Research Report

Special Conference 1: Security and Globalization

Enhancing the protection of civilians in modern warfare

MUNISH '14

Forum	Special Conference 1: Security and Globalization
Issue:	Enhancing the protection of civilians in modern warfare
Student Officer:	Anna Begeer
Position:	President

Introduction

In times of modern war and armed conflicts, innocent civilians are frequently placed at risk, rendered vulnerable to incidences such as kidnapping, massacre, rape, sexual assault, and enslavment. In fact, the United Nations (UN) report of the Secretary General on the protection of civilians in armed conflict (S/2010/579) states: "Whether as the intended targets of attack or the incidental use of force, civilians continue to account for the majority of casualties in conflict." Women and children are widely considered at greater risk within the civilian population.

Although warfare and armed conflict can be traced as far back in history as mankind itself, it is only in the last hundreds of years that international law has been established to limit the effects of armed conflict. This is known as International Humanitarian Law (IHL), of which two prime examples are the Hague Conventions of 1899 and 1907, and the Geneva Conventions of 1949 and their Additional Protocols. These identify obligations to civilians who are victims of the effects of modern warfare, and they outline the legal responsibilities of the states involved. Despite these past efforts, there are still high numbers of civilian casualties to be observed, particularly in densely populated warzones. Therefore it is imperative that measures are taken to enhance the protection of civilians in modern warfare.

Definition of Key Terms

Civilians

In the context of this issue this term refers to those people who are not involved as combatants in a conflict.

Humanitarian assistance

This is an operation which is intended to either alleviate suffering, save lives or protect the dignity of civilians during or following an emergency. In the context of the issue, the emergency is warfare, which may involve either state or non-state parties.

Peacekeeping operations

These are actions taken to promote the preservation of peace in post-conflict areas. The UN dispatches peacekeepers to the relevant areas in order to carry out the peacekeeping operations.

Civil war

As the name suggests, this is a war which takes place between citizens of the same country. A key point to remember is that when civilians begin to involve themselves in such a war by becoming combatants, they can no longer be classified as civilians.

Guerrilla groups

These are groups of irregular soldiers/individuals that combat regular forces such as the police or the military. They will often make use of traditional military tactics such as sabotage, ambushes, raids, and hit-and-run tactics against their less-mobile enemy.

Drones

Drones are officially known as unmanned combat air vehicles (UCAV), and are a type of aircraft which do not have an onboard human pilot. They can be used to carry out destructive or non-destructive missions, depending on whether they are armed or not. Drones can be pre-piloted, remotely piloted or can be 'smart'. A smart drone carries sensors and computers, and is capable of making its own decisions.

State/non-state parties

In warfare driven by state parties, the warring parties are governments. Any groups which are not governments are considered to be non-state parties. These may include terrorists, religious groups and guerrilla groups.

General Overview

Warfare in a modern context

Warfare has evolved and developed in recent years, such that it is now significantly different to traditional forms of warfare. In the past, combat often took place in areas isolated from populated regions, using traditional weaponry. An example of such warfare is the Battle of Waterloo, which was fought primarily by British and French forces.

In recent history however, warfare has an increasingly large impact on civilians due to the different style of conflict. In a modern context, weapon bearers are frequently guerrilla groups, terrorists or extremists whose actions are exclusive to those of the governments of the nations that they come from. These groups often enter densely populated areas, exposing the civilians to the negative impact of the conflict.

How does modern warfare affect civilians?

In recent conflict zones it is evident that there are the greatest number of women and child victims, presumably as they are often less able to protect themselves than males. Women may suffer sexual abuse, be held at gunpoint, be mutilated, be kidnapped and be sent to live in camps. It is devastating that young children have suffered many of the same ill fates: the UN reports that in Ituri, Congo between 2007 and 2008 there were 6,766 cases of rape, with 43% involving children. 10-20% of the cases are estimated to have gone unreported.

Another primary example is the Central African Republic, where the UN reports that child abuse, rape and forced military recruitment are highly abundant. This country is also a key example of one where there is a high instance of unregistered child births; an estimated 10% of live births are registered. Without these records, the UN is forced to rely on tallies by medical workers, peacekeepers and NGOs when attempting to locate children displaced by conflict.

Of course, it is not only women and children who are victims to modern warfare. Men, women and children alike have been killed in their homes, on the roads and in markets by bombs, bullets, fire, drones and other lethal weapons. The current war in Afghanistan is estimated to have resulted in the violent deaths of over 21,000 civilians to date. Another example is Iraq, where it is estimated that 70% of those who have died as a result of war were civilians.

