

SGTM 8: Human Rights in Peacekeeping

Annex: Two Scenarios of the Use of Force and Firearms

The exercise aims to illustrate how human rights principles and norms might be applied in a hypothetical peace operation. The subject is use of force and firearms by military and police peacekeepers in a problem situation with local civilians. Scenario 1 is for military trainees and Scenario 2 for United Nations police.

Trainees should read the applicable scenario, discuss it in smaller groups of 8-10 and report the results to the plenary. The trainer should consult the notes at the end for guidance in review and feedback to the plenary.

The trainer should refer to “Guidelines for the Development of Rules of Engagement for United Nations Peacekeeping Operations” (reference 120) for Scenario 1, which is of a hypothetical peace operation under a Chapter VII mandate.

For Scenario 2, the trainer should refer to “Basic Principles on the Use of Force and Firearms by Law Enforcement Officials” (contained in reference 117 or available at www.unhchr.ch). This scenario is of a hypothetical peace operation in which United Nations police are mandated to provide operational support to the local police in enforcing law and order.

Scenario 1: Protecting civilians under imminent threat

Following 10 years of civil conflict in the country, a United Nations peacekeeping operation has been deployed under a Chapter VII mandate. The mandate includes support for the implementation of a peace accord signed by all the warring factions. The United Nations Security Council has authorized 350 military observers and 8,000 armed peacekeepers for the operation, in addition to a civilian component. The mandate requires that the mission contribute to the promotion and protection of human rights and to take necessary action, within its capabilities, to protect United Nations personnel and civilians facing imminent threat of physical violence.

In the southern part of the country, where ethnic tensions have been particularly high, a unit of 22 military peacekeepers armed with light personal weapons enters a small village on a routine patrol. They see a group of youths throwing stones at a house whose windows have been broken. A small shed in the backyard is on fire. Upon further investigation, the peacekeepers establish that this is the home of a family belonging to an ethnic minority. During the worst of the conflict, the family fled to a village 20 kilometres away taking shelter with a local priest. They recently returned home, emboldened by the presence of the United Nations peacekeeping force.

The stone-throwing youths run away once they see the peacekeepers. The head of the family tells the commander of the platoon that there is another family in the next street who are also recent returnees. She fears they are most likely also being threatened by local thugs belonging to the ethnic majority in the area. The commander orders half the unit to follow him and proceeds to the home of the other family. They find that a number of armed men have forced the family of two adults and three children into the street and are ransacking their home, while a small crowd

of bystanders shout insults and death threats at the cowering family. Some of the armed men fire their weapons into the air and menace the family, threatening to kill them “for collaborating with the enemy”.

When the armed men see the peacekeepers they panic momentarily. The commander seizes the opportunity to call to them to stop. He estimates that there are about 15 men, 10 of whom are clearly armed with a variety of weapons, including AK-47s, hand grenades and machetes. He is not sure how many more armed men may be inside the house, hidden from view. The commander tries to reason with them, saying that the leader of the group should come out and talk to him. One of the armed group shouts at the peacekeepers to back off and go home. “This is not your business,” he says. The commander assesses that the situation could easily get out of control and calls for the remainder of his unit to join him and radios his base for reinforcements.

As the commander shouts once again to the armed men to leave the house, one of the armed men starts shooting indiscriminately. Some of the peacekeepers let off a flurry of shots in response. Immediately, the situation deteriorates, with the bystanders running for cover as the exchange of fire continues. Within minutes, the rest of the unit is on the scene and joins in the firefight.

By the time the reinforcements, five members of the armed gang are lying dead or seriously injured, three peacekeepers have gunshot wounds and one of the children has been hit and killed in the exchange of fire. The rest of the crowd has fled the scene.

Questions for Discussion Groups

In small groups, trainees should discuss and answer the following questions:

1. Did the peacekeepers have a mandate to intervene?
2. Before resorting to the use of force, did the peacekeepers make every reasonable effort to resolve the confrontation?
3. Discuss whether the peacekeepers were justified in the:
 - (a) Use of force, up to and including deadly force.
 - (b) Requesting for deployment of the reinforcements.
4. What would be the longer term effects of their actions in that particular community, particularly on the situation of ethnic minorities in the community?

