Protection of Civilians in situations of armed conflict

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International Committee of the Red Cross
- a Swiss-based humanitarian organization founded in Geneva in 1863
- formally recognized in the 1949 Geneva Conventions and other texts adopted by States
- vested with an international legal personality
e a sui generis legal body exercising specific functions under public international law
The ICRC’s Mission:

an impartial, neutral and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance.

The ICRC endeavors to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles.

International Federation of Red Cross and Red Crescent Societies

INTERNATIONAL HUMANITARIAN LAW (IHL)

A set of international rules, established by treaty or custom, which are specifically intended to solve humanitarian problems directly arising from international or non-international armed conflicts and which, for humanitarian reasons, limit the right of parties to a conflict to use the methods and means of warfare of their choice or protect persons and property that are, or may be, affected by an armed conflict.

Also known as: Law of Armed Conflict (LOAC) or Law of War
The rules which, in times of armed conflict, seek to protect persons who are not, or no longer, taking part in the hostilities, and to restrict the methods and means of warfare employed.

IHL – SOME DISTINCTIONS

- *jus ad bellum* vs. *jus in bello*
- Rules governing the resort to armed force
  - United Nations Charter
- Rules applicable between warring parties during armed conflict
  - International humanitarian law
- Other branches of Public International Law
  - International Human Rights Law
  - Refugee Law
  - Law on Disarmament
  - International Criminal Law

IHL TREATIES

- 1949 Geneva Conventions on Protection of Victims of war
  - CG I: Wounded and Sick
  - CG II: Wounded, Sick and Shipwrecked
  - CG III: Prisoners of War
  - CG IV: Civilians
- 1977 Additional Protocols to the Geneva Conventions
  - AP I: International Armed Conflict
  - AP II: Non International Armed Conflict
  - AP III: Additional Distinctive Emblem
- Hague Conventions of 1907
- Other international treaties
  - Protection of certain categories of persons or objects
  - On limitation of the use of specific weapons
  - Of International Criminal Law
GENEVA CONVENTIONS OF 1949

LEGAL FRAMEWORK:
IHL & ICRC
- Historic Link
- Roles and Tasks under IHL
- ICRC as promoter of IHL
- ICRC as custodian of IHL

ETHICAL FRAMEWORK
Humanitarian principles
(based on seven fundamental principles of Red Cross & Red Crescent Movement)
- Humanity
- Neutrality
- Independence
- Impartiality
PROTECTION DEFINED

Broad sense:
Ensuring the full respect of the rights of the individual and the obligations of the authorities/arms carriers in accordance with the letter and the spirit of the relevant bodies of law and, therefore, to preserve people’s safety, integrity and dignity.

PROTECTION DEFINED

Strict sense:
Those activities aimed at preventing or putting an end to and/or avoiding the recurrence of violations of their obligations or the rights of individuals by the authorities/arms carriers in accordance with the letter and spirit of IHL and other protective norms in situations of armed violence.

DISPLACEMENT – IHL FRAMEWORK

Particular violations of IHL causing displacement:
- Attack on civilians or civilian property, indiscriminate attacks
- Starving civilians as a method of warfare, destroying objects indispensable to survival
- Reprisals against civilians and civilian property
- Use of civilians as “human shields”
- Collective punishment, destroying homes
- Hindering passage of relief supplies and provision of assistance necessary for the survival of civilians.
DISPLACEMENT – IHL FRAMEWORK

Exceptions to deportation and forcibly transfer civilians include:
- Deport or forcibly transfer civilians of an occupied territory (Internationally armed conflict)
- Order the displacement of the civilian population (Non-internationally armed conflict)

In case of displacement, all possible measures must be taken in order that civilians are received under satisfactory conditions of shelter, hygiene, health, safety and nutrition.

(V(Customary IHL, rules 129 & 131).

VULNERABILITY FACTORS - IDPs

Direct or indiscriminate attacks, reprisals, collective punishment, looting, harassment, insecurity, and general lack of safety
Becoming separated from their families
Secondary displacement, restricted movement
Exploitation, coercion, disenfranchisement, marginalization
Inadequate shelter, food, & essential services
Restricted employment and/or subsistence opportunities
Forced return, in violation of right to voluntary, safe, dignified return with long-term solutions.

