

IHL IN FOCUS: ANNUAL REPORT

ASSESSING COMPLIANCE
IN CONTEMPORARY ARMED CONFLICTS

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DISCLAIMER

This Annual Report aims to set out key observations around the changing nature of armed conflict, patterns of violence, and potential future threats. The findings presented are not the result of an official investigation conducted according to international legal standards. Instead, they rely on information gathered by researchers from open sources; no testimony, interview data or information was elicited directly from individuals, organizations or States. This methodology prevents any definitive confirmation around whether an incident was accidental, collateral or deliberate, and thus in conformity with, or violation of, international humanitarian law (IHL). Importantly, while the names of countries are referenced frequently, this should not always imply that such incidents necessarily were carried by, or directed by, the recognized government. Across all of the country entries, non-state armed groups were present and parties to individual conflicts. As such, readers are asked to interpret carefully the information presented as problems of violence, civilian protection and IHL compliance in a country, and not necessarily by a government. Finally, the entries were crafted from information collected across the period 1 July 2023-30 June 2024, and in a context where the reporting around conflicts was fast-flowing and difficult to independently verify. It may be that information presented or observations made have since been subjected to further scrutiny as more facts came to light. A note on the methodology used can be found at the end of this report, along with a summary of IHL principles in key thematic areas. We welcome any reflections or insights on issues of content, methodology and utility; comments can be sent to research@geneva-academy.ch

FOREWORD

In a world where armed conflicts continue to claim lives and inflict profound suffering, it is imperative to cast light on the violations of international humanitarian law (IHL) that too often remain in the shadows. The Geneva Academy's *IHL in Focus: Annual Report* serves as a crucial instrument in this endeavour, documenting the violations of IHL committed by parties to armed conflicts in the past year. Covering 22 conflicts worldwide, this report seeks to bridge the gap between legal analysis and the human consequences of war, ensuring that even the most overlooked atrocities do not escape scrutiny.

The first objective of this report is to raise awareness of IHL violations, not only those that dominate global headlines, but also those that unfold beyond the immediate gaze of international public opinion. The deliberate targeting of civilians, the destruction of essential infrastructure, the maltreatment of detainees – these are not just legal infractions, but are acts that inflict acute suffering on individuals across all sides of a conflict. While the analysis is neutral and rigorous, it is also a call to remember that behind each violation lies human pain, loss and devastation. Our shared humanity compels us to confront these realities with both compassion and moral indignation.

Beyond raising awareness, this report serves a second critical function, namely, equipping key actors with the essential information needed to uphold and promote compliance with IHL. Governments, international organizations, non-governmental organizations (NGOs), advocacy groups and civil society all share the responsibility of ensuring that the rules of war are respected. The obligation to 'respect and ensure respect' for IHL, as enshrined in Common Article 1 of the Geneva Conventions, is not merely a legal requirement – it is a foundational principle of international law. By providing accurate documentation of violations, this report empowers those working to preserve human dignity in times of war.

It is important to emphasize the fact that by focusing on IHL violations in the reported situations of armed conflict, this publication does not take any position on whether the resort to military force by any party is lawful or legitimate. The rules of IHL apply equally to all parties to a conflict, irrespective of their reasons for resorting to war.

Likewise, this report does not address the potential criminal responsibility that may arise for individuals involved in perpetrating these violations. Although individual criminal responsibility for serious breaches of IHL must not be underestimated – the evolution of international criminal law in recent decades testifies to this – the importance of more flexible mechanisms for assessing violations committed by the parties to a conflict is equally undeniable. Humanitarian diplomacy plays a vital role in promoting respect for IHL, as demonstrated by the tireless efforts of the International Community of the Red Cross (ICRC) and other humanitarian organizations.

The scope of this report, by design, is more modest. It neither discloses confidential information, relying instead on open-source data, nor does it attempt to replace the work of commissions of inquiry or NGOs dedicated to monitoring IHL violations. The aim is to provide an independent and impartial contribution to documenting the main infringements of humanitarian law in the conflicts that are examined.

The legal standards established by IHL are too significant to be disregarded. These standards bind not only warring parties but also states and international actors tasked with ensuring respect for these norms. While IHL does not eliminate the horrors of war, it injects a crucial measure of humanity into its conduct, seeking to prevent a descent into total brutality. The failure to uphold these rules leads to unconstrained violence, indiscriminate suffering and the erosion of legal and ethical boundaries meant to protect civilians.

This report, then, is more than a compilation of legal violations – it is a call to action. It serves as a resource for all committed to upholding international standards and for those unwilling to stand idle in the face of suffering. By illuminating these violations, this report reaffirms the necessity of vigilance, and the enduring relevance of IHL in safeguarding human dignity amid conflict. Let this report function both as a mirror, reflecting the grim realities of contemporary armed conflicts, and as a catalyst, sparking renewed determination to uphold the fundamental principles that preserve life and dignity in war.

To conclude, I wish to extend my heartfelt gratitude to all who contributed to this endeavour. Their expertise, dedication and hard work have been indispensable. For safety and security reasons, some contributors, have chosen not to be named, a decision reflecting the precarious position of IHL professionals worldwide. With this in mind, I wish to acknowledge the following individuals for their contributions: Alessandro Mario Amoroso, José Manuel Aznar, Martha Bradley, Deborah Casalin, Jihane Chedouki, Netta Goussac, Etienne Henry, Marnie Lloyd, Gerardo Moloeznik, Natalie Nunn, Sameer Rashid Bhat, Wubeshet Tiruneh, and Kilian Tixador. Please note that the order in which contributors are listed does not imply authorship of any specific section; the report is the result of a genuinely collective effort and the product of many hands.

I also extend my deep appreciation to the staff and students who supported the Rule of Law in Armed Conflicts (RULAC) project team, and to Lina Boren and Tim Young, whose invaluable assistance in finalizing the layout and managing communication and dissemination has helped bring this report to fruition.

My gratitude further goes to the members of the project's Advisory Committee, who offered invaluable feedback on earlier drafts, thereby refining and strengthening the final analysis. Therefore let me extend my sincere thanks to: Sareta Ashraph, Giulio Bartolini, Stuart Casey-Maslen, Andrew Clapham, Gloria Gaggioli, Jan Kleffner, Jelena Pejic, Mona Rishmawi, and Mathew Truscott. It is important to underscore that while the Advisory Committee played a vital role in reviewing drafts, they bear no responsibility for any errors, omissions or inaccuracies that remain.

Finally, this report would not have come to fruition without the essential contributions of Professor Gloria Gaggioli (former Director of the Geneva Academy) and Maud Bonnet (Executive Director of the Geneva Academy), who jointly initiated the project and oversaw its development. The role played by Erica Harper, Head of Research and Policy Studies at the Geneva Academy, and Stuart Casey-Maslen, a member of the Advisory Board, was truly essential during the finalization stage of this report, helping to shape and refine its content in critical ways.

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EXECUTIVE SUMMARY

The world stands on the brink of a profound crisis with respect to international humanitarian law. Violations — once seen as aberrations — are now persistent, widespread, and, perhaps most alarmingly, increasingly met with indifference or tacit acceptance by states. The very norms designed to protect civilians, the wounded, and those not participating in combat are eroding at an alarming rate, not only through the actions of those who violate them but through the inaction of those who should uphold them. This report documents the scale of these breaches and the growing complicity of inaction, underscoring the urgent need to reaffirm and reinforce the fundamental principles of humanity in armed conflict. A note on the methodology used can be found at the end of this report, along with a summary of relevant rules and principles of international humanitarian law in key thematic areas.

A World on Edge — Violence Spikes and Conflict Spirals

This annual report on IHL violations analyses 22 countries impacted by armed conflict. These situations by no means speak to the totality of war taking place in the world today. They do, however, highlight those conflicts exhibiting high volumes of military engagement, extensive civilian impact and serious IHL compliance concerns.

Within these country situations, the report identifies 57 non-international armed conflicts (NIACs) and 14 International Armed Conflicts (IACs). Compared to the same point the year prior, this represents a slight decrease in NIACs (from 61), a significant increase in IACs (from 8), and an overall net increase from 69 to 71 conflicts, continuing a 5-year directional trend in the Geneva Academy's reporting on conflict classification. Readers should interpret this finding cautiously. Conflict classification is a contested science, with several competing methodologies and subjective decision-points, making trends difficult to quantify. Moreover, the existence of a conflict reveals little about its intensity, civilian impact or the belligerent parties' respect for IHL rules. This said, the proposition that conflict is increasing globally is not an isolated viewpoint. The International Committee of the Red Cross (ICRC), for example, has also observed an alarming rise in armed conflicts worldwide.¹ The Uppsala Conflict Data Program, using their definition of armed conflict, documented 59 active state-based armed conflicts in 2023, the highest number ever recorded.² Likewise, the Armed Conflict Location and Event project calculated a 25 percent increase in political violence globally in 2024 compared to 2023, with one in eight people exposed to conflict being killed.³

The findings suggest that changes may also be taking place *within* types of conflicts. NIACs remain the most numerous type of armed conflict, with several of these lasting for years (such as the ones in Syria and Yemen), if not for decades (such as the ones in Colombia and the Democratic Republic of the Congo). Yet IACs have regained attention in world affairs, begging questions around the stability of the decades-long trend away from state-on-state war. Indeed, compared to 2001 —

often referenced as the high-point in IAC decline, where only one of the world's armed conflicts was international and the average duration of war was 11 months⁴ — much has changed. This includes long-lasting situations of occupation (such as the ones affecting parts of Syria, Lebanon and Palestine, as well as Ukraine (Crimea), to unconsented-to military operations by one State in the territory of another State (as in Iraq and Syria). In addition, recent international armed conflicts involving large-scale military operations (such as the one Russian Federation operations in Ukraine or the operations of Israel in Gaza) have been flanked by shorter episodes of armed force between States (such as the military confrontations between Armenia and Azerbaijan over Nagorno-Karabakh, or the cross-border clashes between the de facto Afghan government and Pakistani armed forces). While it is far too early to speculate on whether this trajectory is a marker of something more ominous, it is telling that since the conclusion of collecting information for this report, the most significant developments concern IACs — e.g., the exchange of strikes between the Islamic Republic of Iran and Israel, the beginning of Israeli ground operations in southern Lebanon, and reports that Eritrean armed forces are controlling parts of Ethiopian territory in the border areas.

An important reflection here is that compared to our knowledge on conflict typology and duration, far less is understood about whether violations of the rules of war, and the volume and nature of such violations, can shed light on the likely trajectory of a conflict, its potential for protraction, or whether acts might spill over into more serious forms of violence such as atrocity crimes. This is a critical area of inquiry that should be prioritised in future research. Another area where deeper insight is needed is how to arrest armed conflict escalation dynamics. Indeed, the current geopolitical situation has refocused attention on conflict prevention and early warning systems. Within this area of scholarship, it is clear that human rights play an important role, with violations especially around food insecurity, access to livelihoods, mal-governance, state-waged violence and natural resources exploitation, often observable for decades before reaching a tipping point. However, it remains unclear why localized violence spills over to reach the threshold of a NIAC or IAC in some circumstances, and not in others. This underscores the importance of balancing investment in early warning and prevention systems, with research into what early response actions — at the sub-national, national, regional and international levels — are impactful. This should include identifying what policies and practices used in the context of conflict are most ripe for certain types of IHL violations. For example, as the entries on Burkina Faso and Mali showcase, siege contexts can rapidly descend into situations of starvation, and thus should signal that coordination around humanitarian aid needs to be at the fore of programming. Likewise, conditions such as the presence of multiple, competing non-state armed groups seems to correlate with individualized violations such as abductions, hostage taking and rape, heightening the importance of safety measures for highly vulnerable groups.

A Growing Indifference to Human Suffering

A second observation relates to civilian suffering. Across *every* country entry, violence in one or more of the following forms is referenced: kidnapping, abduction, hostage-taking, forced displacement/eviction, arbitrary arrest/detention, enforced disappearance, violence to life, and forms of torture and inhumane and degrading

treatment. Again, these findings are not the result of a legal investigatory process, which prevents any firm determination on exactly who was responsible and whether those acts were criminal. Yet the *human* consequences, are indisputable and harrowing.

Another concern relates to the use of improvised explosive devices (IEDs) and landmines, whether this was meant to instill fear, restrict civilian movement and/or gain territorial control. In Burkina Faso, for example, the research indicated an upsurge in the use of IEDs, particularly victim-activated explosive devices and anti-personnel mines, causing numerous civilian casualties and hampering humanitarian access.

Other forms of violence impacted groups or entire communities. A particular issue was compliance with parties' obligations regarding humanitarian access and the facilitation of humanitarian relief. While this is seen most vividly in the conflicts in Gaza and the Sudan, it is important not to overlook those situations where reporting is not as frequent or consistent, including due to weak security. Restrictions imposed by Azerbaijan, for example, prevented the delivery of food items, raising concerns about the use of starvation as a method of warfare. Violence was also reported against organizations and individual staff working to distribute humanitarian aid. In Afghanistan, where hundreds of access incidents were recorded, female aid workers were disproportionately targeted, creating knock on impacts for the delivery of assistance to women and girls. Attacks against medical facilities and practitioners also took place. In Ethiopia's Amhara region, both state forces and non-state armed groups have been accused of attacking medical staff and transports, and looting hospitals of supplies. As in the case of humanitarian relief, such targeting drastically impacts the most vulnerable, including the elderly, those with chronic disease and disability, and children.

Finally, the impact on three specific groups needs to be highlighted.

Across all of the country entries, the recruitment of children and their use in combat was the most commonly referenced form of IHL violation, being listed as an issue in: Afghanistan, Central African Republic, Colombia, the Democratic Republic of the Congo, Ethiopia, Mali, Mozambique, Myanmar, Nigeria, the Philippines, Somalia, Sudan, Syria and Yemen. This form of violation needs to be understood as having immediate, compound and long-term impacts. As the Nigeria entry sets out, child recruitment not only creates a high risk of injury and death, but strongly associates with other forms of violence including abduction and sexual exploitation. Moreover, children's participation in armed conflict, separation from family, and interruption in education, create deeply entrenched socio-behavioural deficits that correlate with negative outcomes, including cyclical violence and criminality.

An additional standout violation of IHL concerns the perpetration of sexual violence, mainly against women. While a vast majority of such cases go unreported, the phenomenon was documented in: Central African Republic, Colombia, the Democratic Republic of the Congo, Ethiopia, Mali, Mozambique, Myanmar, Nigeria, Russia-Ukraine, Somalia, Sudan, South Sudan, Syria, Iraq, Libya and Yemen. Like child recruitment, sexual violence is a complex form of attack with multifaceted consequences. For example, the entry on Central African Republic describes sexual violence being used as a tool to gain control over territory, natural resources and trade. In the Democratic Republic of the Congo, the United Nations stabilization mission documented 733 instances of conflict-related sexual violence, including gang rape, sexual slavery and forced marriage. It follows that survivors are not only at risk of severe physical and psychological impacts, but also family/community

stigmatization/rejection — phenomena that easily become intergenerational, especially when children are born from sexual violence.

A final observation relates to the targeting of specific identity groups, such as ethnic and religious minorities. In Afghanistan, the Islamic State in Iraq and the Levant (ISIL-K) was linked to attacks on specific schools and houses of worship, while in Ethiopia and Sudan attacks were directed at civilians that appeared to be ethnically motivated. While this typology of violence was not frequent, it is highly significant, especially given the linkages between othering, in-group/out-group dynamics, and atrocity crimes. Although these dynamics do not inevitably lead to mass violence, they can create an environment in which targeting particular groups becomes more conceivable or socially justified.⁵

Non-State Armed Groups at the Centre of Changing Conflict Dynamics

Across the 57 NIACs taking place in 22 countries, this report identified 61 non-state armed group (NSAG) parties to conflict. It is important to underscore that this denotes only a slim minority of the NSAGs operating globally. According to the ICRC, as at July 2024, 455 armed groups of concern were operational, with around 210 million individuals living under their control.⁶ However it is not only the number of NSAGs that is disquieting, but the nature of the violence that spills over onto civilian populations. The entry on Central African Republic, for example, depicts NSAGs as responsible for the majority of documented cases of sexual violence related to the conflict. The Mali entry examines how over 100,000 people were besieged by NSAGs for several months, resulting in severe food shortages and hunger. In Yemen, Houthi forces' use of anti-personnel land mines, including around schools, mosques, houses and water sources, has been signalled as causing the majority of the mine-related civilian casualties in the reporting period.

This is not to suggest that NSAGs are always more violent than the armed forces of the state. For the populations living under non-state control, these groups can sometimes be regarded as more protective, less predatory and of greater utility than state actors. Indeed, of the 455 NSAGs listed by the ICRC, 80 percent provide services including healthcare, education, social support and policing. However, the participation of a NSAG in an IAC or NIAC does raise specific challenges that can impact the scale and nature of IHL violations. A first issue is practical; where they are small and less organized, NSAGs may be less aware of their IHL obligations, or lack the capacity or resources to engage in IHL compliant actions, such as proportionality assessments in targeting or ensuring no children join their group. Existing outside the mainstream community of states, a NSAG may not feel beholden to or recognize the authority of norms set by the international community. Certainly, conflict tactics such as the abduction of children, sexual violence against girls and use of female suicide bombers, were disproportionately associated with specific non-state armed groups. Boko Haram is a case in point, by abducting some 616 children, many of whom were then used in armed combat and/or exposed to sexual violence.

The prevalence of NSAGs as parties to conflict raises important questions around the often complex relationships that intertwine State and non-state groups. References in the entries to private military companies (PMCs), while not volumi-

nous, warrant special mention. Many governments, constrained by limited resources or political will, turn to PMCs to fill public security gaps, despite controversies over their conduct. Domestically, outsourcing military operations allows states to reduce political costs — minimizing official casualty counts, bypassing parliamentary oversight, and shifting the human burden of warfare onto ‘disposable’ and often foreign personnel. Internationally, PMCs provide states with the flexibility to sustain a military presence in politically sensitive regions where the deployment of regular forces may prove logistically impractical, diplomatically contentious, or even a violation of international law. This evolution in conflict dynamics, and the legal consequences of such, require urgent reflection and policy engagement.

