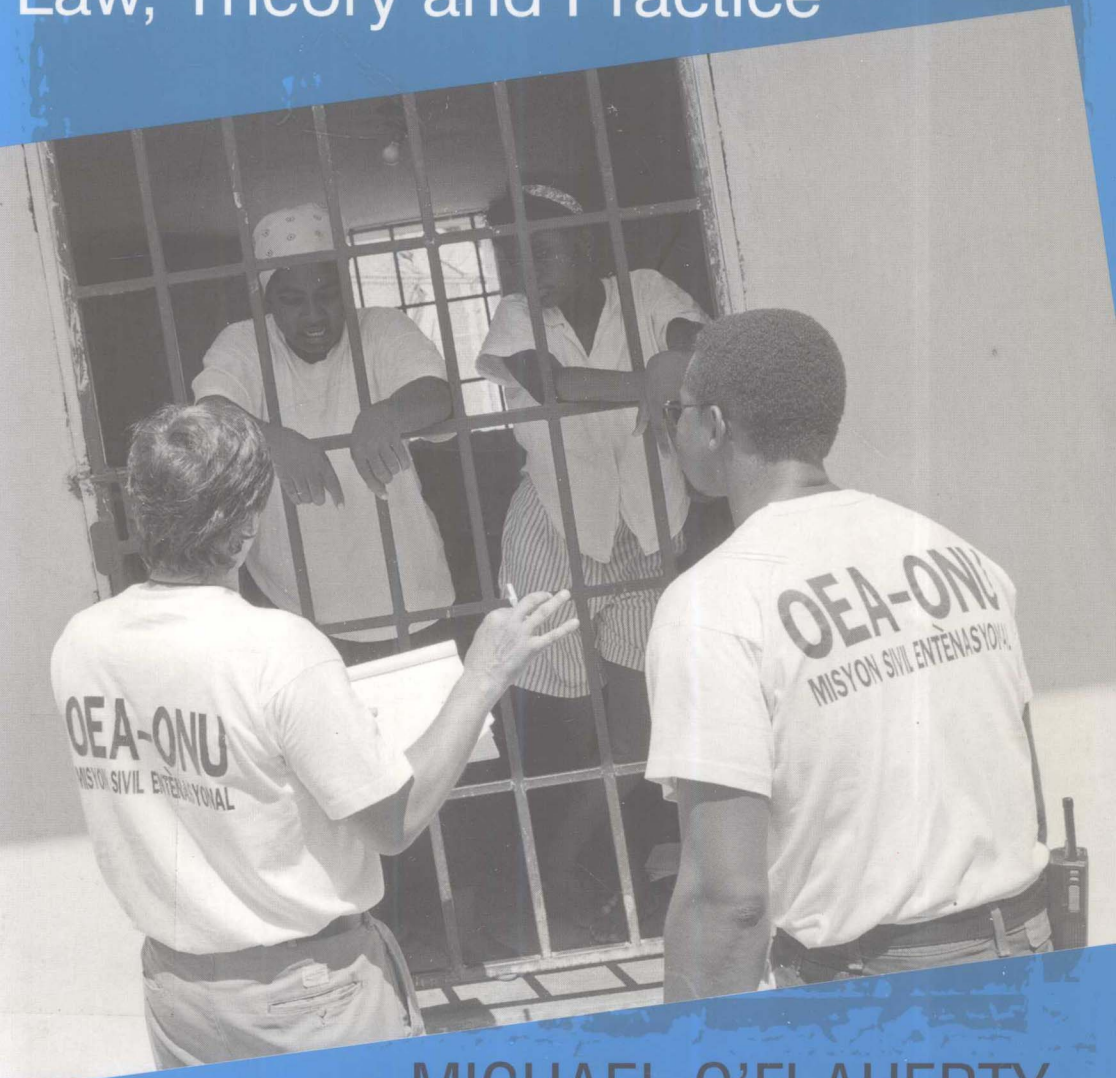


The Human Rights Field Operation

a
ASHGATE

Law, Theory and Practice



MICHAEL O'FLAHERTY
EDITOR

The Human Rights
Field Operation
Law, Theory and Practice

Edited by
MICHAEL O'FLAHERTY

ASHGATE

© Michael O'Flaherty 2007

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior permission of the publisher.

Michael O'Flaherty has asserted his right under the Copyright, Designs and Patents Act, 1988, to be identified as the editor of this work.

Published by
Ashgate Publishing Limited
Gower House
Croft Road
Aldershot
Hampshire GU11 3HR
England

Ashgate Publishing Company
Suite 420
101 Cherry Street
Burlington, VT 05401-4405
USA

Ashgate website: <http://www.ashgate.com>

British Library Cataloguing in Publication Data

The human rights field operation : law, theory and practice

1. United Nations
 2. Humanitarian intervention
 3. Humanitarian intervention - Case studies
 4. Human rights workers
 5. Human rights workers - Case studies
- I. O'Flaherty, Michael, solicitor
341.5'84

Library of Congress Cataloging-in-Publication Data

The human rights field operation : law, theory and practice / edited by Michael O'Flaherty.
p. cm.

