

# A Human Security Doctrine for Europe

The Barcelona Report of the  
Study Group on Europe's  
Security Capabilities



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Europe's Security Capabilities**

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## Executive Summary

Many people in the world lead intolerably insecure lives. In many cases, insecurity is the consequence of conflicts in which civilians are deliberately targeted with impunity. In an era of global interdependence, Europeans can no longer feel secure when large parts of the world are insecure.

Over the last few years, the European Union has been developing a common security policy. In December 2003, the European Council agreed a European Security Strategy (ESS), which advocates preventive engagement and effective multilateralism. This report is about implementation of the ESS. It argues that Europe needs the capability to make a more active contribution to global security. It needs military forces but military forces need to be configured and used in new ways. The report focuses on regional conflicts and failed states, which are the source of new global threats including terrorism, weapons of mass destruction and organised crime.

The report proposes a 'Human Security Doctrine' for Europe. Human security refers to freedom for individuals from basic insecurities caused by gross human rights violations. The doctrine comprises three elements:

- A set of seven principles for operations in situations of severe insecurity that apply to both ends and means. These principles are: the primacy of human rights, clear political authority, multilateralism, a bottom-up approach, regional focus, the use of legal instruments, and the appropriate use of force. The report puts particular emphasis on the bottom-up approach: on communication, consultation, dialogue and partnership with the local population in order to improve early warning, intelligence gathering, mobilisation of local support, implementation and sustainability.
- A 'Human Security Response Force', composed of 15,000 men and women, of whom at least one third would be civilian (police, human rights monitors, development and humanitarian specialists, administrators, etc.). The Force would be drawn from dedicated troops and civilian capabilities already made available by member states as well as a proposed 'Human Security Volunteer Service'.
- A new legal framework to govern both the decision to intervene and operations on the ground. This would build on the domestic law of host states, the domestic law of sending states, international criminal law, international human rights law and international humanitarian law.

The report proposes that the Human Security Response Force would be under the direction of the new Foreign Minister of Europe, appointed under the Constitution agreed in Dublin in June 2004. The report proposes measures to increase democratic control of security policy and to improve accountability to the local population as well as methods of financing.

This is a critical moment for the European Union. The Union has expanded to include ten new members and has approved a new Constitution. In the aftermath of September 11 and the war in Iraq, Europe has a historic responsibility to contribute to a safer and more just world.



## **1 Introduction**

Many people in the world lead intolerably insecure lives. Sometimes, their insecurity has natural causes, like earthquakes or disease. In many cases, however, insecurity is the consequence of conflicts in which civilians are deliberately targeted with impunity. In Western Sudan, hundreds of thousands of people have been forcibly displaced from their homes as a result of killings, rape, abductions and looting by government-sponsored militias. In Armenia, Azerbaijan and Georgia, hundreds of thousands of refugees and displaced people are unable to return to their homes or settle, as their lasting insecurity has become a political tool manipulated by politicians in support of their positions in the conflicts. In Palestine, people live in daily fear of land seizures, demolition of houses and assassination; the inability to protect one's self, family and property produces an overwhelming sense of humiliation and insecurity among Palestinians. In turn, daily activities like going to the market or to a café have become perilous undertakings for ordinary Israelis because of suicide bombings. In the Democratic Republic of Congo, more than three million people have been killed over the last decade, and millions more have been forced to flee their homes. And as has happened in many other places, tens of thousands of women have been raped; gang rapes, rapes of children as young as four and women as old as 80 have been reported, contributing to the HIV/Aids epidemic in the region. Perpetrators go unpunished.

It is these conflicts that become the 'black holes' generating many of the new sources of insecurity that impact directly on the security of the citizens of the European Union. The South Caucasus and the Balkans export or transport hard drugs and guns to the European Union, as well as trafficking or smuggling people who are often sexually exploited or forced to work in the illegal economy. The worsening situation in Palestine and Iraq is used by Islamic militants as evidence of a Judaeo-Christian conspiracy against Islam, to recruit terrorists. Wars in Africa defeat Europe's efforts to fight poverty and disease with development initiatives.

Generally, contemporary conflicts are characterised by circumstances of lawlessness, impoverishment, exclusivist ideologies and the daily use of violence. This makes them fertile ground for a combination of human rights violations, criminal networks and terrorism, which spill over and cause insecurity beyond the area itself. While these developments may initially have appeared to apply primarily to developing and conflict states, the 11 September and 11 March attacks have made it clear once and for all that no citizens of the world are any longer safely ensconced behind their national borders, and that sources of insecurity are no longer most likely to come in the form of border incursions by foreign armies.

To be secure, in today's world, Europeans need to make a contribution to global security. Europe needs military forces but they need to be configured and used in quite new ways. They need to be able to prevent and contain violence in different parts of the world in ways that are quite different from classic defence and war-fighting. They need to be able to address the real security needs of people in situations of severe insecurity in order to make the world safer for Europeans. At present Europe lacks such capabilities. Europe has 1.8 million people under arms but only a fraction can be deployed in crisis zones. Europe also needs to be able to deploy more police, human rights monitors, aid specialists, and many other kinds of civilian expertise.

The starting point for this report is the European Security Strategy (ESS) agreed by the European Council in December 2003. The ESS makes Europe's responsibility for global security the centrepiece of a European security strategy. It points out that 'the post Cold War environment is one of increasingly open borders in which the internal and external aspects of security are indissolubly linked'. The ESS makes the case for

preventive engagement, for a strategy of effective multilateralism and for the extension of the international rule of law. It argues that the European Union needs to be 'more active' and 'more capable'.

This report is about how to make the European Union more capable. The approach is 'bottom-up', that is to say, it is concerned with how to increase the security of individual human beings in different parts of the world. The report elaborates both a set of principles on which Europe's security policy should be built, and the capabilities it will need to make a credible contribution to global security, on which depends the security of Europe itself. In effect, it proposes a new doctrine for implementing the European Security Strategy.

The report focuses on the capabilities needed for dealing with situations of severe physical insecurity, 'freedom from fear', rather than the whole range of possibilities and instruments of European foreign and security policy.

## **2 Human security and the European Union**

### **2.1 The changed global context**

In today's world, there is a gap between current security capabilities, consisting largely of military forces, and real security needs. The ESS lists five key threats to Europe: terrorism, the proliferation of weapons of mass destruction, regional conflicts, failing states, and organised crime. All of these threats are interlinked and they can be found in different combinations in situations of severe insecurity. As the ESS points out, 'none of the new threats is purely military; nor can any be tackled by purely military means'.

These five key threats are not just threats to Europe; they are global threats. They are even more threatening to the people living in situations of severe insecurity. The main sources of political insecurity are either authoritarian states that repress their own citizens or a combination of state and non-state armed groups in conditions of state failure. Traditional security policy was based on defence of borders and the 'containment' of threats. This often meant support for authoritarian regimes, including military intervention or the maintenance of bases, regardless of the consequences for people living in the countries in question. This approach, based on a narrow definition of national interest, is no longer realistic in a world characterised by global interconnectedness. Insecurity experienced by people living in places like the Middle East has a tendency to spread, as September 11 dramatically illustrated. Moreover, it is very difficult to sustain closed societies in a global era – opening up to trade, travel and, above all, communication undermines the stability of authoritarian regimes. Although bastions of authoritarianism still persist in the Middle East and large parts of Asia, civil unrest and various degrees of state failure are more common facts of life in many regions. Saudi Arabia, for example, used to be considered the paragon of authoritarian stability; now the volatile combination of a frustrated young population and al-Qaeda ideology is turning Saudi Arabia into a powder keg. State collapse is becoming the most likely alternative to democratic transition. This is why preventive engagement to facilitate democratic transition is a better approach than containment.

State collapse has resulted in 'new wars' in Africa, the Balkans, Central Asia and the Caucasus. These wars are unlike either the international or civil wars of the past. They call into question the distinctions between 'human rights violations' by states, 'abuses' by non-state actors, and 'conflict' between armed combatants: battles are rare and most violence is inflicted on civilians. In particular, population displacement is a typical feature of such wars, both as a result of deliberate ethnic cleansing and because of the difficulty of distinguishing between civilians and combatants. Such wars blur the distinction between internal and external because they spill over borders and involve both local and



global actors. They also blur the distinction between public and private, since they involve regular forces as well as paramilitary groups, warlords, mercenaries, and organized crime groups. 'New wars' spawn an abnormal political economy, in which most income-generating activity, ranging from Diaspora support to trafficking of various kinds to loot and pillage, depends on violence and coercion.

