

# INFLUENCE

ON THE

# GROUND

*Understanding and strengthening the protection impact  
of United Nations human rights field presences*



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Influence on the Ground: Understanding and Strengthening the Protection Impact  
of United Nations Human Rights Field Presences

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Cover photo: OHCHR-Nepal Human Rights Officers interacting with local Nepalis at a village in Parsa district on the day of the Constituent Assembly elections following the ten-year long armed conflict. OHCHR-Nepal Photo, April 2008

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This was a massive undertaking, involving hundreds of interviews and thousands of details and requiring some levels of subjective analysis of a great many complex topics. The authors take full responsibility for any errors in fact or interpretation.

## List of Acronyms

CSO	Civil Society organization	NATO	North Atlantic Treaty Organization
DPKO	(UN) Department of Peacekeeping Operations	NGO	Non-governmental organization
DPA	(UN) Department of Political Affairs	NHRC	National Human Rights Commission (Nepal)
DRC	Democratic Republic of the Congo	NHRI	National Human Rights Institution
ECOWAS	Economic Community of West African States	OHCHR	Office of the High Commissioner for Human Rights
ESCR	Economic, Social and Cultural Rights	POC	Protection of Civilians
FARC	Revolutionary Armed Forces of Colombia	RC	(United Nations) Resident Coordinator
FARDC	Armed Forces of the Democratic Republic of the Congo	RREWC	Rapid Response Early Warning Cell (Congo)
FOTCD	Field Operations and Technical Cooperation Division (OHCHR)	SGBV	Sexual and Gender-Based Violence
HC	High Commissioner (for Human Rights)	SRSR	Special Representative of the Secretary General
HQ	Headquarters	TFG	Transitional Federal Government (Somalia)
HRA	Human Rights Advisor	TJRC	Truth, Justice and Reconciliation Commission (Kenya)
HRD	Human Rights Defender	UHRC	Uganda Human Rights Commission
HRO	Human Rights Officer	UN	United Nations
HRW	Human Rights Watch	UNAMA	United Nations Assistance Mission in Afghanistan
ICRC	International Committee of the Red Cross	UNAMID	African Union/United Nations Hybrid operation in Darfur
JHRO	Joint MONUSCO and OHCHR Human Rights Office (in DRC)	UNCT	United Nations Country Team
JMAC	Joint Mission Analysis Cell	UNDP	United Nations Development Programme
JIT	Joint Investigation Team	UNHCR	United Nations High Commissioner for Refugees
JPT	Joint Protection Team	UNICEF	United Nations Childrens Fund
LRA	Lords Resistance Army	UNMIL	United Nations Mission in Liberia
MINUGUA	United Nations Mission in Guatemala	UNMIS	United Nations Mission in Sudan
MINURCAT	United Nations Mission in the Central African Republic and Chad	UNPOS	United Nations Political Office for Somalia
MINUSTAH	United Nations Stabilisation Mission in Haiti	UNSC	United Nations Security Council
MOD	Ministry of Defense	UPR	Universal Periodic Review (by the UN Human Rights Council)
MONUC	United Nations Organization Mission in the Democratic Republic of the Congo	WFP	(United Nations) World Food Programme
MONUSCO	United Nations Organization Stabilisation Mission in the Democratic Republic of the Congo		
MOU	Memorandum of Understanding		



The protection of human rights is a fundamental commitment of the United Nations and each of its member states. One of the most effective human rights tools the UN has devised has been the deployment of field presences staffed with professional human rights officers. These field presences gather information, assess and analyze human rights dynamics, and implement corrective strategies to either assist or pressure state actors to fulfil their human rights obligations.

The goal of this book is to assess the current protection efforts of these UN human rights field presences, examining best practices as well as weaknesses. Drawing from the evidence of hundreds of field-based interviews, it proposes conceptual frameworks for understanding how protection impact is achieved by a field presence, and suggests steps to address the existing weaknesses and insufficiencies. Above all, the goal is to help the UN make a greater and more effective contribution to human rights protection on the ground.

Human rights field presences were first launched by the UN in the early 1990s, with significant missions in El Salvador, Guatemala, Haiti, and Rwanda. These human rights missions each made substantial contributions to human rights protection. In the Central American cases they also paved the way for successful peace processes.<sup>1</sup> In the two decades since then thousands of human rights officers have served in such missions in dozens of countries. It is now a standard expectation that UN Peacekeeping operations will each have a substantial human rights component, and independent human rights missions of the Office of the High Commissioner for Human Rights (OHCHR) are becoming increasingly common in other countries.

The High Commissioners for Human Rights over the years have consistently emphasized the need for greater support and growth of this field presence. In his 2005 reform package, Secretary General Kofi Annan promoted a substantial expansion of OHCHR with the support of the General Assembly. High Commissioner Louise Arbour's consequent growth strategy emphasized the importance of field deployment with a focus on active protective impact. We take that strategic moment as a point of departure for this study, focusing on growth and best field practice between 2005 and 2011.

1. For an analysis of the protective impact of these early human rights missions, see *Proactive Presence: Field strategies for civilian protection*, (Centre for Humanitarian Dialogue, 2006).

The UN's capacity to deploy human rights missions has expanded dramatically over the years. These field presences are working from a strong normative framework in international law. They are guided by numerous institutional doctrines that emphasize a field-based approach to proactive human rights protection. And most importantly, experienced human rights field officers have been developing creative and effective practices for protecting human rights on the ground.

Yet the real human rights problems remain far greater than these presences have the capacity to address. Resources are still insufficient. Weak political support, deliberate political obstacles and internal administrative and management problems constantly get in the way. The role of a human rights field operation remains widely misunderstood, oversimplified and underestimated by many actors involved in international humanitarian, peacekeeping and development work. As a result, the potential contribution to human rights protection of these field presences is not being fully taken advantage of. This study aims to assess these problems, highlighting the strengths and nuances of current practice, promoting solutions to problems and weaknesses and encouraging greater expansion of the UN human rights presence in the field.

## **1.1 Structure of this book**

The chapters of this book divide roughly into four sections. The first two chapters are an introductory overview. Chapters 3-7 contain detailed discussion of the techniques and strategies for field influence. Specific discussions of transitions, small presences, and collaboration with other UN actors are discussed in chapters 8-10. Finally, chapter 11 discusses necessary institutional changes, followed by an overall summary of conclusions in chapter 12.

More specifically, Chapter 2, "The nature and protection impact of a UN human rights field presence," offers a conceptual analysis of the protection function of a field presence, to help readers understand the key relationships and mechanisms through which the actions of human rights field presence can protect. The chapter gives a theoretical overview of the role of these presences. It examines the "impact-oriented" definition of protection developed in OHCHR's 2005 Plan of Action, and discusses a "systems thinking" approach to understanding the interactions between a UN field presence and the many other central actors who play key roles in both causing and resolving human rights problems.

The next four chapters examine the approaches and relationships that successfully contribute to a real protective impact, based on inputs from hundreds of respondents. Chapter 3, "Getting out and getting close" looks at the many ways that larger presences are able to project their impact to a local and personal level, through wide deployment, travel, constant daily contact at all levels and rapid responses to urgent needs. Chapter 4, "Strategies for effective influence and support" discusses the ways in which technical cooperation, private political pressure and public voice can

combine successfully to change behaviour and policies. It emphasizes the importance of developing and sustaining credibility as a mission to maximize the impact of those strategies. Chapter 5, “Relationships with the State” and Chapter 6, “Civil Society” discuss the characteristics of effective relationships and examine common challenges. The lessons of these four chapters are then illustrated in chapter seven’s case study on the effort to stop extra-judicial executions by the Colombian military.

After these discussions of effective protection strategies, Chapter 8, “The evolution of a field presence over time” discusses the different ways that field presences adapt to transitions and other changes in political context. We suggest that the UN system needs to break out of the “crisis/exit strategy” paradigm and develop a more nuanced analysis of the potential longer-term roles of human rights presences and the many different forms they can take.

Chapter nine deals with some of the specific opportunities and constraints of the smaller modalities of field presence, including Human Rights Advisors and Regional Offices. Chapter ten then examines how the different kinds of field presences interact with other parts of the UN system, including DPKO and DPA peace missions, United Nations Country Teams and the Geneva-based human rights mechanisms.

Finally, chapter eleven recommends ways in which these field presences, OHCHR and the greater UN system need to adapt in order to offer greater protection to those who need it. This chapter looks at the scale of growth of field presence to date, and proposes strategies for continuing that expansion to more adequately respond to global needs. It also addresses qualitative and human resource obstacles that hold back the impact of field presences.

In addition to this book, this research project produced four detailed country-focused case studies (Democratic Republic of Congo, Nepal, Uganda and Colombia), as well as a concept paper written for the 2010 OHCHR Annual meeting of Heads of Field Presences. These documents are all available electronically as annexes at <http://www.fieldviewsolutions.org/influence-on-the-ground>.

## **1.2 Research scope and methodology**

This book reflects two years of research, gathering inputs from nearly 400 respondents and hundreds of documents. It involved field-based case studies, telephone interviews, and focus group discussions. Respondents included current and former human rights field staff, civil society groups, victims and community members, state actors including police and military, OHCHR-Geneva and UN-DPKO-New York staff, other UN agencies, embassy representatives and others.

Four major field studies were carried out in the Democratic Republic of Congo, Nepal, Colombia and Uganda. Shorter field visits were done to Kenya (including also the UNPOS human rights component for Somalia based in Nairobi), Cote D’Ivoire,

Liberia, Haiti, South Sudan and the OHCHR regional offices in Bangkok and Beirut. Telephone interviews also contacted field officers in Guatemala, Mexico, Bolivia, South Caucasus, Fiji, Ecuador, Togo, Afghanistan, Cambodia, Albania, Cameroon, Southern Africa, Russia, Sri Lanka, Khartoum, Darfur, as well as some who served formerly in Pakistan and Indonesia. The authors also participated in two annual meetings of Heads of Human Rights Field Presences in Geneva (2010 and 2011), organizing a set of focus group discussions by all participants on specific topics to get further input.

Overall, more than 140 human rights field officers and managers participated in the study. Other current and former OHCHR staff and management in Geneva were consulted, including the current and former heads of the Field Operations and Technical Cooperation Division (FOTCD), all regional heads within FOTCD, former High Commissioner Louise Arbour, the OHCHR Senior Management Team including the current Deputy High Commissioner, staff working on support for Special Procedures and the Human Rights Council, and others.

The field visits made substantial contact with local partners, including both state and civil society representatives. Civil Society respondents numbered 23 in Colombia, 60 in the Democratic Republic of Congo, 44 in Nepal, 15 in Uganda, 10 in Lebanon, 9 in Haiti and a few others from various other countries. State actors interviewed at both the national and regional level included police, prison officials, military and other government, totalling 20 in Colombia, 16 in the Democratic Republic of Congo, 9 in Nepal, 15 in Uganda, and 9 in Kenya. Field researchers also met with embassy representatives, international non-governmental organizations, journalists, representatives of other UN agencies or other components of UN Peace Operations, and representatives of political parties.<sup>2</sup>

The goal of each interview was to give respondents the space to share their personal experiences of these field presences, each assessing what they saw to be their most effective and least effective work, and where they thought changes were needed. This broad participation, and the depth and honesty with which our respondents approached it, are a key strength of this study.

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2. Due to the sensitivities of some of the content of interviews, the potential risks faced by respondents and the need for confidentiality, we have chosen not to list all of our contributors by name, nor to explicitly identify the sources of quotes in this document.

Why does the UN send human rights presences into the field? Presumably to assist states in complying with their own human rights commitments, and to reduce the levels of abuses suffered by victims. The next chapters will look at concrete practices of human rights field presences. In this chapter we will describe a framework for understanding the underlying mechanisms that give these practices their impact.

Human rights field presences are the embodiment on the ground of the stated human rights commitments of all UN member states. To live up to this challenge, a field presence needs to diagnose the real human rights problems in a given country context, identifying and prioritizing key needs and gaps. Then, within its resource capacity, it must design and implement strategies to address these needs: using pressure, support and advice to build and strengthen effective longer-term systems of human rights protection.

This demanding process of independent diagnosis, prioritization, corrective action and structural support is the *raison d'être* of a human rights field presence. Whether a presence is formally labelled “monitoring,” “observation,” “verification”, “technical cooperation,” or “advice,” one of its fundamental objectives must be to get good information and use it to influence human rights dynamics on the ground. Even if a mandate agreement or Memorandum of Understanding may appear limiting, a presence needs a full understanding of the human rights issues so as to know how to have the biggest effect it can within the political constraints it faces – and how to judiciously choose when to challenge those constraints.

Field presences address a range of contexts and goals: from a short-to-medium term crisis presence, to a longer-term presence addressing chronic human rights issues, with a variety of hybrids or transitions between the two. The crisis presence, often responding to an outbreak of conflict and/or a dramatic breakdown of security, needs to be relatively large, and can be seen in the human rights components of DPKO/DPA missions and in the origins of some of the larger stand-alone presences (Colombia, Nepal, etc.). The longer-term presence, by contrast, responds to post-conflict transitions or to chronic human rights dynamics independent of crisis or conflict. These are often smaller, focusing more on support for national state and civil society structures, and on helping them to take advantage of the international human rights resources, machinery

and influence that can help in the longer-term construction of systems promoting respect and protection of human rights. This kind of presence can also be seen in some of the smaller stand-alone offices and in the role of Human Rights Advisors within UN Country Teams.

This range of contexts and the variations in size and political clout of different field presences means that each one will have a different capacity to implement effective protection. A large stand-alone OHCHR presence or human rights component of a peace mission has the resources to deploy staff widely and develop complex multi-faceted strategies including most of the best practices discussed in this book. For a Regional Office with only sporadic or periodic contact with a given country, the options are much reduced, but the Regional Representative can still apply the powerful voice and status of the High Commissioner's office to push for solutions to problems identified through direct or indirect field research. A human rights advisor in a UN Country Team, with limited resources and often no independent voice, can still support the Resident Coordinator and other partners with information and guidance to target their respective human rights interventions towards protective impact.

There is no fixed pattern or easy menu prescribing the “best” set of activities for a presence. Each field presence is unique. This is why the diagnostic analysis step is so important. If a field presence does not have an independent analysis on which to base its priorities and choices, it is more vulnerable to manipulation by host states, donors and others. With such an analysis it can better stand up and defend the human rights mandate of the UN in the way that is most appropriate to the context.

## **2.1 Protection: concrete outcomes for individual rights-holders**

The 2005 OHCHR Plan of Action and subsequent Strategic Plans emphasized the dual goals of Protection and Empowerment, emphasizing that “Much can and should be done to enhance protection, including through the deployment of human rights officers.” It went on to describe “protection”:

“We will undertake a concerted effort to focus on the protection of human rights, defined here to mean ensuring respect for human rights in concrete ways for individuals. Human rights protection is not a specific tool or approach, but rather refers to a desired outcome – where rights are acknowledged, respected and fulfilled by those under a duty to do so, and as a result of which dignity and freedom is enhanced. Human rights protection results when, through specific actions, individuals who otherwise would be at risk or subject to deprivation of their rights, are able to fully exercise them. It is based on international law, and necessarily focuses on both immediate responses where people are threatened, and on longer-term work to build and strengthen laws and institutions that protect rights – within States and on the global level. Protection understood in terms of concrete outcomes for individuals ensures that the work carried out by OHCHR is targeted at achieving real impact.”

But how do field presences achieve this impact? They do it through combinations of information gathering, investigation, advocacy, diplomacy, empowerment of local actors and a range of other actions. They use concerted strategies that influence and moderate the behaviour of potential abusers, and empower both citizens and state actors to control human rights abuse.

This idea of an impact-oriented approach to protection based on multi-faceted strategies was subsequently integrated into a new **OHCHR Manual on Human Rights Monitoring and Protection**, as well as into a new basic monitoring training package for all HROs.

Nonetheless, many who have not done this work in the field are still confused about how “protection” relates to human rights fieldwork. Traditional conceptions of field monitoring sometimes still accept the production of reports for Geneva or New York as a sufficient result, without making the strategic follow-up link to the real outcome for those suffering abuses. Other policy or conceptual frameworks, like “Action 2” or “Mainstreaming,” limit human rights field officers to a secondary role of educating or advising other UN actors, without the capacity for developing independent strategies to directly affect abuses.

Confusion about protection is further exacerbated by the inevitable inconsistencies and ambiguities in the usage of the term “protection” between human rights, humanitarian, political and military actors. Continued efforts are needed to disseminate existing guidance tools and training that will help HROs and management, especially those new to the organization, to see how “protection” is a fundamental objective of the work on the ground, and how it relates to the different daily activities of the field presence. Many HROs and heads of field presences with long experience are already implementing creative protection activities in strategic ways. It is these real experiences of impact that will help to clarify the confusions about this proactive outcome-focused protection definition in OHCHR doctrine.

Given the limited scale of many field presences, the frequent lack of political will of the host states, security constraints, and the intensity of some of the conflicts where field presences work, in many situations the power of a field presence to influence the behaviour of abusers may be very limited and difficult to measure or prove. The protective impact will be at best partial and incremental. Field operations need to be strategically selective and apply their limited influence to initiatives which will have a maximal direct or multiplier effect – on perpetrators, duty-bearers and rights-holders.

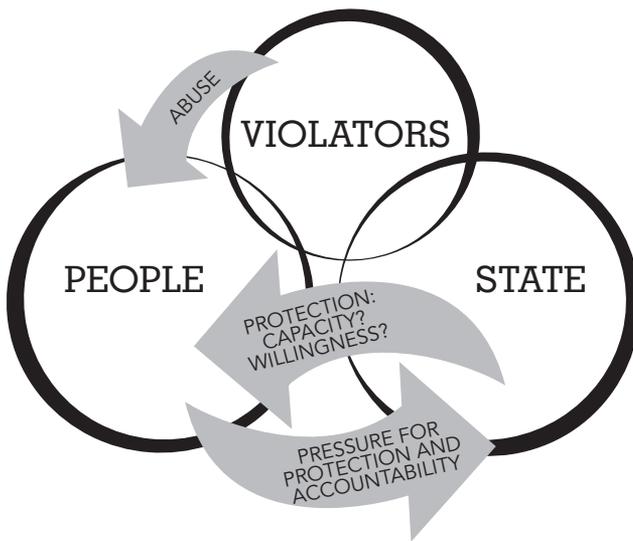
This outcome-focused definition of protection demands that there be a clear strategic logic linking the field presence’s activities to protective outcomes. These protection outcomes may be short-term or long-term, and comprise improvements in respect of any of the broad range of rights being abused. It is, therefore, still an extremely broad definition of protection. This study is more limited and does not pay equal attention to all activities of a field mission. Instead, there is a greater focus on activities intended to have more *direct* impact, those with a closer and more specific intended outcome.

These will often be strategies based on having an impact in the short term. The causal links to the indirect or longer-term impacts are much more difficult to trace.

*Direct* impact does not depend, *per se*, on the type of activity – the same activity may be relatively direct or indirect depending on the context. For example, advocacy that a state ratifies the Rome Statute may be relatively indirect if there are no particular in-country applications in mind, whereas it may be direct if it is intended as a measure to reduce and deter ongoing abuses by specific actors within the country context. More generally, broadly defined activities such as supporting human rights mainstreaming into the work of the UNCT, advising state institutions, and supporting civil society might in one context have a very direct and measurable short-term protection impact on individuals, while in another the impact will be indirect, long-term and more difficult to gauge.

For this reason, much of the protection analysis, strategies and tactics examined in this study may be of greater relevance in situations of more acute human rights abuse, where the link between activities of a larger presence and its short-term urgent objectives is easier to see. In some cases studied, such as Nepal and Uganda, we have examined also the transitions of the presence into a post-conflict setting and its approaches to longer-term structural change. We do not suggest that the shorter-term focus of this study encompasses the full scope of the term “protection.” Our hope is that this kind of rigorous strategic thinking about the links between activities and protection outcomes in these more acute settings will also inform the more complex and difficult task of designing impact-oriented strategies for longer-term problems.

**FIGURE 2-1: PRIMARY HUMAN RIGHTS SYSTEM**

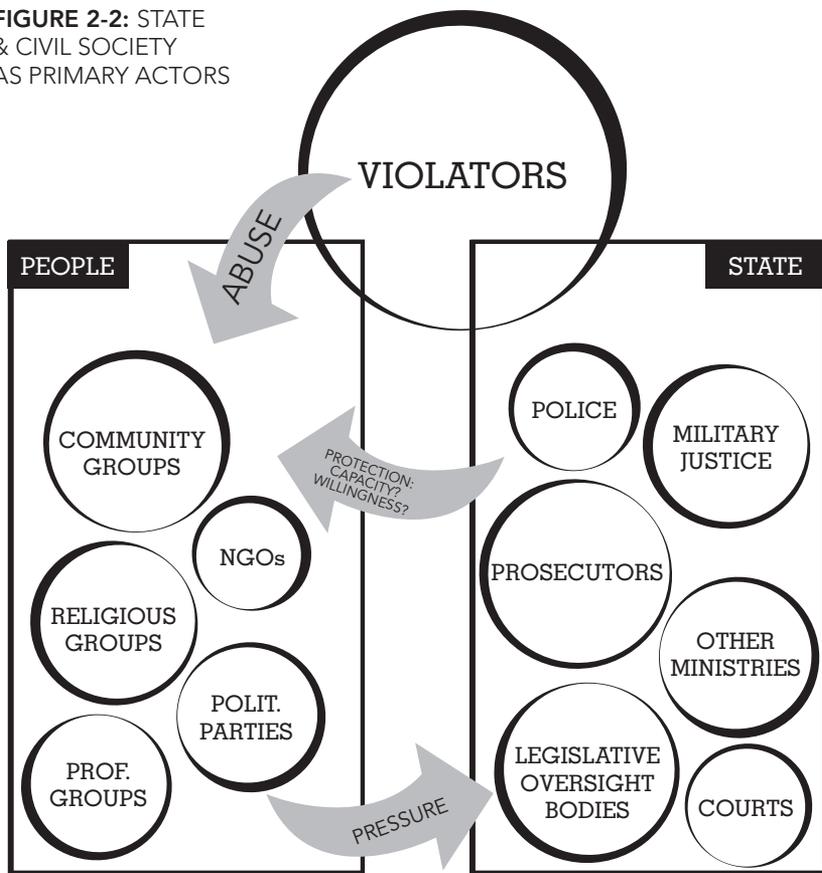


## 2.2 A systems approach: the role of a Human Rights Field Presence in protecting human rights at the national level.

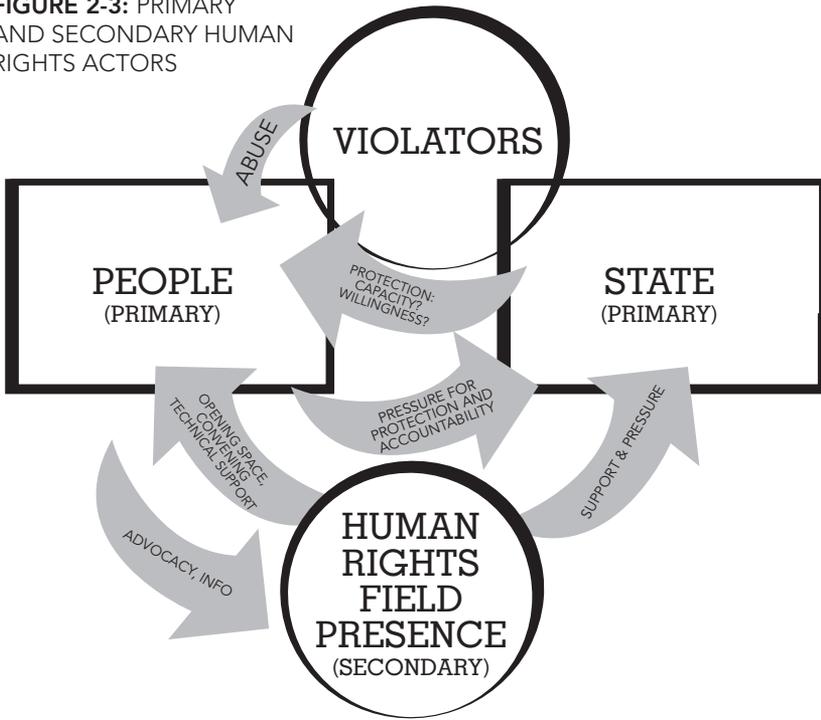
In order to understand how a UN human rights field presence can have a protective impact, we need a framework for understanding the complex human rights dynamics in which many actors play complementary roles. This framework needs to consider the relative roles of different institutions in achieving human rights protection and how these complementary roles can change during political or conflict transitions.

There are three fundamental actors in any human rights dynamic: *the people*, who are threatened with abuse, *the abusers* who carry out abuses, and *the state* which is obliged to protect them. (See figure 2-1). In some situations the state *is* the abuser, in others not. In some cases a significant proportion of the population are abusers, such as in situations of discrimination. But the crucial point is that the protection of human rights depends on a) the state's willingness and capacity to fulfil its obligations to protect, and b) the people's capacity to hold the state accountable to these obligations.

**FIGURE 2-2: STATE & CIVIL SOCIETY AS PRIMARY ACTORS**



**FIGURE 2-3: PRIMARY AND SECONDARY HUMAN RIGHTS ACTORS**



Numerous state organs are designated to fulfil this protection role, in particular the justice system. When looking at Economic and Social Rights, other state bodies, such as Ministries of Health, Education, Land, etc. also have obligations.

The people affected by abuses mobilize through a wide array of civil society groupings, including community groups, NGOs, religious institutions, political parties (see figure 2-2). These collective entities serve, among other functions, to protect themselves or hold the state accountable. The level of mobilization and power of these civil society entities and their ability to hold the state accountable is one of the most fundamental indicators of a functional system of human rights protection. Whether the responsible state organs carry out their protection function is often primarily a matter of political will, and political will is a direct consequence of the power of civil society to hold them accountable.

An international institution like a human rights field presence is a secondary player, serving to support the two key actors (the state and civil society) in their capacity to fulfil their respective roles (see figure 2-3). Rather than duplicating the role of national entities, such as NHRIs or civil society monitoring, the UN field presence has an independent and unique source of power - its international linkages and its ability to

represent the concerns of the international community – which it can use to hold the state accountable for its political willingness to do its job. This does not mean that UN human rights presences are quiet or reactive – on the contrary, their strength often involves having a loud voice and a high profile. But the direct responsibility for human rights obligations lies with others.

Recognizing these *primary* and *secondary* roles, if a UN human rights field presence is to help a country to achieve a sustainable human rights system, its focus must be on the two primary players who form that system: the state organs with direct protection responsibility, and civil society. The crucial role of civil society is not always given the attention it deserves. Strategies for influencing and supporting these actors will be laid out in the ensuing chapters.

## 2.3 Effective field protection

In this research, respondents around the world reflected on the question: “Which aspects of the work of the human right field presence here have had the most notable impact on the protection of people’s human rights?” The responses were consistent across a diverse range of people and contexts, highlighting the following areas of work:

- Close proximity to the people, through the presences of sub-offices around the country, through rural visits, delegations, investigatory commissions, joint visits, presence at events and demonstrations, etc.
- Consistent, rapid and visible responses to urgent needs.
- Interlocution and advocacy with authorities at both the national and local level.
- Strategic combinations of monitoring, advocacy and technical advisory work with state.
- The public voice of the office, through public reports and the media.
- Convening multiple actors –bringing state, civil society and international actors together.
- The facilitation of visits by special procedures and the High Commissioner.

Each of these practices and how they combine strategically will be discussed in more detail in subsequent chapters.

In the course of this research, we have also seen that the frequent recurrence of certain false dichotomies constrain people’s ability to think strategically and create effective multi-faceted protection strategies. One still hears, for example, “monitoring versus technical cooperation” “public advocacy versus quiet diplomacy” “challenging the state” versus “cooperation,” or “short-term” versus “long-term” impact. These dichotomies are often phrased in ways that pit two aspects of the work against each other when they should be complementary.

Our analysis, based on feedback from the field, fundamentally challenges these assumptions. Experience shows how quiet diplomacy strengthens public advocacy and vice-versa; how strengthening the state demands a willingness to challenge it; and that nuanced strategies can have both short and long-term impact. We hope in this process to undermine two false stereotypes of human rights field presences: a) the mission that only does public criticism; and b) the technical cooperation presence that is complicit with state abuses. While these extremes can occur, an effective presence requires a deeper understanding of the complementarities and inter-relationships between multiple approaches.

Over time, the consistent implementation of these combined approaches creates an increasingly efficient and cumulative protective impact. The image and perceptions created by the effective projection of presence, the credibility arising from consistent and high-quality work and an honest voice, the network of relationships built up through intelligent problem-solving or helpful responses – these all combine to become the essential *infrastructure* of effective protection. This infrastructure is a strategic asset in itself with long term value that strengthens almost any human rights intervention.

# 3

## Getting Out and Getting Close

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One of the most consistent and fundamental findings of this study has been the versatility and value of continuous national and local-level field contact, both for its direct impact, and for its facilitative effect on other, bigger-picture interventions. The daily interventions and constant discussion that human rights officers (HROs) can have with authorities and other key stakeholders are the primary tools of any human rights field strategy. The continuity of contact acts to build relationships and trust, and creates spaces to transmit concerns and suggestions for solutions. For this you must get close.

Visibility is well-understood as a factor that can add to protective impact: people see field offices, UN vehicles out on patrol, blue vests on the street or at events, and the consciousness of observation becomes a factor in their thinking. It encourages communities and civil society that they are not alone, and reminds potential perpetrators of the consequences of their actions.



OHCHR traveling to remote locations in Colombia. Photo credit: OHCHR-Colombia.

The dissuasive impact of field visits to communities was stressed over and over in field case studies. Local actors have seen repeated evidence of this impact, citing case after case of notable changes in behaviour of authorities, paramilitaries and others as result of HRO's visits to areas of tension. This dissuasive impact is something that field presences need to claim greater credit for, and continue to facilitate and optimize. In areas where visits are sporadic or infrequent, respondents always want more, but they also point out that each visit is remembered for a long time, and the potential of a return visit has a continuing and cumulative impact on moderating abusive behaviour.

The credibility and relative power of a field presence tends to be far greater in remote locations than in the capital. Regional and district-level civil society groups are more easily sidelined than those in a capital city, and they benefit immeasurably more from the visible support of UN human rights officers.

Moreover, the biggest human rights gaps are usually in the more remote locations, and are often least affected by on-paper improvements in the centre. A field presence that is based only in the capital will have few tools to ensure the impact of its work reaches the lives of those in the rest of the country.

For the same reasons, the absence of field presence and visits is also very strongly felt in the regions. Even in Colombia, which hosts a relatively large OHCHR office, respondents often stressed how limited the rural coverage is – the huge areas covered by a few understaffed offices, and the infrequency of missions to some highly sensitive areas. When the sub-offices have suffered gaps in staff, the reduction of presence has been felt immediately. Civil society and state actors alike are very cognizant of changes – when UN human rights visits become less frequent they often perceive it as a blow to their protection. Some also expressed concern that field missions were being constrained by what they perceived as an exaggerated increase in security caution by UN agencies in general – as one respondent put it, “When things are difficult is when we need them most.”

### **3.1 Sub-offices outside the capital city**

Sub-offices have been a key factor in enabling a broader field projection in the larger presences. A decentralized presence enables HROs to be close to where things are happening, respond rapidly, and establish daily contact with all actors, including in rural areas. The credibility of the field presences is linked to this de-centralized deployment. The existence of a local UN office makes a powerful statement, and short-term delegations and investigatory missions from these sub-offices remind people in isolated areas that they are not so totally alone.

“Without the presence outside the capital, the reports and recommendations would not be so relevant.” – Civil society activist

Local proximity is so vital that even if a physical office cannot be sustained, creative strategies must be applied to maintain the field presence and the close relationships which make it effective. Frequent and extended travel to the regions is better than nothing, but it is usually a poor substitute for a fixed presence because it is extremely difficult to sustain. A more sustainable option when no sub-office is possible might be a collaborative arrangement with other UN partners who can host an HRO presence through their infrastructure.

When OHCHR-Nepal lost its sub-offices in 2010 after a difficult mandate renewal negotiation, it still sustained a reservoir of credibility and trust from civil society in the regions, and it had a highly developed network of information sources and partners. It needed a logistical solution to take advantage of its potential for continued strong protection work in the regions. They needed to work out a way for some staff to still be permanently located outside Kathmandu, and for others to have job descriptions that explicitly prioritized their availability for frequent field trips. But distance and inertia proved to be powerful obstacles, and in the end the capacity for field protection in the regions was drastically reduced.