Includes bibliographical references and index.

ISBN-13: 978-0-7546-4936-6

ISBN-13: 978-0-7546-4937-3 1. Human rights field operations. 2. Humanitarian assistance. 3. Human rights workers. 4. United Nations. I. O'Flaherty, Michael, solicitor.

JC571.H865 2006
341.5'84--dc22

2006025017

ISBN 978 0 7546 4936 6 (HBK)
ISBN 978 0 7546 4937 3 (PBK)

Printed and bound in Great Britain by TJ International Ltd, Padstow, Cornwall.

Notes on Contributors

Alain Aeschlimann, a Swiss national, is a lawyer by training. He joined the International Committee of the Red Cross (ICRC) in 1987. In the field, his assignments included long-term missions in Iraq, Angola and Peru before his heading ICRC operations in Iraq, Israel and the Palestinian Occupied and Autonomous Territories, and Ethiopia.

He was appointed Head of the Central Tracing Agency and Protection Division in mid-2003. He had earlier served at the ICRC Headquarters as Coordinator of Legal Advisors to the Operations and Deputy Head of Detention Division, then Central Tracing Agency and Protection Division.

He has written or contributed to several articles, including 'Reflections on a dissemination operation in Burundi', 'Declaration for Standards of Humanitarian Conduct: Appeal for a Minimum of Humanity in a Situation of Internal Violence' (IRRC August 1997), 'Protection of Detainees: ICRC Action Behind Bars' (IRRC, March 2005), 'Protection of IDPs: An ICRC View' (FMR October 2005).

Patrick Burgess is a barrister with extensive experience as a trial and appellate advocate in Australian courts. He has worked in Rwanda, Burundi, Zaire, Uganda, Yemen, India, Nepal, Indonesia and Timor Leste. He spent six continuous years working for United Nations (UN) missions in East Timor between 1999 and 2005. He was the senior humanitarian officer in the United Nations Assistance Mission in East Timor, a District Administrator in the period immediately following the intense conflict of 1999, and Director of Human Rights for the United Nations Transitional Administration in East Timor and United Nations Mission in East Timor missions, 1999–2002. From 2002–2005 he was Senior Advisor and Principal Legal Counsel for the East Timor Commission for Reception, Truth and Reconciliation. He is currently an international consultant in the fields of transitional justice, human rights and rule of law.

Nicholas Howen is Secretary-General of the International Commission of Jurists (ICJ). Immediately prior to assuming the office of Secretary-General of the ICJ in April 2004, he was based in Bangkok as the first Asia-Pacific Regional Representative for the Office of the United Nations High Commissioner for Human Rights (OHCHR). From 1998–2000 he led the Human Rights Division of the United Nations peacekeeping operation in Angola. During the 1990s he was chief legal counsel at Amnesty International for four years.

He has also worked as an international human rights law consultant, writing on international human rights issues and working with UN agencies, non-governmental organisations (NGOs) and development cooperation agencies. He is the co-founder

and former co-director of the Tibet Information Network. He is an Australian international human rights lawyer and practised law as a solicitor in Sydney, Australia.

Todd Howland is currently the Director of the Robert F. Kennedy Memorial Center for Human Rights, an organisation that partners with human rights advocates around the world in pursuit of concrete human rights change. Previously, he was with OHCHR posted to Angola and Rwanda. He was Officer-in-Charge of the Human Rights Division of the United Nations Mission to Angola and the head of the Legal and Human Rights Promotion Unit of the UN Human Rights Field Operation for Rwanda. He also has worked with various NGOs, including the Carter Center in Ethiopia.

Karin Landgren has been the United Nations Children's Fund's (UNICEF) Chief of Child Protection since 1998, directing the agency's efforts to protect children from violence, exploitation and abuse. Prior to this, she spent nearly 20 years with the Office of the United Nations High Commissioner for Refugees (UNHCR), heading their office in Bosnia and Herzegovina during the war, as well as offices in Eritrea and Singapore. She was also UNHCR's Chief of Standards and Legal Advice. In the 1980s, she worked extensively with Afghan, Iranian and Vietnamese asylum seekers as Protection Officer for UNHCR in India and as Deputy Representative in the Philippines.

She has lectured and written on refugee protection, child protection and the protection of human rights in humanitarian crises. She is a Corresponding Editor of *International Legal Materials*. She holds degrees in International Relations (BSc) and International Law (LLM) from the London School of Economics. She is a Swedish national, and grew up in Japan.

Milburn Line worked a total of nine years with the United Nations Human Rights Verification Mission, managing a United States Agency for International Development-funded human rights project in Guatemala, and with the Organization for Security and Co-operation in Europe (OSCE) and Office of the High Representative in Bosnia and Herzegovina.

