



Australian Government

Australian Civil-Military Centre



Australian Guidelines for the Protection of Civilians

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Foreword

The Australian Guidelines for the Protection of Civilians (the Guidelines) provide a whole-of-government perspective on the Protection of Civilians (POC) in international situations of armed conflict and other situations of violence. The Guidelines are the product of extensive consultation, facilitated by the Australian Civil-Military Centre, and includes broad representation of Australian government and non-government organisations.

In contemporary conflicts civilians are increasingly the targets of systematic and opportunistic violence, including indiscriminate or disproportionate attacks, sexual and gender-based violence and other violations of international law. This situation continues despite the existing protections provided by international humanitarian and human rights law. Clearly, more needs to be done. These Guidelines help identify who has responsibility and what needs to be done when protection of civilians is an issue. They place support for the rule of law at the centre of Australian operational responses.

While focusing on operations involving the Australian Defence Force (ADF) and the Australian Federal Police (AFP), they also build a shared understanding of POC across the full range of government departments and agencies that will contribute to an offshore operation. The Guidelines provide guidance on how to implement Australia's POC focus areas:

- > Protection through dialogue and engagement
- > Provision of physical protection
- > Establishment of a protective environment.

The Guidelines also meet Australia's commitment under the Australian National Action Plan on Women Peace and Security 2012–2018 to develop POC guidelines for the ADF and the AFP. The National Action Plan sets out what Australia will do, at home and overseas, to integrate a gender perspective into its peace and security efforts, protect women and girls' human rights, and promote their participation in conflict prevention, management and resolution.

We commend these Guidelines to you. They support members of the ADF and AFP, and other Australian government agencies. Most importantly, they inform how the Australian government prepares for and responds to operations, in particular the increasing number of operations with an express mandate to provide protection to civilian populations.

Air Chief Marshal Mark Binskin, AC
Chief of the Defence Force

Andrew Colvin OAM APM
Commissioner, Australian Federal Police

Introduction

As experiences in Afghanistan, Bosnia, the Central African Republic, Iraq, Rwanda, South Sudan, Syria and Timor-Leste have all too clearly demonstrated, contemporary situations of armed conflict and other situations of violence can have a devastating impact on civilians. Today, armed conflict is more often taking place within states rather than between them, and civilians continue to account for the vast majority of casualties. Despite being protected under international humanitarian and human rights law, civilians are increasingly the targets of systematic and opportunistic violence, including indiscriminate or disproportionate attacks, sexual and gender-based violence and other violations of international law.

The Australian Guidelines on the Protection of Civilians (the Guidelines) represent Australia's commitment to enhancing the protection of civilians (POC) across all international operations and engagements in which Australia is involved, whether they be mandated by the United Nations Security Council (UNSC) or other multinational, regional or national operations.¹ They reflect, build on and strengthen Australia's contribution globally towards international peace and security.

The Guidelines also fulfil Australia's commitment under the *Australian National Action Plan on Women Peace and Security 2012–2018* (NAP) to develop POC guidelines for the Australian Defence Force (ADF) and for the Australian Federal Police (AFP). Central to this commitment is reducing the impact of armed conflict on women and girls, and men and boys, by integrating a gender perspective into peace and security efforts.

While centred on ADF and AFP operations, these Guidelines represent a whole-of-government position on POC and build a shared understanding of POC across government. This is critical for providing effective protection for civilians and ensuring a common and consistent approach to government efforts.

Australia's commitment to POC

Australia has a long history of being involved in POC issues in international fora. As a founding member of the United Nations (UN), Australia is the 12th largest contributor to the UN regular and peace operations budgets. Australia has contributed 65,000 personnel to more than 50 UN and other multilateral peace and security operations worldwide and is committed to the implementation of international law to prevent and minimise the harmful effects of armed conflict and restore peace and security.

Australia plays a significant role in enhancing POC globally. During our 2013–14 UN Security Council term, Australia advocated for strengthening POC in Security Council mandates and sponsored Resolution 2185 on the role of police in peacekeeping, which emphasised the central role of the protection of civilians. Australia engages actively in the UN General Assembly's Special Committee on Peacekeeping Operations (C-34) and is a member of the informal Member State Group of Friends of Protection of Civilians in Armed Conflict and the Group of Friends on Women, Peace and Security. The Australian Government has also worked jointly to develop POC guidelines for the African Union Peace Support Operations.