### 3.2 Maximizing visibility of high-impact actors

When the senior officials of a UN institution visit the sub-regions and communities the impact is even stronger. Most cultures have a high respect for authority and status, and the field visits of the HC's representative or deputy or the regional public releases of reports are very notable at the local and regional level. Similarly, the more the heads of sub-offices get out into the communities on the field missions, these higher-status visits can be used to add to the visibility, credibility and dissuasive impact of the overall presence.



The Representative of the High Commissioner for Human Rights in Nepal, meets with rural Nepalese community members. Photo credit: OHCHR-Nepal

When the field presence engages in joint field missions together with national actors (such as prosecutors, NHRIs, Ombudsmen, MPs, or other state actors) or international ones (such as members of the diplomatic corps), the protective impact is felt on multiple levels. Each entity in such joint visits brings its own status and power into the process. Often the UN human rights participation facilitates and even protects the field visits of national actors. Furthermore, the UN field presence can open up channels of communication between local communities and victims with state entities, overcoming a frequent generalized distrust of state entities. In essence, these visits allow a certain transfer of legitimacy – through which the reputation and credibility of the UN human rights presence enables the state agents to build their own positive reputation as human rights actors. The challenge is not to allow state actors to inappropriately whitewash their image through a superficial association with the UN, but to give the opportunity for legitimate positive initiatives to be acknowledged.

### **3.3 Examples: Mobile protection presence in the DRC**

In earlier years, the MONUC (now MONUSCO) human rights component in the DRC had a practice of “mobile teams” – a rotating set of teams of HROs who would be out visiting communities for two weeks at a time. HROs were thus constantly out in the field, assessing the situation and making the UN presence known, doing preventive diplomacy at the local level as well as collecting human rights data and identifying needs. Feedback was very positive about this mobile team approach, a human rights-focused precursor to the current Joint Protection Team model.

More recently, with the increasing importance of Protection of Civilians to the entire peace operation, MONUSCO has been expanding its projection of field presence through an integrated combination of Joint Protection Teams, Community Liaison Officers, flexible deployment of small MONUSCO military units and a network of community focal points. All of these elements get analytical and strategic guidance from the highest level of the mission through a Senior Management Group for Protection and a Rapid Response Early Warning Cell (RREWC) in the DSRSG’s office.

The system is intended to contribute to civilian protection as follows: Senior management teams at the regional level, together with the Early Warning Cell, assess risks and decide where to send out Joint Protection Teams (JPTs). These are multidisciplinary teams including representation from the military, UN Police, Civil Affairs, the Joint Human Rights Office<sup>3</sup>, JMAC, Political Affairs, Child Protection, Gender, and others. They visit an area and talk with all local stakeholders to assess possible strategies for addressing protection threats and vulnerabilities, and report back to management. Their recommendations might include advocacy to military leadership,

3. In earlier years MONUC had a human rights component, while OHCHR also had an independent office for the DRC. Now there is a single Joint (MONUSCO and OHCHR) Human Rights Office which reports to the SRSRG and to the High Commissioner for Human Rights, with funding and other support from both entities.

urging the National Police to make its presence felt in a region, proposing support for local community alert/early warning systems (radios, etc), proposing trainings for local authority around key issues or community sensitization (e.g. re SGBV), highlighting humanitarian needs for MONUSCO or other actors to respond to, proposing additional visits to neighbouring areas, encouraging dialogue among key local actors and more.

For security and logistical reasons, the Joint Protection Teams mostly visit communities where there is already a MONUSCO military presence. These small military bases now often have a “Community Liaison Officer,” a permanent national UN staff-person sustaining ongoing contact with the local community and assisting with the implementation of protection-focused recommendations.

Where there is no MONUSCO presence, a wide network of community focal points with mobile phones and radios provide early warning information to feed into MONUSCO’s protection analysis, informing decisions about the deployment of future JPTs and military units.



A human rights officer and a Civil Affairs officer in a Joint Protection Team visits an Internally Displaced Persons (IDP) camp near Kimua, Eastern Congo. Clashes between two armed groups had created insecurity in the region and brought many in the population to leave their home and belongings and settle near the local MONUSCO (Uruguayan) Temporary Operating Base. Photo credit: MONUSCO/ Sylvain Leichti

This is an impressive strategy and structure, with a high level of coordination and institutional buy-in, horizontally across units and vertically right up to the SRSB. This array of mutually-reinforcing mechanisms represents an opportunity for greater protection of human rights in those areas where they are being implemented. The Joint Human Rights Office has played a substantial and collaborative role in the

development of these tools at the senior management and regional levels. HROs are participating in all the JPTs, and the JHRO has found funding for new HRO staff positions which will be dedicated to working with JPTs.

A crucial potential of the JPTs – which is not consistently taken advantage of - is that of local preventive diplomacy. HROs on these missions, as well as other MONUSCO staff in the JPTs, need to make sure that they are not overly focused on gathering information for writing reports and recommendations, but are also ensuring that the visit itself has an immediate local advocacy impact. These JPT visits to localities, even though they are short, are unique opportunities for the UN to make its “protection voice” heard. It is a chance to impress upon local authorities, local traditional leaders, local armed groups leaders or liaisons, or local military leadership that the international community is watching, is close by, and will be back again. Any local actors who have influence over patterns of violence or abuse need to feel this UN presence – they should leave these discussions with a sense that there will be some political or other cost associated with future abuses.

Maximizing this immediate influence of the visit demands a clear strategy and collaborative preparation by each JPT. The JPTs are in a position to analyze which local actors have influence over dynamics of violence, make sure they communicate with these actors, and plan the messages that will have the greatest dissuasive influence. Where relevant, the community liaison officers should also be engaged in this message development, as they can continue to project it after the JPT is gone. The effective transmission of these messages – to perpetrators and their allies - can have immediate protective impact.

### **3.4 Simple interactions can have multiple dimensions.**

Even relatively simple field-level interactions often have multiple complementary purposes. An example of this can be found in Northern Uganda and Karamoja where, through its sub-offices, OHCHR facilitates “Protection Working Groups” together with the local Ugandan Human Rights Commission (UHRC). These groups bring together a diverse group of NGOs, CSOs, the UHRC, OHCHR and local representatives of the security forces to discuss protection issues and cases that have come to the attention of the participants. For each issue that is raised, action points are noted which are then followed up in subsequent meetings. In most cases, the military or police representatives commit to investigating the cases and reporting back.

These local-level meetings have a number of complementary effects:

- They provide a (relatively) safe space for grassroots complaints to be raised and potentially resolved.
- They inform potential abusers about what is occurring, and lets them know they are being watched, potentially acting as a deterrent to future abuse.

- They provide a bridge between civil society organisations, NGOs and state authorities, opening communication for other purposes.
- They are a valuable source of information for OHCHR to understand the ground reality and the roles being played by the different actors.
- They raise OHCHR's status and profile in the area and build their relationships with local actors.

### 3.5 Rapid responses to urgent needs

A field presence has a great potential for direct protection and for creating a reservoir of trust and support among allies and communities when it consistently applies its staff capacity to respond rapidly to calls for help in critical moments. Human rights advocates both in state agencies and in civil society repeatedly expressed their gratitude for this responsiveness, which they credit with keeping them or their colleagues safe when they were at risk, or with calming a tense situation with a timely intervention. As one civil society representative put it, "We call. OHCHR comes. And the paramilitaries leave." Respondents pointed out how the field presence can sometimes efficiently investigate a high-risk situation and make a public pronouncement with preventive impact within a day or two. In other cases a few quiet phone calls contributed to the release of someone illegally detained.

The trust generated by this kind of responsiveness is long-lasting. When it exists, people in civil society and the government who may at times be critical of the UN's choices will tend to give the field presence the benefit of the doubt, sustaining their alliance and support despite these differences or tensions.



OHCHR-Uganda field officer gathering information. Photo credit: OHCHR-Uganda.



OHCHR-Nepal Human Rights Officers interacting with a senior Nepal Police Official during a protest in Kathmandu. OHCHR-Nepal Photo, 2006

The Nepal OHCHR office developed a highly coordinated and refined system for monitoring demonstrations and preventing violence, combining the practices of “getting close” and “responding quickly”. At key moments of public unrest between 2005 and the April 2008 elections, the OHCHR-Nepal office mobilized all its resources to have a prominent preventive presence at demonstrations and bandhs, and this presence is widely credited with reducing the risk of massive violence. The process began with advance discussions and trainings with the police and army about the use of force, so it was clear what was expected of them, that they would be observed, and that OHCHR had fluid communication with their hierarchy. According to an OHCHR officer, at the demonstrations, “We have monitors out with jackets and radios, with very clear instructions and maps. We have an operations room. If the monitors see something and radio it in, we can go straight to their chiefs and report, ‘There was a baton charge in XX. No warning was given’. And they will be feeding it back down the chain of command. It’s a real time integrated system that has had a real impact.” Many observers credit these vigorous efforts with playing a crucial role during 2005 and 2006 in helping to usher in the peace process, and the relatively peaceful end of the monarchy.

Sustaining and implementing this capacity to respond is also *efficient*. For although it is most likely stressful and demanding to mobilize a response with little warning or planning time, the impact of such short-term mobilizations of interventions will far

outweigh the cost, because the preventive or protective impact of a single correctly-timed intervention can far exceed that of some longer-term investments, while the stronger relationships and alliances these interventions promote will often result in many unexpected benefits.

The *reliability* of this responsiveness is also very important. Just as trust is created when the field presence is perceived to come through under pressure, trust can be seriously damaged when the office fails to respond in a timely or adequate manner to an urgent need. This is a daunting challenge: obviously a UN presence cannot respond to *everyone's* urgent needs. But it needs to make choices based on a clear understanding of the benefits and costs of each response or non-response. The reliability of the response also should have a deterrent effect: the more that state actors come to understand that certain types of attacks or threats will never go unnoticed, the more they will calculate the political cost of these responses into their decision-making, and refrain from acts that will provoke such costs.

### 3.6 Resources and work-plans

Maximizing proximity to the ground and responsiveness demands resources, structural and policy decisions, and concrete work planning<sup>4</sup>. Clearly any fundraising and policy decisions (both at the field level and in Geneva and New York) that can increase the number and staffing of sub-offices will notably increase this level of protective impact. Given the limited staff in most field offices, conscious attention must be paid to limiting the amount of internal administrative, writing and meeting demands that may impede their ability to travel. This is especially true for management in the capital and any heads of sub-offices, whose field visits can potentially have greater impact, but who are often too overloaded with internal institutional and supervisory demands to get out of the main cities frequently enough<sup>5</sup>. Field visits should comprise an increasing component of the work plans of all management and program staff.

### 3.7 Conclusion

The ideas of this chapter are fairly straightforward, and mostly appreciated by human rights officers on the ground. Field projection and rapid response – through sub-offices, investigative visits, joint missions, mobile units and other modalities facilitate the protective capacity of the presence. Yet the decisions needed to take advantage of these potentials are not always taken. Field presences struggle for years with an insufficient number of sub-offices. Management staff are bogged down in internal business and do not get out to the rural areas to flex their potential for influence. Key

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4. See chapter 11 for further discussion of resources and institutional decisions.

5. Supervision, administration and planning are vital functions, so we are in no position to suggest specifically how work plans might be adapted in each case. The point here is that as future strategies and work-plans are constructed and these difficult work-allocation decisions are made, an effort should be made to increase the priority given to these “outside the office” functions of staff and management.

moments when urgent responses are needed are missed because the availability and time for such response was not built into HRO job descriptions.

When the right decisions are taken to implement the discipline of getting out there, however, a large mission can build a powerful protection momentum with hundreds of contacts over time, right down to the local level. Each contact is a protection opportunity, and the process contributes to the relationship building and complex strategies discussed in subsequent chapters.

### **4.1 The interaction of cooperation, pressure, voice and credibility**

A human rights field presence aims to change behaviour and policies in order to protect people from abuses. This effort is grounded in careful information gathering and analysis of human rights problems. There are different routes to achieve this objective that combine strategies of cooperation and pressure. This chapter will examine these strategies, how they complement each other, and how the development of a generalized perception of credibility multiplies their impact.

Cooperation activities contribute to protection by identifying problems, developing relationships with authorities who have the will to address these problems, and collaborating and supporting them in designing solutions. “Pressure” activities take the available information and present it to decision-makers, publicly or privately, in ways that illustrate or threaten potential costs of continued abuses or failure to address them. These decision-makers change behaviour or policy to reduce these costs.

A field presence is usually addressing gaps in both will and capacity and must blend both kinds of approaches into a single coherent strategy. Neither cooperation nor pressure functions in isolation. Cooperative approaches can make more substantial advances after political will has been mobilized through pressure. State actors can more easily respond to pressure when cooperative efforts have identified alternative solutions to problems. In many cases the lines between cooperation and pressure may even become blurred – the underlying goal is to exert constructive influence. This chapter will review some effective approaches of different types, and how they complement each other.

### **4.2 Technical Cooperation and field protection**

“Technical cooperation” is an extremely broad term that includes many different possible forms of assistance – usually to state agencies but sometimes including civil society groups. Although it is often associated with quiet and discrete advice or training, we found many cases where technical cooperation has gone much further and had important “secondary” effects such as building influence and identifying allies.

Indeed, as we will show, the creative and multi-dimensional use of cooperation has blurred the lines between technical cooperation, monitoring and advocacy.

One use of cooperation projects is simply to give skills and advice to governmental organs so they are able to comply with their own laws. In Colombia, for example, OHCHR began an advisory project to help state actors design and implement legitimate consultation processes after the Constitutional Court repeatedly declared numerous state projects unconstitutional for failure to meaningfully consult the affected indigenous population. This effort aims to ensure the right to participation, while the state sees it as helping it in moving forward legally with projects after adequate consultation.<sup>6</sup>

## Logistical support to facilitate justice

In other situations, national actors are critically in need of logistical support to be able to carry out their duties. In the DRC, for instance, the challenges of distance, volatile security situations and weak state institutions have resulted in long delays within the justice system. Logistical support from the MONUSCO Joint Human Rights Office (JHRO) has sometimes helped bring justice out to rural regions, acting to unblock the justice system so that it can more effectively function on the minimal resources it has available.

One such initiative of the Joint Human Rights Office has been to provide logistical and technical support to *Joint Investigation Teams* (JITs). The teams, made up of the JHRO together with relevant military/civilian/legal authorities, carry out investigations in isolated areas where human rights abuses have occurred. They have been seen to facilitate a quicker state reaction to abuses, as well as demonstrating to both the community and potential abusers that human rights violations do not always go unnoticed. The military prosecutor in Goma pointed out that the UN presence in the joint teams also provided security to Congolese investigators.

The Joint Human Rights Office in the DRC also supports *Audiences Foraines*, a process in which MONUSCO takes the entire judicial apparatus (judges, prosecutor, etc.) out to the provinces where there is no judicial infrastructure, and this portable court hears cases, pass judgments, and hands out sentences. *Audiences Foraines* can have an immediate impact, both in terms of protection for the community by sanctioning those responsible for human rights abuses and as a deterrent to others by demonstrating that justice can reach even very isolated areas. With the large number of arbitrary arrests in the DRC, and the number of people awaiting trials, an *Audience Foraine* can also reduce human rights violations in rural detention sites by rapidly resolving cases and reducing extreme overcrowding.

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6. See Colombia case study (<http://www.fieldviewsolutions.org/influence-on-the-ground>) . While this process improves participation, there are still serious concerns as to whether the state will pay adequate attention to the inputs in these consultations, and whether the projects it is promoting will ultimately benefit the indigenous population.

But *Audiences Foraines* are not only a means of supporting authorities, they also have the potential to place them under the spotlight and encourage better behaviour. Ongoing follow-up through monitoring and dialog would amplify this effect – even more if an *Audience Foraine* or some other judicial process would also take legal action against those police officers who arbitrarily arrest and detain people for their own gain.

These projects feed into the work of the JHRO in other ways as well, for example by confirming the involvement of high ranking military or police officials in human rights abuses, illustrating a particularly worrying trend, or shedding light on a region or issue that had gone unnoticed. In this sense they can yield information that is important to pressure authorities into action, at the same time as providing the ‘carrot’ of logistical support.

These tools should be used selectively in cases and places where the impact of justice being seen to be done will be greatest. When a Joint Investigatory Team visits, an isolated community sees that human rights violations are being investigated by national and international bodies. In an *Audience Foraine* they may see justice being done right there where the violation took place. This serves both to encourage/empower the community and local activists as well as to deter potential abusers, although in both cases care needs to be taken to avoid raising unrealistic expectations.

In another example of logistical support, the OHCHR in Cambodia assessed the linkage between lack of capacity and level of abuse in the prison system, and then initiated direct material support programs with the prisons. In addition to addressing specific needs, these programs strengthen relationships with prison authorities, opening doors for monitoring and subsequent intervention to address specific problems.

## **Creative training approaches**

Training of state actors or security forces is a classic tool of technical cooperation which many field missions have engaged in. Beyond a general dissemination of human rights concepts, the explicit protection goal of such training is to reduce those abuses that result from lack of understanding of the law and lack of familiarity with alternative modes of operating. But training process can also serve to reduce barriers between state authorities and civil society actors. The training environment can bring together in a neutral space groups that would normally have more adversarial interactions.

The Nepal office developed a very creative training approach to the issue of police use-of-force at public demonstrations. In a three-day training on the issue for both police and civil society actors, one day was spent working with civil society actors, a second working with the police. On the third day, the two groups worked together to understand each other and the issue. The process involved role-playing in which each group had to take on the role of the other and plan their approach to a potentially volatile demonstration. This process not only educated both groups but aimed to create bridges of communication and improve trust.

## Mexico: from “National Diagnosis” to monitoring

Some technical cooperation can lead directly into monitoring activities. The “National Diagnostic” processes in Mexico were initially a form of technical cooperation, in which the OHCHR office brought together multiple actors from the state, civil society and academia to produce a thorough assessment of the human right needs of the country for the government. Like a collective national monitoring process involving many entities, it identified problems and yielded many recommendations for action and policy. More recently, an expanded OHCHR office has been supporting regional-level diagnostics in various parts of Mexico.

Training can also act as an entry point for monitoring activities. Several respondents stressed that training projects with security forces are far more effective when they are linked to subsequent follow-up in which participants are held accountable to the lessons of the training. The creation of such internal accountability mechanisms can be one of the objectives of the training project itself.

## Strategic cooperation

With many creative possibilities available, field presences have the opportunity to consciously and deliberately select the forms of technical cooperation that offer the greatest possible “secondary” effects. Technical cooperation builds bridges, opens doors, and sends messages. It can be the entry point for closer day-to-day contact, or have a direct monitoring effect. It can generate systems of accountability. Just as a field operation selects “emblematic cases” for investigation based on their potential to influence broader policy and practice, technical cooperation projects can also be strategically “emblematic” – conceived and selected to achieve very specific goals.

Despite its flexibility, cooperation has inherent limits. The goals of a state are not the same as those of a human rights field presence. States – and individuals within them – have interests that are not related to human rights. The first loyalty of a human rights presence is to international human rights standards, rather than the mix of political interests of a state. In many cases, this divergence of interests is brutally apparent. Cooperation can remove logistical and circumstantial barriers to a state’s compliance with its human rights obligations and it can be an important entry point for other approaches, but when underlying interests need to be challenged, it will not suffice.

### **South Sudan, convening local justice system to solve a problem**

Cooperation can also take the form of bridging divisions between different parts of the state. In one region of South Sudan the court, prosecutor, police and prison were all passing the buck about responsibility for delays in due process and not talking to each other. After one HRO established a good relationship with the prosecutor, that prosecutor decided it would be a good idea to have a formal meeting with his counterparts to discuss the problems. But he felt he could not himself convene such a meeting himself. Instead he asked UNMIS-HR to use its neutral credibility to convene the different actors.

## **4.3 Influence and Pressure**

The ability to exert targeted political pressure is a key tool available to human rights field presences. Pressure can be generated in diverse ways: public reports and statements, or quiet meetings with a superior. Sometimes the simple act of being present at a site of potential abuse effectively embarrasses state actors into refraining from such abuse. One of the most common ways for human rights presences to generate pressure is through public outspokenness and criticism.

### **Raising cases up through the hierarchy**

Detailed investigations of specific human rights abuses are commonly used as a tool of pressure. It is fairly standard procedure that individual cases are recorded and then raised with authorities for their action. In Uganda, for example, cases are reported to OHCHR during its field visits, through direct reports from victims, or they may be raised during meetings with local civil society actors. These initial reports are then systematically brought to the attention of the security forces thought to be responsible. The immediate goal of this follow-up is to put a stop to the specific abuses and potentially generate some restitution for the victim.

But why do these interventions – polite meetings for the most part – have the power to influence the supposed perpetrators? Why should a military commander pursue a case or change his troops' instructions because of a visit from a UN human rights presence?

The motivations for each individual commander will differ, but the core premise of most interventions is that increased attention to human rights abuses is bad for the perpetrator of that abuse. In the case of an abusive military, exposure of an abuse damages the reputation of the responsible unit, and causes problems for the commander with his superior. The intervention is a way to send the message: "Do something about this, and stop it happening again, or you will get problems".

But this message loses credibility if repeated interventions don't result in changes, and don't impose any costs on the perpetrator. So when there is no progress at one level, the office intervenes with superiors at a higher level. This is echoed back down through the hierarchy, generating a new kind of pressure at the lower level: both to take action in the short term, as well as to be more responsive to future requests. The simple fact of bringing a case to the attention of a superior is intended to be a "cost" that neither the senior or junior officer will want to repeat. If there is still no response, the process can be repeated and the issue raised at a still higher level in the hierarchy.

## Promoting systematic patterns of accountability

While each intervention aims to influence individuals, the ultimate goal is bigger. One must get beyond ad-hoc interventions on individual cases, and encourage attitudes, patterns, and functional *systems* that influence these individuals without UN intervention. Direct individual casework is intended to have human rights impact beyond the specific cases themselves. It is supposed to contribute to a broader dynamic whereby human rights violations *are prevented* through the effective deterrence of functional national accountability mechanisms.

"Accountability" is used here in the broad sense, meaning not just formal or criminal systems, but any processes that reliably create costs for an abuser. These costs could be delivered through formal systems – i.e. judicial and criminal processes or internal disciplinary procedures, or just through the informality of "displeasing one's boss" inside a hierarchy. Costs could also be caused by public exposure driven by civil society organisations. Raising cases with the security forces is thus part of this broader plan to strengthen accountability structures, in particular those internal to the military itself.

OHCHR in Uganda, for example, regularly attends Ugandan Army courts martial in Karamoja to observe disciplinary action related to cases it has been following. Sometimes the Office is told that courts martial are taking place either via an official message, or simply through its regular informal contact with the military. OHCHR then follows-up again by giving the Army quiet advice on any due process limitations it has observed.

One-off cases are also important opportunities to reinforce good practice and encourage clear standards at an internal level. They support elements within the security forces that may, for their own reasons, want better discipline and internal processes, and they encourage institutional habits that may outlast the direct presence and implicit pressure of the presence.

To achieve these sustained impacts, however, systematic and repeated interventions are critical. The more incidents are captured and reported, and the more predictably costs are generated, the greater the effect of strengthening internal habits of prevention and response.

In some cases, this kind of follow-up process can be directly integrated into the practices of state authorities. *Comités de Suivi* (Follow-up Committees) in the DRC, for example, are formally established multi-lateral committees including the UN Joint Human Rights Office, the judiciary (military or civilian) the Commanders (military or police), and in some cases civil society representation. These committees monitor actions taken on allegations of human rights violations by police and military. Their meetings provide a regular space in which cases of human rights violations by soldiers and police can be dealt with rapidly and efficiently. The JHRO provides the initial impetus for these meetings, and serves as a regular reminder and potential source of pressure if the military or police command is not fulfilling their obligations to press cases forward.

These follow-up committees function better in some places than in others. In one case they functioned particularly well because the regional commander understood the process as a means of control over his troops. The JHRO provided him with information about the behaviour of his troops that he otherwise would not have, and the *Comité de Suivi* process enabled him to deal rapidly with problem individuals. In advocating for human rights with the military leadership it can be an effective strategy to appeal to the military principle of control and command.

## **Conditionality – leveraging resources to protect human rights**

In some cases the UN’s own substantial economic and military resources can provide leverage to sanction and dissuade abuses by its allies. In the DRC, MONUSCO provides significant support to the Congolese government and military, including direct support for military engagement with armed groups. MONUSCO’s ‘conditionality,’ or ‘zero tolerance’ policy, explicitly outlined in the text of UNSC Resolution 1906, obliges MONUSCO to selectively choose which operations and military units will benefit from its resource support, based on the criteria of the human rights records of individual officers.<sup>7</sup>

This informal vetting of FARDC officers limits these officers’ participation in key military initiatives – a cost with potential deterring effect. MONUSCO staff communicate in advance to the military command when they know they are going to have a problem offering support. In some cases, based on MONUSCO advance warning, the FARDC has removed certain officers from command of certain operations to avert a MONUSCO withdrawal of support, and in some cases MONUSCO has implemented the policy fully by refusing material support to operations where known violators remained in command.

For this policy to have a longer-term preventive impact, it must over time create predictable costs for abuse, by establishing the belief within the officer corps that

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7. The conditionality policy to some extent emerges from a need for damage-control by the UN, to protect itself from moral, political and potentially legal liability for the substantial war crimes and abuses of FARDC elements that benefit from UN support.

“significant human rights abuse will hurt your career” including by limiting the access of the worst abusers to control over the most preferred assignments.<sup>8</sup>

## Vetting of individuals in security forces

“Nobody wanted to be on any of OHCHR’s lists. That couldn’t be good for you.” – Nepali police officer

The possibility of a UN peacekeeping assignment can be an important incentive or perk for Army and Police officers, and the risk of losing this opportunity can be a powerful motivator. When OHCHR first arrived in Nepal in 2005 and began visiting military barracks, police stations and places of detention there was an immediate impact, which many observers have attributed to the possible career-limiting impacts of being listed by OHCHR as a human rights violator, and consequently prevented from serving in peace operations.

In practice, however, the ability of OHCHR to influence DPKO recruitment processes has been limited. Although DPKO accepts in principle that individuals facing credible allegations of serious human rights violations should be barred from missions, it does not have any independent systematic process to ensure this actually happens.

Nevertheless, interventions by OHCHR have resonated within the officer ranks. In one high-profile case, a senior Nepali officer serving with MINURCAT in Chad was humiliated by being publicly repatriated to Nepal after his links to an outstanding disappearance case were brought to the attention of DPKO.

Bi-lateral training opportunities are another important “perk” which can be threatened by a history of human rights abuse. Field presences can be in a position to furnish information about violators to states who offer military training or even visas to military or police officers.

In the absence of more formal institutional accountability, these vetting processes offer important opportunities to apply costs to human rights abusers, and should be implemented more frequently and rigorously.

## Conditioning political support on results

Withdrawal of political support can also be an effective source of pressure on a smaller scale. Individual government programmes can get a lot of credibility from having the UN’s involvement or public support, and this “carrot” can be a motivation

8. For further discussion of the conditionality policies and its implications, see case study, “Protecting Human Rights in the DRC: Reflections on the work of the Joint Human Rights Office and MONUSCO,” at <http://www.fieldviewsolutions.org/influence-on-the-ground>.

to ensure appropriate standards are maintained. In Kenya, for example, the Human Rights Advisor withdrew support for the Truth, Justice and Reconciliation Commission when she judged that it was no longer credible due to a lack of independence. This loss of support was keenly felt by the commission. After the government took steps to address its weaknesses, support and cooperation were resumed.

Other actors can effectively use the UN's presence to create pressure – even from within the state itself. In Colombia, some local Defensores (state human rights workers) used the international community as a kind of threat with other authorities, letting them know that without cooperation they could call in the UN. When OHCHR does a joint visit to a locality with a state human rights entity, these state actors continue to call attention to the UN's interest in their subsequent visits to the same locality.

## Daily Influence

Although big “sticks” like conditionality and vetting can be effective, most of the pressure exerted by field presences around the world is more subtle and indirect. The day-to-day contact described in the previous chapter – field visits, regular meetings, informal chats etc - acts as a form of pressure by being an implicit threat of exposure for abusive behaviour.

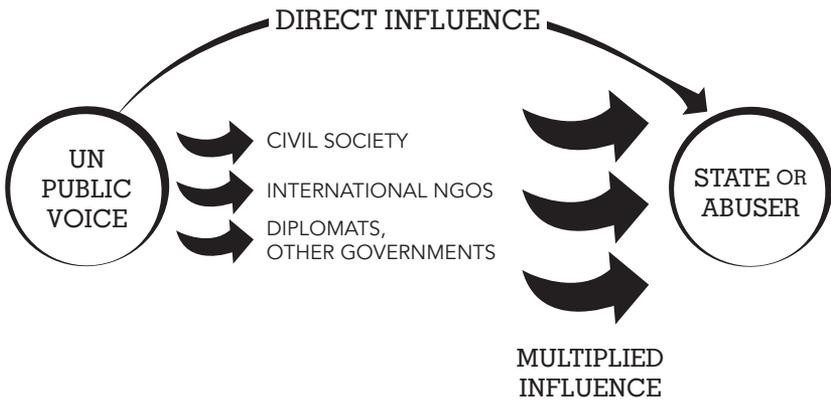
In each of the examples above of the use of pressure, the intention of the field presence goes beyond influencing a few individuals and aims to create a sense of predictable costs when human rights obligations are not followed. For this to happen, simply generating costs is not enough: these costs must be widely communicated and understood by others as likely consequences of human rights abuse. Abusive actors have to suffer the consequences, but more importantly, others have to know about it, so they are dissuaded from future abuse.

## 4.4 The public voice of a field presence

Just as there are limits to what can be changed by cooperation without pressure, there are inherent limits to “quiet” pressure without using the public voice of the UN. State officials are very concerned about the reputations and image of their country and of themselves as individuals. High-level decision-makers within non-state armed groups are often similarly sensitive. Leaders' behaviour is affected when they know that ongoing human rights abuses committed or permitted by forces under their control are going to be revealed publicly, especially when the revelation is delivered with the power of the United Nations' official voice. Such pressure has many impacts. It encourages positive reforms. It brings hidden issues to light, raises the profile of vulnerable or isolated groups, or counter-acts hate-speech or false accusations.

In every country studied, feedback emphasized that the public use of human rights information was one of the few effective weapons available to confront the impunity of high-level abusers. It might mean visible public reporting, the use of the media, or public voices of other influential actors. There is also the in-between option of semi-public sharing of information with donors, embassies, international bodies or other entities whose opinions are important to the officials involved. Respondents strongly urged the UN leadership to speak up more actively by calling public attention to abuses at levels of authority where local actors cannot be heard. They pointed out how they can make effective use of the UN’s public pronouncements to multiply the human rights impact. (See figure 4-1)

**FIGURE 4-1: OTHERS MULTIPLY THE IMPACT OF THE UN HUMAN RIGHTS VOICE**



Whichever way it is done, the critical use of the UN’s public voice often creates costs to abusers of human rights. The relationship between negative publicity and the reality on the ground should be clear and predictable: Decision-makers need to know in advance that when violations are occurring they are likely to receive criticism, and that if things are done well they will not.

In MONUSCO, senior staff outside the human rights component pointed out that the publicity of human rights violations was about the best leverage the peace operation had to reduce abuses by the FARDC (army) because many abusive officers have aspirations of political legitimacy and do not want to be perceived as abusers. This perception was confirmed by judicial authorities who commented that it was only with both private and public UN pressure that they could get the Military Command to put violators through the justice system. Other political authorities, in contrast, strongly urged this study’s researchers to dissuade MONUSCO from ever going public or talking about abuses to the media – their vehement pleas were clear evidence of their sensitivity to public pressure.



OHCHR human rights officer in Uganda interviewing a victim of arbitrary arrest and ill treatment. Photo credit: OHCHR-Uganda

In addition to being a classic tool of pressure for change, public statements and reports can open spaces for other actors to engage safely in human rights work, encourage networking, and strengthen international engagement. They also clarify the nature of international human rights norms, clarify public perceptions of the field presence and establish it as a credible authority.

## **Effective public reports**

OHCHR and other human rights field presences can certainly be proud of the quantity, quality and content of their public reporting. Historically, many reports have generated pressure by focusing on “emblematic cases” or documenting trends or systemic failures.