Notes to Guide Review of Group Responses

Question 1

This scenario addresses the use of armed force by United Nations military forces in the discharge of their duties, including the protection of human rights and protection of civilians facing imminent threat to life. Clearly the peacekeepers had an obligation to intervene to prevent any serious harm from coming to the two families. It also provided them with valuable information on the security and human rights situation in the community that was useful to the peace operation as a whole. It may indicate the need for increased security for communities where ethnic minorities were returning, or the intensification of community reconciliation and dialogue as well as the need to increase awareness of the rights of minorities.

Question 2

Peacekeepers may be mandated to use force, including deadly force, but must do so only as a last resort. Peacekeepers should seek to deter violations by their presence and to defuse tense situations through negotiations, before resorting to force. In their posture, they must be able to present a credible deterrent to those who would seek to derail the peace process, to criminal elements and to violators of human rights, while keeping open all possibilities of resolving a situation without resorting to force.

Annex C of the “Guidelines for the Development of Rules of Engagement for United Nations Peacekeeping Operations” provides peacekeepers with the supporting directions and procedures for the use of force. Discussion should therefore focus on whether all possible means of defusing the situation were employed before using force. Also whether required warning procedures were followed.

Question 3

Refer to the “Guidelines for the Development of Rules of Engagement for United Nations Peacekeeping Operations” as a guide.

(a) Discussions should focus on Attachment 1 of the “Guidelines”, which contains a “Master List of Numbered Rules of Engagement”. See Rule 1 – Use of Force.

(b) Sometimes military peacekeepers may have insufficient strength or armed capacity to intervene to protect civilians or prevent ongoing human rights violations. However, there is still the need for a rapid response, thus calling for reinforcements will be an appropriate solution under the circumstances.

The scenario highlights that military peacekeepers must operate within the framework of their clear rules of engagement, which are drawn from the mandate of the operation as approved by the Security Council. In applying their rules of engagement, military peacekeepers are required to define the degree and manner in which force may be applied. The rules of engagement are also designed to ensure that the application of force is controlled and legal.

Question 4

The use of deadly force will inevitably have consequences for both the peacekeepers and the local community both in the immediate term and the long term. There may be deaths or serious injuries on both sides. This may aggravate an already tense situation, further polarizing a divided community and have other unforeseen repercussions. It may also have the positive effect of sending a clear message that human rights violations will not be tolerated by the United Nations peace operation.

Scenario 2: Use of force in civil unrest

Following 10 years of civil conflict in the country, a United Nations peacekeeping operation has been deployed under a Chapter VII mandate. The mandate includes support for the implementation of a peace accord signed by all the warring factions. Under the peace agreement, the national police service, which had become exceedingly corrupt and factionalized over the years of the conflict, has to be rebuilt and restructured. The United Nations Security Council has authorized the peacekeeping operation to assist in this rebuilding and restructuring of the

institutions of law enforcement. Until these institutions are fully functional, the United Nations police has the mandate to provide operational support to the local police in their law enforcement duties. The mandate also requires that the mission contribute to the promotion and protection of human rights and to take necessary action, within its capabilities, to protect United Nations personnel and civilians facing imminent threat of physical violence.

In the capital city, government workers are staging a demonstration in front of the United Nations offices demanding salary and back pay for several months. They are complaining that the money being spent by the international community on the peacekeeping operation should really be going to them. The demonstrators, numbering about 200, include men, women and children and are largely peaceful but some of the protest leaders are shouting threats and insults at the United Nations personnel. The atmosphere is turning tense and the situation is volatile. A United Nations police unit, armed with riot control gear and batons, has been deployed around the perimeter of the United Nations compound. The police officers are facing the protesters with their backs against the high fence surrounding the compound.

