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"Protecting Civilians"

The vast majority of human beings killed and maimed in conflicts are not professional soldiers, but civilians.

Can the targeting of civilians be stopped? Who will protect civilians, and under what circumstances? Have traditional 'safe-havens' become targets for unscrupulous military tacticians? Can humanitarian agencies do the work of bringing relief without becoming targets themselves?

These are some of the questions explored in this edition of World Chronicle with guest Mark Bowden, the Chief of Policy Development and Studies Branch at the UN Office for the Coordination of Humanitarian Affairs (OCHA).

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These are some of the questions we'll be looking into today with Mark Bowden: he is the Chief of Policy at the UN's Office for the Coordination of Humanitarian Affairs – also known as OCHA. Welcome to the programme, Mark.

BOWDEN: Thank you.

JENKINS: I'd like to start off with two quick questions. What are the provisions in international law for the protection of civilians and are more civilians being killed in conflict today than in past years?

BOWDEN: Well, to start with, on the framework for protection, the UN has looked at the protection for civilians, more systematically, since 1999 and we take into account in setting a framework for protection of civilians both international and humanitarian law, refugee law and human rights law, and there are basically thirteen areas that we've defined as protection which cover everything from humanitarian access through to special measures of protection required for women and children including a number of other areas as well. In terms of whether more people are affected and targeted, it is our belief that many more people are now targeted than they have been before.

JENKINS: Just casting back in my mind, I mean, as recently as World War II we had the British carpet bombing in Dresden, we had the Americans dropping the atomic bomb on Nagasaki and Hiroshima, we had the Japanese raping Nanjing. And, if you go back in history, wasn't Genghis Khan puting everybody in his path to the sword?

BOWDEN: Yes, but I think what we now have is two different factors. First of all, conflict is more wide spread globally than it has been before. More wars are being fought at any one time than they were in the past. Secondly, the way in which wars are fought are very different. Civilians are more generally targeted. Wars are no longer fought across front-lines or localized, they are far more disseminated, far more spread out and as a result of that there are also new means of fighting wars, AK47's and other things like that which actually mean that it is possible to damage far more people.

JENKINS: We are joined in the studio, today, by Jim Wurst of the *Global Security Newswire*, which is a news service of the National Journal Group….and by Susannah Price of the BBC. Suzy..

PRICE: You mentioned that the kinds of war have changed, also the actors involved in wars have changed and now you have a lot of non-state actors, you have warlords, you have all kinds of groups that just can't be held accountable. With all these humanitarian laws, human rights laws, how can you impose those on these groups?

BOWDEN: Well I think there are two elements to that question. First of all, while there are a lot of new actors involved in warfare, I think it's important to recognize that many of these actors are used as proxies by their real parties to a conflict. So what we get now is far more frequently formal armies protecting key areas but actually using the informal forces to fight. And so the laws of accountability still apply to the parties to conflict. Secondly, when we are talking about militias and other groups more informal groups are on warfare. International and humanitarian law applies to just as much to them and I think that part of the important work that the United Nations has to do is to get across their responsibilities to them and that indeed the International Criminal Court would see it just as appropriate to prosecute non-state actors who commit war crimes or atrocities against civilians as they would against state-actors.

PRICE: And … OK, even if you just go with the state-actors, do you think they are really going to listen? They are in the middle of a war. Are they going to listen to somebody telling them what rules they should play by?

BOWDEN: Yes, I think that they do. I mean, we, first of all, are trying to take the debate on the protection of civilians through to armed forces wherever they are, so that we reinforce, as the ICRC does, consistently, what the rules of war are and the rules of engagement in warfare. And we see a number of our forces, for example the South African National Defence force actually has a code of conduct that recognizes the basic elements of the protection of civilians as a key element of it. So, there is work that is being done to make armies responsible. But also, we have through the Security Council the opportunity to raise major issues of concern related to protection of civilians, and just the fact that the issues are being raised in Security Council made people look far more at issues of their own compliance during conflict.

