads/en/GuidingPrinciples10/grace-fischer.pdf.

[614] Niamh Reilly, 'Seeking Gender Justice in Post-Conflict Transitions: Towards a Transformative Women's Human Rights Approach', *International Journal of Law in Context* 3 (1 June 2007): 155–72, https://doi.org/10.1017/S1744552307002054.

[615] Niamh Reilly, 'Seeking Gender Justice in Post-Conflict Transitions: Towards a Transformative Women's Human Rights Approach', *International Journal of Law in Context* 3 (1 June 2007): 155–72, https://doi.org/10.1017/S1744552307002054.

3. Gender, Documentation, HLP and Civil Rights and Stabilisation Missions

Drawing from the most recent report by the Special Rapporteur on the Human Rights of IDPs, Paula Gaviria Betancur, this section discusses the connections between peace processes, displacement and climate change which she sees as priorities for her tenure.[616] Her report states that she will pursue an approach that aims to consider the situation of IDPs including women, girls, children, young people, LGBTQI+ people, people of African descent, minorities, older people and indigenous peoples. It goes on to note that there has not been a consistent inclusion of IDPs in peace mediation, peace processes, peace agreements, peace-building or transitional justice mechanisms.

First, the report underlines the connections between resolving HLP issues and peace-building. For example, it notes that:

> *Discrimination, marginalisation, forced evictions, generalised violence, sexual and GBV and land rights abuses further contribute to internal displacement […] If mediation and peace processes, peace agreements and peace-building efforts successfully address these [HLP] issues, they can pave the way for preventing further displacement, promoting lasting peace and consolidating durable solutions that facilitate safe and voluntary return and social, political and economic integration and reintegration.*[617]

The report underlines that resolving HLP issues in conjunction with gender and protection is central to addressing the discrimination and violence they experience both before, during and after armed conflicts and disasters. This should be considered of high importance when strategies to transition from violence to stability are discussed.

She also discusses how displacement, violence and HLP rights affect LGBTQI+ communities. To explore this, we need to understand how HLP rights are often

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[616] Report of the Special Rapporteur on the human rights of internally displaced persons A/78/245: Thematic priorities of the UN Special Rapporteur on the human rights of internally displaced persons, Paula Gaviria Betancu, 2023. 4.

[617] Ibid.

tied to questions of heterosexuality and gender. To return to the Special Rapporteur's thematic report, it is noted that:

> *She [Betancur] will analyse programmes and policies to address social cohesion, psychosocial well-being, subjective feelings about belonging, family and social networks and access to information to understand how they reduce discrimination and marginalisation.*[618]

These questions of social cohesion, belonging and family must include queer experiences. Understanding queer expressions and experiences of family will enable efforts to resolve HLP issues to consider more thoughtfully questions of housing ownership, inheritance and land rights from the perspective of queer individuals. Expanding how HLP issues are understood concerning peace-building, drawing out the kinds of violence and discrimination faced by queer IDPs in finding housing, owning and accessing land and property can lead to more concrete steps towards a just and sustainable peace. Nicole Maier, an expert researcher on Colombia's post-conflict transition, has shown that based on the Victim Unit's Registry those who identify as LGBTQI+ are "five times more likely to experience threats than those who identify as women or men".[619]

Bouvier's report on *Gender and the Role of Women in Colombia's Peace Process* notes the kinds of violence against LGBTQI+ individuals and how that violence was often 'inflicted as a form of "corrective violence" or social cleansing and often forces the displacement of the subjects of such violence'.[620] Bouvier

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[618] Report of the Special Rapporteur on the human rights of internally displaced persons A/78/245. https://www.ohchr.org/en/documents/thematic-reports/a78245-thematic-priorities-un-special-rapporteur-human-rights-internally.

[619] Nicole Maier, 'Queering Colombia's Peace Process: A Case Study of LGBTQI+ Inclusion', *The International Journal of Human Rights* 24 (3 June 2019)., pages 1–16, https://doi.org/10.1080/13642987.2019.1619551.

[620] Virginia M. Bouvier, 'Gender and the Role of Women in Colombia's Peace Process' (New York: UN Women, 2016),. Page 13. https://www.unwomen.org/en/digital-library/publications/2017/2/gender-and-the-role-of-women-in-colombias-peace-process.

shows that the types of victimisation of LGBTQ people vary but displacement is the most reported. LGBTQI+ civil society organisations such as Colombia Diversa[621] continue to pressure the government to 'make visible the violence faced by LGBTQI+ individuals in the country from armed conflict but also ongoing discrimination and prejudices in the country today'.[622]

Based on what has been documented in Colombia concerning displacement and efforts to build peace and security, LGBTQI+ individuals experience displacement, discrimination and violence differently. While significant advances have been made to understand how gender, protection and displacement are connected, to ensure transitions from conflict to stability are inclusive and sustainable interventions must also consider gender identity and sexuality.

4. Conclusion and policy recommendations

The confluence of disasters and armed conflict presents both opportunities and challenges for conflict resolution and peace-building. Being able to adequately respond to these opportunities will require civil and military actors to understand and act with care towards human rights and humanitarian law violations in conjunction with gender issues.

Armed conflict, political violence and disasters will likely intensify, posing significant challenges for civilian and military actors tasked with reducing harm to civilian populations and building peace. How women are disproportionately affected by armed conflict and disasters has been clearly established both in research and legal and policy-making forums. What is now critical is for organisations to include women and the LGBTQI+ community at all levels of

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[621] An organisation defending lesbian, gay, bisexual and transgender rights in Colombia. They focus on legal advocacy, research and advocacy. See https://colombiadiversa.org last accessed 17 June 2024.

[622] Jamie Hagen, 'Queering Women, Peace and Security in Colombia', *Critical Studies on Security* 5 (27 March 2017): 1–5, https://doi.org/10.1080/21624887.2017.1294835.

decision-making in the aftermath of disasters or conflict. This chapter analysed several key legal and policy documents relevant to protection, displacement and gender. As we are likely to see an increasing overlap between armed conflict and disasters, it is important to ensure that all actors engage in transition efforts with a broad understanding of gendered violence, including how the gender perspective is inseparable from the full enjoyment of rights. It is also important to understand that the layered nature of armed conflict and disasters creates both possibilities and limitations for stabilisation missions, peace-building and de-escalating violence.

Acknowledging these gendered vulnerabilities is important in post-conflict and stabilisation missions, it is also important that women and people of all gender identities are included in efforts to secure and protect their rights. Not only is this in line with international legal and normative standards, it also creates a foundation for rebuilding safe, secure and peaceful societies in the aftermath of violent conflict and disasters.

Suggested further reading

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CHAPTER XI

Pavithra Rajendran

ENSURING CHILDHOOD AFTERMATH OF ARMED CONFLICT

Abstract

This chapter explores the effects of armed conflict on children, underscoring the need to protect them after the conflict. It delves into their entitlement to reintegration and their involvement in the post-war juvenile justice system. It acknowledges that children affected by conflicts may find themselves in varying roles, encompassing both victimhood and participation. Regardless of their specific circumstances, it emphasises the critical importance of treating all children as such and safeguarding their inherent rights. This examination illuminates discrepancies in the Geneva Conventions which appear incongruent with other international standards rooted in child rights. The Conventions allow states to conscript children aged fifteen and older, thus giving rise to substantial apprehensions concerning the protection of those under the age of fifteen. Consequently, the lack of explicit directives in the Conventions on post-conflict scenarios involving child victims and soldiers becomes conspicuous. With this issue as its focal point, this chapter extends the foundations of these well-established principles and advocates for an interdisciplinary approach to ensure the preservation of childhood in the post-war environment.

Keywords: child soldiers, child victims, international law, juvenile justice, reintegration.

1. Introduction

> *Thomas Lubanga Dyilo's crimes interrupted, delayed and denied the right to education to Ituri children. In addition to the children abducted to become child soldiers, other children stopped going to school for fear of being abducted. Because of Mr. Lubanga Dyilo, these children lost out on their education. And Ituri is just one example of the devastating effect that international crimes have on education.*[623]

Armed conflict can have a lasting effect on children, thrusting them into a world filled with chaos, violence and uncertainty. In the aftermath of such conflicts, it is important to protect and restore childhood, ensuring that children are shielded from further harm and provided with the necessary care to heal and thrive. This chapter explores the complex dynamics surrounding children affected by post-armed conflict scenarios, examining their roles as victims or even participants in the conflict. While some may find themselves labelled as victims or prisoners of war, others due to their involvement with armed groups,[624] do not neatly fit into either category. Nonetheless, we must treat all children as children, stripping away any biases based on their history and recognising their inherent right to special protection and care.[625]

The Geneva Conventions establish an age criterion for military recruitment, permitting the enlistment of children aged fifteen and above, with the stipulation that the oldest should be selected first. However, the Conventions do not provide clear

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[623] International Criminal Court, Fact Sheet on the Prosecutor vs. Thomas Lubanga Dyilo (UNESCO, 2011) 2.

[624] *See*: Rule 3 of the Geneva Conventions of 12 August 1949. Geneva: International Committee of the Red Cross, 1949.

[625] *See*: Preambles of Convention on the Rights of the Child Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989.

guidelines regarding other critical factors, such as gender, disability, or physical and mental fitness. This omission creates ambiguity in how the rules are applied, potentially allowing for the recruitment of vulnerable individuals, such as a fifteen-year-old girl or a child with a disability, without adequate consideration of their specific needs and protections. Despite the efforts of the Geneva Conventions to outline rules for the protection of children in armed conflicts, they fall short in providing comprehensive guidance on post-conflict scenarios. This shortfall becomes evident when considering the rights, entitlements and development of both child victims and child soldiers in the aftermath of hostilities. Humanitarian organisations such as the International Committee of the Red Cross (ICRC) have endeavoured to address these gaps,[626] establishing persuasive principles to influence state parties.

By drawing on the principles of the Convention on the Rights of the Child (CRC),[627] namely the best interest of the child, and the enduring tenets of the Geneva[628] and Hague[629] Conventions which emphasise protection and prevention, this chapter endeavours to fill the void left by conventional frameworks.

2. Existing Legal Framework – An Overview

The issue of children in armed conflict is addressed in the third[630] and fourth[631] Geneva Conventions the Additional Protocols of 1977 (Additional Protocols I

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[626] International Committee of the Red Cross, 'Children', Topic, 28 July 2014, https://www.icrc.org/en/ war-and-law/protected-persons/children.

[627] Convention on the Rights of the Child (CRC), adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989. https://www.un.org/ en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_44_25.pdf.

[628] The Geneva Conventions of 12 August 1949. Geneva: International Committee of the Red Cross, 1949. https://www.icrc.org/sites/default/files/external/doc/en/assets/files/publications/icrc-002-0173.pdf.

[629] The Hague Conventions of 1899 and 1907. The Hague: Hague Conference on Private International Law, 1899, 1907.

[630] Geneva Convention (III) relative to the Treatment of Prisoners of War. Geneva, 12 August 1949.

[631] Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949.

and II),[632] and the 1989 CRC[633] and its 2000 Optional Protocol on the Involvement of Children in Armed Conflict.[634] They categorise the protection of children into two distinct issues: (i) general protection as a civilian and (ii) special protection, the latter referring both to child victims and child soldiers.

The Geneva Conventions and their Additional Protocols allow states to recruit children aged fifteen and above into their military forces[635] The only limitation set out by these provisions is that when recruiting children between the ages of 15 and 18, the state should prioritize the recruitment of the oldest individuals within this group.[636]

This is explicitly stated in Article 77(2) of Additional Protocol I to the Geneva Conventions, which requires parties to "endeavour to give priority to those who are oldest" when recruiting individuals in this age range[637] (**See Table 1**). Article 38 of the Convention on the Rights of the Child[638] (**See Table 2**) also reaffirms the responsibility of state parties to take necessary actions to prevent the recruitment of children under 15 years for direct involvement in hostilities[639] (**See Table 2**).

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[632] Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Additional Protocol I). Geneva: International Committee of the Red Cross, 1977; and Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Additional Protocol II). Geneva: International Committee of the Red Cross, 1977.

[633] Convention on the Rights of the Child (CRC), adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989. https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_44_25.pdf.

[634] Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. New York: United Nations, 2000.

[635] *The parties to the conflict shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities and, in particular, they shall refrain from recruiting them into their armed force, Geneva Convention, Additional Protocol I, (1977) Art.77 (2).*

[636] *[I]n recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, the parties to the conflict shall endeavour to give priority to those who are oldest.* Geneva Convention, Additional Protocol I, (1977) Art.77 (2).

[637] Ibid.

[638] Convention on the Rights of the Child (1989) Art.38.

[639] *States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities,* Convention on the Rights of the Child (1989) Art.38 (2).

Moreover, the Geneva Conventions and Additional Protocol I offer broader protections for children in armed conflict. These include the principles outlined in Additional Protocol I (1977) and Common Article 3, which emphasize the importance of distinguishing between civilians and combatants and forbid attacks directed against the civilian population[640] (**See Table 1**).

Children, as civilians, are protected by fundamental guarantees relating to the treatment of persons taking no active part in the hostilities. Article 77(1) of Additional Protocol I further underscore that "children shall be the object of special respect and shall be protected against any form of indecent assault"[641] (**See Table 1**). The parties to the conflict are also obligated to provide children with the care and aid they require, whether due to their age or any other reason.

Table 1: Existing Legal Framework on the Protection of Children in Conflict, Articles from the Geneva Convention, Additional Protocol I, (1977).

- *Principles for distinguishing between civilians and combatants and forbidding attacks directed against civilian population, – children are protected by fundamental guarantees relating to the treatment of persons taking no active part in the hostilities*. Geneva Convention, Additional Protocol I (1977), and Common Art. 3

- *Children shall be the object of special respect and shall be protected against any form of indecent assault. The parties to the conflict shall provide them with the care and aid they require, whether because of their age or for any other reason. Art.77 (1).*

- *The parties to the conflict shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities and, in particular, they shall refrain from recruiting them into their armed force. Art.77 (2).*

- *[I]n recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, the parties to the conflict shall endeavour to give priority to those who are oldest. Art.77 (2).*

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[640] Geneva Convention, Additional Protocol I, (1977) Common Art.3.

[641] Geneva Convention, Additional Protocol I, (1977) Art.77 (1).

Table 2: Existing Legal Framework to State Parties aimed at protecting Children in Armed Conflicts, Convention on the Rights of the Child (1989).

- *States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child. - States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities. -States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest. - In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.* Art.38.

- *States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.* Art. 38 (2).