In these types of situations, the use of traditional forms of military power can often be counter-productive. One reason is the changing nature of military power. Small arms, grenades, and other weapons have become cheaper and easier to acquire, so the difference between those who possess advanced military technology and those who do not has been reduced. The advantage Western states have in such situations in terms of military technology is much less than the difference in expenditure. They have an advantage in the air and in information technology. Air power can be very destructive and the use of advanced military technology can be effective against governments, as was shown in Iraq and Afghanistan. But the technology does not help troops with imposing and maintaining order or protecting civilians – with coping, for instance, with suicide bombers who have relatively unsophisticated technology, or preventing ethnic cleansing as in Kosovo after the war against Yugoslavia.

The consequence of the large-scale, intrusive wars of the last two centuries was not only the introduction of legal constraints on war but also growing public pressures against war. Human rights norms have become much more prominent, and an intervention that uses traditional war-fighting means, such as bombardment from the air, may be unacceptable when viewed through the lens of human rights. While contemporary Western governments do try to minimize civilian casualties, they cannot avoid such casualties altogether: so-called precision bombs do kill civilians and cause material destruction because of either technical or intelligence failures. Civilian casualties may contribute to polarised perceptions that accentuate the conflict, while the destruction of infrastructure and regular sources of income feeds the criminal economy that is a source of finance for warring groups. The ongoing conflict in Iraq dramatically illustrates the gap between conventional military forces and the achievement of security.

## **2.2 Why is human security of concern to the European Union**

In the new global context, the European Union's security policy should be built on human security and not only on state security. Human security means individual freedom from basic insecurities. Genocide, wide-spread or systematic torture, inhuman and degrading treatment, disappearances, slavery, and crimes against humanity and grave violations of the laws of war as defined in the Statute of the International Criminal Court (ICC) are forms of intolerable insecurity that breach human security. Massive violations of the right to food, health and housing may also be considered in this category, although their legal status is less elevated. A human security approach for the European Union means that it should contribute to the protection of every individual human being and not focus only on the defence of the Union's borders, as was the security approach of nation-states.

There are three reasons why the European Union should adopt a human security concept. The first reason is based on morality. It has to do with our common humanity. Human beings have a right to live with dignity and security, and a concomitant obligation to help each other when that security is threatened. All human life is of equal worth, and it is not acceptable that human lives become cheap in desperate situations. There is nothing distinctively European about such moral norms. On the contrary, they are by their nature universal. Whenever European states have intervened abroad for humanitarian reasons, whether in Kosovo, East Timor or Sierra Leone, this has been based on strong public support, even public pressure, from European citizens. Moreover,

beyond state action, large numbers of Europeans have voluntarily gone to Yugoslavia to deliver humanitarian assistance or to help with post-conflict reconstruction, to Guatemala to accompany returning refugees, or to Palestine as civilian monitors.

A second reason is legal. If human security is considered as a narrower category of protection of human rights, as proposed above, then it is now generally accepted that other states, and international institutions such as the EU, have not only a right, but also a legal obligation to concern themselves with human security worldwide. Articles 55 and 56 of the United Nations Charter enjoin states to promote universal respect for, and observance of, human rights. This obligation is restated in the Universal Declaration of Human Rights and a range of human rights treaties all member states of the European Union have ratified.

In its new Constitution, the European Union explicitly recognises the same obligation. Article 4 states: 'In its relations with the wider world, the Union shall uphold and promote its values and interests. It shall contribute to peace, security, the sustainable development of the earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and protection of human rights and in particular children's rights, as well as to strict observance and development of international law, including respect for the principles of the United Nations Charter.' The European Union does, therefore, recognise that it has obligations concerning the human security of people outside its borders. However, the nature and extent of these obligations are subject to different interpretations, and they form an area of controversy and disagreement among legal scholars.

The third reason for adopting a human security approach is 'enlightened self-interest'. The whole point of a human security approach is that Europeans cannot be secure while others in the world live in severe insecurity. In failing states and conflict areas, the criminal economy expands and gets exported: the drug trade, human trafficking and the easy availability of small arms, and even the brutalisation of society are not contained within the conflict zone but felt beyond it, including in Europe. When the state breaks down, communalist ideologies are mobilised, generally rooted in religion or ethnicity; and while this leads first and foremost to a spiral of violence within the conflict zones, terrorist networks also thrive upon and recruit from such situations, with the effects again felt in Europe.

In practice, the enlightened self-interest case for adopting a human security approach comes very close to the moral and legal cases, which is why this approach should now be considered as a form of realism, not just idealism. Dealing with terrorism and organized crime only by devising more robust punitive and intelligence measures within our borders, which may in fact endanger the democratic values and institutions of Europe, can never be more than fire-fighting. The only real response to such threats is to address the security needs of people in situations of severe insecurity. This will not deliver perfect security to Europeans, but it is the most credible way to address the causes of insecurity at source.

### **2.3 Human security enforcement**

This report focuses on situations of severe insecurity, where European forces might be deployed. These situations fall under the rubric of the 'Petersberg' tasks, agreed by the Western European Union in Bonn in 1992, included in the Amsterdam Treaty in 1997 and expanded in the new Constitution. These tasks 'include joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peacemaking and post-conflict stabilisation'. The overall aim of operations in these situations is to uphold human rights and to act in support of law and order. Up to

now, there has not been a comprehensive doctrine for implementation of these operations.

Such operations are somewhere between classic peacekeeping and classic military intervention but different from both. Classic peacekeeping operations were based on the notion of keeping the peace between armed combatants. Generally, the job of peacekeepers was to monitor cease-fires and separate warring parties. Even more recent peace support operations with seemingly more robust mandates have not always protected civilians against human rights violations. Classic military interventions, on the other hand, have been aimed at defeating an enemy, whether the enemy is defined as insurgents (communists or mujahideen during the Cold War, separatists or Islamist militants today) or repressive dictators (the Taliban or Saddam Hussein). Even though such interventions sometimes emphasise the protection of civilians or the need to find a political settlement, the priority placed on defeating insurgents can lead to the inappropriate use of force and increased political polarisation. In other words, peace comes before human rights in classic peace-keeping and victory comes before human rights in classic military interventions.

The lessons of international interventions in places like the Balkans, Afghanistan or Iraq, are that international forces have been ill-equipped for the kinds of tasks required to restore public security. In these regions, international forces have been unable to prevent continued human rights violations and the spread of organised crime and this has caused considerable soul-searching about the kind of capabilities required.

Some would describe the kind of operation that supports human security as humanitarian intervention. However, the term 'humanitarian intervention' implies a purely military approach. The ESS emphasises that 'military instruments may be needed to restore order' in failed states and in regional conflicts, but alongside humanitarian assistance, effective policing, civilian crisis managements as well as broader political and economic instruments. It makes the point that the European Union is 'particularly well-equipped for these multi-faceted situations.' These kinds of tasks are sometimes described as 'state-building', 'nation-building' or 'post-conflict reconstruction'. But they do not apply only to post-conflict situations. A more holistic approach is needed that covers different types of political institutions and different phases of conflict or state failure.

Of course, European security policy should be grounded in pragmatism. The European Union's capacity for operational missions is limited, as is the political will to carry them out. Chances of success, degrees of risk, and levels of commitment vary. The following factors should be taken into account in order to prioritise certain situations over others:

- ***Gravity and urgency of the situation.*** A looming genocide would nearly always deserve priority over a chronic situation of widespread, even severe, insecurity.
- ***Practicality of the mission, risks, chances of success and availability of other actors.*** On this basis, a mission to Macedonia would be likely to deserve priority over a mission to Burma, Tibet or Chechnya, even if the security situation in the latter places is much worse, and no other actors are available. In Southeast Asia, Australia may be willing to shoulder more of the burden, as it did in the mission to East Timor. In Africa, more responsibility should be taken by the African Union. In both cases, Europe may still be called upon within a multilateral framework.

