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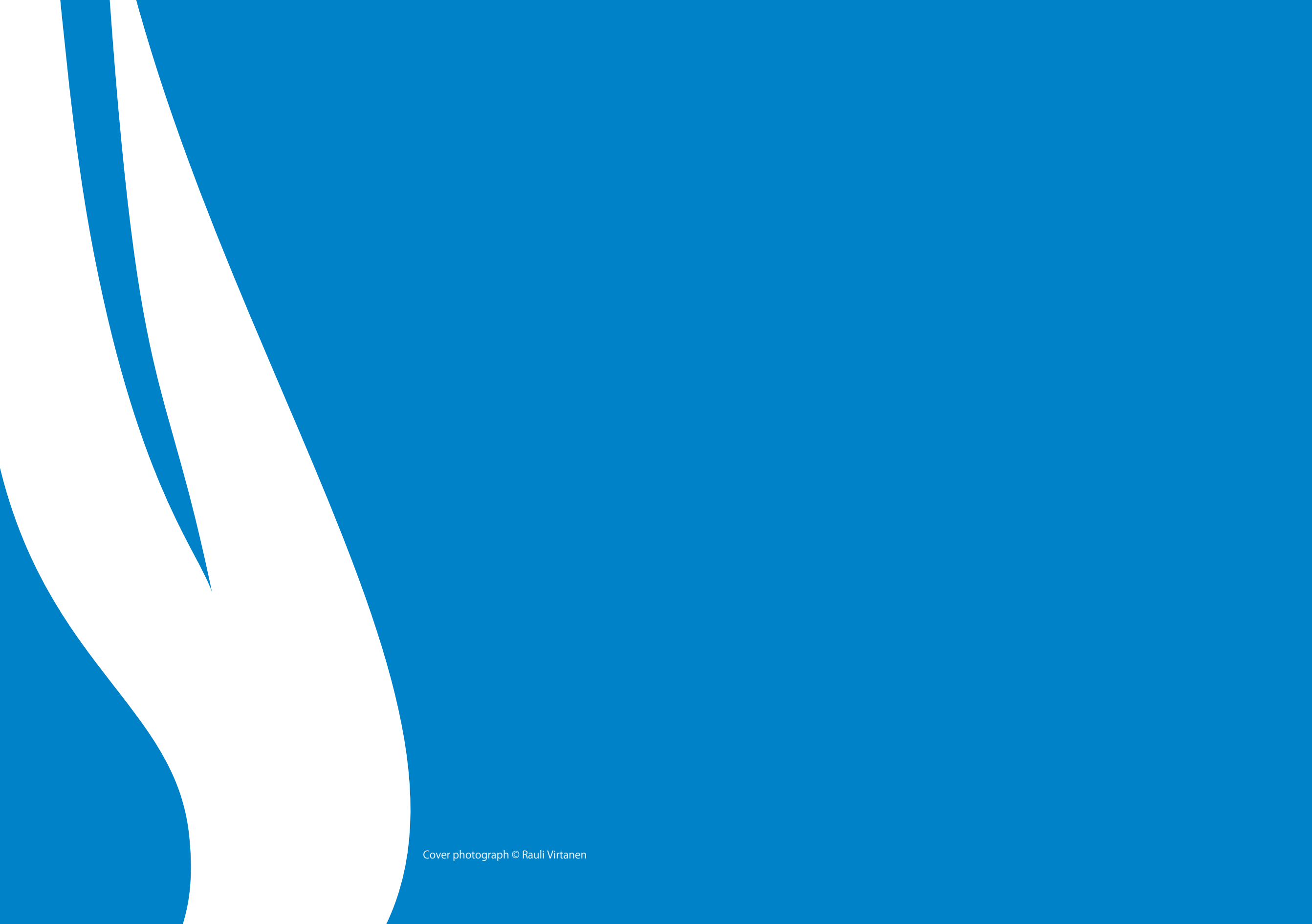
Human Rights and Crisis Management

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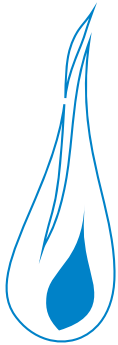
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Human Rights and Crisis Management

A handbook for members of CSDP missions

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Foreword

Mainstreaming human rights policy into the foreign and security policy of the European Union has been one of Finland's long-standing objectives. This handbook is part of our comprehensive efforts to continue to integrate human rights into EU's crisis management operations.

Human rights, democracy and the rule of law are fundamental values of the Union. Although the primary responsibility for the protection and implementation of human rights lies with national governments, human rights must also be systematically addressed in EU missions and operations. Many missions have experts and advisers on human rights and gender issues, who ensure that these crucial aspects are taken into account in the planning and execution of mission activities. However, mainstreaming human rights is a cross-cutting responsibility that has implications on all stages, all levels and for each and every mission member, whatever their particular tasks and duties are.

This handbook is first and foremost a practical tool to guide and assist personnel in the European Union's civil and military crisis management operations to understand the importance of human rights in their work. I hope that it can also play a useful role in human rights training for personnel preparing to serve in the missions and operations. In addition, the handbook is designed to be used as a reference resource in the planning and implementation of operations.

The global credibility of CSDP missions and operations calls for more coherent practices. Hopefully, this handbook makes our policies more understandable to our partners: both the peoples and authorities in countries where the EU operates and also other international actors and local organizations. Civil society organizations are our crucial partners in the process of monitoring and implementing human rights in conflict and post-conflict situations. Universal human rights norms and standards bring all of us together.

The Erik Castrén Institute of International Law and Human Rights at the University of Helsinki and Ms Nina Nordberg were commissioned by the Ministry for Foreign Affairs to prepare this handbook. I sincerely thank them for their valuable and comprehensive work. I am also grateful to all those working with crisis management who have contributed to this handbook with their comments.

Increase the Peace!

A handwritten signature in black ink, reading 'Alexander Stubb'. The signature is fluid and cursive, with a large loop at the end of the last name.

Alexander Stubb
Minister for Foreign Affairs

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Key principles throughout the mission

Do No Harm

Consider any possible unintended effects of your actions and take steps to minimize any risks and adverse effects on people, particularly those who should benefit from your action. Be aware of any possible human rights implications of your own professional and personal conduct.

Respect

You have a personal responsibility to respect human rights and international humanitarian law in all actions taken. You are duty-bound to respect local laws unless instructed otherwise.

Protect and Prevent

If you suspect any violation of human rights or international humanitarian law, you must while always respecting the Mission's mandate, its Code of Conduct and your Chain of Command:

- Use your common sense
- Pay particular attention to the situation and circumstances of vulnerable individuals
- Take action to prevent any suspected violations
- Assist the victim(s) as and when required
- Record the information and observations
- Report all observations, actions and information to your superior
- Take necessary action as and when required
- Ensure any necessary follow-up.

Promote

- Help national and local authorities to implement human rights and support their efforts.
- Promote a culture of respect for human rights with your local counterparts and interlocutors.
- Raise the awareness of your local counterparts and interlocutors regarding their obligations to respect, protect and fulfil human rights.

Special Considerations

Gender-related questions:

- Is there a difference in the types of human rights violations and abuses affecting women and men, girls and boys?
- What are the obstacles to women and men having equal access to and enjoyment of their rights? What are the root causes underlying these obstacles and what type of action could the mission take to address them?
- Might women and men, girls and boys, be affected differently by a certain course of action? Why?
- What special considerations need to be taken into account to ensure that both sexes benefit from your planned action?
- Do women and men have an equal say and are they participating on an equal basis in decision-making and planning and implementing the mission's activities?

Local ownership and sustainability:

- Are beneficiaries and stakeholders involved as genuine partners?
- Is there genuine involvement of groups that do not normally get heard, such as women, children and minorities?

Introduction

The EU's Common Security and Defence Policy (CSDP) is an affirmation that as a global player, the EU has a duty to "share in the responsibility for global security and for building a better world".¹ It is also an acknowledgement that the insecurity created by fragile or failed states in one part of the world inevitably has repercussions on the rest of the world because of our global interdependence. Therefore for both moral and pragmatic reasons, the EU needs to assume a role in conflict prevention, conflict resolution and post-conflict transformation operations in 'hot spots' around the world.

The notion of 'human security' which underpins the European Security Strategy (ESS), refers both to 'freedom from fear' and to 'freedom from want' and is dependent upon respect for civil and political rights as well as for social, economic and cultural rights. This people-based understanding of security is at the heart of the EU's approach to crisis management, which recognizes that interventions should aim to further the security of individuals by addressing both the immediate and the underlying causes of their insecurity.

Stabilising situations of conflicts involves much more than halting hostilities or negotiating peace agreements. The EU's unique approach to crisis management combines both civilian and military instruments, and recognizes that to enable individuals and communities to live secure and dignified lives, their rights must be adequately protected through the establishment of the rule of law, through public institutions which are fair, legitimate and accountable, and through democratic processes that enable them to take an active part in shaping the societies in which they live.

During the decade which has passed since the ESDP/CSDP was first conceived, human rights have come to play an increasingly important role in the planning and conduct of crisis management operations. Human rights provisions are increasingly being integrated into the mandates, guidelines and procedural documents of civilian and military missions alike.

The EU policy of 'mainstreaming' human rights into all CSDP missions and operations was endorsed by the Political and Security Committee in 2006.² To put it in specific terms, human rights mainstreaming means that the rights of every individual must be respected, protected and promoted by all members of CSDP missions and in all actions taken by the missions and that special attention must be paid to those in vulnerable positions who have the greatest risk of abuse and discrimination. It means that all actions should abide by and contribute to the realization of international human rights standards and principles. It also means that the individuals and groups for whose benefit an action is intended must be involved to the greatest possible extent in the design and implementation of the action.

This handbook is specifically addressed to readers who are present, future or potential members of CSDP missions. It is designed for use by each of you as an individual

1 "A Secure Europe in a Better World", European Security Strategy, EU doc. S0138/03, 12 December 2003.

2 Council of the European Union, "Mainstreaming Human Rights Across CFSP and Other EU Policies", EU doc. 10076/06, 7 June 2006.

mission member and it will also enable you to share a common understanding with other mission members and with all the outside partners that you work with. It does not deal with human rights mainstreaming at the policy or institutional level. Its aim is to increase your *personal* awareness and understanding of human rights issues and to equip you with some basic tools to help you deal with the human rights issues that you may face in the course of your work.

The handbook draws on elements from the framework of international human rights law and the EU's own human rights instruments, particularly the EU's human rights guidelines. It aims to transform some of the key components of the complex legal issues they contain into some hands-on practical recommendations for action which could be taken in the context of CSDP field missions.

In view of the ongoing trend towards greater synchronization between the civilian and military aspects of CSDP crisis management, the concluding chapter also discusses certain aspects of human rights and humanitarian law issues of concern to the military forces participating in CSDP missions.

PART I

A human rights “toolbox” for non-practitioners: key concepts and methods

Chapter 1: Human rights protection and promotion: a personal and professional responsibility

Human rights are rights and freedoms that belong to all individuals everywhere simply because they are human beings. These rights and freedoms are rooted in the idea that all human beings possess an inherent dignity that states must respect and protect. Human rights include civil and political rights, such as the right to life, liberty and security, freedom from torture and freedom of assembly and association. Human rights also include social, cultural and economic rights, such as the rights to an adequate standard of living, to work, to health and to education. Rights are interdependent, which means that the realization or denial of any one right will inevitably have an impact on the fulfilment of other rights.

While the primary responsibility for implementing human rights belongs to the national authorities, as CSDP mission member, *you play a key role in promoting human rights*. By helping the public authorities to ensure that the population in your area of operation can live without fear or want, be treated fairly and without discrimination, and participate freely in the social, political, economic, cultural and spiritual life of their own choosing, you are enabling people to exercise and enjoy their human rights. In short, this is what human rights are about. They are not merely the concern of human rights advisers in a mission; human rights are relevant to all professional staff in a CSDP mission, because they lie at the core of what you are there to accomplish.

The short discussion that follows in this chapter provides some of the basic reasons for paying careful attention to human rights, not only as a matter of principle and a legal obligation, but also as being a key factor for operational success.

1.1 Why do I need to be concerned about human rights?

A core value and legal obligation

“In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.” [emphases added]

★ Consolidated version of the Treaty on European Union, Article 3(5)

Respect for human rights and fundamental freedoms is a core value of the EU and guides all its actions on the international scene.³ More than a mere political commitment, the respect and promotion of human rights is a legally binding obligation. Under the new Treaty on European Union, the EU is bound to respect human rights (which constitute general principles of EU law) in all its institutions and activities, including CSDP operations.⁴ Specifically with regard to the implementation of its external action, the EU is obliged to “uphold and promote its values”⁵ as well as to “respect the principles”⁶ which include human rights and other principles of international law.

Translated into operational terms, this means that as a CSDP mission member you have a two-fold role with respect to human rights: on the one hand you are to guide and assist national authorities to implement human rights and on the other, whatever your particular function in the mission, you must ensure that everything you do in the course of your professional duties is *guided by* and *respects* these norms and principles.

A regional security interest

“Spreading good governance, supporting social and political reform, dealing with corruption and abuse of power, establishing the rule of law and protecting human rights are the best means of strengthening the international order.”

★ European Security Strategy, 2003

In our globalized world, insecurity and conflict occurring far from the EU’s borders can spill over onto our shores in the form of organised crime, terrorism, trafficking in humans, drugs and weapons, unauthorised migration and so forth. It is well-established that states where human rights are protected are more likely to be stable,

3 Consolidated version of the Treaty on European Union (henceforth referred to as “TEU”), Official Journal of the European Union, C83, Volume 53, 30 March 2010, Articles 2 and 21.

4 TEU Article 6 (3).

5 TEU, Article 3 (5).

6 TEU, Article 21 (3).

democratic and peaceful. The European Security Strategy of 2003 thus recognizes the promotion of human rights as one of the best means of strengthening European security.

A critical success factor

“Protection of human rights and the rule of law are key to sustainable conflict resolution and to lasting peace and stability. Human rights violations are part and parcel of crises, and therefore human rights protection has to be part of the solution.”

★ Council of the European Union, “Mainstreaming human rights and gender into European Security and Defence Policy, A Compilation of Relevant Documents”, 2008

Human rights play an integral part in each stage of the conflict cycle and are an indispensable element in achieving a just and lasting peace. Respect for human rights contributes to rebuilding confidence and trust at all levels and between all affected parties to a conflict: between the State and the population; between divided groups and communities; and between individuals. When people feel secure that their rights are protected by the State through its laws and institutions they will be less likely to resort to violence. For a CSDP mission, therefore, integrating human rights into its mandate makes sense because it helps to ensure that its achievements are sustainable in the long term.

- Human rights violations are often among the **underlying or “root” causes of conflict**: When the fundamental needs for a dignified existence – including the right to enjoy an adequate standard of living, the right to participate in the decisions affecting one’s life, protection from discrimination and abuse – are denied over a longer period, the resulting frustration can lead to unrest and eventually even to violent conflict.
- Human rights violations are often **consequences of conflict**: The civilian population’s human rights may be severely affected by factors such as the effects of displacement, the breakdown of basic services, the lack of food, water and essential supplies. Respect for, and protection of, human dignity and security may suffer also as a result of genocide campaigns or crimes against humanity as well as war crimes, as when rape is used as a means of warfare during an armed conflict.
- Human rights are **part of the solution**: Ensuring the protection of human rights - including issues of accountability for past abuses - is an essential part of conflict transformation. Unless the grievances that led to the eruption of conflict are properly addressed, they have the potential to spark off renewed conflict in the future.

1.2 What does my mission's mandate say about human rights?

Whether or not human rights are mentioned in a CSDP mission's mandate depends on the operational environment, the context-specific human rights challenges and the EU's capacity to respond to these challenges. In some operations the mandate specifically includes human rights protection; in others human rights are addressed through mentoring, advising or other types of capacity-building activities. Regardless of whether human rights feature explicitly in the mission's mandate, one of the overall aims of CSDP crisis-management operations is to strengthen respect for human rights and the rule of law.⁷

As a CSDP mission member, you should always respect and adhere to the mission's mandate. But it is important that you recognize that even though it may not be mentioned as such in your mission's mandate, the protection and promotion of human rights is a core obligation to which the EU is committed and which has direct implications for you as a representative of the EU. While you may not have been directly tasked with specific human rights activities, as a mission member you need to be aware of how human rights relate to and affect your work and how you best can defend and promote them in the course of your daily activities.

⁷ TEU, Article 21 paragraph 2 (b) reads: (to) "consolidate and support democracy, the rule of law, human rights and the principles of international law".

Chapter 2: Some key features of human rights law and practice

As a CSDP mission member, you may already be well aware of human rights issues through your pre-mission and induction training. You are also likely to be aware of the core international human rights and humanitarian law documents and the EU's own human rights policy and obligations. It is not to be expected that you are fully conversant with the legal technicalities of human rights law, but it is useful to have a basic understanding of the applicable international and regional human rights norms and of their implementation at the national level in your field of operation, particularly those which touch upon your specific area of responsibility. This background will provide guidance and support when raising specific cases with your local interlocutors, discussing structural problems or proposing ways of reforming the institutions in which you work.

