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Don't call me, I'll call you?

Challenges and opportunities to realising the Responsibility to Protect in regional peacekeeping

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Briefing paper number 107, October 2007

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In particular over the past decade regional peacekeeping has been promoted by the UN and many others as a welcome solution to problems of global capacity to effectively respond to armed conflict including in the context of the increasing entrenchment of the Responsibility to Protect doctrine.

Experience with regionally led peacekeeping operations such as in Darfur, or Liberia earlier in the 1990s, shows however that recourse to regional actors is not a panacea and may actually have serious pitfalls. In addition to facing often very practical problems arising from poor funding, logistics and training, regional responses to conflict have often failed to protect those living with conflict because of unclear and disputed lines of accountability and governance, crucially also between the global and regional levels.

This briefing explores these issues and concludes that while Chapter VIII of the UN Charter enables collaborative task sharing between global and regional organisations and the UN encourages coordination, there are only few appropriate governance arrangements in place that ensure the accountability and effectiveness of regionally led responses to conflict. In particular, regional organisations lack institutional policies with regard to the protection of civilians in their operations, and the tools to drive awareness and the respect for principles of international humanitarian law through to the field level. However well intentioned, the increasing use made of regional response to conflict could weaken the global commitment to collective security and undermine the progressive realisation of the international Responsibility to Protect. Key entry points to address these challenges may include the

- introduction and harmonisation of institutional concepts of protection of civilians in armed conflict in the statutes and operational policies of all regional organisations, whether they currently have a focus or mandate to respond to conflict within or without their area of work or not;
- development of wider governance protocols between the UN and regional organisations to clarify the accountability relationship between global and regional organisational responses to conflict beyond the parameters set out in the mandates of individual operations; and
- monitoring of and regularly reporting on common standards for global and regional responses to conflict to strengthen adherence to relevant international human rights standards and International Humanitarian Law.

Regional responses to conflict and the collective security principle

The principle of collective security is based on the premise that a threat to international peace and security is a threat to all. The doctrine of the Responsibility to Protect (R2P) citizens from genocide, ethnic cleansing, war crimes and crimes against humanity¹ reiterates the commitment to this principle. However, as the Responsibility to Protect doctrine gains more ground in global consciousness after its endorsement by UN member states in the outcome document of the 2005 World Summit, the continuing lack of capacity within the United Nations to deal with the growth in calls for responding to conflict may become a significant problem. From this point of view, the relationship between the Responsibility to Protect doctrine and regional responses to conflict including peacekeeping seems to be a straightforward and mutually beneficial one and finds its expression in the reaffirmation in 2006 by the Security Council of the commitment to the Responsibility to Protect and the key role of regional organisations play in supporting the UN in the task to protect civilians in armed conflict².

Yet, despite the increasing link between the doctrine of the Responsibility to Protect, the protection of civilians, and the endorsement of an increased role for regional peacekeepers, these issues have not all developed in parallel, and there are no common standards for accountable governance for regional responses to conflict that meet the objectives which are relevant to those at risk.

This is compounded by assertions of regional leadership based on an “don’t call me, I’ll call you” attitude, illustrated by South African President Thabo Mbeki’s comments that “We have not asked for anyone outside of the continent of Africa to deploy troops to Darfur. It’s an African responsibility, and we can do it.”³ The reality of both, the insufficient mandate given to the AMIS (African Union Mission in Sudan), and the still limited capacity of organisations such as the African Union to handle long-term multidimensional integrated missions (including tasks such as disarming, demobilising, and reintegrating all fighting forces, securing areas of return, and coordinating humanitarian agencies and actions)⁴, has shown the gap between what peacekeeping operations are expected to deliver on, including in terms of the greater political agenda, and what they are able to do. The eventual establishment of the UN/AU hybrid mission in Darfur in July 2007⁵ comes too late for the many who have died, were injured, and displaced. Key in this debate is therefore not to lose track of the original task of responding to conflict, which is to protect those at risk and build peace.

The briefing seeks to explore the link between the development of regional peacekeeping, the growth and diversity of actors involved in it, and the current weakness of the governance arrangements which are necessary to ensure that regional responses to conflict remain accountable in their task to protect people affected by violence, and to do this as part of an integrated effort of the international community mediated through the UN.

