The Metrics and Ethics of Protecting Civilians

Urban Reichhold and Andrea Binder

Global Public Policy Institute

Accepted for publication in a special issue of Global Responsibility to Protect (GR2P) on “Humanitarian Protection and the Responsibility to Protect”, Volume 6, Issue 2, pp 206-226. http://booksandjournals.brillonline.com/content/journals/10.1163/1875984x-00602007

Abstract

This article asks how success is defined and measured for humanitarian action and military interventions aimed at protecting civilians from violence and harm in situations of armed conflict. It starts by illustrating how humanitarian and military protection actors differ in their ability or willingness to mobilize coercive force to achieve their common goal of protecting civilians. As a second step, it classifies different types of protection activities implemented by these actors. A distinction is made between actions designed to mitigate protection threats and actions that aim at eliminating the underlying causes of violence against civilians. This classification is important for two reasons. First, it serves to narrow down the problem of complementarity and contradiction between military and humanitarian approaches to protection. Second, it helps to highlight methodological, ethical and epistemological barriers to demonstrating success for specific types of protection interventions. The article concludes by exploring how normative considerations may guide protection policy and practice in the absence of conclusive empirical evidence on what works in protecting civilians.

Urban Reichhold (ureichhold@gppi.net) is Fellow at the Global Public Policy Institute (GPPi). Before joining GPPi Urban worked for 8 years with different humanitarian organizations, including the ICRC and OCHA. Andrea Binder (abinder@gppi.net) is Associate Director at GPPi. She heads up GPPi’s research on humanitarian action and development.
Introduction

‘What works is what matters’ is the pragmatic approach governments in the Global North adopted to improve public policy through a more systematic use of research and programme evaluation.¹ The idea that empirical evidence should inform policy and practice has gained considerable momentum over the past two decades. In the mid-1990s, international development organisations started to design processes and tools for quality management and analysis.² More recently, demonstrating ‘what works’ has also become a key concern for actors engaged in stabilisation, peacekeeping, rule of law and humanitarian protection.³

In this article, we ask how success is defined and measured for both humanitarian and military approaches to protecting civilians from violence and harm in situations of armed conflict. We argue that showing what works and what does not is easier for less ambitious humanitarian and military protection efforts designed to mitigate specific threats to civilian safety. Significant methodological, ethical and epistemological obstacles exist when it comes to determining the effects of more complex protection efforts that aim at eliminating protection risks. Empirical research may provide answers to ‘smaller’ though by no means unimportant questions: for instance, whether the establishment of geographic ‘safe areas’ reduces civilian

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exposure to violence; whether international military forces are effective at protecting internally displaced persons (IDPs) in camps from attack or whether electric lightening inside camps reduces the risk of rape for women and girls. A more systematic and rigorous collection and analysis of empirical data, however, may not necessarily yield conclusive answers to the larger question of how to deal with armed actors that are determined to harm civilians. This has important implications for decision-making. Political actors seeking to protect civilians from violence by another state or non-state group will rarely be in a position to predict the effects of humanitarian and military protection efforts and then choose the most effective course of action. Decision-making is better understood as a process of arbitration between potential benefits of different protection endeavours and associated risks for civilian safety and wellbeing. Empirical evidence gathered from past engagements implemented under similar conditions can thereby inform decision-making in the present, but it does not free political actors from the ‘tragedy’ of having to choose between different courses of action or inaction with potentially far-reaching but often uncertain outcomes for the safety and wellbeing of the civilians they aim to protect.

It is not our intention to make the case against the ‘what works paradigm’ – that is, the increased emphasis on showing the success or shortcomings of protection activities through rigorous empirical research. The main purpose is rather to draw attention to the limits of evidence-based decision-making, which are not always explicitly recognised in the on-going debate on measuring effects in protection. Furthermore, our aim is to explore how normative principles may inform protection policy and practice in the absence of conclusive evidence. Humanitarian and politico-military actors have developed distinct sets of normative principles, values and standards to guide their activities and conduct. While the role of normative considerations in policy formulation and implementation is generally not acknowledged within the ‘what works paradigm’, there is an obvious connection between
empirical assumptions about what is likely to work and what is morally defensible. Rather than viewing normative principles as a substitute for evidence-based decision-making or vice-versa, we seek to explore the linkages between the metrics and the ethics of protecting civilians in armed conflict.

