

Minimizing Civilian Harm in Military Operations

InterAction Submission to the High-Level Panel on Internal Displacement

8 May 2020

Introduction

Members of the InterAction working group on protection of civilians appreciate the opportunity to submit to the High-Level Panel our perspectives on the relationship between the conduct of military operations and internal displacement.¹

The number of people displaced internally due to conflict is now 45.7 million. While it is impossible to say what percentage of these displaced people had to leave their homes due to the conduct of military operations, recent experience in Iraq, Nigeria, Somalia, Syria, Yemen and other contexts suggests that how war is conducted by State and non-State conflict parties is a major factor in determining the level of internal displacement of civilians.

The thrust of our perspective is that government security forces, through appropriate conduct of their operations, must avoid causing internal displacement, help ensure that any displacement that does occur is safe, orderly and voluntary, ensure that people are secure and protected in displacement, and that any returns are voluntary and with a focus on maintaining the safety and dignity of the returnees.

UN Secretary-General Guterres in his report to the Security Council on the protection of civilians (2018), and in his speech in May 2019 marking the 70th anniversary of the Geneva Conventions, called for the creation of national policies on the protection of civilians by each UN Member State. We urge the High-Level Panel to encourage States to develop and implement national policies which emphasize minimizing harm to civilian populations and strengthening the conduct of state security forces, and that of other relevant security forces conducting military operations, with respect to internal displacement.

Protection risks due to armed conflict

Conflict creates hazards that force people to flee. The focus of this submission is on the specific conduct of militaries and other security forces conducting military operations that may cause and aggravate or, alternatively, limit civilian harm during conflict.

In the midst of conflict, the intensity of the hostilities and the loss of life and property may give people no choice but to seek safety and shelter away from the center of fighting. Especially with warfare conducted in densely populated urban areas, the damage to public services and vital infrastructure may make normal life untenable. Extensive damage to homes, hospitals, schools, water and electrical networks, food sources, and factories and other sources of employment has been part of military campaigns in Iraq, Syria, and Yemen in recent years. Some of the civilian harm observed in contemporary conflict can be characterized as deliberate and purposeful, while in other cases it indicates a lack of sufficient preparation and precaution to avoid causing direct and indirect harm on the part of military commands and other relevant security forces conducting military operations.

In addition to the destruction of the infrastructure and systems that make healthy life possible, other forms of mistreatment of civilians also drive their displacement. These include the use of civilians as human shields; sexual

¹ Members of the InterAction Working Group on Protection of Civilians contributing to this paper include: Airwars, CARE, Center for Civilians in Conflict, Mines Advisory Group International, Norwegian Refugee Council, Save the Children.

and gender-based violence perpetrated by military forces and other armed actors; loss and confiscation of identity documents; use of schools for military purposes; unlawful seizure of land and other civilian property; forced separations of family members; and arbitrary detention of relatives or fear of arbitrary detention and mistreatment.

Through early discussions with the head of the High-Level Panel secretariat, it has become clear that the Panel will be focusing on durable solutions to address protracted displacement. Yet, how militaries conduct their campaigns also has an immense impact on the possibility of return of internally displaced people. People will resist returning to areas contaminated by mines and explosive remnants of war. They will prefer to remain in locations where basic services are available rather than returning to areas where hospitals, clinics, schools, and cultural and religious property have been badly damaged or remain occupied by security forces. And why return at all if their land, housing, and other assets have been illegally appropriated and they have to start their lives from scratch? In addition, the Covid-19 pandemic is likely to have cumulative effects on internal displacement in armed conflict contexts given increased pressure to stay in proximity to these services rather than take the risk of returning to home areas.

Furthermore, if military misconduct initially drove them to displacement, it is essential that the risk of future repeated displacement be reduced through improvements to the conduct of these military forces in accordance with their legal obligations to respect and protect civilians, with appropriate means of accountability for the harm experienced.

Minimizing civilian harm in military operations

Under International Humanitarian Law (IHL), parties to armed conflicts must avoid causing displacement unless it is necessary to ensure the safety of the civilian population (e.g. given risks posed by ongoing military operations) or, in the case that displacement is as a matter of choice that this be undertaken in a safe and orderly manner.

Avoiding or limiting displacement due to conflict is critical to reducing the scope of the global internal displacement crisis. Military operations can and should be conducted in ways that will limit the extent of the displacement and its effects on civilian populations. In addition, given that displacement can be an essential strategy for people to keep themselves safe during conflict, military forces and other relevant security forces conducting military operations must avoid aggravating the risk that people experience when they flee. As civilians return their home areas, continuing efforts to maintain compliance with IHL and avoid civilian harm is crucial to support durable solutions.

Military operations that effectively avoid causing civilian harm, including displacement and risks occurring during displacement, depend on an institutional culture which respects civilian life and property, policies which explicitly state an intention to avoid causing civilian harm, planning and preparation of military operations that anticipate risks to civilians and adopts steps to reduce these risks when military operations are carried out.

The following are specific ways that militaries should minimize displacement, as well as protect people once civilians choose to flee as a means of self-protection, or displacement has become inevitable:

- Ensure effective targeting of hostile forces and avoid indiscriminate and excessive use of weaponry that causes direct and indirect civilian harm, including avoiding the use of wide area effect munitions in urban environments, and
- Develop tactical guidance to support protection of critical infrastructure, such as medical facilities, and to support adherence to specialized guidelines such as the *Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict*;

- Monitor the effect of military operations on the civilian population and adapt tactics in a timely manner as required to reduce the risk to civilians;
- If flight become inevitable, or if civilians express an interest in voluntarily moving away from areas of fighting, create safe and orderly means for them do so;
- Ensure the availability of secure sites that people are fleeing to, ensuring that these remain civilian in character, that armed groups are not able to infiltrate them, and that vulnerable groups within these sites are protected from harm;
- Avoid separating families and confiscating vital legal documents;
- Liaise continuously with humanitarian organizations during hostilities, while assuring the safe movement of people such as through safe exit routes, and by enabling critical emergency/medical operations; ensure that the displaced are able to access basic services with the support of civilian authorities and/or humanitarian organizations;
- Create conditions for safe return, establishing a secure environment and allowing appropriate agencies, both governmental and non-governmental, to begin the reconstruction process in cooperation with the displaced themselves;
- When civilians are harmed as a result of military operations, security forces should explicitly acknowledge the harm caused and seek to incorporate lessons into future planning and operations.

Specific recommendations to the High-Level Panel

1. In the course of the country-level assessments, assuming they take place, explore directly with internally displaced people, and/or formerly displaced people, the impact of military conduct on their experience of displacement;
2. Explicitly recognize in the work of the Panel, and in its final recommendations, the importance of military conduct as a necessary component to prevent internal displacement and ensure protection during displacement, and as a necessary pre-condition for durable solutions to displacement;
3. Actively promote the recommendation of the UN Secretary General that Member States of the United Nations develop national policies on protection of civilians as a means of reducing the direct and indirect impacts of violent conflict on civilians and the forced displacement that results. Member States taking steps to develop and adopt national policies on the protection of civilians should be acknowledged and reinforced by the Panel. In addition, Member States should share best practices and lessons learned on reducing harm to civilians stemming from internal displacement in their respective contexts.

References and Bibliography

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