Finally, it is impossible to discuss NSAG without highlighting the number of entities that were both parties to conflict and subject to sanctions imposed by the Security Council. These include al-Qaeda affiliate JNIM in Burkina Faso; the Allied Democratic Forces in the Democratic Republic of the Congo; Boko Haram in Nigeria; the Abu Sayyaf Group in the Philippines; Jama’al Nusrat al Islam wa al-Muslimeen (JNIM) in Mali; al Shabab in Somalia; Hay’at Tahir Al-Sham (HTS) in Syria; and al Qaeda in the Arabian Peninsula and the Houthis in Yemen — groups long-involved in violent extremism, jihadism, and/or terrorist activities. The Islamic State or groups affiliated to it were conflict actors in: Afghanistan, Burkina Faso, Nigeria, Iraq, Libya, Mali, Mozambique, Syria and Turkey. Like PMCs, these groups are a distinct form of NSAG. They generally have ideological (rather than political) aims that are strongly rooted in group identity, and their strategy is one of disrupting state order, as opposed to a consolidation of its power. Most important for the purposes of this discussion is the brutality these groups exact for the purposes of punishment, coercion, goal alignment, and commanding uniformity. The entries included in this report confirm that such tactics continue to be used. In Nigeria, Boko Haram and Islamic State in West Africa Province (ISWAP) engaged in hostage-taking — principally targeting women and children. In Afghanistan, ISIL-K, targeted ethnic and religious minorities such as Shi’a and Hazara communities, including by attacking buildings dedicated to education and religion, and using explosive weapons in civilian-dense urban environments. In Mali, the Islamic State in the Sahel besieged the town of Ménaka, cutting off 140,000 from basic necessities, 80,000 which were children. In Mozambique, attacks on civilians intensified (from 38 to over 70 percent) following a “seek out and kill” instruction issued by the Islamic State in Iraq and Syria (ISIS).

Conflict-Driven Environmental Destruction: a Multiplier Effect

The country entries demonstrate that IHL violations do not happen in isolation or with linear impacts. Instead, violations combine — with each other and/or other phenomena such as fissures in the natural environment — to become mutually reinforcing and, in some cases, create synergies. As seen in Burkina Faso, Gaza and Mali, military sieges that cut the civilian population off from food, water and medical supplies, triggered a ripple effect. Within weeks, resource shortages had translated into price hikes, crowding out the most vulnerable from markets. This heightened state of vulnerability also meant that subsequent events had disproportionate civilian impacts. In Myanmar and Gaza, the unlawful denial of humanitari-

an access pushed thousands into food insecurity, quickly triggering fears of famine and accusations of starvation as a method of warfare. In Ethiopia's Tigray region, large-scale conflict-induced internal displacement coincided with aid diversion and drought, transforming a situation of food insecurity into 1 million being at risk of famine. The point to be highlighted is that conflicts need to be understood through a systems lens, where acts of belligerency interact with a theatre's natural environment, pre-existing economic conditions and socio-political context in dynamic ways.

Applying a systems' lens also means appreciating that situations borne of a conflict, such as food insecurity, do not always end when hostilities cease. They can spill over both temporally and geographically. The Burkina Faso entry highlights how military sieges ground the local food production system to a halt, by cutting off access to supplies of fertilizer and markets, attacking water and energy plants, the use of anti-personnel mines, and by denying farmers access to plots. The consequences of this are likely to be long term. While physical plant can be rebuilt and equipment replaced relatively quickly, the presence of pollutants, agricultural plots lying fallow for protracted periods and structural damage to ecosystems, can compromise food production for decades. These complications can carry over to delay post-conflict recovery, including in the areas of livelihoods, flows of goods and services, and health. The relationship between conflict, environmental destruction and food insecurity must therefore be understood not only in a short term and existential sense, but also as a risk factor in conflict recidivism.

Disruptive Digital Technologies Altering the Calculus of War

A final observation relates to the leveraging of new technology in warfare. References to armed drones were relatively scarce across the country entries, suggesting that traditional arms remain most belligerents' weaponry of choice. This balance should be monitored carefully, however. The cost of drones has fallen dramatically — principally due to Turkey, China and Iran entering the market, but also hacks such as the repurposing of commercial agricultural drones for use in theatre. This creates opportunities for both lower-income states and NSAGs. Indeed, Turkish-made drones were used by the Somali army, the Burkinabè military and in Syria.

This should give all readers pause. While drones often promise more precision targeting (reducing the scope for civilian casualties and damage to civilian infrastructure), they are not immune from error. Moreover, such error is likely to be related to a lack of technological and/or IHL literacy among those deploying or using such systems, or a lack of attention to the human-machine interaction challenges they create.

The availability of unmanned systems also modifies the cost-opportunity metric in a manner that may encourage acts of belligerency. Principally, this is because drone warfare eliminates the risk of military personnel and hardware losses. There is also evidence that drone systems, by distancing soldiers from the battlefield, reduce combat inhibition. Specifically, by eliminating the worst sensory impacts of killing, such as scents and sounds,⁷ and integrating features such as pixelated images of targets and smart/soft touch triggers, the decision to take lethal action becomes less emotionally and intellectually taxing. While the impact

of artificial intelligence (AI) has been less studied, as AI decision support systems become increasingly integrated into unmanned craft, these dynamics related to drone targeting will be further exacerbated.

Most worryingly, the widening availability of drones and similar tools creates scope for new forms of engagement. Insofar as the use of drones reduces the scope for attribution, proxy warfare may increase. It may even create scope for acts of warfare that serve military objectives quickly and comprehensively, yet clearly violate IHL. Special attention should be paid to events referenced in the country entries where the high number of civilian casualties and/or targeted location raise concerns over proportionality and distinction. In Burkina Faso, drone attacks allegedly hit two crowded markets and one funeral; in Ethiopia strikes using uncrewed aerial vehicles (UAVs) included a market, a school and an ambulance; in Mali, drone strikes targeted military camps, a gathering of ‘notables’ and an outdoor wedding and a funeral. In short, drones and similar tools risk moving the needle of engagement from what States should do within the law, to what they can do if no one is watching.

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End Notes Executive Summary

1 Indeed, as at the end of the reporting period, the ICRC had identified more than 120 conflicts involving

over 60 states and 120 NSAGs; see <https://www.icrc.org/en/document/icrc-opinion-paper-how-term-armed-conflict-defined-international-humanitarian-law> (last accessed 14 February 2025).

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AFGHANISTAN

During the reporting period, an international armed conflict persisted between Afghanistan and Pakistan. Multiple non-international armed conflicts (NIACs) were also ongoing between the de facto Taliban government and the National Resistance Front (NRF); the aligned Afghanistan Freedom Front (AFF), which stepped up its armed activity in this period; and Islamic State-Khorasan (ISIL-K). Other minor non-state armed groups were also active on Afghan territory.

Armed violence in the context of these conflicts has raised concerns regarding the conduct of hostilities and the fundamental principles of civilian protection. This particularly follows reports of direct attacks on civilians and civilian objects by ISIL-K, which appears to target ethnic and religious minorities. These attacks have reportedly also targeted buildings dedicated to education and religion. Armed activities by NRF and AFF against de facto government forces have also reportedly resulted in the killing and injury of civilians. Furthermore, Taliban de facto government forces allegedly attacked and carried out extra-judicial killings of persons accused of association with armed opposition groups, as well as former government, military and security personnel and their families. Regarding the means of warfare, concerns over civilian protection were raised by reports of the routine use of explosive weapons in civilian-dense urban environments, particularly by ISIL-K, airstrikes and artillery shelling in cross-border hostilities, and a high number of casualties ascribed to explosive remnants of war. Taliban authorities were reported to have carried out torture and cruel, inhuman or degrading treatment, as well as arbitrary arrests and detentions, against former government and security personnel and those alleged to be affiliated with armed groups. This raises concern about respect for international humanitarian law (IHL) prohibitions on these practices. Amid a dire humanitarian situation marked by food insecurity and a widespread need for assistance, access to humanitarian relief and the protection of humanitarian personnel remained a concerning issue. Violence was reported against humanitarian workers, where hundreds of access incidents were recorded. Many incidents reflected restrictions on women aid workers, which have reportedly had a significant impact on the delivery of assistance to women and girls. Women, more generally, face particular impacts of the conflict situation, owing to severe restrictions on their movement, employment and education. Children also face particular risks linked to a denial of humanitarian assistance, death or injury caused by explosive ordnance, and recruitment in and use of in-combat and support roles.

Conflict Overview

Since the Taliban's consolidation of power as de facto government of Afghanistan in August 2021, the country has faced ongoing violence, primarily involving Islamic State-Khorasan (ISIL-K) and other organized non-state armed opposition groups, such as the National Resistance Front (NRF) and Afghanistan Freedom Front (AFF). From 1 July 2023 to 30 June 2024, the Taliban's control over the country remained largely unchallenged at a territorial level. However, the de facto government did engage in armed confrontations with opposition groups, particularly ISIL-K, which has escalated its insurgent activities in densely-populated areas and appears to target ethnic and religious minorities such as Shi'a and Hazara communities. The armed opposition groups NRF and AFF have continued to mount small-scale attacks on Taliban forces, primarily in the northern and central regions.¹ These groups consist mainly of former military and security personnel, alongside local fighters and former government loyalists respectively.

The frequency of armed clashes stabilized at lower levels in late 2023, reflecting a period of relative decline in conflict-related violence.² However, as the reporting period progressed, the number of armed clashes increased significantly, demonstrating a renewed intensity in hostilities.³ Additionally, cross-border clashes between the Taliban and Pakistan along the eastern border, involving airstrikes and artillery, have resulted in civilian casualties, displacement and significant damage to civilian infrastructure.

Reports by the United Nations (UN) and multiple other international organizations document the dire humanitarian and human rights situation in Afghanistan, with widespread restrictions on fundamental rights, particularly affecting women and girls. The humanitarian crisis is marked by food insecurity, displacement and inadequate access to essential services – leaving millions of Afghans in a state of vulnerability. As for the situation of women and girls, the Taliban de facto authorities have systematically curtailed their freedoms and rights through measures such as movement restrictions and bans on education beyond primary level, employment in most sectors and participation in public life. In November 2024 the prosecutor of the International Criminal Court (ICC) indicated that 'very considerable progress has already been made in the investigation of allegations of gender persecution in the situation in Afghanistan'.⁴ Subsequently, in January 2025, the prosecutor filed applications for arrest warrants against the Supreme Leader of the Taliban, Haibatullah Akhundzada, and the chief justice of the 'Islamic Emirate of Afghanistan', Abdul Hakim Haqqani, for the crime against humanity of gender persecution.⁵ More generally, there have also been severe restrictions on media, freedom of expression and assembly, as well as arbitrary detentions.

Conflict Classification

During the reporting period, multiple armed conflicts were ongoing in Afghanistan, in particular:

- international armed conflict (IAC) between Afghanistan and Pakistan
- non-international armed conflict (NIAC) between the Taliban government and the NRF, as well as the aligned AFF

- NIAC between the Taliban Government and Islamic State in Iraq and the Levant-Khorasan (ISIL-K)

Throughout this period, there were no substantial changes that would alter the classification of the IAC between Afghanistan and Pakistan or the NIAC between the Taliban Government and ISIL-K. However, the NIAC involving the Taliban Government and the NRF was characterized by heightened activity of the AFF, an additional non-state armed group aligned with the NRF.

The frequency and organization of AFF's attacks during this time⁶ suggest that the criteria for a NIAC have been met, namely, protracted armed violence and sufficient organization of the armed group. Consequently, AFF can be considered a party to a NIAC with the Taliban Government. AFF is regarded as part of the ongoing NIAC between the Taliban Government and the NRF for the purposes of this report.

International Humanitarian Law in Afghanistan, 1 July 2023–30 June 2024

Conduct of Hostilities

During the reporting period, Afghanistan saw persistent hostilities, with sources reporting significant civilian impact. This was primarily ascribed to attacks by ISIL-K, which frequently appeared to be directed against specific religious and ethnic groups, such as the Shi'a and Hazara communities. Cross-border clashes between the de facto government and Pakistani forces also reportedly led to civilian casualties.

Contrary to fundamental norms of international humanitarian law (IHL) on protection of civilians, ISIL-K is reported to routinely conduct attacks on civilians and civilian objects in civilian-dense areas and urban centres, with operations often including suicide bombings and vehicle-borne improvised explosive devices (IEDs). These often appear to be directed against specific religious and ethnic groups, such as the Shi'a and Hazara communities. For instance, on 6 January 2024, ISIL-K reportedly targeted a public minibus using an IED explosion in Dasht-e-Barchi, a predominantly Shi'a Hazara area of Kabul, killing at least five civilians and wounding at least 20 others.⁷ Reported direct attacks against civilians and civilian objects also commonly included attacks on buildings dedicated to religion or education. The United Nations Assistance Mission in Afghanistan (UNAMA) has reported on a number of such incidents. For example, on 13 October 2023, ISIL-K reportedly targeted a Shi'a mosque in Pul-e-Khumri, Baghlan Province, killing 21 people and wounding 30 others.⁸ ISIL-K is also said to have claimed responsibility for an attack on 29 April 2024 in Andeesha, Herat, on worshippers inside the Sahib-u-Zaman mosque, a Shi'a place of worship. This attack reportedly killed six people and wounded one woman.⁹ These attacks are also of grave concern in light of the IHL prohibition on acts of violence with the primary purpose of spreading terror among the civilian population.¹⁰

The NRF and AFF primarily engaged the de facto government forces through low-intensity, targeted attacks aimed at destabilizing Taliban authority. The groups are reported to employ guerrilla tactics, usually targeting security personnel,¹¹ including by throwing grenades and using IEDs.¹² These attacks are also reported

to result in civilian killings and injuries.¹³ It is to be noted that reports of attacks against the Taliban by the NRF and AFF often do not distinguish between attacks on armed forces and other non-armed members of the Taliban.

The reporting period also witnessed the de facto Taliban forces attacking and killing individuals accused of affiliation or collaboration with armed opposition groups such as NRF, AFF and ISIL-K, as well as former members of the Afghan National Defence and Security Forces (ANDSF).¹⁴ The United Nations Assistance Mission in Afghanistan (UNAMA) recorded six extra-judicial killings of individuals accused of affiliation with the NRF and ISIL-K.¹⁵ For example, on 1 September 2023, local media reported that a civilian was shot and killed by Taliban in the Khawush village of Baghlan province on the accusation of collaborating with the NRF.¹⁶ Former government employees and members of Afghan National Defence and Security Forces (ANDSF) are also reported to be routinely targeted.¹⁷ UNAMA documented at least three extra-judicial killings of former government officials and members of ANDSF between February and May 2024.¹⁸ According to Afghan human rights non-governmental organization (NGO) Rawadari, at least 51 former government employees and their family members were victims of targeted, suspicious and extra-judicial killings or injuries between January and June 2024.¹⁹ In many such cases, individuals are reportedly detained by de facto security forces, often briefly, before being killed.²⁰

On the IAC front, frequent clashes between de facto border forces and Pakistan military forces along Afghanistan's eastern border, particularly in provinces such as Khost, Paktya, and Paktika, reportedly resulted in numerous civilian casualties on both sides of the border.²¹ For example, on 18 March 2024, four Afghan civilians were reportedly killed during armed clashes between the de facto border forces and Pakistan military forces in Paktya province.²² Equally, four civilians in Pakistan were reported to have been wounded by shelling from across the border.²³

Overall, reports on the conduct of hostilities in the relevant period – among others, regarding direct attacks on civilians and civilian objects – reflect an apparent trend of disregard for the fundamental IHL principle of distinction. There are also grounds for concern over respect for the IHL principles of proportionality and precaution in attack, as well as the prohibition on the carrying out of attacks for the purpose of spreading terror among the civilian population.

Means of Warfare

Use of Explosive Weapons in Populated Areas

The routine use of explosive weapons in civilian-dense urban environments in attacks by ISIL-K,²⁴ as well as artillery shelling and airstrikes between the de facto Afghan forces and Pakistan in border provinces such as Khost, Paktya and Paktika, were reported to have contributed to civilian harm.²⁵ For example, on 26 October 2023, an improvised explosive device (IED) explosion inside a sports club in Dasht-e-Barchi, West Kabul, reportedly killed eight people and wounded 35 others.²⁶ On 21 March 2024, ISIL-K reportedly used an IED bomb at a bank in Kandahar to target members of the de facto authorities. According to a UNAMA report, this attack killed 25 members of the de facto security forces and wounded 45 security force members and five civilians.²⁷ Similarly, on 20 April 2024, ISIL-K reportedly detonated an IED bomb as a civilian minibus passed by a checkpoint, wounding at least four people.²⁸

Explosive Remnants of War

Equally, the reporting period witnessed a high number of casualties due to explosive remnants of war (ERWs), with children constituting the majority of the victims.²⁹ For instance, on 1 September 2023 in Faryab province, three children were killed and others injured when a rocket-propelled grenade exploded, after a child had accidentally activated it while playing.³⁰ Similarly, on 22 December 2023, seven members of a family, including four children, were wounded after an unexploded ordnance with which the children were playing detonated in Dara-e-Pech, Kunar.³¹ As the UN-led Mine Action Technical Cell coordinates explosive ordnance response efforts and releases contaminated land, the high volume of ERWs continues to result in casualties, posing a serious threat to the safety and security of civilian population, including children and the personnel of international organizations such as the UN.³²

Treatment of Persons

Torture and Cruel, Inhuman or Degrading Treatment

Throughout the reporting period, UN reports consistently indicate widespread use of torture and cruel, inhuman or degrading treatment by Taliban authorities. Allegedly, the primary targets are former government members, ANDSF forces and individuals suspected of affiliation with groups such as NRF, AFF and ISIL-K. Between January and June 2024, UNAMA documented at least 20 cases of torture involving former government officials and ANDSF members.³³ Similarly, it documented 15 instances of torture and ill-treatment of individuals accused of affiliation with the NRF and ISIL-K between September and December 2023.³⁴ Local news reports suggest that individuals detained are frequently subjected to extreme measures, including torture in detention facilities.³⁵ For example, local media reported the death of a former soldier after being tortured by the Taliban intelligence forces in Nangarhar province.³⁶

Concerns Related to Deprivation of Liberty in Armed Conflict

Arbitrary, Secret and Incommunicado Detention and Enforced Disappearances

During the reporting period, there were widespread reports of arbitrary detention. Such practices raise concerns over respect for the fundamental requirement of humane treatment under Common Article 3, as well as more specific prohibitions on arbitrary deprivation of liberty and enforced disappearances.³⁷ As mentioned above, these practices often target former Afghan government officials, former members of ANDSF, and individuals suspected of affiliation with groups such as NRF, AFF and ISIL-K. Between July 2023 and February 2024, UNAMA documented at least 95 arbitrary arrests and detentions of former government officials and members of ANDSF, and at least 176 arbitrary arrests and detentions of individuals accused of affiliation with groups such as NRF and ISIL-K.³⁸

Humanitarian Relief

The humanitarian situation in Afghanistan remains one of the most dire globally, with over 23,7 million people – more than half the population – in need of humanitarian assistance in 2024, as reported by the UN.³⁹ Between January and June 2024, humanitarian actors reached 12,1 million people with at least one form of humanitarian assistance. Food insecurity is particularly acute, with over 79 percent of these people receiving food assistance. Despite these efforts, significant challenges persist that undermine the delivery of humanitarian assistance in Afghanistan. Restrictions imposed by the Taliban, particularly on women humanitarian workers, have significantly impacted the delivery of aid. The ban on women aid workers in NGOs and UN agencies in 2022 has created significant barriers to reaching women and girls.⁴⁰

Between January and April 2024, 611 humanitarian access incidents were reported, marking a 3 percent increase compared to the same period in 2023. Humanitarian operations were repeatedly disrupted, with 318 projects temporarily suspended due to, inter alia, interference in humanitarian activities and violence against humanitarian personnel. At least 54 incidents specifically highlighted restrictions on women humanitarian workers and women beneficiaries, further limiting aid delivery in a context where women and girls are already disproportionately affected.⁴¹

While the scale of need continues to surpass the resources available, humanitarian organizations have played a critical role in mitigating the worst effects of the crisis, delivering life-saving assistance, including food, health care, water, sanitation and educational support. A significant part of this aid delivery was possible due to the adoption of UN Security Council Resolution 2615 (2021),⁴² which introduced a humanitarian exemption to sanctions specific to Afghanistan, and Resolution 2664 (2022),⁴³ which extended this exemption across all UN sanctions regimes.