Civilians may also be used as shields, known as 'human shields'. They are placed next to soldiers or combatants in order to gain immunity from attack. Amnesty International reports that in 2009, Israeli forces had assumed the practice of taking over Palestinian homes to use as shooting points, while holding their inhabitants hostage to act as shields. This is prohibited by the 4th article of the Geneva Convention which Israel had ratified, which states that 'The presence of a protected person may not be used to render certain points or areas immune from military operations.'

Human, social and economic consequences

When civilians have been affected by warfare and are lucky enough to return to their community or family, their life may be challenged as a result of their experience. In cases of sexual abuse, victims returning to their communities are often shamed, turning them into outcasts. In addition, they may have contracted sexually transmitted diseases; 70% of rape survivors in Rwanda are infected with human immunodeficiency virus (HIV). This places a huge burden on the health care system and the parties who make the health care economically viable. Children who have been soldiers may also grow up to become sadistic adults, having witnessed violence at such a young age. These are just a selection of examples of dire consequences of civilian involvement in warfare, even if they have survived the conflict.

Adherence to international humanitarian law (IHL)

The Geneva Conventions of 1949 and their Additional Protocols were established following WWII, in an effort to establish the protection of civilians exposed to modern warfare. There are four Geneva Conventions, as well as three Additional Protocols. The Geneva Conventions could be ratified by a state as a whole, whereas each of the Additional Protocols could be ratified separately. See the appendices for the countries that have ratified the Geneva Conventions or any of their Additional Protocols.

The fact that the governments representing their states are those parties who ratify any conventions or protocols concerning IHL, poses a key issue in the context of modern warfare. As discussed previously, modern warfare is often not driven by governments or political parties; in contrast it may be driven by guerrilla groups, terrorists or extremists. Seeing as it is the governments who may ratify any documents related to IHL, it is highly unlikely that the small groups driving these conflicts will feel bound by these treaties.

Technological challenges to IHL

Technological and scientific developments have led to new means of warfare, such as cyber-attacks, drones and robots. In many cases, these inventions may not comply with IHL, so a state must thoroughly assess whether this is the case or not. This is not as much of an issue if the state in question adheres to IHL, however in cases where non-state, smaller parties are driving the conflict it is highly unlikely that any new weaponry will be assessed against IHL. This threatens the safety of civilians who are exposed to the conflict.

Multinational challenges to IHL

In multinational war, nations working together may have a different stance towards IHL, and the documents or conventions which they have ratified are likely to differ. This poses a legal challenge, making it difficult to identify the IHL applicable to situations of multinational war.

Distinguishing between civilians and combatants with relation to IHL

Recent history has demonstrated an increasing amount of civil wars, meaning that civilians may find themselves drawn into the weapon bearing or fighting in a conflict. IHL distinguishes between civilians and combatants as one of its founding principles, which makes it hard to apply in cases where civilians become combatants.

Privatization of war

Nowadays governments are making increasing use of external bodies such as private military and security firms, to carry out work which would traditionally be assigned to armed forces. Given that IHL is ratified by governments, it is challenging to apply it to these situations.

Major Parties Involved and Their Views

International Committee of the Red Cross (ICRC)

The Geneva Conventions mandate the ICRC to visit prisoners of war and civilians that are interned in armed conflicts. They additionally provide humanitarian assistance to displaced people as a result of warfare; in 2010 this was provided to 4.3 million internally displaced civilians in 32 countries. The ICRC concerns itself in particular with children which have been separated from their families by war, or have been released by armed forces.

They focus on reuniting children with their families, registering the children, responding to sexual violence and reinforcing legal standards.

International Criminal Court (ICC)

The ICC has defined a list of crimes under the Rome Statute of the International Criminal Court Explanatory Memorandum, known as crimes against humanity. These entail 'acts committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack'. See the appendices for a list of these crimes. The ICC itself is a permanent international court, which prosecutes individuals rather than states. Due to the fact that modern warfare is frequently driven by non-state parties, these parties may be taken to the ICC for crimes against humanity, regardless of whether these parties have ratified any documents pertaining to IHL. A key example of when the ICC has interfered in a case pertaining to the issue at hand is the case of Germain Katanga and Mathieu Ngudjolo Chui. They participated in the Ituri conflict in the Democratic Republic of the Congo, and have each been charged with 3 accounts of crimes against humanity; they killed at least 200 civilians, sexually enslaved women and children, and forced children to take part in hostilities.