¹ The term 'international operations and engagements' is used throughout this document and includes combat, peace, humanitarian, stabilisation and counterinsurgency operations in international and non-international armed conflict, post conflict, and other situations of armed violence.

Purpose of the Guidelines

The purpose of the Guidelines is to provide strategic level guidance for Australian agencies involved in, or contributing to operations and engagements where civilians are vulnerable to the threats of violence. The Guidelines articulate whole-of-government principles and focus areas that have been agreed by Australian agencies² to inform the development of Australian Government policy and strategy in relation to POC, and to support the preparation for and execution of operations with a POC mandate.³

The Guidelines confirm Australia's commitment to POC in accordance with international law and UN General Assembly and Security Council Resolutions. They are consistent with existing legal and policy frameworks (as shown Annex 2) and draw on best practice from the field.

How to use the Guidelines

These Guidelines articulate Australia's approach to POC and are designed to provide a common understanding of the principles of POC across Australian government agencies. The Guidelines should inform specific operational and tactical level instruction at agency level.

Although primarily aimed at ADF and AFP commanders and staff, these Guidelines are equally relevant to Australian government officials involved in planning, policy development or execution of Australian government objectives in international operations and engagement.

Understanding Protection of Civilians

The notion that civilians in armed conflict should be protected is not new.⁴ The protection of civilians has long been an objective of international humanitarian law and has been the focus of Australia's involvement in international operations and engagements. However, in the last two decades, following mass atrocities in Rwanda, Somalia and the former Yugoslavia in particular, the international community and United Nations has begun to better articulate and prioritise the issue of protecting civilians within international operations and engagements.

The concept of POC has been developed by the United Nations, states and other humanitarian actors to protect vulnerable populations from the effects of violence in armed conflict and other situations of violence. It encompasses the most immediate priority of providing physical protection through to more long-term objectives of promoting the rule of law and security within a state.

Defining Protection of Civilians

For the purpose of these Guidelines, POC includes **all activities aimed at ensuring full respect for the rights of civilians⁵ in accordance with the law, including human rights law, international**

2 The Australian agencies that collaborated on and agreed to these Guidelines are listed in Annex 1.

3 Reference to mandate or POC mandate refers to operations and engagements in which Australia is involved, mandated by the United Nations Security Council or other multinational, regional or national operations.

4 As above.

5 Any person who is not or is no longer participating in hostilities or other acts of violence shall be considered a 'civilian' unless he or she is a member of the armed forces or groups. In case of doubt whether a person is a civilian, that person shall be considered a civilian.

humanitarian law, international criminal law and international refugee law.⁶ For the purpose of these Guidelines POC comprises activities, including the use of force, undertaken for the protection for civilians. The specific activities Australia will undertake to protect civilians will depend on the Australian Government's authorising mandate, which will take into account the scope of UNSC authorisations and other mandates where applicable.⁷

Responsibility to Protect (R2P) is separate to POC

POC should not be confused with Responsibility to Protect (R2P). POC and R2P both concern responsibilities to take action to prevent human suffering from human-induced violence and in some situations will both be relevant. However, the prerequisites to their application and the activities they encompass are distinct.

R2P is a globally agreed principle articulating that states are responsible for protecting populations from the mass atrocity crimes of genocide, war crimes, crimes against humanity and ethnic cleansing. R2P rests on the primary responsibility of states to protect their own populations from mass atrocity crimes and the responsibility of the international community to support states in exercising that responsibility.

As a last resort, R2P outlines the responsibility of the international community to take collective action when states fail to do so, including, in appropriate circumstances, the collective use of force exercised in accordance with the UN Charter.

Australia is a strong supporter of R2P.

International legal and policy framework

Historically, POC was based on international humanitarian law, also known as the Law of Armed Conflict, which seeks to regulate the conduct of armed conflict and to limit its effects, particularly on those who are not involved or no longer taking part in hostilities. As the international community's understanding of POC has grown, a more expansive concept of POC has developed, which incorporates understandings of international human rights law, international criminal law and international refugee law. In the last two decades, the international community has developed an integrated concept of POC with a view to addressing the many inter-related aspects of protection threats, needs and responses.