2.1 What is international human rights law?

International human rights law consists of international norms which oblige the States bound by them to treat individuals and groups of individuals under their jurisdiction according to certain minimum standards. These norms are contained in international and regional human rights treaties which are supplemented by a large body of other instruments (such as declarations, political commitments, guidelines and principles by the UN and other organizations) which expand upon the norms and assist in their implementation. By adhering to an international treaty or document, a State commits itself to ensure protection of the norms it embodies at the national level through legislation, policies and practices.

It should be noted that states may be bound by varying sets of international norms (depending on which treaties they have ratified). However, there exists a core set of human rights adopted by a great majority of states, often called the **International Bill of Human Rights**. This contains the central human rights instruments adopted within the UN: the **Universal Declaration of Human Rights (UDHR)**, the **International Covenant on Civil and Political Rights (ICCPR)** and its two Optional Protocols and the **International Covenant on Economic Social and Cultural Rights (ICESCR)**. In addition to these core instruments, widely ratified UN treaties also include the **Convention on the Rights of the Child (CRC)**, **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)** and the **International Convention on the Elimination of All Forms of Racial Discrimination**.

There are also a number of regional human rights instruments, such as the **African Charter on Human and People's Rights (ACHPR)**, the **Arab Charter on Human Rights (ACHR)** and the **European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)**. Regional instruments are as a rule open to the ratification or adherence by all states in the region.

International humanitarian law (IHL), which also features in Chapter 7 of this handbook, is a set of rules applicable during situations of international and non-international armed conflict and during a state of occupation, enshrined to a large

extent in the four **Geneva Conventions of 1949 and their Additional Protocols of 1977** relating to the protection of victims of armed conflict. Its main purpose is to protect those not participating in hostilities (wounded soldiers, prisoners of war, civilians, etc.) and to limit the means and methods of warfare so as to minimize human suffering.⁸ As a rule, a CSDP mission will not be a party to an armed conflict. However, the members of the mission have a duty to respect the general principles of IHL and to monitor and report any violations of international humanitarian law.

2.2 What are the State's duties with regard to human rights?

It is important to understand that some of the deplorable situations you come across may not necessarily constitute violations of human rights. A human rights violation is an *act* or *omission* by a State that violates an existing international or regional human rights standard binding upon that state.

The State, understood as all public authorities and other actors performing public functions, is the "duty-bearer" under international human rights law. Its duties can essentially be grouped into three mutually-reinforcing categories: duties to respect, to protect and to fulfil.

- **Duty to respect** means that the State must refrain from taking any action which interferes with or impairs a person's enjoyment of his or her rights.
- **Duty to protect** means that the State must take all measures necessary to prevent human rights abuses emanating from non-state actors and to protect individuals against such abuses. This includes the duty to carry out an effective investigation, to prosecute and to punish any abuse of human rights and to ensure that victims have access to an adequate and effective remedy.⁹
- **Duty to fulfil** means that the State must take the necessary legislative, administrative, budgetary, judicial and other measures to enable full access and enjoyment of rights.

A failure to adhere to any of the above duties by a State which is bound by international law to guarantee human rights may constitute a violation of those rights and consequently a breach of the State's obligations.

The principles of equality and non-discrimination are fundamental to all human rights. They require the guaranteeing of human rights to all individuals everywhere regardless of their personal characteristics such as ethnicity or gender. Discrimination is not only a matter of overt treatment but may also exist in disguised forms in laws, policies, attitudes, cultural and religious practices etc.

⁸ More information on IHL can be found at www.icrc.org.

⁹ The duty to protect relates to the 'due diligence' standard under international law. It is reflected inter alia in the landmark case before the Inter-American Court of Human Rights in *Velasquez Rodriguez v. Honduras*, Judgement of July 29, 1988, Inter-American Court of Human Rights (Ser.C), No.4 (1988) § 172-175; and in the General Recommendation no. 19 on Violence against women of the UN Committee on the Elimination of All Forms of Discrimination Against Women, 11th session (1992), U.N. doc. A/47/38, 29 January 1992.

2.3 Limitations and derogations of human rights

Sometimes the State must balance the rights of the individual against the interests of the wider community or of the State itself. In such cases, the State is permitted to limit or restrict the exercise of some rights provided that certain conditions are fulfilled. International human rights norms allow limitations to such rights as freedom of expression, assembly and association.¹⁰

In situations of public emergency, a State may derogate from some of its obligations under international human rights law. Derogations in time of public emergency must fulfil a number of conditions.¹¹

Certain rights can never be subject to limitation or derogation even in situations of public emergency. These are referred to as absolute (or “non-derogable”) rights. There are some variations in the lists of non-derogable rights found in international instruments. The ICCPR lists the following rights as non-derogable: the right to life; freedom from torture and from cruel, inhuman or degrading treatment or punishment; freedom from slavery or servitude; the right not to be imprisoned on grounds of inability to fulfil a contractual obligation; the right not to be subjected to retroactive penal measures; the right of recognition as a person before the law; and the freedom of thought, conscience and religion.¹²

International humanitarian law applies to all parties engaged in armed conflict and is not subject to restriction or derogation.

2.4 Gender aspects

Whereas one’s biological sex is determined at birth, gender refers to the social attributes that are ascribed to being female and male in a particular context. These socially constructed differences determine to a large extent the roles that are performed by women and men in a given society and are also an important factor in determining one’s ability to exercise and enjoy one’s human rights. The EU is committed to promoting equality between women and men and to mainstreaming gender considerations in the context of CSDP.¹³

Gender plays a role in the way in which women, girls, men and boys experience armed conflict. Both during and after armed conflict, in the absence of law and order, women and girls have increased vulnerability to gender-based crimes, such as rape, trafficking for the purposes of sexual slavery or forced labour and other forms of exploitation. Men and boys may also face particular threats as a result of their gender. They may have an increased risk of being captured and forced to join fighting parties, or being detained or intimidated, or facing violence at the hands

10 Specific provisions on limitations differ slightly between the UN treaties and the regional instruments. For more information, consult for instance the Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, U.N. Doc E/CN.4/1985/4, Annex (1984).

11 For instance, according to the ICCPR Article 4, para. 1, the measures taken must be only those “strictly required” by the situation (proportional to the threat), must be consistent with the State’s other international law obligations and may not be discriminatory.

12 ICCPR Article 4.2.

13 Council of the European Union, “Council Conclusions on Promoting Gender Equality and Gender Mainstreaming in Crisis Management”, EU doc. 14884/1/06, 2006.

of other parties. Deserters may face violence and discrimination, as well as being permanently stigmatised by the community.

Being sensitive to gender issues involves paying attention to whether women and men (and girls and boys) might be affected differently by a certain course of action. Consider whether any special steps may need to be taken to ensure that both sexes benefit equally from any planned action and that you do not perpetuate gender inequality through the course of your work.

Promoting the active participation of women at every step of conflict prevention, conflict resolution, peacekeeping and peace-building processes is a core requirement of **UN Security Council Resolution 1325 on women, peace and security** which the EU is committed to implement. Regular consultations with, and the involvement of, women's groups and networks within the community are a required part of all CSDP missions' gender-mainstreaming efforts.¹⁴ Involving women – on an equal basis with men – contributes to the successful achievement of the mission's objectives because it ensures that the interests, needs and priorities of all people are equitably taken into account.

Note that gender mainstreaming – like human rights mainstreaming – is not merely the responsibility of a gender advisor or of a focal point in an organisation, it is a shared responsibility of all members of all units.

2.5 Human rights in local contexts – ensuring ownership and sustainability

For human rights norms to be able to take root in a society, particularly one that is emerging from conflict, they need to be legitimized within the local culture and traditions. Changing beliefs and attitudes is generally a long-term process and your role as an outsider can often at best be to initiate and/or facilitate this process. You can do this most effectively by linking your activities to local processes and initiatives. Any intervention that is perceived as being imposed from the outside is likely to fail and may even have unintended negative effects.

CSDP mission efforts to achieve reforms require taking a “bottom-up approach” by actively involving a broad range of different stakeholders and beneficiaries in the whole process, from planning to implementation and evaluation. Not only will the local population be able to provide valuable insight and advice on how to best to tailor your strategies to the context, but by involving them as genuine partners and stakeholders in the reform process, you ensure that they take ownership of the initiative, which increases the likelihood of it being sustainable in the long term. By involving groups that do not normally get heard, such as (in many societies) women, you will be able to contribute to breaking down barriers that prevent their full participation as equals in the society.

While human rights principles are widely accepted by the international community

¹⁴ Council of the European Union, “Implementation of UNSCR 1325 as reinforced by UNSCR 1820 in the context of ESDP”, EU Doc. 15782/3/08, 2008.

of states, the concrete measures taken to implement human rights norms at the national level may differ from state to state. States have a certain amount of flexibility and discretion in determining the choice of concrete measures in order to make implementation as effective as possible in the specific national context. There will thus inevitably be some variations in the way in which human rights standards are implemented in local contexts.

**An example from Afghanistan:
“Victim-friendly” investigation rooms**

Sometimes creative solutions can be found to bridge the gap between local custom and the protection of human rights, and so enable discriminated and marginalized groups to enjoy the rights to which they are legally entitled. One example is the model to establish “victim-friendly” investigation rooms for women and children in Afghanistan. Because of local customs, women do not feel comfortable when interviewed in the presence of male police officers. In order to facilitate their access to justice the “victim friendly” investigation rooms are being set up to encourage female victims to give evidence while guaranteeing their protection. The rooms will also be used when interviewing child victims and juvenile offenders. The “victim-friendly” investigation rooms are being located within the vicinity of the local police station and staffed only by specially trained female police officers.¹⁵

15 The rooms are not yet in use so time will tell whether or not the initiative has the intended impact.

Chapter 3:

Groups needing special attention

While all individuals are exposed to an increased risk of rights violations during armed conflict and in other situations of violence, some people have specific vulnerabilities which place them in particular danger. The type of vulnerability depends on individual, environmental and contextual risk factors: a person's physical or mental condition (for instance illness, age or pregnancy); factors pertaining to the dynamics of the conflict, such as belonging to a persecuted (ethnic, religious or other) group; or circumstances arising as a result of the conflict, as is the case with internally displaced persons and refugees.¹⁶ Some individuals and groups may experience multiple forms of vulnerability.

Vulnerable and disadvantaged groups face an increased risk of targeted physical violence and/or discriminatory treatment, including lack or denial of access to basic services such as medical treatment, humanitarian assistance, education, employment opportunities or adequate housing.

In conflict and post-conflict situations the State, which would normally be the responsible authority, may also be unable or unwilling to protect and assist these groups (or may in fact be a perpetrator).

Remember that individuals who are classified as “vulnerable” are never to be considered to be just passive victims and/or mere recipients of assistance. They are individuals with the same rights and freedoms as all other persons. Always respect the wishes, rights and dignity of the individual. Individuals should, as far as possible, maintain their autonomies, including the freedom to make their own decisions also concerning their willingness to receive protection and/or assistance.

The three groups which are featured in the following sections – women and girls, children, and refugees and internally displaced persons – face heightened vulnerability in situations of armed conflict and their vulnerability often continues well into the post-conflict phase. They are by no means the only groups that are vulnerable in situations of emergency but they are groups which are highlighted in the EU's own human rights documents as requiring special attention and they benefit from special protection in the legal instruments of international human rights, humanitarian law and refugee law.

In all protection-related actions, you should always make sure that you consult and coordinate with other EU programmes operating in the theatre of operations, and with the relevant international, regional and local partners.

Paying attention to the special protection needs of vulnerable individuals does not mean that they should be given preferential treatment to the exclusion of others; it means that special measures may have to be taken to enable these groups to enjoy their rights *on an equal basis* with other persons.

¹⁶ ICRC, *Enhancing Protection of Civilians in Armed Conflict and Other Situations of Violence* (Geneva: ICRC, 2008), p. 17-19.

What can you do?

- Make yourself thoroughly familiar with the protection priorities of your mission.
- While respecting your mandate and chain of command, seek cooperation and assistance from the relevant national and international actors as to how the rights and protection of persons belonging to vulnerable groups can best be integrated into your activities.
- Systematically try to raise the awareness of your local counterparts and interlocutors with regard to the special protection which persons belonging to vulnerable groups require.
- Help to ensure that persons belonging to vulnerable groups are given the necessary attention and assistance by referring relevant information about them to the appropriate agencies without delay (always, of course, respecting your chain of command and the mission guidelines on information sharing).

3.1 Women and girls

“The EU reiterates the three indissociable aims of combating violence against women: *prevention* of violence, *protection* of and *support* for victims and *prosecution* of the perpetrators of such violence.” [emphasis added]

- ★ EU guidelines on violence against women and girls and combating all forms of discrimination against them (2008)

Women worldwide suffer from specific human rights violations simply because they are women. Rooted in socially constructed gender roles and relations which regard women as being in a subordinate position in society, gender-based discrimination affects women both in the public sphere and in the private sphere. The UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) obliges states that are party to the Convention to adopt a range of measures to prevent and respond to all forms of discrimination against women, whether committed by public officials or by private actors (see section on state duties, 2.2 above).

Discrimination against women persists in part because patriarchal values and discriminatory attitudes are also entrenched in state structures, such as in law-enforcement agencies. Although laws prohibiting gender-based discrimination may exist, they are often not properly enforced.

In situations of violence and armed conflict and in post-conflict situations women and girl children face numerous threats simply because of their gender. One of the most widespread threats that women and girls face is that of sexual violence and other forms of gender-based violence.

Violence against women has serious and far-reaching consequences for the victims, their families and communities, and for the society as a whole. Not only does it violate women's physical and mental integrity, but it denies them their right to participate on an equal basis in society and to enjoy the rights and freedoms to which they are legally entitled.¹⁷ Furthermore sexual violence increases women's risk of HIV and other sexually transmitted infections and unwanted pregnancy.

Violence against women and girl children is frequently used strategically by parties to the conflict as an intentional tactic of war and to further their political, military, social or economic objectives¹⁸. The crimes of rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, and any other form of sexual violence of comparable gravity can constitute crimes against humanity, war crimes or genocide, all of which are serious crimes prohibited by international law.¹⁹ Such violence is also used by others who seek to profit from the chaos and lawlessness that prevails in conflict and post-conflict situations by exploiting women's vulnerability.

Internally displaced and refugee women and girls are particularly at risk during situations of armed conflict, because the desperate situation in which they find themselves leaves them vulnerable to exploitation and abuse.

The EU has made violence against women a priority issue and is committed to taking effective action to combat this practice, in line with the recommendations made in UN Security Council Resolutions 1325 (2000) and 1820 (2008) on women, peace and security.²⁰ The EU has issued **Guidelines on Violence against Women and Girls and Combating all Forms of Discrimination against them**, in which it emphasizes (amongst other measures) the need to combat impunity by holding perpetrators accountable for their actions before courts. The Guidelines stress the particular importance of investigating acts of violence against women and girls swiftly, thoroughly, impartially and seriously.²¹

17 The CEDAW Committee has stated that gender-based violence is discrimination within the meaning of article 1 of CEDAW. (General Recommendation No. 19. (11th session, 1992), para. 7.)

18 UN SC Resolution 1820 (2008), 19 June 2008, UN Doc. S/RES/1820. 2008.

19 Rome Statute of the International Criminal Court, U.N. Doc. A/CONF.183/9 (1998), see definitions of Genocide, Crimes against humanity and War crimes.

20 Council of the European Union, "Comprehensive Approach to the EU implementation of the United Nations Security Council Resolutions 1325 and 1820 on women, peace and security.", EU doc., 15671/1/08, 1 December 2008; Council of the European Union, "Implementation of UNSCR 1325 in the context of ESDP", EU doc., 11932/2/05, 29 September 2005.

21 EU Guidelines on Violence against Women and Girls and Combating all Forms of Discrimination against them (2008), at 3.1.4.

3.2 Children

“In countries where the EU is engaged with crisis management operations, and bearing in mind the mandate of the operation and the means and capabilities at the disposal of the EU, the operational planning should take into account, as appropriate, the specific needs of children, bearing in mind the particular vulnerability of the girl child. In pursuit of the relevant UNSC resolutions, the EU will give special attention to the protection, welfare and rights of children in armed conflict when taking action aimed at maintaining peace and security.” [emphases added]

★ Update on the EU Guidelines on Children and Armed Conflict, 2008

Children (defined as persons under the age of 18²²) suffer disproportionately from armed conflict and are subject to a multitude of violations of their human rights, often with serious and irreversible physical and psychological consequences. Children’s human rights may be severely affected as a result of the effects of conflict, such as the lack of food, inadequate shelter, being separated from their families or care-givers, being exposed to disease and being deprived of educational opportunities. Children are also exposed to many forms of violence and abuse, in particular to recruitment and abduction by armed groups, to being killed or maimed (and frequently being deliberately targeted by parties to the conflict), to sexual and gender-based violence, and to forced labour and trafficking. International humanitarian and human rights law afford special protection to children because of their particular vulnerability during armed conflict.²³

Children who are displaced or refugees, and those who are separated from their families, orphaned or abducted, disabled, affected by HIV/AIDS, in detention or living in institutions: these are just some of the categories of children who face heightened risk during times of conflict. Children also face particular risks related to their gender; for instance girls are more at risk of rape and other forms of sexual violence and boys are more at risk of being forcibly recruited into the fighting forces.

