On Civilian Harm

Examining the complex negative effects of violent conflict on the lives of civilians

PAX

None of us is in a position to eliminate war, but it is our obligation to denounce it and expose it in all its hideousness. War leaves no victors, only victims.

On Civilian Harm

**Examining the complex negative effects of
violent conflict on the lives of civilians**

Editors: Erin Bijl, Welmoet Wels & Wilbert van der Zeijden

PAX

ON CIVILIAN HARM

Examining the complex negative effects
of violent conflict on the lives of civilians

Table of contents

PART I. Cases of civilian harm

PART II. Elements of civilian harm

List of acronyms

AMISOM	African Union Mission in Somalia
ANA	Afghan National Army
ANP	Afghan National Police
ANSF	Afghan National Security Forces
ARSA	Arakan Rohingya Salvation Army
Asocomparto	Community Association of Campesinos of El Toco
	(Spanish: Asociación Comunitaria de Parceleros de El Toco)
AU	African Union
AUC	United Self-Defence Forces of Colombia
	(Spanish: Autodefensas Unidas de Colombia)
AWS	Autonomous weapon systems
BCE	Before Common Era
CCMT	Civilian Casualty Mitigation Team
CHM	Civilian harm mitigation
CMAC	Cambodian Mine Action Centre
CMWU	Coastal Municipalities Water Utility
CWC	Chemical Weapons Convention
DMZ	Demilitarized Zone
DRC	Democratic Republic of the Congo
ELN	National Liberation Army
	(Spanish: Ejército de Liberación Nacional)
ERW	Explosive Remnants of War
EU	European Union
EWIPA	Explosive weapons in populated areas
FARC	Revolutionary Armed Forces of Colombia
	(Spanish: Fuerzas Armadas Revolucionarias de Colombia)
FFI	Norwegian Defence Research Establishment
	(Norwegian: Forsvarets forskningsinstitutt)
FSA	Free Syrian Army
GBP	Great British Pound
ICC	International Criminal Court
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
IDF	Israeli Defence Forces
IDP	Internally displaced person

IED	Improvised Explosive Device
IHL	International Humanitarian Law
IHRL	International Human Rights Law
INCORA	Colombian Institute for Agrarian Reform
	(Spanish: Instituto Colombiano de la Reforma Agraria)
INEW	International Network on Explosive Weapons
INGO	International non-governmental organisation
ISAF	International Security Assistance Force
ISIS	Islamic State of Iraq and Syria
ISKP	Islamic State of Khorasan Province
KDP	Kurdish Democratic Party
MAG	Mines Advisory Group
MoD	Ministry of Defence
MoI	Ministry of the Interior
MONUSCO	United Nations Organisation Stabilisation Mission in the
	Democratic Republic of the Congo
	(French: Mission de l'Organisation des Nations Unies pour la
	stabilisation en République démocratique du Congo)
MSF	Doctors Without Borders (French: Médecins Sans Frontières)
NATO	North Atlantic Treaty Organization
NGO	Non-governmental organisation
NLD	National League for Democracy
OIR	Operation Inherent Resolve
OPCW	Organisation for the Prohibition of Chemical Weapons
PA	Palestinian Authority
PKK	Kurdish Workers' Party
	(Kurdish: Partîya Karkerên Kurdistanê)
POC	Protection of Civilians
PTSD	Post-traumatic stress disorder
R2P	Responsibility to Protect
SAA	Syrian Arab Army
SARC	Syrian Arab Red Crescent
SAS	Special Air Service
SCD	Syria Civil Defence
SDF	Syrian Democratic Forces
SGBV	Sexual and gender-based violence
SPLA	Sudan People's Liberation Army

SPLA-IO	Sudan People's Liberation Army in Opposition
SPLM/A-IO	Sudan People's Liberation Movement/Army in Opposition
Su-22	Sukhoi-22
TGoNU	Transitional Government of National Unity
TRW	Toxic Remnants of War
UAE	United Arab Emirates
UK	United Kingdom
UN	United Nations
UNEP	United Nations Environment Programme
UNICEF	United Nations International Children's Emergency Fund
UNMISS	United Nations Mission in South Sudan
UN OCHA	United Nations Office for the Coordination of Humanitarian Affairs
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East
US	United States
USD	United States Dollar
UXO	Unexploded Ordnance
VDC	Violations Documentation Center
WASH	Water, sanitation and hygiene
WMD	Weapons of mass destruction
YPG	People's Protection Units (Kurdish: Yekîneyên Parastina Gel)

Foreword

'It should be self-evident: a government's first duty is to protect its citizens. And the first duty for the governments united in this grand Council is to protect civilians under threat. From war, violence and suffering. After all, if we are not here to protect people, what are we doing?'

With these words, the Dutch Minister of Foreign Affairs opened his remarks in the UN Security Council on 23 May 2019, at the occasion of the twentieth anniversary of the Council's resolution 1265.

In 1999, the Netherlands was privileged to join those voting in favour of UN Security Council resolution 1265. At the centre of the conception stood our conviction: In conflict, civilians must be protected. In the years preceding this resolution, civilians caught up in the crossfire had been failed too often.

Since the adoption of resolution 1265, a lot has happened. The resolution has proven to be a useful tool in calibrating our attention on this central theme. We see a paradigm shift in our thinking: Missions without protection of civilians in their mandate have become inconceivable.

However, indiscriminate attacks on civilians remain widespread in many armed conflicts and are driving a record number of people from their homes. According to the United Nations Office for the Coordination of Humanitarian Affairs, in 2019 approximately 70.8 million people were forcibly displaced.

When bearing in mind the protection of civilians, not only direct consequences, such as buildings shattered, loss of infrastructure and people killed or injured, should be taken into account. The reverberating effects, such as psycho-social trauma, loss of livelihood, livestock and access to basic needs are extensive. When schools are targeted: The future of children is attacked. When neighbourhoods are targeted: Crop fields are destroyed, bakeries burnt and markets hit.

It is why countries worldwide have agreed to regulate the conduct of warfare and abide by international legal rules during a conflict. These rules are designed to spare civilians in conflict and the dignity of their lives. It is not the lack of rules that allows the impunity of civilian harm. It is rather the persistent failure of parties to

armed conflict to comply with these rules and the lack of accountability in case of violations.

Luckily, there are also rays of light. Allow me to commend the good work of PAX in Iraq and South Sudan. Within UNMISS and the NATO Mission in Iraq, the Protection of Civilians is an integral part. But, it is aided by the important lobby and advocacy work of civil society organisations, such as PAX, that bring voices from the field to the ears of security actors and policy makers and match the contribution to protection with the needs for protection in hopes to build local resilience.

Through our efforts on conflict prevention, accountability and peacekeeping, the Netherlands will continue to support initiatives aimed at promoting the safety, physical integrity and dignity of the civilian population affected by conflict, in particular of vulnerable groups.

This book presents a sample of the work achieved so far within the framework of the PAX Protection of Civilians partnership with the Department of Stabilisation and Humanitarian Aid. While not necessarily endorsing all views expressed, the Netherlands encourages enhanced and operational comprehension of global instances of civilian harm through evidence-based research.

I would like to send my gratitude to the PAX Protection of Civilians team for their hard work and commitment to making this possible, and their efforts for saving lives, restoring dignity and enhancing resilience.

Marriët Schuurman
Director Department of Stabilisation and Humanitarian Aid
Netherlands Ministry of Foreign Affairs

Preface

War is sweet to those who don't know it, concluded the 16th-century philosopher Erasmus of Rotterdam after studying conflicts raging in Europe at the time. In our work at PAX, we derive from Erasmus' conclusion an endeavour for ourselves: To achieve peace, we must understand war in all its ugliness. PAX means peace. And to achieve peace, PAX brings together people who have the courage to stand for peace: We work with committed citizens and partners all over the world to protect civilians against acts of war, to end armed violence, and to build a just peace. An important part of that effort is to bring together people with different, sometimes diametrically opposing perspectives on what conflict is, and on how to achieve peace. In the words of Desmond Tutu: *If you want peace, don't talk to your friends, talk to your enemies.*

To truly *know* war, in the manner Erasmus meant it, we must be courageous enough not to look away. Too often, we do not look closely enough at harm caused by violence and conflict. We hear statements about numbers of casualties in a war on the news, and we may hear political declarations and speeches on the importance of efforts to protect civilians from harm. But we rarely take the time to learn more about the individual pain, anxiety and despair that comes from experiencing explosions, torture, enslavement, the loss of a loved one, or the obliteration of one's home. And we rarely look long enough to truly *know* how the waging of conflict plays out over time. How it affects generations of children missing out on education, how the destruction of infrastructure holds a society back for years after the fighting has ended, how protracted displacement uproots and fragments whole communities.

There are many ways to look at the effects of war. One way is to describe it as Clausewitz would, as a series of events, including the use of violence, between conflicting parties leading to a political end state. In that way, the Syrian war can be summarised like this: Starting as a peaceful protest in 2011, Syrian citizens demanded better jobs, more democracy and justice. The Syrian government responded with excessive violence. Over time, the conflict in Syria developed into an amalgamation of civil and proxy wars, with some countries supporting the Syrian government and others supporting various opposition groups. Islamic State of Iraq and Syria (ISIS), one of the emerging non-state groups, rapidly gained momentum and took control of large parts of Syria, triggering a collective international response. By

the time ISIS was almost defeated, the Assad government regained control over most of the Syrian territory, and various powers started to rein in support for their proxies. The situation in the northernmost part of the country arrived at a stalemate of Turkish-controlled areas, regions under control of the government, and Kurdish communities wedged in between.

There is another way to describe the war in Syria. One that tries to understand what happened through the eyes of the people living there, who have endured what is by now a decade of unimaginable harm. From the peaceful protests in 2011 until today, Syrian civilians have been at risk of being harmed by their police, their armed forces, secret services, homegrown and foreign militia supporting or opposing the government, ISIS, foreign contractors, foreign armed forces and non-military individuals exploiting vulnerable civilians in the absence of a functioning police and justice system. Many Syrian civilians have been at risk of becoming displaced, and of being killed or injured by explosive weapons, chemical weapons, improvised explosive devices, snipers, torture, targeted killings, starvation and the absence of medical help. In addition to these individual manifestations of harm, civilians throughout most parts of Syria have been confronted with a massive breakdown of basic services such as healthcare, education, water and electricity, waste collection, and maintenance of infrastructure, significantly deteriorating their quality of life.

Here at PAX, we monitored the hundreds of thousands of people living in besieged areas for years, keeping track of how Assad deprived the Syrian population of food, water, medicine and gradually slaughtered his way to whatever he calls the destructive outcome of this conflict. Organisations like Bellingcat and Forensic Architecture have used their expertise to analyse very specific instances of harm caused, for example, by chemical weapons. Airwars built an organisation dedicated to the systematic and independent recording and analysis of civilian casualties of airstrikes from the ground up, using local sources to augment the limited records shared by governments and armed forces. Combined, these efforts paint a bleak picture of the nightmare that Syria has become to many of its inhabitants. It also paints a far more complete, and realistic picture than any Clausewitzian analysis could. And this holds true of course for every conflict.

Non-governmental organisations started to catalogue effects of violence other than direct civilian deaths and injuries too. For example, PAX and the Toxic Remnants

of War project studied the environmental and public health effects associated with the targeting of oil refineries and other petrochemical infrastructure. New technologies were used to maintain connections among researchers, civil society organisations and civilian populations that started to fill the void – sometimes intentionally upheld – by states and other warring parties. With the advance of modern technology, civilians increasingly record the harm being done to them themselves and share it with the world, often in the form of recorded imagery posted on social media. This creates a new narrative, directly challenging political actors, some of whom have deliberately chosen obfuscation and plausible denial as a strategy to avoid accountability. And it challenges those military actors who believe their objective to win wars can exist disjointed from the task to understand the human environment in all its complexity and the imperative to protect civilians.

We are better equipped than ever to *know* war, and realise fully that it is not *sweet*. But that in itself does not mean we are better equipped now, as an international community that cares, to prevent civilians from being harmed, or to more adequately help them. In a way, we progressed from unconscious incompetence, to the more frustrating stage of conscious incompetence. This frustration, this *knowing* the war but not finding the right tools to address the insane individual and societal injustices it generates, is what inspired us to write this book. It did not start out as a book: In 2017, we envisioned a series of small blogs or articles revisiting a number of incidents from recent wars in which civilians were harmed. The aim was to show how complex war is from a civilian perspective and how much more it is than 'just' counting the dead and injured. That a comprehensive understanding of civilian harm should include both direct and indirect, physical and non-physical, short and long-term negative effects of armed violence on civilians. Along the way, the effort grew to include a more systematic way of addressing the question what civilian harm is, *in itself*. What do we include when we talk about civilian harm, and what do we exclude? How do we describe those who harm, those who are harmed and the decisions that lead to harm? We came to realise that there is no universally accepted definition and that different stakeholders have different understandings of what civilian harm is *for them*.

This book ultimately tries to do three things: First of all, it tries to show how the complex ways by which specific choices made by those who use violence

cause civilian harm – encompassing both physical and non-physical, short and long-term, direct and indirect negative effects on civilians and their communities. Second, it tries to make the case that if we truly want to address civilian harm, we can – and must – do everything we can to *know* it. And finally, it tries to contribute to a common language and a common understanding of what civilian harm is, so that there is a stronger basis from which to contribute to protection of civilians efforts. We sincerely hope that you will find that this book brings us a step closer to achieving these goals and we welcome your feedback on our efforts.

Acknowledgements

Finally, we would like to thank Marriët Schuurman and her colleagues at the Dutch Ministry of Foreign Affairs' Department for Stabilisation and Humanitarian Aid for their partnership and financial support to our Protection of Civilians programme and for starting off this book with such a strong foreword.

On behalf of the editorial team,

Wilbert van der Zeijden
PAX – Protection of Civilians Team Coordinator
Utrecht, April 2021

Introduction

Armed conflict and violence adversely affect civilians. Whether civilians are the primary target of the use of violence, are caught in the crossfire, or have to rebuild and make a living in war-torn societies, they are always at risk of becoming victims during conflict, and may continue to struggle with its aftermath long after active fighting has ended. This book tells their story. More precisely, the book is about actors who do harm, key factors that contribute to either causing or mitigating harm, civilians who are harmed, and how to find a way out of this destructive cycle. This publication regards specific situations of violent conflict and seeks to provide a detailed examination of the myriad of ways in which the use of violence negatively affects civilians. This is a vital object of study and one that requires continuous scrutiny as military technologies and modes of warfare change, and in parallel so do our abilities to comprehensively track, map and investigate the impact of fighting on people and their environment.

By looking into the diverse and complex interactions between perpetrators who do harm, the variety of factors that exacerbate or mitigate harm, and the civilians who are harmed, we strive to contribute to progressively moving towards a shared understanding of civilian harm amongst all relevant stakeholders. The book focuses on those aspects of civilian harm that directly touch the lives and physical health of people, in order to illustrate the scope of the issue and spark debate. By the end of the book, readers will have gained a clearer and more structured understanding of what civilian harm encompasses in practice, and will have become aware of factual cases and shared vocabulary to effectively discuss the subject. We expect the contents of this book will be of particular use to professionals involved in civilian harm tracking or recording, in mission planning, working in conflict areas, or working on topics related to conflict dynamics, protection of civilians, national or international security policy, international law or humanitarian assistance. We hope that legal experts and academics may find value in the book as well.

This introductory chapter provides background to this book's definition and scope of the concept of civilian harm, followed by an outline of the book's structure. The final section discusses the dominant vocabulary in the discourse on civilian harm in order to lay the semantic foundations for the subsequent discussion.

1. Context and scope: Towards a shared understanding of civilian harm

This book has the overall objective to expand discussion on the topic of civilian harm, by bringing into focus both direct and short-term harmful effects of use of armed violence on civilians, as well as – often neglected – indirect and long-term harm. Various observations prompted the writing of this book. First of all, we noticed that public and professional attention in our field is often overwhelmingly concentrated on directly visible and physical civilian harm from use of violence. When discussing the impact of an airstrike, for instance, we tend to discuss this in terms of the number of persons injured and killed. But its full impact on the population is more than that. The airstrike may reverberate socio-economically. For example, if one of the casualties is a family's primary breadwinner, that family may be reduced to poverty, and may struggle to access basic needs and services like health care and education. The airstrike may also have an impact through its destruction of critical infrastructure: When the bomb damages a water sanitation plant, the airstrike may affect access to safe (drinking) water for a large part of the population. Clearly, such matters should be included in any comprehensive discussion of civilian harm created by the use of violence.

Secondly, discussions on civilian harm tend to fall short in providing clear definitions. International law, the responsibility to protect (R2P)-concept and humanitarian principles prescribe that civilians should be shielded from the negative effects of war by implementing measures of prevention, mitigation, and response to protect civilians from harm. However, a thorough review of civilian harm-related literature soon exposes a critical weakness: In many publications, the phenomenon of 'civilian harm' is not defined or explained at all. When it is defined, definitions may be markedly different. This is easily illustrated by highlighting a few oft-cited conceptualisations of civilian harm. Whereas a Harvard Human Rights Law Program report back in 2015 speaks of 'loss of life, injury, and property damage' (Keenan & Muhammedally, 2015, p. 8), an influential report by Open Society Foundations focuses on civilian harm as 'damage from military operations to personal or community well-being', noting that this may include such matters as the 'wrongful targeting of key leaders [...], damage and destruction of personal property and civilian infrastructure, long-term health consequences, loss of livelihoods and other economic impacts, and offenses to dignity' (Kolenda et al., 2016, p. 10). Illustrative too is language by military

actors. For instance, when we regard a US Department of Defence memorandum on 'Minimizing and Responding to Civilian Harm in Military Operations' (Office of the Under Secretary of Defense, 2020), what is meant by civilian harm is not explicitly defined. Nonetheless, when one reads on, it becomes apparent that civilian harm here more or less equals civilian casualties. Clearly, the scope of what is considered part of civilian harm varies considerably depending on what, if any, definition is used. Applying one definition instead of another has very different implications for civilian harm mitigation and protection of civilians policies and decision making.

A third concern is that open and honest discussions on the human cost of violent conflict are often obscured or prevented altogether by actors stating that the chaotic reality of conflict impedes the comprehensive tracking, mapping and measuring of civilian harm. However, in modern-day conflict, 'chaos in war' is no longer a valid claim to ignorance on what happens to civilians during conflict. Satellites, the Internet, precision targeting, big data: All of these enable a better awareness of what occurs on 'the battlefield', as is shown by the case studies of civilian harm events included in the book. Modern methods of information and intelligence gathering and sharing increasingly lead to a situation in which we can know more about the short as well as the longer-term effects that armed violence has on civilians. And if we *can* know – we *must* know. It is essential to uncover and examine the facts of war to the greatest extent possible, in particular where it concerns the stories of the people facing its consequences.

It would constitute a truly Herculean task to discuss *all* possible forms of civilian harm. Many conflicts and forms of harm did not make their way into this book simply because we had to limit the scope of the book for the sake of clarity and focus. For that reason, we have limited our discussion to civilian harm caused by armed violence in a context of violent conflict. We recognise that civilians in conflict areas may also be harmed by non-violent means, for instance through discriminatory policies, yet this falls outside the parameters we set for this book. Similarly, we excluded cases of harm caused by criminally motivated violence, such as perpetrated by drug cartels and armed gangs, being aware nonetheless that this type of violence contributes to increasing numbers of conflicts and casualties around the world. A different theme not addressed in depth is the destruction of cultural heritage. We fully acknowledge the deep impact of this and other types of civilian harm on populations, and the importance of cultural heritage for the survival

of societies, their history, and their identity. We encourage our readers and peers to add to the work started with this book by adding studies on cases involving these and other manifestations of civilian harm.

2. How to read this book

The book is divided into two parts. The first part consists of thirteen carefully researched cases of civilian harm events, which explore in detail who committed the acts that caused harm (here referred to as 'perpetrators'), who was harmed as a result of those acts (here referred to as 'victims'), which means and methods were involved in the commission of harm, and how harm develops over time. The cases form the evidence base for the second part of the book, where insights from the individual cases are brought together and underpin reflection on the phenomenon of civilian harm on a more conceptual level. Part of this reflection is the identification of a number of recommendations and issues that warrant further discussion and contemplation. As we aim for maximum dissemination and a wide use of the contents of this volume, all chapters have been written in such a way that they may be read in unison, but can also be explored independently. While the book as a whole provides a wide overview through the complementarity of its components, each chapter and case study on their own tell a part of the story of civilian harm.

Part I. Cases of civilian harm
The book starts with thirteen cases. All thirteen contain an in-depth analysis of a particular event in which harm to civilians occurred as a consequence of use of armed violence. Taken together, they contribute to an increased understanding of the variety and complexity of civilian harm at a conceptual level, bringing out common traits and patterns on civilian harm in violent conflict. What the cases have in common is that there is a clear and evidence-based relation between the use of violence and its negative effects on civilians. They revolve around a single event, or a series of connected events, caused by actors (the perpetrators) who are empirically identifiable. Given the frequent occurrence of violent events around the globe, there sadly was an ample supply of options for these case chapters.

One of the selection criteria was that the cases should represent the wide variety of harmful events as they occur in current day warfare. We resisted the temptation

to select only those cases that are the most well-known or extreme. Rather, we selected cases we considered to be representative for specific kinds of harm: Cases that allow us to reflect on that kind of harm first of all in all the details of the case, but which also serve to extrapolate on a more conceptual level. In addition to these selection criteria, we aimed for diversity in the type and method of attack, and variation in the types of victims, perpetrators, and geographic locations. Furthermore, we limited our selection to events that occurred relatively recently, although in some cases the origins of harmful events may go back decades. The result is a mix of cases that together underscore the gravity, scope, and global nature of civilian harm in current-day conflict.

To facilitate comparative analysis and to aid the reader, the case chapters are built up along the same structure. Each case starts with a short introduction to the context and then describes one particular event of civilian harm. Each chapter subsequently takes a close look at the following three aspects. We examine the perpetrator causing the harm, asking questions such as: Who caused this incident? What exactly did they do that caused harm? Did they know they were causing harm? Do we know their intentions? Then we zoom in on those who were harmed: the victims. We look at how the violence affected them, both in the long and short-term, directly and indirectly. Often, we include testimonies from people who were harmed to better bring across their experiences. Finally, each chapter reflects on the bigger picture, for instance by discussing the same type of harm in different contexts or by identifying certain lessons or phenomena that warrant further discussion.

Many of the case chapters have a clear connection to the work of PAX. Some are based on earlier PAX research reports, such as chapter 7 about the shelling of a hospital in eastern Ukraine, or chapter 2 about oil fires in Qayyarah, Iraq. Other cases discuss a particular context or phenomenon close to our expertise or that of organisations PAX actively works with, such as Airwars and Bellingcat. These include, for instance, chapter 3 on sexual and gender-based violence in South Sudan, chapters 5 and 9 on a chemical weapons attack and an airstrike in Syria respectively, and chapter 10 on paramilitary violence in Colombia.

CASE 1.

Siege tactics:
Hudeidah under fire
(Yemen, 2018)[1]

The siege of the city of Hudeidah illustrates the negative effects of the destruction of critical infrastructure on civilians. The chapter raises important questions about the re-emergence of siege tactics and their immensely harmful effects for civilians, as well as about complicity and responsibility of actors facilitating the siege through delivery of arms, training or diplomatic support to the Saudi-led coalition. Disease and malnutrition as a consequence of active conflict are discussed in detail.

CASE 2.

Oil fires:
Apocalyptic scenes in Qayyarah
(Iraq, 2016)

In 2016, the Islamic State of Iraq and Syria (ISIS) set oil wells on fire near the town of Qayyarah, Iraq. Spilled oil polluted the water and the ground; black smoke filled the sky for months. Thousands of local people and over 35,000 internally displaced persons (IDPs) in nearby camps lived in the soot and smoke. Daily life in those conditions was difficult. Attacking oil installations was frequently reported as a war tactic during the conflict in Iraq.

---

1 Please note that the year included in the case chapter titles is the year in which the civilian harm event under examination took place; it does not indicate the duration of the harm that ensued, which is often long-term in nature.

CASE 3.

CASE 4.

**Sexual violence:
Attacked for being Nuer
(South Sudan, 2016)**

**Essential infrastructure:
The targeting of (waste) water
plants in Gaza (Palestine, 2014)**

In the summer of 2016, violence flared up in Juba, South Sudan's capital city. An increase in sexual and gender-based violence (SGBV) occurred in the direct aftermath of the conflict. The victims were predominantly IDP women of Nuer ethnicity living in UN-protected and controlled Protection of Civilians sites. The chapter brings into focus both the direct and indirect effects of SGBV on its victims, as well as the role of UN peacekeepers in not having been able to prevent the violence.

In June 2014, the Israeli Defence Forces bombed a power plant, as well as water and waste water management systems in the Gaza Strip. Access to clean drinking water consequently went far below minimum standards, the prices of bottled but unregulated water soared, and lack of water contributed to the outbreak of various water-based diseases. The case shows the far-reaching effects of the destruction of water infrastructure, and brings into focus the impact of cascading effects: a key vulnerability of our increasingly urbanised world.

CASE 5.

**Chemical weapons:
A Sarin gas attack on Khan
Sheikhoun (Syria, 2017)**

The Syrian government executed a
chemical attack in Khan Sheikhoun
in April 2017. About 50 people died
immediately, and more in the hours
and days following. Among the victims
were adults, the elderly and children;
all of them civilians. The chapter
discusses the evidence that led to the
conclusion that the Syrian government
was behind the Sarin attack,
the reaction of the international
community, and addresses important
questions regarding the possibility of
chemical attacks occurring despite
being prohibited.

CASE 6.

**Explosive remnants of war:
A long-term legacy
(Cambodia, 1960s-present)**

Conflicts in the previous century
have left Cambodia riddled with
unexploded ordnances, landmines
and other explosive remnants of war
(ERW). The chapter highlights an
oft-forgotten cause of post-conflict,
long-term harm to civilians. The
negative effects of ERW go beyond
physical harm: The disabilities caused
by ERW often lead to a struggle for
livelihoods and to social stigma. The
chapter represents an urgent call to
take into account the long-term harm
of explosives, and to remain mindful
of the need to address problems
caused by ERW.

CASE 7.

CASE 8.

**Indirect fire:
A hospital caught in a war zone
(Ukraine, 2015)**

On 3 June 2015, shelling by armed
groups hit the Maryinka District
Central Hospital, and caused the
destruction of a hospital department
and several ambulance bays. The
chapter explores how the use of
explosive weapons in populated
areas (EWIPA), in particular of
explosives with wide-area effects,
has affected the quality, accessibility
and availability of health care in
eastern Ukraine, raising important
questions about the reverberating
effects caused by explosives and of
allowing the use of EWIPA.

**Genocide:
Targeted violence against the
Yazidis from Sinjar (Iraq, 2014)**

When ISIS surrounded Sinjar district
in 2014, it soon became clear that
the many Yazidis who called this area
home were not safe. The violence
that ISIS unleashed upon them
has since been acknowledged as
genocide by an independent, UN-
mandated commission. Many Yazidis
continue to this day to struggle with
severe psychological trauma, and
remain stuck in displacement camps
with little prospect of education
or livelihood, and with limited
access to basic needs. This chapter
considers both the immediate
violence perpetrated by ISIS, as well
as the often-neglected aftermath
and underestimated longevity of
this type of civilian harm.

CASE 9.

CASE 10.

Airstrike:
Bombs destroy a shelter in Al
Mansoura (Syria, 2017)

On the night of 20–21 March 2017, one of the bombing campaigns by the Coalition against ISIS went horribly wrong. A building in Al Mansoura had been identified as an ISIS stronghold and was bombed by US forces. It turned out that the building had housed numerous IDP families rather than ISIS combatants. According to reliable reports, at least 40 civilians perished on the spot, yet the Coalition insisted for a long time that its targeting had been correct and had killed ISIS combatants. The chapter examines the increasingly frequent occurrence of air-only campaigns, and the problems this poses for targeting decisions and post-bombing verification of civilian harm. It moreover looks into pressing concerns with regard to transparent reporting of civilian harm by Western militaries.

Forced displacement:
Paramilitary violence against the
campesinos of El Toco (Colombia, 1997)

Land disputes have been one of the central features of conflict in Colombia since the 1980s. Paramilitaries executed and abducted community leaders in order to instil fear in the Cesar region's peasant communities, and to compel civilians to flee their homes and lands. In so doing, the paramilitaries cleared the lands for their supporters or could sell the land at great profit to multinational coal-mining companies. To this day, many people suffer psychosocial distress from past events and continue to be displaced. The chapter shows both the overall impact of the conflict, as well as its effects on civilians. It brings into focus the too often neglected impact of long-term displacement as a direct result of violent conflict, and shows how violence in the late nineties continues to negatively impact people's lives to this day.

CASE 11.

CASE 12.

**Suicide bombing:
Bringing fear and destruction to
Kabul (Afghanistan, 2015)**

In August 2015, a series of suicide
bombings took place in Kabul,
killing and maiming civilians in the
explosions, but also causing a lot of
long-term damage beyond casualties
alone: Severe psychological trauma,
disruption of livelihoods, and
decreased access to basic needs are
among some of the forms of harm that
many civilians suffered and continue
to experience. This chapter makes
a case for more attention to such
reverberating effects. It illustrates
that harm from suicide bombing is
generally more long-term than news
and popular discourse portrays.

**Weaponizing drinking water:
Rivers, purification plants and
generators as targets (Syria, 2014–16)**

In Syria, more or less all conflict
parties exploited their control
over access to and distribution of
water as a means to punish, harm
or favour certain segments of the
population. Civilians get the worst
from this 'strategic game'. This
chapter examines the impact of armed
actors controlling water. It shows the
economic effects, consequences for
health, and the impact on society. In
so doing, it raises crucial yet under-
studied questions about (the lack of)
international legislation to criminalise
the weaponization of water.

CASE 13.

**Ethnic cleansing:
The Rohingya's expulsion from
Rakhine State (Myanmar, 2017)**

In August and September 2017,
Myanmar's national army conducted
so-called clearance operations
in Rakhine State. The military
campaign disproportionately and
indiscriminately targeted Rohingya
civilians, a Muslim minority group
in Myanmar that has long suffered
(institutionalised) discrimination. The
majority of Rohingya who survived,
fled to Bangladesh. The chapter
demonstrates that their suffering
has not ended there: Many Rohingya
continue to suffer from psychological
trauma, children have limited or no
access to education, young people
are at risk of human trafficking, and
armed groups are causing insecurity
in the camps. At the same time,
the large numbers of refugees put
pressure on the security, societal and
political situation in Bangladesh.

These thirteen descriptions of the gravest circumstances that human beings and societies can face, may – and frankly, should – shock and horrify the reader. We hope, however, that it will first and foremost provoke thought and stimulate debate on the various types and duration of civilian harm, oftentimes overlooked aspects of harm, and ethical questions on permissibility of and responsibility for civilian harm in conflict.

Part II. Elements of civilian harm
Building on the cases studies of Part I, the four chapters of Part II examine the three basic elements of each civilian harm incident: Who did harm? Who were harmed? What key factors contributed to either increased or mitigated harm? The first chapter specifically looks at the victims of civilian harm. It discusses the implications of violent conflict for the lives and livelihoods of civilians. It discusses the varied manifestations of civilian harm, as well as why some events affect certain groups within a community more than others, or in different ways. We look at often underestimated, reverberating effects on civilians, and discuss the importance of taking into account the devastating consequences of the destruction of infrastructure. In order to move forward to a common understanding of civilian harm, we propose a new approach in interpreting civilian harm events by looking at six dimensions of harm: the 'six signatures'.

The perpetrators of civilian harm are the subject of the second chapter. Again, the cases provide key examples as a basis for discussion. There are similarities and differences between perpetrators regarding their legal status, intentions and capabilities to inflict harm. We discuss why and how knowing these differences matters for protection actors through the 'threat-based approach' to protection of civilians. In addition, we raise important questions about (gradations of) responsibility for the harm caused, and address the matter of (indirect) responsibility for harm caused either by action or inaction. Whether such acts are crimes under international law is not the main consideration in our discussion of the topic, although we do consider legal accountability as a valuable approach to achieving more responsibility and mitigation of civilian harm.

In the subsequent chapter on factors that contribute to either causing or mitigating harm, we reflect on the moral and legal framework currently in place to protect civilians, and discuss a number of key factors that contribute to causing or mitigating harm, identifying opportunities and concerns with regard

to preventing or minimising civilian harm from armed action. Among the factors discussed are the decisions perpetrators make with regard to weapons use and target selection, but also a number of concerns in contemporary conflict, such as the occurrence of urban and remote forms of warfare. The chapter ends with a reflection on recent efforts by some state armed forces to mitigate civilian harm from own action.

We conclude this book with a final essay that ties the main take-aways together, and reflects on the elements in this book that contribute to the forging of a shared understanding of civilian harm in all its diversity and complexity. We introduce a definition of civilian harm, and provide various recommendations for better protection of civilians from harm in the future. Additionally, the chapter introduces several questions for further research and discussion.

3. On the discourse on civilian harm

A comprehensive discussion of civilian harm requires a critical and careful reflection on the language used to discuss the subject. Since the issue of civilian harm plays a role in various professional fields, there are many interpretations of key notions that are part of this narrative. There are no universally accepted definitions of much of the vocabulary involved in describing civilian harm. Readers from different professional backgrounds may attribute meaning according to their own background, needs and purposes. To ensure that all readers have a common understanding of the issues we raise in this book, this section outlines our definitions and interpretations for key issues in civilian harm discourse.

On civilian harm
In this book, civilians are those people who are not engaged in any of the violent aspects of the conflict at the time of the event that causes harm, or at the time of the effects of that event. Their societal position, political preferences, or previous history with armed groups or the armed forces are irrelevant: At the time of the violence that affected their lives, they were not directly participating or otherwise involved, and this is sufficient to qualify them as 'civilians' for the purposes of our discussion. We realise that this is a less strict definition than scholars and practitioners of international law may prefer, as it does not catch all the legal intricacies ascribed to the term, such as the different levels of protection in

international and non-international conflict. The delineation between combatants and non-combatants is necessary to enforce the fundamental principle of distinction: the prohibition to target civilians, one of the key principles of International Humanitarian Law (IHL). While the failures to adequately apply and enforce this principle are at the heart of this book, we settle on the use of a broader application of the term 'civilian' in order to make the text accessible and understandable to a broad community that includes non-legal professionals. Moreover, we want to avoid a digression into legal details on precise classification, as we want to ensure that the emphasis of the narrative remains on the topic of harm and the human cost of violent conflict.

We demonstrate that harm goes beyond deaths and injuries; it also includes displacement, damage to essential infrastructure, or trauma and fear. We also acknowledge that some forms of harm affect communities as a whole, for example through deteriorated living conditions, or through damage to the environment like the pollution of rivers. Harm often also has reverberating effects that extend beyond its immediate impact in the short as well as in the long-term.

Acknowledging this broad scope of civilian harm, we thus arrive at the following definition:

> *Civilian harm consists of all negative effects on civilian personal or community well-being caused by use of force in hostilities. Effects can occur directly (death, physical or mental trauma, property damage) or indirectly through the destruction of critical infrastructure, disruption of access to basic needs and services, or the loss of livelihood. (Bijl & Van der Zeijden, 2020, p. 4)*

On the use of violence
In the case chapters, we use such terms as (violent) conflict, war, hostilities, (armed) violence, armed action, and fighting more or less interchangeably. In international law, strict criteria determine whether any situation qualifies as 'armed conflict'. Likewise, the classification of a conflict as international or non-international has a bearing on the legal protection of categories of people. However, the purpose of this book is not to contribute to legal discourse; it is to contribute to a common understanding of the complexity of civilian harm, and it interprets the use of violence closer to the everyday use of the term as we

believe civilians caught in conflict might perceive it. Our focus is on the adverse effects of violence, as perceived and experienced by civilians.

On those who do harm and those who are harmed
In this book, 'perpetrators' refers to those who, in the context of hostilities, commit an act of violence that causes harm to civilians. We use 'perpetrator' to denote any type of person or group, be they state security forces, non-state armed groups, insurgents, terrorists, people temporarily taking direct part in hostilities, paramilitary or proxy forces, single actors or alliances, and whether the harm resulting from the act is intentional or not; the discriminating factor is their involvement in the act of harm committed, whatever their nature, and whatever the nature of that act. We prefer 'perpetrators' over oft-used alternatives like 'warring parties' or 'belligerents'.[2] The latter captures all actors involved in hostilities, regardless of the impact of their actions on civilians; perpetrator in that sense is a more precise term. Additionally, 'perpetrator' is also the term used by NATO in its Protection of Civilians Policy and Military Handbook (North Atlantic Treaty Organisation [NATO], 2016; NATO, 2021).

'Victims' refers to those civilians who are negatively affected by the actions of a perpetrator. In colloquial idiom, the word 'victims' is often equated with physical damage to life and person: Victims are the dead and injured, is the common understanding. However, here, the book seeks a loose alliance with the international criminal law definition, which uses 'victims' to refer to those who have suffered harm as a result of the commission of a specific act (International Criminal Court, 2013, p. 31). While criminal law limits the scope of these acts to crimes under the jurisdiction of the mechanism in question, this book takes a broader view: All acts, committed as part of a conflict that involve the use of violent means. The resulting harm does not have to be deadly, and the effects of it do not have to be immediate or short-term, for the sufferer thereof to be called 'victim' in this book.

In humanitarian circles, the word 'survivor' is oftentimes preferred, especially in a context of natural disaster or sexual violence. This serves on the one hand to

---

2 The monitoring organisation Airwars prefers 'belligerents' but has agreed to adopt our term in chapter 9 for the purposes of consistency.

Civilian harm consists of all negative effects on civilian personal or community well-being caused by use of force in hostilities. Effects can occur directly (death, physical or mental trauma, property damage) or indirectly through the destruction of critical infrastructure, disruption of access to basic needs and services, or the loss of livelihood.

———

distinguish fatalities from those who lived, but are nevertheless impacted by the event. On the other hand, 'survivor' is an empowering word, bearing a connotation of strength and endurance, and thus encourages rather than victimises populations. While recognising the value of these semantics, it fits the main purpose of this book more closely to use 'victims' as a blanket indicator for all those civilians who face the consequences of the use of violence, in whatever way, timespan, or location. Note that this book uses 'victim' specifically and only for this purpose to describe those who have suffered harm as a consequence of violent acts committed in conflict. It is not the intention of the authors to issue a judgement on the resilience of people living in conflict areas.

On protecting civilians

The protection of civilians has gained importance since the UN Security Council first issued a dedicated resolution on this topic in 1999: Resolution 1265 (UN Security Council, 1999). The UN, NATO, governments, humanitarian organisations and other entities have since developed their own specific concepts of what protection of civilians entails for their work. When we speak of protection of civilians or protecting civilians in this book, we do not suggest adherence to any definition of protection of civilians in particular, but rather refer to the general notion of keeping civilians safe from violence and the effects of violence.

On basic principles

Indiscriminate in this book refers to the core principle of IHL: The moral imperative to make a distinction between civilian and military, and to limit one's hostile actions to the latter. Simple enough on paper, yet it has far-reaching implications: It affects the choice of targets, weaponry, movements, and behaviour in war. An attack or method of warfare that is indiscriminate does not respect this principle, and is therefore a violation of the laws of warfare. Another fundamental principle is *proportionality*: this entails that any damage caused to civilians (life, injury, objects) has to be reasonable in relation to the anticipated military advantage. The difficulty in the interpretation of this principle is obviously in the subjective term 'reasonable', or 'not excessive', which leaves a rather wide margin of appreciation. Such damage – in practice referred to as 'collateral damage', although this exact phrase does not occur in IHL texts proper – may, in international law, only be *incidental* – a by-product, connected to the main act but not its objective, and of much less impact. Incidental harm can be, in a way, planned, as it is part of a premeditated or deliberate action. An act of civilian harm is considered *intentional*

(*deliberate*) in this book when the act's main objective is to create that particular harm to civilians, or when it is planned with another objective in mind, but in the full knowledge of the civilian harm it will cause (see Rules 1, 14 and 15 in International Committee of the Red Cross, n.d.).

4. Closing remarks

With the aim of contributing positively to the debate on civilian harm and the mitigation of the negative effects of violent conflict for civilians, this book outlines key aspects relevant to that discussion. Thirteen cases provide insight in the various types of civilian harm, the variability of the duration, victim groups, and the general impact of violent conflict on societies. In Part II, we subsequently provide food for thought on the victims, the perpetrators, and key factors that contribute to causing or mitigating harm, and we advocate for a common understanding and unified approach towards civilian harm reduction. To this effect, the book ends with a series of recommendations. We hope we succeed in our efforts to show how complex and diverse the elements of civilian harm are, to show that we can know and understand civilian harm despite that complexity, and to contribute to building a common language to discuss civilian harm.

PART I

Cases of
civilian harm

CASE 1.
Siege tactics:

Hudeidah under fire
(Yemen, 2018)

AUTHOR: SABA AZEEM (PAX)

COUNTRY

Yemen
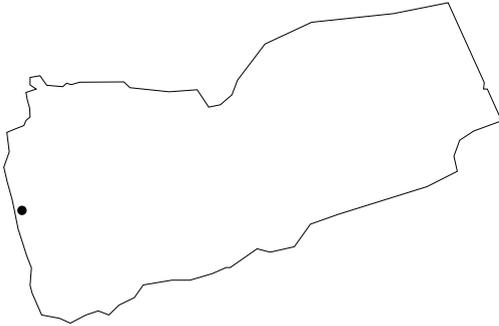
PERPETRATOR

The Saudi-led coalition

ACT

carried out airstrikes and lay siege to the city of
Hudeidah by cutting off supplies entering the port

OBJECTIVES*

• to combat Houthi rebels

* As far as we have been able to discern; the list may not be exhaustive in this regard

CONSEQUENCES

The death of many civilians upon impact of airstrikes

Mass displacement of civilians
    ↳ leading to a number of displacement-associated risks (e.g. reduced access to education, income and health care)

The destruction of markets and medical facilities
    ↳ contributing to malnutrition, other health problems, and loss of livelihood

The destruction of WASH and electricity infrastructure
    ↳ contributing to public health problems like cholera

Decreased access to drinking water, food and medicine
    ↳ contributing to malnutrition, food insecurity, other health problems
        ↳ stunted growth

Fuel shortages
    ↳ causing decreased food production
        ↳ leading to food insecurity

Located in the south-west of the Arabian Peninsula with its coastline of over 2,000 kilometres, Yemen has long existed at a crossroads of cultures because of its strategic location in terms of trade, with Hudeidah being the country's principal port on the Red Sea. From the major international shipping lanes used to move goods between Europe, Asia and Africa via the Suez Canal to the west of the city, to the Ras Isa oil terminal serving the Marib oilfields and the nearby port of Saleef. Strategically, Yemen sits on the strait linking the Red Sea to the Gulf of Aden, through which most of the world's oil shipments pass. Despite its geostrategic location, Yemen remained the poorest, most water-scarce and most corrupt country in the Middle East with very low development. The Arab Spring of 2011 brought a welcome change in political leadership in the country when the authoritarian President Ali Abdullah Saleh, who ruled Yemen for over three decades, handed over power to his deputy, Abdrabbuh Mansour Hadi. However, this sowed the seeds for a civil war which has gripped the country since 2015, worsening the already dismal development indicators and increasing the suffering of an already impoverished population.[1]

1.1 Case: Airstrikes on a besieged city

On 26 March 2015, Saudi Arabia and the United Arab Emirates (UAE) launched a surprise military attack on Yemen, destroying its air force and controlling its airspace within 24 hours, with the stated goal to reinstate Yemen's embattled President Abdrabbuh Mansour Hadi, whose legitimacy had been undermined by the Houthi takeover of Sana'a some months prior. Wanting to retake the port city of Hudeidah, which had been under Houthi control since 2015, the pro-government forces announced the commencement of 'Operation Golden Victory' on 13 June 2018. The battle for Hudeidah resulted in the Saudi-led coalition laying siege to the port. Consequently, fishing was no longer the main activity practiced by most residents of Hudeidah; instead, the hunt for civilians trapped under the rubble of structures destroyed by Saudi-led coalition airstrikes, had come to take people's time.

One such airstrike was carried out on 2 August 2018. In the late afternoon, citizens of the besieged city of Hudeidah heard warplanes buzzing overhead; this unfortunately was not an uncommon occurrence in the port city. Soon they heard the whizzing of a missile, followed by an explosion as the missile hit the busiest fish market in the city. People on the streets rushed to the site and began helping the paramedics and ambulances – already in a dire state as a result of the siege and a conflict spanning over three years – to carry the bodies of the dead and injured to nearby medical facilities, including the largest hospital in the city, Al Thawra Hospital. In the midst of all the frenzy, the hovering of the warplanes returned, and this time strikes hit the entrance of the hospital, crowded with civilians. Alaa Thabet, a 38-year-old resident of Hudeidah said that it seemed like the warplanes were chasing the casualties, and the second round of strikes therefore killed more people than the first. 'After the second airstrike people were praying Allah would take revenge on the Saudis,' Thabet said. 'As I approached the site of the strikes, I saw a motorcyclist who had been killed but his hands did not leave the motorcycle. I cannot forget this scene' (Middle East Eye, 2018).

News agencies reported between 26 and 60 dead and over 100 injured as a result of the airstrike (Middle East Eye, 2018; Abdulkareem, 2018; Rashad et al, 2018; Deutsche Welle, 2018). Earlier the International Committee of the Red Cross (ICRC) shared on Twitter that it was sending medical equipment to Al Thawra Hospital to treat 50 people in critical condition following the attack. The hospital said in a tweet that a strike targeted its main gate, leaving dozens of casualties (Rashad & El Yakoubi, 2018).

An estimated two dozen missiles were fired in Hudeidah on that day, marking an escalation of the conflict, in a city already besieged. These attacks came after weeks of tensions in which Saudi Arabia accused its Yemeni adversaries, the Houthi rebels who occupied Hudeidah, of attacking a Saudi oil vessel in a Red Sea shipping lane. The missile strikes of 2 August 2018 were the most intense raid in a series of Saudi-led aerial attacks over the previous weeks. Earlier attacks hit targets near a reproductive health centre and a public laboratory in Hudeidah, and a water station and sanitation plant that supplies much of the water to the port city, according to the UN (Kalfood & Coker, 2018).

The siege, which combined incessant airstrikes with an import blockade, had effectively cut off millions of civilians from much-needed resources. Up to 80 per cent of the humanitarian supplies, fuel and commercial goods for the country are delivered through Hudeidah; in short, the port is a lifeline for millions of Yeminis at risk of famine (BBC News, 2018a). 'The Saudis have taken a page from [Syrian President Bashar] al-Assad's playbook. They think this siege will break us and we'll accept their plan for the country', said 62-year-old Mohamed Abu Baker, a civil servant (Edros, 2017).

Despite the Houthi's lack of an air force, the Saudi-led coalition denied being involved in the airstrike: '[The] coalition did not carry out any operations in Hudeidah today', said Colonel Turki Al-Malki, the spokesman of the coalition forces in Yemen. 'The Houthi militia are behind killing of civilians in Hudeidah on Thursday', he insisted. 'The coalition follows a strict and transparent approach based on the international law. We pursue any allegations and if there is any responsibility we will hold it transparently', he said (Rashad & El Yakoubi, 2018). Pro-Yemeni government activists and media accused the Houthis of targeting civilians with ballistic missiles, suggesting the rebels did so to make the coalition look bad.

Marred by airstrikes and blocking of supplies, the siege of Hudeidah lasted over six months, and was finally ended following the truce under the Stockholm Agreement on 13 December 2018.[2] In the following months, even though the airstrikes on Hudeidah stopped, fighting had still not decreased by March 2019. Aid delivery was still hampered and the city remained unsafe for civilians (Slemrod, 2019). The UN-chaired Redeployment Coordination Committee, headed by retired General and out-going head of the UN mission in Yemen Patrick Cammaert, brought parties on a UN-chartered boat off the Red Sea to discuss further steps of the Hudeidah agreement. Under the Stockholm Agreement, the full redeployment of forces from both sides should have been completed within 21 days of the Agreement's conclusion. In reality, it was not until 11 May 2019 that the Houthis began their redeployment (Peoples Dispatch, 2019a).

1.2 Perpetrators: An internationally backed proxy war?

While the battle in Yemen on the surface seemed to be between the Houthis and President Hadi, the latter being backed by Saudi Arabia and UAE, officially, the coalition also included

Qatar (until June 2017), Morocco (until February 2019), Bahrain, Kuwait, Egypt and other Arab and African allies.[3] The Saudi-led coalition is backed by Western allies including the United States, the United Kingdom and France, who are providing intelligence and crucial support to the Saudi-led coalition. On the other hand, Iran supports the Houthis with expertise and weapons smuggled into the country. Against this backdrop, it has been suggested that the battle of Hudeidah and the Yemeni civil war should be viewed as part of the wider Middle East-wide proxy war between Iran and Saudi Arabia.

It is clear that all parties to the conflict perpetrate harm against civilians, ranging from arbitrary detention, to rape, torture, and violations of economic, social and cultural rights (Shugerman, 2018). The use of airstrikes in this conflict is particularly notable: They likely violate the International Humanitarian Law principles of distinction, proportionality and precaution, and are responsible for the majority of direct civilian casualties. Notably, the Saudi-led coalition has carried out airstrikes on markets – such as the attack described above – and medical facilities, thereby depriving Yemeni civilians of food and health care (Shugerman, 2018).

It is also essential to look at the facilitating role that the US, UK and France are playing, especially in terms of weapon sales. From 2009 to 2016, the Obama administration authorised a record USD 115 billion in military sales to Saudi Arabia, far more than any previous administration. Much of that weaponry is being used in Yemen, with US technical support (Bazzi, 2018). Moreover, in late 2017, after the Houthis fired ballistic missiles at several Saudi cities, the Pentagon secretly sent US special forces to the Saudi-Yemen border, to help the Saudi military locate and destroy Houthi missile sites. While US troops did not cross into Yemen to directly fight Yemen's rebels, the clandestine mission escalated US participation

in a war that has dragged on since Saudi Arabia and its allies began bombing the Houthis in March 2015 (Bazzi, 2018). Similarly, in May 2017, President Trump announced the sale of nearly USD 110 billion in weapons to the regime over a 10-year period (Safi, 2018). Saudi Arabia and UAE, both involved in the international offensive in Yemen, together make up around 28 per cent of the US global arms sale (Peoples Dispatch, 2019b). After years of sales, in January 2021, the new Biden government is now reconsidering arms sales to Saudi Arabia and the UAE, however, a concrete decision is still pending (Strobel, 2021).

The US is not the only Western country supporting the Saudi-led regime. In April 2019, *Disclose*, an independent investigative media outlet, published a report citing a classified report from the French military intelligence, dated September 2018, providing overwhelming evidence that the Saudi-led coalition used French-made artillery, tanks and laser-guided missile systems against civilians in Yemen (Ira, 2019). These claims were denied by the French Minister of the Armed Forces, Florence Parly. However, she confirmed in May 2019 that France was in the process of sending a new shipment of weapons to Saudi Arabia. 'As far as the French government is aware, we have no proof that the victims in Yemen are the result of the use of French weapons,' Parly said (The Defense Post, 2019). The report makes clear that France's actions are in violation of international law, including the 2014 European treaty on arms trade, which outlaws arms sales when the country has 'knowledge at the time of authorization that the arms or items would be used in the commission of' war crimes (Morrow, 2019).

Another Western country which is said to be complicit in the war is the United Kingdom. Over the last 4 years of the war, the UK's weapons exports to Saudi have sky-rocketed, now accounting for nearly 50 per cent of its

arms exports. Between March 2015 and December 2018 over GBP 5.7 billion (about USD 7.3 billion as of December 2018) in arms have been sold to the Saudi-led coalition fighting in Yemen (Burgess, 2019a). Critics have been even more vocal that within the 3 months after the death of the journalist Jamal Khashoggi who was an active critic of the Saudi government, the British government licenced an estimated GBP 11.5 million (about USD 14.7 million) worth of military equipment to Saudi Arabia (Burgess, 2019b). There is currently no obligation on the government to publish the total value of the licence when it ends (Burgess, 2019b).[4] Andrew Smith, a spokesperson for the Campaign Against Arms Trade speaking on these deals said:

> *The murder of Jamal Khashoggi was condemned around the world, but for the arms dealers it was business as usual. At the same time as the regime was coming under unprecedented pressure, the U.K. government was cozying up to the dictatorship and signing off on arms deals. The humanitarian crisis that Saudi forces have inflicted on Yemen hasn't been enough to stop arms sales. Nor has the brutal killing of Jamal Khashoggi. If these atrocities haven't been enough for Downing Street to act then what more would it take? (Burgess, 2019b)*

Similarly, in April 2019, the British investigative current affairs programme *Dispatches* released the documentary 'Britain's Hidden War', which exposed the depths of the UK's complicity in Saudi Arabia's bombing of Yemen (Channel 4, 2019). It revealed that under the arms deal signed by the UK government, Britain has provided the Saudis with a fleet of Typhoon military jets, as well as the constant supply of ammunition, components, training and technical support required to keep those jets operational, creating a high degree of Saudi dependency on continued British support. A former Saudi air force officer claimed in the

documentary that his compatriots would be unable to keep the Typhoon in the air without British support, and that although jets supplied by the US play an insurmountable role in the war, without the British supplied Typhoon, they will stop the war (Wearing, 2019).

While countries like the UK, US and France may not be official combatants, all these states, including Spain, China, Canada, Turkey, Georgia, South Africa, Belgium, Bulgaria, Romania, and Poland among others, are indispensable participants and accessories in the conflict in Yemen (Dewan, 2018). These countries facilitate Saudi-led violence against civilians. This links those countries to the conflict and makes them complicit in its human cost. It is weapons and military technology like this which enable Saudi and Emirati air forces to target cities like Hudeidah and Taif, which are already besieged, as part of a larger strategy of cutting off food, fuel and other essential resources for Yemeni civilians. Italy, Norway, Finland, Germany, Greece and Denmark have suspended arms exports to Saudi Arabia over concerns over the Yemen conflict, with many announcing this suspension immediately after the killing of Jamal Khashoggi (Za & Jones, 2018; Graham, 2018).

1.3 Victims: Death, displacement, disease, and starvation

According to the UN, at least 6,800 civilians have been killed and 10,700 have been injured as a result of direct fire during the conflict (BBC News, 2018b). However, the second-order impact on the loss of lives and compromised resilience is far more catastrophic. According to conservative estimates by international human rights groups and aid agencies, 60,000 Yemenis have died since 2016, the majority from Saudi- led coalition bombing (Reinl, 2019). Out

of 18,000 strikes from March 2015 to April 2016, 31 per cent of targets were civilians or civilian infrastructure, 36 per cent were military, and the remainder were unknown (Safi, 2018). Another report, commissioned by the UN with researchers from the University of Denver, estimated that by 2019 more than half of the death toll of the conflict in Yemen would consist of deaths as a result of indirect effects of the conflict, such as starvation and diseases (Moyer et al., 2019). The number of grave violations of children's rights has more than doubled in the past year and reported incidents of sexual and gender-based violence (SGBV) have increased 70 per cent, whereas many incidents remain unreported (UN Office for the Coordination of Humanitarian Affairs, 2019). An estimated 3 million women and girls are at risk of SGBV and incidents of violence against women have increased by more than 63 per cent over the last 2 years (Oxfam, n.d.). Areas along many of the more than 30 front lines have been mined.

People fleeing their homes to other areas of Yemen or if they can, outside of the country, are another devastating consequence of the war. Since the siege on Hudeidah started, the UN estimates that over 445,000 people, equivalent to approximately half the city's inhabitants, have fled (McKernan, 2018). In total, over 3.65 million people are displaced internally in the country since the conflict began, out of which 398,000 were displaced within 2019 alone (Internal Displacement Monitoring Centre, n.d.). An additional 1.28 million displaced people have already returned to their areas of origin (International Organisation for Migration, n.d.).

Particularly harmful in the Yemeni civil war have, however, been widespread famine and outbreaks of diseases as a consequence of fighting.

Cholera: Less than 50 per cent of health facilities across the country are fully functional and those which are operational lack specialists,

equipment and medicines, with the latter being hard to get because of the siege. Only 22 per cent of rural and 46 per cent of urban populations are connected to partially functioning public water networks and less than 55 per cent of the population has access to safe drinking water. Fighting has damaged water and electricity infrastructure, irrigation systems, agricultural sites, hospitals, water points, sanitation plants and economic assets. Not only are these infrastructures being directly targeted, importing medicines, chlorine for water purification, specialised equipment, and fuel to run these infrastructures have become problematic as a result of the siege. As a result, Yemen is facing the world's worst ever recorded cholera outbreak, which has spread to nearly every corner of the war-ravaged country (World Health Organisation, 2017). More than 1.3 million cases have been reported and at least 2,700 people have died since the start of the epidemic. Many more are now at risk, already weakened by hunger and the effects of the ongoing war.

Food insecurity: Food insecurity affects staggering numbers of Yemenis. More than twenty million people face hunger, of whom almost half suffer acute food insecurity (World Food Programme, n.d.). Women suffer disproportionately from these dramatic levels of food insecurity and malnutrition. They eat last and least, giving priority to children and other family members, or using money for other household needs.

The food shortage that led to the famine is not a coincidental consequence of the war in Yemen. There are two variables affecting hunger: food availability and the capacity to pay for it. About 90 per cent of the country's food has to be imported, but the Saudi-enforced blockade of imports has caused shortages. In Hudeidah, the price of barley is three times higher than it was before the conflict. Just in January 2018,

the price of imported cooking oil went up 61 per cent and the price of wheat rose by 10 per cent, whereas maize went up by an approximate 140 per cent (UN Food and Agriculture Organisation, 2018). Analysis indicates that civilian areas and food supplies are being intentionally targeted. 'In Sa'ada, they hit the popular, rural weekly markets time and again. It's very systematic targeting of that, 'said Martha Mundy, a retired professor from the London School of Economics, who analysed the location of air strikes throughout the war (Ferguson, 2018). This is a consistent pattern, also visible in the targeting of Hudeidah's fish market described above.

In addition, companies face arbitrary restrictions by parties to the conflict when moving food around the country (Oxfam, 2018). The blockade causes fuel shortages and uncertainty of imports, and consequently, some of Yemen's major food companies struggle with milling and distributing food inside the country. Despite a temporary ceasefire brokered in December 2017, less than one-fifth of the country's monthly fuel needs and just over half of monthly food needs were imported through the ports by January 2018. 'This is a war waged with 21st century hi-tech weapons, but the tactic of starvation is from the Dark Ages', remarked a country representative from Oxfam in Yemen (Oxfam, 2018).

This economic warfare is a grey area under international law. Whereas overt siege-and-starvation tactics are explicitly prohibited, civilian areas and food supplies are being intentionally targeted. Stopping activities that are essential for people to feed themselves, such as closing of businesses and work opportunities, is not explicitly covered under international law (See Rule 53 in International Committee of the Red Cross [ICRC], n.d.). The Executive Director of the World Peace Foundation and author of the book 'Mass Starvation', Alex de Waal, stated that

that is the weakness in the law. The coalition airstrikes are not killing civilians in large numbers but they might be destroying the market that kills many, many more people. The focus on food supplies overall and humanitarian action is actually missing the bigger point. It's an economic war with famine as a consequence. (Ferguson, 2018)

The situation in Yemen goes to the heart of the major legal dispute regarding economic warfare: intent. Military and political figures can claim that they never intended to starve a population, and argue that hunger is an unintended side-effect of war for which they do not bear legal responsibility.

1.4 Significance: Siege as a war tactic

While the adjective most commonly used to describe sieges is 'medieval', today's sieges are most often laid using jet aircraft, and modern communications technology enables daily contact with civilians living under siege. Both besieged and besieging forces appear motivated by perverse incentives to prevent civilians from leaving besieged areas, potentially prolonging their suffering for years. Other cities in Yemen which have also faced siege in the country include the capital Sana'a, the port city of Aden, as well as the governorate of Hajjah.

Nearby in Syria, siege tactics have been used since the conflict first began in 2011. The first siege in the Syrian conflict was imposed just a month into the uprising. On 25 April 2011, the Syrian Arab Army (SAA) surrounded the southern city of Dara'a and besieged it as part of a 10-day operation that would leave over 500 Syrians dead and 2,500 detained. Similarly, in 2012, the Syrian government imposed multiple sieges to protect

areas of strategic importance. It laid siege to a number of areas in Damascus' suburbs, preventing the spread of dissent into the capital and cutting rebels off from external support. Sieges have also been used to protect the city of Homs, which occupies an important central location between Damascus and Aleppo, and areas near the Lebanese border, to protect supply routes. This strategy has proven successful, as the regime maintains control over these key areas today.

As the rebellion continued and besieged opposition forces refused to surrender, preventing the movement of goods and people was no longer sufficient to eradicate the opposition. Instead, the SAA shifted to a systematic campaign of 'urbicide,' the destruction of vital sites of civilian infrastructure, in an attempt to render the means of modern life impossible. Electricity, water, and sanitation networks were targeted, as well as medical facilities and schools (Todman, 2016). The Syrian government has since besieged areas such as Ghouta, Douma, Kefraya, Fua'a, Zabadani, Darraya, Hama, Homs, Aleppo, and at the time of writing this chapter, has besieged Idlib.

The self-proclaimed Islamic State of Iraq and Syria (ISIS) has also used siege as a war tactic across Iraq, from Mosul to Hawijah, whereas the anti-ISIS coalition besieged Western Mosul in March 2017 in order to physically isolate ISIS and cut its supply lines.

Oddly enough, sieges as such are not prohibited under international law. There are, however, several rules that protect civilian populations in a siege situation. Starvation of the population as a means of warfare is not allowed, nor is the destruction of objects indispensable for their survival; vulnerable civilians must be allowed to evacuate; humanitarian access must be provided; and in general, civilians and civilian objects must be protected from attack and terror.[5] However, as seen in the case of Hudeidah, despite the siege,

humanitarian access was not allowed, starvation was still used as a tactic against civilians, and civilian infrastructure was still targeted through airstrikes on markets, and water and health infrastructure. In addition, the ICRC has collected evidence on customary international law to establish certain rules as norms in non-international as well as international armed conflict, including prohibitions on starvation of civilians, on using civilians as human shields, on destruction of objects indispensable to civilian survival, and on collective punishments, as well as requiring 'rapid and unimpeded passage of humanitarian relief for civilians in need' (see Rules 24 and 53 in ICRC, n.d.). International organisations have criticised the use of sieges in Bosnia and Herzegovina as well as in Syria (UN Security Council, 2018; see Rule 53, note 22 in ICRC, n.d.).

In the meantime states, including permanent members of the UN Security Council and parties to the Additional Protocols, continue to use siege warfare – with its attendant severe hardships for civilians – and to defend its legality (The Ceasefire Centre for Civilian Rights, n.d.). As long as strong powers continue to back up the parties to the conflict instead of seriously investing in conflict resolution, and persist in providing arms, planes, intelligence and logistics to the belligerents instead of focusing on relief for the population of Yemen, the siege of Hudeidah and the rest of the country will continue to undermine life and stability for the Yemenis for many years to come.

Images

Damage in Hudeidah following a 21 September 2016 airstrike by the Saudi-led military coalition.
© Dietrich Klose (2017)

Bibliography

Abdulkareem, A. (2018, August 3). The Forgotten War: Saudi Coalition Bombs Fish Market and Hospital in Hodeidah Killing Scores of Civilians. *Mint Press News.*

Bazzi, M. (2018, June 11). The war in Yemen is disastrous. America is only making things worse. *The Guardian.*

BBC News (2018a, November 7). Yemen war: Battle for vital port of Hudaydah intensifies. *BBC News.*

BBC News, (2018b, November 21). Yemen crisis: 85,000 children 'dead from malnutrition'. *BBC News.*

Burgess, S. (2019a, March 29). UK sold £5.7bn of arms to Saudi-led coalition fighting in Yemen. *Sky News.*

Burgess, S. (2019b, May 17). UK sold £11.5m of arms to Saudi Arabia in months after Kashoggi murder. *Sky News.*

Channel 4 (2019). *Britain's Hidden War: Dispatches* [Documentary]. Channel 4.

Deutsche Welle (2018, August 3). Deadly airstrikes on fish market in Yemen's Hodeidah. *Deutsche Welle.*

Dewan, A. (2018, November 23). These are the countries still selling arms to Saudi Arabia. *CNN.*

Edros, F. (2017, November 9). Saudi siege on Yemen: 'Hundreds will die within a week'. *Al Jazeera.*

Ferguson, J. (2018, July 11). Is Intentional Starvation the Future of War? *The New Yorker.*

Graham, D. (2018, November 23). Denmark suspends arms sales to Saudi Arabia – but which European countries continue to supply it? *Euronews.*

International Committee of the Red Cross (n.d.). *Customary IHL Database* [Webpage]. International Committee of the Red Cross. Accessed: February 2021.