Our argument proceeds in three steps. The first section establishes the commonalities and differences of humanitarian and military organizations. It does so by distinguishing between two objectives of protection – mitigating threats for civilians and eliminating them. Understanding the different means that humanitarian and military actors employ to achieve these goals helps to establish measures of success. Moreover, it demonstrates that humanitarian and military efforts to mitigate risks can be undertaken in parallel, while risk elimination by military protection actors may undermine humanitarian efforts. The second section then shows that it is easier to establish what works in protection and what does not for risk mitigation than for risk elimination. As a consequence, decision-makers are confronted with the ‘tragedy of choice’ if they aim for risk elimination: in order to be coherent and effective, they may need to choose between humanitarian and military activities. Yet, it is exactly here that evidence is extremely difficult to come by due to methodological, epistemological and ethical reasons. Under these circumstances, the last section argues, it is helpful for decision-makers to revert to the ethic of risks. This ethic establishes benchmarks for the morality of actions that are taken in ignorance of their results but that may expose others to risk. A cornerstone of it is a risk-benefit analysis, which brings together a search for evidence with moral principles. The potential of the ethics of risks for humanitarian decision-making has not yet been fully explored by current research.
Protection of civilians: A common goal, but distinct approaches

Protection of civilians is a common goal shared by a multitude of national and international actors drawing on distinct legal mandates, resources and operational strategies. A useful way of conceptualising different ‘approaches’ to protection is to distinguish between efforts that emphasise non-coercive or unarmed action and those that encompass the use of coercive force as a measure of last resort. The below actor continuum seeks to illustrate the difference between various protection actors in terms of their willingness or ability to mobilise coercive power to protect civilians from violence:

<table>
<thead>
<tr>
<th>Protection Actor Continuum</th>
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<tbody>
<tr>
<td>NON-COERCIVE ACTION</td>
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<tr>
<td>Humanitarian organisations</td>
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<tr>
<td>Human rights organisations</td>
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<tr>
<td>Judicial institutions</td>
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<tr>
<td>COERCIVE ACTION</td>
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<tr>
<td>Civilian government actors</td>
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<tr>
<td>Military entities</td>
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</tbody>
</table>

Humanitarian and human rights actors are situated at the left end of the protection actor continuum. The promotion of International Humanitarian Law (IHL) and International Human Rights Law (IHRL) is an important element of their protection work. Neither humanitarian nor human rights organizations can directly coerce state and non-state authorities to comply with their legal obligations. While humanitarian and human rights organizations draw on the same legal frameworks for their advocacy work, they differ in their preferred courses of action. For humanitarian organizations, particularly those pledging strict adherence to the humanitarian principles of neutrality and independence, denouncing

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perpetrators of violence or making public their findings on observed violations of IHL and IHRL is only used exceptionally in situations where bilateral and confidential discussions with different parties to a conflict have failed to produce tangible results. Reporting violations and speaking out against abuse, in contrast, is a more common practice used by human rights organizations to mobilize support for their protection agendas and to increase domestic and international public pressure on perpetrators. Notwithstanding these differences, efforts by human rights organizations to document and expose violations of IHL and IHRL in situations of armed violence are discussed hereafter under the generic term ‘humanitarian protection’.5

In an attempt to end impunity for the most serious crimes committed against civilian populations, states have created international justice institutions, such as the International Criminal Court (ICC), which came into being in 2002. As a permanent court, the ICC is mandated to prosecute war crimes, crimes against humanity and genocide if national authorities fail to investigate and prosecute these crimes.6 Judicial entities are positioned further to the right on the protection continuum. Neither national nor international courts directly exercise coercive power. They rely on executive branches of states to facilitate their work and enforce their rulings. Other actors located in the middle of the protection continuum include civilian government and inter-governmental organizations, such as diplomatic representations, bilateral donor agencies or political branches of UN country missions. Activities carried out by these civilian

5 This only includes human rights work conducted in a humanitarian context. The geographic scope of human rights work is not limited to situations of armed conflict. Traditionally, human rights actors have, in fact, had a limited presence in countries affected by armed violence. Since the 1990s, different organisations, such as the UN Office of the High Commissioner of Human Rights as well as NGOs, have started to build up their ‘field’ presence in war zones.

actors range from providing support to national authorities to more coercive measures such as the imposition of economic sanctions.

