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# Enhancing the security of civilians in conflict

Notifications, evacuations,  
humanitarian corridors,  
suspensions of hostilities  
and other humanitarian  
arrangements

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# Summary

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- Civilians bear the brunt of most armed conflicts. Hostilities are increasingly waged in urban areas, causing civilian death and injury, destruction of homes and basic infrastructure, and disruption of essential services such as electricity, water and sanitation, and healthcare. Active fighting can prevent people from fleeing, and humanitarian organizations trying to respond risk being caught up in the fighting – and at times have been victims of direct attacks.
  - Various humanitarian arrangements can be established to provide some security to civilians and to facilitate humanitarian response. This paper presents six: humanitarian notification arrangements, evacuations, humanitarian corridors, suspensions of hostilities, protected zones and no-fly zones.
  - For each of these arrangements, the paper outlines relevant international law; identifies certain recurring operational challenges; and recommends good practice for enhancing the security of civilians in armed conflict. The concluding chapter makes recommendations applicable to all the arrangements.
  - Humanitarian notification arrangements are a voluntary system whereby humanitarian organizations share information in a structured way with belligerents, on the location of facilities used for their operations, and their movements. Such arrangements assist belligerents to identify the notified facilities and movements, so that they can take them into account in military operations.
  - Evacuations are arrangements to remove people from locations where they are insecure, either because they face risks from military operations or because they cannot access adequate food, water, and other basic goods and services.
  - Humanitarian corridors facilitate the movement of civilians and other protected people and the delivery of humanitarian assistance. They are usually established during active hostilities when movements are particularly dangerous.
  - Suspensions of hostilities – also referred to as ceasefires or pauses – are temporary cessations of active hostilities. They may be for a specific humanitarian purpose, or more general in nature.
  - Protected zones are areas that host people who are not or are no longer taking a direct part in hostilities: civilians, wounded and sick fighters, and those taking care of them.
  - No-fly zones are areas of airspace where most aircraft are prohibited from flying. They have been established by the United Nations Security Council on a small number of occasions to protect civilians from a party putting them at risk by air operations, and facilitate the delivery of humanitarian assistance.

- Some of these arrangements are interconnected, and in practice need to be established in conjunction with one another. For an evacuation to take place safely, for instance, there also needs to be a safe route for people to travel, along with a suspension of hostilities.
- The arrangements discussed in the paper are not new. But there needs to be better understanding of what they are, what their implementation entails operationally, and how they interplay with the law.
- The paper is intended to assist the actors who have a role to play in implementation: parties to armed conflict, humanitarian organizations, third states involved in promoting compliance with international humanitarian law or as donors to humanitarian action, policymakers and the media. It also aims to contribute to a better-informed public debate by providing clarification on the different types of humanitarian arrangements, and also – importantly – what is required for these to provide security.

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# 01

# Introduction

**The desire to alleviate human suffering in conflict situations often leads to calls to establish arrangements – such as humanitarian corridors, pauses, evacuations or safe havens – to provide some security for civilians caught up in hostilities and to facilitate humanitarian response efforts. Such arrangements are not new. But there needs to be better understanding of what they are, what their implementation entails operationally, and how they interplay with the law.**

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Civilians bear the brunt of armed conflicts. As hostilities are increasingly waged in urban areas, civilians have been caught up in fighting in Iraq, Syria, Gaza, Yemen, Ukraine and Sudan, where aerial bombing and artillery shelling, and military operations in cities, have caused civilian deaths and injury, along with the destruction of homes and basic infrastructure. Essential services such as electricity, water and sanitation are disrupted, and medical services are stretched to breaking point.

Active fighting can prevent people from fleeing or from receiving humanitarian assistance. In certain contexts, such as in Syria, Ethiopia and Nagorny Karabakh, belligerents have imposed sieges on cities or cut off entire regions, trapping civilians and preventing humanitarian actors from reaching them. The staff of humanitarian organizations trying to respond risk being caught up in the fighting, and at times have been victims of direct attacks.

A desire to alleviate the suffering in these and many other similar situations has led to calls to establish arrangements – in the form of humanitarian corridors, pauses, evacuations or safe havens, for instance – to provide some security to civilians in the midst of hostilities and to facilitate the humanitarian response.<sup>1</sup>

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<sup>1</sup> At the beginning of the hostilities in Gaza in 2023, for example, there were calls for various arrangements for the protection of civilians, including in Security Council resolution 2712 (2023), which called for ‘urgent and extended humanitarian pauses and corridors throughout the Gaza Strip’ (OP 2).

None of the humanitarian arrangements mentioned is new. However, there is confusion as to precisely what they are, what they entail operationally, and how they interplay with the law. Significantly, while the demands for such arrangements are frequent, the instances when they have actually been established are very few, and even then, they have not proved as protective as was intended.

Furthermore, there is a tendency for some – usually political actors or the general public, rather than humanitarian organizations – to call for the adoption of certain arrangements as a matter of course, even if these might not be necessary in practice and could lead to a narrower margin of manoeuvre for humanitarian response than that afforded by international humanitarian law (IHL).

In December 2023, for example, in response to the challenges of providing humanitarian assistance during the hostilities in Gaza, the United Arab Emirates proposed a Security Council resolution requiring the UN Secretary-General to establish a monitoring mechanism in the Gaza Strip ‘to exclusively monitor all humanitarian relief consignments to Gaza provided through land, sea and air routes of those States that are not parties to the conflict’.<sup>2</sup>

At that time, however, humanitarian response was no longer being delayed by restrictions on bringing relief into Gaza. Instead, the challenge was the ongoing hostilities themselves, which were severely limiting the capacity of humanitarian organizations to move within Gaza. Humanitarian organizations were opposed to the proposed monitoring mechanism, on the grounds that this would introduce an additional procedure and further delay response efforts.<sup>3</sup>

If humanitarian arrangements are properly established and properly implemented, they may indeed enhance the security of civilians caught in hostilities and facilitate humanitarian assistance. But for this to happen, there needs to be a better understanding by states, armed groups, the military, humanitarian organizations and others – including the general public – of what the arrangements can do, and what they cannot, and what is necessary in order for them to operate. If political figures call for humanitarian corridors, for example, as a means of protecting civilians in an armed conflict, it is important that they understand what is required to implement them and what the challenges are.

There should also be an understanding of what IHL already requires of belligerents, and the protection it affords to civilians. For the most part, the humanitarian arrangements discussed in this paper do not affect existing obligations and protections under IHL. They are a way of giving effect to them.

In order to contribute to a better understanding of these modalities, this research paper discusses six types of humanitarian arrangements that have been established or called for in relation to recent armed conflicts: humanitarian notification arrangements; evacuations; humanitarian corridors; humanitarian pauses,

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<sup>2</sup> Security Council Report: What’s in Blue (2023), ‘The Middle East, including the Palestinian Question: Vote on a Draft Resolution’, 20 December 2023, <https://www.securitycouncilreport.org/whatsinblue/2023/12/the-middle-east-including-the-palestinian-question-vote-on-a-draft-resolution-2.php>.

<sup>3</sup> The resolution that was eventually adopted did not include the monitoring mechanism. Instead, it requested the Secretary-General to appoint a Senior Humanitarian and Reconstruction Coordinator responsible for facilitating, coordinating, monitoring, and verifying in Gaza, as appropriate, the humanitarian nature of all relief consignments provided through states which are not parties to the conflict: SCR 2720 (2023) OP 4.

truces, suspensions of hostilities and ceasefires; protected zones; and no-fly zones.<sup>4</sup> For each of these, relevant international law is outlined, certain recurring operational challenges are identified, and recommendations are made for good practice.

Although the paper analyses the different arrangements individually, some are interconnected and in practice need to be established in conjunction with one another. For an evacuation to take place safely, for example, there also needs to be a safe route for people to travel, along with a suspension of hostilities.

In addition to the recommendations for good practice made for each type of humanitarian arrangements discussed, the concluding chapter makes some overarching points and recommendations that apply to all of the arrangements.

The paper is intended to assist the actors who have a role to play in implementation: parties to armed conflict, humanitarian organizations, third states involved in promoting compliance with IHL or as donors to humanitarian action, policymakers and the media. It also aims to contribute to a better-informed public debate by providing clarification on the different types of humanitarian arrangements and also, importantly, what is required for these to provide security.

This paper has been compiled on the basis of a desk study and interviews with humanitarian, legal and military practitioners involved in the implementation of humanitarian arrangements. Initial findings were discussed at a meeting of experts at Chatham House in October 2023.<sup>5</sup>

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<sup>4</sup> The paper is not exhaustive; many other humanitarian arrangements exist, for example those relating to the release and repatriation of people deprived of their liberty, and modalities for facilitating humanitarian activities such as air bridges.

<sup>5</sup> All interviews were conducted, on the understanding of anonymity, between April 2023 and February 2024. The October 2023 meeting of experts was held under the Chatham House Rule.



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# 02 Humanitarian notification arrangements

**The Humanitarian Notification System in Support of Access and Protection in Syria, established in 2014 and coordinated by the UN Office for the Coordination of Humanitarian Affairs, informs parties to the conflict of the location of civilian objects that fulfil a humanitarian function, of movements of humanitarian staff and supplies, and of critical civilian infrastructure, with a view to avoiding harm or impediments to them.<sup>6</sup>**

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## 2.1 What are they?

Humanitarian notification arrangements are a voluntary system whereby humanitarian organizations share information, in a structured manner, with parties to an armed conflict on the location of facilities used for their operations, such as warehouses and offices, as well as on their movements, such as humanitarian convoys.

Notifications are intended to assist belligerents in identifying the notified facilities and movements, so that they can take those into account when planning and conducting military operations, in line with their obligations under IHL, and thus reduce the risk that the notified facilities may be targeted or damaged, or the

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<sup>6</sup> United Nations Office for the Coordination of Humanitarian Affairs (2023), 'Syrian Arab Republic: Humanitarian Notification System (HNS): Notified Humanitarian Static Sites and Movements (As of 31 December 2023)', 31 December 2023, <https://www.unocha.org/publications/report/syrian-arab-republic/syrian-arab-republic-humanitarian-notification-system-hns-notified-humanitarian-static-sites-and-movements-31-december-2023>.

movements impeded. Notification arrangements are a way of enhancing the safety of the notified objects and of humanitarian workers. In military terminology, they are a type of deconfliction arrangement.

Structured humanitarian notification systems tend to be established in situations when the party to which the notifications are being sent has limited ground situational awareness, most frequently when it is conducting air operations.

The provision of notifications is not the only exchange that is occurring between humanitarian organizations and belligerents during hostilities. Frequently, coordination in relation to humanitarian access is also taking place. Humanitarian notification arrangements must be distinguished from engagement for other purposes, even if these often take place in parallel. This distinction is important in order to maintain the strictly informative character of humanitarian notification, and to prevent it from being misperceived or misused as a mechanism to ‘approve’ humanitarian operations.

Humanitarian notification systems have been established in a number of conflicts – including Afghanistan, Gaza, Syria, Yemen and Ukraine. To date, this has not been done in a uniform manner. The precise details vary from context to context, including in terms of:

- **Which actors** gather and collate the information and convey it to the parties to the conflict. The UN Office for the Coordination of Humanitarian Affairs (OCHA) usually fulfils this coordinating role for UN agencies, funds and programmes, along with their implementing partners in the context in question.

Both the International Committee of the Red Cross (ICRC) and Médecins Sans Frontières (MSF) always have their own bilateral arrangements, in line with their approach to neutral and independent humanitarian action. Operationally, too, neither organization wants an intermediary in their dialogue with belligerents, including when receiving security guarantees.<sup>7</sup>

For example, MSF always establishes its own direct contact with belligerents to negotiate the modalities of its presence and operations and obtain safety assurances. Notification of the location of their facilities is the last step in this engagement rather than a ‘standalone’ exercise, as happens in the arrangements coordinated by OCHA.<sup>8</sup>

- **What is notified:** Notifications usually include static humanitarian facilities such as warehouses and offices, and movements, such as convoys, for humanitarian activities. There is no uniform approach to what constitutes a ‘humanitarian facility’ for the purpose of notification arrangements, and in certain contexts this has been interpreted extremely broadly. Medical non-governmental organizations (NGOs) such as MSF also notify belligerents of the medical facilities they operate or support, as well as certain movements.

<sup>7</sup> Author interviews.

<sup>8</sup> Author interviews, and October 2023 Chatham House expert meeting.

- **Who is notified:** This depends on who is coordinating the arrangements. Humanitarian arrangements operated by OCHA have principally been with state parties to armed conflicts, even in non-international armed conflicts such as Yemen. This is because, to date, only states have conducted significant air operations, and it is principally in relation to this type of targeting that notifications can play a protective role.

MSF notifies the location of its facilities to all parties to a conflict that are present or operating in a particular context.

- **What the technical arrangements are** for the transmission of information: Usually, notifications are sent in the form of GPS coordinates of relevant locations, and are conveyed by email or through a shared platform.

In addition, MSF places physical markings on its medical facilities – the red cross or red crescent if such use is authorized by the local national society, or its logo if not. These markings are particularly relevant for organized armed groups: as they are not conducting air operations, GPS coordinates are less meaningful.

## 2.2 What does the law say?

IHL does not mention humanitarian notification arrangements. They are simply a mechanism that can assist parties to armed conflict to comply with IHL, but that does not affect their obligations or the protections afforded to civilian objects. Nor does it modify the rules regulating humanitarian relief operations.

### 2.2.1 Obligations of distinction and verification

The principle of distinction lies at the heart of IHL. It requires belligerents to distinguish between civilians and fighters, and between civilian objects and military objectives.<sup>9</sup> Attacks may only be directed against fighters and military objectives.<sup>10</sup> To give effect to these obligations, belligerents must do everything feasible to verify that the objectives they are attacking are not civilians or civilian objects.<sup>11</sup>

The information provided by notification arrangements does not affect these obligations. It is just a way of facilitating their implementation. Importantly, the fact that a particular object has not been notified has no *legal* consequences and does not put its civilian status in question in any way.

<sup>9</sup> This paper uses the generic term ‘fighters’ to refer to combatants as defined in Article 43 of Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts of 8 June 1977 (AP I) and persons taking direct part in hostilities.

<sup>10</sup> Articles 48, 51 and 52 AP I, and Article 13 of Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts of 8 June 1977 (AP II).

<sup>11</sup> Article 57(2)(a)(i) AP I.

### 2.2.2 Civilian objects

Most frequently, the objects that are notified are humanitarian facilities and movements of humanitarian vehicles and goods. These are civilian objects that belligerents are required by IHL to respect and protect. They must not be the object of attack, and incidental damage to them must be factored into proportionality assessments.<sup>12</sup> Their protection stems from IHL. There is no obligation to notify objects, and notification is not a precondition for protection under IHL.

A civilian object may become a military objective and lose this protection if, by virtue of its nature, location, purpose or use, it makes an effective contribution to military action, and its total or partial destruction in the circumstances prevailing at the time offers a definite military advantage.<sup>13</sup> In case of doubt as to whether an object that is normally dedicated to civilian purposes is being used to make an effective contribution to military action, it should be presumed not to be used in this way, and thus not to constitute a military objective.<sup>14</sup>

Notification is not a guarantee by the notifying party that the notified objects are not or will not be used for military purposes in the future. Nor is the notifying party required to provide information about military action in the proximity of the notified objects that may affect their civilian status. Determining whether a particular object has become a military objective remains the responsibility of belligerents. Moreover, the provision of such information, which is likely to assist military operations, could undermine the neutrality of the notifying actor.

### 2.2.3 Humanitarian personnel

The movements of humanitarian convoys, which include personnel, are usually notified, as are static facilities where personnel work. The personnel of humanitarian organizations are civilians. As such, IHL requires that they must be respected and protected. They may not be the object of attack, and their incidental death or injury must be factored into proportionality assessments. Like all civilians, they are protected unless and for such time that they take a direct part in hostilities.<sup>15</sup>

The protection of humanitarian personnel stems from IHL. Again, notification is not a precondition for protection.

### 2.2.4 Medical facilities

Medical humanitarian organizations such as MSF also notify the medical facilities they operate (hospitals, first aid centres, dispensaries, etc.). The notifications aim to enhance the safety of the facilities, medical personnel and patients. MSF may also notify the facilities that they support but are operated by other actors, such as national ministries of health, provided the latter agree to this. There have been instances when such agreement was not given as actors supported by MSF feared this would lead to their facilities being targeted.<sup>16</sup>

<sup>12</sup> Articles 51 and 52 AP I, and Article 13 AP II.

<sup>13</sup> Article 53 AP I.

<sup>14</sup> Article 52 AP I.

<sup>15</sup> Articles 51 and 71 AP I, and Article 13 AP II.

<sup>16</sup> Author interviews.

Medical facilities benefit from special protection under IHL. Belligerents must respect and protect them, and the facilities must not be the object of attack. This special protection is lost if a medical facility is being used, outside its humanitarian function, to commit acts harmful to the enemy. Before this special protection is lost, a warning must be given, and where appropriate a reasonable time limit also given for complying with the warning.<sup>17</sup>

Again, the protection stems from IHL. Notification is not a prerequisite for protection.

Notification is also not a guarantee by the actor providing the information that notified medical facilities are not or will not in the future be used to commit acts harmful to the enemy.

### 2.2.5 Notification of movements

Once offers to conduct humanitarian relief operations have been accepted by the state where the operations will be conducted, all parties to the conflict must allow and facilitate the rapid and unimpeded passage of humanitarian relief vehicles, supplies, equipment and personnel throughout the territory under their control.<sup>18</sup>

Belligerents are entitled to prescribe measures of control for such passage.<sup>19</sup> These measures serve numerous purposes: they can allow parties to assure themselves that relief consignments are exclusively humanitarian; and they may prevent humanitarian relief convoys from being endangered by military operations. Measures of control can include requirements that relief convoys use prescribed routes at specific times to ensure that they do not hamper military operations and are not hampered by them.

