

# PROTECTING CIVILIANS AS AN INTERNATIONAL POLICY AGENDA – A SNAPSHOT IN 2019

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Article 36 is a specialist non-profit organisation, focused on reducing harm from weapons.

## KEY MESSAGES

- × Protecting civilians is a broad moral imperative. It rests on the idea that armed conflict should remain between political entities - and so violence against people should be constrained.
- × Weapons, how they function and how and where they are used, are centrally implicated in civilian protection. Weapons issues already feature in global policy discussion on the protection of civilians.
- × The global policy agenda on the protection of civilians, represented by state discussion at the UN Security Council, is generally weighted towards narrow, physical ideas of protection and discussions of legal compliance – rather than broader themes of prevention, or longer-term harms.
- × This international policy conversation can also present the protection of civilians as a de-politicised matter. However, states are not making policy from a neutral position: many may feel an interest in maintaining maximum military freedom of action that a broad imperative to protect civilians can be seen as challenging.
- × Nevertheless, states still engage with a wide range of policy initiatives for the protection of civilians. These initiatives show that many countries recognise the potential of setting standards that can enhance civilian protection conceived of more broadly. This provides opportunities.

## KEY RECOMMENDATIONS

- × Protecting civilians should include attention to the health and wellbeing of people, social structures that ensure justice and dignity, and the environment. Its goal should be a wide one of conflict prevention and sustainable development, characterised by the highest standards of public health, evidence and transparency in analysis for policymaking, accountability in governance, and environmental protection.
- × Initiatives to make policy on weapons for the goal of protecting civilians should be based on analysing data about the harms caused by particular technologies and where they are used. This should include analysing harm to key 'social nodes' of particular significance to communities (like healthcare and education), and considering the long-term and downstream effects of violence. Policy frameworks that set specific standards for conduct in conflict, with the goal of preventing wider or longer term harms, should be developed on this basis. Such an approach could support more effective, productive and holistic initiatives to protect civilians than a narrower focus on legal compliance alone.



Sahala looks at the part of her family's house that was destroyed when their village was occupied by ISIS. Returning to Tulaband, Iraq, after explosives were cleared and schools were restored, the family now faces challenges to rebuilding their home and livelihood. © Emily Garthwaite/Article 36

## INTRODUCTION

This paper provides a snapshot of the 'protection of civilians' as a global policy agenda, using an analysis of states' contributions to the 2019 UN Security Council 'open debate' to examine the current state of discussion. It gives particular attention to the treatment of weapons in the debate, as the subject around which Article 36's work is organised. The purpose of this analysis is to consider entry points for future policymaking initiatives – particularly around weapons – that can contribute effectively to the broad goal of protecting civilians.

The main part of this paper starts with a broad overview of the parameters of the protection of civilians as a global policy area and as a field of practice. It then undertakes an analysis of the main features of how states discussed the protection of civilians in the 2019 open debate at the UN Security Council – which marked the twentieth anniversary of the inclusion of the protection of civilians on the Security Council's agenda. This gives a sense of some of the major current conceptualisations, themes and policy initiatives in states' discussions – as well as where current discussion may be limited or curtailed – and the current place of concerns related to weapons within in this. The paper concludes with some thoughts on the dynamics, challenges and opportunities in policymaking on weapons and protecting civilians, and considers possible ways forward.

Before proceeding with this analysis, the sections below first situate the 'protection of civilians' as an international policy agenda in relation to what might be considered the broader, moral goal of protecting civilians. These sections set out Article 36's orientation as an organisation to this subject. This purpose of this is to maintain perspective – and to ensure against equating the conventions and limits of the international policy conversation on the protection of civilians with the more fundamental purpose of civilian protection that it sits within.

### PROTECTING CIVILIANS AS A GOAL, AND A MORAL IMPERATIVE

The modern notion of protecting civilians as a morally important goal is rooted in the historical idea that armed conflict, as a form of political violence, takes place between the representatives of political entities – such as militaries, or armed groups – and so, ideally, should not involve, affect or target the people of a country or community more widely.<sup>1</sup> This philosophical orientation, in turn, provides a background for the concept of the civilian in international law.

The concept of protecting civilians is thus bound up with a political concept of armed conflict, and with notions of what constitutes good and bad behaviour on the part of political entities claiming the right to engage in such conflict. As such, it is a notion that is subject to various

tensions. For example, the best protection for civilians would be the prevention of conflict and the achievement of standards of health, wellbeing and other indicators of sustainable peace and development that states have set themselves in the Sustainable Development Goals. But, the protection of civilians during conflict is also recognised as important from a military-strategic perspective, for strengthening the legitimacy of conflict parties' actions – which may have very different purposes.

Over time, the designation of civilian status has often been contingent and political. The laws of war originated as a significantly Eurocentric enterprise, and whether individuals were considered sufficiently 'civilised' or 'innocent' of involvement to be protected as civilians by conflict parties has varied historically through different conflicts.<sup>2</sup> Thus, the concept of the 'civilian' has not had a consistent, stable meaning over time, and is not unambiguously defined or applied in current international humanitarian law (IHL).<sup>3</sup>

The principle of the distinction between civilians and combatants is frequently emphasised as being at the heart of IHL. However, the purpose of this body of law is not simply to protect civilians, but rather to regulate the conduct of hostilities, balancing the interests of civilians against the demands of militaries. That the law does not unambiguously reflect the interests of civilians is important to remember. It is also important to recognise that current IHL does not take account of all interests that civilians, as people, might have.

This means that the goal of protecting civilians cannot be served in full by implementing IHL alone. Rather, the goal of protecting civilians requires protective policies and actions taken both within IHL and outside it. Orienting to protecting civilians in this way allows a more dynamic, responsive and progressive approach to better protecting civilians than relying on reiterating the supposedly static terms of the law alone. This distinction in approach is significant – and a more dynamic approach is necessary – if protecting civilians is a moral imperative, and one towards which improvements can always be made.

## WEAPONS AND THE PROTECTION OF CIVILIANS

Article 36's institutional perspective is shaped by our focus on policy and law around weapons. This paper therefore pays particular attention to the place of weapons in debates on the protection of civilians. It looks at how consideration of weapons can further civilian protection, and how discussion on the protection of civilians might enable different approaches to policymaking on weapons.

Taking the perspective outlined above on protecting civilians as a goal, work towards this should include attention to the prevention and resolution of armed conflict, as well as addressing harms to civilians arising from behaviours within armed conflict. Weapons are implicated in three main specific ways in this:

Firstly, **the availability of weapons** in societies is a risk factor for violent conflict, with the supply of weapons to conflict parties also playing a part in sustaining armed conflict at the expense of political resolutions.

Secondly, weapons like all tools are **imperfect vehicles of human intent**. A weapon's effects may go beyond a user's intentions or deviate from their assumptions. Patterns of effects might become visible over time that are not apparent or foreseeable in individual situations. Or, it can become apparent that society has come normatively to accept a form or pattern of harm as inevitable when that acceptance could be challenged.<sup>4</sup>

Thirdly, and relatedly, the combination of a weapon's particular effects with where it is used – **the interaction between technology and context** – can generate particular patterns of harm. For example, the use of explosive weapons in 'populated areas', as well as causing direct casualties in greater numbers than elsewhere,<sup>5</sup> can also cause 'reverberating' effects for civilians due to the inter-dependence of urban infrastructure. Thus damage to electricity infrastructure, for example, may have knock-on effects for healthcare and water services.<sup>6</sup> This highlights the significance of looking at 'context' as a determinant for how harms may be experienced, exacerbated and transmitted.