Lastly, military actors are located at the right end of the protection continuum. This includes UN peacekeeping missions or other international military entities, such as regional armed forces vested by the UN Security Council with a mandate to protect civilians, including through the use of force. The normative framework for both civilian and military UN action with regard to the Protection of Civilians (PoC) in situations of armed conflict was established by Security Council resolution 1674.7 Adopted in 2006, it reaffirms previous resolutions on PoC and refers to the R2P norm adopted by the 2005 World Summit Outcome Document.8

The fact that protection of civilians is a common goal shared by a diverse range of actors constitutes a first obstacle towards understanding what works. In a particular country affected by armed violence, both positive and negative change for civilian populations will come from the cumulative effects of a variety of protection activities that are generally not planned and implemented collectively. The challenge is therefore to disentangle the complex protection architecture and ask how different actors contribute to civilian safety. We seek to address this question for protection actors situated at the two extremes of the continuum: humanitarian and human rights organizations on the one end and military entities on the other. In the public

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debate on protection, humanitarian and military are sometimes discussed as complementary courses of action. Humanitarian and military protection actors may indeed implement certain protection actions without infringing on their respective mandates and operations. But complementarity does not necessarily extend to all types of protection interventions. To understand where and when tensions between the two approaches are most likely to occur, it is useful – as a first step – to differentiate between specific objectives humanitarian and military actors are trying to accomplish through different sets of protection activities, referred to hereafter interchangeably as protection ‘actions’ or ‘interventions.’

Defining success for humanitarian and military protection

Humanitarian protection is partly about mitigating threats – that is reducing the exposure of civilian populations to forced displacement, separation of families, arbitrary arrest, sexual violence, unlawful killings, the use of different forms of indiscriminate military tactics and weapons, etc. As Ferris (2011) writes, ‘[p]eople are protected when the threat of violence against them is reduced and/or when their capacity to respond to violence is strengthened.’

Yet, humanitarian protection action goes beyond mitigating threats and building up the ability

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of vulnerable groups to avoid them. Humanitarian protection is also about eliminating the causes of civilian suffering rooted in harmful behavior and military tactics of armed actors. Likewise, military protection comprises actions designed to reduce civilian exposure to risks and actions aimed at removing risks. The distinction between risk mitigation and risk elimination serves to highlight different scales of ambition of different protection actions.

Risk mitigation: reducing civilian exposure to violence

In common humanitarian parlance, protection activities designed to mitigate risks are often discussed as ‘protection mainstreaming.’ Closely related to the ‘do no harm’ principle, protection mainstreaming refers to comparably small, but potentially important measures incorporated into relief programs. Humanitarian organizations managing IDP camps, for instance, may equip sanitation facilities with electric lightening to reduce the risk of sexual violence during night-time. Certain activities are designed to strengthen the capacity of vulnerable communities to cope with protection risks on their own. Mine-risk awareness programs are a familiar example. Their aim is to sensitize communities to risks from anti-personnel mines and help them develop effective coping mechanisms.

Military protection actors may implement risk mitigation measures that are complementary to humanitarian efforts. In the Democratic Republic of the Congo, peacekeepers conduct so-called firewood patrols to protect women from rape near IDP camps. Military actors may

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12 Community-based protection strategies have become particularly important in contexts where humanitarian actors are unable to maintain a regular presence, for instance, due to security restrictions and other access barriers imposed by government authorities and non-state actors. See also Kate Berry and Sherryl Reddy, ‘Safety with Dignity: Integrating Community-based Protection into Humanitarian Programming’, Humanitarian Practice Network Paper No. 68 (London: Overseas Development Institute, March 2010), http://reliefweb.int/sites/reliefweb.int/files/resources/0115AB92A180B1864925770B00219C33-networkpaper068.pdf, accessed 2 June 2013.

also seek to provide a safe environment for civilians and humanitarian actors concentrated in particular locations. Protecting IDP camps from attack and infiltration, for instance, has become a standard activity for many UN peacekeeping missions – particularly in the Great Lakes region of Africa. Another, more controversial way of protecting civilians in particular locations is the establishment of ‘safe areas.’ Efforts to physically separate civilians from perpetrators are sometimes referred to as static or defensive protection.\textsuperscript{14} There are numerous historical examples of safe areas. Many of them were established following the end of the Cold War.\textsuperscript{15} In 1993, for instance, the UN proclaimed six ‘protected areas’ in Bosnia-Herzegovina, which included Srebrenica.\textsuperscript{16}

The different actions sketched out above aim to contain violence and harm against civilian populations by protecting them in comparably clearly defined target areas: IDP camps, safe areas or mine-invested areas. Where successful, they lead to a reduced incidence of harm (for example, rape or physical injury caused by anti-personnel mines) within the respective target populations. Their ambition, however, is \textit{not} to remove the sources of threat. Civilians living beyond target areas remain ‘unprotected.’