Importantly, however, once initial consent to operate has been granted, it is not necessary to obtain authorization for every activity or movement.

Movements of humanitarian staff and supplies are usually notified, as a practical way of enhancing their security. However, providing such notifications must not turn into a system that effectively grants the notified party the authority to approve or deny each movement. This would modify the underlying rules of IHL and lead to delays. Notification must not become a tool of access control, as opposed to a way of facilitating access.

### 2.2.6 Notification is not a guarantee of protection

Notification does not have legal consequences. As already stated, notification is not the source of the protection of the notified objects and movements: they are already protected under IHL.

Notification is simply a mechanism for facilitating the identification of certain civilian objects. It is not a guarantee that belligerents will not direct attacks against the objects, nor adequately take them into account in proportionality assessments.

<sup>17</sup> Articles 12 and 13 AP I, and Article 11 AP II.

<sup>18</sup> Articles 23 and 59 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War (GC IV), Articles 69 and 70 AP I, and Article 18(2) AP II.

<sup>19</sup> Article 23 GC IV, and Article 70(3) AP I.



Notification is also not a guarantee that the notified object has not lost its civilian status; nor does it address the fact that notified objects may be located in the vicinity of military objectives. Consequently, attacks that target or cause damage to notified objects are not necessarily violations of IHL: lawfulness depends on compliance with the provisions of IHL, not on whether or not an object is notified.

### **2.2.7 Notification is not an accountability mechanism**

Notification arrangements are unrelated to mechanisms to investigate possible violations of IHL, even if it is notified objects that have been attacked or damaged. Although OCHA, for example, might be coordinating the notification arrangement, it is not its role to investigate possible violations of IHL.

Responsibility for investigating violations lies with the parties to the conflict. Independent fact-finding bodies may also be established to consider, *inter alia*, damage to notified objects and movements. The fact that a facility has been notified is one factor among many that an investigation is likely to take into account in reaching its conclusions.

## **2.3 Operation in practice – challenges, good practice and recommendations**

In the past decade, humanitarian notification systems have been established in a number of contexts. Based on this experience, it is possible to identify some recurring challenges and some emerging good practice. The list below relates to the arrangements coordinated by OCHA, and not to the bilateral notifications provided by the ICRC or MSF. It is not intended to be exhaustive.

### **2.3.1 Should a humanitarian notification system be established?**

Reservations have been expressed as to whether it is appropriate to establish humanitarian notification systems in all contexts. For such a system to be of use, a number of prerequisites must be met, starting from the good faith of the parties to the conflict.

Good faith is relevant in a number of ways. Most significantly, there must be confidence that belligerents will not abuse the system. An extreme example of such abuse would be where the information provided is used to *target* the notified humanitarian facilities instead of avoiding them, or to put pressure on organizations that operate in areas under opposition control. Such concerns led some medical NGOs not to participate in the humanitarian notification system in Syria.

There must also be confidence that belligerents will not abuse notifications of humanitarian movements by turning the arrangements into something that impedes or restricts humanitarian access.

Nor must belligerents abuse notifications by intentionally misrepresenting them to shirk their responsibilities under IHL – for example by justifying an attack against a civilian object by claiming that the object had not been notified. This occurred in Yemen in 2022, for example, when the Saudi-led coalition struck a detention facility. Coalition officials sought to justify the attack on the grounds that the facility had not been notified under the arrangements facilitated by OCHA or by the ICRC.<sup>20</sup>

Whether or not a humanitarian notification system should be established is a difficult decision that must be taken based on a careful assessment of each specific context. Rather than automatically establishing such a system, relevant UN actors – the Humanitarian Coordinator/Resident Coordinator if they have been appointed, on basis of discussions in the UN Humanitarian Country Team and/or the Emergency Relief Coordinator, in consultation with partners – must consider whether this would actually contribute to enhancing the safety of notified facilities and not obstruct rapid unimpeded and safe passage of relief operations.

In certain contexts, it may be preferable to proceed without a notification system, focusing instead on reminding belligerents of their obligations. This was the approach that was adopted with the Houthis in Yemen, for reasons that included concerns that the notification of movements might be abused.<sup>21</sup>

### 2.3.2 Which parties should be notified?

Ideally, all relevant belligerents in a particular armed conflict – including most notably those conducting air operations – should participate in the notification arrangements.

There was some criticism of the system established in Syria in 2014, as key belligerents did not participate in the notification arrangements.<sup>22</sup> Syria itself was never a party to the arrangements, but it was assumed by OCHA, which was operating the system, that Russia, which did participate, shared the information with Syrian armed forces. Russia withdrew from the system of notification arrangements in 2020.

This said, comprehensive participation should not come at the expense of the requirement that the belligerents who are notified will use the information that they receive in good faith.

As already noted, MSF does not participate in collective humanitarian notification arrangements. Instead, it provides details of its facilities to all belligerents – states and organized armed groups – present in a particular context.

The capacity of belligerents to absorb the information provided and to communicate it to those conducting operations varies significantly. This is particularly the case where organized armed groups are notified. There have been instances during

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<sup>20</sup> France 24 (2022), 'Saudi-led coalition denies targeting prison after Yemen strike kills dozens', 22 January 2022, <https://www.france24.com/en/middle-east/20220122-saudi-led-coalition-denies-targeting-prison-after-yemen-strike-kills-dozens>.

<sup>21</sup> Author interviews.

<sup>22</sup> Author interviews.

particularly intense hostilities when communications with armed groups were interrupted and it was not possible to reach the people who had acted as liaisons. This is regrettable, as notifications can play a crucial role at precisely such times.

Ideally, notifications should be shared directly with military hierarchies, to make the system as efficient as possible. There have been instances when states have not allowed such direct engagement with the armed forces, and notifications had to be provided through diplomatic channels.

### 2.3.3 What should be notified?

A central question is which objects should be notified. The approach adopted to date by the systems operated by OCHA has varied significantly. In some instances, the humanitarian facilities that are notified have been relatively limited. For example, the arrangements that have long been in place for Gaza cover only 'humanitarian locations' that are run by a humanitarian partner, and in relation to which the partner retains a high degree of confidence that the location is used exclusively for humanitarian purposes. These locations can be permanent, like an organization's primary or district office or warehouses, or temporary, like food distribution points. Temporary humanitarian locations are removed from the system once the relevant activities have been completed.

A significantly broader approach has been adopted in other contexts, going well beyond humanitarian organizations' facilities and movements. In Syria, for example, in addition to static facilities (such as offices and warehouses) that fulfil a humanitarian function, and movements of humanitarian staff and supplies, the notification arrangements cover camps for internally displaced people (IDPs), government schools supported by UNICEF, and private bakeries supported by the World Food Programme. 'Critical civilian infrastructure' – i.e. civilian objects considered indispensable for the survival of the civilian population, such as health facilities, and water and electricity stations – is also notified.

The most expansive approach to date has been adopted in Yemen, where more than 28,000 objects have been notified. In addition to humanitarian facilities, these include objects connected with development activities supported by the UN, as well as critical infrastructure, commercial facilities such as cement factories, and UNESCO World Heritage Sites. At times, 'temporary' notifications have been issued for all locations that UN staff visited, including government and Houthi offices, but also supermarkets, restaurants and hotels.

An overly broad approach to which objects are notified is problematic for many reasons. Although OCHA does not 'guarantee' that the humanitarian facilities that are notified are not used for military purposes, the information usually comes from UN agencies and NGOs participating in the UN humanitarian response plan and/or interagency coordination system. These organizations are trusted, and have a vested interest in the system working. Consequently, there can be confidence that they will have the necessary degree of control over their facilities. The same degree of confidence simply does not exist for a broader range of objects that do not have an immediate connection with humanitarian activities – even the residences of staff members that are not in a compound, let alone commercial enterprises, such as bakeries, run by private actors. OCHA and other humanitarian actors

do not have the requisite oversight of them. Including such objects can undermine the implicit foundation of the system. The more a notification system expands beyond humanitarian premises and premises over which humanitarian actors have direct control, the greater the risk of ‘unreliability’ of the list of notified objects.

Moreover, notification of locations and movements is not an end in itself. It only serves its purpose if the belligerents that receive the data actually use that information to guide their targeting processes and military operations. It is questionable whether any belligerent has the capacity to meaningfully process tens of thousands of notified objects in addition to the ones it has already identified itself.

In view of this, the list of notified locations and movements should be narrow: limited to humanitarian premises and premises over which humanitarian actors have direct control. This scope should be clear from the outset and should not be extended incrementally in the course of operations.

At times, extraneous considerations can contribute to untenably broad approaches to notification. Senior UN personnel who bear ultimate responsibility for the operation of the system are unwilling to remove items from notified lists as they do not want to be in any way accountable should an object that was removed from the notified list be struck. Such concerns result in ever longer lists. These tendencies are even more marked as regards notifications of humanitarian movements, and underlie the ‘temporary’ notifications of the location of UN staff in Yemen.

Some belligerents pride themselves on the thousands of objects that have been notified to them, as though the sheer number is an indicator of the rigour of their targeting process – regardless of whether they take measures to factor the information into the targeting process. They too are unwilling to reduce the numbers of notified objects, as this could undermine their claims to rigour.

### **2.3.4 Change of use of notified objects**

One very practical challenge relates to the use made of facilities once they have been notified. At times, an object that served a humanitarian function when it was notified can be subsequently used for military purposes – for instance a warehouse that is taken over by an armed group and used to store weapons. If this happens, the warehouse becomes a military objective and loses protection under IHL. The notifying actor may wish to remove it from the list of notified facilities, so that they are not accused of negligently notifying military objectives or attempting to shield them. However, doing so could indicate to the party to the conflict receiving the information that there has been a change in the use of the facility. This is military intelligence that could be of assistance to its operations; providing it would be inconsistent with the notifying organization’s neutrality as a humanitarian actor.

One way this dilemma has been addressed has been by updating the list of notified objectives at regular intervals without providing reasons as to why particular objects have been removed. Such periodic ‘scrubs’, or ‘clean-ups’, are useful in and of themselves, as they ensure that lists are kept up to date and as short as possible. They also allow specific objects that have lost their civilian character to be removed without being singled out.

### 2.3.5 Humanitarian movements

Another key concern relates to the notification of the movement of humanitarian organizations' vehicles, supplies and staff, such as trips to carry out specific activities, convoys that deliver assistance, and, at times, UN Humanitarian Air Service (UNHAS) flights. Obviously, notifying these movements can enhance the security of the personnel involved.

As in the case of notification of static facilities, the notification process should end with the provision of information of the planned date and route of the movement. In many instances, however, notifications of movements have turned into a mechanism that in effect allows the notified party to approve movements, as the notification is not considered 'effective' unless it has been 'acknowledged'. This is not what the rules of IHL regulating humanitarian relief operations envisage; it is not the intended purpose of humanitarian notification systems; and it has led to delays and unwarranted interference in humanitarian operations.

Both sides bear responsibilities. At times, notified parties have been opportunistic, seizing on the possibility of controlling the movements and thus the activities of humanitarian organizations. But, in some contexts, too, the UN has made the error of subsuming the notification arrangements into its in-country Security Management System.<sup>23</sup> The system considers notification a protection mechanism, but requires acknowledgment by the notified party before movement clearance is granted by the UN.<sup>24</sup> This is particularly limiting for UN agencies that must comply with UN security rules; less so for NGOs that participate in the notification system.

As is often the case for security measures, once a procedure has been put in place it is extremely difficult for the UN official with ultimate responsibility for security to step it down – even if it severely impedes operations. They are unwilling to face the risk of personal accountability for having done so should movements subsequently face security problems.

It is thus important to avoid procedures requiring receipt of acknowledgment of notification when arrangements are first established. And to stand firm should they be suggested subsequently. Doing so requires a good understanding of the objectives of humanitarian notification systems by UN humanitarian leadership in country and support from headquarters if necessary.

### 2.3.6 The military perspective

The roles and challenges faced by humanitarian organizations that coordinate or participate in humanitarian notification arrangements have received considerable attention, particularly within the humanitarian community. Far less attention has been paid to the experiences of the states that receive the

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<sup>23</sup> The United Nations Security Management System (UNSMS) comprises more than 50 member organizations. Its goal is to enable the activities of UNSMS organizations within acceptable levels of security risk. See United Nations Department of Safety and Security (undated), 'The UNSMS and IASMN', <https://www.un.org/en/safety-and-security/unsms-and-iasmn>.

<sup>24</sup> Author interviews, and October 2023 Chatham House expert meeting.



notifications. This is a shortcoming, as better understanding of how belligerents use the information they receive, and their views of how existing arrangements could be improved, are key to making the systems as effective as possible.

In practice, sophisticated armed forces are likely to assess or reassess the status of notified objects themselves. They will want to ensure that their own intelligence about the notified objects conforms with the notifications received, with the aim of ensuring their own compliance with IHL.

For notifications to have any value, it is essential that armed forces put in place a system to ensure that relevant information is passed from the force elements that receive the notifications to the forces planning and conducting operations. A central point for the receipt, collation and dissemination of notifications should be established. As already noted, the number of notified locations and movements needs to be manageable.

As the March 2024 strike by the Israel Defense Forces on the World Central Kitchen vehicles in Gaza demonstrated,<sup>25</sup> flowing down the information received is particularly important when humanitarian movements have been notified and authorization for them to proceed has been granted. If the information received is not passed to all the forces conducting operations, the consequences can be tragic, and trust in the system may be undermined.

Field-level civil–military coordination is crucial to promoting compliance with IHL and facilitating humanitarian action. This is now taking place in many contexts. However, opportunities for focused dialogue on thematic issues, and for elaborating general good practice, including on humanitarian notification systems, are still extremely rare. Organizations that have connections with, and the trust of, both humanitarian actors and the armed forces – and ideally also with armed groups – should consider convening focused conversations to share lessons learned and elaborate guidance.

### **2.3.7 Clear communication from the outset with all relevant stakeholders**

As already noted, it may not be appropriate to establish humanitarian notification systems in every context. If, after careful consideration, the decision is taken to establish such a system, it is essential that there be clarity from the outset on a number of key constitutive elements, including:

- Which actor will be gathering and transmitting the information. At present, OCHA has played this role. Information should be provided directly by this actor to the parties to the conflict, rather than through an intermediary.

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<sup>25</sup> Israel Defense Forces (2024), 'Conclusion of the Investigation Into the Incident in Which 7 WCK Employees Were Killed During a Humanitarian Operation in Gaza', 5 April 2024, <https://www.idf.il/en/mini-sites/hamas-israel-war-24/all-articles/conclusion-of-the-investigation-into-the-incident-in-which-7-wck-employees-were-killed-during-a-humanitarian-operation-in-gaza>.

- Which facilities will be notified. These should be limited to objects serving a humanitarian purpose that are used by a limited group of humanitarian actors – usually those participating in the UN humanitarian appeals process and/or interagency coordination arrangements in the relevant country. Efforts to expand the list to other facilities should be resisted.
- Clarity that notification of humanitarian movements must not turn into a process of authorization of humanitarian activities.
- Periodic updating of the lists of notified locations.

From the outset, too, there needs to be extremely clear communication with all stakeholders: humanitarian organizations participating in the notification arrangements; UN in-country humanitarian leadership, including personnel responsible for security; the belligerents receiving the notification; any parties to the conflict that are not participating in the notification arrangements; and the media. The communications must include the purpose of the arrangements and their interplay with the rules of IHL, with emphasis on the fact that notifications in no way affect belligerents' obligations under IHL.

## **2.4 In conclusion**

Although they share the same objective of sparing civilians from the effects of hostilities as other humanitarian arrangements discussed in this paper, a central difference is that the establishment of humanitarian notification arrangements does not require agreement between belligerents.

This gives the humanitarian actors operating the system far more control over the details. An effective notification system is no guarantee that the notified objects will not be attacked or damaged. That is dependent on compliance with IHL by belligerents. But there are important lessons to be drawn from past practice that can enhance the efficacy of humanitarian notification arrangements.

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# 03

# Evacuations

**In May 2022, several dozen civilians left the Azovstal plant areas in Mariupol following a five-day safe passage operation coordinated by the ICRC, the parties to the conflict and the UN. A convoy of buses and ambulances accompanied by ICRC and UN teams was joined by families and individuals in private vehicles along the way. More than 100 people, including some wounded, reached Zaporizhzhia.<sup>26</sup>**

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## 3.1 What are they?

Evacuations are arrangements to remove people protected by IHL from locations where they are insecure, either because they face risks from military operations or because they cannot access adequate food, water and other basic goods and services.

The expression is used colloquially to cover at least three different ways in which such relocations can take place:<sup>27</sup>

- Evacuations expressly foreseen by IHL, which either requires parties to armed conflicts to relocate particular categories of protected people in specific circumstances (wounded and sick members of states' armed forces, and prisoners of war), or strongly encourages them to do so (in the case of categories of particularly vulnerable civilians in besieged or encircled areas).
- Situations where civilians move autonomously from areas affected by hostilities (autonomous evacuations).

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<sup>26</sup> International Committee of the Red Cross (2022), 'Ukraine: Civilians leave Azovstal in safe passage operation', 3 May 2022, <https://www.icrc.org/en/document/ukraine-civilians-leave-azovstal-safe-passage-operation>.