For example, the human rights component of UNMIL (Liberia) produced a detailed report on the impact of the Liberian rubber industry<sup>9</sup> on human rights which resulted in legal cases being brought in the US and Europe against the US/Europe based controllers of the rubber plantations. It influenced the government to renegotiate agreements with foreign rubber companies, allowing the workers to work directly for the foreign companies rather than through intermediaries.

In the DRC, public reports of the human rights component of MONUC (now MONUSCO) have contributed to the international promotion of the Protection of Civilians agenda, ensuring that concerns about impunity stayed on the public agenda. OHCHR also produced a painstakingly researched “mapping” report, which catalogued the most serious violations of human rights and international humanitarian law committed in the country between March 1993 and June 2003. The report,

9. “Human Rights in Liberia’s Rubber Plantations: Tapping into the Future”, UNMIL, May, 2006.

## A Powerful Annual Report

When a field presence develops sufficient credibility and clout, release of its reports can become events in themselves. In Colombia, for example, the release of the OHCHR Annual Report is the dominant human rights event of the year. The report has served to focus national debate. By consistently following up on unresolved problems year after year, it has generated or promoted governmental and multi-lateral processes aimed at practical problem-solving. The office's other pronouncements, whether in reports, press releases, radio, television, opinion columns, Facebook, or Twitter, are all crucial tools for other human rights actors in the country. Government respondents pointed out repeatedly how closely they watch the Annual Report and other public messages of the office. They understand that the concerns of the OHCHR office cannot be ignored – they demand a response.

Civil Society and government human rights workers in Colombia stressed that although they themselves also issue reports and public statements, it is common knowledge that none of their statements carry the weight of OHCHR's. For them, therefore, OHCHR's public voice is crucial – they can use it to reinforce their own, replicating and calling attention to the UN's concerns while complementing the UN's voice with their own pronouncements.

Local government workers pressing human rights issues noted that when their regions or their cases are mentioned in the annual report or any other public statement of OHCHR, they witness an immediate positive reaction from other authorities prompting a level of collaboration that is unattainable without this public pressure.

Spokespersons for different ministries admit that although the critique of government behaviour is not appreciated by everyone, there is generally a high level of respect for the impartiality and practicality of OHCHR's public approach. Problems are described honestly but practical solutions are proposed and help is offered, making it more difficult to dismiss concerns.

characterized by the government as “credible,” put pressure on the government to take steps in the direction of a truth and reconciliation process.

In general, UN human rights reports can also have powerful indirect effects by bringing important issues into the national dialog and by providing high-powered ammunition for other actors' advocacy strategies. By legitimising certain discussions, human rights reports can create space for national civil society organizations to continue to raise the same issues, using the UN as a respected and neutral source. In most cases, there are national NGOs who can produce decent human rights reports, but they cannot speak with the credible voice of the UN. Opening space to national organisations can be one of the most sustainable impacts of a field presence, given the crucial long-

term role played by civil society. In most cases field presences should be putting far greater conscious effort into this element of their reporting strategies.

While civil society often appreciates the UN’s public reports, they are usually equally quick to point out where they see weaknesses and gaps. In many countries civil society perceive reports as too short, too infrequent, too slow in getting published, or too weak in their conclusions. Civil society actors almost universally want more public reports from the UN, and they want them to speak the truth firmly and clearly.



Human rights officer taking testimony in Colombia. Photo credit: OHCHR-Colombia.

## Improving Public Reporting

Good reports are expected of a field presence, and the credibility of a presence suffers if reporting is weak or insufficient. The civil society complaints mentioned above are often on-target, and echoed by UN human rights staff themselves. Report releases are often horribly delayed - almost to the point of losing their strategic value - by inappropriately demanding lengthy approval processes at the level of SRSG’s or Geneva or New York.

Worse, reports are sometimes blocked, delayed or have their content watered down for exactly the political reasons that local activists fear, lending legitimacy to their suspicion that the field presence is self-censoring in order to facilitate a better relationship with the state. This “accommodation” undermines the dissuasive effect of reporting process itself. No longer does a report predictably reflect the reality of the situation, rather it becomes a political calculation of what a presence thinks it can get away with. States will quickly conclude from this that threatening to reduce the state relationship with the presence is an easier way to reduce criticism than improving behaviour.

Even the perception of self-censorship can damage the credibility of a presence in the eyes of national actors, being interpreted as a sign of weakness. In Nepal, a period of relative absence of public voice – after a history of being very outspoken – clearly contributed to a perception of a weaker office by 2010. Self-censorship is particularly wasteful since one of the crucial added-values of an international human rights presence is its unique potential to raise sensitive issues and do firm advocacy that may be too difficult or dangerous for local organisations. When international presences see themselves as unable to speak out, local organisations naturally begin to wonder why they are there.

The legitimacy of the UN human rights voice is a powerful tool that can be used with much more frequency. Occasional or periodic long reports are not the only means of reporting. Weekly updates, newsletters, public statements, use of media, shorter thematic or incident-based publications and statements are among the many options available. Some human rights components in peace operations have been able to use lower-level regional and sub-regional periodic updates (which do not require the same level of HQ/SRSG approval) as a mechanism for more prompt public advocacy.

Despite the quality of the content of most public reports, they are not always used to full effect. Reports often appear to be written as ends in themselves, rather than conceived of as elements of comprehensive and targeted strategies.

“I realize now, that these reports were not going anywhere. The unit was enthusiastic, but they were not used in any practical way. If I spent less time on sophisticated reports and more time talking with the prosecutors...we would have had more impact”. – HRO in Sudan

From the very moment of conception of an investigation intended to yield a public report, there should begin a process of strategizing how the report will be used after it is published. The content and language of the report should correspond to this intended usage, so that human rights officers can walk in to any office, be it a state actor, an embassy or civil society, and use it to back up an advocacy message to influence or promote specific changes. Mission and HRO work-plans need to invest sufficient time in that advocacy process, to avoid that by the time one report is produced and approved, everyone has already moved on to other projects. Rather than thinking of report-creation as the main event and subsequent advocacy as optional ‘follow-up’, a field presence should be thinking of reports as tools for later use by the field presence, civil society, or some other actor. It is the advocacy and other actions yielding protection impact that are the main event.

## Strategic follow-up: The Bardiya Report

There have been many positive examples in which the release of a report has been part of a consciously designed strategy of building pressure towards concrete state action. One such example is the “Bardiya report” in Nepal<sup>10</sup>. In 2008, OHCHR released a comprehensive report on its investigations into a series of disappearances that occurred in Nepal’s Bardiya District during the conflict between government and Maoist forces.

While research for the Bardiya report was being carried out, the follow-up advocacy was already being planned. After the report was published, OHCHR engaged in protracted advocacy for a Commission on Disappearances, including facilitating the participation of victims committees in related legislative discussions.

For the one-year anniversary of the issuing of the report, OHCHR facilitated a visit to Bardiya by members of the diplomatic community, with a strong focus on hearing the experience of victims. This visit made a big impression on many of those who visited and was clearly remembered years later.

The report-writing process itself also strengthens the effectiveness of the day-to-day work of HROs in the field. To local authorities, a formal investigation is bringing “capital-city power” out to their territory, and it can reinforce the status and perceived influence of local human rights offices.

The research process can also be crafted to have immediate and direct dissuasive impact even before any report is written: an abuser may behave differently if they know their acts are being documented.

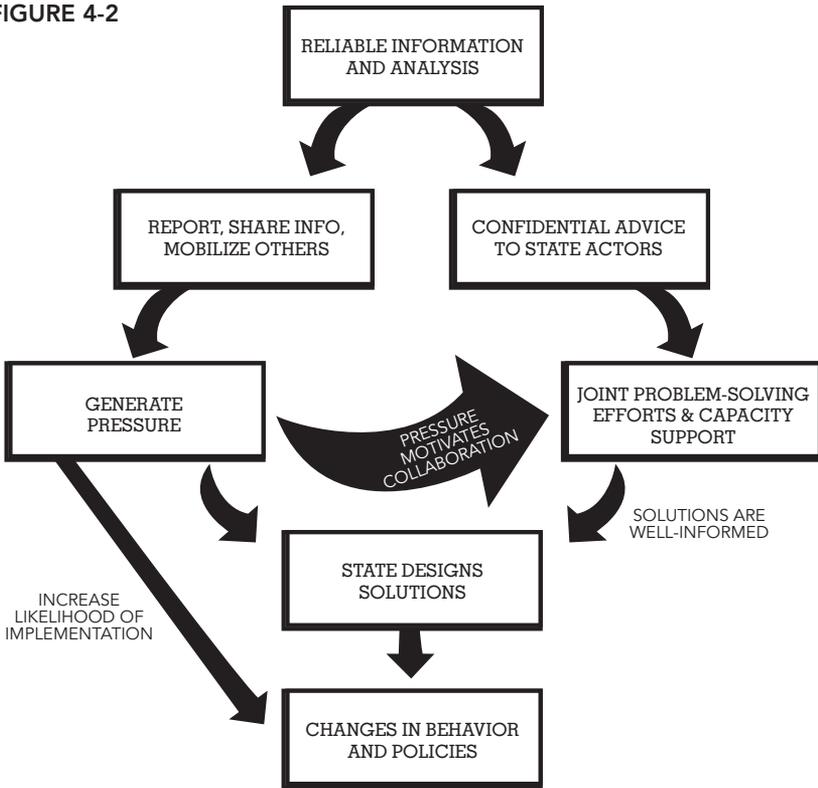
Going public is a very potent tool. Not only does it create pressure directly, but the voice of a field presence can also be amplified by other UN voices for expanded impact (further elaborated in chapter ten). Public statements or reports are not the answer to all problems by any means, but feedback in this research suggests that profile and voice are two of the most valuable, influential and distinguishing assets of a UN human rights field presence – and that they are not sufficiently used. Fear of using the UN public voice is prevalent throughout the system, and will be discussed further in chapter five.

### 4.5 Mutual reinforcement – Cooperation and pressure

The reinforcing relationship between pressure and cooperation is clear in the discussions above, and is illustrated in figure 4-2 (see next page). For instance, state actors who collaborate in Colombia to improve indigenous consultation processes also know that they may be under public pressure if they fail to do so. Judges who

10. *Conflict-Related Disappearances In Bardiya District*, OHCHR, December 2008

FIGURE 4-2



accept MONUSCO support to do an *Audience Foraine* are implicitly under pressure to follow-through on cases they hear. Material support to a prison in Cambodia comes with a dialogue about reducing abuses.

A carefully managed cooperation or training programme can support sympathetic identified human rights “champions” within bureaucratic or oppressive institutions. These allies can play an important role exerting pressure on the inside. A cooperation programme that builds links with civil society – such as the National and Regional Diagnostics in Mexico – paves the way for ongoing multi-lateral pressure campaigns by many actors. The same micro activities – a training, an ad-hoc meeting, or a visit to remote community – might easily contain cooperative and pressure-building elements within a broader complex strategy to influence change.

Human rights field presences need to continue seek strategic ways to combine these approaches. A number of presences have realigned their internal structures away from the dichotomy of “technical cooperation” and “monitoring” – and they have done so for good reason. The artificial structural divisions can make it more difficult to see the opportunities for combined impact.

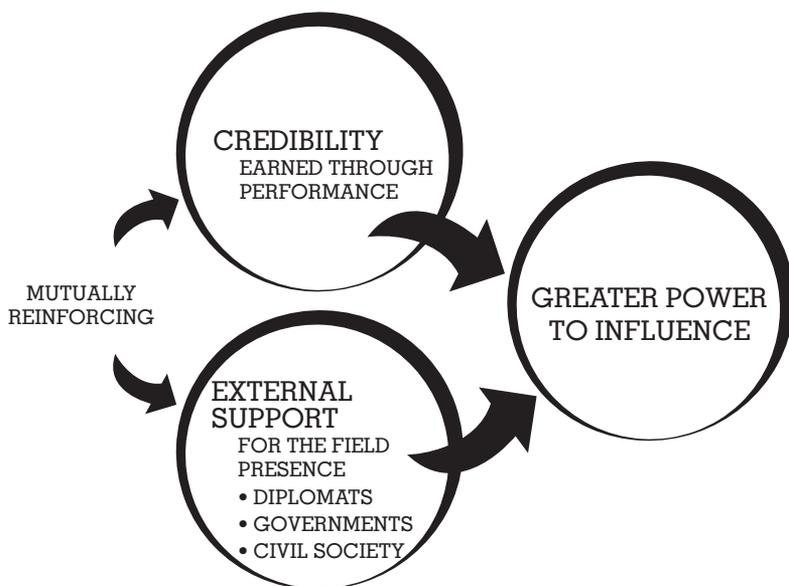
## 4.6 Credibility and Power – multiplying impact

“We let OHCHR go anywhere they like in our prisons whenever they want. Of course we let them in. They are the UN. If we don’t let the UN in, who would we let in?” – Senior Prison Official, Uganda

The credibility of a presence – how much people believe in its legitimacy and effectiveness – is one of its most fundamental assets. Almost every activity of a presence is made more effective if the presence itself is respected and perceived as having weight and clout: People will meet with you and listen to what you say, public statements will be reported and believed, advice will be taken more seriously, and the simple presence of an HRO in the field will carry more weight.

Consider, for example, the profile of the OHCHR offices in Colombia and Nepal. OHCHR has earned a high degree of credibility and legitimacy in Colombia during over 15 years of presence. It is seen as a fixture on the human rights scene and its leadership and guidance are highly respected – and expected – from human rights advocates both in government and in civil society. Words like “a beacon”, “a guidepost”, “a reference point for human rights”, “landmark,” and “lighthouse” were used repeatedly to describe the office’s impact. The office is perceived to effectively

**FIGURE 4-3:** SOURCES OF INFLUENCE



represent and wield the political clout of the UN system in favour of human rights. Even beyond the UN system it is seen as the pre-eminent representative of the international community in Colombia on human rights issues.

In Colombia, the combination of political clout and unassailably competent work has generated what appears to be a nearly-universally shared perception of legitimacy that puts the office in a very strong position to stand up for protection of human rights even when such stances involve confrontation with very powerful Colombian forces. Even those entities that wish the office gone seldom consider it politically wise to say so. Most interlocutors agreed that the resulting impact of this reputation can be felt in every activity of the office – from the dissuasive value of a simple visit to the countryside or a private phone call to a Ministry, to the universally respected impact of its annual reports.

In Nepal, the arrival of OHCHR in 2005 made a major impression. The entry of the presence was the culmination of a determined and coordinated campaign by Nepali and international activists, which had placed increasing pressure on the government to allow international oversight. This strong local support was a key strength of the office, which it then consistently honoured and built on.

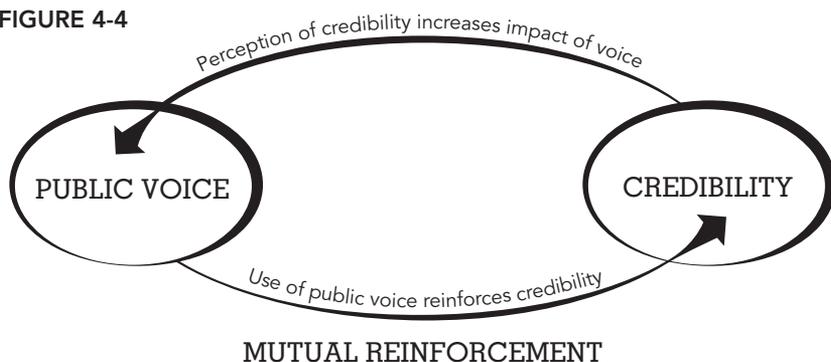
The appointment of a high-profile and senior UN Representative of the High Commissioner for Human Rights in Nepal was an early step that sent a strong message that “things are different now, the world is watching”. Even with a small initial team, the office made full use of its elevated status by projecting its presence as widely as possible. HROs were allowed unprecedented access to military barracks and places of detention. OHCHR cars were regularly allowed through street protests even when other UN vehicles were stopped.

Maintaining this operational space required constant attention. The office was assertive of its role when it needed to be, and highly supportive towards the activists that were responsible for bringing it to the country. The Representative was a constant feature in the news and in political events.

This high visibility and levels of access fed back into the status and credibility of the Nepal office – it was seen as something qualitatively different from what had been there before, yielding better information and greater influence. This allowed it to have an immediate impact across the country, out of all proportion to the actual size of the team that was there.

Years later, OHCHR was still benefiting in Nepal from the image it built during this early period. It is widely credited with helping to bring peace, while its support and protection of political party activists in detention in 2005-6 is still remembered by all. At the local level, activists respected the ongoing commitment and availability of OHCHR offices and staff, and most authorities acknowledged their professionalism and neutrality. Despite some accusations of political bias, OHCHR was generally seen as a rare neutral actor, especially in the field outside of Kathmandu.

FIGURE 4-4



### Credibility opens doors

In both countries, this credibility opened many doors to OHCHR and facilitated communication. It made influence or intervention in most situations more efficient and allowed OHCHR to influence many issues simply by showing up. OHCHR can convey pressure at times with a simple phone call, whereas a field mission without such credibility cannot always get government authorities to listen. When such credibility exists, the amount of effort required for every single intervention is greatly reduced.

Credibility has such importance for human rights presences because much of the impact they are able to have is a result of their perceived influence on other actors. When a mission is seen as well informed, well respected and powerful, its status is at its peak. Conversely, when its perceived influence is diminished for whatever reason, whether through lack of legitimacy, strength, leadership or something else, much of the day-to-day impact suffers as a result.

One powerful conclusion of this research is that the credibility of a field presence and the effective use of its public voice are closely linked (see figure 4-4). A field presence that builds up an image of credibility can speak with a strong voice, and it will be paid attention to. At the same time, in a circular process, speaking with a strong clear voice is one of the very factors that contribute to that same credibility.

Credibility and clout are a result of hard work, and it is earned through consistently high-quality investigations, clear reporting, and constant contact-building. This combines with the political support of many other actors, including civil society and the diplomatic community and others. Each field presence needs to constantly be nurturing and building up this credibility through each action and relationship.

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In summary, a field presence can maximize its influence and generate the greatest protection impact through strategic blending of cooperation and pressure. The public voice of the UN is a crucial tool for such influence. And the long-term credibility the presence develops multiplies its impact at every turn.

Establishing effective relationships with state authorities is a crucial factor in a field presence's ability to have a protection impact. A presence needs relationships that maximize its influence and impact while also being strong enough to endure frictions and difficulties.

One key challenge is to determine how is it possible to maintain effective relationships while still generating pressure, using voice and demonstrating clout. How do you keep the benefits of working closely and constructively with government while also sending a clear message that there will be negative consequences when the state violates human rights? In different field presences we encountered similar concerns about this dilemma: fears of damaging trust and losing access to key interlocutors; fears of losing access to specific places where investigations are needed, and fears of jeopardizing future mandate negotiations. Addressing this dilemma demands a complex combination of skills and activities. At its core, it is about the interplay between power and trust.

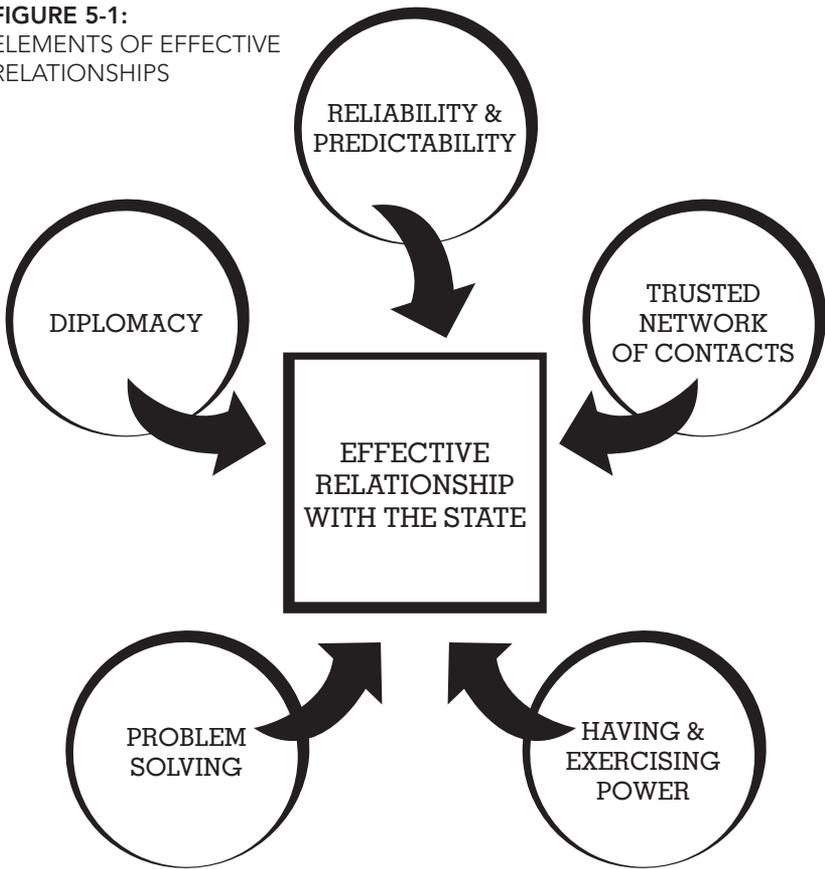
## **5.1 Elements of an effective relationship**

Despite the diversity of politics and personalities from one country to the next, there was broad agreement among respondents regarding the qualities, skills and approaches that are necessary to have an effective relationship with state authorities. Five elements emerged as especially important:

- a) Reliability and predictability
- b) A professional and diplomatic style of communication
- c) Monitoring and criticism is linked to a problem-solving approach
- d) Developing and sustaining trust with a diverse array of state contacts
- e) Having multiple sources of power and support, and exercising that power

As we discuss each of these, we should keep in mind that an effective relationship is not the same as a friendly relationship. To be truly effective there needs to be space to communicate difficult concerns. The role and obligations of the field presence as a voice of the UN on human rights issues must be respected. A relationship that is personally very smooth may be gaining little if is contingent on too many self-imposed constraints.

**FIGURE 5-1:**  
ELEMENTS OF EFFECTIVE  
RELATIONSHIPS



## Reliability and predictability

A field presence must be consistent, dependable and predictable. Its partners need to know what it stands for, what kinds of things it will say or not say and how it is likely to act in any given situation. There are many aspects and sources of this reliability.

- *Flawlessly accurate information* based on its own independent monitoring.
- *Clearly articulating the mandate of the office and acting consistently within it.* Many state actors have inaccurate understandings of UN human rights mandates – including stereotypes that link human rights to subversive groups. A presence needs to constantly correct these stereotypes with a clear discourse that explains its actions, including its most critical statements, within the mandate accepted by the state. State actors need to understand the international

and reporting obligations of OHCHR and its role as a bridge to the international human rights system as a whole.

- *Consistency in positions and message.* The presence can't use double-speak, or back down or compromise on fundamental human rights principles. This clarity and consistency is not as simple as it may sound, because a credible field presence often has to wade in and get its hands dirty in very complex issues by providing analysis and recommendations when stakeholders are polarized and polemics dominate the debate.
- *Avoid surprises,* through ongoing private contact and dialogue and by providing key stakeholders the opportunity to see and comment on public reports before they are released.
- *Consistency in actions and responses to situations.* State agents should know what to expect from a human rights presence. Certain state actions should predictably generate a supportive response from the UN field presence while other actions should consistently result in public or private statements of concern.

The population is increasingly able to understand the concept of independence. If OHCHR can always stand for the same principles it can be understood. It is a lot easier to dismiss the bilateral organisations [diplomatic missions] because everyone can see they have interests. – Civil Society respondent in Uganda

Projecting this reliability and consistency generates respect and trust. It is the essence of projecting a clear identity, and a clear identity is fundamental to an effective relationship.

## **A professional and diplomatic style of communication**

The style of interaction with state authorities must be calm, respectful and professional at all times. State actors appreciate praise for the positive actions they take and acknowledgement of the constraints and difficulties of their task. Field respondents stressed the importance of building relationships *before* issues arise requiring criticism. If a positive personal contact already exists, the door will be more open to discuss sensitive developments. A field presence might start out with a more humble approach, with flexible use of language, avoidance of 'name-and-shame' or media, in order to minimize resistance while relationships are built.

Another positive approach suggested was to take advantage of a government's public pro-human rights discourse by publicly affirming and welcoming their positive actions and commitments to human rights, but then using these affirmations as a means to

hold them accountable. A similar approach can also be used when a local actor is being difficult: in one region in Colombia where a regional authority was being particularly intransigent, the OHCHR sub-office mobilized pressure from Bogota, forcing him to take certain actions he had resisted, but then publicly praised him for these actions in a way that actually improved his reputation and kept the door open for continued collaboration.

Specific sectors and professions require tailored approaches appropriate to their identity. The military, for instance, has a very different vision and perspective than the human rights community, with different priorities, different ways of operating, different educational backgrounds, etc. But their ‘language’ is also based on values, principles and standards – such as honour, duty, service, or discipline, which allow parallels to be drawn with human rights values. HROs can create more fluid relationships if they make an effort to study and understand these different languages. Using international staff with professional police or military expertise can be one useful tool for opening these doors, either by collaborating with police and military colleagues in other UN components, or by recruiting HROs with police and military experience.

**Military General in the DRC:** “Collaboration with human rights is in the interest of the military. It is essential in order for us to sustain effective control and discipline. Our job is to create a disciplined military. This cannot happen if we are allowing them to commit abuses. The fundamental principle is effective command.”

Human rights training for police and military has opened many doors for building relationships and strengthening future diplomacy with these actors. To take advantage of this more systematically, the OHCHR-Nepal office attempted to keep track of who attends its police trainings so that HROs posted to those police participants’ districts could recognize them and take advantage of the prior relationship.

Sometimes a state may say all the right words on human rights, but does not match them with action. Respondents in Colombia cautioned that while the office may leverage the ubiquitous human rights discourse of the Santos administration to push forward human rights advances, it must also pay careful attention to whether this discourse is a not-so-subtle strategy of co-optation without fundamental change beneath the surface. Collaboration with an agile state human rights discourse can be hard to distinguish from complicity with underlying human rights abuses – the integrity of a human rights presence and its relationships with many other stakeholders demands a rigorous commitment to transparency about what real changes are (or are not) being felt by rights-holders themselves.

## Relationship building with a local judge

In an isolated region of South Sudan where there was a minimal international presence and little political influence from the capital, a judge asked a human rights officer for help in procuring a set of basic legal books for court's legal library. The HRO, through personal contacts, was able to fulfil this request, thus establishing a positive relationship. The HRO then opened a dialogue with the judge about the situation in the local prison (which the judge had never visited), and they arranged to visit it together. After listening to some of the prisoners, the judge gave instruction to the prison administration about getting people to court, or making sure that others detained on remand without interrogation would be brought to the police. The HRO learned later from contacts in the prison that the intervention of this judge made a big difference. As the HRO analyzed it, "He just needed a little push to do his work - to overcome the inertia that was quite natural in such a frustrating circumstance."

## Linking monitoring to problem-solving

A field presence will be more effective when it is perceived to be offering constructive support towards solutions. Its approach needs to be perceived as "helpful" even while its public and private reporting and advocacy are uncompromising and hard-hitting. Government respondents cited numerous examples in which specific support was offered to address identified problems, including bringing in highly qualified technical experts when needed

According to one military prosecutor in the DRC, "The worst thing for an international actor to do is to take unilateral action on a problem from the outside, without first sitting down with local actors to look for a local solution." Often local solutions are possible through dialogue and subtle pressure, and HROs are engaged constantly in such processes. *The Comités de Suivi* discussed in the previous chapter are a good example. Human rights officers need to be constantly out in contact with authorities, developing and strengthening relationships and looking for opportunities and mechanisms to use their problem-solving influence to find such local solutions.

"It works best when there is less focus on attributing guilt. The process needs to be: identify problems, discuss them, and work together to overcome them." – High-level Colombian government official

In another country, a field presence was concerned about the potential human rights impact of proposed national security legislation, and wanted to conduct a workshop

with government security and intelligence officials on questions of conformity with human rights instruments and relevant peace agreements. A state security agency was at first opposing the workshop. According to the head of the field presence: “I could have done a Code Cable to Geneva and New York, and by the time action happened the law would be passed. So I went directly to the agency and talked about all our functions, and discussed their concerns and their fears. And after a couple of hours they were very satisfied and they agreed to conduct training for their staff. So we have built a bridge and reduced their suspicions. We will have this workshop early next week – and the threats they were posing for our staff have stopped.”

Although “Identifying problems to seek solutions” is a much more productive way to present the role of monitoring and reporting than the over-stereotyped concept of “name and shame,” nevertheless we can’t lose sight of the fact that the name-and-shame dynamic is a vital political process. Public embarrassment creates a range of pressures and influences external to the field presence, which facilitate the state’s openness to find solutions. State actors in most countries will prefer technical support to public criticism, and it is not an uncommon strategy for state agents to request technical support to reduce or distract such criticism. The field presence needs to stay focused on problem-solving strategies in which expert advice is specifically linked to priority concerns arising from its monitoring, avoiding the trap of “servicing” state agencies with more general technical support.

## **Maintaining trust**

Experience has shown that a field presence over time can develop relationships of trust with key state authorities, which increases the flow of information, lubricates the relationships and opens people’s ears to listening to advice. When sufficient trust is established, a field presence has more opportunities to bring its skills into sensitive state processes that require discretion. Numerous state respondents, in Nepal, Uganda and Colombia, for instance, considered the field presences trustworthy, and in many cases had developed personal relationships of trust with individual human rights officers.

At the institutional level, this trust is established through the practices of reliability and professionalism already described. At the person-to-person level, HROs have successfully developed very friendly long-term relationships with local authorities, encompassing a high level of inter-personal trust, social contact, loyal responses to each other’s needs, and openness to mutual advice and criticism. Trust based on personalities is not easy to sustain as personnel change in each institution, but these close personal relationships can nevertheless be extremely effective while they last. Just as the field presence must earn trust at an institutional level, the human rights officer needs to be seen as a trustworthy individual with personal integrity, one who does not betray confidences<sup>11</sup> or undermine people arbitrarily.

11. In most cases it should be possible to avoid using information that has been told in confidence. Even in

If the relationship between the state and civil society is polarized, this trust-building has to be done in a transparent way that does not sacrifice credibility with civil society. In Uganda for example, OHCHR's work with government officials is often private and confidential, and this sometimes created a perception among civil society actors of a relationship that might be a little too "cosy." The field presence needs an ongoing dialogue with civil society and other key partners, through which it can explain and justify the positive protection impact of the close relationships it creates with state actors.

Some might suggest that the exercise of power and pressure contradicts this trust. A key result of the current study is that trust is primarily damaged when it is *betrayed*. Unexpected surprises, lack of transparency and unmet expectations and far greater causes of damaged trust than criticism or pressure on their own. This is why the first good practice in this relationship discussion is *reliability*. Government and military authorities have shown they are very capable of understanding the critical role of an international human rights organisation – at least when it is consistently represented to them. They learn, through this consistent experience, where the lines are crossed and criticism can be expected. Clarity and transparency insulate relationships built on trust from damage due to pressure and criticism.

It is easier for state counterparts to share information about institutional challenges and weaknesses when they feel confident that their information will not be used in unexpected and "hostile" ways. In many countries a common complaint of state authorities about negative reporting – by OHCHR or others – is that "they should have discussed it with us first". The legitimacy of reporting in and of itself is more difficult to question, indeed, openness to being criticized is broadly recognized as itself an important factor contributing to state legitimacy.

This is not to say that there will be no friction caused by critical reporting or other sources of pressure. Friction is a natural consequence of pushing, and reflects the underlying fact that ultimately human rights presences and the state have different interests. Field presences have been able to weather difficult moments in some relationships by having a wide range of state contacts nurtured over time. For instance, in a period when Colombian President Uribe and some of his allies maintained a decidedly polarized stance towards OHCHR office several years ago, the office still sustained a wide range of working relationships with various Ministries and authorities at regional levels. Many respondents affirmed that the relationships with local authorities at the sub-office level were insulated to some extent from frictions at the national level.

These contacts have to be diligently sought out and the relationships nurtured. State actors shift around, responsibilities change, and human rights field officers need to be disciplined in knocking on doors and creating new links all the time. Once a

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exceptional circumstances when information may be received that cannot be kept quiet, the reasons for disclosure should be made clear.

connection is made, it requires frequent contact to sustain. The office and sub-office management need to prioritize the work-planning time that this contact-sustaining process demands, especially during difficult transition or reductions of staffing.

