PROTECTION OF CIVILIANS IN AREAS UNDER THE CONTROL OF ARMED GROUPS

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ABSTRACT

Aim: The purpose of the study is to investigate the protection of civilians in areas under the control of armed groups. This is done through focusing on the protection challenges, violations of International Humanitarian Law, international efforts to protect civilians and the important issues from IHL Perspective.

Background and Problem: Armed groups are increasingly becoming a threat as de facto they frequently maintain control over civilian populations. International humanitarian law stipulates that non-combatants in armed conflicts are subject to certain rights and protection. However, some armed organizations may break this law and cause suffering for residents in the regions they control.

Methodology: The methodology applied entailed the extensive review of existing literature. Articles were explored in terms of their various approaches to the application of international law to the protection of civilians in areas controlled by armed groups.

Results and Conclusions: In some cases, armed groups violate these regulations by targeting civilians through violent attacks, kidnapping, impeding civilians’ freedom of movement and other violent acts such as forced labor and sexual assault and abuse. They may also restrict their access to necessary services and aid. Consequently, the UN continues to advance efforts to protect civilians in areas controlled by armed groups. The IHL is against the displacement of civilians and ensuring access to civilians. Overall, the international community is consistently focused on ensuring that civilians in areas under the control of armed groups are adequately protected.

Keywords: armed groups, international humanitarian law, civilians, humanitarian access, displacement.

PROTEÇÃO DE CIVIS EM ÁREAS SOB CONTROLE DE GRUPOS ARMADOS

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RESUMO

Objetivo: O objectivo do estudo é investigar a protecção de civis em áreas sob o controlo de grupos armados. Isto é feito concentrando-nos nos desafios de protecção, nas violações do Direito Internacional Humanitário, nos esforços internacionais para proteger os civis e nas questões importantes da perspectiva do DIH.

Antecedentes e Problema: Os grupos armados estão a tornar-se cada vez mais uma ameaça, uma vez que, de facto, mantêm frequentemente o controlo sobre as populações civis. O Direito Internacional Humanitário estipula que os não-combatentes em conflitos armados estão sujeitos a certos direitos e protecção. No entanto, algumas organizações armadas podem infringir esta lei e causar sofrimento aos residentes das regiões que controlam.

Metodologia: A metodologia aplicada implicou a extensa revisão da literatura existente. Os artigos foram explorados em termos das suas diversas abordagens à aplicação do direito internacional à protecção de civis em áreas controladas por grupos armados.

Resultados e Conclusões: Em alguns casos, os grupos armados violam estes regulamentos ao visarem civis através de ataques violentos, raptos, impedindo a liberdade de circulação de civis e outros actos violentos, como trabalho forçado e agressão e abuso sexual. Podem também restringir o seu acesso aos serviços e ajuda necessários. Consequentemente, a ONU continua a desenvolver esforços para proteger os civis em áreas controladas por grupos armados. O DIH é contra o deslocamento de civis e contra a garantia de acesso aos civis. No geral, a comunidade internacional está consistentemente focada em garantir que os civis em áreas sob o controlo de grupos armados sejam adequadamente protegidos.

Palavras-chave: grupos armados, direito internacional humanitário, civis, acesso humanitário, deslocamento.

PROTECCIÓN DE CIVILES EN ZONAS BAJO EL CONTROL DE GRUPOS ARMADOS

RESUMEN

Objetivo: El objetivo del estudio es investigar la protección de los civiles en las zonas bajo el control de grupos armados. Esto se hace centrándose en los problemas de protección, las violaciones del derecho internacional humanitario, los esfuerzos internacionales para proteger a los civiles y las cuestiones importantes desde la perspectiva del DIH.

Antecedentes y problema: Los grupos armados se están convirtiendo cada vez más en una amenaza, ya que de hecho a menudo mantienen el control sobre las poblaciones civiles. El derecho internacional humanitario estipula que los no combatientes en los conflictos armados están sujetos a ciertos derechos y protección. Sin embargo, algunas organizaciones armadas pueden infringir esta ley y causar sufrimiento a los residentes de las regiones que controlan.

Metodología: La metodología aplicada implicó una amplia revisión de la literatura existente. Los artículos se examinaron en función de sus diversos enfoques de la aplicación del derecho internacional a la protección de los civiles en las zonas controladas por grupos armados.

Resultados y conclusiones: En algunos casos, los grupos armados violan estas normas al atacar a civiles mediante ataques violentos, secuestros, obstaculizando la libertad de circulación de la población civil y otros actos violentos como el trabajo forzoso y la agresión y el abuso sexuales. También pueden restringir su acceso a los servicios y la ayuda necesarios. En consecuencia, la ONU continúa avanzando en los esfuerzos para proteger a los civiles en las zonas controladas por grupos armados. El DIH se opone al desplazamiento de civiles y garantiza el acceso a los civiles. En general, la comunidad internacional se centra sistemáticamente en garantizar que los civiles de las zonas bajo el control de los grupos armados estén adecuadamente protegidos.
Palabras clave: grupos armados, derecho internacional humanitario, civiles, acceso humanitario, desplazamiento.

1 INTRODUCTION

In recent non-international armed conflicts, numerous non-state armed groups (NSAGs) have exerted control over both the territories and the inhabitants residing within. This study aims to examine the safeguarding of civilians residing in territories governed by armed groups. This is achieved by identifying protecting challenges, violations of International Humanitarian Law by armed groups, the international efforts to safeguarding civilians under the control of armed groups, and the significant issues from an IHL standpoint.

In some regions, armed groups frequently maintain de facto authority over large populations. The meaning of "de facto authorities" encompasses non-state institutions or armed groups that are in conflict with the sovereign government and exercise effective control over a certain territory, exhibiting structures like those of a state (Lilly, 2023). De facto authorities are entities that have acquired control by the use of force or unlawful methods, and govern even without international recognition or the presence of a distinct de jure government (Lilly, 2023). This encompasses the Myanmar military that endeavored to unlawfully take control in the month of February 2021, precisely when the National League for Democracy (NLD) was on the verge of establishing a government following their electoral victory (Lilly, 2023). International humanitarian law (IHL) stipulates that non-combatants in armed conflicts are subject to certain rights (Gal, 2017). Numerous NSAGs have maintained control over the territory and the inhabitants therein during recent non-international armed hostilities in nations such as the Central African Republic, Afghanistan, Libya, Nigeria, South Sudan, Syria, Ukraine, and Yemen (Rodenhäuser, 2020, p. 991). The administration of justice, medical services, welfare care, and the maintenance of order are forms of public administration that NSAGs frequently employ in these regions for a range of reasons (Rodenhäuser, 2020, p. 991). Nevertheless, NSAGs that consistently exercise the de facto rule may violate IHL protections and cause suffering to populations in the regions they control.