<sup>27</sup> The term 'evacuation' is also used to refer to situations where states repatriate their nationals from situations of risk, for example due to armed conflict or natural disasters. These operations are sometimes referred to as 'non-combatant evacuation operations'. Armed forces may have a role to play, including by airlifting civilians if commercial transport alternatives are not available or sufficient. Some states have elaborated specific doctrine on these operations; see, for example, UK Ministry of Defence (2023), *Joint Doctrine Publication (JDP) 3-51, Non-combatant Evacuation Operations*, third edition, version 2, [https://assets.publishing.service.gov.uk/media/64dcc21b3fde6100134a5381/JDP\\_3\\_51\\_NEO\\_Ed3\\_v2\\_web\\_update.pdf](https://assets.publishing.service.gov.uk/media/64dcc21b3fde6100134a5381/JDP_3_51_NEO_Ed3_v2_web_update.pdf); and North Atlantic Treaty Organization (2013), *NATO Standard AJP-3.4.2: Allied Joint Doctrine for Non-Combatant Evacuation Operations*, Edition A, version 1, [https://assets.publishing.service.gov.uk/media/5a81ec5940f0b62305b91882/doctrine\\_nato\\_noncombatant\\_evacuation\\_ajp\\_3\\_4\\_2.pdf](https://assets.publishing.service.gov.uk/media/5a81ec5940f0b62305b91882/doctrine_nato_noncombatant_evacuation_ajp_3_4_2.pdf).

- Situations where humanitarian organizations conduct organized relocations of civilians and other protected people.

In addition, IHL treaties use the term ‘evacuation’ to refer to exceptions to the prohibition on forced displacement of civilians.

It is important to distinguish between these different types of evacuations because the underlying legal obligations are different, and they raise different operational and policy challenges.

As far as autonomous evacuations and those conducted by humanitarian organizations are concerned, the humanitarian arrangements discussed in other chapters of this paper – in particular, humanitarian corridors and humanitarian ceasefires – play a central role in ensuring that the relocations can occur safely.

## 3.2 What does the law say?

IHL expressly addresses only certain types of evacuations: those of wounded and sick members of states’ armed forces, prisoners of war and certain particularly vulnerable civilians from besieged areas. It does not say anything specifically about autonomous evacuations or those conducted by humanitarian organizations. However, the people participating in them, and the humanitarian personnel concerned, benefit from the general rules of IHL protecting civilians.

### 3.2.1 Evacuations foreseen by IHL

IHL refers to the evacuations of certain categories of protected persons. The nature of belligerents’ obligations, and, in particular, whether they are required to conduct the evacuations, or are merely encouraged to endeavour to do so, depends on the categories of people in question.

#### **Wounded and sick members of states’ armed forces**

The First Geneva Convention requires belligerents to search for and collect wounded and sick members of the armed forces, and to remove them from battlefields and other areas where military operations are being conducted, so that they can be provided with the medical attention they require in a more appropriate and secure setting. This is an aspect of the obligation to respect and protect the wounded and sick. The obligation covers *all* wounded and sick members of states’ armed forces – those belonging to the belligerent and those belonging to enemy armed forces.<sup>28</sup>

Belligerents are also encouraged to conclude agreements to suspend military operations to allow these evacuations to be conducted in safety.<sup>29</sup> Ceasefires for this and other purposes are discussed in Chapter 5. IHL does not specify *who* should conduct the evacuations. Ordinarily, it is the party to the armed conflict with control of the wounded and sick, but this does not have to be the case. It could be another state, a member of a coalition, that did not participate in the engagement that led

<sup>28</sup> Article 15 1949 Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (GC I).

<sup>29</sup> Article 15 GC I.

to the injuries. There may also be circumstances when wounded and sick members of the armed forces are evacuated alongside wounded and sick civilians, and at times humanitarian organizations conduct these movements.<sup>30</sup>

### **Prisoners of war**

The Third Geneva Convention requires states that have captured prisoners of war to remove them, as soon as possible, to areas far enough from the combat zone for them to be out of danger.<sup>31</sup>

The underlying rationale is the same as for all evacuations: removing persons who are *hors de combat* from areas where they face risks from military operations. Evacuations are a way for the detaining power to discharge its obligation to protect prisoners under its control.

The dynamics of evacuations of prisoners of war are different from those of other evacuations. It is the detaining power – or possibly a member of a coalition – that conducts these evacuations. Most significantly, prisoners are unlikely to transit through territory under enemy control, and there should therefore not be any need to enter into arrangements with the enemy to ensure the safety of the movements. All responsibilities remain with the detaining power, which is responsible for conducting the evacuation and ensuring humane treatment throughout.<sup>32</sup>

### **Evacuations from besieged or encircled areas**

While IHL lays down clear obligations for the evacuation of wounded and sick members of the armed forces and prisoners of war, it only strongly encourages – but does not require – belligerents to take similar measures for the benefit of civilians.

The Fourth Geneva Convention requires belligerents to ‘endeavour’ to conclude evacuation agreements; and even then, only for certain particularly vulnerable categories of civilians – wounded, sick, infirm and aged persons, children and maternity cases – from besieged or encircled areas.<sup>33</sup> The First Geneva Convention similarly encourages belligerents to conclude agreements to evacuate wounded and sick members of the armed forces from such areas.<sup>34</sup>

Agreements may also be reached to allow medical personnel and equipment into the besieged areas.<sup>35</sup> This is not an alternative to allowing the evacuation of the wounded and sick. The law does not specify who such medical personnel should be: they could be military medical personnel or members of humanitarian organizations. This and other issues, such as how long the medical personnel should remain in the besieged areas, must be elaborated in the agreements between the belligerents.

Civilians’ departure from besieged areas must be voluntary, informed and conducted in safety, both during the actual evacuation and in the subsequent arrangements for shelter.

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<sup>30</sup> ICRC via reliefweb (2013), ‘ICRC evacuates 123 wounded from Dammaj’, 27 November 2013, <https://reliefweb.int/report/yemen/icrc-evacuates-123-wounded-dammaj>.

<sup>31</sup> Article 19 1949 Geneva Convention relative to the Treatment of Prisoners of War (GC III).

<sup>32</sup> Article 20 GC III.

<sup>33</sup> Article 17 GC IV.

<sup>34</sup> Article 15 GC I.

<sup>35</sup> Article 15 GC I, and Article 17 GC IV.



Civilians who do not participate in evacuations and who remain in besieged areas do not forfeit their status and protections. Hostilities cannot be conducted on the presumption that anyone who chooses not to be evacuated is a fighter: the rules regulating humanitarian relief operations continue to apply for the benefit of civilians who have remained.

The First and Fourth Geneva Conventions encourage belligerents to reach agreements for evacuations, but do not prescribe the form such agreements should take, nor what issues should be addressed. This gives belligerents and other actors who may be involved in the elaboration and implementation of the arrangements, such as neutral intermediaries or humanitarian organizations, considerable leeway – including, importantly, to expand the scope of evacuation arrangements beyond the categories of people mentioned in the First and Fourth Geneva Conventions, to cover *all* civilians.

Similarly, there is no reason why evacuations should only be conducted from besieged or encircled areas. Civilians can also be at risk if they are caught up in areas of fighting as front lines advance and shift, and may need to be removed from danger and deprivation caused by military operations. For example, in the weeks immediately following Russia's February 2022 invasion of Ukraine, Ukrainian authorities reportedly led and carried out evacuations of some 300,000 civilians.<sup>36</sup>

### Non-international armed conflicts

Treaty rules applicable in non-international armed conflicts expressly address evacuations of only two categories of people. The first category comprises those deprived of their liberty in relation to the conflict, who must be evacuated if the locations where they are held become particularly exposed to danger arising from the conflict, provided their evacuation can be carried out under adequate conditions of safety.<sup>37</sup> The second category is children.<sup>38</sup>

IHL also covers evacuations by implication. Common Article 3 to the Geneva Conventions requires the wounded and sick to be collected and cared for. This obligation covers civilians and fighters. Arguably, the duty to care for the wounded and sick includes evacuating them from places of danger.

More generally, Common Article 3 also encourages parties to non-international armed conflicts to conclude special agreements to give effect to the full range of rules applicable in international armed conflict. As in international armed conflicts, where IHL leaves it to belligerents to agree arrangements for evacuations of civilians and other protected persons, the position in non-international armed conflicts is essentially the same, with agreements playing the key role in regulating the evacuations. The kinds of issues addressed in the agreements and how they are dealt with are also likely to be similar in both types of conflict.

<sup>36</sup> Protection Cluster via reliefweb (2022), 'Protection Cluster: Recommendation Note on Humanitarian Evacuations in Ukraine, April 2022', 15 April 2022, <https://reliefweb.int/report/ukraine/protection-cluster-recommendation-note-humanitarian-evacuations-civilians-ukraine>.

<sup>37</sup> Article 5(2)(c) AP II.

<sup>38</sup> Article 4(3)(e) AP II.

### Evacuation of children

States parties to armed conflict have frequently taken special measures for children in view of their particular vulnerability. IHL mirrors this approach by granting children priority access to food and other life-saving commodities and medical care.

When it comes to evacuations, a balance must be struck between the clearly protective value of removing children from locations where military operations are taking place and the risk that such arrangements may be abused to sever the connections between children and their families, community and cultural identity. Accordingly, while IHL treaties mention the possibility of conducting evacuations of children, they include specific conditions that must be met when children are removed from their state of nationality by states of which they are not nationals.

These considerations are brought out clearly in two very different evacuations of children conducted in recent years: the ICRC evacuation of 300 children and their carers from an orphanage in Sudan,<sup>39</sup> and the removal by Russia of children from the areas of eastern Ukraine that it had occupied.<sup>40</sup>

Additional Protocol I specifies that such evacuations must be temporary, and require the written consent of the parents, legal guardians or – if they cannot be found – the persons with primary responsibility for the care of the children. Evacuations must be supervised by protecting powers with the agreement of the state that is removing the children, the state receiving them, and the state of nationality of the children.<sup>41</sup> In relation to non-international armed conflicts, Additional Protocol II requires measures to be taken, if necessary, and whenever possible with the consent of their parents or guardians, to remove children temporarily from areas where hostilities are taking place to a safer area within the country. During such movements, children must be accompanied by people responsible for their security and well-being.<sup>42</sup>

The concerns just referred to are additional to those that arise in relation to all evacuations concerning safety during movements.

### Evacuations as an exception to the prohibition on forced displacement

The term ‘evacuation’ is also used to refer to the exceptions to the prohibition on forced displacement in IHL. In situations of occupation, the Fourth Geneva Convention allows the occupying power to undertake the total or partial evacuation of an area if this is required for the security of the population or imperative military reasons.<sup>43</sup> These displacements are temporary, and displaced people must be transferred back as soon as hostilities in the area have ceased. In situations of occupation, the total or partial evacuation of an area must not lead to the

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<sup>39</sup> International Committee of the Red Cross (2023), ‘Sudan: Relief as ICRC evacuates 300 children “towards safety, away from the sounds of gunfire”’, 9 June 2023, <https://www.icrc.org/en/document/sudan-relief-icrc-evacuates-300-children>.

<sup>40</sup> Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights (2023), *Report on Violations and Abuses of International Humanitarian and Human Rights Law, War Crimes and Crimes Against Humanity, Related to the Forcible Transfer and/or Deportation of Ukrainian Children to the Russian Federation*, <https://www.osce.org/files/f/documents/7/7/542751.pdf>.

<sup>41</sup> Article 78 AP I.

<sup>42</sup> Article 4(3)(e) AP II.

<sup>43</sup> Article 49 GC IV.

displacement of protected persons outside the occupied territory, except when for material reasons it is impossible to avoid such displacement.<sup>44</sup> A similar exception also exists in situations of non-international armed conflicts.<sup>45</sup> These evacuations are not consensual – the civilians involved are not required to agree to the relocation.

IHL does not specify who should be conducting the evacuations. However, it does require that to the greatest practicable extent such displacement must be conducted in satisfactory conditions of hygiene, health, safety and nutrition; proper accommodation must be provided to receive the displaced persons; and members of the same family should not be separated.

As for all evacuations, precautions must be taken to avoid endangering civilians. Ideally, belligerents should reach agreements to suspend hostilities to allow the movement to take place. Regardless of whether agreement has been reached, civilians must not be targeted, and their movement must not be used to shield or impede military operations.<sup>46</sup>

### 3.2.2 Autonomous evacuations

More frequent than the types of evacuations foreseen by IHL, outlined in section 3.2.1, are situations when civilians autonomously leave their homes to escape the dangers associated with military operations and the impairment of access to livelihood opportunities and essential goods and services.

These movements are usually not organized. Civilians move autonomously, relying on public transport if it exists, or otherwise using their own vehicle or travelling on foot. To enhance their security, civilians might move during temporary cessations of hostilities that may have been agreed to, or use routes on which belligerents have agreed not to conduct military operations. These arrangements are discussed in chapters 5 and 4, respectively.

There may be circumstances when the party to the conflict in whose territory the movements are taking place, while not itself conducting the evacuations, arranges transport for people leaving their homes. For example, in April 2022 Ukraine arranged additional trains to evacuate civilians from Donbas as Russian forces advanced.<sup>47</sup>

All such movements benefit from the general rules of IHL that protect civilians. These include the prohibition on directing attacks against civilians and civilian objects; the rule of proportionality;<sup>48</sup> and the obligation to take constant care in the conduct of military operations to spare civilians. Importantly, civilians must not be prevented from leaving in order for their presence to be used to shield military objectives or to favour or impede military operations.

<sup>44</sup> Article 49(2) GC IV.

<sup>45</sup> Article 17 AP II.

<sup>46</sup> Article 51(7) AP I.

<sup>47</sup> France 24 (2022), 'Ukraine governor urges evacuations in region targeted by Russia', 4 April 2022, <https://www.france24.com/en/live-news/20220404-ukraine-governor-urges-evacuations-in-region-targeted-by-russia>.

<sup>48</sup> The rule of proportionality prohibits attacks that are expected to cause incidental civilian death or injury, or damage to civilian objects, or a combination of these that would be excessive compared to the concrete and direct military advantage expected (Article 51(5)(b) AP I).

During the battle to retake Mosul in 2016–17, civilians were trying to move autonomously but faced numerous hurdles. The Iraqi government issued conflicting instructions as to whether they should remain in place or leave. The US-led coalition attempted to facilitate their movements by suspending hostilities in the proximity of the exit points from the city, but Islamic State (ISIS) mined the routes and shot at civilians trying to flee.<sup>49</sup>

### 3.2.3 Evacuations by humanitarian organizations

At times, evacuations may be carried out by humanitarian organizations. These evacuations can take many different forms, ranging from small numbers of wounded and sick from particular areas to large-scale relocations of civilian populations from areas of active fighting.

While IHL requires belligerents to carry out evacuations of certain categories of people, it does not address evacuations conducted by humanitarian organizations, let alone require them to conduct such operations. Should humanitarian organizations decide to carry out evacuations, they benefit from the general rules of IHL protecting civilians – along with the wounded and sick, should they be included in the movements. They may also benefit from any arrangements relating to evacuations that belligerents may have concluded, as well as from ceasefires and humanitarian corridors.

As discussed below, deciding whether to conduct an evacuation can raise difficult policy and operational questions for humanitarian organizations.

## 3.3 Operation in practice – challenges, good practice and recommendations

### 3.3.1 Evacuation agreements

Key to the safety of evacuations that cross enemy lines or that transit through areas of active hostilities are agreements between belligerents. As already noted, while IHL encourages parties to endeavour to conclude such agreements, it does not require them to do so; nor does it indicate what form the agreements should take, or what issues they should address.

As far as the format of the agreements is concerned, a written agreement is preferable as numerous different issues must be addressed in detail. This allows all elements to be accurately recorded and transmitted to those responsible for their implementation.

Provided all the elements are agreed and captured, precisely how the agreement is recorded is not important. It could be a single document accepted by both parties, or separate identical documents signed by parties individually.

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<sup>49</sup> Center for Civilians in Conflict and InterAction (2017), 'Protection of Civilians in Mosul: Identifying Lessons for Contingency Planning', roundtable report, 17 October 2017, <https://www.interaction.org/documents/protection-of-civilians-in-mosul-identifying-lessons-for-contingency-planning>.

As belligerents frequently only have limited direct contact, neutral intermediaries play a central role both in encouraging parties to agree to the evacuations and in facilitating reaching agreement on details.

Essential to the operation of the evacuations is ensuring that the elements that have been agreed to are communicated to all those who can affect their implementation – including field personnel present along the routes that will be taken, and those conducting air operations and other activities that could endanger them.

Evacuations agreements should be as detailed as feasible, and address key issues including:

- Which categories of people will be evacuated. This could be all civilians, or just the most vulnerable and the wounded and sick.
- If wounded and sick fighters are evacuated, there should be clarity as to what will happen to them. They are likely to be detained, and to the extent possible the precise arrangements for this should be made clear to them before they agree to being evacuated.
- Whether measures will be taken to ensure that people participating in the evacuations are not fighters. If so, who will be conducting such screening; the basis for making the determination; and what will happen to people who do not meet the criteria. Even in situations where humanitarian organizations are participating in evacuations conducted by armed forces, they will not conduct screening or remove any weapons.
- The locations from which people will be evacuated and those to which they will be taken.
- The date, times and routes of the evacuation.
- Who will be transporting the evacuees.
- What evacuees will be allowed to bring with them; and, who, if anyone will search their property. In the vast majority of cases, evacuations must be demilitarized – i.e. they should not include active fighters, and weapons must not be transported. This is essential to the security of evacuees, but requires searching and removal of any weapons. As in the case of screening, humanitarian organizations will not be willing to undertake this.
- A suspension of hostilities and military operations for the time and route of the evacuation.