In 2000, the Optional Protocol on the Involvement of Children in Armed Conflict[642] laid down a list of commitments to state parties aimed at protecting children in armed conflicts.[643]

- States must take all feasible measures to ensure that members of their armed forces under 18 do not participate directly in hostilities.[644]
- States must ensure that individuals under 18 are not compulsorily recruited into their armed forces.[645]
- States must raise the minimum age for voluntary recruitment above that stated in the CRC, acknowledging the need for special protection for those under 18.[646]

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[642] Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. New York: United Nations, 2000.

[643] Ibid., Art.1-4.

[644] Ibid., Art.1.

[645] Ibid., Art.2.

[646] Ibid., Art.3(1).

- States must declare the minimum age for voluntary recruitment and describe the safeguards against forced recruitment when ratifying the protocol.[647]

- States allowing voluntary recruitment under 18 must ensure:
  - > Recruitment is truly voluntary.[648]
  - > Recruitment is with the informed consent of parents or legal guardians.[649]
  - > Recruits are fully informed of military service duties.[650]
  - > Recruits provide reliable proof of age.[651]

- States can strengthen their declarations regarding recruitment age by notifying the UN Secretary-General.[652]

- The age requirement does not apply to military schools operated by the armed forces, consistent with the CRC.[653]

- Non-state armed groups must not, under any circumstances, recruit or use individuals under 18 in hostilities.[654]

- States must take all feasible measures, including legal measures, to prevent the recruitment and use of children by non-state armed groups.[655]

- The application of this article does not affect the legal status of any party to an armed conflict.[656]

The minimum age limits set by the Conventions are inconsistent with the Optional Protocol, which creates a significant gap in the protection of children. According

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[647] Ibid., Art.3(2).
[648] Ibid., Art.3(3).
[649] Ibid.
[650] Ibid.
[651] Ibid.
[652] Ibid., Art.3(4).
[653] Ibid., Art.3(5).
[654] Ibid., Art.4(1).
[655] Ibid., Art.4(2).
[656] Ibid., Art.4(3).

to the ICRC website,[657] only 23 states have not yet ratified the Optional Protocol and 173 states already ratified. The majority of these non-ratifying states are smaller nations with limited military capabilities. However, some countries with substantial military power or involved in armed conflicts such as North Korea, Haiti, Iran, Lebanon, Somalia and the United Arab Emirates[658] also not ratified.

This highlights a critical gap in protection for children in these regions, where the safeguards provided by the Optional Protocol are not fully extended. The Optional Protocol also represents an advance as it is the first instrument to explicitly address the need for physical and psychological assistance for children who have participated in hostilities. However, it falls short of recognising the importance of social reintegration for children who have been victimised due to armed conflict.

Another significant framework is to be found in the CRC: 'the best interest of the child'. While this principle may not explicitly address the specific rights of children affected by conflict, it plays a crucial role in shaping decisions and policies. The General Comment on the best interest of the child[659] underscores specific elements. These principles include determining the best interest of the child as a fundamental right, ensuring that it is given primary consideration on a case-by-case basis and emphasising the right of the child to have their best interests taken as a primary consideration.

The interpretation should be in harmony with other provisions of the Convention while allowing for flexibility and adaptability. The emphasis is on considering the unique situations and needs of individual children. For collective decisions, the best interest of children as a whole must be assessed and determined in light of the cir-

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[657] See: International Humanitarian Law Databases, ICRC at https://ihl-databases.icrc.org/en/ihl-treaties/treaties-and-states-parties.

[658] See the list as pdf at: https://ihl-databases.icrc.org/public/refdocs/IHL_and_other_related_Treaties.pdf.

[659] General Comment on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1) No. 14 (2013).

cumstances affecting the particular group or children overall.[660] Thus, the best interest of the child should always be the primary objective when addressing children's rights. However, the standards established by instruments related to international humanitarian law (IHL) do not necessarily align with the principles of promoting the best interest of the child. While such discrepancies may be justified during times of conflict, extending the same practices to the post-conflict environment is not acceptable.

3. Need for New Standards

The post-conflict activities of disarmament, demobilisation and reintegration (DDR) consist of three key components:

> **Disarmament:** The collection, documentation, control and disposal of weapons, and the proper management of responsible arms.[661]
> **Demobilisation:** The discharge of military and paramilitary troops. Initially, they may be provided with temporary accommodation, with the later stages focusing on reinsertion into civilian life.[662]
> **Reintegration:** The goal here is to transform former combatants into civilians by improving their socio-economic status. This component is essential for achieving long-term stability and peace.[663]

The UN's Disarmament, Demobilisation and Reintegration Resource Centre [664]

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[660] General Comment on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1) No. 14 (2013), Clause 32.

[661] Schibli, Marc, 'Disarmament, Demobilization, and Reintegration : Basic Concepts, Legal Aspects and Judicial Aspects', in Promoting the Rule of Law and Good Governance – SFA Implications in International Initiatives, Ludovica Glorioso (Rome, Italy: NATO Security Force Assistance, Centre of Excellence, 2021), 93 at 95 https://www.nsfacoe.org/wp-content/uploads/2021/09/Promoting-the-Rule-of-Law-and-Good-Governance.-SFA-Implications-in-International-Initiatives..pdf.

[662] Ibid.

[663] Ibid., 99-106.

[664] UN DDR, 'Children and DDR', in *Integrated Disarmament, Demobilization and Reintegration Standards*, UN's Disarmament, Demobilization, and Reintegration Resource Centre explained how DDR, (2021). https://www.unddr.org/wp-content/uploads/2023/11/IDDRS-5.20-Children-and-DDR_9-Nov-2021-1.pdf.

explained how DDR could be adapted to child soldiers in 2006. However, in 2007, the UN General Assembly released a report addressing the rights of children in armed conflict and post-war known as the 'Report of the Special Representative of the Secretary-General for Children and Armed Conflict' (the Marshal Report),[665] which synthesised the findings of various special representatives who had investigated children's experiences in conflict-affected regions such as Sudan, Burundi, the Democratic Republic of the Congo, the Middle East, Sri Lanka and Myanmar.[666] These investigations collectively revealed how the unique challenges faced by children in post-war situations significantly hindered their development.

For instance, it highlighted a case in Haiti where inefficiencies in the reintegration programmes for child soldiers resulted in their involvement in illegal activities such as assisting criminal gangs and serving as drug couriers.[667] This stemmed not only from inadequate rehabilitation processes but also from deficiencies in the juvenile justice system. Addressing these challenges requires a fundamental improvement in two key areas: (i) the establishment of robust reintegration programmes and (ii) the creation of a juvenile justice system that is more attuned to the specific needs of young individuals affected by armed conflict.

3.1 The Establishment of Robust Reintegration Programmes

Both child victims and child soldiers have access to reintegration programmes, albeit with different focuses. The reintegration of child soldiers primarily centres around rehabilitation efforts, whereas child victims are mainly concerned with returning to their regular lives. Given the importance of the developmental pro-

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[665] Report of the Special Representative of the Secretary-General for Children and Armed Conflict. New York: United Nations, 2007.

[666] *See:* Ibid., Summary.

[667] Ibid., at.4, Para 8.

cess, education, healthcare and an adequate standard of living must be provided in the aftermath of armed conflict.[668]

3.1.1 Health

The concept of the right to health, as emphasised in IHL, differs significantly from the health rights outlined in rights-based instruments. Article 78(3) of Additional Protocol I begins by stating that children shall be provided with the care and aid they require. In contrast, the ICESCR,[669] CRC[670] and WHO[671] direct states to ensure the highest attainable standard of physical and mental health. IHL, in setting a baseline, simply mentions 'care and aid',[672] without further elaboration. Although the Additional Protocol does not define care and aid, certain measures related to children such as the prohibition of the death penalty for child soldiers and the entitlement to medical assistance can be considered components of health-related care and aid.

Armed conflicts and their aftermath often give rise to numerous health-related challenges that can significantly affect children. The draft Articles of the disaster law[673] also emphasise child-centric measures to protect children's health in the event of disasters, including those resulting from armed conflicts. While IHL establishes specific standards for mental health-related rehabilitation programmes for child combatants to help reintegrate them into society, it remains silent on the mental health of children who are not child soldiers but are affected by armed conflicts.

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[668] John Wall, 'Human Rights in Light of Childhood', (16 INT'l J. CHILD. Rts., 2008), 541.

[669] See International Covenant on Economic, Social and Cultural Rights. New York: United Nations, 1966, Art.12.

[670] See Convention on the Rights of the Child (1989) Art.24.

[671] See Preamble, World Health Organization. Constitution of the World Health Organization. Adopted by the International Health Conference, New York, June 19–22, 1946. Accessed August 2, 2024. https://www.who.int/about/governance/constitution.

[672] See e.g. Geneva Convention IV (1949) Art.24, Additional Protocol I (1977) Arts. 70 & 75, Additional Protocol II (1977) Art.4.

[673] Draft Articles on the Protection of Persons in the Event of Disasters, (2016).

3.1.2 Education

Article 78(2) of Additional Protocol I mandates the provision of education for children during evacuations, ensuring the continuity of their education, including religious and moral education as desired by their parents. This provision goes beyond the general framework of the right to education. Additionally, Article 50 of the Fourth Geneva Convention requires an occupying power to ensure the education of children and to maintain educational institutions. Article 28(1)(e) of the CRC requires state parties to ensure continuous attendance at educational institutions, even for children who drop out due to armed conflicts.

The ICRC[674] continually strives to facilitate access to education for children during armed conflicts, particularly when they are displaced or in detention. ICRC efforts include remote education, teacher and mentor training and awareness programmes for children and their families.[675] It supported the Safe School Declaration in 2010[676] and disseminated a set of guidelines between 2012 and 2014 titled 'Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict'. However, these are soft laws without legally binding effects and their application to uphold the right to education in all its aspects.

Despite the emphasis on safeguarding educational institutions from military use, the IHL is the sole applicable law during armed conflicts and it does not extend to ensuring all elements of the right to education beyond access to education. Unfortunately, many states continue to violate the principle that schools and other educational institutions are not to be used as military objects.

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[674] International Committee of the Red Cross : https://www.icrc.org/en.

[675] International Committee of the Red Cross, 'Children', Topic, 28 July 2014, https://www.icrc.org/en/ war-and-law/protected-persons/children.

[676] Safe School Declaration (2010), https://www.icrc.org/en/document/safe-schools-declaration-and-guidelines-protecting-schools-and-universities-military-use.

3.1.3 Adequate Standard of Living

As civilians, children are entitled to food and clothing, as explicitly stated in the Fourth Geneva Convention. Like health and education, the right to food and clothing, as stipulated in IHL, differs from the CRC, ICESCR and other standards applicable in times of peace. For instance, Article 89 of the Fourth Geneva Convention addresses the provision of sufficient water for internees but does not delve into the quality of water, which can be crucial, particularly in densely populated areas.

The quality is important due to its direct effect on public health. In situations where large numbers of people are confined such as in internment camps or refugee settlements, ensuring access to safe and clean water is a critical humanitarian concern. The minimum standards are established for food, shelter and clothing, although these standards, while enforceable, are often less comprehensive than those found in the International Bill of Rights.[677] It is noteworthy that water, despite its critical importance, does not receive the same level of emphasis as other components of the right to an adequate standard of living. This disparity highlights a significant area where the humanitarian framework may benefit from greater attention and integration of broader human rights principles.

While the aforementioned normative standards are essential for the establishment of a robust reintegration programme, numerous challenges hinder its realisation. The Marshal Report has identified several of these impediments. The primary challenge concerning reintegration programmes is the issue of financial support. As highlighted in the Marshal Report, while some states have managed to secure donors for their reintegration initiatives, there is persistent difficulty in obtaining multi-year commitments from donors.[678]

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[677] See generally: https://www.ohchr.org/en/what-are-human-rights/international-bill-human-rights.

[678] Ibid., at.4, Para 8.

This poses a significant problem because reintegration is not a short-term endeavour; it is a protracted process that demands sustained financial backing. In the case of countries such as Sri Lanka and Burundi, the rapporteurs have observed a troubling pattern of unsustainability in reintegration programmes. Governments in these regions often provide short-term reintegration efforts, citing unjustifiable reasons for their reluctance to commit to long-term support.[679] In countries like Sudan, which grapple with the broader challenge of building essential infrastructure for their populations, allocating funds for reintegration programmes is an even more daunting task.[680]

The ongoing armed conflicts in nations such as Burundi and Congo present another formidable obstacle. These conflicts perpetuate the recruitment of children into para-military groups,[681] undermining efforts at reintegration.[682] Additionally, the destruction of vital infrastructure such as healthcare centres and schools in conflict zones severely restricts children's access to essential services, including healthcare and education.[683]

The Marshal Report also underscores the unique psychological experiences of children affected by armed conflict:

> *In Israel and the occupied Palestinian territories, I also chose to spend most of my time interacting with the children. As in Lebanon, I noted that they were playful and resilient, but I was disturbed by their expressions of fear, anxiety, anger, revenge and hopelessness.*[684]

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[679] Ibid., at. 8-9, Para 30, and at. 11, Para 40.

[680] Ibid., at. 10, Para 33.

[681] Para military group can be defined as a force/troop that operates outside a country's formal military structure. (See more details and examples of para military forces at: https://www.britannica.com/topic/paramilitary-armed-force.).

[682] Ibid., at.11, Para 31, and at.11, Para 42.

[683] Lebanon: Ibid., at.12, Para 44.

[684] Ibid., at.12, Para 46.

It recognises that children undergo diverse psychological challenges, making a one-size-fits-all approach to psychological assistance inadequate. Lastly, in some instances such as in Myanmar, government officials are implicated in child abuse in conflict zones.[685] This complicates data collection efforts and hinders progress in the reintegration process.

Considering these factors that the chapter has discussed, to establish an effective child reintegration programme, it is crucial to secure diverse and sustainable funding sources, advocate for long-term government commitment, address ongoing conflicts to prevent child recruitment, offer tailored psychological support recognising diverse needs, ensure accountability for child abuse cases and implement a rigorous monitoring and evaluation system for ongoing programme improvement. This echoes the roles of officials working in stabilization, aligning with clause 3 (b) of NATO Standard, AJP-3.16 which specifically emphasises similar considerations.[686] This NATO Standard not only reinforces the elements outlined in this paper but also explicitly supports the comprehensive approach as follows:

> *SFA must be planned, executed and assessed in the context of NATO's contribution to a comprehensive approach (CA). A CA comprises the integrated activities from an appropriate range of civil and military actors to achieve common objectives, enabled by the orchestration, coordination and de-confliction of NATO's military and political instruments with the other instruments of power. SFA will be one part of NATO's contribution to a CA by the international community. Therefore, those involved in providing SFA must consider and understand all aspects of the local*

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[685] Ibid., at.13, Para 48.