## **Nurturing and exercising power**

Strikingly, the most effective relationships with the state are developed when the field presence is seen to have power and influence in the country. This power derives in part from the credibility and respect that the presence has constructed over time by its own actions - by building up a respected identity that is difficult to attack, and a voice that people are inclined to listen to with respect.

The starting point for this power is the credibility of the United Nations itself – its global status and clout, and everything it symbolizes. This is strengthened by building a diverse network of support, including other international community actors, civil society and strong allies within the state. State actors tend to be sensitive to the opinions of these support bases, and this sensitivity gives the presence influence. The role of civil society in standing up for a UN field presence can be crucial. Civil society groups are themselves linked to broad international support networks. As one respondent explained: “We may complain about things that the office does not do, but we also know that we have to protect and defend it.” Diplomats can also convey their support for the UN presence in quiet bilateral communication with state. This defence of the UN by diplomats is especially important when state actors are questioning or attacking the UN presence or mandate, but such attacks might even be prevented if this support has been clearly voiced all along.

A field presence can show its power by exerting pressure, but also in more “friendly” ways, such as by offering the “carrot” of international linkages and reputation to its state counterparts. When the office arranges a meeting between a state authority and a high profile international visitor, this can be a real feather in the cap of that government figure – a point of pride and reputation, demonstrating their importance to their colleagues. In Colombia, when the OHCHR office arranged for the high-level leadership of the Colombian intelligence sector to go to Germany and meet their professional counterparts, this was not only technical support and a search for solutions to problems, it was also a message to these state actors that OHCHR has the influence to facilitate high-status international connections for them.

In regional and rural areas, the power dynamics of relationships play out differently from one context to another. In more remote areas, an international field presence tends to be perceived as a kind of authority – in some eyes one of equal or even greater status than that of a local government official. This image of authority gives the presence dissuasive influence in its many interventions.

This power must be exercised to sustain its influence. A field presence must use its voice regularly enough for all to know it is still there. If too much time goes by without

any visible reporting or public statements, state actors may well become complacent, assuming that the field presence is not going to hurt them if they misbehave.

## 5.2 Working with National Human Rights Institutions

UN field presences often have special relationships with National Human Rights Institutions (NHRIs). Of all the individual actors in a country, the NHRI is often the one with the role most similar to that of the field presence itself: a state-oriented institution with broad human rights responsibilities that can act as a possible bridge to national civil society and the international human rights system.

Nevertheless an NHRI is just one state interlocutor among many. NHRIs do not directly implement a state's human rights obligations, a job which is primarily the responsibility of the justice system and the other line Ministries. The NHRI role is secondary, acting through others as a watchdog, advisor and facilitator.

This study looked in some depth at the relationships between human rights field presences and NHRIs in Nepal and Uganda, to a lesser extent in Kenya and Colombia. Each NHRI was different and no two relationships were the same. It is impossible to draw general lessons from such a small sample of contexts. Nevertheless, there were some similarities in dynamics we saw in these countries, presenting dilemmas that could easily be repeated in other contexts.

### A special relationship

The relationship between a UN human rights field presence and an NHRI is not always easy. An NHRI can view an international human rights presence as usurping its space, and consider that the main role of the UN presence is to support the NHRI to eventually take over. Strengthening an NHRI is sometimes considered to be a major part of the “exit strategy” of a UN field presence.

However the role and strengths of an NHRI are not the same as those of an international human rights presence. There are a number of critical differences. With rare exceptions, international bodies are far more independent of the state than NHRIs, both politically and financially. An international human rights presence is usually seen as more of a “neutral” body in the internal politics of the country, with greater credibility as a convenor of civil society actors. And they are often capable of greater voice and pressure at the highest levels. An NHRI cannot replace the *international voice and advocacy* represented by a UN human rights presence.

## Strengths and challenges

NHRIs often have considerable strengths. Being part of the state gives them special access to internal workings of the state, and often specific legal powers. In many cases they have appropriate skills and a widespread field presence.

The biggest challenges they face in contributing to human rights protection are typically political, financial and administrative, and originate at the highest levels. Many NHRIs are not truly independent of the government, nor strong enough to stand against it, while their resource deficiencies are an ever-present reminder of the challenge of holding your own financier to account.

Nevertheless, even in NHRIs that are politically constrained at the top, many constructive lower-level activities often take place “below the radar”. Individual human rights officers are usually able to work well when they choose to. In Colombia, Uganda and Nepal, relationships with individual NHRI staff have often been productive at the local level.

### **The Nepali National Human Rights Commission and OHCHR**

At the time of this research, the collaboration between the National Human Rights Commission (NHRC) and OHCHR in Nepal demonstrates the different roles and strengths of an international presence and a national human rights institution, as well as the challenges of managing a potentially competitive relationship.

The NHRC has a strong constitutional basis for an independent role. It has hundreds of staff, with offices spread around the country. At the field level, there were numerous examples of active collaboration between the NHRC, civil society and OHCHR, including in joint investigations and regular coordination meetings. The NHRC has done many investigations, issued thousands of coherent recommendations, and engaged in unpopular human rights issues such as the plight of the Kamalhari bonded labourers. Some of its field staff were deeply committed and frustrated with the lack of implementation of NHRC recommendations by the government, and were even suggesting that the NHRC play a louder “naming and shaming” role in following up this lack of implementation. Most recently, even as this report was being researched, the NHRC was engaged in a groundbreaking exhumation of bodies related to a sensitive conflict-era case.

Yet respondents stressed over and over again that the NHRC faces political constraints and lack of independence at the Kathmandu level, especially symbolized by the implicit ‘quota’ system allocating commissioners according to political parties. As a result, civil society activists do not feel the NHRC will adequately stand up to the government, the army, the police or political →

## How to Engage

To offer appropriate support to an NHRI requires a frank recognition of the NHRI's strengths and weaknesses, together with a clear understanding of the complementary role of an international presence.

In Nepal and Uganda, a significant amount of support for NHRIs has been centred on capacity-building. Staff of the Ugandan Human Rights Commission (UHRC) have been very appreciative of the training opportunities they had received through OHCHR and looked forward to more.

Training is not always the best form of engagement, however. It is most effective when skills shortages are the biggest challenges of the NHRI. Where high levels of skill already exist, further training investment will naturally generate diminishing returns.

Skills-building can also happen through direct field cooperation. In Nepal and Uganda, OHCHR collaborated continually with the staff of the NHRC and the UHRC respectively, sharing transport and information and in some cases carrying out work jointly. Although coordination has often been time-consuming and difficult, this can be a constructive and respectful way of sharing best practices.

interference as it should. They often described the NHRC as not being "inclusive," not having enough of a field focus, and not producing enough hard-hitting reports. Some human rights NGOs also stressed the failure of the NHRC to understand the complementary role of civil society, instead feeling that the NHRC was arrogantly using its "constitutional" status to claim a monopoly on human rights work in the country. Other activists were unimpressed by the low level of commitment of NHRC staff, insisting that human rights work cannot be a "10-5" desk job.

OHCHR had substantial positive collaboration over the years, conducting many trainings of NHRC staff, and playing an informal mentoring role at the field office level when the personal relationships allowed for it. OHCHR assisted the NHRC in framing policy and legislative proposals, and facilitated funding support, among other engagements. It also encouraged civil society organizations to engage more with the NHRC.

Despite this collaboration, the relationship between the two organisations was ambivalent, and contained serious frictions, especially at the leadership level. Some observers credited this to turf battling or competition for donor funding, others to political influences in the NHRC. The friction was so significant that the NHRC leadership was among the voices undermining OHCHR when its mandate came up for renewal in 2010. This high-level tension did not seem to be duplicated at the working levels however, where positive relationships were generally maintained. Most of the feedback we received from NHRC respondents about the OHCHR role was positive.

Similarly, in both countries OHCHR has been cooperating with the NHRI on legal reform, and by doing so has been able to get its point of view heard while simultaneously building the capacity and reputation of the NHRI.

“Capacity-building” can also be understood more broadly than simply the transfer of technical skills. Where the biggest weaknesses of an NHRI are in its high-level political independence and courage, these can be the most appropriate targets for strengthening. By gently yet consistently manifesting the expectation, privately and publicly, that an NHRI’s role is to act independently, an international presence is sending the message that it will stand up for the integrity of the NHRI. This can create encouragement – and pressures – that work to strengthen the capacity of an NHRI to resist political influence in practice.

There are often clear political benefits in providing support to an NHRI. In particular, working together helps avoid the impression of competition described above and can demonstrate a commitment to national structures. Nevertheless, a field presence also needs to decide how to prioritize its work with the NHRI against the many other demands on its time. An NHRI is a long-term investment in the human rights infrastructure of a state, but, for the reasons given above, it remains a secondary actor. The primary actors in ensuring that states meet their human rights obligations are the substantive state agencies and the national civil society actors holding them to account. In many cases support to civil society actors will have greater and more sustainable impact than support to the NHRI, even if it is politically more difficult. Therefore, the field presence and the UN should be sceptical of the oversimplified argument that an NHRI is the natural centrepiece of any exit strategy.

Strategic engagement with NHRIs should be clear and direct, acknowledging both the strengths and weaknesses of the institutions while being unapologetic about the distinct roles of a UN human rights presence and an NHRI.

### **5.3 Key challenges to state relationships**

These relationships are vital, and yet the field presence must be able to risk them when necessary. To achieve a protective impact, a field presence and its leadership need to exercise the clout they have, putting pressure on abusers or calling attention to state failures even if such pressure may be an irritant to the authorities and cause friction. All the strategies described above for building a strong relationship are designed to minimize the likelihood and severity of such tension, but the presence still needs to be prepared for it.

#### **Fear of using the voice and applying pressure**

Given how central public advocacy and pressure is to the role of UN human rights institutions, and all the potential protection benefits of using the UN’s public human

rights voice, one of the most striking discoveries of this research was how much fear is associated with making things public. Human rights officers and managers are frequently concerned that critical reporting or other pressure may threaten access to areas or relationships with key people that are essential for doing human rights work. At the extreme, they are concerned about risking individual expulsions or future loss of the mandate for the presence itself, or security risks to their staff.

There may be some contexts in which these fears are an accurate reflection of the risks. Certainly there are countries that are so averse to public monitoring and criticism that they will not allow a human rights presence into the country in the first place. OHCHR, for instance, was unable to negotiate an acceptable mandate to install a substantial field presence in Sri Lanka. And sometimes a state will close the door on a presence already on the ground. A year after this project's field research, the Nepali government did not agree to extend the OHCHR mandate, a move many local observers credit to the unwillingness of key state actors to accept the OHCHR position against impunity for conflict-related crimes.

But as a general rule, if a state has allowed a presence to be established, it has already signalled some sensitivity to international concerns and it may even perceive that it benefits from the presence. Feedback in other countries suggests that fears of applying pressure voice are often misdirected or exaggerated, and can hinder the implementation of protection strategies even in situations where the presence does not face any substantial risk of retaliation.

### **Human Rights Watch: Speaking out and sustaining access**

Being outspoken and unpopular with the state doesn't automatically threaten your presence in a country or access to authorities. For example, Human Rights Watch (HRW) in Uganda has one person, no office and with a loud voice has published a series of reports highly critical of different elements of the Ugandan state, often without highlighting positive steps of the state. HRW's approach is not designed for a long-term problem-solving engagement with the state. Instead its focus is on getting the best information it can about human rights gaps and publishing it without fear or favour. Not surprisingly, HRW seemed to be almost universally disliked by state authorities and it is clear that most wish they were gone. But not only does HRW remain in the country, they are able to travel freely. They have had, until very recently, free access to the prisons, and easier access to high-level figures than does OHCHR. The reasons are clear – HRW's outspoken voice is respected by all major stakeholders. Important embassies listen to HRW. Therefore they can put pressure on anyone that obstructs them. High-level officials are anxious to have their side of the story incorporated in the next HRW report.

The Human Rights Watch example (see box) suggests that even if powerful pressure does not win you trust, it does not necessarily have to hurt your access. In fact, a loud, clear and respected voice is sometimes an important tool needed to achieve it. Unlike HRW, OHCHR is in a position to combine the benefits of trust and power. Its strong relationships with the state are not a reason to self-censor its own voice, but on the contrary should facilitate even greater space to speak out and apply pressure.

It is understandable that state authorities do *not want* to be pressured to change their behaviour or policies, and they will try to counter-act it or to punish those who exert it. If a field presence's strategy is to avoid confrontation at all costs, it will never apply pressure. A human rights strategy should first aim to construct a relationship that manages conflict by allowing for respectful disagreement and pressure, based on the principles described above of consistency of identity and predictability of response. At the same time, it needs a component of political damage-control for when the friction is too much, to sustain or rebuild relationships that suffer setbacks from the application of necessary pressure.

## **Renewing the mandates of field presences**

Nowhere are these concerns over friction more evident than when dealing with the renewal of mandates of OHCHR stand-alone offices. OHCHR staff frequently expressed concerns that if they were too critical of the government or overstepped the mark, for example by publishing a report at too sensitive a moment, their mandate might not be renewed and the office would be closed down. States may in fact subtly but deliberately exaggerate this threat as a tactic to control outspokenness of field presences. No matter the real chances of being expelled, the state has a clear interest in ensuring that the human rights field presence feels vulnerable.

In Uganda, this chilling effect has had significant consequences for the work of the office. In the last few years, prolonged mandate negotiations have had the effect of stretching these “sensitive moments” for periods of years. At least two important reports written as long ago as 2007 had not been released as of 2011 because the “right moment” had not appeared.

To understand how a presence can better calculate and control the real space it has to operate and remain in the country, we need to look at why the presences are there in the first place. Just as few countries want outside criticism or pressure, few would really welcome a human rights field presence. Human rights work, by its very nature, is concerned with increasing states' accountability and putting limits on the exercise of power. The state's engagement with the human rights system is often an attempt to reduce or avoid an international beating with the “human rights” stick. The state will engage if such engagement serves its interests, not as a reward to given to a “well-behaved” presence.

Trying to remain “popular” with a state is generally not an effective way of ensuring continued presence. It is also an extremely restrictive constraint, greatly limiting the activities of a presence. Most problematic of all, governments will usually quickly recognize this approach and take advantage of any pattern of avoiding conflict, progressively limiting further and further what they consider “acceptable”.

The remaining option for a field presence is to be too strong, too credible, too well-regarded and too obviously useful to be expelled. Instead of trying to retain a mandate by remaining popular, field presences need to more consciously conceptualize the dilemma from a state’s point of view. In the end, a government has a calculation to make: assuming it would prefer no presence, it will expel a presence only if it believes that to do so would be less politically damaging than to let it stay.

Considered in this way, the political space available to a presence is not fixed, but depends on the political cost to the state of the different options of renewal and expulsion. And this political cost in turn depends on the profile, credibility, respect, legitimacy, influence and power-base of the field presence – in a word, its *clout*. Clout is undermined by silence and hesitancy. Fear can be detected by allies and enemies alike. Each act of “avoiding a sensitive issue” conveys a message of weakness, and the presence loses credibility. Fair or not, each silence risks the perception that a presence is putting its own institutional security ahead of its mission to stand up for human rights.

As discussed earlier, one way to foster this clout is through conscious visibility and the projection of a clear and principled identity. The more consistently OHCHR can present itself as an impartial, respectful yet confident voice of clear, agreed standards, the more legitimacy and influence it will have.

When the Colombia OHCHR office faced the upcoming election of President Álvaro Uribe Vélez in 2002, a candidate who everyone knew would engage in policies with severe human rights consequences, there was a substantial risk that he might not want to sustain the positive relationship with OHCHR of his predecessor. The office used its credibility and broad support, combined with a careful sense of timing: the OHCHR representative met with Uribe a number of times during his campaign and presented its work to him. OHCHR also condemned death threats Uribe was receiving and stood up for his right to a violence free campaign. Uribe as a result made public statements that he wanted OHCHR to stay in Colombia for the duration of his term. A four-year agreement was signed soon after the election. On the one hand, OHCHR’s diplomatic approach smoothed the way for this agreement. At the same time, for a new President seeking international support, the implicit political cost of expelling OHCHR would have been very high.

Making good use of credibility and clout might extend a mandate, but it will not prevent a state from making clear its displeasure at any criticism. Veiled threats of

expulsion may continue, and lesser punishments might be inflicted, such as logistical and administrative hassles, pressures on individual HROs or managers, etc<sup>12</sup>. But in the final analysis staying in the country depends on being able to demonstrate that it will be more damaging to the government's international reputation to end the field presence than to allow it to continue.

## **The OHCHR Nepal mandate extension of 2010**

After 5 years of credible work the 2010 mandate extension negotiation in Nepal was a huge setback for OHCHR, resulting in the closure of all its field offices outside Kathmandu, and an extension of only one year. The result was a surprise to many observers, and a depressing disaster to OHCHR's civil society partners in the field and its HROs on the ground. Interpretations among interviewees varied. Some said India did not want OHCHR offices near its border. Others said the Nepali Congress considered OHCHR too pro-Maoist. Some put the blame on the Nepali National Human Rights Commission's criticism of OHCHR.

The final negotiation occurred in Geneva, and some allies questioned whether the High Commissioner was firm enough in her negotiating approach, suggesting that if she had refused to accept the closures of the field offices, OHCHR would have had enough diplomatic and civil society support that the Nepali government would have been very unlikely to force OHCHR to leave.<sup>13</sup>

Notably, in all the feedback we received in Nepal, including in many interviews with state and political party actors, no one voiced any desire for OHCHR to leave, nor any clear reason as to why the field offices should be closed. On the contrary, everyone continued to affirm OHCHR's importance, and the need for its continued presence. All agreed that the peace process was not complete, that the international role was still important. If any in the Nepali government were willing to expel OHCHR or were responsible for pushing the closure of the field offices, it was significant sign of OHCHR's strength that they would not say so out loud.

OHCHR was still doing important work in Nepal in 2010, but it was no longer clearly articulating and conveying the importance and impact of that work to its allies. Its support base was not sufficiently visible or engaged, and this weakened its approach to the negotiation. The substantial credibility, support and clout OHCHR had in Nepal were not taken full advantage of in the negotiation.

The office's power and influence was not built through meek compromises, nor from watering down reports or avoiding sensitive issues, but from a courageous and proactive independence: going wherever it was necessary to go, investigating

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12. President Uribe, for instance, had serious disagreements with a subsequent HC Representative, and resisted nominations of his replacement. But his government still renewed OHCHR mandates, despite consistent criticism of many of state actions in OHCHR reports year after year.

13. The 2010 OHCHR-Nepal mandate renewal is discussed in greater detail in the case study/evaluation, "Evaluation of the work of OHCHR in Nepal", <http://www.fieldsolutions.org/influence-on-the-ground>

what needed to be investigated, issuing reports that pushed for change, and offering consistent protection and support to local actors.

We suggest that in such negotiations, the High Commissioner and the field presences need to leverage their clout to push for full mandates with adequate sub-office deployment. Moreover, the High Commissioner should be prepared to close an office if adequate minimum conditions cannot be obtained. Presences need these mandates in order to implement the protection strategies they are capable of. If a presence allows itself to be too constrained, the justification for its existence is greatly reduced. In contrast, if a presence is closed or expelled because such conditions were not met, this process in itself should generate a negative political cost to the host state.

If such a firm approach had been tried in 2010 in Nepal, certainly there was a risk that it would fail and the office would have been closed sooner. But such risks must sometimes be taken. The surest way to end up with a steadily reduced mandate is not to fight for it. In fact, in those rare instances where a human rights presence is forced out of a country, this should not be accepted passively, but rather used as an opportunity for outspoken advocacy about continued human rights needs on the ground. The risks of taking firm negotiating stances may also be overstated. But a more prolonged field presence in a country may be of little value if it is attained at the price of constrained effectiveness, and reduced respect for the UN and OHCHR in the country, the region and beyond.

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A human rights field presence must develop an effective relationship with the host state, one that is neither combative nor subservient. Its effectiveness will be greatly diminished if its decisions are based on a position of weakness or a fear of losing its mandate for continued work. We saw in the previous chapter how the combination of cooperation and pressure maximizes influence and credibility. The same combination is crucial to a strong relationship. The key elements of the relationship: reliability, diplomacy, problem-solving, trust, and power, all require daily reinforcement, allowing an effective presence to strengthen a long-term state relationship without losing its capacity to press for essential human rights advances and protection.

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A strong civil society that can hold its government to account is a primary actor in sustaining human rights standards in a country. National organisations often have better geographical reach than international ones, and they retain their focus long after an international presence may have scaled down or left. Beyond classic “human rights” NGOs, there are many other organisations that may be doing practical human rights work: churches, unions, community groups etc. Taken together, the strength of these groups is a critical factor in shaping the long-term human rights environment in any country.

Support for national human rights activists can have a multiplier effect, greatly increasing the impact of a presence beyond what it is able to achieve directly. Numerically speaking, UN human rights staff will always comprise a very small proportion of the people actively promoting human rights in a country. The rest are looking for ways to use the UN’s efforts to strengthen their own.

A field presence should therefore be asking itself this question about each of its own plans: not only “*How do we maximize our own impact?*” but also “*How can we mould this plan in a way that will enhance other actors’ work, and maximize the impact they can achieve?*” These considerations should underlie strategies and decisions taken throughout the presence, influencing everything from reports and public statements, to advocacy positions and projection of presence.

In general policy terms, OHCHR has consistently supported this role of civil society. It has had staff in Geneva developing guidance on the topic. It has provided staff support for the Special Rapporteur on Human Rights Defenders. Best practices in support to civil society are highlighted in its manuals and other documents available to HROs. We will highlight some examples of new good practice emerging from our research, but these should be seen only as complementary to other resources available.

Despite the clarity of guidance and experience with respect to civil society in the UN human rights system, this approach of support to civil society was not being consistently implemented in the field. In some field presences it was strong, while in others weak. Civil society groups firmly emphasized the vital role of the public voice

of the UN in opening spaces for their own impact, and did not hesitate to point out how often this was not happening.

The good practice we documented can be divided into the following areas:

- Protection of civil society activists (or human rights defenders)
- Expanding the political space and profile of civil society action
- Encouraging and motivating civil society actors
- Technical capacity-building
- Convening and bridging: facilitating relationships between civil society and other national and international actors

## 6.1 Protection

Often the most fundamental obstacle to national human rights work is a lack of safety. Interventions to protect threatened human rights defenders are standard activity for field presences. Heads of field presences, regional representatives, and HRAs alike can use their channels of quiet diplomacy to state actors to advocate for Human Rights Defenders (HRDs) when they receive well-substantiated reports of threats. Making direct calls to government Ministries or security forces about a specific case can result in a reduction of the threats. Even in the difficult circumstance of the 2009 crackdown in Sudan after the International Criminal Court indictment of President Bashir, the human rights component of the UN mission in Darfur (UNAMID) was able



OHCHR-Nepal Human Rights Officers discussing human rights issues with local youths at an event in Kailali district, Far-Western Nepal. Photo Credit: OHCHR-Nepal Photo, 2008

to mobilize a combination of local interventions by HROs with higher-level statements from Special Procedures mandate holders, the High Commissioner and the head of UNAMID, advocating for individual threatened human rights defenders.

MONUSCO's program in protection of witnesses, journalists and human rights defenders in the DRC shows some of the possibilities when substantial human resources are invested in protecting human rights defenders. This unit is training civil society groups to empower them to directly intervene with authorities on cases, and capacity-building with authorities to improve their understanding of their obligations. It also follows up individual protection cases (over 550 to date) whereby human rights officers directly intervene with the authorities on behalf of threatened individuals, encourage police and prosecutors to initiate protective measures and conduct quiet diplomacy with other key stakeholders who can influence the case. When this does not work, they also have other protective measures, including hiding people, placing bodyguards at their homes, or moving them to safer locations. These actions have all been done before in many field presences, but the MONUSCO program shows the cumulative protective impact that can be obtained from a dedicated staffed unit.

## 6.2 Expanding the political space for civil society

"If we take a case to the police, they don't listen to us. But if we have OHCHR with us, suddenly everything is different."

– Representative of human rights NGO, Nepal

Even when they are not at immediate risk, local activists can benefit enormously from the political space created by an international presence. Association with the UN through visits to offices, joint public appearances or other open displays of respect can help legitimize organisations that are stigmatised for their opposition to state policies.

There are also opportunities to build space more indirectly. A UN presence that visits an area and raises the same issues as a local organisation implicitly reinforces the legitimacy of their concerns. Public statements and reports can also be essential tools in opening the space for critical voices. When the UN takes a clear public position, national organisations can take similar ones without being isolated.

Human Rights presences also have an important role in broadening this supportive attitude among other UN partners. The UN system as a whole can be far too risk-averse towards partnering with organisations that are unpopular with state authorities.

When UN entities shun civil society partnerships due to state disapproval, the UN is effectively raising the cost of political dissent and closing the space for human rights work.

Civil society groups also noted the increasing use of bureaucratic barriers to inhibit

their work, including for instance, excessive difficulties in obtaining legal personality as organizations. They suggested that UN support could help them overcome these barriers.

### 6.3 Encouragement and motivation

“You don’t know how much it means to me that you have come all the way from Geneva to hear about what is happening in Bardiya”  
– Human rights activist, Nepal

Fear and isolation are a part of human rights work in many parts of the world. A human rights field presence can help individuals and groups overcome their fears and organize more effectively. It can uncover and confront stigma that isolates vulnerable groups, and it can be a channel of resources, links to outside mechanisms and training tools.

Particularly at the grassroots level, removing motivational barriers can be a critical factor in maintaining functional organisations. In eastern Nepal, many members of a grassroots women’s network were struggling to fully engage in their communities due to family pressures from their husbands. OHCHR supported a local NGO to organize an event to recognize the work of the women human rights activists, inviting local authorities, other high profile speakers – and the women’s husbands. After a series of speeches, a play, a ceremony and a meal, the status of the women’s work was raised, the husband’s opposition was reduced and the women were more available to continue the work.

Unfortunately, civil society actors often do not feel supported. One civil society respondent complained, “They could play a good role by openly supporting NGOs, make space for them. But they only use civil society to get stuff for their reports to Geneva. It is a one-way process.” In another case, an NGO felt that OHCHR’s role was de-motivating. “OHCHR asked us not to lodge certain (complaints or cases) at a certain time because it would hurt their ongoing dialogue on the issue with the government. But the only reason they had any issue to negotiate on was based on the space opened up by our cases! Really they need some activist training!”

### 6.4 Civil society use of the UN public voice

“We don’t want ‘protection’ or financing from OHCHR. We want them to speak out and put pressure on. OHCHR could push more to get this on the political agenda.” – Civil society activist

UN public reports, discussed in chapter four, are especially important for civil society human rights advocates. They provide both data that can be cited and recommendations that can be the basis of sustained advocacy. Similarly, UN press releases are often redistributed by local actors when they see that the message will help legitimize their own work or protect them. These groups may have sufficient research capacity to do such reporting themselves, but given the political and security pressures they face, they need the UN to be making clear human rights points publicly.

In-depth thematic reports can be particularly useful. These reports contain deeper analysis and have a much longer shelf-life than general or periodic reports. They can become a key mobilizing tool for all the other human rights actors focused on that theme. The Bardiya report in Nepal, for instance, was used by civil society organizations in their continued struggle to address impunity in Nepal.

This use of reports and other UN public statements by civil society is a key reason why the public voice of the UN is so important. A field presence may do many good things through quiet diplomacy, but other actors can't capitalize on those things as much as they can on the visible public output.

## **6.5 Technical capacity-building**

Technical support is all-too-often focused only on state actors. But civil society groups also need strong technical skills to fulfil their vital role in protecting and promoting human rights. Respondents frequently mentioned the value of UN trainings and workshops in this respect. The needs of different groups can vary enormously and support will be most effective when it is developed with a specific target audience in mind.

For example, in Guatemala, as part of the multi-agency “Maya Programme”, OHCHR coordinates a program of training for human rights litigation. In order to assist Guatemalans in legally claiming their own rights, this program is building up a corps of Guatemalan lawyers who can select influential cases whose impact can promote broader institutional changes, and follow them through the entire litigation process. The litigation objective is not only to win the individual case, but to change laws, policies and practice. Each year the program selects 14 organizations, and about 30 law students and 5 law professors. It partners with three Universities. The participants go through a guided process of construction of litigation cases on the human rights of indigenous people. The program draws from experiences of other countries, such as Chile, Colombia, and Argentina. Eventually, when these teams of trained lawyers are on their own, the next stage of the program would be to create an advisory team to assist them in an ongoing way.

## 6.6 Convening and bridging

Human rights field presences have creatively reduced conflict and abuse by using their presence to increase dialogue among polarized groups. They can do this through various kinds of ‘shuttle diplomacy’, by organizing multi-lateral processes (e.g. joint commissions, delegations, etc.), convening meetings or workshops bringing together civil society and state authorities, or national actors together with international ones, and much more. If a field presence is able to establish legitimacy that spans the political spectrum, its international character and objective commitment to rights and law opens many doors. Two groups, who won’t talk to each other, will often both talk to a UN human rights officer.

In South Sudan, for instance, tribal conflicts involving cattle-rustling and child kidnapping threaten local stability and can provoke even more abusive retaliation.



Human Rights officer in a Joint Protection Team meets with local civil society in Kimua, Eastern Congo, December 2011 after local clashes between armed groups. Photo credit: MONUSCO/ Sylvain Leichti.

UNMIS field staff were involved in conflict-reducing dialogue efforts. They facilitated and accompanied visits to the communities by key stakeholders, including the South Sudan Human Rights Commission. They approached judicial officials and prosecutors, offering to facilitate their work to ensure they take the actions that are necessary. The resulting trials of child abductors after cattle rustling send an important message towards stopping the cycle of violence. To reinforce the legal approach the mission also worked with youth groups and women’s groups to come up with peace messages through the radio or other mass communication.

In Colombia, OHCHR has convened a range of multilateral processes to address problems or discuss specific themes: mixed commissions, working groups, multi-lateral visits to the field. Citing examples such as the *Sistema de Alerta Temprana* (early warning) or the Cartagena roundtables, respondents emphasized that OHCHR's promotion or mere presence in these multilateral processes was a crucial component of achieving any results. The *Mesas de garantías*, for instance, was a process bringing together state and civil society actors to establish guarantees of safety for civil society in order to facilitate their continued participation in multi-lateral processes. According to one civil society respondent, "We have participated in the local 'Mesa de garantías' but when the UN is not at the table it is a waste of time."

"We need to take advantage of Joint Human Rights Office access to authorities. They are listened to, we are not. We should do joint meetings with authorities so that they also get to know us, so that when MONUSCO leaves, the authorities know who we are. Authorities need to hear the voice of the Human Rights Defenders."  
– Congolese human rights defender

In some cases, the field presence takes the initiative to propose multi-lateral spaces which did not exist before. In other examples, it leaves the initiative to national actors, but supports and legitimizes their efforts. The knowledge that a process has UN support gives it greater credibility and sustainability. Sometimes just the quiet presence of the UN in an observer role in the room has a positive influence on other actors' behaviour and willingness to work constructively.

## 6.7 Encouraging and sustaining the UN's civil society engagement

With these and many other examples of good practice, one must ask why field presences find it difficult to sustain an ongoing engagement with civil society. Civil society respondents in many locations noted a sense of distance from the UN field presence. Sometimes they felt insufficiently protected, sometimes not consulted, sometimes ignored. Human rights officers themselves also noted the difficulty of finding time for adequate civil society engagement.

The fact is, despite a commitment in principle to civil society support, there is an underlying structural force that often pulls a UN field presence away from civil society engagement. The field presences need to understand this tendency in order to combat it and sustain a disciplined engagement.

First of all, the costs of insufficient focus on civil society tend to be hidden, whereas insufficient focus on the state has explicit costs. In the frequent setting of polarisation

between civil society and the state, paying attention to civil society can provoke negative state reactions. State pressure actually creates fear and inhibition in the field presence about its relationships with civil society. Paying too much attention to the state also has negative costs but these tend to be hidden or to play out quietly: the mission's credibility with civil society is reduced and civil society gets more distant and mistrustful, but these changes are often not immediately evident. Civil society actors will frequently give the UN the benefit of the doubt, because they need allies, even ones they perceive to be failing. Field presences are also aware that civil society doesn't renew their mandates, nor does it criticize a UN presence much to other member states. Another factor that affects this momentum is that working with civil society seldom yields any internal benefit within the institution. Good support should increase the human rights impact of civil society but it is difficult to show this with indicators. This work is rarely rewarded by Geneva or by an SRSG.