Consideration should also be given to identifying an actor to monitor compliance with the agreed elements of the evacuation, and/or to act as the go-between to resolve any problems that may arise during the evacuation.

The party conducting the evacuation, or a neutral intermediary (which could be a humanitarian organization with access to the affected communities) should engage with the people eligible to participate in the evacuation to communicate the basic elements of the evacuation. This allows civilians to make an informed decision on whether to join the evacuation, and also ensures they are aware



of the precise details. It also allows the identification of particular needs that must be taken into account in the arrangements. For example, there may be particularly frail people who need additional assistance to move.

### 3.3.2 Well-being during evacuations

The party conducting the evacuation should have measures in place to ensure that the evacuation is conducted in satisfactory conditions of hygiene, health, safety and nutrition; as well as to avoid the separation of family members during the evacuation, and to restore family links if necessary.<sup>50</sup> Particular consideration should be given to the needs of vulnerable people, including pregnant women, the elderly and people with disabilities.

### 3.3.3 What measures should states put in place in peacetime to facilitate evacuations in of armed conflict?

Although the precise arrangements for evacuations must be elaborated on a case-by-case basis, in peacetime states' armed forces should elaborate general doctrine and policies on evacuations. These should address both situations when the state is conducting the evacuations itself, and also when it is carrying out military operations in a context when other actors are conducting the evacuations. Obviously, the two situations raise different issues.

It may be that some states already have doctrines for evacuations of prisoners of war and wounded fighters. These could be expanded to address situations when civilians are being evacuated, which raise the additional issues highlighted above – i.e. safety and well-being during the evacuations, family unity, accommodation during displacement, and arrangements for return. They should also address coordination issues when other actors are conducting evacuations.

In addition, policies on targeting and military operations should expressly include, among the issues to be taken into account, evacuations conducted by other actors.

These provisions could form part of the thematic doctrines and materials that some states are elaborating in order to minimize civilian harm in armed conflict, like the UK's Human Security in Defence Policy and the US's Civilian Harm Mitigation and Response Instruction.<sup>51</sup> To the extent possible, states that already have such materials could share them to assist in the elaboration of good-practice documents. These could be elaborated during thematic civilian–military discussions with humanitarian actors.

<sup>50</sup> In relation to evacuations as an exception to the prohibition of forced displacement, see Article 49(3) GC IV and Article 17(1) AP II.

<sup>51</sup> UK Ministry of Defence (2021), *JSP 985: Human Security in Defence | Volume 1: Incorporating Human Security in the Way We Operate*, [https://assets.publishing.service.gov.uk/media/61b7354d8fa8f503764ed5a6/20211209\\_JSP\\_985\\_Vol\\_1.pdf](https://assets.publishing.service.gov.uk/media/61b7354d8fa8f503764ed5a6/20211209_JSP_985_Vol_1.pdf); and US Department of Defense (2023), *DoD Instruction 3000.17: Civilian Harm Mitigation and Response*, <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/300017p.PDF>.

In addition to military doctrines, some states have national legislation that establishes procedures for evacuations in their territory, assigning responsibilities and establishing coordination arrangements. Such instruments could provide helpful good practice.<sup>52</sup>

### 3.3.4 Evacuations by humanitarian actors

In addition to the operational challenges that all evacuations pose, humanitarian organizations face additional dilemmas when deciding whether to conduct evacuations or participate in those carried out by military actors. As noted, although IHL does not require humanitarian organizations to conduct evacuations, in certain situations they may be the only actors in a position to carry them out, and to provide some respite to affected populations.

This must be balanced with numerous other considerations, including whether it is possible to conduct the operations in a manner that is safe for civilians and humanitarian personnel. They will also need to consider whether by moving people, humanitarian organizations might inadvertently be putting them at greater risk, contributing to violations of IHL by belligerents, such as policies of ethnic cleansing, or assisting belligerents to attain their military or political objectives.

Even evacuations conducted by armed forces in which humanitarian organizations are involved can raise concerns. Such cooperation may undermine humanitarian actors' capacity to operate in accordance with humanitarian principles in terms of impartiality and independence of response. It may also affect perceptions of their neutrality.

These are not new problems. Much has been written about them and detailed discussion is beyond the scope of this paper.<sup>53</sup> Humanitarian organizations have had to tackle these issues for decades in multiple contexts. Some have adopted internal guidance specifying the criteria that would have to be met in order for them to conduct evacuations or participate in those conducted by other actors. However, despite repeated calls, general inter-agency guidance on evacuations by humanitarian actors still does not exist, and decisions continue to be taken in an ad hoc manner, often without sufficient coordination between the actors present on the ground.

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<sup>52</sup> See the International Federation of Red Cross and Red Crescent Societies' IFRC Disaster Law Database, <https://disasterlaw.ifrc.org/disaster-law-database>.

<sup>53</sup> See, for example, Global Protection Cluster (2014), GPC 'Thematic Roundtable: Humanitarian Evacuations in Armed Conflict', roundtable summary, [https://www.globalprotectioncluster.org/sites/default/files/2022-05/gpc-seminar-summary\\_conclusions-04\\_2015-screen.pdf](https://www.globalprotectioncluster.org/sites/default/files/2022-05/gpc-seminar-summary_conclusions-04_2015-screen.pdf), Norwegian Refugee Council (2016), *NRC Considerations for Planning Mass Evacuations of Civilians in Conflict Settings*, Geneva: Norwegian Refugee Council, <https://www.nrc.no/globalassets/pdf/reports/considerations-for-planning-mass-evacuations-of-civilians-in-conflict-settings>; International Committee of the Red Cross and InterAction via reliefweb (2015), 'Outcome Report: Trapped in Conflict: Evaluating Scenarios to Assist At-Risk Civilians', An International Committee of the Red Cross (ICRC) and InterAction Roundtable, <https://reliefweb.int/report/world/trapped-conflict-evaluating-scenarios-assist-risk-civilians>; United Nations High Commissioner for Refugees (2016), *Humanitarian Evacuations in Violence and Armed Conflict*, <https://www.refworld.org/policy/opguidance/unhcr/2016/en/113001>; and International Organization for Migration (2018), 'Key Principles for Internal Humanitarian Evacuations/Relocations of Civilian Populations in Armed Conflict', <https://www.iom.int/resources/ioms-key-principles-internal-humanitarian-evacuations/relocations-civilian-populations-armed-conflict>.

The absence of such general guidance also means that UN leadership at field level – i.e. Resident and/or Humanitarian Coordinators or Special Representatives of the Secretary-General – can be unprepared to provide adequate leadership when issues arise.

The role of humanitarian organizations in relation to evacuations is another topic that would benefit from focused civil–military discussions.

### **3.4 In conclusion**

Arrangements to facilitate the departure of civilians from areas where they are at risk can clearly play an important role in sparing them from the effects of hostilities. Such arrangements can pose security risks, however. For evacuations to occur in a manner that is as safe as possible, they need to be planned extremely carefully, including in peacetime. The precise challenges differ, depending on how the evacuations are conducted – whether they are autonomous movements by civilians or organized evacuations by humanitarian actors.

In most cases, autonomous evacuations should be able to take place in relative safety, if belligerents agree to suspend hostilities. Evacuations organized by humanitarian organizations are likely to be larger in scale, and often take place in tense and politicized contexts. They raise additional challenges, and agreement between all parties on the details of the arrangements is essential for these evacuations to be conducted in a manner that is safe for the evacuees and humanitarian personnel. They are therefore frequently considered a measure of last resort.

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# 04

## Humanitarian corridors

In 1989, during a brutal civil war between the government of Sudan and the Sudan People's Liberation Army/Movement (SPLA/M) in southern Sudan, Operation Lifeline Sudan was established to deliver food aid from neighbouring states and so prevent the starvation of civilians. The UN entered into negotiations with the government and the SPLA/M and agreed to establish 'corridors of tranquillity' through which the humanitarian assistance could pass.<sup>54</sup>

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### 4.1 What are they?

Humanitarian corridors are arrangements to facilitate the movement of civilians and other persons protected by IHL, and the delivery of humanitarian assistance. They are usually established in situations of active hostilities when movements are particularly dangerous.

Humanitarian corridors aim to allow the safe passage of people and humanitarian goods, including:

- Allowing civilians and the wounded and sick to leave particular areas, either autonomously or as part of evacuations organized by belligerents or humanitarian organizations.
- Allowing humanitarian organizations to reach affected populations.
- Allowing humanitarian relief items and equipment to be transported where they are needed.

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<sup>54</sup> Akol, L. (2005), 'Operation Lifeline Sudan: War, Peace and Relief in Southern Sudan', *Accord*, 16, p. 52.

Humanitarian corridors are usually a geographic route that can be employed for the purposes agreed during a specified timeframe. They may be established as a one-off opportunity for transit at a specified date and time, or at recurring dates and times.

## 4.2 What does the law say?

IHL does not refer to humanitarian corridors. Their establishment does not affect obligations and protections under IHL. Like many of the other arrangements discussed in this paper, humanitarian corridors are a way of giving effect to protections and measures specifically required or envisaged by IHL in areas affected by active hostilities. They enhance the protection of civilians from the effects of hostilities; they enhance the safety of evacuations; and they can be a way of giving effect to the obligation under IHL to allow and facilitate the rapid and unimpeded passage of relief operations.

Whether or not a humanitarian corridor is warranted depends on the situation on the ground and the purpose of the corridor. A key consideration is whether the people who would be relying on the corridor are transiting through areas affected by hostilities, including crossing front lines.

### 4.2.1 Rules regulating the conduct of hostilities

Humanitarian corridors aim to enhance the security of those who will use them – usually civilians, the wounded and sick, and humanitarian actors. All these categories of people are protected by IHL, and belligerents must respect and protect them. Belligerents must not direct attacks against them, must refrain from indiscriminate and disproportionate attacks, and must take constant care in the conduct of military operations to spare them. These obligations exist regardless of whether humanitarian corridors have been established.

The corridors are a way of facilitating compliance with these rules. The people using the corridors are entitled to protection and the parties establishing the corridors undertake not to conduct, in or in the vicinity of the corridors, military operations that could harm them.

The system works best if the corridors are ‘demilitarized’ – that is, if they are used exclusively by civilians and humanitarian actors so there can be no allegations that they provide a military advantage or are used to commit acts harmful to the enemy. Whether or not the routes may also be used by military personnel and vehicles, for example to conduct the evacuations, depends what belligerents agree when establishing the corridors. If such use is foreseen, the vehicles should not be attacked, despite being military objectives, as this would undermine the security of other actors using the corridors.

## 4.2.2 Evacuations

As elaborated in Chapter 3, IHL requires belligerents to evacuate wounded and sick members of states' armed forces, and prisoners of war. Generally, such evacuations take place in territory controlled by the party conducting the evacuation, without crossing enemy lines, so humanitarian corridors are unlikely to be necessary.

However, humanitarian corridors can provide valuable safety for other evacuations, such as those of civilians from besieged areas, as they would be crossing enemy lines, as well as those from areas of active hostilities, regardless of who conducts the evacuations – belligerents, humanitarian organizations, or civilians autonomously.

## 4.2.3 Humanitarian relief operations

The rules of IHL regulating humanitarian relief operations envisage two successive steps. First, humanitarian organizations must obtain the consent of the state in whose territory relief operations will be conducted.<sup>55</sup> Second, once consent has been obtained, all belligerents must allow and facilitate the rapid and unimpeded passage of relief personnel and goods. They are entitled to adopt technical arrangements regulating such passage.<sup>56</sup>

These arrangements may require relief convoys to use prescribed routes at specific times to ensure that they do not hamper and are not endangered by military operations, particularly when active hostilities are taking place. This said, restrictions on the activities and freedom of movement of humanitarian relief personnel may be imposed only in the case of imperative military necessity – for example, in the case of a military operation in a particular location – and, even then, only temporarily.<sup>57</sup>

Humanitarian organizations do not favour humanitarian corridors as a general operational modality, as such arrangements significantly restrict their activities and freedom of movement well beyond what is envisaged by IHL.<sup>58</sup> However, they recognize that there may be circumstances, particularly during active hostilities, when accepting the limitations inherent in humanitarian corridors may be the only safe way to reach populations in need. In such circumstances, humanitarian corridors can be a means for belligerents to meet their obligation to allow and facilitate rapid and unimpeded passage of relief operations.

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<sup>55</sup> Article 70 AP I, and Article 18(2) AP II.

<sup>56</sup> Article 70 AP I. Neither Common Article 3(2) GCs nor Article 18(2) AP II addresses this aspect of humanitarian relief operations, but the rules in Additional Protocol I on this issue are considered customary international law and applicable in both international and non-international armed conflicts (Doswald-Beck, L. and Henckaerts, J.-M. (2005), *Customary International Humanitarian Law*, Rules 55 and 56).

<sup>57</sup> Article 71(3) AP I.

<sup>58</sup> See, for example, International Committee of the Red Cross (2022), 'How humanitarian corridors work to help people in conflict zones', 3 June 2022, <https://www.icrc.org/en/document/how-humanitarian-corridors-work>; The New Humanitarian (2012), 'Why Humanitarians Wary of "Humanitarian Corridors"', 19 March 2012, <https://www.thenewhumanitarian.org/report/95101/briefing-why-humanitarians-wary-%E2%80%9C humanitarian-corridors%E2%80%9D>.



## 4.3 Operation in practice – challenges, good practice and recommendations

### 4.3.1 Is a humanitarian corridor necessary?

Frequently, when civilians are caught up in active fighting, or where humanitarian response is severely hampered, there are calls for the establishment of humanitarian corridors. These requests are rarely made by humanitarian organizations. They are made by other stakeholders – usually well-intentioned third states, activists, and/or the media and general public – looking for ways to alleviate the hardships they are witnessing. But they often do not realize that humanitarian corridors may in fact limit rather than facilitate a humanitarian response.

Such public calls can be unhelpful from an operational perspective, particularly in very politicized contexts. As noted, whenever possible, humanitarian actors avoid humanitarian corridors as an operational modality, as these can become the only way of offering assistance and thus lead to a more difficult and compromised operating environment for humanitarian agencies across wider areas.

Rather than calling for the establishment of specific corridors, humanitarian organizations prefer to negotiate access and security guarantees with belligerents, even in situations of active hostilities. However, the failure to establish corridors is often perceived by the general public as reflecting inhumanity and intransigence by the parties to the conflict.

Belligerents also tend to prefer more flexible and lighter deconfliction arrangements with humanitarian actors. For example, during the 2011 conflict in Libya, NATO would – rather than establish corridors – inform OCHA that there would be no military operations for a particular time along a particular route, allowing that route to be used by humanitarian organizations and civilians.<sup>59</sup> Obviously, this was no guarantee that other parties to the conflict might not be conducting operations in the area in question during this time. As is the case for other arrangements, the protective value of humanitarian corridors is enhanced significantly if they are established by agreement between all belligerents.

Nonetheless, there may be situations when the establishment of humanitarian corridors is the best option for enhancing the security of humanitarian organizations and civilians. However, once established, they should not remain the sole basis for movement if the operating environment becomes safer.

### 4.3.2 Establishment of humanitarian corridors

There are two principal challenges to the establishment and operation of humanitarian corridors: getting belligerents to agree to establish them; and getting belligerents to respect the conditions they have agreed to.

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<sup>59</sup> October 2023 Chatham House expert meeting.

### Who should agree to the corridors?

IHL does not prescribe how humanitarian corridors should be established. To maximize their protective effect, they should be agreed by all the belligerents who can facilitate or adversely influence the safe operation of a corridor. Such belligerents include those with control of, or even a presence in, the territory through which the corridor passes, but may also extend to others, such as those carrying out air operations in the area.

In some circumstances, for example, during the hostilities in Gaza in 2023–24, corridors have been established unilaterally.<sup>60</sup> While this means that the party establishing a corridor will allow civilian or humanitarian movements, and will not conduct hostilities or military operations in the area in question, there is no guarantee that its opponent will exercise the same restraint. There is also no guarantee that the opponent will not take advantage of a corridor for military purposes, or that it will allow civilians to leave. This clearly undermines their protective value.

Early in its operations in eastern Ukraine, the OSCE Special Monitoring Mission experimented with unilateral corridors. It developed the ‘open phone’ method, with one side to the fighting unilaterally declaring it would hold fire for a specific period of time. The method was unsuccessful, as neither side using it trusted that the other side had received the notification, and it had no assurances that they would not be fired on. This approach was swiftly abandoned.<sup>61</sup>

### Reaching agreement

In most contexts, belligerents have limited direct contact. Consequently, as for other humanitarian arrangements, a third party may need to propose the establishment of corridors and to act as a neutral intermediary to assist parties to reach agreement on the terms of the corridors.

Frequently, this is a senior humanitarian official. For example, UN General Assembly resolution 46/182 (‘Strengthening of the coordination of humanitarian emergency assistance of the United Nations’) mentions ‘temporary relief corridors’ as one of the possible ways the UN Emergency Relief Coordinator can exercise their mandate to negotiate humanitarian access:

Actively facilitating, including through negotiation if needed, the access by the operational organizations to emergency areas for the rapid provision of emergency assistance by obtaining the consent of all parties concerned, through modalities such as the establishment of temporary relief corridors where needed, days and zones of tranquillity and other forms.<sup>62</sup>

<sup>60</sup> See, for example, Israel Defense Forces (2023), ‘IDF Facilitates Reopening of Humanitarian Corridor to Allow Gazans to Evacuate South’, 5 November 2023, <https://www.idf.il/en/mini-sites/idf-press-releases-regarding-the-hamas-israel-war/november-23-pr/idf-facilitates-reopening-of-humanitarian-corridor-to-allow-gazans-to-evacuate-south>.

