

Concept Note: Reclaiming the Protection of Civilians under International Humanitarian Law

Over the last sixty years, international humanitarian law (IHL) has established a comprehensive legal framework on the protection of civilians in armed conflicts. There is broad agreement that these rules afford civilians significant protection from the effects of military operations, provided that they are faithfully implemented. Nonetheless, we see on a daily basis that civilians are affected in a myriad of ways by armed conflict, whether as the direct victims of death, injury, rape and forcible displacement or as indirect victims through conflict-induced increases in disease, hunger and malnutrition.

Modern conflicts are often fought in urban areas and increasingly, civilians are caught in the midst of hostilities. Civilians represent the vast majority of victims in armed conflicts, and both the humanitarian problems, as well as the grave and long-term socio-economic consequences caused often continue to affect them long after a conflict itself has ended. The need for further regulation and clarification of IHL should be continuously assessed in order to keep up with developments in modern warfare and new emerging humanitarian concerns. However, it is a widely accepted view that the main obstacle to better protection of civilians in armed conflicts relate primarily to the way in which the existing rules of IHL are implemented, or a lack of respect for the rules by the parties to the conflicts.

The tremendous human suffering that is inflicted on the civilian population in conflicts across the globe calls for an honest and open-minded discussion on whether the way IHL is implemented in practice is in fact adequate to provide civilians with the protection they are entitled to under these rules.

Moreover, it should be underlined that what is needed at this point is far more than a theoretical discussion on the understanding of IHL, far removed from the grim realities on the ground. In order to identify practical measures and recommendations suitable to effectively address the humanitarian challenges at hand, we believe it is necessary to build the discussions on experience from the field, based on the contributions from people and organisations with first-hand experience from dealing with protection of civilians in conflict settings, both from the military side, as well as the UN, the ICRC and other humanitarian organisations working in the field.

The “Reclaiming the Protection of Civilians under IHL” initiative was launched in 2009 to create a forum for such a discussion. The aim of the process is not to negotiate new law, but to agree on practical measures and recommendations which will effectively improve the situation for civilians in situations of armed conflict, as well as possible incentives to improve the respect for IHL by the parties to conflict.

The intention is to arrange a series of regional seminars, to engage interested governments and civil society across the world in the discussion, culminating in a global conference in 2013, to sum up and hopefully agree on strong, concrete recommendations on how IHL should be understood and implemented in order to address our concerns.

The first of these regional seminars took place in November 2010 in Jakarta, Indonesia, with participation from 12 countries in the ASEAN/Pacific region. The second seminar took place in Argentina 7-8 November 2011 with participation of 20 countries in the region. The third regional conference took place in Kampala, Uganda in April 2012, with 48 states present discussing the protection of civilians in the context of armed conflicts in Africa. The last

regional seminar for took place in Vienna 21 – 22 February this year with 35 states present focussing on particular challenges faced in this region. In addition to military and civilian state representatives, the UN, ICRC, civil society organisations and academics have participated in the seminars.

The concrete outcome from the seminars has been in the form of a “Co-Chair’s Summary” from each seminar, summing up the main issues and concerns discussed, as well as concrete recommendations to be taken in order to improve the protection of civilians affected by armed conflict.

These “Co-Chair’s Summaries” from the regional seminars are intended to form the basis of the final, global conference, which will be organised in Oslo 23 – 24 May 2013. This conference will aim to achieve broad agreement on a number of practical measures and recommendations which will effectively improve the situation for civilians in armed conflicts, as well as possible incentives to improve respect for IHL by all parties to armed conflict.

To facilitate the discussions, a background paper has been elaborated by the Norwegian Peacebuilding Centre (Noref). The paper seeks to systematise experiences from recent armed conflicts worldwide, identify areas where interpretation/implementation of IHL should be strengthened (protection gaps) and possible practical measures to increase adherence to IHL. The paper can be found in English, Spanish and French at the conference website at www.reclaimingprotection.no.