NSAGs are typically considered to be unique entities that are (i) not linked with institutionalized government authorities such as regular militaries, presidential security,
law enforcement agencies, or special forces and (ii) capable and ready to employ violence to achieve their goal. As a result, such entities (iii) have some self-governance in terms of politics, combat activities, resources, and infrastructure (Hofmann & Schneckener, 2011. p. 604). The term “Armed Forces” refers to the organized military of a nation, or it can be used to denote the NSAG (Doctors without borders, n.d.). Current regional and domestic armed conflicts frequently involve non-state militant forces. International courts view that a state would be held accountable for crimes committed by the NSAG and the conflict would become international whenever a non-state military organization operates under the authority or on behalf of a foreign nation (Doctors without borders, n.d.). Whether civilians are live under the authority of a state or a non-state party to a conflict, their basic needs — security, employment and a means of subsistence, respect for their fundamental rights, and access to education for their children — remain the same (Simsir et al., 2020). These rights are preserved and advocated for by international humanitarian organizations, international human rights organization and civil society groups.

The protection of civilians is the core principle of IHL, which focuses on ensuring that civilians experience limited effects of armed conflict and stay safe (Gal, 2017). Notably, IHL is still applicable and safeguards non-combatants when non-state actors to military conflicts hold areas for a lengthy period of time (Simsir et al., 2020). The Geneva Conventions of 1949 provided protection for sick, injured, shipwrecked, and imprisoned combatants (ICRC, 2010a). The IHL incorporates the directives aimed at safeguarding vulnerable civilians in areas under the control of armed groups. Those who do not take part in armed conflict such as bystanders and healthcare military staff are protected by IHL (ICRC, 2004, p. 2). Additionally, the conventions defends non-participants such as captives of war, sick, shipwrecked, and injured soldiers. Civilians in areas under the control of armed groups have the right to protect their dignity, life, as well as their physical and mental wellbeing (ICRC, 2004, p. 2). In all situations, the civilians in areas under the control of armed groups must be safeguarded and handled with compassion without any discrimination (ICRC, 2004, p. 2). Regulations about the need to protect civilians in areas under the control of armed groups stemmed from the conventions, which provided legal protection for everyone who is not a member of the military personnel or armed organizations in recognition of the evolving nature of combat (ICRC, 2010a). Property belonging to civilians are also protected. This protection was strengthened with Additional Protocols in 1977, which further insisted on the protection
of civilian rights in any form of war (ICRC, 2010a). The protocols greatly enhanced the legal safeguards for civilians and the injured, and, for the first time, provide comprehensive humanitarian regulations that are applicable during civil conflicts (ICRC, 2009).

According to IHL, civilians who are under the control of enemy forces should always be handled humanely and without discrimination (ICRC, 2010a). All sort of violence and inhumane treatment, such as execution and torture, must always be prohibited (ICRC, 2010a). Additionally, individuals are guaranteed a fair trial with all necessary court protections in the event of prosecution (ICRC, 2010a). Nevertheless, directives to handle civilians in a human way tend to be overlooked by armed groups.

Despite the chaos and destruction that comes in times of war, there are actually laws, norms and expectations during armed conflict for the protection of civilians. In situations where sovereign states resort to armed conflict against each other, these states will be under an obligation to apply these principles to minimize effects of civilians (Seneviratne, 2023). These laws typically fall under the international humanitarian law (IHL). The general consensus of the need to protect civilians has resulted in a wide range of emergent issues. For instance, one of the tenets of this IHL has been the responsibility to protect, also referred to as the R2P, which started as a 21st century idea that repackaged the concept of humanitarian aid, after the general indifference and ineffective response that global leaders have had towards civilian suffering in conflict scenarios (Lee, 2014). The past few years have, however, revealed the fact that these laws are fundamentally flawed. Despite the fact that there are legal frameworks that are aimed at the protection of civilians in conflict areas, many that live in areas that are controlled by armed groups, or in countries that are suffering under the brunt of war, continue to face significant dangers and risks to their health, safety and well-being. Conflict situations and groups often end up, intentionally or otherwise, placing them in situations where they are denied fundamental rights. This not only points to weaknesses in the laws themselves, but in their enforcement, either during or after the conflict situation is done. It further points to a situation where there is little understanding of appreciation of the factors that influence the effectiveness of these protection mechanisms, as well as the challenges faced by humanitarian and civilian actors. In some cases, strategies used by armed groups tend to control and manipulate civilian populations or use them as leverage.
The need to protect civilians in armed conflict scenarios is an important element of international and human rights law. The results of this research would be significant in many areas. First, it would be useful when it comes to reducing the frequency and impact of humanitarian crises. Armed conflict in areas that are controlled by armed groups tends to lead to severe humanitarian crises, especially in situations where the civilian population is not protected. This includes cases of civilian casualties, injuries, violations of human rights and displacement from their homes. The understanding of the dynamics of civilian protection in such scenarios would be the important first step when it comes to reducing harm and ensuring the well-being of these affected populations. Secondly, findings of this research will be significant in informing policy decisions and direction going forward. This will be useful in setting stronger modalities for the protection of civilians in conflict-affected areas. This could include policies such as those that inform the design of peacekeeping missions, diplomatic interventions, as well as humanitarian interventions in the conflict zones and engagement with the armed groups in ways the promote the adherence to international laws of civilian protection. Based on these policies, the international community can then be able to formulate laws and regulations that protect civilians from any actions by armed groups. These laws can improve accountability and increase the chances of prosecution of perpetrators while strengthening legal frameworks for the protection of civilians in armed conflict scenarios. Finally, the results of the research can be useful for civilian and civil society groups. It will provide them with knowledge on ways through which they can protect and advocate for themselves, and in rare instances, engage with these armed groups. This can strengthen the community and enhance the levels of resilience.