Internal Displacement Monitoring Centre (n.d.). *Yemen* [Webpage]. Internal Displacement Monitoring Centre. Accessed: September 2019.

International Organization for Migration (n.d.). *Displacement Tracking Matrix: Yemen* [Webpage]. International Organization for Migration. Accessed: September 2019.

Ira, K. (2019, April 26). Leaked documents implicate French government in war crimes in Yemen [Blog post]. *World Socialist Web Site.*

Kalfood, M. A., & Coker, M. (2018, August 2). Saudis Escalate Siege of Port in Yemen, Alarming Aid Groups. *The New York Times.*

McKernan, B. (2018, November 20). Yemen: Hodeidah sees 'worst fighting yet' despite UN ceasefire calls. *The Guardian.*

Middle East Eye (2018, August 4). 60 dead after air strike hits hospital and market in Hodeidah. *Middle East Eye.*

Morrow, W. (2019, April 26). Macron moves to prosecute journalists who revealed French arms sales in Yemen war [Blog post]. *World Socialist Web Site.*

Moyer, J. D., Bohl, D., Hanna, T., Mapes, B. R., & Rafa, M. (2019). *Assessing the impact of war on development in Yemen* [Report]. United Nations, Development Programme.

Oxfam (2018, January 18). *Yemen still starved of food and fuel after month-long suspension of international blockade* [Press release]. Oxfam.

Oxfam (n.d.). Yemen on the brink: conflict is pushing millions towards famine [Blog post]. *Oxfam.* Accessed: September 2019.

Peoples Dispatch (2019a, May 15). Houthi forces withdraw from vicinity of three ports in accordance with ceasefire deal. *Peoples Dispatch.*

Peoples Dispatch (2019b, March 13). Middle East arms sales up by a massive 87%, mostly US-supplied. *Peoples Dispatch.*

Rashad, M., & El Yakoubi, A. (2018, August 3). Saudi-led coalitions says Houthis behind Thursday's attack in Hodeidah. *Reuters.*

Rashad, M., El Yakoubi, A., & Abdelaty, A. (2018, August 2). Saud-led coalition says Houthi behind killing of civilians in Hodeidah, Yemen. *Reuters.*

Reinl, J. (2019, April 26). Yemen death toll to surpass 230,000 by end of 2019: UN report. *Middle East Eye.*

Safi, M. (2018, November 30). Understanding U.S. Involvement in Yemen's 'Forgotten War'. *National Review.*

Shugerman, E. (2018, August 28). Yemen civil war: Both sides in conflict may have committed war crimes, UN says. *The Independent.*

Slemrod, A. (2019, February 6). Whatever happened to the ceasefire deal in Yemen? *The New Humanitarian.*

Strobel, W. P. (2021, January 27). Biden Re-Examining U.S. Arms Sales to Saudi Arabia, U.A.E. *TheWall Street Journal.*

The Ceasefire Centre for Civilian Rights (n.d.). *Humanitarian limits on the use of siege warfare* [Webpage]. Accessed: September 2019.

The Defense Post (2019, May 8). France will send new arms shipment to Saudi Arabia, Parly says. *The Defense Post.*

Todman, W. (2016, July 13). Siege Warfare in Syria [Blogpost]. *Lawfare*.

UN Development Programme (n.d.). *Human Development Index (HDI)* [Webpage]. United Nations, Development Programme. Accessed: September 2020.

UN Food and Agriculture Organisation (2018, January). *Monthly Market Monitoring Bulleting* [Factsheet]. UN Food and Agriculture Organisation, Yemen Ministry of Planning and International Cooperation & Food Security Technical Secretariat.

UN Office for the Coordination of Humanitarian Affairs (2019). *Yemen: Humanitarian Response Plan, January-December 2019* [Report]. United Nations, Office for the Coordination of Humanitarian Affairs.

UN Security Council (2018, February, 24). *Resolution 2401* (S/RES/2401). United Nations, Security Council.

Wearing, D. (2019, April 3). Britain could stop the war in Yemen in days. But it won't. *The Guardian*.

World Food Programme (n.d.). *Yemen* [Webpage]. United Nations, World Food Programme. Accessed: February 2021.

World Health Organisation (2017, June 24). *Statement from UNICEF Executive Director Anthony Lake and WHO Director-General Margaret Chan on the cholera outbreak in Yemen as suspected cases exceed 200,000* [Press release]. United Nations, World Health Organisation.

Za, V., & Jones, G. (2018, December 28). Italy PM backs halting arms sales to Saudis. *Reuters*.

Endnotes

1 In 2014, before the start of the civil war, Yemen ranked 160th out of 188 on the Human and Gender Development Indices (HDI and GDI) with an HDI score of 0.498 and a GDI score of 0.739, with about 50 per cent of the population suffering from multi-dimensional poverty. In 2018, it had dropped to the 170th place out of 189 countries, with an HDI of 0.463 and a GDI of 0.458. For comparison: The highest-ranking country of 2018, Norway, had a HDI of 0.954 and a GDI of 0.990 (UN Development Programme, n.d.).

2 The Stockholm Agreement also included mechanisms for prisoner exchange, as well as a statement of understanding on Taiz. The parties did not sign the agreement, but shook hands on it.

3 This Saudi-led intervention in Yemen is neither new nor surprising: Yemen's strategic location has ensured a history of Saudi intervention in the country that escalated when monarchs or Saudi-allied presidents—like Hadi—came under threat.

4 The total figure could be much higher because of the use of a type of licence which allows the agreement to be extended over time. The government is not obliged to clarify the final figure. Open licences, known as OIELs, have been described as 'secretive' by campaign groups because they allow an uncapped number of items to be sent to another country for five years.

5 See Article 17 of the Fourth Geneva Convention, as well as Articles 51, 54 and 70 of Additional Protocol I, and Articles 14 and 18 of Additional Protocol II.

CASE 2.
Oil fires:

Apocalyptic scenes in Qayyarah
(Iraq, 2016)

AUTHOR: WILBERT VAN DER ZEIJDEN (PAX)

COUNTRY

Iraq
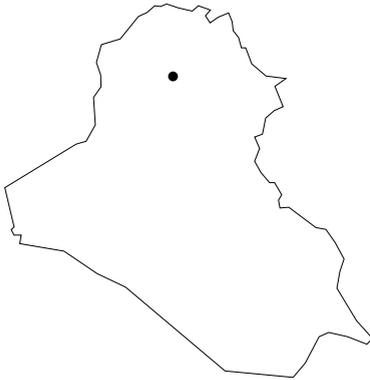
PERPETRATOR

ISIS

ACT

set oil wells and rigs on fire, and polluted

water sources with oil

OBJECTIVES*

· to terrorise civilians

· to get cover from airstrikes

· to delay the advance of Iraqi troops

· to destroy valuable land, resources and infrastructure

* As far as we have been able to discern; the list may not be exhaustive in this regard

CONSEQUENCES

Internal displacement of Iraqis

↳ leading to a number of displacement-associated risks (e.g. reduced access to education, income and health care)

Short-term health problems (e.g. shortness of breath, suffocation, rashes)

Anticipated long-term health problems (e.g. cancer, pulmonary fibrosis, birth defects)

Extensive environmental damage

↳ hindering agriculture and the keeping of livestock

↳ causing loss of or reduced income

In the summer of 2016, Iraqi troops launched an offensive to retake Mosul, Iraq's second largest city and the biggest city under Islamic State of Iraq and Syria (ISIS) occupation. The first major military objective was Qayyarah, a town on the banks of the Tigris river, approximately 60 kilometres south of Mosul. By July, as Iraqi forces began their operation to retake Qayyarah, ISIS started to apply a scorched earth tactic, setting oil wells and rigs on fire in order to provide cover from aerial bombardment, delay Iraqi forces or simply to degrade valuable resources, land, and infrastructure, as well as terrorise communities (UN Institute for Training and Research [UNITAR], 2017a).

2.1 Case:
‘Even the sheep had turned black'[1]

In late August, when Iraqi troops seized Qayyarah, ISIS set alight twenty wells and opened up oil pipes in the town, flooding the streets with crude oil (Al-Abadi, 2016; Rudaw, 2016). Some neighbourhoods were highly contaminated with oil sumps and at some wells, large lakes of solidified crude oil formed. The oil spilling into the Tigris river, the town's main source of drinking water, polluted the irrigation channels of nearby farms (Malsin, 2016; Iraq Oil Report, 2016a).

The total amount of burned and spilled oil cannot be ascertained but it is estimated by experts from the oil ministry to be 20,000 cubic metres. Several storage tanks were flooded, creating pools of liquid oil, which likely seeped into the ground (UN Environment Programme [UNEP], 2017a). Satellite imaging by the UN of the fires between July and October 2016 revealed that an area of around 256 square kilometres was covered by the smoke

plumes for more than 21 days, depositing soot over Qayyarah, as well as a large area surrounding the town (Weir, 2016; UNITAR, 2017b).

Mines and improvised explosive devices left behind by ISIS complicated efforts by Iraqi firefighters to extinguish the burning wells. It took until March 2017 before the last well was extinguished, leaving a blackened and contaminated landscape (UNEP, 2017a; Zwijnenburg & Postma, 2017).

Sources on the ground painted apocalyptic scenes. Erik Solheim, Executive Director of the United Nations Environment Programme (UNEP) describes how the smoke that billowed from the burning oil fields was so thick it blocked out the sun:

> *By the time I reached Qayyarah, [...] a film of black soot had settled over the Iraqi town like toxic snow. Even the sheep had turned black. Pools of thick oil ran in the streets. In the sky above the town, the black smog mixed with white fumes from a nearby sulphur plant that the jihadists had also set on fire as they retreated. (Solheim, 2017)*

Beneath the cloud the temperature was noticeably lower, and locals wore jackets despite it being unseasonably warm in the rest of northern Iraq (War Is Boring, 2016), leading locals to refer to it as the 'Daesh Winter' (Zwijnenburg & Postma, 2017, p. 8).

Closer to the flames, the heat built and the ground became uniformly black—covered by a coating of weeks-old residue which crunched underfoot. In some places, the oil erupted from the ground under extreme pressure and at one point, a thin, tall flaming tornado formed within the fire with a roaring hiss (War Is Boring, 2016). The closest proxy for the situation in Qayyarah is the 1991 Kuwait oil fires. Those fires released various hazardous chemicals (War Is Boring, 2016; US Department of Veterans, 2018).[2] But unlike in

Kuwait, the Qayyarah fires were located close to a population centre.

A rapid assessment published by the Joint UNEP/ Office for the Coordination of Humanitarian Affairs (OCHA) Environment Unit urged the Iraqi Ministry of Health and Environment and relevant ministries in neighbouring countries, to begin collecting data from its existing network of air monitoring stations (Joint UNEP/ OCHA Environment Unit, 2016). But while the town saw no shortage of journalists visiting it, environmental experts have been less visible.

2.2 Victims:
Living under a black cloud

In Qayyarah, thousands of local people and more than 35,000 internally displaced persons (IDPs) in the nearby camps (REACH, 2017) lived under the dark cloud that blocked out the sunlight for months. Some families left because of it, but many of Qayyarah's inhabitants elected to stay in their homes rather than move to displacement camps. Many reasoned it was best to wait it out and restore the town as soon as the fires were put out. The Iraqi government forces had just retaken the town from ISIS, which meant that for the first time in two years, many people felt relatively safe again, despite their frustration with the slow pace of efforts to put out the fires.

And people adjust to almost everything. Journalists visiting the town describe how children – smeared with soot and oil – were playing happily near the burning wells, while others seemed as happy as any kid in school (War Is Boring, 2016).

Life was difficult though, with smoke and soot covering and creeping into everything from soil, waterways, to food, clothes, houses. Many people experienced suffocation or shortness of breath,

sometimes requiring medical assistance. Teachers of a local school for girls described how they have tried to return to teaching against all odds. Many of the children have breathing problems and have been sent to hospital. 'One of the fires is just round the corner from here,' explained one teacher. 'The water is hardly on in the neighbourhood. We have had some at the school, but it has oil in it,' said another. 'What of our children, they are losing their future,' the teacher said, shaking her head as she started to cry (War Is Boring, 2016). Many people also experienced irritation of the eyes, nose, and throat, as well as coughing, rashes, and allergies.

Damages to the power grid and to the water supply worsened the problems of residents, as it made it virtually impossible to wash off the soot and smear. 'The only thing that can get the dirt off is petrol or solvents,' explained resident Abdul, neither of which are good for anyone's health (War Is Boring, 2016).

In a survey by the UN Development Programme and the Al Taheer Association for Development, residents expressed concern over pollution in the soil, water, and air in Qayyarah caused by the oil well fires, the Mishraq sulphur fire, and military remnants. Some mentioned that local health officials had told them that the pollution might have short-term consequences such as allergies and shortness of breath, as well as long-term consequences such as lung cancer and pulmonary fibrosis. Others expressed concern that,

> locals have been suffering from burns, deformations and countless disability cases. Human genes are also affected due to the use of chemical weapons and the burning of oil wells and military remnants. The gene mutations will result in having more birth defects. (Zwijnenburg & Postma, 2017, p. 23)

Residents expressed gratitude to the local hospital, where doctors were receiving

countless patients in a building damaged by the recent violence, while being understaffed and undersupplied.

One of the contributing factors for residents was the worry of not knowing more about the health risks involved. Studies of previous oil fires, such as the 1991 Kuwait oil fires, show that a lot of factors can influence the behaviour and the potency of toxic pollutants. A number of factors seemed to work against the civilians in Qayyarah: the type of oil produced by the Qayyarah oil field; the prevailing winds and atmospheric effects; and the close proximity of the residential areas to the oil fires and spillages.

The Qayyarah oil field produces so-called 'heavy sour crude' – oil rich in sulphur, usually in the form of hydrogen sulphide and, typically, metals such as nickel and vanadium. It is denser and more sulphur-rich than the majority of fields across the region (Weir, 2016).

How the smoke plumes behave is crucial for determining the risks to human health and the environment. In analogous cases, such as the Kuwaiti oil fires in the 1991 Gulf War, atmospheric conditions regularly allowed the plumes to rise to high altitudes – often travelling at a height of between two and six kilometres (Weir, 2016). However, in Qayyarah, residents describe how the black clouds would stay close to the surface, with one resident describing how nights were the worst time, when there would be no escape from the smoke. As the temperature drops in the evening, the smoke comes down to ground level, reducing visibility and lowering the temperature in the town and its homes (War Is Boring, 2016).

The hazardous substances produced by oil fires include volatile organic compounds[3] and gaseous pollutants[4], both of which produce particulate matter at sizes of concern to human health. Particulate matter can act as a vehicle for toxic

materials to enter the lungs and the inhalation of high concentrations of particles over long periods can reduce the lungs' ability to clear themselves (Weir, 2016).

In addition to the oil fires, health and environmental concerns were aggravated by local oil spills, and the deliberate attempts by ISIS to contaminate water wells and the Tigris river. In October, ISIS also set a sulphur factory alight, leading to 1,000 people to require medical treatment, adding to the fears of residents in Qayyarah (Dearden, 2016). Qayyarah residents claim that their health problems had strong socio-economic dimensions. 'The most affected ones are the low-income families and chronic disease patients. Due to the pollution, locals are facing more economic burdens. Suffocations, respiratory problems, rash and allergy cases increased, making it difficult to afford the treatments costs' (Zwijnenburg & Postma, 2017, p. 23). There is also a lack of places to receive treatment in the area, which forces many locals to seek medical help in other cities. The pollution was said to impact the lives of humans, animals, plants and property, thereby affecting the well-being of people living in the affected areas.

Beyond health effects, months of deposition of toxic substances and the contamination of ground and surface directly affected livestock breeders and farmers, who lost access to their sources of income.

While the burning oil wells were a visual magnet for the media, vividly showing the toxic horrors of war, interest in the long-term health consequences of exposure to conflict pollution soon faded after the fires were extinguished. Reporting from numerous media sources and international organisations highlighted concerns expressed by the area's inhabitants over the health effects of the oil fires, yet there were no discernible risk education programmes or awareness-raising

initiatives targeted at the affected communities (Zwijnenburg & Postma, 2017).

Civilians became frustrated by the slow pace of efforts to stop the fires and by the lack of capacity to assess, monitor, and remediate pollution and wider environmental problems (Weir, 2016; Zwijnenburg & Postma, 2017; War Is Boring, 2016). Responsible remediation of the town of Qayyarah will place a huge technical and financial burden on Iraqi society. Civilians interviewed by PAX in Qayyarah suggested there should be a joint effort by the government, in cooperation with scientists, environmental organisations, and individuals, to tackle the pollution. More importantly, appropriate medical treatment and health services should be provided by the Iraqi government to those affected, with the support of specialised international organisations. And if local treatment is not possible, patients should have the opportunity to receive treatment abroad. They suggested that a health monitoring system, or health committees, be established in order to swiftly identify people who have been affected by the pollution.

The pollution caused by the oil fires, and the hazardous debris from damaged industrial sites, were viewed as a priority. One suggestion provided was to surround the polluted areas with plants, to form a protective belt of trees to prevent the spread of pollutants. Other participants suggested the development of laws to limit the use of weapons that release pollution and radiation. Lastly, they also called for risk education campaigns to be undertaken in the Qayyarah area to educate local communities on the pollution hazards (Zwijnenburg & Postma, 2017).

2.3 Perpetrators: Scorched earth tactics

Before the conflict began in 2014, the Qayyarah oil field had a production capacity of 30,000

barrels per day and there were plans to increase its daily output to 120,000 (Reuters, 2009). After ISIS captured the field in 2014, they decided to exploit it for revenue, smuggling crude oil across the Turkish border (Rasheed, 2014).

As Iraqi forces regained territory from ISIS, the group employed scorched earth tactics by setting alight oil wells and rigs on fire. In the case of the Qayyarah oil field, they did so without any warning to civilians in Qayyarah town, according to local residents (War Is Boring, 2016). In May 2016, the United Nations Operational Satellite Applications Programme detected fires at several wells around Qayyarah, which continued to burn intermittently until June. Then, in July 2016, as Iraqi forces began their operation to retake Qayyarah, the fires greatly increased in number and duration and by the end of August of that same year, nineteen of twenty oil wells were on fire.

ISIS also pumped heavy crude oil directly into the Tigris. Local witnesses said that oil was clearly visible polluting the irrigation channels of nearby farms (Iraq Oil Report, 2016a). The population of Qayyarah relies on the Tigris for its drinking water. Oil also flowed through the streets of Qayyarah after ISIS opened pipelines, and some neighbourhoods remain highly contaminated with oil sumps (UNEP, 2017a). At other wells, large lakes of solidified crude oil formed, which now require clean-up.

The environmental disaster served multiple purposes for ISIS. On a tactical level, it helped ISIS to provide cover from military surveillance and airstrikes by the Iraqi forces and to slow down their military advance. On top of that, by disrupting the oil production capabilities in Qayyarah and by damaging valuable land and infrastructure, ISIS denied the Iraqi government the use of the oil fields for supplying the advancing troops and revenues needed to rebuild Iraq.

Beyond these military objectives, ISIS also seemed to have the specific intent to terrorise civilians in Qayyarah. ISIS not only set fire to the wells, it also deliberately polluted the town with crude oil flows and it went out of its way to contaminate water sources. ISIS poisoned water wells in their retreat by dumping diesel into them, rendering it toxic for humans, plants and livestock (Zwijnenburg & Postma, 2017). They also deliberately polluted the Tigris by dumping crude oil and decomposing bodies in the river, on one occasion at least 100 of them (Schwartzstein, 2017).

2.4 Significance:
The harmful effects of targeting oil

Oil facilities have been targeted during conflicts since the start of mechanised warfare. It is a practice that can have serious consequences for the environment and human health. In Iraq, the main pipeline for oil exports to Turkey was bombed, on average, once a week in 2013 alone (Van Heuvelen, 2017). In 2014, a pipeline near the Tigris was bombed, which resulted in a 70-kilometre long oil slick (Al-Atbi & Lando, 2014). In order to reduce the pollutants in the water, the oil was set on fire, generating black clouds and a persistent haze. Residents downstream on the Tigris were told not to use their tap water for three days, and cities like Baghdad closed off their water supply from the Tigris until the slick had passed (Zwijnenburg & Postma, 2017).

Throughout the conflict, pipelines have also been targeted for revenue purposes. ISIS's early oil trade largely depended on tapping pipelines (Iraq Oil Report, 2016b). In August and September 2017, several smuggling operations were uncovered, one of which was capable of tapping thousands of barrels of oil per day (Al-Aqily et al., 2017). These illicit operations involved plastic hoses several kilometres in length, underground storage tanks, and pumps originally used for agricultural purposes (Zwijnenburg & Postma, 2017).

With professional refineries taken out of production during the fighting, oil products were still in demand. In Syria and Iraq, this led to an enormous growth of artisanal oil refineries. Research by PAX identified at least 20,000 of these makeshift oil installations in 2016, in 30 clusters in north-east Syria. In 2017, this had grown to more than 50,000 artisanal refineries in 60 clusters. In Iraq, between 2015 and 2017, PAX identified at least 20 clusters, hosting more than 1,600 refineries. The largest was located south of Mosul, where more than 600 artisanal installations were found, together with some smaller clusters west of this location. Four other major sites, some with more than 100 installations, were located north-east of Tal Afar. In Hawijah, numerous smaller clusters were found in the hills and along the roadside east of the Tigris, with a larger site at a former Iraqi army base close to Hawijah town (Zwijnenburg, 2017). Producing fuels using artisanal refineries requires working in extremely unhealthy conditions. In Syria, various anecdotal reports from Hasakah and Deir ez-Zor Province note the serious health problems the workers, many of whom are children, face at these refineries. These range from acute risks from exposure to toxic waste, to concerns over health problems such as cancers and respiratory illnesses from chronic exposure to hazardous chemicals and inhaling crude oil fumes.

The at times *ad hoc* responses to environmental disasters like these during conflicts are a world away from what is expected during peacetime. For now, attention is focused on the immediate humanitarian needs of residents, and of those displaced by the fighting, but for Qayyarah and the wider region, the humanitarian and environmental risks have become inseparable (Weir, 2016).

In light of the seriousness of the humanitarian situation facing the region's residents, addressing their immediate needs for shelter, health care and sustenance are a priority. Nevertheless, the potential for acute and long-term consequences for human health and the environment from the fires makes work to document their impact vital, and the UN has called for Iraq and its neighbours to also deploy mobile air sampling equipment. However, it is not clear whether this has been heeded by the Iraqi government (Zwijnenburg & Postma, 2017).

By comparison, similar events in European countries trigger a much swifter response, with the "Buncefield Fire" in the UK a noteworthy example. When a total of twenty oil storage tanks went up in flames in December 2005, it took fast-responding firefighters three days to fully extinguish the blaze. The UK's Health Protection Agency moved swiftly to implement an environmental sampling campaign, collecting and analysing 72 samples from 33 locations by the end of the week (Troop, 2006). The agency tested for various toxins, heavy metals, and for toxic fire-fighting foams. They also prepared and circulated a health questionnaire to 5,000 nearby residents to build up a picture of any acute health problems associated with the fire. The questionnaire also served to identify the sources of information that people depended on for health advice – vital data for structuring risk communication programmes (Weir, 2016).

In the wake of the Kuwaiti fires, the US military were forced by law to establish a registry of exposed troops. This required the development of new methodologies that used satellite imaging and environmental sampling to build up a picture of individual exposures (Heller, 2011). This was made possible because the movement of military personnel could be tracked with some degree of accuracy –something that is not feasible for civilian populations. Environmental

surveillance in the past decades has become commonplace for deployments, and the US airbase at Qayyarah West was taking hourly air samples to monitor for pollutants during the oil fires of 2016-17 (Weir, 2016).

International attention for pollution as a harmful effect of conflict has been growing in recent years[5], culminating in a ground-breaking resolution adopted at the third meeting of the UN Environmental Agency in December 2017 (UNEP, 2017b). The resolution recognises that conflict pollution can be 'delaying recovery, undermining the achievement of sustainable development and threatening the health of people and ecosystems' (UN Environment Agency, 2017, p. 1). The resolution also for the first time establishes some guidance on the provision of technical assistance to states affected by conflict pollution, and on the implementation of international agreements on chemicals. Sponsored by Ukraine and Norway, the resolution was tabled by Iraq and motivated in part by Iraq's recent experience of the widespread and severe pollution caused in the battle against ISIS (Weir, 2017).

Since most attention has gone to the immediate humanitarian response and less so to the damage to the environment, there is little insight in the environmental and public health effects of the prolonged exposure to smoke, soot and contaminated soil, water and air. The UN's environmental resolution recognises the problem, but large-scale international recognition and action is yet to be developed. While part of the harm to civilians in this case will only become fully apparent over a longer period of time, the Qayyarah fires are a distinct reminder of how devastating the targeting of oil wells and pipelines or their use as weapons of war can be to the environment and to the civilians living in that environment.

Images

Firemen sit amid the smoke caused by the oil fires.

© PAX (2017)

A taxi covered by soot. Soot from the oil fires covers
Qayyarah and the surrounding areas.
© PAX (2017)

Crude oil runs through the streets of Qayyarah.
© UNICEF, Iraq, Maulid Warfa

Bibliography

Al-Abadi, H. (2016, August 25). Iraqi forces seize strategic town near Mosul from ISIL. *Al Jazeera.*

Al-Aqily, A., Al-Jabiri, J., Al-Sai'di, J., & Kullab, S. (2017, November 3). Smuggling busts implicate Basra crime rings. *Iraq Oil Report.*

Al-Atbi, A., & Lando, B. (2017, April 24). Pipeline causes Tigris oil slicks, water crisis. *Iraq Oil Report.*

Dearden, L. (2016, October 22). Mosul offensive: 'Civilians killed' by toxic sulphur fumes after ISIS sets factory on fire to slow Iraqi advance. *The Independent.*

Heller, J.M. (2011). Oil Well Fires of Operation Desert Storm: Defining Troop Exposures and   Determining Health Risks. *Military Medicine, 176*(7), 46-51.

Iraq Oil Report (2016a, August 3). IS torches Qayarah oil complex, dumps crude in Tigris. *Iraq Oil Report.*

Iraq Oil Report (2016b, June 20). Fuel costs spike in Mosul after Coalition strikes on IS oil hub. *Iraq Oil Report.*

Joint UNEP/OCHA Environment Unit (2016). *A rapid overview of Environmental and Health Risks Related to Chemical Hazards in the Mosul Humanitarian Response* [Report]. United Nations, UNEP, OCHA, UNITAR, UNOSAT & World Health Organisation.

Malsin, J. (2016, October 24). ISIS Sets Oil, Sulfur Fires in the Battle for Mosul. *Time.*

Rasheed, A. (2014, July 23). Oil smuggling finances Islamic State's new caliphate. *Reuters.*

REACH (2017). *Iraq IDP Camp Directory: Comparative Dashboard and Camp Profiles, December 2017 - January 2018* [Infographic]. REACH, CCCM Cluster.

Reuters (2009, December 12). Sonangol to invest 2 bln in Iraq's Qayara field. *Reuters.*

Rudaw (2016, September 27). ISIS no longer controls any Iraqi oil. *Rudaw.*

Schwartzstein, P. (2017, April 7). The Dangerous State of Iraq's Rivers: Letter from Abu Ghraib. *Foreign Affairs.*

Solheim, E. (2017, November 3). When the sheep turn black, war's toxic legacy can no longer be ignored. *The Guardian.*

Troop, P. (2006). *The Public Health Impact of the Buncefield Oil Depot Fire* [Report]. Government of the United Kingdom, Health Protection Agency.

UN Environment Assembly (2017). *Ministerial declaration of the United Nations Environment Assembly at its third session (UNEP/EA.3/L.19)* [Statement]. United Nations, Environment Programme, UNEA.

UN Environment Programme (2017a). *Environmental issues in areas retaken from ISIL: Mosul, Iraq* [Technical note]. United Nations, Environment Programme.

UN Environment Programme (2017b). *Pollution mitigation and control in areas affected by armed conflict or terrorism* (UNEP/EA.3/Res.1). United Nations, Environment Programme.

UN Institute for Training and Research (2017a). *Iraq, Nineveh Governorate: 24 January 2017* [Imagery analysis]. United Nations, Institute for Training and Research.

UN Institute for Training and Research (2017b). *Iraq, Al Qayyarah: 24 January 2017* [Imagery analysis]. United Nations, Institute for Training and Research.

US Department of Veterans (2018). Oil Well Fires [Blog post]. *US Government, Department of Veterans, War Related Illness and Injury Study Center.*

Van Heuvelen, B. (2017, October 11). Iraq aims to rebuild northern pipeline. *Iraq Oil Report.*

War Is Boring (2016, November 26). Iraq Is Burning: Qayyarah residents live under a cloud of toxic smoke [Blog post]. *War Is Boring.*

Weir, D. (2016, November 30). The environmental consequences of Iraq's oil fires are going   unrecorded [Blog post]. *Toxic Remnants of War.*

Weir, D. (2017, December 7). UN passes first ever resolution on conflict pollution [Blog post]. *Toxic Remnants of War Network.*

Zwijnenburg, W. (2017, August 11). No Country for Oil Men: Tracking Islamic State's Oil Assets in Iraq   [Blog post]. *Bellingcat.*

Zwijnenburg, W., & Postma, F. (2017). *Living Under a Black Sky: Conflict pollution and environmental health concerns in Iraq* [Report]. PAX.

Endnotes

1 This case is based to a considerable extent on previous
    work by PAX´s Middle East and Humanitarian Disarmament
    Teams. See also the report 'Living Under a Black Sky'
    (Zwijnenburg & Postma, 2017).

2 Carbon dioxide, carbon monoxide, sulphur oxide, nitrogen
    oxides, volatile organic hydrocarbons, hydrogen sulphide,
    and acidic gases.

3 Such as benzene, carbonyls such as formaldehyde, polycyclic
    aromatic hydrocarbons (PAHs) like benzopyrenes and
    naphthalene, as well as dioxins and furans.

4 Such as sulphur dioxide, nitrogen oxides, hydrogen sulphide
    and carbon monoxide.

5 See also chapter 4 on the targeting of wastewater plants in
    Gaza for more information about the harmful implications
    of conflict-related environmental pollution on civilians.

CASE 3.
Sexual violence:

Attacked for being Nuer
(South Sudan, 2016)

AUTHOR: ERIN BIJL (PAX)

COUNTRY

South Sudan
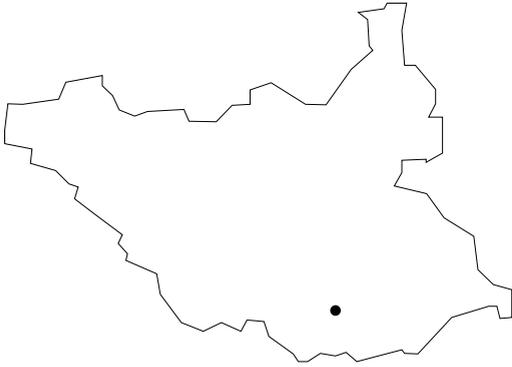
PERPETRATOR

SPLA soldiers and allied militia

ACT

sexually violated Nuer women and girls

OBJECTIVES*

· to exact revenge on the Nuer community in the aftermath
  of active fighting

· for opportunistic sexual exploitation

* As far as we have been able to discern; the list may not be exhaustive in this regard

CONSEQUENCES

(Potentially long-term) Physical injury

↳ contributing to loss of livelihood, ostracization

Psychological trauma

STDs and unwanted pregnancies

↳ leading to the stigmatisation of children born of rape

Social stigmatisation and marginalisation of the rape victims

↳ contributing to increased poverty and psychological trauma

South Sudan has been the site of overwhelming large-scale conflict and violence in its short existence as an independent country. Just two years after having gained independence from Sudan – a process itself fraught with conflict – mass fighting erupted in December 2013 as a result of a power struggle between factions led by President Salva Kiir and by former Vice-President Riek Machar (Spink & Wells, 2016). Hostilities began in the capital Juba, where the predominantly Dinka government forces carried out targeted killings of non-Dinka (mostly Nuer) men. This soon resulted in a full-blown civil war between the Sudan People's Liberation Army (SPLA), made up of government forces and allied tribal militias, and loosely connected deserters and tribal militias led by Machar under the banner of the Sudan People's Liberation Army in Opposition (SPLA-IO) (Spink & Wells, 2016; Amnesty International, 2016; Human Rights Watch [HRW], 2016).[1] The ensuing conflict was largely fought along ethnic fault lines and was characterised by high levels of casualties, sexual violence, cattle raids, agricultural destruction, forced displacement, and seemingly endless cycles of retaliatory violence. The conflict exacted a heavy toll on civilians: By 2016, about 2.6 million South Sudanese were displaced, several tens of thousands had died, and approximately one third of the population faced severe food insecurity (Spink & Wells, 2016).

In these circumstances, scores of civilians fled their homes to seek shelter in bases belonging to the United Nations Mission in South Sudan

(UNMISS), whose mandate prioritised the protection of civilians (POC) ever since the civil war broke out (Stern, 2015). Confronted with the immediate emergency of civilians fleeing to its bases for safety, UNMISS established so-called POC sites inside its own camps. These were meant as a short-term solution, a temporary shelter from violence. However, as the weeks went on, many thousands of civilians continued to arrive, quickly overcrowding the sites (Stern, 2015). By June 2016, over 160,000 civilians sought refuge in POC sites across South Sudan, of whom nearly 30,000 were living in two sites in Juba (UN Mission in South Sudan, 2016).

Meanwhile, the civil war had seemingly come to its end in April 2016 when Machar returned as Vice-President and a Transitional Government of National Unity (TGoNU) brought both him and Kiir to power (Spink & Wells, 2016; Amnesty International, 2016). Nonetheless, because of a lack of implementation of peace process provisions, the continued low-intensity fighting in several parts of the country, and a growing presence of security forces in the capital, the optimism that the security situation in South Sudan could finally improve remained limited. By July 2016, any remaining optimism was definitively shattered as intense fighting broke out in Juba between the SPLA and SPLA-IO once again (Spink & Wells, 2016). Non-Dinka women and girls, particularly those in the POC camps, would come to bear the brunt of the suffering in the aftermath of that July fighting.

3.1 Case: Attacked in full view

In the early afternoon of 18 July 2016, Theresa, an inhabitant of one of the UNMISS POC sites in Juba, makes her way back to the camp.[2] Just as she approaches the main gate, a group of men by the side of the road forcefully stop her, in full

view of the POC site's security guards and UN peacekeepers. The five men are dressed in the SPLA army uniform. Despite the assault occurring publicly and in broad daylight, the soldiers take their time with Theresa, cruelly asking her to make an impossible choice: choose her rapist from among them or, if she does not, be raped by them all. Theresa: 'I begged them to kill me instead.' They drag her from the road and she is assaulted by them right there, for everyone to see. According to Theresa, UN peacekeepers at the nearby UN House witness the assault and do nothing.[3]

That same month, Mary leaves the POC site in Juba with a friend. The camp has been her home ever since she and her husband's family fled the fighting in their home town Bentiu, in the north of South Sudan. But in July 2016, life in the camp has become increasingly difficult. Due to fighting and looting in the preceding days, the camp faces an acute shortage of food, clean water, and other basic necessities. To care for her husband, their three children, and for the children of her husband's three other wives, Mary has no other choice than to leave the camp's perimeter in search of food. Having managed to find some sorghum, she and her friend start the return journey, running into a checkpoint along the way. Four government soldiers stop them and threaten to kill Mary and her friend if they do not submit to rape. When Mary refuses, one of the soldiers hits her hard, leaving her with an injury that will continue to cause her pain for months. Two of the soldiers proceed to rape her.

More than 200 victims in two weeks' time
The attacks on Theresa and Mary were not isolated incidents. Between 8 and 25 July 2016, UNMISS documented a sharp increase of sexual and gender -based violence (SGBV) taking place in close proximity to the Juba UN House and POC camps. The official UN figures take note of cases of rape and gang rape involving 217 victims in just over 2 weeks (UN Office of the High Commissioner for

Human Rights [OHCHR] & UN Mission in South Sudan [UNMISS], 2017). In two separate incidents on 17 and 18 July alone, a total of 35 women were raped (OHCHR & UNMISS, 2017). The victims were mostly Nuer girls and women, often POC camp inhabitants (Amnesty International, 2016). The majority of their attackers were SPLA soldiers; to a lesser extent police and members of the National Security Service were involved; and in a few incidents SPLA-IO soldiers (OHCHR & UNMISS, 2017; Amnesty International, 2017). Eyewitness and victim testimonies suggest that the women were deliberately targeted: SPLA soldiers usually verbally harassed their victims before raping them, mentioning the women's 'Nuer husbands' or their supposed allegiance to SPLM/A-IO leader Riek Machar, also a Nuer (Amnesty International, 2016; HRW, 2016). A woman who was raped on 20 July recalls:

> [The soldiers] spoke to me in Dinka, saying that I must be a Nuer woman […] They raped me simply because I am a Nuer […] They told me I should blame Dr. Riek Machar for what happened to me. (Amnesty International, 2017, p. 36)

There was a clear pattern to the violence. Soldiers at checkpoints would attack women and girls when they left the POC sites in search of food or other basic necessities, rape or gang rape them, or in some cases, take them to military camps or informal SPLA bases where the women were held in sexual slavery for days or even weeks (Amnesty International, 2016; Patinkin, 2016). Perhaps the most notorious of these checkpoints was the one at 'Jebel Junction' on Yei Road, situated between the UN House and a market. Lying in the shadow of a mountain on Juba's outskirts, this road had seen some of the worst fighting during the civil war and was 'lined with wrecked shops and burned tanks', now 'inhabited by armed men in and out of uniform' (Patinkin, 2016). It was here that various victims, like Theresa, claimed they were raped

within sight and earshot of UN peacekeepers (Patinkin, 2016; HRW, 2016).

In response to the increase in SGBV in areas within or near their jurisdiction, and the widespread international condemnation once the world learned what was happening in South Sudan, UNMISS stepped up its patrolling on Yei Road and other hotspots (Amnesty International, 2016; OHCHR & UNMISS, 2017). SGBV spiked between 8-25 July, but it continued much longer on a lower scale as the UN remained unable to reach certain high-risk locations (Spink & Wells, 2016). Faced with continued public pressure, SPLA General Chief of Staff Paul Malong publicly issued a command to his soldiers in December 2016 to stop sexual abuse. According to Amnesty International (2017), this may have contributed to a behavioural change among SPLA soldiers stationed around the POC sites and, in turn, to a further decrease in SGBV incidents at the time. However, South Sudan on the whole is notorious for the widespread occurrence of and impunity for SGBV-related crimes. Because social stigmas about rape are strongly prevalent in South Sudan, the vast majority of victims has been unable or has not dared to seek justice for what happened to them and to formally hold their abusers to account.

3.2 Perpetrators: Retaliating with sexual violence

Immediately preceding the upsurge in SGBV was the resumption of fighting between the SPLA and SPLA-IO, as mentioned above. Even though the TGoNU had taken office in 2016, a generalised distrust between the factions of Kiir and Machar remained. Early July 2016, several skirmishes took place between the SPLA and SPLA-IO. The most severe of these occurred on 8 July when fighting erupted between the security guards of Kiir and Machar outside of the Presidential Palace, during which an estimated 100-250 soldiers died

(OHCHR & UNMISS, 2017; Spink & Wells, 2016). Fighting immediately escalated and spread throughout Juba in the following days, and was particularly severe around and in the UN bases, as several SPLA-IO bases were stationed nearby (OHCHR & UNMISS, 2017). That area militarised even further when some SPLA-IO soldiers and senior SPLM/A-IO civilian members took refuge in the POC camps. Consequently, UNMISS got caught in the crossfire of two warring parties. Government and opposition forces fired in and near the UN camps. Stray bullets killed several dozens of IDPs and the terrain was continuously under attack from tanks and helicopters (Spink & Wells, 2016; UN Security Council [UNSC], 2016). In the words of one senior UNMISS official: 'It was a war going on […] We counted over 200 strikes to our buildings alone' (Spink & Wells, 2016, p. 19). Two Chinese peacekeepers died when their vehicle got hit by a rocket-propelled grenade in the midst of fighting (OHCHR & UNMISS, 2017).

Beyond the UN House and POC camps, fighting took place all over Juba, and was characterised by widespread looting, rape, arbitrary executions and abductions (Spink & Wells, 2016). This prompted many civilians, particularly Nuer, to flee their homes and to seek shelter with the UN. Numerous documented cases recount that SPLA soldiers would block civilians' access to the POC camps, firing as people ran towards safety (Spink & Wells, 2016). By 11 July, the SPLA had managed to regain most of its control of the capital, and the government unilaterally announced a ceasefire, which led to a substantial decrease in fighting in Juba. Meanwhile, SPLM/A-IO leader Machar had been chased out of South Sudan into the Democratic Republic of the Congo (DRC) (Boswell, 2019). Nonetheless, lower-scale military operations and human rights violations continued for some time afterwards, including the upsurge in SGBV-related crimes (OHCHR & UNMISS, 2017). The majority of people who abused women and girls in this period were male armed actors affiliated

with the South Sudanese government, mostly SPLA soldiers and militia fighters, under personal or formal command of Paul Malong or President Kiir (Spink & Wells, 2016; HRW, 2016).[4] Some of these perpetrators were as young as fifteen years old (OHCHR & UNMISS, 2017). The attacks occurred systematically and mostly took place at checkpoints or during house-to-house searches (OHCHR & UNMISS, 2017). The men would rape the women either in public or take them to shops, military camps or informal SPLA bases (Spink & Wells, 2016). Amnesty International (2016, p. 19) notes that '[g]ang rapes by multiple soldiers seemed to be the rule'. The number of men who would rape one woman could amount to as much as fifteen (OHCHR & UNMISS, 2017). In cases of larger groups of women travelling together, most accounts stress that the soldiers at the checkpoints would separate the youngest and most attractive women and girls and would rape them; the remaining women, held at gunpoint, would be forced to watch (Spink & Wells, 2016). In at least one incident, the women that were not submitted to sexual abuse were forced to cook for the soldiers while they raped the others (OHCHR & UNMISS, 2017).

Victims have testified that, during the rape, the perpetrators often subjected them to severe physical violence, particularly humiliating practices, or genital mutilation. Nyawicyian, who was attacked on 17 July, recounts how when her first attacker

> *finished with me, the second man came with a kettle of hot water. He told me to cleanse my vagina with that hot water [...] He slapped me and I fell down and he spread my legs to cleanse my vagina himself. He burned me [...] After finishing all the hot water, he entered me despite all the pains in my vagina. (Amnesty International, 2017, p. 37)*

Another survivor recounted how her attacker sang and sprayed her with insect repellent

while he raped her (OHCHR & UNMISS, 2017, p. 18). A different act, consistent across several incidents, concerned looting as part of the attack: '[The soldiers] took phones and money from some, and then took four women away to a store and raped them' (HRW, 2016). A 24-year-old survivor remembered how, after four soldiers had raped her, 'they took my things' (HRW, 2016).

As previously mentioned, statements by the perpetrators indicate a deliberate strategy to target female Nuer. Before or while sexually abusing their victims, the perpetrators often made mention of the SPLM/A-IO, its commander Riek Machar, or 'Nuer husbands' and family. This suggests that SGBV was instrumentalised as a means of ethnically-based intimidation: Through rape, the perpetrators sought to subjugate Nuer women, punish their husbands and male family members for their perceived allegiance to the SPLM/A-IO, and humiliate the Nuer community (Amnesty International, 2016). One woman, returning to the POC site on 18 July, remembers how she was accused of 'carrying bullets to Riek Machar' (HRW, 2016). Another woman recounts how soldiers attacked her and the women she was with, and, pointing to the carcass of a burnt-out tank, said: 'Do you see this tank, Nuer women? This tank was burned by your husbands!' (Amnesty International, 2016, p. 18).

The UN fails to act
UNMISS was heavily criticised in the aftermath of the conflict for its failure to intervene in the fighting and to protect the civilians in its POC sites. The UN Secretary-General ordered an independent investigation into the events from 8 to 25 July, led by retired Major General Cammaert. The investigation's main findings were that due to poor coordination and lack of leadership, UNMISS troops failed to react in a rapid, unified and efficient manner. They thereby left the warring parties free to fight, loot, and physically assault people in and near the UN House and POC

sites (UNSC, 2016). The investigation also looked into UNMISS' response to the SGBV incidents occurring near the POC sites in the days after the immediate conflict. While the investigators could not confirm victims' accusations that peacekeepers had failed to intervene in incidents on 17 and 18 July, they did find that during one incident on 2 September, a woman was assaulted in plain sight of UNMISS troops, just a few metres from the camp, and that '[d]espite the woman's screams, they did not react' (UNSC, 2016, p. 5). Yet, there is reason to assume that the UN failed to respond to SGBV happening under its watch on more occasions. Research by the Center for Civilians in Conflict into an incident that took place on 17 July is worth quoting at length:

> *According to three independent witnesses interviewed by CIVIC, on July 17, SPLA soldiers assaulted a woman walking on the dirt road adjacent to the western perimeter of POC1. Witnesses heard the woman screaming for help as the soldiers dragged her along the road toward POC1's western, or pedestrian gate. Near that gate sits a guard tower with Nepalese formed police; less than 10 meters away, Chinese military peacekeepers are stationed around an [armoured personnel carrier]. The location of the western gate and guard tower makes it extremely likely that the peacekeepers saw the abduction; at minimum, they would have heard the woman's screams. A humanitarian official told CIVIC that he had spoken with some of the peacekeepers, who admitted having seen the abduction but said they were not mandated to take action outside the POC sites. (CIVIC, 2016, p. 66)*

Both Spink and Wells (2016) and the Cammaert-led investigation team (UNSC, 2016) have criticised UNMISS for failing to initiate effective patrols to prevent SGBV in the days, weeks and even months that followed the July violence. The patrols that did go out, were found to be ineffective for a number of reasons: patrollers drove by as quickly as possible instead of conducting careful monitoring; patrols were limited to the main roads, whereas many women avoid these roads on their way to and from the POC sites; civilians were not informed of the times and locations of patrols and so could not synchronise their movements to the patrols; there were no foot or night-time patrols; and, finally, because patrollers had to look out from the small windows of their armoured vehicles, they were ill situated to detect signs of sexual violence.

The inaction by UN peacekeepers, mandated to protect civilians, raises important questions about responsibility. Clearly, they are not the actors who committed the act of doing harm. Nonetheless, they were there as protection actors with a mandate that required a proactive posture, and were to a considerable extent aware of what occurred. It seems reasonable to assign some form of responsibility for perpetration of civilian harm to the UN mission and its peacekeepers: Their inaction in the face of civilian harm allowed the violence against Nuer women and girls to occur unpunished, and so facilitated both the direct physical harm, as well as these victims' traumatisation.[5]

3.3 Victims: Attacked while providing for their families

Between 8-25 July, at least 217 women and girls were subjected to SGBV in the vicinity of the UN House and POC camps.[6] Most of them were Nuer, a community that makes up the majority of internally displaced persons (IDPs) in the Juba POC camps. In the aftermath of the July fighting, Nuer girls and women had become particularly vulnerable for a number of reasons. First of all, this ethnic group had generally come to be perceived as supporter of the SPLM/A-IO, as the

South Sudanese conflict exacerbated existing ethnic fault lines and even created some new ones (Spink & Wells, 2016). Secondly, there was a dire need for supplies: Rampant looting had been going on during the fighting in July; the plundering of World Food Programme warehouses by SPLA soldiers alone deprived some 200,000 IDPs of a year's worth of food resources. Further shortages followed as the provision of new supplies got disrupted in the early July chaos (Spink & Wells, 2016; OHCHR & UNMISS, 2017). Consequently, many civilians in the POC sites faced acute shortages of food, clean drinking water and other basic necessities like charcoal and firewood. At the same time, many Nuer men were reluctant to leave the camps' perimeters out of fear of being killed by the SPLA, and it thus fell to the women – who were considered less of a target as non-combatants – to leave the camps in search of food (Spink & Wells, 2016). Many of them were aware of the risks:

> we […] knew that it was very dangerous for Nuer women and men to move outside the POCs for fear of being raped and killed. But for us women, we just closed our eyes to save our children from starvation. Our children were really dying of hunger in the POCs because we spent many days without food. Since the war broke out in July, the UN had never distributed food. (Amnesty International, 2017, p. 37)

For the women and girls, the attacks have been deeply traumatising and have often resulted in long-term harm. Severe physical violence like beatings or genital mutilation was often part of the assault. In addition, the survivors faced the risk of sexually transmitted diseases and unwanted pregnancies (Amnesty International, 2016). Many of the women that sought professional help afterwards, found this assistance to be woefully inadequate: Some women, like Theresa, would receive painkillers but no antiretrovirals that could have reduced the risk of contracting

HIV (Foltyn, 2016), whereas someone like Mary did receive the antiretrovirals but did not get emergency contraception, and later found herself pregnant by one of her attackers (Birkbeck, 2017). Lack of adequate health care remains a problem in South Sudan, particularly with regard to victims of SGBV. Hospitals and clinics often lack skilled staff, cannot provide specialised care, and generally face shortages of medicine and other resources like 'rape kits' (Amnesty International, 2017). Physical wounds from SGBV sometimes have repercussions beyond bodily injury alone. Attacks can result in such wounds as fistulas, which leave women or girls incontinent and smelling of urine and faeces. This, in turn, often triggers rejection by the family or community, or leads to such shame that women choose to isolate themselves (HRW, 2013).

In addition to physical injuries, many women have reported symptoms like insomnia, memory loss, lack of concentration, and suicidal thoughts; many of these are indicators for post-traumatic stress disorder (HRW, 2013). Nyabake, who was raped on her way back to the POC camp in July 2016, continued to have nightmares for months afterwards: 'I can't sleep at night […] I used to feel as if [the soldiers] were coming back to me. I can only sleep for three to four hours at night' (Amnesty International, 2017, p. 57). Yet, despite the grave physical and mental effects of SGBV, many women in South Sudan choose not to report it or to seek help, mostly out of fear of social stigmatisation and abandonment by their family or community (Amnesty International, 2017; Foltyn, 2016; Alder, 2014). In July 2016, only twenty victims of SGBV registered with the International Rescue Committee in the Juba POC camps to receive psychosocial support (Foltyn, 2016). Often, SGBV victims are blamed and stigmatised more than their attackers:

> I noticed changes in interaction with the community because once they know you are raped they keep talking that she had sex with

> *Dinka and they don't consider that it was*
> *against my will […]. They treat me differently,*
> *as if I am not part of the community.*
> *(Amnesty International, 2017, p. 60)*

For Mary too, the rape had dramatic repercussions beyond the immediate violence. When she found herself pregnant by one of her attackers, her husband left her. This left Mary struggling to provide by herself for her three children by her husband, as well as for the child by her attacker. Her situation illustrates how rape may lead to longer-term impoverishment and a life as social outcast, even across generations. Many children born of rape are not accepted by their family or community and live with a stigma attached to them. Many of such children are left behind at orphanages (Birkbeck, 2017).

3.4 Significance: <u>'No place more dangerous to grow up female'</u>[7]

The perpetration of SGBV during or in the aftermath of conflict is, unfortunately, an all too common occurrence in South Sudan, nor are the perpetrators limited to SPLA affiliates. During the civil war, armed actors from every side of the conflict have committed SGBV throughout South Sudan (Cone, 2019; Legal Action Worldwide [LAW], 2016). There are numerous aspects to this phenomenon. The first is the instrumentalization of sexual violence as a weapon of war. In times of conflict, armed actors are seen to use SGBV as a means to weaken the social fabric of opponent communities (Cone, 2019). SGBV is used as a tool of terror or intimidation, whereby whole communities are humiliated and punished through the use of sexual violence. South Sudan saw an upsurge in SGBV incidents as conflict broke out and progressed: Typically, armed actors would attack and raid communities, raping and gang raping many of the female inhabitants. UNICEF (2019, p. 1) noted that South Sudan came at risk of reaching 'epidemic

proportions' of SGBV during its conflict, as research indicated that one third of women in South Sudan have experienced SGBV as part of attacks and raids. Problematically, such violence usually incites new violence. Luedke (2016, p. 7) has called this 'revenge attacks' or 'punishment rapes', whereby retaliation for past attacks creates seemingly endless cycles of intercommunal violence.

Yet, it is important to note that much of the SGBV committed during the conflict did not represent a thought-out military strategy. Just as often, SGBV seems to have been the result of indiscipline or has served as military 'payment', whereby looting and raping are the – sometimes only – 'reward' for fighting (Luedke, 2016; Cone, 2019). Various reports point to the combination of a highly militarised society with low levels of accountability as a toxic mixture that has encouraged SGBV (UNICEF, 2019; Luedke, 2016; Cone, 2019). In a society that has witnessed extreme levels of violence, dating all the way back to conflicts in the eighties and nineties, the way men relate to women has changed and very violent behaviour has to some extent become normalised (LAW, 2016).

Widespread impunity has contributed little to putting a stop to SGBV, and may even have encouraged it. In 2016, only 255 cases of SGBV went to court; less than 18 per cent of these resulted in a conviction (Cone, 2019). Such impunity is endemic at all levels of South Sudanese society. While both Kiir and Machar have nominally condemned the use of sexual violence by their troops, there is no evidence that commanders have held their subordinates to account (Cone, 2019). In a particularly violent episode of SGBV in Bentiu in November 2018, Médecins Sans Frontières reported that at least 215 women were raped or gang raped by armed men in a ten-day period; after a mere two-day investigation, the South Sudanese government itself called these allegations 'baseless and unfounded' (Cone, 2019, p. 13), demonstrating

that impunity is a problem throughout society, including at the highest levels of government.

SGBV does not occur in some sort of vacuum created by the conflict. Rather, such violence is a common phenomenon in South Sudanese society as a whole, even preceding the conflict (Luedke, 2016). As a deeply patriarchal society, women in South Sudan have little to no decision-making power, are at considerable risk of exploitation and abuse from a young age onwards, and are all too often viewed as 'commodities' whose predominant value lies in their bride price (Cone, 2019). SGBV within the household, also termed intimate partner violence, is quite common in a society where marital rape is not recognised as a crime. According to one medical service provider: 'The biggest risk for women is still within the household level. They are not allowed to make decisions about their own bodies; they cannot say yes or no to sex' (Cone, 2019, p. 15). Social stigma, but also the lack of legal, medical and psycho-social support structures – particularly in rural areas – keep many women from reporting or seeking justice for the harm done to them (LAW, 2016). Consequently, it remains difficult to map the full scope of the problem in South Sudan.[8]

SGBV beyond South Sudan
Nor does the problem stop at South Sudan's borders. Rape and other forms of SGBV as a weapon or by-product of war and conflict are unfortunately all too widespread. While South Sudan has become particularly notorious in recent years, SGBV has been a central part of conflicts in the DRC, the Central African Republic, Nigeria, Iraq, Myanmar, Bosnia-Herzegovina, and countless other countries. While the motives for and societal structures around SGBV may differ across these contexts (see also chapters 8 and 13 on sexual violence as part of an ethnic cleansing or genocide strategy) the harmful effects for women are largely similar and of a critical nature: mental trauma, severe (long-term) bodily harm and, often, stigmatisation

and little acknowledgment or reparations for the harm done to them. Since the establishment of the ad-hoc tribunals for Rwanda and for the former Yugoslavia, progress has been made in explicitly recognising, criminalising and prosecuting SGBV (Schulz, 2015). Yet, significant challenges remain, among which the lack of reporting and domestic investigations, linking the perpetration of SGBV by individual soldiers to those with command responsibility, and the so far still limited attention for SGBV committed against males (Schulz, 2015).

The case of South Sudan shows us a number of things. Firstly, that the occurrence of long-term armed conflict coupled with a culture of masculinity and impunity, puts women and girls at considerable risk of SGBV. In this case, communal violence, lack of proper training and payment, and a military culture that encourages looting, provide too much opportunity for soldiers to commit SGBV with impunity. Secondly, the case demonstrates that it is essential that security actors should have a better awareness of the human environment in which they operate. UNMISS should have had better understanding of gendered security threats, so that they could have prevented or mitigated the particular threats to IDP Nuer women in this context. Even more crucial is its lack of action. This can be regarded as a form of 'perpetration' in itself: Despite the prevalence of SGBV, UNMISS peacekeepers did not manage a proactive posture – a show of force, deliberate interpositioning – to prevent women and girls from being attacked. Not only did this enable the occurrence of the attacks in the first place, the evident impunity for the perpetrators gives them ample space to continue such violent behaviour in the future. SGBV is a widespread and often unpunished form of violence, and the scope of harm it inflicts should not be underestimated. This makes it all the more important that all necessary steps are taken to mitigate the risk of its occurrence in situations of armed conflict.

Images

UNMISS peacekeepers exit the Juba POC site to go on patrol.

© UNMISS (2016)

IDP women leave the Bentiu POC site to gather firewood.

© UNMISS (2016)

Bibliography

Alder, D. (2014). *'The Girl has no Rights': Gender-Based Violence in South Sudan* [Report]. CARE.

Amnesty International (2016). *"We did not believe we would survive": Killings, rape and looting in Juba* [Report]. Amnesty International.

Amnesty International (2017). "*Do not remain silent": Survivors of sexual violence in South Sudan call for justice and reparations* [Report]. Amnesty International.

Birkbeck, T. (2017, November 28). 'Children of war: Carrying on with babies born of rape.' *The Globe and Mail.*

Boswell, A. (2019). *Insecure Power and Violence: The Rise and Fall of Paul Malong and the Mathiang Anyoor* [Briefing paper]. Small Arms Survey.

Cone, D. (2019). *Still in danger: Women and girls face sexual violence in South Sudan despite peace deal* [Report]. Refugees International.

Foltyn, S. (2016, July 27). '"I begged them to kill me instead": women in South Sudan raped under nose of UN.' *The Guardian.*

Human Rights Watch (2013, March 7). "This Old Man Can Feed Us, You Will Marry Him": Child and Forced Marriage in South Sudan [Blog post]. *Human Rights Watch.*

Human Rights Watch (2016, August 15). South Sudan: Killings, Rapes, Looting in Juba [Blog post]. *Human Rights Watch.*

Legal Action Worldwide (2016). *Accountability for Sexual Violence Committed by Armed Men in South Sudan* [Report]. Legal Action Worldwide, South Sudan Law Society & Nuhanovic Foundation.

Luedke, A.E. (2016). *Violence Begets violence: Justice and Accountability for Sexual and Gender Based Offences in South Sudan* [Draft report]. Justice Africa.

Patinkin, J. (2016, July 27). 'Dozens of women raped by South Sudan soldiers near UN camp: witnesses.' *The Star.*

Schulz, P. (2015, March 24). The ICC and crimes of sexual and gender-based violence (SGBV) [Blog post]. *Justice Hub.*

Spink, L., & Wells, M. (2016). *Under Fire: The July 2016 Violence in Juba and UN Response* [Report]. Center for Civilians in Conflict.

Stern, J. (2015). *Establishing Safety and Security at Protection of Civilians Sites: Lessons from the United Nations Peacekeeping Mission in South Sudan* [Policy brief, nr. 2]. Stimson Center.

UNICEF (December 2019). *'Gender-Based Violence'* [Briefing note]. United Nations, UNICEF.

UN Mission in South Sudan (2016, June 27). *UNMISS Protection of Civilians Sites Update* [Brief]. United Nations, UNMISS.

UN Office of the High Commissioner for Human Rights & UN Mission in South Sudan (2017). *A report on violations and abuses of International Human Rights Law and violations of International Humanitarian Law in the context of the fighting in Juba, South Sudan, in July 2016* [Report]. United Nations, OHCHR & UNMISS.

UN Security Council (2016, November 1). *'Letter dated 1 November 2016 from the Secretary-General addressed to the President of the Security Council.'* (S/2016/924). UN Security Council.

Endnotes

1 The term SPLA-IO refers to the armed wing of the larger Sudan People's Liberation Movement/Army in Opposition (SPLM/A-IO).

2 Theresa and Mary – in the next paragraph – are fictitious names, changed to protect the women's identities. Their accounts of what happened to them are based on articles in The Guardian on 29 July 2016, "'I begged them to kill me instead": women in South Sudan raped under nose of UN.', and in The Globe and Mail on 28 November 2017, 'Children of war: carrying on with babies of war' respectively.

3 UNMISS Headquarters, commonly known and referred to as 'UN House'.

4 One such militia, for example, concerns the so-called Mathiang Anyoor, which stood under direct personal command of Malong and often operated beside or in consortium with the SPLA (Boswell, 2019).

5 For a more extensive discussion of the role and responsibility of UNMISS, and 'gradations of responsibility' more generally, see our chapter on perpetrators in Part II.

6 The actual number of victims may be higher: Many women and girls in South Sudan do not report rape or other forms of sexual violence out of fear of social stigmatisation (Patinkin, 2016).

7 According to the 2014 report by CARE International, 'The Girl Has No Rights': Gender-Based Violence in South Sudan', p. 3.

8 This is even more difficult with regard to SGBV perpetrated against males, a subject so taboo and stigmatised that it is rarely reported (Amnesty International, 2017).

CASE 4. Essential infrastructure:

The targeting of wastewater plants in Gaza (Palestine, 2014)

AUTHOR: SABA AZEEM (PAX)

COUNTRY

Palestine
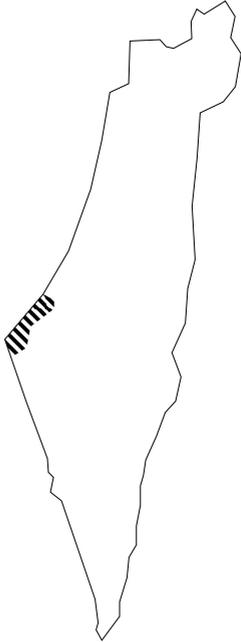
PERPETRATOR

The Israeli Defence Forces (IDF)

ACT

targeted water and sewage systems and electricity grids
through airstrikes

OBJECTIVES*

· to 'collectively' punish the Gazan population

* As far as we have been able to discern; the list may not be exhaustive in this regard

CONSEQUENCES

The death of many civilians upon impact of airstrikes

Damage to water infrastructure (e.g. water reservoirs, desalination plants, wastewater treatment plants, pumping stations)
   ↳ contributing to decreased availability of safe (drinking) water
      ↳ a rapid increase in water-based diseases (e.g. salmonella, typhoid, kidney diseases)
         ↳ contributing to child development issues (e.g. stunted growth, polio, malnutrition)
   ↳ leading to more expenses for safe water

Damage to the electricity infrastructure
   ↳ contributing to inability to run wastewater pumping
      ↳ contributing to decreased availability of safe (drinking) water
         ↳ a rapid increase in water-based diseases (e.g. salmonella, typhoid, kidney diseases)
            ↳ contributing to child development issues (e.g. stunted growth, polio, malnutrition

Release of raw sewage into Mediterranean waters
   ↳ causing environmental damage
      ↳ leading to loss of livelihood for fishermen

The Gaza Strip, a self-governing Palestinian territory, 41 kilometres long and between 6 and 12 kilometres wide, is one of the most densely populated areas of the world, with population estimates of over 2 million. The narrow strip of land has been witnessing conflict since the region gained independence from British and French rule; the Strip was governed by Egypt between 1948 and 1967, then by Israel, until Palestine was granted authority in 1994 through the Oslo Accords. Despite Israeli disengagement in 2005, the United Nations still considers the territory a part of Israel, since it maintains direct external control over the Strip, and is thereby able to exercise control over a majority of aspects of life in Gaza. Between 2007 and 2014, Gaza was governed by Hamas, an Islamic fundamentalist organisation, classified as a terrorist entity by Israel, the US and the EU. When Hamas came to power, Israel swiftly imposed a blockade on Gaza, restricting the movement of goods and people. Hamas and Israel fought a brief conflict in 2014, with the Israelis attempting to end rocket fire from Gaza, and Hamas militants fighting to end their isolation.

4.1 Case: 'Collective punishment'

While tensions were brewing for weeks in Gaza, the warplanes flying overhead on 12 July 2014 brought new despair to the residents of the Strip's western districts. The Israeli offensive 'Operation Protective Edge' had begun 6 days before and had already injured over 1,000 civilians and claimed more than 145 lives, including 28 children. The operation's airstrikes on 12 July, targeting essential water and sewage systems, caused a new disaster in the area. A day earlier, Palestinian officials had claimed that Israel had deliberately targeted 2 wells and 5 water pipelines, affecting as many as 100,000 Gaza civilians (Omer, 2014). To make matters worse, intensified fighting prevented mechanics from carrying out essential repairs. Following the deaths of several municipal water technicians, Gaza's water service provider suspended all field operations (International Committee of the Red Cross [ICRC], 2014).