The protection and promotion of the rights of children is a priority for the EU. This is mentioned in the Treaty on European Union as a specific objective of the EU’s external action.²⁴ The EU has therefore adopted **Guidelines for the Promotion and Protection of the Rights of the Child (2007)** and **Guidelines on Children in Armed Conflict (2003, updated in 2008)**²⁵ along with a **Checklist for the Integration of the Protection of Children Affected by Armed Conflict into ESDP Operations (2006, updated 2008)**.²⁶ The EU places particular emphasis on the protection of children

22 Article 1, Convention on the Rights of the Child (CRC).

23 The Convention on the Rights of the Child (CRC) is the primary legal instrument protecting children’s fundamental human rights. It is applicable both in times of peace and of armed conflict. It has been supplemented by an Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, (U.N. Doc. A/RES/54/263, 25 May 2000, entry into force 12 February 2002) and an Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (U.N. Doc. A/RES/54/263, 25 May 2000, entry into force 18 January 2002). Other instruments, primarily the Geneva Conventions and their two Additional Protocols, contain special provisions relating to the protection of children in international and non-international armed conflict. For more information relating to the legal protection of children in armed conflict consult: [http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/57JQUS/\\$File/ANG03_03_juridique_NEWlogo.pdf](http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/57JQUS/$File/ANG03_03_juridique_NEWlogo.pdf).

24 TEU Article 3 para. 5

25 Council of the European Union, “EU Guidelines on Children in Armed Conflict”, EU Doc. 10019/08, 6 June 2008.

26 Council of the European Union, “Checklist for the Integration of the Protection of Children affected by Armed Conflict into ESDP Operations”, EU doc. 9767/06, 23 May 2006; Council of the European Union; “Draft General Review

from the effects of armed conflict and requires, amongst other actions that CSDP missions systematically monitor and report on the situation of children, focusing particularly on the following serious violations and abuses and the measures taken by the parties to the conflict to combat them:

- Recruitment and deployment of children by armies and armed groups;
- killing and maiming of children;
- attacks against schools and hospitals;
- blockage of humanitarian access;
- sexual and gender-based violence against children;
- abduction of children.²⁷

CSDP operations are required to call upon parties to the conflict to protect children against all forms of violence and abuse, in particular those listed above; to engage with all parties to the conflict to bring such violations to an end; and to engage in raising public awareness of child protection issues.²⁸

of the Implementation of the Checklist for the Integration of the Protection of Children affected by Armed Conflict into ESDP Operations”, EU doc. 9822/08, 23 May 2008.

27 Council of the European Union, “EU Guidelines on Children and Armed Conflict”, supra note 26, at 11. These six grave violations against children during times of armed conflict are considered as war crimes. For more information consult: “The Six Grave Violations Against Children During Armed Conflict: The Legal Foundation”, Office of the Special Representative of the Secretary General For Children and Armed Conflict, Working Paper No. 1. Available at: http://www.un.org/children/conflict/_documents/SixGraveViolationspaper.pdf.

28 Council of the European Union, “Draft General Review of the Implementation of the Checklist for the Integration of the Protection of Children affected by Armed Conflict into ESDP Operations”, Annex 1: Checklist for the Integration of the Protection of Children affected by Armed Conflict into ESDP Operations, III, “Key child protection concerns for consideration of ESDP operations”, supra note 26.

Fundamentals of child protection

1. Children should be among the first to receive protection and assistance.
2. States should promote the creation of a non-discriminatory child protection system.
3. The international community should support States in meeting their obligations in a spirit of partnership.
4. The views of children should be given due weight and both children and adults should be informed of children's rights and options.
5. The best interests principle is a primary consideration in all actions concerning children.
6. Due consideration should be given to family and family support structures for the protection of children.
7. Assure to the maximum extent possible each child's survival and development, supported by zero tolerance for all forms of violence against children.
8. Active promotion of gender equality is essential.
9. Resource allocation should prioritize children's needs.
10. All interventions should follow a rights-based approach, as defined by relevant international law, with the Convention on the Rights of the Child providing a legal and normative framework for the protection of children.
11. States should refrain from detaining children.
12. Age, gender and diversity mainstreaming and targeted action should form a two-pronged approach to ensure equality in protection.
13. All relevant actors should work together to identify risks, undertake participatory analysis and document and share information.

★ Source: World Vision and UNHCR, Summary of UNHCR's Executive Committee Conclusion on Children At Risk No. 107 (LVIII) – 2007

Children associated with armed forces and groups:

The use of children by armed forces is a growing trend in contemporary armed conflict. They are used in support functions (for instance as cooks, porters, or for intelligence gathering) or as soldiers actively engaged in the hostilities. Girls associated with armed forces and groups are frequently subjected to sexual violence and sexual exploitation.

Children are often forced or manipulated into joining armed groups. Regardless of the way in which they have been recruited, children associated with armed forces and groups are victims who are entitled to special protection and care. International humanitarian law considers that the conscription, enlistment or use in active hostilities of children under the age of fifteen is a war crime.²⁹ The EU is committed to end the use of children in armed forces or armed groups, and to end impunity for crimes against children.³⁰

²⁹ Rome Statute of the International Criminal Court, doc. supra note 19, Article 8 (2) (b)(xxvi), (e)(vii).

³⁰ Council of the European Union, EU Guidelines on Children in Armed Conflict, 2008, at 7.

The disarmament, demobilization, rehabilitation and reintegration of children associated with armed forces and groups with their families and communities is a priority for the EU³¹ and should be guided by the *children's best interests*. As far as possible, the children themselves (and their families and communities) should actively participate in such processes and their views be sought. Special emphasis should be placed on the particular challenges that girls face in these processes.³²

Key principles concerning child soldiers: ³³

- Children under the age of 18 are to be prevented from being compulsory recruited by national armed forces and from taking direct part in hostilities;
- Armed groups that do not belong to the national armed forces are under no circumstances to recruit persons below the age of 18 or make use of them in hostilities;
- The minimum age for voluntary recruitment in governmental forces is 15, and strict safeguards are to be applied. The Optional Protocol to the CRC on the involvement of children in armed conflict calls on States Parties to raise the age for voluntary recruitment [to 18] (Article 3.1);
- Anyone who is responsible for unlawfully recruiting children to armed forces or for using them during hostilities is to be prosecuted.

3.3 Refugees and internally displaced persons

“In close cooperation with the relevant international organisations and, where appropriate, with the host State, special protection and assistance will be afforded to internally displaced persons in conformity with the Guiding Principles on Internal Displacement and to refugees, in particular to the most vulnerable groups.” (emphasis added)

★ Council of the European Union, Draft Guidelines on Protection of Civilians in EU-led Crisis Management Operations (2003)

Refugees are individuals who have been forced to leave their countries of origin and have sought sanctuary in another country due to a fear of persecution, whereas internally displaced persons (IDPs) have often fled for similar reasons but have

31 Council of the European Union, “Draft Guidelines on Protection of Civilians in EU-led Crisis Management Operations”, EU Doc. 14805/03, 14 November 2003, para. 4, (a), (ii). [These guidelines are currently under revision]

32 Council of the European Union, “Draft General Review of the Implementation of the Checklist for the Integration of the Protection of Children Affected by Armed Conflict into ESDP operations”, supra note 26. Also see the Principles and Guidelines on Children Associated With Armed Forces or Armed Groups (The Paris Principles), February 2007, 7. Release and Reintegration, p. 24-40.

33 These key principles are based on inter alia: the Convention on the Rights of the Child; the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict; the Additional Protocols to the Geneva Conventions; the Rome Statute of the International Criminal Court; the Paris Principles; the Paris Commitments to protect children from unlawful recruitment or use by armed forces or armed groups (2007).

not crossed an international border. Refugees benefit from special legal protection deriving from their status under international human rights, humanitarian as well as refugee law. One of the key principles relating to the protection of refugees is that of “*non-refoulement*”, which means that a State where a refugee has sought sanctuary must not return the individual concerned to the country of origin if there is a risk that the individual will be persecuted or tortured upon return.³⁴

While refugees and IDPs face many of the same threats to their human rights, IDPs are particularly vulnerable because they remain near to the conflict-ridden areas, sometimes even within close range of armed forces or armed groups which may have the ability or intent to do them harm. Uprooted from their familiar surroundings, their sources of livelihood and without their traditional coping mechanisms, they are particularly vulnerable to attacks, harassment, exploitation, coercion and numerous other violations of their human rights.³⁵

The EU’s **Draft Guidelines on Protection of Civilians in EU-led Crisis Management Operations** place special emphasis on IDPs and the most vulnerable groups within this population, which require special protection and assistance.³⁶ The **UN Guiding Principles on Internal Displacement** identify those under particular threat as: children, especially unaccompanied minors; women, especially expectant mothers, mothers with young children, and female heads of households; persons with disabilities; and elderly persons.³⁷ Displaced women and girls frequently face discriminatory treatment and heightened risks of sexual violence and exploitation, particularly if they are single heads of households and/or separated from their families. Their special protection needs must therefore be considered as a priority.

The period during which IDPs are fleeing is a time of heightened risk. IDPs can become unintended or intended victims of fighting or land mines and unexploded ordnances (UXOs), and may suffer abduction, rape, forced military recruitment or other violations of human rights and international humanitarian law.

With regard to the human rights of displaced persons and refugees, the primary aspects of concern include: access to an adequate standard of living including basic shelter and housing, potable water, essential food, essential medical services (including mental health care) and sanitation. War-displaced populations also face several economic hardships, such as having their crops destroyed, cattle stolen or houses burnt down, so it is important to pay attention to economic recovery and the provision of humanitarian assistance. Displaced populations, particularly those remaining in proximity to ongoing hostilities, often face challenges pertaining to the freedom of movement, such as access to schools, places of worship, cemeteries and grave sites, as well as access to their fields, water supplies, firewood, etc. Property issues are of particular concern in the post-conflict phase.³⁸ You must also be attentive to gender differences in all the aspects monitored.

34 Article 33(1) of the 1951 Convention relating to the Status of Refugees.

35 See IDP vulnerability factors in ICRC, *Enhancing Protections for Civilians in Armed Conflict and Other Situations of Violence*, supra note 16, p. 20.

36 Council of the European Union, “Draft Guidelines on Protection of Civilians in EU-led Crisis Management Operations”, supra note 31, para. 3.

37 UN Guiding Principles on Internal Displacement, OCHA/IDP/2004/01, Principle 4.1.

38 See the United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons (“Pinheiro Principles”), U.N. Doc. E/CN.4/Sub.2/2005/17, 28 June 2005.

Because of their particular security and protection needs and because they play such a vital role in ensuring the well-being of their families, always make sure that women are actively consulted and involved in any decisions affecting the displaced population.³⁹

IDPs are entitled to the same human rights as everyone else but under the circumstances that have resulted in their displacement there is often no effective government willing or able to implement these human rights. The UN Guiding Principles on Internal Displacement, while not legally binding as such, are based on general principles of international law and cover all phases of displacement and provide good guidance to all actors involved in assisting IDPs.

Summary of some key Guiding Principles:

- IDPs are fully entitled to the same rights and freedoms as people who have not been displaced. They are to be provided with an adequate standard of living, consisting of (at a minimum) essential food and potable water, basic shelter and housing, appropriate clothing, and essential medical services and sanitation;
- Groups within the IDP population who are particularly vulnerable shall be entitled to protection and assistance as is required by their condition and to treatment which takes into account their special needs;
- Arbitrary displacement and displacement on ethnic, religious or racial grounds are prohibited. In situations of armed conflict, displacement is prohibited unless strictly required for the security of the civilians involved or for imperative military reasons. Displacement shall last only as long as these conditions exist. Displacement should be a last resort and possible alternative solutions are always to be considered prior to displacing populations;
- Families should not be separated and whenever possible should be able to share the same living quarters;
- IDPs should have complete freedom of movement in and out of IDP settlements and are not to be confined to a camp unless strictly necessary in exceptional circumstances, and even then for no longer than required under the circumstances;
- IDPs have the right to return to their homes voluntarily but are to be protected against forced return or resettlement. IDPs have the right to recover any property or possessions or to be compensated for the loss.

39 UN Guiding Principles on Internal Displacement, Principle 18.3 and Principle 23.

Chapter 4: Basic methodology for monitoring and reporting on human rights in the CSDP operational context

During the course of your mission you will be confronted with human rights issues that may require action on your part. Even if you have not been specifically tasked to monitor human rights issues, and regardless of whether there is a dedicated specialised human rights/humanitarian team, you must pay close attention to the ongoing situation, collect the necessary information and report through the appropriate channels to the relevant departments within the mission if you come across something that you suspect could be a human rights violation. Every mission member should be able to recognize a human rights violation or abuse when they see one and be able to take the necessary first steps.

4.1 What is human rights monitoring and why is it important?

Human rights monitoring and reporting is one of the most important ways of implementing EU human rights policy in the context of CSDP.⁴⁰ Human rights monitoring involves collecting, verifying and analysing information with the aim of using it to promote human rights and address human rights violations. Monitoring is typically conducted over an extended period of time, but it may also involve a targeted focus on specific incidents, events or institutions where human rights violations are alleged to have occurred or have a high risk of occurring.⁴¹

Human rights monitoring often includes (but is not limited to) the collection of individual complaints. Through long-term and systematic human rights monitoring individual cases can be put together to reveal a pattern or trend of human rights violations. Being able to illustrate patterns or trends with documented examples of alleged human rights violations is an effective way of drawing the attention of the responsible national authorities on the impact that their actions or omissions to act have on the ability of individuals to exercise and enjoy their rights. Information on patterns or trends can also be used to improve the planning and design of the CSDP mission's advising, mentoring and training programmes, and to provide feedback on the impact of these activities so that they can be adjusted or redirected if necessary.

Human rights monitoring is not crime investigation. Always keep in mind that the State authorities bear the primary responsibility for preventing human rights violations and abuses and responding to individual complaints. The local police and prosecutors are legally obliged to prevent human rights violations, abuses and crimes and to resolve cases in which they occur. Monitors must not seek to replace the national authorities but to assist them to meet their obligations by highlighting issues of concern and recommending action to improve the situation. Monitoring

⁴⁰ Council of the European Union, "Mainstreaming of Human Rights into ESDP", doc 11936/4/06, point 30.

⁴¹ This description of monitoring builds upon the definition contained in the UN Office of the High Commissioner for Human Rights, Training Manual on Human Rights Monitoring, Chapter I, D. 2 (2001).

must always respect the national laws of the host country and the jurisdiction of the national authorities. Nevertheless, if faced with a situation where the national authorities are unable or unwilling to fulfil their obligations, international actors have a duty to take direct action to protect and assist people who are at risk.

4.2 Some key principles of monitoring

- **Do no harm:** Avoid any action that could increase vulnerabilities or might have a negative impact on the individuals and communities with whom you come into contact or on any of the individuals in your monitoring team. This means asking yourself each time that you collect or use human rights information whether it could have unintended results such as placing someone in danger (victim(s), family and community of the victim(s), witnesses, sources of information, alleged perpetrators or any other affected parties). While risks can never be completely eliminated, you need to take all necessary steps to minimize any adverse effects of your monitoring.
- **Impartiality:** In all your actions and behaviour you need to demonstrate that you are acting in an impartial manner, that you are not prejudiced and do not support any particular political or otherwise possibly controversial position. When off-duty, too, it is important to be conscious of any signals that you or your behaviour, or that of your associations, might be giving to the authorities or to the local population. This is a crucial part of gaining the trust of all the stakeholders that you are there to assist. It is also an important element of your own personal security.
- **Objectivity:** Approach your interlocutors (and the information they provide) with an objective and open mind. Be aware that you will receive different and sometimes contradictory versions of events depending on whom you speak to. It is important to build up good professional relationships, but you must always be aware that every interlocutor has a personal agenda and some may try to manipulate you in order to achieve their aims. Do not dismiss a source when you suspect that the information is biased, however, because you are still obliged to get all versions of events.
- **Respect:** Showing respect for the individuals you meet and for their culture, religion and traditions is one of the essential ways of gaining the trust of the population that you are there to assist. At the same time, it is important that you do not actively or passively condone any local practices that may be in violation of human rights norms. Traditional and customary practices should never serve as an excuse to deny people the human rights to which they are entitled and it is the State's responsibility to ensure that its domestic laws and practices are in line with its international obligations. You need to speak up when a practice is unacceptable from a human rights standpoint and be able to explain why. This includes both discriminatory or harmful

cultural and religious practices, as well as other detrimental practices such as corruption and nepotism.