Specific Vulnerabilities

Armed conflict in Afghanistan continues to disproportionately affect vulnerable groups, including women and children. Women and girls face regular harassment and arbitrary detention when accused of violating severe restrictions on their freedom, including movement, employment and access to education.⁴⁴ Furthermore, high levels of displacement, extreme poverty and food insecurity exacerbated harmful coping mechanisms, including forced and child marriage.⁴⁵

As far as children are concerned, between 1 July and 30 September 2023, the UN reported around 400 grave violations against at least 120 children (approximately 100 boys and 20 girls). The most prevalent violations included incidents of denial of humanitarian assistance, killing and maiming, mostly due to explosive ordnance, and recruitment and use.⁴⁶ The Secretary-General's Report on Children and Armed Conflict also reported the recruitment and use of children in combat and support roles, detention for alleged association with opposition groups and sexual violence against children.⁴⁷

Additional Actors

Non-State Armed Groups (Beyond Parties to the Conflict)

Beyond ISIL-K, NRF and AFF, various minor non-state armed groups claimed to have conducted occasional attacks during the reporting period, for instance, the Afghanistan National Guard Front and the National Mobilization Front.⁴⁸ Along the Afghanistan-Pakistan border region, the reported presence of Tehrik-e-Taliban Pakistan (TTP) on the territory of Afghanistan has caused tensions between Afghanistan and Pakistan with the situation from time to time escalating to armed clashes. TTP members reportedly carry out routine attacks on or towards Pakistani territory.⁴⁹ For example, there were at least 13 instances of TTP opening fire on Pakistani troops in Pakistani territory reported between March and June 2024.⁵⁰

End Notes Afghanistan

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ARMENIA-AZERBAIJAN

Armenia and Azerbaijan were parties to an international armed conflict (IAC) during the reporting period, with the military offensive carried out by Azerbaijan on 19–20 September 2023, representing the latest round of hostilities in a chain continuing since the First Nagorno-Karabakh War. Within this IAC, and following the military offensive, the reporting period was characterized by the closing phases of the Armenian occupation of Nagorno-Karabakh and other territories belonging to Azerbaijan. Regarding the conduct of hostilities during the offensive, there were allegations by Armenia of hundreds of civilian casualties, as well as of indiscriminate attacks and attacks directed at critical infrastructure. This was denied by Azerbaijan. However, a lack of independent verification of these events impedes any conclusions regarding compliance with the principles of distinction and proportionality. Reports of the deaths of Russian peacekeepers, as well as claims that military infrastructure was deployed near residential areas, raise concerns about compliance with the principles of precaution in attack and against the effects of attacks. Obligations on parties to comply with these principles are non-reciprocal (that is, a violation by one party does not justify a corresponding violation by the other). International organs also reminded Azerbaijan of its obligations to protect cultural property in Nagorno-Karabakh. Allegations of casualties due to landmines, as well as regarding inaccuracy of landmine maps, further highlight the relevance of the parties' customary obligations to minimize the indiscriminate effects of landmines, record their location and remove or neutralize these. Regarding the treatment of persons, the reported departure of over 100,000 ethnic Armenians from Nagorno Karabakh highlights issues regarding the customary international humanitarian law (IHL) prohibition on conflict-related displacement and right to return, as well as the applicability of fundamental guarantees for protected persons and civilians on the territory of the parties. During the reporting period prior to the September 2023 offensive, in connection with the closure of the Lachin corridor, concerns are raised (to varying degrees) regarding compliance with the parties' obligations on humanitarian access and the facilitation of the passage of humanitarian relief. Restrictions imposed by Azerbaijan reportedly altogether prevented the delivery of food and medical supplies, raising concerns about the use of starvation as a method of warfare. Armenia's reported conditioning of humanitarian access also points to the potential arbitrary denial of consent to humanitarian access. Both parties' objections to opening available routes also potentially breach of obligations regarding evacuation of the wounded and sick

Conflict Overview

Since the dissolution of the Union of Soviet Socialist Republics in 1991, Armenia and Azerbaijan have battled over the region of Nagorno-Karabakh, part of the territory of Azerbaijan but inhabited by a predominantly Armenian population. Following the First Nagorno-Karabakh War of 1988–1994, Armenia occupied the entire territory of the former Nagorno-Karabakh Autonomous Oblast and seven surrounding districts.¹ In 1994 the Bishkek Protocol brokered by Russia led to a provisional ceasefire, with a de facto independent Republic of Artsakh (Republic of Nagorno-Karabakh) administering as much as 20 percent of the territory of Azerbaijan.² Whereas intermittent clashes between the two countries took place in the following decades (especially in 2008 and 2016), Azerbaijan was able to re-take control of several districts previously occupied by Armenia as a result of the Second Nagorno-Karabakh War of 2020. The ceasefire agreement of 10 November 2020 provided for the return to Azerbaijan of all remaining regions (except Nagorno-Karabakh proper), while a Russian peacekeeping contingent would be deployed along the line of contact in Nagorno-Karabakh in parallel with the withdrawal of the Armenian armed forces.³ The agreement also established the Lachin Corridor (a 5 kilometre-wide strip to be monitored by Russian peacekeepers that would ‘ensure the communication between Nagorno Karabakh and the Armenia’) and required Azerbaijan to ‘guarantee safe movement of citizens, vehicles and cargo in both directions’ along that route.⁴

The time period covered by the present report witnessed important developments, as well as some turning points, in the armed conflict between Armenia and Azerbaijan. The opening of an Azerbaijani checkpoint on the Lachin Corridor near the border with Armenia on 23 April 2023 increasingly and severely affected the communication between Nagorno-Karabakh and Armenia throughout the summer of 2023.⁵ Justified by Azerbaijan as a measure intended ‘to stop the illegal flow of weapons, military equipment, and soldiers into [its] sovereign territory’,⁶ the decision resulted in a severe reduction in the delivery of medical and food supplies to the population of Nagorno-Karabakh.⁷ On 19 September 2023, the launch of a two-day offensive (described as ‘local counter-terrorism activities’) in the part of Nagorno-Karabakh still occupied by Armenia allowed Azerbaijan to re-establish full control over the breakaway region,⁸ while resulting in nearly the total population of the area (more than 100,000 ethnic Armenians) fleeing to Armenia.⁹ The Republic of Artsakh was formally dissolved on 1 January 2024¹⁰ and Armenia and Azerbaijan have engaged in talks for the demarcation of the border.¹¹ However, on several occasions in the first half of 2024, each state accused the other of opening fire on various sectors of the border¹² and of continuing to occupy parts of its territory.¹³

Armenia and Azerbaijan are both parties to the 1949 Geneva Conventions. Since only Armenia has acceded to the Additional Protocols of 1977 and 2005 to the 1949 Geneva Conventions, these treaties do not apply as a matter of treaty law. Both states are also parties to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two Protocols of 1954 and 1999, as well as to the 1972 Convention on the Prohibition of Chemical Weapons and the 1993 Convention prohibiting Chemical Weapons.¹⁴

Conflict Classification

Armenia and Azerbaijan were parties to an international armed conflict (IAC) during the reporting period. In this sense, the military offensive of 19–20 September 2023 was not an unprecedented and isolated recourse to armed force – rather, it represented the latest round of hostilities in a chain that had continued, amidst ebbs and flows, since the First Nagorno-Karabakh War. Moreover, notwithstanding the efforts towards border delimitation and normalization of relationship, the recurring allegations of ceasefire violations and border confrontations that continued throughout 2024 make it premature to conclude that the armed conflict has definitively ended.

Within this international armed conflict, the reporting period was characterized by the closing phases of the Armenian occupation of Nagorno-Karabakh and other territories belonging to Azerbaijan. According to international humanitarian law (IHL), occupation typically occurs when a territory is actually placed under the authority of a hostile army.¹⁵ This was the case with the four Azerbaijani villages of Baghanis, Voskepar, Kirants and Berkaber, the occupation of which ended with the withdrawal of Armenian border guards in May 2024.¹⁶ However, occupation can also occur by proxy, when a state ‘exercises overall control over de facto local authorities or other local organized groups that are themselves in effective control of all or part of a territory’.¹⁷ Since its establishment, the self-proclaimed Republic of Artsakh (which between 1991 and 2023 administered the Nagorno-Karabakh region without the consent of Azerbaijan) relied ‘heavily ... on close economic, political, and military ties with Armenia’.¹⁸ Although Armenia has denied the presence of any military personnel of its armed forces in Nagorno-Karabakh following the 2020 ceasefire agreement,¹⁹ its financial contributions reportedly covered a considerable portion of the budget of the Republic of Artsakh (up to 73 percent in 2021), including ‘all the salaries of [the] public sector, all the pensions and benefits, all the expenses of the healthcare and education system [and] all utility expenses of the people of Artsakh’.²⁰ These considerations suggest that, in the period under scrutiny, Armenia was the occupying power in Nagorno-Karabakh, owing to the control that it was exerting over the Government of the Republic of Artsakh. The military occupation by Armenia came to an end at the latest with the military offensive of September 2023, when Azerbaijan regained control over the whole territory of Nagorno-Karabakh.

International Humanitarian Law in Armenia and Azerbaijan, 1 July 2023–30 June 2024

Conduct of Hostilities

Attacks Directed against Civilians and Civilian Objects, or of an Indiscriminate or Disproportionate Nature

The IHL compliance issues raised in this section concern the period of the military offensive carried out by Azerbaijan in Nagorno-Karabakh on 19–20 September 2023. Reports about the conduct of hostilities during this operation, and especially

about the number of civilian casualties and extent of damage, vary considerably. Immediately after the hostilities, Armenia counted ‘more than 200 killed and 400 wounded, including among civilian population, women and children’.²¹ It alleged indiscriminate shelling of cities and settlements by Azerbaijan (including with cluster munitions), as well as ‘targeted attacks against critical infrastructure, such as electricity stations, telephone cables stations and internet equipment, [which left] the population ... completely cut-off from each other’.²² Azerbaijan, on the other hand, maintained that ‘[t]he protection and security of administrative, social, educational, medical, religious, and other facilities was ensured in line with laws of the Republic of Azerbaijan and international humanitarian law’.²³ In the absence of an independent verification of these incidents, it is not possible to reach a definite conclusion on the compliance (or lack thereof) with relevant rules on the conduct of hostilities, including the rules on distinction and proportionality. At the same time, there are two specific aspects of the conduct of hostilities that raise concerns with regard to compliance with the IHL principle of precautions in attack.

First, on 20 September 2023, an unspecified number of Russian peacekeepers died in Nagorno-Karabakh.²⁴ It was reported that ‘Azerbaijani forces claimed to have mistakenly opened fire mistaking their vehicle for one belonging to local ethnic-Armenian fighters’.²⁵ The President of Azerbaijan apologized for the incident and promised that an investigation would be conducted.²⁶ Under IHL, peacekeeping forces are equated to civilians (and entitled to the same protection against attack) as long as they are not directly taking part in hostilities.²⁷ Even assuming that mistakes of fact could exclude responsibility under IHL for uses of lethal force against civilians or civilian objects,²⁸ the necessary conditions for such exculpatory effect arguably were not met in the case at hand. Adequate verification by Azerbaijani officials of the identity, location and movements of the Russian peacekeepers would have been a feasible precaution in the preparation and execution of the attack.²⁹ Therefore, there are concerns regarding compliance with the obligations flowing from the principle of precaution in attack. This seems to have been acknowledged by Azerbaijan itself, as its President not only issued a formal apology but also offered to provide material assistance to the families of the victims.³⁰

Second, Azerbaijan maintained that it ‘urged the civilian population to stay away from military facilities’, including by providing ‘Armenian residents living in the Karabakh region ... with relevant information via mobile SMS service, loudspeakers and information leaflets’.³¹ This measure was motivated, in the words of an Azerbaijani communiqué, by ‘the deployment of military infrastructure of the units of Armenian armed forces near the residential areas’.³² If Armenia in fact failed to do all that was feasible to place military units away from densely-populated areas, that would amount to a breach of the customary rules flowing from the principle of precaution against the effects of attacks.³³ However, it should be recalled that failure by one belligerent to take all appropriate precautions to protect the civilian population and civilian objects under its control against the effects of attacks does not release the counterpart from adopting all feasible precautions in attack, nor from complying with the principles of distinction and proportionality. As such, Azerbaijan would still have been bound by IHL rules governing the conduct of hostilities.³⁴ Moreover, whereas effective advance warning of attacks to the civilian population is a welcome and – when circumstances permit – necessary measure,³⁵ this does not relieve the attacking party from its obligations to take all feasible precautions and to apply the principles of distinction and proportionality.³⁶ Therefore, if it were established that civilian persons and objects were attacked without

adequate verification or target selection, or indiscriminately, such conduct would still breach IHL even if advance warning had been given.

Protection of Cultural Property

Soon after the ceasefire of September 2023, Armenia complained of threats posed by Azerbaijan to cultural sites (especially Armenian monasteries and monuments) in Nagorno-Karabakh.³⁷ On different occasions, Azerbaijani authorities denied such accusations and re-affirmed their commitment to the protection of the 'historical and religious monuments located in the sovereign territories of Azerbaijan ... regardless of their secular or religious origins'.³⁸ Throughout the reporting period, international organs such as the United Nations (UN) Special Rapporteur in the Field of Cultural Rights, the European Union (EU) as well as the International Court of Justice (ICJ) reminded Azerbaijan of its obligations to protect cultural monuments, artefacts and sites in Nagorno-Karabakh.³⁹ In this respect, it is important to emphasize that under the 1954 Hague Convention, parties to an armed conflict shall refrain (except in cases of imperative military necessity) from any act of hostility directed against cultural property, and shall prohibit, prevent and, if necessary, put a stop to any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, cultural property.⁴⁰

Means of Warfare

Landmines

During the reporting period, there were numerous allegations of casualties (mostly among civilians but also among soldiers) resulting from landmines.⁴¹ In this respect, Azerbaijan has alleged the inaccuracy of landmine maps provided by Armenia.⁴² Neither Armenia nor Azerbaijan are parties to treaties on the means and methods of warfare that prohibit recourse to these weapons.⁴³ However, customary international law applicable to armed conflict requires that '[w]hen landmines are used, particular care must be taken to minimize their indiscriminate effects'.⁴⁴ Moreover, customary obligations requiring parties to record the placement of landmines as far as possible, and to remove or neutralize these at the end of active hostilities, have also been found to apply to anti-personnel mines.⁴⁵ In this sense, in the framework of their normalization process, both parties to the conflict are required to collaborate with a view to ensuring that landmines planted throughout the armed conflict are removed or rendered harmless to civilians.⁴⁶

Treatment of Persons

Conflict-Related Displacement and Fundamental Guarantees

As discussed above under Conflict 'Classification', the situation between Armenia and Azerbaijan continued to qualify as an international armed conflict throughout the reporting period, even after the occupation of Nagorno-Karabakh came to an end.