Guillaume Pierrehumbert, a water and sanitation expert at the International Committee of the Red Cross (ICRC), said:

> *Gaza's water system has been deteriorating for years. The latest attacks are the last straw. Safe drinking water is becoming increasingly scarce in the Strip, just as temperatures are soaring. Water is becoming contaminated and sewage is overflowing, bringing a serious risk of disease. (ICRC, 2014)*

In addition, the Israeli attacks caused widespread damage to Gaza's already frail and dilapidated electrical grid. Most notably, on 29 July, the Israeli Defence Forces (IDF) bombed Gaza's only power plant, knocking it out of commission indefinitely. As a result, residents in Gaza only received about six hours of electricity daily at best. Lack of power in turn led to the shutdown of water treatment plants, while Israeli tank fire put Gaza's largest sewage treatment plant out of commission. Other Israeli attacks also caused extensive damage to Gaza's water and sewage systems, leading to the release of raw sewage into open pools, farmland and the Mediterranean Sea. On 5 August 2014, Oxfam warned that Israeli attacks damaging wells, pipelines and reservoirs

had caused further contamination of fresh water supplies, and that 15,000 tons of solid waste had leaked into the streets of Gaza (Institute for Middle East Understanding, 2014). Security concerns forced humanitarian organisations to suspend chlorination of the water supplies in Gaza despite estimations that 90 per cent of the water in Gaza was unsafe to drink (Omer, 2015).

The fighting finally ended on 26 August 2014. The 50-day conflict claimed the lives of at least 1,483 civilian Palestinians, including 521 children, and 5 Israeli civilians (International Coalition for the Responsibility to Protect [ICRtoP], 2015). The Coastal Municipalities Water Utility (CMWU) claimed that before and during the offensive the ICRC had passed on the coordinates for all the water and wastewater facilities to Israeli authorities to prevent destruction of these installations. However, it seemed that these facilities were deliberately targeted without any restrictions. The shelling of groundwater wells and bombing of water carriers contributed to water supply shortages.

The UN Office for the Coordination of Humanitarian Affairs (UN OCHA) claimed that the state of destruction, devastation and displacement caused by the conflict reached unprecedented levels since the start of the Israeli occupation in 1967 (ICRtoP, 2015). A factsheet published by the World Bank in August 2014, underlined the significant shortage of water and the severe public health threat to the population of Gaza. It estimated that more than 80 per cent of the water wells in Gaza were not functional. Furthermore, only 50 per cent of the wastewater was treated and an estimated 100,000 million cubic metres of raw sewage was discharged directly into the sea every day. It also described threats to the structural integrity of a sewage lake due to limited availability of electricity, at great risk to the health of the population and to the environment (Worldbank,

2014). On 23 June 2015, the UN Human Rights Council presented the report of an independent international commission of inquiry into International Humanitarian Law (IHL) and International Human Rights Law violations in the Occupied Palestinian Territory during military operations from 13 June 2014 onwards (UN Human Rights Council [UNHRC], 2015). The report confirmed that water and sanitation facilities in Gaza were heavily affected by the escalation of violence.

The 2014 attacks exacerbated an already critical sewage situation caused by years of conflict and import blockades, and caused a humanitarian and environmental crisis in most of the Gaza Strip (Coastal Municipalities Water Utility [CMWU], 2014).[1] The municipality of Gaza and human rights groups such as Amnesty International and Human Rights Watch saw these attacks on the water and sewage systems as a form of 'collective punishment' on the Palestinian people (Omer, 2014). The CMWU's assessment showed preliminary direct and indirect destruction to be around USD 33.4 million, including damages to groundwater wells, desalination plants, water reservoirs, water networks, wastewater treatment plants, wastewater collection networks and pumping stations, environmental fallout, and administrative costs (CMWU, 2014). The conflict left wide areas of Gaza devastated. The Palestinian Authority (PA) said in a study that reconstruction work would cost USD 7.8 billion, 2.5 times Gaza's gross domestic product (Bushra, 2014).

The UN OCHA assessment confirmed that an estimated 370,000 persons were directly affected by the damage caused to water and sewage facilities. A total of four systems were completely destroyed; another fourteen were damaged. The strike on the Gaza power plant by the IDF meant that water supply to the entire population of the Gaza Strip was cut off or severely restricted for several weeks during the conflict (UN OCHA,

2014). Prior to the 50-day conflict, the average water consumption per person per day in Gaza was 70 litres, compared to the World Health Organisation's minimum standard of 100 litres per person per day, evidence of the stress the infrastructure faced and the lack of adequate facilities for residents of Gaza.

As of July 2014, an estimated one-third of Gazans only received running water for six to eight hours every four days. Moreover, the price of fuel had increased four-fold and, as a result, the municipality could not afford to run the wastewater pumping stations, or household water wells. With four out of seven sewage pumps having completely stopped functioning, untreated raw sewage emptied directly into Mediterranean waters. While in 2014, an estimated 65,000 cubic metres of raw sewage was discharged into the Mediterranean on a daily basis (Gilbert, 2014), by 2019, this was up to 108,000 cubic metres daily (McAuley & Balousha, 2019). This occurred in close proximity to residential areas, playgrounds and the beach, severely polluting the environment, impeding local life and markets, and posing a major threat to public health (Gilbert, 2014).

4.2 Victims:
Disease and death by sewage

Gaza's water issue is twofold: There is both a shortage of potable water and a lack of wastewater treatment. In late August 2014, UN OCHA reported that about half a million people were directly affected by damage to water facilities, and one million by damage to wastewater facilities. Rapidly deteriorating infrastructure, strict limitations on the import of construction materials and water pumps, and a diminished, declining, and unreliable energy supply have in recent years expedited the water crisis and exacerbated water-related health risks

(Efron et al., 2018). Furthermore, Israel siphons off over 80 per cent of Gaza's groundwater through wells tapping Gaza aquifer sources: A key reason why the aquifer is not replenishing and is becoming increasingly contaminated (Gaza Unlocked, n.d.).

In December 2014, water supply remained irregular for twenty per cent of people with interruptions at times lasting for five days. As a result, many families had to rely on water tankers for their water supply. Overall, water-related costs increased, affecting access to drinking water of already vulnerable families (Efron et al., 2018). According to estimates, about 1.2 million people lacked access to water and sanitation services at the end of the 50-day conflict.

Six years on, the residents of Gaza still grapple with the effects of the damage to the water infrastructure. Twenty years ago, 85 per cent of Gaza's drinking wells were too contaminated for human consumption; today, this figure stands at 97 per cent. Local tap water is too salty to drink because the aquifer below Gaza has been over-pumped so severely that seawater is flowing in. According to a 2010 survey, around 83 per cent of Gazan households relied on private vendors' trucks for water, which is 15-20 times more expensive than water from the network. This particularly impacts the most vulnerable and poor (United Nations Country Team [UNCT], 2017). According to UN standards for affordable water, the cost should not exceed three per cent of household income. However, according to the same survey, some residents of Gaza spent as much as one third of their income on water (Efron et al., 2018). Trucked water is also unregulated and unreliable in terms of quality, and is prone to faecal contamination (Tolan, 2018a).

Poor water quality and access contribute to an estimated 26 per cent of all reported disease in Gaza and are the leading cause of childhood

mortality. Waterborne diseases are the primary cause of illness in children, particularly diarrheal diseases, gastroenteritis, kidney disease, paediatric cancer, typhoid, salmonella, and 'blue baby syndrome', an ailment causing bluish lips, face, and skin, and blood the colour of chocolate (Efron et al., 2018; Tolan, 2018b; Tolan, 2018c). A study in 2017 revealed an alarming prevalence of stunting in Gaza, which is linked to the incidence of childhood malnutrition. The study also found a positive correlation between stunted mothers and stunted children, pointing towards the possibility of these developmental problems transcending generations (El Kishawi et al., 2017). In a detailed report by Al Jazeera in 2018, a doctor in the children's ward at Al-Nassar hospital in Gaza shared that the number of infants coming into the facility suffering from diarrhoea, vomiting and dehydration has sky-rocketed. This is reason for alarm as diarrhoea is the second largest killer of children under five globally. A Rand Corporation study further corroborated that bad water is a leading cause of child mortality in Gaza. Some 60 per cent of kindergarten age children in Gaza were found to suffer from at least one parasitic infection, which experts believe is caused by water contamination in the Strip (Efron et al., 2018).

In 2016, five-year-old Mohammad Al-Sayis swallowed sewage-laced seawater, ingesting faecal bacteria that led to a fatal brain disease. Mohammad's was the first known death by sewage in Gaza (Tolan, 2018b). A lack of power to run Gaza's sewage facilities means that vast amounts of sewage are being discharged into the Mediterranean. Beaches are contaminated. The smell of effluent lingers in the air. 'I feel like I live in a septic tank', one resident said (Cooke, 2018). Children are warned not to play on the beaches or swim in the sea. The Ministry of Health shut down Zikim Beach in July 2017 due to faecal contamination (Udasin & Lazaroff, 2017). Residents are concerned about the

contamination of fish caught within the Israeli imposed six-mile fishing limit off Gaza's coast (Cooke, 2018).

A 2017 UN report predicted that by 2020, Gaza's coastal aquifer will be irreversibly damaged (UNCT, 2017), however, the organisation knew even then that no one should be living in Gaza's already dangerous conditions. 'From our perspective, [the report] was a useful sort of ringing the alarm bell a couple of years ago,' said Matthias Schmale, the director of operations in Gaza for the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). 'But for us it's no longer really the issue that by 2020 it will be unliveable [...] The key question is how do we prevent total collapse?' (Balousha & Berger, 2020). The UN had already been flagging a de-development in slow motion, observing development indicators ranging from energy to water to employment to poverty to food security (Baker, 2017). Scientific analysis conducted by Seyam et al. (2020) shows that if the current water pumping rate is maintained in Gaza, the availability of fresh water will decrease in disquieting rates by the year 2030, and only about eight per cent of water from the aquifer will conform to the drinking standards.

The effects on civilians as a result of toxic waste being pumped into the Sea is not only limited to the Gaza Strip. While the sheer amount of sewage being pumped into the Mediterranean means it is unsafe for residents of Gaza to even take a swim in the Sea, this also has consequences for the wider region — including for Israel, where the nearby coastal city of Ashkelon has experienced the effects of Gaza's sanitation breakdown (McAuley & Balousha, 2019). The Ashkelon desalination plant supplies water to fifteen to twenty per cent of Israel's population. Furthermore, there is the impending risk of bacterial and viral pathogens like polio traveling through sewage and waterways outside of the

Gaza Strip, most notably to Israel and Egypt, a potential for significant public health risks for the populations there as well. Indeed, polio has already been found in Israeli sewage systems, attributed to the sewage runoff from the Gaza Strip into Israeli waterways (Efron et al., 2018).

The effects of fighting on the lives of the people in Gaza – where three out of four are refugees - are not only on the water, sanitation and electricity infrastructure. Much of the agricultural land has been destroyed by frequent invasion of heavily armoured vehicles or is off-limits to Palestinians because the Israelis enforce a buffer zone inside the Gaza Strip. The fishing industry has been central to Gaza for hundreds of years, but fishermen are not permitted to go beyond three nautical miles because of a naval blockade (Simmons, 2018). Fewer people are granted permission to leave the Strip than they were in 2014, even for medical reasons. The border crossing with Egypt also remains closed. Only a third of the 11,000 homes destroyed in 2014 have been rebuilt. The economic knock-on effects of two wars and ten years of Israeli sea and land blockades have led the Gazan economy to effectively collapse: Unemployment is sky-high at 41 per cent, rising to 60 per cent for the young (The Independent, 2017).

4.3 Perpetrators: Who is to blame?

Assigning blame for the plight of Gazans is not simple. Even though the water and sanitation crisis is not a new phenomenon in Gaza – which could be described as being in a chronic state of water emergency – a confluence of negative developments has worsened the situation and its associated health risks. For instance, the continued depletion of the coastal aquifer, Gaza's only source of freshwater, is not sufficient to meet the needs of the two million Palestinians

living there. Decades of overpumping, combined with intrusion of wastewater, agrochemicals, and saline water, have brought the aquifer to a state of possibly irreparable damage. Only three per cent of Gaza's drinking water wells are actually drinkable: Is that because Gaza's citrus industry pumped too much? Or because Israeli agricultural settlers depleted a deep pocket of fresh water before they left Gaza in 2005? Or the simple fact that Gaza's population quadrupled in a matter of weeks when towns and villages fell to Israel in 1948, resulting in mass displacement? Food and water-borne diseases have also been a concern — the power is shut off for twenty hours a day. Are Israel and Egypt to blame for withholding fuel deliveries? Or Israel, for bombing water and sewage infrastructure in Gaza during the 2014 war? Or the fight between Hamas and the PA, which deprives Gazans of critical medicines?

Israel: Recurring conflict with Israel has severely damaged the water, sanitation and hygiene (WASH) infrastructure in Gaza. In addition, severe limits on access and movement imposed by Israel and Egypt have hindered post-conflict repair and reconstruction. Israel has strong restrictions on items that could be used for both civilian and military purposes. This list includes 23 essential items needed for the WASH sector, such as pumps, drilling equipment, and chemicals for water purification (Efron et al., 2018). Less than sixteen per cent of items needed to construct vital water infrastructure are reaching Gaza (Oxfam, n.d.). This blockade makes it incredibly difficult to develop WASH infrastructure to meet the needs of a growing population (Efron et al., 2018). The economic blockade – fully implemented since 2007 – contributes to worsening poverty, skyrocketing unemployment and child malnutrition, according to several human rights groups, and has been described by the Secretary-General of the Human Rights Commission as 'a continuing collective penalty against the population of Gaza' (Efron et al., 2018).

The IDF carried out more than 6,000 airstrikes in Gaza during its 2014 operations. Photos taken after the attacks show large craters where residential buildings stood before. The sheer number of shells fired, as well as the reported dropping of over 100 one-ton bombs in a short period of time in a densely populated area, together with the reported use of an artillery barrage, raise questions as to the respect by the IDF of the IHL rules of distinction, precautions and proportionality. The methods and means employed by the IDF could not, in such a small and densely populated area, be directed at a specific military target, and could not adequately distinguish between civilians and civilian objects and military objectives. The commission also found that the power plant in Gaza was hit four times by the IDF, and only the fourth time, when the plant's fuel tank exploded did Israel comment that the IDF had missed its target (Efron et al., 2018). This signals that Israel will use its overwhelming technology and firepower to destroy far more than strictly military targets (Black, 2014). In a damning indictment of the conduct of hostilities by Israeli forces, the commission blamed senior Israeli political and military figures. The report declared that Israel did not revise its practice of air strikes even after their dire effects on civilians became apparent, and raised questions whether this was part of a broader policy which was at least tacitly approved at the highest level of government (Murphy, 2015).

Israel also has effective control over all of the water from the Jordan River to the Mediterranean, and hence controls how much goes into Gaza. 'We have 15% of our water resources, and the rest is stolen by the Israelis,' says Mazen Al Banna, the deputy minister for the Hamas government's water authority. Israel directs the flow of the Jordan River, and uses its control over the Mountain Aquifer to prohibit Palestinians from drilling wells – even though the aquifer lies almost entirely beneath the

West Bank (Tolan, 2018c). While Palestinian water is piped into Israel at no cost, a fraction of it is then piped back again for a fee. In this way, Israel is extracting from Palestinians both their water and their money. In some cases, Palestinians are forced to pay ten times more for their water than the price in Tel Aviv. Israeli settlers enjoy an estimated 400 litres per person per day, while some Palestinians in Gaza survive on as little as 10 litres per person per day, far below the bare minimum global Sphere standards for emergencies (Rabi, 2014). Furthermore, the inequality of water access has always been a source of tension especially when Palestinian villagers see water pipes leading to Israeli colonies passing through their land without supplying their village with water. In an assessment of 60 springs on Palestinian land close to Israeli settlements, UN OCHA found that

> *in 22 of the water sources, Palestinians have been deterred from accessing the springs by acts of intimidation, threats and violence perpetrated by Israeli settlers, while in the eight springs under full settler control, Palestinian access has been prevented by physical obstacles, including the fencing of the spring area, and its 'de facto annexation' to the settlement. (Rabi, 2014)*

Palestinian Armed Groups: While assigning blame, one must also consider the events that led to the escalation of violence by Israel into the Gaza Strip in June 2014. On 12 June 2014, three Israeli teenagers were kidnapped and brutally murdered in the West Bank (UNHRC, 2015). Moreover, the discovery of tunnels from the Strip leading into Israel added to a sense of insecurity. Palestinian armed groups increasingly launched rockets into Israel during June and July 2014. According to the Israeli government, approximately 4,000 of the 4,500 rockets and mortars fired by Palestinian armed groups were directed at Israeli cities, towns and residential

communities; 250 landed accidentally in Gaza; and the rest were directed at IDF troops in Gaza (Israeli Ministry of Foreign Affairs, 2014). However, the independent commission found that most of the rockets were aimed at military facilities, and in instances where civilians were targeted, in a few cases Palestinian armed groups appear to have provided advance warning before launching attacks that may have killed Israeli civilians (UNHRC, 2015). The operations and impact of these armed groups are usually disproportionate compared to the IDF.

Rivalry between Hamas and the Palestinian Authority: Another factor adding to the misery of Gazans is the rivalry between the Fatah-led PA and Hamas, the de facto government in Gaza (Efron et al., 2018). Fatah lost power in 2006 when Hamas won the Palestinian Legislative Council elections. Tensions between the two rivals caused numerous violent clashes in the Gaza Strip. The two sides' mutual hostility has defined the stark geographical and ideological division in Palestinian society between the West Bank and Gaza, which they have ruled separately since the 2007 clashes (Beaumont, 2017). In June 2017, the PA stopped paying Israel to supply Gaza with electricity, causing drastic restrictions on power (Haaretz, 2018). While generators are available, only a few people can afford the fuel to run them (Simmons, 2018). Under a deal struck between the PA and Hamas later that same year, the PA lifted the crippling electricity restriction on Gaza. However, further progress towards full implementation of the deal stalled in 2018 (Freedom House, 2019).

Funding cuts: The assistance that the UNRWA provides was also jeopardised. In January 2018, the US Trump administration announced that it was withholding USD 65 million out of the 125 million of planned funding to the agency — a move that humanitarian officials said would exacerbate the crisis. The US eventually

withdrew USD 350 million of funding by the end of 2018, amounting to over a quarter of the agency's USD 1.2 billion annual budget (Cheslow, 2018; Beaumont & Holmes, 2018). While other countries contributed or pledged as a result of this cut, the agency still faced a shortfall of USD 64 million, which threatened education for 525,000 students, essential primary care for 3 million patients and food assistance for 1.7 million refugees (UN General Assembly, 2018). UNRWA not only serves Palestinians in the occupied territories but also in Jordan, Syria and Lebanon.

4.4 Significance: WASH infrastructure as an asset of war

This case falls within the discourse on Toxic Remnants of War (TRW), which are defined as 'any toxic or radiological substance resulting from conflict or military activities that forms a hazard to humans and ecosystems' (Kellay, 2014, p. 13). Direct sources of TRW are the immediate result of military activity, such as the decision to target a petrochemical site, by which pollutants are released into the environment, or munitions residues that spread out over urban or rural areas during heavy fighting. Indirect sources of TRW result from sequences of events or conditions connected to conflicts and instability. Large-scale armed conflicts often weaken state authority, reducing the regulation and governance of such activities as waste collection and water treatment. Weakened governance also creates the conditions in which industrial sites and stockpiles may be damaged, abandoned or looted, which may expose individuals to toxic substances (Zwijnenburg & Te Pas, 2015).

One source of TRW is the destruction and damage of water and sanitation infrastructure, as

described here. Airstrikes on water and sanitation have become a common feature of modern warfare. WASH systems are often targeted as a means of attacking civilians, in breach of the Geneva Convention, said Sian White of the London School of Hygiene and Tropical Medicine: 'Hospitals and water and sanitation infrastructure used to be "off limits", with warring parties respecting their value to human life, but recent experience indicates that this is no longer the case', said White. 'Perpetrators of conflict are increasingly viewing water and sanitation systems as an asset of war that can be harnessed to gain power and destroyed to inflict harm on civilians' (Hodal, 2019). In modern conflict, warring parties have also diverted or cut off sources of water and electricity to civilians in opposing territories.[2]

A study by UNICEF which analysed mortality data from sixteen countries beset by long-term conflict, revealed that unsafe water, sanitation and hygiene kills nearly three times more children under the age of fifteen years than direct conflict (Hodal, 2019). The effects of damaged WASH networks may be felt until years later. For instance, even though Lebanon's 33-day war with Israel finished over a decade ago, damage to over 300 water and 150 sewage networks exacerbated a water crisis that continues today in the country: One in three Lebanese now buys alternative sources of drinking water (Dathan, 2018). Waste management also becomes an issue during conflict when services are broken down. Poor sanitation coupled with lack of immunisation, for example, led to new polio cases being detected in places in Syria 2017 and 2018, that were polio-free prior to the crisis (World Health Organisation & UNICEF, 2018).

The environmental footprints of modern conflicts are creating acute and chronic threats to civilian populations. It is yet another reminder that civilian protection cannot, and should not, be viewed as distinct from protecting the environment upon which people depend. It underscores the urgency behind the need for new and creative policy approaches, which can help minimise environmental contamination, ensure recognition and assistance for those harmed, and which encourage timely and effective remediation (Weir, 2015).

Images

An engineer from the Coastal Municipalities Water Utility
inspects a damaged sewage pumping station in Beit Hanoun,
a high density urban area close to Gaza City.
© Robin Lloyd/ECHO (2014)

Bibliography

Baker, L. (2017, July 11). Gaza 'unliveable' ten years after
    Hamas seized power: U.N. *Reuters.*

Balousha, H., & Berger, M. (2020, January 2) The U.N. Once
    Predicted Gaza Would be 'Uninhabitable' by 2020. Two
    Million People Still Live There. *The Washington Post.*

Beaumont, P. (2017, October 12). Hamas and Fatah sign deal
    over control of Gaza Strip. *The Guardian.*

Beaumont, P., & Holmes, O. (2018, August 31). US confirms end
    to funding for UN Palestinian refugees. *The Guardian.*

Black, I. (2014, July 29). Israel is finding it hard to deny
    targeting Gaza infrastructure. *The Guardian.*

Bushra, S. (2014, September 25). Fatah-Hamas agreement
    gives unity government control over Gaza. *Reuters.*

Cheslow, D. (2018, December 13). US cuts funds to Palestinian
    refugees, leaving many without essential services. *The
    World.*

Coastal Municipalities Water Utility (2014). *Damage
    Assessment Report: Water and Wastewater Infrastructure
    (Gaza Strip; 7 July – 14 August 2014)* [Report]. Coastal
    Municipalities Water Utility.

Cooke, K. (2018, August 13). 'I feel like I live in a septic tank':
    Gaza's environmental meltdown. *Middle East Eye.*

Dathan, J. (2018). *When the bombs fall silent: The reverberating
    effects of explosive weapons* [Report]. Action on Armed
    Violence.

Efron, S., Fischback, J. R., & Giordano, G. (2018). Gaza's Water
    and Sanitation Crisis: The Implications for Public Health.
    Institute for Security Studies, 85-101.

El Kishawi, R. R., Soo, K. L., Abed, Y. A., & Wan Muda, W. A. M. (2017).
    Prevalence and associated factors influencing stunting in
    children aged 2-5 years in the Gaza Strip-Palestine: a cross
    sectional study. *BMC Pediatrics*, 17(210), 1-7.

Freedom House (2019). *Gaza Strip* [Webpage]. Freedom House.
    Accessed: June 2019.

Gaza Unlocked (n.d.). *Water and Sanitation* [Webpage]. Gaza
    Unlocked. Accessed: August 2020.

Gilbert, M. (2014). *Brief report to the UNRWA: The Gaza Health
    Sector as of June 2014* [Report]. University Hospital of
    North Norway.

Haaretz (2018, March 13). The Bloody Hamas-Fatah Power
    Struggle That Threatens to Return Following Gaza
    Assassination Attempt. *Haaretz.*

Hodal, K. (2019, March 22). Dirty water 20 times deadlier to
    children in conflict zones than bullets Unicef. *The Guardian.*

Institute for Middle East Understanding (2014, September
    10). 50 Days of Death and Destruction: Israel's "Operation
    Protective Edge"[Blog post]. *Institute for Middle East
    Understanding.*

International Coalition for the Responsibility to Protect
    (2015). *Crisis in Gaza* [Report]. International
    Coalition for the Responsibility to Protect.

International Committee of the Red Cross (2014, July 15).
    Gaza: Water in the line of fire [Press release]. International
    Committee of the Red Cross.

Israeli Ministry of Foreign Affairs (2014). V*iolations of the
    Law of Armed Conflict, War Crimes, and Crimes Against
    Humanity Committed by Hamas and Other Terrorist
    Organisations during the 2014 Gaza Conflict.* Government
    of Israel, Ministry of Foreign Affairs.

Kellay, A. (2014). *Pollution Politics: Power, Accountability and
    Toxic Remnants of War* [Report]. Toxic Remnants of War.

McAuley, J., & Balousha, H. (2019) A Summer Day at the Beach?
    For Many Gazans, the Conflict has Put an End to That, Too.
    The Washington Post.

Murphy, R. (2015, June 26). 'War crimes' investigation should
    follow UN inquiry into Gaza conflict. *The Irish Times.*

Omer, M. (2014, July 16). Gaza: Israel bombs water and sewage
    systems [Blog post]. *The Ecologist.*

Omer, M. (2015, February 12). Israeli jets destroying Gaza
    water and sewage systems: officials. *Middle East Eye.*

Oxfam (n.d.). Failing Gaza: undrinkable water, no access to
    toilets and little hope on the horizon [Blogpost]. *Oxfam.*
    Accessed: June 2019.

Rabi, A. (2014, March 22). Water apartheid in Palestine – a
    crime against humanity? [Blog post]. *The Ecologist.*

Seyam, M., Alagha, J. S., Abunama, T., Mogheir, Y., Affam, C. A.,
    Heydari, M., & Ramlawi, K. (2020). Investigation of the
    Influence of Excess Pumping on Groundwater Salinity
    in the Gaza Coastal Aquifer (Palestine) Using Three
    Predicted Future Scenarios. *Water, 12*(8), 1-18.

Simmons, A. M. (2018, February 8). Life in the Gaza Strip: a
    cauldron of deficit, despair and desperation. *The Los
    Angeles Times.*

The Independent (2017, August 25). Three years after its last
    war with Israel, Gaza is on the brink of a humanitarian
    crisis. *The Independent.*

Tolan, S. (2018a, November 13). Gaza's water crisis is a 'ticking time bomb'. *The World.*

Tolan, S. (2018b, October 29). Gaza's drinking water spurs blue baby syndrome, serious illnesses. *Al Jazeera.*

Tolan, S. (2018c, October 30). How can Gaza's contaminated water catastrophe be resolved? *Al Jazeera.*

Udasin, S., & Lazaroff, T. (2017, July 6). Gaza sewage forces shutdown of Israeli beach. *The Jerusalem Post.*

UN Country Team (2017). *Gaza Ten Years Later: United Nations Country Team in the occupied Palestinian territory* [Report]. United Nations, Country Team.

UN General Assembly (2018, November 9). *Palestine Refugee Agency Faces Greatest Financial Crisis in Its History Following 2018 Funding Cuts, Commissioner-General Tells Fourth Committee* (GA/SPD/684). United Nations, General Assembly.

UN Human Rights Council (2015, June 24). *Report of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1 (A/HRC/29/52)* [Report]. United Nations, Human Rights Council.

UN Office for the Coordination of Humanitarian Affairs (2014, September 5). Gaza Strip: WASH damage and estimated number of people with no access to clean water [Fact sheet]. United Nations, OCHA.

Weir, D. (2015). *Environmental Mechanics: Re-Imagining Post-Conflict Environmental Assistance* [Report]. Toxic Remnants of War.

Worldbank (2014). *Gaza: Fact Sheet August 1, 2014* [Fact sheet]. Worldbank.

World Health Organisation & UNICEF (2018). *Syria cVDPV2 outbreak Situation Report Nr. 41* [Report]. World Health Organisation & United Nations, UNICEF.

Zwijnenburg, W., & Te Pas, K. (2015). *Amidst the debris: A desktop study on the environmental and public health impact of Syria's conflict* [Report]. PAX.

Endnotes

1 In 2013, the New York Times had reported that several sewage stations in the Gaza Strip were overflowing and 3.5 million cubic feet of raw sewage seeped into the Mediterranean every day.

2 This is also discussed in chapter 12 on the weaponization of water in Syria.

CASE 5.
Chemical weapons:

A Sarin gas attack on Khan Sheikhoun (Syria, 2017)

AUTHOR: WILBERT VAN DER ZEIJDEN (PAX)

COUNTRY
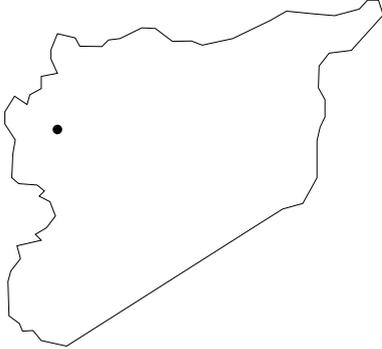
Syria

PERPETRATOR

The Syrian Armed Forces

ACT

carried out a chemical attack on Khan Sheikhoun

OBJECTIVES*

· to instill fear in civilians prior to a military offensive

· to punish what it considers 'opposition' areas

As far as we have been able to discern; the list may not be exhaustive in this regard

CONSEQUENCES

The death of approximately 90 civilians

Hundreds of non-fatal casualties

Psychological trauma for survivors and people who have lost close ones

In 2017, the frontline of the armed conflict in Syria moved rapidly, putting civilians in the crosshairs in multiple locations. The US-led International Coalition against so-called Islamic State of Iraq and Syria (ISIS) was stepping up its targeting of ISIS-held territories, and the Syrian army and pro-Assad militias were fighting to regain the upper hand in battles with opposition forces. In March, much of the Idlib Governorate became a battleground and by early April, the fighting included air strikes on opposition-held areas as government troops moved north from Hama in attempts to retake the Idlib Governorate. The list of alleged and proven events in which Syrian civilians were harmed was growing fast, and the fighting was closing in on the town of Khan Sheikhoun, which before the war was a mostly agricultural community with about 35,000 inhabitants.

5.1 Case: Chemicals are released on Khan Sheikhoun

On Tuesday 4 April 2017 at 6.26 a.m., some residents started to receive alerts via handheld radios that government aircraft had departed al-Sha'yrat airbase in Homs and were heading in the general direction of Khan Sheikhoun. In the next half hour, four bombs hit Khan Sheikhoun. One projectile struck a main road on the edge of the North Harah neighbourhood between a large grain storage and grain processing facility on one side of the road, and residential buildings on the opposite side (Higgins & Yap, 2017).

The bomb exploded with a loud bang. Luckily, the explosion itself was low yield, causing little damage to surrounding buildings and infrastructure, with the notable exception of an impact crater approximately 1.5 metres wide and half a metre deep (Weizman et al., 2019). However, upon detonation the projectile released smoke and gas.

At that early hour, families were mostly still at home, asleep or preparing to go to work or school. Residents who heard the explosion rushed outside to see what happened, and to establish whether they needed to take shelter or flee. Immediately, residents in close proximity to the explosion started having trouble breathing and the terrible truth became apparent: This was a chemical attack and everyone was in acute danger. People rushed back in to find relatives and children, and take them into sheltered rooms or to hospitals. For many, it was already too late. More than 50 people died on location, and hundreds of people were affected by the gas, experiencing symptoms ranging from shortness of breath and anxiety, to pinpoint pupils, convulsions, foaming at the mouth, muscular spasms, and loss of consciousness (Organisation for the Prohibition of Chemical Weapons [OPCW], 2017a). Upon arrival at the site, first responders of the Syria Civil Defence (SCD) found that most victims had no external injuries. Instead, they described the affected as 'people who were walking and then fell down', and as suffering from suffocation and muscle spasms (OPCW, 2017a, p. 20). The first ambulance to arrive took five victims to a nearby hospital. Two hours later, the ambulance was found nearby; the driver had lost consciousness like the others, only to wake up in a hospital later (OPCW, 2017a).

Mazin Yusif, 13, recalls how he had run up to the roof of his house and saw that the strike was in front of his grandfather's house. He hurried towards his house and found his grandfather

slumped over. He ran outside to call for help. 'I got dizzy and then fainted in front of my grandfather's garage. I next found myself here in this hospital, naked in a bed,' he told CNN. The boy's grandmother, Aisha al-Tilawi, 55, said she saw blue and yellow after the plane dropped a chemical-laden bomb. 'We started choking, felt dizzy, then fainted. Mazin was trying to wake up his grandfather. Three of my family died,' she explained, lying in bed with an oxygen mask on her face (Dewan et al., 2017).

About 40 more people died in the hours and days after the attack, bringing the total death toll to between 87 and 92 (Violations Documentation Center [VDC], 2018; Ward et al., 2017). Many first responders and medical personnel in hospitals were contaminated and fell ill as well; several of them required medical treatment.

Forensic studies later confirmed that the symptoms were caused by inhalation of Sarin, an extremely potent nerve agent outlawed by the 1997 Convention on Chemical Weapons, to which Syria acceded in 2013 (OPCW, 2017b).

The Khan Sheikhoun attack is one of the most extensively researched, analysed, and debated instances of civilian harm in the Syrian conflict. It was widely reported at the time by media and led to fierce condemnations and responses (Al Jazeera, 2017; European Council, 2017; Roth et al., 2017): a UN-mandated Organisation for the Prohibition of Chemical Weapons (OPCW) investigation; several heated debates in the UN Security Council (Nichols, 2017); and on 7 April, a retaliatory attack by the United States on al-Sha'yrat Airbase (Gordon et al., 2017). The type of chemical, the prior aerial attacks in the vicinity, and the aircraft used, all point to the Syrian government as the perpetrator. Despite all this, military forces loyal to the Syrian government have continued to use chemical weapons and chemicals as a weapon sporadically since that

time (Higgins, 2018; Kimball & Davenport, 2018; US Department of State, 2018).

5.2 Victims: Families torn apart

The Khan Sheikhoun attack caused around 90 fatalities and hundreds of non-fatal casualties. The Violations Documentation Center (VDC) names 87 victims of the attack, among which 34 adult men, 20 adult women and 33 children (VDC, 2018). Upon impact of the projectile, the Sarin gas dispersed in the immediate vicinity from the impact crater and downwind directly over some residential houses in the area.

Some families were hit extraordinarily hard, in particular the Al-Yousef family who lost six children, as well as four female and seven male relatives, according to the VDC list (VDC, 2018). Alaa Al-Yousef, one of the surviving family members, said his family was sleeping and woke up to the sound of the explosion only a few hundred metres away. The first thing they saw was smoke. His father went outside, then rushed back in. He had seen a woman walking near the strike suddenly collapse. The family frantically closed windows and dampened cloths with water and apple cider vinegar to put over their faces. Some of the family were lucky, as the wind went in the other direction. Al-Yousef recalled: 'Many others fled, running from house to house trying to track down relatives. Many of them never made it out' (El Deeb, 2017).

Alaa Al-Yousef's cousin Abdel Hameed, another survivor, recalls he was with his wife and their twins when the rocket hit. He brought them to paramedics and, thinking they would be all right, went looking for the rest of his family. He found the bodies of two of his brothers, two nephews and a niece, as well as neighbours and friends. 'I couldn't save anyone. They're all dead now,' he

said. He was taken to the hospital himself, and it was only later that his relatives could bring themselves to tell him that his children and wife had also died. 'Abdel Hameed is in very bad shape,' said his cousin Alaa. He is being treated for exposure to the toxin, 'but he's especially broken down over his massive loss' (El Deeb, 2017).

First responders arriving at the scene, unprepared for a chemical attack, fell ill too. Hamid Khutainy, at the time a SCD volunteer in Khan Sheikhoun, told The Guardian:

> *It was like Judgment Day. They told us 'HQ, we are losing control'. We had no idea what they were trying to say. Then they said, 'come save us, we can no longer walk'. So, the second and third teams went with just face masks. We could smell it from 500 metres away. (Shaheen, 2017)*

Hundreds of civilians were brought to hospitals in the area. This work was complicated by the targeting of some of these hospitals by the Syrian Arab Army in the days before the airstrike. In addition, ongoing fighting made it difficult to reach some hospitals, especially those across the frontline in Hama. Shortly after, videos were released that showed the targeting by airstrikes of a hospital treating victims of the chemical attack (Jacobo & Masri, 2017), in clear violation of International Humanitarian Law (IHL), and corroborating that the attacks appear to have been coordinated.

Doctors from the hospitals documented symptoms including confusion, muscular weakness, chest tightness, dizziness, headaches, vomiting, shortness of breath, blurred vision, pinpoint pupils, convulsions or muscular spasms, profuse sweating, eye burning, and suffocation. Some casualties reported frequent urination and a state of agitation. Doctors treated patients with atropine and diazepam

to counter the effects of inhaled Sarin (OPCW, 2017a). The symptoms presented, their duration, and response to medications are consistent with acetylcholinesterase inhibition. This is corroborated by a laboratory analysis of the blood, urine, and specimens collected from the victims and casualties, which confirmed the presence of Sarin or a Sarin-like substance (OPCW, 2017a).

The potency of the toxin also exposed many of the first responders and medical personnel in hospitals through cross-contamination. Especially affected were the first responders, some of whom ended up requiring medical treatment, such as the above-mentioned ambulance driver who himself fell unconscious after collecting victims at the site of impact (OPCW, 2017a).

Even when the attack would have been carried out with a conventional weapon, there are grave concerns about the application of the principle of distinction between military and civilian targets in this case. There is no indication that any of the victims who were impacted in their residential houses early in the morning were actively involved in any military activity at the time. The industrial sites opposite of the residential neighbourhood were not operational at that hour, and in any case do not seem to have been a legitimate military target by any stretch of the imagination, despite claims otherwise of the Syrian and Russian governments at the time (Triebert, 2017).

5.3 Perpetrators: Evidence points to the Syrian government

Eyewitnesses and information from early responders and journalists largely pointed at the Syrian Arab Army as the perpetrator.

Various witnesses shared video material of aerial attacks. While the aircraft in these are not identified, the army had targeted Khan Sheikhoun and the wider area in the days ahead of the attack (Higgins & Yap, 2017). In addition, the army had been using chemical compounds in attacks on residential areas several times before (Higgins, 2018; Kimball & Davenport, 2018). Syrian Arab Army forces were operating in the area and had already shown to have the means and the intention to target – or at least not spare - civilians supporting the opposition.

The international community condemned the attack and the Syrian government for targeting civilians, but the government launched a campaign of disinformation to deny its involvement. It was backed by the Russian government official Konashenkov who posed an alternative theory altogether: 'From 11.30 to 12.30 local time, [8.30 to 9.30 GMT] Syrian aircraft conducted an airstrike in the eastern outskirts of Khan Sheikhoun on a large warehouse of ammunition of terrorists and a mass of military equipment' (Sputnik News, 2017). Konashenkov said that from this warehouse chemical weapons' ammunition was delivered to Iraq by militants. He added that there were workshops for manufacturing bombs, stuffed with poisonous substances, on the territory of this warehouse (Sputnik News, 2017). Several analysts proposed supporting explanatory scenarios, notably Massachusetts Institute of Technology Professor Theodore Postol who argued on the basis of flawed information that the wind direction at the time does not fit the explanation that Sarin was used, and journalist Seymour Hersh who mislocated the event altogether, and on that basis dismissed the eyewitness accounts as non-credible (Postol, 2017; Hersh, 2017).

These are isolated and oft-refuted explanations that – at least in the case of Sputnik – seem designed to delay fact finding and with that to actively undermine efforts of victims to seek

assistance, and ultimately justice. Among others, Bellingcat conducted careful analysis of both Postol's and Hersh's claims, proving that these were based on untruths (Higgins, 2017a). The OPCW reported in July 2017 to be 'confident that the Syrian Arab Republic is responsible for the release of Sarin at Khan Sheikhoun on 4 April 2017' (OPCW Joint Investigative Mechanism [JIM], 2017, p. 10). The OPCW's UN-mandated Joint Investigative Mechanism (JIM) conducted forensic research on site, obtained video and photo materials and spoke to eyewitnesses and found no evidence to support the Syrian and Russian claim of events. Instead, it concludes that: Aircraft dropped munitions over Khan Sheikhoun between 6.30 a.m. and 7.00 a.m. on 4 April 2017; the crater from which the Sarin emanated was created on the morning of 4 April 2017; the crater was caused by the impact of an aerial bomb travelling at high velocity; the symptoms of victims and their medical treatment, as well as the scale of the incident, are consistent with large-scale intoxication of Sarin; and the Sarin identified in the samples taken from Khan Sheikhoun was found to have most likely been made with a precursor from the original stockpile of the Syrian government (OPCW JIM, 2017). Laboratories compared samples taken from the Khan Sheikhoun attack with samples previously collected in chemical attacks and with samples handed over to the UN by the government for destruction in 2014. They found matching signatures in all these samples (Deutsch, 2018).

Several sources identified the aircraft involved in the attack as a Sukhoi 22 (Su-22) attack jet called Quds-1 – the commander of the Su-22 fleet. In 2017, local spotter organisation Syria Sentry deployed a network of spotters alerting others in the region of Su-22 take offs and their apparent flight direction. The organisation alerted on April 4 at 6.26 a.m. that the Su-22 had taken off from al-Sha'yrat airbase in Homs

and not much later, they reported that another aircraft, Quds 6, had also taken off from the base. According to the spotters, it is significant that the commander himself conducted the sortie, as the pilot and his aircraft are associated with other alleged chemical attacks in Syria. The organisation furthermore says they have strong evidence that Russian-operated fixed-wing aircraft conducted follow-up attacks in the same area around seven hours later (Triebert, 2017).

The international research collective Bellingcat managed to piece together evidence of the type of bomb used in the attack, identifying bomb remnants on OPCW photos and publicly available footage as fitting the design of an M4000 Russian-made bomb, a type implicated in previous chemical attacks by the Syrian government (Bellingcat Investigation Team, 2017).

Not often can the perpetrator be identified with such a high degree of confidence.

5.4 Significance: An unpunished violation of international regulations

The Khan Sheikhoun attack is one of several chemical cases for which it is established beyond reasonable doubt that the Syrian Arab Army is the perpetrator. The repeated use of chemical weapons, even after Syria joined the Chemical Weapons Convention (CWC), says something about the disregard of the Syrian government for IHL and for the lives of its own population. The pattern of use of chemical weapons exposes something about their intentions as well. The repeated use of chemical weapons and chemicals as weapon is sporadic but calculated. The attacks with Sarin especially seem designed to instil fear in civilians prior to a military offensive, as well as to show resolve: The determination of

the Syrian government to cross all military, legal and ethical boundaries if deemed necessary.

The earlier use of Sarin in 2013 led to enough pressure on the Syrian government to allow an OPCW mission to remove all declared stockpiles of chemical weapons and precursor chemicals (Deutsch, 2014; UN Security Council, 2013), and Syria acceded to the 1997 CWC (OPCW, 2013). It was a remarkable mission, done in a country actively fighting an armed conflict. The mission completed its work in June 2014, concluding that all declared chemical weapons and precursors had been removed but that it was impossible to tell if Syria was free of chemical weapons.

Clearly, the government withheld stockpiles of Sarin. Chlorine, more commonly used by the Syrian Arab Army is relatively easy to make and has likely been produced after Syria became part to the CWC; the precursors used for the Sarin attack in Khan Sheikhoun appear to be from the same batch as the substance declared and removed in 2013 (Deutsch, 2018).

It has proven difficult for the international community to find the right response to this form of tactical use of chemical weapons. While clearly violating international treaties, the use of chemical weapons by the Syrian government regime evidently has been too sporadic to fuel unified international action. In addition, the war in Syria has over time transformed from an internal uprising against an authoritarian regime into a proxy war involving UN Security Council permanent members on opposing sides when it comes to backing or condemning the Syrian government. As a consequence, several UN resolutions designed to put pressure on the Syrian government to refrain from further use of chemical weapons and other internationally forbidden means and methods of warfare have routinely been blocked by UN Security Council

member Russia, at the time actively involved in military offensives in support of the Syrian government. As a result, troops loyal to Assad have used a wide variety of internationally banned or restricted means and methods of warfare, including chemical weapons, starvation of civilians, indiscriminate and disproportionate attacks on civilian neighbourhoods, targeting of civilian infrastructure including hospitals, forced displacement, torture, and detention without due trial.

The retaliatory attack by the US on 7 April 2017 damaged the al-Sha'yrat airbase in Homs but seems to have had very little effect beyond the temporary disruption of operations staged from that base (Gordon et al., 2017). It did not force Syria into reconfirming its compliance with the CWC and the repeated use of chemical warfare by the Syrian Arab Army shows that the government apparently considers the sporadic use of chemical weapons as something you can get away with.

The government's behaviour jeopardises the very object and purpose of the CWC, whose adoption was hard-fought by the international community. The fact that Syria used chemical weapons while being party to the CWC, and seems to be able to do so without meaningful repercussions, exposes the international norm against chemical weapons to erosion. This sets a dangerous precedent.

For the victims dealing with the horrifying events of April 2017, life was further complicated by the fact that the frontline of the fighting between the Syrian Arab Army and the opposition forces moved back and forth until 2019. Then, the army finally definitively solidified their hold on the town. Beside the 2017 chemical incident described in this chapter, there were periods when residents in the town endured almost daily shelling and bombardment by the army and pro-Assad militias. Meanwhile, the Syrian government continues to deny what is proven: It

used chemical weapons despite its accession to the CWC, and moreover, it did so on people who were not actively taking part in hostilities.

Images

Casualties from the 4 April 2017 chemical attack on Khan Sheikhoun.
© EA WorldView, Syria (2017)

Bibliography

Al Jazeera (2017, April 5). 'Chemical attack' in Syria draws international outrage. *Al Jazeera*.

Bellingcat Investigation Team (2017, November 13). Did Russia Accidentally Provide the Best Evidence of the Syrian Government's Involvement in Sarin Attacks? [Blog post]. *Bellingcat*.

Deutsch, A. (2014, June 23). Syria hands over remaining chemical weapons for destruction. *Reuters*.

Deutsch, A. (2018, January 30). Exclusive: Tests link Syrian government stockpile to largest sarin attack – sources. *Reuters*.

Dewan, A., Khadder, K., & Yan, H. (2017, April 7). Survivors of Syrian attack describe chemical bombs falling from sky. *CNN*.

El Deeb, S. (2017, April 5). Man loses 22 family members in Syria chemical attack. *CBC News*.

European Council (2017, April 6). *Declaration by the High Representative on behalf of the EU on the alleged chemical attack in Idlib, Syria* [Press release]. European Union, European Council.

Gordon, M. R., Cooper, H., & Sheer, M. D. (2017, April 6). Dozens of U.S. Missiles Hit Air Base in Syria. *The New York Times*.

Hersh, S. M. (2017, June 25). Trump's Red Line. *Welt*.

Higgins, E., & Yap, N. (2017, April 12). Khan Sheikhoun: The Fingerprints of a Chemical Attack. *Medium*.

Higgins, E. (2017a, July 28). Khan Sheikhoun, or How Seymour Hersh "Learned Just to Write What I Know, and Move On" [Blog post]. *Bellingcat*.

Higgins, E. (2017b, October 27). What the OPCW-UN JIM's Leaked Report on Khan Sheikhoun Tell Us About Russia's Denials and Syria's Sarin [Blog post]. *Bellingcat*.

Higgins, E. (2018, June 14). The Chemical Munitions Used By the Syrian Government 2012-2018 [Blog post]. *Bellingcat*.

Jacobo, J., & Masri, L. (2017, April 5). Videos released by Syrian activists show aftermath of alleged chemical attack in Syria. *ABC News*.

Kimball, D., & Davenport, K. (2018). *Timeline of Syrian Chemical Weapons Activity, 2012-2018* [Factsheet]. Arms Control Association.

Nichols, M. (2017, April 12). Russia blocks U.N. Security Council condemnation of Syria attack. *Reuters*.

Organisation for the Prohibition of Chemical Weapons (2013, October 14). Syria's Accession to the Chemical Weapons Convention Enters into Force [Blog post]. *OPCW News*.

Organisation for the Prohibition of Chemical Weapons (2017a). *Report of the OPCW Fact-Finding Mission in Syria Regarding an Alleged Incident in Khan Shaykhun, Syrian Arab Republic, April 2017 (S/1510/2017)* [Report]. United Nations, OPCW.

Organisation for the Prohibition of Chemical Weapons (2017b, April 19). OPCW Director-General Shares Incontrovertible Laboratory Results Concluding Exposure to Sarin [Blog post]. *OPCW News*.

Organisation for the Prohibition of Chemical Weapons Joint Investigative Mechanism (2017). S*eventh report of the Organisation for the Prohibition of Chemical Weapons-United Nations Joint Investigative Mechanism (S/2017/904)* [Report]. United Nations, OPCW JIM.

Postol, T. (2017, April 19). Khan Sheikhoun, Syria: The Nerve Agent Attack that Did Not Occur [Blog post]. *Global Research*.

Roth, R., Gaouette, N., & Green, M. (2017, April 5). Haley threatens 'our own action' in Syria if UN doesn't act. *CNN*.

Shaheen, K. (2017, April 6). 'The dead were wherever you looked': inside Syrian town after gas attack. *The Guardian*.

Sputnik News (2017, April 5). Syria Strikes Warehouse Storing Chemical Weapons Being Delivered to Iran. *Sputnik News*.

Triebert, C. (2017, April 10). The Khan Sheikhoun Chemical Attack – Who Bombed What and When? [Blog post]. *Bellingcat*.

UN Security Council (2013). *Resolution 2118* (S/RES/2118). United Nations, Security Council.

US Department of State (2018, April 7). *On the Chemical Attack in Douma* [Press release]. US Government, Department of State.

Violations Documentation Center (2018). Civilians killed in Khan Sheikhoun on 4 April by Chemical and toxic gasses – Killed list [Blog post]. *Violations Documentation Center*.

Ward, C., Munayyer, W., Abdelazis, S., & Sibbett, F. (2017, May 9). Gasping for life: Syria's merciless war on its own children. *CNN*.

Weizman, E., Caine, A., & Masterton, N. (2019, December 4). Chemical attack in Khan Sheikhoun: Khan Sheikhoun Crater [Blog post]. *Forensic Architecture*.

CASE 6. Explosive remnants of war:

A long-term legacy (Cambodia, 1960s-present)

AUTHOR: SABA AZEEM (PAX)

COUNTRY
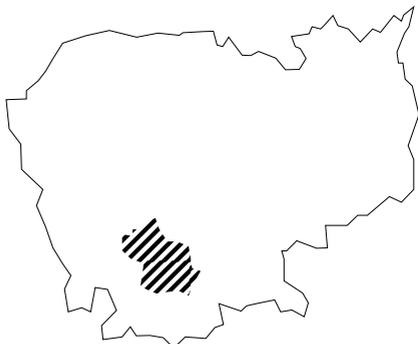
Cambodia

PERPETRATOR

(Foreign) Armed forces in the 1960s and 70s, including the North Vietnamese Army, US forces and the Khmer Rouge

ACT

laid landmines and dropped bombs, including cluster munitions, all over Cambodia

OBJECTIVES*

· to strengthen defences

· to deny enemies access to or control of areas

As far as we have been able to discern; the list may not be exhaustive in this regard

CONSEQUENCES

The continued occurrence of physical injuries, including amputations, and casualties among civilians who happen upon ERW

    ↳ leading to the social stigmatisation of people with amputated limbs

Decreased access to land, schools and medical facilities in ERW-contaminated areas

    ↳ leading to decreased or loss of livelihood among farmers in particular

        ↳ leading to negative coping mechanisms, such as crime, prostitution, begging

    ↳ leading to malnutrition

Inability of health teams to provide medical care to remote areas because of land contamination

Psychological trauma

The development of a landmine culture in which civilians collect UXOs to sell, play with, hunt or fish

    ↳ contributing to even higher numbers of casualties

Cambodia is seen as a popular tourist destination in Far East Asia, boasting lush jungles, serene waterfalls, and world-famous temples. Many swarm to Angkor Wat and Siem Reap to take in the history and the genius of the Khmer Empire architecture, with the cities now dotted with chic cafes and contemporary art scene; the Cardamom Mountains becoming a hub for ecotourism; and many more going island hopping in the south; spotting the last few freshwater dolphins in the Mekong river; taking in the majestic rice paddies and swaying sugar palms; enjoying the simple life in fishing villages. Tourism, along with textiles, is the major industry in Cambodia, with the country receiving over six million tourists in 2018 (Khidhir, 2018). However, starting from the 1960s, Cambodia suffered from three decades of war, the legacy of which still haunts the nation in the form of Explosive Remnants of War (ERW), Unexploded Ordnances (UXOs) and landmines which have now become a largely forgotten humanitarian emergency (Tucci, 2015).

6.1 Case:
Playing with fire[1]

Iap (12) and his older brother Long (15) found a small pile of ordnance near their village in Kompong Speu Province. The brothers carried three of the shells to their house, wanting to sell them to the scrap collector who visited their village daily. They knew the scrap collector would not buy live ordnance with a fuse. When twisting the fuse out did not work, the boys came up with the plan to burn the ordnance in

order to make it explode; they would then be able to collect the scrap metal fragments and sell them. The brothers called together a group of friends to help them. They took one of the shells around fifteen metres away from the back of the house and dug a shallow hole in the hard ground. The friends gathered some rubbish into a pile and set it alight. They lay on the ground nearby waiting for it to explode, but nothing happened. At the second attempt, the shell exploded with thundering noise, and the children were scared for a split second; they cheered 'ho!' because their plan had been successful, and they would be able sell the scrap metal to buy some sweets.

Excitement soon turned to dismay when they realised that the explosion had sent metal fragments all over the place and it would be difficult to collect any. A few fragments also injured three of the children, who were watching. Luckily, they were not seriously injured. Villagers and soldiers stationed nearby came over upon hearing the explosion. The boys' family members and neighbours were furious at what the children had done, and gave the boys a serious beating. Even though Iap and most of the other boys said they would not do it again for fear of being reprimanded by their relatives, one small child stated that it was so exciting because, 'you get to hide and jump on the ground round at somebody else's house.' He was afraid when it exploded, but it was all part of the excitement. All of the boys agreed that it was the bravest and most exciting thing that they had ever done. The boys continued to collect scrap metal but not from live ordnance anymore. They spent the money from this foraging on clothes, biscuits, 'sweet ice' drinks and elastic bands.

The location where the children claimed to have found the live mortar was a plot of land that had not been de-mined by any mine action agency, even though the Mines Advisory Group (MAG) and

the Cambodian Mine Action Centre (CMAC) were active in the wider area.

Incidents like these are not uncommon in Cambodia, a country still suffering from the repercussions of three decades of conflict. According to the Landmine Monitor data, the extent of landmine and cluster munitions contamination in Cambodia is 'massive', and the country is generally considered one of the most contaminated in the world (Landmine and Cluster Munition Monitor [LCMM], 2018a). Recent estimates show that there may be as many as four to six million mines, ERW and UXOs left undetected in Cambodia, although some estimates run as high as ten million (Nickels, 2012a). The ERW still prevalent in the country include everything from mortar shells, AK-47 bullets, BLU-24 cluster bombs, to M79 grenade launcher shells. From 1992 to October 2019, approximately 1,900 square kilometres of landmines, cluster munitions and ERWs have been cleared (Souvuthy & Kunthear, 2019). However, another 2,000 square kilometres have to be cleared within 5 years if Cambodia is to achieve its target to be mine-free by 2025, which requires an estimated budget of USD 337 million (Xinhua News, 2019).

Since 1979, there have been 64,720 recorded casualties of explosive remnants, including 19,758 deaths (LCMM, 2018a). News articles on farmers killed or maimed by UXOs and explosion-related injuries in the black market for scrap metal do not even make it to the front page anymore. To give some impression of the problem at hand: As recent as June 2018, over 500 pieces of UXOs, including 514 AK-47 bullets and a 100mm mortar shell, were found and collected in Pursat province's Bakan district (Sarom, 2018). Similarly, in January 2019, CMAC deactivated another 132 items of US-made BLU-24 cluster bombs in Samrong village in Kratie province (Chakrya, 2019). In June 2020, a 51-year-old man

died in Pnhea Leu while he was working on the head of a 105mm shell to build a piece of agricultural equipment. Two more pieces of 105mm shells were found near his body in a scrap pile. His family shared that the victim had bought bullets from a scrap dealer in the village about a decade ago, and regularly used old artillery shell heads to make parts for a variety of agricultural machinery (Chakrya, 2020). These are just a few of many examples of the lingering problem of ERW in Cambodia.

6.2 Perpetrators: 'Perfect soldiers'

Cambodia continues to be impacted by two separate ERW legacies. The North Vietnamese army laid the first landmines in Cambodia in 1967 and continued to do so throughout the Vietnam War period to protect bases and supply routes along the border. The US responded with covert operations from 1969 to 1973, dropping tons of bombs and laying mines well within neutral Cambodian territory. Staggering numbers of cluster munitions were dropped, and up to one third of the submunitions failed to explode on impact. The intensive bombing campaign by the US – concentrated in Vietnam, Laos and Cambodia – saw over 2.75 million bombs drop on Eastern Cambodia alone (Harvey & Rodstedt, 2010).[2]

The second legacy is from Pol Pot's Khmer Rouge regime, supported by China, which is responsible for the deaths of approximately 1.7 million Cambodians between 1975 and 1979. Purportedly, Pol Pot called landmines his 'perfect soldiers'. Following the coup by General Lon Nol against Prince Norodom Sihanouk in 1970, war between Khmer Rouge forces and the US-backed Lon Nol regime brought conflict and landmines to the rest of Cambodia. The Khmer Rouge used landmines for military purposes and to seal off their harsh agricultural cooperatives in

'liberated' zones. Lon Nol forces relied heavily on mines towards the end of the war to strengthen defences. During its four years in power, the Khmer Rouge used mines extensively along the borders with Vietnam and Thailand, turning the country into what was called a 'prison without walls' (Nickels, 2012a).

During the Khmer Rouge regime, soldiers sometimes used ERW in a rather blasé manner, exacerbating the potential risk to civilians. Soldiers who were tired of patrolling at night would lay ERW and UXOs around culverts and paths leading to their encampments. The mines would often be left around with the soldiers forgetting to pick them up, or in some cases could not be bothered to retrieve them. They laid down Chinese Type-69 mines which erupt into the air when triggered, exploding at chest height and sending small steel balls at ballistic speed in all directions, causing damage to those around the explosion as well (Dunlop, 2018).

In December 1978, Vietnamese armed forces in conjunction with Cambodian rebel forces, struck back at the Khmer Rouge. Within weeks, guerrilla warfare started with all groups extensively deploying mines across very fluid battle lines as a weapon of choice to protect territory, channel enemy forces to vulnerable positions, and demoralise communities. Starting in 1985, millions of mines were laid in a 600-kilometre barrier along the Thai border under the notorious K5 conscription programme by Vietnam. Throughout the three decades of mine laying in Cambodia, it was standard practice to lay much denser minefields than necessary, and to lay them not only in battlegrounds but among civilian communities. Minefield location maps were generally not drawn, and as a result, mine laying frequently took place in already-mined areas. Wet seasons caused mines to move or become buried, which further complicates the task of locating and clearing them (Nickels, 2012a).

In the 1980s, China was providing the Khmer Rouge approximately USD 100 million a year, thereby indirectly supporting violence against Cambodian civilians (Elich, 2014). By 1985, annual covert CIA support to Cambodian guerrilla factions was estimated to be USD twelve million, and Congress voted to send an additional USD five million per year in overt aid, with the British Special Air Service (SAS) training Cambodian guerrillas in Thailand. All can be argued to be complicit in causing civilian harm. Yet, perpetrators are only partially taking responsibility, and most of the time shift blame to others. To illustrate: The US embassy spokesperson in early 2019 stated that 'the United States has addressed its war legacy by long-standing and substantial efforts for humanitarian demining and removing unexploded ordnance (UXO), including the removal of hundreds of thousands of Chinese-made mines, which have injured and killed people for decades' (Narin, 2019), thereby alluding to the Chinese support that the Khmer Rouge received.

6.3 Victims: Cambodia's landmine culture

While active conflict may long be over, ERW and UXOs claim victims to this day. Between 1979 and June 2020, a total of 19,789 people in Cambodia were reported killed as a result of landmine and UXO explosions to the Cambodian Mine Action Authority, while another 45,102 people were recorded as having been injured, or worse, had to undergo amputations (Xinhua News, 2020). There is still an average of one ERW-related death or injury every week (Mines Advisory Group, n.d.). It is estimated that 1 in every 250 to 270 persons has stepped on a landmine or an ERW.

The most common victims of ERW include males between the ages of 18 and 40 years, followed

by children, although casualties come from all demographic groups. This overrepresentation of male victims is mostly attributed to the participation of men in pastoral and agricultural activities, which increases their exposure to mines and ERW. Furthermore, men are more likely to have had some sort of military experience in post-conflict countries where ERW and UXOs pose a threat, also leading to a higher degree of confidence around munitions, which results in men being more likely to approach explosive items. Social displays of contact with ERW are at times also associated with an expression of masculine identity (Borrie, 2003).

Another emerging trend is that most of the contamination is in rural areas where the population is dependent on farming. Consequently, 23 per cent of incidents occur during the course of agricultural activities. All of Cambodia's provinces are afflicted to some degree, and 6,422 villages (46 per cent of Cambodian villages) have UXO-infested areas. A conservative estimate is that 2.5 per cent of the total surface of the country is contaminated (Borrie, 2003). However, under-reporting and limited accuracy of data hamper quantification of the full scope of the contamination.

ERW incidents are fatal more often than anti-personnel mine incidents, even though the latter get more coverage. Furthermore, ERW-related incidents tend to kill and injure multiple people per incident. In 1997, MAG found that one in every two to three landmine and UXO victims was injured as a result of someone else's accident (Monin & Gallimore, 2011).

During the Khmer Rouge regime, ERW were also available in the black market for civilians to buy to protect their properties, and it has been rumoured that on rare occasions, they were also used to settle property disputes (Monin & Gallimore, 2011). At the time, civilians sometimes used UXOs around their properties as a means of keeping out the Khmer Rouge during their reign of terror, even though it posed a danger to themselves and their families.

Immediately after the conflict, UXOs and landmines were so common that they became part of the daily life in Cambodia, so much so that a so-called 'landmine culture' developed in the country (Kunthear, 2019). Civilians deliberately collect or tamper with UXOs for a variety of reasons: to sell, to move, to fish with, to dismantle, to play with, to destroy, to demine, to re-use as a mine, or to hunt, often with injuries and death as a result (Kunthear, 2019; Moyes, 2004). The scrap trade is a powerful and extensive economic institution in almost all rural communities, directed towards the international market, primarily Thailand, and represents a chain of economic relationships that can link children in rural villages to the macro-economics of international industries. Ordnance is one of the most significant sources of scrap metal but since live ordnance is not welcome within the scrap trade, people in rural communities must render live ordnance 'safe' in order to sell it, like Iap and Long attempted to do. This is a fundamental and problematic component of the issue of ordnance handling within Cambodia. Many children draw upon scrap metal collection and sale to supplement their pocket money, even though they generally recognise ordnance and know that it is dangerous (Moyes, 2004).

It is clear that contact with ERW is not stigmatised in some societies, despite awareness of its dangers. In fact, in economies such as those of Laos, Cambodia, Vietnam and in the Horn of Africa quite the reverse may be true: as illustrated above, ERW items have perceived economic value as scrap, in the fashioning of everyday objects, or for their explosive content. Children learn from the people around them,

and an environment in which contact with unexploded munitions or their components are familiar or routine may increase the risk to youngsters. ERW have become a regular part of their daily lives. The ERW culture is so prevalent in Cambodia that a makeshift landmine museum opened in 1997 in Siem Reap, founded by ex-child soldier Aki Ra as a way to tell the world about the horrors that landmines have inflicted on his country.

