

CO-CHAIRS' SUMMARY
REGIONAL WORKSHOP ON “RECLAIMING THE PROTECTION OF CIVILIANS
UNDER INTERNATIONAL HUMANITARIAN LAW”, KAMPALA, UGANDA, 25 – 26
APRIL 2012

A Regional Workshop for Africa on Reclaiming Protection of Civilians under International Humanitarian Law (IHL) was held in Kampala from 25 – 26 April 2012, co-hosted by the Government of the Republic of Uganda and the Government of Norway. The Workshop was attended by participants from 48 African countries, including representatives from Government, the military as well as academia. It was also attended by representatives of the United Nations, the African Union, the International Committee of the Red Cross and Non Governmental Organisations. The Government of Indonesia and the Government of Argentina participated in order to share experiences from the regional workshop for Asia in Jakarta 2010 and from the regional workshop for Latin America in Buenos Aires in 2011 respectively.

During the workshop, a high level segment was held with the participation of Hon. Asuman Kiyingi, Minister of State for Foreign Affairs in charge of Regional Cooperation, also holding the portfolio for Minister for Foreign Affairs of the Republic of Uganda and H.E. Ambassador Gaustadsæther from Norway. The Hon.Minister emphasized that IHL constitutes a comprehensive framework for the protection of civilians and is binding on all parties to a conflict. He however noted that civilians are still heavily affected during armed conflicts, especially women and children. He reiterated that military forces should endeavour to reduce incidental harm to civilians. Ambassador Gaustadsæther, speaking on behalf of the Deputy Foreign Minister of Norway Gry Larsen, stressed that improving the protection of civilians is not a matter of negotiating a new law, but rather of improving the implementation of the existing law, which is binding on every person. He underlined the importance of a global dialogue on how to improve implementation of IHL in contemporary conflicts.

IMPACT OF ARMED CONFLICT ON CIVILIANS

- Civilians continue to bear the main burden of armed conflicts. The situation in Somalia was mentioned as an example of the extreme vulnerability of civilians, including a high number of children suffering from blast injuries. Urban warfare, including indiscriminate shelling of populated areas, represents a particular challenge to protection of civilians under IHL.
- The civilian population often do not receive the much needed humanitarian assistance due to insufficient capacity on the ground and inadequate security and access for humanitarian actors, including medical personnel.
- Changing conflict patterns, involving a range of non-state armed actors with unclear chains of command, and often blending in among civilians not taking an active part in the conflict, create particular challenges for the protection of civilians. Among the main challenges faced in such complex armed conflicts were maintaining the civilian character of refugee and IDP camps, the erosion of the perception of neutrality of humanitarian workers in conflict situations and the looting of humanitarian aid.
- The choice of weapons and the conduct of hostilities have a major impact on civilian casualties in these circumstances.

- Threats and attacks against health care workers, facilities and vehicles have devastating humanitarian consequences. It directly affects the security of health personnel with the multiplying effect of preventing access to health services for those who need them the most – the victims of armed violence and conflict.

PROTECTION OF CIVILIANS AGAINST THE EFFECTS OF HOSTILITIES

- The AMISOM “Indirect Fire Policy” of 2011 to reduce civilian casualties and respond to harm and the Civilian Casualty Tracking, Analysis and Response Cell (CCTARC) were mentioned as good practices to address civilian harm and to increase accountability for parties to conflict.

CHALLENGES POSED BY ARMED CONFLICTS ON PROTECTION OF CIVILIANS

- The complexity of contemporary armed conflicts makes the legal qualification of situations difficult. Among key challenges raised were new concepts like “the global war on terror,” the presence of foreign actors in non-international conflicts as well as the possibility of controlling territory without presence on the ground, including by the use of unmanned drones.
- The majority of contemporary armed conflicts are non-international in character. The conduct of hostilities involving non-state armed groups represents particular challenges as these groups often lack knowledge of and respect for IHL. In these situations, parties to the armed conflict resort to unlawful tactics, including attacking civilians as a means of warfare, disguising themselves as civilians and using civilians as human shields.
- Humanitarian organisations need to understand the operating environment by engaging with communities in order to tailor interventions appropriately.
- Whereas violations committed by non-state actors are particularly stressed and reported, violations committed by States actors are in many cases under-reported.
- The key challenges in ensuring accountability include (but are not limited to):
 - Lack of political will,
 - Lack of enforcement mechanisms to apprehend possible violators
 - Inadequate funding; and
 - Ensuring security for victims and the accused, as well as information security.