Annette Lyth has an LL.M. in international human rights and humanitarian law from the Raoul Wallenberg Institute in Sweden. She has worked for Amnesty International, the UN human rights field operation in Rwanda and the OSCE Mission to Kosovo. She was the Deputy Head of the Human Rights Department at OSCE/Office for Democratic Institutions and Human Rights for three years and is currently working with the United Nations Development Fund for Women as Governance, Peace and Security Programme Manager.

Liam Mahony is the Civilian Protection Analyst for the Centre for Humanitarian Dialogue. He is a pioneer in the theory and practice of international protection with unarmed presence. He began working in the mid-1980s in Guatemala, with Peace

Brigades International (PBI), offering international accompaniment to civil society activists threatened by death squads and military dictatorship. He subsequently helped to develop training frameworks for PBI's international protection, and co-founded PBI's field presence in Haiti. He co-authored: *Unarmed Bodyguards: International Accompaniment for the Protection of Human Rights*, a book analysing protective accompaniment and providing theoretical models for understanding its impact. He edited the *Kosovo Report* of the Independent International Commission on Kosovo (Oxford University Press, 2000). He has been Lecturer in Public and International Affairs at the Woodrow Wilson School, Princeton University, and was the series editor of the Tactical Notebook series of the New Tactics in Human Rights Project of the Center for Victims of Torture (www.newtactics.org). His recent consulting includes the Rockefeller Foundation, the World Council of Churches, Amnesty International, OHCHR and the World Food Programme.

David Marshall is Human Rights Officer: Transitional Justice, OHCHR. He is the former head of Legal Systems Monitoring Section, Human Rights Division, OSCE, Kosovo; former project director, Afghanistan, Department of Justice, Canada; former consultant to Amnesty International on US criminal justice issues; a member of the Bar of England and Wales, New York and US Supreme Court Bar; and holds the degrees of LLB Leeds, LLM Harvard.

Daniel Moeckli is working on a doctoral thesis on terrorism and human rights at the University of Nottingham, where he is also a Research Associate at the Human Rights Law Centre. He has previously worked for the Human Rights Institute of the International Bar Association, Amnesty International and the Supreme Court of the Canton of Bern (Switzerland). He holds a law degree from the University of Bern, an LLM from the London School of Economics and Politics and a Diploma in Human Rights Law from the European University Institute. He is a member of the Swiss Bar.

Manfred Nowak is Professor of Constitutional Law and Human Rights at the University of Vienna and Director of the Ludwig Boltzmann Institute of Human Rights. Since 1996, he has served as Judge at the Human Rights Chamber for Bosnia and Herzegovina, and, since 2000, as Chairperson of the European Master Programme on Human Rights and Democratization in Venice. From 1987 to 1989, he was Director of the Netherlands Institute of Human Rights at the University of Utrecht, and from 2002 to 2003 Visiting Professor at the University of Lund.

He was a member of the Austrian delegation to the UN Commission on Human Rights for many years, before he was appointed in 1993 as an expert member of the UN Working Group on Enforced and Involuntary Disappearances. During this term he also served as a United Nations expert on missing persons in the former Yugoslavia, and in 2001 he was appointed United Nations expert on legal issues relating to the drafting of a binding instrument on enforced disappearances. In December 2004, he was appointed United Nations Special Rapporteur on Torture.

He has published more than 350 books and articles in the fields of human rights, public law and politics. He holds an LLM from Columbia University in New York and a PhD from Vienna University.

Marco Odello, Lecturer in Law, University of Wales, Aberystwyth. He has worked with UNICEF-Italy, the International Institute of Humanitarian Law (San Remo), and the European Public Law Centre (Athens). He has taught international law, international organisations, comparative law and human rights in Peru, Venezuela and Mexico. He lectures at the Summer University of Human Rights (Geneva) and at the International Institute of Humanitarian Law. He is co-author of *La Convenzione Internazionale sui Diritti del Minore e l'Ordinamento Italiano* (Naples, ESI, 1994); Mazzarelli and Odello (eds), *L'insegnamento dei Diritti Umani* (Rome, EDIUN, 1999); and co-author of *Problemas Actuales del Derecho Público en Mexico* (Mexico DF, Porrúa, 2004).

Michael O'Flaherty is Reader in Human Rights and Co-Director of the Human Rights Law Centre at the University of Nottingham. In 2004 he was elected to a four-year term as Member of the United Nations Human Rights Committee. Until 2003, he was a Senior Research Officer at UNICEF. Previous UN postings included coordination of the Asia and Pacific programmes at OHCHR, establishment of the UN human rights field operations in Sierra Leone and Bosnia and Herzegovina, Secretary of the UN Committee on the Elimination of Racial Discrimination and UN human rights advisor for implementation of the Dayton Peace Agreement. From 2000 to 2002 he chaired the UN task force on human rights and humanitarian action.