The injuries caused by UXOs and landmines to individual victims are compelling: No audience, lay or medical, will fail to be shocked by images of shattered and missing limbs, and blinded eyes; yet the indirect or second-order health effects of the ERW epidemic are more far-reaching. Due to poverty, lack of infrastructure, and limitations of the health care system, in many situations an UXO or landmine injury will be fatal. Those who survive, moving awkwardly with simple prostheses, will be a permanent reminder of ever-present danger and intractable fear. This becomes especially pronounced as most of the victims in Cambodia are based in rural areas and are already socioeconomically vulnerable. With over 25,000 amputees, Cambodia has the highest ratio of mine amputees per capita in the world (Nickels, 2012b).

Furthermore, losing a limb is considered a social stigma in Cambodia, where amputees are known as 'crocodile meat'. Many are forced to beg. Michael Ignatieff, an academic and ethicist at Harvard University, having seen many victims in various countries, stresses the effects that amputations have on poor countries, and how they have an even worse effect on women:

> [A]mputation is just a very different thing
> in a poor and destitute culture than it is in
> a Western one…I'm very struck by the way
> in which injury to women ruins their lives
> to a degree that it doesn't ruin men's lives.

> A woman without a leg is human refuse in
> patriarchal societies[.] (Monin & Gallimore,
> 2011)

Important to take into account too is that, where the victim is the principal family breadwinner, the family economy will rapidly run down and desperate measures — begging, prostitution, or crime — may be invoked to maintain survival. It is essential to recognise what the presence of landmines, ERW and UXOs does psychologically to whole communities that are used to providing for themselves and being independent, who have lost the ability to provide for themselves and their families, and to be part of the larger community (Maddocks, 1998). It is these effects of ERW which are extremely hard to mitigate, making it difficult to examine the actual cost of harm that they can potentially cause.

All members of ERW-affected communities are potentially vulnerable to its socioeconomic effects, especially if community functions such as the production of food or cash crops, access to clean water supplies, or infrastructure such as roads, schools and markets are affected. In Laos, for example, many families have learned to accept malnutrition rather than work land that poses a high risk of incident from ERW, making this another indirect effect, resulting in a vicious spiral which has more far-reaching ramifications than intended (Borrie, 2003). Landmine and ERW contamination can also undermine the health of a population indirectly by destroying food security, access to livelihoods as evident in the example of Laos above, as well as access to safe water and to vaccination and health facilities in general. These weapons can also prevent community-based health teams from carrying out their activities. As succinctly noted by Maddocks (1998, p. 24), 'infectious diseases move freely […] but health teams are restricted to safe areas'.

Contamination effects and challenges

Despite significant progress, Cambodia is currently not on track to complete clearance by 2025.[3] An estimated USD 337 million is required each year to achieve this goal (Xinhua News, 2019). In order to meet the demining targets, Cambodia should be clearing on average eleven square kilometres per year of contaminated land, however over the past five years, it has only averaged two square kilometres annually (Peter, 2016). 'Most of the efforts are going into possibly low-density minefields, whereas demining interventions need to focus on dense anti-personnel minefields, especially when taking into account fluid population movement. Otherwise there will be a massive spike in casualties' (Peter, 2016). Besides the clearing of an area with deminers, a suspected minefield can also be taken off the contamination list if it has been ploughed by farmers without any incident for three years.

It is important to understand that an ERW-affected community is not just one that has experienced incidents resulting in injury or death. It is also one in which the known or suspected presence of ERW interferes with activities necessary for the social and economic health of the community, such as access to water sources, housing or other infrastructures including schools, hospitals and roads. It should be kept in mind that ERW numbers alone do not tell the story of their impact. Going beyond the numbers and considering the range of ways in which it affects human lives is the only true way to assess the full range of their implications for civilians.

6.4 Significance: ERW as a global problem

In the current decade, it is civilians in Iraq, Syria and Afghanistan who are suffering from the brunt of ERW. Other sites of considerable casualties are Ukraine, Pakistan, Nigeria, Libya, Yemen and Myanmar– with Myanmar recognised as the only state to use landmines in the past year. Of the 60 countries that are known to have mine contamination, over half are committed to the Mine Ban Treaty, which aims for contamination to be cleared within 10 years; only 4 are on track to meet their deadlines, namely, the Democratic Republic of Congo, Peru, Sri Lanka and Zimbabwe (AP Mine Ban Convention, n.d.). Mine clearance during conflict is a complicated task. Due to shifts in the power balance, new types of explosives and new strategies might emerge. There are risks for the mine clearance personnel too. In 2017, three humanitarian deminers were killed and one injured in conflict-related attacks, posing further challenges to clearance (LCMM, 2018b).

Over 60 million people still live in daily fear of landmines and unexploded bombs, most of them from poor rural communities. According to the landmine and cluster munition monitor, civilians continue to account for the vast majority of casualties (87 per cent), with children making up nearly half (47 per cent) of all civilian casualties globally. However, in many war-affected countries reporting is a challenge and it is suspected that a significant number of victims and incidents ends up completely unreported. While Cambodia's status was revised upwards as a lower-middle income country in 2016, other affected countries such as Angola battle to attain funding from foreign donors as they have reached middle-income status. The same holds true for Iraq, where Islamic State of Iraq and Syria (ISIS) used Improvised Explosive Devices (IEDs) in unprecedented numbers, in farming land and booby trapping key infrastructure such as water pumping stations. However, international support for land clearance remains dismal.

Several of the states for which no estimate is provided are heavily or massively contaminated. The Demilitarized Zone (DMZ) separating North

Korea and South Korea and the Civilian Control Zone immediately adjoining the southern boundary of the DMZ remain among the most heavily mined areas in the world, but no data are available on the extent of contamination. Despite all the challenges that come with land clearance, one should not forget the funding needed for victim rehabilitation, both in terms of prosthetics needed and the subsequent training on effectively using them, and the psychosocial support as a result of the trauma faced. Those who survive but with permanent disabilities, often face social and environmental barriers that can preclude their full and equal participation within their communities. With many health campaigns and calls to action to promote child health and survival, it is worth noting a substantial proportion of civilian landmine and ERW accidents occur in children, as described above.

Global treaties on ERW and landmines
There are three main conventions in international law which deal with landmines, ERW and cluster munitions:

- The Anti-Personnel Mine Ban Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (often referred to as the Ottawa Convention or Mine Ban Treaty)
- The Conventional on Certain Conventional Weapons Amended Protocol II (1996) on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, and Protocol V on Explosive Remnants of War
- The Convention on Cluster Munitions – the 2008 convention that prohibits all use, stockpiling, production and transfer of certain Cluster Munitions; separate articles in the Convention concern assistance to victims, clearance of contaminated areas and destruction of stockpiles

The number of countries fully bound by the Mine Ban Treaty recently grew, reaching 164 after Palestine and Sri Lanka acceded in December 2017. The Mine Ban Treaty, which became international law in 1999, bans the use of mines that detonate due to human contact. The treaty covers victim-activated IEDs, also called 'improvised mines', that can be triggered by a person (LCMM, 2018c). Notably, more than one third of all affected countries (such as Syria, Pakistan, Myanmar and Libya) are not on board the Mine Ban Treaty, which highlights the importance of further treaty universalisation. States not party generally provide less information about the extent of contamination, land cleared, and casualties suffered, thus making global assessments more difficult.

<u>Images</u>

The Cambodian Landmine Museum, which seeks to educate
people both on the direct and indirect impact of landmines.
© Jpatokal (2006)

A close-up of a landmine, one of various sorts of unexploded
ordnances left behind in Cambodia that continue to cause harm.
© Rodney Evans/AUSAID (2013)

Bibliography

Borrie, J. (2003). *Explosive remnants of war: A global survey* [Report]. Landmine Action.

Chakrya, K. S. (2019, January 23). CMAC deactivates 132 cluster bombs in Kratie. *The Phnom Penh Post.*

Chakrya, K. S. (2020, June 29). Agriculture machinist dies after shell goes off in workshop. *The Phnom Penh Post.*

Dunlop, N. (2018, August 30). Clearing Cambodia's leftover land mines: A dangerous job. *Deutsche Welle.*

Elich, G. (2014, October 16). Who Supported the Khmer Rouge? [Blog post]. *CounterPunch.*

Harvey, G., & Rodsted, J. (2010). *In Search of Safe Ground: Cluster Bombs and ERW in Eastern Cambodia.* Australian Network to Ban Landmines and Cluster Munitions.

Khidhir, S. (2018, December 7). Cambodia's ambitious tourism plans. *The Asean Post.*

Kunthear, M. (2019, February 15). Blast fishing device donates injuring one. *Khmer Times.*

Landmine and Cluster Munition Monitor (2018a). *Cambodia: Mine Action* [Webpage]. Landmine and Cluster Munition Monitor.

Landmine and Cluster Munition Monitor (2018b). Landmine Monitor 2018: Contamination and Clearance [Blogpost]. *Landmine and Cluster Munition Monitor.*

Landmine and Cluster Munition Monitor (2018c). *Record funding for landmine clearance, but casualties remain high* [Press release]. Landmine and Cluster Munition Monitor.

Maddocks, I. (1998). Antipersonnel Landmines: A Long Term Burden on Global Health. *Medicine and Global Survival, 5*(1), 22-25.

Mines Advisory Group (n.d.). *Cambodia* [Webpage]. Mines Advisory Group. Accessed: June 2020.

Monin, L., & Gallimore, A. (2011). *The Devil's Gardens: A History of Landmines* (revised edition). Random House.

Moyes, R. (2004). *Tampering: Deliberate handling and use of live ordnance in Cambodia* [Report]. Handicap International, Mines Advisory Group & Norwegian People's Aid.

Narin, S. (2019, February 9). US, China Face Off Over Legacy in Cambodia. *Voice of America.*

Nickels, G. (2012a). Perfect Soldiers [Blog post]. *George Nickels.*

Nickels, G. (2012b). Training for the 5K Belt [Blog post]. *George Nickels.*

Peter, Z. 2016, November 11). Cambodia 'Not in Line' With Landmine Target. *The Cambodia Daily.*

Sarom, K. (2018, June 15). Hundreds of UXO discovered in Pursat. *The Phnom Penh Post.*

Sovuthy, K., & Kunthear, M. (2019, February 25). Unexploded ordnance killed dozens so far this year: CMAA. *Khmer Times.*

Tucci, M. (2015). Cambodia: The Legacy of Silence [Blog post]. *Warscapes.*

Xinhua News (2019, December 19). Cambodia needs 377 mln USD to achieve 2025 mine-free target. *Xinhua News.*

Xinhua News (2020, June 25). Casualties from landmine/UXO in Cambodia down 42 pct in H1: report. *Xinhua News.*

Endnotes

1 The case has been adapted from Moyes (2004, p. 80).

2 A total of 230,544 bombing raids were carried out
across 115,275 locations in Cambodia. Over 2.8 million
tonnes of ordinance, roughly equivalent to 2.59 million
bombs, were dropped during this time (Chakrya, 2019).

3 The goal set by the review of the Oslo convention:
a landmine-free world in 2025.

CASE 7.
Indirect fire:

A hospital caught in a war zone (Ukraine, 2015)

AUTHOR: PAX

COUNTRY
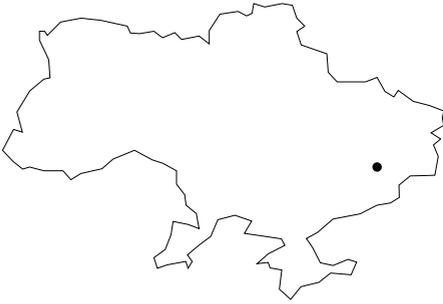
Ukraine

PERPETRATOR

The Ukrainian armed forces and local separatist forces

ACT

used explosive weapons with wide-area effects in populated areas

OBJECTIVES*

· to defeat the military opponent

As far as we have been able to discern; the list may not be exhaustive in this regard

CONSEQUENCES

Damage beyond the immediate target, in this case damaging parts of a hospital

↳ reducing access to, and availability and quality of health care

Psychological trauma among hospital staff and patients

Internal displacement of people moving away from the fighting

↳ causing brain drain

↳ contributing to further damages to overall healthcare quality and availability

The armed conflict in Eastern Ukraine has its roots in a series of protests and civil tensions about the political relationship between Ukraine and the EU as opposed to Russia. In December 2013, thousands of demonstrators took to the streets to protest then-President Yanukovych's decision not to sign the Association Agreement with the EU, and to seek closer economic ties with Russia instead (Shveda & Park, 2015; Docherty & Boer, 2017).[1] When the authorities violently suppressed the continuing demonstrations on Maidan Square in February 2014, the protest movement – known as the 'Euromaidan' – evolved into 'a mass action of a national scope against the existing power' (Shveda & Park, 2015, p. 85). From Kiev, civil unrest quickly spread to the east and south, and by April 2014 had escalated into armed conflict in the Crimea and the Donbass regions, the latter encompassing the oblasts (administrative regions) of Donetsk and Luhansk (International Crisis Group [ICG], 2014; Docherty & Boer, 2017).

President Yanukovych's flight from Ukraine in February 2014 had created a power vacuum in the Crimea and Donbass regions: Anti-maidan, pro-Russian armed groups seized the opportunity to take over territory, and declared the Donetsk and Luhansk oblasts independent People's Republics in April 2014; a move not recognised by the UN (Docherty & Boer, 2017). Ukraine responded with military force, leading to armed conflict (Docherty & Boer, 2017; ICG, 2014). Fighting has been particularly acute around the so-called 'contact line', marking the border between government and non-government-controlled

areas, where – despite the so-called 'Minsk agreements' peace deal attempts – fighting never ceased completely (Docherty & Boer, 2017). By now, the situation has largely stabilised into a stalemate but occasional flare-ups are commonplace still (BBC, 2020). The widespread use of explosive weapons has been characteristic of the conflict, with the opposing parties launching explosives into populated areas on both sides of the contact line (BBC, 2020). According to the NGO Action on Armed Violence, between 2011 and 2015 alone, explosive weapons had resulted in 3,435 deaths and injuries in Ukraine, at least half of which concerned civilian casualties (Action on Armed Violence, n.d.; Overton et al., 2016).

7.1 Case: The shelling of Maryinka District Central Hospital[2]

Located in the Donbass region in Eastern Ukraine, Maryinka District Central Hospital in Krasnohorivka was one of the places caught in a crossfire of near-constant shelling for two years from 2014 onwards. The shelling was so common that the head of the hospital's department of therapy would not even guess at how often it occurred. She merely stated: 'No one counted [the attacks]. If it happened, it happened' (Docherty & Boer, 2017, p. 34). At one point, the continuous shelling broke almost every window of the hospital. The department head, Dr. Natalia Dolzhenko, recalled, 'All the time you are feeling afraid for yourself and your patients when bullets and shelling are whistling all around' (Docherty & Boer, 2017, p. 34). It had become an everyday reality for staff and patients to seek shelter in the hospital's basement whenever heavy shelling occurred.

One such particularly heavy bout of shelling occurred in proximity to the hospital on 3 June 2015, between 7.00 and 9.00 p.m. (Docherty

& Boer, 2017). Explosive weapons struck the hospital, causing significant damage. A doctor in the ambulance substation recalls how he was thrown against the wall when the substation got hit, and how fragments of the blast wedged in the plaster just above his head. The memory of his fear when running for cover amid shelling remains with him: 'It's very scary when everything is gone. You're outside with no protection' (Docherty & Boer, 2017, p. 35). The explosives caused a fire which destroyed the garage with nine ambulance bays: One ambulance went up in flames, others got damaged by shelling fragments. The fire spread to the adjacent neurology department, where hospital personnel evacuated the premises, having to carry many of the dozen patients across a lawn to another hospital building. 'As a shell falls down, people start to cry and you need to find a way to reassure them', says Dr. Valentina Ksenofontova, head of the department. 'To carry patients was also quite dangerous […] You know shells are falling but you don't know where' (Docherty & Boer, p. 35). No one died in the attack, but the shelling damaged twelve storage units, the roof and floor of one of the hospital buildings, in addition to the previously mentioned ambulance substation and individual ambulances (Docherty & Boer, 2017; Denysenko et al., 2017).

Subsequent attacks occurred throughout the year (Denysenko et al., 2017). In September 2016, researchers from the Harvard Law School International Human Rights Clinic and PAX found that large parts of the Maryinka District Central Hospital were still non-functional, more than one year after the June 2015 attack. Having housed at least a dozen departments and more than 350 beds prior to the armed conflict in Eastern Ukraine, just 2 departments, a general clinic, approximately 70 beds and 2 ambulances remained in use (Docherty & Boer, 2017). Moreover, the hospital continued to send many patients to other hospitals to get treatment. The shelling of this particular hospital

is a striking and representative example of the potentially devastating impact of the use of explosive weapons on medical facilities and the provision of health care.

7.2 Perpetrators: Disregard for civilian lives

While health care facilities can be intentionally and illegally targeted to gain military advantage or to terrorise a population, in other cases 'it looks more like hospitals and clinics have been collateral damage than targets', according to research by The Washington Post (Buckley et al., 2018), a finding confirmed by the International Committee of the Red Cross (ICRC, 2011a). In Eastern Ukraine this also appears to be the case. According to Denysenko et al. (2017, p. 11), in Eastern Ukraine 'the shelling was chaotic rather than deliberately targeting hospitals and other medical facilities.' Nonetheless, 'collateral' does not equal 'accidental'.[3] All parties to the conflict in the Donbass region use types of explosive weapons that create a blast and fragmentation radius that can kill, injure or damage anyone or anything within its reach, making their devastating impact – when used in populated areas – foreseeable (UN Office for the Coordination of Humanitarian Affairs, 2017). Explosive weapons – including conventional artillery, heavy mortars and multiple barrel rocket launchers – create wide-area effects when they have a large blast and fragmentation radius, when they are inaccurate, and/or when multiple munitions are used, putting civilians at great risk. Such weapons are neither precise nor accurate enough to target specific buildings (Buckley et al., 2018). Grads, for example, can fire multiple munitions at once, affecting a wide area that makes it both likely and predictable for extensive damage to occur when these weapons are used in populated areas.

There are no reports of the Maryinka District Central Hospital being used for military purposes at the time it was under fire. Nor is there any evidence that either of the conflicting parties active at the time of the attack took appropriate measures to prevent harm to civilians or civilian objects like the hospital (Denysenko et al., 2017). The report 'Operating under Fire' (Docherty & Boer, 2017) by the Harvard Law School International Human Rights Clinic and PAX, offers the most detailed account of the June 2015 attack that damaged the hospital. However, the report set out to describe the consequences of the attack rather than wishing to identify and attribute blame to a particular perpetrator. As a result, no forensic research was done to determine the culpable party in this particular case. We do know that all conflict parties active in the area made frequent use of explosive weapons with wide-area effects.

7.3 Victims: Deterioration of health care services

As heavy shelling of towns and cities along the contact line became common practice in Eastern Ukraine following the outbreak of conflict in 2014, many civilians lived in fear and regularly sought shelter for longer periods of time while explosive weapons destroyed their homes, workplaces, schools and medical facilities. In several cases, explosives have directly killed and injured medical personnel and patients, and damaged or destroyed hospitals, clinics, ambulances and medical equipment upon impact (Docherty & Boer, 2017). Fortunately, during the shelling of Maryinka District Central Hospital, no patients or medical personnel were killed or severely injured (Docherty & Boer, 2017; Denysenko et al., 2017). Nevertheless, the events impacted staff who had to carry patients to safety – several of whom were immobilised due to having suffered strokes

or other illnesses – and as significant damage to the hospital infrastructure effectively put several departments and various ambulances out of working order. One employee noted the painful contrast between the largely non-operational hospital during and after the conflict, as opposed to the 'city' it once was before hostilities occurred, when the hospital still housed numerous departments and over 300 patient beds (Docherty & Boer, 2017, p. 60).

But the negative effects of the use of explosive weapons with wide-area effects in populated areas – also known as EWIPA –, and in particular in the vicinity of medical facilities, on civilians extend far beyond these weapons' immediate impact. The quality, availability and accessibility of healthcare are all negatively impacted as a result. The quality of healthcare has declined as hospitals in the region have had to restrict their operations to confined spaces, as well as having to improvise when carrying out treatment. Explosive weapons can impact utilities necessary for the provision of proper care, such as electricity, water and gas. In Maryinka District Central Hospital, the staff had no electrical power to charge their equipment, had to conduct surgery by candlelight, care for patients in the cold, and bring their own water to work in buckets or bottles. One of the doctors interviewed in September 2016 described the conditions: 'All the staff carries [water] canisters every day', as the shelling had disrupted the regular water supply (Docherty & Boer, p. 59). The lack of water, heating and electricity as a result of damage to infrastructure created near-impossible working conditions for medical staff, negatively affecting overall health care quality.

Additionally, shelled roads and travel risks can interfere with the transport of patients, whether by ambulance or personal vehicle. Many medical personnel either face difficulties to reach their workplace or have fled the region. In Maryinka District Central Hospital, only

2 ambulances – responsible for emergency calls within a 30-kilometre radius – remained functional. The ambulances must navigate severely damaged roads, lowering their response time and effectiveness (Docherty & Boer, 2017). Availability of medication has also become limited as many pharmacies in the region closed in the face of significant security risks.

In terms of health care accessibility, many civilians – both patients and health care professionals – have often found it too dangerous to travel to hospitals or clinics. A doctor at a different hospital in the region recalled that on at least two occasions, fighting was so bad that she could not reach her work: 'I saw blasts every second. I was thinking, "Will I be useful when I die?"' (Docherty & Boer, 2017, p. 49). The management from Maryinka District Central Hospital ordered the ambulance team not to leave the station if shelling created an unwarranted risk, and even when ambulances could leave, trips took longer than usual due to the damage that explosive weapons had caused to the roads (Docherty & Boer, 2017).

In 2017, two years after the worst attack, a staff member of the Maryinka District Central Hospital described the conditions at that time:

> We need construction supplies to renovate the facility. We fixed the roof where we could do it and installed windows. There is no gas supply in the town. Lack of gas and water supply in the hospital is a major challenge. There is a technical water supply in the city, but we have a separate pipeline that is currently cut off by the other side. We spent two winters without heating. Every patient admitted to the hospital brings his or her heater. Another problem is the lack of staff. We used to have 450 employees, but only 100 remain. We lack medication, too. (Denysenko et al., 2017, p. 36)

It is evident that the impact of explosive weapons in towns and cities in Eastern Ukraine has severe reverberating and long-term effects on healthcare: Reduced quality, limited availability, and hampered access to health care represent harm to larger amounts of people than those directly killed and injured in an attack, and concerns harm that is not only instant, but extended in time from the moment of the attack onwards (ICRC, 2011a; Bagshaw, 2017).

7.4 Significance: The devastating effects of indiscriminate weapons

In contemporary armed conflict, hostilities – like in Eastern Ukraine – increasingly take place in populated areas, exposing civilians to increased risks of harm.[4] Explosive weapons, most notably those with wide-area effects, were often designed for use in open battlefields; used in towns and cities, they create severe risks for civilians (Docherty & Boer, 2017). Such wide-area effects are caused by three main characteristics of certain explosive weapons: a large blast and fragmentation radius; inaccuracy of delivery; and the use of multiple warheads or multiple firings. As explained by PAX and the British not-for-profit organisation Article 36:

> These effects are cumulative, with blast and fragmentation effects always present and with inaccuracy of delivery and the use of multiple warheads, where applicable, extending those effects across a wider area. As well as increasing the likelihood of direct civilian deaths and injuries, the combination of these effects also results in the destruction of civilian property and infrastructure vital to the civilian population, with longer-term implications for public health and development (sometimes called 'tertiary' or 'reverberating' effects). (PAX & Article 36, 2018, p. 1)

The employment of explosive weapons as such is not prohibited by International Humanitarian Law (IHL) (ICRC, 2011b). However, as with all weapons, they must be used in accordance with IHL. There are two rules that are especially relevant when explosive weapons are used in populated areas. First, IHL dictates that 'in the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects.' In particular, parties to a conflict should take 'all feasible precautions […] to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects' (see Rule 15 in ICRC, n.d.). Moreover, IHL requires those planning and deciding on an attack 'to do everything feasible to verify that the objectives to be attacked are neither civilians nor civilian objects' (see Art. 57 in Additional Protocol I, 1977). Civilian hospitals, for example, may therefore not be targeted under IHL (see Art. 18 in Geneva Convention IV, 1949). Second, violence that neglects to distinguish between civilians and combatants – so-termed 'indiscriminate attacks' - is also prohibited (see Art. 51 in Additional Protocol I, 1977). These provisions are crucial to the use of EWIPA, because their use in places where civilians are concentrated will often fail to make that key distinction between civilians and combatants, and between civilian objects and military objectives, heightening the risk of indiscriminate death, injury or destruction (ICRC, 2011b). This is also noted by the ICRC, stating that a circumstance that could make the employment of a certain weapon indiscriminate is its use in a densely populated area. The ICRC remarks that

> there is generally no cause for concern when explosive weapons with a wide impact area are used in open battlefields, but when they are used against military objectives located in populated areas they are prone to indiscriminate effects, often

> with devastating consequences for the civilian population. (ICRC, 2011b, p. 41)

It therefore advocates that 'all parties should avoid using explosive weapons that have a wide-impact area in populated places' (ICRC, 2011a, p. 42).

In the last decade, concern about the use of explosive weapons, especially those with wide-area effects, in populated areas has grown amongst states, the UN, the ICRC and non-governmental organisations (NGOs). The NGO partnership the International Network on Explosive Weapons (INEW), as well as the ICRC have called for immediate action to prevent human suffering from the use of EWIPA (Sidiqi, 2020). The UN Secretary-General has repeatedly drawn attention to the impact of EWIPA and called on parties to armed conflict to 'refrain from using explosive weapons with wide area effects in populated areas' (UN Security Council, 2016, p. 68). In a joint statement in 2019, the UN Secretary-General and ICRC furthermore declared to be '[a]larmed at the devasting humanitarian consequences of urban warfare', and were 'appealing to States and all parties to armed conflict to avoid the use of explosive weapons with a wide impact area in populated areas'. They continued by stating that conflict parties 'must recognize that using explosive weapons with wide area effects in cities, towns and refugee camps places civilians at high risk of indiscriminate harm' (ICRC & UN Secretary-General, 2019). Similar recognitions of harm by EWIPA have been made by organisations like the EU and AU, as well as many states.[5] A process, led by Ireland, is currently underway to develop a political declaration that addresses the use of EWIPA and resulting humanitarian harm.[6]

The use of EWIPA is a global problem. Unfortunately, it has become a defining and devastating feature of contemporary armed

conflict (Elhaj & Tonkin, 2015). Civilians in countries such as Iraq, South Sudan, Syria, Yemen and Ukraine have all suffered harm inflicted by explosive weapons (Docherty & Boer, 2017).[7] Data illustrates the immense scope of the problem: Around 90 per cent of direct casualties and injured people from the use of EWIPA are estimated to be civilians (Sidiqi, 2020). This is not to mention that these numbers only refer to direct casualties and exclude the considerable harm from indirect effects, as illustrated by this case description of the impact of such weapons on health care quality, accessibility and availability in Eastern Ukraine.

<u>Images</u>

On the right, the destruction of the hospital's ambulance
substation; on the left, the damaged neurology department.
The destruction was caused by explosive weapons in June 2015.
© Anton Skyba for International Human Rights Clinic
at Harvard Law School and PAX (September 2016)

Explosive weapons caused broken windows at Maryinka
District Central Hospital.
*© Anton Skyba for International Human Rights Clinic
at Harvard Law School and PAX (September 2016)*

Bibliography

Action on Armed Violence (n.d.). *Ukraine* [Webpage]. Action on Armed Violence. Accessed: September 2020.

Additional Protocols I-II to the Geneva Conventions (1997). Available at International Committee of the Red Cross (n.d.). *IHL database* [Webpage]. International Committee of the Red Cross. Accessed: September 2020.

Bagshaw, S. (2017). *Compilation of military policy and practice: Reducing the humanitarian impact of the use of explosive weapons in populated areas* [Report]. United Nations, Office for the Coordination of Humanitarian Affairs.

BBC News (2020, February 18). Ukraine conflict: Deadly flare-up on eastern front line. *BBC News*.

Buckley, C., Clem, R., Fox, J., & Herron, E. (2018, April 9). The war in Ukraine is more devastating than you know. *The Washington Post*.

Denysenko, D., Novykov, V., & Korynevych, A. (2017). *Forbidden target: healthcare facilities under shelling* [Report]. Luhansk Oblast Human Rights Center 'Alternative'.

Docherty, B., & Boer, R. (2017). *Operating under Fire: The Effects of Explosive Weapons on Health Care in the East of Ukraine* [Report]. Harvard University, Harvard Law School International Human Rights Clinic & PAX.

Elhaj, R., & Tonkin, H. (2015). *Shattered lives: Civilians suffer from the use of explosive weapons in Libya* [Report]. PAX & United Nations, Office for the Coordination of Humanitarian Affairs.

Geneva Convention IV (1997). Available at the International Committee of the Red Cross (n.d.). *IHL database* [Webpage]. International Committee of the Red Cross. Accessed: September 2020.

International Committee of the Red Cross (2011a). *Health care in danger: Making the case* [Report]. International Committee of the Red Cross.

International Committee of the Red Cross (2011b). *International Humanitarian Law and the challenges of contemporary armed conflicts* [31st International Conference Report]. International Committee of the Red Cross.

International Committee of the Red Cross (n.d.). *Customary IHL Database* [Webpage]. International Committee of the Red Cross. Accessed: September 2020.

International Committee of the Red Cross & UN Secretary-General (2019, September 18). *Explosive weapons in cities: Civilian devastation and suffering must stop* [Statement]. International Committee of the Red Cross & United Nations, Secretary-General.

International Crisis Group (2014). *Eastern Ukraine: A Dangerous Winter* [Europe Report Nr. 235]. International Crisis Group.

Overton, I., Craig, I., & Perkins, R. (2016). *Wide-area impact: Investigating the wide-area effects of explosive weapons* [Report]. Action on Armed Violence.

PAX & Article 36 (2018). *Explosive Weapons: Factors that produce wide area effects* [Fact sheet]. PAX & Article 36.

Shveda, Y., & Park, J. H. (2015). Ukraine's revolution of dignity: The dynamics of Euromaidan. *Journal of Eurasian Studies, 7*(1), 85-91.

Sidiqi, M. (2020, October 13). *Statement by the International Network on Explosive Weapons to the UN General Assembly's First Committee on International Security and Disarmament, New York* [Statement]. International Network on Explosive Weapons.

UN Office for the Coordination of Humanitarian Affairs (2017). *Protecting civilians from the use of explosive weapons in populated areas* [Fact sheet]. United Nations, Office for the Coordination of Humanitarian Affairs.

UN Security Council (2016, May 13). *Report of the Secretary-General on the protection of civilians in armed conflict* (S/2016/447) [Report]. United Nations, Security Council.

Endnotes

1 The Association Agreement was an agreement between the EU and Ukraine to establish a political and economic association.

2 This case is drawn from previous work by PAX´s Humanitarian Disarmament Team with the Harvard Law School Human Rights Clinic. See also the report 'Operating Under Fire' (Docherty & Boer, 2017).

3 See the Introduction for our discussion of these and other terms.

4 See the chapter on victims of civilian harm in Part II for a more elaborate discussion of the negative implications of urban warfare for civilians.

5 As of July 2020, 109 states and territories had acknowledged the harm caused by the use of explosive weapons in populated areas.

6 For updates on the progress of the development of the political declaration, see the INEW website.

7 See also chapter 9 on Coalition airstrikes in Syria in the context of the battle against ISIS.

CASE 8. Genocide:

Targeted violence against the Yazidis from Sinjar (Iraq, 2014)

AUTHOR: ERIN BIJL (PAX)

COUNTRY

Iraq
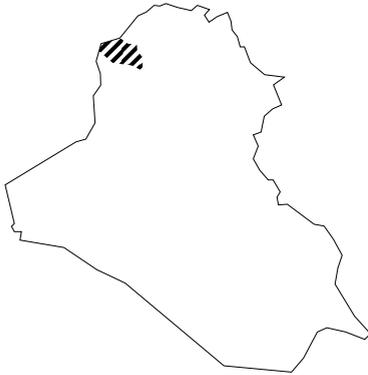
PERPETRATOR

ISIS

ACT

carried out military operations against the Yazidis, which included executions, sexual exploitation, forced recruitment and the destruction of cultural property

OBJECTIVES*

· to annihilate the Yazidi community

As far as we have been able to discern; the list may not be exhaustive in this regard

CONSEQUENCES

The death of thousands of Yazidis through executions, but also through forced dehydration as ISIS trapped people on Sinjar Mountain

The sexual abuse of thousands of women and girls
- ↳ causing psychological trauma
- ↳ leading to the social stigmatisation and exclusion of children born of rape

The forced recruitment of children
- ↳ causing psychological trauma and behavioural problems

Mass internal displacement
- ↳ decreasing access to income, education and medical care
    - ↳ leading to negative coping strategies, such as forced (early) marriages, reduced food intake

Large numbers of missing persons

In the early hours of 3 August 2014, fighters from the terrorist group Islamic State of Iraq and Syria (ISIS) moved into Sinjar district, home to the world's largest Yazidi community. With the attack on Sinjar, the lives of many Yazidis changed irreversibly. While subjected to persecution by various Muslim rulers throughout history because of long-standing prejudices and notions of Yazidis as 'infidels' and 'devil-worshippers' (Otten, 2017), the events of 3 August were the start of a period of violence that would become one of the worst ever, decimating an already small and vulnerable minority.

Prior to the attack, Sinjar district, located in Iraq's northern Ninewa governorate and close to the border with Syria, held the largest community of Yazidis worldwide. Located directly under the Kurdish governorate of Dohuk, Sinjar is one of the so-called disputed territories: A group of administrative districts spread across four governorates that are formally under Iraqi authority, but to which the Kurdish region has lain claims (International Crisis Group [ICG], 2018). The district is divided into a northern and southern sector by the Sinjar Mountains, which span nearly 100 kilometres, and is home to a variety of communities besides the Yazidis, including Sunni Arabs, Sunni and Shia Turkomans, and Christians (PAX, 2015; Abouzeid, 2018). The Yazidis, Sinjar's majority population, are a Kurdish speaking community that practices an ancient religion containing elements of Zoroastrianism, Judaism, Christianity, and Islam.[1] It is historically a rather closed group, as the Yazidi faith requires a child to have two Yazidi parents and forbids conversion (Abouzeid, 2018). Worldwide, the Yazidis now total less than one million: Before the attack, approximately

550,000 Yazidis resided in Iraq, mainly in Sinjar district, but also in Iraq's Kurdish region, with other substantial communities in Syria, Turkey, the US and Germany (Abouzeid, 2018).

8.1 Case: Trapped in the mountains

On the evening of 2 August 2014, Sinjar's Yazidis had no idea of the fate that would befall them mere hours later, and were gathering in public to celebrate the end of their fasting period, exchanging gossip and sweets. As evening fell, Yazidis in some towns and villages took note of the appearance of unfamiliar vehicles on the horizon, creating some unrest amid the festivities (Otten, 2017). Yet, overall, they felt protected by the presence of Kurdish Democratic Party (KDP) forces – also known as Peshmerga – in the region (ICG, 2018).

In the months before, ISIS – in its efforts to establish an Islamic caliphate – had advanced into Syria and Iraq and, consequently, Sinjar district had become 'sandwiched' between ISIS-controlled areas in both countries; by August, only the KDP stood between ISIS and Sinjar, which was being besieged from three sides (ICG, 2018). When ISIS, with the aid of local Sunni supporters, finally moved into Sinjar district on 3 August, the militants encountered little armed resistance and could quickly overrun the territory. Unbeknownst to the Yazidis, most Peshmerga had withdrawn from the region as soon as ISIS attacked, leaving the Yazidis largely defenceless, and – because this decision had not been communicated publicly – largely unaware of the scope of the threat ahead of them (ICG, 2018; UN Human Rights Council [UNHRC], 2016).

In the fighting and chaos that ensued, about 100,000 Yazidis managed to escape to the Sinjar Mountains; most of those who did not manage to

get away on time, got rounded up and were either kept captive or killed on the spot (Abouzeid, 2018; Otten, 2017).[2] Reports soon began to emerge about horrendous acts of violence committed against the Yazidis. ISIS may have killed as many as 10,000 civilians, and terrorised women, girls, men and boys through various forms of sexual, physical and psychological violence (UN Assistance Mission for Iraq [UNAMI] & UN Office of the High Commissioner for Human Rights [OHCHR], 2014). Using checkpoints and patrols, ISIS militants were able to move quickly and emptied most of Sinjar's villages from Yazidis in a mere 72 hours (Cetorelli & Ashraph, 2019).

One such village was Kocho, located to the south of the mountains. What happened there is representative of what happened throughout Sinjar. After having taken over the settlement, ISIS militants herded the circa 1,200 residents together in a school, where they subsequently separated the men from the women and younger children. Militants proceeded to lead hundreds of men and teenage boys out of the school and toward the outskirts of the village, where ISIS executed its victims by gunfire, within earshot of the Yazidi women and children still locked in the school (Cetorelli & Ashraph, 2019; Abouzeid, 2018). One man who was able to escape after he was left for dead, remembered that:

> [ISIS] took away […] vehicles full of men and youth. We were driven a very short distance east, maybe 200 – 300 metres. […] We were 20 or 25 crammed in the back of the pick-up, I don't know for sure. When we got there they made us stand in a row and then one of them shouted "God is great" ["Allahu Akbar"] and then there was shooting. (Rovera, 2014)

Some of the elderly women too were killed in Kocho, whereas younger women and children – about 500 to 700 in all – were taken to ISIS territory, from where ISIS 'gifted' or sold them

as sex slaves or, in the case of older boys, sent them to military training camps (Cetorelli & Ashraph, 2019; Abouzeid, 2018). By 2019, approximately 600 of Kocho's Yazidis had escaped captivity, yet none have returned to the village (Cetorelli & Ashraph, 2019).

The situation for the tens of thousands of Yazidis that had sought refuge in the Sinjar Mountains was not much more hopeful at first: As soon as the Yazidis fled into the mountains, ISIS began its siege, effectively trapping thousands of civilians on the mountain's upper plateau (Cetorelli & Ashraph, 2019; UNHRC, 2016). What followed was a humanitarian catastrophe: At the mercy of the blazing sun and temperatures of 50 degrees Celsius and above, people were at severe risk of dehydration and starvation, as well as remaining exposed to attacks by ISIS (Abouzeid, 2018). A man trapped on the mountain managed to get the report out that, 'People walk the length of the mountain with no food and water and some have resorted to eating leaves of the trees' (Rudaw, 2014). Recognising the plight of these civilians, American, Iraqi, French, Australian and British forces conducted air drops of water and other supplies (UNHRC, 2016). This nonetheless could not prevent hundreds of Yazidis – predominantly infants and children – dying in the mountains from dehydration (UNHRC, 2016; Cetorelli & Ashraph, 2019). It took a coordinated effort by US air forces and the on-the-ground Syrian Kurdish troops, the People's Protection Units or YPG, to eventually create an evacuation route along which Yazidis – after being trapped for more than a week – could enter from the mountains into Syria, and from there into the Kurdish region of Iraq (Abouzeid, 2018; ICG, 2018; Kikoler, 2015).

In addition to the horrific numbers of Yazidis killed and abducted, an estimated 200,000 civilians became displaced after ISIS invaded Sinjar and had to live, or continue to live, in often dire conditions. Large parts of Sinjar

district itself were recaptured from ISIS by late 2015 by a combination of KDP and Kurdistan Workers' Party-affiliated fighters (PKK), with air support from the International Coalition against ISIS; by 2017, the district was cleared from ISIS entirely as Iraqi forces and Iraqi-sponsored Hashd al-Shaabi militias (also known as Popular Mobilisation Forces) moved in (Abouzeid, 2018).

8.2 Perpetrators: Intent on the destruction of a people

ISIS' treatment of the Yazidis has been based on extremist interpretations of Islam. ISIS' views interpret Yazidism as an inferior religion and its practitioners as idol and devil worshippers. Such discrimination is not new: Yazidis have been subjected to persecution and discrimination throughout history, and many survivors have described ISIS' attack as the 73rd or 74th faith-based attempt to annihilate their community (Abouzeid, 2018). Part of their marginalisation lies in their worshipping of a fallen angel, Melek Tawwus ('Peacock Angel'), which some Muslims – including ISIS – consider a satanic figure (Jalabi, 2014; Carbajal et al., 2017; International Federation for Human Rights [FIDH] & Kinyat, 2018). ISIS moreover wrongly regards the Yazidis as *mushrikin* (polytheists and idol worshippers), and perceives polytheism as a threat and insult to its strictly monotheistic interpretation of Islam (Cetorelli & Ashraph, 2019).

In an article in its English-language magazine Dabiq (2014) – published prior to the attack on Sinjar – ISIS set out how Yazidis should be dealt with; its attack on Sinjar was thus preceded by discourse on religious interpretation, which ISIS militants used to legitimise their abject treatment of the Yazidi people. It moreover 'determined the behavior of its fighters during the attack on Sinjar and their subsequent abuse of Yazidi men, women and children', according to

the UN-commissioned Independent International Commission of Inquiry on the Syrian Arab Republic (UNHRC, 2016, p. 29). The armed group's distinct treatment of each of these categories of Yazidi victims, shows how systematic its approach was to purposefully destroying an entire community.

Violence against men: Upon arrival in Sinjar, ISIS militants systematically separated Yazidis into three groups: men and boys aged approximately twelve and above; women and children; and boys aged seven and above (UNHRC, 2016). The report by the Independent Commission describes how, after separation, male Yazidis were executed by gunfire or beheaded. In several instances, the women and children who were held captive near execution sites witnessed the executions themselves. Most killings occurred in groups of between two and twenty men and boys. There are, however, also documented cases of larger mass killings, for instance in the villages Kocho and Qani (Cetorelli & Ashraph, 2019). In Kocho, out of hundreds of men just nineteen survived, in many cases hidden beneath the corpses of their friends and relatives. Other men and boys have reported that they converted under coercion and were forced to work in construction projects, to dig trenches, or to take care of cattle. They were not allowed to leave the villages and were counted regularly; those who tried to escape were beaten on the first attempt and executed on the second (UNHRC, 2016).

Violence against women: After ISIS had separated the women and girls from the men, it brought them to temporary holding sites in or near the Iraqi cities Tal Afar and Mosul (UNHRC, 2016). ISIS fighters from these cities commanded the sites, and oversaw the transfer of some Yazidi girls and women from the sites in Iraq to ISIS-held territory in Syria. Once at the holding sites, ISIS at first separated the married from the unmarried women, allowing girls under the age of eight to stay with their mothers. Not surprisingly,

'surmising that the greatest danger lay in being placed in the group of unmarried females, unmarried women and girls pretended their younger siblings or nephews or nieces were their own children' (UNHRC, 2016, p. 10). ISIS members numbered the women and girls or recorded their names, and inspected them to evaluate their beauty. Some women and girls were given away as 'gifts', while others were sold to ISIS fighters. This was a highly systematised practice:

> *Women were then sold in markets, either electronically over a mobile phone messenger app where their photos and slave numbers were exchanged, or in market halls and prisons at prearranged times. Away from the main markets, women and girls, supplied by fighters or Isis members who acted as middlemen, were sold by local brokers in smaller numbers. At the beginning, they were given mainly to Iraqi fighters who took part in the battle for Sinjar. Subsequently, the remaining captives were taken to Syria, and sold there, often to fighters who had arrived from around the world. (Otten, 2017)*

ISIS did this to girls as young as nine years old, and with the explicit purpose to keep the women and girls as slaves for sex and labour (Cetorelli & Ashraph, 2019). ISIS argued it could rightfully do so because Yazidi females are not Muslim and, as their unbelieving men have been killed, ISIS militants instead must take care of them (FIDH & Kinyat, 2018; Ali, 2015; Otten, 2017). At the same time, ISIS has also used slavery as a way of rewarding and recruiting militants, and as a means to 'create' new generations of ISIS fighters through rape (Otten, 2017).

Once sold or given away, many of the women and girls would be subjected to sexual, physical and other forms of abuse. Women and girls interviewed by investigators stressed that once they were captured, they had no choice over where they were taken, what happened to any children they had, to whom they were sold and resold, and how they were treated (UNHRC, 2016). Their 'owners' forced the women to do household labour, and when women and girls were held in the fighters' houses, they were sometimes forced to take care of the fighters' children and to assist the wives as well. According to one survivor, Yazidi females were sometimes sold up to 50 times, and sometimes just for an hour at a time (Arraf, 2019). Another survivor, an at the time 12-year-old Yazidi girl who was sold four times, describes how ISIS selected their victims:

> *We were registered. ISIS took our names, ages, where we came from and whether we were married or not. After that, ISIS fighters would come to select girls to go with them. The youngest girl I saw them take was about 9 years old. One girl told me that 'if they try to take you, it is better that you kill yourself'. (UNHRC, 2016, p. 10)*

Violence against children: ISIS let some of the children who were young enough stay with their mothers. As such, the children were often witness to the violence perpetrated against their mothers, and/or were subjected to physical labour and violence themselves (UNHRC, 2016). ISIS subjected older boys – generally over the age of seven – to different treatment: After separation of the others, ISIS sent such boys to training camps where they were given Muslim names, indoctrinated in ISIS ideology, and received weapons and physical training (Cetorelli & Ashraph, 2019; Giblin & Dartas, 2018). The UN Human Rights Council report provides insights into the daily reality of these boys:

> *The Yazidi boys are forced to attend indoctrination and military training sessions led by ISIS fighters acting as instructors […] The boys' daily programme consists of sessions in Quranic recitation*

as well as military exercises, including being taught to use AK47s, hand grenades, and Rocket Propelled Grenades. The boys are forced to watch ISIS-made propaganda videos of armed battles, beheadings, and suicide missions. ISIS instructors also hold sessions for the boys on 'Jihad' and the importance of participating in ISIS's war against 'the unbelievers'. If the boys fail to memorize Quranic verses or perform poorly in training sessions, they are beaten. (UNHRC, 2016, p. 19)

Even though they were just children, ISIS sent such boys to the frontlines to fight or on suicide missions; some boys reported they were drugged before fighting, making them reckless, and were forced to lead the charge, so they – instead of ISIS fighters – would be killed first (Stoter Boscolo, 2019). ISIS shot numerous propaganda videos with these 'cubs of the caliphate', which show the boys participating in military exercises or executing prisoners (Stoter Boscolo, 2019; Giblin & Dartas, 2018).

8.3 Victims:
A scattered and scarred community

Various groups within the Yazidi community – the primary target of the August 2014 attack on Sinjar – have suffered distinct violations and harm at the hands of ISIS, based on its ideological framework (UNHRC, 2016; Cetorelli et al., 2017). There are varying estimates concerning the numbers of Yazidis killed, displaced and missing. Generally, it is agreed upon that from the 550,000 Yazidis that were estimated to live in Iraq, about 360,000 were displaced as of 2018; between 2,000-10,000 Yazidis were killed in Sinjar either by execution or by dehydration or starvation in the mountains; approximately 6,400 Yazidis from Sinjar were abducted; and, that by 2018, about 3,300 Yazidis had escaped or otherwise returned from captivity, while some 3,100 people – mostly

women and children – remained unaccounted for and were likely either dead or still held captive in Iraq or Syria (Cetorelli et al., 2017; Hawar News, 2018; Abouzeid, 2018; Otten, 2017; UN High Commissioner for Refugees [UNHCR], 2019).

Yet, these figures may never tell the complete story. Whole families have been exterminated, sometimes leaving no one to testify about the violence. The incredible scope of the violence is also reflected in the number of mass graves found in Sinjar district: 68 by 2018 (Hawar News, 2018). Some survivors provide testimony how such mass graves came to be. One of them, a 46-year-old man recalls: 'I survived, until now I don't know how […] The bullets were raining around me. It happened during the day, around noon. They brought a bulldozer to bury us. I realised I was alive' (Abouzeid, 2018, p. 7).

However, it is important to note that the harm for the Yazidis did not end with ISIS' defeat or removal from the region. Many of the Yazidis who managed to escape the violence in Sinjar in August 2014 or who have returned from captivity since, ended up displaced (ICG, 2018). The majority of Yazidi internally displaced persons (IDPs) are located in northern Iraq's Kurdish region; there are fourteen IDP camps in Dohuk governorate alone (Akram, 2020; Abouzeid, 2018). Yet, official figures should be viewed with some scepticism, as many Yazidis are not registered at camps but live in unfinished or abandoned buildings, or rented accommodation (UNHCR, 2019). Their problems are manifold: Life in IDP camps can be dangerous in the case of extreme weather conditions; the camps have persistent problems regarding inadequate water, sanitation and hygiene infrastructure; displaced Yazidis are often unable to find regular income and, consequently, cannot pay for accommodation, education, and healthcare; and about one-third of IDP children in the camps and a quarter of those living outside the IDP camps do not have access to formal education (UNHCR, 2019). The UN High

Commissioner for Refugees (UNHCR, 2019) warns that lack of education puts children at increased risk of child labour, early marriage, mental distress, and recruitment by armed groups. Overall, the dire living conditions of many displaced Yazidis have led to so-called 'negative coping strategies', whereby civilians may incur debt, reduce their food intake, or force their children into early marriages or labour, in order to get by.

Even though the area around Sinjar district has been liberated from ISIS control, many Yazidis are unwilling to return to their former homes. There are practical concerns that impede return: Sinjar district is full of unexploded ordnances and has been heavily booby-trapped by ISIS (Abouzeid, 2018). In addition, the conflict has effectively put water, energy and healthcare-related infrastructure out of operation, and has negatively affected education and work opportunities (Abouzeid, 2018; Jesuit Refugee Service [JRS], 2018). But the conflict has also deepened social cleavages: Many Yazidis believe they were betrayed by their Arab neighbours and fear discrimination upon return; many Arab communities, in turn, perceive themselves unjustly and excessively scapegoated (Abouzeid, 2018). A Yazidi man indicated that, 'If you live surrounded by enemies, it's difficult […] When the government is weak, we will be attacked again' (Abouzeid, 2018, pp. 24-25). A survey conducted among Yazidi IDPs in 2019 found that only three per cent of respondents indicated any intention to return to Sinjar within the next year (UNHCR, 2019).[3]

Another worrying form of long-term harm concerns the high levels of mental trauma among Yazidi survivors, evident for instance in high suicide rates, and widespread post-traumatic distress disorder, behavioural disorders, and depression (JRS, 2018). Many people were exposed to horrific sights and the most intense negative experiences. A Yazidi girl recalls that,

After we were captured, ISIS forced us to watch them beheading some of our Yazidi men. They made the men kneel in a line in the street, with their hands tied behind their backs. The ISIS fighters took knives and cut their throats. (UNHRC, 2016, p. 8)

The Independent Commission found that many women and children who have returned from ISIS captivity suffer from enduring psychological distress: 'Most [Yazidi women and girls] spoke of thoughts of suicide, of being unable to sleep due to nightmares about ISIS fighters at their door […] [,] of feeling angry and hopeless' (UNHCR, 2019, p. 16). While there are no accurate figures, survivors have testified that, also during captivity, there were women and girls who ended or attempted to end their own lives (UNHRC, 2016). And, even though ISIS has now largely been defeated, there are still women and children held captive, most of them in Syria; occasional reports – as recent as May 2020 – continue to appear from Yazidis that after years of captivity have finally managed to escape (The National, 2020). The exact scope of this problem remains unclear.

Formerly captive children display mental trauma through bed-wetting, nightmares, and sudden rages; researchers from the Independent Commission in particular noted that many children had become problematically protective of their mothers whenever unfamiliar men were around (UNHRC, 2016). In addition, many children show excessively violent behaviour and – especially the younger ones who were more vulnerable to indoctrination – sometimes voice extremist views (Stoter Boscolo, 2019). While psychosocial support for returnees is criticised as insufficient in general (UNHCR, 2019), the plight of traumatised children appears especially prone to being overlooked:

[T]here is limited psychosocial support available that is directly targeted at

the needs of these children. Many Yazidi families, themselves direct victims of ISIS violations, are struggling to understand and to cope with the behaviour of their severely traumatised children. (UNHRC, 2016, p. 18)

Sometimes, mental harm is communally inflicted. While Yazidi spiritual leaders have taken important steps in ensuring that formerly enslaved women would be welcomed back into their families without judgment, it has shown no such willingness to accept children born of rape during ISIS captivity (Abouzeid, 2018; UNHCR, 2019; Oppenheim, 2019).[4] Some women have been forced to abandon their children fathered by ISIS militants, whereas others have chosen to keep them, suffering from social ostracization as a result (Oppenheim, 2019). For many of these women, who are not given a voice in such decision-making processes around their own children, the forced abandonment has caused additional mental trauma. According to a psychologist who works with Yazidi women in an IDP camp in Khanke, this has been a reason for some women to stay behind: 'They stay with the Isis [*sic*] families because they know the [Yazidi] community does not accept the children' (Oppenheim, 2019).

8.4 Significance: Lack of justice and an uncertain future

The attack on Sinjar by ISIS and the violence against the Yazidis that followed represent a case of intended large-scale annihilation of a community. ISIS has sought to destroy the Yazidi community in multiple ways, including through mass executions, enslavement, sexual slavery, torture, inhuman and degrading treatment, and the forced conversion and transfer of Yazidi children to ISIS fighters. The latter was meant to cut off the children from the beliefs and

practices of their own religious community, thereby erasing their identity as Yazidis (Otten, 2017; Cetorelli & Ashraph, 2019). The Independent Commission has described the sexual violence committed by ISIS against Yazidi women and girls, and the serious physical and mental harm it engendered, as a clear 'step in the process of destruction of the […] group – destruction of the spirit, of the will to live, and of life itself' (UNHRC, 2016, p. 24). ISIS moreover deliberately and systematically destroyed shrines and other sites of religious and cultural significance for the Yazidis in an attempt to eradicate the community's religious, physical and material culture (UNAMI & OHCHR, 2016).

The events fitted a larger strategy: ISIS has systematically targeted and persecuted the Yazidis – and other ethnic and religious groups – as part of a policy aimed at suppressing, permanently expelling or destroying many of these communities within ISIS areas of control. What set apart the violence against the Yazidis from those against other communities, was its outspoken genocidal character. Whereas so-called 'people of the Book' (Jews and Christians) could generally avoid forced conversion or death by paying a specific tax, Yazidis were excluded from such practices.

According to Naomi Kikoler, Director of the Simon-Skjodt Center for the Prevention of Genocide, all this shows that ISIS' 'actions were calculated with the intent of destroying the community and thereby different from its attacks against other minorities, which were part of a campaign of ethnic cleansing' (Kikoler, 2015, p. 15). The Independent Commission similarly concluded in 2016 that 'ISIS has committed and continues to commit, the crime of genocide, as well as multiple crimes against humanity and war crimes, against the Yazidis' (UNHRC, 2016, p. 36). Other inter-governmental organisations and governments have recognised

the crimes by ISIS against the Yazidis as genocide as well (Yazda, n.d.).

The UN Security Council acknowledged the importance of bringing those responsible to justice, and established an Investigative Team to gather facts and evidence against ISIS for their actions in Iraq (UN Security Council, 2017). Yet, prosecution for genocide so far has been limited. Germany commenced trial of two parallel cases in 2020, of an Iraqi and his wife, for amongst other charges, war crimes and genocide (El-Hitami, 2020). In the US, a case is ongoing against the wife of a deceased ISIS leader, among other things for her role in the captivity and treatment of Yazidi women (Clooney, 2019). These are the first trials against ISIS. It is unlikely that in the short term the jurisdiction of the International Criminal Court (ICC) will be invoked over the genocide against the Yazidis: Neither Syria nor Iraq has ratified the ICC Statute, meaning the ICC has no jurisdiction over crimes committed by ISIS in these countries. The other option – referral to the ICC by the UN – has been blocked by China and Russia (Masadeh, 2020). There is an internationally backed call for the establishment of a separate tribunal for ISIS, which would encompass genocidal acts against the Yazidis – but this is yet to materialise and it may take many more years to bring perpetrators to justice (Government of the Netherlands, 2019; BBC News, 2019; Clooney, 2019; Dworkin, 2019).

In the meantime, while ISIS has been (largely) defeated but not yet brought to justice, Yazidis continue to struggle with the aftermath of the conflict. The atrocities committed against the Yazidis by ISIS have consequences beyond their direct harm and beyond the borders of Sinjar. Many long-term effects of the harm inflicted upon this people are discussed above: the many dead and missing, trauma, non-acceptance of children born from Yazidi women and their ISIS captors back into the community, and the destruction of cultural

heritage. The majority of Yazidis live a difficult and impoverished existence in IDP camps throughout the Kurdish region of Iraq (UNAMI & OHCHR, 2016; Peyre-Costa & Jenssen, 2018; UNHRC, 2016). Many families remain separated and there are many women and girls still missing. IDP communities from Ninewa are highly disillusioned by the lack of protection by either the Iraqi Army or the Kurdish Peshmerga. Some Yazidis wish to develop their own militias on religious or ethnic basis, something that poses a serious threat to return scenarios, may facilitate revenge, and fuel renewed hostilities (PAX, 2015). Most Ninewa communities depend on support from non-governmental organisations or their own networks for food provision, education programs and psychosocial support activities. Yazidi cultural heritage and identity have been severely damaged (Weizman, 2018). Our search for the sake of this article for updated figures on the return of Yazidis and numbers of victims made it clear that the plight of the Yazidis is slowly moving to the background of the public's interest; it was a challenge to find clear figures of more recent date than 2019.

In this context, and in the absence of clear prospects for return, IDP communities look for resettlement abroad. Many Yazidis have decided to leave the country. However, many of them cannot take legal routes out of Iraq as identification documents were left behind or destroyed during their flight, and getting new documents is a complex, bureaucratic process. The fees involved are beyond the reach of many, who have subsequently turned to smugglers and have made dangerous journeys by land or boat. Not everyone has survived these journeys, creating even more missing persons in the already scattered community. Can a broken, dispersed people and a faith survive in diaspora alone? 'Without their traditions […], Yazidis have only memories. After ISIS, some Yazidis no longer want those either' (Beck, 2020).

Images

Iraqi Yazidi refugees in Newroz camp, Syria. Many of the camp's refugees had escaped ISIS in Sinjar, some of them having had to walk up to 60 kilometres in the heat and through the Sinjar mountains to find their way to the camp.

© Rachel Unkovic/International Rescue Committee (2014)

Bibliography

Abouzeid, R. (2018). *When the weapons fall silent: Reconciliation in Sinjar after ISIS* [Policy brief]. European Council on Foreign Relations.

Akram, S. (2018, May 8). From genocide to pandemic: Yazidis in Iraq face looming mental health crisis as Covid-19 spreads. *The New Arab.*

Ali, M. (2015). *ISIS and propaganda: How ISIS exploits women* [Fellowship paper]. University of Oxford, Reuters Institute for the Study of Journalism.

Arraf, J. (2019, May 14). Freed From ISIS, Few Yazidis Return to Suffering Families, Many Remain Missing. *National Public Radio.*

BBC News (2019, March 26). Islamic State group: Syria's Kurds call for international tribunal. *BBC News.*

Beck, J. (2020, March 9). The Yazidis: A Faith Without a Future? *Moment Magazine.*

Carbajal, K., Cline, C., Gichuru, E., Lucas, Z., Mabie, M., Mann, S., Railey, J., & Repp, A. (2017). *Report on the Yazidi genocide: Mapping atrocity in Iraq and Syria* [Report]. Syracuse University, Syrian Accountability Project.

Cetorelli, V., & Ashraph, S. (2019). *A demographic documentation of ISIS' attack on the Yazidi village of Kocho* [Report]. The London School of Economics and Political Science, LSE Middle East Centre.

Cetorelli, V., Sasson, I., Shabila, N., & Burnham, G. (2017). Mortality and kidnapping estimates for the Yazidi population in the area of Mount Sinjar, Iraq, in August 2014: A retrospective household survey. *PLOS Medicine, 14*(5), 1-9.

Clooney, A. (2019, April 23). *Remarks by Amal Clooney during the UN Security Council open debate on Women, Peace and Security – Sexual violence in conflict* [Statement]. United Nations, Security Council.

Dabiq (2014, October 12). *The revival of slavery before the hour* [Issue 4]. Dabiq.

Dworkin, A. (2019, May 31). A tribunal for ISIS fighters? [Blog post]. *European Council on Foreign Relations.*

El-Hitami, H. (2020, October 29). The Yazidi trial in Germany: How to prove genocide in a single case? [Blog post]. *JusticeInfo.*

Giblin, R., & Dartas, H. (2018, April 28). 'I was an Islamic State boy soldier'. *The Irish Times.*

Government of the Netherlands (2019, September 26). The Netherlands: ISIS cannot go unpunished [Blog post]. *Government of the Netherlands, Ministry of Foreign Affairs.*

Hawar News (2018, June 3). Latest statistics revealed Yazidi victims. *Hawar News Agency.*

International Crisis Group (2018). *Winning the Post-ISIS Battle for Iraq in Sinjar* [Middle East Report Nr. 183]. International Crisis Group.

International Federation for Human Rights & Kinyat (2018). *Sexual and gender based crimes against the Yazidi community: the role of ISIL foreign fighters* [Report]. FIDH & Kenyat.

Jalabi, R. (2014, August 11). Who are the Yazidis and why is Isis hunting them? *The Guardian.*

Jesuit Refugee Service (2018, October 15). Iraq: Yazidis of Sinjar today [Blog post]. *Jesuit Refugee Service.*

Kikoler, N. (2015). *"Our generation is gone": The Islamic State's Targeting of Iraqi Minorities in Ninewa* [Bearing Witness Trip Report]. United States Holocaust Memorial Museum, Simon-Skjodt Center for the Prevention of Genocide.

Masadeh, M. (2020, June 23). Germany's commitment to international justice: On the groundbreaking first trial addressing genocide against Yazidis [Blog post]. *Völkerrechtsblog.*

Oppenheim, M. (2019, August 3). Yazidi rape survivors forced to abandon children of Isis to be able to return to community: 'Drowning in an ocean of pain'. *The Independent.*

Otten, C. (2017, July 25). Slaves of Isis: the long walk of the Yazidi women. *The Guardian.*

PAX (2015). *After ISIS: Perspectives of displaced communities from Ninewa on return to Iraq's disputed territory* [Report]. PAX.

Peyre-Costa, T., & Jenssen, T. (2018, November 13). Close to 2,000 Yazidis remain displaced [Blog post]. *Norwegian Refugee Council.*

Rovera, D. (2014, August 18). Testimonies from Kocho: The village ISIS tried to wipe off the map [Blog post]. *Amnesty International.*

Rudaw (2014, August 7). People Eating Leaves to Survive on Shingal Mountain, Where Three More Die. *Rudaw.*

Stoter Boscolo, B. (2019). *Het vergeten volk: Het verhaal van de Jezidi's over de laatste genocide.* De Arbeiderspers.

The National (2020, May 11). Yazidi girl returns to Iraq after years of ISIS captivity. *The National.*

UN Assistance Mission for Iraq & UN Office of the High
Commissioner for Human Rights (2014). *Report on the
Protection of Civilians in Armed Conflict in Iraq: 6 July –
10 September 2014* [Report]. United Nations, Assistance
Mission for Iraq & Office of the High Commissioner for
Human Rights.

UN Assistance Mission for Iraq & UN Office of the High
Commissioner for Human Rights (2016). *A Call for
Accountability and Protection: Yezidi Survivors of Atrocities
Committed by ISIL* [Report]. United Nations, Assistance
Mission for Iraq & Office of the High Commissioner for
Human Rights.

UN High Commissioner for Refugees (2019, May). *COI Note on
the Situation of Yazidi IDPs in the Kurdistan Region of Iraq*
[Brief]. United Nations, High Commissioner for Refugees.

UN Human Rights Council (2016, June 15). *"They came to
destroy": ISIS Crimes Against the Yazidis* (A/HRC/32/CRP.2)
[Report]. United Nations, Human Rights Council.

UN Security Council (2017, September 21). *Resolution 2379*
(S/RES/2379 2017). United Nations, Security Council.

Weizman, E. (2018, September 20). *The Destruction of Yazidi
Cultural Heritage* [Webpage]. Forensic Architecture.
Accessed: September 2020.

Yazda (n.d.). *Genocide Recognition: International Recognition
of the Yazidi Genocide* [Webpage]. Yazda. Accessed: January
2021.

Endnotes

1 The Yazidis' communal affiliation is a subject of
disagreement: Kurds and some Yazidis consider them
Kurdish, whereas most Yazidis perceive of themselves as a
distinct ethno-religious community and reject what they
consider treatment as second-class Kurds (PAX, 2015; ICG,
2018).