As soon as the military offensive of September 2023 began, thousands of residents of Nagorno-Karabakh were reportedly displaced.⁴⁷ Following the re-opening of the Lachin Corridor on 24 September 2023⁴⁸ and the re-establishment of Azer-

Armenian control over the region, virtually the entire ethnic Armenian population of Nagorno-Karabakh (comprising some 115,000 people) was said to have relocated to Armenia.⁴⁹ In the following months, several UN experts, the EU, non-governmental organizations (NGOs), and eventually the ICJ, reaffirmed Azerbaijan's obligations to respect the rights both of those ethnic Armenians who wished to leave (that is, the right to evacuate from and to return to Azerbaijan, and the protection of their property) and of those ethnic Armenians who wished to stay in Nagorno-Karabakh (especially the rights to equal treatment and to be protected from violence, intimidation and hatred).⁵⁰

In addition to these fundamental human rights (which continue to apply in situations of armed conflict), it is worth recalling that ethnic Armenians of Nagorno-Karabakh benefit from the application of certain IHL rules vis-à-vis Azerbaijan. Any resident of Nagorno-Karabakh of Armenian nationality would qualify as a 'protected person' under the Fourth Geneva Convention and enjoy the rights enshrined therein for those 'who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict ... of which they are not nationals'.⁵¹ Moreover, even ethnic Armenians of Nagorno-Karabakh who are nationals of Azerbaijan would benefit from those provisions in the Fourth Geneva Convention that give application to the general protection of populations against certain consequences of war and that cover the whole of the populations of the countries in conflict.⁵² This would notably be the case for the provisions aimed at restoring family links.⁵³

Regardless of the status of the people in question as protected persons under the Fourth Geneva Convention, it is relevant to note that the customary obligation prohibiting forcible transfer or deportation protects 'the civilian population of an occupied territory, in whole or in part', and is deemed to be binding on 'all parties to an international armed conflict', not only the occupying power. The only grounds of exception foreseen are evacuation for the security of the civilians involved, or for imperative military reasons.⁵⁴ The commentary to this rule also mentions more generally that state practice 'underlines the duty of parties to a conflict to prevent displacement caused by their own acts, at least those acts which are prohibited in and of themselves'.⁵⁵ Furthermore, all displaced persons 'have a right to voluntary return in safety to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist'.⁵⁶ In the meantime, 'all possible measures must be taken' to receive displaced civilians in 'satisfactory conditions of shelter, hygiene, health, safety and nutrition', and to avoid separation of family members.⁵⁷

Humanitarian Relief

Humanitarian Access and Facilitation of the Passage of Humanitarian Relief

The issues raised in this section pertain to the timespan from the beginning of the reporting period (1 July 2023) until 18 September 2023 (prior to the military offensive of 19–20 September 2023). They revolve around Azerbaijan's closure of the Lachin Corridor in this period, which was the only route connecting Armenia with the territories then still under the control of the Republic of Artsakh.

The establishment by Azerbaijan of a checkpoint near the Hakari Bridge in April 2023 led to a progressive restriction of the traffic of persons, vehicles and goods along the Lachin Corridor. The implementation of customs checks on all

cargo curtailed the delivery of food and medical supplies to the population of Nagorno-Karabakh, as well as the transfer of persons of Armenian national or ethnic origin hospitalized in Nagorno-Karabakh to medical facilities in Armenia for urgent medical care.⁵⁸ Although both Armenia and Azerbaijan offered to provide humanitarian supplies through their routes into Nagorno-Karabakh, the alleged failure to obtain consent from the other side prevented all delivery.⁵⁹ Only in mid-September, after the two parties agreed to the simultaneous use of the Aghdam road from Azerbaijan and the Lachin Corridor from Armenia, was the International Committee of the Red Cross (ICRC) able to bring ‘shipments of wheat flour and essential medical items to people in need’.⁶⁰

Throughout the summer of 2023, several international bodies urged Azerbaijan to ease the severity of the restrictions on the entry of essential supplies and the evacuation of patients for medical care. On 6 July 2023 the ICJ reaffirmed the obligation for Azerbaijan to ‘take all measures at its disposal to ensure unimpeded movement of persons, vehicles and cargo along the Lachin Corridor in both directions’.⁶¹ Later on, the UN Secretary-General,⁶² several UN Special Rapporteurs,⁶³ the EU⁶⁴ and the Council of Europe’s Commissioner for Human Rights⁶⁵ urged Azerbaijan to ensure the unimpeded delivery of humanitarian assistance in Nagorno-Karabakh.⁶⁶

Under applicable IHL, parties to armed conflict have an obligation to allow and facilitate the rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control.⁶⁷ Specific obligations in relation to collective relief also apply to an occupying power if the population of the occupied territory is inadequately supplied.⁶⁸ In the case at hand (and leaving aside the question as to the entitlement under international law, and the legality under the 2020 cease-fire agreement, of establishing the checkpoint near the Hakari Bridge), there are reasonable grounds to believe that both parties failed to comply with their IHL obligations, although to varying degrees.

Azerbaijan appears to have curtailed the operations of humanitarian organizations such as the ICRC and the Russian Red Cross with increasing limitations, up to the point of altogether preventing the delivery of food and medical supplies.⁶⁹ Having consented to humanitarian relief operations, Azerbaijan was not entitled to exercise the right of control over the modalities of these operations in a way that rendered them impossible. Moreover, Azerbaijan’s granting of consent only to those organizations appears unjustified in a situation of acute food insecurity such as that affecting the civilian population of Nagorno-Karabakh. In particular, the denial of consent to the delivery of humanitarian aid entering from Armenia, with no attempt at verifying that it was impartial and humanitarian in character, appears arbitrary and, therefore, unlawful.⁷⁰ Moreover, if one considers the duration, scale and consequences of the measures imposed by Azerbaijan, as well as their being adopted in apparent preparation for the military offensive of September 2023, it is possible to infer that the customary prohibition on using starvation of the civilian population as a method of warfare may also have been breached.⁷¹

Armenia’s (and the Republic of Artsakh’s) failure to consent to humanitarian relief operations coming from Azerbaijan also raises concerns in relation to IHL compliance. Such denial must be considered arbitrary in so far as its sole rationale appeared to lie not in the non-humanitarian or partial character of the relief, but in the willingness to pursue the simultaneous opening of the Lachin Corridor. Armenia’s concern for the humanitarian situation of the civilian population in

Nagorno-Karabakh is demonstrated by the subsequent efforts to fully integrate refugees from Nagorno-Karabakh following the full recapture of the enclave.⁷² However, conditioning the provision of humanitarian supplies from Azerbaijani territory on the parallel opening of the Lachin Corridor runs counter to the letter and the spirit of the IHL provisions, which do not subject humanitarian operations to conditions of reciprocity or mutual operationalization.⁷³

Finally, by objecting to the opening of available routes, both parties appear to have also breached their obligation to take all possible measures to evacuate the wounded and sick.⁷⁴ Admittedly, such evacuations occurred, albeit with varying intensity, throughout the closure of the Lachin Corridor. However, the severe limitations that humanitarian organizations generally encountered do not appear justified under the circumstances at the time, which was characterized by the absence of large-scale military confrontations.

End Notes Armenia-Azerbaijan

1 These were the districts of Aghdam, Jabrail, Fuzuli, Kalbajar, Gubadli, Lachin and Zangilan.

2 Council on Foreign Relations, Centre for Preventive Action, 'Nagorno-Karabakh Conflict', last updated on 20 March 2024, <https://www.cfr.org/global-conflict-tracker/conflict/nagorno-karabakh-conflict>. See also Bishkek Protocol, 5 May 1994, <https://peacemaker.un.org/sites/default/files/document/files/2024/05/bishkek20protocol.pdf>.

3 See Statement by the Prime Minister of the Republic of Armenia, the President of the Republic of Azerbaijan and the President of the Russian Federation, 10 November 2020, paras 2–6, <http://kremlin.ru/events/president/news/64384> (in Russian), <https://www.primeminister.am/en/press-release/item/2020/11/10/Announcement/> (in English). The agreement also provided for the return to Nagorno-Karabakh and adjacent regions of internally-displaced persons and refugees, as well as for exchange of prisoners of war, hostages and other detained persons and corpses of deceased persons, paras 7–8.

4 Statement by the Prime Minister of the Republic of Armenia, the President of the Republic of Azerbaijan and the President of the Russian Federation, supra 3, para.

5 Ministry of Foreign Affairs of the Republic of Armenia, 'The Statement of MFA of Armenia Regarding the Installation of an Illegal Checkpoint by Azerbaijan in the Lachin Corridor', 23 April 2023, https://www.mfa.am/en/interviews-articles-and-comments/2023/04/23/statement_lachincorridor/11980. Since December 2022, disruption in the connection between the two territories had already resulted from the activities of Azerbaijani activists allegedly protesting against illegal mining in Nagorno-Karabakh: see Ministry of Foreign Affairs of the Republic of Armenia, 'Statement of the Foreign Ministry of Armenia on the Azerbaijani Provocation in the Lachin Corridor', 13 December 2022, https://www.mfa.am/en/interviews-articles-and-comments/2022/12/13/mfa_statement_lachin/11783.

6 ICJ, 'Application of the International Convention on the Elimination of All Forms of Racial Discrimination (*Armenia v Azerbaijan*)', Order – Request for the Modification of the Order of 22 February 2023 Indicating a Provisional Measure, 6 July 2023, para 22. See also Ministry of Foreign Affairs of the Republic of Azerbaijan, 'No: 220/23, Statement on Establishment of the Border Checkpoint by the Republic Of Azerbaijan at the Starting Point of the Lachin-Khankandi Road (EN/RU)', 23 April 2023, <https://www.mfa.gov.az/en/news/no22023>.

7 ICRC, 'Azerbaijan/Armenia: Sides Must Reach "Humanitarian Consensus" to Ease Suffering', 25 July 2023, <https://www.icrc.org/en/document/azerbaijan-armenia-sides-must-reach-humanitarian-consensus-to-ease-suffering>; ICRC, 'Operational Update on ICRC's Work Across the Lachin Corridor', 18 August 2023, <https://www.icrc.org/en/document/operational-update-icrcs-work-across-lachin-corridor>.

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9 Human Rights Watch, 'Guarantee Right to Return to Nagorno Karabakh', 5 October 2023, <https://www.hrw.org/news/2023/10/05/guarantee-right-return-nagorno-karabakh>; UN Doc A/HRC/57/50/Add.2, 'Report of the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence – Visit to Armenia', 10 July 2024, para 57, <https://documents.un.org/doc/undoc/gen/g24/106/74/pdf/g2410674.pdf>.

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11 See Ministry of Foreign Affairs of the Republic of Armenia, 'Press Release on the Outcome of the 9th Meeting of the State Commissions on the Delimitation of the State Border Between Armenia and Azerbaijan', 15 May 2024, https://www.mfa.am/en/press-releases/2024/05/15/arm_az/12644.

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BURKINA FASO

Burkina Faso state forces, supported by the Volunteers for Defence of the Homeland (VDP) community militias, remained active in three parallel non-international armed conflicts (NIACs) against non-state armed groups, namely, the al-Qaeda-affiliated Group for the Support of Islam and Muslims (JNIM), Ansaroul Islam and Islamic State in the Sahel (ISSP). In the reporting period, particular concerns about compliance with international humanitarian law (IHL) arise from developments regarding the conduct of hostilities; the reported use of improvised explosive devices (IEDs) and anti-personnel mines; sieges as a method of warfare; conflict-related displacement; arbitrary deprivation of liberty; and extra-judicial killings. Issues reported in connection with the conduct of hostilities included the alleged targeting of civilians and carrying out of attacks causing a high number of civilian casualties by state forces, auxiliary militias and non-state armed groups. Reported incidents in this regard included attacks on villages and towns (during which summary executions were allegedly carried out), drone strikes, airstrikes in populated areas and attacks on places of worship. Regarding the means of warfare, armed groups have allegedly used a range of IEDs, particularly victim-activated explosive devices, causing numerous civilian casualties and hampering humanitarian access. Furthermore, an increased use of improvised anti-personnel mines – also close to areas where civilians live – has been reported. Treaty obligations prohibiting the use of landmines or IEDs against civilians, including by non-state armed groups, are in force in Burkina Faso. Sources indicate that in large parts of the country, armed groups have besieged towns and villages using checkpoints, IEDs and attacks on civilians and supply convoys. It is believed that armed groups employ this method of warfare to pressure communities and consolidate their influence. Siege warfare in Burkina Faso has reportedly cut hundreds of thousands of people off from humanitarian assistance, and led to the collapse of healthcare services, food production and local economies, as well as hunger and death resulting from preventable diseases. An acute crisis of conflict-related displacement is ongoing in Burkina Faso. The internally-displaced population of over two million people continued to grow significantly over the reporting period, outstripping the capacity of basic social services. There was also a major increase in cross-border displacement. Some of this conflict-related displacement is reportedly linked to armed groups giving civilians ultimatums to leave their homes, which would likely breach the IHL prohibitions on ordering or causing conflict-related displacement during a NIAC. In connection with the armed conflicts in Burkina Faso, concerns have also been raised about reported arbitrary deprivations of liberty by paramilitary forces (in the form of abductions), as well as alleged extra-judicial killings of people in the power of state forces.

Conflict Overview

The extent of civilian impact resulting from armed conflicts between state security forces and non-state armed groups in Burkina Faso has been increasing rapidly over the last four years, with the country continuing to experience the worst humanitarian crisis in its history. The civilian death toll linked to acts of armed groups and the conduct of the Burkinabe security forces more than doubled from 762 in 2020 to 1,418 in 2022, and stood at 1,312 for only the first half of 2023, according to Amnesty International.¹ The situation further deteriorated during the period under review – the Office of the United Nations High Commissioner for Human Rights (OHCHR) reported that between November 2023 and April 2024, allegations of violations and abuses of international human rights law and international humanitarian law (IHL) involved at least 2,732 victims – a 71 percent increase on the previous six months. Some 1,794 of the recorded victims – two-thirds of the total – were said to have been killed unlawfully.² Civilians were not only caught in the middle of armed clashes between parties to the armed conflicts in the country, but were reportedly targeted by both the state security forces and non-state armed groups, ‘often under the accusation of being suspected collaborators of opposing forces’.³ Around 10 percent of the population has been displaced by the conflicts and associated violence.⁴ The situation has been described as the world’s ‘most neglected crisis’.⁵

Conflict Classification

During the reporting period, Burkina Faso remained actively involved in three parallel non-international armed conflicts (NIACs):

- One conflict is between the Burkinabe security forces and the Group for the Support of Islam and Muslims (‘ama’at Nusrat al-Islam wal Muslimeen’, JNIM), an al-Qaeda in the Islamic Maghreb (AQIM) affiliate.⁶
- Another conflict is ongoing between the security forces and Ansaroul Islam, a long-standing, local movement which is believed to be collaborating with JNIM.⁷
- A third NIAC persisted between Burkina Faso and the Islamic State in the Sahel (ISSP), previously known as Islamic State in the Greater Sahara (ISGS).⁸

State forces are supported by the Volunteers for Defence of the Homeland, or *Les Volontaires pour la défense de la Patrie* (VDP), an umbrella organization of community self-defence militias that are directly supervised and trained by state forces.⁹

As the violence has reached the requisite level of intensity and the non-state parties exhibit a sufficient level of organization, these conflicts are considered to be NIACs governed by Common Article 3 of the Geneva Conventions and customary IHL.

International Humanitarian Law in Burkina Faso, 1 July 2023–30 June 2024

Conduct of Hostilities

Attacks directed against civilians and attacks causing high numbers of civilian casualties have been attributed by different United Nations (UN) and non-governmental organization (NGO) sources to various elements of the Burkina Faso security forces, as well as to the non-state armed groups. At the end of May 2024, the UN High Commissioner for Human Rights, Volker Türk, stated:

While armed groups are presumed responsible for the vast majority of incidents and victims and should be held accountable, I am also deeply disturbed that security and defence forces and their auxiliaries, the *Volontaires pour la défense de la patrie* [VDP], allegedly carried out wanton killings, including summary executions.¹⁰

A number of incidents involving the military allegedly targeting civilians were documented in the reporting period. Human Rights Watch reported that the Burkina Faso military ‘summarily executed at least 223 civilians, including at least 56 children, in two villages on February 25, 2024’.¹¹ In November 2023, Associated Press (AP) reported that almost 100 civilians had been killed in the village of Zaongo, including women and children.¹² Survivors told AP that they were certain the men were from the security forces. They described the perpetrators as wearing military uniforms, one with a Burkina Faso flag fastened to him, as he warned a group of civilians that anyone found alive would be killed. A farmer reported seeing a helicopter flying towards the village in the attack’s aftermath – aircraft are used solely by the military, not insurgents.¹³

Other smaller-scale incidents have also been reported in which civilians were said to have been targeted by the military and/or its auxiliary forces. One reported attack involved gunmen wearing military uniforms who allegedly killed over 30 civilians in Dongounani village, Hauts-Bassins region, on 8 December 2023; local sources blamed the attack on members of armed forces or VDPs. These state-sponsored militias are also reported to have ‘conducted multiple abuses against civilians’.¹⁴ On 10 September 2023, Human Rights Watch reports that a group of VDPs stormed the grazing fields surrounding the village of Peteguéré, Sahel region, in order to loot livestock. During the attack, they allegedly killed seven people, four of whom were children, and looted more than 100 cows and 24 goats.¹⁵

In addition, the Burkinabe armed forces are said to have used drones to strike civilians and civilian objects, causing a large number of civilian casualties. Human Rights Watch cited reports that ‘three Burkina Faso military drone strikes that the government claimed targeted Islamist fighters killed at least 60 civilians and injured scores more at two crowded markets and a packed funeral in Burkina Faso and Mali between August and November 2023’.¹⁶ The first of these three strikes, on 3 August, was said by witnesses to have hit Bouro’s weekly market. Local residents said that at least 28 men were killed and many were wounded. Witnesses, however, noted that JNIM controlled Bouro and surrounding areas. Three survivors said that four motorcycles ridden by *jihadis* ‘entered the market at the moment of the strike, when hundreds of civilians packed the market’.¹⁷ Even if the target of the airstrike

indeed was the JNIM fighters, however, there would still be strong indications of a disproportionate attack.

There have also been airstrikes by the Burkinabe air force that are reported to have resulted in significant civilian casualties. On 17 June 2024 airstrikes were reportedly conducted against a mosque in the village of Bana (Mansila, Yagha) resulting in the death of 15 people. In a statement, JNIM accused the Burkinabe army of having killed 15 civilians and wounding two others.¹⁸ If true, at the least the principle of proportionality would likely have been breached – if not potentially the principle of distinction – given that attacks apparently are being mounted in populated areas, which would result in a predictably high toll among the civilian population.

Armed groups operating in Burkina Faso are reported to have targeted civilians on multiple occasions. JNIM fighters are said by the International Crisis Group to have attacked civilians in the centre-north, north, east, and centre-east regions of the country. For instance, JNIM allegedly launched an attack on Séguénéma town (north) killing 30 civilians on 23 April. On 2 May 2024 JNIM fighters are said to have killed 20 civilians in Tagalla village, Sanmatenga province in the centre-north. On 6 June JNIM reportedly raided Dasse village in Boucle du Mouhoun region, killing 63 people; the next day, the group are said to have killed around 30 civilians and VDPs in Kossodougou village, in the east region.¹⁹ VDPs are only a lawful target of attack if they are participating directly in hostilities.

