

## RESEARCH ARTICLE

# The African Union Mission in Somalia and Civilian Protection Challenges

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Deployed to Mogadishu in March 2007, it was not until late May 2013 that the African Union Mission in Somalia (AMISOM) adopted a mission-wide protection-of-civilians (PoC) strategy. This article helps explain this long delay by highlighting the multiple PoC challenges faced by the mission. First, it shows how AMISOM's relevant documents contained a variety of mixed messages on PoC issues. Second, it illustrates some of the ways in which the African Union was hardly an ideal actor to implement a civilian protection agenda because of its limited previous experience with these issues. Third, it analyzes the ways in which AMISOM was itself sometimes a source of civilian harm in Mogadishu. The fourth section examines the remedial policies AMISOM adopted to try and alleviate this problem. The conclusion reflects on the current PoC challenges facing AMISOM and suggests that to be successful the new mission-wide strategy must overcome these material, legal, moral, and doctrinal challenges.

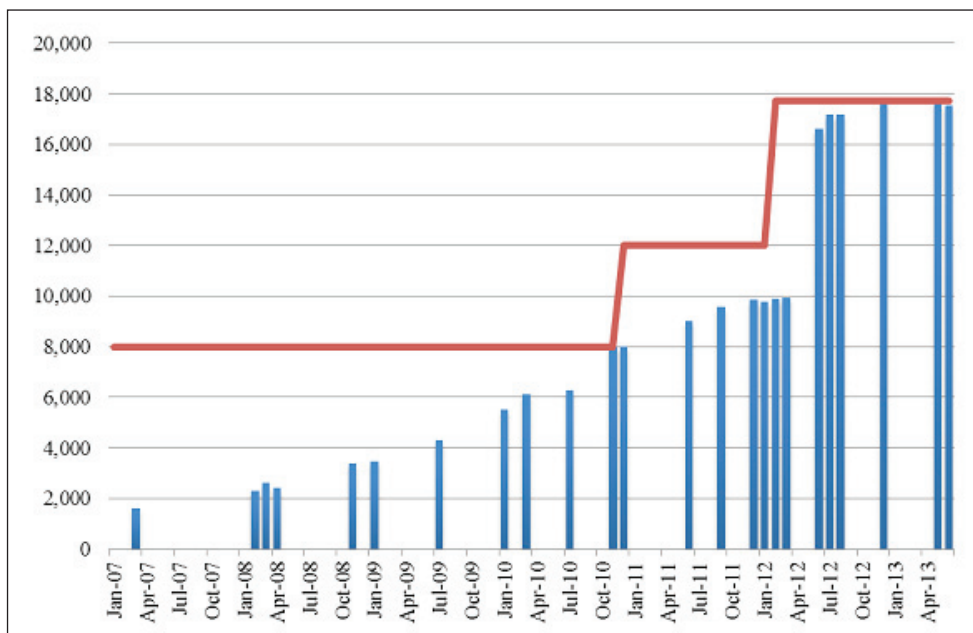
## Introduction

The African Union Mission in Somalia (AMISOM) was mandated by the African Union (AU) Peace and Security Council on 19 January 2007 and later endorsed by the UN Security Council (AU 2007). It was given a wide variety of tasks, including: (i) protecting senior Somali Transitional Federal Government (TFG) officials and others engaged in the political reconciliation process; (ii) conducting an enforcement campaign against *al-Shabaab* and other actors determined to destroy the TFG; (iii) supporting the Somali security forces; (iv) implementing a range of civil-military assistance projects (including delivery of water and medical services to the local population); (v) engaging in policing tasks; and (vi) providing training and logisti-

cal support to TFG security forces. Deployed to Mogadishu in March 2007 with some 1,650 Ugandan troops, by mid-2013 AMISOM had grown (in fits and starts) to nearly 18,000 personnel primarily from Uganda, Burundi, and Kenya with smaller contingents from Djibouti, Sierra Leone, and Nigeria (see **Figure 1**).

After a very difficult four years, in early 2011 AMISOM embarked on a series of offensive operations across Mogadishu which finally broke the military stalemate with *al-Shabaab* insurgents. In August 2011 *al-Shabaab* withdrew from Mogadishu and thereafter AMISOM deployed to a variety of positions outside the city. In late 2011 Kenyan and Ethiopian forces conducted unilateral military interventions against *al-Shabaab*. AMISOM took advantage of these developments to develop new strategic and military concepts of operations which increased its force strength to 17,731 personnel (as stipulated in UN Security Council reso-

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**Figure 1:** AMISOM Authorized and Deployed Strength, 2007–13. *Source:* Compiled by author from various AU and UN official sources.

lution 2036). In August and September 2012 AMISOM helped facilitate the selection of a new Federal Government of Somalia which replaced the TFG. As of June 2013, AMISOM forces were deployed in four sectors across south and central Somalia where they faced regular harassment from *al-Shabaab* fighters, particularly along their supply lines outside of Mogadishu. The African Union cited the lack of key force enablers as the reason why, since March 2013, “there have been no major advances to recover more territory from Al Shabaab” (AU 2013: §16).

For all this progress, AMISOM still faces some formidable military and political challenges (see Williams 2012, 2013). One of these is the challenge of how the mission should protect Somali civilians. During its six years in the field, AMISOM has had a contradictory relationship with this issue. On the one hand, AMISOM was mandated to protect certain VIPs associated with the political reconciliation process, fight off *al-Shabaab* and other anti-government armed actors, and provide medical care, water supplies, elec-

tricity generators, and humanitarian assistance to significant numbers of Mogadishu's stricken civilians because of the absence of humanitarian actors on the ground. On the other hand, at times AMISOM personnel were depicted as supporting a brutal occupying force in Mogadishu (the Ethiopian National Defense Force). They were also charged with harming civilians both directly through their indiscriminate fire policies and targeting of civilians they mistook for enemy fighters and indirectly by failing to protect others from *al-Shabaab* snipers and attacks. These problems were exacerbated by several factors: (i) AMISOM's adoption of an explicit protection-of-civilians (PoC) mandate in May 2013, long into its mission; (ii) the sheer difficulty of accurately verifying the nature and perpetrators of civilian harm in a complex environment such as Mogadishu; (iii) *al-Shabaab's* adoption of a variety of tactics – including using human shields and forcing civilians to remain in dangerous areas of the city – that were deliberately designed to increase the harm to civilians

caused by AMISOM; and (iv) repeated allegations – from rebels and some NGOs – that AMISOM had violated the laws of war and was unable to protect civilians.