Fifteen years after the first thematic resolution was adopted by the UN Security Council in 1999, POC occupies a prominent place on the UN agenda. The UN Security Council has adopted a series of resolutions

6 Operations conducted under UN Chapter VI/VII/VIII, or under international humanitarian law and rules of engagement for non-UN sanctioned operations.

7 Protection of civilians is a concept most often applied in armed conflict and other situations of violence, including where there are peacekeepers deployed. In the Australian context, it applies most frequently to the actions of Australia's Department of Defence and the Australian Federal Police. Other Australian government agencies also play important roles in delivering protection to people in need. DFAT's 'Protection in Humanitarian Action Framework' covers overseas humanitarian action provided through Australia's aid program. During humanitarian crises, DFAT can support United Nations agencies, the International Red Cross and Red Crescent Movement or non-government organisations to provide protection as part of humanitarian action. DFAT's humanitarian protection work focuses on activities that improve the safety of people affected by natural and human-induced crises by reducing the risks and addressing the impacts of serious physical and psychological harm due to violence, exploitation and deliberate deprivation.

supporting POC (in particular UN Security Council Resolutions 1674 (2006) and 1894 (2009), and now includes POC in most UN Security Council mandates for peace operations. The majority of UN missions are now mandated, at a minimum, to ‘protect civilians under imminent threat of physical violence’. The UN Security Council also consistently authorises such operations to ‘use all necessary means’ or ‘all necessary measures’, up to and including the use of deadly force to implement the mandate.

Apart from POC resolutions listed in the paragraph above, there are also other UN resolutions that contribute to POC including UNSCR 1325 (2000) on Women Peace and Security (WPS), and a further six related resolutions that form the WPS agenda. UNSCR 1325 recognises that women and girls, men and boys experience conflict differently and integrates a gender perspective into peace and security efforts.

The laws applicable to Australians deployed in international operations and engagements will depend on the precise factual situation at hand, and need to be assessed on a case-by-case basis. For example, international humanitarian law only applies where, as a matter of law, an armed conflict exists and Australia is a party to the armed conflict. Different rules apply in international and non-international armed conflicts. Whether Australia owes human rights treaty obligations in the context of POC international operations and engagements, and which obligations, will depend on the specific circumstances applicable to the operation/engagement. Australian personnel remain subject to specific Australian domestic laws with extraterritorial effect, including the *Criminal Code Act 1995* (Cth). ADF personnel are also subject to the *Defence Force Discipline Act 1982* (Cth) and AFP appointees are at all times required to comply with the *Australian Federal Police Act 1979* (Cth). In addition, Australian personnel will act consistently with provisions of law that are applied in a particular operation as a matter of policy.

These Guidelines are consistent with and support a number of existing international and domestic legal and policy frameworks, as outlined in Annex 2.

A shared responsibility: States and the international community

Central to POC is the understanding that states bear the primary responsibility to protect its population. Guaranteeing compliance with, and promoting accountability for, violations of international humanitarian and human rights law is central to this commitment.

International operations and engagements may be undertaken to assist and build the capacity of the host state to fulfil its protection responsibilities. In times of armed conflict and other situations of violence, some host states may not have the capacity, ability or willingness to meet POC obligations. In such situations intervening states may have the greater share of responsibility for POC (or complete responsibility) until the host state is able, or willing, to resume this responsibility. In situations of armed conflict, all parties to the conflict, including organised armed groups, have obligations that relate to the protection of the civilian population.

International organisations, including UN agencies, regional organisations, national organisations, the International Committee of the Red Cross and other humanitarian actors also play a key role in protecting civilians, each with their own specific mandates and areas of responsibility.

Civilian populations are pivotal in addressing their own protection needs. Engagement with the civilian population, and promoting the participation of women in conflict prevention, conflict resolution and peacebuilding, is integral to the success of protection efforts.

To be effective, POC requires the coordination of this range of actors, including across military, police and civilian components.