- **Special responsibility for neighbouring countries.** There is a clear self-interest argument here: the effects of insecurity and disorder in the Balkans for instance, are more strongly felt in Europe in terms of crime, refugee flows and human trafficking than the effects of conflicts further away. Beyond the self-interest argument however, European citizens simply feel a stronger moral responsibility towards helping those in Europe's neighbourhood, as has been very clear in the wars in Yugoslavia.
- **Historic ties and historic responsibilities.** These typically continue to run along colonial lines: the Dutch, for example, feel a special commitment to Indonesia, the French to Cote d'Ivoire, the British to Zimbabwe and the Portuguese to East Timor. This is not just because of a sense of responsibility; it is also because there are many human ties at the level of civil society. Nevertheless, precisely because of the colonial history, the state in question, while feeling the most committed, may not always be the most appropriate actor to intervene. Concerted action by the European Union can to some extent alleviate this thorny problem, by mediating the involvement of the former colonial power.
- **Public concern and public pressure.** Public support is necessary to legitimate and sustain the risk and expenditure of operations. It can also shape the nature of the action: public pressure is more likely to be based on solidarity rather than on geopolitical considerations. Public pressure is, of course, uneven, and not necessarily related to the scale of an impending or unfolding tragedy or to proximity or colonial ties. Europeans have greater concern for Israel and Palestine than for the South Caucasus conflicts, which are no further away from Europe. The Live Aid concert organized by Bob Geldof, one of the earliest and biggest civil society actions related to human security outside the region, concerned Ethiopia, a country with no geographic proximity to Europe.

## **2.4 An opportunity for Europe**

There has always been a strand of European thinking that considers Europe as a 'peace project'. In the immediate aftermath of the Second World War, the founders of what was to become the European Union wanted, above all, to prevent another war on European territory. And after the Cold War, the European Union was considered an important instrument in overcoming the East-West division of Europe. Preventing war continues to be a strong motive in the minds of European citizens: when asked what the European Union means to them personally, the third answer that comes up in the Eurobarometer survey, right after the euro and freedom of movement, is 'peace'. Indeed, 89 per cent of respondents consider 'maintaining peace and security in Europe' to be a priority of the EU. It is also considered to be the most effective of EU policies. People living in the new Eastern member states of the European Union are especially concerned about security because of their particular histories, even though they sometimes have different perceptions about how this can be achieved.

The European Union pioneered the technique of integration at the level of society, based on interdependence and adherence to common standards, as a way of promoting peace. The same approach should be adopted in external relations. Elements of this approach are contained in association agreements, trade and other forms of co-operation. It should be extended to the rule of law and public security. And if necessary, it must be guaranteed by the use of military capabilities.

The experience of the Kosovo war indicated the need for European security forces to be able to act autonomously. Since then, progress towards a European Security and Defence Policy (ESDP) has accelerated. Member states have made available up to 60,000 troops under the Headline Goals, agreed in Helsinki in December 2001, and they have made even more rapid progress in making available civilian capabilities, including police, rule of law experts, and specialists in civil administration and civil protection. Agreements have been reached on the relationship of EU forces to NATO and on structured co-operation among member states. Various institutions have been established for conflict prevention, training, and crisis management. As well as the ESS approved in December 2003, the European Council has approved the establishment of an autonomous Defence Agency and a military-civil planning cell. The EU is now developing 'battle groups' for rapid deployment. A number of proposals have been put forward for a European gendarmerie and for a civilian peace corps. The coordination of these initiatives and the appointment of a new European Foreign Minister offer real potential for further development.

Perhaps more significantly, the EU has now undertaken several autonomous missions in the Balkans and Africa, involving military, police and civilian personnel. Three of the missions (the EU police mission in Bosnia and Herzegovina, Operation Proxima in Macedonia, and Operation EUJUST- Themis, the rule of law mission in Georgia) have been civilian. Two (Concordia in Macedonia and Artemis in DRC) have been military and much shorter than the civilian missions. The EU mission which will take over the NATO-led SFOR forces in Bosnia and Herzegovina at the end of 2004, will involve both military and civilian capabilities side by side. Non-member states have as a matter of course been invited to take part in these missions.

Operation Artemis in eastern Democratic Republic of Congo represents a possible template for future multi-national interventions. It was quite different from classic military interventions in Africa whether by the United Nations (peacekeeping) or post-colonial powers, which were generally aimed at shoring up shaky authoritarian regimes. It was a response to the emergency situation in Ituri, where various militias including thousands of young children, were laying waste to towns, looting, raping, carrying out massacres and causing tens of thousands of people to flee their homes. UN forces on the ground were unable to deal with the situation. For the first time, in its resolution of 31 May 2003, the UN Security Council approved an EU mission.

The mission of over 2000 troops was deployed rapidly and the bulk were in place by 1 July. The mission was aimed at security on the ground and the immediate impact was considerable. However the mission was short and massacres started again in later months, although on a smaller scale. Many problems, such as the disarmament of militia or the establishment of effective police forces, remain to be solved and the EU has been slow to deploy civilian follow-up.

Optimism about the emerging consensus on Europe's external role should, of course, be tempered by the events of the past decade. Repeated missed opportunities, like the inability to offer a coherent policy towards the former Yugoslavia in the early 1990s, the vacillation over the Middle East, the failure to intervene to prevent the genocide in Rwanda, or the divisions over Iraq, not to mention continued tensions in the Balkans, call into question the ability of the European Union ever to act coherently and effectively. The rise of nationalist feelings as expressed in the electoral success of anti-immigration and anti-EU parties weaken further the ability of European political elites to act at a European level.

Yet an imaginative, forward-looking contribution to global security could turn out to be the most effective way to mobilise political support for the European project at this point. The approval of a new Constitution and the enlargement of the Union mark a



critical juncture in the history of the EU. If they are to continue to support the process of European institution-building, Europeans need to feel that the Union contributes to their security. In an interdependent world, this can only be achieved through a European contribution to the security of human beings in general.

### **3 Principles for a new European security doctrine**

The word 'doctrine' tends to mean a body of knowledge that is taught or used for instruction. In the military field, it refers to the know-how of fighting; it is about the implementation of strategy and its link with tactics. The Revolution in Military Affairs (RMA) is often described as a new doctrine. It is about the way in which information technology has changed military tactics – the shift from 'platform-centric' to 'network-centric' warfare. Although technology is undoubtedly an important factor in the changed global context, this report focuses on human capabilities. It spells out seven principles that encompass both goals and implementation of European security policy and draws up the capabilities (human, cultural, technological, legal, and organisational) required to follow those principles. The principles for a European security doctrine are drawn from the actual experience of insecurity in different parts of the world – Central and West Africa, South East Europe, the South Caucasus and the Middle East.

The ESS rightly places much emphasis on the 'prevention' of crises as opposed to the doctrine of 'pre-emption'. But it is often difficult to distinguish between different phases of conflict. The conditions that cause conflict – fear and hatred, a criminalised economy that profits from violent methods of controlling assets, weak illegitimate states, the existence of warlords and paramilitary groups, for example – are often exacerbated during and after periods of violence and there are no clear beginnings or endings. The situation in Palestine, for instance, was supposed to be 'post-conflict' after the Oslo accords, but has clearly reverted to being in the midst of conflict. The conflicts of the South Caucasus used to be called 'frozen', but 'festering' might have been a better characterisation. The principles for a European security policy should therefore apply to a continuum of phases of varying degrees of violence that always involves elements of both prevention and reconstruction.

Likewise, the principles should apply to both ends and means. In discussions about security, the focus tends to be on goals. Yet in actual situations where international capabilities have been deployed, there is often a disjuncture between the aims set out by politicians for security operations, and the means and mandate given to the military and civilian agencies. In some instances, mandates have been too restricted and the failure to protect people on the ground has undermined the legitimacy of the international effort. In other cases, excessive use of force has exacerbated instability.

Finally, the set of principles proposed below is intended to guide the actions of high-level EU officials, politicians in the member states, diplomats, and soldiers and civilians in the field alike. Some of these principles (i.e. multilateralism) may be more relevant to politicians or diplomats, and others (i.e. use of force) to the military. But it is essential to the building of a coherent and effective policy that everyone should have an awareness and a shared understanding of all the guiding principles. Moreover, policies based on these principles will have more public support, and hence more room for manoeuvre, if the European public also understands and endorses them.