\textit{Risk elimination: engaging with perpetrators of violence}

For humanitarian protection actors, risk elimination is about persuading or pressuring state and non-state authorities to change policies, administrative practices and behavior that negatively affect civilian safety, for instance, through communication campaigns, denouncing

\begin{footnotesize}
\begin{itemize}
\item See Holt and Smith, ibid. p. 26.
\item ‘Designated areas’ that are established with the consent of warring parties and specified under IHL are not to be confused with new types of protected areas unilaterally imposed and enforced. The latter category emerged in the early 1990s. Examples include Operation Provide Comfort in Iraq (1991) or Operation Turquoise in Rwanda (1994). See Sylvie Giossi Caverzasio, ‘Strengthening Protection in War: A search for Professional Standards’ (Geneva: International Committee of the Red Cross, 2001), pp. 70–71.
\end{itemize}
\end{footnotesize}
non-discriminatory military tactics causing civilian death or suffering. Attempts made by humanitarian and human rights organizations to eliminate risks also cover less ‘confrontational’ actions, such as confidential discussions with state and non-state authorities to address specific patterns of violations of international humanitarian and human rights law. The ambition is not simply to generate formal commitment to ‘the law,’ but to change the dispositions of armed actors – whether rooted in ideological or strategic motivations – to target civilians deliberately.

Another way of protecting civilians against armed groups that are determined to harm them is to engage perpetrators militarily. Rather than trying to persuade warring parties to change their attitudes and behavior through a humanitarian dialogue, military protection comprises interventions aimed at eliminating risks by disrupting the capabilities of armed actors to attack civilians. Recent examples include the enforcement of a ‘no-fly zone’ and the execution of air strikes by French and UK forces in Libya in 2011, targeting military infrastructure and troops loyal to the government. Unlike risk mitigation efforts, such interventions are more akin to ‘classical’ forms of war fighting. The line between military operations seeking to disrupt military capabilities of actual or potential perpetrators of violence against civilians and activities carried out to defeat them can be a fine one. Defeat of the ‘enemy’, however, is not the primary objective of military protection. Rather, defeating perpetrators can only be a means to achieving the larger end of halting or preventing attacks against civilians.

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19 Holt and Smith, ibid. p. 29
In sum, both humanitarian organizations and military actors engage with armed groups to eliminate protection risks for civilians. The extent to which the engagement with armed actors helps to change their behaviour is the main determinant of success for humanitarian action. From a military perspective, success is also a matter of changing the behaviour. However, behavioural change is achieved through dissuasion rather than persuasion. Military attempts at eliminating risk seek to deter attack against civilians either through the mere threat of military retaliation or by disrupting military capabilities of other armed actors. Much more ambitious than risk mitigation, the aim of humanitarian and military risk elimination is to halt on-going or prevent future violence against civilians. Such efforts are only successful if the sources of threat to an entire civilian population in a country or sub-national area are removed.

The table below shows selective examples of risk mitigation and risk elimination by humanitarian and military actors as discussed above.

<table>
<thead>
<tr>
<th>Humanitarian organizations</th>
<th>Military entities</th>
<th>Target population</th>
<th>Parameter of success</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mitigating risks</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Protection mainstreaming</td>
<td>Protecting IDP and refugee camps</td>
<td>Civilians affected by armed violence</td>
<td>Reduced civilian exposure to violence in geographically contained locations.</td>
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<tr>
<td>Mine-risk awareness campaigns</td>
<td>Conducting firewood patrols</td>
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<td></td>
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<tr>
<td>Establishing child-friendly spaces</td>
<td>Establishing &quot;safe areas&quot;</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Eliminating risks</strong></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Engaging armed actors in a humanitarian dialogue</td>
<td>Disrupting the military capabilities of armed groups</td>
<td>State actors and non-state armed groups controlling territory</td>
<td>Reduced disposition or military capability of armed actors to target civilians</td>
</tr>
<tr>
<td>Public reporting of violence against civilians</td>
<td>Defeating perpetrators of indiscriminate violence</td>
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</table>