Especially since *al-Shabaab's* withdrawal from Mogadishu in August 2011, calls intensified for AMISOM to adopt an explicit PoC mandate. Even without such a mandate, AMISOM was always required to protect civilians as part of its obligations under international humanitarian law (IHL) (see Wills 2009).<sup>1</sup> But until May 2013, AMISOM was not mandated to take on the more explicit and proactive duty of protecting civilians beyond the obligations required by IHL, i.e., deliberately and proactively using its resources to reduce civilian harm (see AU 2013: §49).

Calls for AMISOM to adopt a PoC mission strategy in the second, more expansive, and proactive sense raised at least five key issues. First, what would such a proactive protection mandate mean in practice? Second, would it raise local expectations to unrealistic levels, or had local civilians always expected protection from AMISOM troops regardless of whether this was written into the mission's formal mandate?<sup>2</sup> Third, because soldiers can only deal with part of the spectrum of civilian protection challenges, where would AMISOM find the required numbers of police and other civilian experts to do the job? A fourth issue was resource constraints. Specifically, having received an unprecedented support package from the UN Security Council in 2009, would AMISOM actually receive the significant additional resources necessary to perform proactive civilian protection tasks, especially as other potential peace operations loomed in Mali and eastern Democratic Republic of Congo? A fifth challenge was how to ensure that AMISOM troops received effective training for conducting the military tasks associated with the proactive PoC?

After receiving considerable criticism for its indirect-fire policies, in 2010 AMISOM tried to develop and implement various remedial actions designed to better meet its obligations under IHL. These included developing

a new indirect-fire policy, revising its rules of engagement, and revamping its approach to strategic communications. While these efforts addressed various dimensions of the problem, these reforms were not sufficient to ensure that AMISOM could effectively discharge a proactive PoC mandate. Thus looking forward, the mission still faces a considerable list of challenges to effectively implement its new mission-wide PoC strategy.

This article provides an overview and analysis of AMISOM's at times torrid relationship with PoC issues and sketches some of the mission's major challenges and dilemmas in this area. First, it shows how AMISOM's relevant documents contained a variety of mixed messages on PoC issues. Second, it illustrates some of the ways in which the African Union was hardly an ideal actor to implement a civilian protection agenda because of its limited previous experience with these issues. Third, it analyzes the ways in which AMISOM was itself sometimes a source of civilian harm in Mogadishu. The fourth section examines the remedial policies AMISOM adopted to try and alleviate this problem. The conclusion reflects on the current PoC challenges facing AMISOM and suggests that to be successful the new mission-wide strategy must overcome these material, legal, moral, and doctrinal challenges.

### **Protection of Civilians on Paper: Mixed Messages**

Prior to adopting the mission-wide PoC strategy in May 2013, the African Union and AMISOM's senior leadership were at best ambiguous and at worst contradictory in their formulation of relevant documents and concepts which dealt with protection issues.

First, there was an issue concerning the AU's position vis-à-vis its peacekeepers intervening to stop civilian harm where they encounter it. Specifically, it remained unclear whether the AU agreed with the 2000 "Brahimi Report" on UN peace operations which concluded that regardless of whether they have an explicit PoC mandate, "peacekeepers

— troops or police — who witness violence against civilians should be presumed to be authorized to stop it, within their means, in support of basic United Nations principles” (UN 2000: §62). It was not until late 2009 that the African Union began a process of developing general guidelines on PoC for its peace support operations, and it remains unclear what advice was given to its troop-contributing countries before that time. Between 2003 and April 2013, only one of the AU’s peace operations was explicitly mandated to proactively protect civilians: the AU Mission in Sudan, which deployed to Darfur in mid-2004 before being subsumed into the AU-UN Hybrid Operation in Darfur (UNAMID) in early 2008. It is therefore plausible that because the African Union did not take a formal position on this issue and chose to explicitly mandate one of its peace operations to conduct PoC tasks, the Union does not see its peacekeepers as responsible for proactively protecting civilians as a matter of course in the manner proposed by the Brahimi Report. However, in June 2012 the AU Peace and Security Council released a press statement based on its 326<sup>th</sup> meeting where it stressed the importance of “mainstreaming” PoC issues “in standard operating procedures of AU peace support operations,” and that “PoC *must* form part of the mandate of future AU missions” (AU 2012: 1, emphasis added).

Another potential source of confusion was AMISOM’s initial rules of engagement (ROE), which were produced in March 2007. The ROE were primarily intended to set out the circumstances under which force could be used in self-defense, pre-emptive self-defense, and/or other situations. One element of AMISOM’s ROE clearly specified a basic tenet of IHL that: “When force is used, all necessary measures would be taken to avoid collateral damage” (AMISOM ROE March 2007: §7h). This would include avoiding harm to civilians. But AMISOM’s ROE also stated that its troops *could* use force in some situations beyond self-defense includ-

ing: “To afford protection to civilians under imminent threat of physical violence” (AMISOM ROE March 2007: §7k(1b)). No other guidelines were specified, hence blurring the line between upholding IHL and proactively protecting civilians from threats.

Instructions that AMISOM troops could protect civilians were also present in the revised ROE issued on 15 February 2010. Rule No. 1.7, for example, stated: “Use of force, up to and including deadly force, to protect civilians, including humanitarian workers, under imminent threat of physical violence is authorized. When and where possible, permission to use force should be sought from the immediate superior commander.” This was reiterated in the Pocket Card version of the ROE issued to AMISOM troops which, under the section summarizing “Specific Rules for the Use of Force”, stated: “You are authorized to use force, up to and *including deadly force* [emphasis in original]... To protect civilians, including humanitarian workers, under imminent threat of physical violence.” Thus at the tactical level AMISOM troops did not have an explicit PoC mandate but were given a set of ROE which told them they could use deadly force to protect civilians.