#### **3.1 Principle 1: The primacy of human rights**

The primacy of human rights is what distinguishes the human security approach from traditional state-based approaches. Although the principle seems obvious, there are

deeply held and entrenched institutional and cultural obstacles that have to be overcome if it is to be realised in practice.

In many national governments, it is assumed that state interest overrides the promotion of human rights. Traditionally, influence over authoritarian regimes was considered more important as a foreign policy goal than the condition of the citizens of those regimes. But authoritarian states have often proved to be unstable in the long run, and a policy of promoting human rights is more likely to contribute to preventing terrorist and criminal havens and ultimately state failure. The debate about sovereignty and the conditions under which human rights concerns should take precedence over sovereignty has been a central preoccupation of both practitioners and analysts of foreign policy in recent years.

This debate often neglects the issue of the means to be adopted in so-called human rights operations. This is especially important where military means are likely to be deployed. It is often assumed that the use of military force is justifiable if there is legal authority to intervene (*ius ad bellum*), and the goals are worthwhile. However, the methods adopted must also be appropriate and, indeed, may affect the ability to achieve the goal specified. In other words, the 'how' is as important as the 'why'. This means that human rights such as the right to life, the right to housing, or the right to freedom of opinion are to be respected and protected even in the midst of conflict. Unless it is absolutely necessary and it has a legal basis, personnel deployed on human security missions must avoid killing, injury, and material destruction. Human security implies that everyone is treated as a citizen.

This principle has far-reaching implications for military tactics. In the past, counter-insurgency operations have sometimes taken a 'hearts and minds' approach as a tactic. At the same time, coercive methods of control were frequently used, including resettlement, area destruction, and control of food supplies (methods adopted by today's insurgents), with the same overall aim of defeating the enemy. In human security operations, protection of civilians, not defeating an enemy, is an end in itself. Thus certain coercive tactics would be ruled out while other tactics like safe havens or humanitarian corridors would have a central role. Principles 6 and 7, below, spell out what would constitute operational conduct in line with a human security approach.

The primacy of human rights also implies that those who commit gross human rights violations are treated as individual criminals rather than collective enemies. The establishment of the International Criminal Court, the ad hoc tribunals for Yugoslavia and Rwanda and the special tribunal for Sierra Leone were largely predicated on the idea that holding only states accountable for human rights violations has done little to improve observance of human rights norms, and that assigning individual criminal responsibility might be more effective. In the case of terrorism it is equally important to realise that the perpetrators are criminal individuals and the means of curbing terrorism should be tailored to that insight.

### **3.2 Principle 2: Clear political authority**

The central goal of a human security strategy has to be the establishment of legitimate political authority capable of upholding human security. When authoritarianism breaks down, the alternatives are international, national and local governance based on consent, or state failure. Diplomacy, sanctions, the provision of aid, and consultations with civil society are all among the array of instruments available to the European Union aimed at influencing political processes in other countries – opening up authoritarian regimes, strengthening legitimate forms of political authority, and promoting inclusive political solutions to conflict. The capacity to deploy civilian personnel is a crucial addition to

these instruments. They represent the EU's commitment to help build and sustain legitimate political authority in crisis situations.

Even if military forces are to be used, they can only succeed on the basis of local consent and support. The most that can be achieved through the use of military forces is to stabilise the situation so that a space can be created for a political process rather than to win through military means alone. In some cases, military victory may simply be beyond reach – every excessive use of force further inflames the situation. In other cases, short-term military victory can be achieved but the cost in terms both of casualties and political legitimacy is too high. Israeli forces for instance have succeeded in slowing down the rate of suicide bombing but this has not led to any resolution of the conflict; indeed, it has only inflamed more passion on the Palestinian side. Military victory may mean that stability can be sustained only through massive repression and coercion.

To ensure that the goal of restoring political authority is kept at the forefront of any operation, the EU must exert clear political authority over the command and control of its missions. This means that, where European security units are deployed, there needs to be a close linkage between policy-makers and those on the ground, with the former having ultimate control over operations. Human security missions should be led by a civilian. This should typically be a politician, or someone with a sense for the politics both of the sending states and the host society, with easy access to policy-makers as well as receptive to local political actors. This will guarantee a close and iterative linkage between policy and operational strategy on the one hand, and the choice of ways and means to achieve the right effect on the ground on the other. Politicians have to understand the political effects or consequences of deployment; likewise those that are sent on missions should understand the political objectives they are working to achieve, so that they can design their strategy, with the right set of effects being realised on the ground. Of course, this is a point that has always applied in warfare and has been emphasised by many of the great military strategists including Clausewitz. But it is easy to neglect once the logic of deployment takes over and it is not always integrated into actual operations especially on the military side.

The European Union faces an additional challenge in this respect. The present situation, in which troops supposedly under a single line of command in reality still take instructions from their own domestic politicians, particularly in emergencies, is unworkable. On the other hand, a truly integrated European command structure raises the question of democratic control: if basic decisions about deployment, tasks and risks, and withdrawal, are taken at the European level, there should be a double accountability: to national parliaments and to the European Parliament. In practice however, there could be a lack of accountability to either. This point will be revisited in section 5 of this report.

### **3.3 Principle 3: Multilateralism**

This principle applies first and foremost to the actions of politicians and diplomats, but its meaning should also trickle down to operational force levels. We understand multilateralism to have a much more comprehensive meaning than 'acting with a group of states'. In that narrow sense, nearly all international initiatives might be considered multilateral. Multilateralism is closely related to legitimacy, and has three basic aspects.

Firstly, it means a commitment to work with international institutions, and through the procedures of international institutions. This means, first and foremost, working within the United Nations framework, but it also entails working with or sharing out tasks among other regional organisations such as the OSCE and NATO in Europe, the AU, SADC and ECOWAS in Africa or the OAS in the western hemisphere. Working with and through international organisations does not mean having a sacred regard for preserving them as they are. Insofar as the EU member states are also members of these



institutions, a commitment to effective multilateralism also means a commitment to reform these institutions where necessary.

Secondly, multilateralism entails a commitment to common ways of working and agreed rules and norms: creating common rules and norms, solving problems through rules and co-operation, and enforcing the rules. The EU as an international norms promoter rather than a superpower is less threatening to non-European states and offers a pole around which support could be built in multilateral fora such as the United Nations. This is why international law is so important.

Thirdly, multilateralism also has to include coordination, rather than duplication or rivalry. An effective human security approach requires coordination between intelligence, foreign policy, trade policy, development policy and security policy initiatives, of the member states, of the Commission and the Council, and of other multilateral actors, including the United Nations, the World Bank, the IMF and regional institutions. Preventive and pro-active policies cannot be effective if they are isolated and even contradictory. This is not a new insight, in fact it is a truism, but it is still not acted upon in practice.

The most dramatic lack of coherence has in the past been between the member states and between EU institutions. In the early stages of the Balkan crisis, the EU was greatly hampered by internal differences, with Germany supporting the independence of Slovenia and Croatia while France and Britain were opposed. In West-Africa in the late 1990s, the United Kingdom was supporting the Sierra Leonian NPRC government, while the German ambassador condemned its excesses, and France refused to put pressure on the leaders of Liberia and Burkina Faso who supported the Sierra Leone rebels. In several regions, local Commission activities and ESDP missions seem to operate quite independently of each other, and sometimes even to be in conflict. If the Common Foreign and Security Policy (CFSP) cannot be made truly 'common', no amount of technical or personnel capabilities can make it effective in contributing to greater security for the world or for Europe. Moreover, in line with the principle of multilateralism, the EU must endeavour to coordinate its policy with other institutional actors. It is clear that institutional rivalries are detrimental to human security on the ground.

### **3.4 Principle 4: The bottom-up approach**

The decision about the kind of policies to be adopted, whether or not to intervene and how, must take account of the most basic needs identified by the people who are affected by violence and insecurity. This is not just a moral issue, it is also a matter of effectiveness. People who live in the affected area are the best source of intelligence.

A continuous process of communication, consultation, dialogue and partnership can provide a form of early warning and a guide to what strategies are most likely to be effective as well as feedback and evaluation for ongoing missions. In effect, the bottom-up approach is a method of on-the-job learning. Various techniques can be used, including local broadcasting and publications, town hall meetings, and question and answer sessions, to explain the mission, discover mistakes, receive new information, respond to new initiatives, and learn who to involve in implementation. Of course, local people will have different views and interests, but missions must familiarise themselves with the complex politics of the region.