2 THEORETICAL FRAMEWORK

The study is anchored on the theoretical framework of the International Humanitarian Law (IHL). The theoretical aspect of the IHL is based on the principle that civilians and civilian objects need to be distinguished from combatants. Hence, in regions under the control of armed groups, it is critical to ensure that civilians are clearly distinguished from combatants to provide the necessary level of protection (Melzer & Kuster, 2016). Civilians are viewed as individuals who are opposite to combatants. With the recognition of the difference between civilians and combatants, the theoretical
concept of IHL is also based on the principle of prohibition of attack on those hors de combat (those not involved directly in the hostilities) (UNDOC, 2020). The third principle of the IHL theoretical framework is the prohibition to inflict unnecessary suffering. In this case, armed groups are forbidden against causing unnecessary suffering to civilians who are not part of the conflict. Lastly, there is the principle of proportionality, which emphasizes that civilians should not be harmed even if there is a clear target to attack (UNDOC, 2020). Proportionality explains the loss of military advantages to protect civilians. These principles are critical in guiding the application of the IHL theoretical framework in this study.

3 METHODOLOGY

To explore the protection of civilians in regions controlled by armed groups, this study applied the secondary methodology particularly entailing the extensive review of literature on the topic. The secondary research method entails the application of the literature that is available on the research topic. The inclusion criteria for the sources to be used included; articles that mainly focus on civilians in areas under the control of armed groups, sources within the last 10 years, as well as focus on the IHL. The choice of the secondary method is anchored on the ease of access to sources and the availability of the needed data. More so, the costs of conducting secondary research are lower compared to primary research that involves going to the field. Lastly, the secondary methodology was considered because of it helps the researcher save time in the course of conducting research.

4 RESULTS AND DISCUSSION

4.1 CHALLENGES_PAUSED BY ARMED GROUPS FOR CIVILIAN PROTECTION

4.1.1 Lack of access to provide protection and necessary aid to civilians

Armed organizations impede civilians’ freedom of movement, which restricts their access to the necessary services and aid. Violent enforcement is strongly related to the control of civilian movement (Rodenhäuser, 2020). The creation of checkpoints,
blockades, and sieges are important tactics used by armed groups (Jackson et al., 2022, p. 38). On the other extreme of the scale, besiegement and blockades need a sizable geographical presence, organization, and coercive capacity (Jackson et al., 2022, p. 38). Armed groups with such capabilities would use blockades to attain their political dominance in the occupied area. For instance, blockades have been employed by the Jama'at Nusrat al-Islam wal-Muslimin (JNIM) members in central Mali to castigate populations that were believed to cooperate with government forces and to compel communities to follow its governing system (NRC, 2022). Residents are unable to access their fields and rural marketplaces because of these barricades. Additionally, the organization has also set up security checkpoints along roadways in the remote regions they dominate (Jackson et al., 2022, p. 38). Communities’ ability to access food, medical services, and education is frequently restricted while they are imprisoned, and their way of life and cultural traditions are disrupted (ACAPS, 2022, p. 1). Moreover, communities frequently face the risk of being subjected to forced recruiting and gender-based violence due to the disruption of their access to protective services (ACAPS, 2022, p. 1). As a result, the restriction of access to the necessary humanitarian services causes other vulnerabilities for the affected communities.

According to Schwendimann (2011), one of the most notable issues in humanitarian intervention is the rising difficulty of accessing communities that need assistance in conflict area. States or non-state entities may impose restrictions on humanitarian assistance, fearing that such assistance could become politicized because of possible foreign interference (ICRC, 2014, p. 2). The UN and other humanitarian organizations are aware of the fact that sustaining continuous humanitarian access is still a major obstacle in many armed hostilities. Humanitarian access is difficult because aid is seldom accepted by the authorities in impacted nations or de facto administrations in places that are not under their control (Rohwerder, 2015, p. 2). Security-related issues such as attack on aid facilities and workers, administrative bottlenecks, as well as intervention from multiple state and non-state parties to the war in the delivery of aid could hamper access to assistance (ICRC, 2014, p. 2). Humanitarian access restrictions have occasionally been introduced by the combatants during conflicts intentionally to hurt civilians (Rohwerder, 2015, p. 2). Therefore, humanitarian access restrictions are used as a tactic of warfare.
The conflict situations and the rampant insecurity that comes from these situations have emerged as two of the most serious drivers of famine and hunger. Armed groups typically engage in activities that lead to the destruction of crops, the stealing of livestock, blocking of roads or supply lines that would otherwise have been used for the delivery of food products, and farmers being driven from their fields, leading to the disruption of the planting season (UN, 2022). This further leads to a general lack of availability of food, higher food prices and eventually, famine and hunger, in both the medium and long-term.

4.1.2 Underreporting of cases and lack of recording of civilians in situations of risk

For protection of civilians under the control of armed groups, cases of risk of violence and harm must be reported to the organizations that can assist in protecting civilians. Many incidents of imprisonment may go undocumented as a result of substantial underreporting, which diminishes the awareness of the issue and limits access to humanitarian relief supplies for the affected people (ACAPS, 2022, p. 1). In 2022 alone, movement restrictions have impacted more than 2.6 million individuals as a consequence of armed conflict, with indigenous and Afro-Colombian populations suffering some of the greatest effects (OCHA) (NRC, 2022). Throughout the years, the same Colombian municipalities have consistently been affected by repeated confinements. Antioquia, Chocó, Nario, Norte de Santander, and Valle del Cauca are the areas that have been most severely impacted (ACAPS, 2022, p. 1). Since 2017, the number of confinements has significantly risen as non-state armed groups fight for control of remote regions (ACAPS, 2022, p. 1). It might be difficult to report crimes by armed groups especially in remote regions and with movement restrictions. This would make it a challenge to protect the civilians under the control of armed groups.