<sup>61</sup> Gillah, R. (2023), *Navigating Green Corridors In Ukraine*, Columbia University, School of International and Public Affairs, for Center for Excellence in Disaster Management & Humanitarian Assistance, p. 14, <https://www.cfe-dmha.org/LinkClick.aspx?fileticket=OuNKf-o7XGg%3D&portalid=0>.

<sup>62</sup> UNGA resolution 46/182, Strengthening of the coordination of humanitarian emergency assistance of the United Nations’, OP 35(d), <https://digitallibrary.un.org/record/135197?ln=en&v=pdf>.

Others can play this intermediary role, including the UN Humanitarian Coordinator in a country, the Head of the OCHA country office, or other organizations, most notably the ICRC. For example, in 2022 the ICRC facilitated the dialogue between Ukraine and Russia for the evacuation of the Azovstal steel plant in Mariupol, helping them identify the precise details that needed to be addressed, including time, location, route, and who could be evacuated.<sup>63</sup>

The role of the intermediary is crucial. Trust between belligerents is rare; each is likely to suspect that the opponent will abuse humanitarian arrangements to its advantage. The intermediary contributes to overcoming this mistrust. To do so, they must be neutral, and be perceived as such by both sides. In recent conflicts, as noted elsewhere in this paper, states, and sometimes even armed groups, have taken on this role.

For example, in 2017 in the Philippines, the chairman of the Moro Islamic Liberation Front acted as an intermediary between the government and the leader of the militant group that was besieging the city of Marawi on the island of Mindanao, to discuss ‘a peace corridor’ – a safe route that civilians could take to leave the city. Agreement was reached to establish a humanitarian corridor along a bridge to the mainland. The corridor allowed civilians to leave, and humanitarian organizations to reach critical areas in the besieged city with supplies and doctors.<sup>64</sup>

Also important to success is for the negotiations to focus exclusively on the specific humanitarian arrangement in question, rather than for this to be one element in a broader ‘package’ of issues, some of which might not be humanitarian.

As is the case for other humanitarian arrangements, the smaller in scale the objective of a negotiation, the more likely it is that agreement will be reached and the modality will be implemented successfully. In turn, this can build trust for agreement on other arrangements.

### **Format and elements of agreements**

As noted with regard to other humanitarian arrangements, there is no specific model for agreements establishing humanitarian corridors. As they must address numerous issues in detail, written agreements are preferable to oral ones. This allows all elements to be accurately recorded and transmitted to those responsible for their implementation.

Depending on the context, more informal ad hoc arrangements may also suffice. In March–April 2022, for example, as Russian troops were advancing in eastern Ukraine, ‘green corridors’ were negotiated on an informal basis between city and village councils on the one side, and Russian troop commanders on the other, to allow civilians to leave. More than 5,000 civilians managed to leave the city of Sumy thanks to these arrangements.<sup>65</sup>

<sup>63</sup> International Committee of the Red Cross (2022), ‘Ukraine: Civilians leave Azovstal in safe passage operation’.

<sup>64</sup> Gerecht, G. (2023), *The Siege of Marawi, Philippines (2017): A Case Study on Civilian Protections and Harm*, Columbia University, School of International and Public Affairs, for Center for Excellence in Disaster Management & Humanitarian Assistance, p. 22, <https://www.cfe-dmha.org/LinkClick.aspx?fileticket=TiYTkkbpqk%3D&portalid=0>.

<sup>65</sup> Gillah (2023), *Navigating Green Corridors In Ukraine*, p. 14.

Any agreement should clearly stipulate the key elements of the corridor. In practice, these should include the days and times of its operation, its route, and who is entitled to use it (usually civilians, the wounded and sick, and humanitarian organizations).

There is no reason why humanitarian corridors should not be used also to allow the safe transit of commercial goods into hard-to-reach areas. Enabling access for commercial goods – including most notably basic commodities – contributes to sparing civilians from the effects of military operations and reduces the extent of humanitarian assistance required. It is for belligerents to agree who can use the corridors, and the modalities for this – including in terms of types of goods that can transit, and any searches to verify compliance with these conditions.

Agreements should also indicate what is expected of the belligerents during the operation of the corridors. They must undertake not to impede the operation by, for example, preventing civilians from leaving particular areas, and not to put those using the corridors at risk by conducting, in the vicinity of the corridors, military operations that could affect their security.

Belligerents may assume particular responsibilities, such as ensuring that the agreed routes can safely be used for travel. Reportedly, the agreement to evacuate the Azovstal steel plant required Ukrainian forces to demine roads, and Russian forces a key bridge.<sup>66</sup>

Within the chain of command of each belligerent, clear instructions must be issued on the conditions of the corridor to ensure the agreed modalities are respected. Belligerents must also actively monitor compliance with such instructions during the implementation of the corridors.

While ideally a third party would be appointed to monitor the implementation of the agreement, this does not appear to have happened in practice. In its absence, effective lines of communication must exist between humanitarian actors using the corridors and all relevant belligerents, to rapidly address problems that could arise in the operation of the corridors. This is a role that could be played by the intermediary that facilitated the adoption of the agreement.

Information on the precise arrangements must be shared with the people who will be making use of the corridors. This is something that can be done by belligerents and by humanitarian organizations.

Finally, it should be borne in mind that humanitarian corridors are not static mechanisms, established and implemented by one-off negotiations. Instead, they are dynamic modalities that must be adapted and renegotiated as necessary as the situation evolves, including as territory changes hands or the location of fighting shifts.

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<sup>66</sup> Ibid., p. 8.

## 4.4 In conclusion

While humanitarian corridors are frequently called for – though not usually by humanitarian actors – they are established quite rarely. There can be many reasons for this. Often, although the call is for humanitarian corridors, what is actually needed is better humanitarian access; humanitarian organizations seek to negotiate this directly with the belligerents. This is preferable to establishing corridors, which are limited and constraining. At other times, belligerents either do not manage to reach agreement, or take so long to do so that civilians take the risk of moving through areas of active hostilities even though corridors have not been established.

That said, every time that an *evacuation* is agreed, it is likely to have a prescribed route. This may be termed a corridor. In practice, therefore, a humanitarian corridor has been established, but it is an aspect of the evacuation rather than a standalone arrangement.

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# 05

## Humanitarian pauses, truces, suspensions of hostilities and ceasefires

In the course of the protracted armed conflict in Yemen, a six-day pause in fighting – called ‘days of tranquillity’ – enabled more than 306,000 people, including over 160,000 children under the age of 15, to be vaccinated in a WHO–UNICEF campaign against cholera in October 2018.<sup>67</sup>

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### 5.1 What are they?

A variety of terms are used colloquially to refer to suspensions of hostilities, including pause, truce, armistice, days of tranquillity, windows of silence and ceasefire – at times prefaced with the adjective ‘humanitarian’. None of these terms is authoritatively defined, and they are often used interchangeably.

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<sup>67</sup> UNICEF (2018), ‘Health workers in Yemen reach more than 306,000 people with cholera vaccines during four-day pause in fighting – WHO, UNICEF’, 5 October 2018, <https://www.unicef.org/press-releases/health-workers-yemen-reach-more-306000-people-cholera-vaccines-during-four-day-pause>.



All refer to temporary suspensions of active hostilities. The suspension of hostilities may be for a specific humanitarian purpose, or may be more general in nature.

The terminology may be confusing, but the different terms do not necessarily have different meanings. In 2018, for example, in the context of the conflict in Syria, the UN Security Council emphasized ‘the need for the parties to agree on humanitarian pauses, days of tranquillity, localized ceasefires and truces to allow humanitarian agencies safe and unhindered access to all affected areas’.<sup>68</sup> There was no indication that these different terms were anything other than synonymous.

In situations where civilians are caught up in active fighting and a humanitarian response is severely hampered, a variety of actors frequently call for such measures. They have included, for example, the UN Security Council and General Assembly, regional bodies such as the EU’s European Council, human rights organizations, and sometimes the general public.

The objective of these calls is the same – a suspension of active fighting to limit the impact of the hostilities on civilians. But there can be a key difference in the purpose of the suspension: whether it is to allow a specific humanitarian activity to be conducted without risk of harm from the active fighting; or whether it is a generalized suspension of hostilities. While any cessation of hostilities is likely to alleviate the situation of civilians caught up in the fighting, generalized ceasefires aim to be a step towards negotiating the end of hostilities, rather than to facilitate specific humanitarian activities.

The details of ceasefires vary, but in the main suspensions of hostilities for specific humanitarian purposes are limited in scope, in terms of duration and location. Although they pause the fighting, this is usually a brief and localized interruption. The same is not the case for generalized ceasefires that are not related to specific humanitarian activities. These usually cover the entire geographic area of a particular conflict, and might not be time bound.

While any interruption in fighting can affect the conduct of military operations, the longer and more widespread it is geographically, the more significantly it can impair the pursuit and attainment of the strategic objectives of the hostilities. Pauses allow belligerents to conduct activities preparatory to the resumption of fighting, such as repositioning and resupplying forces.

This is one of the reasons why some states were unwilling to call for a generalized ceasefire in relation to the fighting in Gaza in 2023–24. Particularly in the early stages of the offensive, they were reluctant to interfere in Israel’s military campaign against Hamas and its right to use force to defend itself.

## 5.2 What does the law say?

IHL does not define any of the terms that are used to refer to temporary suspensions of active hostilities. Nor does it require parties to armed conflicts to adopt ceasefires or any such measures. In practice, however, a temporary cessation of hostilities can

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<sup>68</sup> SCR 2165 (2014), OP 7.

play a key role in giving effect to obligations under IHL, such as the evacuation of the wounded and sick, or allowing and facilitating the rapid and unimpeded passage of humanitarian relief consignments.<sup>69</sup>

### 5.2.1 International armed conflicts

The Geneva Conventions and Additional Protocol I refer to such suspensions of hostilities only in relation to the removal of sick members of states' armed forces from the battlefield. The First Geneva Convention provides, in Article 15, that: 'Whenever circumstances permit, an armistice or suspension of fire shall be arranged, or local arrangements made, to permit the removal, exchange and transport of the wounded left on the battlefield.'<sup>70</sup>

Two elements must be highlighted. First, IHL envisages that the conclusion of ceasefires is by agreement between belligerents. This reflects the reality that suspensions of hostilities can only really be protective if all the parties operating in a particular area agree to them. Second, IHL does not require such agreements to be concluded. But it strongly encourages belligerents to do so. The word 'shall' in Article 15 suggests an obligation to make a good-faith effort to reach agreement whenever circumstances objectively permit. Striving to reach agreement is not optional, there is a legal obligation to try to do so, subject to a wide margin of discretion depending on external circumstances – but not simply on the subjective preference of a party to the conflict.

A number of other provisions of IHL applicable in international armed conflicts refer to the possibility for belligerents to conclude 'local arrangements' for particular purposes, such as the removal of the wounded and sick, and particularly vulnerable civilians from besieged or encircled areas.<sup>71</sup> What the arrangements should address is not specified, but a temporary cessation of hostilities would be an important element of any arrangement to allow the operations in questions.

Belligerents can conclude agreements on any issue they choose, even if not specifically referred to in IHL, so nothing prevents them from concluding agreements to temporarily suspend hostilities for other purposes, for example to allow and facilitate humanitarian relief operations.<sup>72</sup>

### 5.2.2 Non-international armed conflicts

In relation to non-international armed conflicts, neither Common Article 3 of the Geneva Conventions nor Additional Protocol II specifically mentions ceasefires or other forms of suspension of hostilities. That said, Common Article 3(3) encourages parties to non-international armed conflicts to endeavour to bring

<sup>69</sup> Articles 36–41 of the 1907 Hague Regulations address armistices, meaning suspensions of hostilities. They explain that these are agreements to suspend military operations, and give some elements of good practice that remains relevant in contemporary conflicts – including the need to notify competent authorities and troops of an armistice in good time to allow them to comply with their obligations.

<sup>70</sup> Article 15(2) GC I. Historically, the term 'armistice' was used in IHL to refer to a suspension of hostilities, as in Articles 36–41, 1907 Hague Regulations. Progressively, the term came to refer to an agreement that ended wars.

<sup>71</sup> Article 15(3) GC I, Article 18(2) GC II, and Article 17 GC IV.

<sup>72</sup> This is in fact foreseen by Common Articles 6 GC I and GC II, and Article 7 GC IV; they provide that, in addition to the agreements specifically mentioned in the Conventions, 'High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision'. These agreements could also cover temporary ceasefires.

into force, by means of special agreements, all or part of the other provisions of the Geneva Conventions. These special agreements could include temporary cessations of hostilities which, as previously noted, can play an important role in ensuring the protection afforded to civilians and the wounded and sick, and in facilitating humanitarian relief operations.

### **5.2.3 Interplay with other rules of IHL**

Any humanitarian pauses that may be agreed do not affect protections and obligations under IHL. They are a way of giving effect to them.

For example, IHL requires that civilians and the wounded and sick who are moving in locations of active hostilities must be respected and protected. Belligerents must allow and facilitate the rapid and unimpeded passage of relief operations. These protections apply whether or not there is a ceasefire. But agreements to suspend hostilities to allow humanitarian movements reduce the risk that they may be caught up in the hostilities.

## **5.3 Operation in practice – challenges, good practice and recommendations**

### **5.3.1 Reaching agreement**

Like most other humanitarian arrangements discussed in this paper, to be truly protective, ceasefires must be concluded by agreement between all belligerents. Calls by the UN General Assembly and other actors, including the Security Council, are just that – an exhortation to the parties to the hostilities to stop the fighting for humanitarian purposes. It remains for the parties to reach agreement on the modalities.

Thus, when the UN Secretary-General made an appeal for a general ceasefire in March 2020 to assist efforts to fight against COVID-19 in conflict-ridden countries, that in itself did not achieve the necessary agreements on ceasefires. Nor did Security Council resolution 2532 (2020), which supported the Secretary-General's appeal and called on 'all parties to armed conflicts to engage immediately in a durable humanitarian pause for at least 90 consecutive days' for humanitarian purposes, including for medical evacuations.<sup>73</sup>

As with other humanitarian arrangements, intermediaries can play a central role to facilitate reaching agreement on ceasefires, and to maximize their effective implementation. Who is likely to play this role varies. If the principal purpose of the cessation of hostilities is to allow the passage of humanitarian relief, it may be the humanitarian actor who would conduct the operations in question. For example, the UN Emergency Relief Coordinator may facilitate agreements allowing the passage of a range of humanitarian organizations; the ICRC is likely to do so for its for its own operations.

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<sup>73</sup> SCR 2532 (2020), OP 2.

Suspensions of hostilities are often one element of a package of measures to facilitate humanitarian response or evacuations, which also includes particular routes that can be used. The examples of negotiations of agreements given in chapters 3 (on evacuations) and 4 (on humanitarian corridors) of this paper also include undertakings to suspend hostilities.

Other actors can act as intermediaries. In 2017 in the Philippines, for example, the Moro Islamic Liberation Front, a separatist movement based on Mindanao island, facilitated the conclusion of a four-hour ceasefire between state armed forces and the Maute group, an Islamic State affiliate that was besieging the town of Marawi, to allow civilians to leave.<sup>74</sup> In May 2023, the US and Saudi Arabia facilitated an agreement on a short-term ceasefire between the Sudanese Armed Forces (SAF) and the Rapid Support Forces (RSF).<sup>75</sup>

### 5.3.2 Format of agreements to suspend hostilities

IHL does not specify the format that agreements to suspend hostilities should take. As in the case of the other arrangements discussed in this paper that require agreement between belligerents, a written agreement is preferable. This allows all elements to be accurately recorded and transmitted to those responsible for their implementation. The agreement could be in a single document accepted by both parties, or separate identical documents signed by parties individually through an intermediary.

Article 15 of the First Geneva Convention, which addresses ceasefires for the removal of the wounded and sick, refers to ‘armistices’, which are generally understood to be as more formal agreements, ‘suspension of fire’ and ‘local arrangements’. The latter might be concluded at by commanders at field level, and be more limited in terms of duration and geographical scope.

Whatever the format, agreements to suspend hostilities are binding and must be implemented in good faith. What matters is that there is clarity about the location and duration of the suspension of hostilities and other relevant aspects that have been agreed.

### 5.3.3 What should agreements address?

Agreements should set out the precise details of the suspension of hostilities, including most notably:

- Where it will take place. Suspensions can be general or only apply in certain areas.
- When it will start and its duration.

<sup>74</sup> Reuters via *Guardian* (2017), ‘Gunfire during ceasefire stops civilians fleeing fighting in Philippines’, 4 June 2017, <https://www.theguardian.com/world/2017/jun/04/gunfire-ceasefire-civilians-fleeing-fighting-philippines-marawi-isis>.

<sup>75</sup> U.S. Department of State (2023), ‘Agreement on a Short-Term Ceasefire and Humanitarian Arrangements in Sudan’, media note, 20 May 2023, <https://www.state.gov/agreement-on-a-short-term-ceasefire-and-humanitarian-arrangements-in-sudan>. For the full text of the agreement, see U.S. Department of State (2023), ‘Agreement on a Short-Term Ceasefire and Humanitarian Arrangements’, joint statement, 20 May 2023, <https://www.state.gov/agreement-on-a-short-term-ceasefire-and-humanitarian-arrangements>.

- The types of activities that belligerents will refrain from conducting in the areas in question. Usually, they will be precluded from carrying out attacks and other offensive military operations. Agreements should specify whether other operations – such as laying of minefields, movement of troops, weapons and supplies, or building defensive lines – are permissible in the areas under a party's control.<sup>76</sup>
- What belligerents are required to do. They may be required to allow the movement of civilians, to facilitate the passage of humanitarian relief operations, and to allow repairs to essential infrastructure to be carried out. Precisely what is required depends on the purpose of the pause. For example, in the case of pauses to allow humanitarian relief to transit, in addition to routes and times, parties may agree which organizations are entitled to participate; and what arrangements, if any, must be put in place to ensure that only relief items are provided.