¹ *Report of the International Commission on Intervention and State Sovereignty*, 2001, <http://www.iciss-ciise.gc.ca/>

² United Nations Security Council Resolution Resolution 1674 (2006), 28 April 2006

³ Press Conference with President George Bush and Thabo Mbeki at the White House, 1 June 2005, <http://www.whitehouse.gov/news/releases/2005/06/20050601.html>

⁴ Refugees International: *No Power to Protect. The African Union Mission in Sudan*, November 2005

⁵ United Nations Security Council Resolution S/RES/1769 (2007) of 1 July 2007

What is “regional peacekeeping”?

The term “regional peacekeeping” is commonly used to refer to peacekeeping operations undertaken by regional actors such as intergovernmental organisations (IGOs) or coalitions of states. The conditions for legitimacy of regional organisations undertaking peacekeeping operations are set out in Chapter VIII of the UN Charter, which requires individual operations to be mandated by the Security Council. Article 52(1) stipulates that “regional arrangements or agencies” could deal with “such matters relating to the maintenance of international peace and security as appropriate for regional action.” Article 53(1) says that “no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council.”

Thus, it is clear from the Charter that ultimate responsibility for international peace and security still rest firmly with the Security Council, the potential involvement of regional actors notwithstanding. However, less clear is the nature of the relationship that should ensue between the United Nations and regional organisations. This relationship has taken many different shapes in the past, and no framework or system of guidelines is in existence.

While the concept of regional peacekeeping has been incorporated into the Charter since the inception of the United Nations only from the early and mid-1990s onwards is it possible to discern a trend that has seen regional peacekeeping operations not only endorsed by the UN but actively encouraged. In 1992 then-Secretary General Boutros Boutros-Ghali’s report *An Agenda for Peace* was published; a supplement followed in 1995. Both extol the belief that regional arrangements have the potential to provide “great service” in the arena of peacekeeping,⁶ In *A More Secure World*, published in 2004 by Kofi Annan, the growth of regional cooperation was lauded as the way to “[develop] regional capacity to address shortfalls in the numbers of peacekeepers.”⁷ A series of high-level meetings took place in 1998, 2001, 2003 and 2005 between UN officials and representatives of regional organisations. Some involved the Secretary General and UN specialised agencies while others involved members of the Security Council.⁸ The positive outcomes of these meetings were reflected in a number of statements and resolutions made by the United Nations. Resolution 1631 (2005) expressed the determination of the Security Council to further the development of cooperation between the United Nations and regional and sub regional organisations in the field of international peace and security, highlighting the duties of states and regional bodies under Article 54 in Chapter VIII of the Charter to keep the UN fully informed of their activities in this domain, and giving particular mention to the development of the African Union (AU).⁹

Pros and cons and growth in regional peacekeeping

Regional peacekeeping is becoming increasingly popular both as a solution to lack of capacity within the UN, and because it is often seen as more acceptable in certain regions than a full-scale UN intervention. Yet the debate about regional peacekeeping is a complex one. Main arguments brought in support of it include that the presence of regional authorities

⁶ *An Agenda for Peace. Preventive diplomacy, peacemaking and peace-keeping*. Report of the Secretary General, A/47/277 - S/24111, 17 June 1992, para 63

⁷ *A More Secure World. Our Shared Responsibility*: Report of the Secretary-General's High-level Panel on threats, challenges and change, 2004, para 220

⁸ Luk Van Langenhove, Isabella Torta, and Tânia Felício: *The EU's Preferences for Multilateralism. A SWOT Analysis of EU/UN Relations*, in: United Nations University Occasional Paper, 2006, p.4,

⁹ United Nations Security Council Resolution S/RES/1631 of 12 October 2005, see also Reports A/RES/49/57, A/RES/60/1

will automatically bring greater legitimacy to peacekeeping operations; that regional organisations will have a deeper interest in restoring peace and stability to the region; that regional members will have a greater cultural sensitivity to the region, as regional organisations tend to have more homogenous memberships; and that proximity to conflict zones aids regional organisations in providing early warning and makes them more efficient. Arguments standing against regional peacekeeping are that the uneven resources among regional organisations combined with a lack of institutional knowledge regarding peacekeeping missions make such operations poor substitutes for United Nations missions; that problems such as a lack of impartiality and the destabilising presence of a regionally dominating power would hamper the legitimacy and operational ability of regional operations; that regional organisations possess limited room to manoeuvre with regard to external threats; and that regional organisations and individual powers have a mixed record of effective deployment in peacekeeping actions; particularly when compared over time to UN operations¹⁰