4.1.3 Practical difficulties due to the utilization of human shields

The utilization of human shields involves armed factions employing civilians as a means of protection, hence presenting a formidable obstacle for military troops to engage the armed factions without jeopardizing the lives of innocent civilians. Recent years have seen a rise in the difficulty of defending the urban population from the effects of military attacks. Since urban warfare involves a high number of civilians, it is crucial that parties
uphold their duty to take all reasonable efforts to shield civilian populations and civilian objects from attack (ICRC, 2023). For instance, military forces try to completely avoid fighting in urban areas and placing military targets in or close to densely inhabited regions and, more broadly, use techniques and tactics that move combat outside populated areas (ICRC, 2019, p. 19). All parties have a duty to take precautionary measures to protect civilians from the impacts of attacks when urban conflict cannot be averted (ICRC, 2023). Thus, the party launching an attack is required to provide appropriate prior notice, whereas the party in charge of the area has to evacuate civilians and civilian items as far away from military targets as is reasonably possible (ICRC, 2019, p. 19). However, in contemporary armed conflicts, parties often intentionally put civilians and inhabitants under their control at risk, employing them as human shields, which is against the law (ICRC, 2023). While it does present some practical difficulties, civilians who are deployed as human shields should nonetheless be protected, as the opposite side is required to take all reasonable steps to prevent harming unarmed civilians and consider them in proportionality assessment (ICRC, 2019, p. 19). Hence, urban combat poses a significant challenge in the protection of civilians.

4.1.4 Mistreatment of Civilians

Armed organizations may also exploit and mistreat civilians, subjecting them to forced labor, sexual assault, and other types of abuse. For instance, it was reported that the Liberation Tigers of Tamil Eelam (LTTE), based in Sri Lanka, tortured civilians during the armed conflict in the region. Individuals were abducted and forcibly recruited in all LTTE-controlled areas; this practice became especially active when the Karuna Group broke apart from the LTTE in 2004. (Human Rights Council, 2015. p. 639-643). The LTTE made house calls, sent letters with recruitment instructions, and demanded that every family provide one person (Human Rights Council, 2015. p. 126). Civilians were abducted at LTTE roadblocks and from their residences, places of employment, and houses of worship and forcefully recruited into the armed group (Human Rights Council, 2015. p. 126). After being recruited, they were forced to either serve as soldiers, doctors, or administrators or to assist the LTTE in building military facilities (Human Rights Council, 2015. p. 639-643). Such actions that are performed by armed groups negatively affect the lives of many civilians who are protected by IHL and humanitarian laws.
Trafficked victims are used as forced labor force in a variety of industries, including mining and agriculture (UNODC, 2018, p. 5). Additionally, they are trafficked to be used as domestic helpers or sexual slaves or to assist in armed conflict (UNODC, 2018, p. 5). Children are frequently enlisted by armed organizations to perform forced labor in a variety of military-related jobs (UNODC, 2018, p. 5). There are several reasons why children join military organizations or other armed groups. Some are victimized by armed individuals who kidnap, threaten, intimidate, or manipulate them. Others are pushed by poverty to work to support their family, to survive or defend their communities (UNICEF, 2021). Regardless of the reason, the recruiting and exploitation of children by combat personnel is a serious breach of both international humanitarian law and children’s rights (UNICEF, 2021). Even though human trafficking can take many different forms, it always involves exploitation, which endangers civilians’ life and well-being.

In some instances, sexual assault is used to forcibly evict individuals from their residences or to degrade a community (United Nations, 2018). A minimum of 14,200 children were victims of grave acts of sexual violence, including rape, forced marriage, sexual exploitation, and other atrocious acts, perpetrated by parties in conflict from 2005 to 2020 (UNICEF, 2022). Nevertheless, rape and sexual violence are an underreported problem affecting youngsters in conflict because of the pervasive stigma surrounding them. Girls constitute the majority of victims of sexual violence, accounting for 97 percent of all instances between 2016 and 2020 (UNICEF, 2022).

Sexual assault continues to be used as a weapon of war and an instrument of political repression, targeting ethnic or religious minorities in communities that are being persecuted and affecting the demographics of contested areas (United Nations, 2018). The threat prompts forcible relocation and displacement of civilians, prevents uprooted people from returning, and, through human trafficking and sexual abuse, generates a warfare economy that fuels the income of combatants and armed groups (United Nations, 2018). The social fabric in the affected areas is torn apart, victims become outcasts, and children born as a result of rape during warfare are at risk of becoming stateless and vulnerable to recruiting, extremism, trafficking, and exploitation because of humiliation and victim blaming (United Nations, 2018). Therefore, sexual abuse and assault lead to additional vulnerabilities for civilians residing in the areas controlled by armed groups.
The war in Ukraine has also seen incidences of IHL violations. There is ample evidence of attacks of the Russian armed forces on hospitals, medical personnel, medical units and medical transport in Ukraine in 2022 (OSCE/ODIHR, 2022, p. 15). It implies the Russian armed forces violate the duty to respect and protect the wounded and sick combatants and non-combatants and the medical personnel assisting them. Individuals who are wounded and sick, and members of the medical personnel and chaplains, may under no circumstance partly or entirely renounce the rights guaranteed to them by IHL (OSCE/ODIHR, 2022, p. 15). According to the Associated Press, the Russian armed forces repeatedly attacked Ukrainian medical facilities, striking at hospitals, ambulances, medics, patients, and even newborns, with at least 34 assaults independently documented (Kinetz et al., 2022). Such actions are grave violations of IHL.

Grave breaches have been persistently committed by the armed groups involved in the conflict in Yemen. In blatant violation of the core principles of the international law and humanitarian principles, they restricted Yemenis’ capacity to survive (Mwatana for Human Rights, 2022). As Yemenis raced against time to end the conflict in 2021, the fighting intensified and violence spread throughout the provinces, killing hundreds of non-combatants. Moreover, the war has left poor conditions for the residents of those areas, resulting in the forced displacement of tens of thousands of Yemenis. The escalating violence has also caused widespread damage to vital infrastructure, including hospitals and service facilities (Mwatana for Human Rights, 2022). The severity of the violations has led to a high number of civilians.