Belligerents should ensure that the details of the ceasefire agreements are communicated to their forces and to all relevant authorities, to ensure compliance by members of the armed forces and groups with the obligations that have been undertaken. Often, the suspension of hostilities only begins some days after the adoption of the agreement. Parties should use this time to instruct their forces on the measures they should take.

Similarly, details of the agreements should be communicated to civilians and to humanitarian organizations who are operating in the areas covered by the ceasefire, to allow them to make best use of it.

### 5.3.4 Monitoring

Arrangements to monitor the suspension of hostilities can be extremely helpful to ensure they are implemented as foreseen, and to defuse problems that may arise. However, it is often challenging to establish such arrangements: belligerents must agree to monitoring; and a party must be found who is willing and capable to meaningfully 'monitor' the suspension of hostilities.

While general ceasefires may include monitoring missions, agreements to suspend hostilities for a specific humanitarian purpose are much more dynamic in nature and must be implemented in shorter timeframes.<sup>77</sup> Unless an international actor such as a peacekeeping force is already present and can be mandated to monitor implementation, it is unlikely that monitoring will be conducted on the ground.

<sup>76</sup> Section II of the May 2023 Agreement on a Short-Term Ceasefire and Humanitarian Arrangements in Sudan, facilitated by the US and Saudi Arabia, is a good example of the kinds of activities that might be prohibited and allowed by such an agreement: under that agreement, the parties had to refrain, for example, from all attacks and offensive actions including by snipers; aerial attacks and the use of military aircraft, drones or heavy weapons; acquiring, fortifying defences, resupplying, or distributing arms or military supplies, including from foreign sources; and attempts to occupy or occupying new territory or sites, including civilian infrastructure or population centres. The parties were allowed, for example, to conduct medical evacuations and movements of unarmed individuals in need of medical care; and to supply non-combat materials such as food, water, medicine, fuel, lubricating oils, stationery, clothing, and related administrative needs and movements, within their respective areas of control.

<sup>77</sup> Even monitoring of generalized ceasefires is extremely complex. See, for example, Buchanan, C., Clayton, G. and Ramsbotham, A. (2021), *Ceasefire monitoring: developments and complexities*, Accord Spotlight, London: Conciliation Resources and Political Settlements Research Programme, <https://www.c-r.org/accord/ceasefire-monitoring-developments-and-complexities>.

Ceasefire agreements are bilateral agreements, and serious violation by one side can lead the other to suspend its own obligations and terminate the agreement.<sup>78</sup> Such termination, even if preceded by warnings, would have dire consequences for those relying on the suspension of hostilities.

Even if the monitoring of belligerents' conduct on the ground is not possible, the establishment of lines of communications with them and with the humanitarian actors operating during the suspension of hostilities are extremely valuable. Third-party arrangements to defuse any tensions between the parties may also be agreed upon; this is a role that could be played by the neutral intermediary who facilitated the conclusion of the agreement.

For example, in the case of Sudan, the May 2023 Agreement on a Short-Term Ceasefire and Humanitarian Arrangements established a Monitoring and Coordination Committee, consisting of representatives of the US and Saudi Arabia (the facilitators of the agreement) and of the parties to the agreement, the SAF and the RSF. The committee was tasked with maintaining regular contact with the two parties to coordinate the implementation of the ceasefire; and with receiving communications from humanitarian actors on behaviour that could undermine the ceasefire or the conduct of relief operations. It also served as a platform for mediating disputes between the parties.<sup>79</sup>

### 5.3.5 Ceasefires to conduct specific activities

Usually, humanitarian ceasefires are concluded to allow life-saving humanitarian activities such as the evacuation of the wounded or the provision of goods essential to immediate survival, such as food, water, fuel and shelter materials.

In some instances, however, ceasefire arrangements are put in place for other, usually very specific purposes. These include the 'days of tranquillity'. This mechanism has been used primarily by UNICEF, often in collaboration with WHO, to enable children to have access to healthcare during armed conflict. Frequently, days of tranquillity are agreed in order to undertake national immunization campaigns or other exclusively humanitarian activities. Like other suspensions of hostilities, days of tranquillity require the agreement of all relevant parties to refrain from impeding the movements and work of medical and other personnel during the designated days.

Another example was the 'windows of silence' facilitated by the OSCE Special Monitoring Mission (SMM) to Ukraine. As part of its mandate to contribute to reducing tensions in eastern Ukraine after 2014, the SMM facilitated and monitored the implementation of short-term localized cessations of hostilities to facilitate the maintenance and repair of critical infrastructure along the 'contact line'. The windows contributed to the restoration of essential services for the civilian populations on both sides of the contact line, including water, electricity and gas supplies, and mobile communications.

<sup>78</sup> This is expressly noted in Article 40 1907 Hague Regulations, which provides that any serious violation of the armistice by one of the parties gives the other party the right of denouncing it, and even, in cases of urgency, of recommencing hostilities immediately.

<sup>79</sup> Section IV, May 2023 Agreement on a Short-term Ceasefire and Humanitarian Arrangements in Sudan.



The SMM obtained security guarantees from the Ukrainian armed forces and the armed groups, who would undertake to refrain from military operations at the specified locations and times to allow repair work to be conducted. The SMM deployed ‘mirror’ patrols – simultaneous, visible patrols on the two sides of the contact line, at times complemented by drones – to monitor adherence to the windows of silence. The SMM also acted as a liaison to facilitate re-establishment of the ceasefire in case of violations.<sup>80</sup>

## 5.4 In conclusion

Calls for general ceasefires are understandable, because as long as hostilities persist, especially in densely populated areas, civilians will continue to suffer. However, since wider ceasefires can interfere with the strategic military objectives of one or both of the belligerents, they are more difficult to negotiate, more difficult to monitor, and more likely to be abused.

Temporary ceasefires for particular humanitarian purposes represent perhaps the most successful of the humanitarian arrangements discussed in this paper. The more limited their purpose(s), the more likely they are to be respected.

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<sup>80</sup> Organization for Security and Co-operation in Europe Special Monitoring Mission to Ukraine (2018), *SMM facilitation and monitoring of infrastructure repair in eastern Ukraine: January 2017–August 2018*, Thematic Report, <https://www.osce.org/files/f/documents/9/0/405473.pdf>.

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# 06

## Protected zones

**In 1991, Croatia and the Socialist Federal Republic of Yugoslavia concluded an agreement during their armed conflict to declare a protected zone around Osijek hospital under ICRC supervision. Access to the zone was restricted to sick and wounded civilians and military personnel; family members visiting patients recovering in the hospital; people over 65 years of age, children under 15, expectant mothers and mothers of children under seven; and the hospital's medical and administrative personnel.<sup>81</sup>**

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### 6.1 What are they?

Another arrangement whose establishment is frequently called for to provide some security to civilians caught up in active hostilities is that of 'safe zones', also referred to in various other ways, including 'safe havens', 'safe areas', 'buffer zones', 'protected areas' and 'safe humanitarian zones'. These are areas that host people who are not or are no longer taking a direct part in hostilities: civilians, wounded and sick fighters, and those taking care of them.

These zones should be 'demilitarized': they should only accommodate people who are not taking a direct part in hostilities and hostile acts should not be conducted from them. Consequently, there should be no reason for attacks to be directed against the zones, thus promoting the security of people sheltering in them.

This Paper uses the term 'protected zones'. This is the generic expression used in IHL; it reflects the reality that even if established and accorded special protection in law the areas might not in fact provide security to those sheltering there.

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<sup>81</sup> Agreement Relating to the Establishment of a Protected Zone around the Hospital of Osijek, between the Socialist Federal Republic of Yugoslavia and Croatia, 27 December 1991, <https://www.peaceagreements.org/viewmasterdocument/1880>; ICRC CLS Vol II, Practice relating to Rule 35.

Protected zones are a formal arrangement, ideally established by agreement between belligerents, where a party assumes control for the people sheltering in the zones and certain responsibilities towards them. At times civilians move to the proximity of objects afforded special protection under IHL, such as hospitals, or that they perceive as safe, such as UN compounds. This does not render the locations protected zones. However, if IHL is complied with, the protection afforded to hospitals and UN facilities would mean that areas in their proximity are less affected by military operations and thus safer for civilians.

Protected zones are similar to other humanitarian arrangements considered in this paper. First, they are a practical way of giving effect to the protections that IHL already accords to certain categories of people. Second, IHL envisages the possibility for belligerents to establish a variety of protected zones but does not require them to do so. Third, although it is possible for a belligerent to set up a protected zone unilaterally, there needs to be agreement between the parties if the zone is to be truly protective.<sup>82</sup>

## 6.2 What does the law say?

### 6.2.1 The protected zones foreseen by IHL

IHL envisages the possibility for belligerents to establish a number of different types of protected zones. The principal difference between them is the category of persons they accommodate. This is just a reflection of the specific focus of the Geneva Conventions, rather than representing significant differences in the nature of the zones or the modalities for their establishment.

In practice, the various types of protected area could be combined, accommodating wounded and sick civilians and members of the armed forces, as well as other vulnerable people. Rather than the specific categories of people accommodated, it is the size of the zones and duration of the arrangements that pose the greatest challenges to the establishment and safe operations of the zones.

#### Hospital zones

The First Geneva Convention foresees the possibility of establishing hospital zones for wounded and sick members of states' armed forces;<sup>83</sup> and the Fourth Geneva Convention does the same for wounded and sick civilians.<sup>84</sup> In practice, nothing precludes an arrangement whereby the same hospital zone accommodates wounded and sick members of the armed forces as well as civilians.

Admission to hospital zones must be granted without adverse distinction, and thus wounded and sick members of enemy forces must also be admitted.

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<sup>82</sup> The most detailed and still up-to-date presentation of the protected zones that have actually been established remains Sandoz, Y. (1995), 'The Establishment of Safety Zones for Persons Displaced within their Country of Origin', in Al-Nuaimi, N. and Meese, R. (eds), *International Legal Issues Arising Under the United Nations Decade of International Law*, The Hague and Boston, MA: Martinus Nijhoff, p. 800.

<sup>83</sup> Article 23 GC I.

<sup>84</sup> Article 14 GC IV

### **Safety zones and localities**

The Fourth Geneva Convention also foresees the possibility of establishing ‘safe zones and localities’ to protect particularly vulnerable civilians from the effects of hostilities. Although the convention specifically refers to ‘wounded, sick and aged persons, children under fifteen, expectant mothers and mothers of children under seven’, there is no reason why all civilians should not be able to seek shelter in such zones and localities.<sup>85</sup>

### **Neutralized and demilitarized zones**

The Fourth Geneva Convention refers to the possibility of establishing ‘neutralized zones’.<sup>86</sup> The difference between hospital/safety zones and neutralized zones is that the former are intended to be located at a distance from combat zones, and to constitute a longer-term arrangement for certain categories of particularly vulnerable civilians. Neutralized zones, instead, are in areas of active fighting, and aim to provide temporary shelter to wounded and sick combatants and civilians and the entire civilian population.

The range of possible protected zones is further expanded by Additional Protocol I, which foresees the possibility of establishing ‘demilitarized zones’.<sup>87</sup> Their objective is similar to that of the neutralized zones: placing localities and their non-combatant population outside the theatre of war. The difference is in the approach to doing this.

While the Fourth Geneva Convention does this by the establishment of zones to which civilians and the wounded and sick can relocate, the demilitarized zones envisaged by Additional Protocol I ‘fence off’ certain areas from military operations for the protection of all civilians. The party establishing a demilitarized zone must ensure that it is not used for hostile activities – in a broad sense of the term – and, if it recognizes the zone, its opponent must refrain from extending ‘military operations’ – also a broad notion – to the zone. To date, no such zones have been established.

### **Non-international armed conflicts**

In relation to non-international armed conflicts, neither Common Article 3 to the Geneva Conventions nor Additional Protocol II refers to any type of protected zone. This is not significant, as nothing precludes parties from entering into agreements with a similar effect. In fact, these are among the types of special agreements that Common Article 3(3) suggests that parties could conclude to bring into effect other provisions of the Conventions.

The points made below about modalities for reaching agreement and the practical operation of protected zones are equally relevant whether they are established in international or non-international armed conflict.

### **A flexible arrangement**

As the law does not require particular zones to be established, the zones that have been set up were based on what was needed and achievable in the circumstances, rather than on the models foreseen in the Geneva Conventions and Additional

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<sup>85</sup> Article 14 GC IV.

<sup>86</sup> Article 15 GC IV.

<sup>87</sup> Article 60 AP I. Article 59 AP I also foresees the possibility of establishing ‘non-defended localities’.

Protocol I. The zones accommodated the most vulnerable categories of people – usually the wounded and sick, as in the cases of the zones established in Dhaka in 1975, Nicosia in 1974, Saigon in 1975, and Osijek in 1991. They were located in the areas of active combat or violence, and hosted relatively small numbers of people.<sup>88</sup>

Similarly, although this type of arrangement was not expressly referred to in IHL treaties during the Falklands/Malvinas war in 1982, the UK and Argentina agreed to establish a neutral zone on the high seas where hospital ships from both sides could operate in safety. Referred to as a ‘Red Cross Box’, this was a zone, some 20 nautical miles in diameter, where four British and three Argentinian hospital ships were stationed. These vessels could receive the wounded and provide treatment without hampering military operations, and the proximity between the two sets of ships allowed for the easy exchange of patients. The arrangement allowed hundreds of British and Argentine casualties to be treated.<sup>89</sup>

## 6.2.2 Establishment of the protected zones

Belligerents can establish protected zones but until and unless they are recognized by their opponent, such zones do not benefit from special protection. However, the absence of such recognition does not deprive those people sheltering in the zones of the protection they are entitled to under IHL as civilians or persons *hors de combat*.

### Elements of agreement

The likelihood of recognition of a protected zone depends on a number of factors. Key among them are the steps taken to ensure that the zones are exclusively used to shield civilians and other protected people from the effects of hostilities and to reduce any risk that they will be abused.

Annexed to the First and Fourth Geneva Conventions are virtually identical model agreements, referred to as ‘Draft Agreements’, that provide an indication of the kinds of issues that should be addressed by parties setting up hospital and safety zones and localities. Key elements of these agreements are set out in section 6.3.2.

The elements of the Draft Agreements are only indicative, and parties can agree to other measures. However, they provide a valuable indication of the types of measures that could provide reassurance and lead to recognition of protected zones.

### Intermediary to reach agreement and supervisory body

As for the other humanitarian arrangements addressed in this paper, reaching agreement is likely to require an intermediary to facilitate the negotiations. This intermediary might also play the supervisory role envisaged in the Draft Agreement.

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<sup>88</sup> See Sandoz (1995), ‘The Establishment of Safety Zones for Persons Displaced within their Country of Origin’.  
<sup>89</sup> Albon, C. (2011), ‘The Red Cross Box’, U.S. Naval Institute Blog, 29 June 2011, <https://blog.usni.org/posts/2011/06/29/the-red-cross-box>.

The First and Fourth Geneva Conventions expressly invite the ICRC and any protecting power to ‘lend their good offices’ to facilitate the institution and recognition of hospital and safety zones.<sup>90</sup> The ICRC assumed this role, facilitating the conclusion of many of the agreements to establish protected zones since the Second World War, and it also administered many of the zones.

As far as supervision of protected zones is concerned, although it was not involved in the negotiation of this arrangement, the ICRC acted as a supervisory body for the ‘Red Cross Box’ established by agreement between Argentina and the UK in the South Atlantic in 1982.

### 6.2.3 Interplay with other rules of IHL

As a matter of law, it is not the establishment and recognition of the protected zones that provides protection to the civilians and the wounded and sick sheltering there. IHL already requires those people to be respected and protected. Recognition of the zones, however, gives an additional layer of protection in practice: the belligerent that recognizes the zones undertakes not to direct hostilities into or in the proximity of the zones, provided they are used in accordance with the agreed terms. This is sometimes referred to as ‘special protection’ because, for the most part, IHL protects objects not areas.

Like other humanitarian arrangements discussed in this paper, the zones are a practical way of enhancing the security of protected people. Hostilities and other military operations should not be conducted into or in the proximity of the areas, thus reducing civilians’ exposure to risks. In gathering the wounded and sick in one location, zones can facilitate their treatment by addressing adverse effects of armed conflict such as shortages of supplies and the breakdown in health services.

The rules of IHL regulating the conduct of hostilities and humanitarian relief operations continue to apply. They apply unmodified to people who have *not* sought refuge in the protected zones, or who choose to leave them. The establishment of the zones in no way affects belligerents’ obligations towards those people.

The general rules of IHL also continue to apply to those within the protected zones. If, for example, in violation of the agreement establishing the zones, people who are sheltering there engage in hostilities, they must comply with the rules regulating the conduct of hostilities. In addition to the rules regulating attacks, other rules are also relevant: the people conducting attacks must not use human shields; and must, to the maximum extent feasible, take precautions against the effects of attacks, including avoiding locating military objectives within or near densely populated areas.<sup>91</sup>

It should be recalled that conducting hostile acts from the protected zones would undermine the special protection afforded to them. The agreement establishing the zones should regulate how to address such situations. For example, it might require the party targeted by the acts to issue warnings, and the party administering the protected zones to take measures to put an end to such activities.

<sup>90</sup> Article 23 GC I, and Article 14 GC IV.