Mixed messages were also present at the strategic level. This is probably not surprising because AMISOM evolved in parallel with international debates about the development of PoC guidelines at the United Nations and within the African Union. With regard to the African Union, it was at the July 2010 summit in Kampala that the AU Assembly requested the AU Commission continue its efforts to develop a framework of action and guidelines on PoC in peace operations. Those efforts had begun in earnest in December 2009 and in March 2010 produced a document entitled, *Draft Guidelines for the Protection of Civilians in African Union Peace Support Operations*. This document defined the “protection of civilians” as “all activities aimed at obtaining the full respect for the rights of the individual recognised under regional instruments including

the African Charter of Human and Peoples' Rights, the Convention on Internally Displaced Persons, and the Convention Governing the Specific Aspects of Refugee Problems in Africa, and international law including humanitarian, human rights and refugee law" (AU 2010: §1).

On 15 October 2010 the AU Peace and Security Council reaffirmed "the AU's commitment to fully adhere to, and respect, International Humanitarian Law (IHL) in AMISOM's operations" and encouraged the Commission to "mainstream" the AU's Draft Guidelines for the Protection of Civilians in Peace Support Missions "into the activities of AMISOM as the Mission does its utmost to avoid collateral civilian casualties" (AU PSC 2010). A Working Group on the Protection of Civilians was established within the AU Commission in February 2011; this included representatives from the Office of the Legal Counsel, the Peace and Security Department, the Political Affairs Department, the Social Affairs Department, the Directorate on Gender and Women's Affairs, and the Communication and Information Department. Among other things, this working group interacted with relevant experts within the UN Department of Peacekeeping Operations (DPKO), the Office for the Coordination of Humanitarian Affairs (OCHA), and the Global Protection Cluster. The stated plan was to develop and implement AMISOM's "mission-wide strategy on the protection of civilians" for the civilian population in its area of operations by the end of 2011 (AU Commission 2011: 3, see also AU 2011a: §15). In May 2011 the AU Peace and Security Council, under South African chairmanship, held its first open session on PoC during which it called on the Commission to develop "an AMISOM approach for the protection of civilians" as a matter of priority (AU 2011b).

The 2011 AMISOM *Mission Implementation Plan* also identified PoC as one of AMISOM's five key diplomatic and political tasks for the period from March to September 2011. In its words: "AMISOM is committed to the adher-

ence and implementation of International Humanitarian Laws and Rules of Engagements approved for the mission. In this regards AUC is developing the wholesome policy and guidelines for protection of civilians" (AMISOM 2011a: 21). To that end, from 6 to 8 July 2011 AMISOM convened a roundtable in Kigali on enhancing respect for IHL in the implementation of AMISOM's mandate. The roundtable was attended by delegates representing the TFG, Somali civil society, Burundi, Uganda, the United Nations, a variety of donors, and members of the AU Commission Working Group (AU 2011d: §46). The conference outcome document stated that the AU Commission should "assist AMISOM to mainstream relevant parts of the four-tiered approach to protection into the work of the mission *under the current mandate* (AU 2011c: p.2, emphasis added). The four-tier approach referred to the AU's understanding of: (i) protection through political process, (ii) protection from physical violence, (iii) rights-based protection, and (iv) the establishment of a protective environment. Once again, this approach was ambiguous inasmuch as it blurred the distinction between AMISOM protecting civilians in the limited sense of upholding IHL and the more proactive approach which would require AMISOM to stop other threats to Somali civilians, most notably with regard to tier 2: protection from physical violence.

As discussed in more detailed below, one consequence of these discussions and other pressures was the AU's decision to adopt a new Indirect Fire Policy for AMISOM in spring 2011. This formalized a stricter chain of command for the use of mortar and artillery fire and establishing 'no-fire zones' where civilians were known to be present. This policy was developed with the assistance of external advisers utilized by the Information Support Team of AU/UN. The major problem with the new policy was not its substance but rather the fact that AMISOM was told to implement it without any "additional resources for training, mentoring and equip-

ment such as weapons-tracking mechanisms or aerial drones which would greatly assist in tracking fire and determining response options” (Lotze and Kasumba 2012: 23). In addition, although the Indirect Fire Policy was apparently approved by the Special Representative of the Chairperson of the African Union Commission (SRCC) in mid-2011, it was only formally introduced into the revised AMISOM ROE in mid-2012.

In contrast to the 2011 *Mission Implementation Plan*, however, AMISOM’s new Military Strategic Concept of Operations – formulated in late 2011 and adopted by the African Union in January 2012 – did not list PoC as part of the mission’s mandate. Indeed, the concept of PoC was entirely absent from the document. Even more confusingly, in a foreword to the March 2012 brochure version of the AU’s *Draft Guidelines for the Protection of Civilians*, Commissioner for Peace and Security Ramtane Lamamra wrote that “the AU operations in Darfur and in Somalia were, and remain, specifically mandated to ensure the protection of displaced persons and the delivery of humanitarian assistance, and to prevent serious human rights abuses from being committed against the civilian population” (Lamamra 2012: 2). This seems to imply much more than simply upholding IHL.

In addition to this confusing paper trail, the mission’s leadership and AU officials sometimes gave additional mixed messages about how they understood protection (Confidential interviews). Some thought of AMISOM as being actively engaged in PoC but only for the subset of political leaders who were designated as VIPs in the Transitional Federal Institutions. Others saw AMISOM as helping protect local populations through its provision of civil-military assistance, including facilitating humanitarian relief and giving medical care to civilians in Mogadishu. On the other hand, some senior officials saw their main task as defending the TFG and fighting *al-Shabaab*. Those officials recognized that civilians were protected as a byproduct of such activities but felt AMISOM was not obliged to take any further action.

Finally, some argued that more proactive PoC tasks should be an explicit part of AMISOM’s mandate, even if it would likely raise local expectations to unrealistic levels.