Comprehending the nature of armed groups in international humanitarian law is becoming more intricate. As many organizations fight in the same area and against the same enemy in many conflicts today, it is getting harder to recognize and differentiate them. According to ICRC (2019, p. 50), non-state armed (NSA) organizations are progressively structured horizontally rather than hierarchically, while some of them might not even be considered a single sociocultural group. It also gives rise to questions in IHL about what groups or sub-groups can be considered a party to a conflict (ICRC, 2019, p. 50). Some legal theorists argue that IHL is not applicable to NSAs simply because they have not consented to it (Ryngaert, 2008, p. 3). They propose that to hold NSAs responsible in international law, it is necessary to acquire their consent and agreement to the applicable IHL (Ryngaert, 2008, p. 3). Consequently, the proponents of developing substitute regulations for IHL contend that governments should enter into agreements
with NSAs, obliging them to observe IHL and thus the laws of armed conflict (Haugen, 2011, p. 34). However, it would be difficult given the nature and objectives of NSAs.

Nonetheless, IHL is already applicable to NSAs and states do not need to come to agreement with NSAs for four main reasons. First, NSAs are already subject to state rules by which they are forbidden from using any force (Bellal et al., 2011, p. 51). Second, they are subject to the state obligations of IHL, where the use of force by NSAs also creates criminal responsibility (Bellal et al., 2011, p. 51). Third, NSAs are already obliged to follow IHL because it is customary international law (Bellal et al., 2011, p. 51). Fourth, agreements with NSAs legitimize the use of force by NSAs/terrorists but require them to execute it in a particular fashion (Qureshi, 2019, p. 18). The primary problem with the claim that IHL does not apply to NSAs is that it assumes that any person or group of people can live independently without being beholden to any rules if they decide to disregard state’s rules and customary international laws (Qureshi, 2019, p. 18). It not only leads to anarchy, where individuals can massacre civilians without any criminal responsibility or fear of persecution in a scenario of lawlessness, but also creates the prospect of licensing terrorists to conduct their heinous criminal activities (Qureshi, 2019, p. 18). Nevertheless, international humanitarian law is applicable to both state and non-state armed groups.

Armed groups pose significant risks to civilians. The immediate, most urgent and serious risk is that of harm, injury and death. The evolution of technology means civilians could also suffer from crimes of threat and informational blackmail (Naggi, 2024). Civilians also suffer from untold psychological issues, including post-traumatic stress disorder. For context, the United Nations notes that in 2022, up to 94% of the victims of explosive devices that were used in conflict scenarios were civilians. This was from records that were derived from up to 17 conflict areas across the world (UNOCHA, 2023). This points to the fact that armed conflict poses a huge risk to civilians, their lives and health. Conflict results in the destruction of homes, schools, healthcare facilities, water and other important infrastructure.
4.1.5 International Efforts to Protect Civilians in the regions under the control of armed groups

The UN has the responsibility to defend and safeguard legal protections of civilians in regions under the control of armed groups in military confrontation (United Nations, 2018; Fjelde et al., 2019). All aspects of a peacekeeping operation, including civilian, army, and police duties, fall under the umbrella of the Protection of Civilians (POC) mandate (United Nations, 2018; Fjelde et al., 2019). The IHL emphasizes the balance between safeguarding people and the preservation the rights of soldiers in armed conflict (Singh & Yadav, 2023). Safeguarding civilians in regions under the control of armed groups requires more than just offering physical protection. Prevention is equally important for the protection of the civilian population (United Nations, 2019). Prevention actions such as engaging with local actors is vital to addressing threats to communities.

In order to reflect the changing tactical and situational conditions and to create new strategies for successfully implementing the POC obligation, the UN peacekeeping practices on civilian protection have been evolving since 2015. (United Nations Department of Peace Operations, 2022, p. 3). The UN adopts a holistic strategy for protecting civilians in regions under the control of armed groups, which covers a wide variety of issues, notably governmental, security, and economic ones, that affect and underlie dangers to civilian populations in both short and long term (United Nations Department of Peace Operations, 2022, p. 3). The operation elements, which include civilian, law enforcement, and military ones, must work together to safeguard civilians in regions under the control of armed groups. Additionally, cooperation with other UN entities, such as the UN Country Team (UNCT), might also be necessary (United Nations Department of Peace Operations, 2022, p. 3). Such a strategy acknowledges that in order to accomplish the mission’s overall protection aims, the protection of civilians in regions under the control of armed groups necessitates the integration of the entire spectrum of resources available to the operation.

All peacekeepers, including non-combatants, police officers, and soldiers, have a responsibility to protect civilian populations under the control of armed groups. It is carried out with the assistance of relief operations and in adherence to humanitarian standards (United Nations, 2019). Whenever the state is either incapable or reluctant to
offer safety, militarized peacekeeping troops with a POC mission (police and soldiers) have the duty and power to do so within the scope of their training and the region of deployment. Three basic methods are used by civilian, police, and military peacekeeping forces to protect the population: communication and interaction, providing physical safety, and creating safe surroundings (United Nations, 2019). A peacekeeping operation participates in political campaigns and discourse, such as backing for peace deals or negotiations, government engagement, or resolving local issues (United Nations, 2019). Such missions are highly beneficial for the protection of civilians.

Peacekeeping is one of the crucial resources that has been used by the UN for the prevention and resolution of conflicts for more than 70 years. Distinctive advantages of peacekeeping include legitimacy, shared responsibility, and the capacity to mobilize and preserve ground forces and officers from all over the world, incorporating them with civilian peacekeeping operations to advance multifaceted obligations, facilitation the nations’ transition from war to stability (Better World Campaign, 2023). At present, peacekeeping missions are needed to help create and restore the rule of law, enable government operations, protect the population, and aid in the demilitarization, counterinsurgency, and rehabilitation of ex-combatants. They also promote democratic principles by helping to organize elections and safeguarding and promoting human rights (Better World Campaign, 2023). Besides the UN, other international organizations have been actively involved in protecting civilian lives in the regions under the control of armed groups. The International Committee of the Red Cross (ICRC), which was founded in 1863, works to aid those impacted by armed conflict and promote legislation that safeguards the victims of war (ICRC, 2016). Its mission as an impartial, autonomous agency mostly derives from the 1949 Geneva Conventions (ICRC, 2016). Therefore, international organizations such as the UN and ICRC have the mandate to preserve the life and well-being of civilians under the control of armed groups.