- **Manage expectations:** The expectations, particularly of the local civilian population, as to what you can achieve will often be very high. Failure to meet these expectations may result in a negative perception of the operation, and in the worst case even hostile reactions. Be careful to manage people's expectations: do not give rise to any false hopes but explain clearly what you can and cannot do, and follow up with the individual(s) concerned if you promise to take action on their behalf.
- **Credibility:** In order to be taken seriously, the information you convey to State authorities must be accurate. You must ensure that your allegations are as precise as possible and are supported by reliable evidence from witnesses and other sources. Information must always be cross-checked with a variety of sources whenever this is possible.
- **Use your common sense:** Follow your good judgement and gather as much information about the incident on the spot because timing could be vital. Valuable evidence could be lost and alleged victims or relevant witnesses may not be willing or able to speak to you at a later stage. Even if the issue is beyond the mission's mandate or falls outside your own area of responsibility, it is your duty to collect the information and transmit it either to the human rights focal point/human rights team or to another organization that works with such issues. If a dedicated human rights officer is not available at the scene, you should take personal statements from any victim(s) and witnesses.

4.3 General considerations on information gathering

Establishing a good network of contacts is essential to conducting effective human rights work. You will need to gather information from a wide variety of both governmental and non-governmental sources to ensure a balanced view of the issue or case you are documenting. Make sure that your contact base is representative of the society in which you operate and also includes those groups who frequently do not get heard, particularly women, ethnic, religious or other minorities. It is especially important that you actively reach out to these groups and do not rely exclusively on the information provided by local leaders or others who claim to represent a community.

If you are monitoring an individual case or incident, you will need to pursue all possible sources of information relating to the matter. Above all, you should try to interview the victim(s) and any witnesses, and obtain the authorities' response to the incident, for instance from the police, military authorities or legal system.

It is also useful to obtain copies of any official documents related to the incident, such as records from the police, court, hospital, morgue, etc., as well as relevant legislation, administrative rules and regulations, government reports, etc.

Individual interviews may not always be possible or desirable in some circumstances. There are other useful methods of obtaining information on human rights issues, such as group interviews, focus group discussions or “town hall” meetings. These methods can be used to gain an understanding of a general problem facing a community or a group, such as when gathering information on the situation of IDPs.

Ensuring the confidentiality of personal information gathered through monitoring is extremely important and should influence the way in which the information is gathered, used, shared and stored.

4.4 Some important points about interviewing

- Make sure that the individual voluntarily agrees to being interviewed. Respect peoples’ wishes if they do not want to speak to you.
- Try to find a spot which is out of hearing range of other people, for instance in the interviewee’s own home.
- Interviews with victims should preferably be held one-on-one, in the interests of confidentiality and to avoid other people adding to or influencing the interviewee’s account.
- Special safeguards need to be adopted when interviewing victims of sexual and other types of violence, detainees and children, in order to avoid re-traumatising them.⁴²
- If you use an interpreter, make sure that your interviewee is comfortable with the situation. You must also make sure that the interpreter has no personal interest in the case and has signed (and understood) a confidentiality agreement.
- Ensure that your source properly understands the purpose, procedure and rules of the interview (including their right to refuse to answer any questions).
- Keep in mind how certain context-specific issues, such as gender roles, cultural or religious norms, and local power structures may influence your interviewee’s account and perception of what happened.
- Try to create a relaxed atmosphere and avoid taking an interrogative approach. While it is normal and natural to be emotionally affected by what you hear, try to remain as detached and objective as possible, while treating the individual with respect and dignity.

42 Detailed guidance is available in, amongst others: WHO Ethical and Safety Recommendations for Researching, Documenting and Monitoring Sexual Violence in Emergencies (WHO, 2007) and in United Nations Office of the High Commissioner for Human Rights, UN Training Manual on Human Rights Monitoring, Professional Training Series No. 7 (New York and Geneva: United Nations, 2001) Chapter VIII: Interviewing.

- Ask open-ended and non-leading questions and retrace events in chronological order. If you spot inconsistencies in the account, ask the same question in a different way or ask other questions to verify accuracy.
- Be aware that recounting traumatic experiences is often very stressful for the victims and be sensitive to any signals of distress during the interview. If you see that your interviewee is uncomfortable, stop the interview immediately and arrange for it to be continued at another time.
- Listen with an open and non-judgemental mind while being aware that there is no such thing as a purely objective account of a situation.
- Before concluding an interview, make it clear what your organization can (and cannot) do in this case. Request the individual's informed consent if you decide to take action on his or her behalf. If the individual agrees that you use the information, ask whether it can be taken up with, or referred to, third parties (state authorities, other international organizations, local NGOs etc.) and whether or not the individual's identity can be revealed in any action taken. Explain how you intend to proceed and how and when you will follow up with the person providing the information.

4.5 Analysing the information

Human rights violations do not exist in a vacuum. They are the product of a particular historical, political, social, economic and cultural context. Try to get to the source to understand why the violation has taken place or is going on. For instance, it could be due to legislative or structural inadequacies, government policies, administrative practises or cultural or religious factors. Try to identify both the immediate and the underlying causes.

Some aspects that you may need to look into:

- Power relations (within the society, community, village, and family): How are they affecting the issue at stake?
- Gender dimensions: Is either sex disproportionately affected by the violations or abuses? If so, why?
- Ethnic/racial/cultural factors: Is a particular group being singled out? If so, why?
- Who is responsible for securing this right and why are they failing to do so?

- Who are the perpetrators? Are their acts directly or indirectly attributable to the national authorities?
- What are the direct and indirect effects of the violation(s) on the individuals concerned, on their communities and on the society as a whole?
- What remedies could victims obtain at the national level (for instance, legal or administrative remedies)?

4.6 Reporting

Reporting is a key phase of the human rights monitoring process. Effective and timely reporting ensures that appropriate action can be taken to address the problems encountered in the course of monitoring.

CSDP missions follow similar reporting procedures and formats and are often prepared by designated reporting officers. This means that while you provide the 'raw material' for the report, the analysis is likely to be conducted by someone else, who may not have the same insight into the context and actual circumstances. The type of information and level of detail you provide will obviously depend on the type of report (daily, weekly, monthly, 6-monthly, thematic etc.) and on its intended aim and recipients but as a general rule the information that you convey should be:

- **Accurate:** Verified and substantiated through cross-checking with different sources – if the information is unverified or unconfirmed, it is important that you indicate this;
- **Precise:** Clear and concise yet providing sufficient detail and placing the incident, case or issue in its overall (social/economic/political/historical/cultural/etc.) context and identifying any trends or patterns;
- **Prompt:** Conveyed as soon as possible after it is collected;
- **Action-oriented:** What type of action do you recommend?⁴³

Reports should systematically include information on the situation of individuals belonging to vulnerable groups and on the effectiveness of the mission's activities in contributing towards gender equality and local ownership within the sphere of the operation's mandate.

In most cases, the names of alleged victims are not included in any type of reporting, due to the difficulty in ensuring confidentiality of reports that are circulated to a large

⁴³ These principles build upon the principles contained in the United Nations Office of the High Commissioner for Human Rights, UN Training Manual on Human Rights Monitoring, Professional Training Series No. 7, supra note 42, Chapter XX, B. General principles on human rights reporting.

number of people. Names and other personal data are therefore usually disguised or removed entirely to ensure confidentiality. Sometimes, however, depending on the type of case you are dealing with, it might be necessary to mention the alleged victim (and alleged perpetrators) by name, for instance in cases of enforced “disappearances” where revealing this information to the authorities concerned might provide a measure of protection to the individual concerned. Informed consent should be sought from all the affected parties (if and as relevant from the alleged victim or his or her family and your sources of information) and the potential benefits for the individual concerned by the intervention must be greater than the potential risks (“do no harm”).

Key components of a human rights report:

Following are some key components you should include when preparing a report on an individual case or event where human rights violations/abuses were reported to have occurred.

- Date and time of the incident: WHEN?
- Location of the incident: WHERE?
- Particular circumstances surrounding the incident (did it happen during a demonstration, arrest, political or other meeting, trial, etc.).
- Details of the incident: WHO did WHAT to WHOM and HOW did they do it?
- Indications of possible political, ethnic, religious, racial or other motives: WHY?
- Has the alleged victim(s) or village/area been subject to other similar incidents in the past?
- Possible injuries to the alleged victim(s) (type, location and gravity of bodily injuries) or damages to property.
- Whether the information has been corroborated by other sources.
- Response of State authorities (investigation, prosecution, remedy).
- Material evidence (relevant photos, copies of court/police/medical records etc.).
- Informed consent – see 4.4 above, “General considerations on information gathering”.
- Any actions that were taken by your team on the spot.
- Recommendations or requests for follow-up action by field office or head office (short-term and/or long-term).

4.7 Identifying patterns and trends

It is important to determine whether violations are isolated acts of ‘misbehaviour’ of perpetrators (or their close superiors) acting on their own initiative or whether there are indications of a pattern which could indicate a deliberate policy or strategy by national authorities (or other parties to the conflict).⁴⁴

Identifying patterns becomes possible when you have collected information on human rights violations over a certain period of time. Patterns are identified by isolating one or several variables, such as factors relating to the identity of individuals affected, or to particular circumstances, locations or perpetrators.⁴⁵ The identification of patterns adds credibility to your report and enables more effective arguments to be put forward when raising the issues with the responsible authorities.

It is also useful to keep statistics on the various types of violations/abuses that you are following and on other relevant information. Analysing data according to specific variables (e.g. sex, age or ethnicity) can help to reveal a problem of human rights violations. For example disaggregating data on suicides by the gender of the victim may point to the existence of gender-based violence as an underlying cause.

4.8 Taking action

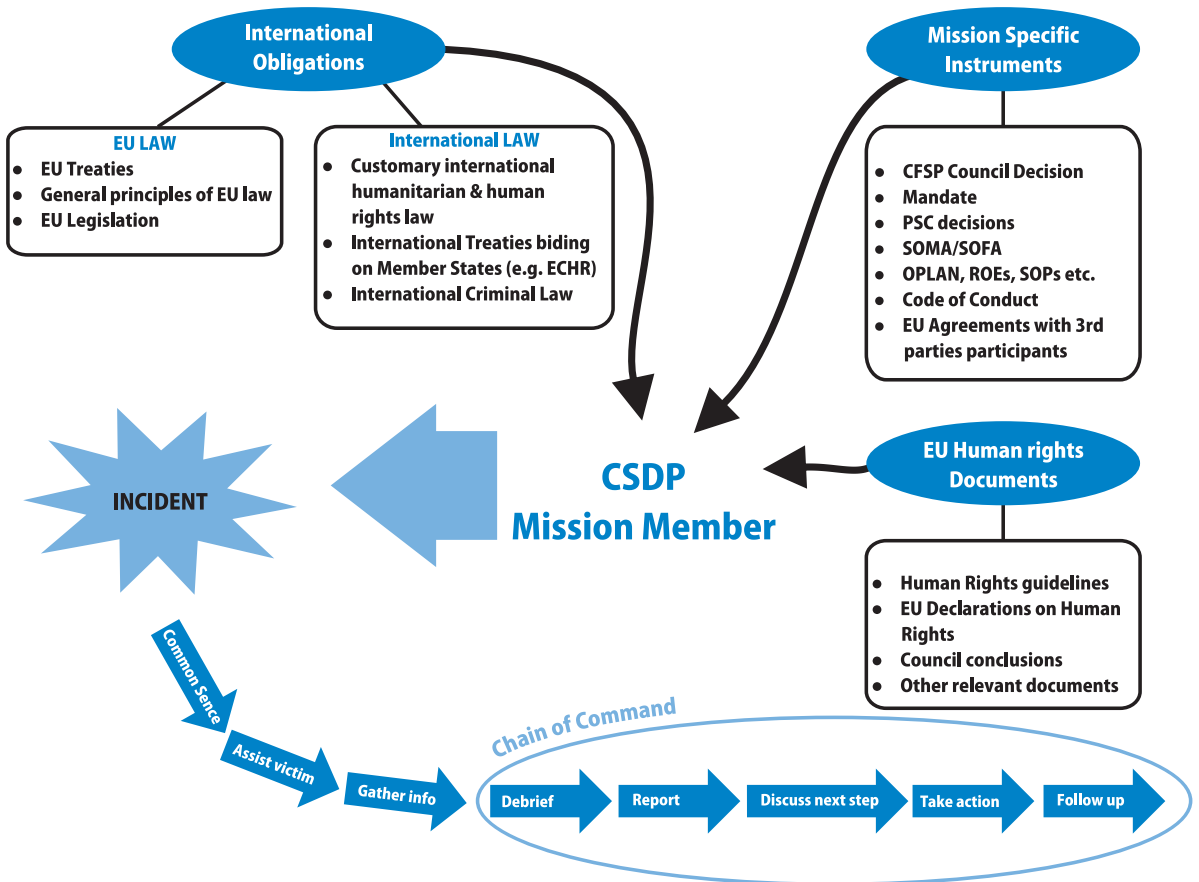
Monitoring and reporting on human rights does not in itself improve respect for human rights. Highlighting the problems and violations encountered is only the first step of the process. The information gathered through monitoring can help the mission to identify the causes of the violations and so better determine what type of action is required to tackle them.

Not all problems encountered through monitoring are part of the mission’s mandate and in such cases fast reference of the case to the appropriate agency or authority may be your most important tool. Referring cases to local organizations in particular also shows the EU’s support for and confidence in local civil society and strengthens their position as defenders of human rights who contribute durable improvements to the local human rights protection system.

⁴⁴ ICRC, *Enhancing Protection for Civilians in Armed Conflict and Other Situations of Violence*, supra note 16, p. 16.

⁴⁵ Amnesty International and CODESRIA, *Ukweli: Monitoring and Documenting Human Rights Violations in Africa*, a Handbook (Amsterdam and Dakar: Amnesty International and CODESRIA, 2000) p. 18.

Responsibilities of CSDP mission members deriving from the legal and operational framework of their mission



PART II:

Integrating human rights into the operational activities of CSDP missions

The purpose of the following chapters is to offer practical non-binding guidance on how individual CSDP mission members (civilian and military) can integrate human rights considerations into their daily monitoring, mentoring, advising or executive functions. Drawing on the experience of different CSDP missions, some areas of special interest have been identified within the main operational activities of CSDP missions. They have been selected because they are illustrative of the types of human rights issues that arise in the broad spectrum of environments (pre-conflict to post-conflict) in which CSDP missions typically operate.

This approach is complementary to the monitoring approach described in Part I of this Handbook. While monitoring is necessary to enable human rights problems to be identified and their most likely causes analysed, the real challenge lies in solving the problems in ways that are tailored to the local context and sustainable in the long term.

Always respect the principle of ‘do no harm’ (see Part I, 4.2.). Consider any possible secondary effects of your actions and take steps to minimize any risks and adverse effects. This also includes being aware of the possible human rights implications of your own professional and personal conduct. As a CSDP mission member you are obliged to always respect applicable human rights and international humanitarian law in exercising your professional functions.

Chapter 5: Police services and human rights⁴⁶

Introducing a human rights-respecting ‘culture’ into police services in post-conflict and transitional contexts is an immense challenge. There is often a fundamental lack of trust between the police services and the populations they are meant to serve and to protect. This gap can only be bridged if the police services incorporate human rights considerations into their structure, rules, procedures and institutional culture.

As representatives of the State, police officers have a responsibility to respect and protect human rights and fundamental freedoms (see part I, 2.2).

Respect – The police has a duty to refrain from infringing upon the human rights and fundamental freedoms of all individuals. Although their special powers and authorities allow police officers to limit certain human rights and freedoms in the interests of upholding the law, such limitations must abide by certain strict conditions: they must be legal (i.e. have their basis in national law), they must be proportional to a lawful law-enforcement objective and only performed to the extent strictly necessary to achieve that legitimate objective.

Protect – Through their core functions, police officers contribute to creating a safe and secure environment where people are able to enjoy and exercise their human rights and fundamental freedoms. The police has a duty to protect people from infringements of their human rights by other individuals. This duty includes conducting an effective investigation into illegal acts. While the police must apply the law without discrimination on any grounds, certain individuals or groups may require special measures or considerations to be taken to ensure that their rights are adequately protected (see Chapter 3: Groups needing special attention). Providing adequate care and assistance to victims of crime is also a core responsibility of the police.

In order to respect and promote human rights, it is essential that police officers not only know what the international human rights standards are, but more importantly, that they must know how the standards apply to their daily policing activities. They must be aware of the limits to their authority and conduct, as well as the consequences of breaking the law. It also means that human rights considerations need to be incorporated into all aspects of policing; from the conception, planning and execution of a police action through to its evaluation and identification of the lessons to be learned.

In post-conflict and transitional situations, even when a new police force has been created from scratch, the patterns of behaviour that characterized the “old” police can easily re-emerge if conditions allow them to. Police brutality and illegal arrests are typically not isolated individual acts of police “misbehaviour”, but a product of an institutional culture which chooses to ignore or in some cases even actively encourages the behaviour. Unless the institutional norms and structures are properly addressed there is a real danger that the patterns that once characterised the police

⁴⁶ This section is also of relevance for correctional services, particularly 5.1, 5.3 and 5.4.

may return at a later stage. In societies emerging from conflict, this could destroy any shred of legitimacy that the police had built up in the eyes of the population, which would constitute a serious setback to the process of police reform.⁴⁷

Respecting human rights standards does not weaken the effectiveness of the police but ultimately benefits its work through an improved relationship with the population they are meant to serve.