Once again, debates became confused by two different understandings of civilian protection: the narrow approach, that saw it as largely synonymous with enhancing AMISOM’s compliance with IHL, and a broader approach which called for AMISOM to engage in proactive tasks to reduce threats to civilian populations. If nothing else, these two conceptions would require radically different force postures and had very different resource implications (see Lotze and Kasumba 2012).

### Limited Previous Experience

A second challenge was the AU’s lack of previous experience in protecting civilians from physical violence. As a result, AMISOM’s approach to PoC should be assessed within this context of general institutional unpreparedness.

Before AMISOM’s deployment in March 2007, only one AU peace operation had been given an explicit PoC mandate, namely, AMIS in Darfur (2004–07). This did not turn out well: AMIS was overwhelmed by the scale of problems in Darfur and was replaced by a UN-led hybrid mission, UNAMID, at the start of 2008. AMISOM was not able to learn from AMIS’ problems, however, because no official lessons learned study was conducted either on AMIS in general or the AU’s efforts to protect civilians in Darfur in particular. This absence of lessons learning occurred despite the fact that the AU Commission correctly recognized that, even without explicit protection mandates, “all [AU] missions, have, to a greater or lesser degree, faced protection challenges throughout the course of their deployment, and utilized varying strategies to address these” (AU 2011a: §16; see also AU 2011e: 10). Similarly, the Commission acknowledged that such a study would have been highly significant for “the development of a body of knowledge and institutional memory” and “as a valuable policy-making

and training tool for future operations” (AU 2011a: §17). The same document also acknowledged “AU operations in Sudan and Somalia have highlighted the importance of the protection of civilians for the overall success of peace efforts on the ground, as well as the challenges being encountered” (AU 2011a: §24).

The AU’s lack of experience and general unpreparedness were also apparent in other ways. As noted above, the African Union had no PoC guidelines for its peace operations until March 2010.<sup>3</sup> This was not solely an AU problem, but it is notable that when AMISOM was initially deployed to Mogadishu there was a general lack of relevant PoC doctrine, guidelines, and training across a range of international organizations engaged in peace operations of one sort or another (see Giffen 2010).

A related problem was that the AU’s guidelines were heavily influenced by the UN’s parallel process of developing PoC guidelines for its peacekeeping operations.<sup>4</sup> The problem was that AMISOM was not a peacekeeping mission in the UN sense of the term – but rather an operation which involved various war-fighting, VIP protection, and counter-insurgency elements which went well beyond the levels of force and tempo of operations generally expected in UN-led peacekeeping missions. AMISOM’s mandate to protect the TFG also made it a party to the armed conflict. This left AMISOM under constant threat of attack from anti-TFG forces and raised the risks of conducting the type of small-unit patrols which have been an essential part of PoC strategies in some UN peace operations, including UNAMID and MONUSCO (in the eastern DRC). Indeed, AMISOM was often forced to conduct vicious street-fighting with enemy forces sometimes less than 50 meters away from its positions, and *al-Shabaab*’s network of underground tunnels meant that it could mass a significant force – of up to 100 fighters – very quickly. Indirect-fire weapons were thus often used “Danger Close”, i.e., within the minimum safety distances for AMISOM troops as well

as any present civilians. AMISOM’s posture thus raised questions about the applicability of most current thinking on PoC, which was usually designed with reference to UN peace-keeping operations.<sup>5</sup>

Not surprisingly, therefore, the AU lacked even basic training modules which could have been presented to AMISOM personnel as part of their pre-deployment training (a point the AU recognized, see AU 2011e: 16). Once again, it is worth noting that the UN did not develop such modules until 2011. There was a similar dearth of operational concepts suitable for articulating what military and civilian tasks might actually be involved in carrying out a PoC mandate. As noted above, some elements of AMISOM’s ROE and internal documents noted the importance of civilian protection and even granted permission to use force to that end in certain circumstances. But these statements were not accompanied by more concrete guidelines on the specific tasks associated with civilian protection beyond ensuring respect for IHL.

The situation was further complicated in Somalia because of the lack of an effective national government; the national government would usually shoulder the primary responsibility for ensuring civilian protection within its territory with peace operations playing a variety of supporting roles. In this case, however, not only was the TFG widely considered corrupt and illegitimate, but its own forces routinely harmed civilians (Human Rights Watch 2010). This only changed with the selection of the new Federal Government in September 2012. Even on the specific issue of compliance with IHL, however, AMISOM had no legal advisers in IHL until 2010. This helps explain why the mission’s senior leadership was reluctant to comment publicly on controversial incidents and why lower ranks worried about potentially admitting responsibility for alleged IHL violations. That is, they needed reassurance that admitting errors and creating collateral damage was not the same as war crimes and would not automatically lead to their prosecution for war crimes. There was

also concern that AMISOM would become financially liable for any claims but had neither a mechanism to verify such claims nor any funds to pay reparations in legitimate cases (Interviews, AU official and adviser, January 2011).

Another challenge was the histories of the Ugandan People's Defense Force (UPDF) and the Burundi armed forces, which provided troops to AMISOM. Neither had a good track record when it came to issues of civilian protection and upholding IHL, and neither had put their soldiers through relevant pre-deployment training before sending them to Mogadishu. Moreover, in its first few years AMISOM did not have enough troops for the job. As one former officer suggested: "A force that cannot protect itself is unlikely to do well at protecting civilians" (Interview, AMISOM officer, April 2011). Whether one uses popular ratios of soldiers to locals, soldiers to territory, or soldiers to armed foes, AMISOM lacked the authorized troop strength necessary to conduct protection tasks in its area of operations. Moreover, the mission did not reach its initial authorized strength of 8,000 for nearly three and a half years (see **Figure 1**).