He is a Visiting Professor at the Sant'Anna School of Advanced Studies (Pisa), Fellow of Kingston University and has served as an advisor to, among others, OHCHR, UNICEF, the UN Office for the Coordination of Humanitarian Affairs, the Council of Europe, the European Union and the Special Court for Sierra Leone. He is a member of a number of journal editorial boards and NGO advisory committees as well as the Council of the European Inter-University Centre for Human Rights and Democratisation. He holds degrees in law (BCL: UCD, Dublin), theology and philosophy (BPh, STB: PUG, Rome), international relations (MA, MPhil: Amsterdam) and is a Solicitor of the Irish Courts.

William G. O'Neill is a lawyer specialising in international human rights, humanitarian and refugee law. He chaired a UN Task Force on Developing Rule of Law Strategies in Peace Operations and was Senior Advisor on Human Rights in the UN Mission in Kosovo. He was Chief of the UN Human Rights Field Operation in Rwanda and directed the Legal Department of the UN/Organization of American States International Civilian Mission in Haiti. He has investigated mass killings in Afghanistan for OHCHR and conducted assessments of the High Commissioner's Office in Abkhazia/Georgia and of the OSCE's Human Rights Department in Bosnia-Herzegovina. He trained the UN human rights officers in Darfur, Sudan in early 2005. His work in Sierra Leone focused on how the Special Court can contribute to broad-based legal reform,

and in Burundi, Cape Verde, Nepal and Mauritania, on developing and implementing national human rights action plans. He has created and delivered training courses on peace operations for military, police, humanitarian and human rights officers and contributed chapters to the United Nations *Manual on Peacekeeping*. The question of how to integrate human rights in development work has become a recent focus of his work. He has published widely on rule of law issues, peacekeeping and human rights.

Bertrand G. Ramcharan is Chancellor of the University of Guyana and Distinguished Visiting Fellow at the Human Rights Law Centre of the University of Nottingham. He was Deputy United Nations High Commissioner for Human Rights from 1998 to 2003 and Acting High Commissioner in 2003–2004. He is a Barrister-at-Law of Lincoln's Inn and has Masters and Doctorate degrees in Law from the London School of Economics and Political Science, earned the Diploma in International Law of The Hague Academy of International Law, a Diploma in Air and Space Law and a Diploma in International Affairs from the University of London. He has previously been Director of Studies at the Research Centre of The Hague Academy of International Law. He served as Director of the International Conference on the Former Yugoslavia between 1992 and 1996. Earlier, he was for five years the Head of the UN secretary-general's speechwriting team and wrote the first draft of *Agenda for Peace*. He was a Director in the Department of Political Affairs from 1996–1998, dealing with African issues. He has taught at various universities and is the author of several books, including *A United Nations High Commissioner in Defence of Human Rights* (2005).

Susanne Ringgaard-Pedersen has worked on human rights and humanitarian law issues for OSCE in missions in Kosovo and the former Yugoslav Republic of Macedonia, the OSCE Secretariat in Vienna and the OSCE Office for Democratic Institutions and Human Rights in Warsaw. Other experience includes human rights field work in Cambodia and Sri Lanka. She currently works with the OHCHR field operation in Nepal. She has a BA in international studies from Western Maryland College and an MA degree in international human rights and humanitarian law from the Raoul Wallenberg Institute, Lund University, Sweden.

Maria Stavropoulou (JD Athens, LLM University College London, LLM Harvard Law School) has served at the United Nations Centre for Human Rights from 1993 to 1996 and has since worked with UNHCR. Since 1990 her area of work has been the human rights of refugees and internally displaced persons.

Kevin Turner is Research Fellow and Project Officer at the University of Nottingham Human Rights Law Centre. He has worked previously with the US Senate, the Center for Creative Problem Solving and the Joan B. Kroc Institute for Peace & Justice, and has published in media outlets on international humanitarian law, human rights law and peace processes. He holds degrees in government and politics (George Mason

University, BA), peace and justice studies (University of San Diego, MA) and human rights law (University of Nottingham, LLM).

George Ulrich is, since 2003, Secretary-General of the European Inter-University Centre for Human Rights and Democratisation, where he served previously for three years as the Academic Coordinator and Acting Programme Director of the E.MA programme. Prior to this, he was Senior Researcher at the Danish Centre for Human Rights and Research Fellow at the University of Copenhagen's Institute of Anthropology. He has published widely on issues of ethics and human rights, and lectured throughout Europe and Africa. He holds a Cand.Mag. degree in social anthropology and history of ideas from Aarhus University and an MA and PhD in philosophy from the University of Toronto.