[686] *Stabilization and reconstruction (S&R) efforts aim to address complex problems in fragile, conflict and post-conflict states. Such efforts contribute to a comprehensive approach to crisis management through the international community's efforts towards security, development and governance*, NATO Standard, AJP-3.16 Allied Joint Doctrine for Security Force Assistance (SFA), Edition A Version 1, NATO Standardization Office (NSO), May 2016, Clause 3 (b).

forces' capacity and capability development, including their relationship with other institutions and processes. A CA should:

a. seeks to stimulate a cooperative culture in a collaborative environment, while facilitating a shared understanding of the situation;

b. invigorates existing processes and strengthen relationships at the joint, inter-agency and multinational levels; and

c. considers the activities of all actors who may have an impact on the end state'.[687]

Therefore, a comprehensive approach to reintegration is of utmost importance in stabilization and reconstruction, as it can enhance support for the well-being and prospects of children affected by armed conflict.

3.2 The Creation of a Child-Friendly Juvenile Justice System

In contrast to conventional legal cases involving adult offenders, those concerning children necessitate distinct procedural mechanisms in both domestic and international courts and tribunals. These specialised mechanisms are outlined by several internationally recognised instruments. Notable among these are the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules),[688] the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines),[689] the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules),[690] and the Guidelines for Action on Children in the Criminal Justice System (Vienna Guidelines).[691]

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[687] NATO Standard, AJP-3.16 Allied Joint Doctrine for Security Force Assistance (SFA), Edition A Version 1, NATO Standardization Office (NSO), May 2016, Clause 0109.

[688] A/RES/40/33 (Adopted by the United Nations General Assembly on November 29, 1985).

[689] A/RES/45/112 (Adopted by the United Nations General Assembly on December 14, 1990).

[690] A/RES/45/113 (Adopted by the United Nations General Assembly on December 14, 1990).

[691] Ibid.

In addition to these dedicated instruments, there are broader international frameworks concerning the general criminal justice system that are equally applicable to juvenile offenders. These include the United Nations Standard Minimum Rules for the Treatment of Prisoners (the basic Prison Rules),[692] the United Nations Standard Minimum Rules for Non-custodial Measures, (Tokyo Rules),[693] and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, commonly referred to as the Bangkok Rules.[694] However, there are questions about the extent to which both local and international courts adhere to these minimum standards when handling cases involving juveniles. The Marshal Report highlighted numerous issues concerning juvenile delinquency in the aftermath of armed conflict. This shed light on the persistent problems of the unwarranted detention of child victims and child soldiers, issues that can be viewed as significant violations of the CRC.

This section seeks to identify the minimum standards concerning juvenile delinquency in post-conflict scenarios framed in the IHL principles and explore how states can ensure compliance with these standards. The following rights can be discerned as constituting the entitlements of a juvenile offender in the framework of a legal trial.

3.2.1 Right to Trial

• Right to be heard in any judicial proceeding.[695] This right underscores the principle of their participation and involvement in legal processes. Child soldiers should be allowed to express their views, concerns and perspectives in a manner that is appropriate for their age and maturity. It is essential to create an environment in which child soldiers can communicate freely without fear of intimidation or coercion.

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[692] A/RES/70/175 (Adopted by the United Nations General Assembly on December 17, 2015).

[693] /RES/45/110 (Adopted by the United Nations General Assembly on December 14, 1990).

[694] A/RES/65/229 (Adopted by the United Nations General Assembly on December 21, 2010).

[695] Convention on the Rights of the Child (1989) Art.12; Beijing Rules (1985), Rule. 14.2.

- Presence of parents or legal guardians.[696] Under international standards and best practices, child soldiers should have the option to have their parents or legal guardians present during legal proceedings. This helps ensure that the child's best interests are considered and that their rights are protected. However, this must be balanced with the child's preferences, as some child soldiers may have reason to not want their parents involved.

- Right to an interpreter:[697] Ensuring effective communication in legal proceedings is vital. Every child soldier should have access to a competent interpreter if they do not understand or speak the language of the court. This guarantees that the child understands the charges against them, can participate in their defence and understands the legal process.

- Right to legal representation.[698] Child soldiers, like any other individuals facing legal proceedings, have the right to legal representation. This representation should be provided by a qualified lawyer who is well-versed in juvenile justice and international human rights law.

3.2.2 Right to Justice

- Right to have the matter determined without delay:[699] Child soldiers, like all individuals, have the right to have their legal cases resolved promptly. This right is crucial for several reasons, including Avoiding Prolonged Detention, Ensuring Fairness and Minimising Trauma.

- Right to not be compelled to give testimony or to confess or acknowledge guilt:[700] Child soldiers have the right not to be subjected to coercion, pressure

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[696] Convention on the Rights of the Child (1989) Art 40(2)(b)(iii); Beijing Rules (1985) Rule. 15.2.

[697] Convention on the Rights of the Child (1989), Art 40(2)(b)(vi); International Covenant on Civil and Political, Rights, (1966) Art. 14(3)(f).

[698] Convention on the Rights of the Child (1989) Art 37(d) and 40(2)(b)(ii) and (iii); International Covenant on Civil and Political, Rights, (1966) Art. 14(3)(b) and (d).

[699] Convention on the Rights of the Child (1989) Art 40(2)(b)(iii); Beijing Rules (1985), Rule. 20(1).

[700] Convention on the Rights of the Child (1989), Art 40(2)(b)(iv); International Covenant on Civil and Political, Rights, (1966) Art.14(3)(g).

or force to provide testimony, confess to a crime or acknowledge guilt. This right is particularly significant given the vulnerability of child soldiers who may have been manipulated, coerced or forced into their roles. Child soldiers should have the opportunity to provide testimony or confess voluntarily and without fear of repercussions. Legal authorities should take steps to create a safe and supportive environment in which the child can freely share their account of events.

3.2.3 Right to Privacy

• Protection of personal information:[701] Child soldiers have the right to privacy, which includes safeguarding their personal information and identities. This protection is essential for several reasons, such as preventing stigmatisation and facilitating rehabilitation and psychological well-being.

• Confidentiality in legal proceedings. During legal proceedings involving child soldiers, their right to privacy extends to the confidentiality of certain information. This confidentiality should be upheld in the following ways:

> Closed proceedings - In some cases, it may be necessary to hold closed court sessions to protect the child's identity and personal information. This is especially relevant when the child's safety or the safety of their family is at risk.

> Restricted access to records – Records related to the child's involvement in armed conflict, including their experiences and any rehabilitation efforts, should be kept confidential and accessible only to authorised personnel who have a legitimate need to know.

> Media restrictions – The media should be restricted from disclosing the identities of child soldiers involved in legal proceedings. Protecting their privacy helps prevent sensationalism and the potential for further harm.

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[701] Convention on the Rights of the Child (1989) Art. 40(2)(b)(vii).

3.2.4 Care, Protection and Assistance

• Child-centred approach.[702] A child-centred approach recognises the child's unique vulnerabilities, needs and rights. It ensures that all interventions, proceedings and support are tailored to the child's best interests, age and level of maturity.

• Immediate protection and safety.[703] On coming into contact with the criminal justice system, the primary concern is ensuring the child's immediate protection and safety. This may involve measures such as:

> Removal from harmful environments.[704] Child soldiers should be immediately removed from armed groups or situations where their safety is compromised.

> Secure accommodation. Providing secure and safe accommodation for the child, preferably in a non-custodial setting, to protect them from further harm. Ensuring that the child is shielded from any potential threats or retaliation that may arise from their involvement with the justice system.

> Protection from abuse. Child soldiers may have been subjected to abuse, indoctrination or threats while serving as combatants. They should not be further victimised or traumatised during legal proceedings. Any evidence obtained through coercion or duress should be inadmissible in court.

> Psychosocial support and rehabilitation. Child soldiers often suffer from trauma, psychological distress and social isolation. They require access to psychosocial support and rehabilitation services, including.

> Access to support services. While safeguarding their privacy, child soldiers should also have access to support services including mental health and psychosocial support. These services should be provided in a way that respects the child's privacy and dignity. It is important to create a safe and confidential environment where child soldiers can seek assistance and counselling if needed.

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[702] Convention on the Rights of the Child (1989) Art. 40.3(b); Beijing Rules (1985), Rule. 6, 11.1 and 11.2; Vienna Guidelines (1990) Rule.15.

[703] Convention on the Rights of the Child (1989) Art. 40(2)(b)(iii); Beijing Rules (1985), Rule.10.1, 10.2.

[704] Havana Rules (1990) Rules. 31-37.

• Non-discrimination. Child soldiers should not be subject to discrimination based on their past experiences. It is important to treat them with dignity and respect, ensuring that their prior involvement in conflict does not impede their access to justice, education or employment opportunities. Recognising the subtle discrimination already endured by children in war-related matters and addressing it in the court's determinations was discussed by Judge Odio-Benito in a dissenting opinion in the *Lubanga* case.[705]

For example, Judge Odio-Benito articulated how existing laws, namely Rome Statute fail to adequately define and address the scope of activities related to child soldiers, thereby resulting in discriminatory practices against their rights as follows:

> *Addressing the three relevant acts, namely enlisting and conscripting children under the age of 15 and using them to participate actively in hostilities, in each instance the conduct is not defined in the Statute, the Rules or the Elements of Crimes. Accordingly, the scope of the activities covered by Article 8(2)(e)(vii) of the Statute must be determined in accordance with Articles 21 and 22(2) of the Statute.[706]*

By explicitly referencing the 'rule of law,' NATO Standard, AJP-3.16 has already incorporated some of the key points raised in this discussion.

> *A country's security policies and practices must be founded on the rule of law and linked to the broader justice sector. SFA activities should promote the rule of law, including applicable human rights laws and the gender perspective. The police, in particular, should operate as an integral part of the justice system and directly support other parts of the justice sector, including the courts and corrections institutions. Assistance to the*

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[705] See: *Prosecutor V Thomas Lubanga Dyilo*, ICC – 01/04-01/06, *Separate and Dissenting Opinion of Judge Odio Benito*, Para 6 at 2-4.

[706] Ibid., Para 2.

> *police and other state security providers may need to be complemented with other efforts to strengthen these institutions, to avoid unintended consequences and to ensure that the local forces operate according to the law.*[707]

Contextually, during the transitional period of juvenile justice, law enforcement, litigants, the judiciary and rehabilitation officials – collectively referred to as criminal justice personnel – should adhere to the established norms of the rule of law and human rights.

4. Conclusion

While IHL and IHRL aspire to usher in substantial changes in standards about the reintegration and administration of juvenile justice, various factors including economic, political and technical inadequacies impede their realisation. The question of adopting either IHL or IHRL rules during transitional periods is also a complex matter. Nevertheless, even though opting for one of these approaches may pose challenges, it should not be difficult to maintain a baseline of a child-centric humanistic approach in the case of children without any discrimination between child victims and ex-combatants. This approach should adhere to the principles established by this chapter: DDR, a more comprehensive reintegration process, access to justice with basic assurances of child rights and the rule of law. In its concluding remarks, the chapter focuses on actions that officials can take to make these approaches more efficient and effective.

The NATO AJP-3.16 outlines three key activities for officers to undertake. Firstly, an officer must possess a superior understanding of the situation com-

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[707] NATO Standard, AJP-3.16 Allied Joint Doctrine for Security Force Assistance (SFA), Edition A Version 1, NATO Standardization Office (NSO), May 2016, Clause 0116.

pared to all stakeholders.[708] This involves an immediate response to protect and safeguard children, requiring prior familiarity with safety zones. Additionally, the officer should adeptly differentiate between civilian children and child soldiers, exercising due diligence in disarming the latter. Secondly, given that the reintegration process identified in this chapter involves multiple stakeholders, collaboration with other organizations is essential.[709] When dealing with child victims and soldiers, officials may need to engage with international organizations such as UNESCO, ICRC, CRC committee, and local communities. Officers must comprehend the aims and scope of these organizations, actively participating in the reintegration process. Specifically, while other child-focused organizations may specialize in child rights in general, officers deal with post-conflict situations, significantly contribute to rehabilitating child soldiers, upholding their physical and mental health. Working with other stakeholders necessitates understanding each party's role and respecting their limitations. Thus, lastly, monitoring the activities of other stakeholders[710] without interfering is emphasized as a crucial activity. This approach allows officials to establish a friendly and healthy collaboration with similar organizations dedicated to the reintegration of children.

Again, aligning with NATO AJP-3.16 is imperative in ensuring access to justice with fundamental assurances of child rights and upholding the rule of law. This standard underscores the pivotal elements of the criminal justice process, emphasizing the protection of human rights with a specific focus on gender considerations and the need for cooperation among criminal justice agencies, namely local police, litigants and judiciary, and avoiding negative consequences in jus-

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[708] NATO Standard, AJP-3.16 Allied Joint Doctrine for Security Force Assistance (SFA), Edition A Version 1, NATO Standardization Office (NSO), May 2016, Clause 0116.

[709] Ibid.

[710] Ibid.

tice process.[711] Officers should ardently champion the rule of law, possess a comprehensive understanding of legal frameworks safeguarding children's rights, and be well-versed in international human rights standards. Collaboration among various agencies is paramount, requiring effective communication to address the unique challenges faced by children. Vigilance is essential to prevent negative consequences during the child justice process, with officers prioritizing the mitigation of adverse effects on a child's well-being, encompassing psychological, social, and educational dimensions.

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[711] NATO Standard, AJP-3.16 Allied Joint Doctrine for Security Force Assistance (SFA), Edition A Version 1, NATO Standardization Office (NSO), May 2016, Clause 0116.

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PART IV

**On the Road to Reconstruction:
A Detailed Examination of Lessons and Programmes**

CHAPTER XII

Esther Grisnich

EXPERIENCES, CHALLENGES AND OPPORTUNITIES: BUILDING CAPACITY ON PROTECTION OF CIVILIANS TASKS IN THE IRAQI ARMED FORCES

Abstract

This chapter details the experience of the Human Security Adviser at NATO Mission Iraq (NMI) in implementing a protection of civilians (POC) strategy and action plan as part of capacity-building efforts for the Iraqi Armed Forces (IAF). The mission is one of the few cases introducing the concept of POC for defence capacity-building in development, where capacity must be built on an absent or fragile institutional foundation.

This chapter shares five lessons on capacity-building and developing and implementing a POC strategy and implementation plan in Iraq. It describes how POC in Iraq was gradually prioritised through advocacy and seeking the approval of the Iraqi Chief of Defence (CHOD), who ordered the POC strategy development for the IAF. It discusses experiences and lessons learned from implementing the NATO Partnership Programme on Human Security, particularly POC and the role and skills of the adviser involved such as knowledge of the situation as key to success. It describes how the development of a POC strategy can be only successful once a broad coalition of people is involved and finally, how local ownership over the POC strategy development is a key for success.