Even if AMISOM had rapidly deployed the authorized number of troops, another fundamental challenge was that proactive PoC calls for a wide range of multidimensional activities, not all of which are best carried out by soldiers. Yet AMISOM had very few police officers or civilian personnel. Until August 2012, when the mission's first (Ugandan) Formed Police Unit (FPU) was deployed to Mogadishu, the mission had less than one hundred police officers. AMISOM's police component was enhanced in mid-September 2012 with the deployment of a second FPU from Nigeria and the AU declared it would reach the authorized number of 260 individual police officers (as set out in the Strategic Concept) by November 2012 (UN 2012: §24). By mid-2013, AMISOM had 490 police officers (AU 2013: §24). In terms of civilian staff, the situation was even worse; by early October 2012 AMISOM had just 21 civilian per-

sonnel working in Mogadishu and another 46 working in Nairobi, mainly handling issues of procurement and finance (UN 2012: §18). By June 2013, the figures were 25 in Mogadishu and 31 in Nairobi (AU 2013: §25).

Finally, AMISOM had no means to collect and analyze information that is crucial for both ensuring compliance with IHL and more proactive protection initiatives. Although Mogadishu was clearly a very difficult place in which to verify reports of civilian casualties and identify the perpetrators, AMISOM's information-gathering mechanisms were severely limited and constrained. The Mission Analysis Cell, for instance, struggled to complete its other tasks let alone collect the additional information that would have been necessary to support PoC activities. At a basic level, AMISOM did not report on incidents appropriately, nor did it have adequate mechanisms for investigating episodes of collateral damage and potential violations of IHL (Interview AMISOM official, August 2010). In sum, the African Union was badly unprepared to carry out a PoC mandate in Mogadishu even if it had wanted to do so.

### Causing Harm

AMISOM's most controversial issue has been the harm it caused civilians in Somalia. Although the mission did not have an explicit PoC mandate until May 2013, locals did not primarily judge AMISOM on how many *al-Shabaab* fighters it killed but whether the mission was implementing its mandate while minimizing civilian casualties.

While exact figures are impossible to generate, large numbers of civilians were killed or injured as a direct result of fighting in Mogadishu during AMISOM's deployment. For example, Amnesty International reported that some 6,000 civilians were killed in attacks in 2007 alone (Amnesty International 2008: 1). More recently, a Somali NGO, Elman Peace and Human Rights Centre, estimated that in Mogadishu 1,739 civilians were killed in 2009, 2,200 in 2010, and around 1,400 in the first half of 2011 (cited in CIVIC 2011: 18). Similarly, the World Health Organization esti-



mated that between January and July 2011, 6,543 individuals had been admitted to hospitals in Mogadishu with “weapons-related injuries” (cited in CIVIC 2011: 18). Of course, these estimates are derived from a context in which conditions on the ground made it very difficult to get accurate information. An additional challenge was *al-Shabaab's* tactic of killing their own wounded and leaving them unarmed in an attempt to make them look like a civilian casualty (Interviews, AU, UN and EU officials and advisers, 2012).

From March 2007, AMISOM was deployed alongside Ethiopian National Defense Force (ENDF) soldiers until the latter withdrew from Mogadishu in January 2009. Although the ENDF was not part of AMISOM, the AU forces worked with them and suffered from a considerable degree of ‘guilt by association’ in the eyes of the local populace because of the ENDF’s brutal approach towards local civilians. During its occupation of Mogadishu the ENDF was accused of inflicting large-scale atrocities on the civilian population including killing street children, engaging in indiscriminate sniper fire, slitting people’s throats, torture, and rape (Amnesty International 2008). The ENDF was also accused of using white phosphorous bombs in the city during April 2007, killing approximately 15 *al-Shabaab* fighters and 35 civilians (UN 2007: 12–13). At this stage, Amnesty International bluntly concluded that AMISOM “has neither the mandate nor the capacity to protect civilians in Somalia” (2008: 6). Albeit to a lesser degree, AMISOM also suffered from guilt by association with the TFG forces who committed crimes against local civilians because the mission was involved in training and supporting them in the fight against *al-Shabaab* (see, for example, Human Rights Watch 2010).

But guilt by association was not AMISOM’s only problem; on numerous occasions several different parties accused the mission of actually causing civilian harm. In September 2008, for example, Shaikh Sharif Shaikh Ahmed wrote to the United Nations, African Union and other international organizations

accusing AMISOM of “brutality” and “war crimes.” He wrote: “AMISOM has been using tanks and heavy artillery indiscriminately against the population of Mogadishu. ... over 100 people, including children, women, and elderly have been killed; more than 300 others have been wounded, and about 3000 have fled their homes.” Shaikh Sharif went on to accuse AMISOM of this “evil practice” which his organization [the Alliance for the Re-Liberation of Somalia] considered “a war crime” (ARS 2008). Similarly, in November 2010 the Benadir Governor/Mayor of Mogadishu formally complained to the African Union about its use-of-force policies and said that AMISOM was not using its forces to neutralize snipers who were targeting civilians (Interview, AU official, January 2011). In that same year one Somali peace activist in Mogadishu summarized the perspective of many local civilians by saying: “What is the difference between AMISOM and *al-Shabab* ... AMISOM are killing me. And they [*al-Shabaab*] are also killing me” (as quoted in CIVIC 2011: 42). Some former *al-Shabaab* fighters have testified that their decision to fight against AMISOM was partly the result of feelings of hatred or a desire to seek revenge because of AMISOM’s bombardment tactics (see, for instance, Hassan 2012: 18).

In a typical scenario for much of 2009 and 2010, *al-Shabaab* forces would fire a couple of mortar rounds at AMISOM positions from Bakara Market and then withdraw. AMISOM would return fire with heavy weapons without being able to observe where the shot fell and without being able to rapidly locate *al-Shabaab's* heavy weapons, which meant AMISOM’s return fire was likely automated at pre-set targets. *Al-Shabaab* would then claim AMISOM’s fire had caused civilian casualties while AMISOM would deny this or claim *al-Shabaab* had forcibly kept civilians in Bakara Market for precisely this reason (Interview, AU official, January 2011). Alternatively, a similar scenario would unfold after *al-Shabaab* used converted Toyota minibuses as mobile artillery launchers, which would fire at TFG/AMISOM positions before depart-

ing the scene and leaving the area exposed to likely retaliatory fire (CIVIC 2011: 19). At times, AMISOM also fired on civilians who were mistaken for enemy fighters. In one such incident in 2009, a passenger bus was accidentally fired upon by AMISOM troops after they were ambushed by a combination of a roadside bomb and machine gun fire (Interview, AMISOM officer, May 2013; see also CIVIC 2011: 20). More recently, in September 2012, a Kenyan AMISOM soldier shot dead six civilians in the run up to the assault on Kismayo: he apparently believed they were *al-Shabaab* fighters who had attacked his unit earlier that day (BBC 2012). Other forms of collateral damage also occurred, including civilians being caught in crossfire and AMISOM vehicles causing injuries to civilians through road accidents. A particularly difficult problem was raised if AMISOM caused casualties amongst relatives of members of the TFG's security forces, with whom AMISOM personnel had to work.