**International human rights agencies and civil society groups extensively fight to protect the rights of civilians in regions under the control of armed groups and make armed groups responsible for their transgressions (Gray, 2018).** Following World War II, the international community has made strides in creating an international judicial process that would be an addition to the national justice system and serve as a venue for the trial of those charged with the offence of mass murder, war crimes, and human rights violations (ICRC, 2017; Gray, 2018). Such a system primarily consists of
two components: firstly, it depends on the creation of temporary and other international tribunals that are established during a conflict, and secondly, it may be carried out by the newly created International Criminal Court (ICRC, 2017; Gray, 2018). The international community has acknowledged the importance of engaging armed non-state actors (ANSAs) in compliance with international norms in an effort to improve the protection of civilians in armed conflict, even though it has been actively discouraged or even prohibited by states in some contexts (Bellal, 2017, p. 2). Thus, according to these definitions, “engaging” ANSAs to improve respect for IHL means involving them into the discussions on IHL and establishing a meaningful contact in order to exchange on IHL matters (Bellal, 2017, p. 2). In a system still dominated by the preservation and regulation of states’ interests, in which ANSAs are usually considered at a minimum as a disrupting force and at a maximum as a dangerous and lethal one, it is not surprising that any sort of engagement with these actors is received with suspicion by states and part of the international community (Bellal, 2017, p. 2). Nevertheless, this method has proved to work in some areas. From Afghanistan to the Democratic Republic of Congo (DRC), peacekeeping operations have made observable, successful efforts to change the behavior of NSAGs through engagement. It has been known for a long time that engaging NSAGs is necessary to enhance protection, and several peace organizations have really been discreetly doing comparable work (Mamiya, 2018, p. 1). Through such actions, the lives of civilians may be protected in armed conflicts.

**International human rights organizations such as Human Rights Watch are dedicated to protecting and advocating for human rights and the protection of civilian lives.** Being one of the major nongovernmental groups worldwide, Human Rights Watch works to defend the rights of individuals across the globe. Human Rights Watch releases approximately 100 investigations and briefs on the state of human rights in about 90 countries annually, garnering substantial national and global press coverage (Human Rights Watch, 2023). Human Rights Watch engages with states, the UN, continental organizations such as the African Union and the European Union, financial companies, and businesses to discuss how to reform policy and practices to advance human rights and justice globally (Human Rights Watch, 2023).

Apart from international human rights organizations, civil society groups also fight for the rights of non-combatants and work to render armed groups responsible. Civil society makes daily contributions to the development, preservation, and advocacy of
human rights around the world (OHCHR, n.d.). Across the globe, civil society has expanded in scope and significance. A thriving civil society has given voice to marginalized populations and enabled them to actively participate in the fight for their civic, societal, economic, and constitutional rights. Civil society can recognize and respond to challenges that require group problem-solving. In situations where there is a decline in or absence of governmental services, notably in nations that are experiencing a lengthy crisis, civil society organizations (CSOs) are also crucial (ACTED, 2023). A vital component of ensuring long-term human rights protection in any area of the globe is the existence of a vibrant, diversified, and independent civil society that is empowered to function and is well versed in human rights issues (OHCHR, n.d.). The civil society is, therefore, a crucial entity in the protection of civilians.

4.1.6 Important Issues from IHL Perspective

IHL is applicable to military conflicts that are both international and non-international (OSCE/ODIHR, 2022, p. 9). It limits the tools and techniques of combat while protecting those who are not or are no longer taking part in confrontation. Consequently, it is *ratione materiae* to military conflict circumstances only (OHCHR, 2012, p. 5). By providing as much protection and support to its sufferers as possible, international humanitarian law seeks to minimize the misery caused by armed conflict. Thus, IHL deals with the circumstances of a conflict without taking the justification for the legality of using force.

The idea of protecting civilians during conflict periods from the activities of armed groups raises several important issues. However, the first step in any consideration of such issues should be the principle of distinction. As a general rule, the idea behind the principle of distinction is that direct attacks should only be allowed towards the armed forces that are parties to a conflict (Cohen & Zlotogorski, 2021). The peaceful civilian population has to be spared, and protected, as much as possible, from the effects of the war and conflict. In line with the protection of civilians in areas under the control of armed groups, it is fundamental to understand the basic elements of the law aspects that define and distinguish the peaceful civilian from the parties to the conflict, and the extent to which protections against the effects of war have to happen. It is this principle, and its resultant definitions that then become the basis for understanding effects on civilians and
the establishment of these effects in the law. Another important related issue, especially within the context of the international humanitarian law, would be the idea of proportionality. Attacks towards military objectives can be dramatic in both their nature and effects. The idea behind proportionality is an acknowledgement that in many cases, it might be difficult to completely avoid effects to civilian populations. However, there is still an obligation to avoid excessive damage when attacking legitimate military targets. Again, this raises important definitional issues. First, one must understand what a real or legitimate military objective and target is in the law. Secondly, it also becomes important to understand what a civilian object is, and the careful distinction between the two. This is especially important in situations where conflicts take place in urban areas, with the effects then being severe for civilians and civilian objects.

4.1.7 Restrictions on humanitarian access

Armed groups obstruct particular areas or restrict the movement of relief workers, making it challenging for civilians to get the assistance they require (Saul, 2017). To ensure the safety of people during a crisis, humanitarian aid must be delivered quickly and effectively to those who require it. Parties to the conflict have a strong legal obligation under international humanitarian law to facilitate the supply of such aid. IHL acknowledges that a state’s civilian population has a right to humanitarian aid if that state is involved in armed conflict. It also specifies the requirements for delivering humanitarian aid to the needy populations in the form of food, medication, emergency aid, or other essentials (ICRC, n.d.). All the parties to a conflict, be it international or regional one, have a responsibility to provide and support the quick and unhindered movement of humanitarian aid for civilians who need it.