Australia's Approach to the Protection of Civilians

This section outlines the **guiding principles and focus areas** identified by Australian government agencies for protecting civilians. The agreed principles and focus areas provide strategic guidance and key considerations to inform the development of Australian government policy and strategy, and support the planning of and preparation for ADF and AFP international operations and engagements where the authorised mandate includes POC. Underpinning the guiding principles and focus areas is Australia's commitment and adherence to international humanitarian law, international human rights law, international criminal law and international refugee law.

Guiding principles for protection of civilians

Across all international operations and engagements, Australia's engagement in POC will be guided by the following principles:

- a. POC is integral to Australia's contribution to international peace and security
- b. POC strategies reflect Australia's international legal obligations including, where applicable, international humanitarian law, international human rights law, international criminal law and international refugee law
- c. POC strategies will support the host state's protection efforts or inform actions to protect civilians when the host state is deemed unable or unwilling to protect its own civilians, or when government forces themselves pose a threat to civilians
- d. POC strategies will include planning and consultation with civil society organisations and local community members with a view to creating a sustainable impact
- e. POC strategies will recognise and address the different needs of vulnerable groups including women and girls, men and boys, the frail and wounded, people with disabilities and ethnic minorities, refugees and internally displaced persons, and professionals at risk such as medical personnel
- f. Australian agencies will act in coordination with all protection actors including military, police and civilian components
- g. Across all operations Australia will support, and not detract, from POC.

Australia's focus areas for the protection of civilians

Australia has identified three focus areas for POC:⁸

- a. Protection through dialogue and engagement
- b. Provision of physical protection
- c. Establishment of a protective environment.

These focus areas are aligned with the three-tiered approach to protecting civilians in armed conflict detailed in the UN DPKO/DFS Policy on the Protection of Civilians in United Nations Peacekeeping (2015). The focus areas provide a conceptual framework for the various ways Australia may contribute to POC during international operations and engagements. The conduct of protection activities on the basis of this approach will be adapted to the mission or operation-specific context.

8 These focus areas are based on UN DPKO/DFS Policy on the Protection of Civilians in United Nations Peacekeeping (2015.07).

Recognising the range of actors contributing to POC in any given context, each focus area requires close coordination between—and concerted action from—the military, police and civilian components of an operation, as well as other state and non-state actors.

The focus areas are mutually reinforcing and should be implemented simultaneously where possible in accordance with mission mandates and circumstances on the ground. In many instances, there will be strong links between the activities in one focus area and those of another.

Activities undertaken in each focus area will take into account Australia's guiding principles for protecting civilians outlined above. In particular, activities will be tailored to the specific needs and interests of women and girls and boys and men, and address the disproportionate impact of armed conflict and other situations of violence on women and girls.

Australia's Three Focus Areas

Protection through dialogue and engagement includes dialogue with a perpetrator or potential perpetrator, conflict resolution and mediation between parties to the conflict, persuading the government and other relevant actors to intervene to protect civilians, public information and reporting on POC, and other initiatives that seek to protect civilians through public information, dialogue and direct engagement. Preventing threats to civilians from escalating is a primary focus.

Activities may include, for example:

- > Restoring community confidence and stability by addressing past conflicts and grievances.
- > Responding to complaints of serious international crimes and taking steps to ensure those most responsible are held to account.
- > Reducing the vulnerability of civilians through increased human rights promotion and monitoring.
- > Supporting the participation of women in peace and stabilisation dialogues.

Provision of physical protection encompasses those activities by police and military components involving the show or use of force to prevent, deter, pre-empt and respond to situations in which civilians are under threat of physical violence. Those actions are informed by and implemented in close coordination with substantive civilian sections, which help guide the objectives and conduct of military and police operations, including through joint POC planning and coordination structures.

Activities may include, for example:

- > Establishing a deterrent presence through military action.
- > Deploying to block aggressors.
- > Responding to violent attacks, and sexual and gender-based violence (SGBV) with all necessary means, including the use of force, where permissible.