Centre for Civilians in Conflict

Formerly known as CIVIC, this organization addresses the needs of civilians in a conflict from all directions; they engage with the combatants, document stories of victims, create new policies, assist victims during and post-conflict, and conduct research to identify areas which must be addressed. The organization has also published numerous publications pertaining to current topics with regards to protecting civilians in times of conflict.

Relief International (RI)

RI is a humanitarian, non-profit agency which strives to provide 'emergency relief, rehabilitation, development assistance, and program services to vulnerable communities worldwide'. An important part of their mission is therefore aiding victims of conflict, particularly women and children.

Democratic Republic of the Congo (DRC)

Civilians of the DRC remain at imminent risk of crimes against humanity and war crimes due to conflict driven by armed groups and military forces. The country has a long history of conflict and civilian casualties; however its recent crises can be traced back to the Rwandan genocide of 1994. Rwandan and Ugandan forces responded to violence carried

out by exiled Rwandan Hutu genocidaire, and invaded the DRC in 1996. Conflict has been continued by various parties such as the Democratic Forces for the Liberation of Rwanda (FDLR), the Maï-Maï Sheka, the Allied Democratic Forces (ADF), the Lord's Resistance Army (LRA) and the March 23 Movement (M23). It is estimated that over 6 million civilians in the DRC have been killed due to war-induced causes.

Syria

The Syrian civilian population is greatly threatened by the current civil war going on in the country. Refugees have primarily fled to Turkey, Jordan and Lebanon to escape the violence. Protests begun in March 2011, against President Bashar al-Assad's regime. Until the 7th of April, the protesters demanded democratic reforms, and after this the attention shifted to overthrowing the Assad government. In July 2012, the International Committee of the Red Cross declared the conflict as a civil war. The United Nations predicts that the death toll resulting from this war was 120,000 in November 2013, with the vast majority of the casualties being civilians.

Central African Republic (CAR)

In 2012, the Séléka rebel group accused the president at the time, François Bozizé, of having failed to abide by peacekeeping agreements signed in 2007 and 2011. This started the conflict between the Séléka rebels and the government forces. The rebel forces captured many major towns, and have committed numerous crimes against humanity and war crimes such as rape, torture, killings, and forced disappearances of innocent civilians. An additional 200,000 civilians are estimated to have been displaced by the conflict. Doctors Without Borders (MSF), have intervened to provide humanitarian aid to those who are injured, and to enhance the safety of the civilians.

Timeline of Events

Date	Description of event
1899	First Hague Conference was held, establishing the Hague Convention of 1899
1907	Second Hague Conference was held, establishing the Hague Convention of 1907
1949	Adoption of the First, Second, Third and Fourth Geneva Conventions
1977	Protocol I and Protocol II added to the Geneva Conventions
2005	Protocol III added to the Geneva Conventions

26 July 2005	Resolution 1612 adopted by the Security Council concerning the protection of children in armed conflict
28 June 2006	First open debate in the Security Council concerning the protection of civilians
11 November 2009	Resolution 1894 adopted by the Security Council concerning compliance with international humanitarian law, Human Rights and Refugee Law
July 2012	Conflict in Syria is declared to be a civil war by the International Committee of the Red Cross
10 December 2012	Start of the recent civil war in the Central African Republic, when the Séléka rebel group started a conflict with government forces

UN involvement, Relevant Resolutions, Treaties and Events

Modern international humanitarian law is established by the United Nations through two main conventions:

- The Hague Conventions of 1899 and 1907

- The Geneva Conventions of 1949 and their Additional Protocols

With regards to UN resolutions that aim to resolve this issue, the Security Council has adopted several resolutions of relevance to civilians in cases of armed conflict:

- Security Council resolution 1612 on children in armed conflict, 26 July 2005 **(S/RES/1612)**

- Security Council resolution 1894 on the protection of civilians in armed conflict, 11 November 2009 **(S/RES/1894)**

- Security Council resolution 1998 on further enhancing protection from attacks on schools and hospitals, 12 July 2011 **(S/RES/1998)**

There have been no major UN events to date which were specific to the issue of protecting civilians, however at the UN World Summit in September 2005, 150 world leaders reaffirmed the responsibility to protect civilians using all necessary means.

Evaluation of Previous Attempts to Resolve the Issue

It is evident that there is more than adequate legal framework which has been established by international humanitarian law in order to enhance the protection of civilians in

modern warfare. The lack of protection of the civilians is therefore not due to the inadequacy of IHL. It can rather be attributed to the lack of respect shown by the combatants to these fundamental rules and laws.