2 100,000 seems the most commonly cited number, although
there are also reports that mention 200,000 Yazidis seeking
refuge in the mountains, such as Kikoler (2015, p. 15).

3 UNHCR found the following reasons to mostly impede return:
presence of mines (42 per cent); lack of security forces (41
per cent); damaged/destroyed homes (33 per cent); fear of
discrimination (29 per cent); and lack of financial means to
return (13 per cent) (UNHCR, 2019, pp. 10-11).

4 This has to do with Yazidi beliefs that children need to have
two Yazidi parents in order to be Yazidi and considered part
of the community.

CASE 9. Airstrike:

Bombs destroy a shelter in Al Mansoura (Syria, 2017)

AUTHOR: KOEN KLUESSIEN (FORMERLY WITH AIRWARS)

COUNTRY

Syria
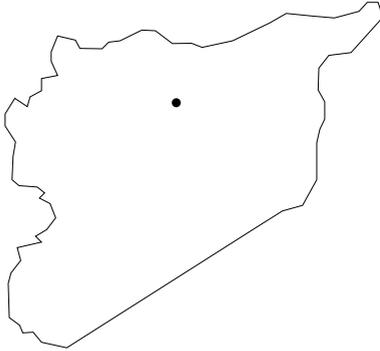
PERPETRATOR

The US-led International Coalition against ISIS

ACT

carried out an airstrike on a building in Al Mansoura

OBJECTIVES

· to destroy what it perceived to be an ISIS stronghold

CONSEQUENCES

The death of between 40 to 400 civilians, mostly IDPs, sheltering in the building

⤷ undermining civilians' trust in the intentions and capabilities of the Coalition

Psychological trauma

In the first months of 2017, intense conflict raged in large parts of Syria. In the western parts of the country, government forces were fighting opposition forces. In the north, the International Coalition against so-called Islamic State = (ISIS) was stepping up efforts to push back and eventually destroy ISIS. To that end, the Coalition conducted daily air strikes on ISIS positions in the ISIS-held parts of the Raqqa Governorate, while Kurdish and other ground troops of the Syrian Democratic Forces (SDF) advanced from the north, pushing back the militants.[1] These efforts were part of an intensified military campaign called 'Operation Wrath of Euphrates' during 2016 and 2017 to take over Raqqa, ISIS' declared capital, and the Tabqa dam, a strategic location some 40 kilometres west from Raqqa. The campaign constituted a combined effort by the SDF and the American-led anti-ISIS Coalition (Solvang & Houry, 2017).

Between November 2016 and February 2017, increased insecurity resulted in the mass movement of internally displaced persons (IDPs) from Palmyra and Raqqa, partly into the region around the town of Al Mansoura, one of the larger towns in the western Raqqa countryside and located approximately 30 kilometres from Raqqa itself. There, the new waves of refugees mixed with groups of IDPs that had fled violence elsewhere in the country. Some families found refuge at the abandoned Al Badiya school, a large, isolated three-storey building 1.5 kilometres from the Al Mansoura town centre, an area controlled by ISIS at the time. The school had opened in 2009, serving as a boarding school for students from the country's semi-nomadic

regions, but was soon overtaken by a new reality: When armed conflict erupted in Syria in 2011, the school closed, and not long after, displaced civilians began moving in (Solvang & Houry, 2017). The school had housed IDPs since 2012, mostly families from the Homs and Aleppo governorates (UN Human Rights Council [UNHRC], 2017). By March 2017, between 200 and 400 people were estimated to be living in the school, some of whom had been living there for years, others having only recently arrived. Among the new arrivals were families of ISIS fighters directed there after fleeing from Raqqa and Palmyra.

9.1 Case: Late night strike leaves at least 40 dead

On the night of 20-21 March 2017, the inhabitants of the Al Badiya school – a mixture of ISIS families and non-ISIS affiliated IDPs, according to locals – were completely caught off guard when they became the object of deliberate targeting by the US-led Coalition against ISIS. At around 11.00 p.m., the building was struck with multiple high yield aerial bombs. They did not stand a chance: The explosions wreaked near-complete destruction of the three-storey structure, killing almost all people inside; parts of the building frame were all that remained (Solvang & Houry, 2017).

Awash, a 24-yeard-old woman who survived the attack, described the utter confusion she experienced that night:

> On the day of the strike everything was normal. I was sleeping in the school. There were two strikes. My face and body got hit. I didn't hear the explosions, only felt them. My mother went out to the corridor to get my nephew. I tried to follow, but couldn't. I screamed out to my mother, to my brother, but couldn't find them. In the courtyard,

I found Ahed [Awash' 11-year-old niece] and her mother. She had no clothes on and shrapnel all over the body. After I covered her with the sheets I passed out and then woke up in the Raqqa hospital. (Solvang & Houry, 2017, p. 20)

Local casualty reports for the Al Mansoura event varied widely, from several dozen deaths to claims of as many as 420 people killed. Human Rights Watch noted a minimum of 40 fatalities, including 16 children, as the baseline after visiting the site twice. The report concluded: 'Forty are the ones that we were actually able to identify, but the actual number is much higher' (Oakford, 2018a).

Despite multiple local and international sources reporting on the large number of civilian casualties, the Coalition almost immediately denied that the strike had killed civilians. The commander of the Coalition himself stated:

We had multiple corroborating intelligence sources from various types of intelligence that told us the enemy was using that school. And we observed it. And we saw what we expected to see. We struck it. We saw what we expected to see. Afterwards, we got an allegation that it wasn't ISIS fighters in there; [...] it was instead refugees of some sort in the school. Yet, not seeing any corroborating evidence of that. In fact, everything we've seen since then suggests that it was the 30 or so ISIS fighters that we expected to be there. (US Department of Defence [DoD], 2017)

Only in June 2018, more than a year after the event, did the Coalition quietly admit to killing at least 40 civilians, finally acknowledging what a UN inquiry and human rights groups had long said was among the bloodiest events of the years-long bombing campaign (Operation Inherent Resolve [OIR], 2018).

9.2 Perpetrators: Taking responsibility?[2]

The airstrike on the Al Badiya school raises many questions that have yet to be answered about the methodology of the Coalition in establishing the legitimacy of targets in civilian areas; their mechanism of evaluating and reporting on harm from their own actions; and about the apparent lack of after-action attempts to identify individual casualties, and provide assistance and redress.

Local sources unilaterally identified the US-led Coalition as responsible for the attack on the school. Local news outlet Qasioun reported that the school was hit by three Coalition raids at around 11.00 p.m., while other sources such as The New York Times specify the time of the attack at 'shortly after midnight' (Cumming-Bruce, 2017). The previous quote by the Commander of the Coalition demonstrates that the Coalition never denied striking the location. It did, however, come to a different conclusion on who was targeted in the attack. Lieutenant General Townsend maintained that 'we struck enemy fighters that we planned to strike there' (US DoD, 2017). His early denial of civilian harm in this event - despite multiple public claims - raises questions about whether his statements might have unduly influenced the Coalition civilian casualty cell's ongoing assessment of the event, and the treatment of subsequent civil society requests for the case to be re-opened.

The Coalition later reiterated its conclusion in its monthly civilian casualty report, published 7 July 2017, when it claimed that there was insufficient evidence showing that civilians were killed in the attack: 'March 20, 2017, near Al Mansura, Syria, via social media report: After review of available information and strike video it was assessed that there is "insufficient

evidence" to find that civilians were harmed in this strike' (OIR, 2017).

Then, after a year of denial, the Coalition suddenly admitted to killing at least 40 civilians in its monthly civilian casualty report, released on 28 June 2018. The report stated that the incident was reopened after the receipt of new evidence from Human Rights Watch. The Coalition then determined that 'a strike on Daesh militant multifunctional centre allegedly caused civilian casualties. Forty civilians were unintentionally killed' (OIR, 2018, p. 2).

Operating in a legal void

By late 2017, the entire Raqqa province, including Al Mansoura and its environs, was under Coalition and SDF control. However, the US-led alliance chose not to conduct an on-the-ground investigation into Al Mansoura, relying instead on the work of non-governmental organisations (NGOs). The admitted number of 40 fatalities was based on Human Rights Watch findings, though it was unclear what additional steps the Coalition had taken which had led them to reverse repeated denials issued over the previous 16 months. 'The updated assessment of the Mansoura allegation was based largely on a video report from Human Rights Watch,' a senior Coalition official told Airwars:

> HRW visited the site and interviewed individuals present during the strike and after. Their accounts included specific details regarding the strike more likely to be known by somebody who had been present. Compelling, detailed, and accurate first-hand accounts tend to weigh heavily in favour of a finding of 'credible'. (Oakford, 2018a)

The Al Mansoura strike provoked further controversy due to the discovery of the involvement of German reconnaissance aircraft. Several Coalition members, while not carrying out strikes on their own, provided intelligence and logistical capabilities to assist bombings by other nations. In September 2017, the Australian Defence Force reported its involvement and partial responsibility for a previous civilian harm event for which it had supplied flawed intelligence though it had not conducted the attack – setting an important precedent (Oakford, 2018b). Whatever pre-strike surveillance the Coalition conducted at Al Mansoura, proved insufficient to protect civilians at the site. The Al Mansoura raid is the third-largest death toll admitted to by the Coalition, after an attack days earlier in March 2017 in Mosul which killed over 100 civilians, and an airstrike on Hawijah in June 2015 which had led to the deaths of at least 70 civilians.[3] Although the Coalition has maintained that individual countries participating in the mission are responsible for their own actions, most individual countries refuse to report in detail on their own actions and routinely refer requests for information to the Coalition. This creates a legal void in which Coalition members appear to be operating without meaningful oversight (Shiel, 2019).

While the Coalition acknowledged its responsibility for the incident, it did not outline how such an incident occurred – and what safeguards were put in place for future actions. Human Rights Watch stated:

> It's positive that they are acknowledging this now, but it's an incomplete step. [...] It is not enough to just say we killed some civilians. No one is saying it was intentional, but that is not the point of conducting the investigation. (Oakford, 2018a).

In 2019, the US explicitly accepted the responsibility for the attack and associated civilian harm in the Pentagon's annual civilian harm report to the US Congress. Yet to this

date, the Coalition has not released any information on the type of munitions used to destroy the Al Badiya building, who provided the incorrect intelligence, why the Coalition in its After Action Reports failed to recognise the atrocity it caused, or what measures have been undertaken to identify individual civilian victims and their families.

9.3 Victims: Displaced families with children

The UN-mandated Independent International Commission of Inquiry on the Syrian Arab Republic stated in its report that between 200 and 400 people were living in the school at the time of the airstrike, of whom only a few survived the 20 March attack. The Al Badiya school opened in 2009 to replace mobile schools in the region for the children of herdsmen, but had been closed in 2011. Since 2012, the school building had housed internally displaced families from the Homs and Aleppo governorates, and according to survivors of the raid, many of them had no affiliation to ISIS (UNHRC, 2017).

At the time of the attack in March 2017, some of the building's residents had been living there for years, while others had arrived only recently, possibly as part of mass movements of IDPs from Palmyra and Raqqa that occurred in January 2017 (Alaa, 2017). Prior to the airstrike, some families of ISIS fighters fleeing Iraq had also moved into the school. Local people reported ISIS fighters around the premises, possibly visiting their families. A notable member of the community and two survivors of the airstrike also indicated that ISIS had set up a mosque within the school, occasionally organising a Sharia course there. Despite the reported presence of these fighters, the school was predominantly inhabited by IDP families. An 11-year-old survivor said that children used to play in the school's courtyard,

suggesting that civilians could and should have been observed in the Coalitions' 'pattern of life' analysis (Solvang & Houry, 2017, pp. 6-7).

Local residents confirmed that ISIS members had been in the vicinity at the time of the strikes, but stressed that the location was not a military base of any sort. This corroborates with Human Rights Watch findings when they spoke to sixteen local residents during a visit to Al Mansoura in July 2017 (Solvang & Houry, 2017). According to the residents, displaced ISIS members and their families had moved into the school prior to the attack. Other residents noted that a vehicle with an anti-aircraft cannon had been operating in the area. Although families of ISIS fighters had moved into the school together with IDPs already living there, there is no publicly available evidence that the building itself was actively used for military purposes at the time, nor that any of its inhabitants were actively participating in hostilities.

Staggering death toll reports
Soon after the attack, detailed reports, including initial tallies of civilians harmed were published. The Syrian Observatory for Human Rights reported:

> One of the activists […] witnessed 33 bodies being pulled out of the rubble of the school which was destroyed by the Coalition's warplanes before members of the "Islamic State" organization came and kept people away. Additionally, two people were pulled out alive. (Syrian Observatory for Human Rights, 2017)

A local resident, living about 100 metres away from the school, recalls the chaos in the aftermath of the attack: 'I was sleeping when loud explosions woke me. I heard about four bombs. I rushed to the school. There were bodies

of men, women, and children everywhere. About 50 people were rushed to the hospital' (Solvang & Houry, 2017, p. 20). Most of the bodies were recovered from the site. Reportedly, some of the dead had to be abandoned in the rubble, as ISIS prevented rescuers from doing their work.

Most sources stressed that the majority of the victims were women and children. Smart News was the only outlet providing specific figures, reporting an initial death toll of seven children and nine women. Smart News went on to say that,

> *according to another local source, the Islamic State organization demanded that civilians in the western and southern parts of al-Raqqa evacuate their schools and medical centres because they were being targeted by the coalition 'for the possibility of being headquarters of the organization.' (Smart News via Airwars, 2017)*

There have been some claims of much higher casualties. According to Raqqa Post, the death toll may have been as high as 100: 'The school hosted more than 50 families from Maskanah, Homs and other places and there are reports, which are not yet confirmed, that over 100 were killed and many more were wounded. Rescue operations are still taking place' (Raqqa Post via Airwars, 2017). Baladi News put the number killed still higher at 200 civilians – 'mostly women and children' – with dozens more injured, adding that the school was completely destroyed (Baladi Network via Airwars, 2017).

As more reports came in, the claimed death toll continued to rise, with one local Mansoura group alleging that it had reached 275. Mansoura in its Peoples' Eyes claimed an even higher figure: '420 martyrs with people still looking for survivors' (Mansoura in its People's Eyes via Airwars, 2017). A subsequent report by Raqqa is Being Slaughtered Silently said that,

> *the initial death toll for the massacre at Al Badiya school in Al Mansoura committed by the international coalition at dawn yesterday is 183. The bodies are still being pulled out and the number is expected to rise as there were 105 families present at the school. (Raqqa is Being Slaughtered Silently via Airwars, 2017)*

It is clear that local casualty reports for the Al Mansoura event vary widely, from claims of several dozen deaths to as many as 400 people killed. As Human Rights Watch noted, the 40 fatalities, including 16 children, is to be considered only as the baseline, as the actual number is likely much higher (Oakford, 2018a).

Part of the difficulty in determining the exact number of casualties lies in the fact that many of the bodies were buried under the rubble after the attacks. In addition, it has been difficult for locals in Al Mansoura to identify the victims as many of them were recently displaced people from other regions in Syria, unfamiliar to the people in Al Mansoura (Solvang & Houry, 2017). Among those casualties that could be corroborated by Human Rights Watch were several families from Maskanah, Tadmor (Palmyra) and from the Sukhna area. Victims were as young as the 2-months-old Adel, and as old as 60. Entire families, consisting of husbands, wives, grandparents and children perished in the attack.[4]

Aside from the significant number of casualties and the trauma for those who have remained behind, such large-scale violence in itself stimulates new displacement: Al Mansoura was just one strike in a campaign of increased aerial bombardment under 'Operation Wrath of Euphrates' by the International Coalition against ISIS, which overall has been estimated to have resulted in 160,000 people fleeing their homes in search of safety (ABC News, 2017).

The campaign has severely undermined trust in the Coalition among Syrians: According to Hussam Essa, founder of Raqqa is Being Slaughtered Silently, an online monitor of violence in Raqqa province,

> *People used to feel safe when the American planes were in the sky, because they knew they didn't hit civilians […] They were only afraid of the Russian and regime planes. But now they are very afraid of the American airstrikes' [which are] targeting everywhere. (Morris & Sly, 2017)*

9.4 Significance: Unwillingness to acknowledge civilian harm

Most civilian harm in the context of urban fighting is by its nature unobservable from the air, with civilians often taking shelter inside buildings. Nevertheless, the Coalition continues to rely primarily on aerial footage for both its pre- and post-strike analysis. While the means and methods to carry out on-the-ground investigations are available to the Coalition, it has routinely chosen not to engage with civilians on the ground (Woods, 2016; Mahanty et al., 2020). Of more than 3,000 alleged civilian harm events assessed by the Coalition since 2014, only once did it deploy field investigators: for the al Jadida, Mosul event of March 2017. In the case of the Al Badiya school, the Coalition only chose to reopen and reassess the case after a field study conducted by Human Rights Watch made their continued denial of civilian deaths impossible. This is not an isolated incident, but part of a larger problem.

In the report 'All Feasible Precautions?', Human Rights Watch quote the Combined Joint Task Force's press desk, noting that Coalition forces conducted 'a pattern of life [analysis] prior to

the strike but that video footage did not reflect any evidence of civilian activity prior or after the strike' (Solvang & Houry, 2017). This raises serious questions regarding the German and US intelligence that both failed to identify the presence of IDPs - some of which had been present in the area for years.

In 2018, Airwars researchers scrutinised Coalition civilian harm allegation assessments, and found that the modelling showed a strong bias towards certain classes of strikes potentially being assessed as credible. Events taking place out in the open – which are more likely to show a civilian entering a target area on strike footage – feature heavily in Coalition-confirmed events. With strikes on buildings, the footage may show the extent of the damage but not whether it housed ISIS fighters, or sheltered families inside. And even if such events are well-documented publicly, they are far less likely to be confirmed by the US-led Coalition due to an absence of visual confirmation. As Air Marshal Bagwell noted in an interview with Drone Wars UK, 'We cannot see through rubble' (Drone Wars UK, 2018). This inability of the Coalition to effectively model 'unobservable' civilian harm in urban fighting – even though this is likely how most non-combatant deaths and injuries occur – is in the view of Airwars likely to be a key reason why the Coalition continues to significantly undercount civilian harm (Woods, 2016; Mahanty et al., 2020).

This issue of undercounting civilians is especially pressing in densely populated areas such as Mosul, Raqqa and Deir-Ez-Zor. In Raqqa for example, Amnesty International and Airwars (n.d.) have estimated that at least 1,600 civilians perished in Coalition air and artillery strikes before the city's capture in mid-October. More than 21,000 munitions were fired on Raqqa in just 5 months – many times more than were released across all of Afghanistan by international forces for all of 2017. Despite the intense and continuous shelling,

the Coalition was slow to admit to civilian deaths in Raqqa, regardless of the number of allegations churned through and discarded by staff in the civilian casualty unit.

In the same monthly report that saw the Al Mansoura strike acknowledged, the Coalition classed more than 120 civilian harm allegations relating to the battle of Raqqa as 'non-credible.' Overall, the Coalition has, as of November 2020, only admitted to 8 per cent of 515 locally reported civilian casualty events for the battle of Raqqa. In contrast, Airwars rates more than 70 per cent of those cases as 'Fair' – that is, corroborated by two or more credible local reports, and with Coalition strikes confirmed in the near vicinity.

The disparity between what is reported by local journalists and activists on the ground, and the Coalition's own investigations (which rely on post-strike video analysis and observable damage) is significant. As former US military analysts have testified, drone videos sometimes even have difficulties distinguishing a shovel from a rifle, let alone civilians from combatants (Linebaugh, 2013).

Consequences of underreporting

Underreporting by the Coalition was brought to public attention by local reporting in Iraq and Syria; by the work of Amnesty, Airwars and other NGOs; and by investigative journalism, notably The New York Times piece 'The Uncounted', which concluded that the numbers of estimated civilian deaths as a result of Coalition airstrikes could be as much as seventeen times higher than that reported by the Coalition itself (Khan & Gopal, 2017). Such underreporting of civilian harm, as well as the tendency among belligerents to be slow to account for their behaviour, has political and military implications. Politically, it undermines the effectiveness of parliamentary supervision over military interventions and participation in coalitions if parliaments are not

supplied with accurate information on civilian harm and harm mitigation measures. This is exacerbated by the Coalition's insistence that individual countries participating in the mission are responsible for their own actions and the legal void this creates (Shiel, 2019; Woods, 2016).

In terms of the military, the underreporting of civilian harm as seen in Iraq and Syria is surprising when considering the mistakes of the Afghan war. As early as 2009, NATO itself concluded that the failure to prevent, minimise and mitigate civilian harm in the Afghan war had undermined the military-strategic goals of the International Security Assistance Force (ISAF) mission. The failure to acknowledge publicly but also internally that its own actions were a major cause of insecurity for civilians in Afghanistan, ultimately turned many of those civilians against the mission (Kolenda et al., 2016). Looking at the underreporting of the Coalition in Iraq and Syria, this raises the question of whether lessons earlier identified in Afghanistan were actually learned.

In the six years since the international war against ISIS began, there have been some key improvements in Coalition civilian harm processes. A permanent civilian casualty review team; standardised and improved assessments; and monthly casualty reports have led to the Coalition conceding at least 1,400 civilian deaths from its actions in Iraq and Syria since 2014. However, public estimates of civilian deaths are far higher – based on the experiences of Iraqis and Syrians themselves. Airwars for example estimates that at least 8,300 non-combatants have in fact died in Coalition strikes.

There are also legal and moral questions about the military necessity and proportionality of air and artillery strikes. As we have seen in the brutal battles for Mosul and Raqqa, the

Coalition's stated adherence to international humanitarian law, and the widespread use of precision weapons, were not enough to prevent mass civilian casualties. Meanwhile, scenarios such as the airstrike on IDPs in the Al Badiya school in Al Mansoura have made clear that intelligence-driven strikes can still lead to catastrophic civilian harm. Fundamental questions must be asked about whether the Coalition's approach in Iraq and Syria has represented the most proportionate means of warfighting. Future civilian lives depend upon frank answers.

Images

A satellite image of the Al Badiya school building in Al

Mansoura, Syria. 4 January 2016, before the Coalition airstrike.

© Google (2018)

A satellite image of the Al Badiya school building in Al

Mansoura, Syria. 30 May 2017, after the Coalition airstrike.

© Google (2018)

Bibliography

ABC News (2017, September 26). Syrian Refugees Call on the West to Target ISIS Near the Turkey Syria Border [Video report]. *ABC News.*

Airwars (2017). Airwars assessment CS598 [Blog post]. *Airwars.* Accessed: February 2021.

Alaa, M. (2017, January 23). نزوح عشرات العائلات من ريف الرقة الغربي بسبب إعلانها منطقة عسكر. *Smart News.*

Amnesty International & Airwars (n.d.). *War in Raqqa: Rhetoric vs. Reality* [Webpage]. Amnesty International & Airwars. Accessed: July 2020.

Cumming-Bruce, N. (2017, June 14). U.S.-Led Airstrikes in Syria Killed Hundreds of Civilians, U.N. Panel Says. *The New York Times.*

Drone Wars UK (2018, January). Interview of Air Marshall Bagwell by Chris Cole [Blog post]. *Drone Wars UK.*

Dutch News (2019, November 4). Minister confirms a Dutch bomb led to 70 deaths in Iraq In 2015. *Dutch News.*

Khan, A., & Gopal, A. (2017, November 16). The Uncounted. *The New York Times.*

Kolenda, C. D., Reid, R., Rogers, C., & Retzius, M. (2016). *The Strategic Costs of Civilian Harm: Applying Lessons from Afghanistan to Current and Future Conflicts* [Report]. Open Society Foundations.

Linebaugh, H. (2013, December 29). I worked on the US drone program. The public should know what really goes on. *The Guardian.*

Mahanty, D., Khalfaoui, A., Moorehead, A., & Motaparthy, P. (2020). *In Search of Answers: U.S. Military Investigations and Civilian Harm* [Report]. CIVIC & Columbia University, Columbia Law School Human Rights Institute.

Morris, L., & Sly, L. (2017, March 28). Panic spreads in Iraq, Syria as record numbers of civilians reported killed in U.S. strikes. *Chicago Tribune.*

Oakford, S. (2018a, June 29). After more than a year of denials, Coalition admits killing 40 civilians in controversial strike [Blog post]. *Airwars.*

Oakford, S. (2018b, March 29). Australia admits killing two civilians during battle of Mosul [Blog post]. *Airwars.*

Operation Inherent Resolve (2017, July 7). CJTF-OIR: Monthly Civilian Casualty Report [Blog post]. *Operation Inherent Resolve, Public Affairs.*

Operation Inherent Resolve (2018, June 28). *Combined Joint Task Force – Operation Inherent Resolve: Monthly Civilian Casualty Report* [Report]. Operation Inherent Resolve.

Shiel, A. (2019). *The Sum of All Parts: Reducing Civilian Harm in Multinational Coalition Operations* [Report]. CIVIC.

Solvang, O., & Houry, N. (2017). *All Feasible Precautions? Civilian Casualties in Anti-ISIS Coalition Airstrikes in Syria* [Report]. Human Rights Watch.

Syrian Observatory for Human Rights (2017, March 22). 33 civilian victims are killed in a new massacre committed by the International Coalition's warplanes in Al-Raqqah [Blog post]. *Syrian Observatory for Human Rights.*

UN Human Rights Council (2017, August 14). *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic* (A/HRC/45/31) [Report]. United Nations, Human Rights Council.

US Department of Defense (2017, March 28). Department of Defense Briefing by Gen. Townsend via Telephone from Baghdad, Iraq [Blog post]. *US Government, Department of Defense.*

Woods, C. (2016). *Limited accountability: A transparency audit of the Coalition air war against so-called Islamic State* [Report]. Remote Control & Airwars.

Endnotes

1 The SDF are an alliance of anti-ISIS Kurdish and Arab
forces.

2 The organisation Airwars uses and prefers the term
'belligerent' over perpetrator in its own publication,
but has – for reasons of consistency – agreed to the term
perpetrator here. See the Introduction for our discussion
of adopted terminology,

3 The Dutch government took responsibility for these deaths,
but not before November 2019 (Dutch News, 2019).

4 Airwars has compiled an overview of all the people known
to have died during the bombing. See Airwars (2017) in
the bibliography for the webpage where the names and
additional information about victims can be found.

CASE 10. Forced displacement:

Paramilitary violence against the campesinos of El Toco (Colombia, 1997)

AUTHOR: DANIEL GÓMEZ URIBE

(AMSTERDAM INSTITUTE FOR SOCIAL SCIENCE RESEARCH, UNIVERSITY OF AMSTERDAM)

COUNTRY

Colombia

PERPETRATOR

AUC paramilitaries

ACT

carried out targeted killings and forced abductions in El Toco

OBJECTIVES*

· to force the displacement of El Toco's campesino ('peasant')
   community
· to gain territorial control and repopulate the land with
   supporters or to sell it to large multinational companies
· to punish people who they be perceived as supporters of
   the opponent guerrillas

As far as we have been able to discern; the list may not be exhaustive in this regard

CONSEQUENCES

The death of selected individuals

Long-term internal displacement
       ↳ leading to loss of income and property of the displaced
             ↳ causing long-standing judicial disputes over land ownership

Psychological trauma among survivors

I was anxious because everyone was saying that the paramilitaries were coming. A year went by and nothing happened, until the day they arrived.[1]

Land has been the central element of struggle in Colombia since the nineteenth century, with campesinos finding themselves in the midst of violent confrontations between armed groups that the country has known throughout history. The movement of campesinos – the Spanish term for people engaged in agricultural activities, usually landless but with the aspiration of holding small ownership – into public lands is perceived as a democratic distribution of land and an alternative to latifundia, the keeping of large estates (Kalmanovitz Krauter & López Enciso, 2006). Land occupation allows thousands of campesino families access to land, economic independence, and the opportunity to participate in the agricultural export market. Large landowners and local elites have also occupied public land as a method to obtain property rights (LeGrand, 1986; Zamosc, 1986). Campesinos and landowners have disputed land ownership since the foundation of Colombia as a country in 1810 until today. Land has been the cause and stake of various civil wars, partisan confrontations, and the current implementation of a peace deal between the insurgent Revolutionary Armed Forces of Colombia (FARC) and the Colombian government. The occupation of land is a risky business. The history of settlements in Colombia shows that occupying land does not guarantee property rights: In many instances, the establishment gets campesinos evicted or forcibly displaced.

In the Cesar region in the north of Colombia, rumours about where it would be opportune to settle were the starting point for the creation of campesino communities. In 1991, 27 campesinos occupied El Toco, a rural area in the municipality of San Diego. Federico Centeno, one of the first occupants of El Toco, explains: 'The occupation was something illegal, many were afraid of it. We organised everything and when we started, we could not go back.' The campesinos had to clear the way through the bush, finding snakes and wild animals in the land. They made it to what they believed was the centre of the property and built the first hamlet. Within 5 years, the number of campesinos increased from 28 individuals to 80 households. They divided the area into equal plots and made requests for land grants and ownership legalisation to the Colombian Institute for Agrarian Reform (INCORA). However, their way of living would soon be threatened with the advance of paramilitary groups into the region.

10.1 Case: The forced displacement of El Toco's campesino community[2]

On the night of 22 April 1997, Adelina was sleeping next to her husband Jaime Centeno and their three children when they heard the sounds of soldiers' boots next to their house in El Toco.[3] A group of 30 paramilitaries arrived in El Toco with the order to kill the members of the Community Council and force the other inhabitants to leave their homes. Jaime was one of the members of the Council. He later tells:

It was about eleven o'clock at night. We were sleeping. Somebody knocked on our window.

> *I had a small revolver and got scared. While*
> *I hid, Adelina went to open the door. I went*
> *behind the door to cover myself.*

Adelina got out of bed, waited for Jaime to be in position, and opened the door. Jaime remembers the conversation between the paramilitaries and Adelina:

- *Where is your husband? — asked a paramilitary.*
- *He went out yesterday to Codazzi to buy some food and has not come back — said Adelina.*
- *Is it true that he is not here? — replied the man.*

The armed men stepped into the house and searched every corner. They saw only three children sleeping in the hammocks. Again, they inquired of Adelina the whereabouts of her husband. She insisted he was not there. They asked for some water, asking her to drink it first to check if it was poisoned.

Like a shadow and clinging to his gun, Jaime held his breath behind the door. 'I was very scared; they came here to kill people. I thought I would shoot the first one that discovers me. If they kill me, I will kill at least one too'. Outside, however, Adelina was the one facing the paramilitaries. They told her to accompany them to the centre of the village. One of the paramilitaries closed the door of the house. Jaime did not move; he followed the sounds of the boots. 'I was sure they were going to kill her', he points out. When Adelina and the armed men disappeared in the bush, Jaime left the house and headed to Augustín Codazzi, the closest municipality.

Adelina remembers that she was barefoot and that she had no fear. She showed them the location of the centre of the village, where the school and the local shop were located. 'They told me to go back to the house. At that moment, I got very scared because feeling them in my back made me nervous. But that was not my day, they did not shoot me', says Adelina.

The paramilitary squad commanded by Juan Andrés Álvarez (alias Daniel) and Francisco Gaviria (alias Mario) was not improvising in El Toco. As was the case in other campesino communities in Cesar, the armed men already had a list with the names of the community leaders. Gaviria, now a convicted ex-combatant, explained in court that they planned to get the people out of their houses, kill the leaders in front of the villagers, and then force them to abandon the land or face death. When they arrived at the centre of the community property, Gaviria realised that they had only captured one of the five people who were on the list to be killed:

> *That order was given by Jorge 40 [the*
> *commander of the AUC paramilitary]. He*
> *gave us a list of about five people. In El*
> *Toco, we took the people out of the houses*
> *and gathered them together in a little court*
> *that was there. [...] We told them: we need you*
> *to leave the area, that was the order, that*
> *the area had to be cleared. I took one of the*
> *persons we captured, and then Daniel told*
> *me on the radio: Mario, do what you have to*
> *do. That was when I took my gun to shoot the*
> *victim. (Office of the Attorney General of*
> *Colombia, 2011)*

Gaviria murdered Javier Contreras, secretary of El Toco's Community Council, and Fernando López, the son of the president of the Council who was absent from the territory. Most of El Toco's campesinos abandoned the land on that day. Those who remained would leave a month later, when the paramilitaries entered the neighbouring village of Los Brasiles and killed eight campesinos, including five members of the El Toco community. That triggered the definitive displacement of the 80 households that composed the community. Pedro, a campesino of El Toco, notes: '[W]hen I saw those killings, I decided that it was better to leave, and we left.'

Six years after its initial formation in 1991, the El Toco community was thus forcibly displaced and dispossessed of its land. Along with the campesinos of El Toco, many other communities were displaced during the paramilitary era in the Cesar region. Between 1997 and 2003, more than 57,000 people abandoned their homes, 3,100 were killed, and 374 were kidnapped in the area covered by the 6 central municipalities of the mining corridor of Cesar: La Jagua de Ibirico, El Paso, Becerril, Agustín Codazzi, San Diego and Chiriguaná (Moor & Van de Sandt, 2014).

10.2 Perpetrators: 'Everything that happened was for the land and the coal'

As described, violence has been present for most of Colombia's history, often driven by inequality and access to land. The intensity of violence increased in a period between 1948 and 1964, known as La Violencia ('Violence'). The two traditional political parties, the Liberals and Conservatives, engaged in a violent confrontation that caused the death of 200,000 people and forced displacement of more than 2 million people (Oquist, 1980). The struggle for land degenerated into a civil war from the 1960s onwards when insurgent groups including the FARC and the National Liberation Army (ELN) emerged with a communist agenda and the aim to take power. The Colombian government tried unsuccessfully to challenge the rebels. Locally, tensions escalated between large landowners and insurgents as a consequence of extortion and kidnapping of landowners' family members. These tensions turned into violent disputes at the beginning of the 1980s with the creation of self-defence groups in rural areas that originally aimed to protect land property and challenge the rebel groups. The self-defence groups are known as paramilitary groups, which established a

national confederation called the United Self-Defence Forces of Colombia (AUC).[4]

While the paramilitaries emerged as self-defence groups aiming to protect land property, over time, they evolved from landowners' self-defence movements to regional organisations fighting for territorial control, production and transit of narcotics, and land dispossession. They switched from defensive to offensive strategies in the mid-1990s (Reyes Posada & Duica Amaja, 2009; Safford & Palacios, 2002).

One of the key elements that facilitated the rapid and strong expansion of paramilitary groups in Colombia was their tolerance by, and in some cases alliances with, local political elites and state forces (Gutiérrez Sanín & Barón, 2005). The emergent paramilitaries operated with clandestine cooperation from state forces against the guerrilla groups. This alignment manifested itself in alliances between the military and paramilitary squads, and between landlords and local politicians (Gutiérrez Sanín, 2003). Paramilitaries targeted campesino communities which emerged after the occupation of land. By targeting and displacing sectors of the rural population in Cesar, and in other regions of Colombia, paramilitaries gained control of the territory, appropriated and repopulated large areas of land, and implemented large-scale economic projects in association with private and public agents (Grajales, 2011; Salinas & Zamara, 2012; Vélez-Torres, 2014).

Insurgent groups in Cesar

While the campesinos of El Toco and other campesinos in Cesar established rural communities during the 1980s and the first half of the 1990s, the insurgent FARC and ELN were conquering the plains and mountainous areas of the region. In the context of civil wars, insurgent groups rely on civilian cooperation for their subsistence (Kalyvas, 2006; Gutiérrez

Sanín, 2008). Civilians, who in the case of rural areas of Colombia are mostly campesinos and large landowners, are a source of information, shelter, food, finances, and recruitment for rebels. Insurgents base their combat strategies on 'hit and hide' methods. They target military units or infrastructure and hide among the civilian population. Campesinos are therefore a key resource for insurgents and gaining their cooperation is one of their main objectives (Kalyvas, 2006). The guerrilla wars are characterised by problems of distinction, where state forces struggle to differentiate between campesinos and combatants.

In Cesar and other regions of Colombia, insurgents dominate local markets and the production of drugs, and create forms of governance over civilian populations (Arjona, 2016). They are also responsible for the killing and forced displacement of thousands of civilians, although to a much lesser degree than paramilitaries. The relationship between the insurgent FARC and the campesinos in Cesar is one of ruler and ruled, as one campesino of El Toco points out:

> The guerrillas are in the mountains, we as campesinos are on our plots. But they come to our house with weapons. We have to show hospitality to those who arrived if we want to save our skin, we have to remain silent.

The FARC's Front 41 was in charge of establishing networks with local campesinos in Cesar. In the first stage, insurgents organised meetings in rural hamlets and villages to explain their presence to rural civilians. A campesino present in one of those meetings remembers:

> The guerrillas told us that their objective was to fight for justice in Colombia. There was a lot of difference between some who had a lot and others who did not. The idea was that we should all have the same. The

> land had to be distributed among the campesinos to be able to work.

The FARC attempted to gain civilian cooperation in Cesar and other Caribbean regions by supporting land occupation (Jaccard & Molinares, 2016; Pérez, 2010). In several instances, the FARC infiltrated ongoing land occupation processes, and some campesino communities obtained property rights. Subsequently, the occupation of land during the period of paramilitary violence in Cesar became a source of information and identification for collective targeting by paramilitary groups, which concerns 'violence or threatened violence against members of a group because of membership in that group' (Steele, 2017, p. 25). Membership in a particular local group, such as campesinos, can be associated (by an armed group) with a particular political loyalty, for instance to the rival group, thereby branding the group and putting civilians at risk of being targeted.

Paramilitary groups in Cesar

The first paramilitary group in Cesar arrived in 1996. It was composed of 26 men who established a base in the rural area of the municipality of Augstín Codazzi. They conducted the 'wasp operation', where groups of ten men moved around the territory with specific military objectives, aiming to generate the perception among inhabitants of rural areas and insurgents that the paramilitaries were everywhere (Verdad Abierta, 2017).

A combination of different factors explains why the paramilitary groups targeted, killed, and displaced campesinos in this region. One is related to the presence of insurgent groups and their interaction with campesinos. The FARC and ELN controlled different areas of the Cesar region between 1985 and 1996. Campesino communities in Cesar occupied public land to obtain property rights. Insurgent groups had a strong agrarian reform agenda and supported

land occupations by landless campesinos. El Toco, like hundreds of other communities, emerged through the occupation of land in areas controlled by insurgent groups. When the paramilitary groups arrived in Cesar, they targeted these campesino communities for being suspected collaborators of the rebels. The former paramilitary Francisco Gaviria narrated in court the reasons for entering El Toco and displacing the community:

> *The people we killed there, according to Jorge 40, the information he gave us, was that they were the arm of the guerrillas, that they were guerrillas, the militias. (Office of the Attorney General of Colombia, 2011)*

Another factor explaining why paramilitaries targeted campesinos in Cesar concerns the expansion of large-scale coal extraction in the region. During the 1990s, Colombia became one of the world's leading exporters of coal. The Cesar region produces about 50 per cent of Colombian coal, almost all of which is exported, mostly to Europe (Moor & Van de Sandt, 2014). According to Colombia's National Centre for Historical Memory, large landowners established alliances with paramilitary groups to forcibly appropriate, or 'grab', land from campesinos and then sell it to large multinational coal companies (Jaccard & Molinares, 2016).

A third factor concerns the alliances between paramilitary groups and large landowners in Cesar in the fight against insurgents. During the insurgent period in the region, landlords paid taxes to the rebels and many of them were kidnapped as a method of extortion. As in other regions in Colombia, landowners created associations with private armies to fight insurgents. Alliances between paramilitary groups and landowners led to the displacement of campesino communities and land dispossession (Gómez, 2018; Jaccard &

Molinares, 2016). Alcides Mattos, a paramilitary ex-combatant, explains that the initial task of paramilitaries was to provide security to landowners: 'Our objective was to terminate those who were attacking landowners and businessmen. They paid us for security' (Verdad Abierta, 2010). However, Mattos also indicates that the outcome was to target the communities to obtain the land: 'You realise that everything that happened was for the land and the coal. There was a lot of money there' (Verdad Abierta, 2010).

After 1996, the FARC withdrew from the plains of Cesar while the number of paramilitary squads increased. The armed men killed rural community leaders to spread fear, and forced entire communities to leave their homes. In 1997, a local newspaper reported:

> *As if they owned the place, the private armed groups move from one place to another in Cesar, assaulting campesino villages or setting up roadblocks on the roads, and with a list in hand, they force defenceless citizens to descend from their vehicles or to get out of their homes and mercilessly kill them in public in front of everyone, or kill them on any road after being tortured and savagely humiliated. (El Diario Vallenato, 1997, p. 2)*

10.3 Victims: The loss of homes and land

The Colombian civil war has been harmful and damaging, especially to the rural population. An estimate by the governments' Victims Assistance Unit indicates that between 1985 and 2019, the violent conflict resulted in more than 8 million forcibly displaced people, more than 150,000 selective killings, 11,000 massacres, 30,000 kidnappings and nearly 25,000 forced disappearances (Victims Assistance Unit, 2020).

Marcela remembers that the day when the paramilitaries arrived in El Toco, the campesinos started to collect their things and to assess where to go:

> I got nervous, we picked up the roof of the house [tin roof] and left. When I came out, I saw cars packed with stuff. I started crying. I was leaving in one of those trucks. I cannot get rid of that image of the cars carrying things and people on the road. That was very shocking.

In Cesar, hundreds of campesinos left their homes and joined the over eight million people in Colombia who are internally displaced as a result of the armed conflict. Campesinos of El Toco fled to other regions of the country. Adelina was one of them, and migrated to the southern city of Neiva, eighteen hours by car from El Toco: 'There were many misfortunes that I suffered from this displacement. At first, I felt like everyone else, but then I went through a lot of humiliation. Things got darker and darker', she explains.

Pedro migrated to the city of Valledupar, three hours by car from El Toco. Pedro was in his house in El Toco when he heard shots. He got scared. He walked to the place where the noise was coming from and found his family alive. On that day, Pedro, his wife and their children left the property:

> I left many apple trees in the plot, in 1997, when it was our turn to leave. We left without looking back because it was painful. How much I took care of my trees [...] I left the hamlet and the watermelon crop, and I really like that fruit. The watermelon was green, and we had to leave it like that.

In 1996, campesinos of El Toco already had a local school on their land and produced milk,

watermelon, and plantain among other crops. The INCORA was in the process of legalising the occupation of land and providing land titles. Yet, in April 1997, the paramilitaries arrived in the land, killed the community leaders and forced campesinos to leave their homes. Campesinos of El Toco had to start a new life separated from their community. Between 1996 and 2005, the Caribbean Block of the paramilitary AUC controlled the sixteen square kilometres of El Toco, the region of Cesar and several other provinces of Colombia. Campesinos of El Toco did not have any other option but to settle somewhere else and wait. Fear and pressure by paramilitaries forced campesinos not only to flee their homes but also to sell their land possession or property (Gómez, 2018). An estimate indicates that between 1996 and 2003, paramilitaries dispossessed more than 500 campesino families over 180 square kilometres in the mining corridor of Cesar (Bernal, 2004). Some of the areas were occupied by paramilitary-loyal new settlers and large portions of land were purchased by multinational coal companies (El Tiempo, 2018; Jaccard & Molinares, 2016; Moor & Van de Sandt, 2014; Verdad Abierta, 2018).

The paramilitary AUC was demobilised between 2003 and 2006 under the administration of Álvaro Uribe. In 2006, 600 paramilitaries of the Juan Andrés Alvaréz Front demobilised in the Cesar mining region following a deal with the Colombian government. The campesinos displaced during paramilitary control attempted to return to the land, only to find new occupants. In 2011, the Colombian government implemented the Victims and Land Restitution Law (Law 1448), which seeks to return the land to campesinos who were dispossessed during the armed conflict. Between 2011 and 2016, the Land Restitution Unit received more than 100,000 restitution requests nation-wide (Land Restitution Unit [URT], 2016). Cesar is the region with the second-largest number of

restitution requests after Antioquia, with more than 7,000 cases (URT, 2016). Today, Cesar is the site of judicial disputes between campesinos for access to and ownership of land which was dispossessed during the period of paramilitary control (Gómez, 2018).

10.4 Significance: Civilian harm in the struggle for land

The case of the campesinos of El Toco is one of many in which paramilitary groups dispossessed campesinos of their land for strategic and economic purposes. The former director of the State Office for Land Restitution (Land Restitution Unit) in Cesar, Jorge Chávez, indicates that: 'In Cesar, large landowners ended up appropriating public land that was intended to be given to campesinos.' Land disputes remain the central point of contention in Cesar and for the campesinos of El Toco. Land occupation was the driver of community formation but the communities are also a target for forced displacement. In the context of land occupation and membership of campesino communities, displacement of civilians is one of the strategic methods used by paramilitary groups to conquer territories and obtain land.

Currently, displaced civilian communities attempt to return to the land from which they were expelled. The intention of the displaced communities is not only to acquire property rights over the land they once occupied, but to re-establish the community ties which were broken with the arrival of the paramilitaries in 1997.

Already in 2008, the campesinos of El Toco created the Community Association of Campesinos of El Toco (Asocomparto), with the intention to initiate institutional and

judicial processes to get the land back. In this way, the campesinos could collectively pursue land restitution through the formation of associations, instead of going through these complex processes individually. In addition, Asocomparto was able to create new relationships with groups of lawyers, human rights organisations and non-governmental organisations. Other campesino Community Councils in Cesar, representing forcibly displaced communities, have joined Asocomparto, creating the Cesar Campesino Assembly for Land Restitution and Good Living. However, successful land restitution has proven difficult, and is hindered by laws that complicate collective restitution; thousands of families from the Cesar region are fighting to this day for the return of their communities.

Understanding how paramilitaries harm rural civilians and the violent methods used to produce their displacement is relevant in order to better anticipate when and where rural communities become a target. It also helps to uncover how land disputes lead to prolonged and frequent targeting of rural communities living on the crossroads of civil war. Building peace in Colombia requires further reflection upon how campesinos are strategically used by armed groups – but also how they can develop resilience, organisation, and paths to reconciliation.

Images

A fisherman at work. In the background, Santa Marta's coal terminal from where coal is loaded onto cargo ships to make its way to ports around the world.
© Daniel Maissan for PAX (2015)

On the left, a member of the El Toco community who was
murdered by paramilitary forces in April 1997, the same
month this photo was shot.
© Daniel Gómez Uribe

<u>Bibliography</u>

Arjona, A. (2016). *Rebelocracy*: Social order in the Colombian civil war. Cambridge University Press.

Bernal, F. (2004). Crisis algodonera y violencia en el departamento del Cesa [Report]. Cuaderno PNUD-MPS.

El Diario Vallenato (1997, July 11). Las listas negras. *El Diario Vallenato.*

El Tiempo (2018, August 31). La mina del comandante 'barbie'. *El Tiempo.*

Gómez, D. (2018). *Los años del retorno: Violencia, desplazamiento forzado y organización campesina en la comunidad de El Toco en el Cesar* [Report]. PAX.

Grajales, J. (2011). The rifle and the title: Paramilitary violence, land grab and land control in Colombia. *The Journal of Peasant Studies*, 38(4), 771-792.

Gutiérrez Sanín, F. (2003). *Heating up and cooling down: Armed agencies, civilians, and the oligopoly of violence in the Colombian war* [Workshop paper]. Santa Fe Institute.

Gutiérrez Sanín, F. (2008). Telling the difference: Guerrillas and paramilitaries in the Colombian war. *Politics & Society, 36*(1), 3-34.

Gutiérrez Sanín, F., & Barón, M. (2005). *Re-stating the state: Paramilitary territorial control and political order in Colombia (1978-2004)* [Working paper series 1(66)]. London School of Economics, Crisis States Research Centre.

Jaccard, N., & Molinares, C. (2016). *La maldita tierra. guerrilla, paramilitares, mineras y conflicto armado en el departamento de Cesar* [Report]. Centro Nacional de Memoria Histórica.

Kalmanovitz Krauter, S., & López Enciso, E. (2006). *La agricultura colombiana en el siglo XX* [Report]. Banco de la República.

Kalyvas, S. N. (2006). *The logic of violence in civil war.* Cambridge University Press.

Land Restitution Unit (2016). Informe de gestión 2016. *Government of Colombia, Land Restitution Unit.*

LeGrand, C. C. (1986). *Frontier expansion and peasant protest in Colombia, 1850-1936.* University of New Mexico Press.

Moor, M., & Van de Sandt, J. J. (2014). *The dark side of coal: Paramilitary violence in the mining region of Cesar, Colombia* [Report]. PAX.

Office of the Attorney General of Colombia (2011). *Hearing Francisco Gaviria, aka "Mario"*, on 15 March 2011. Unidad Nacional para la Justicia y la Paz.

Oquist, P. H. (1980). *Violence, conflict, and politics in Colombia.* Academic Press.

Pérez, J. M. (2010). *Luchas campesinas y reforma agraria: Memorias de un dirigente de la ANUC en la costa caribe.* Puntoaparte Editores.

Reyes Posada, A., & Duica Amaja, L. (2009). *Guerreros y campesinos: El despojo de la tierra en Colombia.* Grupo Editorial Norma.

Safford, F. R., & Palacios, M. (2002). *Colombia: Fragmented land, divided society.* Oxford University Press.

Salinas, Y., & Zamara, J. M. (2012). *Justicia y paz: Tierras y territorios en las versiones de los paramilitares* [Report]. Centro de Memoria Histórica.

Steele, A. (2017). *Democracy and displacement in Colombia's civil war.* Cornell University Press.

Vélez-Torres, I. (2014). Governmental extractivism in Colombia: Legislation, securitization and the local settings of mining control. *Political Geography, 38, 68-78.*

Verdad Abierta (2010). Entrevista a Alcides Mattos (alias 'El Samario') [YouTube video]. Verdad Abierta.

Verdad Abierta. (2017). Hugues Rodríguez, ¿el eslabón perdido del paramilitarismo en el Cesar? *Verdad Abierta.*

Verdad Abierta (2018, October 2). La larga espera de los reclamantes de el caimán. *Verdad Abierta.*

Victims Assistance Unit (2017). *Registro único de víctimas* [Fact sheet]. Government of Colombia, Victims Assistance Unit.

Victims Assistance Unit (2020). *Registro único de víctimas* [Fact sheet]. Government of Colombia, Victims Assistance Unit.

Zamosc, L. (1986). *The agrarian question and the peasant movement in Colombia: Struggles of the national peasant association, 1967-1981.* Cambridge University Press.

Endnotes

1 All interviews were conducted in Spanish by the author
   during fieldwork between 2016 and 2019, unless
   indicated otherwise.

2 PAX does a lot of work in Colombia relating to forced
   displacement, post-conflict resolution, and exploring the
   relationships between mineral exploitation and violence.
   For more information, see the PAX website.

3 Pseudonyms are assigned to interviewees to protect their
   identity. Pseudonyms are indicated by attribution to
   stand-alone first names. Those who appear with both
   first and last names provided their testimonies in public
   hearings and their names have not been changed.

4 Between 2003 and 2006, 31,000 paramilitary combatants
   demobilised under the Peace and Justice Law. In 2017,
   more than 6,000 individuals demobilised after a peace
   deal between the insurgent FARC and the Colombian
   government.

CASE 11.
Suicide bombing:

Bringing fear and
destruction to Kabul
(Afghanistan, 2015)

AUTHOR: SABA AZEEM (PAX)

COUNTRY

Afghanistan
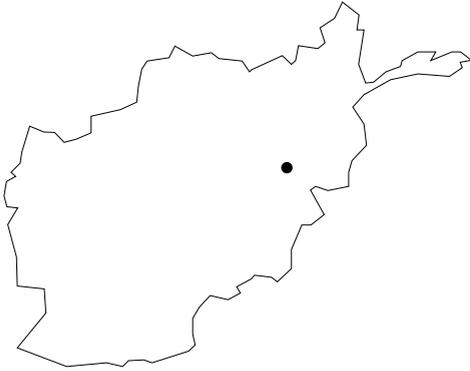
PERPETRATOR

The Taliban

ACT

carried out a series of suicide bombings in Kabul

OBJECTIVES*

- to target and harm particular institutions like NATO, ISAF, the Afghan MoD and MoI, and the ANSF
- to rid the country of 'foreign presence'
- to terrorise pro-government civilians
- to undermine trust in the national authorities
- to get attention
- to display strength and resilience, while showing the Afghan government's inability to protect its civilians

* As far as we have been able to discern; the list may not be exhaustive in this regard

CONSEQUENCES

Many deaths and injuries upon impact of the explosives
 ↳ leading to the social stigmatisation of people with amputated limbs
  ↳ as well as loss of income (because of disability or the loss of family members)

Damage to infrastructure upon impact of the explosives
 ↳ leading to loss of livelihood when shops and offices are destroyed

Psychological trauma among survivors

Fear among civilians

The rich and diverse history of Kabul, located on the old silk route, is often overshadowed by the turbulent times Afghanistan has seen, especially over the last four decades: from the Russian invasion in 1978, to a civil war between warlords which began in 1989, to the infamous Taliban rule from 1996, and finally the aftermath of 11 September 2001. In 2015, Afghanistan was marred with uncertainties looming about the NATO troop withdrawal, the Bilateral Security Agreement with the US, the political transition in the previous year taking over five months to form a coalition government which for the first time in history appointed a Chief Executive, and the internal displacement which had become a constant as a result of protracted insecurity. While the population was hopeful with the election of President Ashraf Ghani and his hard stance on corruption and eloquence with Western diplomats, the Taliban's siege of the northern city of Kunduz made people start to lose confidence again.

Despite the Taliban's annual 'spring offensive' starting in March, the terrorist group still met with Afghan government representatives in May and July 2015 to negotiate a peace deal, while claiming to continue their battle until the country gets rid of foreign presence. In July, the Taliban announced the death of their leader Mullah Omar several years before, and the rise of Mullah Mansoor in his place. Suffering from decades of war, and despite tensions rife in the country, Afghans were going on with their lives.

11.1 Case: 7 August, the deadliest day in Kabul in 2015

Act one: Generally, an explosion in one part of the city would not affect the other part; there were just too many on a daily basis to keep track of. However, the truck bomb that exploded on 7 August 2015 at 1.14 a.m. in the heavily populated District 8 Shah Shaheed neighbourhood, close to an installation of the Afghan National Security Forces (ANSF), brought the city to a standstill.[1] It levelled an entire strip of shops and dozens of homes and businesses, causing damage and injuries across a one kilometre radius. The explosion destroyed the boundary wall of the base, although no military casualties were officially reported. The blast caused a massive crater, approximately ten metres deep, and its shock waves shattered windows and set off car alarms over a five kilometre radius. Initial reports stated that the explosion claimed 15 lives, and injured an estimated 240 civilians, including 33 children (Latifi, 2015; Al Jazeera, 2015). Many of the civilians were wounded as a result of flying debris and shattered glass. About 35 to 40 people were injured badly enough that they would remain hospitalised for several days. Several dead bodies were too wounded to immediately identify. According to the spokesperson for Kabul hospitals, all casualties as a result of this truck bomb were civilians (Rasmussen, 2015).

In a Los Angeles Times report, 45-year-old Salahuddin, a shop owner in the district, describes the panic and chaos everywhere in a plume of smoke, bitumen and blackened concrete blast walls. 'Everywhere you turned, there was someone else who was hurt; there was blood everywhere.' Salahuddin said that three members of his own staff (two of whom in their late teens), who had been sleeping in a back room of the store, were among the injured.

'All three of them were trapped underneath the rubble, the room was filled with smoke and debris. I have no idea how they made it out, it was nothing short of a miracle' (Latifi, 2015). While driving them to the hospital, Salahuddin picked up more injured. He claims that by the end of the night, he had taken anywhere between 30 and 40 people to Ibn e Sina Hospital. Allegedly, the hospital soon began to turn away patients since they could attend no more, and reports emerged of blood shortages in hospitals.

Following this attack, the Afghan National Police (ANP), the Afghan National Army (ANA) and the coalition forces marked the security level of Kabul 'high'.

Act two: Some hours later another attack took place. Four suicide attackers dressed in police uniforms tried to enter the Kabul police academy shortly before 8.00 p.m., as cadets were returning from their weekend. One of the suicide bombers managed to get in line to enter the academy and detonated himself in an attempt to breach the wall. While the other 3 suicide bombers were quickly discovered and killed by security forces, the bomb that did detonate claimed the lives of 28 civilians and injured another 29 persons, all aspiring police cadets in their late teens and early twenties (Clark, 2015). Heavily-armed security officials cordoned off the area and ambulances with wailing sirens were seen rushing to the scene. The academy is a premier training institution for police forces in Afghanistan, with between 2,000 and 3,000 cadets graduating every year. Jan Muhammad, 52, lost his 19-year-old nephew, Irshad, in the attack.[2] He recalled everyone asking Irshad why he had chosen to join the police at such dangerous times; many relatives and family members even calling him crazy when he enrolled in the academy. But Irshad was resolute, saying he wanted to defend his country. Irshad, like many others,

who knew only conflict and hard times since they day they were born, were barely educated. Wearing a police uniform gave them respect from their society, and also paid relatively well (approximately USD 300 per month) in times where unemployment and poverty levels remained high.

Act three: A third large explosion went off late at night as insurgents carried out an attack in the Qasaba neighbourhood, north of the international airport. The NATO-led coalition forces confirmed that one international service member and eight Afghan contractors had been killed in the attack on Camp Integrity, a base used by the US special forces. The death at Camp Integrity was the fifth of an international service member in Afghanistan in 2015 (Rasmussen, 2015). Camp Integrity is run by US security contractor Academi, which was known as Blackwater before being sold to investors.

Fighting continued into the early morning hours of Saturday; bullets, hand grenades and choppers could be heard from miles away. The blast outside the base was powerful enough to flatten offices inside, wounding occupants who were airlifted by helicopter to military hospitals during the night. 'There was a big explosion at the gate … [the gunfire] sounded like it came from two different sides,' said a special forces member who got wounded when his office collapsed. The initial blast caused by a suicide car bomb at the gate was followed by other explosions and a firefight that lasted a couple of hours, he said (Harooni & Donati, 2015).

11.2 Victims: Impact takes its 'toll for a lifetime'

While the first truck bomb exploded outside an ANSF base, the exact purpose remains unclear, as the timing of the attack was unusual, but it was certain that the truck would cause massive

civilian casualties. It was detonated in a market place with residences above shops in apartment buildings. According to a security source speaking to The Guardian, the US military frequently visits the Afghan army base in Shah Shaheed, which also contains a facility housing several high-level detainees (Rasmussen, 2015). Shah Shaheed is a densely populated, rundown, civilian middle-class neighbourhood, with no major foreign presence near it. Neither the Taliban, nor any other terrorist outfit operating in the country claimed responsibility for this attack. Months later, an Afghan newspaper followed up on the victims and stated that the blast had claimed 32 lives and injured 400 persons. The number of injured was so high because many people got trapped in the debris of their collapsed houses (Bashardost, 2015). This stands in sharp contrast to the victims of the third attack on Camp Integrity, who were quickly airlifted by helicopter to receive medical attention (Harooni & Donati, 2015).

Beyond its direct impact, the explosion affected the way people live and earn. Mohammad Shah, who owns a kebab restaurant, said he had no choice but to continue working even though all the glass on the front of the restaurant was shattered. The level of poverty does not allow people like Shah to take a single day off in order to be able to feed their families. He claimed it would take him about 40,000 Afghanis or approximately USD 645 to rebuild his restaurant – a year's worth of savings. Pajhwok news, an Afghan news outlet, went to Shah Shaheed sixteen months after the devastating day, and reported that while some of the affected victims received cash aid from the government, the government did not take any initiatives towards reconstructing the damaged infrastructure (Bashardost, 2016). A year later, families would still suffer from the memories of that fateful night. Faridullah, a 45-year-old man, explained that his daughters aged 12 and 16

continued to suffer from post-traumatic stress as a result of the explosion. They often wake up in the middle of the night feeling frightened, crying with fear. Faridullah said he has taken them to numerous doctors to no avail.

The second attack represents a classic Taliban tactic: targeting the ANSF, in this case through an attack on the police academy, targeting younger cadets still in their training. Afghan security forces regularly foil similar attacks, according to official spokespersons, but with explosives easily available and bomb-making skills common, it is difficult to prevent all of them. The Taliban also claimed responsibility for this attack.

The third attack from the day targeted foreign troops, also one of Taliban's usual targets. While still wanting an Islamic state in Afghanistan, the Taliban only want to come to the negotiating table once Afghanistan gets rid of 'foreign presence'. Hence, they routinely target foreign troops and military/security contractors, as well as the ANSF, and vehicles from the Ministries of the Interior (MoI) and Defence (MoD). However, it is local Afghans guarding the buildings and compounds of international forces and security contractors, and Afghan ministries who are on the front lines, and often become direct casualties of such attacks. Attackers also use sticky bombs and Improvised Explosive Devices (IEDs) on MoD and MoI vehicles, resulting in mass casualties. Again, casualties mainly include low-level employees and by-standers, and not the high-ranking officials and policy makers that the perpetrators aim for.Furthermore, as seen in the case of the attacks targeting police cadets, it is usually the ANA and ANP that are more adversely affected as compared to the International Security Assistance Force (ISAF) who are better equipped. An analysis by the Brookings Institute showed that while ISAF fatalities were 3,482 in Afghanistan in 13 years between January 2001 and October 2014,

the fatalities suffered by the ANSF in just 10 months between January 2014 and October 2014 were a staggering 4,634 (Council on Foreign Relations, n.d.).

Incidentally, the attacks happened shortly after the UN reported record high civilian casualties in Afghanistan in the first six months of 2015. Unfortunately, these records have since been broken in 2018 and 2019. The 2015 UN report furthermore stated that women and children constitute a growing percentage of the victims (UN Office of the High Commissioner for Human Rights, 2015). According to the UN's human rights office, insurgents were responsible for 70 per cent of civilian casualties, with more than half that number caused by suicide bombings. Similar patterns of violence, where civilians bear the brunt of the casualties, have been observed in Afghanistan since the fateful day described above. The number of incidents recorded in 2019 (822) was the highest since non-governmental organisation Action on Armed Violence began recording such data in 2011. This rise was part of a continued surge in violence seen in the country over the last few years. In 2018, this had been attributed to an increasing Islamic State of Khorasan Province (ISKP) presence, an affiliate of the Islamic State of Iraq and Syria (ISIS). Incidents in 2019, however, were again as a result of a notable rise in Taliban violence (Action on Armed Violence [AOAV], 2020).

Afghanistan consistently remains one of the countries most impacted by explosive violence. Since 2014, civilian casualties in the country have been consistently over the 10,000 mark (United Nations Assistance Mission in Afghanistan [UNAMA], 2019). Between 2011 and 2019, Afghanistan recorded 42,834 casualties (deaths and injuries) from explosive violence, out of which 58 per cent were civilians. Every time an explosive device is used in populated areas in the country, 83 per cent of the

casualties on average are civilians, thereby showing evidence of the disproportionate effects on civilians (AOAV, n.d.). This upward trend of civilian casualties seems a result of a significant increase in explosive violence – suicide bombings and the use of IEDs – by armed opposition groups (UNAMA, 2019).

While there exists data on civilian casualties, it is difficult to calculate the negative reverberating effects that civilians have had to face as a result of these attacks. For instance, in cases where the primary breadwinner had been killed in such an attack, the economic burden of the family increases; this is even more protracted in countries like Afghanistan where unemployment rates are high, the average household also includes the extended family (such as old parents or young, unmarried siblings), and women participation in the workforce is minimal and culturally frowned upon. Moreover, assets such as buildings, shops, houses and vehicles are typically not insured in Afghanistan, and in case they are, insurance does not cover damage from terrorist acts. This also results in significant economic burdens on families, who have often invested their life-long savings in their businesses or houses, as was reported in the cases above. The government at times does announce severance packages, but they are minimal, cannot compensate for what is lost, and in some cases, those affected do not see any payments as these announcements are merely ceremonial, as also reported above (Bashardost, 2016). Many injured people are unable to pay for medical fees or prosthetics in case of amputations. While some non-governmental organisations are assisting victims with prosthetics, the rehabilitation, social stigma and loss of livelihoods take their toll for a lifetime.[3]

During his fieldwork in Gardez, Afghanistan, an old turbaned leader remarked to Dr. Brian Glyn Williams, an Associate Professor of Islamic History at the University of Massachusetts-Dartmouth,

> *How could this evil have come to us? What sort of humans blow themselves up among people trying to go about their lives? We never had these things before. Not even when the Soviets occupied our lands. What are these killers trying to achieve?* (Williams, 2008, p. 27)

Other villagers, also victimised by Taliban suicide bombings called them 'bad Muslims who prevent Islam', and 'enemies of Afghanistan'.