JENKINS: Jim…

WURST: Is that really the case, as you say, that you can bring this and you have brought this to the Security Council? You've got on the one side, the positive side, you have the Sierra Leone Special Court where people are being held accountable for many crimes, including those against civilians. But you've got eleven indictees. There were thirteen, two are dead, so you have eleven people. They are not – they are just the tip of the iceberg and again people most responsible. But then you get down to the lower level of chance of them ever being prosecuted are becoming increasingly limited. So are they, without any fear of prison at the end of the day, are you really making any headway in reigning in the activities of combatants while the war is going on?

BOWDEN: I think that you are. I think impunity is only one aspect of it. One of the important elements of protection of the civilians is actually ensuring better access to civilians on the ground. And although, I mean, we clearly have to address the culture of impunity, the practical measures that we may need to take are to ensure that we get better access to the civilians and can provide and afford protection to them in times of conflict. Now at the moment there are at least ten million people caught up in conflict who we can't get access to. What the Security Council could assist with is more systematically addressing access. We can also work specifically with governments, and this is really, you know what's been happening in Darfur, where the discussions have been, first and foremost, how to maintain and develop humanitarian access to the population which is their first line of defense, if I can put it that way, in terms of protection of civilians.

WURST: And now again, you are losing ground again, because as you say, you don't get access to civilians, there are ten million people in need that you can't get to. One of the reasons you can't get to is that you are being killed. UN workers, aid workers they are being tortured, killed, kidnapped. This is it, this is a step backwards. There is no immunity for aid workers. How can you talk about making progress and protecting civilians when you yourself are becoming more and more a target?

BOWDEN: Well, I think that it is a very serious concern for the humanitarian communities as to how we address this issue of attacks on aid workers. Again more work's being done in that area and the International

Criminal Court does see the killing of aid workers as a critical issue not because of the aid workers themselves but because quite often aid workers can be targeted as a means of denying assistance and protection and that does constitute a war crime. But we, also, are aware that the insecurity for aid workers may not be wide spread. For example, in many parts of Africa where there is conflict, I don't think that aid workers are specifically seen as targets. Afghanistan is a particular case where there is considerable concern about that.

JENKINS: And of course, Iraq…?

BOWDEN: And of course, Iraq. And, you know, frankly, one of the concerns of the humanitarian community, and I don't just mean the United Nations, I mean the broader humanitarian community is that there isn't adequate understanding of their neutrality, of their impartiality and buy into the role that they play and one of the ways we can better protect humanitarian workers is by sharpening that image and understanding and acceptance of the humanitarian role.

JENKINS: And not allowing parties to the conflict to actually use aid as a weapon. I mean one of the problems in Iraq has been that aid workers are saying is that they've become too identified with the coalition forces there, right?

BOWDEN: That's absolutely right. I think that one of the key elements of protection is to maintain the humanitarian… to sharpen the humanitarian identity. What I mean there is that we make sure that humanitarian assistance is seen to be neutral, impartial and independent and carried out in a civilian manner and where you have militaries who are using humanitarian assistance as part of 'hearts and minds' campaigns, whatever, it blurs the distinctions.

JENKINS: I want to get on to that in a bit in a moment but first I just want to nail a couple of things that you said that are interesting. You mention a figure I hadn't heard before ….ten million people who are caught in the situation. Where are these ten million?

BOWDEN: Well, across the world. But there are some twenty countries ….

JENKINS: Which are the most egregious examples?

BOWDEN: Well the ones where access [is] difficult: the DRC, the

Democratic Republic of the Congo, the issues of access are very difficult and large numbers are inaccessible ……

JENKINS: I think, if memory serves me right, we are talking about something like three million civilians caught as collateral damage, if we can use that horrible euphemism. Is that the right figure there?

BOWDEN: Yes it is. Three million at least, possibly up to five. There we have other conflict

JENKINS: Sudan would be another ….

BOWDEN: Sudan has been…. access is now improving. But when we compiled the figures Sudan was clearly another place where access to the population as a whole was very restricted and difficult both in the South and in the West. Angola, there have been difficulties more for reasons of physical obstructions, mines and others, mines being a particular problem in getting access to the population and Northern Uganda has also been a major issue where there are two million people displaced and access to them is extremely sporadic and rather difficult.