For Article 36, protecting civilians as a broad moral imperative should include attention to the health and wellbeing of people, the social structures that ensure justice and dignity, and the environment. If preventing conflict and achieving sustainable development can provide the best protection for civilians, then this should be the core goal. In so far as this cannot be met, the burden of justification for that shortcoming should fall on the actors engaging in a specific conflict. Furthermore, protection as the prevention of conflict and the achievement of sustainable development should be characterised by living under the highest standards of public health, evidence and transparency in analysis for policymaking, accountability in governance and environmental protection.

A 'protection lens' should view situations of armed conflict for how they fall below these standards of protection, and for how the actors involved explain or justify these derogations. As such, it should provide a tool that can support an ongoing critical orientation, encouraging dynamic and progressive work towards a shared moral goal.

## AN OVERVIEW OF THE 'PROTECTION OF CIVILIANS' AS A GLOBAL POLICY AGENDA

### THE BREADTH OF CIVILIAN PROTECTION AS A CONCEPT IN POLICY AND PRACTICE

*Key points from this section:*

- × **As an area of policy and practice, the protection of civilians is an umbrella under which a diverse range of initiatives and activity exists.**
- × **There is a challenge of 'transmission' between the international policy conversation and the experience of civilians in conflict.**

As an international policy agenda, the 'protection of civilians' (PoC) provides a broad space for the discussion of diverse themes and areas of practice. It is closely tied to the legal domain of international humanitarian law, but it also has some bureaucratic support for its elaboration and implementation at the international level, and a range of different elements of content whose order of priority is contested.

Though it may rest on some central notion civilian safety, 'protection' is used to refer to a variety of policies, activities and objectives undertaken by different actors. It encompasses conflict parties taking steps to avoid civilian casualties; UN Security Council sanctions to prevent mass atrocities; governments providing for people's basic needs during conflict; humanitarian organisations supporting displaced people to access identity documentation; international conflict resolution and local peace building. As such, the 'protection of civilians' provides a heading under which a variety of visions and priorities for action are promoted.

#### UN RESOLUTION ORIGINS AND BROAD DEVELOPMENT

The protection of civilians has been an item on the UN Security Council's agenda since 1999, following momentum to respond to armed conflicts and genocide during the preceding decade. The first Security Council resolution on the protection of civilians<sup>7</sup> set out the concern that civilians were the majority of casualties in armed conflict and were being deliberately targeted, highlighting the particular harm suffered by women, children and displaced people, and the impact this would have on peace and development. The resolution highlighted concern at the "erosion in respect" for international humanitarian, human rights and refugee law, as well as the need to address the various root causes of conflict. The concept laid out in the resolution was strongly rooted in these international legal frameworks, which give different protections to civilians, but it also provided a wider agenda for action, and one that stretches beyond the situation of armed conflict.

In its operative paragraphs, the resolution condemned the deliberate targeting of civilians, urged compliance with the law, the importance of conflict prevention, the ending of impunity, access and safety for

humanitarian and UN personnel, and indicated the Council's willingness to take measures to respond to situations of armed conflict and give appropriate mandates to peacekeeping missions. It also mentioned the relevance of disarmament, demobilisation and reintegration measures, the destabilising effects of small arms and light weapons, and recalled the recent entry into force of the Anti-Personnel Mine Ban Convention and the Convention on Certain Conventional Weapons' Amended Protocol II as measures that would benefit civilian safety. Since this first resolution on PoC, therefore, weapons and 'disarmament' issues have featured on the agenda.

With 2019 marking twenty years since that resolution, the policy community took the opportunity to reflect on the meaning of and progress on the protection of civilians as an agenda.<sup>8</sup> It is generally considered that there has been significant development of rhetorical norms around the protection of civilian at the Security Council, elaborated through successive resolutions, activities in the UN Secretariat, and initiatives by states – but that there remains a gap between these developments and practical implementation to the benefit of civilians. Twenty years on, the UN Secretary-General,<sup>9</sup> and many countries speaking at the 2019 UN Security Council's annual 'open debate' on the protection of civilians<sup>10</sup> asserted that the picture of civilian harm and the challenges facing their protection remained remarkably – and dishearteningly – similar to when the first Security Council resolution was agreed.

Discussions at the UN Security Council initially involved a significant focus on peacekeeping and authorising peacekeeping missions' use of force. Protection of civilians is now an explicit component of many mission mandates. The Council then went on to elaborate further thematic and country-based resolutions and mechanisms (such as monitoring and reporting), including regarding women in armed conflict, children and armed conflict, sexual and gender based violence, small arms and light weapons, the protection of journalists, medical personnel and institutions, and food insecurity.

The concept of protection has been seen to widen somewhat during the course of these discussions, from a narrow focus on protection from physical violence, to a broader range of measures to limit the effects of conflict.<sup>11</sup> There has in turn been a competition for space amongst policy initiatives, and some concern has been generated about a fragmentation of the agenda and a possible neglect of the protection of certain civilians.<sup>12</sup> Some themes in the first Security Council resolution appear to have fallen more out of discussion and favour – for example, the concept of 'disarmament, demobilisation and reintegration'. Nevertheless, as elaborated in the next section, what are considered some of the core themes today – for example, the need for respect for the law and to spare civilians from the effects of conflict<sup>13</sup> – remain very similar to the core themes of the protection of civilians agenda when it was initiated.

#### PROTECTION OF CIVILIANS FOR OTHER COMMUNITIES OF PRACTICE

Outside of the particular international policy space of the UN Security Council, different communities of practice have different priorities and conceptualisations of the protection of civilians. For example, a significant subset of protection of civilians practitioner activity is strongly focused on advocating with conflict parties to improve their



military policies and procedures to better understand and mitigate the civilian harm they cause.<sup>14</sup> Others are engaged in humanitarian action, human rights advocacy, and peacekeeping, whilst states and conflict parties themselves will have other conceptualisations and priorities.<sup>15</sup>

To give some examples of the framings and emphasis of different policies and concepts of civilian protection in different practitioner communities, in the humanitarian sphere, the definition of protection set by the Inter-Agency Standing Committee in 2016 for example takes a heavily rights-based framing, focusing on protection as full respect for an individual's rights, as well as the obligations of authorities and conflict parties.<sup>16</sup> (This is not to say that all humanitarian actors use this as a working definition – of which there are many.<sup>17</sup>)

Within the UN secretariat, the Department for Peace Operations' policy on the protection of civilians in UN peacekeeping emphasises three "tiers" that add up to a wide concept and potential sphere of action. These tiers are: "protection through dialogue and engagement" on the political level to resolve conflicts and promote sustainable solutions; the "provision of physical protection," which also includes providing a protective or deterrent presence; and the "establishment of a protective environment" which aims at longer term conflict prevention.<sup>18</sup>

For NATO, on the other hand, which is frequently engaged in military operations in different countries, the protection of civilians involves a focus first on minimising and mitigating harm to civilians from its own operations; then protecting civilians from physical violence by others where appropriate, and contributing to the "establishment of a safe and secure environment" including through supporting humanitarian action and sharing practice with local forces.<sup>19</sup> Protecting, and being seen to protect civilians better, is an acknowledged mechanism by and for conflict parties to strengthen their legitimacy and achieve their goals in conflict.<sup>20</sup>

What the protection of civilians means to different actors will therefore depend on their role and priorities in relation to different conflict situations, from international policymaking, standard-setting and political action; through military activity; to humanitarian response. These different concepts of civilian protection will also leave different gaps through their various political and practical emphases.