Creating a police force that both abides by and protects human rights requires much more than merely changing the attitudes of a few police officers. It requires a complete overhaul of the institutional structures and dynamics that give rise to and sustain the abusive behaviour.⁴⁸ It also requires reforming the other components of the justice sector, particularly the courts and prosecutor's services. The action that you take in your role as mentor/advisor should therefore form part of a comprehensive and coordinated mission-wide strategy simultaneously targeting the individual, institutions and the broader rule-of-law sector.

Through your daily interactions with local law enforcement officers, you are at the "front line" of human rights protection as you are often the first person in the mission to become aware of human rights problems and can therefore play an important role in building rights-respecting and rights-promoting police services.

What can you do?⁴⁹

- Assist the mission in collecting information on human rights issues within the scope of your area of activity.
- Prevent human rights violations by the local police by reporting any violations through your chain of command without delay.
- Assist the local police in developing (or reviewing existing) standard procedures on how to respond in a way which observes the rights of the suspects and provides the adequate assistance and protection to the victims of crime; support the police in incorporating these procedures into their training and daily activities.
- Encourage the development of a system of recruitment, promotion and assignments on objective, merit-based criteria where respect for human rights plays a significant role.
- Help ensure accountability by encouraging and supporting the creation of effective, transparent and fair accountability mechanisms (internal and external).

47 See William O'Neill, "Police Reform and Human Rights", A Hurist Document, 2004, p. 7.

48 Ibid., This paper offers invaluable guidance based on lessons learnt from UN police reform efforts around the world. One of its key conclusions is that human-rights training is necessary but not sufficient to ensure sustainable police reform; it must be complemented by institutional reform efforts, including objective and transparent criteria for hiring and firing, systems of incentives and rewards based on merit and integrity, internal and external accountability mechanisms and complaints procedures, and sound administration, management and financial practices.

49 Recommendations build upon those made in "Police Reform and Human Rights", supra note 47.

- Cultivate your local counterparts' ability to respond in a non-discriminatory way to the particular security needs of vulnerable groups at heightened risk of human rights abuses.
- Encourage the police to build a trusting and mutually supportive relationship with the community which it serves, including a credible system whereby citizens can file complaints against the police.

The following section outlines some typical examples of human rights-related issues that arise in policing in conflict and post-conflict situations. It thus provides helpful advice as to the kind of pro-active steps you can take to help to protect and promote people's human rights.

5.1 Use of force in the maintenance of public order during assemblies and demonstrations

Freedom of expression and the related freedom of peaceful assembly are fundamental rights protected by international human rights law and are essential to the functioning of a democratic society. In many conflict/post-conflict contexts however, the 'traditional' channels for participating in public life (for instance through politics and the media) may not be available or accessible. Demonstration 'on the streets' is therefore often the only outlet that people have to make their views heard. These are often volatile situations with a high risk for human rights violations.

The police have a crucial role to play, not only in not interfering unduly with assemblies and demonstrations, but also in enabling people to enjoy their freedoms of expression and assembly, including to ensure that assemblies and demonstrations do not turn violent. This requires first of all that the police understand that people have a legitimate right to assemble and demonstrate, as long as they remain within the boundaries of the law. It is useful in this regard to see (peaceful) demonstration as something that ultimately benefits peace and security; enabling people to express themselves freely in a public setting may prevent them from resorting to violent means to make themselves heard.

In an ideal situation, the police should take a pro-active approach, including:⁵⁰

- Continuous well-structured communication and cooperation with the organisers (and possibly other concerned parties such as counter-demonstrators) prior to and during the demonstration to ensure that it is carried out in a peaceful manner;
- Possession of a contingency plan in case the demonstration turns violent, including formal guidelines regarding the circumstances,

50 Sources: OSCE ODIHR, Guidelines on Freedom of Peaceful Assembly, Chapter 5: Rights and Responsibilities of Law Enforcement Officials, 2007, p. 56-68; and International Committee of the Red Cross, To Serve and To Protect: Human Rights and Humanitarian Law for Police and Security Forces (Geneva: ICRC, 1998), Chapter 7: Maintenance of Public Order.

methods and procedures for the use of force, stop and search, arrest and detention;

- Ensuring that all police officers involved in policing demonstrations have undergone thorough training on non-violent methods of crowd dispersal, the lawful use of force and use of firearms in accordance with the **UN Code of Conduct for Law Enforcement Officials**⁵¹ and the **UN Basic Principles on the Use of Force and Firearms**,⁵² as well as training in respect for human rights;
- Ensuring that only properly trained police officers are allowed to use firearms and ‘non-lethal’ weapons and that strict guidelines are given as to the permitted circumstances and procedures for their use;
- Debriefing and review processes after the demonstration to identify what went well and where improvements need to be made (possibly engaging the organisers of the demonstrations as part of the process);
- Operational instructions which ensure the rotation of police officers who are at the ‘front line’.

However, the reality in many of the contexts in which CSDP missions operate, is that the right to peacefully demonstrate is frequently denied and demonstrations are dispersed with force which sometimes may be disproportionate and even lethal.

As a police mentor/adviser in a CSDP mission, you may not be able to do much about the authorities’ refusal to authorize a demonstration, but you can have an influence on the way in which the police chooses to respond to the assembly or demonstration.

General principles relating to policing assemblies/demonstrations:⁵³

- **Lawful and non-violent assemblies:** The freedom of assembly and association is a human right.⁵⁴ There is therefore **no justification** for the use of force.
- **Unlawful but non-violent assemblies:** The use of force shall be avoided or, if absolutely required to achieve a legitimate law enforcement objective, should be restricted to a minimum. Non-violent means should first be used.

51 U.N. Doc. A/RES/34/169, (1979).

52 U.N. Doc. A/CONF.144/28/Rev. 1 (1990)

53 Source: UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Principles 9-14. Note that the specific circumstances justifying the use of force and firearms by law enforcement officials and the means that can be used in a particular situation are regulated by national law.

54 E.g. ICCPR Art. 21, ACHPR Art. 11, ACHR Art. 28, ECHR Art. 11

- **Violent assemblies:** Force is to be used only when strictly necessary and then only to the minimum extent required by the situation. The use of firearms is an extreme measure only to be used as a last resort after other less violent means have been used unsuccessfully. Any use of firearms should be used in a manner which minimizes injury and respects human life, and only with the aim of protecting against imminent threat of death or serious injury.⁵⁵

Example: A demonstration is planned by an opposition group. The authorities have not granted the necessary authorization and have warned the organizers that if the demonstration goes ahead it will be dispersed by force if necessary. The police and security forces are preparing for a confrontation and plan to use ‘non-lethal’ weapons such as rubber bullets and tear gas to disperse the crowds.

What could you do?⁵⁶

- Recommend to your interlocutor the possibility of defusing the situation by pursuing a peaceful settlement of the conflict through dialogue with the demonstration organizers.
- If that fails, emphasise the importance of limiting the recourse to force by adopting non-violent strategies for crowd dispersal so as not to escalate the situation.
- Make sure that the police have a range of means for the differentiated use of force (including appropriate equipment, training and instructions).
- Remind your interlocutor that a distinction needs to be made between violent demonstrators, peaceful demonstrators and bystanders (no force is to be used on the latter two groups).
- Make sure that the police allow the demonstrators both the physical possibility and reasonable time to disperse, by giving them verbal warnings and allowing them a clear corridor of escape, so they are not trapped in a confrontation with the police.
- Remind your interlocutor that the police is responsible for ensuring that arrangements are in place to provide assistance and medical aid to any injured or affected persons and that relatives or close friends of these persons must be notified without delay.

⁵⁵ The precise circumstances allowing for the legal use of firearms are: “in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.”, source: UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Principle 9. Clear procedures preceding the use of firearms apply. (Principle 10, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials).

⁵⁶ These recommendations are based on the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the OSCE ODIHR Guidelines on Freedom of Peaceful Assembly, supra notes 50 and 53.

After the demonstration:

1. If any allegations of excessive force are received, collect all the information and convey it to the appropriate person in the human rights team (through the mission's standard operating procedures).
2. If any arrests are made, ensure that the detainees are visited by someone from the mission to verify their situation.
3. If there are any injured demonstrators or bystanders, make sure that they are visited by someone from the mission.
4. Compile a report to your superior and discuss possible steps that the mission could undertake (such as a written or verbal intervention directed to the higher authorities, training for police officers on policing public assemblies, human rights awareness training, review of the use of force procedures and codes of conduct, etc.).⁵⁷

Principles guiding the use of force 'P.L.A.N.' principles:⁵⁸

Proportional:

- To a legitimate law-enforcement objective;
- To the seriousness of the offence;
- To the resistance offered.

Legal:

- Have a clear legal basis in national law;
- Reflected in internal regulations, instructions and training;
- No exceptions or excuses permitted.

Accountable:

- Violations must be immediately reported to superior officials and promptly investigated by an independent and impartial authority;
- Evidence secured;
- Perpetrators identified and prosecuted;
- Victims (or their families) adequately compensated;
- Investigation results made public;
- Action taken to remedy the problem.

Necessary:

- Use of force only when strictly necessary;
- Non-violent methods shall be attempted first;
- Least amount of force required for the performance of the officers' duty.

⁵⁷ For more guidance, see Chapter 5 on 'Rights and Responsibilities of Law Enforcement Officials', in OSCE ODIHR Guidelines on Freedom of Peaceful Assembly, *supra* note 50.

⁵⁸ The P.L.A.N. principles exist in different versions in various police training manuals. See for example the Commonwealth Manual on Human Rights Training for the Police, (London: Commonwealth Secretariat, 2006), p. 69, 105-107; United Nations, Human Rights Standards in the Use of Force, UN Peacekeeping PDT Standards, Specialized Training Material for Police, 1st edition, 2009, p. 10-11.

5.2 Human rights violations in the context of an arrest: illegal and arbitrary arrest

The deprivation of liberty is one of the most intrusive restrictions of individuals' human rights. Not only does it affect the individual's freedom of movement but it has far-reaching consequences on the individual's ability to enjoy a whole range of other rights. It is therefore to be considered an exceptional measure and is governed by strict requirements regarding its purpose and procedures that have to be followed.

In addition to the requirement of legality, the detention must be "reasonable" and "necessary" under the circumstances.⁵⁹ An unlawful or arbitrary deprivation of liberty is usually an indication that a chain of other (potentially fatal) human rights violations is likely to follow. You therefore need to be particularly alert to this type of illegal activity.

As a police mentor/adviser, you should familiarize yourself with the relevant provisions in national law governing the arrest and deprivation of liberty. You should know, for example, who has the power of arrest, what types of arrest are permitted, when an arrest is allowed, what procedures for arrest are to be followed, how long a person can be detained before being brought before a judge, how long a person can be detained pending trial, what time limits are permitted for completing the investigation, etc.

Enforced disappearances and incommunicado detention are common features of situations of conflict and internal unrest. An enforced disappearance occurs when the State or its agents arrests, detains or abducts an individual and refuses to acknowledge his/her fate and whereabouts, thereby placing the person outside the protection of the law. This is clearly a high-risk, potentially life-threatening situation for the individual concerned.⁶⁰

Although the perpetrators of enforced disappearance and incommunicado detention frequently tend to be members of security services or military, the victims may have first been apprehended by the police or may have transited through a police detention facility at some point during their detention. The existence of accurate registers may therefore provide a certain measure of protection against such practices or may at least help in shedding light on the person's whereabouts (and could potentially be used as evidence in the prosecution of those responsible for the abduction).

59 UN Human Rights Committee, *Womah Mukong vs. Cameroon*, Communication No. 458/1991, UN Doc. CCPR/C/51/D/458/1991 (1994), 9.8: "The drafting history of article 9, paragraph 1, confirms that "arbitrariness" is not to be equated with "against the law", but "must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law... [R]emand in custody pursuant to lawful arrest must not only be lawful but reasonable in all the circumstances. Remand in custody must further be necessary in all the circumstances, for example to prevent flight, interference with evidence or the recurrence of crime."

60 For more information, see Office of the High Commissioner for Human Rights, "Enforced or Involuntary Disappearances", Fact Sheet No. 6/Rev.3.

General principles regarding stop and arrest:⁶¹

- There must be pre-existing legal grounds for stopping, searching and arresting individuals; such action must not be arbitrary and it must be in accordance with legal procedures.
- The grounds must not be discriminatory: for instance based on the individual's external or personal characteristics (race, ethnicity, religion, etc.), profession, political or other affiliations or the existence of previous convictions.
- Use of force is not necessary to the arrest unless the suspect offers resistance. If so, any force used should be proportional to the resistance offered and should cease as soon as the suspect submits to arrest.
- Upon the arrest, the arrested person has the right to be informed of the reason for the arrest, their rights under national law and how to avail him or herself of those rights, to be informed of any charges promptly⁶² following the arrest and to be brought to a legally recognized place of custody within the time-limits set down in law.
- Police must keep accurate records containing all the information relating to the detainees' period in custody and the records should be accessible to the detainee, legal counsel, families and all competent judicial and other authorities.
- Detainees must be brought promptly⁶³ before a competent judicial authority and be given the opportunity to challenge the lawfulness of the detention.
- Police officers who break the law and/or internal regulations or instructions must face legal and/ or administrative consequences as required by law.

Example: You receive information that the police, in a joint operation with military forces, has detained a group of young men suspected of supporting the opposition. In rounding up the men, the soldiers are alleged to have used excessive force, resulting in injuries. According to your information, the detainees have not been given any specific reasons for their arrest and are detained indefinitely on the grounds that they are a "threat to state security". The detainees have not been brought before a judge and are thus not able to challenge their detention. Furthermore, they are not permitted any contact with their families or with a lawyer. There is a strong indication that the men have been rounded up with the intention of intimidating them and others in their village, which is known to support the opposition.

61 These principles are derived from: the Universal Declaration of Human Rights, ICCPR, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the African Charter on Human and People's Rights, Arab Charter on Human Rights, the UN Code of Conduct for Law Enforcement Officials, Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, U.N. Doc. A/RES/43/173 (1988); Standard Minimum Rules for the Treatment of Prisoners (1955).

62 Governed by national law.

63 The period should be determined by national law, but should not be longer than time it takes to process a suspect (European Court of Human Rights, (Brogan and Others vs. the UK, European Court of Human Rights, Ser. A, No. 145-B, 11 EHRR 117).

What could you do?

Report this issue to your superior and discuss the action to be taken, which could include a number of steps:

- Confirm that the information you have received is accurate by cross-checking with other sources and, if possible, speaking to the detainees in private.
- If your information is corroborated, raise your concerns with the responsible police authority, emphasizing that the detention is arbitrary and therefore unlawful (under national law or international law). In particular, you should request that:
 - *the injured detainees have access to a doctor;*
 - *the detainees be either informed of the specific reasons for their arrest and formally charged or else released;*
 - *the detainees are presented before a court of law for reviewing any charges against them and are given the possibility to challenge the lawfulness of their detention;*
 - *the detainees are allowed legal representation;*
 - *the detainees are allowed family contact.*
- Remind your interlocutor that mass arrests without specific facts or information incriminating each of the detained individuals is illegal and violates the right to liberty and security of person.⁶⁴
- Point out that regardless of the nature of the alleged offence, the legal requirements pertaining to the detainees' rights must be respected.
- Through your chain of command, report your concerns about the involvement of military forces in law enforcement operations and particularly the allegations of excessive use of force.
- Make your recommendations (through your chain of command) of what further action the mission could take to address the problem. Such action could for instance include:
 - *A written or verbal intervention to the appropriate police authority raising the concerns of the mission regarding the alleged violations (respecting the principle of "do no harm" and only with the informed consent of all affected parties, see chapter 4, 4.2 and 4.4);*
 - *A review of the standing orders and procedures governing the arrest;*
 - *Training police officers on the extent and limits of their powers of arrest, the procedures upon and following the arrest, the rights of persons deprived of their liberty under domestic and international law and how they translate into policing practice;*
 - *Production of a card or leaflet containing the rights of arrested persons, to be distributed to all police officers and presented to arrested persons at the moment of the deprivation of liberty.*
- Encouraging and supporting confidence building measures between the police and the local community.

64 E.g. ICCPR Article 9, ECHR Article 5, ACHPR Article 6, ACHR Article 5.

5.3 Detention and ill-treatment

The absolute prohibition of torture, cruel, inhuman and degrading treatment is a core obligation in international human rights law and allows no restrictions or derogations. All countries are obliged to comply with this prohibition at all times, even in the event of a public emergency or where there is a risk to national security.