If we take these factors into account, it is logical that a field presence is under pressure to under-invest in its relationship with civil society, even if this skewed emphasis results in a diminished long-term impact on human rights protection. It is essential, therefore, that each field presence pay constant attention to the more hidden costs resulting from this trend, and apply a special discipline to ensuring sufficient ongoing engagement with civil society.

# 7

## Putting it all Together: A Case Study of Stopping Extra-Judicial Executions in Colombia

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The struggle to end the practice of extra-judicial executions by the Colombian military required a combination of all the different approaches outlined in previous chapters. The OHCHR Colombia office is widely perceived to have had a dramatic impact in reducing these systematic abuses, and in assisting the government in implementing more effective internal control processes. This long-term process provides a clear illustration of the protective power of a complex strategy that takes advantage of all the strengths of a field presence.

### 7.1 The problem

Colombian civilians have been victims of extrajudicial killings for decades. But starting in 2004, the country witnessed a dramatic increase in a phenomenon known as *false positives*, in which soldiers were systematically capturing and killing civilians and then presenting them as guerrilla “deaths in combat.” Human rights organizations and OHCHR documented hundreds of such cases each year from 2004-2008.

Though there may not have been any direct orders from the very top levels of government to carry out these killings, this pattern resulted in part from the heavy pressure that was put on the military to “show results” in the war. President Uribe’s reputation depended on a successful war against the guerrilla, and dead guerrillas were considered a clear sign of success. Soldiers and officers were being offered substantial incentives and rewards for such killings, including extra vacation time, medals and promotions. A formal reward system also paid civilian informants for any information that led to the death of a guerrilla. Finally, there was no effective internal system of accountability in place: the killings were not being investigated within the military itself, thus the widespread nature of the phenomenon was probably not fully understood by the top military leadership. The result was mass murder for personal benefit, to sustain the public image of a successful war.

## 7.2 Getting out and getting close: information and relationships

As this new pattern of killings developed, OHCHR already had offices in the regions where the phenomenon was most intense, especially Medellín in the state of Antioquia. Human rights officers had already established good relationships with civil society organizations and community leaders. Civil society groups trusted OHCHR, not only for its information and its advocacy on their behalf, but also as a result of crucial actions OHCHR had taken to protect them when they had been directly threatened in the past. Based on this trust, OHCHR had excellent access to information from civil society contacts.

The OHCHR offices had also established close working relationships with the regional offices of the Attorney General, the Inspector General and the Ombudsman. These government institutions were crucial allies in confronting human rights abuses by security forces. Those in government who were willing to take on such abuses also needed OHCHR support. Sometimes they depended on OHCHR to put pressure on their own superiors in Bogotá. In other cases these government human rights workers faced direct threats, and OHCHR advocated for their safety. This relationship and trust-building over time opened up the flow of information and the possibilities for joint analysis.

“When we faced threats, we always found that there was a bigger response if we called the UN human rights office than if we called the Ministry of Defence. The High Command would take a lot more care if the UN was involved in something.”

– Former prosecutor in the Attorney-General’s office.

As a result, OHCHR was uniquely positioned to gather information and analyse the new pattern of civilian executions. OHCHR human rights officers gathered reports directly from their own sources while also receiving information from the different state institutions. OHCHR directly verified as many cases as possible itself, putting together a strong factual basis for its future strategies to combat the problem.

## 7.3 The public voice

OHCHR’s annual reports had already been consistently raising the problem of extrajudicial executions, but from 2004, their reports began to analyze the new pattern of “false positives.” The 2005 Annual Report called attention to the increase in allegations, pointing out how frequently the crime scenes were being tampered with to portray the killings as guerrillas killed in combat, and highlighting the failure of the military to investigate.

“Some cases were recorded in which the commanders themselves allegedly agreed to dress up the victims in guerrilla clothing in order to cover up the facts and simulate death in action”  
– OHCHR-Colombia 2005 Annual Report

The 2006 Annual report not only documented killings and false information but also urged the government to “review the parameters used for assessing the results of military and police operations, in the framework of the reforms effected by the Ministry of Defence to eradicate human rights violations by member of the security forces, in particular extrajudicial executions.” This set the stage early for future technical collaboration between OHCHR and the Ministry. The report also specifically praised the Attorney General’s office for investigating cases. The 2007 report took this further, by calling on the government to substantially increase the resources of the Attorney General, the Inspector General and the Ombudsman’s offices to combat the problem. In doing so, OHCHR was not only pointing out systemic gaps, but further strengthening its relationship with these key allies inside the government.

The UN’s voice was not alone, by any means. OHCHR was complementing a chorus of voices from numerous civil society groups, both national and international, as well as quiet voices from the diplomatic community. By 2008 the issue of extrajudicial killings had become a scandal. It was publicly discussed by civil society groups, frequently covered by the media and a regular issue on the discussion agenda of many diplomats. OHCHR’s public reporting on the issue was a key reinforcement for all of these other actors’ voices – they could always call attention to the credibility and dependability of the OHCHR statements on the issue.

## 7.4 Opening the door of the High Command

The objective of OHCHR’s strategy was not to make noise or simply call attention to the issue, but to change the internal practice of the military – both to stop the executions and to create an internal system of accountability to prevent their recurrence. But at the start of this process, OHCHR did not have the same close relationship with the military that it had with the Attorney General’s office. The Colombian military had a long tradition of successful resistance to civilian interference – even from Colombian government civilians, much less from international ones. In the early years OHCHR found the door shut. Creating a relationship to open that door was a long-term process.

If OHCHR had given up too easily on developing an effective relationship with the army, it could never have achieved what it later did in this process. Instead, over the years, OHCHR sought out every opportunity to open a dialogue with the army. It regularly presented its carefully-gathered monitoring information to the army, with persistence and diplomacy, in a sense creating the image of a worthy adversary. But it

also engaged in more confidential initiatives to build trust, for instance collaborating with an internal review of military human rights training – and even agreeing to allow the military to choose two out of the three consultants to do the review. The army saw from such experiences that OHCHR was flexible and capable of maintaining confidentiality. The OHCHR office also sought out informal opportunities to interact with military officials, for instance through academic programs. Some of the relationships created through these ‘low-pressure’ contacts proved useful in developing the more official relationship later on.

More and more cases were reported, and the Medellín Ombudsman and OHCHR eventually had a joint meeting with the government and the military commander of the region, General Mario Montoya, to discuss the problem. It was obvious after that meeting that the military’s internal controls were failing them. It was also clear that the reputation of OHCHR is what allowed the discussion to take place at all.

“The commander was very tough on us. But he was a lot nicer to the UN. The High Command – they are not stupid.”  
– Medellín ombudsman.

“The army might disqualify us when we raise these issues, but not the UN.” – Medellín civil society representative.

By late 2007, this same General Mario Montoya was now the Army High Commander at the national level in Bogotá, and he privately invited two OHCHR staff in to his office to discuss the problem of extrajudicial executions. The surprising result of this meeting was that General Montoya asked OHCHR to confidentially present all their documented cases directly to the regional commanders of all 7 divisions. What followed was a unique example of the power of good information, when the top of a military hierarchy insists that his officers listen to it.

There were three rounds of visits to the regional commanders, 20 visits in all, carried out by two human rights officers who were experts on the cases and on the military. The entire military leadership in each region attended, and sometimes the process involved as much as 48 hours of meeting together over several days in a row. The generals described the detail of each operation that led to deaths, and OHCHR revealed the discrepancies step by step, based on its own investigations.

In carrying out such a sensitive process, the human rights officers had to be extremely diplomatic, never making direct accusations. They always found that their strongest cases were the ones that OHCHR had verified with direct visit to the location and one-on-one interviews with witnesses. The quality of the information made this an

eye-opening interaction for the military high command, showing that they not only had a human rights problem but also a command and control problem. They found themselves in the embarrassing position of defending obviously false stories they had received through the chain of command.<sup>14</sup>

According to a Ministry of Defence respondent:

“It was not easy. There was tension. But it was clear that the UN people had the confidence of the military. Their approach was not to accuse, but to share their information and then ask for the perspectives of the commanders. They were very objective. This put the commanders on alert, and the result was immediately dissuasive.”

During this period, under the leadership of General Montoya, a number of internal rules and decrees were enacted, ostensibly to control behaviour and achieve a better human rights record. In mid-2008, for instance, Montoya briefed the US ambassador on the Army’s commitment to human rights, transparency, the rule of law, and working with civilian and international institutions:

#### **According to a US Embassy cable:**

“Montoya reviewed Army actions over the last year to improve human rights including: **1)** his monthly meetings with the inspector delegates assigned to each division to review human rights concerns, disciplinary issues, etc; **2)** assignment to date of 51 operational lawyers to act as legal advisors to divisional, brigade and battalion commanders; **3)** creation of judicial coordination offices in all divisions and brigades to receive and investigate complaints and to coordinate with the Prosecutor General’s Office; **4)** enhancing the stature of the Army’s Human Rights directorate; and **5)** development of an operations manual to ensure Army compliance with ROEs and international humanitarian law. Montoya also stressed the Army’s strong cooperation with the UN High Commission on Human Rights (UNHCHR) and the International Committee of the Red Cross (ICRC). He said UNHCHR officials are conducting their third round of visits to the Army’s seven divisions to meet with commanders on human rights issues and review alleged cases of extrajudicial killings. Montoya added that on May 14, 2008, the MOD issued Directive 0542 which links the award of medals and other benefits to demobilizations captures, and the consolidation of territorial control rather than to combat kills.<sup>15</sup>”

14. It is worth mentioning that there were many OHCHR-Colombia human rights officers who did not understand or support this intensive confidential communication with the military leadership about individual cases. Some argued that the cases should just be published to put external pressure on the military. They did not see this internal persuasion as OHCHR’s job.

15. <http://wikileaks.org/cable/2008/07/08BOGOTA2386.html>, July 1 cable from the US Embassy in Bogota.

The fact that Montoya highlighted the confidential OHCHR meetings with regional commanders to the US Ambassador suggests that the Army saw the political and reputational benefit of the developing relationship with OHCHR.

Unfortunately the killings continued, and the OHCHR-Colombia 2008 Annual Report had to point out that: “As of October 2008, the number of complaints and the number of registered victims show that institutional policies adopted by the Ministry of Defence and the Army High Command to combat such practices have not had a significant impact in reducing the occurrence of these acts.” The Ministry had done the right thing, on paper, but it was not having an impact on the ground.

## 7.5 Turning it around in 2009

In October, 2008, a scandal erupted after several boys and men were disappeared from the region of Soacha, Colombia. Their bodies later turned up dead and labelled as guerrilla combatants by the military. The Attorney-General’s office investigated the incident quickly and disputed the military’s story, leading to a highly public disagreement between the Attorney General and President Uribe, who firmly asserted the military’s version. When Uribe was publicly proven wrong, he responded by blaming “criminal interference inside the military”. As a result, 28 military officers were fired, including three generals – one of whom was Army commander General Mario Montoya.

Apparently this scandal finally tipped the balance and convinced the president and the army that the control measures that had been initiated on paper would actually have to be implemented to avoid further embarrassment. In November, the Ministry of Defence issued “Directive 208” – which included 15 specific measures that would be implemented to end the practice of extra-judicial executions. Starting in late 2008 and through 2009, OHCHR and other human rights organizations documented a dramatic reduction in extrajudicial executions.

Throughout these years, the UN Special Rapporteur on Extrajudicial Executions, Dr. Philip Alston, had been reinforcing the concerns about the executions, regularly communicating with the government about case after case. In June of 2009, he visited Colombia and further reinforced the message. He called attention to the systematic nature of the pattern of killings. He called for a much more serious effort at internal military controls. He demanded accountability and prosecutions, insisting that the cases be dealt with by the Attorney-General rather than through the military justice system. He called attention to the systematic harassment of survivors and witnesses. And he called on the government to adequately fund the Attorney General, the Inspector General and the Ombudsman in order that they could prosecute the rapidly growing caseload. Alston used the power of his global position as fully as possible, speaking frankly. He went so far as to dispute the euphemism false positives, referring to the phenomena as “*cold-blooded premeditated murder of innocent civilians.*”

OHCHR's annual report for 2009 noted a dramatic decrease in the killings. The 2010 report reaffirmed that this trend was continuing. But doubts remained as to how fully the military would continue to implement its internal directives. Even more doubt surrounded the question of whether high-level military and political leaders will be held accountable for the crimes.

## 7.6 Consolidating the gains

After the sacking of General Montoya in 2008, OHCHR still sustained good communication with the Ministry of Defence, and by late 2009 it had signed a letter of cooperation with the government agreeing to collaborate in internal monitoring of the military's implementation of its 15 internal control measures. A comprehensive project was developed in 2010, in which OHCHR would have unique confidential internal access to closely monitor the internal control systems of the Armed Forces, including the Inspectors General of the Army and Navy, Military Justice, and the military control entities at the regional level. Based on this monitoring, OHCHR will elaborate confidential analytical reports and offer advice and technical assistance.

When OHCHR engages at such an internal and confidential level with abusive institutions, its credibility with multiple stakeholders demands that it sustain its capability to monitor the real outcomes for rights-holders. It must continue to receive and report on any new complaints of killings.

The challenge of accountability for past killings is the most difficult, as Colombia continues to suffer from deeply entrenched impunity, not only for extrajudicial executions but for all human rights abuses. Thousands of soldiers are now under investigation for extrajudicial executions, but only a small percentage of prosecutions are being completed or leading to sentences. The government is not giving the justice system adequate resources to pursue the cases, and witnesses, prosecutors and judges involved in those cases being prosecuted continue to be harassed and intimidated. Families of victims are still calling for justice.

## 7.7 Summary

This process took years, and the consolidation of change and demand for accountability continues. But at a level of strategic protection, one could hardly ask for better "protection impact indicators." There were measurable positive changes at the level of government policy and internal military practice. There was a dramatic statistical reduction in killings. And there is substantial affirmation both publicly and from internal military sources that the OHCHR's influence was a vital contributor in achieving this impact.

All of the fundamental strategies outlined in earlier chapters are illustrated in this example:

- The physical field presence and daily contact generated trust, which in turn generated data. The history of solidarity and protection the office had given both to civil society and to local government human rights workers made OHCHR the “go to” place for sensitive and dangerous information. Insider witnesses trusted OHCHR.
- Public reporting over a period of years generated pressure. OHCHR reports reinforced and validated public calls for action by others as well.
- A flexible relationship was slowly built up with the military, without giving up any space with respect to principles or public reporting. This relationship was created through both formal and informal approaches, using initially less-threatening collaboration initiatives to build trust, but leading up to a firm face-to-face ability to lay bare the facts of the most scandalous nature directly to the high command.
- The approach of OHCHR was persistent, reliable and predictable, both publicly and in its quiet diplomacy with the military. The office generated the respect of the military, not by being subservient or weak, but by being clear, critical, consistent and helpful.
- A strategic collaboration with the Special Rapporteur on Extrajudicial Executions, both before and during his visit, augmented the pressure on the state to stop the killings.
- Civil society actors consistently played a key role in demanding an end to the killings, and OHCHR both protected Colombia human rights defenders and reinforced their messages.
- Based on the development of a confidential relationship, a technical advisory role was finally constructed that allowed OHCHR to move beyond public reports and demands into collaborative internal problem-solving with the military.
- Continued monitoring and reporting helped to consolidate the implementation of internal changes, and must continue.

The case of OHCHR’s impact on extra-judicial executions in Colombia demonstrates what was referred to in chapter two as the essential *infrastructure* for effective protection. The impact of the office on this particular pattern of grave violations of human rights was not merely the result of the actions described in this chapter, but the cumulative result of a long-term projection of presence, a history of consistent and principled action that had generated broad credibility and a complex network of relationships that had been built up through all the other work of the office in prior years.

This work in Colombia on extrajudicial executions is only one example of a complex strategy bringing together these elements. It's certainly a good example, but not the only one. All human rights field presences can develop such strategic combinations to maximize their protection impact.

## 8.1 Diagnosis, Gaps and Adaptation

Human rights situations change over time and field presences need to anticipate and adapt to these changes. The offices in Nepal, Uganda and Cambodia, for example, evolved to deal with entirely different post-conflict challenges from the ones they encountered when they were established, while presences in Colombia and the DRC face constantly changing dynamics of prolonged conflict. As the human rights issues change over time, so does the most appropriate role of a UN human rights presence. To sustain their effectiveness and credibility, presences need to proactively plan how they will adapt their resources and methods to the evolving human rights gaps. In some cases, that adaptation might extend to planning dramatic reduction or exit of the mission.

Most larger field presences have been deployed by OHCHR, DPKO or DPA as a response to a specific crisis. All the major presences included in this study were opened in the middle of acute crisis situations. However, in many cases these same countries also contain fundamental underlying human rights problems, such as widespread discrimination and failures of rule of law. As the acute crisis passes, a presence is faced with the dilemma of how – or whether – to continue in the country.

For example, the OHCHR office in Nepal opened during an open armed conflict which has now ended, although political stability has yet to be achieved. Even without the conflict, however, Nepal has massive problems of discrimination and economic and social exclusion. Areas of the country remain highly unstable, and local accountability and rule-of-law remain extremely weak. With the original crisis past and underlying problems exposed, what is the most appropriate response or role for OHCHR?

This challenge of adaptation is not unique to Nepal. Each presence will face key decision points about how to adapt to changes. Figure 8-1 (see next page) shows typical stages and decision points in the evolution of a range of different kinds of field presence. Even though a specific crisis might be a major reason for the existence of a presence, the human rights benefits of the presence don't necessarily end with the crisis. In fact, once a presence is established in a country, its human rights officers will inevitably develop a deeper analysis of the structural human rights problems

around them, including those that contributed to the crisis and other serious long-term challenges that may be quite separate.

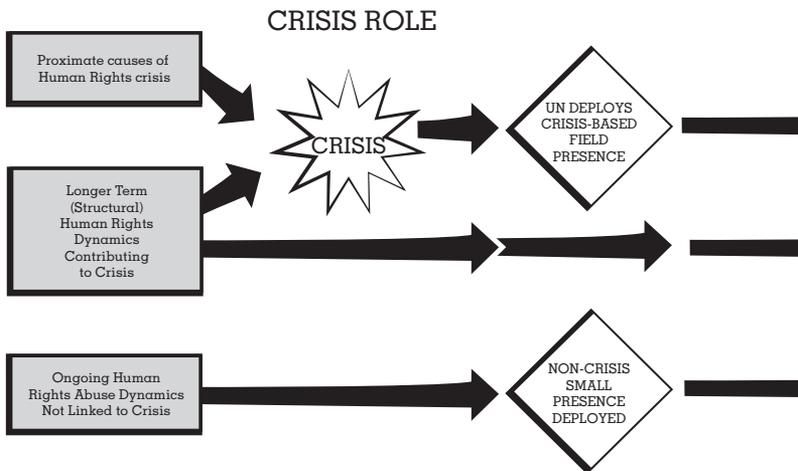
As the diagram shows, there are different possible trajectories for a field presence. Some arrive during crisis, and then the situation improves. Based on a deeper human rights assessment, the presence might leave altogether, or it might be transformed into something longer-term (e.g. Guatemala or Cambodia, and perhaps Nepal or Uganda). In other cases, such as Colombia or the DRC, the crisis might be prolonged and the presence takes on a combination of emergency and longer-term initiatives. There are also presences that can begin small (e.g. Mexico), without the catalyst of a conflict crisis, but then develop relationships and credibility that allow for a gradual expansion and bigger protection impact over time.

One way to consider the appropriate evolution of a presence in a post-crisis situation is to recall the reason the presence is there in the first place. Ideally, national structures are sufficient to protect human rights in a country. The primary responsibility is with the state, and international intervention is only required when the state is unable or unwilling to provide the necessary human rights protections.

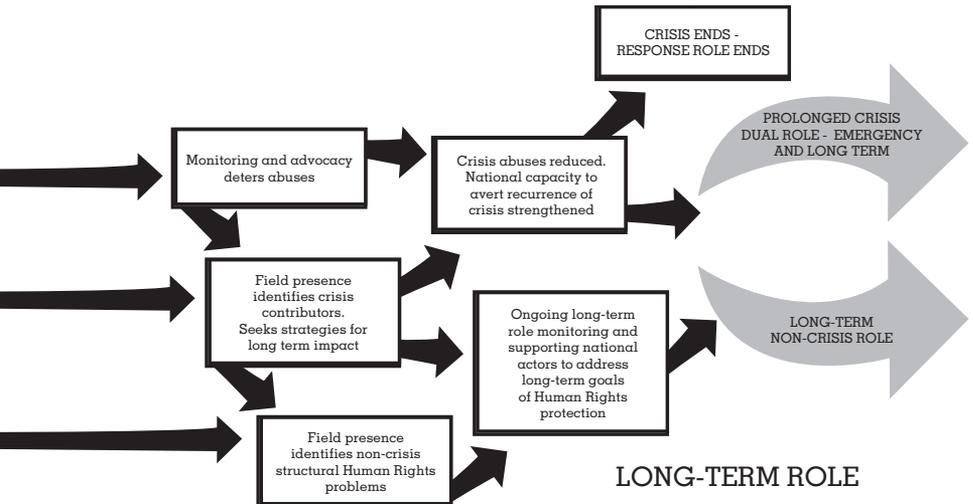
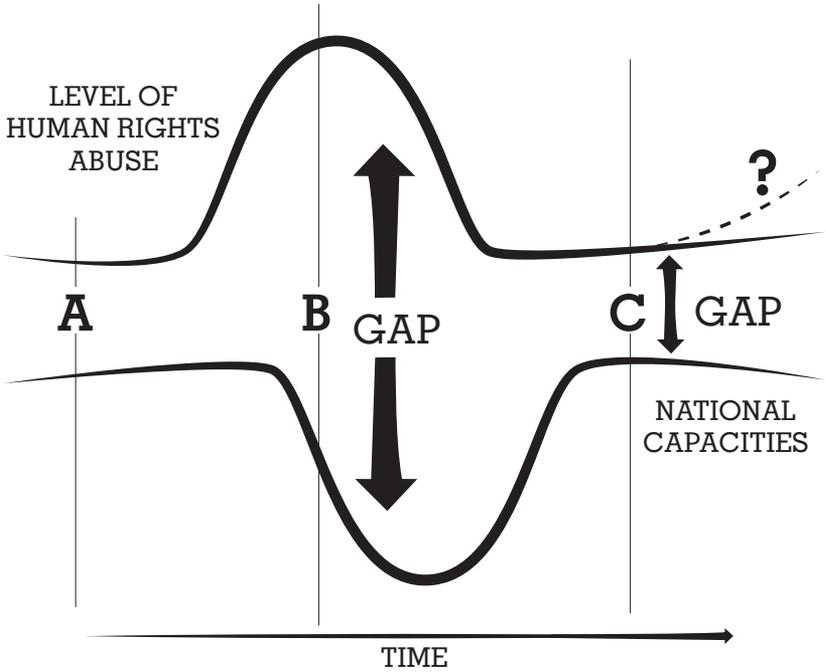
In many countries, however, there is a substantial gap between the prevailing levels of human rights abuse, and the capacities and will of national actors (state and civil society) to adequately deal with those abuses. A UN human rights field presence should help national actors to narrow this gap – a gap which is constantly changing.

Consider again the example of Nepal as shown in the diagram (See figure 8-2): Even before the escalation of the armed conflict (point A) there was already a gap. Nepali institutions were not dealing adequately with pre-conflict levels of abuse.

**FIGURE 8-1:**  
FIELD  
PRESENCE  
EVOLVES AND  
ADAPTS TO  
CHANGING  
CONTEXT



**FIGURE 8-2: CHANGING GAP BETWEEN ABUSE LEVELS AND NATIONAL CAPACITY**



With the eruption of the conflict to crisis levels, human rights abuses escalated dramatically, and repression further limited the capacity of both civil society and state actors to confront it. The result was a scream for help, from civil society, political parties and the diplomatic community as well. An impressive political lobbying success yielded the arrival of OHCHR-Nepal in 2005 (point B).

In the first years, the OHCHR-Nepal role in reducing this gap was entirely focused on the top line in this graph: reducing the numbers of grave abuses, through preventive presence, reporting and advocacy at all levels (local, national and international) and by playing a role in promoting a peace process. As the prevalence of abuse came down, and national actors had some space to operate again, OHCHR began to work on bringing up the lower line as well, supporting civil society human rights actors as well as state institutions. In essence, this is the dual role of an international human rights intervention: direct action to prevent violations when they are at crisis level, and supportive action to strengthen the national capacity to deal with the “normal” post-crisis prevalence of abuse.

By 2010 Nepal was at point C in this graphic timeline. Although the crisis-levels of conflict-related abuse were past, there was still a substantial gap between the prevalence of abuse and the capacity of the national actors to deal with it, and there was considerable uncertainty about the next stages in the political process. The OHCHR-Nepal role by 2010 was therefore two-fold: on the one hand it was playing a long-term peace-building role of continuing to strengthen national actors to address the ongoing long-term human rights issues, such as discrimination and ESCR. At the same time it was still monitoring an incomplete and potentially volatile political process, standing ready to again activate its more “preventive” role of reducing abuses should more violence erupt again. Its focus on combating impunity was serving both of these purposes.

The reality of real-life human rights violations is more complicated than a simple graph can convey. Each country context over time would show a unique and dynamic relationship between intensity of abuses and capacity. Even within a single context, different kinds of abuses might follow different patterns, which would influence the field presence’s decisions about its focus of attention. In principle, this kind of graphic illustration helps to visualize or quantify the role of the field presence and the difficult judgment calls that it needs to make. When the levels of abuse are too high for local actors to address, the international presence must focus on reduction of abuses. When (or if) these abuses diminish, and local actors achieve the capacity to deal with the most pressing human rights concerns, the presence will have more space to focus on longer-term approaches of building capacity and will of local actors, and to address underlying issues. Whether a presence should be staying for the long-term should be based on a judgment call about whether the capacity gaps have been reduced sufficiently (they will never disappear altogether), and whether the strategies implemented are making a constructive difference.

## Working on caste discrimination in Nepal

OHCHR Nepal identified caste discrimination as a gap that was not effectively addressed by mainstream Nepali human rights actors. The office began supporting (low-caste) Dalit organizations pursuing emblematic cases. The efforts of these organisations lead to landmark legal victories. A judge who issued one such verdict against caste-related violence called it, “a huge message to the non-Dalit community that what they were doing was illegal.” OHCHR field offices also supported the creation of human rights networks bringing together both Dalit and non-Dalit organizations. Some Dalit activists credit OHCHR support with opening doors for them: “Authorities talked to us because they thought if they didn’t they would get a call from OHCHR.”

Working on discrimination and Economic and Social and Cultural Rights was new territory for many human rights organizations and lawyers, including for OHCHR. OHCHR tried to bring to Nepal the “best practices” in this developing field of human rights work, and Nepali activists credit this support with “raising the bar of analysis.” In addition to organizing trainings on ESCR for activists around the country, OHCHR also worked closely with the NHRC, civil society groups and the Prime Minister’s office to develop a set of rigorous indicators for measuring advances in respect for ESCR, and getting these indicators integrated into the National Human Rights Action Plan.

In order for these small interventions to make a difference on long-term structural problems, they have to have a broader effect than the single case. The emblematic cases, ideally, aim to provide national civil society actors with legal precedents they can continue to replicate. It is too early to tell whether these initiatives will actually have the desired catalytic effect. But OHCHR should be engaging in joint strategic thinking with national human rights actors in order to assess the long-term value of its interventions and facilitate their continued use by others.

## 8.2 Exit strategy or transition to a long-term presence?

Regardless of the potential long-term role and need for a field presence, there are often external pressures in any post-crisis stage to develop “exit strategies” reflecting a commonly held assumption that a human rights field presence has only an emergency role. This pressure tends to come from three sources: other UN actors, the donor community, and the host government. Within the UN structure itself there are often pressures to cut budgets or declare success and go home. The bilateral donor community is also often looking to reduce support, and hoping to claim the crisis is over and the problems fixed. The host government may see the field presence as an embarrassment, a stain on its reputation, or a punishment for bad behaviour. The

state is fundamentally responsible for protection, and it may expect some benefit in its international image if it is seen to be able to fulfil this obligation without external intervention. Or it may be looking for a way to avoid future human rights pressure by reducing the level of observation.

If a field presence is conceived of only as a ‘crisis-response’, then it is logical that its continued presence will be questioned when the crisis is past. This research suggests that, more often than not, there is a great need for such field presences long after a destabilizing crisis. The UN has shown in Mexico, Guatemala, Cambodia and other places that it can have important protection impacts in chronic, non-crisis or post-crisis situations.

The UN’s human rights commitments extend beyond crisis situations, and it is time to move beyond “crisis-then-exit” paradigm. The assumption that such external support should always be short-term does not reflect the complexity and difficulties of the deep structural changes needed to address severe human rights problems, nor does it reflect the current reality of UN human rights work in the field. OHCHR and the UN as a whole need to think in terms of transformation and transition strategies from a crisis presence to a long-term presence, and find ways to address concerns of both host states and donors to facilitate these transitions.

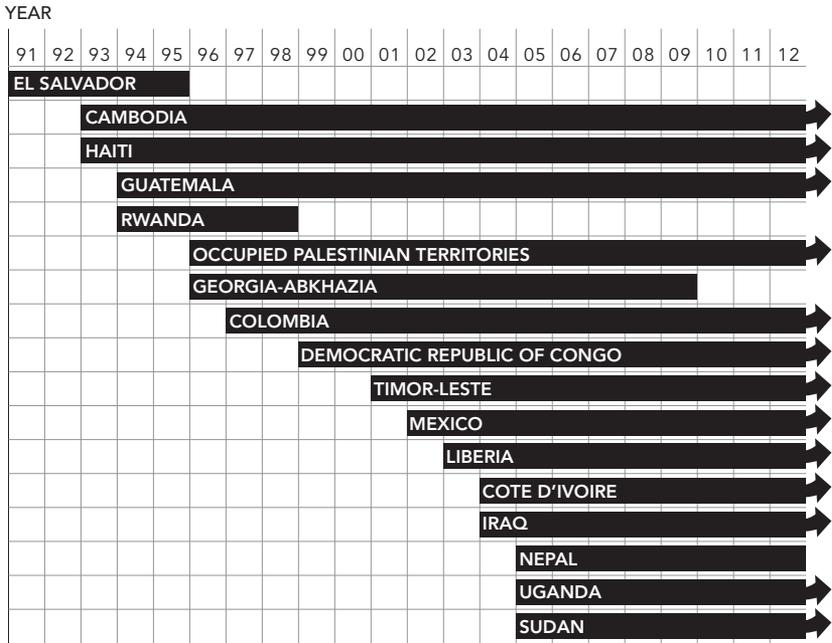
### **The case studies reflected different aspects of this challenge:**

#### **Nepal**

In 2010, OHCHR-Nepal faced considerable pressures to defend its ongoing presence, not only to the Nepali government but to donors and to its own HQ in Geneva. If Nepal’s human rights challenge were only conflict-related, the question of exit strategy would have been simpler. Benchmarks might have been set related to the end of the conflict and conflict-related violations. If such benchmarks were met, an international intervention aimed only at that short-term crisis could arguably be labelled “completed.” But if we acknowledge the importance and severity of longer-term structural abuses, discrimination and impunity in Nepal, both for their contribution as causal factors to the conflict as well as for their intrinsic importance as non-conflict patterns of abuse, the exit strategy question is much more complicated. For instance, pursuing post-war prosecutions to address impunity, or even establishing truth commissions, are usually very long-term processes requiring sustained international pressure. At the same time, if OHCHR were to work in a country like Nepal and simply ignore such an endemic human rights problem as caste-based discrimination, it would be failing in its global responsibility to the broader spectrum of rights protection.

The Nepal case study therefore raises a broader point about transitions in other countries as well: If working on long-term structural patterns of abuse is legitimate, and we accept that the gap between abuse prevalence and national capacity in a country will be wide for a long time to come, the question should not be “how to exit” but

**FIGURE 8-3: THE DURATION ON THE GROUND OF SELECTED LARGER FIELD PRESENCES**



rather “What is the future role and characteristics of the UN’s human rights presence that will best contribute to addressing these problems?” If an independent UN human rights presence is strengthening and not substituting for national capacity, making effective use of the its unique international credibility and voice, slowly closing the gaps, and it continues to prove its utility to key stakeholders, its focus (and that of its donor supporters) should be on sustaining a positive longer-term relationship with the host government and focusing on entrenched long-term problems.