The chapter also summarises five studies of best practices and constraints in capacity-building on POC in situations like Iraq. These findings include: (1) increased attention to POC as strategically important for mission success; (2) the

limitations to the POC approach given the non-binding character of the military tasks and approaches; (3) the need to contextualise the POC approach in development given the absence of a basic institutional foundation; (4) the observed absence of this approach through the eyes of a combat soldier at the tactical level; and (5) the significance of focusing on the development of an individual mindset.

Keywords: Protection of Civilians (POC), Human Security, NATO Mission in Iraq (NMI), strategy, capacity-building.

1. Introducing Human Security in a NATO Mission and the Receptiveness in Iraq

According to NATO, Human Security is a *'multi-sectoral approach to security that identifies and addresses widespread and crosscutting challenges to the survival, livelihood and dignity of people'*.[712] This implies embedding assumptions everywhere that the safety and security of the population are at stake at all stages and levels of operations. The objective is clear: *'preventing and responding to risks and threats to all people, especially in conflict or crises'*.[713] However, building capacity for Human Security in a failed or fragile state such as Iraq requires contextualisation of the concept and a flexible, practical and hands-on strategy. This is especially important for Iraq, where security sector actors rarely agree on politics or strategy; multiple security entities including militias are actors in a competitive tribal culture, all having their interests and objectives present in the country.[714]

NMI is a '*non-combat, advisory and capacity-building mission that assists in building more sustainable, transparent, inclusive and effective armed forces and security institutions, so that Iraqis can better stabilise their country, fight terror-*

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[712] NATO, *Human Security: Approach and Guiding Principles § 7*, (October 2022). https://www.nato.int/cps/en/natohq/official_texts_208515.htm.

[713] Ibid.

[714] Renad Mansour, *Networks of power The Popular Mobilization Forces and the state in Iraq*. London: Chatham house, (2021). https://www.chathamhouse.org/2021/02/networks-power.

ism and prevent the return of ISIS/Daesh'.[715] NATO launched the mission during the Brussels Summit in July 2018 following a request from the government of Iraq and established NMI in October of the same year.[716] In its request, Iraq asked for NATO support to '*Enable Iraqi Security Forces in mitigating the effects of their military operations on the civilian population and critical infrastructure'.*[717] This request activated the NATO Partnership Programme on Human Security,[718] with a dedicated adviser aiming to implement and support the objectives through a capacity-building programme for the IAF.

With this programme, NATO focuses on the POC with a military lens, bringing together the subjects under the Human Security programme such as POC in crisis and conflict, children affected by armed conflict, conflict-related sexual and gender-based violence, people trafficking and cultural property protection.[719] Without formalised policies in Iraqi National and Defence Strategies on these areas in the Human Security Approach, mainly due to the decades of conflict and the absence of functional institutions, the emphasis has been on the development of a POC strategy provisionally encompassing the other areas such as children affected by armed conflict.

Through Supreme Headquarters Allied Powers Europe (SHAPE) Civil Military Affairs,[720] NATO has developed a framework as a practical application model and a

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[715] NATO, *NATO Mission Iraq*, (2023). https://www.nato.int/cps/en/natohq/topics_166936.htm.

[716] Ibid.

[717] NATO, *Iraq Defence Capacity Building Package. §23.3 Civil-Military Planning and support to Operations.* Annex 1. NATO Unclassified, 0446-REV 1, Napels – Baghdad, (Nov 2015).

[718] NATO, *Partnerships: projecting stability through cooperation*, (2023). https://www.nato.int/cps/en/natohq/topics_84336.htm.

[719] Marianna Tonutti, 'Protection of Civilians: A NATO Perspective', in *Promoting the Rule of Law and Good Governance: SFA Implications in International Initiatives*, Ludovica Glorioso (Rome, Italy: NATO Security Force Assistance Centre of Excellence, 2021), https://www.nsfacoe.org/wp-content/uploads/2021/09/Promoting-the-Rule-of-Law-and-Good-Governance.-SFA-Implications-in-International-Initiatives..pdf.

[720] The Supreme Headquarters Allied Powers Europe (SHAPE) is the military headquarters of the North Atlantic Treaty Organization. Joint Head Quarters Joint 9 is the Civil-Military Interaction department under which guidance the NATO POC handbook has been developed.

guiding handbook to apply POC in a military environment. There are three objectives in introducing the POC concept: increasing a POC mindset, applying POC in military planning and operations and developing collective knowledge of how to work together as actors in the field.[721] However, the POC policy and action plans are tailored towards NATO's capacity-building. Thus, the concept cannot be directly applied to development in somewhere like Iraq, '*where a basic structure of policies and doctrine, tools and training to implement a POC concept is absent – let alone prioritised*.'[722]

2. Introducing Human Security and the Need for a POC Strategy in a Capacity-Building Mission

The implementation of a POC strategy for the IAF started in April 2023. Although the circumstances in particular situations differ, lessons from the NMI POC capacity-building experiences are vital guides for future missions.

2.1 Five practical lessons from introducing a POC Strategy in Iraq

a. Simplify, be flexible and take time when introducing Human Security

Often, the concept is unknown or undervalued. Even in Western military strategy, it is usually designated as a soft subject. In development situations like Iraq, building capacity on POC requires a longer-term approach and multiple iterations over several years.

Human Security is often a new concept for military interlocutors in a development situation. Even disregarding translation challenges, the term is often confused with human rights or international humanitarian law. Given the absence of a civilian focus in military operations in the past with its sole objective of defeating an enemy,

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[721] NATO, *Protection of Civilians* (second ed.). p7, NATO SHAPE J9, Brussels, (2019).

[722] Victoria K. Holt and Henry L. Stimson Center, 'The Military and Civilian Protection: Developing Roles and Capacities', *Humanitarian Policy Group, HPG Research Briefing* Number 22 (2006). https://media.odi.org/documents/329.pdf.

it is hard for the military to understand the role of Human Security in preventing conflict and as an integrated responsibility for the armed forces. Introducing Human Security using 'protection of civilians' as terminology is often better understood.

b. Advisers must use real-life examples from the local context to explain the importance of a POC strategy

To frame the importance of POC, it is useful for advisers to share personal experiences in protecting the civilian population during military operations. As a result, the military counterparts will create associations. They will likely also start sharing their own POC-related experiences, such as how they saved civilians during operations. Memories brought alive about the challenges they faced to distinguish civilians from combatants are recalled, such as at the checkpoints where handicapped people were forced to be suicide bombers or a helicopter pilot who cancelled his strike when he saw a woman and child walking close to the object. Picturing a challenging situation often helps to realise the importance of POC capacity-building. This awareness leads to an understanding that POC is vital to the mission objective, as counterparts start to understand that maintaining the population's trust is crucial for credibility and mission success.[723]

c. Work to keep POC a priority

Soft military subjects are easily dropped in high-level meetings. To retain a focus on POC, try to make a humorous argument that POC is the most important subject, as the primary reason we go to war is to protect the civilian population from harm. Once during a sizeable meeting, the CHOD was asked to name his favourite long-term objective. In haste, he responded that it was cyber security, but added that POC was one of the most critical subjects in the defence strategy. This statement made every participant understand the priority given to developing a POC strategy for the IAF.

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[723] NATO, SHAPE, *Protection of Civilians*, P9, (2019). https://shape.nato.int/resources/3/website/ACO-Protection-of-Civilians-Handbook.pdf.

d. Bring a coalition of relevant recipients to the POC capacity-building programme

The experience, background and political power of assigned senior officers are crucial for the strategy's quality, obtaining support from other directorates and commands and ensuring the plan is well-executed. Therefore, it is better not to focus on one entity in the command structure such as Civil Affairs Joint 9. By involving the Service Commands (e.g. Ground Forces, Air Force and Special Forces) and tailoring advocacy and training to their particular circumstances, dependence on a single interlocutor can be diminished. It can even empower the Civil Affairs department. Another benefit is that a larger number of stakeholders will understand the importance of including POC considerations in planning and operations, feel ownership and provide relevant input into the strategy and endorsement of the policy for implementation.

e. Let local powerholders lead POC strategy development but provide clear direction and guidance

Introducing a Western-style document will not foster a genuine understanding of the strategy in a non-western context. Consequently, the POC concept and tasks are likely to fail. Giving local ownership will lead to a strategy that does not match the purpose – as happened in Iraq. However, the strategy is not the end state; it is a living document. A 'POC mindset' updated operating procedures with matched tools and qualified staff capacity are far more important than an ideal strategy, even though that strategy remains an important instrument and reference document.

3. Academic lessons on POC capacity-building

When analysing POC capacity and tasks in the armed forces in a context like Iraq, questions arise such as: '*How far can military efforts prevent conflict, sup-*

port peacebuilding and serve humanitarian goals? What role can troops play in protecting civilians?'[724]

The NATO POC framework provides the fundamental inspiration for this study. While the necessity on the ground required contextualising the POC framework for Iraq, the underlying intention was broader: a study of best practices for a practical application of a POC strategy developed in situations similar to Iraq. The main challenge was to link the theoretical application of POC frameworks with the need for tailored, practical guidelines to apply the POC principles to actual military practice. The research was designed around three tiers to conclude with recommendations for an Iraqi-tailored POC framework: a literature study, a comparative case study into various POC frameworks and handbooks, and a qualitative research approach used to conduct in-depth interviews with various power holders at the Iraqi MOD and experts on POC from coalition forces.

3.1 Five research findings

The research produced five observations relevant to developing a POC strategy and policy for Iraq. However, these findings are equally relevant for POC capacity-building in other areas and for Western armies.

a. Increased attention to POC

The literature study of recent military history describes clear progress in understanding the need to win the hearts and minds of the population, understand their security needs and protect them as a critical factor for mission success. As a result, POC has received significantly more attention in military strategy, planning and operations over recent years.

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[724] Victoria K. Holt and Henry L. Stimson Center, 'The Military and Civilian Protection: Developing Roles and Capacities', *Humanitarian Policy Group, HPG Research Briefing* Number 22 (2006), https://media.odi.org/documents/329.pdf.

The journalist and author Thomas Ricks provides an example in his book on the US invasion of Iraq, The Gamble. He describes an event in 2005 in Haditha where 13 civilians were killed in revenge for a car bombing targeting and killing US Marines. He shared: '*One thing they [the US Marines] did not do was protect civilians. This event was critical to understanding the failure of the first years in Iraq and why it became imperative to revamp the US strategy.*'[725] After years of a strategy to eradicate the insurgents, General James Mattis, US commander in Fallujah in 2004-2006, adjusted his approach to countering insurgency, '*[f]ocusing more on showing people respect, working with the tribal leaders and understanding and promoting that 'The people are the prize.*'[726] In *Hunting the Caliphate*, US Generals Dana Pittard and Wes Bryant describe a noticeable shift in emphasis towards preventing collateral damage from military operations. '*Our approach centred on providing humanitarian airdrops, protecting the civilian population and facilitating ground forces to lift the ISIS siege*'. They write elsewhere, '*We did not want to risk hitting innocent civilians*'.[727]

These last accounts show a significant shift in prioritising POC by US and coalition forces compared to the approach at the beginning of operations in Iraq. That at least six extensive POC handbooks have been produced over the last two decades based on lessons learned in military operations suggests the increased salience of POC. The NATO POC framework also recognises that civilians still pay the highest toll during armed conflict and this provided the main reason for developing such a framework.[728]

One indicator of how central POC has become to the military approach is the

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[725] Thomas E. Ricks, *The Gamble: General Petraeus and the American Military Adventure in Iraq* (London: Penguin Publishing Group, 2010).

[726] Jim Proser, *No Better Friend, No Worse Enemy: The Life of General James Mattis* (New York: Broadside Books, 2018).

[727] Dana J. H. Pittard, Wes J. Bryant, and General David Petraeus, *Hunting the Caliphate: America's War on ISIS and the Dawn of the Strike Cell* (New York ; Nashville: Post Hill Press, 2019).

[728] NATO, *Protection of* Civilians, p5, (2019). https://shape.nato.int/resources/3/website/ACO-Protection-of-Civilians-Handbook.pdf.

concluding statements of NATO's Madrid Summit: '*Protection of civilians and civilian harm mitigation is central to our approach to crisis prevention and management.*'[729] This affirms NATO's awareness that POC is crucial to mission success.

As part of the study, the interviewees, some of whom preferred to remain anonymous, confirmed an increased focus on POC over recent years, either due to elevated technical capacities to prevent collateral damage or an increased focus in the media – particularly social media – on civilian casualties. However, this has not yet led Iraq to develop supporting policy and doctrine or updated Standard Operating Procedures (SOPs). Until now, the IAF was guided only by a basic common sense that protecting civilians is vital for the population's trust and support. Iraqi Major General A. (strike cell commander) confirmed this. He shared that after twenty years of war, Iraqis are rebuilding their Army from the ground. They are still learning and updating the Rules of Engagement (ROE). According to him, this is visible in the minimal collateral damage caused by their airstrikes.[730] Colonel D. (coalition pilot) said that '*[n]owadays, in the military Staff College, there is more attention to softer elements in war planning, such as how to win the hearts and minds of civilians. Of course, there are always lessons learned from Afghanistan and Iraq*'.

b. Non-binding POC Character

Although the recent development of POC handbooks has demonstrated an increased awareness of POC, the author Miriam Bradley in her study on POC in conflict questions the convenience of the POC frameworks. She asks, '*[h]ow far they are adequate and appropriate tools for achieving the ends they are designed*

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[729] NATO, *Madrid Summit Declaration*, §13, (2022). https://www.nato.int/cps/en/natohq/official_texts_196951.htm.

[730] Interview No. 3 in the author's Master thesis. General of the Iraqi Strike Cell General A.

for'.[731] Evidence for her question is found throughout her study, as there seems to be a fundamental problem in using the handbooks in practice, especially in capacity-building and development situations. Interviews for this study also confirm that available POC handbooks and doctrines are seldom used in practice. Coalition Colonel O. (an international humanitarian law specialist) shared that POC handbooks are not used either in the Iraqi Army or other armies he worked with.[732] The main reason for this is the non-binding character of the POC handbooks as much as their complexity, making them impractical to use compared with the relatively straightforward ROE. Miriam Bradley also shows that generic POC handbooks are less effective for practical use because they consist of general appeals rather than specific rules. In contrast, clear and unambiguous rules could be more effective in the compliance of combatants.[733]

c. Necessary Contextualisation

The third observation is that existing POC handbooks generally have a Western focus and require capabilities unavailable to forces in a fragile environment such as Iraq. Most handbooks acknowledge their Western audience, demanding high standards to execute and implement the POC recommendations, counting on ample material capabilities and staff expertise. As a result, they lack viable recommendations for a development situation where the fundamentals are absent or weak. Using the handbooks for capacity-building efforts in POC will require simplifying and contextualising the POC approaches for local applications.