ISSP fighters are similarly accused of having directly attacked civilians or having conducted disproportionate attacks. Relevant reported incidents include an attack on 2 April 2024 on Woulmassoutou and Sakatamba villages in Seno province, said to have killed around 20 people; a raid on a mosque in Natiaboani town, Gourma province (in the east region), which reportedly left dozens of civilians, soldiers and VDPs dead; and an attack on a Catholic church in Essakane village, Oudalan province, said to have killed at least 15 people.²⁰

Means of Warfare

Landmines and Explosive Remnants of War

According to state reports, armed groups have used a range of improvised explosive devices (IEDs) in the conduct of hostilities. Types of IEDs said to have been used include devices that are victim-activated and meet the definition of an anti-personnel mine in the 1997 Anti-Personnel Mine Ban Convention; anti-vehicle mines; command-detonated devices; and devices set to detonate after a time delay.²¹ In 2023, 9 of the country's 13 regions recorded IED incidents, with a concentration in the centre-north, east, and Boucle du Mouhoun regions. Of the 168 incidents recorded in 2023 by the UN Mine Action Service (UNMAS), 76 (45 percent) reportedly involved victim-operated IEDs.²² For the second consecutive year, Burkina Faso recorded more civilian than military victims of explosive devices.²³

In 2024 authorities reported an increased, scattered use of improvised anti-personnel mines, noting 'the presence of two or three IEDs, sometimes more, in one single area, in particular on supply routes and on routes used by the FDS [Forces de sécurité – security forces], as well as in close proximity to areas where the civilian population lives. The devices are discovered by the FDS during operations, as well as by the civilian population.'²⁴ Access to millions of people in need is hampered

by ambushes and IEDs, in addition to other access restrictions, according to the European Commission Humanitarian Aid and Civil Protection (ECHO).²⁵

The use of victim-activated explosive weapons by armed groups in the period under review has caused at least 123 civilian casualties, according to the Armed Conflict Location and Event Data Project (ACLED). Most incident reports indicate that civilians struck devices when moving around towns. At least some of these devices seem to have been improvised anti-vehicle mines. For example, ACLED reports that on 30 January 2024, five civilians on a cart were killed when it struck a device likely planted by JNIM militants between Nango (Zogore, Yatenga) and Tangaye (Tangaye, Yatenga).²⁶ On 7 April 2024 civilians on a cart reportedly struck a device likely planted by JNIM militants between Silmangue (Bouroum, Namentenga) and Gorgadji (Gorgadji, Seno). According to the report, four women were killed, and an elderly woman and an unknown number of children were injured.²⁷ On 31 May 2024 civilians on a tricycle reportedly struck an IED in the village of Founa (Sanaba, Banwa). Nine civilians from the same family were reportedly killed.²⁸ The use of victim-activated explosive devices, whether prohibited anti-personnel mines or anti-vehicle mines, is of grave concern due to their propensity for indiscriminate effects.

Burkina Faso is a state party to the 1997 Anti-Personnel Mine Ban Convention, which prohibits all use of anti-personnel mines by any state actor. Burkina Faso is also a state party to the Convention on Certain Conventional Weapons and its protocols regulating landmines (1980 Protocol II and 1996 Amended Protocol II) and explosive remnants of war (2003 Protocol V). Amended Protocol II prohibits ‘in all circumstances’ the directing of landmines and IEDs ‘against the civilian population as such or against individual civilians or civilian objects’. Their indiscriminate use is also prohibited.²⁹ These rules apply to both state and non-state parties to the armed conflicts in Burkina Faso.³⁰ Protocol V requires the parties to armed conflicts to take ‘all feasible precautions in the territory under their control affected by explosive remnants of war to protect the civilian population, individual civilians and civilian objects from the risks and effects of explosive remnants of war’.³¹

Methods of Warfare

Siege Warfare

Armed groups are present in large parts of the territory of Burkina Faso and have the capacity to put under siege individual villages or towns in an area of ‘restricted access’, which spreads from Nouna in the west to Diapaga in the east, and from Tin-Akoff in the far north to Pama and Mangodara in the far south. Amnesty International estimated that in July 2023, at least 46 locations across national territory were under siege by armed groups. The tactic – first used in 2019, but a defining feature of the conflict since 2022 – is characterized by the use of checkpoints on main exit routes, the laying of IEDs to limit traffic, and occasional attacks against civilians, soldiers and supply convoys.³² According to one report by the Norwegian Refugee Council in early June 2024, up to ‘two million people were trapped in 39 blockaded towns across the country, leaving hundreds of thousands cut off from aid’.³³

The two regions of Sahel and Boucle du Mouhoun have been the most affected by sieges, with 19 and 18 communes respectively labelled ‘difficult to access’ by the UN Office for the Coordination of Humanitarian Assistance (OCHA) as of March 2023.³⁴ Nondin and Soro are believed to be among the many villages in the

country's Thiou district that have been besieged by JNIM.³⁵ Armed groups are said to 'resort to sieges to exert pressure on the local communities seen as hostile to the Islamist armed groups, to dissuade them from collaborating with the armed forces, and to expand their influence and the frontlines'.³⁶ According to Amnesty International, the sieges are also a response to government mobilization of VDPs. This is the case with armed groups such as Ansaroul Islam, which has enforced sieges in Diapaga, Djibo, Kompienga, and Nouna under such circumstances.³⁷ The sieges are claimed to weaken the posts of the army and/or VDPs that may be in these localities, while making the life of residents intolerable – 'in order to subject the populations to the demands of armed groups (tax, enlistment, submission to their governance order), to gradually empty the localities of its inhabitants and if possible, to take control of the localities to expand the territories under their control'.³⁸ The situation is said to be 'especially bad in the places that jihadists encircle, often through checkpoints and by scattering explosive devices. The tactic is apparently used to restrict the movement of soldiers and volunteers, and to punish localities supportive of the army.'³⁹ Beyond the physical restrictions on access, some besieged localities reportedly are further isolated by the sabotaging of telecommunication poles by armed groups.⁴⁰

Sieges are said to be destroying local economies in Burkina Faso and leading to mass hunger and deaths resulting from treatable diseases. Residents of besieged localities say that health services are collapsing; that infrastructure, including water systems, is being attacked; and that food is lacking 'because jihadists prevent their access to farm and pasture spaces on the outskirts of towns'.⁴¹ Starvation of civilians as a method of warfare is explicitly prohibited under IHL.⁴²

An emblematic example of an area besieged by non-state groups is Djibo, a town in the north of the country with 300,000 residents. One community leader who escaped told *The New Humanitarian* in February 2024:

We cannot farm, we cannot raise our livestock, and we cannot trade. Education has become impossible, and all our daily habits have had to change. The men in the bush are imposing the blockade because they think people in Djibo are acting against them. They also accuse soldiers in the town of arbitrarily killing suspected jihadists, and of preventing food being sent from Djibo to areas where the fighters live.⁴³

Humanitarian aid delivered by helicopter supplies food 'periodically', but much more is needed. 'The vast majority of Djibo's population is actually displaced from other areas, and they have absolutely nothing.'⁴⁴

Treatment of Persons

Conflict-Related Displacement

Persistent attacks targeting or affecting civilians have generated an acute crisis of displacement. More than half a million people were newly displaced in the first nine months of 2023, 'further overstressing the already insufficient capacity of basic social services in major IDP reception areas'.⁴⁵ Information from the Internal Displacement Monitoring Centre (IDMC) indicates that there were around 2.1 million internally-displaced persons (IDPs) in Burkina Faso at the end of 2023.⁴⁶

New displacements also took place every month in the first half of 2024, according to a report by the United Nations Children’s Fund (UNICEF).⁴⁷ The number of Burkinabe refugees and asylum seekers also jumped significantly – from 60,000 in December 2022 to some 190,000 at the end of 2024, according to the Office of the UN High Commissioner for Refugees (UNHCR).⁴⁸ Armed non-state actors have reportedly been issuing ultimatums to local residents to leave their villages.⁴⁹ Under IHL relating to a NIAC, it is prohibited to order displacement of civilians for reasons related to the conflict, except where required for their own security or imperative military reasons,⁵⁰ or to compel civilians to leave their territory for reasons related to the conflict.⁵¹ According to the Groupe de Coordination Opérationnelle de la Réponse (GGCORR), over 1,800 internal displacements as a result of non-state armed group incursions and threats had been recorded in Kossi Province in the Boucle du Mouhoun region as of late June 2024. This figure may be considered a ‘preliminary’ one.⁵²

Concerns Related to Deprivation of Liberty in Armed Conflict

Arbitrary Deprivation of Liberty and Extra-Judicial Killings

Many examples of violence by state security forces have been reported against civilians in their power. A number of such instances are cited by Human Rights Watch in its report on Burkina Faso for 2023. On 8 July 2023 Burkinabe soldiers reportedly stopped a truck carrying 11 people, including eight children, who were fleeing their village following an attack by armed groups. According to the report, the soldiers threatened to kill the driver and drove off with the 11 people, whose bodies were found the same day a few kilometres away; all had apparently been shot.⁵³ According to the Human Rights Watch’s report, on July 25, a group of approximately 30 VDPs raided the village of Ekeou, resulting in the deaths of two men, one of whom had a visual disability, and causing severe injuries to two children. In addition to the violence, they set fire to four homes and a barn. Witnesses reported that the VDPs were specifically targeting the village’s men, accusing them of being either Islamist fighters or their collaborators.⁵⁴

According to the International Crisis Group, in centre-east region, suspected VDPs abducted 19 Fulani civilians from a bus near Yargatenga commune, Koulpélogo province on 3 June 2024. Soldiers and VDPs also allegedly killed a traditional chief and two other people they accused of collaborating with JNIM in Sawengua village, Boulgou province, on 6 June. On 10 June, in the east region, VDPs are said to have abducted at least four people from a medical centre in Kompienga province before killing them.⁵⁵ Arbitrary deprivation of liberty and summary executions are prohibited by IHL.⁵⁶

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CENTRAL AFRICAN REPUBLIC

During the reporting period, there were two non-international armed conflicts (NIACs) on the territory of the Central African Republic (CAR). One was between state armed forces, supported by the Wagner Group/Africa Corps, and the Coalition pour le Changement Fondamental (CPC-F) coalition of non-state armed groups (NSAGs). The other was between NSAGs Unité pour la paix en Centrafrique (UPC) and Azande Ani Kpi Gbe (AAKG). There were numerous reports of direct targeting of civilians and civilian objects or of indiscriminate attacks by the parties to the conflicts. In particular, civilians were significantly affected by attacks carried out by NSAGs, including through their incursions into villages. Miners, humanitarian workers and civilians were reportedly targeted while a group was on the move or attempting to occupy an area. Reports of conflict-related sexual violence were also a major concern in terms of international humanitarian law (IHL) compliance. Sexual violence is reportedly used in relation to the conflict to help gain or maintain control over territory, natural resources and trade, and also as a method of warfare against communities deemed affiliated to opposing parties. Non-state armed groups are indicated as being responsible for the majority of documented cases of sexual violence related to the conflict. However, according to sources, state forces and United Nations (UN) peacekeepers have also been implicated. Abductions for the purpose of sexual slavery, mostly by NSAGs, were also reported. Violations related to ill-treatment, arbitrary deprivation of liberty, summary executions and enforced disappearances were consistently reported during the reporting period. Arbitrary arrests and detention related to the conflict were allegedly carried out by state forces. Reported incidents involving state forces and their allies may also amount to summary executions, torture or ill-treatment. Various NSAGs were implicated in the abduction of civilians, particularly as hostage-taking. Throughout the reporting period, the UN Secretary-General documented numerous violations against children, include killing, injury, rape, recruitment and use by armed groups and abduction. Children recruited by NSAGs are reportedly at risk of arrest and detention by authorities.

Conflict Overview

Following the non-international armed conflict (NIAC) in the Central African Republic (CAR) in 2003–2012, a new armed conflict started in December 2012, leading to the ousting of President François Bozizé in March 2013 by an alliance of Muslim non-state armed groups (NSAGs) known as Séléka. An alliance of Christian non-state armed groups formed to confront the new regime in the capital, Bangui – the Anti-Balaka armed groups. Both sides have engaged in serious violations of international humanitarian law (IHL) with devastating humanitarian consequences for Muslim and Christian communities alike.¹ In February 2019 the government and 14 armed groups signed the Political Agreement for Peace and Reconciliation in the Central African Republic, which aimed to be ‘a comprehensive consensual agreement to put a definitive end to the crisis’.² Nevertheless, hostilities have continued.

On 17 December 2020, shortly before the presidential and legislative elections, which were due to be held on 27 December, former fighters of the previously rival Séléka and Anti-Balaka groups joined forces to establish the Coalition des patriotes pour le changement (CPC),³ which opposed President Faustin Archange Touadéra.⁴ Since then, CAR government forces, supported by the Wagner Group (now known as Africa Corps) and Rwandan forces,⁵ have been engaged in a NIAC with the CPC. This conflict saw repeated serious violations of IHL.⁶

Although state armed forces and their allies succeeded in retaking the country’s major cities by May 2021,⁷ the security situation remained volatile. Another wave of violence started in January 2023 when CPC fighters conducted a series of attacks against the government forces and their allies, using improvised explosive devices (IEDs) and drones and engaging in abductions.⁸ The conflict evolved to include a struggle for control over mining sites and transhumance corridors (for instance, traditional pastoral paths of herders) during the period covered by this report (1 July 2023–30 June 2024). Furthermore, another armed group that formed in March 2023 in Eastern CAR – Azande Ani Kpi Gbe (AAKG) – fought against the Unité pour la paix en Centrafrique (UPC), a group formed in 2014 from former Séléka forces. AAKG reportedly targeted Muslim and Fulani communities in the region, including with abductions and acts of sexual violence.⁹

In an attempt to support the government in stabilizing the political and security situation in the country, the UN Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) was established by the United Nations (UN) Security Council in April 2014.¹⁰ Its mandate has since been enlarged to include the protection of civilians; access to humanitarian assistance; disarmament, demobilization and reintegration of non-state armed group fighters; and monitoring of human rights violations in the country, among other tasks.¹¹ In the course of this support to the government, MINUSCA peacekeepers have been attacked by non-state armed groups.¹²

Conflict Classification

During the reporting period, there were two NIACs on the territory of CAR:

- a NIAC between the CAR Armed Forces (Forces armées centrafricaines (FACA)), supported by the Wagner Group/Africa Corps, and the CPC, now

known as the Coalition pour le Changement Fondamental (CPC-F), consisting primarily of Retour, Reclamation et Réhabilitation (3R); Anti-Balaka fighters (Mokom and Ngaissona factions); the Front populaire pour la renaissance de la Centrafrique (FPRC) and the UPC — a NIAC between the UPC and the AAKG

In its role supporting the CAR Government, MINUSCA is not a party to these NIACs. However, the Security Council has granted MINUSCA authority under Chapter VII of the UN Charter to ‘take all necessary means to carry out its mandate’, which includes the protection of civilians in CAR.¹³

Despite the conclusion of the 2019 Political Agreement for Peace and Reconciliation in the Central African Republic, documented violations of IHL continued in many regions across the country, particularly in the north-east, south-east and north-west. According to MINUSCA statistics, the proportion of these violations committed by non-state armed groups grew to a majority. While CAR state forces were responsible for 51 percent of documented violations in the period from June to September 2023, reported violations by non-state armed groups increased between October 2023 and June 2024.¹⁴ The start of the transhumance season and the attempt to control mining sites are said to potentially explain this increase.¹⁵

International Humanitarian Law in the Central African Republic, 1 July 2023-30 June 2024

Conduct of Hostilities

Attacks Directed against Civilians and Civilian Objects or of an Indiscriminate or Disproportionate Nature

There were numerous reports of the direct targeting of civilians and civilian objects by the parties to the conflict, or of their conducting indiscriminate attacks. In particular, civilians were reported to be significantly affected by attacks carried out by non-state armed groups, including through their incursions into villages. Miners, humanitarian workers and civilians were often reportedly targeted while a group was on the move or attempting to occupy an area. During the reporting period, most of these attacks were attributed to two main factions – the CPC and 3R. From July 2023 to June 2024, many other attacks affecting civilians in CAR were also recorded by MINUSCA and the Armed Conflict Location and Event Data Project (ACLED). The exact circumstances of these attacks were not well documented, making it difficult to evaluate compliance with IHL in any given instance. Nevertheless, overall patterns of violence showed that the ongoing fighting had significant humanitarian consequences, which included the death, injury and displacement of civilians.