Despite there being very legitimate substantive arguments on both sides looking back at the history of the UN, it is clear, however, that regional organisations have always co-existed with the UN, and have also always involved themselves in peacekeeping. A study of interstate conflict between 1945 and 1995 showed that of 295 cases, the UN attempted to manage 30% of the conflicts. Regional organisations undertook responsibility for 23%, while the UN and regional organisations jointly took up 9% of conflicts.¹¹ Of the peacekeeping operations which originated between 2001 and 2004, only one third were UN operations¹² Increasingly, regional organisations are thus building up their peacekeeping capacity, often with bilateral support from a number of individual member states.

Independent of the reasoning for or against there is thus a consistent trend towards a more developed role for regional peacekeeping, which coincides with a growing role of regional actors also in global governance as a whole. The question is therefore in a way less about whether or not, but how to govern the use of regional peacekeeping in ways that it can be effective and remains accountable.

Who is involved?

Since the 1990s, the UN has cooperated with a wide variety of regional organisations, on projects encapsulating everything from the provision of technical support and the training of personnel, to joint operations, and operations where a regional organisation has been mandated to carry out a solo peacekeeping mission. Currently up to fifteen of such organisations are represented at high level meetings with the UN.¹³ However, many either do not have the mandate to respond to conflicts, or do not have the capacity to practically engage in peacekeeping as part of such responses. There is also often overlap between organisational and bilateral responses resulting from both individual national priorities, but

¹⁰ Birger Heldt and Peter Wallenstein: *Peacekeeping Operations. Global Patterns of Intervention and Success, 1948-2004*

¹¹ Ibid. pp 12-13.

¹² Ibid.

¹³ The full list is: the Caribbean Community (CARICOM) the Commonwealth of Independent States, the British Commonwealth Secretariat, the Economic Community of West African States, the European Union (EU) the League of Arab States, the North Atlantic Treaty Organization (NATO) the African Union (formerly the OAU) the Organization of American States (OAS) the Organization Internationale de la Francophonie, the Organization of the Islamic Conference, the Organization for Security and Cooperation in Europe (OSCE) and the Western European Union (which transferred its crisis management roles to the EU in 2001/2)

also from deliberate choices about which multilateral group can work best with the UN to address a specific regional issue.

Examples of organisations who have been involved in significant peacekeeping operations include NATO, ECOWAS, the EU, and the African Union. NATO and EU operations also take place both within and outside their own geographical areas. For example in addition to Bosnia, and Kosovo, NATO currently has ongoing operations in Afghanistan and engages through support of other actors also in Darfur and Iraq.¹⁴ Many NATO member states are also members of the EU or OAS and there are a number of important bilateral relationships between states and regional organisations, which often include parties from outside the region. Canada, for instance, currently bilaterally supports the AU involvement in Sudan, participates in peacekeeping missions led by the AU, EU and NATO¹⁵ and contributes to the Sudan UN peacekeeping mission. The USA has been continually vocal in its support for African Union role in peacekeeping and has contributed directly to develop the African Union's peacekeeping capacity since 1994, when Congress adopted the African Conflict Resolution Act, which provided US\$25 million in support for the then OAU's peacekeeping efforts.¹⁶ Similarly, the EU created a Peace Facility for Africa. Allocating an initial amount of €200 million to it in 2003¹⁷ it serves as a financing scheme to help strengthen the African Union's ability to partake in peacekeeping and peace support operations in Africa.

Yet, also those organisations who have so far engaged less in practical terms show that while they may not currently have the capacity to undertake peacekeeping operations, its members engage with the trend for regional response to conflict. After being set up in 1994 with the aim to promote peace and security in the region the ASEAN Regional Forum is currently creating rules to adopt so they can form an ad hoc in times of emergency and threats to regional peace and stability, suggesting perhaps that they foresee an expanded role for themselves in the future.¹⁸ Following its careful initial orientation in this direction with the 2000 Bamako Declaration the Organisation Internationale de la Francophonie has stated its commitment to build up a capacity to practically engage in peacekeeping and conflict prevention initiatives with its 2006 Declaration of Saint Boniface (Canada).¹⁹ Other organizations, which continue to have no capacity to involve themselves in peacekeeping and no stated aim to develop such a capacity – examples include CARICOM and the Commonwealth Association – are nonetheless also involved in meetings alongside other regional organizations who do have such an interest.