For example, the UN handbook acknowledges that developing POC expertise re-

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[731] Miriam Bradley, *Protecting Civilians in War: The ICRC, UNHCR, and Their Limitations in Internal Armed Conflicts*, (1 ed.). Oxford: Oxford Univeristy Press , p.92, (2016). https://doi.org/10.1093/acprof:oso/9780198716389.001.0001.

[732] Interview No. 9 in the authors Master thesis COL ® OD, former OIR and OPS CHAMMAL planning team (2014) and FRA CIS commander of the operation (2015).

[733] Miriam Bradley, *Protecting Civilians in War: The ICRC, UNHCR, and Their Limitations in Internal Armed Conflicts*, (1 ed.). Oxford: Oxford Univeristy Press , p.92, (2016). https://doi.org/10.1093/acprof:oso/9780198716389.001.0001.

quires staff who are already trained and experienced with a suitable organisation, equipment and infrastructure, all of which require financial investment.[734] As already concluded in the five practical lessons, a long-term effort is needed at the international level and during implementation for POC-perceived tasks to become normalised. The NATO handbook also suggests the need for contextualisation: '*POC applications require both an adjustment and an additional effort for which everyone needs to be aware of the (strategic) necessity'*.[735]

Miriam Bradley confirms this as she states, '*[w]here the applicability of a particular (legal) framework is disputed, concrete appeals to that framework are likely to be ineffective or even counterproductive*'.[736] This is true in Iraq, where the application of the legal framework still needs to be fully understood. Iraqi War College faculty members said, '*[w]e understand the need to develop a contextualised POC strategy and educate our students (future generals). We are very interested, but we have the problem that very few people understand the concept of POC and how to implement it due to the absence of doctrine and practical tools.*'[737] The Iraqi General, Director of Military Affairs for Civilians Purposed (MACP), shared that the NATO POC handbook is on his table and he knows the importance of protecting civilians. However, there is nothing Iraqi: '*No POC strategy, no doctrine, no good understanding of the Rules of Engagement, no lines of effort or structural considerations in defence strategy, in the planning of operations, let alone in tactics.*'[738]

Colonel O, sharing his expertise in IHL and advice on contextualising available

[734] United Nations Department of Peace Operations, 'The Protection of Civilians in United Nations Peacekeeping - Handbook', (2020). https://peacekeeping.un.org/sites/default/files/dpo_poc_handbook_ final_as_printed.pdf.

[735] NATO, *Protection of* Civilians, p.22, (2019). https://shape.nato.int/resources/3/website/ACO-Protection-of-Civilians-Handbook.pdf.

[736] Miriam Bradley, *Protecting Civilians in War: The ICRC, UNHCR, and Their Limitations in Internal Armed Conflicts*, (1 ed.). Oxford: Oxford Univeristy Press , p.92, (2016). https://doi.org/10.1093/acprof:oso/9780198716389.001.0001.

[737] Interview No. 7 in the authors Master thesis: Faculty members of the Iraqi War College.

[738] Interview No. 7 in the authors Master thesis MG D.F., Military Affairs for Civilian Purposes director, Iraqi Armed Forces.

POC handbooks, stated that a practical POC handbook for the IAF must be short with drawings, basics and simple directives.[739]

d. Absence of the soldier's perspective

The fourth research finding is that current POC handbooks are developed for the strategic and operational level and can seldom articulate approaches applicable at a tactical level and the soldier's perspective. This renders the handbooks vulnerable to criticism from inside the military, where they will be regarded as detached from reality and overly principled.

The discussions in the literature and the practical examples in the historical accounts of the war led to observations that the handbooks need to be designed to be more helpful for tactical levels of operation. It raises the question of whether handbooks are developed with frontline military activity in mind. Other issues include whether a non-military outsider – even an expert – can fully understand the responsibility for instant decisions in battle and whether that weight of responsibility and reality is duly reflected in the handbooks.

The mismatch in the perspectives of a POC expert and a soldier on operations works both ways: can a non-military outsider – even an expert – fully understand the need for instant decision-making in battle, and the associated weight of responsibility? If so, can they reflect that in handbooks? Does that mean that soldiers themselves, as they prepare for a frontline operation, should be involved in preparing a text which will guide their activities in the heat of battle? The frenzy of a mission and the absence of the information needed to make a rational decision is a world removed from desiccated text of a POC handbook.

This study found that both the POC handbooks and the literature on POC rarely acknowledge the harsh considerations, dangers and practical challenges of mitigating

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[739] Interview No. 9 in the authors Master thesis. (2015)

risks for civilian harm from the soldier's perspective. Hugo Slim confirms the impossibility of always protecting civilians: '*In practice, protecting civilians is often neither possible nor desirable in the urgent pursuit of legitimate war aims.*'[740]

Although the UN POC handbook provides example recommendations for the tactical level, such as: '*Ensure the short-term protection of civilians at the tactical level while also providing ongoing long-term support to the peace process*',[741] the 'how' and specific military tasks are not described. Most of the tactical-level references in the handbook are intertwined with the strategic and operational levels. The UN handbook also recommends a '*mission-specific POC handbook and tabletop exercises*', but it does not provide specific or detailed recommendations.

IHL specialist Colonel O opined that a handbook needs to speak to the military and that it should be about integrating the IHL principle into the conduct of operations and not a juridical approach with articles and paragraphs. He advised keeping the instructions simple. The former MACP Director, reiterated the importance of including POC considerations at the tactical levels when he noted the absence of training on POC or ROE at military colleges, a self-evident starting point to introduce POC awareness.[742]

The historical descriptions show multiple challenges on the battlefield and one can never be fully prepared and trained for them. However, one can also conclude that the failure to protect civilians was not always deliberate but a combination of military necessity, ignorance and a lack of prioritisation in education on mitigation strategies and the importance of protecting civilians.

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[740] Hugo Slim, 'Why Protect Civilians? Innocence, Immunity and Enmity in War', *International Affairs* 79 (1 May 2003): 481–501, https://doi.org/10.1111/1468-2346.00318.

[741] United Nations Department of Peace Operations, 'The Protection of Civilians in United Nations Peacekeeping - Handbook', p.18, (2020). https://peacekeeping.un.org/sites/default/files/dpo_poc_handbook_final_as_printed.pdf.

[742] Interview No. 7 in the authors Master thesis MG D.F., Military Affairs for Civilian Purposes director Iraqi Armed Forces.

e. Significance of individual mindset

The final research claim is that to develop a 'POC mindset', more attention should be dedicated to individual ethics training for the soldier. The power of human emotions resulting in civilian casualties in the conflict, especially in the recent history of sectarian violence and conflict in Iraq, is not just an observed gap. It is a highly relevant and indispensable subject to include in capacity-building on POC in the IAF. Colonel O stated that '*[f]or IAF, when they fight ISIS, they do not consider them as human and so for them, IHL is not applying.*' This confirms not only the forms of rejectionism of the civilian idea by Hugo Slim[743] but also the need to focus on embedding ethical considerations in training in the Iraqi Military Academies. It also shows that the 'fog of war' and connected personal attitudes towards 'the enemy' perceived in civilians can heavily influence the decisions made on a tactical level.

For military people who must deal with this issue in the moments when it matters most, the idea will remain essentially one of individual conscience. Making choices with empathy should more often come to define the character of a soldier. In his recent book on military ethics, Iain King[744] states:

> '*Empathy must be found among established virtues such as bravery, willingness to take initiative, leadership and accountability. These virtues all rely on empathy in one way or another. These character-building aspects should eventually become part of the standards defining leadership. They must become integral to combat officer training and selection.*'[745]

The only reference in the NATO POC Handbook to the tactical level reality and the individual soldier's influence on reducing civilian harm is that '*the local*

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[743] Hugo Slim, 'Why Protect Civilians? Innocence, Immunity and Enmity in War', *International Affairs* 79 (1 May 2003): 481–501, https://doi.org/10.1111/1468-2346.00318.

[744] Iain King is Director of the Ministerial Advisory Division in NATO Mission Iraq and schoolar on Militiary Ethics.

[745] Deane-Peter Baker et al., *Ethics at War: How Should Military Personnel Make Ethical Decisions?* (London: Routledge, 2023). https://doi.org/10.4324/9781003312925.

forces and coalition lacked the comprehensive capacity to adjust tactics to re-duce civilian harm.'[746] This confirms the need to develop POC capacity at the tactical level, although the specific 'how' is not discussed. The importance of in-culcating a pro-civilian mindset is currently underestimated, especially in the educa-tion and mentorship of the mostly young officers who conduct combat operations. POC handbooks, military education and military strategies need to emphasise the im-portance of developing a POC mindset in individual soldiers; it is probably one of the most lifesaving recommendations in the whole field of POC.

4. Conclusion

The study of POC capacity-building in development situations has been instrumental in identifying relevant POC strategies for Iraq. It has also led to a Protection of Civil-ians capacity-building strategy that has been developed with and for the Iraqi Armed Forces. By introducing where POC is relevant to military tasks gradually, a process that involved a wide range of stakeholders and experts, the subject gained momentum. Iraqi flag officers developed an understanding and felt able to impress the topic on their subordinates. This led to a positive feedback cycle within Iraq's armed forces and the importance of Protection of Civilians snowballed. In July 2024, the strategy was endorsed by the Iraq's most senior military officer, the Chief of Defence, as a starting point for the implementation. During the process, it was tempting to assign high am-bitions for an Iraq-specific POC strategy, including with an implementation action plan to advance competence on POC throughout the IAF. Such high ambitions became realistic only later, once senior military officials understood the strategic necessity of the subject; expressed interest in developing POC capacity by the Iraqis is now high. However, as one interviewee advised: 'Keep it simple'. This was especially true be-fore the need for POC was widely accepted. Simplicity helps ensure that an Iraqi strat-

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[746] NATO, *Protection of* Civilians, p.22, (2019). https://shape.nato.int/resources/3/website/ACO-Protection-of-Civilians-Handbook.pdf.

egy will not remain a 'paper reality' that is generally ignored. Even now, a focus on applying POC in practice is needed, as that may be the basis of rebuilding trust in the Iraqi security institutions.

The primary obstacle to prioritizing POC remains a lack of awareness of the importance of POC for mission success. This also applies to NATO Allies. This was a central lesson of the failure in Afghanistan, but it has yet to be applied. Both frontline soldiers and mission commanders should be reminded that the protection of civilians may not win you the war, but without it, you would surely lose.

Suggested further reading

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Slim, Hugo. 'Why Protect Civilians? Innocence, Immunity and Enmity in War'. *International Affairs* 79 (1 May 2003): 481–501. https://doi.org/10.1111/1468-2346.00318.

United Nations Department of Peace Operations. 'The Protection of Civilians in United Nations Peacekeeping - Handbook', 2020. https://peacekeeping.un.org/sites/default/files/dpo_poc_handbook_final_as_printed.pdf.

CHAPTER XIII

Caroline Baylon

Iryna Gerasymenko

IMPACTS OF CORRUPTION AND MIGRATION ON RECONSTRUCTION: LESSONS FROM THE UKRAINE SCENARIOS 2040 PROJECT

Abstract

This chapter builds on a strategic foresight research study involving the development of scenarios for the reconstruction of Ukraine commissioned by the First Deputy Speaker of the Ukrainian Parliament (the Verkhovna Rada), and jointly carried out by the Ukrainian Parliament, the UK Parliament, the United Nations Development Programme (UNDP) in Ukraine and other partners. It presents and expands on insights from the study relating to the effects of corruption and migration on reconstruction. With regards to corruption, it examines the potential for the country's decentralisation drive to reduce corruption. The chapter also considers whether its digitalisation efforts and the greater transparency that this affords can contribute to anti-corruption efforts. It also considers pitfalls to avoid in each case. With regards to migration, the chapter looks at how digitalisation can provide increased support for refugees and internally displaced persons (IDPs) and the potential side effects to overcome. It also discusses a host of related issues such as what may happen as refugees and IDPs return to liberated territories in Donbas and Crimea and the need to attract the return of refugees to garner the necessary labour force for reconstruction. Using Ukraine as a case study, the chapter draws wider implications for other countries regarding the impact of corruption and migration on reconstruction and how the use of scenario planning can aid reconstruction efforts.

Keywords: reconstruction, corruption, migration, strategic foresight, scenario planning.

1. Introduction

The invasion of Ukraine has created a large amount of uncertainty and instability for Ukraine and the rest of the world. The country faces many unknowns including how long the war will last, the extent of the destruction that Ukraine will experience and what the borders of Ukraine will be at the end of the war. Ukraine's reconstruction is an enormous and complex task that will take decades and require billions of dollars. To better strategise under uncertainty, the Ukrainian Parliament (the Verkhovna Rada) in cooperation with the UK Parliament, the UNDP in Ukraine and other partners have carried out a strategic foresight study on the reconstruction of Ukraine. This chapter presents the study's key findings regarding the effects of corruption and migration on reconstruction in Ukraine.

2. Overview of the project
2.1 Project Background

The strategic foresight study was commissioned by the First Deputy Chairman of the Ukrainian Parliament, Oleksandr Korniyenko[747]. It was implemented by three main partners: the Ukrainian Parliament's Inter-factional Union (IFU) 'Strategic Foresight of Ukraine', a cross-party group of Ukrainian parliamentarians focused on promoting the use of strategic foresight; the UK Parliament's All-Party Parliamentary Group (APPG) for Future Generations, a cross-party group of UK parliamentarians that promotes greater long-term thinking in policymaking; and the UNDP in Ukraine, which played a central coordinating role.

It was convened by the Chairs of the IFU, Oleksii Zhmerenetskyi[748] and Viktoriya Podgorna[749] and the Chair of the APPG, Bambos Charalambous.[750] Other interna-

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[747] A member of the Ukrainian Parliament and Co-Chair of the NATO-Ukraine Interparliamentary Council.

[748] A member of the Ukrainian Parliament and Chair of the Subcommittee on Anti-Corruption Policy.

[749] A member of the Ukrainian Parliament and a member of the Committee on Digital Transformation..

[750] A member of the UK Parliament and former Shadow Minister for Immigration.

tional partners included the European Parliament Research Service (EPRS), the European Commission's Joint Research Centre (JRC) and the Oxford Scenarios Programme at Oxford University. The project was run by a team of four experts from the UNDP in Ukraine and the UK Parliament who were the authors[751] of the study's final report, *Scenarios: Ukraine 2040.*[752]

2.2 About Strategic Foresight and Scenario Planning

Strategic foresight makes use of a structured approach to anticipate potential future developments or events, particularly in situations in which there are high levels of uncertainty, and applies these insights to engage in strategic planning. It does not attempt to predict the future; rather, it views the future as 'an emerging entity that is only partially visible in the present.'[753] By studying emerging signals and trends, it is possible to glean clues about how the future might unfold – and the various threats and opportunities that would exist in each situation. In considering a range of different possible future trajectories, strategic foresight acts to challenge assumptions and cognitive biases regarding the future. The approach requires regularly revising and updating these views in response to rapidly changing conditions. These insights are used to develop strategies to increase preparedness for these threats and opportunities.