### Remedial Action

In light of such criticism, by 2010 there was widespread agreement throughout the African Union, AMISOM, and various international partners that something needed to be done to reduce levels of civilian harm in Mogadishu, especially that which was caused by AMISOM. This was seen as important for moral and legal reasons but also because the failure to protect civilians was strategically undermining AMISOM and its operational success. The weight of evidence was clear that AMISOM's existing approach had neither defeated *al-Shabaab* nor destroyed its heavy weapons yet had caused resentment among local civilians, reduced cooperation, and probably pushed some locals to join *al-Shabaab* or at least provide the insurgents with information about AMISOM. In sum, existing approaches ultimately extended the conflict and would lead to more AMISOM and civilian casualties (Confidential interview, February 2011).

But in order to fundamentally change its policies AMISOM needed external assistance.

This assistance came in two principal forms: (i) contractors who helped design and implement new information and communication policies; and (ii) external advisers who helped design a new indirect-fire policy for the mission.

One part of the challenge revolved around "strategic communication", i.e., the need to explain that *al-Shabaab* was a key source of civilian casualties and shift the narrative of public information in AMISOM's favor. To this end, in February 2010, AMISOM signed the Support Implementation Agreement on Public Information with the United Nations Support Office for AMISOM (UNSOA), through which UNSOA had contracted a consortium of three companies to support AMISOM on Public Information: Albany Associates, Bell Pottinger, and Okapi Consulting. This agreement paved the way for a range of activities to help AMISOM "obtain broad popular support and understanding" of its role in supporting the Somali institutions of government. The plan revolved around devising a core narrative to reinforce the profile, credibility, and legitimacy of AMISOM and simultaneously undercut efforts to obstruct that narrative by AMISOM's opponents (Interview, AU-UN Information Support Team official, December 2012). These efforts included:

- the launch of a radio station "Radio Barkulan" (Somali for "meeting point") in March 2010 with broadcasts in Somali from its main studios in Nairobi, Kenya;
- publications such as the online *AMISOM Bulletin* and *AMISOM Quarterly Magazine* which aimed to disseminate information to partners on a regular basis and opinion editorials on behalf of the SRCC, Deputy SRCC and the Force Commander;
- AMISOM conducting media visits and/or facilitating media visits to Mogadishu for international journalists, and journalists from current and potential troop-contributing countries;
- media training workshops, which were held for military commanding officers from the troop-contributing countries in

order to equip the officers with skills in handling the media while in the mission area; a media conference (April 2011);

- producing AMISOM video documentaries;
- holding press conferences, briefings and providing releases;
- convening weekly information meetings to enhance coordination with partners;
- and the maintenance and updating of the AMISOM website ([www.amisom-au.org](http://www.amisom-au.org)).

Many of these publications and dissemination efforts highlighted the ways in which AMISOM was providing support to local civilians, both physical protection by weakening *al-Shabaab* as well as medical care and humanitarian relief.

Although such exercises in strategic communication do not amount to a remedy for previous harm done, they reflected a more sophisticated approach to the campaign against *al-Shabaab*, which for several years had developed a more effective media campaign than AMISOM. Within a year of hiring these contractors, reports accusing AMISOM of causing civilian casualties had declined dramatically.

The second major change was in relation to AMISOM's indirect-fire policy, which was redesigned with the help of outside advisers, notably from the Information Support Team, the Center for Civilians in Conflict (CIVIC), and Bancroft Global Development. The Information Support Team soon recognized that this was an important strategic issue which was damaging AMISOM's reputation and needed fixing. To that end, they called on external advisers from CIVIC to help devise the content and structure of a new policy framework and guidelines with the assistance of retired British General Roger Lane. As part of the implementation Bancroft contractors provided in-mission training and support in a variety of areas including marksmanship, counter-IED techniques, and some engineering elements.

As a result of these initiatives, AMISOM endorsed a new indirect-fire policy in spring 2011.<sup>6</sup> Although this was clearly not synony-

mous with the broader PoC agenda, it would address one of the main ways in which AMISOM was responsible for causing civilian harm. The new policy was duly noted by the UN Secretary-General, who quickly acknowledged AMISOM's improvements in this area (UN SG 2011: §69). Similarly, the African Union also concluded that this new approach produced dividends, pointing specifically to the positive role of utilizing public information before and during AMISOM's military operations to secure Afgoye (UN 2012: §34). However, endorsing the policy was not the same as effectively implementing it and there was considerable delay within the African Union in ironing out the details and neither the Union nor any donors provided the necessary new resources.

Drawing inspiration from the Somali tenets of *biri-ma-geydo* (which seeks to spare women and children and other innocents from the spear/armed conflict), the new indirect-fire policy involved a three-step process summarized as the "3A strategy" – for Avoid, Attribute, and Amend. In other words, where possible AMISOM should avoid the use of indirect fire; where casualties occur AMISOM should attribute responsibility to the perpetrator(s) by assessing and investigating incidents; and AMISOM should assist those who have been injured through emotional redress, medical care, and/or material assistance and make amends for civilian harm caused unintentionally by AMISOM, thus helping to build local support for the mission over the longer term (Confidential interview, February 2011; for a discussion of the concept of "making amends" see Holewinski 2012). In the initial steps AMISOM's military component would lead whereas in the final stages the leading role would be played by AMISOM's civilian component as well as perhaps UN agencies and international donors.