Someone from the crowd throws a bottle at the peacekeepers, which hits one of the peacekeepers on the head. His helmet protects him from injury. The unit commander sees who the culprit is and orders three of the peacekeepers to grab the protester, a young man. They catch him against the fence as he starts to run away. The protester resists arrest, throwing punches and kicks. Responding with blows from their batons, the peacekeepers knock the man to the ground and handcuff him. The protester, face down and handcuffed on the pavement, thrashes about, refusing to hold still. The peacekeepers respond by continuing to kick, punch and hit him with their batons, until he is motionless. The commander of the unit then orders them to carry the man into the compound and to lock him in a United Nations police vehicle. They do so, leaving him in the parked and locked van, and then return to formation.

By that time the crowd, having witnessed the incident, has turned violent. Rocks and bottles begin to fly towards the peacekeepers. Someone smashes the window of a parked United Nations car and others menace a car carrying two United Nations staff members who are trying to get into the compound. The commander shouts through his megaphone for the crowd to disperse. As the situation deteriorates, he orders his men to move forward in formation to quell the riot. They do so with their batons and fire teargas into the crowd. Some of the protesters fall to the ground, while others flee hiding their eyes and noses, screaming in panic. Peacekeepers chase and beat those who are smashing United Nations parked cars and scaling the compound fence. Several have bloodied heads and faces from the baton blows. Some injuries appear to be serious.

Questions for Discussion Groups

In your groups, discuss and answer the following questions:

1. With reference to international standards on the use of force and firearms, discuss the appropriateness of the following:

- (a) Use of force against the male protester who threw the first bottle.
- (b) Use of force against the crowd.
- (c) The deployment, formation and equipment of the peacekeepers.

2. What should be done immediately after the incident to ensure that
- (a) All involved persons are granted fair redress for any violation of their rights?
 - (b) Long-term damage to the mission is minimized?
 - (c) Procedures to enhance security and respect for human rights are improved?
 - (d) The community's confidence in the United Nations mission is restored?

Notes to Guide Review of Group Responses

Question 1(a)

- ♦ The peacekeepers did not need to use excessive force against the protestor. Their use of force enraged the crowd causing the situation to escalate.
- ♦ Once the man was handcuffed, the use of further force was unnecessary, unlawful (because it did not respond to the need to accomplish a legitimate law-enforcement purpose), and disproportional.
- ♦ The injured man should have been given medical assistance, rather than left in the van.

Question 1 (b)

While the United Nations police did perceive a credible threat against them, other United Nations personnel and United Nations property from the protestors, was the use of force the only available option? Perhaps they could have called in a local government official to talk to the crowd to defuse the situation. They should also have allowed someone from the political component of the mission to address the crowd and listen to their demands, which may have pacified the crowd. Some attempt should also have been made to contact the local police to intervene as they are ultimately responsible for maintaining law and order.

Question 1(c)

The peacekeepers positioning themselves against the fence increased, rather than reduced, the risk of the confrontation escalating into violence. They allowed themselves no possibility of a retreat, only of an advance towards the crowd. Deployment behind the fence, for example, would have increased security for the peacekeepers and greatly reduced the likelihood that they would need to resort to force to deal with the situation.

The equipment the peacekeepers had was appropriate for the situation of civil disorder. Their equipment did not include firearms, which would have been inappropriate when facing an unarmed crowd. Their riot gear and use of tear gas was in line with international standards that call for a graduated response and the need to minimize damage and injury and to preserve human life.

Question 2

The following actions would be appropriate:

- ♦ Prepare a report of the incident.
- ♦ Investigate the incident, using independent authorities, if needed.
- ♦ Bring disciplinary action against those peacekeepers that violated established procedures.
- ♦ Inform the local community and victims of the proceedings. Make restitution to victims if appropriate.

- ♦ Insist that local offenders be brought to justice as well.
- ♦ Use the incident as an opportunity to invite local officials and community leaders to discuss how to improve relations between the community and the mission.
- ♦ Review internal procedures to improve means of handling similar situations.