There are a wide variety of strategic foresight methods.[754] The team of experts chose

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[751] They are referred to as 'the team of experts' in this chapter. Two of these experts, Caroline Baylon and Iryna Gerasymenko, are the authors of this chapter.

[752] Caroline Baylon, Ievgen Kylymnyk, Iryna Gerasymenko, and Olena Bazylivska, *Scenarios: Ukraine 2040,* IFU 'Strategic Foresight of Ukraine', Verkhovna Rada, Kyiv, 2023. https://bit.ly/3R7Atpk.

[753] OECD, 'What Is Foresight?' OECD, accessed September 30, 2023, https://www.oecd.org/ strategic-foresight/whatisforesight/.

[754] Waverley Consultants, The Futures Toolkit: Tools for Futures Thinking and Foresight Across UK overnment, (November 2017), accessed November 20, 2023. https://www.gov.uk/government/publications/futures-toolkit-for-policy-makers-and-analysts.

to employ scenario planning, a technique that involves developing short stories that describe different possible futures,[755] as this is particularly effective in helping policymakers envision different possible futures. Scenario planning was first developed during the Cold War by military strategist Herman Kahn at the RAND Corporation to explore the full implications of nuclear war. Because the technique has proven so useful, it has come to be used across a wide array of disciplines and environments, including by the private sector and by governments around the world.

The uniqueness of the study

While scenario planning has been used in conflict-affected environments, this project is significant because it was launched in the first few months of a full-scale war. It also stands out because of the high-level patronage accorded to it in the Ukrainian Parliament and the strong support provided by international partners.

2.3 Project Scope

Definition of reconstruction

The project scope of 'the reconstruction of Ukraine' includes not just physical aspects such as rebuilding houses and infrastructure but also building strong institutions and ensuring social cohesion. Reconstruction is also not just a post-war endeavour but a process that is already underway, despite the war being ongoing.

Timeframe

The timeframe of 2040 was chosen for the scenarios because the current Re-

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[755] Rafael Ramirez, *Strategic Reframing: The Oxford Scenario Planning Approach*, Oxford: Oxford University Press, (2016).

covery and Development Plan developed by the National Council for the Recovery of Ukraine from the War [756] runs to 2032. A perspective several years beyond provides the most useful strategic insights on the current plan.

Scenario uses

The Ukrainian Parliament is currently using the scenarios to stress test some of the reconstruction policies that it is considering. The scenarios are also designed to inform the work of the Ukrainian government more broadly. To this end, the co-chairs of the IFU and the team of experts presented the scenarios and their implications to the deputy ministers of key government departments and other senior officials. The scenarios are also intended to be of use to those involved in stability and reconstruction efforts in other conflict and post-conflict environments, which prompted the authors to share relevant findings in this chapter.

2.4 Methodology

Project timeline and phases

The study was conducted over the course of seven months between mid-July 2022 and mid-February 2023. The development of the scenarios involved two phases: (1) a horizon scanning and environmental scanning exercise; and (2) a series of workshops.

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[756] Government of Ukraine, 'Cabinet of Ministers of Ukraine - About the National Council for the Recovery of Ukraine from the War.' https://www.kmu.gov.ua/en/national-council-recovery-ukraine-war/about-national-council-recovery-ukraine-war.

Phase 1

Horizon scanning and environmental scanning

The first phase involved carrying out a horizon scanning and environmental scanning exercise to identify emerging and current trends impacting the reconstruction of Ukraine.[757] To identify these trends, the team of experts examined news articles and social media posts and conducted an extensive review of the academic literature. The exercise identified some 160 trends in all.[758]

Trends involving corruption and migration

While the previous study involved identifying trends across all areas, this section presents the key trends specifically related to corruption and migration, as these are the focus of this chapter.

Corruption

Corruption is a legacy of Ukraine's Soviet past and the country has been attempting to tackle the issue for decades. The government's anti-corruption efforts have intensified since the war [759] and there have been several high-profile firings of corrupt officials.[760] The government has also been pursuing de-oligarchisation, a crucial step given that Ukrainian oligarchs have long leveraged their money and ownership of the media to influence the government for personal gain[761]

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[757] Horizon scanning involves spotting weak signals, or early indicators of emerging trends, while environmental scanning exercise involves identifying tends that are already causing major changes.

[758] To view all of the trends identified as part of the project: https://www.foresightua.com/.

[759] Ivana Kottasová, Kostan Nechyporenko, and Jo Shelley, 'Zelensky Promotes Anti-Corruption Efforts in Ukraine,' CNN, (January 24, 2023), accessed November 26, 2023. https://edition.cnn.com/2023/01/24/europe/ukraine-anti-corruption-zelensky-intl/index.html.

[760] Seddon, Sean, 'Ukraine Fires Military Conscription Officials for Taking Bribes,' BBC News, (August 11, 2023), accessed November 26, 2023. https://www.bbc.com/news/world-europe-66478422.

[761] Mark Raczkiewycz and Polina Ivanova, 'Ukraine Passes Law to Curb Political Influence of Oligarchs,' *Financial Times*, (September 23, 2021), accessed November 26, 2023. https://www.ft.com/content/b9dbdbf1-7337-42e8-98f6-5a062c084e81.

Ukraine's efforts to combat corruption have also included a decentralisation drive. When implemented effectively, devolution of power to the local level can have a major impact on reducing corruption.[762] However, achieving this requires robust monitoring mechanisms by the government and independent Ukrainian and international agencies.[763] This includes public oversight in the form of a free and independent press.[764]

Migration

Migration has included a mass flow of refugees, primarily women and children, many of them to the European Union (EU). There has also been a major movement of internally displaced persons (IDPs) from the eastern part of Ukraine, where fighting has been heaviest, to the western part. Other movements include the forcible deportation of Ukrainians to filtration camps in Russia and the abduction of Ukrainian orphans to Russia.[765]

TTo support refugees and IDPs – and tackle corruption – the government has undertaken a major digital transformation effort. Digitalisation can reduce corruption by enhancing transparency. The government has rolled out a number of digital tools to this end. For instance, the Digital Reconstruction Environment for Accountable Management (DREAM)[766] platform tracks the use of state funds for reconstruction projects. It also supports the government's decentralisation drive[767] since it operates at both the

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[762] Roger Myerson, 'Postwar Reconstruction Assistance and Local Governments in Ukraine', in *Supporting Ukraine: More Critical than Ever*, ed. Yuriy Gorodnichenko and Vladyslav Rashkovan (London: CEPR Press, 2023), 81–84. Torbjörn Becker et al., 'Anti-Corruption Policies in the Reconstruction of Ukraine,' in *Rebuilding Ukraine: Principles and Policies*, ed. Yuriy Gorodnichenko, Ilona Sologoub, and Beatrice Weder di Mauro (Paris: Centre for Economic Policy Research, CEPR Press, 2022), 71–97.

[763] Torbjörn Becker et al., 'Anti-Corruption Policies in the Reconstruction of Ukraine,' in Rebuilding Ukraine: Principles and Policies, ed. Yuriy Gorodnichenko, Ilona Sologoub, and Beatrice Weder di Mauro (Paris: Centre for Economic Policy Research, CEPR Press, 2022), 71–97.

[764] Christian Lessmann and Gunther Markwardt, 'One Size Fits All? Decentralization, Corruption, and the Monitoring of Bureaucrats,' *World Development* 38, no. 4 (April 1, 2010): 631–646.

[765] 'Russia's Systematic Programme for the Re-Education and Adoption of Ukraine's Children,' Conflict Observatory, Humanitarian Research Lab, Yale School of Public Health, (2023). https://hub.conflictobservatory.org/portal/sharing/rest/content/items/b024b68ca6e54ecdadec2e79fa779f2d/data.

[766] DREAM: https://dream.gov.ua/.

[767] OECD, *Rebuilding Ukraine by Reinforcing Regional and Municipal Governance, OECD Multi-Level Governance Studies* (Paris: OECD, December 2, 2022).

national and local levels. Similarly, its asset declaration system for public officials monitors their wealth and flags potential conflicts of interest. Yet implementation can be hindered by political actors with vested interests[768]

The effectiveness of such digital tools in tackling corruption is thus contingent on a strong civil society that provides effective oversight.[769] Digitalisation can also support refugees and IDPs by facilitating access to public services. The government has rolled out several digital tools to achieve this. For instance, the Diia app provides services such as enabling IDPs to register for cash assistance and access to digital documents such as ID cards.[770] Similarly, the eDopomoga[771] platform facilitates the provision of humanitarian aid by volunteers and benefactors to IDPs and other war victims struggling to meet basic needs. However, such tools can exclude individuals who do not have tech skills as their success depends on active participation.[772]

Phase 2

Workshop discussions

The second phase involved 12 workshops to explore the trends identified and the ways they might evolve. The workshops brought together participants from a wide variety of backgrounds, as it is this diversity of perspectives that generates some of scenario planning's most valuable insights. Participants included Ukrainian and British parliamentarians, UNDP and EU representatives and specialists from dis-

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[768] Marta Králiková, 'Importing EU Norms: The Case of Anti-Corruption Reform in Ukraine,' *Journal of European Integration* 44, no. 2 (February 17, 2022): 245–260.

[769] Niklas Kossow and Roberto Martínez Barranco Kukutschka, 'Civil Society and Online Connectivity: Controlling Corruption on the Net?' *Crime, Law and Social Change* 68, no. 4 (November 1, 2017): 459–476.

[770] Diia: https://diia.gov.ua/.

[771] eDopomoga. 'The eDopomoga Platform', Ministry of Social Policy of Ukraine, access at: https://edopomoga.gov.ua/en/.

[772] Anupriya Khan, Satish Krishnan, and Amandeep Dhir, 'Electronic Government and Corruption: Systematic Literature Review, Framework, and Agenda for Future Research,' *Technological Forecasting and Social Change* 167 (June 1, 2021): 120737.

ciplines ranging from economics and energy to information technology (IT) and infrastructure. These specialists were drawn from government departments, academia, civil society and the private sector. The workshops were also balanced in terms of gender and age distribution.

Categorising trends

The first workshop focused on dividing the trends into two categories: predetermined elements and critical uncertainties. Predetermined elements are trends that can be predicted with near certainty, perhaps because they have already begun to occur. It is important to incorporate predetermined elements into the scenarios to incorporate what we already know is happening. Critical uncertainties are trends that are highly uncertain and will have a major impact on the future; we do not know which direction they will move in, but whichever way they do will have a big impact. Their exploration generally yields the most useful insights.

Tables 1 and 2 display the key predetermined elements and critical uncertainties that were identified involving corruption and migration.

Table 1. Predetermined elements involving corruption and migration

Corruption
- Anti-corruption drive by the government
- De-oligarchisation drive by the government
- Decentralisation drive by the government

Migration
- Refugees (primarily women and children) fleeing to neighbouring countries, the EU and elsewhere
- IDPs moving from the eastern part of Ukraine to the western part
- Deportation of Ukrainian civilians to Russia via filtration camps
- Forcible transfer of Ukrainian children to Russia for adoption by Russian families

Both
- Digital transformation drive by the government

Table 2. Critical uncertainties involving corruption and migration

Corruption
- Will Ukraine be able to effectively tackle corruption? Or will the influx of billions of dollars in military, reconstruction, and other funding cause an increase in corruption?
- Will decentralisation be able to reduce corruption?
- Will digitalization be able to increase transparency and reduce corruption?
- How will the war impact Ukrainian oligarchs? Will their power decline?
- Will Ukraine be able to develop a truly free press able to hold corrupt individuals to account?

Migration
- Will a significant number of IDPs or refugees from the eastern part of Ukraine – notably Donbas and Crimea – who fled to the western part or abroad return after the war, despite heavy destruction in the east? If so, what will they have to contend with when they return?
- How will those who remained in Ukraine during the war view those who spent the war abroad as refugees? Will they have feelings of anger or resentment towards them?
- How will refugees and IDPs view those who stayed behind – especially those who remained in the occupied territories? Will they see them as Russian collaborators?
- Will refugees return after the war? If they do not return, how will Ukraine obtain a large enough labour force for reconstruction?
- If refugees do not return after the war, will they lose their ties to Ukraine? Or could they turn into a Ukrainian diaspora and serve as 'ambassadors' abroad, promoting Ukrainian culture around the world?
- Could digital tools help refugees stay connected to Ukraine?
- Will it be possible to maintain educational standards for children who are IDPs or refugees? Can online education play a role?
- Will Ukrainian children forcibly transferred to Russia and adopted by Russian families become russified and lose all ties with Ukraine?

Subsequent workshops explored the interactions between trends. The discussions centred around the many different ways in which the critical uncertainties could unfold, while also taking the predetermined elements into account. This led to the realisation that various trends could interact with each other in new and unexpected ways, giving rise to a number of different possible scenarios.

3. Analysis and research results

There are an infinite number of different possible future scenarios. Scenario planning involves selecting a small number that provide especially valuable perspectives to develop into scenario stories. The team of experts chose four that offered important new insights for the reconstruction of Ukraine; these are presented below.

In each instance, the authors present a summary of the scenario followed by an in-depth discussion of its corruption and migration aspects. Those interested in the full scenario stories can consult the *Ukraine: Scenarios 2040* publication.[773]

Scenario 1: World War

Scenario overview

A global financial crisis and the outbreak of war between the US and China means that Western countries are no longer able to provide timely military and financial support to Ukraine. This allows Russia, aided by Belarus, to capture much of eastern and southern areas of Ukraine. In the northwest, Ukraine continues to fight tenaciously. Yet Russia is able to advance further onwards, moving against Moldova and then Estonia, a NATO member. In response, NATO is forced to enter the war directly. However, given that Russia has already taken so much territory, NATO faces a fight that is much more costly in terms of money and lives.

Scenario aspects involving corruption and migration

Corruption

Resources are so constrained that corruption has fallen significantly. With limited financial and military support from NATO and EU countries, the government of Ukraine is committed to achieving victory and recognises that it simply cannot afford to have any resources diverted from the war effort. It engages in

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[773] Caroline Baylon, Ievgen Kylymnyk, Iryna Gerasymenko, and Olena Bazylivska. *Scenarios: Ukraine 2040*. IFU 'Strategic Foresight for Ukraine', Verkhovna Rada. Kyiv, 2023. https://06aa 4bee-1d12-4560-82c0-1459374eca15.usrfiles.com/ugd/06aa4b7d21bfe13e1f471186e0567fa 3aec577.pdf.

an anti-corruption campaign of unprecedented magnitude and the campaign's success makes it possible for it to continue to defend itself against such large odds.