Many incidents affecting civilians were reported as a result of clashes between CPC fighters, on the one hand, and FACA and their allies, on the other. For example, ten civilians were reportedly injured and another killed during an 8 January 2024 UPC attack on the army base in Kabo town in Ouham-Fafa prefecture, in Western CAR, in particular during clashes with the army and Wagner Group/

Africa Corps.¹⁶ On 9 January 2024 the CPC claimed responsibility for the attack on the base, which had been carried out by a coalition member.¹⁷

On 26 February 2024 four civilians were reportedly killed in a UPC attack near Zemio town, in Haut-Mbomou prefecture, in Eastern CAR.¹⁸ UPC fighters were also suspected of conducting two reported attacks on 14 April 2024: the first in Tabane village, in Haut-Mbomou prefecture, where three civilians were killed; the second in Kologota village, in Mbomou prefecture, claiming the lives of nine civilians and injured one. Furthermore, the fighters allegedly set fire to six houses.¹⁹ Clashes between the UPC and FACA in these places also impacted on civilians. On 2 and 24 November 2023, the parties reportedly clashed in Kabo and Moyenne-Sido areas near the Chadian border in Ouham-Fafa prefecture, which prompted 5,000 civilians to flee to Chad.²⁰ On 29 March 2024, the UPC along with the FPRC reportedly wounded six civilians in an attack against a market in Ouogo, near Batangafo, in Bamingui-Bangoran prefecture, Central CAR.²¹

On 1 August 2023 the CPC was reported to have attacked Diki village in Bamingui-Bangoran prefecture, Central CAR, an attack in which 13 civilians were killed.²² The attack was suspected to be in retaliation for support by communities of the new Constitution in a national referendum of July 2023.²³ It is not believed that the CPC ever claimed to have launched the attack. The CPC was also alleged to have attacked civilians on 29 April 2024, when fighters reportedly attacked Mbali village, near Ouadda, in Haute-Kotto prefecture in Eastern CAR, killing the chief of the village and injuring another civilian. The CPC had reportedly accused the villagers of 'treason'.²⁴

Gold mining sites in CAR are also said to have been the object of attacks by CPC fighters. During the reporting period, one attack was allegedly conducted against gold miners on 2 October 2023, which resulted in a clash between CPC and FACA forces in Bamingui-Bangoran prefecture in Central CAR.²⁵ A more deadly attack reportedly occurred on 12 May 2024, when nine Chinese miners were killed in Gaga town, in Ombella-Mpoko prefecture in Western CAR.²⁶ The circumstances of this incident are not clear, as it was reported elsewhere that the killing of the Chinese miners was the result of a clash between Wagner Group/Africa Corps and the CPC. Both sides denied responsibility for the killings.²⁷

Fighters belonging to 3R, an armed group affiliated with the CPC, have also allegedly attacked civilians and civilian objects. On 21 December 2023, clashes between 3R and FACA in Nzakoundou, in Ouham-Pendé prefecture in Western CAR, are said to have involved the killing of 22 civilians.²⁸ On 2 April 2024, 3R allegedly conducted two attacks against civilians. The first reportedly occurred in an unspecified location near Bohong town in Ouham-Pendé, again in Western CAR, in which more than 20 civilians were killed.²⁹ The second attack was reported in an unspecified location near Kella-Maoule, in Nana-Mambere, also in Western CAR, when at least 17 civilians were reportedly killed.³⁰ 3R also reportedly clashed with FACA on 12 May 2024 in Gaga town, in Ogham prefecture, an event that is said to have involved the killing of five civilians and injuries to an unspecified number of others, possibly as a result of stray bullets.³¹

AAKG fighters were also reportedly engaged in fighting during the reporting period, especially against the UPC. Although few details of the circumstances were documented, on 19 February 2024, AAKG reportedly ambushed a civilian vehicle carrying 20 passengers, killing four civilians and abducting a woman.³² This incident is said to have triggered clashes between AAKG fighters and unidentified armed groups in Kites, Maboussou and Manza on 22 and 23 February 2024, which

led to the killing of 10 civilians and the displacement of the civilian population towards Zémio, in Haut-Mbomou prefecture, in Eastern CAR.³³

Treatment of Persons

Conflict-Related Sexual Violence

Statistics produced by the UN Office for the Coordination of Humanitarian Affairs (OCHA) on the surge of sexual violence in CAR in 2023 reveal that every hour, more than two women or girls were victims of sexual violence.³⁴ MINUSCA similarly reported a surge of cases of sexual violence in 2023, including rape, attempted rape, gang rape and sexual slavery. Recorded data showed a 51 percent rise in the figures for 2022.³⁵ According to a UN analysis, sexual violence is used in relation to the conflict to help gain or maintain control over territory, natural resources and trade.³⁶ For example, women and girls working in fields close to transhumance corridors are at risk of sexual violence, as some armed groups control these spaces.³⁷ Women and girls are also particularly vulnerable to abductions and long-term captivity for the purpose of sexual slavery, mostly by non-state armed groups.³⁸ The AAKG has also been reported as using sexual violence as a method of warfare against Muslim communities because of their alleged UPC affiliation.³⁹

As documented by MINUSCA, while non-state armed groups are considered responsible for the majority of documented cases of sexual violence related to the conflict, FACA soldiers have also been perpetrators. From February to June 2024, 81 percent of documented cases were allegedly committed by non-state armed groups, with 3R and UPC reportedly responsible for 45 percent of cases, mostly in Mbomou and Ouham-Pendé prefectures. FACA were considered responsible for 15 percent of the cases.⁴⁰

MINUSCA peacekeepers have also allegedly been involved in sexual violence. The mission recorded six allegations of sexual exploitation and abuse attributed to military personnel of contributing countries, occurring between January 2023 to April 2024.⁴¹ These allegations are under investigation by MINUSCA and contributing nations. MINUSCA expelled 60 Tanzanian soldiers from the mission in early June 2023 after they had been accused of sexual abuse and exploitation.⁴² In addition, during her visit to CAR on 24–30 November 2023, the UN Special Rapporteur on Trafficking in Persons was informed that the Lord's Resistance Army (LRA),⁴³ a Ugandan armed group, was abducting Central African women and girls and subjecting them to sexual slavery.⁴⁴

Concerns Related to Deprivation of Liberty in Armed Conflict

Arbitrary Deprivation of Liberty, Torture and Inhumane Treatment

Violations related to ill-treatment, arbitrary deprivation of liberty, summary executions and enforced disappearances have been a persistent problem in the CAR conflict and were consistently reported during the reporting period. According to MINUSCA, FACA is primarily responsible for alleged arbitrary arrests and detentions in the

conflict. Moreover, ACLED has reported certain incidents involving state forces and their allies that could amount to summary executions and torture or ill-treatment. The beatings of civilians by FACA was also reported during the reporting period.

Examples include the alleged torture of a trader by FACA on 7 October 2023, in Ouanda-Djalle town, Vakaga prefecture, Eastern CAR. He was suspected of being an informant for the CPC. The attack reportedly left him seriously injured.⁴⁵ On 20 December 2023, FACA soldiers allegedly killed two young men in Abba town, Nana-Mambere prefecture, Western CAR, after having attempted to extort money from them⁴⁶ On 28 June 2024, FACA and Wagner Group/Africa Corps fighters allegedly tortured, dragged behind a vehicle and then killed a civilian in Kouki town, Ogham prefecture, in Western CAR.⁴⁷

Abductions and Hostage-Taking

Reports indicate that various non-state armed groups were implicated in the abduction of civilians, often for ransom. On 30 September 2023, Anti-Balaka fighters allegedly abducted children from the Fulani ethnic group in Bata town, Nana-Mambere prefecture, Western CAR, and demanded one million CFA (1,500) per child for their release.⁴⁸ On 24 October 2023, the UPC allegedly abducted eight students in Zemio town, in Haut-Mbomou in Eastern CAR, demanding an unidentified ransom for their release.⁴⁹

3R fighters allegedly abducted a dozen civilians on 27 October 2023, near Bohong in Ouham-Pendé prefecture.⁵⁰ On 31 October 2023, they allegedly abducted, tortured and severely injured three civilians near Bouar town, in Nana-Mambere prefecture in Western CAR.⁵¹ In another incident, 3R fighters allegedly abducted three miners during a raid on a gold mine on 11 February 2024, near Baboua town in Nana-Mambere prefecture, in Western CAR.⁵²

The abduction of civilians in connection with armed conflict violates the applicable customary prohibition on arbitrary deprivation of liberty.⁵³ Ransom demands raise further concerns about hostage-taking – a serious violation of IHL.⁵⁴

Specific Vulnerabilities

Children

The violation of children's rights in CAR has been consistently highlighted by the UN Secretary-General during the reporting period. Documented violations include killing, injuring, rape, recruitment and use of children by armed groups, and abduction.⁵⁵ For 2023, the UN Secretary-General listed the following armed groups for their recruitment of children: the FPRC, Anti-balaka militias, the Lord's Resistance Army, the MPC and the UPC.⁵⁶ In addition to being used as fighters, children are exploited in different supporting roles, for instance, as bodyguards, messengers, porters, spies and domestic servants.⁵⁷

It is further reported that children recruited by non-state armed groups are at risk of arrest and detention by the authorities. According to the 2007 Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, which have been endorsed by CAR, such children should be treated primarily as victims.⁵⁸ In early September 2024, the UN Security Council Working Group on Children and

Armed Conflict expressed concern about the deprivation of liberty of children by parties to the armed conflict for their alleged association with armed groups, and emphasized that children allegedly associated with parties to the conflict 'should be treated primarily as victims, including those children who are accused of having committed crimes, and that detention should be used only as a measure of last resort and for the shortest appropriate period of time, in line with applicable international law'.⁵⁹

End Notes Central African Republic

1 See, e.g., International Commission of Inquiry on the Central African Republic, Final Report, UN Doc S/2014/928, 22 December 2014; Office of the United Nations High Commissioner for Human Rights (OHCHR) and the UN Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), 'Report on the Situation of Human Rights in the Central African Republic, 15 September 2014–31 May 2015'; Amnesty International, 'Central African Republic: Time for accountability', July 2014.

2 Political Agreement for Peace and Reconciliation in the Central African Republic ('l'Accord politique pour la paix et la réconciliation en République centrafricaine'), February 2019, UN Doc S/2019/145, 15 February 2019, <https://reliefweb.int/report/central-african-republic/political-agreement-peace-and-reconciliation-central-african> (all hyperlinks last accessed 20 February 2025).

3 The name of the coalition changed in September 2024 to the Coalition pour le Changement Fondamental (CPC-F), after the dismissal of its commander François Bozizé. Ali Darassa was established as the chief in command of the alliance.

4 The alliance is constituted of the Mouvement Patriotique Centrafricain (MPC); Retour, Réclamation, et Réhabilitation (3R); the Union pour la paix en Centrafrique (UPC); and the Front Populaire pour la Renaissance de la Centrafrique (FPRC), as well as Anti-Balaka fighters from the Mokom and Ngaïssona factions. MINUSCA and OHCHR, 'Rapport public sur les violations des droits de l'Homme et du droit international humanitaire en République centrafricaine durant la période électorale, Juillet 2020–Juin 2021', p 4, https://www.ohchr.org/sites/default/files/Documents/Countries/CF/report_abuses_violations_HR_InternationalHumanitarianLaw_Elections_CAR.pdf.

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8 International Crisis Group, 'Ten Years after the Coup, Is the Central African Republic Facing Another Major Crisis?', Q&A with Enrica Picco, 22 March 2023, <https://www.crisisgroup.org/africa/central-africa/central-african-republic/dix-ans-apres-le-coup-detat-la-republique>.

9 'Central African Republic, Report of the Secretary-General', UN Doc S/2023/769, 16 October 2023, paras 25 and 40, <https://docs.un.org/en/S/2023/769>.

10 UN Security Council Resolution 2149 (10 April 2014), UN Doc S/RES/2149 (2014), <https://documents.un.org/doc/undoc/gen/n14/295/81/pdf/n1429581.pdf>.

11 See MINUSCA, 'Mandate', <https://minusca.unmissions.org/en/mandate>. MINUSCA succeeded two successive peace and security missions: the Mission of the Economic Community of Central African States (MICOPAX, 2002–2013) and the Mission of the African Union (MISCA; 2013–2014). International Crisis Group, 'Central African Republic: the Flawed International Response', 19 May 2014, <https://www.crisisgroup.org/africa/central-africa/central-african-republic/central-african-republic-flawed-international-response>. With authorization from the UN Security Council, France also deployed troops in Opération Sangaris in 2013–2016 to support MISCA and then MINUSCA in their missions to protect civilians and restore security and public order. See, e.g., UN Security Council Resolution 2127, adopted on 5 December 2013, operative para 50.

12 'Central African Republic, Report of the Secretary-General', supra 9, p 6.

13 UN Security Council Resolution 2149, adopted by unanimous vote in favour on 10 April 2014, operative para 29.

14 See 'Central African Republic, Report of the Secretary-General', supra 9; 'Central African Republic, Report of the Secretary-General', UN Doc S/2024/170, 15 February 2024; and 'Central African Republic, Report of the Secretary-General', UN Doc S/2024/473, 18 June 2024.

15 'Central African Republic, Report of the Secretary-General', supra 14, p 4.

16 ACLED Incident ref CEN49693, <https://acleddata.com/data-export-tool/> (all ACLED references in this entry are on file with the research team of the IHL in Focus project); International Crisis Group, 'CrisisWatch Global Overview, January 2024', <https://www.crisisgroup.org/crisiswatch/february-alerts-and-january-trends-2024>; 'Central African Republic, Report of the Secretary-General', supra 14, para 23.

17 'Central African Republic, Report of the Secretary-General', supra 14, para 23.

18 ACLED Incident ref CEN49768, <https://acleddata.com/data-export-tool/>.

19 ACLED Incident refs CEN49830 and CEN49831, <https://acleddata.com/data-export-tool/>.

20 'Central African Republic, Report of the Secretary-General', supra 14, para 23.

21 Ibid, para 30. The fighters left behind an item of unexploded ordnance in the market that subsequently exploded, killing another two civilians and injuring six others.

22 ACLED Incident ref CEN49497, <https://acleddata.com/data-export-tool/> (all ACLED data are on file with the research team of the IHL in Focus project); International Crisis Group, CrisisWatch Global Overview August 2023, <https://www.crisisgroup.org/crisiswatch/september-alerts-and-august-trends-2023>; 'Central African Republic, Report of the

Secretary-General', supra 9, para 28.

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27 Ibid; International Crisis Group, 'Ten Years after the Coup', supra 7.

28 'Central African Republic, Report of the Secretary-General', supra 14, para 20; ACLED Incident ref CEN49670; International Crisis Group, 'CrisisWatch Global Overview, December 2023', <https://www.crisisgroup.org/crisiswatch/january-alerts-and-december-trends-2023>.

29 International Crisis Group, 'CrisisWatch Global Overview, May 2024', <https://www.crisisgroup.org/crisiswatch/april-trends-and-may-alerts-2024>.

30 ACLED Incident ref CEN49808, <https://acleddata.com/data-export-tool/>.

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33 Ibid; International Crisis Group, 'CrisisWatch Global Overview, March 2024', <https://www.crisisgroup.org/crisiswatch/february-trends-and-march-alerts-2024>.

34 OCHA, Situation Report, Central African Republic, Update of 26 September 2024, <https://reports.unocha.org/en/country/car/#cf-5OKM5AtJrCf01SOKzCmt2H>.

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36 Ibid, para 23.

37 Ibid.

38 Ibid, p 10.

39 Ibid, para 23.

40 'Central African Republic, Report of the Secretary-General', supra 14, p 22.

41 See 'Central African Republic, Report of the Secretary-General', supra 9; 'Central African Republic, Report of the Secretary-General', supra 14.

42 'Centrafrique: la Minusca renvoie unité tanzanienne pour "abus sexuels"', *RFI*, 9 June 2023, <https://www.rfi.fr/fr/afrique/20230609-centrafrique-la-minusca-renvoie-unite-tanzanienne-pour-abus-sexuels>.

43 The LRA was founded in Uganda in 1987 as a rebel group against the government of Yoweri Museveni. They are currently engaged in criminal activities in South-Eastern CAR, in the North-Eastern Democratic Republic of Congo and in South Sudan. See A. Cascais, 'The Last Throes of Uganda's Lord's Resistance Army', *Deutsche Welle*, 24 January 2022, <https://www.dw.com/en/uganda-lord-resistance-army-final-days/a-60535944>

44 'Visit to the Central African Republic, Report of the Special Rapporteur on Trafficking in Persons, especially women and children, Siobhán Mullally', UN Doc A/HRC/56/60/Add.2, 15 May 2024, p 7.

45 ACLED Incident ref CEN49590, <https://acleddata.com/data-export-tool/>.

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53 Rule 99, ICRC, Customary IHL Database, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule99>.

54 Rules 96 and 156, ICRC, Customary IHL Database, <https://ihl-databases.icrc.org/en/customary-ihl/v1>.

55 See 'Central African Republic, Report of the Secretary-General', supra 9, para 41; 'Central African Republic, Report of the Secretary-General', supra 14, para 39; 'Central African Republic, Report of the Secretary-General', supra 14, para 51; 'Children and Armed Conflicts, Report of the Secretary-General', UN Doc A/78/842-S/2024/384, 3 June 2024, pp 5–6.

56 'Children and Armed Conflicts, Report of the Secretary-General', supra 55, p 47.

57 'Visit to the Central African Republic, Report of the Special Rapporteur on Trafficking in Persons', supra 44, p 4.

58 Ibid; UN Children's Fund (UNICEF), Principles and Guidelines on Children Associated With Armed Forces or Armed Groups (The Paris Principles), February 2007, para 3.6, <https://www.refworld.org/reference/research/unicef/2007/en/42827>

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COLOMBIA

Eight non-international armed conflicts (NIACs) were ongoing in Colombia during the reporting period. Three of these involved state forces against non-state armed groups, namely, the Ejército de Liberación Nacional, the National Liberation Army (ELN), the Autodefensas Gaitanistas de Colombia (AGC) and dissident forces of the Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo (FARC-EP), which are not engaged in the peace process. The territorial control criterion for the applicability of Additional Protocol II was met in all three cases during the reporting period. The other five NIACs are between different non-state armed groups, and mainly involve the FARC-EP, ELN and AGC. Regarding the conduct of hostilities, various attacks by non-state armed groups were reported, which raise concerns about respect for the principles of distinction and proportionality, as they appeared to be either directed against civilians or indiscriminate or disproportionate in nature. Some of these attacks reportedly included the use of improvised explosive devices (IEDs) and other explosive devices, some of them seemingly targeting civilians and civilian objects for purposes of extortion. Overall, the increased use of IEDs by armed groups – in the form of improvised anti-personnel mines – was noted as a concern. This was particularly in light of their apparent use to restrict civilian movements to gain territorial control, with resulting serious humanitarian impacts arising from civilian casualties, displacement and confinement of populations. In relation to the treatment of persons, further concerns about international humanitarian law (IHL) compliance were raised by reports of murder or summary execution, sexual violence and displacement in connection with armed conflict. In this regard, the arbitrary deprivation of liberty of civilians by non-state armed groups – including reported hostage-taking and targeting of human rights defenders – was also noted by sources as an ongoing problem in terms of respect for IHL. In addition, the prohibited recruitment and use of children by armed groups are also reportedly on the rise, particularly affecting children of indigenous or Afro-Colombian descent.