Assistance should be given impartially and solely on the premise of need (Diakonia International Humanitarian Law Centre, 2023b). Depending on how armed conflict is defined under humanitarian law, different legal requirements on humanitarian access apply. Regardless of the type of conflict, the consent of all parties involved is needed for the provision of humanitarian aid (Diakonia International Humanitarian Law Centre, 2023b). However, there is a definite responsibility for the occupation of force in occupation settings, which are a type of international armed conflict, to secure enough supplies to the people or to consent to and support relief efforts if the entire or a part of
the population is undersupplied (Conflict Dynamics International, 2014, p. 7). In reality, humanitarian groups require the approval of the involved parties to operate. Consequently, determining whether combatants can use legitimate justifications to refuse relief efforts in the areas they govern is the legal question of humanitarian accessibility in armed conflicts in each individual case (Conflict Dynamics International, 2014, p. 7). In other words, it must be determined under what circumstances the refusal may be deemed arbitrary and in violation of the applicable IHL requirements.

No good cause could be given to refuse assistance if it would result in starvation, especially when it is utilized as a weapon of war (Conflict Dynamics International, 2014, p. 18). Nevertheless, this is not the only situation in which refusal could be viewed as arbitrary or result in IHL violations. According to customary IHL, parties to the conflict, regardless of whether international or non-international, have to permit and facilitate the quick and unhindered delivery of humanitarian aid for civilians in need that is undertaken without discrimination once a relief operation has been agreed upon (Conflict Dynamics International, 2014, p. 18). It does not interfere with their ability to exercise control. Relief efforts offered should not be construed as hostile acts or as interfering with armed conflict (Conflict Dynamics International, 2014, p. 7). The warring parties and the states involved in armed conflict should therefore not interfere with access to humanitarian assistance.

Humanitarian aid may be difficult to deliver under certain conditions, such as in case of a pandemic during armed conflict. Therefore, the regulations of international humanitarian law provide key guidelines for the discussion on humanitarian assistance and the allocation of relief efforts among warring parties, third states, and global humanitarian groups whenever a pandemic breaks out during a military confrontation (ICRC, 2020, p. 1). IHL regulations governing humanitarian access, along with general international law, provide a framework of what every party can and cannot do while balancing health requirements, military requirement, and humanitarian action (ICRC, 2020, p. 1). During the COVID-19 pandemic, the health codes and other actions implemented by warring sides and third states to stop the spread of Covid-19 would not supersede IHL requirements on humanitarian assistance (ICRC, 2020, p. 1). Access to humanitarian assistance has to be respected by the parties of conflict and the states involved.
4.1.8 Displacement of civilians

Civilians may escape their residences, becoming displaced persons, or seek safety abroad as a result of military conflict and violence (Rodenhäuser, 2020). According to international humanitarian law (IHL), individuals who have been compelled to flee their homes, often due to armed conflict or other forms of violence, but are still within their country’s boundaries are referred to as internally displaced people (IDPs) (AALCO, 2019, p. 4). IDPs have not thus traveled across borders in search of safety. Even if their displacement was caused by the state of their own nation, they remain there and are still protected by international humanitarian law and the state (AALCO, 2019, p. 4). Internally displaced people frequently relocate to areas where it is challenging to provide humanitarian aid, becoming some of the most vulnerable populations around the world (AALCO, 2019, p. 4). Occasionally, populations are compelled to cross international boundaries in quest of refuge, protection, and security. International humanitarian law (IHL) forbids any forceful displacement carried out by parties to a conflict (Diakonia International Humanitarian Law Centre, 2023a). Nevertheless, the uprooting of citizens from their dwellings and the severing of family ties is one of the most frequent effects of armed conflict that raises serious humanitarian issues (OHCHR, 2023).

Internally displaced people have the same rights as other people, which are outlined in both international human rights treaties and common law. Additionally, they are entitled to the same rights under international humanitarian law as ordinary civilians in times of armed conflict (OHCHR, 2023). IHL is crucial in preventing forced displacement. It forbids the relocation of people unless it is required for urgent military needs or for the civilians’ safety. A broad or intentional campaign of civilian displacement without such cause is considered a crime against humanity (ICRC, 2010b). Furthermore, IHL defines minimal norms of decency that must be followed in every armed conflict situation. Among other things, these requirements aim to safeguard civilian communities and their sources of subsistence (ICRC, 2022, p. 1). Some of the primary causes of displacement in today’s military conflicts include direct assaults and all types of maltreatment of civilian populations, property damage not rendered necessary by military operations, rape or other forms of sexual violence, and illegal constraints on access to health care and other vital services (ICRC, 2022, p. 1). In times of armed conflict, access
to refugees and internally displaced people is guaranteed by international humanitarian law. Participants in a conflict should facilitate the supply of aid, including meals, blankets, and temporary shelters (ICRC, 2010b).

However, there is no international legally enforceable agreement that addresses the situation of internally displaced people. Nonetheless, the UN Commission on Human Rights did approve a resolution in 1998 that established the Guiding Principles (ICRC, 2022, p. 2). The Guiding Principles on Internal Displacement attempt to resolve any discrepancies and clarify any vagueness in various instruments with regard to situations of significant concern to internally displaced persons in addition to reaffirming and compiling established international human rights and humanitarian law relevant to them (OHCHR, 2023). Although these Guiding Principles do not have legal force, they contain various guidelines that are in accordance with the current international human rights legislation (IHRL) and IHL (ICRC, 2022, p. 2). The Guiding Principles have also received widespread backing from the international community and have been adopted into the national law systems of several jurisdictions (ICRC, 2022, p. 2). The Guiding Principles clearly state that nations have the fundamental responsibility for preventing displacement, protecting and assisting those who are internally displaced inside their borders, and finding long-term solutions to their problems (ICRC, 2022, p. 2). This way, they set the framework for drafting future legislation on displacement and internally displaced people.