Risk of ill-treatment is greatest in the period immediately following the deprivation of liberty. It is therefore particularly important that legal and procedural safeguards are respected from the outset of the deprivation of liberty in order to protect the detainee against arbitrary behaviour, incommunicado detention and ill-treatment. The **Guidelines to EU Policy Towards Third Countries on Torture and Other Forms of Cruel, Inhuman and Degrading Treatment or Punishment (2001, updated in 2008)** stress the importance of the following key safeguards in preventing the ill-treatment of persons deprived of their liberty:

- The right to be brought before a judicial authority without delay;
- The right to have access to lawyers and medical care without delay and regularly thereafter;
- The right to inform their relatives and other relevant third parties without delay.⁶⁵

Apart from being illegal and abhorrent, the practice of torture and ill-treatment undermines the course of justice because evidence gained through torture is inadmissible in court. Moreover, it erodes the image of the police in the eyes of the society and this in turn has a detrimental effect on their work because a community that fears the police will not want to cooperate with it to solve crimes.

Some important points to keep in mind when assessing detention conditions:

Pay attention to the cumulative effects that the conditions of detention have on an individual's physical and mental health. For instance, insufficient personal space combined with a harsh custodial regime and treatment (e.g. lack of exercise, insufficient access to the open air, inadequate access to sanitary facilities, lack of privacy) could have detrimental effects on the individual amounting to ill-treatment. The duration that the individual is exposed to such conditions and / or treatment should also be examined.

Furthermore, such factors as the sex, age, and state of health of the individual will influence how he or she subjectively experiences the treatment. For instance, restricting access to toilet facilities would not be a problem for a young and healthy adult but could amount to inhuman or degrading treatment if the detainee is elderly or suffering from health problems. You must therefore pay particular attention

⁶⁵ These fundamental safeguards are also found in the UN Body of Principles on the Protection of All Persons Under Any Form of Detention or Imprisonment; the UN Human Rights Committee General Comment 20; and the European Committee for the Prevention of Torture and Inhuman or Degrading Punishment (CPT) Standards, CPT/Inf/E (2002) 1 - Rev. 2009. Consult especially the latter Standards for guidance, particularly with regard to detention by police.

to vulnerable groups such as children, juveniles, elderly, physically or mentally disabled detainees, when monitoring places of detention.

Detaining authorities are also responsible for ensuring that detainees are protected from abuse by their co-detainees. Failure by the authorities to take the necessary steps to protect individuals against violence by others could constitute a human rights violation.

Principles relating to detainees and torture, inhuman or degrading treatment or punishment:⁶⁶

- Torture, inhuman and degrading treatment can consist of both physical and mental suffering. The freedom from torture, inhuman or degrading treatment or punishment is a non-derogable right, so no excuses (such as a superior's orders) are permitted. In certain cases, the impact that poor conditions of detention have on an individual's physical or mental health can also amount to degrading or inhuman treatment.
- Law enforcement officials, medical and other relevant personnel should not be punished for not obeying orders to commit acts amounting to torture or ill-treatment.
- All detainees shall be held in officially recognized places of detention and their whereabouts known to their families and lawyers. The detaining authorities must keep accurate registers of their detainees and the registers should contain such information as when and why the individual was deprived of liberty and reasons, the date and time of arrival in detention, the arresting officers, when the detainee was informed of his or her rights, the detainee's medical condition including any signs of injury, when transferred, released, etc. These registers should be available and accessible to those concerned including to the detainee's relatives.
- Every place of detention should have an independent system for examining complaints by detainees regarding their treatment and conditions. Any allegations of abuse or other violations of the law by law enforcement officers should be promptly investigated by an independent and impartial body (in accordance with the Istanbul Protocol⁶⁷), perpetrators identified and brought to justice and victims should have access to an appropriate remedy.

66 These principles derive from inter alia: the EU Policy Towards Third Countries on Torture and Other Forms of Cruel, Inhuman and Degrading Treatment or Punishment; the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the UN Body of Principles on the Protection of All Persons Under Any Form of Detention or Imprisonment; UN Human Rights Committee General Comment 20; CPT Standards; jurisprudence from the European Court of Human Rights.

67 United Nations Office of the High Commissioner for Human Rights, Professional Training Series No. 8, Rev. 1, Istanbul Protocol - Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, (New York and Geneva: United Nations, 2004).

- Any rules and disciplinary procedures should be made available in writing to the detainees and combined with formal safeguards (i.e. the right to have one’s position heard, right to appeal to a higher authority, proportionality of sentence with offence committed, medical assessment and supervision, etc.).

Example: You hear rumours about police officers in the police station in your operational area ill-treating detainees during interrogation. Some detainees are even alleged to have “disappeared”. The abuse allegedly occurs at night time and detainees are taken away to a secret detention facility for interrogation where they are allegedly ill-treated in order to denounce others and/or sign confessions.

What can you do?

Report this issue to your superior and discuss the action to be taken, which could include:

- Checking the police station’s entry/exit registers for signs of any suspicious night time activity.
- Checking the police station’s medical records for evidence of treatment of injuries resulting from ill-treatment.
- If possible, identifying and interviewing people who are or have been detained at the police station.⁶⁸
- If relevant, referring your information for follow-up action to representatives of the International Committee of the Red Cross (ICRC) and/or, if appropriate, to local NGOs working on detention issues.
- If your evidence points to the existence of ill-treatment, discuss with your superior about possible steps to be taken by the mission. Such steps could include:
 - *a written or verbal intervention directed to the appropriate police authority raising the mission’s concerns about the alleged violations (respecting the principle of “do no harm” and only with the informed consent of all affected parties, see Chapter 4, 4.2 and 4.4);*⁶⁹
 - *review of standing orders and procedures concerning treatment of detainees;*
 - *establishment of strict guidelines for record-keeping/registration of detainees;*
 - *review of the legal and disciplinary consequences for officers found breaking the rules;*
 - *review of staffing arrangements, for example keeping arresting officers separate from supervising and investigating officers;*
 - *procedures for routine medical checks upon arrival;*
 - *training in policing-related human rights standards and their application.*

⁶⁸ See Part I, Chapter 4 on Monitoring, particularly 4.6: “Key Components of a human rights report” on collecting the necessary information.

⁶⁹ See 4.3 b) on maintaining security and confidentiality of information.

5.4 Violence against women and girls

States have a duty to prevent, investigate, punish and provide compensation for all acts of violence against women, wherever they occur and whether committed by public or private actors.⁷⁰ The police have a crucial role to play in preventing such crimes and ending impunity for them, as they are directly responsible for investigating and collecting the evidence that will enable the prosecution of those responsible (providing, of course, that the necessary laws are in place). The police themselves are also duty-bound not to commit, tolerate or facilitate violence against women.

The reality in many countries is that most incidents of violence against women go unreported because such acts are seen as an integral part of the culture (e.g. female genital mutilation and cutting) and the victims fear the possible consequences, which may include further violence and stigmatization. Even when it is reported to the police, violence against women is often registered as suicide, self-injury or an “honour” crime, which disguises the true nature of the crime and enables perpetrators to escape justice or face lesser charges. Another common problem is that domestic violence is often treated less seriously by law enforcement officers because it occurs between spouses or inside the family and is therefore viewed as a “private” or “family” matter.

As a police mentor/adviser, you can play an important role in raising the awareness of law enforcement personnel on matters relating to violence against women and its causes and consequences, and on how to respond appropriately and effectively to such acts. It is important that law enforcement officers recognize the importance of their own attitudes and actions: the ways in which law enforcement officers react from the very earliest stages of incidents of violence against women play a significant role in the protection of the victim against continuing abuse and in the outcome of the case in the judicial system.

Trafficking and exploitation of women (often for purposes of sexual slavery, prostitution or forced labour), is a form of violence against women.⁷¹ For policing purposes, it needs to be recognized that traffickers are criminals and trafficked persons are only victims, not criminals, and are to be treated with respect for their dignity and human rights and given all possible assistance.⁷²

An example from Palestine: Facilitating women’s access to justice through Family Protection Units (EUPOL COPPS Palestine)

The Palestinian Civilian Police, supported by EUPOL COPPS, have established a number of Family Protection Units (FPUs) in district police stations throughout the West Bank addressing and resolving issues related to family protection and violence against women (VAW).

70 General Recommendation No. 19 of CEDAW Committee, *supra* note 17, para. 9.

71 Report of the Fourth World Conference on Women, Beijing 4-15 September 1995, para. 99, United Nations, A/CONF./177/20/Rev.1, 1 January 1996.

72 More information on policing implications is to be found in documents listed in Bibliography, for instance in Zimmerman C. and Watts, C. WHO Ethical and Safety Recommendations for Interviewing Trafficked Women (Geneva: WHO, 2003) and OSCE ODIHR, National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons, A Practical Handbook (OSCE ODIHR, 2004).

The FPU contribute to combating violence against women through awareness-raising, taking up and referring cases within the VAW network, and through pursuit of the criminal aspects of domestic violence. Domestic violence is considered to be a very sensitive subject, especially when it relates to sexual violence against women and children.

It is envisaged that at a future stage the FPU will be moved out of the police stations and into multi-purpose civilian buildings to make it easier and safer for victims to come forward and receive the required social and medical services, avoiding the risk of further victimization or social stigmatization to the greatest extent possible.

EUPOL COPPS is working with the Palestinian Civilian Police on a project to further bolster the capacity of FPU. The project has a number of objectives, such as equipping FPU with the necessary infrastructure and training for their staff; developing future policies; promoting FPU participation in multi-disciplinary networks related to VAW and family protection with all partners in this field, and raising Palestinian society's awareness of VAW and family protection issues.

Some key guiding principles on policing violence against women:⁷³

- All acts of violence against women are acts of criminal conduct, whether they occur in the public or in the private sphere. There are no excuses for domestic violence and police must not view it as a private family matter;
- Police must offer women equal protection against crime and be responsive to all crimes in a non-discriminatory way. Each reported case of violence against women needs to be thoroughly investigated and documented, regardless of whether or not charges are brought,⁷⁴ with due consideration to the protection needs of the victim and any accompanying children;
- Any evidence of discriminatory attitudes amongst police officers should be dealt with swiftly and thoroughly. Investigation and collection of evidence has to meet the same standards as any other case, while respecting the dignity and security of the victim – special safeguards apply for interviewing and gathering evidence from victims of sexual violence;⁷⁵

73 These guiding principles are drawn from the recommendations made in Chapter V: Responding to violence against women: The Role of the Police, in the Handbook on effective police responses to violence against women (UNODC, 2010). Consult this document for detailed guidance.

74 Some States require mandatory charging where there is evidence to support a charge, regardless of the victim's cooperation. Source: Handbook on effective police responses to violence against women, *Ibid.*, p. 47.

75 Consult for instance: Handbook on effective police responses to violence against women, *Ibid.*, p. 55-58; and WHO Ethical and Safety Recommendations for Interviewing Trafficked Women, at *supra* note 72.

- Ensuring the safety of the victim (and any accompanying children) is of primary importance in all police procedures, including decisions on the arrest, detention and release of the perpetrator – this includes creating a personalized safety plan for victims of domestic violence.⁷⁶ Victims are to be referred to appropriate assistance (legal, medical, psychosocial, security, shelter, basic needs, etc.) from relevant local and international agencies – and confidentiality requirements are to apply regarding, for example, the sharing of information;
- In order to avoid re-victimising women who have been subjected to violence, the police must show sensitivity to the trauma endured, treat the victim with dignity and respect and minimize intrusion into her private life. Whenever possible, specialised units staffed by women, special teams focusing on domestic violence, and other ways of encouraging women to report acts of violence against women are to be considered;
- Police should cooperate with local women's groups, women leaders and the community in general with regard to issues of preventing violence against women and providing protection and victim support.

⁷⁶ Handbook on effective police responses to violence against women, at supra note 73, Chapter V, E: Threat Assessment and Risk Management.

Example: During your duties as police mentor or adviser, you receive information about border guards harassing and abusing women at the border crossing. According to your source, women are routinely stopped and searched by male border guards with the objective of harassment and abuse. It is alleged that sometimes women have been illegally kept there overnight and raped by border guards.

What could you do?

Report this issue to your superior and discuss the action to be taken, which could include:

- Trying to confirm the information with other sources and if possible (and respecting the “do no harm” principle), identifying and interviewing the primary source of the information;
- Raising your concerns with the responsible authority and recommending that:
 - *the number of female border guards at the crossing point be increased;*
 - *as a rule, female passengers are always to be handled by female border guards (or at the very minimum that there is to be a female border guard present);*
 - *disciplinary procedures are to be reviewed as required;*
 - *clear and binding standing orders are to be issued prohibiting such behaviour under any circumstances and all staff having a clear duty to report any infringements;*
 - *infringements are to be investigated in a prompt, thorough and effective manner and the people found guilty are to be punished and/or prosecuted as appropriate.*
- Introducing regular training for border guards on how to treat female travellers, making clear the rights and duties of travellers and border police, and emphasizing that abuse of female travellers is a serious breach of their duties and can constitute a serious criminal act. Emphasis should also be placed on the responsibility of commanders to ensure that their officers are respecting the rules and procedures.

Chapter 6: The judicial system and other mechanisms for ensuring accountability for human rights violations

The judicial system is the guardian and protector of human rights and fundamental freedoms. Without an independent, impartial, honest and competent judiciary able and willing to uphold the rule of law and to protect human rights, public confidence in the rule of law will be undermined. In states emerging from conflict, the importance of an independent and impartial judiciary is crucial to breaking the cycle of impunity by restoring law and order and delivering justice for violations committed during and after the conflict. This is in turn essential for building up public confidence in the justice system, and also for wider post-conflict democratisation and institutional reform processes. If the public lacks confidence in courts as independent arbiters for securing justice and protecting individual rights, people are likely to take the law into their own hands, further undermining the rule of law and posing a threat to a fragile peace agreement.

In your capacity as advisor, mentor, monitor, judge or prosecutor operating in a CSDP mission, you have a unique opportunity to raise your local counterparts' awareness and sensitivity to human rights and ethics issues. You must tread a delicate balance between advising and guiding while respecting the independence of local counterparts. Through your daily interaction with local counterparts, you will have the possibility to:

- Observe and report any problems such as failures to uphold human rights standards, and cases of corruption, intimidation or other types of interference with the course of justice;
- Advise and assist local counterparts regarding different approaches and mechanisms for transitional justice;
- Raise awareness of local counterparts concerning international and, where relevant, regional jurisprudence and best practice on human rights issues;
- Raise awareness of local counterparts concerning the gender dimension of access to justice and propose strategies to address any gender-based discrimination (in laws, institutions and attitudes);
- Assist in re-establishing confidence in the judicial system by facilitating consultation between the judiciary and its stakeholders;
- In CSDP operations with an executive mandate, you can play an important role in developing local national jurisprudence so that it conforms with international human rights standards and best practices.

The following section introduces some of the issues and dilemmas that frequently characterize the judicial systems of transitional or post-conflict contexts and which are connected to human rights. It also touches briefly upon transitional justice mechanisms of relevance to CSDP missions. While not aiming to provide a thorough analysis or set of guidelines, the aim of this section is to alert your attention to key issues and provide references to additional resources, should you wish to pursue them in greater depth.

6.1 Work against corruption

Corruption undermines the fundamental principles of independence of the judiciary and equality before the law. It leads to a biased or politicized judiciary and denies the individual the right to fair and impartial treatment before the law.

Corruption affects the justice system through such acts as political interference in the judicial process, bribery, extortion, nepotism, and misappropriation of court funds or powers for personal gain. While judges and prosecutors are usually singled out as the primary culprits, the role of support staff in sustaining corruption should not be under-estimated. They perform crucial functions in enabling the course of justice. Support staff is often underpaid and their work undervalued, which increases their propensity to engage in corruption. This can adversely affect access to justice for those without financial means or the “right” political connections.

During the past decade there have been a number of regional and international initiatives that focus on judicial independence, integrity and accountability.⁷⁷ Some of their key recommendations are summarized below. The types of strategies adopted must, of course, be tailored to the local context and based on a thorough analysis of the root causes of the corruption. While these recommendations apply primarily to judges and prosecutors, some are also relevant to court staff.

General recommendations include:⁷⁸

- Judicial appointments (and removals) to be conducted by an independent body through an objective and transparent process. Transparent and merit-based criteria for promotion and transfer. Professionalization of court staff, including training;
- Adequate remuneration during and after tenure set by an independent body. Judges should be encouraged to declare their assets publicly. Judges must have appropriate security of tenure;
- Adequate resources to allow for the proper functioning of courts (including adequate salaries for court staff);

77 For instance: Bangalore Principles of Judicial Conduct (2002), Commonwealth Judicial Colloquium on Combatting Corruption within the Judiciary, Limassol Conclusions (2002), Commonwealth (Latimer House) Principles on the Three Branches of Government (2009).

78 These recommendations are drawn from the documents in supra note 77 and from the report by Transparency International, Global Corruption Report 2007: Corruption in Judicial Systems (Cambridge: Cambridge University Press, 2007).