Source: GPPi

Individual actions carried out by humanitarian and military actors never map perfectly with the categories of actions set out above. In reality, considerable overlap exits between risk mitigation
and risk elimination. The distinction between risk mitigation and risk elimination is nonetheless useful for two main reasons. First, it serves to highlight the need for a differentiated perspective on success or failure with regard to protection of civilians. Different protection actors may be effective at reducing the exposure of certain target populations to protection risk, while failing to effectively address the underlying causes of violence rooted in the disposition or military capability of armed actors to harm civilians deliberately. Second, it allows us to narrow down and render more comprehensible the problem of complementarity or competition between humanitarian and military protection. Different protection actions designed to mitigate risks can be implemented alongside each other. Humanitarian actors may strengthen the capacities of communities to cope with certain risks while military actor may provide physical protection to particularly vulnerable groups. In a similar vein, if military protection actors seek to protect camps from attack this does not necessarily affect the ability of humanitarian actors to implement different protection mainstreaming measures to reduce the exposure of civilian IDPs to sexual violence inside the very same camps. Frictions, however, may arise, for instance, if military protection efforts lead to a militarization of camps and other humanitarian infrastructure, such as office premises. But it is possible to resolve or at least address potential tensions constructively through the development of common agreements and operational guidelines on the use of military assets in humanitarian operations and on civil-military coordination.

Finding pragmatic solutions to overcome tensions between humanitarian and military efforts to eliminate risks is a far more difficult undertaking. As explained above, humanitarians need to work with armed actors to change their attitudes and conduct by engaging them in a

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humanitarian dialogue; whereas international military entities seeking to eliminate risks to
civilian safety work against armed actors. Both types of actors may pursue their efforts to
eliminate protection threats in parallel. However, government actors seeking to protect
civilians beyond their jurisdictions – that is, foreign governments, diplomatic representations
or donors – may have to choose between two options. Providing financial and political
support to military operations aimed defeating perpetrators while backing humanitarian
efforts to engage them in a dialogue is questionable and, ultimately, incoherent. Arguably,
embattled national armed actors will be reluctant to engage with humanitarian organisations
in a constructive dialogue and respond to their concerns if these organizations are financed by
the very same governments that support offensive military action against them. Deciding
whether to support a humanitarian dialogue with armed groups or support military action
against perpetrators is the most difficult task. As will be elaborated below, there are clear
limits to evidence-based decision-making, given that the effects of military and humanitarian
protection interventions aimed at eliminating risks to civilian safety are particularly elusive.

The intricacies of determining ‘what works’ in protection

The most straightforward way of showing ‘what works’ in protection is to determine the
relative safety of civilians by comparing the incidence of violence and harm among
populations who have been ‘targeted’ by a particular protection action (the target group) with
those who have not (the control group). Stated differently, measuring success is about
comparing the consequences of humanitarian and military protection actions with the
consequences of inaction. This is generally easier for activities designed to mitigate protection
threats. Determining what works for more ambitious and complex actions aimed at addressing
the deeper causes of violence rooted in harmful habits, behavior, ideological disposition and
military capabilities of armed can be much harder. Some of the methodological challenges of
measuring success in protection are common to any complex intervention in any policy area. They can be addressed through better research designs, data collection methods, sampling strategies and appropriate conceptual frameworks for data analysis. But there are no readily available solutions to other measurement challenges linked to ethical and epistemological problems that are more specific to humanitarian and military protection.

Methodological barriers to determining what works

For military efforts aimed at mitigating protection threats to civilians within clearly demarcated geographic locations, such as IDP camps, it is relatively easy to compare the incidence of particular patterns of violence among ‘protected’ populations with incidence rates among those who are not. The principle challenge for implementers and researchers seeking to determine effects is to find reliable evidence. While not an easy task, there are examples of comprehensive and systematic studies that have compiled longitudinal data, for instance, on attacks against IDP camps. A study conducted by the Ford Institute for Human Security (FIHS) on ‘camp security’ is a case in point: drawing on empirical data gathered from several African countries affected by armed conflict, it finds ‘strong evidence’ that camps protected by international military entities are less likely to be attacked than those that are unprotected or protected by national forces.  