Nigel D. White is Professor of International Law at the University of Sheffield. He is author of *Keeping the Peace* (1997), *The UN System* (2002) and *The Law of International Organisations* (2005). He has edited and co-edited *Collective Security Law* (2004), *The UN, Human Rights and Post-conflict Situations* (2005) and *International Conflict and Security Law* (2005). He is co-editor of the *Journal of Conflict and Security Law* (volume 11 in 2006).

Acknowledgements

I express my appreciation to all of the authors for delivering their texts within tight deadlines, notwithstanding their many other commitments. The anonymous reviewers nominated by Ashgate should also be thanked for making comments that were of great assistance in finalising the book. I am grateful to the European Inter-University Centre for Human Rights and Democratisation for hosting a meeting of the authors at its premises in Venice and for the generous financing of editorial assistance. Appreciation is due to my colleagues at the University of Nottingham Human Rights Law Centre, especially my Co-Director, Professor David Harris and the Centre's Coordinator, Dr James Harrison, as well as the 2005–2006 LLM students who participated in a module I teach on the law and practice of human rights field operations. I owe a great debt of gratitude to those human rights field officers with whom I have served and from whom I have learned so much. I am particularly grateful for the editorial assistance of Kevin Turner, ably supported by Emilie Hunter.

Michael O'Flaherty
April 2006

Contents

<i>List of Figures</i>	vii
<i>Notes on Contributors</i>	ix
<i>Acknowledgements</i>	xv
1 Human Rights Field Operations: An Introductory Analysis <i>Michael O'Flaherty</i>	1
2 The Fundamental Protection Function of the Human Rights Field Operation <i>Nicholas Howen</i>	31
3 The Legal Base for Human Rights Field Operations <i>Nigel D. White and Marco Odello</i>	47
4 Towards an Ethical Base for the Work of Human Rights Field Operations <i>George Ulrich</i>	69
5 The Deployment of Human Rights Field Operations: Policy, Politics and Practice <i>Daniel Moeckli and Manfred Nowak</i>	87
6 The Human Rights Field Operation in Partnership for Peace <i>Bertrand G. Ramcharan</i>	105
7 The Human Rights Field Operation in Partnership for Security <i>William G. O'Neill</i>	125
8 The Human Rights Field Operation in Partnership for Transitional Justice <i>David Marshall</i>	141
9 The Human Rights Field Operation in Partnership for Humanitarian Relief and Reconstruction <i>Michael O'Flaherty</i>	159
10 Protection: The United Nations Children's Fund Experience <i>Karin Landgren</i>	183
11 Protection: The Office of the United Nations High Commissioner for Refugees Experience <i>Maria Stavropoulou</i>	207

12	Protection: The International Committee of the Red Cross Experience <i>Alain Aeschlimann</i>	223
13	Protection: A Non-governmental Organisation Experience, Peace Brigades International <i>Liam Mahony</i>	243
14	Case Study: The United Nations Human Rights Field Operation in East Timor <i>Patrick Burgess</i>	265
15	Case Study: The United Nations Human Rights Field Operation in Sierra Leone <i>Michael O'Flaherty</i>	287
16	Case Study: The United Nations Human Rights Field Operation in Angola <i>Todd Howland</i>	317
17	Case Study: Comparative Aspects of the Human Rights Field Operations in Bosnia and Herzegovina and Guatemala <i>Milburn Line</i>	343
18	The Human Rights Field Operations of the Organization for Security and Co-operation in Europe <i>Susanne Ringgaard-Pedersen and Annette Lyth</i>	361
19	Compendium of Resources Regarding Human Rights Field Operations of Intergovernmental Organisations <i>Kevin Turner</i>	381
	<i>Select Bibliography</i>	427
	<i>Index</i>	443

Chapter 1

Human Rights Field Operations: An Introductory Analysis

Michael O'Flaherty

The Human Rights Field Operation: Law, Theory and Practice seeks to take stock of the development of human rights field operations of the United Nations (UN) and other intergovernmental organisations and to make a substantial contribution to the debate and understanding with regard to the sector's underlying doctrine. The volume, unprecedented in its scope, addresses the range of aspects of the nature, role and activities of field operations. It draws together the reflections of academics, policy makers and field practitioners and its analysis is located within the context of applicable normative frameworks, assessment of former and current practice and examination of complementary and analogous experiences.

For purposes of the examination, the term 'human rights field operation' refers primarily to those types of civilian field missions that are either deployed or supported by the Office of the United Nations High Commissioner for Human Rights (OHCHR), as well as analogous missions of organisations such as the Organization for Security and Co-operation in Europe (OSCE). Accordingly, the volume addresses issues of relevance to standalone OHCHR 'field presences' and the civilian human rights components of UN peace missions. The focus of attention is on operations in armed conflict or post-conflict situations. The volume does not include in its primary focus the work of UN agencies, funds and programmes, the International Committee of the Red Cross (ICRC) and non-governmental organisations (NGOs). Instead, all of these categories of actors are reflected on as sources of 'lessons learned' and in terms of the forms of partnership that field operations need to sustain. This framework takes account of the distinct and acute needs that have been identified within the sector of field operations associated with OHCHR (and the similar missions of other intergovernmental bodies) and allows for the type of focused approach that is capable of generating solid theoretical, policy and practice-related guidance.