The new policy required changes in policy and tactics as well as better equipment. In particular, AMISOM called for more sophisticated targeting equipment and locating equipment for mortars as well as the associated training and support. In terms

of tactical changes, AMISOM commanders instigated a number of mitigation/control measures designed to reduce the potential for causing civilian harm. These included troops being given relevant pre-deployment training, including in IHL, which instructed commanders on matters such as: (i) not to fire without authorization; (ii) designating “no fire zones” in areas where civilians were known to be present (e.g, schools and hospitals); (iii) restricting counter-battery fire and unobserved fire; (iv) utilizing early warning mechanisms, including verbal warnings to people to vacate an area; (v) choosing not to use particular weapons; and (vi) exercising a high degree of restraint (Interview, senior AMISOM official, August 2012).

As part of the “attribute” step, AMISOM required some form of investigative capacity. Ideally, this should have operated in a context where the mission’s personnel kept accurate records of incidents and war diaries at Contingent Command level as well as the Force Commander level, including detailed logs of use of heavy weapons and skirmishes/contacts. Calling on such records/diaries would make it easier to refute false allegations. It was in this context that the external advisers called on AMISOM to establish a dedicated unit to collect and analyze such information. Specifically, drawing on some of its work with the coalition forces in Afghanistan and after discussions with various parties connected to AMISOM, CIVIC called for the establishment of a Civilian Casualty Tracking, Analysis and Response Cell (CCTARC) (CIVIC 2011: 4). This idea was subsequently endorsed in paragraph 17 of UN Security Council Resolution 2036 (22 February 2012) which called for the establishment of the CCTARC to track incidents of civilian harm, investigate them, and oversee compensation initiatives when appropriate.

By this stage, however, it was clear that the new Indirect Fire Policy was already out of date in important respects and needed revision. As the advisers rightly noted, the 2011 policy had been designed before the arrival of

the Kenyan forces, and thus before AMISOM had any airpower, which had a potentially major part to play in preventing or causing civilian harm; and there were now new relevant technologies that had not existed previously in the mission (Confidential interview, September 2012). This situation called out for AMISOM to create a Force Fire Direction Centre and a related collateral damage estimate decision support tool to work in conjunction with the CCTARC, an action plan for which had been given funding by the British government (Confidential interview, September 2012). Although AMISOM’s Force Artillery Officer was clearly in favor of this Centre as a tool to train his personnel, it was not developed. When, in early 2012, CIVIC sent a team to Mogadishu to work with AMISOM to establish a preliminary framework for the CCTARC, they met with significant resistance and returned home without conducting their assessment (Confidential interviews, August-October 2012). Other AU officials argued that AMISOM did not establish such a cell in part because it lacked the bureaucratic resources to staff it (Lotze and Kasumba 2012: 23). Although without the assessment it is difficult to know exactly what staff would be required and whether AMISOM would need to hire more personnel. In October 2012, the African Union simply noted that AMISOM “continues to work towards the establishment of a civilian casualty tracking, analysis and response cell, as outlined in Security Council resolution 2036” (UN 2012: §35). AMISOM would, however, establish a new protection, human rights, and gender section in the coming months (UN 2012: §36). In March 2013, AMISOM developed a framework to establish the CCTARC and – as long as it secured the requisite funding – the mission hoped to have the CCTARC established “before the end of 2013” (AU 2013: §50).

If indeed senior AU officials actively resisted the establishment of the CCTARC as opposed to simply lacking the relevant resources (although new staff could always

be hired), it is perhaps not entirely surprising. Western forces actively resisted similar calls in the Iraq campaign which started in 2003, and in Afghanistan they adopted a variety of civilian casualty tracking mechanisms, such as the ISAF Civilian Casualties Tracking Cell (CCTC) and later the Civilian Casualties Mitigation Team (CCMT), only after several years.

Another relevant but controversial issue was whether AMISOM should offer compensation for civilian harm caused by its personnel and actions. There are moral, strategic, and cultural reasons why some form of compensation scheme would make sense in Somalia (CIVIC 2011: 41–44). But AMISOM had no compensation scheme for civilian casualties it caused. Until early 2011, there had only been one example of AMISOM making a compensation payment (of nearly \$8,000), but this was for some camels that were killed by AMISOM troops (Interview, AU official, January 2011). Not surprisingly, this drew a generally negative response from many locals, with one local newspaper writing: “AMISOM’s recent compensation for killed camels in contrast to the standard denial of shelling, killing, wounding and displacing innocent civilians and destroying their properties has deeply offended and angered the local population who composed poems decrying AMISOM’s abuses” (Hiiraan Online cited in CIVIC 2011: 46).

A compensation scheme is not mandatory under IHL but would provide a way to acknowledge an error and responsibility and help build better relations with the local population. As CIVIC concluded: “No apology or amount of compensation can give back what Somali war victims and their families have lost. But our findings clearly show that an attempt to respond to their suffering in this conflict can mitigate some of the consequences and return a sense of dignity to the victims and their communities” (CIVIC 2011: 1). Some AU officials worried about the potential for “floodgate” issues if AMISOM instigated any such compensation scheme inasmuch as “every injured person in Moga-

dishu will claim he was hurt by AMISOM” (in CIVIC 2011: 37).

As part of its ongoing remedial efforts, AMISOM claimed it had launched investigations and sentenced to imprisonment (in their home countries) several of its personnel found guilty of misconduct. In March 2011, for instance, Uganda’s state newspaper reported that three UPDF soldiers in AMISOM were sentenced to 24 months in prison each for shooting civilians. They were reportedly charged with carelessness contrary to section 125 of the UPDF Act 2005 and tried in the Unit Disciplinary Court in Mogadishu (Among 2011). Several specific cases of civilian harm were also referred to the African Union with recommendations for compensation (CIVIC 2011: 45). As of late September 2012, none of these claims had been processed (Interview, AU official September 2012).