Conflict Overview

Armed conflict in Colombia officially began in 1964 with the formation of two separate guerrilla groups – the Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo (FARC-EP), the Revolutionary Armed Forces of Colombia-People’s Army and the Ejército de Liberación Nacional (ELN), the National Liberation Army.

In 1997, the disparate but overlapping paramilitary groups that emerged to fight these armed groups in the 1980s united in one national structure called the Self-Defence Forces of Colombia (AUC). In 2004, the AUC began a series of collective demobilizations that lasted until 11 April 2006.¹ However, other armed groups emerged during this process, including the Autodefensas Gaitanistas de Colombia (AGC) – also known as the Gulf Clan – that is still a party to three ongoing non-international armed conflicts (NIACs) in Colombia. The various armed conflicts have been characterized by widespread violations of international humanitarian law (IHL).

On 24 November 2016, the Colombian Government and the FARC-EP – the largest of the various non-state armed groups in the country – signed a peace agreement, the product of years of negotiations in Havana.² A formal demobilization process started in 2017. However, a number of dissident FARC-EP factions decided not to adhere to the peace process and continued to engage as parties to armed conflict with the government. Dissident FARC-EP factions also engaged in conflict with other non-state armed groups.

Armed groups have also reportedly forged alliances with organized crime groups in the three border departments of Arauca, Chocó, and Nariño, aggravating violence in both border and urban areas.³

Conflict Classification

In the reporting period (1 July 2023–30 June 2024) there were eight NIACs in Colombia.⁴ The first three of these armed conflicts involved the government armed forces and a non-state armed group:

- a NIAC between Colombia and the ELN
- a NIAC between Colombia and the AGC
- a NIAC between Colombia and dissident FARC-EP forces not engaged in the peace process, including the EMC (Estado Mayor Central – Central General Staff)

These three NIACs are regulated by Common Article 3 to the Geneva Conventions, Additional Protocol II (to which Colombia adhered in 1995) and customary IHL. The territorial control requirement for the application of Additional Protocol II was met in each of these conflicts over the course of the reporting period.

Five other NIACs involved two non-state armed groups as adverse parties to the conflict:

- a NIAC between the ELN and the AGC
- a NIAC between the FARC-EP and the Second Marquetalia⁵
- a NIAC between the FARC-EP (Carolina Ramirez Front) and the Border Command (Comandos de Frontera) in Putumayo⁶
- a NIAC between the FARC-EP and the ELN
- a NIAC between the FARC-EP and the AGC

The five remaining armed conflicts between non-state armed groups are all regulated by Common Article 3 and customary IHL. Although the requirement for territorial control was satisfied in each case,⁷ one of the parties must be the armed forces of the state for Additional Protocol II to apply.⁸ In the context of its ‘total peace’ policy, the Government of Colombia decreed two bilateral and temporary national ceasefires: with the ELN in July 2023 and with the EMC in October 2023.⁹ In 2024 the government continued to negotiate with the ELN, the EMC, Segunda Marquetalia, and the AGC as part of its total peace policy, announcing several ceasefires with these groups. However, ‘the preparations and monitoring were insufficient, and in many cases armed groups failed to comply’.¹⁰

International Humanitarian Law in Colombia, 1 July 2023–30 June 2024

Conduct of Hostilities

Attacks Directed against Civilians, or of an Indiscriminate or Disproportionate Nature

During the reporting period, in the conduct of hostilities, despite the various ceasefires in place, a number of attacks by non-state armed groups were reported to be either directed against civilians or indiscriminate or disproportionate in nature. For instance, on 23 July 2024, in the village of El Plateado (Cauca department), the EMC was said to have fired an improvised explosive device (IED), or *tatuco*, from a drone onto a football field, injuring ten people and killing a 10 year-old boy.¹¹ A month earlier, in Nariño department, suspected members of the Franco Benavides FARC dissident group allegedly detonated a car bomb next to the police station. This reportedly resulted in one officer and two civilians being killed and nine other people injured, as well as damage to the nearby houses and vehicles.¹² On 12 March 2024, in Lloro (Choco department), suspected members of the AGC allegedly shot and killed three men and injured another. The reported victims were two Afro-Colombian men and one indigenous person. One of the victims was reported to be a government army soldier on leave at the moment of the attack, meaning that he might have been a legitimate target under IHL, but the other two men reportedly were civilians. No further information about the motives of the attack was available.¹³

Munitions have sometimes been reported to be used against civilians or civilian objects in attacks by members of armed groups with a view to extorting money. For instance, on 25 May 2024, in Acevedo (Huila), two armed individuals on a motorcycle reportedly threw a grenade at a coffee shop in front of a bus terminal. A woman, the owner of the business, and her son were injured. The attack was suspected to have been conducted by FARC dissidents as a means of coercing the payment of ‘taxes’. The victim had previously been threatened and had already been targeted by an explosive attack a week earlier.¹⁴ On 26 January 2024, in a rural area in the Norte de Santander department, an explosive device was detonated next to an oil pipeline causing oil to leak out in the vereda (hamlet) of San Agustín de Los Pozos. The attack was suspected to be related to extortion by armed groups that operate in the area. It is thought to be likely that the ELN was

responsible since the group had allegedly threatened the company on 7 January, leaving a box marked ‘explosives’ in the oil pipeline facilities.¹⁵

Means of Warfare

Landmines and Explosive Remnants of War

Non-state armed groups continue to use a range of IEDs in the conduct of hostilities in Colombia. The International Committee of the Red Cross (ICRC), in its global Annual Report for 2023, referred to the increased use of improvised anti-personnel mines in Colombia during the year, with armed groups seeking to expand and preserve territorial and social control.¹⁶ According to the United Nations (UN) Mine Action Service (UNMAS), new mines were laid to control the movements of communities, with the UN Office for the Coordination of Humanitarian Affairs (OCHA) recording more displacements and confinements as a result.¹⁷

For 2023, the ICRC recorded a total of 380 victims – 61 of whom died – from anti-personnel mines, explosive remnants of war,¹⁸ and remotely-controlled explosive devices. Of the total recorded victims, 54 percent were civilians, 40,5 percent were from the security forces and the other 5,5 percent were from non-state armed groups. According to the report, no fewer than 40 of the 73 municipalities in which victims of explosive devices were recorded in 2023 had not suffered casualties the previous year, indicating an expansion of areas of combat.¹⁹ These casualty figures do not indicate whether the use of the mines or IEDs in any instance may have either been directed against civilians or indiscriminate. The percentage of military casualties in Colombia resulting from these weapons appears significantly higher than in many other contexts.

Types of IEDs employed in the conflict in Colombia include devices that are victim-activated and meet the definition of an anti-personnel mine in the 1997 Anti-Personnel Mine Ban Convention to which Colombia is a state party.²⁰ The Convention prohibits all use of anti-personnel mines by any state actor. Colombia is also a state party to the Convention on Certain Conventional Weapons and its protocols restricting the use of landmines, booby traps and ‘other devices’ (1980 Protocol II and 1996 Amended Protocol II).²¹ The Amended Protocol II applies to all parties to a NIAC.²² Furthermore, as with any other weapon, the use of IEDs is subject to the fundamental rules of IHL governing the conduct of hostilities, such as the principle of distinction, including the prohibition of indiscriminate attacks, and the principle of proportionality.²³ This is especially relevant if IEDs are used in areas frequented by civilians and if their detonation cannot be controlled. All parties to the conflict are also required to ‘take all feasible precautions in the choice of means and methods of warfare’ so as to avoid or minimize incidental civilian injuries or loss of life.²⁴

Treatment of Persons

Murder/Summary Execution

According to reports, armed groups in Colombia continue to threaten and kill civilians who are not actively taking part in the hostilities. The Office of the United Nations High Commissioner for Human Rights (OHCHR) reports that executions

have become a tool to intimidate the population, disrupt the living conditions within communities and even terrorize them. Throughout 2023, reported killings targeted different members of the communities: 48 former FARC-EP members who had adhered to the peace process;²⁵ 23 traditional authorities of indigenous communities;²⁶ 155 social leaders²⁷ and 105 human rights defenders.²⁸ Victims are reportedly targeted ‘when they speak out or become an obstacle to the social control dynamics exercised by non-state armed actors in the territories. The killings also seek to fragment social processes for the defence of human rights and generate fear among communities.’²⁹

In one instance that was reported on 24 June 2024, in the rural area of Corinto municipality (Cauca department), members of the Dagoberto Ramos FARC dissident group allegedly detained a Nasa (also known as Páez) indigenous man along with his wife and child at an illegal checkpoint in the La Cilia-La Calera reserve, in the rural area of Miranda municipality. The armed individuals reportedly took the man away, informing his family that they intended to kill him. Members of the indigenous community and the indigenous guard are reported to have found the man’s body later that day with multiple gunshot wounds in the Crucero de Gualanday sector (Corinto). It was indicated that the motives behind the murder were unknown.³⁰ On or around 25 January 2024, in the rural area of Bolívar municipality (Cauca department), the ELN allegedly shot and killed two men. Their bodies were reportedly found in the Buenos Aires and Los Tigres veredas. One victim was said to be the cousin of a delegate of the EMC in the peace negotiations with the government. He had reportedly been kidnapped in December 2023 by the ELN. Both killings were said to be related to disputes between the ELN and FARC dissidents.³¹

According to the Colombian Constitutional Court, authorities are required to do more to protect human rights defenders against abductions and murders by non-state armed groups. In December 2023, in response to a case filed by Colombian human rights groups, the Constitutional Court ordered wide-ranging government action to protect human rights defenders and hold those responsible for their killings to account. The Court found that the government action fell short of addressing these ‘persistent, grave and widespread’ violations and described the situation as an ‘unconstitutional state of affairs’.³²

Conflict-Related Sexual Violence

The OHCHR has stated that in 2023, it received 100 allegations of gender-based violence, including sexual violence, in the context of the armed conflict. Fifty-three cases were verified in Antioquia, Arauca, Bolívar, Cauca, Chocó, Córdoba, Meta, Nariño and Norte de Santander. Among these, the Office documented cases of trafficking for the purposes of sexual exploitation of girls by non-state armed groups, who had been transported to their camps for this purpose in Chocó and Nariño. The OHCHR also documented cases of rape of women and girls in the context of social control exercised by these groups, including cases that took place in the presence of family members. The OHCHR continued to document feminicides, sexual violence and cruel, inhuman and degrading treatment by non-state armed groups against women accused of being partners of members of rival groups or members of the security forces. It was also informed of situations of threats, displacement or violence against lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ+) persons because of their sexual orientation or gender identity. Most of these cases were not formally reported.³³

The UN Secretary-General has reported that the UN verified that sexual violence was perpetrated against 26 children (4 boys, 22 girls) by FARC-EP dissident groups (8), unidentified perpetrators (7), AGC (5), ELN (4) and the Colombian armed forces (2).³⁴ The ICRC reiterated the concern that sexual violence in the context of armed conflict in Colombia continues. In 2023 it documented 50 cases, ‘which reflect only a small fraction of the huge number of victims and survivors of this type of violence’. The ICRC indicates that ‘sexual violence is intended to intimidate, terrorize, punish and control territories’.³⁵

Conflict-Related Displacement

During the reporting period, the Ombudsperson’s Office (Defensoría del Pueblo) in Colombia issued nine early warnings declaring that clashes between armed groups over the control of resources and territory represented a risk for civilians.³⁶ This situation has often led to civilians deciding to leave the areas or take refuge in their homes as coping mechanisms. Between January and May 2024, OCHA recorded a 36 percent increase in the number of people being displaced compared to the same period in 2023. OCHA also reported ‘a 171% increase in people experiencing confinement and a 13.8% increase affected by conflict. So far, 53,600 people have been affected by confinement and 29,200 people by mass displacement.’³⁷

A key concern related to displacement, thus, is also the confinement of communities. This involves non-state armed groups forcing people *not* to leave their communities. The armed groups benefit from enforcing confinements and mobility restrictions, ‘since these acts facilitate their territorial control and allow them to use civilians as a protective barrier’.³⁸ This means that information on the actual situation in those communities is difficult to obtain. Such events also prevent communities from alerting law enforcement and humanitarian organisations about non-state armed groups’ presence and illegal activities.³⁹

The forced displacement of the civilian population for conflict-related reasons is prohibited under Additional Protocol II, except where the security of the civilians involved so demands, or where there are imperative military reasons.⁴⁰ This prohibition is also part of customary IHL applicable in all NIACs.⁴¹ In any NIAC, ordering the displacement of the civilian population for reasons related to the conflict and not required for the security of the civilians involved or imperative military necessity is a serious violation of IHL.⁴²

Concerns Related to Deprivation of Liberty in Armed Conflict

Arbitrary Deprivation of Liberty/Taking of Hostages

According to reports, armed groups continue to arbitrarily deprive civilians of their liberty, including through practices that may amount to hostage-taking. In 2023 the ICRC reunited 66 people released from captivity with their families, the highest number in recent years. Many of these people were reported to be civilians.⁴³ In December 2023, at the closing of the fifth dialogue cycle between the government and the ELN, an agreement was reached to suspend kidnapping for purposes of extortion by the ELN.⁴⁴ However, on 6 May 2024 the ELN Central Command an-

nounced that it was suspending this commitment and would resume kidnapping as one of its activities nationwide.⁴⁵

Other armed groups have also reportedly engaged in practices that may amount to hostage-taking. For instance, on 5 February 2024, in the rural area of La Plata municipality (Huila department), suspected members of the Dagoberto Ramos FARC dissident faction kidnapped the mother of a former Secretary of Health of La Plata municipality from her property in the El Retiro vereda. The kidnappers contacted the victim's family, demanding COP 200 million (approximately 46,000) for her release. The victim was released on 9 February 2024.⁴⁶

Human rights defenders have reportedly on numerous occasions been targeted for abductions. The OHCHR describes the case of William Castro Muñoz, a defender of African descent from Nariño, as one that is 'illustrative of the human rights abuses defenders have faced'. Despite benefiting from measures adopted by the National Protection Unit, the OHCHR noted that 'Mr Castro Muñoz was disappeared by a non-state armed group from November 2022 to August 2023, during which time he was subjected to torture, ill-treatment and forced labour'.⁴⁷

Under Common Article 3 and customary IHL, the taking of hostages is prohibited.⁴⁸ The 1979 International Convention Against the Taking of Hostages defines the offence as the seizure or detention of a person (the hostage), combined with threats to kill, to injure or to continue to detain the hostage, in order 'to compel a third party ... to do or to abstain from doing any act as an explicit or implicit condition for the release of the hostage'.⁴⁹ The elements of crimes for the offence of hostage-taking as a war crime before the International Criminal Court (ICC) stipulates that the behaviour of the third party could be a condition not only for the hostage's release but also for their safety.⁵⁰ As the ICRC has underlined, it is the specific intent that characterizes hostage-taking and distinguishes it from the deprivation of someone's liberty as an administrative or judicial measure.⁵¹

Specific Vulnerabilities

Recruitment and Use of Children in Hostilities

The recruitment or use of children by armed groups, including through abduction, has been extensively reported in the Colombian context, and appears to be on the rise.

The OHCHR indicated that in 2023, it verified 134 cases of recruitment or use of children in the armed conflict by non-state armed groups and criminal organizations (86 boys, 42 girls and 6 children of unconfirmed gender). The vast majority of these children reportedly were of indigenous or of African descent and, in many cases, they were deemed to have suffered multiple violations of rights. The OHCHR observes that these reports only represent a small part of a much larger phenomenon, owing to significant underreporting.⁵² Most of the documented cases of recruitment or use of children were said to have occurred in Antioquia, Arauca, Cauca and Nariño. 'Regular recruitment routes' were identified, as well as 'places where victims are subjected to instruction within the group and even medical examinations'.⁵³ OHCHR further indicated that in 16 cases, threats against the children, their families or traditional authorities were reported, while in 11 cases, recruitment by non-state armed groups took place in or near educational facilities or by using other children for this purpose.⁵⁴

According to the Colombian Attorney General's Office, 40 percent of active investigations into crimes of recruitment committed in 2023 were concentrated in Cauca, Nariño and Valle del Cauca. The Office indicated that in Caquetá, Huila and Putumayo, the caseload increased at a higher than average rate in this year.⁵⁵ Other UN agencies verified the recruitment and use of 262 children (176 boys, 86 girls). The perpetrators were said to be FARC-EP dissident groups (186), the ELN (41), the AGC (22), unidentified perpetrators (12) and the Colombian armed forces (2). Most of the children remained associated (136), while 112 were released or escaped, and 14 were killed. Some 38 children were used in combat roles. It was further reported that, 213 children formerly associated with armed groups entered the Colombian Family Welfare Institute's protection programme.⁵⁶

The ICRC also shared its concern in 2023 about children and adolescents continuing to be associated with armed actors in Colombia. The report of the ICRC highlighted that in many cases, the children 'have been separated from their families, which has led to psychological or psychosocial breakdown and suffering, in turn affecting their dignity and full development. Not to mention the direct threat to their lives.'⁵⁷ Human Rights Watch similarly mentioned reports of child recruitment and kidnappings having increased in 2023.⁵⁸

Among many examples recorded during the reporting period, it was reported that on 26 June 2024, during a clash with alleged ELN members in the Boyaca department, military and police forces rescued two children who had been forcibly recruited.⁵⁹ On or around 15 April 2024, in a rural area in the Vichada department, members of an unidentified FARC dissident group were reported to have forcibly recruited two teenage boys, who escaped from the group and were later rescued by military forces.⁶⁰ On 21 March 2024, in a rural municipality in the Caqueta department, a teenage girl was suspected to have been recruited by the Second Marquetalia group. The girl reportedly was the daughter of a former combatant and was said to have had a romantic relationship with one of the dissident fighters. Her whereabouts were said to be unknown.⁶¹ On 25 January 2024, in a rural area in the Arauca department, it was reported that the military rescued four children who had been forcibly recruited during a clash with FARC dissidents.⁶²

In addition to the abovementioned issues of recruitment and use, children are also reported to have been prosecuted for belonging to a non-state armed group in Colombia, instead of re-establishing their rights and recognising them as victims. In 2018 the UN Security Council emphasised that children 'who have been recruited in violation of applicable international law by armed forces and armed groups and are accused of having committed crimes during armed conflicts should be treated primarily as victims of violations of international law'.⁶³

The recruitment and use in hostilities of children under the age of 15 years is prohibited under Article 4(3) of Additional Protocol II as well as under customary law applicable in a NIAC.⁶⁴ These acts amount to serious violations of IHL.⁶⁵

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DEMOCRATIC REPUBLIC OF THE CONGO

There were multiple ongoing armed conflicts on the territory of the Democratic Republic of the Congo (DRC) during the reporting period. The Forces Armées de la République Démocratique du Congo (FARDC) and supporting forces (including the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) and the Southern African Development Community Mission in the Democratic Republic of Congo (SAMIDRC) as well as the Wazalendo groups) are involved in various armed conflicts. These include an international armed conflict (IAC) with Rwanda and a parallel non-international armed conflict (NIAC) with the Rwanda-supported Mouvement du 23 mars (M23) as well as NIACs between the FARDC and the Allied Democratic Forces (ADF) and between the FARDC and the Cooperative for the Development of the Congo (CODECO). Furthermore, there are additional parallel NIACs between M23 and the Wazalendo as well as CODECO/Union des Revolutionnaires Defense du Peuple Congolais (URDPC) and the Ituri Self-Defence Popular Front (Zaire-FPAC). These conflicts, fought predominantly in the North Kivu and Ituri provinces in the east of the DRC, have inflicted a heavy toll on civilian populations. Serious violations of international humanitarian law (IHL) have reportedly been committed by a wide range of actors and on a massive scale. More specifically, IHL compliance concerns arise from reports of pervasive murders of civilians and attacks directed against them by non-state armed groups, as well as apparently indiscriminate attacks that are often characterized by the use of explosive weapons in populated areas. The infiltration of settlements of internally-displaced persons (IDPs) by members of armed groups and the positioning of military objectives in their vicinity also raise concerns regarding the protection of civilians, including under the Kampala Convention of the African Union (AU). Reports of alarming levels of conflict-related sexual violence also indicate the commission of serious violations of IHL on a large scale. Amid escalating violence, humanitarian access has been under strain. The conduct of the M23 and Rwanda Defence Force (RDF), in particular, including the cutting off of access roads, has raised questions about their compliance with the duty not to hamper the delivery of humanitarian relief. Medical care was also put under pressure by intensifying hostilities and reported attacks against medical facilities and personnel in some areas. In the context of the armed conflicts in the DRC, IDPs and children have been reported as facing particular risks – the former arising from dire living conditions and lack of personal security in IDP settlements; the latter from malnutrition, impacts of conflict on education, and increasing recruitment into armed groups.