**Uganda**

Human rights challenges in Uganda have shifted from the LRA conflict in the North, to the issue of democracy, rule of law and good governance, in a context of serious ongoing human rights abuse. OHCHR retains significant capacity to deter abuses, and its watching presence remains an important source of influence over state behaviour and policy setting, while its international status gives it the ability to provide significant space and support to Ugandan civil society. These problems are unlikely to be resolved in the short-term, embedded as they are in structural abuse of power, chronic failures of rule-of-law or abusive cultural practices. While the presence continues to make a significant difference, there seems to be a useful role for OHCHR into the future.

## Colombia

Despite OHCHR's long presence in Colombia and some substantial political changes, hardly any respondents suggested any change was necessary. OHCHR still has a great deal to offer to Colombia for many years to come, and arguably it should seek to grow rather than shrink at this juncture. One Colombian respondent suggested the following approach: "There are three factors that characterize Colombia: a long extended conflict, intense displacement, and chronic crimes against humanity. Until Colombia has overcome all three of these we will need this international presence." These may not be the exact criteria for sustaining a substantial long-term presence, but the office should be identifying what characteristics of the Colombian reality justify its presence. Consequently, when those characteristics change, OHCHR will be prepared in advance with ideas of how the presence should adapt. In fact, in the event of a positive peace process between the new government and the FARC, OHCHR-Colombia's should be in a strong position to expand into a major peace process monitoring role. The high level of credibility the office has built up both with the donor community and the government should help it to avoid falling into an oversimplified "stay or go" discussion, but a much more nuanced analysis that allows for a range of options.

### Post-conflict peacekeeping transitions

The need for transition planning for human rights protection is especially apparent in peacekeeping contexts. In the DRC, for example, there may be a significant draw-down of UN forces and dramatic changes in the mandate of MONUSCO in the coming years. If the levels of armed conflict reduce, the mandate may end altogether. But the protection needs and human rights problems that the Joint Human Rights Office have assessed are so dramatic and ongoing, and the local capacities so limited, that it is difficult to imagine an argument that could justify ending a substantial human rights presence there even if the military situation vis-a-vis the non-state armed groups is stabilized. If the UNSC and the government choose to end the mandate of MONUSCO, it should be a high priority to negotiate a separate ongoing mandate for a continued presence of the Human Rights Office, with a similar if not expanded field presence.

The logic behind these kinds of transitions has been recognized both in practice and in policy. Peace operations have been transformed into long-term human rights presences in Serbia, Cambodia and Guatemala, for instance. In East Timor many observers are recognising the need for a continued substantial human rights presence when the peace mission leaves. A recent UN policy on human rights in peacekeeping operations affirms the importance of giving careful consideration to ensuring that a sufficient human rights presence is maintained in the transition, drawdown and liquidation phases of a field mission or operation to guarantee continuity of key human rights activities. The same policy stresses the importance of OHCHR participation in the planning processes of these transitions.<sup>16</sup>

16. UN Policy: "Human Rights in United Nations Peace Operations and Political Missions,"

In many cases, a continued dedicated human rights presence will be the most appropriate way to integrate human rights into longer-term UN country strategy. With a presence in-country already, much of the biggest obstacles to presence are already overcome. Relationships have been established, and staff have the analysis and country-specific experience they need to work effectively. A transformation from a human rights component in a peacekeeping operation to a long-term post-DPKO human rights field presence should be the norm rather than the exception, and the UN needs to create the systems and processes to facilitate it, planning such transitions well in advance.

## **Challenges to longer-term presence**

Nearly every substantial field presence to date, no matter how short its initial mandate, has become a long-term presence, either responding to prolonged crises and complex political transitions, or shifting into longer-term roles addressing deeper structural problems (see figure 8-3). There will always be political and financial constraints on any extended presence, but it is the human-rights logic of the presence that should be considered first. OHCHR should have a proactive plan for what it believes should be the nature and form of each UN human rights presence into the future – both for its stand-alone offices and for current human rights components of peace operations. If departure is the best way to empower national actors to step up to their role, then exit strategies should be designed towards this outcome. And if a longer-term presence is more appropriate, then political and resource strategies should be designed to make this happen.

Such planning must address three challenges: a) The UN itself has to make the necessary structural changes to facilitate such transitions; b) donors must be convinced the longer-term presence is worth supporting, and c) the host governments need to be convinced to keep the door open for continued presence. We will discuss the relevant UN institutional changes in a chapter eleven. The concerns of donors are legitimate, and the field presences need to sustain good communication that clearly articulates the protective impact of the field presence, how and why it makes a difference in the long-term, and therefore why continued support is sensible.

The concerns of the host state are the most complicated. In brief though, all the lessons discussed earlier about building credibility and building a ‘problem-solving’ relationship over time are crucial. The image of a field presence as a stain on the state’s reputation may be unavoidable at the start, but it has to be reduced as early as possible in the life of a field presence. If the host government perceives that the field presence has high credibility and support both within the society and internationally, and it also perceives that it is respected and is gaining some benefits from the presence in terms of solving problems, the field presence is far more likely to secure a long-term mandate and relationship.

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Approved August 2011.

## Conclusion

The stereotype of a short-term intervention in a human rights crisis does not correspond to historical patterns of human rights transformation, nor to actual UN experience. Human rights presences therefore need to be planning at the outset for a reality of changing country dynamics and corresponding shifts in emphasis of their own work. Looking beyond immediate abuses and response, if they invest adequately in analysis, they should be predicting human rights needs and planning how their own presence should be adapting.

Further confronting this stereotype, the post-conflict experiences of human rights field presences or the examples of “non-crisis” presence in places like Mexico suggest that the UN human rights field presences may have important and useful roles to play in countries that are not – or are no longer - going through crises. In the long run, OHCHR should be assessing the needs for international presence in situations of chronic abuse that cannot be qualified as “emergencies,” and developing political strategies and opening dialogue to initiate more of such presences in the future.

Adapting to changing needs over the long-term requires a persistent commitment to developing clear relationships with the host state and a clear articulation of the needs and niche for the presence to allies and donors. In the case of peace operations with time-frames too short for addressing longer-term human rights needs, structures should be set in place early on to allow for an eventual transition from DPKO or DPA to an independent human rights presence. Ultimately, all decisions about extending, closing or expanding a presence should be based on this ongoing analysis of the needs of rights-holders on the ground.

The field research of this study centred on four in-depth case studies of larger human rights presences. The vast majority of examples come from these studies. And yet many human rights presences are much smaller and do not have the resources or the mandates of these larger operations. Nevertheless, what the previous chapters have laid out are general principles, applicable to all human rights fieldwork. Small presences, like large ones, have to find the most effective ways of combining presence, access to information, quiet diplomacy, public voice, and other approaches into coherent strategies to contribute to protection needs they identify on the ground. The challenges are undoubtedly much harder, and the possibilities more limited. This section looks in more detail at how smaller presences adapt these principles to the special circumstances they face.

## 9.1 Regional Offices

OHCHR has established eleven regional and sub-regional offices around the globe, covering Southern Africa, West Africa, East Africa, Central Africa, Central America, South America, Europe, the Middle East, the Pacific, Central Asia and South-East Asia.<sup>17</sup> These offices develop relationships with the individual countries that they cover. They provide a local point of contact with the UN human rights system for countries that have no UN human rights presence and they can follow-up recommendations from the Universal Periodic Review (UPR), special procedures and treaty bodies. Although their resources are very small, they still have found opportunities to intervene to promote protection on particular cases and issues of concern, and they have sometimes helped to identify needs and facilitate the development of other field presences in specific countries.

Regional Offices typically do not have explicit agreements with the countries that they cover, other than the hosting country.<sup>18</sup> This ambiguity gives them the flexibility

17. This study was not able to have contact with all of the OHCHR regional offices. Brief field visits were done to Beirut and Bangkok, and phone interviews with staff of the Southern Africa, Central Africa and Pacific offices. Other regional office heads participated in group discussions run by the project during the 2010 and 2011 heads of field presence meetings.

18. The exception is the Central Africa office in Cameroon, which was established by a specific General Assembly resolution upon request of the countries in the region.

to carry out a number of different forms of protection work. The offices are rarely challenged on the scope of their activities, partly because of the astute practice of the Regional Representatives themselves who tend to build relationships before they push the boundaries.

As a result, some interesting protection practice has been carried out. The Pacific office, for instance, has published multiple reports, including monitoring and documentation of specific cases. Cases are usually referred to Special Procedures, but some are also raised directly with the government involved. The office has even put together a regional report briefly describing the current human rights situation in each of sixteen countries. Because of the limitations of direct field research, this report is based on secondary sources.

The Central Africa office has been able to be responsive when needed, for example by sending teams to monitor the human rights elements of elections in the region. They have not been publishing major reports – mainly for lack of research capacity – but they have been active in supporting reports published by Special Procedures and others.

The South-East Asia office is addressing the complicated human rights protection needs in southern Thailand and Southern Philippines. It has also created relationships with authorities throughout the region that allow it to quickly respond to harassment and intimidation of human rights defenders (HRDs). The official status of being the High Commissioner’s direct representative can facilitate high-level pressure when civil society activists are harassed or detained in the region.

Bangkok Regional Representative: “I can make calls to Ministers and pressure for their safety. Sometimes I make a call and the problem stops.”

## Getting out to the field

Regional offices struggle with getting out to the field and projecting their presence, building relationships and showing the face of OHCHR. To a large extent, this is an inevitable consequence of the large geographic area they cover with few staff, but this is not the only reason. At least one regional office reported that their main obstacle to getting out was the mindset and habits of the office. “We mostly go for a specific reason, rather than just to go. We could plan regular meetings, just going to shake hands and get personal updates. In the past, with regular meetings in one country we reached a high level.” Clearly one of the advantages of having a regional office rather than only working from Geneva is that the geographic proximity and accessibility should allow for frequent visits. Within the constraints of personnel and travel,

Regional Representatives and their staff need to look for ways to project as visible and regular a presence as possible.

## **Leveraging influence**

With few staff on the ground, regional offices have to leverage whatever clout they have. In Central Africa, for instance, the Regional Representative has developed a conscious strategy to maximize the impact of each of her visits by creating an aura of “importance”. Before arriving in post she began building her image by asking that the High Commissioner write “Notes Verbales” to the Ministers of Foreign Affairs in the countries she was to cover. A visit to a country can therefore be made into a high-profile event, with private discussions at the Ministerial level and public awareness events followed by a space for talking with the press. Although HROs doing follow-up work cannot operate with the same profile, the status of the Regional Representative is an effective lever to open doors and gain cooperation.

## **Using the UN voice**

As with other kinds of presence, sometimes the regional representatives will emphasize quiet diplomacy, and take advantage of the High Commissioner or Special Rapporteurs to be the ‘bad cop.’ According to one representative “I try to stay low profile. I seldom do public critique – I try to leave that to others, like the High Commissioner herself, or a Special Procedure. But I can be very firm behind closed doors, very tough.”

But a Regional Office should not always have to let someone else be the “bad cop”. The Regional Representative is officially the voice of the High Commissioner. When they recognize and cultivate this status, they are especially well suited to make regular and strategic use of public voice. Public statements reinforced by consistent private messages do not need a large investment in human resources, and can have broad-ranging effects within a country, in particular by providing space and cover for national civil society organisations to raise difficult or controversial issues.

Where we were able to conduct interviews with civil society about what they wanted from a regional office, they consistently returned to this theme of the public voice. Civil society is nearly always far more exposed to retaliation than the UN and they need the UN to take the risk of being the bad cop.

“The [Regional Office] is in a position to approach governments, especially where civil society is weak. But they are not doing this. They are not equipped to do it, and they have the diplomatic status that protects them, but they are not willing to do it, lack resources to do it. They seldom confront governments directly about issues or cases. And they tend to deal with the less controversial issues. They can be louder.” – Civil society respondent

This critique that regional offices were too careful, too diplomatic, and therefore failing to achieve their potential influence was not universal, but it was frequent enough to be taken seriously.

Regional representatives and their staff are undoubtedly making concerted efforts to maximize their impact with very few resources. Their successes should not, however, divert attention from the fact that there are often countries under their area or responsibility which urgently require a more substantial in-country presence. Sometimes, such as for the Middle East Regional Office, several states vehemently object to any permanent in-country presence. In other cases, there might be potential to negotiate a more adequate presence, but the limitation may be a perception of lack of resources within the UN. This problem is not insurmountable, so the effort should be made.

Regional offices are an important means for the UN human rights system to get an on-the-ground understanding of a country where there is no permanent UN presence. By following both the human rights and political contexts, and making field visits whenever possible, the regional offices are in a good position to identify where a human rights advisor or larger presence might have the most impact, as well as when and how such a presence could feasibly be established.

## 9.2 Human Rights Advisors in United Nations Country Teams

The second frequent mode of ‘small presence’ of OHCHR in the field is the Human Rights Adviser to the UN Country Team. As of 2011, OHCHR had 20 human rights advisors (HRAs) covering 24 countries. Despite its name, a “human rights advisor” does not necessarily refer to a single post, and often should be more accurately described as a “unit”. The OHCHR policy on Human Rights Advisors includes an expectation of at least one national support staff and one national officer. In Russia the HRA unit is five people and a consultant. The sub-regional HRA unit for the Southern Caucasus has five to seven staff and covers three countries.

Besides having a small number of people, the human rights advisor presence is fundamentally different from stand-alone presences and DPKO or DPA human rights

components. They function under the direct supervision of the Resident Coordinator. They do not have the resources to do much monitoring and their TORs say they “are not expected” to follow individual cases. They do not have the staffing to project sustained visible presence during a crisis. Most importantly, they do not have an independent voice to be outspoken on human rights concerns or to create a high profile around human rights issues. As a consequence, many of the tactics described in earlier chapters of this study are rarely fully available to HRAs.

The standard terms of reference of a human rights advisor include:

- Support to the Resident Coordinator (RC) and the UN Country Team (UNCT) with mainstreaming human rights and in their engagement with the Universal Periodic Review (UPR), Special Procedures and Treaty Bodies,
- Advice to state actors relating to state protection machinery, legal frameworks, judicial capacity and international reporting obligations.
- Liaison with and support to civil society organisations
- Producing thematic or situational analysis of specific human rights issues for OHCHR and the RC
- The possibility of appearing in public fora and the communication of suitably agreed public statements.

Although the widespread perception is that the HRA role is very constrained, these TORs are actually very broad. A role of ‘giving advice’ to state actors allows for quiet diplomacy and subtle pressure. The responsibility to produce thematic or situational analysis opens the door to research and investigation of pressing situations. This breadth means that a small HRA unit cannot hope to cover more than a fraction of its potential role. In practice this forces difficult prioritisation decisions onto HRAs – together with their RCs – as they choose the areas where they can have the most impact. This focus will depend a great deal on the specific context of the country as well as the skills and interests of the HRA and the RC.

In Russia the primary focus has been on integration of international standards into everyday Russian practice with very little direct protection focus. In Albania, a major priority of the office was working on the rights of the disabled. This was not because issues of disability are more of a problem in Albania than elsewhere, but primarily because that was the special expertise of the HRA who happened to be there.

In some countries the focus has been very much on achieving immediate protection impact, even if it cannot be done through the classic channels of big presence and a loud voice. In Sri Lanka, for example, the acute crisis has been at the centre of activity until recently.

## Strengths of the HRA role

The flexibility of the HRA role is one of its strengths. Each country and context has different possibilities for impact so an HRA needs to be constantly prioritising to make the best use of his/her limited resources. Depending on the specific situation, the most effective focus might be on a transitional justice process, the state human rights infrastructure, the UNCT itself, support to civil society, a bridging role between everyone – or something else entirely. An HRA needs flexibility and agility to take advantage of temporary opportunities as they arise such as an unexpected political opening or a supportive new Resident Coordinator.

When HRAs are in a post over a period of years, they can create effective personalized relationships. State and civil society counterparts consistently placed a high value on the continuity that comes from dealing with a single individual for a number of years, allowing for stronger long-term relationships of confidence and trust.

HRAs are also able in some cases to directly generate pressure on state institutions. The case was described earlier how the HRA's withdrawal of support affected the perceived legitimacy of the Kenyan Truth Justice and Reconciliation Commission (TJRC) and pressured the government to take steps to address concerns about the lack of independence of its leadership and its lack of funding.<sup>19</sup> When the TJRC's weaknesses were seen to have improved, the HRA once again actively engaged in supporting its work.

HRA posts are sometimes created in countries where a more independent and well-resourced field presence is resisted, as their relatively low profile makes them more acceptable to states. In Russia, for example, the role of the HRA unit is fairly limited and avoids most of the more controversial issues. Nevertheless it can still be an important liaison between the Russian state and the international human rights system, facilitating integration of international commitments into Russian jurisprudence, working with prisons to take into account international standards and driving retrospectively obvious projects such as the translation of the OHCHR website into Russian.

In some cases, where states are relatively open, an HRA may have potential to build confidence and understanding of human rights to the point where a bigger, fully-mandated office might be politically possible - if there is a conscious strategy to achieve it. Currently, however, HRAs are not actively being used to open space for fully-mandated presences, even where the potential exists. According to one HRA, "... the mandate is something you have to negotiate with the governments. But we have not actually tried to expand the mandate. The talks are still at a low level – even within our geographic region. But my assessment is that we would not have major problems if we were to enter into negotiations to establish a full mandated office. [The] governments appreciate our role."

19. See page 31 for prior reference to this example.

## Flagging cases to Special Rapporteurs

“Some indigenous people were detained and accused of terrorism for participating in a demonstration. I don’t have the mandate or even the capacity to deal with these issues by going to the prosecutor’s office and getting engaged with the case. But I can collect the maximum information available and I can submit this information to James Anaya [Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples] who can then use his voice to intervene directly. I can also send the information to the desk officer of the the Inter-American Commission for Human Rights. I’m not going to appear in the photo, but the reaction can be significant.” – Human Rights Advisor, Ecuador

If HRAs do play a role in facilitating new presences, it needs to be planned carefully. Even the suggestion of an in-country “upgrade” is sensitive and would need to be planned either cooperatively or powerfully. One HRA lamented that his relationships with state authorities were undermined because he was viewed as a Trojan Horse for a future stand-alone presence.

## Convening other actors

Without a loud voice or a large presence, HRAs have found that one key avenue to having a protection impact is through bridging and leveraging other actors. HRAs often have a rare combination of access to the UNCT, the state, the diplomatic community and donors, the international human rights system, national and international NGOs and civil society organisations. Being small and (usually) without the need to fund programmes of their own, helps them gain respect as a “pure” and credible voice for human rights. Low-key convening can bridge local actors, and can also link them to special procedures and regional bodies. In most contexts there is an extraordinary diversity of convening possibilities.

In Sri Lanka the HRA has been an essential conduit to bringing information from NGOs into the UNCT, and linking those same NGOs to the international human rights system. In Ecuador the HRA was able to use a personal contact to bridge NGOs with the President to discuss a new NGO law and facilitate international and regional human rights bodies’ interventions into fast-moving local issues, for an immediate protection impact.

## The HRA and the role of the Resident Coordinator

The Resident Coordinator is a critical figure in determining the effectiveness of an HRA. Some RCs have shown strong interest in human rights issues and have integrated human rights into the rest of their work, using the HRA as a valued resource.

This support is not just important in the short term, but works to “normalize” human rights within the UN system

“We had a Resident Coordinator who really pushed human rights and opened spaces for human rights so we didn’t have to. He normalized this way of thinking – Human Rights are not optional, but obligatory. And so when the new Resident Coordinator arrives he sees all of this as “normal”, this is how it works. Human rights are a key part of all the work.” – Human Rights Advisor

## **Challenges and limitations of the HRA role**

HRAs are seriously constrained by the twin challenges of reduced size and lack of an independent public voice.

### **Insufficient resources, insufficient visibility and contact**

Even though HRAs do not have an explicit monitoring mandate, there is still a lot to gain by showing the face of UN human rights to interlocutors around the country. Travel and external contact builds relationships, sends human rights messages, and yields important information and analysis for reports and for advising other actors. This visible presence and quiet sharing of information can have an immediate protection impact.

But simply for reasons of size, HRAs are unable to be out and visible in the way that a bigger presence can. Not even the biggest HRA units have more than a single office, and visits outside the biggest cities are generally far too infrequent to create any sense of regularity or of “being watched”.

One way HRAs have been able to increase their effective reach is by creating a network of contacts around the country. In Sri Lanka in 2003, the HRA supplemented his own field visits by establishing relationships with a set of human rights sensitive staff from NGOs and UN agencies posted to the field offices. These people would quickly and quietly let him know information about incidents as they happened, together with locally-oriented political analysis of the context.

### **Constraints on independence and voice**

Human rights advisors are not official representatives of the High Commissioner and are not generally authorized to speak in her name.<sup>20</sup> In practice the freedom for an HRA to communicate publicly depends greatly on the perspective of the Resident

20. “The HRA may, from time to time, be authorized by the Resident Coordinator to communicate a public statement issued by the OHCHR Headquarters or to participate in public fora on his/her behalf”, HRA Terms of Reference.

Coordinator, and the personality of the individual HRA.

In some cases, the HRA and the RC establish relationships in which the HRA can speak relatively freely. In Kenya, for example, the HRA was given a lot of discretion as to her public positions and used this space proactively. She was perceived by many as largely autonomous of the RC and the UNCT, and as a strong local voice for UN human rights priorities.

An HRA can also have an effective voice by leveraging the overlapping mandates and complementary skills of other actors, such as protection-mandated UN agencies. In South Ossetia, for example, when four minors were arrested on charges of terrorism for crossing a border supposedly carrying explosives it was a big public issue that required a UN response. The HRA could not make a statement himself and a statement from the High Commissioner or a Special Rapporteur would not have been fast enough to produce an immediate result. Instead the HRA collaborated with UNICEF who quickly released an official letter and statement.

### **Unsupportive Resident Coordinators**

One of the most difficult challenges for an HRA arises when they find themselves working with a Resident Coordinator who is unwilling to engage with human rights issues, especially in moments of crisis.

One of the theoretical responsibilities of an HRA is to “ensure that any public statements made by either or both of the RC and the High Commissioner are mutually reinforcing and used strategically”. The HRA can quietly advise in this direction, but in the face of any disagreement, the HRA is not granted the authority to fulfil this task. Nor is there any standard or accepted process to help the HRA address this challenge if there is substantive strategic disagreement between the RC and the High Commissioner. This gap can lead to a dangerous lack of action in critical situations, and a very frustrating situation for the HRA.

This is not just a theoretical concern. In Sri Lanka in 2009, the RC and the major players in the UNCT were opposed to taking strong public positions on the ongoing abuses by government forces. When the High Commissioner spoke out she was undermined by the far weaker position taken by the UN Secretary General. When things are playing out at this level, it is unrealistic to imagine that having an HRA in-country is enough to ensure the UN is taking a clear position on human rights, or even making mutually reinforcing public statements. If an RC is not fully engaged with human rights issues then only strong pressure from Geneva and New York has a chance to change the situation.

### **HRA in a crisis setting: Better than nothing?**

The difficulties experienced by the HRA in Sri Lanka during the final stages of the civil war in 2008 and 2009 call into question the value of this post in situations of acute

crisis. In the years before 2009, OHCHR attempted without success to get agreement to set up a more substantial stand-alone presence in Sri Lanka. The difference between an HRA and a stand-alone presence is huge. The HRA in post showed dedication, skill and creativity and made many small inputs. But the lack of numbers on the ground, low profile in the media, lack of clout in the UNCT and exclusion from high-level UN discussions and decision-making made it impossible for the HRA to have the same strategic impact on how events played out that a larger presence could have had.

There was, however, some protective impact, and it may have been disproportionately large in comparison with the size of the office and considerably better than nothing. There is no evidence to suggest that having an HRA on the ground weakened the international response by giving human rights “cover” to the Sri Lankan Government or the UNCT. On the contrary, the work of the HRA was the basis of the High Commissioner’s firm stances, and was internally one of the strongest voices pushing other UN actors in Colombo and Geneva to pay greater attention to the abuses taking place.

## **Recognize the limits – push for more**

The Human Rights Advisor role is clearly the weakest in-country presence of the different modes available. The HRAs serving in these difficult roles are making the best of a tightly constrained situation. In cases where the host government and the UNCT are favourable to their work, they can contribute to protection in a range of ways, building bridges among different actors, helping to keep overall policies human rights sensitive, and encouraging more powerful actors to use their own “human rights voice.”

But the small size and lack of voice and clout will in many situations rule out many of the other tactics described in this study. In some cases, HRAs are allowed into a country with a resistant host government *because* they are unable to exert the same kind of pressure as a larger presence. Unfortunately, it is usually in these same situations of state resistance that the UNCT or Resident Coordinator are also under pressure or self-censoring their potential human rights role. With a range of possibilities and insufficient resources, HRAs are forced to make difficult prioritisation decisions. HRAs can use their creativity to leverage the voice and presence of other actors, but the fundamental political and resource constraints remain. With an obstructive or fearful Resident Coordinator, it becomes even more challenging to make a tangible contribution to protection.

Given these profound constraints, OHCHR has to be very careful not to pose the HRA role and the independent presence as options a state can choose between, because any state that wants to control the UN’s human rights voice will opt for an HRA. The HRA role might be most useful in situations where the human rights problems and levels of state resistance are not so great – where a supportive and facilitative role is welcomed

and where a bigger independent presence is not necessary. But where an HRA is clearly insufficient, OHCHR needs to continue to push – as it did in Sri Lanka – for the kind of presence that would allow for a greater protection impact.

### **9.3 Small stand-alone OHCHR offices**

In a few countries, such as Togo, Guinea, Mauritania, Tunisia, or Kosovo/Serbia, OHCHR has independent stand-alone offices that are quite small, in some cases with as few staff as a Human Rights Advisor Unit. Unfortunately, this study was unable to visit any of these offices for an in-depth look at their work and protection impact. The political situation and human rights needs in each of these countries are very different, so one cannot automatically conclude in a general way that these offices are “too small”. They are likely to face some of the same challenges as any other small presence – lack of sufficient numbers to show a visible presence, build credibility, or be adequately responsive to needs. However, they have major advantages over the other small presences: firstly they have a mandate to be in country, with a formal Representative and in most cases some ability to use their voice when needed. Second, if they are showing their added-value on the ground, they may have the opportunity to expand if circumstances demand it – through additional voluntary funding from donors who see the benefit of their presence.

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A large and credible field presence can be influential on its own, but will be even more effective working together with other UN voices. A smaller presence, an HRA or a regional office, almost always needs more clout if it is to be heard. In every country in the world, local and national leaders are conscious of and responsive to rank and status, so field presences need to use this at every opportunity. A presence must have strategies for mobilizing others' voices to complement their own. The High Commissioner, Resident Coordinators, SRSGs, the Security Council, the UN Country Team, or Special Rapporteurs, all have potential for greater involvement in the protection strategy of a field presence. In this chapter we will look first at the dynamic of the human rights component within a larger peace operation, secondly at the relationships within the UN humanitarian system that can facilitate protection, and finally at the different strategies of collaboration between field presences and Geneva-based human rights actors.

### **10.1 Human rights protection within political missions**

The Department of Peacekeeping and the High Commissioner's office have made major advances in collaboration in the last several years clarifying the role of the human rights components in the peace missions. Efforts have been underway for some time to bring the DPKO human rights components closer to OHCHR – clarifying reporting lines, responsibilities for selection of heads of field presence, training of human rights officers and trying to offer greater support from Geneva. As a result of these developments, the peace operations and their human rights components in principle have a somewhat higher level of accountability to the High Commissioner's human rights mandate, with a dual reporting line to the SRSG and to Geneva.

The goal of this process is not complete independence from the rest of the peace operation. The human rights components and the SRSGs must still make difficult judgment calls about the overall impact of monitoring and advocacy on both the human rights and political goals of the mission. But with these changes, the chiefs of the human rights components should have a somewhat higher degree of autonomy to insist that human rights concerns are not brushed under the table for political convenience. In practice, this is not always achieved. Some human rights components

## Stabilization versus protection of civilians in the Democratic Republic of Congo

MONUSCO is committed through its guiding UNSC resolutions to supporting the government of the DRC in “stabilizing” the military situation of the country, in particular by assisting the FARDC in eliminating military activities of non-state or foreign actors within the nation’s territory. It is also committed to the protection of civilians. These two key commitments are not necessarily compatible. According to our respondents, FARDC military operations often have only a temporary impact, with the same armed groups returning in the medium term. Worse yet, a transfer of control of territory from an armed group to the FARDC does not necessarily lead to any improvement in the human rights situation for the local residents – and there are often serious rights abuses associated with the transition of power. FARDC elements are reputedly as rapacious and corrupt as those they are replacing in terms of their abuse of the population and their primary interest in the corrupt profiteering from the natural resources of any region they control.

The JHRO is not solely bound to the UNSC resolutions promoting ‘stability’. It is equally and independently answerable to the High Commissioner for Human Rights. An “independent” human rights presence might arguably have a role in investigating whether MONUSCO’s support for the FARDC represents an overall net gain in security and human rights for the citizens of the DRC, especially given that MONUSCO is fully aware of FARDC abuses and its corrupt intentions of territorial control for personal economic gain. As long as UNSC mandates allow UN resources to directly support combatants who abuse human rights, there needs to be an independent human rights body that can objectively assess the legitimacy of such support.

still raise concerns about their inability or lack of authority to develop and implement independent human rights strategies. SRSG’s still at times seem unduly fearful of human rights reporting or public statements.<sup>21</sup>

### Strengths

The MONUSCO case study, together with other feedback, demonstrates how a large human rights component in a peace operation can implement the kinds of best practice strategies that we have outlined in previous sections of this study. In some respects they may even be able to do so more effectively than an independent OHCHR office because of their access to greater resources and political clout.

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21. These reflections are based on one major case study with MONUSCO in the DRC, shorter visits to DPKO missions in Cote D’Ivoire, Liberia, Haiti and South Sudan, as well as to the DPA mission to Somalia (UNPOS). In addition, telephone interviews and discussions in Geneva were carried out with current or former HROs and Heads of Field presences of several others, including Afghanistan and Iraq.

The political developments around the theme of “Protection of Civilians” (POC) have further expanded the engagement of Security Council-mandated missions with human rights protection. Protection of Civilians is basically a subset of human rights protection, focused on the most urgent and life-threatening attacks in certain crises. Thus even though the language is somewhat different, at the highest level, the POC developments in policy and field mandates has brought vital debates about human rights into the Security Council. At the field level, it has pushed the other major components of Peace Missions to take core elements of human rights protection more seriously (even if they are not always explicitly calling it “human rights” protection). The result has been a dramatic increase in investment overall.

Unfortunately, in some missions the human rights components have been sidelined – or allowed themselves to be sidelined. Human rights components can lose their influence with mission leadership, either through insufficient skills or strength in-country or through lack of support from senior management in Geneva. When this happens, Protection of Civilians strategies are developed and led by other components without benefitting from the long experience of field protection that human rights field presences could bring to the process.

In other cases, though, the human rights components have been very active in helping to develop a coordinated approach to protection. The MONUSCO case study describes such a process in detail. In Cote D’Ivoire, the Human Rights component was delegated a leadership role in designing the mission’s POC strategies.

Engagement with the broader POC dynamic in a large operation is time-consuming for human rights components, and it requires a flexibility to work with other actors whose approaches to protection may be quite different. Where there is a serious need on the ground, a human rights component has to engage as actively as possible in this process, in order to maximize not just its own contribution to protection, but the contribution of the entire mission on the ground. Without the human rights involvement, the POC approach tends to be narrowly seen as a military process. In the DRC, for instance, the protection efforts of the missions were primarily focused on choosing where military presence would be deployed for dissuasive impact. But military presence is a blunt tool, not effective in very many situations, and the human rights component can develop more nuanced political approaches focused on advocacy and field-level diplomacy.

The operational capacity of peace operations usually far exceeds that of any stand-alone human rights operation: the sheer logistical infrastructure and numbers of people allows for a more visible projection of human rights presence. Sometimes, however, human rights might not be the top priority of those making decisions about usage of helicopters, vehicles and other key resources. The human rights components need to build relationships politically within the mission at both the national and regional level to be able to take full advantage. Some cautioned that “everyone goes where the helicopter goes.” The human rights component needs to be careful that their own

geographic human rights priorities are not skewed by logistical decisions taken by others.