This lack of respect is particularly prevalent now, as modern conflict is often driven by non-state parties who have not ratified IHL. These parties will therefore not feel bound by any laws. Even in cases where state-parties have ratified IHL, they may act irrespective of this and take part in a conflict where civilians are put at risk. It is therefore evident that although IHL effectively identifies what the responsibilities of states are in a conflict and what their obligations are to civilians, the laws do not address non-state parties and they are often disregarded.

Peacekeeping operations and humanitarian assistance are more of a practical approach to addressing the issue than IHL. As a result of this, they have a more direct effect on the well-being of the civilians in modern warfare. Civilians can be brought to safety, provided with necessary resources and be rehabilitated following a conflict. This minimizes civilian casualties, however will not directly act to prevent the conflict, which is what creates problems for the civilians in the first place.

The use of the ICC as a means of achieving justice against those who have committed crimes against humanity or war carimes does not directly resolve the issue at hand as it does not isolate civilians from a conflict. However, it imposes a threat over combatants given that they may be taken to court and be punished accordingly. This will no doubt limit the effects to which some groups of combatants involve civilians in their warfare, however there will be other groups who act as they wish regardless of this.

Possible Solutions

It is evident that from the efforts made to combat the issue to date, that those which have been more successful are those which address the civilians, rather than the combatants. This is because combatants, particularly non-state parties, will often act irrespective of IHL. An obvious course of action is therefore to expand on the UN peacekeeping and humanitarian assistance which is currently being offered.

Rather than targeting the area where the conflict is taking place such as is already being done, by bettering the situation in areas close to, but out of the conflict, civilians would be encouraged to relocate to these safer areas. In order to incentivize rapid relocation, it would be essential to focus on the fast development of these safe havens. In this was

civilians would be isolated from the conflict, very much limiting the effect that it can have on them.

Another direct approach to protect civilians would be to increase the amount of attention paid to rescuing those who are kept captive, may be being enslaved, or may be being detained for other reasons by armed forces. This is no doubt a risky operation, so negotiations with the combatants would be of key importance.

Negotiations and threats imposed are also of key importance if more efforts would be made to divert conflicting parties away from populated areas. This is not a feasible or reliable option in many cases, considering the fact that combatants will often act irrespective of others. However, in cases where the parties hold less power, it may be possible to persuade them to pursue conflict in less populated areas. In these cases it may not always be beneficial to address the conflict itself and try to prevent it, as this may reduce the likelihood of cooperation from the combatants to divert the warfare to another area.

Bibliography

"Central African Republic Conflict (2012–present)." *Wikipedia*. Wikimedia Foundation, 13 June 2014. Web. 15 June 2014. <http%3A%2F%2Fen.wikipedia.org%2Fwiki%2FCentral_African_Republic_conflict_(2012%25E2%2580%2593present)>.

"Children and the Ravages of War." *ICRC*. International Committee of the Red Cross, 17 Nov. 2009. Web. 15 June 2014. <http%3A%2F%2Fwww.icrc.org%2Feng%2Fresources%2Fdocuments%2Finterview%2Fchildren-interview-171109.htm>.

"Civilians Killed and Wounded." *Costs of War*. Watson Institute, n.d. Web. 15 June 2014. <http://costsofwar.org/article/civilians-killed-and-wounded>.

"Contemporary Challenges for IHL." *ICRC*. **International Committee of the Red Cross, n.d. Web. 15 June 2014. <http%3A%2F%2Fwww.icrc.org%2Feng%2Fwar-and-law%2Fcontemporary-challenges-for-ihl%2Findex.jsp>.**

"The Crisis in the Democratic Republic of Congo." *Responsibility to Protect*. International Coalition for the Responsibility to Protect, n.d. Web. 15 June 2014. <http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-drc>.

"Defining Humanitarian Assistance." *Global Humanitarian Assistance*. Devinit.org, n.d. Web. 15 June 2014. <http://www.globalhumanitarianassistance.org/data-guides/defining-humanitarian-aid>.

"Drone." *Answers*. Answers Corporation, n.d. Web. 15 June 2014. <http://www.answers.com/topic/drone>.

"Gaza Civilians Endangered by the Military Tactics of Both Sides." *Amnesty*. Amnesty International, 8 Jan. 2009. Web. 15 June 2014. <http://www.amnesty.org/en/news-and-updates/news/gaza-civilians-endangered-military-tactics-both-sides-20090108>.