## CURRENT ORIENTATIONS TO THE 'PROTECTION OF CIVILIANS' AS AN INTERNATIONAL POLICY AGENDA: THE 2019 UNSC OPEN DEBATE

To consider in more detail how countries currently see the protection of civilians as an international policy agenda, Article 36 reviewed states' contributions to the 2019 annual thematic debate on the protection of civilians at the UN Security Council.<sup>21</sup> We also held a small number of informal background conversations with state representatives working on disarmament issues, for some additional context.

*The key conclusions from this analysis are:*

- ✗ **The protection of civilians discourse amongst states appears generally weighted towards narrower, physical framings of protection, and legal compliance. Weapons issues are generally considered in terms of direct, physical protection.**
- ✗ **Nevertheless, at this international political level, the concept of civilian protection contains many issues and possible directions for states' work. A wide range of policy initiatives can be included and taken under it. Though compliance with international humanitarian law may be one of the central focuses, the normative and practical initiatives that are taken in this area by states stretch far beyond this, and illustrate that there is room for initiatives using a wider and more holistic concept of civilian protection.**

It is worth noting before the analysis below that though debate at the UN Security Council on the protection of civilians may be framed by many states and others involved in the policy space as something of a neutral, technical issue for countries to solve through making policy interventions, policy in this area is not being made from a neutral position. Many states discussing PoC are involved in armed conflicts, or are variously affected by others' interventions in different conflict situations, for example. Many states may also see an interest in maintaining as much freedom of action militarily as possible, which a broad concept of protecting civilians can be seen as challenging.

These stakes that states have in the PoC discussion were generally not explicitly raised or addressed in the 2019 debate – and where they did emerge, they could seem incongruous with the otherwise technocratic tone of discussion. Several countries' statements to the debate for example did concentrate primarily on the armed conflicts they were involved in or affected by, and on their political positions in relation to other states – but this 'politicisation' was generally unusual. Aspects of geopolitics and regional or global power dynamics were also clearly evident in many other interventions, including for example in the

different ways countries spoke about sovereignty: some presented this as representing the responsibilities of states towards their citizens; others raised the concept to signal that there should be non-intervention from others (points that also signal the related but separate policy area of the 'responsibility to protect'). However, the different interests and responsibilities states might have around causing or responding to threats to civilians were generally not addressed explicitly.

## A NOTE ON THE INFORMATION AND ASSUMPTIONS USED

The UN Security Council open debate, which all states are able to join, is held following the release of the UN Secretary-General (UNSG)'s report on the protection of civilians each year. Article 36 analysed countries' statements<sup>22</sup> to the debate held in May 2019 under the presidency of Indonesia.<sup>23</sup> We assessed that these could provide some indications of the key themes, agendas, actors and activities that states currently consider the concept of 'protection of civilians' to cover, as well as countries' main priorities for international policy action and engagement. The analysis involved recording, categorising and plotting in a matrix the subjects raised by states as problems, issues or key aspects of the protection of civilians, as well as the activities, initiatives or solutions they highlighted.

Given that states have limited time to make their statements within the debate's format, that many would also feel obliged to concentrate on or address the themes and proposals set out in the concept note for the debate issued by the UNSC President,<sup>24</sup> and that only one debate was analysed, this analysis provides a snapshot rather than a comprehensive and detailed review of states' positions. Furthermore, protection of civilians debates at the UN Security Council are just one, specific international forum in which states might articulate their positions and goals on this subject – though it is also their primary opportunity to do so.

Some key themes Article 36 looked to analyse included: how weapons issues feature in current state discourse on the protection of civilians; how wide or narrow a concept of protection different states were working with; and how closely states' statements and proposals matched themes in the UN Secretary-General's report on the protection of civilians (for some indication of the traction of the Secretary-General's recommendations, as opposed to proposals that might originate from individual states or other sources). Concentrating on the protection of civilians as an international policy agenda, we were not seeking to assess national-level policies and operational practices with this exercise.

We also sought to contextualise this analysis somewhat through informal background conversations with a small number of state representatives. We spoke to representatives of countries that are nationally affected by civilian protection issues and/or take a humanitarian orientation to weapons policy, to get an idea of how some states currently approach the linkages between weapons and civilian protection in international forums. These conversations were held on the margins of the Convention on Conventional Weapons Meeting of High Contracting Parties in November 2019, with diplomats covering this forum.

## THE PATTERN OF STATES' PARTICIPATION AND REPRESENTATION IN THE DEBATE

An overview of the countries that gave interventions or were represented in the debate provides some important context to the analysis that follows. Although a fuller analysis would be beneficial, the assessment below suggests that high-income and 'western' states may be over-represented in the discussions, likely influencing what is prioritised and how the concept of protection of civilians has evolved in recent years. A wider analysis to place this pattern in the historical context of the development of international law, as well as post-colonial dynamics of sovereignty and intervention, could also be illuminating.

*Key points from this section:*

- × **Representation through statements to the debate was weaker for lower income and African countries.**
- × **High-income and Western European and Others group countries were the most strongly represented.**
- × **Group statements included many states that did not speak individually - but group statements also generally provide a significantly weaker form of representation than national interventions.**

Eighty countries (of 195 UN member states and observers) joined the May 2019 UNSC debate on the protection of civilians, of which seventy-eight spoke.

Of the states that joined the debate, 7 (9%) were low-income countries, 17 (21%) were lower middle-income countries, 21 (26%) were upper-middle income countries, and 35 (44%) were high-income countries.<sup>25</sup> This represented 14% of all low-income countries participating, 49% of all lower-middle income countries, 40% of upper-middle income countries, and 59% of all high-income countries. Overall, 41% of all UN member states and observers participated in the debate: low-income countries were therefore underrepresented in presence at the debate, and high-income countries somewhat overrepresented.

Regarding the regional profile of the states joining the debate (using UN General Assembly regional groupings<sup>26</sup>), 9 (11%) were from the African group, 12 (15%) from the Eastern European group, 14 (18%) from the Latin American and Caribbean Group (GRULAC), 21 (26%) from the Western European and Others group (WEOG), and 22 (28%) from the Asia-Pacific group. This represented 17% of African countries, 42% of Latin American/Caribbean countries, 42% of Asia-Pacific countries, 52% of Eastern European countries and 72% of WEOG countries. African countries were therefore rather underrepresented in participation, and WEOG countries overrepresented.

These patterns of representation – the overrepresentation of high income and WEOG countries, and underrepresentation of low-income countries – were similar for the past four years of protection of civilians debates based on data from UN debate records (2016-19).

Five representatives spoke at the 2019 debate for groups of states, rather than solely in their national capacity. These were: South Africa, for African members of the Security Council<sup>27</sup>; Switzerland, for the Group of Friends on the protection of civilians<sup>28</sup>; Venezuela, for the Non-Aligned Movement (NAM)<sup>29</sup>; Vietnam, for the Association of South East Asian Nations (ASEAN)<sup>30</sup>; and Norway, for the Nordic countries.<sup>31</sup> In addition, observer representatives of the European Union,<sup>32</sup> the African Union,<sup>33</sup> Arab League<sup>34</sup> and NATO<sup>35</sup> delivered statements on behalf of these organisations and alliances.