Despite a clear and steady group of leaders in the field, the number of regional organisations which get involved in peace and security issues is thus increasing, whether or not they were originally set up under or with a peace and security mandate.

Moving from ad hoc mandating to systematic governance

At present the governance and accountability arrangements in regional peacekeeping operations remain based on ad hoc mandates. In cases of bilateral intervention there are

¹⁴ <http://www.nato.int/>

¹⁵ <http://www.international.gc.ca/peacekeeping/menu-en.asp>

¹⁶ The OAU became the AU in 2002

¹⁷ Decision 2003/3 of the ACP-EC Council of Ministers of 11 December 2003 on the use of resources from the long-term development envelope of the ninth EDF for the creation of a Peace Facility for Africa

¹⁸ <http://www.aseanregionalforum.org/News/tabid/59/newsid399/48/Default.aspx>

¹⁹ *Prévention des conflits et Sécurité humaine. Déclaration de Saint-Boniface (Canada)*, adoptée le 14 mai 2006, http://www.ds.auf.org/IMG/pdf/Declaration_Saint_Boniface_2006.pdf

often no publicly accessible terms of reference or mandates available at all. The governance framework for responses to conflict including peacekeeping missions carried out by regional actors is thus more fragmented than systematic. There are three main contributing factors to this situation.

First, while there is a clear requirement under Chapter VIII of the UN Charter for regional operations involved in peacekeeping missions to possess a UN mandate, the relevant Articles merely denote the involvement of a regional organisation or arrangement. Chapter VIII does not say when it should be used or what would be the core of any mandate under it. This stands in relative contrast to the guidance that traditional UN led missions draw on when referring to “Chapter VI” and “Chapter VII” which clarify the options for the use of force in peace-keeping and peace-making missions. While this ensured flexibility in developing the concept, it fails to give common guidance for governance and accountability arrangements between the different actors, organisations and individual states involved in regional responses to conflict.

Second, the question of protection of civilians in situations of armed conflict, which is also central to the Responsibility to Protect, was first addressed by the Security Council only as recently as 1999.²⁰ Since then the UN, the EU, the AU, and ECOWAS have all led missions that were explicitly mandated to “protect civilians.”²¹ However, neither NATO, nor the EU, the AU or ECOWAS have since then developed an institutional concept of protection of civilians for their military missions, and still fail to have such policies in place today.²² There cannot be therefore an automatic assumption at global level that operations led by regional organisations will be able to rely on the necessary institutional policies to ensure they adhere to UN standards.

Third, in a number of cases mandates for regional operations have been granted retrospectively, such as in case of interventions by ECOWAS forces in Liberia in 1990 and Sierra Leone in 1997. Eventual equipment with a UN mandate gives missions such as these a better chance for realising accountability and governance standards, than operations where individual states or coalitions act independently of the United Nations and at no point seek a mandate for their actions. However, the retroactive definition of ground rules makes it harder to implement them than if they are established ahead as part of the planning and training, such as in the case of the Australian-led INTERFET intervention in East Timor in September 1999, the UK deployment in Sierra Leone in May 2000 and the French-led EU Operation Artemis to Ituri / Bunia in DRC in June 2003, all of which were given authorisation by Security Council resolutions.²³

A mandate, by its nature a brief and high level document, cannot encompass all the possible aspects of a peacekeeping mission and will remain ad hoc as it is tailored to fit a very specific case. Its brevity will inevitably mean that certain aspects of the actual operation cannot be addressed in the mandate. More importantly though, missions may fail to provide effective protection of civilians and realise other relevant international standards because of, as the ICRC identifies it, a “[lack of] willingness to respect the rules, insufficient means to

²⁰ United Nations Security Council Resolution S/PRST/1999/6 of 12 February 1999

²¹ Holt, Victoria; Berkman, Tobias: *The Impossible Mandate: Military Preparedness, the Responsibility to Protect and Modern Peace Operations*, The Henry Stimpson Centre, 2006

²² *ibid.* p. 183

²³ United Nations Security Council Resolution S/RES/1264 (1999) of 15 September 1999, and S/RES/1484 (2003) of 30 May 2003

enforce them and even lack of awareness on the part of leaders, commanders, combatants and the general public”²⁴.