One of the big obstacles to prevention is that situations of insecurity do not impinge on political consciousness until it is too late. Often, it is only when humanitarian crises are reported in the media that governments feel impelled to act. The problem is not just a lack of early warning but also a lack of will. A continuous process of consultation and dialogue with local people is not only the way to decide when situations

urgently require prevention but it also helps to build a commitment to those involved in dialogue, as well as a guide to what strategies are likely to work.

It is often difficult to conduct full-scale 'consultations' with a population that is in a situation of severe insecurity. Nonetheless, a more comprehensive and continuous effort should be made to talk to experts, exiles, civil society groups, so as to discover as accurately as possible what people want and need. Women's groups are particularly important in this respect. Such groups are generally independent of the parties to the conflict and are the main local conduit for humanitarian work; for these reasons they often have valuable insights and advice to offer.

Once deployment is underway, success depends on the involvement of the local population not only for advice and information but also for implementation. In Macedonia, for example, civil society groups have acted as partners in efforts to disarm militia, providing a conduit for information, and persuading people to give up their weapons.

The 'bottom-up' approach thus suggests a rethinking of intelligence and communications policy. Too much intelligence is gathered either by technical means or through agents who focus on the governmental level and not enough through consultation and dialogue. It is also important to support a hospitable environment for local media and for criticism, both to explain the actions and intentions of the mission and to understand local politics.

International interventions can never be more than 'enabling'. What they can achieve depends on the consent of most of the population. There is a tendency among 'internationals' to assume that they know best. Conventional attitudes have too often been to 'do it for them' or to work with weak or criminalised 'leaders'. Institution-building is bound to fail when it excludes those for whom the institutions are built. Without a bottom-up approach, an operation cannot successfully work towards its own redundancy.

The importance of a 'bottom-up' approach has been recognised to some extent in recent years. However, the solution has primarily been sought in working with international NGOs and exiles, who can often provide guidance about whom to contact but are not necessarily the best informants for and implementers of a bottom-up policy. They are sometimes more oriented towards Brussels, London or Washington than towards needy citizens. Despite good intentions, the top-down approach is deeply rooted in international institutions, not only in attitudes but also in the culture that develops around international missions; the ways in which international officials remain within their own circles, and are often on very short-term missions with little long-term commitment.

### **3.5 Principle 5: Regional focus**

New wars have no clear boundaries. They tend to spread through refugees and displaced persons, through minorities who live in different places, through criminal and extremist networks. Indeed most situations of severe insecurity are located in regional clusters. The tendency to focus attention on areas that are defined in terms of statehood has often meant that relatively simple ways of preventing the spread of violence are neglected. Time and again, foreign policy analysts have been taken by surprise when, after considerable attention had been given to one conflict, another conflict would seemingly spring up out of the blue in a neighbouring state. Thus, the failure to include Kosovo in the Dayton negotiations over Bosnia Herzegovina was one factor that led to the outbreak of the war in Kosovo in 1999. In 2001, despite being intensely involved in Kosovo, and to a lesser extent in Albania, the build-up of violence in Macedonia still came initially as a

surprise to the EU. In West Africa, the conflict in Sierra Leone could have been prevented by addressing the conflict in Liberia.

A regional focus also has a sub-state dimension. In the Balkans, the EU is involved in combating both organised crime and ethnic violence in Bosnia, Macedonia and Kosovo. These efforts each fall under a different mission however, and they are not sufficiently linked up. Moreover, there is no such involvement in combating very similar problems in southern Serbia, because this region happens now to be part of a different state, which does not have an EU mission.

A regional focus is not only an issue for intelligence-gatherers or diplomats, it also has operational implications. The UN involvement in the Great Lakes region in Africa has been characterised by piecemeal interventions confined to one state, whilst refugees and combatants crossed borders back and forth.

Moreover, the common practice in multinational operations of parcelling out separate pieces of territory to each national force can lead to damaging discontinuities of practice. A continuous regional focus could instead allow successful practices to spread quickly from one locality to the next.

### **3.6 Principle 6: Use of legal instruments**

The use of law, and particularly international law, as an instrument does not pertain just to diplomatic fora and decisions concerning whether to intervene: they are at the core of *how* operations should be conducted.

At an operational level, the primary task of any deployment is to assist law-enforcement. This means that a much larger investment will have to be made in civilian capabilities for law-enforcement, i.e. police, court officials, prosecutors and judges. The EU is just beginning to comprehend this task in the Balkans. For the military, it means a shift from the traditional use of military force as war fighting to that of law enforcement. The military have to be actively involved in assisting the police and civil authorities. They are not only by their mere presence acting to make the population that they work within feel more secure, but are embarking on operations designed to provide information, intelligence and evidence for use in courts: operations that can directly lead to the prosecution and conviction of organised criminals, corrupt officials and those who commit acts of terror. In situations like Bosnia and Kosovo, for example, greater efforts to bring about justice could have made a big difference to the depth and speed of reform and reconstruction.

Unlike in classic wars where only states bore responsibility, armed forces have to act within a legal framework that applies to individuals. Operations by the European Union should have legal accountability mechanisms open to those who are 'operated' upon. There should be not only codes of behaviour for the troops involved, but also sanctions for breaking the codes.

But whose law should be applied? While local law continues to apply in principle, the answer to this question is by no means straightforward in failed states, where there has been a breakdown of law and order, or in repressive states, where relevant domestic laws may lack legitimacy. A coherent legal framework is crucial so as to provide legal security to troops as well as to the local population.

The local population should be involved in the administration of justice as much as possible. Citizens in these situations need to regain the protection of the law, and to help transform it if the old laws were unjust or repressive. In some cases, skilled and politically untainted police and legal staff are available to do most of the work, and all they need is military protection and a stamp of international legitimacy. In other cases, a legal system has to be rebuilt from the ground up, while there are many in-between scenarios in which training and mixed international-local staffing would be appropriate.

Finally, the principle implies that terrorists, war criminals, human rights violators and drug traffickers are subject to legal procedure. They should face fair trials according to international human rights standards, whether before international, domestic or hybrid courts.

### **3.7 Principle 7: Appropriate use of force**

Classic warfare is between sides. Soldiers must protect themselves and civilians on their own side and an effort is also made to minimise civilian casualties on the other side. The emphasis on firepower and technology, however, has often meant heavy loss of life especially among enemy soldiers but also among civilians. In human security operations, the lives of those deployed cannot be privileged. The aim should be to protect people and minimise all casualties. This is more akin to the traditional approach of the police, who risk their lives to save others, even though they are prepared to kill *in extremis*, as human security forces should be. Hence, in line with principle 1 (primacy of human rights) and principle 6 (legal instruments), minimum force is key. Minimum force suggests for instance that it would be an over-reaction to kill someone who threatens violence when an arrest can be made.

Our approach does not suggest that the use of force is to be avoided under all circumstances. Nothing should undermine the inherent right of self-defence. If someone is threatening violence a soldier can respond appropriately, regardless of whether force has been authorised under Chapter VI or Chapter VII of the United Nations Charter. Although this might seem obvious, it was, in part, the failure of elements of the UN Mission in Sierra Leone in 2000 to appreciate the right of self-defence that partially led to a collapse of the mission and a tactical victory for the Revolutionary United Front. Peacekeepers have often negotiated their way out of trouble but where the judgement of the commander was in doubt, or when negotiations failed, there have been severe consequences when force has not been used in self-defence. A prime example is the killing of the Belgian troops in Rwanda by Hutu militia in 1994 after they had given up their weapons.

There may even be situations where it is legitimate to kill someone who is trying to kill a third party. Clearly, soldiers need to be confident of their rights to use force and have to tailor their tactical decision-making to the situation they find themselves in. However, they remain legally accountable for their actions and should face prosecution in court when the legality of their use of force is in question.

The use of minimal and precise force, of course, puts troops at more immediate risk than using overwhelming force. This logic should be appreciated by the military, the politicians and the general public.

## **4 Capabilities required**

In order to be able to implement a security policy based on the principles set out above, the European Union is going to need two key capabilities. It will need an integrated set of civil-military capabilities that would be suited to carry out human security operations, and it will need a legal framework that underpins decisions to intervene as well forming the basis for a law-enforcement approach to operations.

