CHAPTER EIGHT

HUMAN RIGHTS FIELD OPERATIONS:
A NEW PROTECTION TOOL

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Introduction

The end of the cold war and the disintegration of the Soviet Union made the world increasingly safe for violent, non-nuclear conflicts. As superpower intervention and the chance for escalation to a larger, potentially nuclear war diminished, existing conflicts intensified and new ones emerged. At the same time, the outside sponsors of many conflicts lost interest because they were no longer of strategic importance. Perversely, the belligerents now fought with greater desperation knowing that their old superpower godfather was unlikely to ride to their rescue.

The intensity and ensuing brutality of conflicts in the 1990s was not the only surprise. Wars were fought to control power and resources in a single state and were not usually between states; civilians, not armed combatants, became the intentional targets of violence. Wars in the Former Yugoslavia, Africa, the Caucasus and Latin America saw huge numbers of civilian casualties compared to those killed and wounded in either the regular armed forces of a state or in the ranks of insurgents. This led to large flows of people on the move to escape fighting. Armies and insurgents burned crops, destroyed farmland, planted thousands of landmines, wrecked schools and hospitals and looted shops.

Despite their intensity, several conflicts became ripe for resolution. Some UN officials in the early 1990s sensed an opportunity to use human rights and international humanitarian law to begin a peace process. This idea and the subsequent initiatives originated in UN headquarters in New York, in particular the Department of Political Affairs (DPA). The DPA proposed to deploy specialists in human rights and the laws of armed conflict if possible alongside traditional UN military peacekeepers. The UN Mission to Namibia in the late 1980s was an early prototype of this model, and included a contingent of international police to monitor and report on compliance by local forces, and to train a Namibian police force.
The first full-blown human rights field presence came a few years later in El Salvador. As part of the efforts to end a conflict that had extended over two decades and had killed over 70,000 people, UN negotiators proposed sending a team of unarmed civilians to El Salvador to monitor compliance with human rights and humanitarian law by both the state security forces and the FMLN guerrillas. The two sides agreed, primarily because each did not trust the other and believed that independent monitors would verify their opponents’ violations. The UN exploited this opening, and the 1991 San Jose Accords created the first major UN human rights field operation, the United Nations Observer Mission in El Salvador, known by its Spanish acronym “ONUSAL.”

ONUSAL constituted a remarkable departure for both the UN and member states. Traditionally, the notion of state sovereignty has frustrated UN efforts to garner compliance with human rights standards. Many member states have relied on Article 2(7) of the UN Charter to deflect any criticism of a state’s treatment of its residents, asserting that this is ‘essentially within the domestic jurisdiction’ of the state and thus outside the purview of the UN. ONUSAL breached the wall of state sovereignty. Deployed even before the parties had agreed to a cease-fire, the 42-member team had a far-reaching mandate, highly intrusive and unprecedented for a UN mission. ONUSAL could move freely and had the right to set up offices anywhere in El Salvador. Its members could visit all places of detention, unannounced if they so chose. They could speak to anyone they wished in the course of their monitoring; the Government and the FMLN promised not to harm anyone who met with ONUSAL or provided information to the mission. ONUSAL’s offices and correspondence were immune from search. The mission was also mandated to report periodically to the Secretary-General on the parties’ observance of human rights and the laws of armed conflict.

The ongoing presence of a team of international observers—roaming around the country, asking difficult questions, observing trials, reviewing police files, visiting prisons, interviewing victims of and witnesses to abuses, writing reports and establishing contacts with leading NGOs—constituted a major advance in the UN’s efforts to seek greater observance of human rights and to protect people. ONUSAL was a qualitative leap from the somewhat hidebound and passive UN human rights procedures based in Geneva. ONUSAL was active, on the ground, persistent and had the wonderful virtue of being able to follow up its inquiries regularly; its findings could not be easily ignored or dismissed. Unlike other initiatives, ONUSAL also had staying power: its presence in El Salvador did not end until May 1995, when it was reduced in size and the UN responsibility for the Mission