- Adequate personal security protection for judges and prosecutors (and in some cases also for court staff);
- Rewards and incentives for ethical behaviour. Fair and transparent disciplinary procedures which do not infringe on the independence of the judiciary but involving sanctions that are sufficiently rigorous to discourage corrupt behaviour;
- Independent mechanisms by which individuals can file a complaint for misconduct against a judge, prosecutor or court official, and an independent oversight body that can investigate allegations of misconduct and which has powers to discipline judges, prosecutors and court officials found guilty;
- Simplified judicial rules and procedures. Public hearings whenever possible. Public reporting of verdicts, reasonings and decisions of all courts. Financial audits;
- Effective case management systems, with objective guidelines for case assignment;
- Awareness-raising of the court's role and powers in order to promote public confidence in the judicial system. Awareness-raising of the role of the media and civil society organizations as public watchdogs in ensuring judicial accountability;
- Awareness-raising initiatives aimed at reducing social tolerance of corruption.

These structural reform measures will naturally be most effective and sustainable if the people affected by the reforms are actively involved. This concerns not only the actors within the judicial system but equally those who represent its "clients", particularly legal practitioners, civil society organizations, the media and other major stakeholders, who can all play an important role in providing external oversight.

It must also be kept in mind that the justice system does not exist in a vacuum in isolation from the other branches of government. If political pressure from the executive or legislative branches is identified as one of the root problems, judicial reform measures are likely to be short-lived unless accompanied by broad reaching anti-corruption measures targeting the political system as a whole.

What can you do?

- If judicial corruption is identified as a problem in your area of operation, consult with local lawyers, NGOs and other relevant stakeholders who can assist you in identifying the scope and causes of the problem and possible strategies for addressing it.
- Initiate dialogues with relevant counterparts in the judicial system on issues of ethics and accountability.
- Discuss judicial ethics and how they translate into practice in training of judges.
- Encourage relevant counterparts in the judicial system to involve a broad range of stakeholders, including civil society, in a consultative process to determine what type of accountability mechanism would safeguard judicial independence while securing public confidence in the justice system.
- Facilitate consultations between the judiciary and its primary stakeholders on issues of judicial accountability.
- Report any suspected or witnessed interference with the course of justice directly to your appropriate point of contact in the mission.

6.2 Transitional justice mechanisms

Ensuring accountability for human rights abuses committed in connection with conflict is a necessary pre-condition for achieving sustainable and lasting peace and stability. While criminal prosecution is an indispensable element, the concept of transitional justice includes a whole range of both judicial and non-judicial strategies aimed at enabling victims of human rights violations and war crimes to seek recourse and the society as a whole to come to terms with past abuse. In addition to prosecution in courts, transitional justice tools also include non-judicial mechanisms such as truth and reconciliation commissions, reparations to victims, vetting and setting up memorials. Transitional justice also involves transforming state institutions such as the police, judiciary and the armed forces from being facilitators or outright perpetrators of human rights abuses to being the primary guardians of human rights. The ultimate aim of transitional justice is to ensure that the cycle of violent conflict is stopped.⁷⁹

The EU recognizes the added value of adopting a transitional justice approach in ensuring the sustainability of peace processes and ending the cycle of conflict.⁸⁰ Transitional justice approaches are expected to feature to an even larger extent in the mandates of CSDP operations in the future, as the types of missions in which the EU is involved in become increasingly complex and demand a more comprehensive and 'holistic' approach.

⁷⁹ For more information on transitional justice mechanisms, consult the resources available at the International Centre for Transitional Justice: <http://www.ictj.org/en/tj/>.

⁸⁰ Council of the European Union, "Transitional Justice and ESDP", EU Doc. 10674/06, 19 June 2006.

Transitional justice mechanisms are subject to particular constraints and opportunities that result from the specific political, historical, social and cultural environments in which they operate. In order to be effective and legitimate, transitional justice approaches should generally incorporate the crucial elements of local ownership and broad public and victim consultation.⁸¹ Experience shows that transitional justice initiatives are most likely to be successful when they include a combination of different approaches which are mutually reinforcing.⁸²

One of the transitional justice measures in which CSDP field operation staff, particularly in Security Sector Reform (SSR) operations, is likely to be involved is vetting. Vetting is a strategy used to re-establish public confidence in State institutions by removing people who lack integrity from duty or barring them from public office. In post-conflict and transitional contexts vetting can also contribute to bridging the “impunity gap” which arises when the number of individuals who carried out human rights abuses exceeds the capacity of the criminal justice system to prosecute them.⁸³ Vetting does not replace the criminal justice system, but complements it by ensuring that individuals who have abused their position are barred from duty, thus serving to prevent further abuses.⁸⁴ States are obliged to prosecute any individuals charged with carrying out gross human rights violations or serious crimes under international law.⁸⁵

From a human rights point of view, it is important that vetting does not produce further injustice. Regardless of the type of vetting process adopted, fundamental due-process guarantees have to be respected. These include notifying parties under investigation of the allegations against them, providing those parties with an opportunity to respond before a body administering the vetting process, and providing those charged with “reasonable notice of the case against them, the right to contest the case and the right to appeal an adverse decision to a court or other independent body”.⁸⁶

Additionally, CSDP missions sometimes engage in disarmament, demobilisation and reintegration (DDR) processes and should fully understand the linkages between measures for reintegrating ex-combatants and the taking into account of reparations for the victims of the conflict.⁸⁷

The gender dimension of transitional justice should not be ignored. It is essential to ensure that transitional justice approaches do not perpetuate gender discrimination through their composition, methods or actions. Crucial aspects of ensuring “gender justice” include the empowering of women as equal participants in the search for

81 Ibid., point 5

82 Commission on Human Rights, Independent Study on Best Practices, Including Recommendations, to assist States in Strengthening their Domestic Capacity to Combat all Aspects of Impunity by Professor Diane Orentlicher, U.N. Doc. E/CN.4/2004/88, 27 February 2004.

83 Commission on Human Rights, Promotion and Protection of Human Rights, Impunity, Report of the independent expert to update the Set of Principles to combat impunity, Diane Orentlicher, U.N. Doc. E/CN.4/2005/102, para. 68.

84 Ibid., para. 68

85 These include in particular genocide, war crimes, crimes against humanity, torture and similar cruel, inhuman and degrading treatment, enforced disappearance, extrajudicial execution and slavery. Source: Commission on Human Rights, Promotion and Protection of Human Rights, Impunity, Report of the independent expert to update the Set of Principles to combat impunity, Diane Orentlicher, Addendum. U.N. Doc. E/CN.4/2005/102/Add.1, p.6, B.

86 Promotion and Protection of Human Rights, Impunity, Report of the independent expert to update the Set of Principles to combat impunity, Diane Orentlicher, E/CN.4/2005/102, point 69.

87 For more information on DDR and transitional justice, consult: Council of the European Union, “EU Concept for Support to Disarmament, Demobilisation and Reintegration (DDR)”, December 2006, EU Doc 16387/06.

truth and justice; the bringing to light and punishing of crimes committed against women, particularly sexual and gender-based violence; and support for women's role in the healing and reconciliation process.⁸⁸

The involvement of children as victims and as witnesses in transitional justice processes is essential, because of the significant impact conflict has on children and the key role that they play in shaping the future. But it is important that transitional justice approaches take into account the specific vulnerabilities of children, and ensure that the mechanisms and procedures involved respect the rights of the child and do not contribute to further victimization.⁸⁹

What can you do?

- Familiarize yourself with the different mechanisms of transitional justice as they relate to your specific area of activity (judicial, SSR, DDR etc) and the experience arising from their application in different contexts around the world.
- Engage actively with local actors involved in local transitional justice initiatives in order to ensure that the mechanisms (judicial and non-judicial alike) respect international human rights standards.
- Promote women's access to and involvement in transitional justice approaches; help to ensure that the approaches concerned do not perpetuate gender discrimination.

6.3 The International Criminal Court and its practical relevance for CSDP operations

One of the avenues of transitional justice described in the previous section is criminal prosecution of those responsible for serious crimes. War crimes, crimes against humanity and genocide are considered as the most serious international crimes and must be prosecuted either domestically or internationally. There can be no impunity for these crimes and their perpetrators bear individual criminal responsibility. The International Criminal Court (ICC), which was set up in 1998 and started its work in 2003, is mandated to investigate and prosecute serious crimes if states party to the Rome Statute are unwilling or unable to do so themselves.

⁸⁸ Council conclusions on Gender Mainstreaming (doc. 14884/1/06), point 10; "Comprehensive approach to the EU implementation of the United Nations Security Council Resolutions 1325 and 1820 on women, peace and security", supra note 20, point 36; Davis, Laura The European Union and Transitional Justice (IFP Democratization and Transitional Justice Centre, 2010), p. 9.

⁸⁹ Checklist for the Integration of the Protection of Children affected by Armed Conflict into ESDP Operations, at supra note 26, p. 10: "Accountability Mechanisms and Children". Also see Annex in Children and Transitional Justice: Truth-telling, accountability and reconciliation (UNICEF, 2010), p. 403-417; "The Paris Principles", p. 41-43; and "Report of the Special Representative of the Secretary General for Children and Armed Conflict", UN Doc. A/65/219, 4 August 2010.

The EU is committed to support the work of the ICC⁹⁰ and in 2006 signed the **Agreement between the International Criminal Court and the European Union on Cooperation and Assistance**.⁹¹ This foresees, amongst other things, the exchange of information and documents (with a particular emphasis on classified information), cooperation with the ICC Prosecutor, testimony of EU staff in ICC court proceedings, field-level support with facilities or services, and support for training of ICC personnel. **The EU Guidelines on promoting compliance with international humanitarian law (2005, technical update 2009)** also refers to the possibility of EU crisis-management missions cooperating with the ICC in the collection of information which may be of use to the ICC in its investigations.⁹²

The possibility of cooperation with the ICC in cases relating to systematic sexual exploitation and gender based violence has been raised by the European Council.⁹³

The concrete practical implications of the ICC-EU agreement for CSDP missions are yet to be seen but would in any case require this possibility to be included in respective mandates of the operations as well as prior supplementary agreements.

90 Council Common Position 2003/44/CFSP, 16 June 2003, on the International Criminal Court. Official Journal L 150 of 18.06.2003; Council of the European Union - Action Plan to follow-up on the Common Position on the International Criminal Court, EU Doc. 5742/04, 28 January 2004.

91 Council of the European Union, "Agreement between the International Criminal Court and the European Union on Cooperation and Assistance", EU Doc. 14298/05, 6 December 2005.

92 Council of the European Union, "EU Guidelines on Promoting Compliance with IHL - Technical Update", E.U. Doc. 16841/09, 1 December 2009, at III, B16 (f).

93 Council Conclusions on Promoting Gender Equality and Gender Mainstreaming in Crisis Management, 2760th General Affairs Council Meeting, Brussels 13 November 2006, at 10.

Chapter 7: CSDP military forces and human rights protection

“Where an EU-led crisis management operation is deployed, all possible measures will be taken to ensure respect for the rights as well as the protection of civilians in situations of armed conflict.” (emphasis added)

★ Draft Guidelines on Protection of Civilians in EU-led Crisis Management Operations (2003)

Crisis management operations are often launched in an environment of targeted violence against civilians, forced displacement of parts of the population, and deliberate destruction of civilian property and livelihoods. The vast majority of the casualties, refugees and IDPs resulting from contemporary armed conflicts are civilians, primarily women and children.

In addition to large scale and systematic violence, the general insecurity resulting from the absence of law and order and institutional meltdown also pose great dangers to civilians in conflict and post-conflict situations. Some of these day-to-day threats include banditry and looting, human trafficking, forced labour, sexual exploitation, forced military recruitment and illegal taxation.

In the absence of a stable and secure physical environment for civilians, purely civilian crisis management efforts will be of limited effect. Protecting civilians from violence and supporting humanitarian and post-conflict reconstruction efforts are therefore increasingly becoming priority tasks for CSDP military operations.⁹⁴ This trend will gather strength as the EU operationalizes its ‘Comprehensive Approach’, which is likely to result in a greater degree of integration of military and civilian aspects of crisis management through increased communication, coordination and possibly collaboration.

If you are a member of the armed services participating in a CSDP mission, you are likely to be faced with situations where civilians, or their property or livelihoods, are deliberately being targeted by parties to the conflict. It is important that you are aware that you have responsibilities with regard to respecting and promoting human rights and international humanitarian law in the context of your operation.

The following sections will briefly outline the ways in which your responsibilities are translated into the operational context. See Chapter 3 above for information on vulnerable groups requiring special attention.

⁹⁴ See Council of the European Union, “Draft Guidelines on Protection of Civilians in EU crisis management operations,” supra note 31, point 1.

7.1 Protection of civilians

All appropriate steps will be taken, in co-operation with the UN and other international organisations where relevant, *to help create a secure environment for civilians endangered by a conflict* to which an EU-led crisis-management operation relates, and *to facilitate, to the greatest extent possible, safe and unhindered access by humanitarian personnel to civilians.* (emphases added)

★ Council of the European Union, Draft Guidelines on Protection of Civilians in EU-led Crisis Management Operations, (2003).

CSDP military crisis management operations are mandated and tasked to ‘protect civilians under imminent threat of physical violence’. How the CSDP mission decides to implement its protection mandate depends on a variety of factors, but in general efforts aimed at the protection of the civilian population should be the result of:

- **Coordinated action** between all the actors – international and national, civil and military – who are involved in protection-related activities, with clearly delineated roles and responsibilities based on each actor’s mandate and capabilities.
- **Thorough and continuous assessment** of the nature of the threats, the scale of the problem, who is affected and what their protection needs are (which includes identifying the most vulnerable groups and their specific needs and vulnerabilities), who the potential perpetrators are and what their motives might be, any identifiable patterns of violence, local capacities, etc.
- **Participatory process** where the affected population is actively consulted and involved to the greatest extent possible in all decisions and actions affecting their lives.

This should not prevent the mission from being able to respond swiftly and effectively to changing protection needs on the ground. Any strategy to protect civilians should be flexible enough to allow actors to take unilateral action, should there be an emergency demanding immediate action. Action should preferably be preventive rather than reactive, addressing the problems while they are still threats and before they become violent.

In order to ensure the independence and impartiality (real and perceived) of a humanitarian action there must be a clear distinction between the roles and responsibilities of the military actors on the one hand and the humanitarian actors on the other.⁹⁵ This is particularly important in order to preserve the security of the populations to be protected and the humanitarian staff. Humanitarian assistance is not a crisis management tool and the use of military CSDP assets in humanitarian aid must therefore be in line with the **Guidelines on the Use of Military and Civil Defence Assets in Complex Emergencies** and the **Oslo Guidelines on the Use of Military and Civil Defence Assets in International Disaster Relief**.⁹⁶

95 IASC, “Civil-Military Relationship in Complex Emergencies - an IASC Reference Paper”, 28 June 2004.

96 Council of the European Union, “The European Consensus on Humanitarian Aid”, Official Journal of the European

Note that protection of affected civilians is first and foremost a responsibility of the national authorities and the parties to the conflict. International actors, be they military or civilian, can step in temporarily to bridge the ‘protection gap’ if a state is unable or unwilling to protect its own people, but they cannot be a substitute for the national authorities. Therefore, short-term actions taken with the aim of protecting the civilian population should always be oriented towards the long-term goal of helping the responsible authorities to assume their responsibilities in this regard.

Always keep in mind the ‘do no harm’ principle (see Part I, 4.2) to minimize the risk of potential secondary effects that your planned action could have for the intended beneficiaries.

Example from the Democratic Republic of the Congo: EUFOR RD Congo Soldier’s Card⁹⁷ 5. General Rules of Behaviour/Human Rights’ Core Points

1. Transfer of detained persons is allowed only to authorities who are specifically designated by EUFOR RD Congo.
2. Report all observations regarding violation of Human Rights via your chain of command.
3. Document all observations regarding violation of Human Rights.
4. Protection of civilians under imminent threat of physical violence in the areas of your deployment is part of your mandate.
5. Take care for particularly vulnerable groups (i.e. women, children).
6. You are personally responsible for respecting and promoting Human Rights.

7.2 Observing, reporting and sharing information on alleged violations of human rights and IHL

The EU’s **Guidelines on promoting compliance with international humanitarian law** contain a requirement for Commanders of EU Operations to “provide an assessment of the IHL situation in their reports about a given state or conflict. Special attention should be given to information that indicates that serious violations of IHL may have been committed.”⁹⁸ Serious violations of IHL are war crimes, for which individuals are criminally responsible. War crimes, genocide and crimes against humanity are international crimes and require either prosecution or extradition for prosecution. The duty to monitor and report on violations of human rights, IHL and international criminal law is also mentioned in the **EU’s Draft Guidelines on protection of civilians in EU-led crisis management operations**.⁹⁹

Information sharing: With due consideration to information security and the need to maintain operational security, information obtained by CSDP military forces

Union, EU Doc. 2008/C25/01, 30.01.2008. Also consult the IASC “Civil-Military Relationship in Complex Emergencies – an IASC Reference Paper”, supra note 95..

⁹⁷ EU Operation Headquarters Potsdam, “Final Report on Gender Work inside EUFOR RD Congo”, Potsdam 15 December 2006.

⁹⁸ Council of the European Union, “EU Guidelines on Promoting Compliance with IHL”, EU Doc. 2005/C/327/04, at III, A. (b).