"The Geneva Conventions of 1949 and Their Additional Protocols." *ICRC*. International Committee of the Red Cross, n.d. Web. 15 June 2014. <http%3A%2F%2Fwww.icrc.org%2Feng%2Fwar-and-law%2Ftreaties-customary-law%2Fgeneva-conventions%2F>.

"Guerrilla." *Dictionary.com*. Dictionary.com, n.d. Web. 15 June 2014. <http://dictionary.reference.com/browse/guerrilla>.

"International Criminal Court Investigations." *Wikipedia*. Wikimedia Foundation, 11 June 2014. Web. 15 June 2014. <http://en.wikipedia.org/wiki/International_Criminal_Court_investigations>.

"International Efforts to Protect Civilians Failing to Stop Slaughter." *ReliefWeb*. OCHA, 18 Feb. 2014. Web. 15 June 2014. <http://reliefweb.int/report/central-african-republic/international-efforts-protect-civilians-failing-stop-slaughter>.

Kimani, Mary. "Protecting Civilians from Genocide." *African Renewal*. United Nations African Renewal, June 2006. Web. 15 June 2014. <http%3A%2F%2Fwww.un.org%2Fafricarenewal%2Fmagazine%2Fjuly-2006%2Fprotecting-civilians-genocide>.

"Our Mission." *Relief International*. Relief International, n.d. Web. 15 June 2014. <http://www.ri.org/who_we_are/our-mission.php>.

"Our Work." *Civilians in Conflict*. Centre for Civilians in Conflict, n.d. Web. 15 June 2014. <http://civiliansinconflict.org/our-work>.

"Protecting Civilians in Armed Conflict." *Citizens for Global Solutions* (n.d.): n. pag. Web. 15 June 2014. <https://globalsolutions.org/files/public/documents/CP-Factsheet-Protecting-Civilians-in-Armed-Conflict.pdf>.

"Report of the Secretary-General on the Protection of Civilians in Armed Conflict." *Daccess*. United Nations, 11 Nov. 2010. Web. 15 June 2014. <http%3A%2F%2Fdaccess-dds-ny.un.org%2Fdoc%2FUNDOC%2FGEN%2FN10%2F617%2F64%2FPDF%2FN1061764.pdf%3FOpenElement>.

"Security Council Open Debates on the Protection of Civilians." *Responsibility to Protect*. International Coalition for the Responsibility to Protect, n.d. Web. 15 June 2014. <http://www.responsibilitytoprotect.org/index.php/component/content/article/35-r2pcs-topics/2378-security-council-open-debates-on-the-protection-of-civilians>.

Security Council. "Resolution 1612 (2005)." *United Nations* (2005): n. pag. *Watchlist*. 26 July 2005. Web. 15 June 2014. <http://watchlist.org/wordpress/wp-content/uploads/SC-Resolution-16121.pdf>.

Security Council. "Resolution 1894 (2009)." *United Nations* (2009): n. pag. *Watchlist*. 11 Nov. 2009. Web. 15 June 2014. <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/POC%20SRES%201894.pdf>.

Security Council. "Resolution 1998 (2011)." *United Nations* (2011): n. pag. *Watchlist*. 12 July 2011. Web. 15 June 2014. <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/CAC%20S%20RES%201998.pdf>.

"Syrian Civil War." *Wikipedia*. Wikimedia Foundation, 14 June 2014. Web. 15 June 2014. <http://en.wikipedia.org/wiki/Syrian_Civil_War>.

"War and International Humanitarian Law." *ICRC*. International Committee of the Red Cross, 29 Oct. 2010. Web. 15 June 2014. <http://www.icrc.org/eng/war-and-law/overview-war-and-law.htm>.

"What Are Crimes against Humanity?" *ICC*. International Criminal Court, n.d. Web. 15 June 2014. <http://www.icc-cpi.int/en_menus/icc/about%2520the%2520court/frequently%2520asked%2520questions/Pages/12.aspx>.

"Women and Children Worst." *The Economist*. The Economist Newspaper, 19 Feb. 2009. Web. 15 June 2014. <http://www.economist.com/node/13145799>.

Appendix or Appendices

I) Parties to the Geneva Conventions of 1949 and their Additional Protocols

http://en.wikipedia.org/wiki/List_of_parties_to_the_Geneva_Conventions

II) The Geneva Conventions of 1949 and their Additional Protocols

http://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/index.jsp

III) List of crimes against humanity

http://www.icc-cpi.int/en_menus/icc/about%20the%20court/frequently%20asked%20questions/Pages/12.aspx