Whereas attacks against IDPs can be measured directly, gathering reliable data can be more demanding with respect to other patterns of harm, such as sexual violence. It may not be feasible to directly measure and compare the incidence of rape among the target population with a control group. But there are different ways of addressing methodological constraints

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related to data collection, for instance, by identifying adequate proxy indicators, such as individual patterns of movements. Consider the following example: To reduce the threat of sexual violence for Somali women living in Kenyan refugee camps, the World Food Programme (WFP) delivered fuel efficient stoves to female refugees. The underlying rationale is that women who receive fuel stoves will stop collecting firewood in areas surrounding camps where the risk of rape is particularly high. WFP assesses the extent to which stove recipients reduce the time they spend outside camps. Results are then compared with a control group of women who have not received fuel efficient stoves. In case only the women who have received fuel efficient stoves reduce the time they spend outside the camp, it is plausible to conclude that the action has been successful in terms of reducing the threat of sexual violence.

Both the protection of IDP camps by military actors and the distribution of fuel efficient stoves to female refugees by humanitarian organizations are examples of protection actions designed to mitigate risks. Similar comparisons between target groups and control groups can be made for related actions, such as the establishment of ‘child friendly spaces’ or the above-mentioned example of firewood patrols by peacekeeping forces. In contrast, assigning civilians into target and control groups is more difficult for protection efforts aimed at eliminating risks to civilian safety. To start with, such actions are often expected to benefit the entire population. The objective of military interventions aimed at defeating ‘perpetrators’ or disrupting their military capabilities is precisely to protect all civilians under imminent threat of large-scale violence. In a similar vein, the ambition of many humanitarian protection

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23 This is another example of an intervention that falls under the category of ‘protection mainstreaming’: see (USAID/OFDA), ‘Guidelines for Proposals’.

24 Provided the initial assumption regarding the risks exposure in different locations is correct. Note that the results of the pilot project were not yet available at the time of writing. Information on the WFP project was received during a phone interview with a donor representative in December 2012.

efforts aimed at promoting behavioural change through peaceful engagements is to protect the entire population of a country or sub-national area. If humanitarian protection actors succeed, for instance, in persuading government forces to abstain from certain harmful military tactics, such as the use of aerial bombardments in populated areas, this will benefit all civilians living in urban environments. This excludes the possibility of identifying meaningful control groups of ‘unprotected’ civilians.

Ethical and epistemological challenges

In order to understand potential ethical questions that may arise when trying to measure what works in protection, it is useful to return briefly to protection actions designed to mitigate particular protection threats. Risk mitigating efforts are meant to have an immediate impact on the target population. The WFP project referred to above is based on the assumption that women will stop collecting firewood in areas surrounding camps as soon as they receive fuel efficient stoves. This has important implications for the ‘replicability’ of such actions: Humanitarian and military protection actors may ‘test’ different activities designed to mitigate risks among a small group of civilians. Where successful, they can easily expand the scope of their actions to the entire population at risk within short time frames. This is not necessarily the case for actions with more distant effects.

Humanitarian actions aimed at changing the behaviour and policies of armed actors through different forms of public or private advocacy will rarely, if ever, produce immediate results. Even if armed actors are responsive to humanitarian concerns and revise their military strategies and tactics accordingly, it may take years until individual members of the respective military organizations comply with new rules.\(^{26}\) This reduces the possibility to deliberately

assign civilians into target groups and control groups for the sake of substantiating causal claims of success. Humanitarian organizations could certainly limit their engagements with armed actors to a particular district or province and compare the level of indiscriminate violence in the target area with incidence rates in other areas. Such an approach, however, would be ethically indefensible. What if the experiment shows – after two or three years – that civilians in the target area are comparably less likely to be killed or otherwise harmed?

Empirical comparisons may still be ethically acceptable provided civilians are not deliberately assigned into control groups. In many contexts, protection actors are not able to work in all areas affected by armed violence. Due to limited resources they may have no choice but to limit their presence and activities to a particular sub-national area. Such conditions may allow for what is generally referred to as a quasi-experiment. Evaluators can compare the frequency of indiscriminate violence in the area of intervention with incidents rate in other areas where protection actors are unable to maintain a regular presence. However, this will only work for some interventions. In many cases, the particular nature and scope of risk elimination efforts renders it difficult to single out particular control areas that are not affected by an intervention.

One might rightly argue that these difficulties are not specific to protection. Any attempt at assessing the effects of a complex program or intervention aimed at promoting institutional change is, in fact, likely to encounter similar problems. But there are additional complications, which make it even more difficult to determine success of protection efforts aimed at eliminating threats to civilian safety.