11.3 Perpetrators: Undermining trust in the authorities

The bombing in Shah Shaheed was only the start of the deadliest 24 hours in Kabul in 2015. These attacks came after a two-month lull in major terrorist strikes, during which it was finally disclosed that the notorious Taliban leader, Mullah Mohammad Omar, had actually died in Pakistan back in 2013. Many analysts suggested that these attacks were evidence that the insurgent elements were trying to prove that they were still capable of launching deadly attacks. President Ghani suggested that the Taliban were seeking to divert attention away from its leadership struggles, amid rumours of the insurgent group fragmenting after Mullah Akhtar Mansour was announced as its new head. In a message posted on his Twitter account, the Taliban spokesman Zabihullah Mujahid claimed responsibility for the attack on the Police Academy and also the Camp Integrity attack, but refused to comment on the early morning truck bomb in Shah Shaheed (Shakib & Nordland, 2015; Harooni & Donati, 2015). Whatever the motive, civilians bear the brunt of such conflicts.

Taliban: According to the Office of the Director of National Intelligence, the Taliban are responsible for most insurgent attacks in Afghanistan,

which follow an established pattern of regular low-level ambush and hit-and-run attacks, coupled with periodic high-profile attacks. The Taliban have been moving aggressively in many parts of the country, evidenced by the fact that suicide and complex attacks increased by 78 per cent countrywide in the first 6 months of 2015 compared to the same period in 2014. The Taliban between 7 and 10 August 2015 conducted a series of attacks in quick succession in Kabul that resulted in at least 60 deaths, marking the deadliest stretch in the capital since the US-led invasion in 2001 (Office of the Director of National Intelligence, n.d.).

Suicide attacks have long been part of the movement's urban warfare strategy. Often, these attacks include an attack on a compound, which starts with a suicide blast at the gate, and once the gate has been penetrated, the rest storm into the building for prolonged battles that can last for hours. As military operations against the Taliban escalated over 2017, so too did suicide attacks: 2017 saw a 50 per cent increase in the number of such attacks compared to 2016, according to the Taliban's own records. As the movement faced further pressure since 2018, the pace of spectacular attacks and urban warfare also continued as pressure on the battlefield is unlikely to radically undermine insurgents' ability to stage them (Osman, 2018).

What matters for the Taliban is being able to impose costs on the Afghan government. Temporarily holding cities – like it did with Ghazni in 2018 – or overrunning isolated military outposts demonstrates the Taliban's resilience and the Afghan government's inability to protect its citizens (Lyall, 2018). Speaking on the suicide attacks in Kabul in 2018, the Taliban's spokesman Zabihullah Mujahid stated that the Taliban 'has a clear message for Trump and his hand kissers that if you go ahead with a policy of aggression and speak from the barrel of a gun, don't expect

Afghans to grow flowers in response' (Walizada, 2018). By turning Kabul into a battlefield, insurgents gain wider attention, shake public confidence in the national government, while showing their continued ability to strike hard (Osman, 2018).

The Trump administration's strategy of violence management sought to protect Afghan urban areas at the expense of the more thinly populated countryside. This defensive crouch, however, ceded initiative to the Taliban while also offering up political gains by allowing large swaths of previously defended territory to fall under Taliban sway. Moreover, Taliban governance typically precedes the capture of territory. Taliban had been slowly squeezing Ghazni city for at least eighteen months before the attack, isolating its economy and garrisons. Even if the Taliban cannot capture and hold cities, the US may find itself defending shrinking urban islands as Taliban floodwaters rise around them (Lyall, 2018). This shows that civilians start bearing the brunt of such insurgencies in the form of fear, coercion, loss of livelihoods, at times even displacement, long before perpetrators like the Taliban even physically attack them, and long before civilian casualties are recorded in official databases. The Taliban have historically always enjoyed more support in the sparsely populated rural areas, since they were the only security providers there. This also shows that in such locations, civilians rarely have a choice since the government does not adequately provide them with the basic protection which is their right as citizens. In many cases these citizens are then seen as Taliban sympathisers which translates into them being marginalised even more.

The Haqqani Network: The Taliban are not the only insurgent group behind suicide attacks in Afghanistan. Suicide bombings have also been a trademark of the Haqqani network. This Sunni Islamist militant organisation was founded

by Jalaluddin Haqqani (who allegedly died in 2018), who emerged as a top Afghan warlord and insurgent commander during the anti-Soviet war and was seen as a Cold War ally of the US Central Intelligence Agency; he was a member of the Hizb e Islami faction previously. The Haqqani Network is primarily based in North Waziristan, Pakistan, and conducts cross-border operations into eastern Afghanistan and Kabul. Although the Haqqani network is officially subsumed under the larger Taliban umbrella organisation led by Mullah Omar, the Haqqanis maintain distinct command and control, and lines of operations.

The Haqqanis are considered the most lethal and sophisticated insurgent group targeting US, Coalition and Afghan forces in Afghanistan; they typically conduct coordinated small-arms assaults coupled with rocket attacks, IEDs, suicide attacks, and attacks using bomb-laden vehicles. The Haqqani Network is responsible for some of the highest-profile attacks of the Afghan war.[4] The group is also involved in a number of criminal activities in Afghanistan and Pakistan, including extortion, kidnapping for ransom, and smuggling (Office of the Director of National Intelligence, n.d.).

Islamic State of Khorasan Province: Since 2014, the armed group ISKP has been present in Afghanistan, representing an Afghan branch of ISIS. With its rise in Afghanistan, this insurgent group is deploying the same tactics as the perpetrators discussed above; however, they are also engaging in fierce battles with the Taliban, each labelling the other as infidel. While ISKP too wants to rid the country of foreign influence and their 'puppets', their war also includes those who do not follow their version of Salafist Islam. Therefore, many of ISKP targets also include Shi'a population, especially those from Uzbek, Tajik and Hazara backgrounds. Recent clashes between ISKP and the Taliban have led to hundreds of casualties. For instance, the ISKP's

horrific suicide bombing of a vocational school in Kabul targeting the Hazara Shi'a claimed 34 lives and wounded 57 others, and was timed almost exactly with the Taliban withdrawal from Ghazni in August 2018 (Constable, 2018). It represents a calculated effort to wrest attention away from Taliban advances, and to highlight ISKP's relevance. This shadow war will continue, leading to more civilian casualties. Indeed, it is likely to intensify, even as negotiations with the US continue (Lyall, 2018). In 2018, ISKP was responsible for the majority of Afghan civilian casualties (AOAV, 2020).

Another way the two terrorist groups engage in battle is through social media, each promoting their own position and undermining the other with quasi-scholarly arguments about their version of Islam. Using online platforms, ISKP has been heavily involved in applying its understanding of Islam, carefully teaching and radicalising youth as a part of its global 'Cubs of Khilafah' strategy. In March 2018, ISKP's media centre released a video of hundreds of jihadists and local inhabitants pledging allegiance to the then ISIS leader Baghdadi, among them dozens of youths – some as young as seven to fifteen years old – trained in military fashion. That coincided with press reports about ISIS recruiting as many as 300 youths at the end of 2017, and forcing them to join the ISKP army (Wojcik, 2018). Not only is the recruitment of minors a war crime under International Humanitarian Law, in addition to perpetrators, child soldiers are primarily seen as victims of insurgent and terrorist movements themselves.

11.4 Significance: The nature of suicide bombing

The first major contemporary suicide terrorist attack in the Middle East was the December 1981 destruction of the Iraqi embassy in Beirut

(27 dead, over 100 wounded); the perpetrators remain unknown (Harmon et al., 2018). The efficacious use of this tactic was soon copied by militant groups in Lebanon, followed by Sri Lanka's Liberation Tigers of Tamil Eelam, the Kurdistan Worker's Party, Hamas, and more recently by the Islamic Salafist groups Al-Qaeda, Taliban, and ISIS.

The act of suicide terrorism shows full commitment of an individual to the group and its mission, which can be used in the future to inspire others. Although each operation sacrifices one individual, it also allows the organisation to recruit many future candidates. According to Krstić, three key elements are needed for suicide terrorist attacks: (1) strongly motivated individuals, (2) access to organisations whose goal is to create suicide bombers, and (3) a community that glorifies perpetrators as heroes and accepts their acts as noble acts of resistance (Krstić, 2018). Suicide bombers are generally people who act because of religious beliefs; people who want revenge for the death of a family member or a close friend; or people who are persuaded by the promise of financial rewards or a better life after death. Most Islamic armed groups rely on young men in their late teens and early twenties. A charismatic figure is a key ingredient in inspiring martyrdom, whereas television and the Internet bring distant causes into real time and immediacy. *Fatwas* (religious edicts) give legitimacy, but the 'okay to do' edicts are taken more seriously than the 'don't do' ones, especially since the former outrank and outnumber the latter, appear to have weightier religious sanction, and find greater resonance (Hassan, 2006).

Suicide bombings have become a popular terrorist modus operandi because it represents a low-cost, low-tech, and low-risk weapon that is readily available, requires little training, leaves little forensic trace, and strikes fear into the general population, often targeting crowded

spaces and softer targets. Generally, scholars argue that terrorism, including suicide missions, is contingent on an imbalance of power, that is, on an asymmetry of resources and combatants between armed groups and their enemies. This argument suggests that tactics such as suicide attacks compensate for such disproportion. Terrorist leaders are thus viewed as rational actors who select combat methods that are expected to provide the desired type and degree of damage to be inflicted on the enemy, relative to the costs of resources (including militants) for military operations.

While suicide bombing as a tactic relies heavily on its staging properties with carefully selected victims likely to be chosen as representative of a larger category, like the Taliban's targeting of foreign troops, foreign contractors and members of the MoD and MoI, it is by no means innocent. Afghan civilians are paying the price of the war, which has now spanned over two decades and has caused the deaths of 38,480 civilians as a direct result of war-related violence (Crawford, 2018).

Bibliography

Action on Armed Violence (2020, January 1). Explosive Violence Monitor: initial findings [Blog post]. *Action on Armed Violence.*

Action on Armed Violence (n.d.). Afghanistan. *Action on Armed Violence* [Webpage]. Accessed: February 2020.

Al Jazeera (2015, August 8). Dozens killed in multiple attacks across Kabul. *Al Jazeera.*

Bashardost, N. (2016, December 7). Shah Shaheed bombing memory still haunts victims. *Pajhwok Afghan News.*

Clark, K. (2015, August 10). The Triple Attack in Kabul: A message? If so, to whom? [Blog post]. *Afghanistan Analysts Network.*

Constable, P. (2018, August 16). Bombing of student center in Kabul highlights threat to minority Shiite youth. *The Washington Post.*

Council on Foreign Relations (n.d.). *The Taliban* [Online InfoGuide Presentation]. Council on Foreign Relations. Accessed: May 2019.

Crawford, N. C. (2018). *Human Cost of the Post-9/11 Wars: Lethality and the Need for Transparency* [Paper]. Brown University, Watson Institute for International and Public Affairs.

Harmon, V., Mujkic, E., Kaukinen, C., & Weir, H. (2018). Causes and Explanations of Suicide Terrorism: A Systematic Review. *Homeland Security Affairs, 14*(9), 1-59.

Harooni, M., & Donati, J. (2015, August 8). Attacks on army, police and U.S. special forces kill 50 in Kabul. *Reuters.*

Hassan, N. (2006). Suicide Terrorism. In L. Richardson (Ed.), *The Roots of Terrorism* (pp. 41-54). Routledge.

Krstić, M. (2018). Personality Profile of a Suicide Bomber. *Polemos, 21*(1), 65-80.

Latifi, A. M. (2015, August 7). A day of devastation in Afghanistan's capital. *The Los Angeles Times.*

Lyall, J. (2018, August 19). 5 key lessons from the Taliban's deadly resurgence in Afghanistan. *The Washington Post.*

Office of the Director of National Intelligence (n.d.). *Online Counter-Terrorism Guide: The Methods and Tactics of Global Terrorism* [Webpage]. US Government, Office of the Director of National Intelligence. Accessed: May 2019.

Office of the Director of National Intelligence (n.d.). *Online Counter-Terrorism Guide: Haqqani Network* [Webpage]. US Government, Office of the Director of National Intelligence. Accessed: May 2019.

Osman, B. (2018, February 7). The Cost of Escalating Violence in Afghanistan [Blog post]. *International Crisis Group.*

Rasmussen, S. E. (2015, August 8). Kabul: death toll rises in deadliest 24 hours Afghan capital has seen in years. *The Guardian.*

Shakib, A., & Nordland, R. (2015, August 7). Waves of Suicide Attacks Shake Kabul on its Deadliest Day of 2015. *The New York Times.*

UN Assistance Mission in Afghanistan (2019). *Afghanistan: Protection of Civilians in Armed Conflict* [Report]. United Nations, UN Assistance Mission in Afghanistan.

UN Office of the High Commissioner for Human Rights (2015, August 5). Afghanistan: civilian casualties remain at record high levels in first half of 2015 – UN report [Blog post]. *United Nations, Office of the High Commissioner for Human Rights.*

Walizada, A. (2018, January 27). Shock gives way to despair in Kabul after ambulance bomb. *AlJazeera.*

Williams, B. G. (2018). Mullah Omar's Missiles: A Field Report on Suicide Bombers in Afghanistan. *Middle East Policy, 15*(4), 26-46.

Wojcik, P. (2018, July 31). Turning east: the rise of Islamic State's Khorasan Province. *The Defense Post.*

Endnotes

1 The ANSF is the umbrella term used for the Afghan National
   Army (ANA), Afghan Air Force, Afghan National Police
   (ANP), Afghan Local Police (formed by the US and UK
   and paid for by the US, and formed primarily as a local
   defence force against Taliban insurgents), and the
   National Directorate of Security (the country's primary
   intelligence agency).

2 Based on the author's discussion with locals in the
   aftermath of the attack.

3 See also chapter 6 on the long-term effects of explosive
   remnants of war in Cambodia.

4 Including the June 2011 assault on the Kabul
   Intercontinental Hotel, conducted jointly with the
   Afghan Taliban, and two major suicide bombings—in
   2008 and 2009—against the Indian Embassy in Kabul. In
   September 2011, the Haqqanis participated in a day-long
   assault against major targets in Kabul, including the
   US Embassy, ISAF headquarters, the Afghan Presidential
   Palace, and the Afghan National Directorate of Security
   headquarters. More recently, in October 2013, Afghan
   security forces intercepted a truck bomb deployed by
   the Haqqanis against Forward Operating Base Goode in
   Paktiya Province. The device, which did not detonate,
   contained some 61,500 pounds of explosives and was the
   largest truck bomb ever built.

CASE 12.
Weaponizing drinking water:

Rivers, purification plants and generators as targets (Syria, 2014-16)

AUTHOR: KNOWN TO PAX

COUNTRY
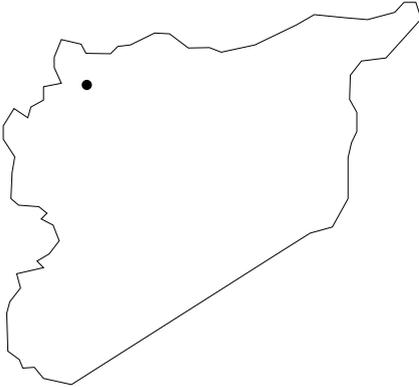
Syria

PERPETRATOR

Various parties to the Syrian conflict, including the government, ISIS, Jabhat Al-Nusra

ACT

leveraged control over and access to water by targeting water infrastructure, poisoning water sources, diverting water resources, and booby trapping water stations

OBJECTIVES*

· to punish perceived opponents and to terrorise civilians living in opposition areas
· to use water as a bargaining chip or tool of extortion
· for financial gain (by selling equipment and oil, the production of which requires a lot of water)
· to expand territory

As far as we have been able to discern; the list may not be exhaustive in this regard

CONSEQUENCES

The widespread occurrence of water-based diseases (e.g. typhoid, cholera, hepatitis)

Reduced hygiene
↳ leading to further development and spread of diseases and other public health concerns

Reduced agriculture
↳ causing food scarcity and malnutrition

Economic problems as water prices soared

Internal displacement
↳ leading to a number of displacement-associated risks (e.g. reduced access to education, income and health care)

Protection concerns for women and children who had to walk long distances to collect water and/or use communal sanitation facilities

Aleppo, sitting on the crossroads of one of the silk roads, is one of the oldest constantly inhabited cities of the world, with its recorded history spanning back to the 5th millennium BCE. It was the largest city in Syria before the 2011 devastating civil war rampaged this commercial hub. Aleppo was gripped with protests not long after those that initially began in March 2011 in Idlib and Damascus, which triggered the Syrian civil war. By early 2012, the city was divided in two: The eastern part was under rebel control, while the western part remained under the control of the Syrian government.[1] The governorate of Aleppo, with its capital as its namesake, saw multiple battles and multiple perpetrators during the civil war. Perpetrators included the Syrian military, backed by Russia and Iran – commonly known as the Russia–Syria–Iran–Iraq coalition; Kurdish militias including the Syrian Democratic Forces, militarily led by the People's Protection Units, known as YPG; the Free Syrian Army (FSA), one of the rebel groups, backed by the US, France and Saudi Arabia; the Lebanon-based Shi'a militant group, Hezbullah; the self-proclaimed Islamic State of Iraq and Syria (ISIS); as well as multiple other militant groups, including, but not limited to Al-Qaeda, Jabhat Al-Nusra, Liwa Al-Tauheed, Ahrar Al-Shaam and Jaish Al-Islam.

The Aleppo governorate and its capital faced many methods of warfare, including suicide bombing, siege, use of explosive weapons in populated areas, urban warfare, chemical weapons, barrel bombs, and the use of water and electricity as a weapon of war. Regardless of the means and methods used, and irrespective of the identity of the perpetrators, civilians bore the brunt of the casualties and suffered the reverberating effects of the harm caused. This chapter discusses the use of water, specifically drinking water, as a weapon of war in Aleppo.

12.1 Case: Militarisation of water in Aleppo

Particularly poignant for the lives of the civilians was the way in which the most basic of all necessities, drinking water, was made into a tool of war. The parties in conflict utilise water, in all its shapes and forms as an essential commodity of life, to their advantage without consideration of the short and long-term consequences for civilians. The control of drinking water for several million people is a significant strategic asset as it provides a huge amount of leverage to the faction which controls it. Water as a vital consumable, the treatment of wastewater, and power provision of water plants became part of military strategy.

Water supply to Aleppo was particularly vulnerable during the war because the various parts of the city were under control of different parties to the conflict. In 2014, the initial pumping station on the Euphrates River was held by ISIS, while the next pumping station in the district of Suleiman Al-Halabi was controlled by Jabhat Al-Nusra, and the final station was in the Syrian government's hands. Vulnerability was compounded by looting of equipment at the water treatment and water pumping stations, targeting of buildings during airstrikes, and

booby-trapping of water stations. Only two out of eight generators remained partially functional in Suleiman Al-Halabi. Water was only available for 12 hours over a period of 48 hours (REACH, 2014).

In April and May 2014, the water to the city and its surrounding areas was cut completely for several days at a time from the ISIS-controlled Al Khafseh pumping station, rendering between 200,000 and 300,000 Aleppans without water (Deen, 2014; REACH, 2014). This affected homes, hospitals, schools, and medical centres. The cuts appeared to be a deliberate interference with the civilian water supply. Conflicting allegations suggested that some armed opposition groups and the Syrian government were both responsible at different moments and to varying degrees.[2] To make matters worse, an airstrike reportedly hit the Al-Khafseh water treatment plant in November 2015, which cut off piped water to an approximate 3.5 million people. An ISIS-affiliated newspaper blamed the Russians for this airstrike, which allegedly mistook it for an oil refinery (Triebert, 2015). Civilians bore the price of all these actions, and many resorted to drinking from unclean sources, including Aleppo's Queik river and puddles.

Furthermore, the processing of wastewater was compromised by the war. By June 2014, attacks and counter-attacks had destroyed several wastewater treatment and sewage facilities in the country, and the damage to the sewage system in Aleppo led to the contamination of drinking water.[3] Jabhat Al-Nusra had bombed the main pipeline carrying water from the Euphrates river to the city. Electricity shortages in the city also meant that water pumping capacities were severely affected. Often, water and electricity were available at different times, which further exacerbated the issue.

In order to provide water to Aleppo, an international non-governmental organisation (INGO)

in Syria arranged for a custom made high-capacity generator to arrive in Latakia port in August 2015.[4] The Syrian Arab Red Crescent (SARC) negotiated a ceasefire of hostilities in Aleppo to allow for safe transit of the convoy with the generator, coordinating with all parties, including the Syrian government and its supporter Russia.[5] Notwithstanding these arrangements, the transport to the pumping station sustained delays due to ongoing fighting, while the preparatory works at the pumping station were hindered by booby-traps at the site, hampered access for the workers, ongoing overhead bombardments, and broken equipment. While initially, it was planned that the transportation would take one day, due to the sheer size of the convoy and permissions received by the Syrian government, the convoy only managed to enter Suleiman Al-Halabi area, controlled by Jabhat Al-Nursa, on day five. SARC staff waving flags with the red crescent against a white backdrop accompanied the trucks on foot through narrow debris-lined roads towards the station to show their neutrality as a humanitarian entity (Syrian Arab Red Crescent, 2015). Despite all the challenges in getting the generator into the station and onto the base in opposition-controlled areas with limited resources which took another few days, on 2 January 2016, the generator was finally inside the sterilisation centre of the pumping station. Laila, the logistics focal point of the INGO overseeing the installation of the generator, recalled:

> I hadn't slept since the day the generator left Latakia; finally I could eat and sleep. I have worked for corporates and the United Nations, but looking back I still consider this as one of the biggest achievements of my professional career.

While the logistical challenges of transporting the generator were over, the installation was another challenge in itself, explained engineer Mohammed:

The teams had to go inside everyday crossing multiple checkpoints. At any one of them, they feared detention and harassment. Every day we heard of a new story, until the workers were stuck inside and their technical supervisor was unable to cross into the Al-Nusra controlled areas. While the workers could do the heavy work, they had never installed such a generator before. We had no choice but to rely on WhatsApp texts and photos as a means of communication between the workers stuck in and their technical supervisor so the latter could still undertake the work.

However, as soon as the installation was completed, ISIS cut off water from Al-Khafseh in order to negotiate restoration of the Ain Al-Baida pumping station which provided water to areas under their control (Syrian Observatory for Human Rights [SOHR], 2017). Water was finally restored from Al-Khafseh in March 2016. 'I was so worried over those few weeks that I had even stopped shaving. My colleagues began jokingly calling the generator my wife, since they had never seen me in this state. I had even named her Aziza', Muhammed reminisces.

This was not the only generator needed to run the pumping station at full capacity; another high-yield generator was installed at Suleiman Al-Halabi in 2016 by the same INGO. However, as government forces started clashing with opposition forces, the treatment plant came under intense shelling. Three people were killed and at least twelve injured (SOHR, 2016). Damage to a generator and other equipment cut off the water supply, while just prior the Bab Al-Nayrab station had also sustained damage as a result of airstrikes (The Guardian, 2016). By December 2016, the Syrian government and its allies had regained control of all of the city of Aleppo. In March 2017, the government had also recaptured control of Al-Khafseh.

12.2 Victims: 'Access to water should be unconditional'

'Too often in Syria, water becomes a tool in the hands of fighting parties. It becomes a weapon of war. And it is civilians who suffer the most. Access to water should be unconditional,' said Marianne Gasser, head of the International Committee of the Red Cross in Syria (Al Jazeera, 2015). In July 2014, the Syrian government had estimated that 35 per cent of all water treatment plants in the country had been damaged due to war. In Deir ez Zor, water pumping dropped by 90 per cent due to war and resultant serious damage to water pumps while it was still under ISIS control (Strategic Foresight Group, 2014).

Despite limited verifiable data coming from Syria, there is persistent anecdotal evidence from news outlets, people who have worked in the country, as well as Syrians on the effects of the 'weaponizing' of water on the civilian population. In Aleppo, when the water began to get cut for longer periods of time and the population had to rely on wells dug around the city, sanitation water got mixed with the drinking water, and more than a hundred people were poisoned as a result (Reznick, 2016). Rising prices of fuel in combination with rapid currency depreciation meant that boiled water remained a luxury many were unable to afford. Local sources confirmed that between 200,000-300,000 people were affected by the water shutdown (REACH, 2014). Prices of bottled water also tripled in the city as a result of the shortages. The situation in such cases was compounded as INGOs were not allowed to import chlorine into Syria at all as the regime has been accused of using chlorine in chemical bombings against civilian populations.[6]

Faced with such shortages and irregular supply of water, the residents of Aleppo used bomb craters for water collection and storage. A resident of Aleppo revealed:

> *The water network is damaged in some areas, to the point where you can see [bomb] craters filled with water. We are still managing to get water through different means, from local wells. But it's not safe to go out in the street. (Oxfam, 2016)*

Another indicated that 'queuing to get water is a time-consuming struggle and buying water is becoming expensive. You need to pay more to get water first from truckers. [...] The situation is becoming unbearable' (Oxfam, 2016). A female resident of Aleppo remarked:

> *I have had to cut my hair, and also force both my daughters to cut their hair. [...] We just cannot afford to take care of it anymore. Even washing long hair costs a lot of money, and we would rather use the water for drinking and ration it for cleaning accordingly.[7]*

ISIS diverted water from Al-Tabqa dam in Aleppo to Iraq in May 2014, reducing the flow of the Euphrates river downstream to Raqqa governorate. The drop directly affected five million Syrians, and put an additional two million at risk. The November 2015 airstrike on the Al-Khafseh water treatment plant, which produced 18 million litres a day, cut off piped water to approximately 200,000-300,000 people. The water shortage led residents of Aleppo and Raqqa to draw water from unreliable and potentially unsafe sources of water, like the Euphrates river, and some even resorted to drinking from puddles in the streets (UNICEF, 2015).

Beyond Aleppo

Unfortunately, the story of weaponizing water in Syria was not only limited to Aleppo. The spring of Ain Al-Fijah, where most of Damascus's water comes from, came under FSA control from November 2011 onwards (Waters, 2017). They used this as leverage by cutting water several times, forcing the government to withdraw their troops and release prisoners (Reznick, 2016). This had 'a devastating impact on more than five million civilians in both government and opposition-controlled areas who were deprived of regular access to potable water for over one month', according to a UN investigator (Miles, 2017).

In Damascus itself, water was controlled by the regime and distributed according to the level of loyalty, according to Qassem Mohammad, a Damascus-based opposition activist. As a result, government-controlled areas with heavy military presence received water almost daily, while the population in opposition territory received water for only two hours a day. The residents of Yarmouk refugee camp and Jdeidet Artouz, also under opposition control, received water once every twenty days. 'That which arrives, tastes like fuel', one resident remarks. 'I saw a man who could not pray at his son's funeral because he had not washed in more than two months,' said Youssef al-Bustani, a spokesman for the revolutionary coordination committees in Damascus' countryside region (Razzaq, 2015). A worker in the water pumping station in an opposition-controlled area remarked:

> *We don't have enough equipment or time to check if the water has been poisoned. We keep fish in the reservoir in the station. If the fish die, we know something is wrong so we can quickly turn the water off to avoid civilian casualties. The people have no option but to drink water; there is no fuel to boil it.[8]*

Residents were able to access water for up to two hours every three or four days. Many turned to unregulated private distributors, where neither price nor quality are regulated, prompting concerns about the risk of water-borne diseases. The financial burden to households is considerable; families could pay up to USD 12 for only 1,000 litres of water (UN News, 2017).[9] Many have contracted hepatitis and typhoid due to drinking contaminated water (Razzaq, 2015).

In December 2016, water again stopped flowing altogether in Damascus. Each side has accused the other of damaging the spring's infrastructure. In March 2017, UN investigators accused the Syrian air force of deliberately targeting the water facility: A war crime that cut off water for an estimated 5.5 million people in and around Damascus (Al Jazeera, 2017).

Reverberating effects

A combination of damaged infrastructure, a lack of maintenance, manipulation and limited power-supply has resulted in a 50 per cent reduction in access to safe water since the start of the war. According to the 2016 Humanitarian Needs Overview, this forced almost 70 per cent of people inside Syria to rely on unregulated and often expensive sources of water for drinking, domestic use and personal hygiene. While there is a general dearth of data on this in Syria, the lack of adequate clean water is also known to increase the risk of food insecurity, malnutrition and water-related diseases. The former two were mostly recorded as a result of supply lines being cut deliberately, including water supplies, and siege-like situations in the country as opposed to as a result of direct lack of access to water. However, the 2017 polio outbreak in eastern Syria spread as a result of abysmal sanitation; children who had not been vaccinated against polio contracted the crippling and potentially deadly virus (Venters, 2017).

In addition to health and hygiene problems, the struggle to get water creates recurring protection risks for the population. The long distances and the considerable queues to get water, expose families – including children – to attacks from warring parties. The use of communal latrines, often the only available sanitation, makes women and children in particular vulnerable to attack and abuse, especially after dark (Jägerskog & Swain, 2016).

Whilst conflict and protection concerns are the primary drivers for the recent displacement trends in Syria, a lack of access to essential services such as water is cited as a major reason amongst both Syrian refugees and internally displaced persons within Syria for fleeing their communities. This displacement places yet another burden on the often already stretched capacity of host community services.

Lastly, the effects on the population of the use of the most essential of all life commodities as a tool of war are also psychological. The uncertainty, the fear caused by the threat of absence of water, undermines society. In Damascus, the water shortages and rationing sent residents into a panic, especially as rumours circulated about a rebel threat to bomb the spring and destroy the supply for good. King (2015, p. 157) calls this incident an instrument of 'psychological hydro-terrorism'.

12.3 Perpetrators: Using water to their advantage

Opposition forces, ISIS, and Syrian government forces all bear responsibility for the destruction of water infrastructure during the Syrian civil war. This section focuses in particular on the acts of the Syrian government and ISIS, the parties who were the most engaged in the manipulation of water for belligerent purposes.

While the rebels also controlled water and used it as a source of leverage, especially while they were controlling Wadi Barada, they did not destroy vital infrastructure to the same extent as the other two parties.

The Syrian government and its allies

The Syrian government used many tactics in the civil war, that resulted – intentionally or not – in damaging water systems to the detriment of the population. The Russia–Syria–Iran–Iraq coalition executed multiple airstrikes that ravaged water infrastructure. In August 2014, airstrikes on ISIS positions in the eastern Syrian city of Raqqa hit the city water plant and cut off water supplies to the locals. Similarly, in September 2014, after a drought and a typhoid outbreak in the summer, conflict between government forces and militant groups destroyed the pipelines supplying water to Yarmouk refugee camp in south-western Syria. Rehabilitation efforts only began in 2020.

The government further leveraged water by prioritising rehabilitation and repair of water systems in government-supporting areas. For instance, when a Russian airstrike targeted Aleppo's main water treatment plant in November 2015, it was reportedly repaired by the government within five days as the plant provided water to government-controlled areas. In contrast, the water pumping station in Deir ez Zor, also damaged in an airstrike in November 2015, was only rehabilitated in 2019 when the area came under government control.

Additionally, there are reports of deliberate contamination of water. In December 2016, fighting between the Syrian Arab Army and opposition forces damaged the pumps at the Ain-al-Fijah springs in Wadi Barada (see above). The water that remained flowing became contaminated with diesel fuel. The damage could be 'because of fighting, or because of sabotage or because of both,' said Jan Egeland, a special

adviser on Syria for the UN. Government and opposition forces accused each other (Knipp, 2017). However, the most likely perpetrator is the government, as there is evidence of the Syrian Arab Army bombing in close proximity to the spring and video footage of a bomb hitting the spring. This bombing is also probably the most likely reason for diesel entering the water supply, whether from a damaged fuel tank, generator, or otherwise. Secondly, if the armed opposition groups had wished to cut the water supply, they could simply block or divert the spring, as they had done in the past; nor was destroying the structure in their interest as it was an important instrument of leverage for them.

ISIS

ISIS made aggressive and frequent use of water to terrorise and harm civilians, attack military forces and conquer territories in Syria and Iraq, amongst others by flooding, cutting off water and electricity supply, and diverting water flow. They used water and water infrastructure as a tool of expansion, a financial asset, and as a weapon, often covering several of these goals within one operation (Strategic Foresight Group, 2014).

By capturing strategic dams and upstream portions of the Euphrates-Tigris basin, ISIS gained control over nearby regions dependent on those streams for drinking water, irrigation and electricity supply. For example, in early May 2014, ISIS diverted water from Lake Assad, the reservoir of the ISIS-controlled Tabqa Dam, to Iraq and Aleppo, reducing the level of the Euphrates river. They did this partly to provide water to the areas under its control and partly to threaten downstream opponents in Raqqa governorate (Von Lossow, 2016). In a similar tactic they seized control of the Ramadi dam in central Iraq in May 2015 and diverted water into Lake Habbaniya. Consequently, ISIS gained (partial) control over water supplies for Babylon, Karbala, Najaf, Qadisiya and Anbar

governorates – areas that they gained control over without having to physically occupy them. After capturing the large dams at Falluja, Mosul, Samarra and Ramadi, ISIS not only interrupted local water supplies but also deprived distant Shiite areas in the lower reaches of the Euphrates and Tigris of water by damming and diverting it (Von Lossow, 2016).

ISIS also used their dams extensively to produce and provide electricity to surrounding regions. In many cases they retained the staff working at the plant and continued to supply electricity to government-controlled areas, especially Damascus and Hama, in a tactical move to garner popular support by providing electricity, employment and a resultant boost to the local economy (Strategic Foresight Group, 2014).

Financially, not only the electricity generation at the dams brought ISIS revenue, but their access to water sources enabled them to extract and produce oil from their captured oil fields in Syria and Iraq, a process that requires significant amounts of water. The control over water also consolidated their domineering position over agriculture. Until ISIS lost Mosul Dam in August 2014, it controlled 40 per cent of Iraq's wheat producing area.

Direct weaponization was also achieved, amongst other means, by creating floods. In April 2014, after ISIS closed the Falluja Dam floodgates, the retained water flooded large areas upstream and submerged Iraqi government facilities on the banks. The water inundated extensive areas up to 100 kilometres away, and put the town of Abu Ghraib in Baghdad governorate under up to 4 metres of water. Over 10,000 houses and around 200 square kilometres of fertile farmland carrying harvest were destroyed and livestock drowned. Up to 60,000 locals were resultantly displaced.

Contamination of water was another weaponization mechanism that ISIS employed. In December 2014, ISIS deliberately contaminated drinking water with crude oil in the Balad district of Salahaddin governorate. There were also reports of poisoned water supplies from Aleppo, Deir ez Zor, Raqqa and Baghdad. Finally, ISIS created further insecurity by looting, sabotaging and booby-trapping water plants in Syria and Iraq upon their retreat. They blew up the turbines of Tabqa Dam in Aleppo when they withdrew (Hubbard, 2018). As a consequence, the necessity to clear the treatment plants of booby-traps and explosives before rehabilitation works could commence, significantly delayed resumption of services.

12.4 Significance: Water as a weapon of war

The first ever documented war revolving around water took place about 4,500 years ago, in the Levant, when the armies of Lagash and Umma, city-states near the junction of the Tigris and Euphrates rivers, battled with spears and chariots after Umma's king drained an irrigation canal leading from the Tigris. 'Enannatum, ruler of Lagash, went into battle,' reads an account carved into an ancient stone cylinder, and 'left behind 60 soldiers [dead] on the bank of the canal' (Hammer, 2013). The revered story in Shi'a Islam, on how Hussein ibn Ali, Muhammad's grandson, and his followers, a caravan of almost a hundred people including women and children, were denied water from the Euphrates in the Iraqi city of Karbala in October 680, by Yazid and his army, is not forgotten in Iraq, and in fact brings in thousands of pilgrims every year. Yet, even with this deadly history relating to water in the region, belligerents have no hesitation using the same tactics, denying a fundamental human right to their opponents, with mostly civilians bearing the brunt of it.

For tactical and strategic reasons, water frequently plays a significant role in violent conflicts and wars. Sensitive components of water infrastructure – treatment plants, piping systems, pumping stations, reservoirs – can become targets for military violence. However, the use of water as a military-purpose weapon is much more complex and primarily serves to put pressure on the population and the opponents' political leadership. Drastic interventions in water and electricity supplies are meant to break resistance and gain the support of the population by force, or else to drive people out. The aim can also be to destroy agriculture and food production, and render whole areas uninhabitable. The strategic dimension of water in conflict situations is most evident with rivers because control over the resources in the upper reaches makes it possible to gain influence over or inflict targeted damage on larger and more distant areas, without necessarily directly attacking, occupying or controlling them militarily (Von Lossow, 2016).

The significance of water and related infra-structure in Syria and Iraq is evident. It was widely reported that the decisive factor in the US decision to launch the air campaign against ISIS in August 2014 was the organisation's seizure of Mosul Dam. In this way, it was ISIS' use of water as an instrument of both strategic and psychological hydro-terrorism that escalated the conflict by provoking a new actor and a new type of warfare (the aerial campaign) into the fray. Among the parties to the conflict, ISIS has used 'hydro-terrorism' (King, 2015, p. 160) to great effect.

Given the evident role of water in modern warfare and the devastating effects on civilians that abuse of water infrastructure provokes, it is striking how little protection International Humanitarian Law (IHL) offers to prevent attacks on civilian water systems, especially in civil war and local conflicts. IHL prohibits intentional attacks on civilians and limits the use of specific instruments of war, such as chemical and biological weapons, but pays less attention to the secondary or indirect consequences of the destruction of civilian infrastructure. Moreover, IHL does not appear to invoke sufficient liability or accountability on governments in a way that offers effective constraints on military operations targeting such infrastructure. Enforcement of the laws of war and punishment of violators of these laws, is rare (Gleick, 2019).

There has been a dramatic increase in the number of reported events in which water was weaponized after the 1980s, perhaps partly alluding to improved reporting tools and the quality of access to information. What is also interesting is the shift from multi-state towards intra-state conflicts, and an increase in attacks on water service infrastructure. This roughly translates to governments and armed opposition groups using water against their own civilians, as seen in the case studies presented above.

The use of water as a weapon in Syria has caused few, if any, military battlefield casualties. However, it has certainly taken its toll on civilians. This can be measured both by the suffering caused by mass migration and by outbreaks of waterborne diseases, a result of water contamination and lack of basic water, sanitation and hygiene facilities. Control over water has proven relatively useless as a tactical military weapon, but effective as a tool of political control. Moreover, the humanitarian consequences of weaponization of water, in whatever form, are likely to last long into the future, regardless of the immediate outcome of the war (King, 2015). The full effects of water wars are yet to be seen. Water mismanagement, agricultural failures, decreases in water availability and related economic deterioration have all contributed to matters like urban unemployment, economic problems, food insecurity, and subsequent social unrest (Gleick, 2019).

Bibliography

Al Jazeera (2015, September 2). Red Cross: Water being used as weapon of war in Syria. *Al Jazeera.*

Al Jazeera (2017, March 14). UN: Syria jets deliberately hit Damascus water supply. *Al Jazeera.*

Deen, T. (2014, May 19). U.N. Decries Water as Weapon of War in Military Conflicts. *Inter Press Service.*

Gleick, P. H. (2019). Water as a weapon and casualty of armed conflict: A review of recent water-related violence in Iraq, Syria, and Yemen. *WIREs Water, 6(4)*, 1-15.

Hammer, J. (2013, June). Is Lack of Water to Blame for the Conflict in Syria? *Smithsonian Magazine.*

Hubbard, B. (2018, August 3). An Ancient river in Syria Sections Off a Modern War. *The New York Times.*

Jägerskog, A., & Swain, A. (2016). *Water, migration and how they are interlinked* [Working Paper Nr. 27]. Stockholm International Water Institute.

King, M. D. (2015). The Weaponization of Water in Syria and Iraq. *The Washington Quarterly, 38(4)*, 153-169.

Knipp, K. (2017, January 7). Syria: Water as a weapon of war. *Deutsche Welle.*

Miles, T. (2017, March 14). Syria committed war crime by bombing Damascus water supply: U.N. *Reuters.*

Oxfam (2016, October 5). More than 1.5 million people without running water in Aleppo for five days [Blog post]. *Oxfam.*

Razzaq, A. A. (2015, May 5). Water used as a weapon of war in Syria [Blog post]. *The New Arab.*

REACH (2014, June). *Syria Crisis, Aleppo City: Key Informants Assessment Report* [Report]. REACH.

Reznick, A. (2016, January 4). Weaponizing Syria's Water. *Boston Review.*

Strategic Foresight Group (2014). *Water and Violence: Crisis of Survival in the Middle East* [Report]. Strategic Foresight Group.

Syrian Arab Red Crescent (2015, December 30). *Delivering a Generator Set to Sterilization Station in Sulaiman Al-Halabi Association to be Functional within Days* [Press release]. Syrian Arab Red Crescent.

Syrian Observatory for Human Rights (2016, September 30). Violent clashes in Suleiman al-Halabi area and about 15 were killed and injured at the eastern and western neighborhoods of Aleppo [Blog post]. *Syrian Observatory for Human Rights.*

Syrian Observatory for Human Rights (2017, March 13). Regime forces begin testing al-Khafsa water pumping station in order to deliver the water to Aleppo city [Blog post]. *Syrian Observatory for Human Rights.*

The Guardian (2016, September 24). Syria bombings leave 1.75 million without running water in Aleppo. *The Guardian.*

Triebert, C. (2015, December 11). Syria's Bombed Water Infrastructure: An OSINT Inquiry [Blog post]. *Bellingcat.*

UNICEF (2015, December 1). *Statement by Hanaa Singer, UNICEF Representative in Syria on airstrikes against the Al-Khafsa water treatment facility in Aleppo* [Statement]. United Nations, UNICEF.

UN News (2017, January 6). Lack of water access in Damascus is creating risks for children, UN warns [Blog post]. *UN News.*

Venters, H. (2017, July 7). Attacks in Syria and Yemen are turning disease into weapon of war. *Stat News.*

Von Lossow, T. (2016). *Water as weapon: IS on the Euphrates and Tigris: the systematic instrumentalisation of water entails conflicting IS objectives* [SWP Comment]. Stiftung Wissenschaft und Politik.

Waters, N. (2017, January 4). Wadi Barada: What Happened to Damascus's Water? [Blog post]. *Bellingcat.*

Endnotes

1 'Rebel control' is the umbrella term used to include armed opposition groups, apart from ISIS, fighting against the Syrian government.

2 Reports from various media outlets also vary, with Al-Jazeera's report claiming that the Syrian regime was behind the May 2014 cuts, and the Independent attributing the cuts to rebels.

3 See also chapter 4 on the specific consequences of wastewater installation targeting on civilians in the Gaza Strip.

4 The following anecdote, including quotes, are based on the author's own experiences while based in Syria during 2015-16.

5 For transportation of goods and equipment in Syria, one needed a no objection certificate (NOC) for transport within the governorate, as well as transport from one governorate to another, from each governor. These NOCs lasted three working days each, which meant that transporting the generator needed to be closely coordinated to ensure that all NOCs are received in time.

6 This is based on the author's own experiences while based in Syria during 2015-16.

7 This is based on the author's own experiences while based in Syria during 2015-16.

8 This is based on the author's own experiences while based in Syria during 2015-16.

9 In the US, one would pay approximately USD 0,40 per 1,000 litres.

CASE 13.
Ethnic cleansing:

The Rohingya's expulsion
from Rakhine State
(Myanmar, 2017)

AUTHORS: SABA AZEEM & ERIN BIJL (PAX)

COUNTRY
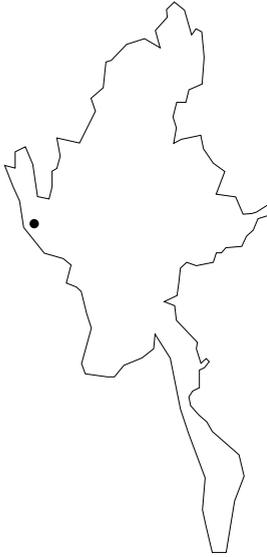
Myanmar

PERPETRATOR

The Myanmar Armed Forces ('Tatmadaw')

ACT

carried out large-scale violence against Rohingya, including torture, executions and sexual violence

OBJECTIVES*

· to terrorise Rohingya civilians and compel their flight from Myanmar

As far as we have been able to discern; the list may not be exhaustive in this regard

CONSEQUENCES

The death of many civilians (especially men) through direct violence

Psychological trauma and (potentially) long-term injury of rape victims
   ↳ Leading to the social stigmatisation of children born of rape, and to health problems and loss of life through illegal abortions

The destruction of homes, schools and mosques

Mass refugee movements
   ↳ causing further loss of life at sea
   ↳ causing long-term displacement and associated risks (e.g. reduced access to education, income and health care)
      ↳ leading to negative coping strategies (e.g. prostitution, crime, child marriages)
   ↳ contributing to escalating tensions between host nation populations and refugees (e.g. arguments over resources, hate speech)

Home to lush green forests, a beautiful coastline along the Bay of Bengal and the Andaman Sea, and centuries-old Buddhist stupas and temples, Myanmar has had a complex and troubled past. A former British colony, it became self-governing in 1937. In recent years, the country was long considered a pariah state while under the rule of a military junta between 1962 and 2011. A process of gradual liberalisation and democratisation began in 2010, leading to free elections in 2015.[1] These were won by Aung San Suu Kyi's National League for Democracy (NLD), who was awarded the Nobel Peace Prize in 1991 for her nonviolent efforts to bring democracy back to Myanmar. However, Myanmar's (sub)national politics remain dominated by ethnic identity. The country is organised into seven regions in which ethnic Bamar – Myanmar's ruling elite – are the majority, and seven states, each of which is associated with the ethnic group considered to be a majority in that area. Particularly in the states, armed ethnic groups have resisted the government of Myanmar for decades (Burke, 2016). In western Myanmar, sharing a border with Bangladesh, lies Rakhine State. Once a thriving trading hub and a major producer of rice in Asia, it is now one of the poorest states in the country with a poverty rate of 78 per cent, compared to the national average of 38 per cent (Burke, 2016). While the majority of the population, like most of the country, is Buddhist, over 30 per cent of its inhabitants are Muslim.

13.1 Case: <u>'There is no Rohingya left in Tula Toli'</u>[2]

On the clear humid morning of 30 August 2017, residents of the Tula Toli village in Rakhine State, set in a lush green hilly area surrounded by mountain rivers, saw Myanmar military helicopters landing in their village. The village was home to over 4,360 Rohingya Muslims who were primarily rice and chilli pepper farmers, and an estimated 435 Rakhine Buddhists. The Rohingya lived down by the water's edge; Rakhine mostly on higher ground. They often worked together, farming and fishing. But that morning, hundreds of Myanmar soldiers in uniform, along with ethnic Rakhine villagers armed with machetes and wooden sticks, attacked the Muslims in the village. They gathered several hundred unarmed Rohingya on the sandy banks of the river, which surrounded Tula Toli on three sides. As the soldiers approached, some fired at the crowd, others towards people trying to flee. While some Rohingya managed to escape, swimming across the fast-moving river or dashing to the surrounding hills, many terrified villagers could not run away or swim. Families with young children had no chance to escape (Bouckaert, 2017). A survivor recounts how,

> [The military] surrounded us suddenly and we could not escape because of the river. The tide was high [...] Many were shot, scored for hit and they fell on their face. Those lying on the ground were picked up, chopped and later were thrown into the river. (Wright, 2017)

The survivors, now in refugee camps in Cox's Bazar in Bangladesh, recall how the soldiers separated the women and children from the men, confining women to the shallow waters of the river bank, while systematically murdering men over the course of several hours.

On the hill, detained in a military camp, a former soldier and Buddhist who had become a Muslim

after falling in love with a Rohingya woman, Nazmul Islam, said that while he could not see anything at first, he knew what was going on. He could hear the sounds of bullets and crying, and soon he saw fire and smoke. At one point, a helicopter landed nearby with some senior officers. 'They gave bullets and guns. They ordered the military not to throw any bodies into the water but to bury or burn them', he says. The task was delegated to local Rakhine Buddhists. 'If anyone disagreed, [the soldiers] would shoot. I heard a corporal saying, […] "We have the order to kill everyone, and will kill everyone who disagrees."' (McPherson, 2018). According to Petam Ali, another survivor,

> The soldiers used rocket-propelled grenades, and they set fire to the houses with matches. Once they had gone past, I went back. All the houses were burned. On the road, I saw a dead man I recognised, called Abu Shama. He had been shot in the chest. He was 85. (Holmes, 2017)

The soldiers and Rakhine Buddhist villagers dug several deep pits on the river beach in which they dumped the men's bodies and set them on fire. In the late afternoon, when they were done killing men and burning houses, soldiers commanded locals to bring them chicken curry. Nazmul Islam watched as local Buddhists set about preparing food for the soldiers, who raped and massacred scores of Rohingya Muslims from Tula Toli (McPherson, 2018).

The soldiers then turned to the women and children. They killed some of the children at the beach, tossing young children into the river. A 20-year-old Rohingya woman, Hassina Begum, tried hiding her one-year-old daughter, Sohaifa, under her shawl, but a soldier noticed and tore the infant from her, throwing the little girl in a fire (Bouckaert, 2017). Soldiers would drag women into nearby huts where they ripped the

clothes off of the women to sexually assault and rape them. The survivors all described the same methods of killing: maiming children with swords and knives, burning people alive, mowing crowds down with machine guns, and even using rocket launchers (Rahman, 2018). 'The Burmese army's atrocities at Tula Toli were not just brutal, they were systematic,' said Brad Adams, Asia Director at Human Rights Watch. 'Soldiers carried out killings and rapes of hundreds of Rohingya with a cruel efficiency that could only come with advance planning' (Human Rights Watch [HRW], 2017).

Shawfika (24) recalls,

> they pushed us inside. We were five women and six soldiers. They took off our clothes […] and they raped all of us. Then they beat us, and when we were beaten down, they shot us. The shot missed me, and I pretended to be dead, and then I passed out. Then they left and put the house on fire. I woke up and realized I was in a pool of sticky blood. I tried to wake the others up but they didn't move. Then I […] escaped […] all the houses in the area were on fire. I could hear women screaming from some of the other houses. They could not escape from the fires. (Bouckaert, 2017, p. 2)

Tula Toli was not the only Rohingya village to be attacked. On 25 August 2017, the armed group Arakan Rohingya Salvation Army (ARSA) carried out attacks on approximately 30 Myanmar security force outposts in northern Rakhine State (Amnesty International, 2018). The government reports that the attackers, equipped with hand-held explosive devices, machetes and a few small arms, killed ten police officers, a soldier and an immigration official. In response, the Myanmar military – also known as the Tatmadaw – began conducting what it called 'clearance operations' across northern Rakhine,

attacking numerous Rohingya villages in ways similar to the attack on Tula Toli (International Crisis Group [ICG], 2017).

However, reports reveal that Tatmadaw soldiers had increased their presence in and around Tula Toli nearly a year before the clearance operations. In May 2017, the military imposed new restrictions in Rakhine State, blocking Rohingya from visiting non-Rohingya areas, and began a brutal intimidation campaign, which included extortion, rape and killing. Months later, on 16 August 2017, township authorities called a meeting of residents to announce an upcoming distribution of national verification cards, supposedly intended to suss out 'good Rohingya' from ARSA members. On 18 August, the Tula Toli village chairman, a Buddhist named Aung Ko Sein, convened another meeting. 'None of you should move,' Aung Ko Sein said, according to a Rohingya survivor and former member of the village administration, Sultan Ahmed. 'If the army comes, it is my responsibility. I will save you.' However, 'he is the one who phones the army to surround us and kill us,' Ahmed alleged. Several villagers confirmed this to Bangladeshi-British documentary maker Shafiur Rahman: The attack was planned even before the ARSA attack, and the village chairman was in on the plot (Rahman, 2018).

13.2 Victims:
Rendered stateless and vulnerable

Population: The horrors of Tula Toli recall the very worst massacres in past decades elsewhere in the world. Establishing the precise death toll at Tula Toli is difficult. In an apparent effort to destroy evidence of the killings, soldiers and Rakhine villagers dug pits in which witnesses say they burned the bodies, and many of the women and children died while locked in village houses that were burned to the ground (Bouckaert,

2017). Moreover, the Myanmar government is not allowing any journalists or humanitarian organisations access to Rakhine State, further complicating fact-finding. Tula Toli death toll estimates vary from 1,179 to 1,700 people (McPherson, 2018; Mujahid, 2018). But it does not end there. Surveys conducted by Médecins Sans Frontières (MSF) in refugee camps in Bangladesh estimate that at least 9,000 Rohingya died in Rakhine State between 25 August and 24 September 2017, out of which 6,700 deaths were directly caused by violence. Conservative estimates put the number of children below the age of 5 killed at 730. Gunshots were the cause of death in 69 per cent of violence-related deaths, followed by being burned to death in their houses (9 per cent), and beaten to death (5 per cent). Among children below the age of 5 years, more than 59 per cent killed during that period were reportedly shot, 15 per cent burned to death in their home, 7 per cent was beaten to death, and 2 per cent died due to landmine blasts (Médecins Sans Frontières, 2017). By January 2018, the number of victims had grown to 25,000; research puts the estimate of women who were raped or sexually assaulted in Rakhine State during the clearance operations at 19,000 (Habib et al., 2018).[3]

Satellite imagery and first-hand accounts corroborate widespread, systematic, deliberate and targeted destruction, mainly by fire, of Rohingya-populated areas. Satellite imagery reviewed by Human Rights Watch confirms that the Rohingya villages of Tula Toli and Dual Toli—with a total of 746 buildings—were completely destroyed by fire, while the neighbouring non-Rohingya villages remain intact. This pattern is repeated in other locations. At least 392 villages (40 per cent of all settlements in northern Rakhine) were partially or fully destroyed, encompassing at least 37,700 individual structures. Approximately 80 per cent were burned in the initial 3 weeks of the

operations, a significant portion after the government's official end date of the clearance operations. Most destroyed structures were homes, but schools, marketplaces and mosques were also burned. More than 70 per cent of the villages destroyed were in Maungdaw, where the majority of Rohingya lived. It is clear that Rohingya-populated areas were specifically targeted, with adjacent or nearby Rakhine settlements left untouched (UN Human Rights Council [UNHRC], 2018).

Following a UN-commissioned independent international fact-finding mission in Myanmar in August 2018, the UN has described the 2017 violence in Rakhine State as ethnic cleansing and possibly genocide. Thousands of people have been killed, women and children raped, villages razed, and the violence has forced over 700,000 people to flee over the border to Bangladesh (UN News, 2018; Stoakes & Ellis-Petersen, 2019).

Refugees: Rohingya refugees have fled to Bangladesh for decades. Large-scale ethnically motivated attacks against the Rohingya have occurred repeatedly since Myanmar's independence, causing major refugee flows in the 1990s, 2012 and 2016. Attacks in 2012 and 2016 were some of the most deadly in more than twenty years, and can now be seen as precursors to the even more violent and organised attacks occurring from 2017 onwards (Bouckaert, 2017). By April 2019, the total number of registered Rohingya refugees in Cox's Bazar, Bangladesh had swelled to 911,359, according to the World Health Organisation (World Health Organisation, 2019), while other human rights groups estimate this number to be 1.2 million (Ganguly & Adams, 2019). More Rohingya live as refugees today than remain in Myanmar. The government of Bangladesh and humanitarian organisations are struggling to provide for the refugees' needs, while Myanmar refuses to take the steps necessary to ensure

the safe and voluntary return of the Rohingya to their homes in Rakhine State.

In the meantime, the situation for the Rohingya in Bangladesh is dire. Crammed into crowded camps, refugees increasingly suffer from crime and violent disputes. They are not allowed to move around the country freely, and their access to employment, education, and other social services is heavily restricted. Militants and gangs increasingly operate with impunity in the camps, consolidating control to the detriment of non-violent political leaders. There is an ongoing and often violent struggle for de facto political control over the camps and access to monetary gains – legal and illegal – from the camp economy. From dusk onwards, camp security is in the hands of untrained and unarmed night watchmen appointed from among the refugees. Overstretched Bangladeshi police are focused on perimeter security and protection of local Bangladeshi communities, and remain mostly outside the camps at night (Ganguly & Adams, 2019).

Women and girls: Women and girls account for more than half of the population in Cox's Bazar, and one in six families is headed by a single mother (Sang, 2018). For many women, their distress did not end when they reached Bangladesh. Between May and July 2018, there was a spike in child birth which coincided with rapes from late August to September the year before; the most intense period of violence against the Rohingya. These babies tend to be treated differently. If an unusually pale child is born, the mother must endure whispers that its father is from Myanmar's Bamar ethnic majority. Traffickers have moved in, spreading the word that they can relieve women of unwanted new-borns. Some women have resorted to potions or back-room abortions, which can result in septic shock, desperate to get rid of unwanted pregnancies (Beech, 2018). Half of the Rohingya

treated for rape in the refugee camp clinics run by MSF were eighteen or younger. Several had not even reached the age of ten. Of well over 800 testimonies gathered, one in particular highlighted the extent of the abuse: 'I was lucky, I was only raped by three men,' the survivor is quoted as saying (UN News, 2018).

Everyone in Rohingya refugee camps in Bangladesh knows of the rapes and how the Myanmar military has, for decades, used sexual violence as a weapon of war, particularly against ethnic groups that are not from the nation's Bamar Buddhist majority. They know that it is not the fault of the women and girls who were often gang raped at gunpoint. Nevertheless, in traditional Rohingya Muslim society, rape brings shame to households. Any resulting pregnancies are considered as adding to the disgrace of families (Beech, 2018).

Children and youth: Almost half of the 540,000 refugee children under the age of 12 in Bangladesh are missing out completely on an education, while the remainder are only able to access very limited schooling. Just a handful of teenagers are able to access any form of education or training (UN News, 2019). The government of Bangladesh has banned formal education for refugee children, and has expelled scores of Rohingya from schools in southeast Bangladesh since late January 2019. Without formal education, Rohingya children have no official recognition of their education and no opportunity to apply to universities (HRW, 2019a). Such lack of security and hope creates major risks: Without education, opportunities for employment are scarce, and children and young people can easily fall prey to recruitment by insurgent groups (ICG, 2019).

Journalists: Brutalities are not limited to the Rohingya. In December 2017 and January 2018, Associated Press and Reuters journalists

reported evidence of mass graves in Rakhine State. Two of them were subsequently tried and jailed under the Official Secrets Act, amid widespread international condemnation (McPherson, 2018). They were finally released in May 2019, after spending over 500 days in jail. According to Dan Chugg, the British ambassador to Myanmar, 'These journalists were convicted in a case which did not follow due process and ignored the concept of innocent until proven guilty' (Ellis-Petersen, 2019a). In April 2019, Myanmar's military sued the editor of The Irrawaddy for criminal defamation, claiming that the news outlet's reporting on recent clashes in Rakhine State was 'unfair' and defamed the Myanmar army. These are just a few examples of the use of criminal laws against journalists, with at least 47 reporters facing charges since the government led by Suu Kyi's NLD took power (Lakhdir, 2019).

13.3 Perpetrators: A carefully orchestrated attack

The 'clearance operations' in Rakhine State were led by the Tatmadaw and supported by other security forces, mainly the Myanmar Police and Border Guard Police. Almost all instances of sexual violence are attributable to the Tatmadaw. In some villages, Rakhine men participated in the operations, mostly looting and burning, but also killing and injuring Rohingya, as seen in the case of Tula Toli. The recurrent and organised involvement of civilian groups in the operations, and the consistent way in which they were equipped, tasked and executed their roles across different townships, demonstrate orchestration by the Tatmadaw, as per the report of the UN fact-finding mission (UNHRC, 2018).

Even though the operations were conducted over a broad geographic area, they were strikingly similar. Tatmadaw soldiers would

attack a village in the early hours, frequently joined by other security forces, often by Rakhine men and sometimes men from other ethnic minorities. The operations were designed to instil immediate terror, with people woken by intense rapid weapon fire, explosions or the shouts and screams of villagers. Structures were set ablaze, and Tatmadaw soldiers fired their guns indiscriminately into houses and fields, and at villagers. The nature, scale and organisation of the operations suggest a level of preplanning and design by the Tatmadaw leadership that was consistent with the vision of the Commander-in-Chief, Senior General Min Aung Hlaing, who stated in a Facebook post on 2 September 2018, at the height of the operations, that 'the Bengali problem was a longstanding one which has become an unfinished job despite the efforts of the previous governments to solve it. The government in office is taking great care in solving the problem' (UNHRC, 2018, p. 8).[4]

The UN fact-finding mission also found that this was not the first time that Rakhine State faced a wave of violence to which the authorities appeared at least an abettor. During intercommunal clashes of a distinctly anti-Muslim nature in June and October 2012, the Myanmar security forces either actively participated or were at least complicit, often failing to intervene to stop the violence. They injured, killed and tortured Rohingya and destroyed their properties. Witnesses from Sittwe and Kyaukpyu described cases of security forces preventing Rohingya or Kaman from extinguishing houses set on fire by Rakhine, including by gunfire.[5] Witnesses from Maungdaw described security forces shooting indiscriminately at Rohingya and conducting mass arbitrary arrests. Large groups were transferred to Buthidaung prison, where they faced inhumane conditions and torture. Prisoners were beaten by prison guards and fellow Rakhine detainees, sometimes fatally (UNHRC, 2018).

The UN fact-finding mission has called for the prosecution of top Myanmar generals for crimes against humanity and genocide over the violence in Rakhine State. Ms. Coomaraswamy, a former UN Special Representative for children and armed conflict who took part in the fact-finding mission of early 2017, said she was shocked by what she found:

> [T]he scale, brutality, and systematic nature of rape and violence indicate that they are part of a deliberate strategy to intimidate, terrorize, or punish the civilian population. They're used as a tactic of war that we found include rape, gang rape, sexual slavery, forced nudity and mutilations. (UN News, 2018)

In the new digital age, social media outlets, especially Facebook, have been used with massive influence. Forces loyal to Myanmar authorities have used accounts and pages to promote anti-Rohingya sentiment (Fink, 2018). In 2018 and 2019, Facebook announced it had dismantled sweeping 'Coordinated Inauthentic Behaviour' campaigns directly traceable to the Myanmar military. These pages appeared independent, but occasionally would promote anti-Rohingya sentiment along military lines. The banned accounts (both overt and covert) had a massive outreach: They were followed by almost 12 million, or about two-thirds of all Facebook users in Myanmar — a country of some 51 million. But it was not just the military: 'Aung San Suu Kyi's State Counsellor Information Committee's [Facebook] page was full of hysterical posts about terrorists and implying on a daily basis that the [aid agencies were] assisting [Rohingya rebels]', according to Burma Campaign UK. The Facebook page, for instance, posted material accusing Rohingya women of claiming 'fake rape' (Long, 2019).

While the overwhelming majority of violations have been perpetrated by the Myanmar military,

the ARSA has also committed abuses in Rakhine State, including abductions and arbitrary deprivation of liberty. It was a response to coordinated attacks by the ARSA on Myanmar military posts on 25 August 2017 that – according to official statements – led to widespread massacres of the Rohingya. The insurgent group launched its first operation in October 2016, when it conducted a deadly, coordinated attack on three border police bases in northern Rakhine State. A months-long, heavy-handed military response followed (ICG, 2017). The ARSA is led by a committee of Rohingya émigrés in Saudi Arabia, and is commanded on the ground by Rohingya with international training and experience in modern guerrilla war tactics. While the Myanmar government claims the ARSA is a terrorist organisation with a jihadist agenda, the group is largely considered to have political rather than religious motives, with the original objective being to advance Rohingya rights and autonomy within Myanmar (ICG, 2016). While it benefits from the legitimacy provided by several local and international fatwas (religious judicial opinions) in support of its cause, the group evokes mixed feelings among many Muslims in northern Rakhine State (ICG, 2016).

13.4 Significance: Impunity at the national and international level

Institutionalised discrimination: The events described above are part of a decades-long discriminatory policy against minority groups in Myanmar. People outside the 135 recognised ethnic groups in Myanmar are regarded as immigrants, enjoy only limited political status in the country, and commonly attain only partial citizenship status. In particular, many people of South Asian descent, and Muslims from all backgrounds, have recently become widely perceived as a threat to the Myanmar

nation, not only by hardliners but also among the general public, Buddhist monks, and politicians (Burke, 2016). Ethnic Rohingya, a largely Muslim minority, have faced decades of discrimination and violence. Most have been denied Myanmar citizenship for generations, an injustice enshrined in Myanmar's 1982 Citizenship Law. The government of Myanmar denies the indigenous status of most Rohingya, contending that they are migrants from Bangladesh, even though many Rohingya families have lived in Myanmar for generations (Bouckaert, 2017). Bangladesh, in turn, insists the Rohingya are from Myanmar, rendering them effectively stateless (Wright, 2017).