Through these group statements, 104 countries that did not speak individually in the debate were represented in some form. Of this 104, some 39 were low-income countries, 16 were lower-middle income countries, 27 were upper-middle income countries, and 22 were high-income countries. This means that 80% of low-income countries did not independently join the debate but were represented in some way through a group statement: 46% of lower-middle income countries, 52% of upper-middle income countries, and 37% of high-income countries were also only represented in this way. Regionally, 87% of African group countries, 58% of Latin American/Caribbean countries, 48% of East European Countries, 40% of Asia-Pacific countries and 21% of WEOG countries did not join the debate but fell under a group statement.

Overall, 168 countries (including those attending) could be considered represented through one or more statements given to the debate by groups that they were part of. Only fourteen countries that spoke had no alignment with any of the group statements, and just thirteen UN member states neither joined the debate nor fell under any group statement.

The significance of different group statements for the countries covered by them is likely to be variable. For example, group statements may reflect the full detail of national positions to a greater or lesser extent, and countries may be involved in their production and approval to a greater or lesser degree. This could not be assessed from the data examined for this paper. Nevertheless, group statements are generally a significantly lesser form of representation than an individual presentation of a state's national position. They can also serve to constrain discourse, by representing a lowest common denominator that can be agreed by groupings that might otherwise contain more progressive members or general orientations.

The overall picture of contribution to the debate, then, is one of weaker representation from lower-income countries and certain regions (particularly Africa), and strongest representation from high-income and 'western' group countries.

## FROM THE NARROW TO THE WIDE: WHAT IS PART OF THE PROTECTION OF CIVILIANS AGENDA

*Key points from this section:*

- × **Countries' conceptualisations of the civilian protection agenda range from a focus on the immediate physical impacts of hostilities and military practice, through the recognition of the relevance of a range of socioeconomic rights and needs, to conflict prevention and building equitable and resilient societies.**
- × **The observance of international humanitarian law is a major feature of the discourse, with some presenting this as the main goal, and others framing it as one part of the protection of civilians. Many of the issues raised by states would not straightforwardly be overcome by improved compliance with the law (and in any case, the law can have ambiguities). In practice, states undertake a range of policy initiatives to try and improve civilian protection.**

During the debate, states raised<sup>36</sup> a variety of themes and issues, with several common threads – many of which echoed the UNSG's 2019 report<sup>37</sup> or responded to the chair's concept note. The content of countries' statements might be conceptualised as fanning out from a narrow concept of civilian protection focused on physical harm to individuals and places during armed conflict; through consideration of the different rights and needs of people affected by armed conflict, both during and after hostilities; to a range of agendas from sustainable development to humanitarian action that can be considered as contributing to protection before, during and after conflict.

Most states at the 2019 UN Security Council debate appeared to be working primarily with a relatively narrow and direct concept of the protection of civilians, focused mainly on physical harm to people and the buildings/infrastructure/services they rely on most critically (including medical and humanitarian aid), and highlighting death, injury, and destruction during armed conflict. This could be seen as a concept of protection focused on the first order rights and needs of civilians during times of violence, and military practice. Many highlighted the need for conflict parties to do more to spare civilians, a key point in the UNSG's report.

For many countries, this focus on physical harm was closely linked to the principles of international humanitarian law (IHL), and the need for conflict parties to abide by this body of law. Of the 82 statements made to the debate by individual countries or group representatives (including observers from the AU, EU, Arab League and NATO), 70 mentioned IHL. By comparison, fewer than fifty statements mentioned human rights law, and only five countries mentioned refugee law – the two other bodies of international law originally seen as underpinning or constituting the protection of civilians as a concept.

To unpack this slightly further, there was a distinction in the discussion between countries who ordered their presentation of concepts such that IHL compliance was one means by which the end goal of civilian protection could be achieved – and on the other hand statements where IHL compliance was the desired end, from which the protection of civilians would be a by-product. In the latter formulation, the protection of civilians is subsumed into IHL. However, to many in this policy space the protection of civilians is a wider and deeper imperative than is served by the notion of IHL compliance. It has other aspects and a more fundamental status than balancing military actions against civilian harm in particular operations – and it stretches out beyond the legally exceptional situation of armed conflict itself, both in the actions that should be taken and in their implications.

Accountability, or ending impunity for crimes in armed conflict or other atrocities, was highlighted in over 50 country and group statements. This can also be seen as a focus on the narrower or more critical end of the concept of protection of civilians – of responding to and preventing future instances of the worst and most flagrant harms – and a reflection of a broad endorsement of a legalistic element being at least one part of the protection of civilians. Furthermore, around a quarter of statements mentioned the deliberate targeting of civilians as a specific issue of concern, with others mentioning other illegal tactics such as starvation. These were also key themes in the UNSG's report.

Interestingly for considering how different states situate the protection of civilians in relation to IHL observance, many countries that mentioned the impact of conflict on schools and hospitals did so at the same time as condemning legal violations – though attacks affecting schools and hospitals may not necessarily violate IHL. Many of the issues of physical protection and harm raised by statements to the debate cannot necessarily be shown to be straightforwardly the product of legal violations, nor would observance of existing law necessarily be sufficient to resolve or prevent them. For example, five statements mentioned impacts on the environment from conflict as a serious issue for the protection of civilians (conflict and the environment was highlighted as a theme in the UNSG's report). The legal framework in this area however is weak. Around forty statements also raised displacement as a concerning impact of conflict – but displacement from conflict is not only produced by violations of the law. Perhaps as a result, a wide variety of initiatives for improving civilian protection are undertaken and proposed by states, many of which were mentioned during the debate. These are discussed further below.

Enhancing respect for the law (both IHL and international human rights law) and accountability were two major themes of the UNSG's report on the protection of civilians in 2019. These were presented as core starting points for improved protection – perhaps reflecting, or perhaps informing, state focus and concern in this area. Countries' attention to this area also reflects a broader narrative present in contemporary international debate (and since the protection of civilians became a Security Council agenda item), which asserts that current laws and norms are increasingly under threat from non-compliance and impunity, based on the actions of some countries and non-state actors.

Also in the area of physical protection, a large number of statements mentioned particular groups considered vulnerable to harm, including those for which there are related Security Council agendas. Over half mentioned women (in which context sexual and gender based violence was often raised), slightly less than half children, with eight also raising the particular vulnerabilities of persons with disabilities and displaced people during conflict (again, themes highlighted in the UNSG's report). At least one state on the other hand highlighted the risks to the overall coherence of the protection of civilians agenda of concentrating on the many different sub-categories of civilians, something also raised in the UNSG's report.

Much of the physical protection discourse focused on the actions of conflict parties and the harm they can cause or prevent through their actions. Peacekeeping and peace support operations were also seen as having a role here, including in the protective activities these missions can undertake – protection of civilians mandates for peacekeeping operations was a key theme in the chair's concept note – and in the standards peacekeepers should abide by so as not to cause harm. Around a third of statements highlighted the importance of training in this context.

Building on this, several states also reflected on forms of protection other than those provided by the proactive or restraint-related actions of armed actors, and stretching out from battle scenarios to more protracted situations of violence and post-conflict scenarios. These ranged from the involvement of communities in their own protection (a focus and priority of the chair's concept note), to 'unarmed protection',<sup>38</sup> to the involvement of peacekeepers in wider socioeconomic functions. Peacekeeping or peace operations and related missions in general were mentioned in over 50 statements, making these still one of the central common themes for states in the protection of civilians discussion.