RECOMMENDATIONS TO PREVENT VIOLATIONS OF IHL

- All parties to armed conflict have responsibilities under IHL. Ensuring respect for IHL among all actors is therefore a key measure to improve protection of civilians. Practical scenario-based training in IHL should be promoted at all levels, including to all armed groups. Funding should be allocated accordingly.
- IHL applies in all situations of armed conflict irrespective of the causes of the conflict, and all parties to an armed conflict have an obligation to apply the law in a non-selective and non-politicised manner. In complex conflict situations, where both IHL and Human Rights Law apply, States should strive to apply them in the manner that would afford the best possible protection for the civilian population.

- Humanitarian workers and journalists are protected as civilians under IHL provided that they take no action adversely affecting their status as civilians. Examples of certain humanitarian actors' actively taking sides in a conflict, for instance by creating safe corridors for one of the parties, were raised as a concern. The principle of "do no harm" should be followed by all humanitarian actors.
- States were urged to ratify the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention).
- A number of possible measures to address violations of IHL were mentioned, including the integration of early-warning systems and policies for protection of civilians in all manuals and Standard Operating Procedures for all peace-keeping operations. It was emphasized that IHL and protection of civilians must be discussed in all relevant international, regional and sub-regional forums.
- Sexual and gender-based violence (SGBV) continues to be a major problem for civilians in armed conflicts. Women, who are often the victims of SGBV during armed conflict, are often treated only as victims rather than actors in processes aimed at ameliorating their situation. It was recommended that women, including grassroots groups, should be empowered to actively participate in decision making processes, before, during and after conflict situations.
- Stronger efforts are needed by States to create an environment that ensures access to health care during humanitarian crises. Active humanitarian diplomacy should be promoted to facilitate rapid and unimpeded passage of humanitarian relief to civilians in need and to ensure respect for and protection of humanitarian relief personnel, medical personnel, hospitals and ambulances in all circumstances.
- Documentation of violations during and after armed conflicts is essential for several reasons: preventing further violations, knowing how to address them when they recur, and as a basis for efforts to ensure accountability.
- All parties to conflict have an obligation to investigate possible violations of IHL. In order to comply with this obligation, it is essential that the parties assess the impact of their actions on civilians. It is also necessary that appropriate measures are taken to improve documentation and transparency.
- The recommendations proposed to enhance compliance with IHL principles, in particular with non-state armed groups, include:
 - the use of unilateral declarations,
 - the use of special agreements between governments and non-state armed groups
 - Deeds of Commitment. Geneva Call's experience has shown this to be effective as such tools for engagement can be used to hold armed groups accountable to their actions.
- Regional and sub-regional mechanisms for ensuring accountability should be further strengthened and respected. Existing justice mechanisms such as the ICC and *ad hoc* Tribunals are important and should be strengthened.

THE ROLE OF THE MEDIA AND SOCIAL MEDIA IN DOCUMENTING VIOLATIONS DURING CONFLICT

- Currently, mainstream media is often unable to report what is happening on the ground in situations of armed conflict. Challenges identified were the lack of access as well as intimidation by the State. It was highlighted that in conflict areas, the media can help to protect civilians as possible perpetrators will show restraint when journalists are present.
- The development of information technology and increased internet connection has democratised communication patterns in Africa. Social media, such as the USHAHIDI network, is documenting and reporting IHL violations as they occur on the ground.
- Among the recommendations made, was the need for more diverse and professional media houses. The responsibility of the State to ensure journalists protection as civilians in situations of armed conflict, in order for them to be able to do their work, was also highlighted. Governments should mobilise journalists in order to enhance respect for IHL and documentation of IHL violations.