The purpose of humanitarian advocacy is not merely to halt ongoing violence. Through confidential negotiations and public reporting humanitarian protection actors endeavor to prevent future occurrence of violence against civilians. Furthermore, humanitarian protection organizations also support national authorities to translate their legal obligations derived from international law into domestic legislation. They seek to contribute to the dissemination of relevant norms through legal training with security forces. Such measures are often implemented during peace time. Quantifying the effects of such preventive action constitutes the most central challenge for empirical research. If conflict erupts in a particular country where humanitarian and human rights organizations implemented capacity building measures and legal trainings for armed actors, how should we tell whether these preventive efforts have been successful or not? As in any armed conflict, civilians will suffer from violence at least to a certain extent. For those who question the effectiveness of humanitarian advocacy efforts it is easy to say that prevention has not worked. Those who think otherwise may claim that civilians would have suffered to an even greater extent, had humanitarian and human rights organizations not invested in spreading the knowledge of relevant international law.

The problem at hand is equally intricate with regard to military protection efforts aimed at preventing large-scale violence. Take the example of Côte d’Ivoire, where the Security Council sanctioned the use of force to protect civilians in a resolution adopted in March 2011. The rationale was to prevent the country from relapsing into a new cycle of communal violence. Notwithstanding achievements made towards political reform and stability at the national level, Côte d’Ivoire is still affected by very similar patterns of violence over access to

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land rights. Those who question the benefits of the military intervention in Côte d’Ivoire may point out that one of the worst massacres against the civilian population in years coincided with the foreign-led intervention.28 The killing of up to one thousand civilians was blamed on supporters of president Ouattara, who won the preceding election by a narrow margin and whose contender was arrested as a result of the French-led military campaign. Moreover, parts of the country remain unstable and prone to cyclical outbreaks of communal violence.29 Proponents of the French-led intervention, in turn, could argue that the situation would have been much worse without the use of military force. Neither of the two conflicting claims can be proven empirically. It is not possible to re-run history. We will never know what would have happened without the French-led military campaign due to the absence of a counterfactual. There may simply be no methodological solution to this epistemological problem – no matter how much time and resources are invested into improving data collection and analysis.

No easy answers for big questions

So, where does this leaves policy-makers who have to decide which course of action is the most appropriate response to ongoing or looming large-scale violence against civilians in a specific country? What are the implications for the ‘what works paradigm’? At a closer look, the pragmatic dictum ‘what works is what matters’ turns out to be a highly intricate question. Researchers have the means to answer the question about effective protection, when it comes to ‘small’ though by no means unimportant measures: establishing safe areas, protecting IDP and refugee camps, distributing fuel stoves to women within these camps to reduce their exposure to risks outside the camps and so on. Finding adequate answers to ‘bigger’ questions

is a more difficult undertaking. Empirical analysis can contribute to a better understanding of why an intervention aimed at changing the behavior of perpetrators has or has not worked in a particular context. Structured comparisons within and across countries may enable protection organizations to isolate generic factors that enhance or limit the effects of advocacy and other efforts aimed at eliminating threats. While such reasoning is highly relevant for practitioners, it does not enable policy-makers seeking to protect civilians beyond their jurisdictions to predict the effects of different courses of action.
Conclusion: Normative criteria for decision-making under uncertainty

In the absence of conclusive evidence – whether due to methodological, ethical or epistemological constraints – decision-makers need to draw on moral criteria to guide their choices of action. With regards to humanitarian and military protection of civilians, there are theoretically four courses of action. Decision-makers can choose to:

a) not engage in any form of protection,

b) support exclusively humanitarian protection,

c) support exclusively military protection or

d) support both approaches in parallel.

From a moral perspective, course a) is not an acceptable option. Duty-based ethics makes it imperative for any human being to act. This idea of a duty to intervene on behalf of threatened civilians is inherent in the ‘humanitarian imperative. The duty to respond to large scale violence is also at the heart of the R2P concept, which informs military protection activities aimed at risk elimination.

As it has been argued above, humanitarian and military protection activities are complementary when they aim at mitigating risks. Consequently, there is no need to choose between options b) and c). It is coherent for decision-makers to consider option d) and support both types of protection activities.

As for risk elimination, option d) may not be a viable course of action, considering that military actions may undermine humanitarian protection efforts. It follows that decision-makers may have to choose whether to support humanitarian or military approaches to eliminating actual or potential violence against civilians. The remainder of the article thus focuses on the elimination of risks to civilians. It looks into the following question: which
criteria should guide decision-making in situations where humanitarian protection and military protection efforts implemented under R2P present conflicting courses of action.