Moving out slightly from first order physical harms, many states also raised broader (socio-economic) rights, concepts and needs both during armed conflict and afterwards as part of their protection of civilians statements. These slightly broader aspects ranged from the concepts of dignity and discrimination, to the issue of missing persons and the need for families to know the fate of their loved ones, to children's right to education, the protection of healthcare, cultural heritage, and the need to assist victims, and to socially and economically rebuild communities affected by conflict following broader social destruction. These are all more future-facing ideas of what should be included in the goals and concept of protection of civilians, and include impacts, rights and needs that stretch beyond the immediate situation of conflict to effects for people and societies many years later. Some are already included to some extent in rules around the conduct of hostilities, for example in principles around the protection of different types of 'civilian objects'.

At this slightly wider level of conceptualisation of the components of the protection of civilians, women's empowerment was highlighted by several states. This included the need for women's participation in peace processes, which was raised in around a third of statements. This also links to a broader conceptualisation of civilian protection through sustainable peace (given that women's participation in peace processes has been shown to make these agreements more likely to be durable<sup>39</sup>). Psychological or psychosocial effects were generally



included in wider conceptualisations of the protection of civilians – though they may also be seen as more of a first order harm. The role of peacekeeping in broader social and rights functions, as opposed to just direct protection, was also raised in many states’ statements.

Where they presented a broader idea of what comes under the protection of civilians, many states explicitly linked it to a range of conceptual, policy and legal frameworks beyond IHL and military activities, including humanitarian action, human rights and sustainable development or the Sustainable Development Goals/Agenda 2030.<sup>40</sup> Some stated that the protection of civilians was a ‘human security’ issue, linking it to this broader (though currently less fashionable) framing of what should be prioritised in policymaking.

At the widest level, several countries also emphasised conflict prevention (another priority of the chair’s concept note), peace building, and broader components of building peaceful and resilient societies as part of the protection of civilians discussion, including inclusiveness, good governance, and the rule of law. These conceptualisations of civilian protection took the broadest view, with a comprehensive and holistic consideration of what it means to protect civilians from conflict and violence.

In summary, what was included in state’s statements to the debate ranged from quite narrow framings relating to civilians’ physical safety and military practice, to much broader ideas of (human) security and the organisation of society, and featuring actors ranging from conflict parties to states, to internationally mandated peacekeeping operations, to the broader international community on a normative level.

In general, it appeared to be ‘western’ higher-income countries that concentrated primarily (though not necessarily exclusively) on narrower framings of physical harm and military practice; countries more involved in peace operations (unsurprisingly) gave this aspect of the protection of civilians the most attention; and non-‘western’ countries gave more attention to broader conceptualisations of protection, both in terms of considering prevention and longer-term effects, and in recognising conflict as embedded within and dependent upon other social and economic dynamics.

## THE PLACE OF WEAPONS ISSUES

*Key points from this section:*

- × **Over half of statements to the debate raised weapons or ‘disarmament’ in some way – with the most prominent theme being harm from the use of explosive weapons in populated areas. Setting this agenda aside, engagement with the role of weapons, their use or their trade in the protection of civilians (narrowly or more broadly conceived) was relatively low.**
- × **One reason for this will be the existence of separate forums for ‘disarmament’ issues in the international system, fostering a partitioning off of subjects despite their relevance.**

Just over half the national and country group statements given to the 2019 debate mentioned weapons or ‘disarmament’ issues or policy in some way, with 42 doing so.

One major theme or approach in these interventions was to highlight the harm to civilians caused by different weapons or patterns of weapon use. The issues raised in this way were the use of explosive weapons in populated areas (20 statements), chemical weapons (three statements), and the danger posed to civilians by explosive remnants of war, landmines and improvised explosive devices – as well as the mitigation of these, through clearance and risk education for example (ten statements). One country also raised the long-term impacts of weapons on recovery in general. A further few statements mentioned armed drones and future weapons technologies (lethal autonomous weapons systems). Eight statements condemned indiscriminate weapons use in general, or by specific countries. One raised the need for countries to monitor the impacts of military operations and review their weapons choices as a result, in order to better protect civilians.

Another main theme area was arms transfers and the spread of small arms and light weapons, with around ten statements mentioning this issue. This included six countries highlighting the Arms Trade Treaty (ATT) and calling on others to join it.

Four statements explicitly stated that disarmament was a part of the protection of civilians, with five also mentioning the UNSG’s Agenda for Disarmament.<sup>41</sup> The opportunity costs of military expenditure and the disarmament and development agenda were also noted.

Various statements highlighted the relevance of weapons-related treaties: further to the ATT, statements mentioned the Anti-Personnel Mine Ban Treaty, the Convention on Cluster Munitions, the Convention on Certain Conventional Weapons, the Nuclear Non-Proliferation Treaty and the Treaty on the Prohibition of Nuclear Weapons. A couple of countries noted nuclear weapons as a threat to people’s safety as well as international peace and security. Others mentioned particular incidents of the use of specific weapons by certain countries, either against their country or in other contexts. The UNSG’s report itself highlights the issue of explosive weapons in populated areas, and the Arms Trade Treaty.

Generally, weapons issues were framed at the narrower end of protection of civilians conceptualisations in the debate, concentrating on immediate physical protection issues and military conduct causing civilian harm (notably, this contrasts with orientations in other discussions under the rubric of disarmament and development<sup>42</sup>). Though, when discussing the use of explosive weapons in populated areas, and explosive weapons that leave a legacy post-war, many countries also referred to some of the wider and longer-term concerns and impacts on affected societies. Some framings and statements also took a wider view of the relationship between weapons and civilian protection – for example in proposing a role for decreasing the availability of arms in conflict prevention, and the reduction of violence in societies in general.

The fact that a majority of countries raised weapons and disarmament issues in the protection of civilians debate might suggest that a connection between these themes is reasonably well embedded in the international discourse. However, if attention to the issue of the use of explosive weapons in populated areas is set aside (an agenda for action that has been developed over the past decade in this forum and elsewhere with considerable and concerted attention from UNOCHA, the ICRC and civil society), engagement with the connection between weapons, disarmament and civilian protection appears much smaller and more patchy amongst states.

This matches Article 36's broader experience within the policy community: though there may be conceptual and practical links to be made between weapons policy and protection of civilians issues – and on the other hand, humanitarian imperatives often drive new weapons policy initiatives – weapons issues or a weapons 'lens' are generally not prominent in the conceptualisation of protection of civilians held by the wider civilian protection policy community.

One of the reasons for this within state discourse will be how issues are divided up and addressed for the sake of manageable conceptual organisation and action within the international system, leading to the commonly commented on 'silo-ing' of issues. This division may originate in reasons of practical management, but can also mean that relevant information and perspectives are not included, and policymaking does not give a holistic response. There may also be resistance (which may have political dimensions) to talking about issues that are seen as primarily belonging elsewhere, or that might challenge dominant framings or responses within a given forum.

Furthermore, different personnel will likely cover different issue areas for states and others (for example with personnel in Geneva generally dealing with 'disarmament' and New York with 'protection of civilians'). The ability to bridge knowledge and collaborate will be variable depending on the motivations of countries and organisations – and in any case, ultimately limited, for some of the same reasons that different fields and issue areas exist in the first place.

Looking at states' statements to the 2019 protection of civilians debate, and contextualising this with the background conversations mentioned above, it is clear that some countries with a more humanitarian orientation to weapons policy attempt to bring this into the civilian protection discourse – and on the other side, try to bring protection of civilians concerns into disarmament forums. States' general national priorities and identities will inform this. With the range of issues and concepts that now fall under the protection of civilians as a policy agenda, it may also be of little surprise that weapons issues do not feature prominently, amongst many other causes, impacts, concerns and agendas in civilian protection.