Another key strength of a political mission is the clout or political influence of an SRSG at the national level. As senior representatives of the UN system, the SRSGs and DSRSRs have a high capacity for influence and advocacy when they fully engage with the human rights objectives of the mission.

## Challenges

Unfortunately, strengths can turn into weaknesses, especially in the case of the influence of the SRSGs. When an SRSG is not engaged in human rights advocacy for the mission, or worse yet is actively impeding human rights advocacy and reporting by others, a human rights component can be paralyzed. This lack of support from the highest level represents one of the most frustrating possible situations for a field presence. In these cases the direct support of the High Commissioner is essential, not only to validate the human rights concerns of the field presence, but also to exercise influence in a longer-term way on the human rights accountability of SRSGs. The High Commissioner has the seniority to sustain a dialogue with an SRSG and work to improve the responsiveness.

Sometimes the problem is not active obstruction, but simply that the political mission does not have a clear strategy for human rights protection. In both Haiti and Somalia, for instance, the overall mission strategy did not provide much direction to the human rights components, but at the same time these components did not necessarily have the clear authority to carve out their own path.

A deeper challenge can arise if the peace operation itself is perceived to be acting against human rights principles and even directly abusing human rights, undermining the credibility that is so central to the effective influence of a human rights presence. In some cases, mission credibility is undermined by individual behaviour such as instances of sexual exploitation or violence. In other cases, the explicit objectives of the mission can have dubious human rights implications. For instance, the active military support that MONUSCO provides for the armed forces of the DRC makes the UN to some extent liable for the human rights abuses of those forces (see box). Similarly, MINUSTAH's earlier military interventions in 'crime-fighting' in Port-au-Prince contributed to some Haitians' sense of living under a military occupation.

In the Somalia operation, UNPOS is closely aligned with the Transitional Federal Government of Somalia (TFG) and the African Union forces, neither of whom have good human rights records. This alliance results in pressures on the human rights component to increase its criticism of the armed group Al Shabaab, rather than highlight information it receives about abuses inflicted by soldiers of the TFG or African Union peacekeepers. Having a human rights component potentially allows UNPOS to claim some human rights legitimacy, but the component has no resources

or mobility to investigate such abuses on the ground. In these situations, the only way a human rights component can salvage any neutral credibility is by engaging in active reporting and advocacy on the human rights abuses or dubious linkages of its own operation and allies, even though this can create extremely difficult relationships within the operation.

In Afghanistan, the UNAMA human rights component, with support from the UNAMA SRSG, carried out investigations of NATO responsibility for human rights violations, and published these in reports. This did not make UNAMA-HR or the SRSG popular with NATO allies, but it did have an impact on NATO behaviour on the ground: the human rights component noted substantial changes in NATO Rules of Engagement and in its willingness to acknowledge civilian casualties after UNAMA interventions.

The UN has recently developed a “Human Rights Due Diligence Policy” explicitly aimed at addressing these kinds of situations where groups supported by the UN are involved in abuses. Where grave violations are committed by non-UN security forces that are receiving support from the UN, this due diligence policy requires the UN entity concerned to intercede with the relevant authorities with a view to bringing those violations to an end. If the situation persists, the UN must suspend support to the offending security forces. This may be a difficult policy to implement in situations where strong member states or other vested interests do not want UN support for a particular ally to be questioned. Nevertheless, the existence of such a policy should, in principle, assist a human rights component when it needs to call attention to discrepancies between UN human rights commitments and the behaviour of states and militaries its peace operations are supporting.

## **10.2 Coordination with UN humanitarian actors**

A field presence is often in a setting where a large number of humanitarian actors are also present and at varying levels working towards protection objectives. This can be both an opportunity and a challenge for the human rights presence. The humanitarian conceptualization of protection is somewhat different than that of a human rights presence, and tends to put much more focus on a broad range of responsive services for vulnerable populations and victims and much less on monitoring, reporting or advocacy.

At the highest level of national influence, the UN Resident Coordinator or Humanitarian Coordinator, like an SRSG, is usually the “big voice” of the UN in the field. When these leaders are engaged and collaborating strategically with a human rights presence, important advances in advocacy and problem-solving at the highest level become possible. Conversely, where these individuals are failing to live up to their responsibility to promote human rights adequately, a field presence under them can be severely constrained and potentially voiceless, especially a smaller presence or HRA with little political weight of their own. Those HR components and HRAs who

have the advantage of a permissive and supportive RC/HC or SRSG need to take full advantage and establish practices and precedents that will strengthen their position and voice in the future, in case that leadership should change for the worse. Establishing a broad space for action also sets precedents that other human rights presences can take advantage of.

In a few cases, a human rights field presence has taken on the role of coordination of the Protection Cluster within the humanitarian system. In Nepal, where OHCHR had a relatively large presence, this coordination role was appreciated by many other actors. This role, if done well, should allow the human rights presence to bring an added-value to the overall approach of the humanitarian system, without attempting to take on too much of the humanitarian actors' roles. It can be particularly helpful if it moves the humanitarian community beyond service delivery towards greater advocacy and lobbying for protection.

But this positive impact depends on both the resources invested in the coordination process and the coordination skills of those doing it. Human rights field presences are often small compared to the scale of the broader humanitarian community in a crisis, and the amount of human resources required to fulfil this role can put a serious strain on their other ongoing human rights work. After the earthquake in Haiti, for instance, the MINUSTAH human rights component filled this cluster coordination role, and found it very difficult with such a vast number of humanitarian actors involved, and some of the HROs on the ground felt that the coordination task was taking up all their energy at the expense of important human rights work that other humanitarian actors were not going to carry out.

Human rights presences have seldom had major coordination roles in the past, and coordination is not a skill-set for which human rights officers have generally been selected or trained. If OHCHR or DPKO human rights components are going to continue to take on cluster coordination, they will need to take this skill demand very seriously: coordinating a protection cluster does not only require expertise in protection, it demands expertise in coordination.<sup>22</sup> A positive development in this respect is that OHCHR has, in recent years, been sending more of its field officers to coordination trainings and to other humanitarian training to become more familiar with the task and with the partners in the system.

There are many less formal ways to collaborate with UN Country Team partners. Sometimes a human rights presence needs to be flexible in its approach and language to take advantage of the possibilities. For instance, when the OHCHR Cambodia office confronted issues of land rights and evictions, they recognized that the political and economic forces they were up against were far too great for the limited voice of their office. They wanted to bring on board the weight of the voice of the entire UN

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22. In fairness, this same conclusion is valid for a variety of agencies (UNHCR, UNICEF), each of whom have in some cases taken on protection coordination roles without having dedicated staff with sufficient coordination skills.

country team as well as the donor community. To do this, they developed a “de-human-rights-ized” discourse that translated the human rights concerns over evictions into the language of “good governance,” “poverty alleviation,” “sustainable human development.” These issues struck a clearer chord with those other institutional and political agendas, and the strategy succeeded in achieving a joint public statement from the donors and agencies calling for an end to forced evictions.

## **10.3 Leveraging the influence of Geneva**

### **The High Commissioner’s voice**

The voice and weight of the High Commissioner herself can be a potent weapon if it is brought to bear on a national situation. At the highest level, a public statement about a country situation by the HC, or a field visit, is impossible to ignore. Obviously, field visits by the HC are a limited resource. Regional tours or other mechanisms to maximize the coverage of her travel will help, but in most years, most field presences will be limited to maximising the impact of her long-distance support. Field presences need to regularly consider and propose different types of interventions from the HC that might assist their strategies, such as public statements, private letters to key authorities, a carefully targeted phone call, or a note of support or solidarity to human rights defenders and their networks at a moment when it is needed. As long as such interventions are conceived in ways that are minimally time-consuming for the HC and her staff, a larger number of interventions might be mobilized to multiply her voice.

### **Special Procedures mandate-holders’ voices**

The Special Procedures are the mechanisms established by the Human Rights Council to address either specific country situations or thematic issues in all parts of the world, currently including 33 thematic and 8 country mandates, carried out by individual Special Rapporteurs or Working Groups. The UN General Assembly, Security Council and Secretary-General also have established special thematic mechanisms dealing directly with human rights, including a variety of thematic SRSGs.

The Special Procedure system pre-dates the human rights field presences by decades, and has long exerted influence over states. There are intense political battles at the Human Rights Council whenever the creation or extension of such mandates is under consideration. Both the Colombia and Nepal offices were established in part as a result of the two states trying to avoid having a Special Rapporteur named to monitor their progress. In the early years of the OHCHR Colombia presence, a government official quipped to a UN staffer, “You know we pushed for the OHCHR office, because we were trying to avoid a Special Rapporteur, and now we have ended up with 5 people acting as Special Rapporteurs living year-round in Colombia!”

These Special Procedures are an important complementary voice that can be integrated into a field presence's strategies. There are strong potential synergies between the continuous work of a presence and the particular spotlight brought by a special procedure. When messages are coordinated, the visibility of the special procedure can reinforce the credibility and clout of the presence, adding force to the constant day-to-day interactions of the HROs. Similarly, special procedures benefit greatly from the contacts and on-the-ground follow-up of the field presence.

Civil society and state respondents in the field praised field presences for their strategic use of these visits. The Special Rapporteurs can speak out firmly in their areas of expertise – sometimes more forcefully than the field presence would have been able to do prior to their visit. By facilitating and then following up on these visits and their recommendations, the field presence can take advantage of a 'good-cop-bad-cop' dynamic, in which the visitors can use tougher words if necessary, and then the field presence can follow up within the context of its existing state relationship to collaborate with problem-solving approaches. It is a delicate diplomatic balance, because the field presence needs to avoid backing away from or undercutting the firm stance taken by the specialized rapporteur, which would invite a divide and conquer approach by those being criticized. It must instead be a kind of 'good cop' that takes advantage of the changed political space created by the 'tougher' visitor's discourse, and further presses the same principled demands but with a style more suited to the existing longer-term relationship.

Human Rights Advisers, who often lack an official public voice on the ground, can take particular advantage of visits of Special Procedures mandate-holders. By hosting and advising these visits, the HRA can ensure that the necessary public statements s/he cannot make are being voiced by another part of the HR system. The official visit can also create an opening for the HRA to follow-up on recommendations, and the high-level 'clout' of the mandate-holder can sometimes open channels of communication with government actors who might otherwise resist such contact.<sup>23</sup>

Field presences, however, need to think beyond simply supporting mandate-holder visits and following up on their recommendations. A well-timed external intervention can, for instance, prompt the creation of new structures that may assist the longer-term human rights strategies of the field presence. For instance, The Group of Experts on Darfur and the Human Rights Council recommended the creation of a Darfur Human Rights Forum, a forum bringing together a range of human rights, government and international and diplomatic actors to discuss concerns.

Visiting experts can also be used in quieter ways. OHCHR-Colombia, for instance, brought a Rwandan prosecutor to Colombia to discuss with fellow prosecutors and judges comparative modes of approaching the challenge of violence against women. In addition, the office helped national actors take advantage of the work of Special

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23. In one reported case, however, a Human Rights Advisor suffered negative consequences from a Special Rapporteur visit, as the government apparently held the HRA responsible for the rapporteur's criticism.

Procedures even without physical visits. One example noted by a representative of Colombia Department of Administrative Security was the constructive way in which the office called their attention to the work on best practices in the work of intelligence agencies in a democracy done by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.

The Nepal OHCHR office invited a thematic Special Rapporteur to the country on an un-official visit to advise the OHCHR office on the development of its thematic programs. The government was informed, but did not resist since the visit carried a lower level of political clout and would not result in a formal report. The rapporteurs were still able to meet with government officials and discuss issues of concern. This approach allowed an opportunity for quiet diplomacy on the part of the rapporteur,

Field presences need to be actively engaging other parts of the UN system and planning how to make best use of their different strengths. They should think strategically in advance about what sorts of mechanisms and steps are needed on the ground, what they want from the Human Rights Council, Universal Periodic Review or Special Procedures recommendations, and how to get such interventions and recommendations to happen. Human Rights components of peace operations should also seek to strategically prompt facilitative recommendations from the UNSC or other relevant New York-based bodies.

All of these different options for making better use of the Special Procedures system depend on the capacity of that system. The combination of expanded field presences together with the process of Universal Periodic Review is inevitably creating increasing demands on Special Procedures mandate-holders, but the Human Rights Council has not expanded their resources. Strategies are needed to create expanded “mandate-holder units” with budgets and personnel to expand their capacity for travel and intervention to respond to increasing demands.

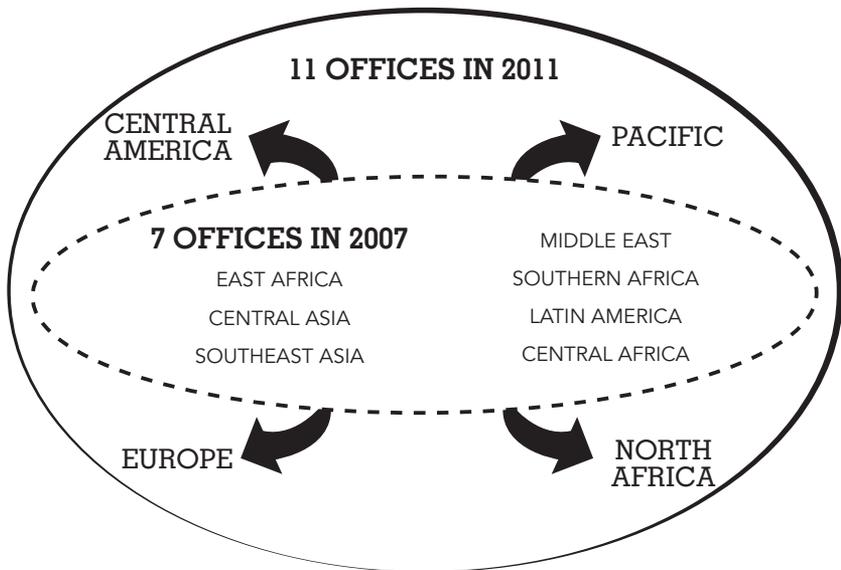
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The Geneva human rights mechanisms, the UN Country Team or the Department of Peacekeeping are three key examples of other UN partners a human rights field presence needs to collaborate with. Neither the field presence, nor any of these other key allies should be viewing each other as subservient, but rather as complementary players in country-focused protection strategies. The field presence brings to this team not only its access to information but the entire range of tools of influence described in this study. The headquarters-based actors in this collaborative effort need to recognize the strategic possibilities the field presences bring to the table, just as the field presences need to value and understand the power of the strategic inputs of rapporteurs, treaty bodies, and others. Thinking more broadly, there are many parts of the UN system with different specialties and capacities to assist with integrated human rights strategies. The challenge for a human rights field presence is to make

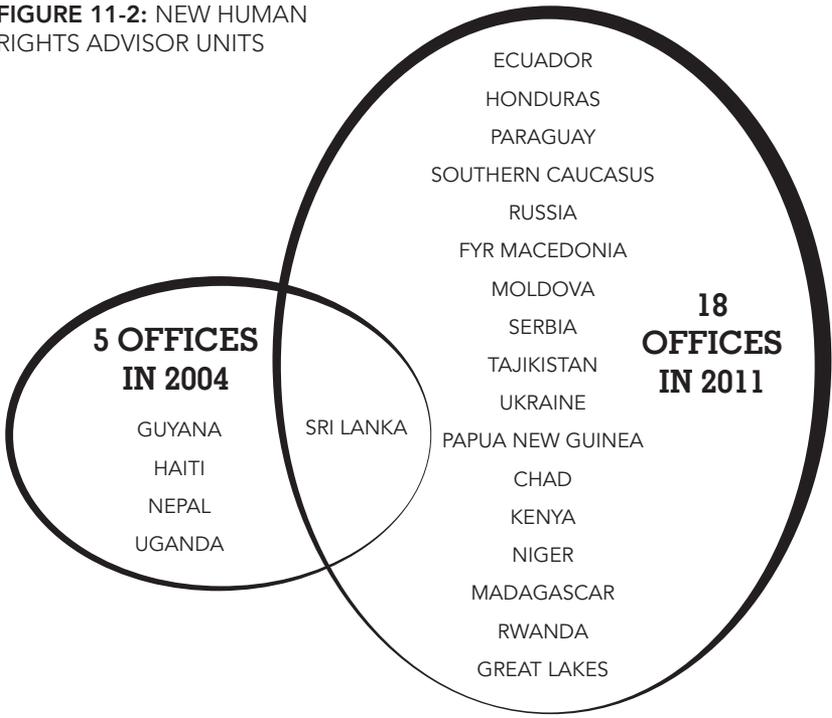
the best use of these different potentials, mobilizing and pushing for coherence and combined impact on the ground, but without sacrificing the efficiency of its own independent efforts.

All the results described thus far in this study suggest that human rights field presences can make a significant difference in the protection of human rights on the ground, even if their implementation may in some cases be insufficient. The global UN human rights field presence has grown in recent years, but the scale of deployment remains deeply inadequate and a range of qualitative weaknesses continue to diminish their impact. We argue, therefore, that there need to be more and bigger UN human rights field presences, and that qualitative weaknesses need to be addressed to further augment protection impact.

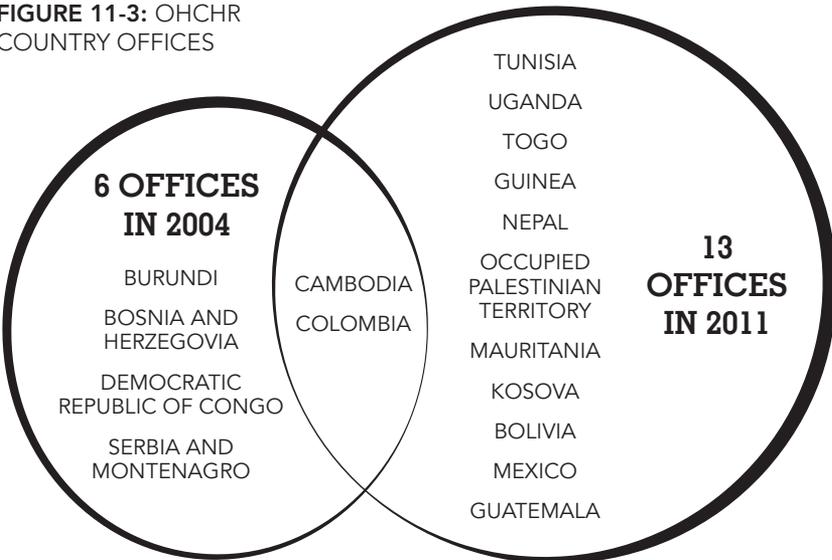
**FIGURE 11-1:** NEW REGIONAL OFFICES, 2011



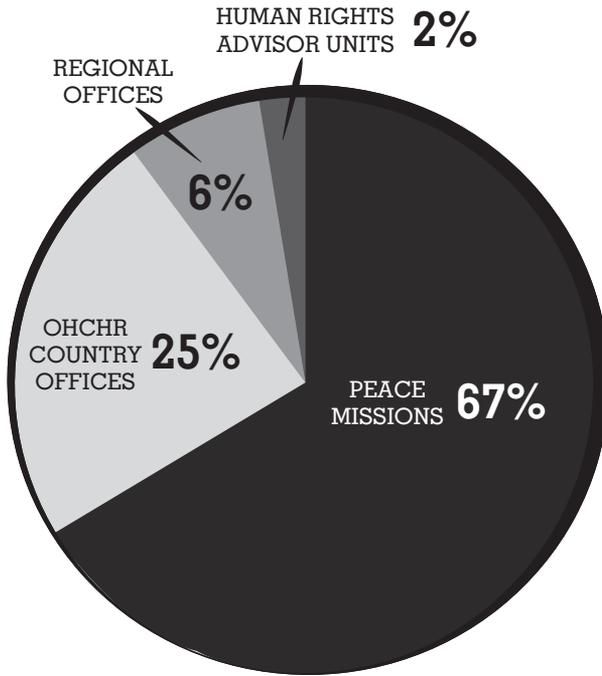
**FIGURE 11-2: NEW HUMAN RIGHTS ADVISOR UNITS**



**FIGURE 11-3: OHCHR COUNTRY OFFICES**



**FIGURE 11-4: 2012 HUMAN RIGHTS FIELD STAFFING**



Former Secretary General Kofi Annan, in his 2005 reform proposal, “In Larger Freedom,” called for substantial increase in human rights field presences in crisis, pointing out,

“[The High Commissioner’s] Office remains woefully ill-equipped to respond to the broad range of human rights challenges facing the international community. Member States’ proclaimed commitment to human rights must be matched by resources to strengthen the Office’s ability to discharge its vital mandate.”

This chapter will examine the changes that have taken place in the UN’s capacity to field these presences since that reform of 2005, and the need for substantially more ambitious growth and change if these commitments are to be met. To offer more and better protection, field presences need more people and funding, especially considering the labour-intensive best practices of maximizing contact at the regional and local level with authorities and civil society. In addition, they need recruitment and training

structures that can efficiently fill posts with well-trained and experienced HROs. And they need strong mandates and sufficient political support to take advantage of their potential.

## 11.1 Assessing past expansion

Former High Commissioner Louise Arbour, in response to Kofi Annan's request, launched an ambitious "Plan of Action" in 2005, laying out proposals for quantitative expansion, improvements in quality of work and coherence within the institution.

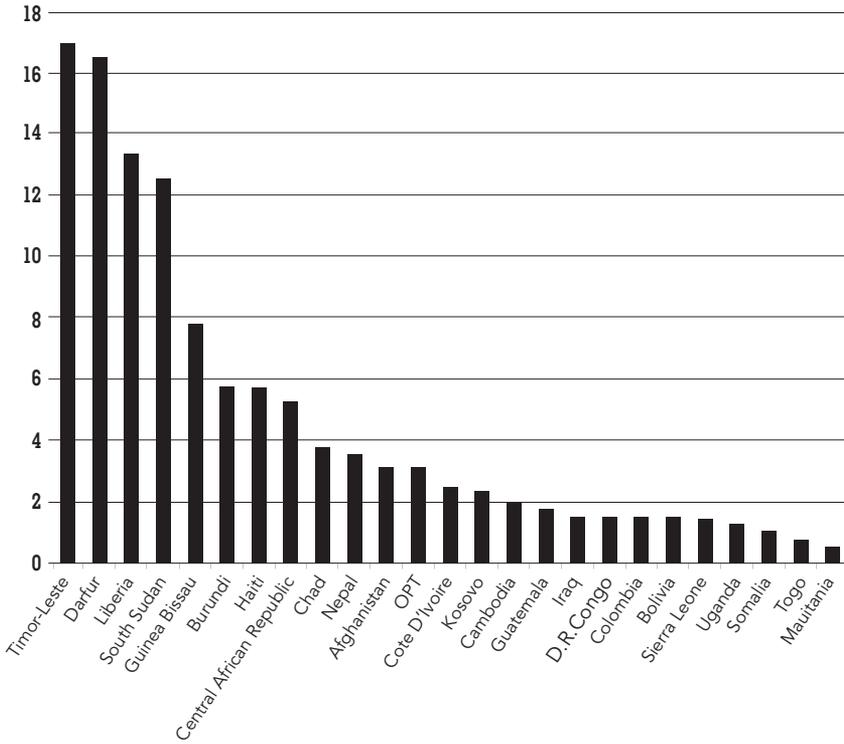
### Expanding global coverage

OHCHR has made a substantial effort in these years to attain what might be considered 'minimal global coverage' by aiming to establish regional offices for almost every region and sub-region in the world, and by recruiting Human Rights Advisors in as many country teams as possible. In some regions, such as North Africa, there have been political difficulties in reaching agreement with a state to host a regional office. Also, OHCHR has not always been able to recruit sufficiently quickly to respond to the requests from UN Country Teams for HRAs. Nevertheless, since 2005, 17 new Human Rights Advisor posts have been created, and four new regional offices have been established, covering dozens of countries. (See figures 11-1 and 11-2).

The types of field presence that can more effectively implement the kinds of strategies discussed in this study are the larger stand-alone OHCHR offices and the human rights components of peace operations. This mode of presence has also undergone substantial growth. New, independent OHCHR country offices have been established in 10 new countries (See figure 11-3). In terms of numbers of field staff on the ground, though, the presence of human rights officers within Peace Operations is even larger than that which is deployed directly by OHCHR (see figure 11-4). The overall numbers have gone up and down, since country contexts change and some missions are reduced or closed. But in general terms there has been a notable advance: peacekeeping operations are now always expected to have substantial human rights components – often they are one of the largest civilian components in a mission. Most of the new missions established in this period have large human rights components. In addition, as discussed in chapter ten, the Protection of Civilians commitments of these missions has led to an increasing commitment of other components to collaboration around concerns over severe human rights abuses.

These expansions have been very uneven and ad hoc. In fact, there is little correlation between the scale of a human rights presence on the ground and the severity of the human rights situation in different countries. At the time of this study, for instance, there were more human rights officers in Burundi or Haiti than there were in eastern DRC, despite the greater population, vaster land area and much worse human rights conditions in the DRC. (See figures 11-5 and 11-6 on the following pages).

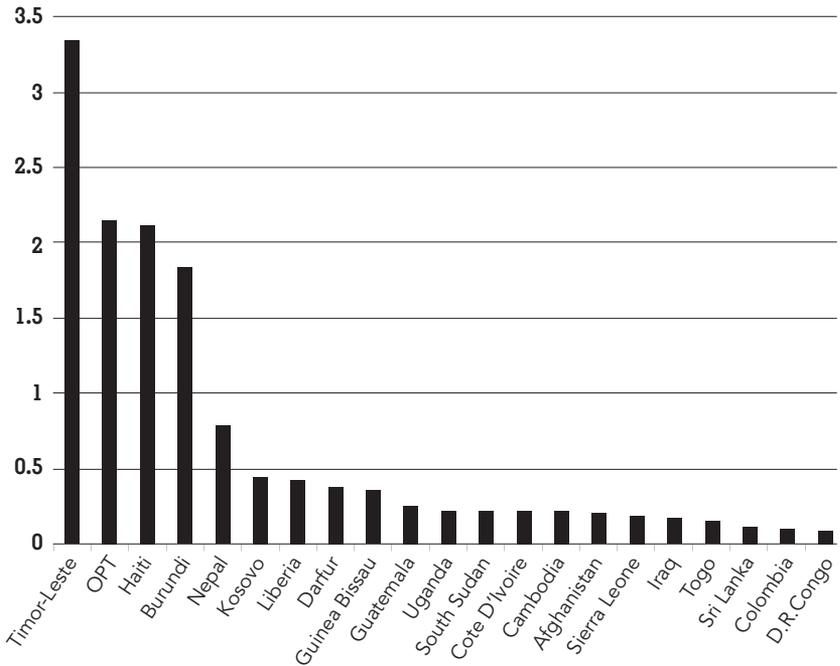
**FIGURE 11-5: HUMAN RIGHTS STAFF/MILLION OF POPULATION**



### **Institutional policy and structure**

These years have seen several institutional advances in support of better field protection. The Plan of Action itself and subsequent OHCHR Strategic Management Plans placed a renewed emphasis on active protection on the ground using the full mandate of the HC’s office including public reporting and vocal advocacy. A number of structural changes were made to facilitate and speed up OHCHR’s capacity to deliver on the ground, including the creation of a Rapid Response unit and associated roster. Thematic reorganizations within field presences have aimed to put field protection work in closer touch with technical cooperation work, Special Procedures and Treaty Bodies. Substantial effort has gone into negotiating clearer Memoranda of Understanding with DPKO about the role of the human rights components in peace operations and their linkage to, and oversight by, the High Commissioner and her office. Similarly, an MOU with UNDP outlines the diverse possible roles of Human Rights Advisors, formalising a broader role than simply “mainstreaming” a human rights based approach with UN Country Teams.

**FIGURE 11-6: HUMAN RIGHTS STAFF/1000 SQ KM**



### **Where things stand now**

Despite these advance, the deployment of human rights field presences remains inadequate at many levels:

- A number of countries in the world with significant human rights challenges currently have no UN human rights presence at all, receiving little more than a sporadic visit from an OHCHR regional office representative or one of the Special Procedures.
- In many more countries, a very small human rights presence is installed, but it is clearly insufficient. As discussed earlier, many Human Rights Advisors interviewed for this research did not consider their capacity sufficient to address the challenges around them.
- Finally, there are some relatively larger presences, which are nevertheless not large enough, given the scale of the country and the levels of human rights abuse they are responding to.

Earlier studies have roughly estimated what might be an “adequate” coverage for a human rights field presence in a crisis situation,<sup>24</sup> and based on these estimates, only a few field presences in the smallest countries are approaching adequate numbers. In large countries such as the DRC, for instance, there may be many human rights officers overall, but the numbers are still very small compared to the territory or population they are monitoring.

## Quality of human rights staffing

Many respondents in these case studies, both in civil society and government, emphasized the value and quality of the human rights field staff. We heard very impressive feedback from interlocutors about how the expertise, flexibility and sensitivity shown by both national and international staff allowed the field presences to efficiently react to all different kinds of situations and to support national actors in a responsive way. Experienced staff can make decisions more quickly, and feel the confidence to be flexible and creative, and this has clearly had an impact on the work.

The qualities of effective human rights field staff have been well-documented in prior studies and surveys. The box below lists the qualities emphasized by respondents in the 2006 study, Proactive Presence. A more detailed discussion of the professional qualities and guiding principles of the profession can be found in *The Professional Identity of the Human Rights Field Officer*.<sup>25</sup> These characteristics need to be taken into account when building up the rosters for future deployment, as well as in training processes.

### Personal characteristics, skills and experience needed for successful fieldwork

- Deep commitment to protection of human rights
- Flexibility, being adaptable to the local social and cultural context
- Tolerance, respect and cultural sensitivity
- High degree of common sense
- Sense of humility; and no sense of superiority
- Comfort with the field-based lifestyle
- Strong analytical skills
- Strong and diverse communication and diplomatic skills
- Working in a team
- Conflict resolution skills
- Language ability relevant to the context
- A proper grasp of the human rights approach
- Ability to cope with stress

24. Proactive Presence: Field strategies for civilian protection, p. 132. “In missions where size was not reported as a serious problem, there were at least 15 expatriate international observers per million people... [and] 4 observers or more per thousand square kilometers.”

25. Michael O’Flaherty and George Ulrich, editors, Ashgate Publishers, 2010

Unfortunately, DPKO, DPA and OHCHR field operations have historically suffered from very inefficient recruitment and selection processes. A number of reforms are in process to create a more effective and integrated roster system, but at the time of our research the problems were still very strongly felt in the field: approved posts frequently remain empty for many months at a time, and the process of getting them filled is excessively time-consuming for managers. The bureaucratic steps involved are drawn-out, with decisions having to move through multiple levels facing delays at each step. Sometimes these empty posts are at leadership levels, causing substantial breaks in strategic continuity on the ground. Arguably the most effective single step that these UN institutions could take to expand the protection presence on the ground would be to fix these problems with a new and efficient system that filled existing posts quickly. Such a change will not be easy, however. Both DPKO and OHCHR have been claiming or trying to address these recurrent problems for over a decade, with only minimal improvement. If current reforms are the answer, they must not only be implemented fully, but also subsequently monitored closely to ensure that they are truly operational in solving the problem at the field level.

Once staff are in post, training remains a serious weakness. OHCHR's training unit in Geneva designed a practical new training approach in 2007-2008 to reflect the doctrinal shift toward greater field protection of the 2005 Plan of Action. This training has since been delivered 3-4 times per year. Training-of-trainer events have also been held, and field presences are encouraged to replicate the training in country. These are all positive developments, but unfortunately, this training delivery has not been sufficiently systematic or exhaustive, and most international and national field officers interviewed have not received it.

## **11.2 Renewing an ambitious expansion**

### **Address all gaps**

A long-term strategy should aim to address ALL of these gaps, yielding a truly global and operational human rights presence in the field. This study has identified significant added value of human rights field presences, both in conflict-related crises and in longer-term transitions. But they cannot have this added value if they are not there or not big enough, or not skilled or trained enough. OHCHR and the UN as a whole should be assessing global needs and aiming to project a presence adequate to the assessed needs in each country. There may be many resource challenges and political constraints to overcome to achieve such an ambitious goal, and substantial resistance from a variety of states to having a UN human rights presence, but before any strategies can be built to address such constraints, the institution must first decide what it is aiming for.