It would be unhelpful, nevertheless, to maintain a rigid insistence on definitions and distinctions. The sector is in such a state of flux and the partnership requirements are so extensive that almost every chapter is required to address and reflect on the roles and activities of multiple actors with human rights responsibilities. In any case, and taking account of the significance of 'right-based approaches' and of human rights 'mainstreaming', any form of narrow niche-focused writing would be anachronistic.

With a view to the location of the volume in the context of the development and current state-of-play of human rights field operations, it is useful, at the outset, to undertake an historical and functional analysis.

Historical Review

Issues of human rights and armed conflict interact in multiple ways.¹ The origins of conflict frequently coincide with patterns of human rights abuse – such as the systemic oppression of minorities or of other vulnerable groups. With conflict underway, the assault on human rights is evident. In the first place there is the direct targeting of civilians. Account needs also to be taken of the impact on people of the destruction of human and economic infrastructure and capital and of a slide into humanitarian crisis. Efforts to resolve conflict can also cause the denial of human rights. Peace agreements may trade off human rights protection for some other goal, such as when they institutionalise arrangements that either reflect existing patterns of discrimination or create new ones. Peace processes can also exacerbate victimisation by failing to address past patterns of abuse, above all when they fail to tackle issues of justice and of redress for victims. Conversely, the value of peace and reconstruction processes integrating attention to human rights is increasingly acknowledged – with the development of strong human rights institutions and the general promotion of a ‘human rights culture’ perceived to be central to the consolidation of peace.²

In recognition of the interaction of human rights, armed conflict, peace and reconstruction, the UN increasingly deploys human rights field operations to conflict and post-conflict environments.³ The UN’s involvement in general conflict-related civilian field activities is longstanding. For instance, as early as

¹ See B. Ramcharan, ‘Human Rights and Conflict Resolution’, *Human Rights Law Review* vol. 4, no. 1 (2004); D. Carment and A. Schnabel, *Conflict Prevention: Path to Peace or Grand Illusion* (Tokyo: United Nations University, 2003); H. Thoolen, ‘Early Warning and Prevention’, in G. Alfredsson *et al.* (eds), *International Human Rights Monitoring Mechanisms: Essays in Honour of Jakob Th. Moller* (The Hague: Martinus Nijhoff, 2001), p. 301; L. Mahony, ‘Unarmed Monitoring and Human Rights Field Presences: Civilian Protection and Conflict Protection’, *The Journal of Humanitarian Assistance* (2003), <http://www.jha.ac/articles/a122.htm>; E. Lutz *et al.*, ‘Human Rights and Conflict Resolution from the Practitioners’ Perspective’, *The Fletcher Forum of World Affairs* vol. 27, no. 1 (2003); J. Saunders, *Bridging Human Rights and Conflict Prevention: A Dialogue between Critical Communities*, Carnegie Council on Ethics and International Affairs, at <http://www.cceia.org/viewMedia.php/prmTemplateID/1/prmID/161>; M. O’Flaherty, ‘Sierra Leone’s Peace Process: The Role of the Human Rights Community’, *Human Rights Quarterly* vol. 26, no. 1 (2004); M. O’Flaherty, ‘Future Protection of Human Rights in Post-Conflict Societies: The Role of the United Nations’, *Human Rights Law Review* vol. 3, no. 1 (2003).

² O’Flaherty, ‘Future Protection of Human Rights’.

³ For an overview of current UN programmes see OHCHR, *Annual Appeal 2005* (Geneva: OHCHR, 2005) at <http://www.unhchr.ch/pdf/appeal2005.pdf>; See also <http://www.unhchr.ch/html/menu2/5/field.htm>.

1978, in Namibia, its mission was responsible for election monitoring, development of electoral legislation, repatriation of refugees and release of political prisoners.⁴ However, the practice of deploying specifically mandated human rights field teams only began in 1991.⁵ It had its origins in the surge of optimism regarding its capacity as a peace-builder which emerged with the end of the Cold War. The first specifically human rights-mandated mission, was tasked with monitoring the implementation of the San Jose peace agreement in El Salvador.⁶ In 1992 the UN established a mission to oversee the political transition in Cambodia, again with a human rights component.⁷ 1993 saw the establishment, jointly by the UN and the Organization of American States (OAS), of the first exclusively human rights-focused mission, in Haiti.⁸ Another dedicated human rights mission was established by the UN for Guatemala in 1994.⁹

All of these first missions were realised within the framework of the UN's political programming. They were established under the authority of, or otherwise in close consultations with, the Security Council or, less frequently, the General Assembly, headquartered in New York, and without the involvement of the organisation's human rights component, then called the Centre for Human Rights and located in Geneva. The Centre, though, was itself starting to undertake the deployment of human rights monitors in the former Yugoslavia in support of the Commission on Human Rights

⁴ See Security Council resolution 431 (1978), UN Doc. S/RES/431 (1978) and Security Council resolution 435 (1978), UN Doc. S/RES/435 (1978).