### **4.1 The Human Security Response Force**

#### *Integrated capabilities for integrated tasks*

This report does not contain a set menu of tasks for human security missions. The literature on peacekeeping and humanitarian missions has already spawned many lists of

military and civilian tasks that need to be carried out with various degrees of urgency and in various mixes. These include the (re)establishment of law and order, reconstruction, humanitarian aid, disarmament, demobilisation and reintegration (DDR), transitional justice, institution-building, support for civil society, independent media and education, and so on.

There can be no blueprint expected to fit every situation, regardless of whether local governance structures are in place or whether the international community assumes responsibility for them. The key to identifying tasks should be the 'bottom-up' approach – an extensive consultation process and the use of intelligence based on local knowledge. It is crucial for the European Union to have a capacity to assess the different requirements of particular situations, especially in response to local concerns.

Tasks should be identified and implemented in a holistic way. Tasks cannot be neatly categorised in separate boxes. The focus of this report is stabilising the situation and diminishing human insecurity –tasks which tend to be described as law and order or public security. How this is achieved can range from an international civil presence designed to offer reassurance, monitor human rights violations and reduce tension, to the provision of civilian expertise to strengthen local law enforcement institutions, or to the use of military forces to provide physical protection, separate warring parties and disarm armed groups. But public security can never be achieved in isolation. Lack of food and water can be a source of violence. Involving women's groups, ensuring fair and accurate reporting, or creating jobs are all related tasks that are critical for public security.

All these tasks require highly specialised skills and, at the same time, they need to be coordinated. For these reasons, an integrated civil-military force is most suitable for carrying out human security missions. Military troops will be an important component of these operational capacities, but they will have to restructure and reequip along new lines and they will need to be integrated with civilian capabilities, such as police, tax and customs officers, judges, administrators, providers of aid and human rights specialists. The ultimate aim is to be able to deploy different packages of military-civilian capabilities according to the situation.

There are considerable obstacles to overcome. Among civilians, the military are often associated with a mission of violence, which is considered to conflict with and indeed may hamper the purposes of civilian officers, in particular aid-providers. In Iraq and Afghanistan, for example, aid agencies including the UN were reluctant to accept US military protection for fear it would affect their access to and acceptance among the local population. Before the attacks on the UN headquarters in Iraq in August 2003, UN senior management felt uncomfortable about the presence of Coalition Forces and asked on several occasions for the removal of protective positions and equipment from the UN compound. Such suspicion of the military can affect human security operations as well.

Among the military, there is tendency to assume that civilians 'get in the way' and are less efficient at carrying out specified tasks or that the military's job is war-fighting, not nation-building or protecting humanitarian aid workers. Both sides need to adapt. Effective civil –military integration is only possible in situations where the military act in a law-enforcement role and the civil agencies are part of a combined politically led operation.

In addition, the balance of military-civil capabilities needs to be changed. Civilians tend to operate in small teams and with a great deal of autonomy, in contrast to large and hierarchically organised military machines. Any deployment needs to include a very substantial contingent of civilians, who would co-determine the nature and culture of the operation. It is very important that civil-military integration applies at planning level as well as the operational level. The EU's recently established joint civil-military planning unit is a first step in this direction.



### ***Size, composition, command system***

We propose the creation of a Human Security Response Force, composed of both military and civilians. The force should be roughly the size of a division, 15,000 personnel. Thus it would be possible to deploy the force in a situation like Kosovo or smaller forces for contingencies like Macedonia or the recent operation in DRC. At least one-third of the 15,000 personnel would be police and civilian specialists. The idea is to develop a model, which would start as a small force but could easily be scaled up on the basis of experience.

The force would be composed of three tiers, making use of various capabilities that already exist within the ESDP framework. The first tier would build on the existing civil-military planning headquarters in Brussels. It would be composed of strategic planners, with a capacity for analysis of intelligence and information, and a civil-military crisis management centre, with a capacity for assessing what military and civil capabilities, both European and local, are needed in a particular crisis situation. The bottom-up principle is critical to the success of missions. Procedures and institutions are needed that allow for consultations and discussions with the local population so as to increase the efficiency of the mission. The newly created External Action Service, together with EU monitoring missions, could play an important role in offering the framework for institutionalised consultation. Both would have close communication with the permanent headquarters so as to maintain the flow of information and understanding about different areas of insecurity.

In addition to the permanent staff, the headquarters would be able to call upon observers/monitors/special representatives who could be sent to particular regions in advance of any deployment in response to early warning signals given by EU monitors or representatives on the ground as well as civil society and other key local actors. It also needs access to what we describe as 'deployment enablers' – people able to mobilise capabilities such as strategic communications, air lift and other forms of transport.

The second tier would consist of 5000 personnel at a high level of readiness able to deploy within days. They would include civil-military teams and a deployable command and control headquarters. They would be on permanent standby constantly training and exercising together and 'breathing human security'. They would be able, at short notice, to deploy 'Human Security Task Forces'.

The third tier would consist of the remaining 10,000 personnel, who would be at a lower level of readiness but nevertheless could be called on for deployment and who would periodically train and exercise together.

The personnel of the entire Human Security Response Force would be drawn from three sources. Military personnel could be drawn from the 60,000 troops made available under the Headline Goal, agreed in Helsinki in December 2001, for a European Rapid Reaction Force, as well as from forces who straddle the military/police divide, such as *gendarmerie*, *guardia civil* and *carabinieri*. The civilian component would include police, legal specialists, human rights monitors, tax and customs officers, humanitarian aid workers, doctors and medical personnel etc. They would be drawn from civilian capabilities made available by member states, under the civilian Headline Goals, including police forces and pools of civilian specialists, already on the Commission's expert roster. Both the second and third tiers of personnel would be normally based at their home garrisons or in civilian employment but would be on standby for deployment, with varying degrees of time spent on joint training and exercises. It is harder for civilians to take leave from their positions at short notice, so the EU could subsidise small cadres who are earmarked for foreign service and receive special training, but who serve in their domestic capacity when not deployed or exercising. A particular effort should be made to

attract women in all roles, including senior positions, in order to redress the usual gender imbalance in deployments.

Thirdly, while the force should have a professional core, it should also have a voluntary element to contribute to the human security task forces. This 'Human Security Volunteer Service' should comprise two elements: mid-career or post-career professionals with skills to offer; and school-leavers and students who would be used for less challenging missions. This combines the proposals made by the European Parliament for a Civil Peace Corps (the first element) and the Humanitarian Volunteer Aid Service included in the Constitution (the second element). The envisaged scheme would be rigorous, with a two-year time commitment. This would be similar to the current use of reserves for operations.

The Human Security Response Force should be multinational with national military building blocks not below battalion level. There must be clear political authority both in Brussels and at the operational level. Directly below the overall commander, chosen for his or her political skills, would be a tactical commander, who could be either military or police or humanitarian, depending on the nature of the mission.

### ***Equipment***

A human security force relies primarily on smart manpower rather than high-tech gadgetry. However, it will need a European capacity to produce two basic types of equipment, for both military and civilian use. The first is ICT equipment, relating to observation, information-gathering and telecommunications, which needs to be able to operate autonomously. Secondly, there is *materiel* equipment, particularly transport. A deployable headquarters, a command and control system, aircraft carriers and other transportation equipment should be dedicated to the EU force. Equipment needs to be cost-effective and easy to deploy. To reduce costs and increase flexibility, where possible, equipment like planes, trucks, jeeps and helicopters, as well as communications systems, for example mobile phones, should be usable in a range of tasks and have both civilian and military components. They need to be compatible and interoperable both among member states and between civilian and military.

### ***Training, culture and ethos***

Perhaps the most important challenge is the considerable cultural shift both for the military and civilians. The new type of human security officer will be highly skilled and flexible about the kinds of tasks that need to be carried out. The new units will have to develop a common ethos, which will require the following elements:

- putting individual human beings, whoever they might be, above nation or homeland
- maintaining the military spirit of sacrifice, heroism, discipline and excellence but combining it with the civilian spirit of listening, individual responsibility, empathy and enabling others
- respect for and knowledge of law, in particular human rights and humanitarian law and general principles of criminal law
- awareness of gender dimensions of conflict and intervention

This shift is best achieved through training and joint exercises. Already, the EU's pilot civilian training has established a network of national training centres within which different institutions specialise in different areas; for example, the Swedish programme is specialising in training for the rule of law. This has the disadvantage of developing national specialisms but it also encourages individual member states to make

commitments and avoids unnecessary duplication. The training schemes should be open to all nationalities belonging to the force. All members of the human security force should have some experience of working together.