<sup>91</sup> Articles 51(7), and 58 AP I.

If, nevertheless, hostile activities from the protected zone continue, leading to attacks directed against the zone, these must comply with the general rules of IHL. Attacks must be directed exclusively against military objectives; they must not be indiscriminate; and they must comply with the rule of proportionality; and feasible precautions must be taken to spare civilians and civilian objects. The context in which such operations would be conducted – likely to be a small and restricted area hosting high numbers of protected people – will significantly limit the permissible use of force.

## 6.2.4 Interplay with refugee law

Protected zones raise questions of refugee law. In some situations, calls for their establishment were driven by a desire to prevent or put an end to population flows across borders, or to promote the return of refugees at a time when this was not warranted by conditions the ground.

Notable examples include Turkey's closure of its borders to Iraqi Kurds in 1991, which led to the adoption of Security Council resolution 688 (1991) and the establishment of Operation Provide Comfort in northern Iraq.<sup>92</sup> More recently, calls were made at various junctures during the conflict in Syria to establish safe zones within Syria.<sup>93</sup> None was ultimately established.

These are not new problems, but they continue to present difficult policy choices for humanitarian actors, and for UNHCR in particular, when deciding whether to join calls for the establishment of protected zones, and on the nature of their involvement in any that might have been set up.<sup>94</sup> The establishment of safe zones must not be used to limit the entitlement to seek asylum, or to promote returns of refugees before it is safe for them to return.

## 6.2.5 Human rights considerations

In addition to rules relevant to the establishment of the protected zones, consideration must also be given to the rules relevant to their functioning. Depending on the nature of the zones, a state or coalition that is administering the zones may be considered as having effective control of the people who have sought shelter in the zones. With such effective control come certain human rights obligations.<sup>95</sup>

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<sup>92</sup> See, for example, Long, K., 'In Search of Sanctuary: Border Closures, 'Safe' Zones and Refugee Protection', *Journal of Refugee Studies*, 26(3), pp. 458–476, <https://doi.org/10.1093/jrs/fes050>. See also Chapter 7 of this paper, on no-fly zones.

<sup>93</sup> See, for example, Frelick, B. (2015), 'Safe Zones in Name Only', HuffPost, 21 August 2015, [https://www.huffpost.com/entry/safe-zones-in-name-only\\_b\\_8021010](https://www.huffpost.com/entry/safe-zones-in-name-only_b_8021010), in relation to possible plans by US and Turkey to establish a safe zone in northern Syria; and, more recently, Fakihi, L. (2019), 'Turkey's 'Safe Zone' Would Be Anything But', Human Rights Watch, 11 October 2019, <https://www.hrw.org/news/2019/10/11/turkeys-safe-zone-would-be-anything>.

<sup>94</sup> See, for example, Landgren, K. (1995), 'Safety Zones and International Protection: A Dark Grey Area', *International Journal of Refugee Law*, 7(3), pp. 436–458, <https://doi.org/10.1093/ijrl/7.3.436>; Frelick, B. (1997), 'Unsafe Havens: Reassessing Security in Refugee Crises', *Harvard International Review*, 19(2), pp. 40–69; and United Nations High Commissioner for Refugees (2021), 'Protected zones', in *Humanitarian Protection in Armed Conflict Toolkit*, <https://emergency.unhcr.org/sites/default/files/2024-01/unhcr-toolkit-protection-in-armed-conflict.pdf>.

<sup>95</sup> Belligerents that administer safe zones also have IHL obligations towards the people sheltering there, including the requirements to treat them in accordance with the minimum standards laid down in Article 75 AP I and Common Article 3 GCs.



In addition to meeting basic needs in terms of food, water, shelter and medical care, it is also necessary to maintain safety and security within the zones.

## 6.2.6 Protected zones established by the Security Council

IHL envisages that protected zones are established by agreement between belligerents. In recent decades, there have been a small number of instances when protected zones were established by or on the basis of UN Security Council resolutions. They include the ‘safe havens’ established in northern Iraq in 1991; the ‘safe areas’ in Bosnia and Herzegovina in 1993; and the ‘safe humanitarian zones’ in Rwanda in 1994.

In addition to IHL considerations, the establishment of protected zones in this manner raises questions regarding the rules of international law on resort to force. The presence of the armed forces of a state on the territory of another state without the latter’s consent is a violation of the prohibition on the use of force, unless such a presence is authorized by the Security Council, or amounts to individual or collective self-defence (not relevant in the instances when safe zones have been established to date).

Safe havens were established in northern Iraq in 1991 when hundreds of thousands of Iraqi Kurds fled to the mountains in the face of repression from the regime of Saddam Hussein. Security Council resolution 688 (1991) condemned the repression and required Iraq to allow immediate access by humanitarian organizations to all those in need of assistance. The resolution did not establish the zones; consent by the government was not entirely clear. The resolution was nonetheless the basis for a US-led multinational operation, ‘Provide Comfort’, that carried out airdrops and put forces on the ground to protect displaced people and build camps. These safe havens were also protected by means of the no-fly zone referred to in Chapter 7. The Security Council established ‘safe areas’ in Bosnia in 1993,<sup>96</sup> but there were problems of enforcement. The Security Council demanded that parties to the conflict treat Srebrenica and the other locations referred to as safe areas, but it was only several months later that it granted the UN Protection Force (UNPROFOR) the mandate to use force to defend these areas.<sup>97</sup> Even then, it did not allocate additional troops for this task. This, coupled with the fact that the areas were not demilitarized (which meant that military operations were carried out from the areas, in turn provoking responses from opposing forces), made it impossible for UNPROFOR to protect the areas from Bosnian Serb attacks when the hostilities intensified. This led to massacres of the Bosnian men and boys who sought refuge in the areas.

Rwanda had agreed to the presence of the UN Assistance Mission for Rwanda (UNAMIR), established in 1993, so Security Council authorization was not necessary for its presence.<sup>98</sup> The force did not have a mandate to establish safe areas, but so-called ‘protected sites’ emerged spontaneously in April 1994

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<sup>96</sup> SCR 819 (1993) and SCR 824 (1993).

<sup>97</sup> SCR 836 (1994).

<sup>98</sup> SCR 872 (1993).

as civilians sought security in the areas where UNAMIR forces were stationed. However, UNAMIR never had the capacity in terms of troops and equipment to respond to the scale of the crisis.<sup>99</sup>

Nine weeks after the start of the genocide in Rwanda, in view of the magnitude of the crisis, the Security Council adopted a resolution under Chapter VII of the UN Charter, authorizing the deployment of a force under national command to contribute to the protection of civilians.<sup>100</sup> This was authorized to use force including to establish and maintain 'secure humanitarian areas'. Led by France, Operation Turquoise established a 'safe humanitarian zone' that covered a fifth of Rwanda's territory.

Tragically, this only happened as the genocidal violence was subsiding, and the force was deployed for less than two months. Had the violence continued, it is questionable whether – given the size of the 'safe humanitarian zone' – it would have been feasible to provide protection to the people located there.

Rwanda was not the only context where civilians sought security in the proximity of UN forces. The same occurred following the outbreak of fighting in South Sudan in 2013. 'Protection of Civilians' sites (POC sites) came into being as civilians spontaneously sought security near and within UN Mission in South Sudan (UNMISS) bases. Over 35,000 civilians sought refuge within three weeks of the start of the violence, and more than 200,000 people were still sheltering in the sites three years later. The POC sites raised a multitude of operational challenges that are relevant to all zones that accommodate large numbers of people for prolonged periods of time.<sup>101</sup> A small number of these challenges are flagged below.

As regards its Security Council mandate, UNMISS had a mandate for the protection of civilians, and authorization to use force to implement it from when it was established in 2011, but initially this was only to develop the government's capacity in this area.<sup>102</sup> Violence broke out in December 2013, but it was only in May 2014 that the mandate was amended to allow responding to certain threats against civilians, including deterring violence against civilians within and outside POC sites, and maintaining safety and security within the sites.<sup>103</sup> UNMISS was thus never tasked with establishing the POC sites, and had only a very limited mandate in terms of operating the sites. This contributed to the challenges they raised.

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<sup>99</sup> A fortnight after the start of the genocide in April 1994, the Security Council reduced UNAMIR's troop numbers by 90 per cent because it considered that the conditions in Rwanda were no longer permissive to supporting a peace process, and this was UNAMIR's mandated purpose.

<sup>100</sup> SCR 929 (1994).

<sup>101</sup> For a comprehensive analysis, see Briggs, C. with Monaghan, L. (2017), *Protection of Civilians Sites: Lessons Learned from South Sudan for Future Operations*, Norwegian Refugee Council, [https://www.nrc.no/globalassets/pdf/reports/poc-sites\\_lessons-from-south-sudan-copy.pdf](https://www.nrc.no/globalassets/pdf/reports/poc-sites_lessons-from-south-sudan-copy.pdf).

<sup>102</sup> SCR 1996 (2011).

<sup>103</sup> SCR 2155 (2014).

## 6.3 Operation in practice – challenges, good practice and recommendations

Although their establishment is frequently called for, protected zones have been established only on a very small number of occasions – whether by agreement or further to Security Council authorization. This is a reflection of the challenges in reaching agreement to establish the zones, as well as in administering them.

### 6.3.1 Unilateral zones are unlikely to afford protection

There have been instances when one side to a conflict established purportedly safe zones unilaterally. These have not proved protective.

For example, in early 2009 the government of Sri Lanka unilaterally established three successive ‘no-fire zones’, with the claimed intention of providing security to civilians who remained in the ever-diminishing areas under the control of the Liberation Tigers of Tamil Eelam (LTTE). The LTTE did not recognize these zones, and took no steps to prevent armed elements from entering them. In the final weeks of fighting, the zones were under constant attack by government forces, leading to mass civilian casualties and destruction of the hospitals located in the zones.<sup>104</sup>

### 6.3.2 Reaching agreement

As for other humanitarian arrangements, reaching agreement on the establishment of the zones is challenging. Many factors affect the likelihood of whether agreement can be reached. Two important elements are the existence of an intermediary to facilitate discussions, and the terms of the agreement. The agreement must provide assurance that the zones will be used for exclusively humanitarian purposes and that measures will be taken to prevent the zones from being abused.

#### The intermediary

As far as the intermediary is concerned, as already noted, the ICRC facilitated the conclusion of many of the agreements to establish protected zones since the adoption of the Geneva Conventions in 1949. The ICRC was also responsible for administering the majority of these zones.

At times, the ICRC took a remarkably flexible approach to securing agreement. In Nicosia in 1974, for example, civilians spontaneously sought refuge in various hotels. Of its own initiative, the ICRC marked these with a red cross flag, and only after this negotiated a written agreement with local authorities. The arrangements operated for a very brief period of time. Similarly, ahead of the expected fall of Phnom Penh in 1975, the ICRC itself created a ‘hospital and safety zone’ in a hotel and merely informed the parties to the conflict of this, urging them to respect it. The arrangements, which operated for two days, provided temporary shelter to 2,000 people.<sup>105</sup>

<sup>104</sup> UN Secretary-General (2011), *Report of the Secretary General’s Panel of Experts on Accountability in Sri Lanka*, paras 80–89, 100–102, 115–123, <https://www.refworld.org/docid/4db7b23e2.html>.

<sup>105</sup> See Sandoz (1995), ‘The Establishment of Safety Zones for Persons Displaced within their Country of Origin’.

Experience since the 1970s has highlighted the very significant security risks that zones established and administered without the express agreement of all belligerents can pose to the people seeking shelter and to those administering them. It is perhaps doubtful that the ICRC would take a similar approach today.

### Issues to be addressed in an agreement

A second aspect that will influence the likelihood of reaching agreement to recognize any zones and the possibility that, if established, they will actually provide security are the measures that the party establishing the zones undertakes to ensure their exclusively humanitarian character.

An agreement that was successful in providing protection to the people sheltering in the zone was that concluded in 1991 by Croatia and the Socialist Federal Republic of Yugoslavia (SFRY), under ICRC auspices, to create a protected zone around Osijek hospital. The agreement followed the approach suggested in IHL relatively closely. The zone was placed under ICRC supervision. Access to the zone was restricted to sick and wounded civilians and military personnel; family members visiting patients recovering in the hospital; people over 65 years of age, children under 15, expectant mothers and mothers of children under seven; and the hospital's medical and administrative personnel.<sup>106</sup>

As so few agreements have actually been concluded, it is difficult to identify good past practice. However, as mentioned above, annexed to the First and Fourth Geneva Conventions is a virtually identical Draft Agreement that highlights the types of issues that should be addressed in an agreement to establish hospital and safety zones and locations; it can provide helpful guidance to all protected zones.

The Draft Agreements contain three key sets of provisions. The first set aim to ensure that the people accommodated in protected zones are in no way involved in hostilities, thus preserving the actual and perceived exclusively humanitarian purpose of the zones and not jeopardizing their protected status. They include:

- The requirement that the zones be reserved exclusively for the wounded and sick, civilians, people administering the zones and providing medical care, and people whose permanent residence is within such zones;
- The corollary obligation for those establishing and operating the zones to take all necessary measures to prohibit access to people who are not entitled to reside there; and
- The requirement that no one residing in the zones undertake, within or outside the zones, any activity directly connected with military operations.

The second set of provisions are measures to enhance the security of the zones themselves. They include requirements that:

- The zones constitute only a small part of a state's territory. Larger zones are likely to impair the opponent's capacity to conduct hostilities and thus decrease the likelihood that it will recognize them;

<sup>106</sup> Agreement Relating to the Establishment of a Protected Zone around the Hospital of Osijek, between the SFRY and Croatia, 27 December 1991; ICRC CLS Vol II, Practice relating to Rule 35.

- The zones be distant from and free of all military objectives, not situated in areas likely to become significant for the conduct of the war, and not defended by military means;
- Access roads to the zones not be used for military purposes; and
- Hospital zones be marked by red crosses/crescents, and other protected zones and localities by other agreed-upon signs.

The final set of provisions are supervisory measures to ensure that the zones operate as envisaged. The Draft Agreements suggest that the party recognizing a zone is entitled to demand that an independent body has access to examine the zone and confirm that it complies with the requirements agreed to. If shortcomings are found, the party that established the zone must rectify them within a prescribed period of time. If it fails to do so, its opponent may declare that it no longer recognizes the area as protected. As already noted, this would not affect the protections to which *people* accommodated in the areas are entitled under the general rules of IHL on the conduct of hostilities.

The elements of the Draft Agreement are only indicative, and parties can agree to other measures. However, they provide a valuable indication of the types of measures that could provide reassurance and lead to recognition of protected zones.

In those instances when agreement to recognize a zone has been reached in practice, and where the zones were actually respected, they were limited in scope in terms of size, categories of people accommodated (most frequently just the wounded and sick), numbers of people accommodated, and duration. This made it simpler for the party administering the zones to ensure that they did not pose a military threat or impede the conduct of military operations. It also made meeting the needs of those accommodated in the zones and addressing any security concerns within the zones less onerous.

### 6.3.3 Administering the protected zones – selected challenges

Responsibility for ensuring that a zone complies with the agreed terms of the agreement lies with the party administering it. Doing so is onerous, and requires considerable capacities in terms of personnel and resources. Identifying the range of operational issues that must be addressed is beyond the scope of this paper, which highlights only two overarching issues: security; and meeting the needs of the people in the zones.

#### Security

Security has two principal dimensions: ensuring the ‘demilitarization’ of the zones; and maintaining security within the zones. If the zones are not established by agreement, as in the case of those established by the UN Security Council, military force may also be necessary to create the spaces and to protect them from attacks.

The ‘demilitarization’ of protected zones is the basis for their acceptance. Preserving their civilian character is key to preventing attacks from hostile forces and thus the safety of the zones. Doing so can be extremely challenging, especially

in zones that accommodate large numbers of people such as the POC sites in South Sudan, which more than 200,000 people. It is less of an issue in the smaller zones, such as the hospital zones administered by the ICRC in the former Yugoslavia.

Maintaining the civilian character of zones requires the adoption of clear guidance on who is allowed into the zones, criteria for screening, security personnel to conduct such screening, and also the capacity to constantly monitor the activities conducted in the zones.

The party administering the zones must also ensure safety and security within the zones. Again, due to the large number of people accommodated and the duration of the arrangements, the POC sites in South Sudan faced a number of practical challenges. The presence in the sites of former combatants and people who had not fully disarmed, the availability of weapons, and intercommunal violence related to the conflict all posed significant security concerns. In addition, criminality within the sites was a problem, with frequent incidents of violence – including sexual or gender-based violence, and violence related to gang, community or family disputes – as well as theft and drug-smuggling.

UNMISS's capacity to maintain security within the sites was hampered by the absence of a law enforcement or judicial authority dimension to its mandate that would have allowed it to investigate crimes, conduct pre-trial detention, and prosecute and detain people for criminal activity.<sup>107</sup>

### Meeting basic needs

The party that is administering a protected zone is also responsible for providing essential goods and services for the people who have sought shelter. This includes food, water, shelter, medical care. If the zones are established for longer periods of time, education can also become a concern.

Again, the POC sites in South Sudan highlight some of the issues that need to be addressed. These issues were exacerbated in this instance because of the spontaneous nature of the zones and their size and duration. Most significantly, UNMISS was never mandated to administer the sites, so it lacked the capacities and funds to adequately respond to the tens of thousands of people who looked to it for assistance and other basic services for several years.