Establishment of a protective environment focuses on supporting the establishment of an environment that enhances the safety and rights of civilians. It promotes legal protections; facilitates the provision of humanitarian assistance; builds national institution capacity; facilitates voluntary and safe return and reintegration of refugees and internally displaced persons; and includes disarmament, demobilisation and reintegration, and security sector

reform. A primary focus is support to the participation of women in conflict prevention, conflict resolution and peacebuilding, and support to efforts of the host government towards inclusion of women in decision-making roles in post-conflict governance institutions.

Activities may include, for example:

- > Creating conditions conducive to the delivery of humanitarian assistance.
- > Reducing forcible displacement and the creation of conditions suitable for the return of displaced persons.
- > Reform to police, judicial and defence sectors of the affected state, as well as disarmament, demobilisation and reintegration activities.

Annex 1

Participating Australian Government Agencies

Australian Defence Force

Australian Civil-Military Centre

Australian Federal Police

Department of Defence

- Defence Legal (Directorate of Operations and Security Law)

- Defence Peacekeeping Operations Training Centre

- Defence Director National Action Plan for Women Peace and Security

- Joint Doctrine Centre

Department of Foreign Affairs and Trade

Department of the Prime Minister and Cabinet

Office for Women

Annex 2

Australia's Normative and Policy Frameworks

These Guidelines are consistent with and support a number of existing international and domestic legal and policy frameworks.

Policy, guidelines, legal obligations and other considerations affecting POC

<i>Overarching International legal obligations</i>	
<i>Organisation</i>	<i>Policy, guidelines, legal obligations and other considerations affecting POC</i>
International humanitarian law International human rights law International criminal law International refugee law	
United Nations	Charter of the UN UN Security Council Resolutions (including UN Mission mandates) UN Security Council Resolutions forming the WPS agenda UNSCR 1325 (2000) UNSCR 1820 (2008) UNSCR 1888 (2009) UNSCR 1960 (2010) UNSCR 2106 (2013) UNSCR 2122 (2013) UN Human Rights Due Diligence policy UN Strategic Aims for POC OCHA Aide Memoire for the Consideration of Issues Pertaining to the Protection of Civilians
UN Department of Peacekeeping Operations	DPKO/DFS Policy - The Protection of Civilians in United Nations Peacekeeping (2015) United Nations Peacekeeping Operations Principles and Guidelines (also known as the Capstone Doctrine) POC training modules

<p>Australian Government</p>	<p>Protection in Humanitarian Action Framework</p> <p>DFAT Humanitarian Strategy</p> <p>Framework for Working in Fragile and Conflict Affected States</p> <p>National Action Plan on Women, Peace and Security</p> <p>Australian Aid: promoting prosperity, reducing poverty, enhancing stability</p>
<p>Defence</p>	<p>Defence Implementation Plan on WPS 2012-2018</p> <p>Rules Of Engagement (ROE)</p> <p>LOAC training</p> <p>ADF Introduction to Peace Operations course</p> <p>ADF United Nations Staff Officer’s course</p> <p>ADF United nations Military Expert on mission course</p> <p>ADF Peace Operations Seminar</p> <p>Pre-deployment training</p> <p>ADDP o6.4 – Law of Armed Conflict</p> <p>ADDP 3.8 – Peace Operations</p> <p>ADDP 3.20 – The Military Contribution to Humanitarian Operations</p> <p>ADDP 3.21 – The Military Contribution to Stabilisation</p>
<p>Australian Federal Police</p>	<p>AFP Commissioner’s Orders</p> <p>International Operations Police Development Handbook</p> <p>IDG/ AFP training including international law of peacekeeping, human rights protection in the UN, promotion of gender equality, rights of the child,</p> <p>Human rights standards in arrest detention</p> <p>Human rights standards in the use of force</p> <p>UN Women training on WPS</p> <p>IDG Gender Strategy</p>

Annex 3

List of Acronyms

ADF	Australian Defence Force
AFP	Australian Federal Police
DFAT	Australian Department of Foreign Affairs and Trade
DFS	United Nations Department of Field Support
DPKO	United Nations Department of Peacekeeping Operations
ICRC	International Committee of the Red Cross
NAP	Nation Action Plan on Women, Peace and Security
UNOCHA	United Nations Office for the Coordination of Humanitarian Affairs
POC	Protection of Civilians
UN	United Nations
WPS	Women, Peace and Security



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