### ***Relations with NGOs and private corporations***

NGOs could be registered as part of the Human Security Volunteer Service, along with individuals. The Service could provide a framework for contracts with NGOs that would involve vetting to ensure that they were reliable and effective. These contracts would entitle them to participate in training and exercises, as well as being deployed as part of a wider force. For private corporations, there could be a registration procedure and tenders for certain non-military tasks such as logistics or communications, but they should not form an integral part of the force.

## **4.2 A legal framework**

The capacity of the EU to act a 'norms-promoter', operating within international law, furthering international law and using legal instruments to enhance security, is hindered by the absence of a single and coherent body of international law governing foreign deployments. Rules are ambiguous and subject to controversy both with respect to the legality of deployments per se, and the legal regimes that govern deployed personnel, military and civilian, and locals, in a conflict area.

While the tangle of concurrent jurisdictional regimes cannot be resolved in one fell swoop, the EU should tackle these deficits in the international legal system and encourage the development of global rules. In the meantime, the EU can contribute to greater legal clarity by devising its own legal framework governing its foreign missions generally. Such a framework should concern both decisions to intervene and the rules that apply in situations where troops are deployed. In cases where the EU has a more profound involvement, it can be supplemented by a more detailed charter of rules, to be developed in consultation with the local population.

In some cases, personnel will be deployed with the permission of or even at the request of the state in question. In other cases, there may be no such permission, or there may no longer be a functioning government that might give permission. The UN Security Council has authorised interventions in cases that are considered to constitute a 'threat to the peace, breach of the peace, or act of aggression'. Since the end of the Cold War, it has regularly characterised situations of massive human rights violations in these terms, and has authorised interventions on this basis in northern Iraq, Somalia, Bosnia, Liberia and Sierra Leone. However, since the Kosovo war there has also been a debate on whether there should be an opening for humanitarian intervention not based on a Security Council Resolution. Various international commissions have attempted to formulate criteria for such interventions. Many other experts, however, continue to be of the opinion that any deviation from the Security Council framework would open the floodgates to unilateral action with dubious motives.

If there is to be any complement at all to the Security Council route, it should be very narrow and unambiguous. Most states tend to claim that the wars they wage are 'just'. If the European Union were to decide to open the way to intervention without Security Council authorisation, then a legal framework should include the criteria and legal basis for such interventions.

As concerns the personnel who are deployed on foreign missions and the local populations affected by such missions, the legal framework could build on the domestic law of the host state, the domestic law of the member states and the rules of engagement, international criminal law, human rights law, and international humanitarian law. The framework would need to encompass the following issues:



- First of all, deployed personnel should be subject to the domestic law of the host state, just like the local population. This is in line with most domestic legal systems, and with the principle that ‘internationals’ should not be treated differently from nationals. Some EU member states may need to adjust their legal provisions in order to accept the jurisdiction of the host state over deployed personnel. However, in situations of severe insecurity –failed states and/or authoritarian states – the rule of law may have partially or completely broken down or domestic law may conflict with international law. The legal framework needs to offer guidance about what to do in such situations: whether and how EU personnel can be involved in enforcing laws they are not familiar with; whether certain parts of domestic law can be set aside, and if so, on what legal authority; and whether and how international human rights law or international criminal law could be applied where domestic law is inadequate or inappropriate. A deployment of legal specialists may sometimes be necessary to assess these issues, in consultation with local legal professionals and guided by the framework.
- Secondly, the legal framework needs to address differences in member states’ domestic law that could lead to unequal treatment of deployed personnel. When a multinational Human Security Force is deployed, each member is subject to his or her own domestic rules, particularly criminal law. This creates legal confusion both for deployed personnel and the locals dealing with them. One possibility might be to develop a common criminal code that would apply only to personnel on foreign missions, based on common principles of EU criminal codes. A better solution in the short term, which the EU is already taking steps to develop, is detailed common rules of engagement. These should cover both military and civilian personnel. A human rights-oriented, bottom-up approach would require that the rules of engagement are public, and are translated into local languages, so that the local population is aware of them. Specific attention should be paid in the rules of engagement to the gender dimensions of deployment: the presence of large numbers of unattached men creates physical security concerns for women, especially when the men have comparatively large amounts of money available, and can offer forms of employment. As seen in Cambodia, Bosnia, Somalia and elsewhere their presence creates the potential for increased prostitution, sexual violence and connivance or even participation in trafficking. There should be a clear sexual code of conduct for deployed personnel.
- Thirdly, an EU legal framework should bring clarity to possible conflicts between different forms of international law, particularly between human rights and humanitarian law. International humanitarian law regulates actions that would be illegal outside conflict, such as killing of enemy combatants and destruction of enemy property. It is much more detailed than human rights law, but at the same time it is in some ways outmoded, for instance because distinctions between ‘inter-state conflict’, ‘internal conflict’ and ‘peace time’ and between ‘combatants’ and ‘civilians’ are now often blurred. It would be consistent with the ‘primacy of human rights’ principle for the EU to give precedence to human rights when the two conflict. The legal framework should also fully reflect international conventional law on weapons.

- Fourthly, the legal framework should spell out complaints procedures open to local citizens in conflict areas as well as to deployed personnel. This point will be revisited in section 5.2 of this report.

## **5 Institutional embedding and resourcing**

The Constitution, agreed in Dublin in June 2004, has made a significant innovation with the new institution of a Foreign Minister, merging the posts of High Representative for Common Foreign and Security Policy and External Relations Commissioner. The Foreign Minister will have the right of initiative in CFSP, and be in charge of an integrated European External Action Service composed of officials from the relevant departments of the General Secretariat of the Council of Ministers and of the Commission, and staff seconded from national diplomatic services.

The new Foreign Minister's cabinet is therefore the natural home for the Human Security Response Force. The Council's Military Committee and Military Staff, CIVCOM, and the Commission's Conflict Prevention and Crisis Management Unit (CPCMU) can all be merged into the new civil-military planning unit, located under the Foreign Minister. The Foreign Minister will answer to the European Council and the Council of Ministers. He will continue to be advised by the Political Security Committee and the EU Military Committee. He will also be responsible for coordination of policies with other relevant EU institutions, such as, in particular, EuropeAid and ECHO.

These institutional reforms should greatly improve the coherence and co-ordination of EU mission. Further measures are needed to improve democratic control by the European public and accountability to local populations, and to guarantee sustainable and appropriate methods of financing.

### **5.1 Democratic control**

In the area of European security policy, the well-known 'democratic deficit' is aggravated by a lack of transparency and a 'double deficit' in parliamentary scrutiny.

The lack of transparency results primarily from the tradition of secrecy within the security sector where the flow of information is often hampered by restrictive classification and confidentiality procedures. The problem is exacerbated by the blurring of responsibilities among the various actors and institutions operating within European security policy.

Parliamentary scrutiny of European security policy is extremely weak. As the core of European security policy is intergovernmental, the primary role of parliamentary scrutiny belongs to the 25 national parliaments of the Member States. In theory, national parliaments can hold their government to account for decisions reached in the European Council or Council of Ministers – if they are taken by unanimity. In practice, however, effective oversight is difficult to realise due to weak and uneven scrutiny practices and control rights in the different Member States. Furthermore, national parliaments still rely on the information provided by their own executives. There are no formal mechanisms in European security policy for informing national parliaments about other Member States' positions or to receive reports directly from the European Union.