Migration

Many IDPs, primarily from eastern and southern Ukraine, have fled to the free areas of Ukraine in the northwest. They are warmly welcomed, in part because their labour is badly needed. Ukraine is struggling with a labour shortage since most men and many women are fighting in the war. IDPs who settle in cities are swiftly employed in the manufacture of war goods or in rebuilding infrastructure damaged by bombing. Those who move to towns and villages are put to work in agriculture, as agricultural output has declined considerably due to landmines in the fields.[774]

The large number of Ukrainian refugees in EU and NATO countries puts additional economic pressure on these countries which are already facing financial difficulties. Many refugees require social assistance, while others compete with locals for jobs. This, combined with a Russian disinformation campaign blaming Ukrainian refugees for stealing their jobs, causes the citizens of EU and NATO countries to turn against Ukrainian refugees and more broadly against continuing to provide Ukraine with costly military support.

At the same time, millions of Ukrainian children have been forcibly taken to Russia for adoption. Many were too young to remember their origins and lose all ties with their homeland, becoming assimilated into Russian culture, and Ukraine loses these future generations forever.

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[774] A recent map of affected areas accessible at: https://mine.dsns.gov.ua/.

Scenario 2: Drift to Autocracy

Scenario overview

After much fighting, Ukraine is able to regain the territory lost following the February 2022 invasion and the two countries sign a peace agreement, under urging from Western countries. Ukraine appears poised for a bright democratic future, especially given that the war has diminished the power of the Ukrainian oligarchs. But Russia, though weakened, is still formidable. Ukraine remains on high alert and maintains many of the authoritarian tendencies adopted during the war. Corruption in the rebuilding process causes a new class of oligarchs to emerge. This creates cracks in Ukraine's relationship with the West and Ukraine increasingly moves towards China and other authoritarian states as partners. However, a growing Ukrainian opposition abroad offers a ray of hope.

Scenario aspects involving corruption and migration

Corruption

While the war initially brought about a decline in corruption, the influx of billions of dollars in reconstruction funding caused it to reappear. At the onset, the war severely weakened the power of the Ukrainian oligarchs, as many of their holdings – big industrial complexes in the east which saw the heaviest fighting – were destroyed. The government's de-oligarchisation push combined with its tight control of the media under martial law prevents the oligarchs from using their media influence to control the government.

Yet heavy corruption in the allocation of reconstruction funds means that large reconstruction contracts are awarded to those with close ties to the government. A new class of Ukrainian oligarchs emerges who have acquired money and power in this way. Meanwhile, regions badly in need of reconstruction funding are neglected if they are not of the same political party as those in power.

The resurgence of corruption also means Ukraine cannot meet the anti-corruption

targets required to join the EU, contributing to the shift away from the EU and the West more broadly. The Ukrainian population feels a strong sense of injustice as this is a betrayal of what they were promised and all that they fought for.

Migration

Many refugees choose not to return to Ukraine after the war, believing they have better opportunities abroad. There is a tremendous post-war labour shortage for reconstruction, especially since millions have been either killed in the fighting or have debilitating injuries.

This prompts Ukraine to seek sources of labour in other countries. As it pulls away from the West, it increasingly turns towards authoritarian regimes and there is a large influx of workers from Central Asia who bring elements of their own cultures with them, including religion.

China provides loans for large infrastructure projects and Saudi Arabia also invests in the country. None of these countries are particularly respectful of workers' rights, nor do they have high construction standards or respect environmental considerations.

However, there is growing opposition in the large Ukrainian refugee community abroad and Ukrainian-language media outlets outside the country increasingly publish reports critical of the government.

Scenario 3: Decentralised Digital Survival

Scenario overview

Russian missile strikes against Ukrainian cities persist for years. This, combined with fear of a nuclear attack, prompts a significant population movement to towns and villages. Life there is not only safer but more self-sustaining, with people growing their own food and gathering firewood for heat. It also becomes increasingly tech-centric, aided by the government's digitalisation and decentralisation drives. However, there is limited scope for economic growth and cyber attacks are frequent. As both sides approach exhaustion, Russian attacks gradually slow and the war turns into a frozen conflict. However, many choose to remain in towns and villages, either because they appreciate the greener lifestyle or because they know that fighting could break out again at any time.

Scenario aspects involving corruption and migration

Corruption

The Ukrainian government's decentralisation and digitalisation efforts go some way towards reducing corruption, although they cannot eliminate it. Ukrainians embrace digital tools made available by the government to take part in local democratic processes, including e-voting in local elections. Urbanities that are more accustomed to using technology are among the first to adopt these digital tools as they settle in towns and villages. Townspeople and villagers soon emulate them, increasing grassroots democratic participation. The local police chief and local judges are now elected through online voting, helping reduce local corruption. However, influential local businessmen – small-scale oligarchs of sorts – have long controlled local politicians and their power cannot be broken so easily.

Migration

De-urbanisation takes place over the course of several years as city dwellers move to towns and villages in the central-west part of Ukraine further from the fight-

ing. This enhances Ukraine's resilience since towns and villages are at lower risk of missile attacks and are more self-sufficient.

City dwellers arriving in towns and villages are also attracted by the lower cost of living. On arriving, they embrace the greener lifestyle. They also appreciate the strong sense of community with people coming together to share resources. People from cities also become better acquainted with traditional Ukrainian culture, which is strong in rural areas.

However, the depopulation of cities contributes to a fall in science and innovation, as universities and research centres shrink. Ukraine undergoes de-industrialisation and the economy is primarily composed of small businesses and microenterprises.

Tech-savvy city dwellers embrace the government's digital tools as they arrive in towns and villages, making use of apps like Diia to rapidly register as IDPs and apply for benefits. These digital tools also allow them to access local healthcare and education services for their children. With towns and villages becoming increasingly tech-centric, people arriving from cities can continue working remotely for their current employers and businesses that have to relocate can retain their workforce through teleworking. These digital tools also enable refugees abroad to vote in Ukrainian elections, helping them stay connected with their homeland.

Yet this tech-centricity means that those who are not technologically skilled (such as many older people), the very poor and those without reliable access to the internet are left out. It also makes internet outages that follow bombings particularly disruptive.

Scenario 4: The Hard Work of Unity

> **Scenario overview**
>
> Ukraine makes steady gains on the battlefield, aided by unwavering support from its Western allies. Inspired by these gains, several Russian separatist regions rise up and break away, weakening Russia and diverting its attention from Ukraine. This helps Ukraine to regain Donbas and Crimea. However, the end of the war brings new challenges; Ukraine embarks on complex task of reintegrating Donbas and Crimea. It also undertakes years of democratic and economic reforms to join NATO and the EU. In attaining these goals, Ukraine ensures its long-term security and prosperity, especially given that NATO and the EU have been further strengthened by a number of other countries also joining.

Scenario aspects involving corruption and migration

Corruption

More determined than ever in the face of relentless Russian attacks, the Ukrainian government carries out a massive anti-corruption drive. It engages in the large-scale firing of corrupt police officers and judges and the prosecution and jailing of high-ranking government officials found to have taken bribes. While before the war Ukraine spent years attempting to tackle corruption with limited progress, the war created the conditions that enabled it to do so successfully. By weakening the power of the oligarchs whose eastern holdings have been largely destroyed, the war has removed one of the largest obstacles to tackling corruption. The war has also strengthened political will, since addressing corruption is key to joining the EU and NATO[775] – a higher priority than ever – and reassuring its Western partners and other donors that the funding they are providing for the war is being well spent.

The desire for EU membership also spurs the Ukrainian government to liberalise the press, which had been severely restricted to clamp down on disinformation. Instead, the Ukrainian government focuses on educating the public on how to

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[775] NATO, *Building Integrity*, (2024). https://www.nato.int/cps/en/natohq/topics_68368.htm.

recognise disinformation and on sharing truthful narratives. This permits the growth of a free press able to hold corrupt politicians to account.

Migration

With Ukraine's reunification with Donbas and Crimea, many refugees and IDPs who fled these regions return. This includes many Crimean Tatars, the indigenous people of Crimea.

Yet returning refugees and IDPs encounter challenges. Many territories have been under occupation for 12 years, during which time their inhabitants have been subjected to massive propaganda to turn them against Ukraine. Some returning refugees and IDPs therefore have feelings of mistrust towards those who remained, viewing them as collaborators and even perpetuating revenge attacks.

In addition, Russians settled these regions during the occupation and seized the homes and other property of Ukrainians. The Ukrainian government recognises the need to balance restoring justice with fostering social cohesion and steps in to expel these individuals and return the property to their rightful owners. At the same time, and despite some opposition from the Ukrainian population, it proclaims an amnesty for those whose collaboration was relatively minor. Tensions slowly start to abate.

Some of the refugees who lived in the EU during the war returned to assume positions in the Ukrainian government. The familiarity they acquired with EU practices helps Ukraine implement the required reforms for EU membership.

4. Discussion

These scenarios have a number of strategic implications for the reconstruction of Ukraine. This section discusses some of their insights into corruption and migration.

Corruption

Scenario 4 reveals that the unique circumstances arising from the war – the declining power of the Ukrainian oligarchs and the emergence of real political will to pursue anti-corruption efforts – have created an unprecedented opportunity for Ukraine to successfully tackle corruption. The government's current anti-corruption efforts are therefore paramount. They are also more crucial than ever in order to reassure Western funders.

Yet Scenario 2 illustrates how corruption in the reconstruction process could undo many of the gains that Ukraine achieved during the war. Despite the weakening of the oligarchs, the inflow of billions in reconstruction funding could revive corruption and lead to the emergence of a new oligarchy. A Ukrainian military victory could also fail to deliver a bright future for Ukraine if corruption prevents it from attaining EU membership and it instead veers in an authoritarian direction. Close monitoring of the reconstruction process for corruption and the implementation of barriers to prevent the rise of a new oligarchy will be essential.

Scenario 3 indicates that decentralisation may help to reduce corruption. Although it is not a panacea, it can be effective in combination with a mix of other strong anti-corruption measures. Such measures include fostering a free press, as illustrated in Scenario 4. This will need to be paired with educating the public, including in Donbas and Crimea, on how to identify fake news and a redoubling of efforts to counter disinformation.

Migration

Scenarios 1 and 2 indicate that, with many Ukrainian refugees having left the country, garnering the labour force needed for reconstruction may be a challenge. The government will need to design repatriation policies that incentivise large

numbers of Ukrainians abroad to return. Scenario 3 shows that there could be a major population movement to towns and villages, which can strengthen Ukraine's resilience and provide a greener lifestyle, although it would have drawbacks such as limited economic growth. In this instance, the government's digitalisation drive will be essential to ensure that people can continue to work remotely. High levels of cyber security investment are needed to defend against attacks. The predominant role of technology also means that fostering digital skills among the population is key to ensure inclusion.

The government could also leverage technology to foster ties with refugees, including remote education for children, to ensure they retain a strong connection to Ukraine. Scenario 4 reveals that Ukrainian refugees in the EU could make valuable contributions to the Ukrainian government's efforts to join the EU post-war due to the valuable knowledge they acquired abroad. The government may therefore wish to focus recruitment efforts on them.

Scenario 4 also indicates that the reintegration of Donbas and Crimea will be highly complex due to distrust between returning refugees and IDPs and those who remained under the occupation. The government will need to play a crucial role in helping to foster societal cohesion if reunification is to be successful. It will also need to swiftly restore justice by enforcing the return of property that was seized from Ukrainians and expelling those who settled in these regions under the occupation.

Scenario 1 also sheds light on the potential for disinformation to undercut support for Ukraine in countries providing it with high levels of military support. Countering such disinformation is a key priority.

5. Conclusion

This study not only yields findings with regards to the effects of corruption and

migration on the reconstruction of Ukraine but it also has broad applicability for reconstruction efforts elsewhere. Ukraine's efforts to tackle corruption through decentralisation and the increased transparency of digitalisation provide lessons for other countries.

The scenarios suggest that while decentralisation and digitalisation have the potential to reduce corruption, challenges could come in the form of powerful local actors whose influence is not so easily broken or entrenched interests that hinder the implementation of digital tools. NATO SFA and other advisers implementing stabilization and reconstruction projects in other countries will want to pair decentralisation and digitalisation efforts with robust monitoring mechanisms and the fostering of an independent media to be effective in countering corruption.

Ukraine's development and deployment of digital tools also provides insights for other countries. More and more countries with large numbers of refugees and IDPs are likely to make use of such technological solutions. The Diia app is being rolled out in Colombia and Zambia, for example.[776]

The potential impact of these digital tools is played out further in the scenarios, where they are used for everything from providing cash assistance to healthcare and education. For advisers working in such zones, the scenarios have shown that it will be crucial to educate the population in digital literacy otherwise these technological solutions risk excluding significant segments of the population, including older people and the very poor.

Finally, this study highlights the value of using scenario planning in reconstruction processes. The insights derived can help identify challenges and opportuni-

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[776] 'Columbia and Zambia to be first to implement Ukraine's Diia – USAID chief,' *Ukrinform*, accessed November 27, 2023, https://www.ukrinform.net/rubric-economy/3713264-colombia-kosovo-zambia-to-be-first-to-implement-ukraines-diia-usaid-chief.html, May 23, 2023.

ties as well as how to mitigate the challenges and seize the opportunities. SFA and other advisers wishing to make use of these techniques will need to secure broad participation from government, civil society, academia, international organisations and partner governments. The authors hope that the approach detailed in this chapter can serve as a model for others wishing to implement scenario planning to assist them in their reconstruction work.

Suggested further reading

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BIOGRAPHIES

Matteo Luciani is a Colonel in the Italian Army, currently serving as the Director of the NATO SFA Centre of Excellence (COE). He joined the Army Military Academy in 1994 and following training was assigned to the 66th Airmobile Regiment where he served as an infantry platoon leader and rifle company commander. While with the Regiment, he was deployed to Albania, the Republic of Northern Macedonia, Iraq and twice to Afghanistan. He then served on the Army General Staff before being assigned to the 'Sassari' Brigade HQ and deployed to Afghanistan and Lebanon. After that, he was posted to the 152nd 'Sassari' Infantry Regiment as 1st Battalion Commander and deployed to Afghanistan. Next, he served as Chief of Staff of the 'Sassari' Brigade and deployed to Lebanon as Sector West Chief of Staff (UNIFIL). Between 2021 and 2023, he returned to the 152nd 'Sassari' Infantry Regiment as Commander. He holds a Bachelor's degree in international political sciences from the University of Turin and a Master's degree in international military strategic studies from the LUISS University in Rome. He has lectured on security force assistance in international organisations and universities.