## **What is needed is a multipronged growth strategy for human rights field presence:**

1. The current protection work of presences in the field needs to be more visible and transparent to its supporters, donors and to the general public so OHCHR and the UN as a whole can sustain and strengthen it in the future.
2. A much more flexible and proactive approach is needed to take better advantage of the substantial financial resources available for such field presence.
3. Much larger and much more agile rosters of human rights officers and managers are needed to cover this expanded field deployment, which better facilitate movement of staff between different types of field presences.
4. Training and guidance must be delivered systematically to ALL human rights officers, especially new staff beginning in post. OHCHR and DPKO need a much larger commitment to a training infrastructure that will take advantage of the high technical quality of its products (trainings and manuals) and develop the real quantitative capacity to deliver them to the field officers who need them.
5. Systematic and sustained strategies are required for starting new presences, including the development of high-quality political teams with expertise to negotiate the start-up of new presence with host states, taking advantage of the expertise and potential door-opening role of HRAs and Regional Representatives.
6. The High Commissioner needs to provide the necessary sustained leadership to articulate these goals and follow through with the UN system to achieve them.

## **Make the protection impact more transparent**

It is remarkable that the aspects of human rights field presence's work that most respondents agree have the greatest protection impact are not very visible in the institutions' own presentations of themselves and their strategies. These key tasks, such as sustaining sub-offices, making regular field visits to communities, responding rapidly to urgent needs, or constant advocacy with state actors demand substantial resources and staffing. Yet their protective impacts are seldom transparently described or claimed, even internally.

The terms *observation*, or *monitoring* frequently applied to a substantial proportion of this work, are simply insufficient to describe these protective functions. The fundamental objectives of the High Commissioner for Human Rights since its inception in 1993 are to *protect and promote* human rights. Observation and monitoring are not objectives in themselves, but only tools for achieving this protection. When these terms are used without explaining this linkage, they project a passive image of simply gathering data. Annual reports, strategic plans and many

other documents repeatedly promise or list activities of observation and monitoring without explaining why these activities make a difference. Similarly they list advisory functions without explaining their strategic impact in changing behaviour and making people more secure in the long run. As a result, the impressive protective impact of the field presences is largely undervalued except by those few stakeholders who have the closest contact with it.

In times of budget pressure and competition for resources, an institution has to make its impact transparent and describe and defend those aspects of its work that demand substantial resource investment. These protection impacts create a powerful justification for the investment.

**Specifically, budgets, appeals to donors, strategic plans and reports should explicitly describe:**

- the need for sub-offices and how they contribute to the office's capacity to carry out protective field missions as well as increase its availability for vital rapid response to urgent needs in the regions.
- the dissuasive impact of field visits to communities, including not only the importance of the collected information, but also the immediate protective influence of the visit itself, of the visibility of the office in the area, of the direct contact with authorities, and the implicit dissuasive message to armed groups even without direct contact.
- the importance of keeping staff time available for rapid responses to urgent cases. Successful responses should be described and shared with partners. The strategic impact and efficiency of these short-term investments should be made transparent. If a presence does not acknowledge and defend the importance of rapid response, it could easily reach a point in which its resources are increasingly invested in other projects and this response capacity will diminish.

Making these impacts transparent does not in any way contradict or undermine the fundamental responsibility of the state to protect. They can be described – as many other aspects of the work are described – as efforts that assist the state's fulfilment of its responsibilities.

**Funding growth: absorbing the money that is there**

When asking field managers about funds available for this work, one might expect to hear complaints about lack of money, the world economic crisis or donor constraints. But the consensus response about mobilising financial resources was remarkably different. Field managers generally concurred that there is a substantial amount of unexploited funding available for good human rights field work, but that OHCHR and DPKO human rights components are by and large failing to capture it.

Heads of field presences had many ideas about sources that can be tapped, both for stand-alone OHCHR offices and for DPKO human rights components, including:

- Donor embassies on the ground are in a position to see the impact of a successful field presence, and they often have substantial resources available to support it once they are convinced of its value.
- The UN humanitarian system has a range of funding mechanisms which human rights offices can access, especially given the increasing importance of protection in the humanitarian system.
- The UN Peacebuilding Fund has both an Immediate Response Facility and a Peacebuilding and Recovery Facility with substantial resources available that could be applied to human rights work in the field.

Despite these opportunities, there is a strong sense at the field level that the OHCHR leadership and administration in Geneva do not effectively support, facilitate or even encourage the search for additional funding by field presences. There are undoubtedly reasons in each individual instance for resistance to accepting funds, but the justifications for such decisions have not been effectively communicated to the field, leading to frequent frustration. OHCHR is aware of these problems, and developing new fundraising procedures to help address them.

OHCHR unfortunately approaches its own fieldwork with very low expectations. For instance, when initiating a regional office, OHCHR allows for a tiny minimum start-up size. During the 2011 political openings in North Africa, in OHCHR's internal discussions of establishing new offices in Tunisia and Egypt, internal proposals focused similarly at first on very small presences, at just the moment when donor interest would have been at its highest. Low expectations demonstrate to donors a lack of confidence and weakness rather than emphasising the potential of a field presence to have a major protective impact.

In the big picture of international organizations, OHCHR is not large, and its administrative and technical capacity to absorb funds is far smaller than the potential amount of money available for its work. This needs to be changed. There are numerous technical inefficiencies at the Geneva and field level that can be improved upon. But overcoming this challenge requires that the leadership of OHCHR expresses and shows a commitment to dramatic and sustained growth. The message to field managers has to encourage the search for additional funding rather than discourage it, and the system should reward successful growth. The message to the administrative bodies in Geneva must consistently emphasize that the search for additional funding at the field level must be encouraged and facilitated by all parts of the institution, and never obstructed.<sup>26</sup>

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26. As of the end of 2011, OHCHR has a new Standard Operating Procedure for fundraising awaiting approval from the High Commissioner which in principle will encourage and support the field presences in more efficiently mobilising donor funds at the field level for both core support and individual projects.

This does not mean that strategic objectives should be chosen according to available funding. The goal is not growth for its own sake, nor to grab funds arbitrarily. Managing project funding is time-consuming and donor priorities can skew a field presence strategy. Field presence managers need to seek out funding for the key priorities within their strategies, rather than allowing funding to alter those strategies.

## **A systematic global approach**

The High Commissioner might consider how to develop an approach to setting resource levels exemplified by UNHCR: first construct a global needs assessment and a needs-based budget to present to donor countries. This assessment should outline what is truly needed to do the human rights job the UN is mandated to do, and it should put a price tag on each part of this needs assessment. This budget could be presented to member states/donors with a demand that they come up with the overall resources necessary for the job they have asked for. If the donors do not come through, at the very least OHCHR can say it made every attempt to do the job and the responsibility lies with the donor states' failure to fund it. The current political realities within the UN system may not allow a near-term implementation of such a systematic approach, but longer-term strategies should be investigating how to move in this direction.

As part of any growth strategy, OHCHR needs to learn to sell its field presences and their impact. Unfortunately, at present it seems to be ambivalent about social marketing and communication. Donors at the global and national level are willing to fund human rights field work if they are shown that it works. OHCHR and DPKO have countless examples of effective fieldwork available to make this case to donors, but these are not taken advantage of. There may be a need for change in the approach or emphasis of the Department of External Relations in this respect, but it will also require that the field presences document positive examples of their impact and communicate these effectively to those at the country and global level who are responsible for outreach to donors.

## **Country-focused opportunistic approach**

Even if a more systematic and visionary approach is implemented from headquarters, it will still be essential for field presences to play an active role in fundraising for their own work. Barring a dramatic increase in support from the General Assembly, adequately supported field presences will continue to depend largely on voluntary contributions, and these will be secured most effectively when there is a proactive fund-raising strategy on the ground that takes advantage of in-country donor presence. Field management with fundraising skills will have an advantage in this, and the institution should consider this capacity in selection, training and deployment. Managers also need adequate support staffing for project management and administration of funds from multiple donors.

One way that a field presence can maximize the potential support from local embassies is by keeping track of the changes in personnel and leadership in key embassies. Sometimes, for instance, a key embassy may be unsupportive for a while, but then after a change of personnel the doors open up and new funding opportunities are available.

The OHCHR Colombia office, for example, has always kept in close contact with the embassies both for political and financial support. It recently succeeded in expanding significantly through a number of donor-funded special projects that have protection impacts, including investigations into illegal land-grabbing, support to Indigenous Consultations in policy and development processes, monitoring of the implementation of military controls aimed at preventing extra-judicial execution, and monitoring of the new “Victims Law.” The diversity of this expansion, however, put a significant strain on its limited administrative and finance staff.

The Joint Human Rights office in the DRC has also been successful in increasing protection-focused staffing through donor-funded projects. One such project created a set of new posts for national staff focused on protection of civil society, and another created posts in the human rights components for supporting the Joint Protection Teams. Both projects enhanced the staffing for key protection priorities of the office.

Given the increasing recognition of the need for post-DPKO human rights presence, OHCHR and DPKO also need to consciously prepare the financial resource base for such transitions in advance, taking advantage of the credibility that the UN may have generated during a peace operation to sustain donor commitment for an independent human rights presence. In East Timor, for example, donors expressed considerable interest in sustaining the human rights presence as the peace operation draws down.

Different kinds of funding sources make different demands, and some fund sources are much less trouble to manage than others. The field presence needs to be careful not to divert energy away from substantial human rights work into excessive administrative project management tasks. Clearly if multiple choices of support are available, the management should seek funding from the donors who make less onerous demands. At the same time, though, in order to take full advantage of available support – even when it comes with labour-intensive accountability demands – OHCHR together with its field management need to develop an efficient infrastructure for financial management of multiple income streams.

## **Human resource challenges**

If the UN human rights field presences grow as they should, then recruiting enough of the right people may be a greater challenge to growth than finding funds. To continue the necessary growth of these field presences, OHCHR and DPKO need to engage in a more conscious and systematic expansion and nurturing of a pool of qualified and experienced human rights officers and managers. This presents three separate challenges: finding qualified people, finding enough people, and deploying

them efficiently and quickly. At present, the UN has significant difficulties with all three.

The UN needs to construct a single well-stocked roster of qualified candidates for human rights officer posts in the field, from which candidates for both OHCHR and DPKO/DPA human rights posts can be selected. The system needs to allow for fluid mobility of Human Rights Officers from posts in DPKO to posts in OHCHR and vice-versa, such that these shifts promote rather than hurt their career development.<sup>27</sup>

The current process is a passive one, in which interested applicants can submit generic applications, but no effort is made to actively search out the most qualified potential people for this highly skilled work. As a result, the UN has very inefficient access to the potentially large pool of qualified people with human rights expertise and other qualities for these posts. A more deliberate and targeted search process would involve active promotion of these opportunities to potential candidates through human rights networks, global civil society networks, the national human rights institutions of member states and through University graduate programs and career offices. The range of academic programs producing trained people with relevant skills for this work includes not only the increasing number of specifically human rights focused programs around the world, but also those which train people for international affairs, diplomacy, international development and other related fields.

Both the quantity and quality of field staffing would be improved if there were a more systematic effort to take advantage of the professional development opportunities represented by the larger and longer-lasting missions. These missions are a goldmine for developing HRO experience and leadership. For instance, most of the more experienced human rights officers and managers currently working in Latin America had their early experiences in MINUGUA (UN Verification Mission in Guatemala, 1994-2004) and Colombia. The large MONUC/MONUSCO human rights component has generated a reservoir of French-speaking HROs over the years. The large stand-alone OHCHR-Nepal office, in a few brief years, exposed hundreds of HROs to new field strategies in an Asian context.

In these larger missions many HROs can learn their craft, building up their technical, political and diplomatic skills with support from others. Since most of the larger field presences are under the DPKO structure, the UN human resources systems must allow for more fluid movement of people between OHCHR and DPKO. Movement and sharing of experience among institutions, field presences, and regions should be

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27. Prior to 2009, human rights officers appointed to positions in the field were "external" candidates for other Secretariat positions, including positions in Geneva or in other field presences, whether they were DPKO or OHCHR. A UN Secretariat human resource reform of June 2009 aimed to bring the field "into the Secretariat". Under this reform, once a human rights officer has been appointed to a field post through a regular process involving a central review body and has obtained a regular contract, he/ she is considered as internal candidate for all Secretariat positions. In principle this should make shifting between DPKO and OHCHR positions simpler and should facilitate longer-term human rights careers and sharing of expertise. However, many human rights officers in the field do not have "regular" contracts, and it remains to be seen whether the outcome of greater mobility is actually achieved through this reform.

encouraged and facilitated, as it constructs skills, management expertise, and a shared conception of the UN human rights identity.

Better protection is achieved with more staff, but also when existing staff apply more of their time to it. Field managers need to encourage staff to spend their time working on the tasks identified as most effective. To make this possible, the administrative, bureaucratic and reporting demands on field staff need to be rationally balanced in a way that will maximize the time available for their external interactions and protection efforts. In DPKO/DPA human rights units, for instance, the dual-reporting requirement can be onerous if not managed efficiently to avoid duplication. For small presences, regional offices or HRAs, the internal reporting and administrative requirements occupy a greater proportion of their time, reducing their already small capacity to get out and do the external aspects of their job. Clear communication and reporting and administration are essential, but expectations for different sizes of presences should be flexible.

### 11.3 Better field strategies

One fundamental requirement of getting the best impact out of existing resources is to have clearer strategies at the national level of each field presence, at the regional and local levels, and at the thematic level when the field presence has identified critical themes for its work.

The human rights field presences suffer from a lack of clear strategic objectives, and a common tendency to cite as “objectives” what are actually activities or work areas. A strategic objective is an outcome that can be achieved. “Monitoring,” “advising,” “informing other UN bodies,” “capacity-building,” “strengthening accountability” and similar phrases most often cited as objectives, are general areas of work or activities, within which one can do a little bit or a great deal, but they are not objectives that can be assessed or measured later in order to ascertain if they have been achieved.

OHCHR is not entirely at fault nor alone in this vagueness. Human rights objectives are notoriously difficult to achieve or measure and these kinds of vague objectives are prevalent throughout the field. In some acute situations, critical and immediate goals can be articulated in a straightforward manner, such as “stop indiscriminate shelling” or “get IDPs released from illegal detention camps.” But many substantial human rights objectives are like development objectives: they require very long-term strategies and investments, and human rights institutions are frequently under unrealistic pressure from donors to show short-term measurable results that do not reflect the way such deep structural problems can really be transformed over time.

Nevertheless, the discipline of articulating real strategic objectives is necessary if the fieldwork is to be efficient at achieving any measurable change on the ground. The goal of naming such objectives is not to create pleasing strategy documents for donors, but to be able to assess one’s own progress and do a better job.

Thus if one objective of a presence is to strengthen a national institution, one must identify its current levels of strength and points of weakness, choose which aspects need to be strengthened, set reasonable goals for change based on a specific plan of action, with a plan to measure if those goals were achieved. A year later a similar assessment must be done of the same institution, looking at the same strengths and weaknesses and trying to identify changes. If the real problem in an institution is lack of political will, a good strategy will recognize this as a broader advocacy challenge rather than a capacity-building one. So when the Nepali government is not implementing recommendations of the Nepal Human Rights Commission, a technical capacity-building project aimed at the NHRC itself will not resolve this. Instead, a political (and inherently subjective) analysis would have to identify the obstacles outside of NHRC, in Ministries, Security Forces or political parties, and set some modest objectives to weaken these obstacles.

If a particular action plan is about advocacy for a specific decision by other actors, the strategy has to articulate what decision is desired, and explain the logic of how certain kinds of advocacy might influence those actors to make such a decision. And if the desired decision then does not happen, an understanding of this logic will facilitate a revision of the necessary political analysis and a new advocacy approach.

If the challenge is to address a long-term structural issue such as discrimination, in which measurable social change might take decades, the first step must be to assess the current strengths and weaknesses of the national system in addressing it, including government bodies and civil society actors. This analysis then must identify where an external actor like OHCHR can strengthen this system, what kinds of initiatives can be effectively carried out, and how other national actors can be expected or encouraged to take these initiatives forward. Without this kind of strategic thinking, the investment of OHCHR's limited resource cannot be effectively targeted, and every individual effort becomes a small drop in a large bucket.

If the field presences articulate this kind of concrete strategic thinking more clearly, to themselves and to their partners, their impact will be improved and support from partners and donors will be strengthened.

## **11.4 The biggest strategic challenge: political support and state receptivity**

Powerful forces will always push against growth and progress in human rights protection. Host states will resist human rights efforts on the ground, while some member states will actively constrain institutional growth at the global level. Resources and political support, therefore, will never fully match the real needs. Consequently, human rights proponents in the UN need to be creative and flexible in recognizing and capitalizing on opportunities and political openings when they arise.

In many cases the reason a country with severe human rights problems does not have a human rights field presence is not as a result of lack of UN capacity, but because the host state is resisting access, and has political allies supporting this resistance. The political situations and dynamics for these countries, though, are constantly changing, and sometimes circumstances arise that could open doors where they were previously shut. The 2011 “Arab spring” was a dramatic example of such an opportunity, where countries like Tunisia, Egypt, or Libya that had been firmly resistant to international human rights pressure were suddenly more open. OHCHR needs to use such openings to negotiate new field presences where they can make the most difference.

Other tough cases will continue to resist, and a UN human rights field presence will not be an option for the time being. But despite some huge political barriers and powerful alliances supporting state resistance, OHCHR should not give up. The OHCHR attempt to push Sri Lanka to accept a more adequate presence was important, even though it did not succeed. And when other intransigent or powerful states firmly resist or expel a field presence despite an evident need on the ground, OHCHR should make this disparity transparent to the international community at large.

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The potential protective power of human rights field presences has been amply demonstrated in the course of this research. From civil society respondents grateful their lives have been saved, allowing them to continue their fight another day, to prosecuting attorneys needing international support to get their own justice system to work, voices across the spectrum have shared one example after another of the impact of many different approaches.

Given the level of detail of this research, there are many specific suggestions and recommendations in each of the preceding chapters, which we will not repeat exhaustively here. Several key messages, however, bear repeating: the importance of nuanced strategies combining the full range of available tools, the potential of the unique niche and voice of the UN, the need to evolve with changing contexts and understand the longer-term potential of a field presence, the need for growth, and the importance of a longer-term institutional vision of the future global human rights field system.

### **12.1 Use the full toolbox: combined strategies**

Field experience suggests that the most powerful protective impacts come from nuanced and complex strategies that combine the whole range of potential tactics available to the human rights officer in the field. Publishing a report on abuses may put on enough pressure to change something. Offering the right quiet advice at the right time might help a state ministry create a better policy. Projecting a field presence into a conflict zone may dissuade attackers from molesting a community. Each of these and other approaches can help to some extent.

The greatest impact, however, comes when presences blend all of these different approaches into combined strategies. Deploying field officers, listening, talking, advocating and building relationships, analyzing data, producing reports others can use, building relationships at every level of government, combining problem-solving advice with persistent advocacy, collaborating with special rapporteurs, UN agencies, diplomats... the list goes on. The point is not the list of activities, but the careful diagnosis of the problems and the environment, and the strategic thinking that goes

into creating an effective combination of a broad range of activities. Taking advantage of the credibility this work builds up over time, the human rights field presence becomes an influential actor contributing to substantial changes in the dynamics of abuse on the ground.

In the human rights field, unfortunately, people's ability to think strategically and create effective multi-faceted protection strategies is constrained by labels and old habits. Human rights fieldwork is not "observation"; not "monitoring"; not "technical support." The work suffers from these labels, which are utterly insufficient to describe the deeper behaviour-changing influence that real field protection strategies can achieve.

This study has used the phrase "on the ground" repeatedly, and for good reason: the raw geographical coverage and grass-roots exposure is a key nutrient for all of the work. The wider the projection of presence outside the capital cities, the more credibility, information, contacts and relationships are possible. This web of relationships and information create new strategic possibilities to influence human rights abuses.

The relationships are the key. Human rights protection depends primarily on the actions of government actors and civil society activists, and a field presence must nurture effective relationships with these primary actors right from the start, seeking ways to both pressure and support them as needed. Civil society support demands special emphasis and constant discipline, because so many forces within the UN and international system create inertia for a UN presence to bias its approach too much towards state support. Civil society forces in the long run will be fundamental guardians of human rights in any society, and every effort the UN makes to protect them and strengthen their professionalism and capacity will have long-term benefits.

The state relationship is a perpetual challenge: it can't be too cosy and it can't be too tough. The best results require that a field presence can openly criticize, report publicly on abuses and advocate for change, while also keeping a door open to dialogue with the state on how to construct solutions to fix the problems. Each presence needs to prove its value and credibility, showing itself to be reliable, accurate, and constructive in its suggestions, but also strong and principled, unwilling to back down on its stances solely for political convenience or to make 'friends'.

We have described this accumulated impact over time of these strategies and relationships as the essential infrastructure of effective protection. When a field presence has this infrastructure in place, the resulting public perceptions of credibility and clout amplify the efficiency and protection impact of each individual initiative.

## 12.2 Exploit the unique potential of the United Nations

There are so many different ways a human rights field presence can contribute to protection that there is always a risk of getting sidetracked into offering the most convenient, habitual, or requested services rather than strategically choosing where the greatest added protection impact can be gained. The most important added value of a UN field presence, among many other human rights actors, is its identity and voice as the *United Nations*.

This international and independent identity creates key opportunities for impact:

First, The United Nations image often provides safety and protection. In many contexts, its own staff, and especially its international staff, are able to carry out sensitive activities with far less risk than would be run by local actors doing the same actions. The UN therefore has the capacity to use its presence and advocacy to protect the more vulnerable national human rights actors, and to substitute for them in times of danger by carrying out some of the more sensitive or dangerous human rights activities.

Secondly, the United Nations *voice* is unique, and other actors depend on it. When the UN is silent on key human rights concerns, the impact is not neutral – it is *negative*. Silence can send a message that reinforces impunity. Even where a UN presence is small, its voice can be big, and each use of it can build its reputation and credibility. Its voice is also a crucial tool for others: some of the most important human rights influence derives from the ways other actors – from civil society to diplomats – take advantage of the public pronouncements of a UN field presence. Given its importance, the public voice should not be unduly inhibited by the fear of damaging relationships with the state. On the contrary, the UN's public voice must be an integral component of those relationships.

Thirdly, the UN should earn a reputation as a neutral outside party respected by both state and civil society counterparts, giving the field presence the opportunity to create bridges and links between actors who otherwise have difficulty communicating or trusting each other. It can bring them together for dialogue, joint missions, or for joint problem-solving. The UN also can bridge local actors with the international community – putting both state and civil society actors in touch with international institutions who can support them.

Whichever strategies are chosen to address a problem, a UN human rights presence needs to engage the capacity of national actors to multiply the impact. Protecting human rights defenders, for instance, gives those local defenders space to work more and expand their impact. Public reports by the UN have a credibility that reinforces local reporting, and gives national actors a tool they can continue to use to press their own human rights work. The UN's capacity to bridge different actors essentially multiplies the impact of each bilateral relationship. Thus when the UN creates a good relationship with a state actor, it can also open the door of that relationship to others,

such as civil society, multiplying the value and impact of that relationship over time. In the final analysis, the impact of the work of other actors *using* and multiplying the efforts of the UN should far exceed the direct impact of the UN's own efforts. To encourage this to happen, this multiplier effect should be one of the objectives of the UN's human rights strategies. The UN should choose approaches and activities that lend themselves to such secondary uses by national actors.

### 12.3 Adapt and evolve with transitions

In each context, a field presence will gather information, analyze it, and select priority problems to address. As the context changes over time, this process will continue, and the work on the ground has to adapt to the changes. Most field presences start up with a focus on life-threatening abuses in crisis, but the UN should further explore the possibilities of initiating field presences in chronic situations of abuse even where no "crisis" exists. We have seen that nearly every presence lasts through the initial crisis into a post-conflict transition. In each case they diagnose systemic problems of entrenched corruption and impunity, societal divisions and discrimination, or economic inequities and exploitation. Instead of moving too quickly into exit strategy thinking, UN human rights strategies need to assess the long-term evolution of each national situation, measuring the gap between levels of abuses and the capacity of national structures to address those abuses, and seeking ways to use the UN's added value to make a longer-term systemic difference.

Decisions about extending, closing or expanding a field presence should be based on an ongoing analysis of the needs of rights-holders on the ground, and the strategic opportunities for the UN to strengthen the capacity of both state and civil society actors to sustain an effective human rights system for the long haul.

### 12.4 Grow

Although this study has revealed many weaknesses in the implementation of the UN's human rights mandate in the field, the bigger picture conclusion is that *these field presences can and often do offer substantial protection to those who need it*. At the global level as well as within the national context of each field presence, this protective impact needs to be more fully understood and disseminated in order to be further supported and improved. OHCHR, DPKO and DPA need to consciously articulate these impacts and do much more to defend and promote the protection value of these field presences to donors and member states.

Consequently, one of the biggest systemic weaknesses we identify is the failure of the UN and its member states to invest sufficiently to ensure that its human rights field presences achieve their maximum potential. Greater investment is needed both in terms of resources and political support. We do not argue for growth for its own sake, but rather that where analysis suggests that more UN field presence would contribute to

greater protection – whether through new presences or the expansion of existing ones – then the resources should be made available to make this possible.

There will only be more field presences if states agree to host them. Member states need to give much greater political support to the High Commissioner to facilitate negotiations to establish new field presences. States need to put more pressure on each other, insisting on a new field presence wherever it is needed. And when states are refusing or expelling a human rights presence, they should be called to account for their recalcitrance and there should be political or reputational costs.

When it comes to resources, certainly at the central level the core funding of OHCHR is insufficient. The High Commissioner should be pursuing support for a long-term vision of growth that will give the institution the stable support it needs to do the job it is called upon to do. But even with current core budgets, OHCHR field presences and the human rights components of peace operations need to be much more ambitious and proactive, capturing the substantial support from multiple sources that is already available for effective protection work, and taking advantage of new avenues of funding to expand their operations. In addition, the UN's continued weakness in promptly and efficiently filling empty posts in the field with qualified human rights officers *must* be fixed if these field presences are to achieve their mandated potential.

## **12.5 Project a more ambitious long-term vision**

The human rights field presences of OHCHR, DPKO and DPA, together with their sponsoring institutions, need to conceptualize themselves increasingly as a single system with shared objectives, shared strategies and shared human resources. The system is still in the early stages of a necessary growth curve, and will continue to evolve over time. The more visionary leaders need a long-term horizon, planning not for the budget of the next biennium, but to imagine and realize the human rights protection system the United Nations should have on the ground through 2020 and beyond. They need to mobilize allies to break through any inertia or political obstacles that block this process.

The effectiveness of each human rights field presence depends in large part on the perceptions of legitimacy of human rights at the global level. Taking a long-term view, there are many signs that this legitimacy is growing. Twenty years ago, when the first field presences were being attempted, most states could more easily use sovereignty arguments against any such initiative. Twenty years ago, there was no OHCHR, no ICC, and no “Protection of Civilians” discussion in the Security Council. Since then the discourse has progressed dramatically: human rights concepts are mainstreamed throughout the UN system, and concepts like human security and protection of civilians are now broadly accepted. Human rights field presences are all over the world.

Twenty years ago, for a state to be discussed at the UN Human Rights Commission could only be a punishment. Now in the process of Universal Periodic Review, all states have accepted some level of regular scrutiny. The UN human rights community needs to similarly break down the perception that having a field presence on the ground is a punishment to the host state. The constructive value of critique and recommendation needs to be accepted on the ground as well. Hosting a field presence is a step towards legitimacy, not the opposite.

It won't be an easy process. There will continue to be state resistance to the legitimacy of international human rights. Arguments of sovereignty, cultural relativism or imperialism will still have resonance in many places. In fact, the instances of offensive interventions by western states or paternalistic behaviour by internationals on the ground will continue to justify such arguments. The international human rights community, and more specifically the activist human rights proponents in the United Nations, need to confront not only the abuses on the ground, but also these other dynamics that can undermine human rights legitimacy. We cannot settle for a reactive or defensive approach.

There will always be setbacks and push-backs against the growth of human rights' legitimacy, but these push-backs do not neutralize the gains. Taking a longer-term view, there is too much potential, and too much need, for anything but an ambitious and visionary plan for the future.

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Throughout this study, we have been privileged to meet many dedicated, creative and passionate human rights officers operating in all manner of difficult contexts. The human rights issues they deal with are complex, multi-faceted and rarely amenable to simple resolution. But all over the world they are crafting nuanced approaches to the problems in front of them – combining skills of analysis, strategy, diplomacy, law, public relations and negotiation and activities of monitoring, reporting, advising, training, talking and listening. We hope that this study captures some of the subtlety, variation and inter-relationships of this task, and helps both the field officers and the UN as a whole to do much more of this vital work on the ground.

# FIELDVIEW SOLUTIONS

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Civilian suffering in the face of conflict and human rights abuse places a tremendous obligation on United Nations and non-governmental organizations who try to confront it: an obligation to be efficient and effective; an obligation to get past words and rhetoric and find real solutions that make a difference. To meet this obligation, they need good analysis, well-trained staff and creative strategies. Fieldview Solutions helps organizations that deploy staff in conflict zones and regions of significant human rights abuse, by bringing a rigorous analysis of best field practice into their analysis, planning and training.

Fieldview Solutions has done analysis and training development projects with the UN Office of Coordination of Humanitarian Affairs, the Office of the High Commissioner for Human Rights, the World Food Program, the UN Department of Peacekeeping Operations, the Economic Community of West African States Emergency Response Teams, Amnesty International and Peace Brigades International, among others.

Fieldview Solutions founder Liam Mahony, has been doing fieldwork, analysis, writing and training focused on protection for over 20 years. His field manual, “[Proactive Presence: Field strategies for civilian protection](#),” published by the Centre for Humanitarian Dialogue, is a resource for planning and training for the integration of protection into the ongoing work of a wide range of field operations. Mr. Mahony has been developing and implementing participatory training methodologies for 30 years, for UN-OCHA, UN-WFP, DPKO, ECOWAS and Peace Brigades International, among others. He contributed several new chapters for the OHCHR Monitoring manual and assisted in developing new training methodologies for OHCHR human rights monitoring. He is also the co-author (with Luis Enrique Eguren) of [Unarmed Bodyguards: International Accompaniment for the Protection of Human Rights](#) (Kumarian Press, 1997).

Fieldview’s co-founder, Roger Nash, has a background of human rights and humanitarian work in Colombia, Afghanistan, Sri Lanka, and South Sudan. He has an LL.M. in Human rights law from the University of Essex, where his research focused on the effective use of field presence for protection of human rights. Mr. Nash is a protection trainer for the OCHA ProCap program (Protection Standby Capacity) and for DPKO civil affairs.

Fieldview Solutions research associate Tessa Mackenzie participated in field research for the case studies in the DRC, Uganda and Kenya. Ms. Mackenzie has worked with several different human rights NGOs including Amnesty International and Peace Brigades International. Her Masters degree in Contemporary War and Peace

Studies included a thesis on humanitarian intervention in areas of armed conflict. She specializes in the protection of human rights defenders and has lived and worked in Colombia, Guatemala, Nigeria, Mozambique, and Palestine.

Indu Tuladhar assisted the research in Nepal, working under a separate contract through the Danish Embassy in Kathmandu. A Nepali lawyer and independent consultant with a background working in access to justice for women victims of violence, she has more than 10 years experience working with a diverse range of national and international organisations, providing technical expertise and carrying out advocacy to strengthen the legal and constitutional protection of children, women and minority groups in Nepal.

**For more info, see [www.fieldviewsolutions.org](http://www.fieldviewsolutions.org)**



# INFLUENCE

ON THE

# GROUND

*Understanding and strengthening the protection impact  
of United Nations human rights field presences*

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One of the most important tools the United Nations has to protect human rights is the deployment of human rights officers in the field. But the role and power of these human rights field presences are often misunderstood, oversimplified and underestimated.

The stereotype of human rights field officers simply collecting data and writing reports is outdated and incomplete. Working close to where abuses happen, they are engaged in daily advocacy for protection, while also offering problem-solving support to both state and civil society actors to craft solutions to human rights problems.

Drawing on hundreds of field-based interviews, this book offers a uniquely nuanced vision of field protection. It highlights the strengths and challenges of current practice, and uncovers the essence of what makes a human rights field presence effective. With new analytical frameworks and recommendations for policy changes, it will be an invaluable resource for field workers, managers, policy-makers and all others interested in the crucial challenge of human rights protection on the ground.

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advancing field protection and human rights