### Challenges Ahead

From 2009, the AU leadership and AMISOM and its partners took important steps to address some of the civilian protection challenges facing the mission. New approaches to strategic communications and indirect fire in particular enhanced AMISOM’s ability to undercut *al-Shabaab*’s message and guarded against an important cause of civilian harm. But despite some ambiguous documentation, AMISOM chose not to adopt an explicit mission-wide PoC strategy until May 2013. This was, in part, a result of the significant debate about this issue which took place within the mission and its partners.

Advocates of adopting an explicit PoC mandate raised several points. First, local civilians would expect AMISOM to protect them, not just to avoid harming them. Second, adopting an explicit PoC mandate would give AMISOM personnel a similar starting point for addressing the relevant issues. Without an explicit mandate, the positive obligations of AMISOM personnel to protect civilians were not clear and were thus open to wildly different interpretations on the ground. Third,

as AMISOM's mission shifted to tasks associated with stabilization rather than war-fighting, PoC was increasingly recognized as a crucial part of that agenda because the Somali populations are the centers of gravity that need to be defended from insurgents who are willing to use violence to enforce civilian compliance with their agendas (see Beadle 2012). In this context, ensuring compliance with IHL was not enough to succeed. Moreover, IHL is not clear about the positive obligations of AMISOM personnel to protect civilians. Fourth, with the end of the transitional government and the election of a new president in September 2012, AMISOM began working alongside a sovereign government which would have to learn to shoulder the primary responsibility for protecting its civilians. In this situation, it would be strange for AMISOM not to assist Somalia's new government in the same way that UN peace operations are mandated to help the governments of, for example, South Sudan and the Democratic Republic of Congo protect their populations.

On the other hand, critics of adopting a proactive PoC mandate also raised several pertinent questions. First, would a proactive PoC mandate set up AMISOM for future blame when it failed to fulfill heightened local expectations (Confidential interview, July 2012; see also Lotze and Kasumba 2012)? After all, AMISOM and its partners cannot protect all Somalia's civilians from everything, and much would hinge on the political process of reconciliation and the performance of the new Somali government. PoC must not be seen as a substitute for political engagement to resolve the war. Second, the PoC concept has at times generated controversy in Africa because some governments have equated it with an "encroachment on the sovereignty of member states" (AU 2011e: 11). Third, AMISOM personnel were not sufficiently well versed in what military and other civilians tasks would be required to execute a proactive PoC mandate. Fourth, what are the resource implications of the tasks involved – in terms of personnel,

equipment, and finance? They would clearly be considerable and would involve not just AMISOM but the broader set of international institutions engaged in Somalia. Moreover, AMISOM is highly unlikely to receive the necessary additional resources – in part because it is already the recipient of an unprecedented and recently expanded UN support package and in part because other peace operations in Africa might potentially vie for the same resources. The AU Commission's Working Group answered this question by making the mainstreaming of civilian protection in AMISOM largely synonymous with respect for IHL. As it put it in September 2011, "Where the protection of civilians is not considered a primary objective and is considered more as a means to an end, such as in the case of AMISOM, protection of civilians rests more on the respect of the mission for IHL and human rights law, as opposed to engaging in proactive protection activities" (AU 2011e: 15).

Now that AMISOM has adopted a mission-wide PoC strategy, supporters of the mission must give it the necessary additional resources to carry out the requisite tasks and answer these critical questions. If this does not happen, the gap between local and international expectations and AMISOM's capabilities to deliver in the field will only widen. A good place to start would be for AMISOM's partners to provide the requisite funding for the CCTARC and other relevant civilian capabilities for the mission. They should also push for the PoC strategy to be part of a broader political strategy aimed at conflict resolution and reconciliation in Somalia.

## Notes

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from confidential interviews with AMISOM personnel and other experts connected to the mission and Somali politics more generally. I gratefully acknowledge financial assistance provided by the Elliott School of International Affairs at the George Washington University.

- <sup>1</sup> IHL requires parties to a conflict to take all feasible precautions to protect civilians under their control against the effects of attacks, including avoiding locating military objectives within or near densely populated areas and removing civilians from the vicinity of military objectives. The obligation to respect IHL does not depend on reciprocity by other belligerent forces. See ICRC (2005: rules 22–24, citing Protocol I, articles 58(a-c), and 140).
- <sup>2</sup> The AU has explicitly recognized that AMISOM has “been widely expected to protect civilians in [its] areas of operations, without being explicitly mandated or resourced to do so” (AU 2011e: 10).
- <sup>3</sup> These were only issued in draft form, perhaps because international organizations sometimes prefer to leave key statements of policy in draft form to ensure that they are relatively easy to revise while at the same time providing some useful guidance to planners and personnel on the ground.
- <sup>4</sup> The UN Department of Peacekeeping Operations (DPKO) utilizes a three-tier approach to civilian protection. Tier 1 entails protection by promoting a political process of conflict resolution to end the armed conflict that was a major source of threats to civilians. Tier 2 entails providing protection from physical violence, which takes place in four broad phases (assurance and prevention, pre-emption, response, and consolidation). Tier 3 entails establishing a protective environment that enhances the safety and supports the rights of civilians, i.e., promoting legal protection (especially international humanitarian law but also relevant human rights and refugee law), the

facilitation of humanitarian assistance and advocacy, and support for national institutions. The three tiers are seen as “mutually accommodating and should be taken forward simultaneously, in accordance with mission mandates and in light of the circumstances on the ground” (UN DPKO/DFS 2010: §15).

- <sup>5</sup> One exception might be the Mass Atrocity Response Operations (MARO) Handbook which was designed with US military doctrine in mind but its authors did not explicitly engage the AU during the handbook’s formulation, although they did deliver copies of the finished product to AU officials (see MARO 2008).
- <sup>6</sup> The TFG eventually came onboard by publicly recognizing the importance of civilian protection. For example, in August 2011 the Somali Deputy Minister of Interior stated: “Protecting the civilians is a key priority for the government. We are consulting with our military experts and the leaders of the AMISOM forces for ways of fighting against extremists while protecting the civilian population. Somali forces and AMISOM will take precautions as we do not want to harm the people we are trying to rescue. This is easier said than done...” (Guled 2011).

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