⁵ See M. Katayanagi, *Human Rights Functions of United Nations Peacekeeping Operations* (The Hague: Kluwer Law International, 2002); B. G. Ramcharan, *The United Nations High Commissioner for Human Rights: The Challenges of International Protection*, International Studies in Human Rights vol. 71 (The Hague: Kluwer Law International, 2002).

⁶ The United Nations Observer Mission in El Salvador (ONUSAL). See R. Brody, 'The United Nations and Human Rights in El Salvador's "Negotiated Revolution"', *Harvard Human Rights Journal* vol. 8 (1995), 153; D. García-Sayán, 'The Experience of ONUSAL in El Salvador', and T. Whitfield, 'Staying the Course in El Salvador', in A. Henkin (ed.), *Honoring Human Rights* (The Hague: Kluwer Law International, 2000).

⁷ The United Nations Transitional Authority in Cambodia (UNTAC). See D. McNamara, 'UN Human Rights Activities in Cambodia: An Evaluation', and B. Adams, 'UN Human Rights Work in Cambodia: Efforts to Preserve the Jewel in the Peacekeeping Crown', in *Honoring Human Rights*; M. Kirby, 'Human Rights, the United Nations and Cambodia', *Australian Quarterly* vol. 67, no. 4 (1995), 26.

⁸ The OAS/UN International Civilian Mission in Haiti (MICIVIH). See W. G. O'Neill, 'Human Rights Monitoring versus Political Expediency: The Experience of the OAS/UN Mission in Haiti', *Harvard Human Rights Journal* vol. 8 (1995), 101; W. G. O'Neill, 'Gaining Compliance without Force: Human Rights Field Operations', in S. Chesterman (ed.), *Civilians in War* (Boulder: Lynne Rienner, 2001); I. Martin, 'Paper versus Steel: the First Phase of the International Civilian Mission in Haiti', and C. Granderson, 'Institutionalizing Peace: The Haiti Experience', in *Honoring Human Rights*.

⁹ The United Nations Human Rights Verification Mission in Guatemala (MINUGUA). See L. Franco and J. Kotler, 'Combining Institution Building and Human Rights Verification in Guatemala: The Challenge of Buying in Without Selling Out', in *Honoring Human Rights*.

special rapporteur for that region¹⁰ and, in 1993, had assumed responsibility to take over the UN human rights programme in Cambodia upon the closure of the United Nations Transitional Authority in Cambodia (UNTAC). In 1994, in response to the Rwanda genocide and under the guidance of the newly appointed first UN high commissioner for human rights,¹¹ the Centre established a mission¹² which, by late 1995 comprised 130 international staff.¹³ 1995 also saw the deployment by the Centre of human rights monitors in Burundi. These missions were launched notwithstanding the Centre's lack of relevant experience and infrastructure and were funded by voluntary contributions rather than, as was the case for the New York-led operations, from the regular UN budget.¹⁴

By the mid-1990s,¹⁵ commentators were drawing attention to a number of concerns regarding the development of human rights field operations. These included: (a) the need to ensure that human rights be addressed in the design and operation of all New York-led peace missions rather than the handful that have been mentioned here; (b) how best to involve the Geneva-based high commissioner for human rights and the Centre in the guidance of these missions; (c) the unsustainability of the Geneva-led voluntarily funded operations; (d) how best to balance the monitoring functions of such missions with the delivery of capacity building technical cooperation; and (e) the extent to which regional organisations could or would mount human rights field operations.

¹⁰ A similar scheme was envisaged to support the mandate of the special rapporteur on Iraq but deployment to that country was not feasible.

¹¹ The post was established by UN General Assembly resolution 141 (1993), UN Doc. A/RES/48/141 (1993). See Ramcharan, *The United Nations High Commissioner for Human Rights*.

¹² Human Rights Field Operation for Rwanda (HRFOR)

¹³ See W. Clarence, 'The Human Rights Field Operation in Rwanda: Protective Practice Evolves on the Ground', *International Peacekeeping* vol. 2, no. 3 (1995); I. Martin, 'After Genocide: The UN Human Rights Field Operation in Rwanda', in *Honoring Human Rights*; T. Howland, 'Mirage, Magic or Mixed Bag? The United Nations High Commissioner for Human Rights' Field Operation in Rwanda', *Human Rights Quarterly* vol. 21, no. 1 (1999).

¹⁴ With the single exception of the Cambodia office the core costs of which are met from the UN regular budget.