Scrutiny by the European Parliament (EP) is mostly limited to the integrated security activities of the EC framework. The EP does have a say in the CFSP budget, but, as all expenditures arising from operations with military or defence implications are charged to the Member States, its budgetary authority is very limited. In all other CFSP aspects the EP only has the right to be kept informed on current policy developments. While in the medium-term a fully satisfactory institutional solution to the democratic

deficit is not in sight, a number of measures could be considered, that might help bridge the accountability gap in European security policy, such as:

- increasing public access to relevant documents and obliging the Council to transmit all ESDP documents to national parliaments,
- enhancing and standardising the power of Member States' parliaments in the authorisation of EU security operations
- strengthening inter-parliamentary cooperation by institutionalising regular meetings of the national Parliamentary Defence Committees (or their chairs) or by producing a joint parliamentary report on European security policy
- giving the EP greater authority in scrutinising the CFSP budget

## **5.2 Bottom-up accountability**

EU missions at present tend to be top-down –they focus on relations with states. Bottom-up effectiveness and legitimacy need to be embedded in the institutional framework of European security policy.

First, EU missions should explain and consult the local population about the goals and methods of the missions through political communication and debate. There need to be inbuilt mechanisms such as regular public hearings and broadcasts or the appointment of local liaison officers to ensure this takes place. It is critical that local information, perspectives, ideas and proposals are transmitted upwards to those responsible for directing the mission.

Secondly, the legal framework governing missions in general and the common rules of engagement must be publicly available. In cases where personnel are investigated and prosecuted for misconduct during the mission, the relevant local population must be kept informed of, and where appropriate, participate in, the ongoing proceedings.

Thirdly, there need to be complaints procedures. Under international law, there are several avenues open to citizens in regions where missions are deployed to complain about possible human rights violating behaviour by deployed EU personnel. An optional protocol to the International Covenant on Civil and Political Rights (ICCPR), ratified by all EU member states except the United Kingdom, allows individuals to complain about violation of the rights in this treaty. Along the same lines, the jurisdiction of the European Convention of Human Rights (ECHR) may be extended to the behaviour of EU personnel outside the Union, allowing non-EU citizens to complain in Strasbourg about possible human rights violations by EU personnel. In both cases, the EU could voluntarily extend jurisdiction via a legal framework or legal charter.

But there should also be more immediate forms of redress in the event of misconduct by deployed personnel. One way to do this is through the appointment of a human security ombudsperson attached to each mission. The ombudsman concept is very familiar in the European Union, and several member states have experience with a specialised ombudsperson for the security sector. The mission ombudsperson would be responsible for investigating complaints by local citizens as well as EU personnel regarding abuses or offences committed by the Human Security Response Force. He or she would be appointed by the European Parliament and report regularly to the Parliament, and possibly also to national parliaments, either by request or if the alleged case relates to a specific national security force. He or she could further operate as a 'legal information point', informing the local population of their rights and duties and of the legal provisions in place during the operation.

Finally, each mission should be accompanied and followed by policy evaluation, and in particular impact assessment, from a local perspective. In development

cooperation, regular and thorough evaluation of the impact of policies and instruments has become the order of the day. But there is less evaluation concerning crisis management policies and their military and civilian instruments, and when it is carried out, it takes less account of local perspectives. In-depth study of the impact of European security policy is not only essential for enhancing bottom-up effectiveness and responsiveness, but also for institutionalising a process of policy-learning within the European Union. Impact assessment should not just take place internally: after each mission, an independent commission should be tasked with a public evaluation.

### **5.3 Financing**

Europeans have to be willing to invest in human security if they want security for themselves. The military component of the Human Security Response Force can probably be financed by reallocating existing procurement spending from traditional military equipment such as heavy tanks, artillery and surface ships to the smart manpower and equipment needed by the Human Security Response Force and by making savings by liberalising, standardising, and consolidating European procurement procedures. This is already happening in several European countries. Additional resources will be required to enhance Brussels-based capacities, civilian capabilities, and training and common exercises.

It would be in the interest of coherence and integration if the Human Security Response Force, both as a standing force and in deployments, were to be financed out of the EU's common budget under the CFSP. The Constitution, following earlier treaties, explicitly excludes military spending, including on deployments, from the common budget. This provision, which does not apply to civilian deployment, is an obstacle to the eventual formation of an integrated force, and should in the long run be amended.

In the short term, deployment of the Human Security Response Force can operate under the 2002 compromise, which provides that costs such as headquarters (transport, administration, common public information) and shared services (medical costs, additional equipment and infrastructures) are common, and that certain other costs, such as transportation of forces, barracks, and lodging of forces, will be decided upon by the Council on a case-by-case basis, at the launch of any operation. Civilian deployment should be commonly financed insofar as it concerns core staff and members of the volunteer service scheme. Deployment from the national special teams should still be financed nationally, in parallel to military deployment. Otherwise, those states that deploy mostly military troops would be disadvantaged vis-à-vis those that send civilians.

## **6 Conclusion**

In the past, conventional thinking about security focused on strategic assets like oil, and strategic threats like the possession of weapons of mass destruction by enemy states. The security of the lives of human beings outside our own borders was conceived as an ethical issue, in the realm of human rights or development cooperation, but without relevance to the security of Europeans. This report has sought to argue that human security is vitally connected to the security of Europeans, and that the European Union therefore has a critical interest in developing capabilities to make a contribution to global human security.

The proposals seek to improve Europe's capacity for external personnel deployment. Based on studies of a number of conflict areas, i.e. 'the world as it is', it has made a number of recommendations to optimise the use of missions. While this includes preventive and reconstruction missions, the report does not cover common foreign and security policy as a whole.

## ***A Human Security Doctrine for Europe***

The report has posited a 'human security doctrine' for Europe, starting with seven principles that should inform European security policy from the level of politicians to the level of common soldiers, police and aid-workers. It has described the contours of a civil-military 'Human Security Response Force' that would be equipped to act to protect and improve human security according to these principles. The proposed force does not seek to replace current national forces and multilateral structures. It constitutes an urgently needed addition, which the European Union is particularly well-suited to provide. In accordance with its conception that law, sometimes backed by the use of force, is a key instrument for the European Union, it has recommended a legal framework for deployments. Finally, it has considered some of the financial and institutional implications of a human security doctrine for Europe.

Since September 11 and the war in Iraq, there has been a fundamental rethinking of the nature of security. Security has re-emerged as an urgent concern for Europeans, but it cannot be provided by hiding under nuclear umbrellas. There is an open door for discussing proposals like this in Europe right now. At the individual level of citizens, a conviction is growing that Europe may have an independent role to play in global security, and support for proposals like the Rapid Reaction Force is strong. At the institutional level too, the European Union is, for the first time, considering a global security role. The most appropriate role for Europe in the twenty-first century would be to promote human security.

## **Papers commissioned by the Study Group**

### **Introductory paper:**

A Vision for European Security  
*Marlies Glasius and Mary Kaldor*

### **Regional studies:**

The Great Lakes Region: Security Vacuum and European Legacy  
*Victoria Brittain and Augusta Conchiglia*

Human Security in the South Caucasus  
*Mient-Jan Faber and Mary Kaldor*

Sierra Leone's War in a Regional Context: Lessons from Interventions  
*David Keen*

Old and New Insecurity in the Balkans: Learning from the EU's Involvement in Macedonia  
*Denisa Kostovicova*

Middle East Security: A View from Palestine, Israel and Iraq  
*Yahia Said*

### **Framework for operations:**

What Colour is Your Elephant? The Military Aspect of European Security  
*Chris Ankersen*

An International Law Framework for EU Peace and Security Policy  
*Christine Chinkin*

Women as Agents of Change in Conflict and Post-Conflict Situations  
*Sonja Licht*

Principles for the Use of the Military in Support of Law-Enforcement Operations: Implementing the European Security Strategy  
*Mary Kaldor and Andy Salmon*

Culture and Capabilities of the New EU Members  
*Pavel Seifter*

Re-establishing a Public Monopoly of Violence  
*Herbert Wulf*

**Capabilities, resources and institutions:**

Civilian Tasks and Capabilities in EU Operations

*Renata Dwan*

Towards a Human Security Response Force

*Mary Kaldor, Andy Salmon, Marlies Glasius and Renata Dwan*

Equipment and Resources

*Genevieve Schmeder*

Institutional Embedding of a Bottom-up Approach to European Security

*Stefanie Flechtner*

**Background papers and bibliographies:**

Background Paper on CFSP and ESDP

*Sarah Cussen*

Inventory of Proposals related to ESDP

*Sarah Cussen*

Annotated Bibliography

*Chris Ankersen*

Bibliography on Gender and Conflict

*Seema Kazi*



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