PRICE: And is this because it is too dangerous, and if so would more peacekeepers … is that the answer, do you think?

BOWDEN: I think security is one of the issues. It's by …there are a number of reasons why their access is difficult. In some cases it's pure physical obstruction including the continuous use of mines is a problem and in Colombia, for example, that's been an issue. In other cases, it is that there isn't secure access, there are attacks on the roads, it's a highly insecure environment and there we need to look at what measure can be taken to improve access.

JENKINS: If I understand you right, what you were saying before was, it doesn't sound to me that what you are really after is more peacekeepers to protect humanitarian workers, you were talking about getting, I think the phrase you used was "..parties to conflict.." to obey the rules, which sounds to me like an euphemism for, in some cases at least, for guerilla armies and insurgence. Am I right about that? And if so, how do you get those people to obey the rules of war when the nature of their warfare is precisely to disregard the rules?

BOWDEN: Well, all these things depend on the circumstances. There are some conflicts where some rebel groups, non-state parties, or

whatever you want to call them are actually interested in the peace process and one of the issues that we think is important is to recognize that you don't deserve a place at the peace table unless you have regard for the protection of civilians and respect for international humanitarian law.

JENKINS: Presumably the international courts are important in that regard, because basically what you are saying to these people is you may win and if you win you want peace at the end of the day. And if you want to be a part of that peace, you ought to be aware that there may be a court that's going to try you and hang you or jail you for a prolonged period of time**.**

BOWDEN: That's a very important element in it and particularly where we are dealing with some of the more difficult issues. So there is that as a lead. Also, some groups actually have a genuine interest in showing themselves to being legitimate.

JENKINS: Better than the people they are fighting against?

BOWDEN: Better than the people they are fighting against and actually want to engage in discussion ….

JENKINS: Do you have any concrete example?? Maybe Jim….

WURST: I was going to ask you that. Who's that?

BOWDEN: For example, one of the interesting things about the Nivasha negotiations on Southern Sudan is that one of the [signs] of earnest or good intent on both sides has been acceptance of humanitarian access and the respect for the international and humanitarian law. So, yes, there was a lot of work done with the Sudan People's Liberation army over respect for humanitarian principles so that is one example.

JENKINS: In other words, John Garang, the leader of the Sudanese guerilla army in the south wanted to let everybody know that he deserved to be considered as presidential material in the future.

BOWDEN: And there are other discussions that took place with Burundi rebel groups on their compliance with international humanitarian laws. So there are more than a couple of examples as to dealing with that.

JENKINS: Let me just say, this is **World Chronicle**, and we're talking about the protection of civilians in armed conflict with Mark Bowden of OCHA -- the UN Office for Coordination of Humanitarian Affairs.

I want to go back to something that Suzy raised

earlier, which is, the sort of example that you expect to be set by the Big Boys, if you like, the people who founded this organization, who created the wonderful ideals on which this organization is based. They have been, it seems to me, more and more interested in recent conflicts, in protecting their troops and it doesn't seem to me that it's any coincidence if we take the latest example in Iraq, if you add together all of the coalition casualties with the casualties of the Iraqi forces, security forces, we are talking of a number in the range of two thousand. If you talk about the number of civilian casualties in Iraq, we are talking about something like twenty-two thousand. So, another example might be when the Nato forces where bombing Kosovo, they didn't want to put their troops on the ground in harms way because they thought their publics wouldn't like it so they were bombing Kosovo from thirty thousand feet, and I don't care how good your precision guided bombs are, you're still going to have collateral damage there. Is there an element of hypocrisy of those nations on the Security Council saying, treat civilians nicely and yet when they go to war there is an undue number of civilian casualty?

BOWDEN: Yes, I think there is, clearly, a danger of that. What I would say is that as a result of the situation in Iraq and Afghanistan, we probably have a wider and more active debate on these issues than we've ever had before. I mean, I think people both senior army commanders but also the public at large have a greater understanding of international humanitarian law or the Geneva conventions and the fourth convention in particular than they might have had previously.