¹⁵ See the papers presented at meetings in 1995 and 1998 contained in *Honoring Human Rights*; D. García-Sayán, 'Human Rights and Peacekeeping Operations', *University of Richmond Law Review* vol. 29, no. 1 (1994); D. Little, 'Protecting Human Rights During and After Conflicts: The Role of the United Nations', *Tulsa Journal of Comparative and International Law* vol. 4, no. 1 (1996); W. Clarence, 'Field Strategy for the Protection of Human Rights', *International Journal of Refugee Law* vol. 9, no. 2 (1997); I. Martin, 'Human Rights Monitoring and Institution-Building in Post-Conflict Societies: The Role of Human Rights Field Operations', paper delivered to USAID Conference, 'Promoting Democracy, Human Rights and Reintegration', October 30–31, 1997, on file with the present author, and I. Martin, 'A New Frontier: The Early Experience and Future of International Human Rights Field Operations', *Netherlands Quarterly of Human Rights* vol. 16, no. 2 (1998). See also O'Neill, 'Gaining Compliance without Force'.

These concerns came to be addressed within the context of a general move to operationalise the notion of human rights as a cross-cutting responsibility in all the work areas of the UN – a concept that was articulated by the secretary-general in his 1996 UN Reform Programme.¹⁶ In the first place, the Centre for Human Rights (from 1998 renamed OHCHR) adopted a policy of seeking, as far as possible, to insert human rights components in New York-led missions rather than itself mounting entire operations. New York departments, for their part, grew increasingly willing to insert human rights components as integral parts of peacekeeping and, to a lesser extent, peacemaking operations. It was in this context that human rights programmes were located in UN missions such as those for Georgia,¹⁷ Liberia,¹⁸ Angola,¹⁹ Sierra Leone,²⁰ Guinea-Bissau, Democratic Republic of Congo²¹ and Ethiopia and Eritrea.²² Those UN missions which assumed transitional authority, such as in Kosovo²³ and East Timor,²⁴ also included human rights components.

¹⁶ Report of the Secretary-General, *Renewing the United Nations: A Programme for Reform*, UN Doc. A/51/950 (1997).

¹⁷ The United Nations Observer Mission in Georgia (UNOMIG). The human rights component of this mission is jointly staffed by UN and OSCE human rights officers.

¹⁸ The United Nations Observer Mission in Liberia (UNOMIL). See B. Nowrojee, 'Joining Forces: United Nations and Regional Peacekeeping – Lessons from Liberia', *Harvard Human Rights Journal* vol. 8 (1995), p. 129; and A. Clapham and F. Martin, 'Smaller Missions Bigger Problems', in *Honoring Human Rights*.

¹⁹ The United Nations Verification Mission III and the United Nations Observer Mission in Angola, (UNAVEM III and UNOMA). See chapter 16 by T. Howland in the present volume.

²⁰ The United Nations Observer Mission in Sierra Leone and the United Nations Assistance Mission in Sierra Leone (UNOMSIL and UNAMSIL). See O'Flaherty, 'Sierra Leone's Peace Process'; Centre for Humanitarian Dialogue, *Politics and Humanitarianism, Coherence in Crisis?* (Geneva: 2003), chapter 5.

²¹ The United Nations Organisation Mission in the Democratic Republic of the Congo (MONUC). See Centre for Humanitarian Dialogue, *Politics and Humanitarianism, Coherence in Crisis?*

²² The United Nations Mission in Ethiopia and Eritrea (UNMEE).

²³ The United Nations Mission in Kosovo (UNMIK). See W. Betts *et al.*, 'The Post-Conflict Transitional Administration of Kosovo and the Lessons Learned in Efforts to Establish a Judiciary and Rule of Law', *Michigan Journal of International Law* vol. 22, no. 3 (2001); H. Strohmeier, 'Collapse and Reconstruction of a Judicial System: The United Nations Missions in Kosovo and East Timor', *American Journal of International Law* vol. 95, no. 1 (2001); H. Strohmeier, 'Making Multilateral Interventions Work: The UN and the Creation of Transitional Justice Systems in Kosovo and East Timor', *Fletcher Forum of World Affairs* vol. 25, no. 2 (2001), 107; D. Marshall and S. Inglis, 'The Disempowerment of Human Rights-Based Justice in the United Nations Mission in Kosovo', *Harvard Human Rights Journal* vol. 16 (2003), 95.

²⁴ The United Nations Transitional Administration in East Timor (UNTAET). See Strohmeier, 'Making Multilateral Interventions Work: The UN and the Creation of Transitional Justice Systems in Kosovo and East Timor'; D. Criswell, 'Durable Consent and a Strong Transitional Peacekeeping Plan: The Success of UNTAET in Light of the Lessons Learned in Cambodia', *Pacific Rim Law and Policy Journal* vol. 2, no. 3 (2002); B. Kondoch, 'The