The more regional organisations become involved in peacekeeping operations, the more the lack of established institutional policies such as on the protection of civilians will thus be felt as there is no basis on which to build when aiming, as the ICRC recommends, to incorporate the rules of international humanitarian law into military manuals and national legislation, disseminate them, train relevant staff and enforce them²⁵. Inevitably this will mean that operations are handled differently by a regional organisation than if they were a UN operation for which can draw on a wider fund of comparative experience and understanding of international standards as set out in international law and the Responsibility to Protect. In addition regional organisations may also not have relevant and appropriate accountability mechanisms in place to ensure that problematic issues such as human rights abuse by peacekeepers themselves are addressed.

The question that needs to be asked is whether this is an acceptable and acknowledged situation. At the moment, there is no ongoing debate about disparate standards of accountability in peacekeeping. Ought mechanisms to be in place to ensure that core UN objectives are not lost in operations carried out by others under UN mandates? Mechanisms for developing joint standards applicable to both UN and regional organisations, accountability mechanisms to address complaints, and to assess operations are currently not in place, nor under discussion.

As unevenly trained and resourced troops from different organisations increasingly play more and more significant roles in peacekeeping in their own region, the lack of common principles for accountable governance in peacekeeping increases the risk for different standards being implemented in different regions. There are, however, not only incentives for the establishment of such wider standards. Also from the regional organisations’ own point of view a perceived lack of competence and accountability may damage their legitimacy and credibility both at the global but more importantly at regional level.

Conclusion

While at first sight attractive, the development of regional peacekeeping and autonomous responses to conflict bears some strong risks in particular if interpreted as a “regional responsibility”. Such a trend could scupper some of the established principles on which UN led operations work, including the guidance they take from international law. Not only could a fragmentation of multilateral responses to conflict without joint governance and accountability principles undermine the concept of a “threat to all” which requires a response from all, and challenge the UN’s authority as the sole arbiter of the collective security system. It may also lead to a “two-tier” system of peacekeeping in unevenly trained and resourced troops from different organisations bear the brunt of peacekeeping in their own region, inevitably working to different standards and potentially unable to fulfil their role to protect civilians in armed conflict.

The review of trends in regional peacekeeping, the current and potential actors involved and the incomplete mainstreaming of central tenets of the Responsibility to Protect doctrine and

²⁴ Julia Dolly Joiner, African Union Commission, keynote speech at the launch of ICRC 10 year study on customary humanitarian law, Addis Ababa 31 October 2006

²⁵ Jean Marie Henckaerts: *Study on customary international humanitarian law. A contribution to the understanding and respect for the rule of law in armed conflict*, in: *International Review of the International Red Cross*, Vol. 87, No 857, p.197

International Humanitarian Law shows the need for developing wider governance arrangements under which regional peacekeeping can take place in an effective and accountable way.

At present there are significant weaknesses in terms of agreed standards, monitoring and reporting on operations and in what way regional initiatives would be accountable to the UN as the mandated guardian of international peace and security.

This bears the risk that, however well intentioned, the increasing use made of regional response to conflict could weaken the global commitment to collective security and undermine the progressive realisation of the international Responsibility to Protect. Key entry points to address these challenges may include the:

- **introduction and harmonisation of institutional concepts of protection of civilians in armed conflict in the statutes and policies of all regional organisations**, whether they currently have a focus or mandate to respond to conflict within or without their area of work or not;
- **development of wider governance protocols between the UN and regional organisations** to clarify the accountability relationship between global and regional organisational responses to conflict beyond the parameters set out in the mandates of individual operations; and
- **monitoring of and regularly reporting on common standards for global and regional responses to conflict** to strengthen adherence to relevant international human rights standards and International Humanitarian Law.

Global and regional organisations are increasingly being called upon to respond to armed conflicts. However, developing appropriate policies and taking effective action at the international level in this domain continues to involve a range of global governance challenges. This set of briefing papers seeks to explore in particular options and constraints faced by multilateral institutions in their role as peacekeepers, how the Responsibility to Protect can be translated into legitimate and practical steps towards ending and preventing violence, how democratic engagement with issues of international responses to conflict can be strengthened, and how the foreign policy process intersects with issues of human rights accountability and peacebuilding. With this work the One World Trust aims in particular to support parliamentarians and others in the policy community in their task to contribute to an emerging framework for global conflict prevention.