JENKINS: Well certainly Abu Ghraib helped in that sense. This prison scandal in Iraq -- people started talking about it….

BOWDEN: Yes, people did, and I think that it has got on to the issues of public consciousness. I think there is a real danger in the way that modern wars are fought and this goes back to the earlier question that we accept collateral damage as part of war fighting technique and that clearly is absolutely wrong and where we have doctrines of overwhelming force we should reflect on the fact that the major casualties are going to be civilians.

PRICE: In very practical terms, if you take Iraq then, what would you see your role as? Would it be talking to the Americans, presumably very difficult to contact the other groups? Would it be publicizing, for example,

the plight of civilians, there is a lot of talk, of course, that we don't even get to see or hear what's happened to so many civilians because of the security situation? How would you characterize your role in that kind of situation.

BOWDEN: Well the United Nations role -- I think the Secretary-General has more than once referred to the plight of the civilians in Iraq and called for caution and respect for the way in which the civilians are treated. So certainly I think it's the United Nations role to draw attention to those issues. In terms of discussions and negotiations, yes, we have during the period of the UN's involvement had very specific discussion about that. We have dialogue with the US Defense Department and Army about the means of conduct of warfare as of course to the International Committee of the Red Cross, who are the real guardians of the Geneva Convention. But we are trying to influence the way in which wars are fought to make sure that there is far better respect for civilians.

JENKINS: Jim…

WURST: I want to go back to something we touched on very briefly at the beginning, and that is that the question of availability of weapons and also the ease with which they are used. I mean, it is no coincidence the AK47 is so popular, it's easy to disassemble, it is easy to maintain, it's easy to use and cheap. And cheap depending on where you are. But now this brings in an imperative for humanitarian workers, which traditionally hasn't been your field and that's arms control. You know you got the guns in the field, you've got the guns still being manufactured both the "legitimate and illegitimate" manufacture of weapons particularly of small arms. How equipped are you, as humanitarian workers to try to deal with both the weapons that are in the field and prevention of getting more weapons into the field?

BOWDEN: Well, one of the reasons we are having a protection for civilians framework, which we have in the UN, is so that it's not just the humanitarians that take forward this issue, but it becomes a broader political concern to the United Nations as a whole and the most recent way in which we've been able to start redress is by work through the regional organizations like ECOWAS and others, because most arms flows are within regions, and where we can't have an impact is through regional organizations accepting the same agenda for the protection of civilians. In fact, ECOWAS has been very

actively engaged in taking forth this agenda. The African Union is another organization that actually is appointing a special representative for the protection of civilians, where these issues can get taken forward and the measures for arms control flows at least between states taken up more rigorously.

WURST: And from the manufacturing countries to the countries in conflict because they usually are not the same thing?

BOWDEN: Well again there… there are, I think, one of the successes in this area has been with the European Union, which also has been very interested in the whole agenda of protection of civilians and take it through the Security Council, and the Europeans arms embargos have a lot of force actually on the main producers of weapons. So there is hope that we can take these issues up more systematically.

PRICE: Assuming attempts to stop arms flow doesn't work, assuming attempts to either bring the warring parties, the warlords or whatever to some kind of protection of civilians doesn't work, what can you then do? This idea of safe havens discredited obviously in some areas, but then it came up again in Darfur, is that a potential way forward? Or what other suggestions, what other hope can you offer for civilians who find that those running the war simply aren't listening to you?

BOWDEN: Well, let me say, first of all, that the concept of safe haven is -- may have some particular specific value for a short period of time. But I don't think anybody sees that that as the longer term solution in protection of civilians.

JENKINS: I think you've gone further than that, haven't you? I seem to recall reading somewhere that you've said recently that the safe haven may have a counter productive effect and that it might expose civilians to even greater danger than they would have had if they would have been more dispersed. Could you explain that?