The UN fact-finding mission also found that the travel of Rohingya between villages, townships and outside Rakhine State has long been restricted on the basis of a discriminatory travel authorisation system. This has had serious consequences for economic, social and cultural rights, including the rights to food, health and education. The degree of malnutrition witnessed in northern Rakhine State has been alarming. Other discriminatory restrictions include procedures for marriage authorisation, restrictions on the number of children, and the denial of equal access to birth registration for Rohingya children. For decades, security forces have subjected Rohingya to widespread theft and extortion. Arbitrary arrest, forced labour, ill-treatment and sexual violence have been prevalent (UNHRC, 2018).

Protracted refugee situation: In September 2018, one year into the crisis, Prime Minister Sheikh Hasina warned that Bangladesh could not afford to permanently absorb the refugees. In March 2019, Bangladesh's foreign secretary told the Security Council that the country 'could no longer […] accommodate more people from Myanmar'. The government had initially expected that its shelter of Rohingya would

be short-term, thinking that the threat of sanctions and international prosecution would persuade the Myanmar authorities to allow Rohingya to return to their homes in Rakhine State (Ganguly & Adams, 2019). Initial attempts in 2018 to begin a repatriation process failed spectacularly after Myanmar failed to provide assurances to the refugees that they would be safe from violence, be allowed to return to their original homes, have freedom of movement, and be given a pathway to citizenship in Myanmar. As a result, the thousands of Rohingya listed for return refused, and many went into hiding (Ellis-Petersen, 2019b).

The government of Bangladesh again announced in April 2020 that it would refuse entry to more Rohingya refugees as reports of inhumane pushbacks of boats by countries in the region began to surface. Fishing boats and trawlers carrying Rohingya refugees are being turned away by Malaysia, Indonesia, Thailand and Bangladesh, with overcrowded vessels carrying starving refugees for months (HRW, 2020). Furthermore, the coronavirus pandemic has aggravated tensions between Rohingya refugees and local communities in Bangladesh, leading to increased distrust, stigmatisation, racism and hate speech being directed towards the refugees who are being accused of spreading the virus. Given that refugee camps are densely populated, the incidence of infections is higher among the Rohingya. Non-governmental organisations are also routinely accused of hiding information about the number of infections, despite there being little evidence of Rohingya refugees spreading the virus outside the camps. Finally, distrust is also aimed at aid groups perceived to be favouring the Rohingya at the expense of local communities who are also struggling with poverty (Anas, 2020). By late 2020, the Bangladeshi government has moreover started relocating Rohingya from the refugee camps to the island of Bhashan Char, prone to cyclones

and flooding, amid domestic pressure to resolve the 'Rohingya issue' but apparently against the will of Rohingya themselves who are forced to live in dismal conditions (Al Jazeera, 2020).

National accountability: The UN-commissioned independent international fact-finding mission on Myanmar in August 2018 described the 2017 events in Rakhine State as a 'textbook example of ethnic cleansing'. Speaking to journalists in Geneva, the investigators underlined the horrific and organised nature of the brutality meted out on civilians in Myanmar's Rakhine State. 'The fact-finding mission has concluded, on reasonable grounds, that the patterns of gross human rights violations and serious violations of international humanitarian law that it found, amount to the gravest crimes under international law,' one of the investigators said. 'These have principally been committed by the military', he added. 'The mission has concluded that criminal investigation and prosecution is warranted, focusing on the top Tatmadaw generals, in relation to the three categories of crimes under international law: genocide, crimes against humanity and war crimes' (UN News, 2018).

Nonetheless, those responsible are not brought to account. In September 2019, in an updated report to the UN Human Rights Council, the mission concluded that, 'Myanmar is failing in its obligation to prevent genocide, to investigate genocide and to enact effective legislation criminalizing and punishing genocide' (UNHRC, 2019, p. 7). While the Myanmar government tried and sentenced soldiers involved in the Inn Din village killings in April 2018 for ten years imprisonment, they were already released in November the same year. They are the only people to have been convicted for the crackdown on Rohingya. 'There is a persistent culture of impunity', said Laura Haigh, researcher for Amnesty International in Myanmar. She added:

It's not just a case of a few bad eggs. This is very much a systematic, institutionalised problem with the Myanmar military that's not going to go away by sanctioning a few soldiers. This is not a country that's committed to accountability in any way, shape or form. (Mayberry, 2019)

International accountability: In April 2018, the International Criminal Court (ICC) Chief Prosecutor Fatou Bensouda asked the court for a ruling on whether the court could have jurisdiction over deportations of Rohingya people from Myanmar to Bangladesh, a possible crime against humanity. Myanmar, which is not a member of the court, has objected (Baldwin, 2018). In November 2019, the Court granted the prosecutor authorisation to open an investigation into crimes against humanity, especially the displacement of an estimated 740,000 Rohingya to Bangladesh. The Court also ruled that the prosecutor can investigate other crimes, including future crimes, if they are within the ICC's jurisdiction and are sufficiently linked to the situation described in the prosecutor's request – which focused on crimes committed during two waves of violence, in 2016 and 2017 in Rakhine State – since Bangladesh became an ICC member in June 2010 (HRW, 2019b).

China and Russia have thus far blocked UN Security Council action to hold the Myanmar military accountable for the atrocities against the Rohingya, while human rights groups believe that the US and other Security Council members are not doing enough to secure justice for those in need (Ganguly & Adams, 2019). The US, Canada and EU have imposed sanctions on some members of the Myanmar military responsible for the 2017 atrocities. The EU is considering a formal review of Myanmar's access to the EU market under its Everything But Arms programme, which gives tariff-free access in exchange for commitments to uphold

basic human rights standards, but no action has been taken thus far. Malaysia and Indonesia, which have long endorsed the doctrine of non-interference in the internal affairs of other states, have publicly called on Myanmar to change course (Ganguly & Adams, 2019).

In November 2019, the Gambia, with the backing of the 57 members of the Organisation of Islamic Cooperation filed a case before the International Court of Justice (ICJ) alleging that Myanmar's atrocities against the Rohingya in Rakhine State violate various provisions of the Convention on the Prevention and Punishment of the Crime of Genocide ('the Genocide Convention'). The case before the ICJ is not a criminal case against individual alleged perpetrators and it does not involve the ICC. Rather, the case is 'state-to-state' litigation between UN member states governed by legal provisions in the UN Charter, the ICJ Statute, and the Genocide Convention. The Gambia's filing marks the first time that a country without any direct connection to the alleged crimes has used its membership in the Genocide Convention to bring a case before the ICJ (HRW, 2020). In December 2019, this forced State Counsellor Suu Kyi to travel to The Hague to answer to genocide allegations levelled at her nation (Bowcott, 2019). As of May 2020, the ICC has granted an extension of the timeline for filing of the initial pleadings as well as the counter-pleadings [International Court of Justice, 2020).

Outlook for the future: Military abuse has not ceased since the 2017 ethnic cleansing. 'Less than two years since the world outrage over the mass atrocities committed against the Rohingya population, the Myanmar military is again committing horrific abuses against ethnic groups in Rakhine State' said Amnesty International's Nicholas Bequelin in 2019. 'The new operations in Rakhine State show an

unrepentant, unreformed and unaccountable military terrorizing civilians and committing widespread violations as a deliberate tactic' (Amnesty International, 2019).

Images

Kutupalong refugee camp in Cox's Bazar, Bangladesh. Between
500-800,000 Rohingya refugees have fled to the camp to
escape violence and discrimination in Myanmar.
© Russell Watkins/Department of International Development (2018)

Medical staff treat children in Kutupalong refugee camp to help contain an outbreak of diphteria, a possibly fatal disease.
© John Owens/VOA (2017)

Bibliography

Al Jazeera (2020, December 29). Bangladesh moves nearly 2,000 Rohingya refugees to remote island. *Al Jazeera.*

Amnesty International (2018). *Attacks by the Arakan Rohingya Salvation Army (ARSA) on Hindus in northern Rakhine State* [Briefing]. Amnesty International.

Amnesty International (2019, May 29). Myanmar: Military commits war crimes in latest operation in Rakhine State [Blog post]. *Amnesty International.*

Anas, A. Z. M. (2020, July 27). Covid-19 fuels tensions between Rohingya refugees and Bangladeshi hosts. *The New Humanitarian.*

Baldwin, C. (2018, August 17). The Rohingya lists: refugees compile their own record of those killed in Myanmar. *Reuters.*

Beech, H. (2018, July 7). When a Baby is an Everyday Reminder of Rohingya Horror. *The New York Times.*

Bouckaert, P. (2017). *Massacre by the River: Burmese Army Crimes against Humanity in Tula Toli* [Report]. Human Rights Watch.

Bowcott, O. (2019, December 8). Aung San Suu Kyi heads to The Hague for Myanmar genocide showdown. *The Guardian.*

Bünte, M. (2016). Myanmar's protracted transition: Arenas, actors, and outcomes. *Asian Survey, 56*(2), 369-391.

Burke, A. (2016). New Political Space, Old Tensions: History, Identity and Violence in Rakhine State, Myanmar. *Contemporary Southeast Asia, 38*(2), 258-83.

Ellis-Petersen, H. (2019a, May 7). Myanmar frees Reuters journalists jailed for reporting on Rohingya crisis. *The Guardian.*

Ellis-Petersen, H. (2019b, March 1). Rohingya crisis: Bangladesh says it will not accept any more Myanmar refugees. *The Guardian.*

Fink, C. (2018). Dangerous speech, anti-Muslim violence, and Facebook in Myanmar. *Journal of International Affairs, 71*(1.5), 43-51.

Ganguly, M., & Adams, B. (2019, June 5). For Rohingya Refugees, There's No Return in Sight [Blog post]. *Human Rights Watch.*

Habib, M., Jubb, C., Ahmad, S., Rahman, M., & Pallard, H. (2018). *Forced Migration of Rohingya: The Untold Experience.* Ontario International Development Agency.

Holmes, O. (2017, September 7). Massacre at Tula Toli: Rohingya recall horror of Myanmar army attack. *The Guardian.*

Human Rights Watch (2017, December 19). Burma: Methodical Massacre at Rohingya Village [Blog post]. *Human Rights Watch.*

Human Rights Watch (2019a, April 1). Bangladesh: Rohingya Refugee Students Expelled [Blog post]. *Human Rights Watch.*

Human Rights Watch (2019b, December 5). Questions and Answers on Gambia's Genocide Case Against Myanmar Before the International Court of Justice [Blog post]. *Human Rights Watch.*

Human Rights Watch (2020, April 25). Bangladesh: Rohingya Refugees Stranded at Sea [Blog post]. *Human Rights Watch.*

International Court of Justice (2020). *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar): Extension of the time-limits for the filing of the initial pleadings* [Press Release Nr. 2020/14]. International Court of Justice.

International Crisis Group (2016). *Myanmar: A New Muslim Insurgency in Rakhine State* [Asia Report Nr. 283]. International Crisis Group.

International Crisis Group (2017). *Myanmar Tips into New Crisis after Rakhine State Attacks* [Statement]. International Crisis Group.

International Crisis Group (2019). *Building a Better Future for Rohingya Refugees in Bangladesh* [Asia Briefing Nr. 55]. International Crisis Group.

Lakhdir, L. (2019, May 7). Two Myanmar Journalists Freed, but Many Face Charges [Blog post]. *Human Rights Watch.*

Long, K. (2019, June 4). The war for truth in Myanmar's cyberspace. *Coda Story.*

Mayberry, K. (2019, May 29). Myanmar military committing war crimes in Rakhine: Amnesty. *Al Jazeera.*

McPherson, P. (2018, February 5). Witness to a massacre: the former Myanmar soldier who saw his village burn. *The Guardian.*

Médecins Sans Frontières (2017, December 12). *MSF surveys estimate that at least 6,700 Rohingya were killed during the attacks in Myanmar* [Press release]. Médecins Sans Frontières.

Mujahid, A. M. (2018, January 9). Rohingyas: The Tula Toli Massacre in Burma. *Australian Muslim Times.*

Rahman, S. (2018, February 4). The massacre at Tula Toli: Survivors of ethnic cleansing in Myanmar are haunted and broken by what they've seen [Blog post]. *Latterly.*

Sang, D. (2018). *One year on: Time to put women and girls at the heart of the Rohingya response* [Report]. Oxfam International.

Stokes, E., & Ellis-Petersen, H. (2019, February 27). Rohingya crisis: UN investigates its 'dysfunctional' conduct in Myanmar. *The Guardian.*

UN Human Rights Council (2018). *Report of the independent international fact-finding mission on Myanmar* (A/HRC/39/64) [Report]. United Nations, Human Rights Council.

UN Human Rights Council (2019) *Report to the 42nd session of the Human Rights Council: Detailed findings of the Independent International Fact-Finding Mission on Myanmar* (A/HRC/42/CRP.5) [Report]. United Nations, Human Rights Council.

UN News (2018, August 27). Myanmar military leaders must face genocide charges – UN report [Blog post]. *UN News.*

UN News (2019, April 26). Future of Rohingya refugees 'hangs in the balance'- UNHCR chief [Blog post]. *UN News.*

Wright, R. (2017, December 4). Accounts of rape, burning children and murder: How a Rohingya massacre unfolded at Tula Toli. *CNN.*

Endnotes

1 The first nominally democratic elections were held in 2010, but were boycotted by a number of parties – among which the main opposition party NLD – and were widely criticised for irregularities; not surprisingly, the regime-affiliated party won these elections by a large margin (Bünte, 2016).

2 Words of Nurul Haq, a 65-year-old Rohingya refugee in Bangladesh, while speaking with Shafiur Rahman in September 2017.

3 For an in-depth discussion of sexual and gender-based violence as a weapon of war, see chapter 3 on sexual violence in South Sudan. This is also discussed, to a lesser extent, in chapter 8 on ISIS' attempted genocide against the Yazidis.

4 The Myanmar army and government do not recognise the Rohingya as an ethnic group indigenous to Myanmar but consider them illegal immigrants from Bangladesh instead; hence the 'Bengali' problem.

5 The Kaman are another, smaller Muslim minority residing in Rakhine State: They largely escaped the June 2012 violence, but as tensions grew distinctly more anti-Muslim, were targeted in the October 2012 alongside Rohingya.

PART II

Elements of
civilian harm

We [...] knew that it was very dangerous for Nuer women and men to move outside the POCs for fear of being raped and killed. But for us women, we just closed our eyes to save our children from starvation.

14. Victims: The human cost of violent conflict

AUTHORS: ERIN BIJL, WELMOET WELS & WILBERT VAN DER ZEIJDEN

This chapter explores civilian harm from the perspective of the women, men and children affected by armed action and examines how violence has impacted them. Throughout the chapter, we draw insights from Part I and raise various questions for further discussion. Beginning with a brief general reflection on what has been presented in the empirical section of this book, we will consider specific findings in relation to victims, namely how civilian harm is not only physical, can have long-term and cascading effects, is often closely intertwined with damage to infrastructure and livelihoods, and how the impact of the use of violence may be worse for specific population groups depending on the context or on the method of attack.[1] We will present our 'six signatures' based on the preceding, encompassing six characteristics of civilian harm that require more consideration, as a tool to better describe and understand civilian harm.

14.1 Case overview

Across thirteen empirical accounts of civilian harm events (Part I), we see a wide range of victim groups and of the suffering armed violence has caused them. Central to each case are the questions who is harmed and how victims are harmed. With regard to the first question, in some cases entire communities are harmed – sometimes intentionally or sometimes by being 'in harm's way' – whereas in other cases a selected group or category of people is deliberately targeted. The former can be seen in the case of the Yemeni civilians in Hudeidah who all suffered under the siege tactics and airstrikes used by the Saudi-led coalition in 2017 (chapter 1); in Qayyarah, Iraq, where an entire town was affected by the Islamic State of Iraq and Syria's (ISIS) deliberate destruction of oil refineries and subsequent oil fires in 2016–17 (chapter 2); in the Gaza Strip, where people's access to clean water was dangerously reduced when the Israeli Defence Forces (IDF) bombed a power plant, as well as water and wastewater management systems in 2014 (chapter 4); or in relation to the residents of Khan Sheikhoun who fell victim to a chemical attack by the Syrian Arab Army in 2017 (chapter 5). In other cases, we see how specific sections of a community are harmed. Examples include the specific targeting of non-Dinka women and girls in South Sudan in 2016 (chapter 3), of Yazidis in Iraq in 2014 (chapter 8), of Rohingya in Myanmar in 2017 (chapter

---

1 A more comprehensive discussion of our deliberations in using the term 'victim', as well as other key terms, can be found in the Introduction, section 3 on the discourse on civilian harm.

13), and the deliberate displacement of peasants and peasant community leaders in Colombia's Cesar region, dating back to 1997 (chapter 10).

Yet, the juxtaposition of cases that affect whole communities as opposed to cases where particular sections of a community are harmed is often too simplistic and may misrepresent events on the ground. While actors may have a specific target in mind, an attack often has repercussions that extend beyond the immediate objective – both in space and time, and thus affects additional people. One such example is the Taliban's use of suicide bombs in Kabul in 2015 (chapter 11). The objectives of these type of attacks by the Taliban vary from intentionally harming as many people as possible without distinction, to seeking out more specific targets, for instance buildings or people associated with institutions such as the Afghan National Defence and Security Forces or NATO. Yet even such targeted attacks often injure or kill regular security guards or passers-by as well, or instead of, the anticipated target. Another example is the use of explosive weapons with wide-area effects by armed actors in eastern Ukraine: While aiming for each other, the nature of such weapons makes it likely that the impact of the armed actors' fighting extends beyond the original target; for instance damaging a hospital through indirect fire, as happened in 2015 (chapter 7).

The belief that women and children are universally more vulnerable to the effects of use of violence than men – who are sometimes assumed to be less innocent and more 'deserving' of violence – is a similar oversimplification of reality, and obscures gender-based vulnerabilities of boys and men (Carpenter, 2005). The cases in this book demonstrate that victims of harm include all age, gender and professional groups; rural as well as urban residents; minorities and ethnically mixed general populations; regime supporters and opposition affiliates; as well as non-political civilians. Depending on the type of conflict, the weaponry chosen, and the intentions of the perpetrators, specific groups may be more vulnerable to sustaining harm than others. Alternatively, if a particular area is in the line of fire, the entire local population may be at risk of harm.

On the question of how civilians are harmed, the cases reveal that regardless of who is targeted and of whether it is deliberate or not, the reverberating effects of the use of armed violence go far beyond the immediate and directly visible physical harm we tend to be confronted with in the media, in political discourse, and in war and conflict-related narratives. We have, for instance, a general idea of

what genocide is and the type and scope of violence it entails. Many of us recall the images of Yazidis trapped on Mount Sinjar, besieged and persecuted by ISIS following its invasion in Sinjar in 2014, or stories of Yazidi women sold into sexual slavery (chapter 8). But many of us are unaware of the plight of the Yazidis today, several years after the conflict, such as the high levels of post-traumatic stress disorder (PTSD) among survivors, the hardship and limited prospects of many Yazidis still living in displacement camps, continued behavioural problems in formerly kidnapped children, and the manifold problems impeding return to their homes in Sinjar. The persecution of the Yazidis represents just one example where harm endures beyond the immediate physical harm; the other twelve events included in 'Cases of civilian harm' tell comparable stories and lay bare the diversity of civilian harm. They show that negative effects from the use of violence against civilians are not limited to physical injuries or deaths. Civilians are harmed in myriad ways including by long-term psychological trauma, disrupted livelihoods, and lack of access to basic needs, education, or healthcare.

14.2 The characteristics of civilian harm

Accumulating the findings of Part I, we identify five characteristics of civilian harm that deserve careful consideration when we build a common understanding of violent conflict and its effects on civilians:

- Harm to civilians caused by armed violence often is not exclusively of a physical nature.

- The harmful effects of violent conflict are more long-term than is often perceived.

- Attacks on infrastructure have underestimated yet damaging consequences for civilian life.

- In urban environments in particular, cascading effects may exponentially increase civilian harm.

- The impact of violence on civilians varies significantly depending on pre-existing vulnerabilities of certain population groups.

Civilian harm extends beyond the physical

'The cases of civilian harm' shows that civilian harm is more than just the physical effects of armed action on life and health. To fully understand the phenomenon, we must go beyond describing civilian harm as an accumulation of events and beyond the use of obscuring language like 'collateral damage' or 'civilian casualties'. A solely physical interpretation of civilian harm is problematic for three main reasons. First of all, it fails to take into account that war and violence often have a significant and long-lasting psychological impact. The attempted genocide against the Yazidis of Sinjar in 2014 is a particularly telling example (chapter 8).[2] The scope of the violence ISIS employed against the Yazidi people was overwhelming: ranging from mass executions, enforcing death by dehydration, large-scale sexual and gender-based violence (SGBV), to physical abuse of children and their forced recruitment as child soldiers. Yet, the psychological harm and mental trauma inflicted on ISIS' victims during the conflict was equally overwhelming and continues to impact their lives to this day. The prevalence of suicide attempts, depression, PTSD, social exclusion and stigmatisation, and behavioural disorders among survivors is alarming (UN High Commissioner for Refugees, 2019). Clearly, the impact of ISIS' violence has left traces that are not only physical. Exacerbating the trauma of the Yazidis – and of those who are harmed in many other conflicts – is the lack of psychosocial support available to them, compounded by the difficult living conditions for refugees and IDPs, neither of which are conducive to proper recovery.

In addition, limiting ourselves to physical manifestations of civilian harm is problematic because it excludes the negative socio-economic effects on civilians that typically occur as a result of conflict. The cases in this book provide empirical evidence of how widespread and varied these impacts can be. The harm caused by the suicide bombing in Afghanistan on 7 August 2015 – a type of violence very typically identified with visible, physical impact – included a socio-economic dimension (chapter 11). In an instant, a local shopkeeper practically lost all his savings and income when his shop was damaged by the explosion. It moreover provoked ripple effects into the lives of the entire family dependent on this business, disrupting or hindering their ability to sustain themselves with food and

---

2 The actions of ISIS against the Yazidis have been recognised as genocide by several entities, amongst others by the European Parliament (2016) and the UN in 2016 (UN Human Rights Council, 2016).

medicine, for the children to access education, and so on. This demonstrates how the death or injury of a (primary) breadwinner or the damage to or destruction of personal property can have specific, long-term financial consequences, especially in societies where life and property insurance are not prevalent. Moreover, socio-economic effects can lead to harmful coping strategies. In the case of the Yazidis, for example, failure to meet basic needs among Yazidi survivors has led to further problems, including reduced food intake and malnutrition, child labour, and forced early marriages (chapter 8).

Inflicting physical harm or damage may also not be the primary goal of a perpetrator's strategy. Therefore, reporting and analysis that only take into account the physical manifestations of harm risk to neglect critical aspects of the situation, and will neither adequately reflect the reality of the problem nor the full spectrum of people's torments. Paramilitary violence in Colombia is a case in point: While the paramilitary group United Self-Defence Forces of Colombia (AUC) carried out targeted killings in 1997, the overall and intended impact was the mass displacement of peasants to clear lands (chapter 10). Using terror to force farmers to leave, provided the AUC with access to their land that could then be sold to multinational companies seeking to exploit the land for coal. Strategic use of displacement has, in fact, been one of the main features of the Colombian conflict. Similarly, in ethnic cleansing – although of a much larger scope of violence – we know that force is used to achieve the objective of coercing people through terror to leave their land (Kjeksrud et al., 2016).[3] A different example concerns Sudan People's Liberation Army (SPLA) soldiers' use of sexual violence against non-Dinka women in South Sudan in 2016 (chapter 3). The objectives went beyond the direct effects of the physical assault, as the soldiers committing the violence used it to create fear, to stigmatise women, and to destabilise communities. Reporting only on the sexual violence itself, would forego this important aspect of the intended harm.

Other non-physical forms of harm might include the effects on health and nutrition, water and sanitation, damage to the natural environment, destruction of cultural heritage, or effects on the social fabric of societies, such as missing persons and

---

3 Ethnic cleansing as a type of violence is examined in this book in chapter 13 on the expulsion of Rohingya from Myanmar.

separated families. Evidently, taking notice only of the physical harm resulting from violence does not reflect the full scope of harm that is inflicted on civilians in most conflicts and, as such, does not do justice to their plight.

Civilian harm extends beyond the immediate and short-term
Part I shows that, in addition to immediate human casualties, the harmful consequences of the use of violence may not always be directly apparent and may continue to affect civilians for a long period. In the news we are shown images of immediate and physical harm from conflict: of smoking rubble, grieving people, lines of injured persons at hospitals following an explosion. But while deaths and injuries may be caused in an instant, their effects certainly are not over once the bodies are buried and the wounds are treated. The death of a breadwinner or primary caregiver can be a severe blow to that family's survival; injuries may lead to permanent disability, complicating the running of family duties or generation of income. Destruction of key facilities for the functioning of society are another source of long-term harm to civilian life, as we will see below. Psychological trauma takes years to overcome – provided there are mental health care services available. Civilian harm caused by the use of violence may even be transgenerational: Consider the social stigmatisation of children born of rape in times of conflict, a prevalent issue in South Sudan, Iraq and Myanmar (chapters 3, 8 and 13). We discuss three distinct types of long-term civilian harm in more depth: displacement, effects on the living environment, and effects on the natural environment.

Displacement of people is a particularly complex long-term manifestation of civilian harm as a direct consequence of armed violence. In fact, becoming displaced is one of people's greatest fears during armed conflict (Ipsos & International Committee of the Red Cross [ICRC], 2009, p. 40). The ethnic cleansing of the Rohingya in Myanmar in 2017 demonstrates both how violence caused civilians to leave their homes, and how that displacement was another form of harm in and of itself (chapter 13). Displacement caused Rohingya to endure bad living conditions, largely lose access to healthcare and education, and made them vulnerable to trafficking schemes. At the same time, displacement also adversely affects the host nation – in this case Bangladesh – where there are ripple effects of the large refugee community on local economic and security conditions, on politics, and on the availability of resources. Yet, general discourse often approaches (protracted) displacement as a separate, new issue, instead of

There can be staggering consequences to civilians if we do not report, study or take into account other negative impact from fighting besides injuries and casualties.

———

a direct and harmful consequence of the use of violence in conflict. The framing of displacement as a political and humanitarian problem rather than as a result of possibly intentional actions by armed actors, risks making any debate on the responsibility of causing displacement and taking mitigating measures irrelevant.

Another form of long-term harm that deserves more attention is damage to people's living environment, which can create harmful effects that only reveal themselves over time. Civilians in Cambodia to this day run the risk of being injured or killed by landmines and other explosive remnants of a war that was fought decades ago (chapter 6). The long-lasting implications of Explosive Remnants of War (ERW) include casualties or physical injuries caused by accidentally triggered explosions, the stigmatisation of disabled persons, and adverse socio-economic effects of land no longer safe for agricultural or industrial purposes due to the presence of explosives. Limited capacity to cope with such residual contamination exacerbates the problem. In order to feed their family, people may have no choice but to take their livestock into a contaminated field; or, in the absence of official mine clearance, people will take matters into their own hands and start demining their terrain themselves at great personal risk. Toxic remnants of war are also known to harm civilians in the long term. Airstrikes in urban settings generate millions of tonnes of rubble. Asbestos, cement, heavy metals, domestic chemicals and combustion products may all be present and can have detrimental effects on the environment and public health if not properly managed. In Gaza, the United Nations Environment Programme reported that many civilians were still living amongst or close to bombing debris caused by the actions of the IDF in 2014 (chapter 4). The resulting prolonged exposure to various harmful dusts, some of which may be chemically and physically damaging to respiratory health, puts civilians at considerable risk (Garrity, 2014).

In addition to harm caused by damage to the living environment, the use of certain weapons or strategies during conflict can also have severe repercussions for the natural environment, which can affect income generation and protection against natural disasters. In Qayyarah, Iraq, ISIS militants destroyed and set fire to oil refineries (chapter 2). The effects of these actions over the course of 2016–17 on the environment and, by extension, on civilians are numerous. Free-flowing oil has contaminated agricultural land, destroying people's livelihoods and polluting the Tigris river – an important source of drinking water for Qayyarah's inhabitants. This, in turn, caused the spread of water-related diseases. The soot from the

fires caused burns and respiratory problems among civilians, and in the long term, health experts expect an increase in cases of lung cancer and pulmonary fibrosis. Beyond that, however, it is difficult to estimate the exact longer-term environmental impact.

In Gaza, in 2014 – where the IDF bombed water and wastewater management systems, (chapter 4) – we again see the environmental impact caused by military action. The bombing induced raw sewage to flow into the Mediterranean Sea, which is likely to affect the environment and civilians for years to come. Fishing and swimming activities have been restricted because of health-related concerns, the average (clean) water intake among Gazans is now below minimum standards, and water-related diseases are spreading more rapidly. The case illustrates how violent conflict can even have transgenerational harmful effects: Lack of drinking water has caused disproportionate levels of stunted growth in children, which is especially worrying with the apparent link between stunted growth in mothers and stunted growth in their children. Overall, deliberate targeting of water, sanitation and hygiene infrastructure appears to be a trend in modern conflict and needs to be halted in order to prevent large-scale damage to the living environment.

Damage to critical infrastructure causes harm to civilians
Equally crucial to a better understanding of civilian harm is the critical role of infrastructure. We know that civilian harm from conflict is not always caused directly by armed action itself but manifests itself through reverberations. This is often the case when infrastructure is damaged or destroyed by force. The use of siege tactics and airstrikes in Hudeidah, Yemen (chapter 1), the weaponization of drinking water in Aleppo, Syria (chapter 12), and the destruction of power plants, water and wastewater management systems in the Gaza Strip (chapter 4) all demonstrate the immense and harrowing consequences for civilians when perpetrators cause damage – whether deliberately or not – to civilian infrastructure. In the case of Yemen, the casualty figures are particularly illustrative: By 2018, approximately 6,800 Yemenis had died and 10,700 had been injured through direct fire by the Saudi-led air campaign. Indirect casualties from the conflict are, however, estimated to have reached a startling minimum of 60,000 (BBC News, 2018; Reinl, 2019). The majority of these casualties can be attributed to starvation and disease, linked to the targeting of infrastructure.

Several factors contributed to the increase of starvation and acute malnutrition in Yemen, which were particularly prevalent in young children. Blockades and bombing campaigns by the Saudi-led coalition reduced food availability considerably: Bombs damaged markets and agricultural sites, while blockades decreased the import of food and fuel. The latter is significant as lack of fuel has impeded food production within Yemen itself, further reducing the already limited availability of food. At the same time, continued active fighting, widespread infrastructure destruction, and the collapse of the Yemeni economy have caused many people to lose their jobs or means of livelihood. Besides a lack of available food – by itself a cause of rising food prices – many Yemenis' ability to pay for food or drinking water has also been reduced, compounding an already dire situation.

Disease is the other main cause of indirect casualties in Yemen, and is closely related to the lack of available food. Public health has significantly deteriorated due to infrastructure destruction. Lack of food, in combination with limited access to healthcare has allowed diseases to spread unchecked, evident for instance in a large cholera outbreak during the conflict. To make matters worse, health care facilities have been destroyed, are understaffed because of displacement, and generally lack the equipment and resources needed to provide sufficient medical care. In addition, the deliberate or accidental strikes on water and electricity systems have often put these services out of order, further impeding health care. Yemen is a grim example of the potentially far-reaching and inter-related effects of the destruction of such infrastructure as hospitals, water and electricity networks, sanitation plants, agricultural sites, and irrigation systems. Unfortunately, the problems in Yemen are representative of many other conflicts.

In urban environments, violence can create cascading effects of civilian harm
The findings regarding Yemen raise important questions about the vulnerability of our urbanised world, an issue that warrants additional attention due to the prevalence of urban conflict. In 2018, 55 per cent of the world's population lived in urban areas. By 2050, that number is projected to reach 68 per cent (UN Department of Economic and Social Affairs, 2018). As human activity continues to concentrate itself in urban areas, so too does conflict. Estimates put the number of people in cities affected by conflict in 2015 at 50 million globally (ICRC & Interaction, 2017). The International Committee of the Red Cross (ICRC), among other organisations and institutions, has raised alarm about the dangers of urban warfare to civilians and calls for more attention for the vulnerability of civilian

infrastructure and systems in urban settings during conflict, because of the potentially devastating consequences of their destruction for civilians.[4] Several characteristics make cities and their inhabitants particularly vulnerable to the effects of conflict, such as the proximity of civilians to military targets, which makes it more likely that civilians (inadvertently) get harmed during armed action. This is recognisable in the damage to hospitals in eastern Ukraine, where shelling directed at military targets also hit healthcare facilities in the vicinity (chapter 7). In addition, urbanisation makes it more difficult to distinguish between civilians and combatants: a fundamental principle in International Humanitarian Law (IHL) (ICRC & Interaction, 2017).

Urban landscapes pose additional challenges where infrastructure is concerned. The 'interconnectedness' of urban services can create cascading effects that may negatively affect large numbers of people. The ICRC and Interaction (2017, p. 3) provide the following practical example of the cascading effects from interconnected service systems:

> *[I]f a power supply is destroyed during fighting, all the services and infrastructure connected to that power supply may cease to function – potentially affecting a wide range of key services such as hospitals, water supply, wastewater collection and treatment, mass communication mechanisms, schools, and public transportation. These reverberating effects build upon one another, resulting in cumulative impacts that may render an area unlivable and reverse development gains by years if not decades.*

This illustrates how even a single explosion can create ripple effects that extend far beyond the original target, harming large segments of an urban population. A specific form of such indirect effects is what is sometimes referred to as compounding effects: when two or more separate events or forms of harm – for instance the destruction of both a power plant and damage to water wells – combine to create an exponentially more harmful effect for civilians. In this case, by significantly decreasing the availability of water. The targeting of water and

---

4 Urban warfare as a phenomenon that contributes to high levels of civilian harm in contemporary conflict is also discussed in chapter16, 'Key factors: Causing or mitigating harm', section 16.2.

power facilities in Gaza in 2014 caused not only water shortages for the population but also pushed up fuel prices, making it unaffordable for people to boil water, leading to an increase in health problems as a result (chapter 4).

The role of critical infrastructure and the risk of cascading effects is currently not sufficiently integrated in studies about the impact of military activity on civilians and, by extension, in military planning and decision-making. Taking both into account is essential for better mitigation of civilian harm, as well as for the stabilisation and eventual rebuilding of a society, as the cases in our book underline.

Existing vulnerabilities can exacerbate harm

A final observation concerns the variability of harm. Many of the cases in this book look in detail at harm on an individual level. This is intentional. Too often, the harmful effects of armed violence are discussed in generalising terms, assuming that all members of a community are affected in the same way. By looking in depth at a number of cases, it becomes clear that harm is to be understood in relation to the vulnerabilities of each particular individual or group within a community. One type of violence may put young people more at risk than adults, or in a different way. An act of violence may trigger a specific vulnerability for women more than men, or vice versa; or it could put a particular ethnic group or people with a particular form of livelihood at risk.

This assertion is supported by the evidence of the 'Cases of civilian harm'. In South Sudan, IDP women of Nuer ethnicity experienced a heightened risk of (gang) rape and other forms of sexual violence around July 2016 (chapter 3). While SGBV is a widespread and recurrent feature of the conflict in South Sudan, two factors contributed to the group's increased vulnerability at that time. First, looting in the preceding days of conflict had depleted food resources for IDPs in UNMISS Protection of Civilians sites. People were therefore forced to venture outside the sites to collect food, exposing themselves to possible attacks. Second, among those daring to leave the camp, Nuer women were especially vulnerable to attacks by SPLA soldiers and allied militia. This was because the Nuer community at large had come to be associated with the SPLA's rival force, the SPLA-IO, meaning that the Nuer men were at risk of being killed outright as SPLA-IO combatants if they left camp. It therefore fell to the women to take on the task of foraging for food unprotected. The Nuer women were extremely exposed, resulting in severe and large-scale harm. Chapters 8 and 13 on violence against the Yazidis and the

Rohingya respectively likewise show that perpetrators can adapt their strategies depending on who they target.

Part I also highlights events where the type of violence used against civilians is the same, but where the implications vary greatly depending on the existing vulnerabilities of an individual or group. An example of this was observed by academic and former politician Michael Ignatieff, concerning the life of women with physical injuries or scarring caused by ERW (chapter 6). He discusses the stigma surrounding victims from ERW, expressing that, 'I'm very struck by the way in which injury to women ruins their lives to a degree that it doesn't ruin men's lives. A woman without a leg is human refuse in patriarchal societies' (Monin & Gallimore, 2011). Here, while the type of harm may be the same, the outcome and long-term impacts are distinct as there are different expectations regarding women within certain societies. We also see this in cases of female victims of SGBV choosing not to come forward about the harm done to them, as it is likely that they – instead of their assailants – will be blamed, such as is often the case in South Sudan (chapter 3). It is important to note here that relatively little is known about male victims of SGBV in conflict settings because of the overwhelming stigma surrounding this topic in general (Human Rights Watch, 2019; UN High Commissioner for Refugees, 2012).

Socio-economic status or forms of livelihood generation may also cause people to be more vulnerable to certain types of armed action. When oil refineries were deliberately set on fire in Iraq (chapter 2), two population groups were disproportionately affected. Farmers and livestock keepers lost their livelihood as their lands were damaged and their cattle died due to the environmental impact of the fires. The other group suffering disproportionately were children with a weak socio-economic background. When the large professional oil refineries were targeted and destroyed, artisanal refineries appeared as a means for people to make a living. Since pay was low, children were sent to work these jobs and were exposed to a myriad of health-related risks due to lack of regulation of the dangerous work and highly toxic environment.

14.3 Describing civilian harm: the 'six signatures'

Having taken stock of real consequences that people face in the course of conflict, this chapter has distilled five key concerns regarding the position of victims when it comes to the consideration of harm. The examples cited stem for the most part from Part I, 'Cases of civilian harm'. However, these cases are not exhaustive. Conversely, every conflict or violent event contains or engenders some or all of the aspects elaborated above. Unfortunately, these aspects often remain out of focus and are not sufficiently accounted for in military planning and mitigation measures. The purpose of this chapter is not only to outline the nature of the problem, but also to make suggestions for a common language and for civilian harm mitigation. We therefore identify six aspects to enhance shared understanding of civilian harm. While we do not presume that these aspects are comprehensive, they make reference to civilian harm characteristics that are often underreported, go unnoticed, or are ignored.

The overview below can aid in finding a shared language to describe civilian harm events, but may also help military planners. It includes the established practice of counting or tracking civilian casualties, as well as the five characteristics discussed in the previous section. Proper assessment and investigation of these aspects, both pre- and post-conflict, provide insight in the true nature of civilian harm, enabling adequate reporting, and potentially prevention and mitigation. The aspects are a tool to properly and fully identify the occurrence of civilian harm in conflict. They are the traces, the 'signatures', that conflict leaves in societies:

1. **Casualties:** The number of lives directly physically affected by the use of violence, i.e. deaths and injuries. Example: efforts by an organisation like Human Rights Watch to collect and publish the names of civilian casualties of the Coalition airstrike on a school building in Al Mansoura, Syria (chapter 9).

2. **Form:** The different manifestations of civilian harm: physical, social, economic, psychological, cultural, and so on. Examples: enduring trauma after having witnessed a suicide bombing in Afghanistan (chapter 11); the continued inaccessibility of large plots of agricultural land in Cambodia due to the presence of ERW (chapter 6); the disintegration of a society after ethnic cleansing of Rohingya in Myanmar (chapter 13).

3. **Duration:** The effective length of time that civilians are affected by the consequences of armed action: days, weeks, months, years, generations. Examples: long-term interruption of health care due to the shelling of a hospital in the Ukraine (chapter 7); stunted growth in children in Gaza (chapter 4); the stigma on children born from sexual violence in South Sudan and Iraq (chapters 3 and 8).

4. **Object:** The inclusion of damage to property, land, and infrastructure, both public and private, as a form of civilian harm, and carefully weighed in relation to the other aspects listed here. Examples: damage to water sanitation facilities in Gaza in 2014, affecting thousands of civilians (chapter 4); the imposed blockade on Hudeidah, Yemen, creating a large-scale famine (chapter 1).

5. **Systems:** The triggering of a chain of events due to the use of violence, whereby damage to one element reverberates onto other, interconnected, elements. Example: the destruction of a power plant in Gaza in 2014, severely affecting the water sanitation systems that depended on the power station (chapter 4).

6. **Variability:** The variable impact of the use of armed violence against civilians based on existing vulnerabilities, identity, and other group or personal characteristics. Examples: the particular vulnerability of rural rather than urban residents with regard to ERW in Cambodia (chapter 6); the disproportionate impact of destroyed oil refineries in Iraq on farmers, livestock keepers, and children with weak socio-economic backgrounds (chapter 2).

In the interest of better protection of civilians from the harmful effects of violent conflict, we propose that these six signatures of civilian harm be integrated specifically in civilian harm studies. They should be an integral part of analyses of specific civilian harm events or the examination of particular patterns of harm, of reporting, and of the planning and preparation of any action that involves the use of armed violence, as well as in planning and preparation for anticipated use of violence by adversaries. While we recognise how challenging of a task it may be for security actors to take into account all of these aspects, we strongly encourage more attention for them and factoring them into planning to the greatest extent possible.

14.4 Conclusion

While all the characteristics of civilian harm discussed in this chapter may appear to be self-evident, they are in practice often overlooked and insufficiently considered in the planning and conduct of armed operations in a violent conflict. Harm to civilians other than deaths and injuries, is generally not taken into account, understudied or underreported. The consequences of overlooking additional factors that contribute to, or are part of civilian harm, can be staggering, as the examples in this chapter illustrate. It is important for security actors to understand and consider as many facets of their armed action and their implications for the civilian population as possible, even when such actions may be considered to fall within the legal parameters set by IHL. At the same time, the consequences of actions by adversaries should also be taken into account, a topic taken up in the next chapter. This chapter proposes a new, structured approach to understanding and describing civilian harm in its specific context. The systematic inclusion of the six 'signatures' of harm – casualties, form, duration, object, systems, and variability – will allow for detailed mapping of the consequences of the use of armed violence for civilians. These six signatures are a tool to achieve common understanding, and will aid in the identification of strategies for protection of the population and the mitigation of harm, hopefully being a step towards a significant reduction of civilian harm in violent conflict.

15. Perpetrators: Types, intentions, responsibility

AUTHORS: WILBERT VAN DER ZEIJDEN, WELMOET WELS & ERIN BIJL

In the previous chapter, we examined the harmful impact of armed action on civilians: the victims. In this chapter, we focus on those who cause harm to civilians through the use of violence in hostilities: the perpetrators.[1] In Part I, 'Cases of civilian harm', we have described the role of the perpetrators in as much detail as possible. We examined their intentions, capabilities, methods and tactics, how their chosen actions contributed to causing or mitigating harm, and whether perpetrators in their specific context were – or could be – aware of the harm caused by their actions. In this chapter, we bring reflections from the cases together to discuss perpetrators on a more conceptual level. We consider perpetrators' legal status, their capabilities and different intentions, and we introduce the threat-based approach to the protection of civilians to demonstrate why understanding perpetrators of harm is crucial to preventing and minimising the negative effects of armed violence on civilians. We end the chapter with a brief reflection on the different 'degrees' of responsibility that may be assigned to particular perpetrators. A reflection on the impact of decisions made by perpetrators on civilians, for instance where it relates to weapons choices or target selection, is included in the next chapter on key factors that contribute to increased or mitigated harm.

15.1 Case overview

In the Introduction, we define civilian harm as 'negative effects on civilian or community well-being by use of force in hostilities', whether these effects are of a physical or psychological nature, or are related to the damaging of property or critical infrastructure. Throughout this book, we refer to the actors who cause such negative effects as perpetrators. As discussed before, there is no universal agreement regarding the use of this term to describe actors who cause harm to civilians. For example, NATO uses perpetrators in their Protection of Civilians Policy and Military Concept (see North Atlantic Treaty Organisation [NATO], 2016; NATO, 2021) whereas Airwars – a non-governmental organisation specialised in tracking and assessing military actions and related civilian harm claims – prefers the term belligerent (see Woods, 2016), as do various other organisations and

---

1 A more comprehensive discussion of our deliberations in using the term 'perpetrator', as well as other key terms, can be found in the Introduction, section 3 on the discourse on civilian harm.

institutions. We have chosen to use perpetrator as it more specifically relates to actors who cause harm to civilians, which is not necessarily captured in a term like belligerent.

With this approach, perpetrator can refer to formally recognised state forces or informal armed groups, state and non-state actors, actors who harm civilians intentionally and those who do so unintentionally, actors who are the main cause of the harm and those who provide support to the commission of harm. In our use of the term, it does not matter whether the violence used by the perpetrator reaches the legal threshold of an armed conflict or war, meaning that we also identify perpetrators in situations of violence like a regime crackdown or intercommunal violence. We also do not distinguish between the International Humanitarian Law (IHL) concepts of international and non-international armed conflicts. Whether it is the International Coalition against the Islamic State of Iraq and Syria (ISIS) executing an airstrike in Al Mansoura in 2017 (chapter 9), the Israeli Defence Forces (IDF) damaging sources of drinking water in Gaza in 2014 (chapter 4), the Taliban orchestrating suicide bombings in Kabul in 2015 (chapter 11), Colombian paramilitaries forcing people from their land in El Toco in 1997 (chapter 10), or the Syrian Arab Army (SAA) carrying out a chemical attack against its own civilians in Khan Sheikhoun in 2017 (chapter 5), all are examples of actors labelled perpetrator in this book as in some form or other they cause harm to civilians.

Importantly, an actor can also cause harm through inaction. Failure to uphold the positive obligation to protect civilians may have serious repercussions for their safety and well-being. For example, UNMISS peacekeepers took no action when women and girls were raped in the vicinity of UN Protection of Civilians sites in Juba in 2016 (chapter 3). These kinds of actors are referred to as perpetrators in this book as well, allowing us to explore important questions about how different types of actors and their specific behaviours relate to types of harm, as well as to different 'degrees' of legal and moral responsibility.

It should be noted that this book does not provide a comprehensive overview of all possible types of perpetrators, and we recognise that it would be useful in the future to expand the analysis started in this book to include other examples of actors often involved in actions that harm civilians, such as drug cartels, criminal gangs, pirates and cyber-aggressors.

15.2 Types of perpetrators

One way to classify the perpetrators discussed in this book is by identifying the type of actor they represent, which can be done by taking into account their legal status. According to IHL, perpetrators can be categorised as members of armed forces, as members of non-state armed groups, or as part of a third category: those who fall in neither or both groups. Even though this is not a publication on international law, we recognise that the legal classification of perpetrators is significant because of its relation to matters of legal responsibility and accountability. Additionally, the type of actor a perpetrator represents – armed forces, non-state armed groups or neither – may often tell us something about that perpetrator's capacity to inflict harm.

In the 'Cases of civilian harm' (Part I), we present a wide range of perpetrators. These include state armed forces: In Yemen, a Saudi-led military coalition lay siege to Hudeidah, depriving its inhabitants of food, water, medicine, and access to basic services (chapter 1); in South Sudan, a combination of government forces and allied militias used brute force to assault internally displaced women (chapter 3); the IDF denied Gazan civilians access to clean drinking water and exposed them to health hazards by bombing wastewater management systems (chapter 4); the SAA used chemical weapons against its civilian population in Khan Sheikhoun, and restricted access to water in Aleppo and other Syrian towns (chapters 5 and 12); the US-led International Coalition against ISIS killed a large group of internally displaced persons (IDPs) when it attacked a building it thought to be an ISIS stronghold (chapter 9); and in 2017, Myanmar's national army terrorised, killed, and sexually assaulted Rohingya in order to drive them out of the country (chapter 13). In several cases, state forces were assisted by (sometimes loosely organised) non-state armed groups when perpetrating harm, such as locals fighting alongside Myanmar's army or the previously mentioned militias in South Sudan. Yet, having primary responsibility in organising military actions that caused harm to civilians, state forces represent the main perpetrator in these cases.

Besides state actors, we describe a variety of non-state actors who cause harm to civilians, as well as actors who may be difficult to classify as either state or non-state, or as combatants or non-combatants, but who possess significant capabilities to inflict harm. Among these are terrorist organisations like ISIS and

the Taliban. ISIS deliberately set fire to oil refineries in Iraq in 2016, resulting in widespread health concerns and environmental damage (chapter 2); it subjected the Yazidi population to mass executions, starvation, rape and sexual slavery, torture, and recruitment of child soldiers following its invasion in Sinjar in 2014 (chapter 8); and, just like the SAA, ISIS too 'weaponized' water (chapter 12). The Taliban caused civilian deaths and injuries, as well as property destruction through suicide bombings in Afghanistan (chapter 11). Colombian paramilitary forces killed and injured peasants to force communities to flee from their lands (chapter 10). Both state and non-state armed groups in eastern Ukraine carelessly used explosive weapons in populated areas, thereby harming civilians through the damage explosives caused to health care facilities (chapter 7). Finally, in Cambodia, explosive remnants of war (ERW) left by various types of armed groups continue to harm civilians in the present day (chapter 6).

State armed forces

According to the International Committee of the Red Cross (ICRC), '[t]he armed forces of a party to the conflict consist of all organized armed forces, groups and units which are under a command responsible to that party for the conduct of its subordinates' (see Rule 4 in International Committee of the Red Cross [ICRC], n.d.). Two of our case studies concern the International Coalition against ISIS that bombed the Al Mansoura school in Syria, a military collaboration of internationally recognised armed forces (chapter 9), and the Tatmadaw – Myanmar's national army – which violently drove Rohingya civilians from their lands (chapter 13). While their intentions and the nature of the harm they inflicted differ considerably, in both these cases the perpetrator derived its mandate to act from the legal status of the state it represented. The Tatmadaw specifically acted within the primacy of the use of violence reserved for state actors.[2] Members of the anti-ISIS Coalition obtained their more unusual mandate from UN resolutions, which permit the use of force to defeat ISIS. State actors generally have a high capacity to inflict large-scale violence to civilians, due to their capacity to organise large standing armies, the professional training of the troops, and access to state resources.

---

2 Please note that this does not equal carrying out a justified action.

Non-state armed groups

Non-state armed groups can also be perpetrators of civilian harm. The ICRC defines non-state armed groups as 'dissident armed forces, or other organized armed groups which recruit members primarily from the civilian population and have developed a certain degree of military organization' (Sassòli & Bouvier, 1999). When these groups fulfil certain conditions, they can be considered parties to an international or non-international armed conflict, just like armed forces, which obliges them to abide by IHL and other international law.[3] In this book, ISIS (chapters 2, 8 and 12) and the paramilitary forces in Colombia (chapter 10) represent such non-state actors who have acquired the status of a legitimate military actor in that they are recognisable as an organised military force and typically are part of a hierarchical military command structure. In the case of the Colombian paramilitaries, it is clear that a hierarchical unit is represented, identifiable through insignia, uniforms, training and equipment. Legally, this means that individuals fighting in their ranks can be targeted by other military actors, are to be treated as combatants in case they are caught or surrender, and that their leaders can be tried in court for their involvement in causing harm to civilians. Generally, non-state armed groups have less potential to organise large-scale violence than their state counterparts but can nonetheless inflict great harm to civilians. Lack of leadership, insufficient training, irregular payment, and limited accountability can lead to situations where fighters use whatever opportunity they have to exploit, abuse, torment or otherwise harm civilians, especially in the absence of a state exercising its primacy of violence.

Non-classified actors

Conflict and hostilities increasingly take place in populated areas (ICRC & InterAction, 2017). As a consequence, there is an increasing blurring of lines between those who participate in the conflict and those who do not. In addition to the above two groups, there are civilians who take up arms individually, or who provide part-time support to an armed group. As such it can happen that actors are involved in organised violence, but are not clearly identifiable as official members of an armed entity. Other forms of intermingling can be the involvement

---

3 The non-state armed group must stand (1) under a responsible command, and (2) must have such control over a part of its territory that it (3) enables them to execute sustained and concerted military operations and to implement and adhere to IHL.

of civilian intelligence personnel or the outsourcing of military operations to private contractors. This blurs the distinction between civilians and combatants – in other words, between protected persons and legitimate targets. IHL dictates that civilians are protected from direct attack 'unless and for such time as they take a direct part in hostilities' (see Rule 6 in ICRC, n.d.). This entails that those persons committing acts that meet a certain threshold of harm and damage, that have a causal link with a coordinated military operation, and that are in support of a party to the conflict, forfeit their protected status as civilians for as long as they are directly participating in the hostilities. Hence, they may be legally targeted for the duration of their activity, but regain their civilian protected status under IHL when their activities cease. They may, however, be prosecuted under domestic or international law for their involvement (Melzer, 2009).

For the purposes of the discussion on civilian harm, it is important to realise that the causing of harm is not limited to those traditional actors recognised in international law as parties to the conflict. In recent conflicts, we have seen how fighters not clearly recognisable as belonging to armed forces or non-state armed groups may have a particular propensity to inflict harm. Their unclear status and lack of official 'membership' means that there is little accountability, oversight, training, or command structure, which exacerbates the risk of their causing excessive harm.

Legal implications

It may be clear that all parties to a conflict, whether they are state forces, non-state armed groups, civilians who take up arms, private contractors, or other non-classified actors, can be perpetrators of harm to civilians in a legal sense. The notion of 'perpetration' has a wide scope in international law. Not only those who commit criminal acts themselves may be labelled perpetrators; also those who use their command influence to ensure a certain criminal result may be held accountable (Melzer, 2009). A failure to act can equally invoke criminal responsibility as a perpetrator, for international law sets a positive duty to act and not fulfilling this – by looking the other way or condoning the behaviour of subordinates – is a violation of this fundamental obligation. Those involved in aiding and abetting a crime, planning and preparing, instigating and ordering, may be perpetrators under international law as well.

There are various legal criteria to establish perpetration, such as the substantial

effect of one's act to the commission of the crime, knowledge or awareness of the crime and the consequences of one's actions, and effective control over subordinates. While these concepts apply in the strict legal sense only within the jurisdictional area of the respective international legal fora, they are indicative of the general morality surrounding the commission of crimes that harm those who ought not to be harmed, and they have been included in many domestic legal systems. It means that formal legal status comes with a legal mandate but also with responsibilities. This can contribute to a form of accountability, and, in turn, put pressure on actors, whatever their legal status, to prevent and minimise civilian harm, a matter discussed in more detail in the next section. The most common mechanisms to address perpetrator violations are international, national and regional tribunals and courts, as well as regional complaints mechanisms, treaty-specific monitoring mechanisms, and of course efforts by civil society organisations to hold perpetrators to account through campaigning or striving to improve legislation.

15.3 Intentions of perpetrators

The intentions by which perpetrators cause harm to civilians – of which we have seen a wide variety in the 'Cases of civilian harm' – are a different method to classify and understand perpetrators.

Deliberate infliction of harm
In various examples discussed in this book, harming civilians was the perpetrators' first and foremost objective: They were out to displace, abuse or kill civilians as a goal in itself. The Sudan People's Liberation Army (SPLA) troops in South Sudan using sexual violence as a means of revenge fit in this category (chapter 3). Nuer women were singled out to be raped and humiliated as part of a deliberate strategy: Soldiers used sexual violence as a weapon of war, targeting a specific section of the population to achieve ethnically motivated vengeance. Similarly, ISIS' targeting of the Yazidi population in Sinjar can be described as purposive and intentional (chapter 8). The killing, physical and sexual abuse, and enslavement of Yazidis was organised and systematic. ISIS troops and supporters framed the violence positively, as an exercise of extermination justified by religious interpretation. The deliberate infliction of harm on civilians can also be a means to an end. Colombian paramilitaries used terror against civilians to force people to leave their lands, not

solely for the sake of harming civilians, but because it served their objective to make these lands available for supporters or for economic exploitation by third actors (chapter 10).

Often, the motivation for the use of deliberate violence against civilians is a mixture of the two. The genocidal actions of ISIS against Sinjar's Yazidi population, described above as 'an end in itself', served additional purposes that can be described as 'a means to an end'. By exterminating the Yazidis, ISIS drained the region's potential for supporting military opponents, while also guaranteeing full control over the region's resources. The suicide attacks in Afghanistan (chapter 11) similarly represent a mixture of the two motivations: On one hand, an intrinsic motivation to target civilians loyal to the Afghan government, as well as foreigners and those who supported them; on the other hand, the attack was a tactical choice to inflict infrastructural and financial damage and to instil fear in the population, with the intent to undermine the regime.

Civilian harm as 'collateral damage'

In some cases, armed actors knowingly harm civilians not because they see utility in the harming of civilians, but because they expect the military utility of a certain action to outweigh the civilian costs. In those cases, harmed civilians are sometimes referred to as 'collateral damage'.[4] The argument often made is that the harm *prevented* in the long term needs to be weighed against the harm inflicted in the short term. It is a paradox of this type of warfare that those who set out to protect civilians from violence, are seemingly not able to do so without using violence resulting in harm for some of those they aim to protect (Walzer, 1992).

Western military forces in particular have developed extensive guidance for decision makers to weigh the anticipated military benefit of an attack or strike against the expected civilian – collateral – damage that will occur. The IHL principles of necessity, distinction and proportionality provide a legal basis for these decisions, and in many cases the civilian harm inflicted by, for example the anti-ISIS Coalition,

---

4 A more comprehensive discussion of the term 'collateral damage' can be found in the Introduction, section 3 on the discourse on civilian harm. The section in this chapter does not discuss whether the damage to civilians meets the legal criteria, but elaborates on the perception of perpetrators that damaging civilians in the course of war is an acceptable by-product.

When military planners understand why, how and with what capabilities perpetrators harm civilians, they are better able to determine the best course of action to protect civilians.

was correctly calculated. Even so, misinformation, miscalculation, or errors in targeting can lead to excessive but unintended civilian harm. The Coalition against ISIS did not intend to bomb the IDPs in the Al Mansoura school building (chapter 9). In fact, efforts were undertaken to mitigate and minimise civilian harm. The primary motivation behind the airstrike was to defeat ISIS militarily, and when launching the strike on the school building, Coalition forces thought they targeted an ISIS stronghold rather than a building full of IDPs. However, it should be noted that the Coalition would not have been unaware of the presence of at least some civilians at the moment of the strike. It could have been known at that moment that their actions would likely inflict harm on individuals who under normal circumstances would be protected from military attack. But *on top of* the harm deliberately caused, the actual harm inflicted turned out – unintentionally – to be much greater than expected.

The intent to avoid or minimise civilian harm sets this case apart from several other cases in this book where the adverse effects on the civilian population resulted also not from an intent to do harm, nor from a deliberate choice of methods and means; some perpetrators simply did not care enough about the fate of civilians caught in conflict. The shelling of hospitals in eastern Ukraine is particularly relevant here (chapter 7). The warring parties habitually used explosives and shelling in urban environments. While they did not aim for the hospital or the population as such, their general methodology demonstrates a lack of care about the impact of their weaponry on the civilian population. Anyone exchanging fire in close vicinity to a hospital must understand the immediate danger to patients and medical staff, and the subsequent danger to the functioning of a crucial societal institution. Yet, these actors apparently did not undertake even the most basic measures to mitigate this kind of harm, such as using more appropriate weaponry or giving advance warning to civilians. Their role in inflicting harm to civilians was not intentional but also not accidental. It seems best described as callous or uncaring.

From the perspective of the civilians being harmed, the motive behind a decision causing harm often matters very little: Survivors will have to deal with violence-induced trauma regardless of whether the perpetrator was directly out to harm them or was unable to avoid harming them. Those who lose their house or livelihood due to the use of explosive weapons will need to rebuild or relocate regardless of whether the house was destroyed with malicious intent or as 'collateral damage'.

Evidence and lessons learned from past armed operations indicate that it is often neither the lawfulness of the behaviour, nor the intent with which violence is used that determines the (perceived) credibility or legitimacy of an armed actor in the eyes of civilians. The key factor in how affected civilians will judge an actor's success and reputation in warfare is the net result of the use of violence. This underlines the (strategic) importance of taking into account civilian perceptions about military operations (Kolenda et al., 2016).

15.4 The threat-based approach to protecting civilians

Having studied perpetrators and their differences in relation to capabilities and intentions, we now turn to how this knowledge can be utilised. The so-called threat-based approach to the protection of civilians is a methodology developed by the Norwegian Defence Research Establishment (FFI) to help military planners determine the best cause of action to protect civilians from harm by others by examining why, how, and with what capabilities perpetrators target civilians.[5] This method distinguishes between five different characteristics of perpetrators of harm, including rationale for targeting civilians, type of actor (state, armed group, community, and individuals), strategies and tactics to attack civilians, capabilities needed to attack civilians, and the potential outcome if the perpetrator succeeds (Kjeksrud et al., 2016). Based on a better understanding of the perpetrator, military planners may derive the most effective protection strategy. Using these five criteria to analyse historical cases of perpetrators of violence, FFI has derived eight threat scenarios, each describing fundamentally different types of physical threats to civilians. These 'scenarios' range from situations at the one end of the spectrum where civilians face mass atrocities (most violent, such as genocide) to situations where the threat to civilians is more limited (least violent, such as mob violence).

---

5 The matter of protecting civilians from harm by *own* actions is taken up in chapter 16, 'Key factors: Causing or mitigating harm', section 16.3.

The rationale behind this categorisation is that situations of violent conflict display considerable differences in the type of perpetrators present, their capabilities, and the means and methods they employ to reach their objectives. As a result, the risk posed to civilians can vary greatly, as will the utility of force to protect from harm. Depending on their objective, perpetrators use different tactics. If we regard, for instance, two scenarios identified by FFI and evident in our own cases, we see why this matters in relation to protection responses. FFI recognises genocide as the most violent situation for civilians, where the objective is to destroy a particular group of people, in many cases including through mass killings. The violent, targeted and systematised attack by ISIS on Sinjar's Yazidi population has been recognised as genocide (chapter 8). The most effective means of protection in this case may be to use coercive or destructive force against ISIS in order to bring their violence to a halt. By being aware of the characteristics that can serve as early warning signals for genocide, protection actors may be able to recognise the situation at hand sooner, and take preventive or mitigating action to decrease (the risk of) civilian harm (Kjeksrud et al., 2016).

The sexual violence of SPLA soldiers against Nuer IDP women in South Sudan (chapter 3) may be better characterised as a scenario of communal conflict. The Nuer ethnicity of the women and girls was the main targeting criteria for the overwhelmingly Dinka soldiers who attacked them, due to the long-standing and increasingly 'ethnicised' conflict between the SPLA and SPLA-IO. The women and girls from UNMISS Protection of Civilians sites moreover represented a relatively easy target that would have a large communal impact. Here, the most appropriate and effective response to prevent or minimise such attacks might be for third parties – in this case UNMISS troops – to deter violence by a show of force in the form of establishing a clear police or military presence or by conducting patrols. Alternatively, protection actors could respond with coercive military action against a serious incident, which may have a future preventive effect (Kjeksrud et al., 2016). By regarding perpetrators' intentions, among other things, military planners can better inform their decision making for protection of civilians and the mitigation or prevention of harm.

15.5 Responsibility of perpetrators

When harm is committed, it is important to consider the question of responsibility. Here, we discuss this not in terms of legal accountability but from a more general point of view of having *caused* or *contributed* to civilian harm. It can be straightforward to determine which of the actors involved in a conflict bears responsibility for a particular instance of civilian harm. In this book, the chemical attack by the SAA in Khan Sheikhoun (chapter 5) and the suicide attacks by Taliban operatives in Kabul (chapter 11) are such examples. The chemical attack was not difficult to assess even in the melee of warfighting between multiple parties. It took place at a location where at that moment no other active use of violence occurred and away from any discernible military target. As shown in the chapter, enough evidence has been assembled by credible parties to establish with a high degree of certainty that the SAA is the only responsible party for the death and suffering of the poisoned civilians. The case of the suicide bomber in Afghanistan is another example where assigning responsibility for the harm inflicted on civilians was straightforward. There is no doubt about the affiliation of the suicide bomber, and there is no evidence that other actors contributed to the events.

However, in many cases, it can be much harder to establish responsibility for a particular event involving civilian harm. For instance, warfighting itself may obscure the actions of individual actors to a point that it becomes difficult to pinpoint which actor is responsible for specific events. In protracted warfare involving various armed actors, it can be challenging to keep track of individual violent acts and their consequences. In addition, perpetrators may deliberately obscure evidence of their involvement in an event causing civilian harm because they fear reputational or operational backlash. The Russian refusal to admit involvement in the bombing of hospitals in Syria is a case in point (BBC News, 2016), as is the deliberate lack of transparency demonstrated by Western militaries part of the Coalition against ISIS (Shiel, 2019; Woods, 2016).