This meant UNMISS had to reach out to a range of humanitarian actors operating in South Sudan. However, cooperation was often difficult, not least because some humanitarians did not want to be associated with armed actors by providing assistance on a military compound. There was lack of clarity in terms of allocation of responsibilities for particular tasks; the minimum standards that the sites should meet in terms of adequate food, water, sanitation and medical care; and who was responsible for providing the necessary goods and services. Eventually, guidelines were adopted that set out respective roles and responsibilities for operations in the POC sites.<sup>108</sup>

<sup>107</sup> Briggs with Monaghan (2017), *Protection of Civilians Sites: Lessons Learned from South Sudan for Future Operations*.

<sup>108</sup> United Nations Mission in South Sudan (2014), 'Responsibilities in UNMISS POC Sites for Planning and Budgetary Purposes', 19 September 2014.

### 6.3.4 Establishment by the Security Council

Although a Security Council resolution adopted under Chapter VII of the UN Charter is binding on all states, the experience in Bosnia shows that, without the consent of all relevant belligerents, the mere establishment of protected zones by the Security Council risks giving rise to false expectations of security. It also emphasizes the undesirability of promising security when there is insufficient enforcement capacity.

The instances when the Security Council established protected zones highlight the importance of granting clear and express mandates to use force both to establish the zones, and to protect them if this is necessary. Mandates given to any multilateral forces administering the areas must address the range of responsibilities that will be entailed, such as maintaining security and order within the zones.

All aspects of the mandate must be reflected in the various internal documents elaborated by a multinational force, including the ‘concepts of operations’ and directives on the use of force. They must address the range of issues likely to be raised by the existence of a safe area in a context of ongoing hostilities. These should include, for example, measures to deter and put an end to violence by hostile forces against those seeking shelter in the safe areas, and to ensure that relief consignments can reach those areas. They will also need to include measures to ensure safety and security within the safe areas, starting with screening and disarming those entering the areas, ensuring no military activities take place within the areas, and maintaining law and order within the areas.

Missions must be appropriately staffed. Some of the tasks require military personnel and other police staff; they are likely to involve close liaison with humanitarian actors, so will also need staff with experience in civil–military coordination.

## 6.4 In conclusion

The recommendations above help to identify the range of issues to be considered in response to calls to establish protected zones. In particular, while it is possible for a belligerent to set up a protected zone unilaterally, there needs to be an effective agreement between the parties if the zone is to be truly protective.

Although there are frequent calls for protected zones, they have been established only on a very small number of occasions. Even then, they have not always provided the hoped-for protection. As for most of the humanitarian arrangements discussed in this paper, it is important to make clear – to those who are calling for the zones and to civilians who wish to benefit from them – what limitations of such zones are.



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# 07

## No-fly zones

**In 2011, as violence in Libya was escalating, the UN Security Council imposed a no-fly zone banning flights in the country's airspace 'in order to help protect civilians'.<sup>109</sup> The no-fly zone was enforced by states authorized by the Security Council to do so.<sup>110</sup>**

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### 7.1 What are they?

No-fly zones are areas of airspace where most aircraft are prohibited from flying. They have been established by the UN Security Council<sup>111</sup> on a very small number of occasions to protect civilians from a party putting them at risk by air operations, and facilitate the delivery of humanitarian assistance. Although the objective of no-fly zones is to protect civilians and create conditions conducive to humanitarian operations, they are a military operation, not a form of humanitarian arrangement.

No-fly zones may be established in the airspace of the state whose conduct led to their imposition. This was the case of the no-fly zones established in northern and southern Iraq in the 1990s, and in Libya in 2011. No-fly zones may also be established in the airspace of a state that is being attacked by the party whose flights are excluded. This was the case in Bosnia and Herzegovina in 1993.

### 7.2 What does the law say?

No-fly zones raise legal issues additional to the humanitarian arrangements discussed so far in this paper, relating to the rules regulating resort to the use of force. The establishment of a zone is of no utility unless there is a military capacity to enforce it. In Bosnia, for example, in 1994 NATO states shot down four Serbian aircraft. Reportedly this occurred after more than 1,000 previous violations of the zone.

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<sup>109</sup> SCR 1973 (2011), OP 6.

<sup>110</sup> SCR 1973 (2011), preamble and OP 8.

<sup>111</sup> Or, in the case of the no-fly zones in Iraq, under some other legal basis, but connected with a Security Council resolution.

But the mere establishment of a no-fly zone, even if it is not actually enforced, constitutes a use of force or a threat of force. This has legal consequences.

### 7.2.1 Compliance with the rules regulating resort to armed force

First, the establishment of a no-fly zone must comply with the law on the use of force. Article 2(4) of the UN Charter prohibits the threat or use of force against the territorial integrity or political independence of any state. There are two established exceptions to this prohibition: use of force is permissible if authorized by the Security Council, or if used in individual or collective self-defence. There is controversy over whether force is also justified in the case of extreme humanitarian emergency.

To date, the Security Council has established no-fly zones on two occasions: in Bosnia and Herzegovina in 1992,<sup>112</sup> and in Libya in 2011. The establishment and enforcement of these zones was clearly justified under international law, having been ordered and authorized by the Security Council. There are divergences of view as to whether the no-fly zones enforced by the US, the UK and France over northern and southern Iraq in 1991 and 1992 were legally justified.<sup>113</sup>

In the absence of a Security Council authorization, the establishment of a no-fly zone over the territory of a state would nonetheless be permissible if it had been requested by that state, for example to assist it to exercise its right of self-defence. This could have been the case had third states accepted Ukraine's request in 2022 to establish a no-fly zone over its own territory to prevent Russian air operations.

### 7.2.2 Armed conflict between the state(s) enforcing the no-fly zone and the excluded state

A second consequence of the fact that a no-fly zone constitutes a use of force is that the states that are enforcing the zone may become parties to an armed conflict with the state whose flights are being excluded.<sup>114</sup> The unwillingness to enter into a direct confrontation with Russia influenced states not to accept Ukraine's request to establish a no-fly zone in its airspace in 2022.

### 7.2.3 Compliance with IHL

In addition to the rules regulating resort to armed force, states that are enforcing a no-fly zone must comply with IHL.

<sup>112</sup> SCR 781 (1992) banned the flight of military aircraft in the airspace of Bosnia and Herzegovina. As this was not respected, SCR 816 (1993) extended the ban and authorized member states to use force to ensure compliance with the ban.

<sup>113</sup> As regards the UK, the government based its legal authority on the need to avert the extreme humanitarian catastrophe caused by the repression of Kurdish people in the north of Iraq and the Shia population in the south, combined with the need to monitor the implementation of Security Council resolution 688 (1991), which demanded an end to Iraqi repression of its population. For a discussion of the relevant international law, see, for example, House of Commons Select Committee on Defence, Thirteenth Report (2000), 'The No-Fly Zones: Humanitarian basis for the no-fly zones', <https://publications.parliament.uk/pa/cm199900/cmselect/cmdfence/453/45306.htm>.

<sup>114</sup> See Wentker, A. with Jackson, M. and Hill-Cawthorne, L. (2024), *Identifying co-parties to armed conflict in international law: How states, international organizations and armed groups become parties to war*, Research Paper, London: Royal Institute of International Affairs, <https://doi.org/10.55317/9781784136017>.

The first step in the implementation of a no-fly zone is usually the destruction or disabling of any ground-based air defence systems. When conducting such operations, states must ensure they comply with the rules of IHL regulating the conduct of hostilities, including taking constant care to spare civilians and not to impede humanitarian operations.

As for all military operations, the measures outlined in other chapters of this paper will be of relevance to the enforcement of no-fly zones – including humanitarian notification arrangements, and agreements to establish humanitarian corridors or temporarily suspend hostilities.

In addition, the establishment and enforcement of no-fly zones must not impede humanitarian operations; a part of their purpose may be indeed to facilitate such operations. As discussed below, arrangements must be established to allow humanitarian flights to transit through the no-fly zones.

### **7.3 Operation in practice – challenges, good practice and recommendations**

A significant issue that has arisen in the implementation of no-fly zones is ensuring effective arrangements to allow humanitarian flights to transit through the zones.

The UN Security Council resolutions that established no-fly zones – in Bosnia and Libya – excluded humanitarian flights from the restrictions. In relation to Libya, for example, the Security Council resolution that imposed the no-fly zone excluded flights whose ‘sole purpose is humanitarian, such as delivering or facilitating the delivery of assistance, including medical supplies, food, humanitarian workers and related assistance, or evacuating foreign nationals from the Libyan Arab Jamahiriya’, or that are deemed necessary by the states enforcing the no-fly zone ‘for the benefit of the Libyan people’. The resolution also called for the establishment of appropriate mechanisms for implementing this exception.<sup>115</sup>

In both cases, it was the multinational force that implemented the no-fly zones – i.e. NATO, which also administered the processes for authorizing humanitarian flights.

Security Council resolutions establishing a no-fly zone should always include a broad, express exception for flights whose purpose is humanitarian. The arrangements for authorizing such flights adopted by the party enforcing the zone should be as light and efficient as possible, and should be communicated clearly at the outset of the operation.

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<sup>115</sup> SCR 1973 (2011) OP 7 and 8. For the no-fly zone in Bosnia and Herzegovina, see SCR 781 (1992) OP 1 and 3, and SCR 816 (1992) OP 2 and 3.

## **7.4 In conclusion**

No-fly zones can contribute to the security of civilians and the civilian infrastructure on which they depend, in situations when air operations are targeting them or are being conducted in an indiscriminate manner.

However, the decision to establish no-fly zones has significant political consequences, and the costs of enforcing them are extremely high. For these reasons it is an arrangement that is resorted to very rarely

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# 08

# Conclusions and recommendations

The previous chapters of this paper have included specific recommendations with regard to each of the humanitarian arrangements discussed. There are general points that apply to all of the arrangements. Four are set out in this concluding chapter.

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## 8.1 The preparedness of armed forces and humanitarian organizations: guidance and personnel

In various contexts, humanitarian organizations have frequently been involved in the establishment and implementation of the humanitarian arrangements discussed in this paper. Such organizations are familiar with what is required operationally, and with the recurring challenges entailed. Some have elaborated internal guidelines, and increasingly there is a sector-wide discussion of arrangements to enhance civilians' security in armed conflict. General guidance still needs to be elaborated.

Armed forces do not have a similar level of preparedness. Most do not appear to have policies, doctrines or instructions that address their role in establishing or implementing humanitarian arrangements. These should be elaborated, ideally in consultation with humanitarian actors, and drawing on lessons learned in contexts where the arrangements were established.

Considerations of relevance to humanitarian arrangements such as safe corridors, temporary suspensions of hostilities and protected zones should be included in the assessments of the civilian environment conducted as part of states' strategic planning.

In addition to doctrine, proper staffing is essential. There have been instances when, in peacetime, units in the armed forces have been assigned responsibilities for civil–military coordination, including in relation to humanitarian arrangements, and have received relevant training, but have been redeployed when conflict broke out. States must not lose capacity in this area when it is most needed. And those providing security cooperation support should give funding and support for maintaining these capabilities in times of conflict.<sup>116</sup>

More generally, civil defence measures that states may have adopted – also referred to as civil protection or civil contingency arrangements – can play an important role in ensuring that states have mechanisms in place for implementing humanitarian arrangements such as evacuations within their territory, and allocate roles and responsibilities for emergency preparation and response.<sup>117</sup>

## 8.2 Creating opportunities for thematic civil–military engagement

Civil–military engagement is essential for the implementation of humanitarian arrangements. It is taking place in numerous contexts, but principally to address country-specific issues.

Opportunities for focused dialogue on thematic issues, and the elaboration of general good practice, including on humanitarian notification systems, are still extremely rare. Stakeholders that have connections with and the trust of both humanitarian actors and the armed forces – and ideally also with armed groups – should consider convening focused conversations to share lessons learned and elaborate guidance.

## 8.3 Intermediaries

In order to provide security, most of the humanitarian agreements discussed in this paper require agreement between belligerents. This is the case for evacuations, humanitarian corridors, suspensions of hostilities and protected zones. An intermediary plays a crucial role: to propose the establishment of a particular arrangement; to facilitate reaching agreement on details; and ideally to remain engaged in the operation of the arrangement, either in a supervisory capacity or to assist in resolving problems that may arise.

Some humanitarian organizations play this role for their own operations: the ICRC, for example, in relation to releases or exchanges of prisoners; and MSF for medical evacuations. It is difficult to find actors willing and capable to play this role for operations more generally that are acceptable to all parties in a particular context.

<sup>116</sup> See, for example, Gillah (2023), *Navigating Green Corridors In Ukraine*, p.20.

<sup>117</sup> See, for example, UK Civil Contingencies Act 2004, <https://www.legislation.gov.uk/ukpga/2004/36/contents>.

In resolution 46/182, the UN General Assembly specifically tasked the UN Emergency Relief Coordinator (ERC) to conduct certain of these negotiations when necessary to facilitate humanitarian access.<sup>118</sup> But in recent years at least, the ERC does not appear to have been successful in facilitating the establishment of the arrangements. One reason for this could be that although they represent the ‘humanitarian arm’ of the UN, the ERC is nonetheless inevitably perceived as too political and associated with positions adopted by the Security Council.

Similarly, in recent years UN humanitarian leadership at field level – i.e. Resident Coordinators/Humanitarian Coordinators, heads of OCHA offices and heads of agencies – have also not facilitated discussions between belligerents to establish humanitarian arrangements. A number of factors contribute to this, especially in non-international armed conflicts, where one of the parties to the conflict with whom it would be necessary to engage to reach agreement is an organized armed group.

Contact with organized armed groups is not prohibited by law. It is essential for many purposes, including promoting compliance with IHL and to conduct humanitarian operations in a manner that is safe and in accordance with humanitarian principles. Nonetheless, in many contexts there is a marked reluctance by UN humanitarian leadership at field level to engage with such groups.

Often, UN common positions have been elaborated that minimize the possibilities of engagement for reputational reasons or to promote the UN’s political objectives, or because the host state has put pressure on the UN at field or headquarters level to limit contact. While these restrictions may be understandable politically, they undermine the capacity of the humanitarian parts of the UN to facilitate negotiations to establish humanitarian arrangements.

Recently, it has been states that have played this intermediary role on a number of occasions. Rather than those traditionally associated with humanitarian action, such as Switzerland or Norway, it has been other states playing this role: the US and Saudi Arabia, for example, in relation to Sudan in 2023; and Qatar in relation to ceasefires for hostage releases in Gaza in 2023–24. These negotiations were not exclusively for humanitarian purposes, and they thus present an additional challenge: i.e. whether state intermediaries are willing to conduct negotiations that are exclusively related to humanitarian issues and not connected to political dimensions. The US and Saudi Arabia have attempted this in relation to Sudan in the Jeddah talks, establishing two separate strands of mediations: one focusing on humanitarian issues, and access in particular; and the second on a generalized ceasefire.<sup>119</sup> But this is rare.

There have been instances of other actors playing an intermediary role, like the Moro Islamic Liberation Front, a separatist movement in the Philippines, that facilitated a suspension of hostilities and ‘peace corridor’ between government armed forces and an Islamic State affiliate group, to allow civilians to leave the besieged city of Marawi.

<sup>118</sup> UNGA resolution 46/182, para 35(d).

<sup>119</sup> U.S. Department of State (2023), ‘Joint Statement on Commitments from Jeddah Talks Between Sudanese Armed Forces and Rapid Support Forces’, media note, 7 November 2023, <https://www.state.gov/joint-statement-on-commitments-from-jeddah-talks-between-sudanese-armed-forces-and-rapid-support-forces>.



In view of the centrality of intermediaries to the conclusion and safe implementation of humanitarian arrangements, consideration could be given to reviving the notion of ‘protecting powers’<sup>120</sup> for the specific purpose of facilitating agreement on the establishment and implementation of humanitarian arrangements. However, belligerents will need to agree to a state or other actor playing this role.

## 8.4 Good faith

The adoption and implementation of the arrangements requires good faith from belligerents. There must be a willingness to spare civilians and facilitate humanitarian action. The arrangements cannot work if a party *intends* to harm civilians or to prevent or instrumentalize humanitarian action and the arrangements themselves for military purposes. At times, it is precisely because parties are not complying with IHL that the arrangements are being considered.

It is not only parties to armed conflict that must act in good faith. Other actors, most notably third states, must avoid interference for extraneous political motives with what should be exclusively humanitarian arrangements and negotiations to establish them.

## 8.5 Final words

At times, *not* establishing a particular humanitarian arrangement has been perceived as a failure and an indication of the inhumanity or intransigence of belligerents. But this is not necessarily the case. Circumstances on the ground may have changed, making the proposed arrangement unnecessary, or what was called for was not actually the type of modality that was necessary and would have hindered instead of facilitated humanitarian response.

The kinds of humanitarian arrangement discussed in this paper can play an important role in giving effect to the protection to which civilians are entitled and to facilitating humanitarian operation. But careful consideration must be given as to whether attempts to establish particular arrangements should even be made, and as to which arrangement is actually required. This depends on the specific circumstances of each situation. A number of factors must be considered, including humanitarian needs; whether simpler alternatives for providing assistance exist; the willingness of the parties to the conflict to agree to a particular arrangement; the capacity of humanitarian or other actors to implement any arrangement safely; and, most importantly, whether the arrangement will actually have a protective effect. So, too, the relevant actors must consider the likelihood of any negative or unintended consequences.

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<sup>120</sup> IHL treaties envisage the possibility for parties to international armed conflict to appoint a ‘protecting power’: a neutral or other state not a party to the conflict, that has been accepted by the enemy party, to undertake specific functions, such as supervising the distribution of relief supplies and preventing their diversion; or supervising the implementation of protective measures for protected persons in situations of occupation and detention.

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Cover image: Ukrainian soldiers help an elderly woman to cross a destroyed bridge as she evacuates the city of Irpin, northwest of Kyiv, on 7 March 2022.

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