Another reason however may be the dominant orientation of many states to weapons technologies. In the frequently evoked themes of IHL compliance and accountability for example, weapons appear as essentially neutral tools that simply effectuate the intent of military actors. Effects that may be beyond the immediate considered intentions of users, and wider or longer-term impacts of the interaction between technologies and the context where they are used are not necessarily considered in this orientation. If weapons and their

availability are not considered a potential humanitarian and protection issue at this conceptual level, particularly by the countries making the largest contribution to the debate, they will not feature substantially or as a consideration from which much policy will flow in the discourse.

As is stands, there may be instances of illegal, indiscriminate use, which arise from bad intent on the part of users, and certain weapons are already identified as illegal (though how such determinations were arrived at are now treated very much as closed questions). But the notion that weapons that are not illegal, and are not being used illegally, may nonetheless be causing harm is very problematic for many states in this context – even though most states would subscribe to the notion that, in general, they would like to see 'collateral damage' decreased. Why this is a problematic notion is likely tied not only to limitations of perspective regarding patterns of harm, but also to concerns about what might flow from recognising these. Situating problems in relation to specific technologies also tends to suggest ways in which problems might be addressed that may seem undesirable, such as regulating those technologies or their use.

## THE RANGE OF INITIATIVES UNDER THE PROTECTION OF CIVILIANS AGENDA

*Key points from this section:*

- × **Many of the initiatives and actions highlighted by states reflected themes in the UNSG's report, though some additional topics were also raised.**
- × **States have taken and continue to take a wide range of initiatives within and outside the Security Council, including making political, standard-setting and legal advances, to support the protection of civilians on the normative and practical levels.**
- × **Standard-setting initiatives are often organised around particular 'social nodes' (e.g. education/schools or healthcare/hospitals) or the protection of particular 'vulnerable groups' (e.g. children).**

As noted above, countries highlighted a wide range of actions, solutions and initiatives to match the conceptualisation and issues of civilian protection they presented – including actions within the Security Council, different initiatives for political standards and guidelines, and emphasising the importance of various treaties and bodies of law.

Around a third of statements explicitly welcomed the UNSG's report or its recommendations. Most of the initiatives or actions raised by states could be linked to themes and recommendations raised in the UNSG report in some way – but whether countries were echoing the UNSG's assessments or vice versa, or reflecting twenty years of discourse in general, cannot be easily determined.

As highlighted previously, observance of the law governing armed conflict, particularly IHL, and accountability for crimes and violations, was a dominant theme in the interventions of states, as well as a key recommendation area in the UNSG's report for the Security Council and UN member states.

Beyond this, several states expressed their support for an initiative to develop a political declaration on protecting civilians from the use of explosive weapons in populated areas. This issue has been highlighted in the UNSG's report for a number of years and has gained momentum as a result of action by states, international organisations and civil society. Negotiations towards a political declaration are currently ongoing, at the time of writing, led by Ireland.<sup>43</sup> Countries highlighted specific initiatives and meetings they were taking in this area to advance discussion.

Other themes the UNSG recommended the Security Council focus on included work on consistent protection mandates for peacekeeping, promoting humanitarian access and the protection of specific groups, and implementing 'targeted measures' (such as sanctions and embargoes). All of these themes were referenced in states' interventions, though not necessarily attached to particular actions or initiatives. At the national level, the UNSG had recommended developing national policy frameworks on the protection of civilians, engaging with non-state actors to enhance their compliance, and enhancing compliance through national processes of advocacy and accountability. Of these, national policies on the protection of civilians or the need for them were mentioned by nine states.

Some countries mentioned initiatives specific to the work of the Security Council aimed at advancing the protection of civilians agenda. For example, the initiative by France and Mexico to stop the exercise of veto powers in the event of mass atrocities was mentioned by a few states.

Throughout the debate, a wide range of different political standards and guidelines, UN departments, mechanisms and frameworks, and some specific treaties were highlighted in relation to supporting a response to different themes of concern or to different areas of activity, outside of the Security Council's work. Amongst these, a significant number are organised around protecting particular 'social nodes' that have a key function in community resilience during conflict (such as education/schools, or healthcare/hospitals). Others focus on particular 'vulnerable groups' such as children or displaced people and action to strengthen their protection. This may be significant in considering opportunities for future policymaking initiatives: focusing on social groups who have specific rights and needs, or sites of social organisation that have particular importance to community organisation and functioning or serve as particular vectors for the transmission of harms, can provide a focus for interventions that can be most significant and beneficial.

The standards, mechanisms and frameworks mentioned in the debate included, for example, in the area of peacekeeping the Kigali Principles, the Action for Peacekeeping Initiative, the Declaration of Shared Commitments on UN Peacekeeping Operations and various guidelines and policies from the UN Department of Peace Operations. In the area of the protection of children and education, the Safe Schools

Declaration, the Vancouver Principles and Paris Principles were mentioned. The Global Compact on Refugees, the French political declaration on protecting humanitarian and medical personnel, and calls to action on sexual and gender-based violence were also referenced. The ICC and initiatives around it such as widening the statute to include starvation as a tactic of war was also raised. Disarmament and weapons-related treaties were also highlighted, as mentioned above. The Sustainable Development Goals were also referenced by states.

What this non-exhaustive list of the range and plethora of initiatives raised at the protection of civilians debate shows, overall, is that the concept contains, politically, a diversity of issues and possible directions for states' work; that a wide range of policy initiatives can be included and taken under it, inside or outside the Security Council, but built conceptually within the protection of civilians agenda area; and that though IHL compliance may be one of the central focuses of state discourse around the protection of civilians, the normative and practical initiatives that are taken in this area clearly stretch beyond this, to address issues of protection that would not be fully resolved by 'strict adherence' to this body of law – which in any case is subject to ambiguity, interpretation, and the contingencies of case-by-case balancing.

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## CONCLUSIONS: PROTECTING CIVILIANS THROUGH INTERNATIONAL POLICY MAKING

*Key points from this section:*

- × **Discussion in disarmament forums is often pulled towards prioritising state security and a narrow conceptualisation of legal compliance in the use of weapons. This can limit work to strengthen civilian protection.**
- × **Yet, the international policy discourse provides room for initiatives that can clarify expectations and standards for behaviour in order to strengthen the protection of civilians in practice.**
- × **Protecting civilians should be emphasised as a broadly conceived imperative that stands above the framework of current law.**
- × **Analysing patterns of harm, including wider and longer-term harms, and seeking entry points to prevent these harms should be a process of continuous discussion within the international community.**

Preventing civilian harm necessarily implies, in part, constraining the actions of those engaged in armed conflict. Many states discussing

international policy on the protection of civilians are engaged in armed conflicts, or perceive an interest in maintaining maximum freedom of action for their militaries, creating an inevitable tension for law- and policymaking that has protecting civilians as its goal. International humanitarian law balances these humanitarian and military imperatives, and as such it is not straightforwardly on the side of civilian protection.

In this context, asserting the adequacy of ‘compliance’ with existing international humanitarian law as a response to civilian harm, and ‘non-compliance’ on the part of ‘bad actors’ as the only possible problem, serves as a tool (for some) to dismiss the need to examine new measures that could strengthen civilian protection further.

