



Lesson 2-2

Legal Framework for Peace Operations- Mission Specific

Learning Objectives

- Describe the legal framework and UN policies for UN Missions
- Explain essential privileges and immunities and the legal framework to ensure their accountability, good conduct and discipline

Hierarchy of norms

UN Charter

Human Rights, IHL & Refugee Law

Security Council Mandate

**Status of Forces/Mission
Agreement (SOFA/SOMA)**

**Memorandum of Understanding with
Troop & Police Contributors (TCC/PCC MOU)**

UN Peacekeeping Policies

**Mission Rules of Engagement (ROE) &
Directive on the Use of Force (DUF)**

Security Council Mandate

- Security Council Resolution:
highest legal basis for the mission
- Outlines tasks
and responsibilities
- What the Security
Council expects
Mission to accomplish



Protection-orientated Mandates

Human Rights

Protection of Civilians

Child Protection

Conflict-related Sexual Violence



Total mission responsibly

Host State Agreements (SOMA/SOFA)

- Legal doc signed by UN and host state
- Privileges and immunities for UN mission / personnel
- Example: freedom of movement, customs exemptions, visa requirements
- Supplemented by special agreements
(example-handover of persons detained by mission)

Learning Activity: Roadblock

A UN force protection platoon, is conducting a patrol to implement the mission's mandate to verify reports of ceasefire violations

An armed group set up a roadblock and refuses to let the peacekeepers pass. The group argues that peacekeepers did not get prior authorization to access the area under its control



Freedom of Movement (FOM)

- SOFA/SOMA provides FOM through host-state
- No prior authorization or notification needed
- Exception- air traffic control
- Government ensures safety, security, FOM
- Government responsible to clear roadblocks
- UN authority to assert under defence of mandate

Military Rules of Engagement (ROE) Police Directive on Use of Force (UOF)

- Guidance - authority and limits use of force
- Bases for accountability
- Covers kinetic force
- Covers detention, search, seizure
- Must abide by human rights
- Engaged in hostilities, must comply with IHL



Use of Force by Peacekeepers

Authority to Use Force

- Self-defence
- Defence of mandate
- Freedom of movement
- Protection of civilians
- Mandates given Security Council



responsibility

Limits of Use of Force

- Generally restrained
- Human rights /policing rules
- Can escalate engagement when necessary
- IHL



accountability

Use of Force Guidelines

Restrained force paradigm (default)

- Last resort
- Proactive de-escalation
- Graduation of means
- Lethal force to protect life

rationale:

- ✓ Avoids escalation of violence
- ✓ Avoids participation in conflict
- ✓ Minimize harm to civilians

Military engagement paradigm

- Distinction of civilians
- Precaution to minimize risk for civilians
- Proportionality of incidental civilian harm

Use to extent necessary for:

- ✓ self-defence,
- ✓ defence of mandate
- ✓ protection of civilians

Peacekeeping Policy Framework

- **Relevant Secretary-General Policies and Bulletins (examples):**
 - Special measures for protection from sexual exploitation and abuse
 - Observance by United Nations Forces of International Humanitarian Law
 - Human Rights Screening Policy
 - Human Rights Due Diligence Policy on UN Support to non-UN Security Forces
- **Relevant DPO-DOS Policies, Guidelines and SOPs (examples):**
 - Military Observers in United Nations Peacekeeping Missions
 - Use of Force by Military Components
 - Accountability for Conduct and Discipline in Field Missions
 - Detention by United Nations Peacekeepers
 - Human Rights in UN Peace Operations and Political Missions
 - Protection of Civilians in UN Peace Operations

Compliance with UN policy is mandatory for all peacekeepers

Human Rights Due Diligence Policy

UN Support to non-UN Security Forces

UN support to non-UN Forces cannot be provided:

- *Risk of entities committing **grave violations** of Int. humanitarian, human rights or refugee law*
- *relevant authorities fail to take necessary **corrective or mitigating measures***

**Prevents legal liability for aiding violations
and protects U.N. reputation and
impartiality**



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- ✓ Applies to all types to support
- ✓ Exceptions for human rights & mediation work
- ✓ Includes support to states, regional organizations
- ✓ Must initiate risk assessment & monitor compliance
- ✓ Risk mitigation & engagement, not blunt conditionality
- ✓ Suspension or withdrawal of support- last resort

Application of the HRDDP

Lesson 2.2 Take Away

- You must understand the mission mandate and your responsibilities
- SOFA / SOMA protects freedom of movement
- ROE establishes limits on the use of force
- Secretary-General and DPO policies set rules that all peacekeepers must know and abide by HL /IHL

Questions?

Learning Activity: Group Discussion

The Mission's mandate authorises it to take '**all necessary measures to protect civilians from physical violence**, within capabilities and without prejudice to the responsibility of the host state to protect its population'

A local community captured three 16-year olds whom they accuse of being fighters for an armed group involved in crimes against humanity, including extrajudicial killings and rape

The town's mayor fears that riots may break out and the three teenagers will be lynched. He wants the mission to send UN forces to detain the three and put them on trial

What is the mission legally allowed to do under its protection of civilians mandate? What is it not legally entitled to do?