

**Meeting of Heads of Human Rights Components
in United Nations Peace Missions**

**The integration of human rights in the UN peace and security agenda
Session 4: Ten years of integration – challenges and opportunities**

**Key remarks by Ms. Patricia O'Brien,
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Dag Hammarskjöld Library Penthouse
11:00am – 1:00pm**

Mr. Secretary-General,
Mr. Chairman,
Colleagues,
Ladies and Gentlemen,

[Introduction]

It is my pleasure to address you today on this important topic. I would like to thank the High Commissioner for convening this meeting, which gives us an invaluable opportunity to reflect both on lessons learned, and on opportunities to enhance our work in the future. I want to thank my fellow speakers for their important and interesting insights, and in particular would like to lend my support to the comments made by the Secretary-General on the prevalence and priority to be given to human rights in all of our work.

While many important points have already been made this morning on the challenges and opportunities involved in integrating human rights in peace missions, I would like to focus my comments on three issues that present both challenges and opportunities for UN peace operations. Each of these concern the challenges inherent in ensuring that the United Nations carries out its purposes under the Charter of “maintaining international peace and security” while simultaneously “promoting and encouraging respect for human rights”.

Against this background, I wish to briefly highlight three issues which I consider to be of particular relevance: (i) the relationship between peace and

justice in the context of peace negotiations; (ii) the need to have sound policies in place to protect the human rights of persons who seek our protection, or who are taken into our custody; and (iii) “due diligence” measures to prevent human rights violations.

[(i) The relationship between peace and justice in the context of peace negotiations]

The relationship between peace and justice is a complex one. A central part of my role is to help the UN in its approach to these issues, and to support the pursuit of justice and the ending of impunity. In doing so, I find myself at the core of the tension engendered by the need to uphold the international rule of law in an intensely political environment. This tension involves the need to bring any armed conflict to an end as speedily as possible, and to secure an enduring peace. In this regard, it must be clear that a lasting peace can only be sustained if there is justice, - which entails accountability for serious violations of human rights and international humanitarian law.

In the short term, it is easy to understand the temptation to forgo justice in an effort to end armed conflict. But any decision to ignore atrocities and to reinforce impunity may carry a high price. We are thus witnessing a growing consensus – that peace and justice go hand-in-hand, and that elements of justice **must** be factored into every post-conflict strategy in order for peace to be sustainable. This necessarily means that the United Nations cannot support peace agreements that contain amnesty clauses for serious violations of human rights and humanitarian law. This assessment underpins OLA’s advice in various peace negotiations, including in connection with the conflicts in Darfur, the DRC and most recently in Yemen.

In negotiating, mediating, or facilitating peace agreements on behalf of the UN, Special Representatives of the Secretary-General, Special Envoys or other senior representatives should be guided by the “Guidelines for United Nations Representatives on Certain Aspects of Negotiations for Conflict Resolution”. These “Guidelines”, which OLA helped to develop, require UN Representatives to seek the advice of UNHQ as early as possible on any amnesty clause and any accountability mechanism for violations of human rights and IHL.

One of the challenges of operating in a conflict or post-conflict environment is that sometimes important actors have been indicted by international criminal tribunals for serious violations of international human rights and humanitarian law. In accordance with the Organization's established policy, UN officials must avoid contact with persons indicted by such tribunals, unless such contact is strictly necessary for the performance of essential mandated activities.

[(ii) Cooperation with national law enforcement authorities]

Now to my second issue. The UN must ensure that it has sound policies in place to protect the human rights of persons who seek refuge with us, or who are taken into our custody. Such challenges can present opportunities, and the UN can do much to promote and encourage respect for human rights, by leading by example.

OLA has consistently advised that while the Organization has an obligation to co-operate with national law enforcement authorities in the investigation of crimes, such co-operation must be premised on assurances that the alleged offenders will be afforded due process.

The issue gets more complicated in cases when persons who are sought by national authorities for alleged criminal wrong-doing, have taken refuge in UN premises. It is generally recognized that UN premises, inviolable as they are, may not be used as refuge by individuals seeking to evade the law. But what if the UN knew, or had substantial reasons to believe, that handing over such persons would result in them being tortured, or sentenced without a proper trial?

Over the years, we have given advice that peacekeeping operations faced with such situations, should do their utmost to obtain guarantees from the host country authorities that the human rights of the alleged offenders will be protected, prior to handing over such persons to them.

Similarly, the Organization needs to have sound policies in place to ensure that when persons, who are apprehended and detained by our peacekeepers in accordance with their mandates, are handed over to local authorities, that similar assurances are obtained for the protection of their human rights. My Office has advised on this issue as part of an inter-departmental working group (led by DPKO), which has prepared interim procedures to provide guidance to the field when they detain people. By having such policies and procedures in place, we lead by example in promoting and encouraging respect for human rights.

[(iii) "due diligence"]

This brings me to my last point. An important development, which has now been endorsed by the Security Council, is the "human rights due diligence policy", which OLA was instrumental in developing in respect of MONUC. As this will be discussed in the session tomorrow afternoon, I will be very brief.

To provide guidance to all UN entities engaged in support to non-UN security forces, in July 2011 the Secretary-General instituted a "Human Rights Due Diligence Policy". The policy sets out measures UN entities must take to exercise "due diligence" to ensure that any support they provide to non-UN security forces is consistent with the Charter and international law.

The policy makes clear that UN support cannot be provided to non-UN security forces where there are substantial grounds for believing there is a real risk of the forces committing grave violations of international humanitarian, human rights or refugee law. Where grave violations are committed by such forces, the 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 is founded on the clear position that in establishing a mandate under which UN support is to be provided to national forces, the Security Council cannot have intended that the UN should "aid or abet" such abuses.

[Conclusion]

This brings me to the end of my remarks. I hope that I was able to give you a glimpse into our work in support of the mainstreaming of human rights into our peace and security work. On that note, I look forward to our discussion. Thank you.