This political dynamic has been a consistent feature over the past three decades for those seeking to address the civilian harm associated with specific weapons and related practices. Over a range of different issues, this has played out through a sequence of: questioning data about harms; contestation of the relevance of weapons, or of a particular practice; claims that compliance with existing law would sufficiently prevent harm; and resistance to regulation – in particular regulation that is categorical and unambiguous and so would represent a real restriction in freedom of action with weapons.

Much state-led discussion around weapons and the conduct of hostilities focuses narrowly on the observance of IHL. Such discussions also tend to limit consideration of harms to shorter-term direct physical effects. This sort of approach can neglect the role of weapon technologies in situations where parties seek to comply with legal requirements but the outcome for civilians is still harmful, as well as impacts from the interaction between weapons technologies and the contexts in which they are used that may be difficult to fully foresee in specific instances. Using a wider concept of civilian protection to look at weapons policy issues would allow these discussions to be broadened out from an IHL observance framing – with the potential for more productive work on the harm caused by particular technologies and practices, involving a wider range of considerations.

As a general way forward, policy frameworks that set specific standards on conduct in particular situations, but with broader and longer-term protection goals in mind, have the potential to make a significant impact on improving civilian protection, broadly conceived.

The Safe Schools Declaration, for example, has the broad goal of supporting the futures of communities beyond the situation of armed conflict, through protecting children’s continued right to education. It also aims more immediately and physically to protect teachers, students and their buildings during conflict. By including a number of specific standards and considerations for militaries during armed conflict, around avoiding the military use of schools and protecting education from attack, it gives actionable content to support a broader, and longer-term, normative goal in civilian protection.

An international political commitment by states to avoid the use of explosive weapons with wide area effects in populated areas due to the immediate, long-term and reverberating damage such usage does in communities could similarly have impacts that would range from reducing civilian deaths and injuries in conflict, to supporting the continuation of key social resources and services during conflict and beyond.

Initiatives such as the Safe Schools Declaration and a possible declaration on explosive weapons can also help to build a norm of developing policy responses that are based (in part) on recognising and avoiding longer-term and more complex, social harms to civilians from conflict.

These initiatives suggest that there is potential for useful interventions in the gap between rhetorical norms and practice in the PoC policy space – and towards the broader moral goal of protecting civilians. If such policy interventions can potentially be beneficial, in general, designing and pursuing them must be based on the realities and priorities of countries and communities affected by conflict. Such action typically starts with identifying and framing patterns of harm, including wider and longer-term harms, or those that have become more distinct as the social and technological landscape (such as how and where contemporary conflicts are fought) has changed. The identification of patterns of harm, in turn, raises question about what can be done.

The starting orientation for this work should be recognition of ‘protecting civilians’ as a moral imperative, towards which norms and practice can always be strengthened. Where other interests such as military goals may mean that some states are disinclined to take steps towards better protection, it should not be considered adequate, in this policy space, to assert the sufficiency of the law without engaging with the patterns, and potential causalities, of the harms under consideration.

Productive future approaches might involve developing a more holistic and longer-term view of how conflict affects civilians, including communities’ social resources, and further examining how weapons (their functioning and forms of use) are particularly implicated in this. It would then involve proposing actions or regulations that could be adopted to prevent and address these harms – and putting particular emphasis on the question, to those opposed, of why these actions should not be taken. In this approach, civilian protection is an imperative towards which compliance with the law is a necessary minimum baseline, but which is not sufficient for its full achievement. Such discussions should be part of an ongoing critical conversation, in which any assertion that all outstanding issues are now settled is resisted.

Conceived of widely, the goal of protecting civilians should be seen as the prevention of conflict and the achievement of sustainable development, with expectations of working towards the highest standards of public health, accountability in governance and environmental protection. In so far as the protection of civilians falls short of these goals, then further work to change global norms and practice must be done.