Even when the actors involved in a harmful event are known, it can be hard to assign responsibility because the causal relation between the actions and their consequences is difficult to establish. This is especially complex in cases of indirect harm, or harm that only manifests itself later. For example, the harmful effects of the widespread use of certain types of materials on a population during

warfighting, such as heavy metals or toxic propellants, are often difficult to link to one particular case of illness that occurs during or after a conflict. When we consider the oil fires in Qayyarah (chapter 2), it may seem obvious that living under a black cloud caused by oil fires, breathing in smoke and soot, and eating polluted foods is hazardous to one's health. But proving that the pneumonic disease of a particular inhabitant of Qayyarah is caused by these fires is not simple, and some indirect effects, like the pollution of the ground water, may never be entirely understood.

The selection criteria for the case studies required there to be a reasonable level of clarity on who caused the harm, how, and with what consequences. In reality, many of the acts of violence leading to civilian harm happen without impartial outside investigators actively recording and analysing the situation. Nonetheless, our cases show that even in chaotic conflict settings, it is often possible to track and map the impact of a military action on a civilian population; and it may more often be the case that military actors lack the will, incentive, or resources to properly track and analyse their own and others' effects on civilians in a systematic and transparent way. Moreover, there may be considerable differences among militaries and states with regard to their (lack of) willingness and resources to do so.

Degrees of responsibility

Finally, it should be noted that there can be different 'levels' or 'degrees' of responsibility. The immediate perpetrator of the bombing of the Al Mansoura school is clear: The US-led Coalition against ISIS dropped the explosives that killed and injured dozens of civilians (chapter 9). At the same time, we also know that – unrelated to this specific case – during the period of Operation Inherent Resolve, ISIS at times used disinformation to obscure the location of its leaders, and often deliberately positioned civilians as human shields around combatants or military structures to prevent Coalition attacks, or even to trick the Coalition into causing unexpected high numbers of civilian casualties (Dunlap, 2016). ISIS' actions deliberately increased the likelihood of civilian harm. This raises the question which perpetrator then in the end is responsible for the harm caused, or if multiple armed actors are.

Similarly, it is clear that Saudi-led forces in Yemen are the leading actor in the siege of Hudeidah (chapter 1), causing the breakdown of medical services and other

societal structures, not to mention famine, disease, trauma, and displacement. However, it is still crucial that we ask ourselves to what extent we consider the countries that support the Saudi-led coalition with arms, technology or advice as responsible for the harm that occurred, as well as those who provide political and diplomatic support. Legally, it may be impossible to make the case that these countries share responsibility for the civilian harm that was caused. Militarily and politically, however, it should matter. For states expressing their ambition to protect civilians and to mitigate harm, it becomes relevant to ask if material support given to military partners in a coalition or partnered mission, leads to civilian harm. This opens up discussion with regard to the application of the term 'perpetrator'. By using a narrow interpretation, the harm caused by enabling actors who provide material support may not be recognised and they will not be identified as perpetrators. However, such actors are clearly implicit, and by not calling them out as perpetrators, we risk obscuring their part in the actions that led to civilian harm.

In the same way, responsibility can also be attributed to actors who cause harm through inaction, failing to prevent harm when it was possible to do so. While women were being sexually assaulted, UN troops in South Sudan did not intervene (chapter 3). The peacekeepers did not commit the assault, but their inaction enabled it to take place, resulting in the traumatisation and injuring of the women. It is important to consider whether failing to intervene at the right time infers responsibility as much as active violence. International law obliges an active posture to protect civilian populations and so too did UNMISS' mandate, yet the peacekeepers did not act. Had they done so, they could have prevented the assaults: they were physically close, had the means to intervene, and the legal position to do so. It could also be said that their inaction may have contributed to greater harm. For the primary perpetrator, raping women in the face of a fully armed and deployed but indifferent UN force is almost a validation of power and impunity. From the perspective of the harmed civilians, it would seem fair to argue that the failure to protect through wilful inaction is a failure to take responsibility, and therefore the peacekeepers assume a passive role in the harm. These are important discussions to put on the agenda.

Lastly, one might ask where the responsibility of the state lies. The water and sanitation structures in Gaza were in dilapidated condition prior to the attacks on them in 2014. This made the impact of the destruction of the remaining working

water facilities significantly more disastrous for the civilian population (chapter 4). It is important to consider whether part of the responsibility for the reverberating effects of civilian harm through lack of maintenance of critical infrastructure – under the principle of 'responsibility to protect' – be assigned to the state itself. In this particular case, it moreover raises the question which authorities are then responsible: the Palestinian or Israeli authorities? And what to think of states that are absent or not in charge in certain regions within their territory? However, what seems clear is that in all cases it is the responsibility of any party to a conflict to – as NATO (2016) would formulate it – understand the human environment, including the effects of their own actions on that environment. Understanding the state of local societal infrastructure is just as significant as understanding the capabilities of opposing troops, or the particular vulnerabilities of groups of civilians. If mitigating harm to civilians is an objective, then so is taking into account the various effects a military operation may have on the civilians, and understanding why and how perpetrators attack civilians as part of their warfare.

15.6 Conclusion

Here and in the 'Cases of civilian harm', we have seen a wide range of perpetrators. They differ in – and may be classified according to – their legal status, capabilities, intentions, and the degree to which they bear responsibility for the harm that was caused. Knowing these differences is crucial for matters of legal accountability, but also for the work of security actors: A better understanding of the adversary in conflict can aid security actors in anticipating and consequently mitigating or preventing altogether particular harm to civilians. Such efforts are aided by combining knowledge about perpetrators with knowledge about their (potential) victims, discussed in chapter 14. In the next chapter, which will also address the topic of mitigating harm from *own* action, we will explore the missing element of this 'equation': the key factors that either contribute to causing or to mitigating civilian harm.

16. Key factors: Causing or mitigating harm

AUTHORS: WELMOET WELS, WILBERT VAN DER ZEIJDEN & ERIN BIJL

Having considered in previous chapters both those who do harm (the perpetrators) and those who are harmed and in what way (the victims), we now turn to the final element of any civilian harm event: key factors that either contribute to causing or mitigating harm. Armed actors – be they part of state armed forces, non-state armed groups or otherwise involved in hostilities – make a range of decisions during the course of conflict that affect the eventual impact of their actions on civilians. Those decisions and other external factors, such as weaponry and target choices, the area and method of operations, can either exacerbate or mitigate harm to civilians. The objective of this chapter is to study these key factors and identify both concerns and opportunities with regard to civilian harm reduction.

We start by looking at the international framework currently in place to provide protection to civilians. This is necessary because despite the existence of this framework, which consists of international law and generally accepted norms, civilians continue to be harmed in large numbers. While scholars debate about the exact civilian-to-combatant casualty ratio in contemporary conflict, they are in general agreement that the civilian casualty numbers are high and do not appear to be decreasing. Estimates vary, but civilians represent at least half of total casualties (Beadle, 2011; Roberts, 2010; Eckhardt, 1989). Not to mention that such figures generally do not take long-term and reverberating harm into account. In this chapter, we look at the factors that affect these numbers. How do tactics, actions and decisions made during conflict affect them? And what opportunities are there to halt this trend of increasing civilian harm?

To answer these questions, we first briefly turn to the protection offered to civilians by international law and by treaties regulating the use of specific weapons. Subsequently, we discuss a range of factors in modern-day warfare that we see as being of great impact to either contributing to or mitigating civilian harm: weapon and target selection, urban and remote forms of warfare, and the importance of taking into account reverberating effects of armed action. In the final section, we broach the subject of opportunities for civilian harm mitigation by focusing on an example of a positive trend: the implementation of civilian harm tracking, investigation and response efforts by a number of (state) actors. The stronger focus on civilian harm mitigation sets this chapter somewhat apart from the others. Building on insights from 'Cases of civilian harm' (Part I), this chapter seeks in particular to spark debate and further the development of new models and standards of harm prevention and mitigation in situations of violent conflict.

16.1 The international framework to protect civilians

An elaborate set of international laws, rules and norms exists to regulate the use of armed violence and to offer some protection to civilians from harm. Here, we briefly turn to two elements of this framework: international law and treaties that limit the use of specific weapons. These demonstrate elements of the basis of protection that, in theory, should be offered to civilians in situations of armed violence. This is not to say that more cannot be done to further reduce harm to civilians than what is prescribed by these laws and norms. We turn to such opportunities in section 16.3 on civilian harm mitigation by security actors.

Protection through international law

Of particular importance when discussing civilian harm is International Humanitarian Law (IHL), which has the objective to regulate the behaviour and decisions of belligerents in situations of armed conflict. Its overarching principles are humanity and military necessity, between which it seeks to strike a balance: IHL recognises that conflict will always result in some degree of harm and destruction, but maintains that belligerents should limit their activities to only those measures necessary to accomplish a legitimate military objective, while avoiding to inflict unnecessary harm and suffering on, amongst others, civilians. It lays down four further operational principles to guide military conduct: the principles of distinction, proportionality, the necessity to take precautions, and the prohibition of causing unnecessary suffering and superfluous injury. The principle of distinction is particularly important in relation to civilian harm. It stipulates the key and fundamental obligation to distinguish, at all times, between civilians and combatants (and fighters) and between civilian objects and military objectives, and sets forth the general prohibition not to target anything but combatants (and fighters) and military objectives (International Committee of the Red Cross [ICRC], n.d.). While IHL allows for some level of civilian harm to occur during conflict – what is commonly known as 'collateral damage' – it offers protection to civilians in that it prohibits indiscriminate attacks on civilians and the civilian population and the use of indiscriminate means and methods of war. It also protects objects that are vital for civilians' survival, such as medical facilities, or works and installations containing dangerous forces, such as dams, dykes and nuclear power stations.

Besides IHL, International Human Rights Law (IHRL) to some extent governs the conduct of parties to a conflict as well, placing constraints on their behaviour or inferring certain obligations. Many of these obligations overlap or reinforce duties that also exist in IHL, strengthening those standards of moral and legal behaviour in armed conflict. Generally speaking, human rights are not suspended during violent conflict. Although they may sometimes be 'overridden' by more specific IHL rules in particular situations, the systems of IHL and IHRL are complementary (ICRC, n.d.; UN Human Rights Committee, 2004). An example of an obligation on belligerents under IHRL, reinforcing IHL obligations, is that they may not hinder civilians in their exercise of food-related economic activities, may not destroy crops, nor hamper the delivery of humanitarian food assistance because of people's right to adequate food. This also has a bearing on the preservation of transportation infrastructure and water and power systems, which are essential to food and health (Oberleitner, 2015).

In various wars, we see growing acceptance of the targeting of civilian structures like hospitals and schools, and a weakening of adherence to the IHL norms of distinction, proportionality and necessity (Hopkins, 2017; Ghantous, 2018; Shugerman, 2018; Moyer et al., 2019). A number of the events included in 'Cases of civilian harm' are testament to this disconcerting trend. In Yemen, the Saudi-led military coalition lay siege to the port city of Hudeidah, barring the import of food and other basic necessities into the city, as well as subjecting the Yemeni population to airstrikes, with analysts suspecting the deliberate targeting of markets and agricultural fields to further limit access to food (chapter 1). Such tactics have indiscriminate effects and inflict harm to large segments of society.

Another telling example is perpetrators' deliberate manipulation of water access. In the Syrian conflict this was done most notably by the Syrian Arab Army (SAA) and the Islamic State of Iraq and Syria (ISIS): Both perpetrators leveraged control over water to their strategic advantage, seemingly not caring that impeded access to water indiscriminately harms civilians (chapter 12). In Gaza, the Israeli Defence Forces (IDF) bombed power stations and wastewater service systems, which effectively cut off hundreds of thousands of civilians from clean drinking water, which in turn contributed to the outbreak of water-related diseases (chapter 4).

Protection through weapon restrictions

Another function of the international framework seeking to offer protection to civilians is to limit, or altogether prohibit, the use of certain weapons, for instance through specific treaties. Weapons of mass destruction (WMD) are a case in point. Their use will always lead to indiscriminate damage and to damages that are considered excessive in relation to an anticipated military advantage. This has led to a number of widely supported and upheld international treaties and conventions that seek to limit or prohibit the development, proliferation, stockpiling or use of these weapons (see Arms Control Association, n.d.). Most states regard the use of these weapons as unacceptable from a legal as well as a moral point of departure, and for that reason do not pursue their development and stockpiling. Currently, the norm against the use of such weapons is considered very strong, and biological weapons in particular are considered by many as *mala in se* – evil in themselves.

The strength of these international treaties and norms is not a given though, evident in the support for the prohibition on the use of chemical weapons (and of the use of chemicals as weapons), which has received a number of worrying blows in the past decade. This raises concerns about the future confidence states have in the potential universal adherence to the Chemical Weapons Convention (CWC). A particularly painful episode was the use of chemical weapons by the SAA against its own civilians in Khan Sheikhoun in 2017, killing approximately 90 civilians through asphyxiation and injuring many more (chapter 5). Despite acceding to the CWC after enormous international pressure, Syria continued to use chemical warfare against civilians. The absence of a robust mechanism for early enforcement in case a state violates the provisions of the treaty meant that Syria could do so largely unpunished. The immediate concern here is that the Syrian government concludes from this episode that it can continue to target civilians using chemical weapons. Beyond that, the concern is that other potential perpetrators draw similar conclusions and reconsider their own willingness to adhere to the norm of non-use.

Specific treaties also prohibit or restrict the use of a number of conventional weapons, such as the treaty banning anti-personnel landmines and the treaty prohibiting the use of certain types of cluster munitions (Geneva International Centre for Demining, n.d.). With good reason: Explosive remnants of war left by armed actors in Cambodia during conflicts in the 1960s and 1970s continue to

pose a threat to civilians to this day, for instance when children play with pieces of what they think is only harmless scrap metal, or when people work fields that have not been properly decontaminated of explosives (chapter 6). Nonetheless, we continue to see the use of these weapons by actors like ISIS in present-day conflicts, contributing to further cycles of long-term harm.

The development of treaties is ongoing, with technological advances in weapons raising ever new questions about the permissibility of certain weapons. Civil society and sympathetic states currently push for a number of additional treaties or – at minimum – political declarations to ban or regulate the use of several weapon systems, notably autonomous weapons and the use of explosive weapons with wide-area effects in populated areas (Chavannes et al., 2020; Humanity & Inclusion, 2020). All these efforts make reference to the effects of these weapons on civilians, and are valuable examples of norms and rules designed to limit the harm that armed violence can cause civilians. Yet, as we see from the above, civilians continue to be harmed in large numbers despite the existence of a normative framework. Laws and norms are only as strong as the will to comply with them and the will to enforce them. This ever-changing landscape of laws and norms has to adjust to new trends in warfare. That is why it is important to go beyond the basis of this normative framework, to discuss key factors in contemporary conflict that contribute to the occurrence or mitigation of civilian harm, whether it concerns actions within or outside the current scope of IHL and international treaties. We see a number of key factors that influence the effects of armed action on civilians that need to be taken into account to at least partially understand the high levels of civilian harm we see in many of today's situations of violent conflict.

16.2 Key factors contributing to causing or mitigating harm

Interpretations of the law and of the normative framework are not static. In most instances of violent conflict, civilian harm will be a reality. Even when armed actors in a conflict adhere to the rules set by international law and their own codes of conduct, civilians are likely injured, killed and traumatised, property damaged, and livelihoods destroyed. The outcome of an actor's use of violence can vary considerably, depending on a range of factors, not least on the decisions made

by armed actors when planning and conducting hostilities.[1] We discuss some of these factors and decisions in this section, making note also of some current trends that we consider pertinent causes for concern in relation to civilian harm. More can be said on this topic, but we have limited ourselves to discussing types of decisions with the most impact on civilians and what we consider some of the most pertinent trends of contemporary conflict.

Weapons and targets

When armed actors follow international law, they select their targets according to the principle of distinction, respecting the protected status of civilians and civilian objects under international law, while striving to minimise collateral damage. They then choose their weapons to strike their intended target in accordance with these principles. Decisions are made with regard to the size and type of the weapon, the warhead, fuse setting, and the number of weapons to be employed. This 'weaponeering' is a fundamental element in military planning, and greatly influences the extent of the ensuing civilian harm. The size of a bomb will determine its area of effect, while its type of warhead and fuse will affect its level of focus and determine at which moment during the strike the device will explode (upon impact, in the air, delayed). Others factors influencing the impact of a weapon are its accuracy, time of day, the weather, the type of construction of a building identified as target, and so on. All of these must be taken into account in the target selection and in the weaponeering phase.

The effect of a chosen weapon on local civilians is influenced further by *how* a weapon is used. Even a precision weapon is likely to cause civilian harm when the target has not been properly identified. In fact, target mischaracterisation is one of the leading causes of civilian deaths in airstrikes (Lewis, 2020). The airstrike by the International Coalition against ISIS on a building in Al Mansoura, Syria, in March 2017 is a case in point (chapter 9). The Coalition targeted a former school building, mistakenly identifying it as an ISIS stronghold. In reality, the building offered shelter to numerous families of internally displaced persons (IDPs). At least 40 civilians died in the attack, with estimates running as high as 200 (Airwars, 2017).

---

1 Please note that other aspects related to perpetrator behaviour, such as their intentions or capabilities to inflict harm are included in chapter 15, 'Perpetrators: Types, intentions, responsibility'.

Civilians are estimated to at least represent half of all casualties in war. That is excluding victims of long-term or reverberating effects of use of violence.

———

The Al Mansoura strike was carried out by a military trying to act in accordance with international law – a state of the art military force seeking to minimise harm to civilians from its actions. The propensity to inflict harm through selection of weapons and targets is more obvious with those perpetrators who are less inclined to abide by international law or norms. Some perpetrators opt to use a weapon or select a target precisely because of the widespread harm it will cause civilians, for instance as a means to punish perceived opponents or to instil fear in civilians. We see the former in the Syrian conflict, where the SAA employed chemical weapons against its own civilians in Khan Sheikhoun in 2017, then part of opposition-held territory (chapter 5). The reality is that many perpetrators deliberately use unconventional means as weapons and unconventional objects as targets. One such example is the use of sexual violence as a weapon of war, for instance by ISIS against the Yazidis in Sinjar (chapter 8), by Myanmar's national forces against the Rohingya minority (chapter 13), and by the Sudan People's Liberation Army and allied militias in South Sudan against Nuer females (chapter 3). Another example is ISIS' use of scorched earth tactics in Qayyarah, Iraq, where it set oil wells and refineries on fire to destroy land, infrastructure, and resources (chapter 2).

Locations
Beyond the question of who to target and what weapons to use, a key contributing factor to causing or mitigating harm is where operations are conducted. Flowing from the principle of distinction discussed before, armed actors can often mitigate harm by choosing to conduct operations out of the vicinity of civilians. But this is not always possible – and not always the best choice. In Juba, South Sudan, civilians were protected passively through the establishment of Protection of Civilians sites (chapter 3). However, the peacekeepers were unable to stop harm from armed groups showing predatory behaviour towards civilians taking place outside of these sites. In this case, mitigation of harm would have only been possible if the UN troops would have actively protected civilians either by positioning themselves between perpetrators and civilians or by targeting perpetrators with the use of violence.

Avoiding armed operations in the vicinity of populations is not always possible, particularly in a rapidly urbanising world. In 2015, as many as 50 million people in cities were estimated to be living through armed conflict (ICRC & Interaction, 2017). People in cities are generally more vulnerable to the effects of violent conflict because of population density, their dependency on complex and interconnected

infrastructure, and because of the proximity of civilian objects to military targets (ICRC & Interaction, 2017; Holewinski et al., 2020).[2] Furthermore, the distinction between combatants and civilians can be less clear in urban settings, as they live close together and often use the same infrastructure. This entangling of military and civilian lives, as well as the 'dual use' of infrastructure and objects, makes selective targeting of only military objects and persons extremely complex. International law has a hard time catching up to this new urbanised reality and clear guidance for such situations is currently lacking (Gisel, 2016). This already complex reality is at times exacerbated by actors who deliberately hide among a civilian population, using them as 'human shields' against attacks by adversaries (ICRC & Interaction, 2017). Taliban, ISIS, Hezbollah and other armed actors discussed in this book have all been accused in recent years of using this tactic (see, for instance, Dunlap, 2014), but it should be noted that some of the tactics used by state armed forces can further blur the lines between what is a legitimate military target and what not – for example the use of local informants by Coalition forces in the campaigns against ISIS in Iraq and Syria.

A particular factor of concern in urban warfare is the increase of so-called 'remote warfare' (McKay et al., 2021). Development of new technology allows modern armed forces to conduct operations from great a distance, including air-only campaigns that heavily feature the use of long-distance rockets and missiles, autonomous weapon systems (AWS), drones, intelligence gathering through third parties, and proxy war fighters (including private paramilitary corporations) instead of militaries putting their own 'boots on the ground' (Holewinski et al., 2020). The armed forces face fewer casualties, and remote methods can in some scenarios limit the exposure of a civilian population to violence and – when compared to a protracted ground campaign – save lives. In many other scenarios though, the risks to civilians are significant. Remote technology such as AWS, with the capability to select targets without human intervention, are subject to debate about the minimum level of meaningful human control required to ensure accountability and responsibility, since a judgement on proportionality, distinction, and military necessity cannot be fully transferred to a robotic brain (ICRC, 2016; Boulanin et al., 2020).

---

2 See also chapter 14, 'Victims: The human cost of violence', where we discuss the impact of urban warfare on civilians, focusing specifically on potential cascading negative effects of damage to complex and interconnected service systems.

Reliance on proxy actors and privateers can contribute to civilian harm if these proxies lack awareness about the importance of protecting civilians, mitigation and prevention of harm. Or, if they lack commitment to adhere to international law, or lack capacity to do proper intelligence gathering about the potential effects of their actions on civilians. All this can exacerbate risks to civilians in situations of remote warfare (Holewinski et al., 2020). We clearly see this in Syria in 2017, when the International Coalition against ISIS carried out an airstrike on a building sheltering IDPs, based on faulty intelligence that presumed the building was an ISIS stronghold (chapter 9). Needless to say, remote warfare is only 'remote' from the perspective of those controlling machinery or supporting proxy troops from a remote location; there is nothing remote about the harm inflicted on those living in conflict areas.

These concerns about the use of remote means of warfare and proxy warfare all centre on the question of to what extent armed actors are able – and willing – to fully understand the effects of their actions in a battle sphere. While drones can make it easier to collect data on patterns of life before a strike and may allow armed actors to assess the damages from their actions after a strike, it is in the ever more prevalent setting of urban warfare that many experts raise concerns about reliance on remote methods. Organisations like CIVIC and Airwars have raised concern about the inability of militaries to verify civilian harm from an attack by relying solely on air-only, military sources (see, for instance, Mahanty et al, 2020; Woods, 2016). For Operation Inherent Resolve (OIR) specifically, the discrepancy between the number of civilian casualties reported by the Coalition and by independent researchers is highly worrying in that regard (Khan & Gopal, 2017; Boer et al., 2020).

Beyond concerns about the visibility of direct harm (deaths, injuries and damages to structures), urban warfare crucially comes with concern about indirect and reverberating effects that may not be immediately visible. For instance, because of the interconnectedness of infrastructures – including their personnel, hardware, and consumables – attacks on infrastructure may cause ripple effects over a longer period of time. When the IDF bombed a power station in Gaza in 2014, this in turn led to the shutdown of several wastewater service systems, cutting many civilians off from clean drinking water (chapter 4). This particular case shows how damage to one link in a system can cause effects that extend across the system, ultimately affecting many civilians. Without a field presence it becomes nearly impossible to

investigate and report on how operations affect civilians and critical infrastructure in the long term, taking into account reverberating effects on health, the economy, and societal cohesion as well (Holewinski et al., 2020). Unfortunately, military attention for reverberating effects remains rather limited, despite a growing body of research seeking to map such effects and an increasing number of calls to address them (Holewinski et al., 2020).

The use of EWIPA
Reverberating effects are of particular concern in relation to explosive weapons with wide-area effects – brought about by their blast radius, inaccurate delivery systems, and/or firing in salvos – in populated areas (see Boer et al., 2020; ICRC & UN Secretary-General, 2019). Here, it is the combination of the *type* of weapon and its use in a particular *location* that leads to often disastrous consequences for civilians. A pertinent example is the frequent use of explosive weapons in populated areas (EWIPA) by multiple armed actors in eastern Ukraine. In 2015, the use of EWIPA in the vicinity of a hospital – a protected object under IHL – meant that indirect fire damaged various hospital departments and ambulances, putting them out of working order (chapter 7). Consequently, the conflict negatively impacted overall quality, availability of, and access to health care for civilians, because, among other things, there were fewer ambulances available, and no power to provide light during surgery because of damages.

EWIPA is increasingly being recognised as a central cause of civilian harm in conflict, both by immediate weapon effects and by follow-on reverberating effects. While the use of EWIPA is not expressly banned in conflict, there is a growing movement seeking to restrict this method of warfare by way of a political declaration, a process led by Ireland (Humanity & Inclusion, 2020). Organisations and institutions like the International Committee of the Red Cross (ICRC) and the UN Secretary-General too have called for the avoidance of EWIPA (ICRC & UN Secretary-General, 2019). Unfortunately, because the study of reverberating effects is a fairly recent phenomenon for militaries, they are not currently part of most military collateral damage assessments. As we have seen, the use of EWIPA has numerous clear, long-term effects. It is critical that militaries do a better job of understanding how bombing destroys more than just the target, but is likely to impact the civilian population for years to come.

16.3 Responding to civilian harm

Despite various causes for concern, some states and their armed forces have actively sought to mitigate harm from their actions on civilians; an example of a positive trend in contemporary warfare. Harm mitigation efforts can include specific training, the use of new technological tools and data for protection, more attention for harm mitigation in the previously discussed 'weaponeering', and so on. It is carried out by a variety of actors, both state and non-state. Here, we limit our discussion to civilian harm mitigation (CHM) efforts by military actors, discussing initiatives to track, investigate, learn from and respond to civilian harm from own action.

CHM: tracking and investigation

In recent years, some state armed forces, Western militaries in particular, have demonstrated more attention for CHM. This can include measures to avoid, mitigate, minimise and respond to civilian harm from own action, and often goes beyond the (narrow) protection standards set by IHL. Where IHL allows for some level of lawful civilian harm – commonly known as collateral damage – some militaries have displayed willingness to further reduce the negative impact of military operations on civilians, even when it concerns lawful actions. Part of the CHM cycle is the tracking and investigation of civilian harm, which is 'an internal process by which a particular coalition, military, stabilization, or peacekeeping operation gathers data on civilian harm caused by its operations and then uses that data to improve operations' (Keenan, 2013, p. 2). The important element here is that security actors collect data on the impact of their actions with the explicit intent to learn from them and, where necessary, adapt their practices in future operations if that is expected to prevent or minimise civilian harm (Bijl & Van der Zeijden, 2020).

Civilian harm tracking and investigation is a relatively new phenomenon, systematically conducted for the first time by the NATO International Security Assistance Force (ISAF) in Afghanistan (Keene, 2014). ISAF soon realised that civilian harm caused by its operations, combined with a lack of response or acknowledgement of the harm done, undermined the credibility and legitimacy of ISAF troops in the eyes of the Afghan population (Kolenda et al., 2016). It then first implemented a Civilian Casualty Tracking Cell and later a Civilian Casualty Mitigation Team (CCMT) to track the impact of its actions on civilians, identify patterns, and

adapt unnecessarily harmful practices to limit harm in future operations (Keene, 2014). A very practical example concerns the decision to limit the number of night raids by ISAF troops once the CCMT found that a disproportionate number of civilians got killed and injured during these raids as opposed to similar operations conducted during daytime (Keenan, 2013).

The initial success of CHM in the Afghan context has led to the replication of such best practices in other contexts, for instance in the African Union Mission in Somalia (AMISOM), which implemented a Civilian Casualty Tracking, Analysis and Response Cell in 2015 to track, mitigate and respond to civilian harm, and in the explicit inclusion of CHM efforts in the mandate of the United Nations Organisation Stabilisation Mission in the Democratic Republic of the Congo (MONUSCO) (Rupesinghe, 2019; Spink, 2016).

However, such efforts are undertaken by only a small number of, primarily, state actors. A lot of work needs to be done to make CHM the norm and to embed it as standard practice for all security operations. To effectively enhance civilian protection, CHM has to be integrated in military practice at all stages, from planning to operations, and among a variety of actors. Many military institutions still appear less than willing to track and investigate the effects of their operations on civilians and adjust their methods, particularly when it concerns EWIPA (Boer et al., 2020). In OIR for example, there was 'copious recent evidence from [Coalition operations in] Mosul that a combination of saturation strikes and high population density had led to significant civilian casualties', yet despite this knowledge 'the Coalition appears not to have significantly modified its tactics during [its] second major assault on a city', in this case Raqqa, leading to many casualties and widespread destruction in this city too (Boer et al., 2020, p. 25). This demonstrates a lack of learning from past operations. Perhaps even more challenging is to achieve such a strong norm around CHM to make it an operating procedure that is also used by non-state actors.

CHM: reporting and amends
An additional concern is that many actors still appear less than willing to be transparent about the harm they cause. Again, taking OIR as an example, many Coalition members used the coalition structure as a way to obscure individual responsibility for specific attacks. While in some situations it was clear that the Coalition had caused civilian harm, it remained unknown which member

specifically was responsible, thereby making it difficult for civilians to hold military actors accountable (Shiel, 2019). Other ways in which militaries seek to justify lack of transparency are arguments of national and personnel security, strategic choices to conceal information from the opponents, absence of transparency by others (the reciprocity argument), and by referring to the responsibility of the host state. Lack of transparency by Coalition members in OIR specifically makes it questionable to what extent the lessons learned in Afghanistan have been carried over to other contexts.

This is worrying because CHM also enables perpetrators to properly respond to the harm they have caused, for instance through making amends, another element in the CHM cycle. In recent years, this practice has gained traction as some militaries have recognised the value of providing support to civilian populations beyond their legal requirements. Armed actors can use amends to offer appropriate care to civilians incidentally harmed during military operations, for instance through acknowledgement, (public) apology, economic assistance, or other culturally appropriate aid (Muhammedally, 2015). Amends are a way to support the community, allow for healing, and to provide for those that have been harmed through military operations. While amends have strong *moral* value, military actors have also come to appreciate it for its *strategic* benefits. There is growing awareness that civilian harm has numerous negative consequences. Christopher D. Kolenda, a retired US Colonel, for instance stated:

> *Reflecting on the years I have been involved in Afghanistan […], I am struck by the strategic penalties the United States paid for civilian harm. It was a key factor in the growth and sustainability of the Taliban, it sorely damaged US-Afghan relations, undermined legitimacy of both parties, and alienated the Afghan people. (Kolenda et al., 2016, p. 5)*

The strategic costs can thus result in the emergence of new armed actors, or in propaganda about civilian casualties by state and non-state actors that is used as a recruiting tool and to turn populations against military actors. Through transparent reporting and the making of amends, security actors can control the narrative about civilian harm in a conflict and can show to take responsibility.

Overall, while the implementation of CHM measures is of strategic importance, enables the prevention or mitigation of future suffering, and allows harmed civilians to start rebuilding their lives, there is still a long way to go to normalise and standardise such practices with all actors across the spectrum of violent conflict. Nonetheless, past and ongoing efforts in this direction by a variety of actors demonstrate that there are various opportunities to contribute to more ambitious mitigation of harm than, for instance, prescribed by international law.

16.4 Conclusion

The experiences of civilian harm, as recounted in Part I, demonstrate the varied nature and scale of the impact of a violent event on civilians. In this chapter, we have focused on a number of key factors that affect whether an instance of armed action increases or mitigates the risk of civilian harm. There is basis for the protection of civilians in existing bodies of law and international norms, but these risk falling short when faced with (deliberate) non-adherence or new developments in means and methods of warfare. While civilian harm will likely always be a reality of violent conflict, there are decisions and factors that armed actors can – to some extent – control or take into account that influence the degree to which civilian harm will occur. We have discussed both a number of concerns and opportunities that need to be taken into account and which can provide guidance when considering the way forward in reversing the trend of high levels of civilian harm in violent conflict. In the next chapter, we bring together the insights from this book to achieve a common understanding of civilian harm, and make recommendations for the way forward.

17. Conclusion: Towards a shared understanding of civilian harm

AUTHORS: ERIN BIJL, WILBERT VAN DER ZEIJDEN & WELMOET WELS

In this book, we have studied the negative effects of armed violence on civilians in two ways. In Part I of this book, 'Cases of civilian harm', we analysed thirteen different civilian harm events in great detail. In Part II, 'Elements of civilian harm', we reflected on the elements that are part of every civilian harm event. We have attempted to bring across the experiences of civilians in conflict, and to reflect on the means by which we can mitigate or prevent harm to civilians.

This is part of our efforts to contribute to the current debate on civilian harm, which we regard as lacking in three distinct ways. Firstly, discussions on the impact of conflict on civilians are too often limited to civilian casualties – people killed and wounded during hostilities – and to visible destruction. Such depictions neglect to include other important forms of harm from armed violence: immediate and long-term harm caused by damage to critical infrastructure, psychological trauma, negative socio-economic effects, and other longer-term or reverberating effects from violence. As a result, many depictions of conflict do not reflect a holistic understanding of the human cost of violence in all its complexity. Secondly, different actors and stakeholders use different definitions of civilian harm or refrain from defining the concept altogether. Yet, if we are to jointly discuss means and methods to mitigate harm and better protect civilians, or if we are to determine whether harm to civilians from an armed action is 'excessive' or not, it is crucial that we develop our common understanding of the term 'civilian harm' and what this includes and excludes. Finally, we often observe that stakeholders frustrate transparent discussions about the cost of conflict by using rhetoric that poses that war is too chaotic to be able to keep track of all the effects on civilians. But if we want to avoid and minimise civilian harm, or if we want to find better ways to respond adequately to civilian harm events when they occur, we need to be able to speak about it, openly, with as many facts on the table as possible.

These observations prompted us to write this book. In it, we endeavoured to (1) demonstrate how in this day and age we are increasingly able to map and analyse and by extension *know* the negative effects of armed action on civilians; (2) bring into focus the full scope of direct and indirect, short and long-term, physical and non-physical negative effects on civilians from use of armed violence; and (3) create the foundations of a shared language to describe and discuss this topic. In this chapter, we summarise our main findings from these endeavours and highlight various key insights or questions that warrant further discussion. Subsequently, we reflect on this book's core aim to contribute to building a

common understanding of what civilian harm is and what it is not, reiterate our 'six signatures approach' and present our definition of civilian harm. The chapter ends with a set of recommendations to you, our readers.

17.1 The three elements of civilian harm

In 'Elements of civilian harm', we discussed in separate chapters the three elements that are present in any civilian harm event: civilians who are harmed, actors who do harm, and key factors that contribute to causing or mitigating civilian harm from armed action. This section sums up our key observations.

Those who are harmed: Victims
With regard to the victims of a civilian harm event, we have drawn attention to the variety of ways in which people can be negatively affected by violence. It is insufficient to discuss civilian harm only in terms of the wounded and the dead. The cases show that harm can also consist of psychological trauma, displacement, loss of livelihood, or decreased access to basic needs and essential services, such as healthcare and education. It is also important to take into account that many harmful effects of violence can endure for a long time after violence has occurred, and may not become immediately apparent. Consider, for instance, the stigmatisation of children born of rape in times of conflict; the multitude of negative effects often associated with displacement, such as lack of access to education, jobs, and health care; or long-lasting implications of environmental damages for civilians in the surrounding areas. In particular, we emphasise that the trend towards ever more urban warfare puts civilians at increasing risk of harm.

In addition, it is important to take into account the variability of civilian harm. By this, we mean that a particular instance of violence does not have to affect all civilians in the same way. A perpetrator may target some groups and not others, or different groups in distinct ways. In addition, pre-existing vulnerabilities – for instance related to gender, age, religion or type of livelihood – can minimise or exacerbate the impact of a civilian harm event. Someone who depends on agriculture for his or her livelihood can, for example, experience more harm from damage to the environment than people with other sources of income.

All these observations together lead to the conclusion that a number of key 'signatures' of harm need to be taken into account when monitoring, analysing and reporting on civilian harm, to achieve a holistic understanding of the human cost of violence that reflects the phenomenon's complexity.

1. **Casualties:** The number of lives directly physically affected by the use of violence, i.e. deaths and injuries.

2. **Form:** The different manifestations of civilian harm: physical, social, economic, psychological, cultural, and so on.

3. **Duration:** The effective length of time that civilians are affected by the consequences of armed action, including long-term and reverberating effects.

4. **Object:** The inclusion of damage to property, land, and infrastructure, both public and private, as a form of civilian harm, and carefully weighed in relation to the other aspects listed here.

5. **Systems:** The triggering of a chain of events due to the use of violence, whereby damage to one element reverberates onto other, interconnected elements.

6. **Variability:** The variable impact of the use of armed violence on civilians based on existing vulnerabilities, identity, and other group or personal characteristics.

Those who do harm: Perpetrators

In any civilian harm event, it is crucial to consider the role of the perpetrator, in particular its capabilities and intentions. We have drawn quite heavily on the threat-based approach to protection – developed by the Norwegian Defence Research Establishment (FFI) – which maintains that military planners need to study and understand certain perpetrator characteristics, so that they can devise the most effective and appropriate protection strategy or military response to particular threats posed by these perpetrators (Kjeksrud et al., 2016). Turning to the different types of perpetrators, we see in 'Cases of civilian harm' that armed forces, members of non-state armed groups, and fighters belonging to neither

category can all cause harm to civilians. Nonetheless, it is important to distinguish between these types of actors to understand the differences in their capability and likelihood to inflict harm. Access to resources and the professional training of troops can make armed forces particularly well equipped to inflict large-scale harm. On the other hand, lack of pay, training and discipline, or insufficient knowledge of or inclination to adhere to International Humanitarian Law (IHL) and a sense of impunity – factors more commonly associated with non-state armed groups – can make non-state actors especially threatening to civilians.

The intentions of a perpetrator are important in this respect. Some perpetrators cause harm intentionally. For them, causing harm can be an end in itself, or a means to an end. Other perpetrators seem to not care if the violence they use causes harm to civilians. We also see cases where actors do not intend to harm civilians, or even try to avoid it, but end up harming them anyway. While the risks for civilians are objectively greater if a perpetrator uses violence to harm civilians intentionally, it is important to realise that civilians can end up perceiving even the most careful actors as threats if they experience the presence of a military actor as harmful. From a military point of view, it is legally and ethically, but also strategically essential to minimise harm to civilians as much as possible.

In 'Elements of civilian harm', we dedicated considerable attention to the question who bears responsibility for harm caused to civilians. It seems straightforward that actors who use armed violence against civilians bear the primary responsibility for the harm they cause. Attributing responsibility can be more difficult when it concerns actors who have not taken up arms themselves but who have supplied intelligence, military equipment or training to actors who have later perpetrated harm to civilians. To what extent are those actors responsible too? While making a case for legal responsibility is complex, we argued that states that claim to protect civilians should systematically consider – and monitor – whether their support to partners can lead to civilian harm. We also pointed out that actors should be held responsible for failures to protect civilians from harm. To refrain from taking action can be as damaging as taking action, especially when civilians are counting on a military actor for their protection. Finally, we discussed the complexity of attributing responsibility when violence exacerbates vulnerabilities that predate the violence itself. To what extent can a perpetrator be held responsible for aggravating already existing, rather than causing new harm? These are important questions especially when we consider future efforts to better prevent, mitigate or respond to civilian harm.

Key factors contributing to causing or mitigating harm

Finally, we argued that a number of key factors in particular influence the degree to which civilians risk being harmed: Decisions made in relation to weapons use and target selection, the area of operations, as well as the shift towards more urban and remote forms of warfare in contemporary conflict. Many of these factors can both increase or decrease the potential of an actor to cause or to mitigate harm to civilians. Of particular concern to increased civilian harm are the more frequent occurrences of urban and remote forms of warfare, where military actors have to operate in highly complex human environments; the worrying use of explosive weapons in populated areas; and an apparent growing disregard for international norms and treaties regulating or prohibiting the use of certain types of weapons and tactics. The latter is evident in the use of prohibited weapons like chemical weapons, and in the targeting of protected services and critical infrastructure, such as hospitals and markets.

We also discussed a recent and more positive development. There appears to be growing willingness among certain states, organisations and military missions to take additional steps to protect civilians. Good practice examples include the AU mission AMISOM and the NATO mission ISAF, which implemented civilian casualty tracking cells in Somalia and Afghanistan respectively to track civilian harm resulting from their own actions, identify excessively harmful patterns, and adapt military practices to prevent or minimise civilian harm (Rupesinghe, 2019; Keene, 2014). While not perfect, these approaches do contribute to civilian protection, especially if national and international security actors take the next step and apply lessons learned in a systematic way in current and future missions.

17.2 The need for a shared understanding of civilian harm

In-depth understanding of what civilian harm is matters. If we look at military practice, 'civilian harm' plays a role in intelligence gathering, targeting and decision-making cycles. When contemplating a particular armed action, IHL obliges planners to adhere to the principle of proportionality. This requires limiting harm to civilians from military action as much as possible: Harm may only occur if it is *proportional* to the direct military advantage the attacking party expects to gain. Here, we see an immediate need for a shared understanding of civilian harm: How can we objectively determine whether harm to civilians is *excessive* if we have a different understanding of what civilian harm encompasses? This raises the question whether in using the principle of proportionality, security actors look at harm occurring immediately because of armed action, or – as we would argue they should – take into account that harm may only become apparent after hostilities have subsided and may extend far beyond the duration of a conflict. And if harm, as a consequence of damages to infrastructure and critical public services, can be traced back to particular military actors and the methods they use, how to incorporate this understanding into military planning and operations?

Working towards a shared understanding of civilian harm matters beyond the military realm too. Military interventions by democratic states require parliamentarian – and by extension, public – consent and oversight. Yet, such oversight can be rendered meaningless if crucial information is lacking about the extent to which an intervention causes civilian harm (Watson, 2020). This is especially problematic when expected or already caused civilian harm is part of the political decision-making process determining whether to begin, continue or halt a military intervention. Such deliberations require a comprehensive and shared understanding of the harm (anticipated to be) caused by military action. Additionally, a more complete and shared understanding of how harm to civilians can and does occur is crucial for humanitarian organisations in their efforts to map the needs of people that look to them for aid and protection, and to adequately determine the resources required.

If we are to jointly discuss means and methods to mitigate harm and better protect civilians, or if we are to determine whether harm to civilians from an armed action is 'excessive' or not, it is crucial that we develop a common understanding of the term 'civilian harm'.

17.3 Defining civilian harm

A key challenge to understanding civilian harm is that there is currently no universally accepted definition. Governments, international institutions and non-governmental organisations use varying definitions and quite often leave their conceptualisation of civilian harm unexplained. This increases the risk that actors wrongly assume they share a common understanding of what civilian harm is.

In the Introduction, we reflected on some oft-cited conceptualisations of civilian harm and concluded that they vary considerably. On one end of the spectrum we find those who limit civilian harm to include civilian casualties only and on the other end of the spectrum we find those who include long-term economic and public health impact and even offenses to dignity. Needless to say, such variations in defining civilian harm matter, not in the least for discussions on determining proportionality of the use of violence, or for priority setting in humanitarian assistance. PAX advocates the following definition of civilian harm, based on years of experience working in conflict-affected and post-conflict societies, and on the evidence presented in Part I:

> *Negative effects on civilian individual or community well-being caused by use of force in hostilities. Effects can occur directly (death, physical or mental trauma, property damage) or indirectly through the destruction of critical infrastructure, disruption of access to basic needs and services, or loss of livelihood. (Bijl & Van der Zeijden, 2020, p. 4)*

The construction of this definition is the result of many deliberations with peers. It builds on the definition provided by Kolenda et al. (2016, p. 10). They define civilian harm as 'damage from military operations to personal or community well-being', which they understand to include 'wrongful targeting of key leaders […], damage and destruction of personal property and civilian infrastructure, long-term health consequences, loss of livelihoods and other economic impacts, and offenses to dignity'. One advantage of our definition of civilian harm is that it draws attention to both the direct and indirect effects of armed action. In doing so, it carves out space to also consider harmful effects that occur through damage to infrastructure, whether directly or because of system interdependencies. In addition, the definition reflects that civilian harm is not limited to physical impact,

but can be of a psychological, environmental, or economic nature as well. The definition also does not contain a temporal limitation. This is on purpose, as we argue that civilian harm needs to be understood to include those negative effects that manifest themselves over longer periods of time.

Our choice for 'use of force in hostilities' rather than 'military operations' – as in the definition of Kolenda et al. (2016) – or 'armed conflict' is equally deliberate. 'Military operations' would reduce the scope of actors who cause harm, excluding for instance non-state actors like paramilitaries, militias or terrorist organisations. The term 'armed conflict' is problematic from a legal point of view as we increasingly see hostile acts that, arguably, take place outside the legal parameters of 'armed conflict' as defined in IHL, such as the use of US drone strikes to execute targeted killings in places like Pakistan, Afghanistan or – recently – Iraq (Vogel, 2010, p. 109; Borger & Chulov, 2020). Particularly so because drone-executed killings often cause more civilian casualties and harm than generally reported and assumed (Callamard, 2020, pp. 6–8). We thus consider it necessary to broaden the scope of civilian harm to also include armed action that does not necessarily fall under IHL. Finally, we think it necessary – like Kolenda et al. (2016) – to emphasise that civilian harm can be both of an individual and communal nature.

With all these deliberations taken together, we believe that this definition adequately encompasses all the complexities of the harm many civilians living through conflict have to face, while also setting clear outer limits for what civilian harm is. As such, we believe this definition contributes to this book's objective to build a common understanding of civilian harm.

17.4 The way forward: Recommendations

Above all, this book makes clear that civilians are likely to suffer when violence is used, whether the violence falls within or outside of IHL parameters. We have challenged the notion that civilian harm is an unfortunate but unavoidable by-product of warfare, and argue that all security actors, be they politicians, policy makers, military, or civilian practitioners in the field, need to thoroughly understand the complex, multi-faceted, and long-lasting harmful effects of the use of violence in and around areas where civilians live and work; whether it concerns their own

actions, those of their partners or their adversaries. We conclude that progress on the protection of civilians and the prevention and mitigation of civilian harm requires doubling down on efforts to understand the human environment in which violence is used in much more detail than currently prescribed in military and civilian discourse, norms and the law. This requires a common understanding of what civilian harm is, and who is responsible for harm caused. This, in turn, calls for a shared definition, as well as emphasis on development of knowledge, skills and expertise to monitor and evaluate – and increasingly to predict – the impact of the use of violence on civilians.

In order to operationalise a civilian harm-sensitive approach in any context of military planning, decision-making, political fora, and academic study, we make a number of recommendations.

To researchers and policy makers, we recommend to:

- **Pursue further academic and applied research** to improve understanding of the many ways in which armed action can negatively impact civilians.

- **Standardise and make explicit the definition of 'civilian harm'** to reflect the full range of direct, indirect and reverberating harm experienced by civilians in conflict. Use the definition formulated in this book as a starting point.

- **Develop and apply methodologies to empirically model pathways of civilian harm**, allowing security and humanitarian actors to better anticipate the reverberating effects of armed action on civilians.

- **Contribute to the development of a public database** logging analyses and best practices for harm mitigation from use of particular weapon systems, tactics and strategies.

- **Use the 'six signatures' of civilian harm approach** to achieve a holistic understanding of the human cost of violence in all its complexity, in military planning, decision making, analysis, mitigation and reporting.

To military decision makers, we recommend to:

- **Implement civilian harm mitigation teams during all military operations** tasked to track civilian harm from own actions, identify harmful patterns, and to adjust tactics, techniques and procedures accordingly to prevent or mitigate future harm.

- **Apply a 'threat-based approach' to the protection of civilians.** Develop the necessary capacity to evaluate a perpetrator's capabilities and intentions and how these may lead to civilian harm, in order to design appropriate and effective protection strategies, including tactics, techniques and procedures to protect civilians from harm by others.

- **Develop policy and doctrine to specifically integrate tracking and analysing of long-term and reverberating effects of armed action in all harm mitigation efforts** (e.g. including anticipated reverberating effects from a military action in proportionality assessments).

- **Assume shared responsibility for any civilian harm resulting from military assistance** (e.g. intelligence sharing, arms transfer, training) **and develop harm mitigation policies accordingly.**

- **Implement publicly scrutinised mechanisms for immediate redress**, for all victims of civilian harm from own actions, irrespective of legal culpability.

By applying these recommendations, we can work towards more transparency about civilian harm from the use of violence, as well as enhanced mutual understanding across stakeholders. We hope that the discussions on specific cases in Part I of this book, together with the more abstract deliberations in Part II encourage further debate on practical improvements towards more effective protection of civilians.

17.5 Concluding remarks

With a topic as complex and substantial as civilian harm from armed action, it is inevitable that not everything can be discussed in all detail. In the Introduction, we indicated that civilian harm from violence can take many forms, not all of which we could include in this book. We encourage others to further explore topics like the interlinkages between crime and violence and its impact on civilians, and destruction of cultural heritage as a form of civilian harm. Similarly, by confining our discussion of civilian harm to negative impact from the use of violence, we have excluded examples of non-violent harm to civilians during times of conflict, for example the consequences for civilians of administrative discrimination by an occupying force. Finally, we would like to stress that we have only broached the subject of indirect responsibility for the perpetration of civilian harm, for instance through the provision of arms, intelligence or training to partnered military forces, and we strongly encourage more attention for this topic.

The original aims of this book – to describe civilian harm in its many forms; to show that it is possible to describe and understand civilian harm events in great detail; and to work towards a shared language and understanding of the topic – proved to be a complex and ambitious endeavour. Now, at the end, we realise we have only grown stronger in our conviction that these are important and worthwhile aims. We are confident that this publication makes considerable contributions towards achieving them.

Some 300-plus pages ago, we began this book with a reflection by us, the editors, on current discourse on the Syrian war. We juxtaposed abstract, distant and 'clean' language about this conflict, as we so often hear in the media and political speeches – 'actor *a* gained military advantage over actor *b*, after having suffered losses in territory *x* some *n* months ago' – with thirteen information-dense narratives using language that more comprehensively reflects the reality of civilians living through conflict. They describe the violence used against civilians, and detail how this subsequently affected – and often continues to affect – people's lives and environs. This book is part of our continued efforts to put civilians front and centre in international debates about protection of civilians and civilian harm mitigation. Only if we understand the myriad ways in which conflict and armed action negatively affect civilians, can we begin to take effective steps towards reducing civilian harm. Because, to echo the words of the Dutch Minister

of Foreign Affairs at the UN Security Council highlighted in the Foreword by Ms. Schuurman, 'if we are not here to protect people, what are we doing?'

About the authors

Saba Azeem is a Pakistani national with about a decade's worth of work experience with NGOs such as Oxfam, the Danish Refugee Council (DRC), the Danish Committee for Aid for Afghan Refugees (DACAAR) and World Vision before joining the Protection of Civilians team at PAX. She has lived in conflict, post-conflict and fragile environments such as Afghanistan, Iraq, Jordan, Kenya and Syria as humanitarian aid worker.

Saba is the author and/or co-author of chapters 1, 4, 6, 11 and 13.

Erin Bijl currently works as Project Officer for the Protection of Civilians team at PAX, which seeks to make PoC interventions more effective, accountable to civilians, and focused on civilians' needs. Within the team, she works on the Protection in Practice project where her main focus is on civilian harm and its tracking, analysis, response and mitigation among security actors. She has a background in Conflict Studies.

Erin is one of the editors, as well as the author and/or co-author of the Introduction and chapters 3, 8, 13, 14, 15, 16 and 17

Daniel Gómez is currently a PhD candidate at the Political Science Department of the University of Amsterdam (UvA). His research focuses on the relationships between unarmed civilians and combatants in civil wars. He conducts extensive fieldwork in different zones of Colombia. Daniel also teaches Politics of Drugs, International Relations and Political Economy at the UvA.

Daniel is the author of chapter 10.

Koen Kluessien is a former conflict researcher for Airwars, a not-for-profit transparency organisation aimed at tracking, assessing and archiving military actions and related civilian harm claims in conflict zones such as Iraq, Syria and Libya. Koen started his career as a researcher focusing on the former Yugoslavia at the NIOD institute for war, Holocaust and genocide studies. Currently, Koen is a digital investigator specialising in open source intelligence for the war crimes unit of the Dutch police.

Koen is the author of chapter 9.

Welmoet Wels is an international consultant with a background in the Classics and Public International Law. Currently, she works on her PhD dissertation on international law at the University of Groningen in The Netherlands. Seven years with UN peacekeeping missions and UNHCR in conflict zones, always with Protection of Civilians as her main portfolio, provided her with solid field experience. As a consultant, her duties vary from lecturing and training, to humanitarian evaluations, and report writing and editing.

Welmoet is one of the editors, as well as the author and/or co-author of the Introduction and chapters 14, 15, 16 and 17.

Wilbert van der Zeijden is a political scientist with over 20 years' experience working for civil society organisations on a broad range of peace and security related topics. Currently, he is Protection of Civilians Team Coordinator at PAX, and leads their Protection in Practice project, looking specifically at how security actors train for, monitor and evaluate and learn from their efforts to protect civilians. Part of this project, Wilbert initiated this book project in an effort to feed the existing discourse on civilian harm as a phenomenon intrinsically linked to modern-day warfare.

Wilbert is one of the editors, as well as the author and/or co-author of the Preface, Introduction and chapters 2, 5, 14, 15, 16 and 17.

The authors of cases 7 and 12 on damage to a hospital in Ukraine and on the weaponization of water in Syria respectively have chosen to stay anonymous. Both authors have worked for PAX and have strong professional credentials.

Bibliography

Please note that the entries in this bibliography contain only the sources that are referenced in the Introduction and in the chapters of Part II. The bibliographical entries from the chapters of 'Cases of civilian harm' (Part I) can be found at the end of the respective chapters.

Airwars (2017). Airwars assessment CS598 [Blog post]. *Airwars.*

Arms Control Association (n.d.). *Treaties and Agreements* [Webpage]. Arms Control Association. Accessed: March 2021.

BBC News (2016, February 16). Russia rejects Syria war crimes claim over hospital attacks. *BBC News.*

BBC News, (2018, November 21). Yemen crisis: 85,000 children 'dead from malnutrition'. *BBC News.*

Beadle, A. W. (2011). *Finding the 'utility of force to protect': towards a theory on protection of civilians* Report]. Norwegian Defence Research Establishment (FFI).

Bijl, E., & Van der Zeijden, W. (2020). *Civilian harm tracking, analysis and response: What it is and why it matters* [Position paper]. PAX.

Boer, R., Treffers, L., & Woods, C. (2020). *Seeing Through the Rubble: The civilian impact of the use of explosive weapons in the fight against ISIS* [Report]. Airwars & PAX.

Borger, J., & Chulov, M. (2020, January 3). 'US kills Iran general Qassem Suleimani in strike ordered by Trump.' *The Guardian.*

Boulanin, V., Brockmann, K., & Richards, L. (2020). *Responsible Artificial Intelligence Research and Innovation for Internal Peace and Security* [Report]. Stockholm International Peace Research Institute.

Callamard, A. (2020). *Extrajudicial, summary or arbitrary executions: Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions* (A/HRC/44/38) [Report]. United Nations, Human Rights Council.

Carpenter, C. (2005). "Women, Children and Other Vulnerable Groups": Gender, Strategic Frames and the Protection of Civilians as a Transnational Issue. *International Studies Quarterly*, 49, 295-334.

Chavannes, E., Klonowska, K., & Sweijs, T. (2020). *Governing autonomous weapon systems: Expanding the solution space, from scoping to applying* [Report]. The Hague Centre for Strategic Studies.

Dunlap, C. J. (2016). No Good Options Against ISIS Barbarism? Human Shields in 21st Century Conflicts. *AJIL Unbound, 110*, 311-316.

Eckhardt, W. (1989). Civilian Deaths in Wartime. *Bulletin of Peace Proposals, 20*(1), 89-98.

European Parliament (2016, February 4). *Resolution on the systematic mass murder of religious minorities by the so-called 'ISIS/Daesh'* (2016/2529(RSP)). European Union, European Parliament.

Garrity, A. (2014, July 14). Conflict rubble: A ubiquitous and under-studied toxic remnant of war [Blog post]. *Conflict and Environment Observatory.*

Geneva International Centre for Demining (n.d.). *International Humanitarian Law* [Webpage]. Geneva International Centre for Demining. Accessed: March 2021.

Ghantous, G. (2018, September 13). Yemen war a 'living hell' for children: UNICEF. *Reuters.*

Gisel, L. (2016). *The principle of proportionality in the rules governing the conduct of hostilities under International Humanitarian Law* [Report]. International Committee of the Red Cross & Université Laval.

Holewinski, S., Keenan, M., Michener, S., Mostofavi, S. N., Olson, M., & Rondeaux, C. (2020). *Beyond Casualty Counts : Building Dynamic Models to Capture and Foresee Civilian Harm* [Draft paper]. New America, Arizona State University, Drexel University & PAX.

Hopkins, A. (2017, June 20). Disturbing civilian death trends in Iraq-Syria air war: A researcher's view [Blog post]. *The New Humanitarian*.

Humanity & Inclusion (2020, May 26). Coming up – Protection of Civilians: States must commit to the political declaration on EWIPA [Blog post]. *Humanity & Inclusion*.

Human Rights Watch (2019, May 3). Men Can Experience Sexual Violence in War Too [Blog post]. *Human Rights Watch*.

International Committee of the Red Cross (n.d.). *Customary IHL Database* [Webpage]. International Committee of the Red Cross. Accessed: March 2021.

International Committee of the Red Cross (2016). *Views of the International Committee of the Red Cross (ICRC) on autonomous weapon systems* [Article]. International Committee of the Red Cross.

International Committee of the Red Cross & Interaction (2017). *When War Moves to Cities: Protection of Civilians in Urban Areas* [Report]. International Committee of the Red Cross & Interaction.

International Committee of the Red Cross & UN Secretary-General (2019, September 18). *Explosive weapons in cities: Civilian devastation and suffering must stop* [Statement]. International Committee of the Red Cross & United Nations, Secretary-General.

International Criminal Court (2013). *Rules of Procedure and Evidence* (2nd edition). International Criminal Court.

Ipsos & International Committee of the Red Cross (2009). *Summary Report: Afghanistan, Colombia, Democratic Republic of the Congo, Georgia, Haiti, Lebanon, Liberia, and the Philippines. Opinion Survey and In-Depth Research* [Report]. Ipsos & International Committee of the Red Cross.

Keenan, M. (2013). Operationalizing Civilian Protection in Mali: The Case for a Civilian Casualty Tracking, Analysis and Response Cell. *Stability: International Journal of Security and Development, 2*(2), 1-10.

Keenan, M., & Mohammedally, S. (2015). Civilian Harm Tracking. In Docherty, B. (Ed.), *Acknowledge, Amend, Assist: Addressing Civilian Harm Caused by Armed Conflict and Armed Violence* (pp. 8-10). Harvard Law School, Human Rights Program.

Keene, J. (2014). *Civilian Harm Tracking: Analysis of ISAF Efforts in Afghanistan* [Report]. Center for Civilians in Conflict.

Khan, A., & Gopal, A. (2017, November 16). The Uncounted. *The New York Times*.

Kjeksrud, S., Beadle, A. W., & Lindqvist, P. H. F. (2016). *Protecting Civilians from Violence: A Threat Based Approach to Protection of Civilians in UN Peace Operations* [Report]. Norwegian Defence Research Establishment (FFI) & Norwegian Defence International Centre (NODEFIC).

Kolenda, C. D., Reid, R., Rogers, C., & Retzius, M. (2016). *The Strategic Costs of Civilian Harm: Applying Lessons from Afghanistan to Current and Future Conflicts* [Report]. Open Society Foundations.

Lewis, L. (2020). *Protecting Civilians: A Comprehensive*

Approach [Paper]. Center for Naval Analyses.

Mahanty, D., Khalfaoui, A., Moorehead, A., & Motaparthy, P. (2020). *In Search of Answers: U.S. Military Investigations and Civilian Harm* [Report]. Center for Civilians in Conflict & Columbia University, Columbia Law School Human Rights Institute

McKay, A., Watson, A., & Karlshøj-Pedersen, M. (2021). *Remote Warfare: Interdisciplinary Perspectives.* E-International Relations Publishing.

Melzer, N. (2009). *Interpretative Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law.* International Committee of the Red Cross.

Monin, L., & Gallimore, A. (2011). *The Devil's Gardens: A History of Landmines* (updated edition). Random House.

Moyer, J. D., Bohl, D., Hanna, T., Mapes, B. R., & Rafa, M. (2019). *Assessing the impact of war on development in Yemen* [Report]. United Nations, Development Programme.

Muhammedally, S. (2015). Making Amends. In Docherty, B. (Ed.), *Acknowledge, Amend, Assist: Addressing Civilian Harm Caused by Armed Conflict and Armed Violence* (pp. 11-14). Harvard Law School, Human Rights Program.

North Atlantic Treaty Organisation (2016). *Policy for the Protection of Civilians.* North Atlantic Treaty Organisation.

North Atlantic Treaty Organisation (2021). *Military Handbook for the Protection of Civilians.* North Atlantic Treaty Organisation.

Oberleitner, G. (2015). *Human Rights in Armed Conflict: Law, Practice, Policy.* Cambridge University Press.

Office of the Under Secretary of Defense (2020, January 31). *Memorandum for Secretaries of the Military Departments, Chairman of the Joint Chiefs of Staff, Under Secretaries of Defense, Commanders of the Combatant Commands, General Counsel of the Department of Defense* (20301-2000) [Memorandum]. US Government, Department of Defense, Office of the Under Secretary of Defense.

Reinl, J. (2019, April 26). Yemen death toll to surpass 230,000 by end of 2019: UN report. *Middle East Eye.*

Roberts, A. (2010). Lives and Statistics: Are 90% of War Victims Civilians? *Survival, 52*(3), 115-135.

Rupesinghe, N. (2019). *The Civilian Casualty Tracking Analysis and Response Cell in the African Union Mission in Somalia: An emerging best practice for AU peace support operations?* [Policy brief]. Norwegian Institute of International Affairs (NUPI).

Sassòli, M., & Bouvier, A. A. (Eds.) (1999). *How Does Law Protect in War: Cases, Documents and Teaching Materials on Contemporary Practice in International Humanitarian Law.* International Committee of the Red Cross.

Shiel, A. (2019). *The Sum of All Parts: Reducing Civilian Harm in Multinational Coalition Operations* [Report]. Center for Civilians in Conflict.

Shugerman, E. (2018) Yemen Civil War: Both Sides in Conflict may have Committed War Crimes, UN says. *The Independent.*

Spink, L. (2016). *From Mandate to Mission: Mitigating Civilian Harm in UN Peacekeeping Operations in the DRC* [Report]. Center for Civilians in Conflict.

UN Department of Economic and Social Affairs (2018, May 16). 68% of the world population projected to live in urban areas by 2050, says UN [Blog post]. *United Nations, Department of Economic and Social Affairs.*

UN High Commissioner for Refugees (2012). *Working with men and boy survivors of sexual and gender-based violence in forced displacement* [Guidance].

United Nations, High Commissioner for Refugees, Division of International Protection.

UN High Commissioner for Refugees (2019, May). *COI Note on the Situation of Yazidi IDPs in the Kurdistan Region of Iraq* [Brief]. United Nations, High Commissioner for Refugees.

UN Human Rights Committee (2004). *The Nature of the General Legal Obligation Imposed on States Parties to the Covenant* (CCPR/C/21/Rev.1/Add. 13) [General Comment No. 81]. United Nations, Human Rights Committee.

UN Human Rights Council (2016). *"They Came to Destroy": ISIS Crimes Against the Yazidis* (A/HRC/32/CRP.2) [Report]. United Nations, Human Rights Council.

UN Security Council (1999). *Resolution 1265* (S/RES/1265). United Nations, Security Council.

Vogel, R. J. (2010). Drone Warfare and the Law of Armed Conflict. *Denver Journal of International Law and Policy, 39*(1), 101-138.

Walzer, M. (1992). *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (2nd edition). Basic Books.

Watson, A. (2020). *The Integrated Review: Lessons Learned from Remote Warfare* [Report]. Oxford Research Group, Remote Warfare Programme.

Woods, C. (2016). *Limited Accountability: A transparency audit of the Coalition air war against so-called Islamic State* [Report]. Airwars & Oxford Research Group, Remote Control project.

On Civilian Harm