The ethics of risks

Ethical decision-making asks: “What benefits and what harms will each course of action produce?” That is, moral choices must be informed by a risk-benefit analysis. The ‘what works paradigm’ is certainly helpful in determining potential benefits of each course of action on the basis of past experience. Yet, it blinds out the crucial question of risk. Risk is a potential negative event or condition. Two variables determine it: probability and the extent of harm. Uncertainty means that the probability of harm to occur is unknown. The ethic of risks then determines which risk a person or an institution is allowed to inflict upon another person. That is, it evaluates the morality of actions that may expose others to risk without knowing the results of these actions.

The ethic of risk can help establish a value system upon which decision-makers concerned with the protection of civilians outside their jurisdiction can draw on in cases of uncertainty or inconclusive evidence. Yet, the philosophy that is concerned with risk is so far only applied to fields such as biogenetics, medicine, nanotechnology or financial trading. There is an obvious risk than military engagements pursued in the name of R2P may unintentionally expose the very civilians they are meant to protect to additional violence. Despite the ubiquity of risk and risky activities involved in military protection efforts, the ethical premises developed by risk philosophers have not been applied to this field. It is outside the scope of this paper to fill the

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gap. Nevertheless, it is worth to briefly describe one of a handful of competing criteria that philosophers developed to determine acceptable risk exposure.

The ‘do no harm’ principle, which has been introduced above\textsuperscript{32}, is a central paradigm in humanitarian assistance. In addition, it resonates in the R2P precautionary criterion of ‘reasonable prospect’.\textsuperscript{33} ‘Do no harm’ is rooted in a duty-based ethic but emphasizes different aspects. In the ethic of risk, the principle puts the person or institution that exposes others to risk under a duty of care. Exposing others to risk is morally appropriate only if all possible precautions to avoid harm have been taken.\textsuperscript{34} In humanitarian assistance, the principle has been interpreted as a call to consider potential negative side effects with the inherent idea that in some cases non-action might be preferable to action.\textsuperscript{35} The R2P norm, in turn, stipulates that an intervention is only allowed where “the consequences of action [are] not likely to be worse than the consequences of inaction.”\textsuperscript{36} This idea is very close to the humanitarian ‘do no harm’ paradigm, although it doesn’t explicitly recognise that inaction may, at times, be the way to go.

Even this short discussion on the intricacies of the same moral criterion – do no harm – shows that it is worthwhile to uncover, discuss and further develop the moral criteria that are underlying the different approaches to eliminate risks for civilians and prevent violence against them. Just consider the numerous additional criteria philosophers of risk have developed to decide when it is allowed to expose others to particular risks, and when it is not.

\begin{itemize}
\item \textsuperscript{32} See supra note 12.
\item \textsuperscript{33} See International Commission on Intervention and State Sovereignty (ICISS), ‘The Responsibility to Protect’ (Ottawa: IDRC, 2001), p. xii, \url{http://responsibilitytoprotect.org/ICISS%20Report.pdf}, accessed 27 October 2013. This and other criteria were mentioned in the 2005 ‘Larger Freedom Report’ of the UN Secretary General, but they are not included in the World Summit Outcome Document of the same year, which established the R2P norm. They are, as such, not formally attached to the R2P concept. See Bruno Pommier, ‘The use of force to protect civilians and humanitarian action: the case of Libya and beyond’, \textit{International Review of the Red Cross}, 93/884: 1063–1083 (2011).
\item \textsuperscript{34} Andreas Bachmann, Klaus Peter Rippe, idem., p. 4
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Without a doubt, there is room to make better use of risk ethics to inform decisions about appropriate means to protect civilians. Not least, because the ethics of risk ask for probability assessments that are based on facts (objective probability) and experience (subjective probability). In other words, evidence and estimations are a central part of risk-benefit analyses. It is precisely here that the metrics and ethics of protecting civilians meet. The ‘what works paradigm’ is tilted towards the empirical side of the equation. To allow for informed decision-making ‘what works?’ must be complemented by ‘what’s at risk?’ In protection, choosing one course of action over another is as much a matter of empirical evidence as it is a moral judgement call.

37 Andreas Bachmann, Klaus Peter Rippe, *idem.* p. 9.