## ENDNOTES

- 1 Owing to Rousseau, this idea structures international laws on war from the 19th century. See e.g. Helen Kinsella (2011), *The Image before the Weapon: A Critical History of the Distinction between Civilian and Combatant* (Cornell University Press)
- 2 For an analysis of this, see Kinsella (2011)
- 3 Referring to the laws of war as 'humanitarian law' was encouraged by the International Committee of the Red Cross from the 1970s due to war being an outlawed or at least discouraged activity (Kinsella 2011)
- 4 For example, cluster munition users in the past likely did not intend to leave a substantial legacy of unexploded submunitions that has caused death, injury and economic loss in communities. The pattern of accumulated harm, however, contributed to the prohibition of these weapons through the 2008 Convention on Cluster Munitions. An analysis of commanders' intentions in use, and states' processes for ensuring legal compliance in individual attacks, would not necessarily have revealed this specific civilian protection challenges posed by cluster munitions – or indeed other weapons. On the other hand, a wider analysis of the impacts of conflict on civilians, and the relationship of particular impacts to certain weapons or patterns of use, can be revealing.
- 5 See Action on Armed Violence (2019), 'Access AOV's explosive violence data here,' available at: <https://aoav.org.uk/2019/get-aoavs-explosive-violence-data/>
- 6 See for example Ellen Nohle & Isabel Robinson (2017), 'War in cities: The 'reverberating effects' of explosive weapons,' ICRC Humanitarian Law and Policy Blog available at: <https://blogs.icrc.org/law-and-policy/2017/03/02/war-in-cities-the-reverberating-effects-of-explosive-weapons/>
- 7 UN Security Council (1999), 'Resolution 1265,' UN document S/RES/1265
- 8 See for example Sarah Adamczyk (2019), 'Twenty years of protection of civilians at the UN Security Council,' Overseas Development Institute Humanitarian Policy Group, Policy Brief 74, available at: <https://www.odi.org/sites/odi.org.uk/files/resource-documents/12709.pdf>; Center for Civilians in Conflict (2019), 'POC20: Twenty years of the protection of civilians. Challenges, progress and priorities for the future,' available at: <https://civiliansinconflict.org/publications/policy/poc20-challenges-progress-priorities-report/>; UN Office for the Coordination of Humanitarian Affairs (OCHA) (2019), 'Building a culture of protection: 20 years of Security Council engagement on the protection of civilians,' available at: <https://www.unocha.org/sites/unocha/files/Building%20a%20culture%20of%20protection.pdf>
- 9 United Nations Security Council (2019), 'Protection of civilians in armed conflict: Report of the Secretary-General,' UN Document S/2019/373, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/119/30/pdf/N1911930.pdf?OpenElement>
- 10 United Nations Security Council (2019), '8534th meeting, Thursday, 23 May 2019, 10 a.m. New York,' UN Document S/PV.8534, available at: <https://undocs.org/en/S/PV.8534>
- 11 Sarah Adamczyk (2019), 'Twenty years of protection of civilians at the UN Security Council,' Overseas Development Institute Humanitarian Policy Group, Policy Brief 74, available at: <https://www.odi.org/sites/odi.org.uk/files/resource-documents/12709.pdf>
- 12 OCHA (2019), 'Building a culture of protection: 20 years of Security Council engagement on the protection of civilians,' available at: <https://www.unocha.org/sites/unocha/files/Building%20a%20culture%20of%20protection.pdf>
- 13 OCHA (2019), 'Building a culture of protection: 20 years of Security Council engagement on the protection of civilians,' available at: <https://www.unocha.org/sites/unocha/files/Building%20a%20culture%20of%20protection.pdf>
- 14 Organisations such as the Center for Civilians in Conflict concentrate on this kind of advocacy with both national militaries and international alliances, for example; this is often also the focus of the Protection of Civilians teams of human rights components of UN Missions – for example in the UN Assistance Mission in Afghanistan, which has advocated with national and international forces to effect policy changes to reduce civilians casualties from their operations
- 15 This is discussed in for example Sara Pantuliano and Eva Svoboda (2016), 'Humanitarian Protection: Moving beyond the Tried and Tested,' in Haidi Willmot, Ralph Mamiya, Scott Sheeran and Marc Weller (eds), *Protection of Civilians* (Oxford University Press)
- 16 Inter-Agency Standing Committee (2016), 'Inter-Agency Standing Committee policy on protection in humanitarian action,' available at: [https://www.globalprotection-cluster.org/\\_assets/files/tools\\_and\\_guidance/IASC%20Guidance%20and%20Tools/IASC-policy-on-protection-in-humanitarian-action.pdf](https://www.globalprotection-cluster.org/_assets/files/tools_and_guidance/IASC%20Guidance%20and%20Tools/IASC-policy-on-protection-in-humanitarian-action.pdf)
- 17 See for example Sara Pantuliano and Eva Svoboda (2016), 'Humanitarian Protection - Moving beyond the Tried and Tested,' in Haidi Willmot, Ralph Mamiya, Scott Sheeran and Marc Weller (eds) *Protection of Civilians* (Oxford University Press)
- 18 United Nations Department of Peace Operations (2019), 'Policy: The Protection of Civilians in United Nations Peacekeeping,' Ref. 2019.17 available at: <http://dag.un.org/handle/11176/400958>
- 19 See NATO Policy for the Protection of Civilians (2016) and Military Concept on the Protection of Civilians (2018) and material available at: [https://www.nato.int/cps/en/natohq/topics\\_135998.htm](https://www.nato.int/cps/en/natohq/topics_135998.htm)
- 20 See for example analysis such as Chris Kolenda and Chris Rogers (2016), 'The Strategic Costs of Civilian Harm,' Open Society Foundations available at: <https://www.opensocietyfoundations.org/publications/strategic-costs-civilian-harm>
- 21 Oliver Ozdilli provided research and analysis support to this section
- 22 Article 36 analysed the statements as recorded in the provisional record of the debate: United Nations Security Council (2019), '8534th meeting, Thursday, 23 May 2019, 10 a.m. New York,' UN Document S/PV.8534, available at: <https://undocs.org/en/S/PV.8534>
- 23 See United Nations Security Council (2019), 'Letter dated 8 May 2019 from the Permanent Representative of Indonesia to the United Nations addressed to the Secretary-General,' UN Document S/2019/385, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/140/14/pdf/N1914014.pdf?OpenElement>
- 24 See United Nations Security Council (2019), 'Concept note for the Security Council open debate on the theme "Protection of civilians in armed conflict", to be held on 23 May 2019,' UN Document S/2019/385, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/140/14/pdf/N1914014.pdf?OpenElement> p2-4
- 25 These categorisations are based on the OECD's list of overseas development assistance recipients for reporting on aid in 2018 and 2019: OECD (2019), 'DAC List of ODA Recipients Effective for reporting on aid in 2018 and 2019,' available at <http://www.oecd.org/dac/financing-sustainable-development/development-finance-standards/DAC-List-of-ODA-Recipients-for-reporting-2018-and-2019-flows.pdf>. Article 36 combined 'Least Developed Countries' and 'Other Low Income Countries' into the category 'low-income' countries for simplicity. We have categorised countries not in receipt of ODA as 'high-income' countries
- 26 United Nations, 'United Nations Regional Groups of Member States,' available at: <https://www.un.org/depts/DGACM/RegionalGroups.shtml>
- 27 Côte d'Ivoire, Equatorial Guinea, and South Africa
- 28 Australia, Austria, Belgium, Brazil, Canada, Côte d'Ivoire, France, Germany, Indonesia, Ireland, Italy, Japan, Kuwait, Liechtenstein, Luxembourg, the Netherlands, Norway, Poland, Portugal, Sweden, Switzerland, the United Kingdom and Uruguay
- 29 The list of 120 member states of the Non-Aligned Movement can be found at: Non-Aligned Movement, 'Member States,' available at: <https://mnoal.org/nam-members/>
- 30 The ten members of ASEAN are Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam. see Association of South East Asian Nations, 'ASEAN Member States', available at: <https://asean.org/asean/asean-member-states/>
- 31 Denmark, Finland, Iceland, Norway and Sweden

- 32 Speaking on behalf of EU member states (which at the time also included the UK – see European Union, ‘Countries’ available at: [https://europa.eu/european-union/about-eu/countries\\_en](https://europa.eu/european-union/about-eu/countries_en)) as well as Albania, Bosnia and Herzegovina, Georgia, Moldova, Montenegro, North Macedonia, Serbia and Ukraine
- 33 African Union, ‘Member States,’ available at: <http://www.au.int>
- 34 List of members available at: <http://www.leagueofarabstates.net/ar/Pages/default.aspx>
- 35 NATO, ‘Member countries,’ available at: [https://www.nato.int/cps/en/natohq/topics\\_52044.htm](https://www.nato.int/cps/en/natohq/topics_52044.htm)
- 36 For the sake of the analysis below, each group statement was counted as one contribution to the discussion (rather than, for example, being weighted in importance as representing the views of 120 countries).
- 37 United Nations Security Council (2019), ‘Protection of civilians in armed conflict: Report of the Secretary-General,’ UN Document S/2019/373, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/119/30/pdf/N1911930.pdf?OpenElement>
- 38 See United Nations Security Council (2019), ‘Concept note for the Security Council open debate on the theme “Protection of civilians in armed conflict”, to be held on 23 May 2019,’ UN Document S/2019/385, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/140/14/pdf/N1914014.pdf?OpenElement> p2-4
- 39 See UN Women, ‘Facts and Figures: Peace and Security,’ available at: [https://www.unwomen.org/en/what-we-do/peace-and-security/facts-and-figures#\\_Notes](https://www.unwomen.org/en/what-we-do/peace-and-security/facts-and-figures#_Notes) referencing the following studies: Krause, J. Krause, W & Bränfors, P. (2018). Women’s Participation in Peace Negotiations and the Durability of Peace, *International Interactions*, 44:6, 985-1016, and True, J. & Riveros-Morales, Y. (2018). Towards inclusive peace: Analysing gender-sensitive peace agreements 2000–2016.
- 40 See the ‘Sustainable Development Goals Knowledge Platform’ available at: <https://sustainabledevelopment.un.org>
- 41 United Nations (2018), ‘Securing Our Common Future: An Agenda for Disarmament,’ available at: <https://s3.amazonaws.com/unoda-web/wp-content/uploads/2018/06/sg-disarmament-agenda-pubs-page.pdf#view=Fit>
- 42 For some discussion of this agenda, see Article 36 (2016), ‘Disarmament, development and patterns of marginalisation in international forums,’ available at: <http://www.article36.org/wp-content/uploads/2016/04/A36-Disarm-Dev-Marginalisation.pdf>
- 43 See Department of Foreign Affairs and Trade of Ireland (2020), ‘Protecting Civilians in Urban Warfare,’ available at: <https://www.dfa.ie/our-role-policies/international-priorities/peace-and-security/ewipa-consultations/> and International Network on Explosive Weapons (2020), ‘Declaration Negotiations,’ available at: <http://www.inew.org/declaration-negotiations/> for the latest information on this process

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