4.1.9 Methods of warfare

In armed confrontations, the parties aim to defeat the opponent by employing contemporary tactics and weapons, which are continuously evolving and improving due to advancements in science and technology (Arakelian et al., 2020, p. 351). However, the participants can decide how to wage war. IHL forbids warring parties from engaging in combat activities with weaponry, munitions, chemicals, or tactics of combat that could result in undue suffering or harm to soldiers and civilians (Arakelian et al., 2020, p. 351). The earliest component of international humanitarian law is known as “Hague Law,” which governs the employment of weapons and tactics in battle in order to lessen the “calamities of war” to the greatest extent possible (Gaggioli & Melzer, 2020, p. 1). Three primary dogmas can sum up its central tenets are as follows: (a) the only legitimate element which jurisdictions should endeavor to achieve during war is to
destabilize the armed units of the enemy; (b) the right of the warring parties to choose practices or means of fighting is not unrestricted, and (c) the civilian populace and specific civilians should enjoy fundamental safety against hazards resulting from military activities (Gaggioli & Melzer, 2020, p. 1). Pertaining to the methods of combat, the preservation of civilian property is crucial to the law of armed conflict. Targeting or bombing vulnerable cities, townships, residences, or buildings is forbidden under Article 25 of the Fourth Hague Convention, which was signed in 1907 (Arakelian et al., 2020, p. 353). The methods used by the combat groups are therefore limited under the international humanitarian law.

Additional Protocols I and II to the Geneva Conventions of 1949 were agreed at the Diplomatic Conference of 1974–1977, and the Diplomatic Conference of 1979–1980 was held to address the problem of banning or restricting particular forms of weaponry. The humanitarian standards developed by the Geneva Conventions were an important advance in the establishment of international humanitarian law on techniques and methods of combat (Arakelian et al., 2020, p. 352). IHL established by the Geneva Conventions and customary international law forbid a variety of forms of combat. The Denial of Quarter is one of these. It is prohibited to declare that no quarter will be granted, threaten an opponent with it, or start hostilities on this premise (ICRC, 2017). Forces of the enemy must be given an opportunity to surrender and be captured. A wounded soldier must be treated with dignity and safety (ICRC, 2017). Pillage, or the violent taking of privately-owned property from an enemy’s population by an attacking or conquering troop, is forbidden (Haye, 2020, p. 190). It is against the law to use starvation as a tactic of war. It is also forbidden to attack, damage, remove, or render obsolete items required for the life of the civilian populace (ICRC, 2017).

According to international humanitarian law, perfidy cannot be used to assassinate, hurt, or capture an enemy. According to Article 37 of Additional Protocol I, perfidy is defined as acts giving an enemy confidence to convince them that they are entitled to, or are required to give, protection under the international law principles relevant in armed conflict, with the purpose to destroy such confidence (ICRC, 2017). It includes, for instance, attacking an opposing combatant while pretending to be ill or injured (ICRC, 2017). Ploys of war, or deeds meant to pervert the enemy’s judgment but not in violation of international law, are not forbidden (ICRC, 2017). For example, using decoys, mock missions, camouflage, and spreading false information would fall under
this category (ICRC, 2017). With such landmarks, it is clear that international humanitarian law is designed to safeguard civilian lives and alleviate unnecessary suffering by outlawing particular forms of combat.

5 CONCLUSION

The international community needs to keep focusing on and making efforts to protect civilians in regions that are controlled by armed groups. A rising number of people have been murdered, injured, treated inhumanely, arbitrarily detained, and/or cut off from their families throughout recent armed conflicts. They were deliberately singled out for attack, compelled to flee their homes, and denied access to even the most fundamental human rights, such the right to food and water. Armed groups may commit crimes such as kidnappings of civilians. Armed groups may also abuse and exploit civilians, subjecting them to sexual assault, forced labor, and other forms of abuse. Human trafficking is another manifestation of the inhumane treatment, abuse, and violence that characterize armed combat. Armed groups often subject the trafficked victims for forced labor in different sectors. They also commit sexual assaults and abuse against civilians in the areas under their control. Moreover, certain parties to the conflict have erected barriers in the way of humanitarian aid for the civilian population during recent military wars. As a result, the ability of humanitarian groups such as the ICRC to perform their mandate to aid and safeguard the innocent people is frequently hindered by the parties to a conflict. Such violations pose significant protection challenges.

The inability of the participants of a military confrontation to uphold their commitments within humanitarian law is the major cause of forcible displacement. In fact, humanitarian law places significant restrictions on the ability of such parties to engage in forcible displacement. In addition to the protection offered by international humanitarian law, it governs the execution of conflicts and regulates the treatment of people under the control of a party to military conflict. Only if all involved parties agree to turn their commitments into actual actions can the huge and ongoing breaches of humanitarian law be prevented and discouraged. The commanders of the warring parties may issue strict directives to prevent any improper behavior on the part of their soldiers, and when required, they must repress the misconduct and notify the appropriate
authorities. Additionally, it is crucial that states abide by humanitarian law accords with the fewest setbacks feasible and reexamine past infractions in order to end them.
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Lilly, D. (2023, January 6). Does the UN need a more coherent approach toward “de facto” authorities?. https://reliefweb.int/report/world/does-un-need-more-coherent-approach-toward-de-facto-
The term “de facto authorities” is used to describe state-like structures that are not recognized by the international community. Melzer and Kuster (2016) discuss the engagement of non-state armed groups to protect civilians, highlighting the pragmatic approach outlined in their work. Mamiya (2018) has also written on the topic of non-state armed groups and protection of civilians, emphasizing the importance of understanding the dynamics between UN peace operations and local actors.

Naghi (2024) explores legislative regulation of both crimes of threat and informational blackmail in Saudi Arabia, conducting an analytical study of information crime law. This work adds to the broader conversation on the application of international law in contemporary conflicts.

NRC (2022) reports on the ongoing situation in Colombia, where armed groups continue to keep over 100,000 people in forced confinement, despite the peace deal. This highlights the continued struggle for human rights in post-conflict environments.

Qureshi (2019) discusses the applicability of international humanitarian law to non-state actors, contributing to the debate on how such laws are enforced in contexts where traditional state authority is absent.

Rodenhäuser (2020) examines the legal protection of persons living under the control of non-state armed groups, providing insights into the challenges faced in such environments.

Rohwerder (2015) addresses the issue of humanitarian access, with a focus on the role of non-governmental organizations (NGOs) in accessing communities controlled by non-state armed groups. This work underscores the importance of international cooperation in ensuring the protection of civilians.

The protection of civilians in areas under the control of armed groups remains a critical issue in contemporary conflict settings, requiring ongoing research and international collaboration to develop effective strategies.