VULNERABILITY FACTORS - CHILDREN

Attacks on their lives, dignity, and physical integrity, and also attacks against caregivers
Separation from parents or other caregivers
Lack of health services or of food and basic commodities, inadequate shelter, and presence of mines/explosive remnants of war
Association with armed forces/armed groups (recruitment, live combat, physical and/or sexual exploitation, abuse)
Attacks on educational structures and staff, which interrupt learning and cause psychological trauma and loss of "safe areas".
VULNERABILITY FACTORS - WOMEN

- Sexual violence and/or attacks on their lives, dignity and physical integrity (they are at greater risk when separated from family)
- Restricted access to essential goods and services, and life-saving health care, including reproductive health care
- Having to assume responsibility to provide for their families
- Exceptional vulnerability when forced to support weapon bearers.

CHALLENGES OF ENFORCING IHL

- Accountability
- Monitoring and enforcement of compliance
- Proper application of IHL - failure to implement existing norms due to lack of political will
- Changing nature of armed conflicts, e.g., increase of non-international armed conflicts
- Enforcement of IHL at the national level
- Lack of knowledge of IHL (arms bearers without IHL training directly involved in fighting)
- Clarifications & developments of IHL should preserve current standards of protection

PROTECTION OF CIVILIANS
CONCEPT OF "PROTECTED PERSON"

- Those who benefit in wartime from humanitarian law (treaty or customary)

- Specifically protected groups:
  - the wounded, the sick, the shipwrecked, prisoners of war and other persons deprived of their freedom in relation to conflict, civilians and other persons not or no longer taking part in the fighting, medical and religious personnel, the staff of relief operations, the staff of civil defence organizations and mediators

PRINCIPLE OF DISTINCTION

Military Necessity

- Legitimate Military Objectives:
  - Military Objects
  - Armed Forces
  - Civilians DPH
  - Means & Methods of Warfare

Distinction

- No indiscriminate attack
- Precaution
- Proportionality

Humanity

- Persons & Objects Protected from Attack:
  - Civilian Objects
  - Civilians
  - Medical & Religious Personnel
  - Combatants hors de combat (wounded, sick, captured, POW, surrendered)
For the ICRC, protection, in the broadest sense, aims to ensure that authorities and other actors respect their obligations and the rights of individuals in order to preserve the lives, security, physical and moral integrity and dignity of those affected by armed conflicts and/or other situations of violence.

Protection includes efforts that strive to prevent or put a stop to actual or potential violations of international humanitarian law (IHL) and other relevant bodies of law or norms that protect human beings.

Protection aims to eradicate the causes of violations, or the circumstances that lead to them, by addressing mainly those responsible for the violations and those who may have influence over them.

Protection includes activities that seek to reinforce the security of individuals and indirectly to reduce the threats they face and their exposure to risks.

Protection by the ICRC: 3 branches

- Re-establishment of family links
- Detention activities
  - Activities in favour of persons deprived of freedom
- Protection of the civilian population
  - Activities in favour of the civilian population and other persons not or no longer taking part in hostilities or acts of violence
Conditions for Actions

- Quality of the Dialogue
- Identification of Authorities
- People’s Safety
- ICRC Staff Safety
- Access

Coordination challenges

- Reform of UN Humanitarian Sector (Clusters, IASC)
- Building on differences and complementarities: finding positive synergies
- Uniform approach to methodology and actions: duplicating instead of reinforcing

Coordination challenges for the ICRC

- Field-driven: action that responds to the actual field situation according to prioritized assessed needs
- Action-oriented: flexible, adaptable and dynamic arrangements adapted according to changing context
- Ensuring accurate perception and acceptance
  - Challenge: preservation of the perception of ICRC as neutral, impartial and independent organization
CONCLUSION

- ICRC’s work is exclusively humanitarian
- ICRC can only fulfill its mandate and provide protection when our independence is fully respected
- ICRC stands ready to cooperate with others working to provide protection, in accordance with our respective missions.