Ludovica Glorioso is an Italian Officer serving as Legal Adviser at the NATO SFA COE. Previously she served as a Law and Policy Researcher at the NATO CCD COE and in NATO peacekeeping operations in the Balkans and Afghanistan and the UN Mission in Lebanon. She has previously served in the Italian Joint Operation HQ and the Army General Staff HQ. Maj. Glorioso holds a law degree from the University of Palermo, an LLM in European and transnational law from Trento University and recently gained a Master's degree in Politics and Management of the Middle East and North Africa from LUISS University in Rome. She is a member of the Italian Bar Association. Major Glorioso is a full member of the International Humanitarian Law Institute in Sanremo, Italy. She has lectured at the Italian Centre for Higher Defence Studies, the World Summit on Counterterrorism at the Interdisciplinary Centre, Herzliya and at Allied Joint Force Command, Brunssum. She is co-editor of *Ethics and Policies for Cyber Operations* and edited *Promoting the Rule of Law and Good Governance: SFA Implications in International Initiatives* for NATO SFA COE. Major Glorioso also co-edited

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Susan Pond is a NATO SFA COE Senior Fellow and Director of the Glendon School of Public and International Affairs at York University, Toronto. She is a former NATO senior officer responsible for the design and implementation of NATO's Building Policy and Action Plan. She has extensive experience in assessing risks, developing policy and the design and implementation of assistance to build capacity. She has served NATO in positions in Norfolk, Kyiv and Brussels. Before taking up her first NATO assignment at ACT in 1989, she served as a policy adviser in the Canadian Coast Guard in Ottawa. In 2018, she was awarded the Canadian Meritorious Service Cross for her contribution to NATO. She contributed to the *Insights on Strategic Advising for Security Force Assistance* published by the NATO SFA COE.

Borja Montes Toscano is e-LAWFAS Legal Content Manager at the NATO ACO Office of Legal Affairs at SHAPE. He completed his PhD at the University of Seville on Autonomous Weapons and International Responsibility, having also completed his training at the same University with a master's in public law and Specialisation Diploma in Human Rights and Democratisation at the European University Institute, at the NATO School of Oberammergau, as well as at the Hague Academy of International Law. He is a member of the Bar Association of Lucena (Córdoba, Spain). Dr Toscano is the author of publications on artificial intelligence and state responsibility, food security, international administrative tribunals, maritime security and climate change, outer space and privileges and immunities of international organisations.

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Abigail Watson is a research fellow at the Global Public Policy Institute (GPPi) in Berlin, where she is part of the core team for the Stabilization Lab project. Before joining GPPi, she was a conflict and security policy coordinator at Saferworld, where she researched the rise of light-footprint military interventions in many regions including the Middle East, the Horn of Africa and the Sahel. She also co-hosted the WarPod podcast. Ms. Watson has been a research manager at the Oxford Research Group where she co-authored six major reports, as well as many blogs, policy briefings and book chapters. Her work has been featured in, among other outlets, INews, *The Times*, the History Channel and Just Security. She has presented her work to academics, government officials, think tanks, the military and international institutions.

Jerry Lane served for 36 years with the Irish Defence Forces as an Infantry Officer and as a Legal and Ethics Adviser. He served as a Legal Adviser to KFOR in 2007, EUFOR Tchad in 2008 and UNIFIL in 2018. Among a range of legal appointments, he was the Director of the Defence Forces Legal Service from 2018-2021. Called to the Irish Bar in 2001, he holds a Barrister at Law degree from the King's Inns, Dublin, as well as three Master's degrees: a LLM from University College Cork, a MA in Leadership and Management from the NUI, Maynooth and a MA in Ethics from Dublin City University. He has lectured in Irish University faculties and at the NATO COEDAT the Cairo Centre for Training and Peacekeeping and the Swiss Armed Forces Training Centre on a range of legal topics including human rights and IHL. He has been the Course Director for the Peace Support Operations Course at the IIHL, Sanremo, since 2011.

Whitney Grespin has worked in contingency contracting, professional military education and stability operations on five continents, including tenure as an embedded adviser with the Somali Ministry of Defence in Mogadishu. She received her PhD from King's College London's Defence Studies Department at the UK

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Khrystyna Holynska is an assistant policy researcher at RAND and a doctoral candidate at the Pardee RAND Graduate School. Her work explores disinformation, defence and security, Ukraine, Russia and Eastern Europe. Khrystyna holds a PhD in political science from Taras Shevchenko National University of Kyiv, an MPhil from Pardee RAND and a Master of Business Administration and Master of Business and Management in Artificial Intelligence and Data Analytics (MBAI) from Kyiv School of Economics (KSE). Her previous positions include a Research Associate at the Centre for Global Security Research (CGSR) of the Lawrence Livermore National Lab, Head of a defence and security policy research startup KSE StratBase, assistant professor of public policy and governance at KSE and a strategic analyst at The Hague Centre for Strategic Studies. In October 2023, she participated in the New Security Leaders Programme of the Warsaw Security Forum.

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Elie Abouaoun is currently assuming the role of Managing Partner, Senior Consultant & Trainer at the Ottawa-based Elephas Consulting. He also is a Visiting Lecturer at Saint Joseph Université and at various universities in the Middle East and North Africa (MENA) region. He serves as the Senior MENA Adviser at 'Strategy International' in Cyprus and has been a Non-Resident Senior Fellow at the Religion & Security Council in Rome since 2020. Notably, from 2013 to 2023, he served as the MENA Regional Director at the United States Institute of Peace. Elie has also held key leadership positions at organisations such as the International Rescue Committee, the Danish Refugee Council, the Arab Human Rights Fund and other nonprofit bodies. Elie is a frequent contributor to various publications and continues to actively serve on the boards of directors for several regional nonprofit organisations. He holds a Master's in Business Administration and Management**.**

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Yasmine Abdel Moneim is the academic director for the LLB & LLM programmes at the University of London European Universities in Egypt and an associate professor of Law and Political Science. With over 13 years of teaching experience, she is an experienced academic, delivering a wide range of courses and training across multiple disciplines. She is also a member of the National Committee for the Protection of Intellectual Property Rights at the Supreme Council of Culture in the Egyptian Ministry of Culture. Throughout her career, she has been actively involved in international development through various organisations. She is a graduate of

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Lucy Hall is a lecturer at the Politics, Psychology, Law and Economics (PPLE) College of the University of Amsterdam. Her research and teaching sit at the intersections of international relations and international law. She completed her PhD at the University of New South Wales, Australia. Her doctoral dissertation focused on humanitarian protection norms and gender. Recently her focus has shifted to explore the relationship between gender and forced migration, technologies and human rights protection in the context of climate change and armed conflict.

Pavithra Rajendran is a Doctor of Juridical Science (JSD) candidate at Notre Dame Law School and an Attorney-at-Law in Sri Lanka. She is a Doctoral Fellow at the Kellogg Institute, a Doctoral Affiliate at the Klau Institute, a Graduate Justice Fellow at the Center for Social Concerns and a Doctoral Intern at the Global Human Rights Clinic. She is also an Elinor Ostrom Fellow at the Mercatus Center at George Mason University. Before beginning her doctoral studies, Pavithra was a lecturer in the Department of Public and International Law at the University of Colombo. She holds dual Master's degrees: an LL.M. from the Uni-

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Esther Grisnich is currently working for NATO Mission Iraq (NMI) as a Human Security adviser developing a protection of civilians strategy for the Iraqi Armed forces together with Iraqi generals. She has studied International Administration and Diplomacy, specialising in governance reform implementation in the Arab World. Recently, she finalised a second Master's at Oxford Brookes University with a dissertation on strategies for capacity building and protection of civilian tasks in the Iraqi Armed Forces. She coordinated shadow peace negotiations between Israeli and Palestinian young diplomats for the Dutch Foreign Ministry. Ms. Grisnich worked for the NGO World Vision in the Palestinian Territories and from 2017, worked for the European Parliament as an adviser on the Middle East. In 2019 she moved to Iraq and directed ZOA, a Dutch INGO, for three years leading humanitarian response and reconstruction programmes after the war with ISIS in Iraq.

Caroline Baylon co-runs the Secretariat of the All-Party Parliamentary Group for Future Generations in the UK parliament. She is also a Research Associate in the Emerging Threats Group of the University of Oxford's Changing Character of War Centre and an Associate Fellow at the Saïd Business School, where she serves as a course facilitator in the Oxford Scenarios Programme. She serves as an expert and rapporteur of the Ad-Hoc Working Group on Foresight for Emerging and Future Cybersecurity Challenges at the European Union Agency for Cybersecurity (ENISA) and as an expert on innovation and foresight to Interpol. Caroline has also previously served as a consultant on foresight for UNDP.

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PEER REVIEWERS

Bruno Cantin was the Head of Logistics on the NATO HQ International Staff at NATO HQ Brussels during the last 20 years. He worked with more than 50 nations and organisations and chaired numerous committees. He developed many logistics, including contracting, policies and was also responsible for logistics strategic planning. As a Land Electrical and Mechanical Engineering Officer in the Canadian Armed Forces, Cantin commanded a logistics Battalion in a UN mission and led various maintenance sub-units. He was the Integrated Logistics Information Systems senior adviser for Army major capital acquisition programmes and in-service support organisations. He graduated as an Industrial Engineer from the Royal Military College of Canada in May 1977 and completed a Master's in Business Administration Specialised in Management Information Systems at Laval University, Canada in May 1983. He also graduated from the National Defence Staff College in Belgium in 1991.

Valentina Capurro is a Lieutenant Colonel in the Italian Air Force with 23 years of experience in the legal and financial fields. Currently, she is serving as Head in the Legal Affairs EU, OCSE and Bilateral Organisations Section of the Italian Defence General Staff. Previously, she served as a Legal Adviser in the NATO Joint Force Command in Naples and as a Legal Consultant and Financial Controller in the Air Force Academy. She is a PhD candidate in International Law at Università Orientale di Napoli and holds a Master's degree in Law from Federico II di Napoli.

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Jacqueline Davies is the Deputy Director of Risk, Threat and Prevention at the Public Sector Fraud Authority. She joined the UK Ministry of Defence in 1988, starting her career in finance and accountancy roles across various departments. Over the years, she has held strategic positions including British Policy Adviser to US Central Command, Civil Secretary Op HERRICK Afghanistan and UK's Special Defence Adviser to Ukraine. In 2013, she established and led Building Integrity UK, delivering global programmes. Her qualifications include an MA from King's College London and she holds memberships with the Chartered Institute of Management Accountants and the Government Counter Fraud Profession.

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Jeffrey King is a military analyst in the US Joint Center for Security Force Assistance (JCISFA). Before his current assignment, he served as a protection and manoeuvre sup-

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Bettina Kircher is an independent consultant for Conflict and Development Management and a guest lecturer at the Helmut Schmidt University and the NATO SFA COE in Rome. Between 2019 and 2022, she was seconded to the European External Action Service (EEAS) in Brussels as a training expert. Bettina has nine years of field experience in conflict and war zones in Sub-Saharan Africa and Latin America and worked as a delegate for the International Committee for the Red Cross (ICRC) in Colombia, Ivory Coast and the DRC. After several years in DDR/SSR peacekeeping operations in the Ivory Coast with the UN, she was seconded to civilian CSDP missions with the European Union in South Sudan and Djibouti. She holds a Master's degree in Regional Science and a post-graduate diploma in Conflict and Development Management.

Paolo Mazzuferi is a Colonel in the Italian Army and currently Director of the Italian Army Post-Conflict Operations Study Centre (PCOSC). Being a subject-matter expert for a variety of topics related to post-conflict settings, since 2015 he has chaired the Stabilisation and Reconstruction Orientation Course at the University of Turin. Concerning his military experience abroad, he took part twice in Operation 'Joint Guardian' in Albania. In 2010-2011 he was deployed to Afghanistan as Chief of the Lessons Learned Department at ISAF HQ, Kabul. Recently, he has been deployed in Baghdad as chief of an Italian Mobile Training Team within the NMI to run a training module for Iraqi government representatives. Col. Mazzuferi holds a Master's degree in Political Sciences from the University of Turin and a post-graduate diploma in Strategic Sciences.

Franco Merlino is a retired Colonel in the Italian Army who served as Defence Attaché at the Italian Embassy in Niger. He was the first Director of the SFA COE

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Nadja Milanova is a Governance and Institutions Officer, Defence and Security Cooperation in NATO HQ, where she contributes to providing strategic advice and capacity building in anti-corruption and governance in the defence and security sector. She has extensive experience in international affairs, security, public diplomacy and defence policy and reform. Previously, she worked in NATO's Public Diplomacy Division and for the Organization on Security and Cooperation in Europe (OSCE) as head of the Prague office. At the national level, Nadja has served as a diplomat at the Ministry of Foreign Affairs and as Head of the Bilateral and Regional Cooperation Department at the Ministry of Defence in Bulgaria. She also has experience in the field of human rights with advocacy work at the UN and the EU. She holds a PhD in Politics from the University of Exeter.

Barbara Scolart is a Major in the Italian Army and is currently serving in the Office of the Military Adviser to the President of the Council of Ministers. She has held several positions within the Ministry of Defence, including roles in the Disciplinary Affairs Office and the Legal Affairs Office. She has also served as a Legal Adviser during missions abroad, including Operation ISAF X in Afghanistan and Operation Joint Guardian in Kosovo. Major Scolart is also a Professor at the School of International Politics, Cooperation and Development of FOCSIV, where she lectures on human rights law, international humanitarian law and international organisations. Major Scolart holds a PhD in 'Roman Law and the Unification of Legal Systems' and a law degree, both from the University of Rome 'Tor Vergata'.

NATO Security Force Assistance Centre of Excellence's (SFA COE) editorial project represents a groundbreaking initiative within COE activities. *Enhancing Stabilization and Strategic Partnership in a Post-Conflict Environment: A Comprehensive Approach to Human Security* is a pivotal publication that thoroughly explores SFA in a post-conflict environment. Through a collaborative effort with the NATO Allied Command Operations, Office of Legal Affairs (ACO OLA) at the Supreme Headquarters Allied Powers Europe (SHAPE) and the International Institute of Humanitarian Law (IIHL), this book underscores the critical importance of Human Security in post-conflict environments. It presents a holistic approach to key themes when navigating the aftermath of conflicts, notably security sector reform, interreligious dialogue, protection of civilians, gender, international displacement, sexual violence, child protection, water security, and the protection of cultural heritage. The insights provided seek to promote the adoption of best practice and foster sustained cooperation and partnership among international stakeholders.

Cooperation across military, political, economic, and social efforts is essential to ensure comprehensive support to people in distress, empowering individuals and communities and enabling the host nation to independently maintain security and stability over the long term.

Enhancing Stabilization and Strategic Partnership in a Post-Conflict Environment: A Comprehensive Approach to Human Security is a guide for all who are committed to the principles of peace, stability, and human security.

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