BOWDEN: There is always a risk that the way safe havens are applied means that you create, in a sense a security vacuum that if you are not there to defend it or really you have to have a commitment to maintaining that zone for a long period of time. It can also be that if there is no buy-in to the safe haven by all the parties to the conflict then you have a problem. And I think that's the ……

JENKINS: Can you give us an example?

BOWDEN: Well, in the Balkans the safe havens there were not accepted by any parties to the conflict and therefore they were just a way of concentrating focus for attack and that was problematic. So there is this sort of whole debate about the use of safe havens, I think that I would accept that they can be a useful temporary measure if there is acceptance of them across the board. Clearly, the most important thing is to get broader humanitarian access across the board and there we can negotiate access from both parties or all parties to the conflict. You also can ensure a number of important factors like maintaining the humanitarian civilian nature of refugee camps, IDP camps ….

JENKINS: IDP ….internal…

BOWDEN: Internally displaced…where there are large settlements of Internally Displaced Persons. I mean, for example, there are many cases where these camps will be either guarded or surrounded by the military which again can create major problems.

JENKINS: Well, in Sudan, you've got the foxes guarding the hen coop, haven't you?

BOWDEN: Yes, and that's an issue that has to be addressed. What, I think we try to do from the protection framework is to identify the problems. A lot of these issues require negotiation. That's the role of the SRSG and others ….the Special Representative of the Secretary-General, to do. But unless we actually have a clear identification of where the problems are we're never going to make any progress.

WURST: I'd like to go back to the International Criminal Court. Most of what we've been talking about today are cases that are going on in Africa. I've always assumed that it's not a coincidence that the prosecutors decision for the first prosecutions under the ICC ….under the Rome statute of the International Criminal Court is also going to be in Africa. Do you see, first of all, obviously there's going to be cases that will deal with violation of the rights and lives of civilians. Do you see your having … you as an office of the United Nations, having a role in assisting the prosecution of providing evidence to ensure that the message gets out, that you will be held accountable for what you do?

BOWDEN: Yes, I think that our role is more indirect than direct

because it would be wrong, I think, to issue, seek humanitarian workers as collectors and providers of evidence partly because they are not equipped to do that, and that the International Criminal Court needs proper evidentiary processes/witnesses and I'm sure people have been called…….

JENKINS: Do you want them to play that role? Isn't that exposing them to greater risk?

BOWDEN: No, I don't want to play the role as formal collectors of evidence. But clearly, if you are called, if you witness something and are then called as a witness, I mean, you should be willing and able to do that. I think that's a rather different issue. But what I see our role rather more as is drawing attention to the areas where cases should be brought in general terms. Let me give you an example. We, now, are seeing the use of sexual violence increasingly used as a means of warfare and I think it is important that the ICC actually takes up those sorts of cases to establish that there is no impunity for those cases. So the areas in which the International Criminal Court operates and where it chooses to take its cases are where, I think, we should be .. is the area in which we should be advocating rather than being used as an evidentiary.

JENKINS: Mark, we've got less than a minute left. A couple of quick questions. The Security Council didn't really take this up until 1999, why was that? And I believe you've drawn up a ten-point plan. What are the highlights, if you can give them in thirty seconds?

BOWDEN: We'll talk about the 1999 because of the increase in concern about the levels of conflict. Something we do face a lot. In terms of the ten-point plan we think there needs to be a lot more progress given to both, first of all, humanitarian access, security of humanitarian personnel, the refugees and displaced people, the special measures that are required for women and children, the problems that exist in relation to resourcing humanitarian crises because there are too many neglected emergencies where the international community has no…takes no interest at all. Those are the main….

JENKINS: Sounds like you have your plate full. Mark Bowden.. that's all the time we have, I'm afraid. Our guest today has been Mark BOWDEN of the UN Office for the Coordination of Humanitarian Affairs or OCHA. He was interviewed by Jim Wurst of the Global Security Newswire….and Susannah Price of the BBC.

I'm Tony Jenkins. Thank you for joining us. We invite you to be with us for the next edition of **World Chronicle**.

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