⁹⁹ “Draft Guidelines on Protection of Civilians in EU-led Crisis Management Operations”, supra note 31. Para. 7.

which could aid in the protection or assistance of the civilian population should, to the extent possible and without delay, be shared with civilian components of the mission, other EU actors and, when appropriate, with other international actors in the theatre of operations.

Important information includes (but is not limited to) physical attacks on civilians, destruction of civilian property and livelihoods (such as burning of crops, killing of livestock, poisoning of water sources), large scale population movement, an increase in violence against women/children, roundups and large-scale detention, existence of child soldiers, location of land mines/UXOs, etc. Information on the movement of weapons by state or non-state forces, an increased number of small weapons amongst the general population and the growth of paramilitary forces are important early-warning indicators of impending violence which should be shared without delay with the relevant protection actors.

7.3 General recommendations to the level of operations command at the field level with respect to protection of civilians¹⁰⁰

- In coordination with as relevant, civilian components of the CSDP mission, other EU programmes operating in the theatre of operations, and with the relevant international, regional and local partners and in accordance with the mission's mandate and the identified protection priorities of the Mission, develop a military strategy on protection of civilians which includes detailed operational instructions to the field commanders on how to implement it as part of their day-to-day activities.
- Establish a protection focal point in the mission whose responsibility is to facilitate day-to-day contacts and coordinate protection-related actions with all relevant international and national actors (e.g. UN agencies, ICRC, international NGOs, host government authorities, local NGOs and other actors).
- Participate in establishing an effective coordination and communication mechanism for protection issues with the relevant international and national actors, while respecting the mission's rules on information/operational secrecy.
- Concentrate patrols on areas and situations where there is a high likelihood of violence against civilians, with a particular focus on protecting vulnerable groups.
- Establish a long-term presence in areas where attacks are frequent or likely to occur.

¹⁰⁰ These build upon recommendations contained in the publication by Refugees International, *The Last Line of Defence: How Peacekeepers can Better Protect Civilians* (2010) and in Holt, V. and Taylor G *Protecting Civilians in the Context of UN Peacekeeping Operations* (New York: United Nations, 2009), Chapter 5: Findings and Recommendations.

- As far as possible, and taking into account operational/security concerns, interact with the local population and build up a relationship of confidence with them, *particularly the women*, to gain better information on their situation and to help them understand both your role and its limitations.
- Systematically remind all parties to the conflict of their obligation to respect and to ensure respect for human rights and IHL, particularly their duty to ensure respect for and protect the civilian population from adverse effects of the hostilities and to ensure access by humanitarian actors to the affected populations. The obligation to ensure the protection of women and girls from gender-based violence, such as rape and other forms of sexual violence needs to be emphasized.¹⁰¹
- If operationally possible, use local interpreters for contacts with the civilian population, in order to facilitate contacts, build mutual confidence and to gain an in-depth understanding of their situation, needs and the local culture;
- In line with the EU Guidelines on Children and Armed Conflict, “the operational planning should take into account, as appropriate, the specific needs of children, bearing in mind the particular vulnerability of the girl child.”¹⁰²
- Provide clear leadership and guidance to soldiers as to how the protection of civilians mandate is to be operationalized, and how to apply the Rules of Engagement with regard to the use of force in civilian protection.
- Reporting should have a focus on specific protection issues relating to vulnerable groups. Child protection and violence against women are of particular importance and should be systematically treated in mission reports on issues concerning the protection of civilians.

101 Council of the European Union, “Implementation of UNSCR 1325 as reinforced by UNSCR 1820 in the context of ESDP”, supra note 20, 5, Conduct of operations, Measures to protect women and girls affected by conflict.

102 Council of the European Union, the EU Guidelines on Children and Armed Conflict, supra note 25, at point 17.

7.4 CSDP military forces and the handling of apprehended criminal suspects

EU crisis management operations military forces may capture, apprehend and transfer criminal suspects, provided that it is authorized in the mission's mandate, stipulated in operation's Rules of Engagement, and complies with the troop-contributing nation's domestic law and international law commitments.

Apprehension of criminal suspects by EU military forces usually occurs in the context of a mandated task of special apprehension or when the forces encounter one or more individuals in the process of committing, or intending to carry out, a serious crime, such as murder, rape, ill-treatment or another act or delinquency which can result in death, or which seriously endangers life or health, or which poses a serious security threat.

The apprehension of criminal suspects by CSDP forces must be distinguished from policing as such, which is a responsibility of the local police authorities. The tasks of EU military forces can however include supporting the investigative process with, for example, evidence-gathering. These are roles and duties that the military would not perform under normal circumstances, but may be required to carry out if the local authorities are unable or unwilling to assume them.

The circumstances and procedures regulating the capture, apprehension and transfer of criminal suspects by CSDP military forces are regulated by the applicable law, which includes the national laws of the Member State that has contributed the troops, generic and mission-specific EU instruments (such as Standard Operating Procedures), applicable international human rights and humanitarian law (which includes jurisprudence from the European Court of Human Rights), and respect for the domestic laws of the host state.

The EU and its Member States have pledged their determination to “respect fundamental procedural guarantees for all persons detained in relation with armed an armed conflict or other situation of violence as enshrined in relevant IHL and/or international human rights law, as applicable.”¹⁰³ These procedural guarantees include minimum standards with respect to the treatment of persons deprived of their liberty and standards with respect to the prosecution and punishment of persons suspected of having committed criminal offences related to the armed conflict.¹⁰⁴

Fundamental procedural standards which apply if and when CSDP forces apprehend individuals include¹⁰⁵ the requirement of reasonable suspicion, the presumption of innocence, the right of the individual to be brought promptly (within a maximum of 4 days) before a judge or competent legal authority, the ability to challenge the legality of one's detention before a court, and a fair and public trial within a

¹⁰³ Joint Pledge at the 30th International Conferences of the Red Cross and Red Crescent (Pledge P091) available at: <http://www.icrc.org/APPLIC/P130e.nsf/pbk/PCOE-79CKFC?openDocument§ion>.

¹⁰⁴ Additional Protocol II to the Geneva Conventions, relating to the Protection of Victims of Non-International Armed Conflicts, 1977, Articles 4-6.

¹⁰⁵ Derived from the jurisprudence of the European Court of Human Rights.

reasonable time by an independent and impartial tribunal in accordance with a procedure prescribed by (domestic) law. It is important to recall that these guarantees apply from the onset of the deprivation of liberty.

When detention by military forces is considered necessary for security or law and order reasons, this should be of a limited duration (only lasting until the detainee is able to be handed over to the relevant local police authorities). In handing detainees over to local authorities, if there exists substantial grounds for believing that the individual could suffer torture, ill-treatment or face the death penalty if convicted, or that fundamental procedural guarantees would not be respected, the EU forces should not hand the person over unless credible guarantees are received regarding individual's safety and respect for fundamental rights.¹⁰⁶ The assessment of this risk is an issue to be handled by the appropriate legal experts in the mission.

¹⁰⁶ The principle of "non-refoulement" in Article 3 of the UN Convention Against Torture prohibits under any circumstances the transfer of detainees into the hands of an authority where there is a real risk of torture or ill-treatment. The principle is also implied in Article 3 of the European Convention of Human Rights and Fundamental Freedoms, as settled in the case-law of the European Court of Human Rights (e.g. *Soering v. the United Kingdom*, judgment of 7 July 1989, Series A no. 161, § § 90-91 and *Saadi vs. Italy* Application no. 37201/06, Judgement 28 February 2008).

Chapter 8: Concluding remarks

Human rights and gender issues are sometimes seen as being in opposition to conflict resolution, as it is felt by some that an excessive focus on these issues could jeopardize the mission's efforts at building peace between the parties to the conflict or would work against the good relations that the mission seeks to have with the local authorities. In fact the opposite is true; failing to address violations of human rights, be they past or present, is likely to undermine the possibility of achieving long-term security and stability.

The objective of this handbook has been to demonstrate that human rights are in fact an integral part of what you do as a CSDP mission member. Not only do you have a personal and professional responsibility to respect human rights but it also makes sense to do so. Paying attention to human rights aspects is a key way of ensuring that your activities are benefiting all segments of the population and will contribute to a lasting peace.

Bibliography

Many of the documents listed below are searchable in part or in full on the Internet. A full list of references is to be found on www.formin.fi

1. Books, Manuals, Handbooks:

Amnesty International and CODESRIA, Ukweli: Monitoring and Documenting Human Rights Violations in Africa, a Handbook (Amsterdam and Dakar: Amnesty International and CODESRIA, 2000).

Association for the Prevention of Torture, Monitoring Places of Detention: A Practical Guide (Geneva: APT, 2004).

Centre for Human Rights, Crime Prevention and Criminal Justice Branch, Professional Training Series 3, Human Rights and Pretrial Detention: A Handbook of International Standards relating to Pre-trial Detention (New York and Vienna: United Nations, 1994).

Commonwealth Secretariat, Commonwealth Manual on Human Rights Training for the Police, (London: Commonwealth Secretariat, 2006).

Giffard, C., The Torture Reporting Handbook: How to document and respond to allegations of torture within the international system for the protection of human rights. (Colchester: The Human Rights Centre, the University of Essex: 2000).

Global Protection Cluster Working Group, Handbook for the Protection of Internally Displaced Persons (2008).

Høgdahl, K., Ekker, I., Sadiwa, L., Manual on Human Rights Monitoring: An Introduction for Human Rights Field Officers (Oslo: Norwegian Institute of Human Rights, 2001).

Inter-Agency Standing Committee, Guidelines for Gender-Based Violence Interventions in Humanitarian Settings: Focusing on Prevention of and Response to Sexual Violence in Emergencies (Geneva: IASC, 2005).

Inter-Agency Standing Committee, Women, Girls, Boys and Men: Different Needs – Equal Opportunities (Geneva: IASC, 2006).

International Alert, Gender Mainstreaming in Peace Support Operations: Moving Beyond Rhetoric to Practice, (London: July 2002).

International Committee of the Red Cross, Enhancing Protection of Civilians in Armed Conflict and Other Situations of Violence (Geneva: ICRC, 2008).

International Committee of the Red Cross, To Serve and To Protect: Human Rights and Humanitarian Law for Police and Security Forces (Geneva: ICRC, 1998).

Mack, M. Increasing Respect for International Humanitarian Law in Non-International Armed Conflicts (Geneva: ICRC, 2008).

Mayer-Rieckh and de Greiff, P. eds., International Center for Transitional Justice, Justice as Prevention: Vetting Public Employees in Transitional Societies (New York: Social Science Research Council, 2007).

McConnan, I. and Uppard, S., Children Not Soldiers: Guidelines for working with child soldiers and children associated with fighting forces (Save the Children UK, 2001).

Office of the UNHCHR, Human Rights Standards and Practice for the Police: Expanded Pocket Book on Human Rights for the Police, Professional Training Series No. 5/Add.3 (United Nations: New York and Geneva, 2004).

Office of the United Nations High Commissioner for Human Rights, Vetting: An Operational Framework, Rule of Law Tools for Post-Conflict States, (New York and Geneva: United Nations, 2006).

OSCE Office for Democratic Institutions and Human Rights, Guidelines on Freedom of Peaceful Assembly (Warsaw: OSCE/ODIHR, 2007).

OSCE Office for Democratic Institutions and Human Rights, Individual Human Rights Complaints A Handbook for OSCE Field Personnel (Warsaw: ODIHR, 2003).

OSCE Office for Democratic Institutions and Human Rights and the Geneva Centre for Democratic Control of Armed Forces, Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel (Warsaw: OSCE ODIHR, 2008).

OSCE Office for Democratic Institutions and Human Rights, National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons: A Practical Handbook (Warsaw: OSCE ODIHR, 2004).

Pajuste, Tiina, Mainstreaming Human Rights in the Context of the European Security and Defence Policy, Erik Castren Institute of International Law and Human Rights, University of Helsinki, the Erik Castren Research Reports 23/2008, Helsinki 2008.

The Brookings Institution Project on Internal Displacement, Handbook for Applying the Guiding Principles for Internal Displacement (Bookings Institution, 1999).

Transparency International, Global Corruption Report 2007: Corruption in Judicial Systems (Cambridge: Cambridge University Press, 2007).

UN High Commissioner for Refugees, Sexual and Gender-Based violence against Refugees: Guidelines on Prevention and Response (UNHCR, 1995).

UNICEF, Children and Transitional Justice: Truth-telling, accountability and reconciliation (UNICEF, 2010).

United Nations Development Programme, Bureau for Crisis Prevention and Recovery, Vetting Public Employees in Post-Conflict Settings: Operational Guidelines (New York: UNDP, 2006).

United Nations High Commissioner for Refugees, Sexual and Gender-Based Violence Against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Response (UNHCR, 2003).

United Nations Office of the High Commissioner for Human Rights, UN Training Manual on Human Rights Monitoring, Professional Training Series No. 7 (New York and Geneva: United Nations, 2001).

United Nations Office on Drugs and Crime, Compendium of UN Standards and Norms in Crime Prevention and Criminal Justice (United Nations: New York, 2006).

UN Office on Drugs and Crime, Criminal Justice Handbook Series, Handbook on effective police responses to violence against women (New York: United Nations, 2010).

UN OHCHR Training Series No. 5 Human Rights and Law Enforcement: A Manual for Human Rights Training for the Police (New York and Geneva: UN, 1997).

UN Peacekeeping PDT Standards, Specialized Training Material for Police, 1st edition Human Rights Standards in the Use of Force (UN, 2009).

United Nations Office of the High Commissioner for Human Rights, UN Training Manual on Human Rights Monitoring, Professional Training Series No. 7 (New York and Geneva: United Nations, 2001).

United Nations Office of the High Commissioner for Human Rights, Professional Training Series No. 8, Rev. 1, Istanbul Protocol - Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, (New York and Geneva: United Nations, 2004).

UN Office on Drugs and Crime, Criminal Justice Handbook Series, Handbook on effective police responses to violence against women (New York: United Nations, 2010).

WHO, Department of Gender and Women's Health, Family and Community Health, Putting Women First: Ethical and Safety Recommendations for Research on Domestic Violence Against Women (Geneva: WHO, 2001).

World Health Organization, WHO Ethical and Safety Recommendations for Researching and Monitoring Sexual Violence in Emergencies (WHO, 2007).

Zimmerman C. and Watts, C. WHO Ethical and Safety Recommendations for Interviewing Trafficked Women (Geneva: WHO, 2003).

2. Documents and reports:

Arloth, J., Seidensticker, F., "The ESDP Crisis Management Operations of the European Union and Human Rights", (Berlin: Deutsches Institut für Menschenrechte 2007).

Davis, Laura, "The European Union and Transitional Justice" (IFP Democratisation and Transitional Justice Centre, 2010).

European Committee for the Prevention of Torture and Inhuman or Degrading Punishment (CPT), "The CPT Standards, "Substantive" sections of the CPT's General Reports, CPT/Inf/E (2002) 1 - Rev. 2009" (Council of Europe, 2009).

Holt, V. and Taylor, G., "Protecting Civilians in the Context of UN Peacekeeping Operations: Successes, Setbacks and Remaining Challenges, Independent study jointly commissioned by the Department of Peacekeeping Operations and the Office for the Coordination of Humanitarian Affairs" (New York: United Nations, 2009).

Inter-Agency Standing Committee, Policy Paper Series No. 1, "Manual on Field Practice in Internal Displacement: Examples from UN Agencies and Partner Organizations of Field Based Initiatives Supporting Internally Displaced Persons" (OCHA, 1999).

United Nations High Commissioner for Refugees, "Conclusion on Children at Risk", 5 October 2007, No. 107 (LVIII) – 2007.

Weir, Erin A. "The Last Line of Defence: How Peacekeepers can Better Protect Civilians", Washington D.C.: Refugees International, 2010.

3. Articles and papers:

Inter-Agency Standing Committee, "Civil-Military Relationship in Complex Emergencies, an IASC Reference Paper" (IASC, 28 June 2004).

O'Neill, William G. "A New Challenge for Peacekeepers: The Internally Displaced, An Occasional Paper" (The Brookings Institution-Johns Hopkins SAIS Project on Internal Displacement, 2004).

O'Neill, W. "Police Reform and Human Rights", A Hurist Document (New York, 2004).

Abbreviations

ACHPR	African Charter on Human and People's Rights
ACHR	Arab Charter on Human Rights
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
CSDP	Common Security and Defence Policy
DDR	Disarmament, Demobilisation and Reintegration
ESDP	European Security and Defence Policy
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ESS	European Security Strategy
EUFOR RD Congo	EU Military Operation in Support of MONUC in DRC
EUCOPPS	EU Police Co-ordinating Office for Palestinian Police Support
ICC	International Criminal Court
FPU	Family Protection Unit
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic Social and Cultural Rights
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person
IHL	International Humanitarian Law
NGO	Non-governmental Organization
OPLAN	Operation Plan
ROE	Rules of Engagement
SOFA	Status of Forces Agreement
SOMA	Status of Mission Agreement
SOP	Standard Operating Procedure
SSR	Security Sector Reform
TEU	Treaty on European Union
UN	United Nations
UDHR	Universal Declaration of Human Rights
UXO	Unexploded Ordnance
VAW	Violence Against Women