Conflict Overview

The armed conflicts in the east of the Democratic Republic of the Congo (DRC) showed no signs of abating in the reporting period, especially in the provinces of North Kivu and Ituri. Indeed, in August 2023, the political and security environment was considered by the United Nations (UN) to have deteriorated.¹ The conflict escalated throughout the reporting period, especially from January 2024, as a temporary ceasefire brokered with the mediation of the United States of America in December 2023 collapsed.²

The situation in Eastern DRC remained characterized by its great complexity due to the significant number of actors involved in the conflicts, especially a multitude of armed groups – totalling more than 100, according to the International Committee of the Red Cross (ICRC);³ more than 260, according to Rwanda.⁴

A notable development was the increased presence of the Rwandan Defence Forces (RDF) in the province of North Kivu – citing the security threat posed by the Forces Démocratiques de Libération du Rwanda (FDLR) in the DRC. The RDF reportedly provided essential support to and fought alongside the armed group Mouvement du 23 Mars (M23). M23 opposed the Forces Armées de la République Démocratique du Congo (FARDC), supported by the Burundi National Defence Force (BNDF), the FDLR and a coalition of armed groups.⁵ The escalation beginning in January 2024 resulted in an enlargement of the areas controlled by M23 and the RDF in North Kivu.⁶

An important concern regarding compliance with international humanitarian law (IHL) is the DRC's reliance on armed groups to support its fight against M23 and the RDF. Known earlier as Alliance des résistants de la patrie (ARP), such groups are now commonly referred to as *Wazalendo* (Swahili for 'patriots').⁷ It appears that, in the framework of the *Volontaires pour la Défense de la Patrie* (VDP) initiative, the FARDC have formalized their cooperation with some of the armed groups claiming to be part of the *Wazalendo* movement.⁸ The FARDC have apparently coordinated their operations with both VDP armed groups and members of the informal *Wazalendo* coalition that have allegedly been involved in serious violations of IHL, including killings, kidnappings and the recruitment of children.⁹

The armed conflict in Ituri, involving the *Coopérative pour le Développement du Congo/Union des Révolutionnaires pour la Défense du Peuple Congolais* (CODECO/URDPC), Ituri Self-Defence Popular Front (Zaire-FPAC) and other armed groups, continued to cause massive population displacement.¹⁰ Moreover, joint operations between the FARDC and Ugandan armed forces or United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) did not always succeed in preventing attacks against civilians by the Allied Democratic Forces (ADF).¹¹

Regarding international military presence, on 1 September 2023 the DRC requested the UN Security Council to accelerate the process of withdrawal of MONUSCO, citing the incapacity of the mission to fulfil its mandate in recent years.¹² A joint disengagement plan for the withdrawal was concluded with the UN in November 2023.¹³ MONUSCO's amended mandate required it to withdraw from South Kivu by April 2024 (finalized between April and June 2024¹⁴) and to implement its mandate only in North Kivu and Ituri from May 2024.¹⁵ Due to the degradation of the security situation, the progressive withdrawal of MONUSCO

from North Kivu initially planned for June 2024 was postponed, as envisaged by the review mechanism of the joint disengagement plan.¹⁶

In December 2023 the East African Community Regional Force (EACRF) was forced to withdraw after a request by the DRC, which expressed dissatisfaction with the passive attitude of the force.¹⁷ The deployment of the Southern African Development Community Mission in the DRC (SAMIDRC) started on 15 December 2023, with the dispatch of soldiers from Malawi, South Africa and Tanzania.¹⁸ The crucial difference between EACRF and SAMIDRC is the offensive mandate of the latter (peace enforcement).¹⁹ Although Rwanda vehemently opposed the deployment, it was endorsed by the AU and later by the UN Security Council.²⁰

The conflicts in the Democratic Republic of the Congo were fought predominantly in the North Kivu and Ituri provinces in the east and they have inflicted a heavy toll on civilian populations. Serious violations of IHL, including deliberate attacks against civilians, conflict-related sexual violence and the recruitment and use of children in combat, have reportedly been committed by a wide range of actors and on a massive scale. The UN Secretary-General listed the conflicts in the DRC among those in which compliance with IHL and human rights law is often lacking, resulting in widespread civilian harm.²¹ Many of the humanitarian and IHL compliance issues are linked with the massive displacement of population caused by the conflicts: an estimated 3.8 million people were newly displaced during 2023 alone, and 6.7 million people remained displaced in the DRC at the end of 2023, according to the UN Refugee Agency (UNHCR).²²

Conflict Classification

There are multiple ongoing armed conflicts on the territory of the DRC. The FARDC and supporting forces (including MONUSCO and SAMIDRC as well as the Wazalendo groups) are involved in various armed conflicts. These include an international armed conflict (IAC) with Rwanda and a parallel non-international armed conflict (NIAC) with the Rwanda-supported M23, as well as NIACs between the FARDC and the ADF, and between the FARDC and CODECO. Furthermore, there are additional parallel NIACs between M23 and the Wazalendo as well as CODECO/URDPC and FPAC-Zaire.

International Humanitarian Law in the Democratic Republic of the Congo, 1 July 2023–30 June 2024

Conduct of Hostilities

Attacks Directed against Civilians

In the provinces of Ituri and North Kivu, reports of murders of civilians and attacks directed against them were pervasive. Such practices would clearly contravene the fundamental IHL principle of distinction and the requirement of humane treat-

ment of civilians.²³ In the period under review, deliberate killings of civilians were attributed mainly to the ADF (responsible for several hundreds of killings), but also to CODECO/URDPC and Zaire-FPAC.²⁴ The ADF reportedly implemented a strategy of attacks against civilian localities in retaliation for joint FARDC and Ugandan armed forces operations against its fighters, in the hope of diverting impending attacks against its own positions.²⁵ Some of the attacks conducted by the ADF against settlements for IDPs were reportedly related to the presence of Wazalendo elements among the civilian population.²⁶ The ADF increasingly used improvised explosive devices (IEDs) in densely-populated areas.²⁷ Such attacks were the cause of massive population displacement around Beni (North Kivu).²⁸

CODECO/URDPC reportedly sometimes abducted people before executing them by burying them alive – as in the case of civilians kidnapped in Tali village in February 2024 – or by burning them – as in the case of 15 hostages allegedly taken from the Galay village on 6 April 2024.²⁹

According to the UN Group of Experts, many people were killed in Goma on 30 August 2023, when members of the FARDC's Republican Guard opened fire on demonstrators protesting against the presence of MONUSCO.³⁰ It appears that false information circulated among military intelligence officials as to the covert presence of members of M23 among the demonstrators.³¹ Post-incident inquiries reportedly were limited, and while there were some convictions, concerns have been raised about the incompleteness of the response and, therefore, about accountability.³²

Indiscriminate Attacks, Involving Use of Explosive Weapons in Populated Areas

According to various sources, the escalation of hostilities in the province of North Kivu between the RDF and M23, on the one hand, and the FARDC/Wazalendo coalition, on the other, involved indiscriminate attacks on civilian localities by both parties, including on IDP settlements, especially in the vicinity of the towns of Goma and Sake.³³ The increasingly frequent use of wide-impact explosive weapons in densely-populated areas by both parties has resulted in extensive civilian casualties,³⁴ especially among IDPs.³⁵ The ICRC reported that, in early 2024, at least '40 percent of patients admitted to CBCA Ndoshu Hospital [in Goma] had been injured by heavy artillery',³⁶ qualifying this trend as 'unprecedented and extremely worrying'.³⁷ According to the UN Group of Experts, some of the alleged indiscriminate attacks attributed to the FARDC were caused by a lack of appropriate training of the personnel operating artillery. It noted that '[d]espite being aware of such deficiencies, the FARDC high command accepted the risks associated with utilizing heavy weapons in or near urban areas, citing military necessity'.³⁸

In some cases, attacks followed the placement of military assets – especially artillery batteries – and personnel in the vicinity of IDP settlements.³⁹ It was reported that the M23 forced IDPs 'to return to villages in areas under its control, taking over civilian dwellings and storing ammunition in them',⁴⁰ thus raising concerns that the M23 might be using civilians as human shields, which is prohibited under IHL.⁴¹

The infiltration of IDP settlements by members of armed groups and the positioning of military objectives in their vicinity would constitute a breach of the 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) – to which both the DRC and Rwanda are parties.⁴² Such conduct may also amount to a breach of the duty under

IHL to take measures of precaution to protect the civilian population against the effects of attacks.⁴³

More generally, the incidents set out above raise concerns pertaining to compliance with the principle of distinction, as the parties to the conflict in North Kivu appear to have conducted attacks in an indiscriminate manner.⁴⁴ The infiltration of IDP settlements by members of armed groups – whether it is only alleged or duly verified – is no justification for indiscriminately targeting such locations.⁴⁵

It also appears that the parties failed to take active precautionary measures before launching attacks against densely-populated areas.⁴⁶ In particular, attacks reportedly were not preceded by adequate warning to the civilian population.⁴⁷ The choice to systematically use wide-area explosive weapons in densely-populated areas is manifestly at odds with the duty to ‘take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects’.⁴⁸

Treatment of Persons

Conflict-Related Sexual Violence

Levels of conflict-related sexual violence during the reporting period have invariably been described as alarming or even unprecedented, especially in North Kivu.⁴⁹ As is frequently the case with sexual violence, it is difficult to assess with any precision the magnitude of the problem because of probable underreporting, including due to trauma, social stigma, including victim-blaming and rejection by family, or fear of reprisals.⁵⁰ Added to this were the reported difficulties or sometimes impossibility for victims to reach a healthcare centre in areas controlled by armed groups.⁵¹

MONUSCO reported approximately 90,000 cases of gender-based violence for the first ten months of 2023, of which 39,000 occurred in North Kivu alone.⁵² More specifically, in 2023 MONUSCO documented 733 cases of conflict-related sexual violence, ‘including rape, gang rape, sexual slavery and forced marriage, accompanied by extreme physical violence’, affecting over 500 women and 200 girls, 18 men and 1 boy.⁵³ The ICRC noted that victims’ mental health and psychosocial support needs far outstripped the organisation’s response capacity.⁵⁴ UN special procedures experts affirmed that the lack of access to protection services remained a key concern regarding conflict-related sexual violence in this context.⁵⁵

The increase in cases of sexual violence in North Kivu is directly related to the massive displacement of civilian populations in the region and the withdrawal of FARDC/Wazalendo forces towards the towns of Sake and Goma, causing a drastic increase in crime and insecurity.⁵⁶ Women (but also sometimes men) were attacked and raped when they left IDP settlements to gather firewood or to search for food.⁵⁷ The often desperate economic situation and dire living conditions in IDP settlements rendered many IDPs vulnerable to sexual slavery and exploitation, resulting in the opening of numerous brothels in the region of Sake and Goma.⁵⁸

The UN Group of Experts commented that the concentration of multiple armed groups and the FARDC around Goma, as well as the fact that some members of the Wazalendo armed groups were wearing FARDC uniforms, complicated the identification of perpetrators and the attribution of cases of sexual violence to specific actors. Attribution was easier in areas controlled by the M23 and RDF as

they were the sole armed actors present in those areas.⁵⁹ For the year 2023, the UN Secretary-General listed the FARDC and the Congolese National Police among state actors credibly suspected of committing or being responsible for patterns of rape or other forms of sexual violence. Twenty-three non-state actors were also listed, including the ADF, CODECO/URDPC, the FDLR and M23.⁶⁰ The ADF reportedly abducted women and girls from the age of 12 years and subjected them to sexual slavery and forced marriages.⁶¹ In a briefing to the UN Security Council, the head of MONUSCO stressed that the FDLR remained among the worst perpetrators of conflict-related sexual violence.⁶²

In addition to fundamental rules of IHL prohibiting sexual violence,⁶³ the authorities have a duty to ensure satisfactory conditions of safety for displaced civilian populations.⁶⁴ One of the measures taken by the DRC Government in this context is the closure of numerous brothels in North Kivu.⁶⁵ However, the Group of Experts noted with concern that '[t]he recognition of the Wazalendo by the Government and the general public as "patriots" fighting for the liberation of the country gave these armed groups the excuse to act with impunity, with State security services either unable or unwilling to arrest perpetrators'.⁶⁶ The UN Secretary-General called upon the authorities 'to immediately scale up security measures in and around displacement sites so as to enhance protection and access to services', indicating that existing measures were considered insufficient.⁶⁷

Humanitarian Relief

Humanitarian Access and Facilitation of the Passage of Humanitarian Relief

The moving frontlines in North Kivu led to access difficulties or road closures for humanitarian agencies,⁶⁸ raising doubts as to the compliance of M23 and the RDF with their duty not to hamper the delivery of humanitarian relief.⁶⁹ For instance, in June 2024 the ICRC had to suspend the delivery of food to IDPs in Kanyabayonga, North Kivu, due to the proximity of ongoing hostilities, which caused the further displacement of many persons who had to flee the area.⁷⁰ In North Kivu, the advances of M23 and the RDF led to the cutting off of all access routes to the cities of Goma and Sake, except for one road to Rwanda.⁷¹ The AU called for a cessation of hostilities, as well as the creation of humanitarian corridors to facilitate humanitarian assistance.⁷²

The budget allocated by the government,⁷³ as well as the resources available to international humanitarian agencies,⁷⁴ are inadequate to meet the enormous humanitarian needs caused by the crisis.⁷⁵ The AU called for contributions towards the provision of humanitarian assistance for the affected population from those in a position to do so.⁷⁶

Medical Care

Respect for and Protection of Medical Personnel, Units and Transports

In some areas, access to health care was reportedly disrupted by violent acts against healthcare personnel and facilities.⁷⁷ For instance, in the province of Ituri, attacks by CODECO/URDPC on medical facilities in March 2024 apparently led key hu-

manitarian actors to withdraw from the area.⁷⁸ In early 2024, the increased intensity of fighting between the FARDC and their allies against the M23 and RDF, as well as the collapse of the healthcare system in the region, reportedly led to a significant influx of wounded persons into hospitals in Goma, raising concerns about capacity.⁷⁹

Specific Vulnerabilities

Internally-Displaced Persons

In July 2024 the head of MONUSCO estimated that there were 7.3 million displaced people in the DRC, including 6.9 million in the eastern provinces alone.⁸⁰ Conditions of life in IDP settlements have reportedly been dire, with insufficient access to basic necessities. The lack of appropriate sanitation installations has led to cholera outbreaks in IDP settlements.⁸¹ IDPs are exposed to a range of security risks, ranging from ‘men risking death to feed starving children and women risking rape to collect firewood’.⁸² In February 2024 Amnesty International described the presence of ‘over one million internally displaced people crammed in and around Goma in need of shelter, food, sanitation, and health services’.⁸³

Children

Particular impacts of the conflicts on children include malnutrition⁸⁴ and severe disruptions to or dangers associated with education (for instance, school closures due to direct attacks; seizure of schools by armed groups; the use of schools as shelters for displaced families; kidnappings of school teachers and students).⁸⁵ There was also a marked increase in cases of recruitment of children due to the escalation of the conflict,⁸⁶ as well as vulnerability of children to recruitment due to extreme poverty, school closures and displacement.⁸⁷ While girls are more exposed to the risk of conflict-related sexual violence, boys face a higher risk of recruitment.⁸⁸ Numerous armed groups, including the ADF,⁸⁹ nearly all Wazalendo groups⁹⁰ and M23,⁹¹ reportedly recruited children in the DRC, from the ages of 10 to 12 years. The ADF, M23 and RDF also reportedly recruited children abroad in Uganda and Rwanda, primarily targeting Congolese refugees.⁹²

In the case of recruitment by the RDF, M23 and Wazalendo groups, methods of recruitment reportedly included promises of remuneration.⁹³ Systematic abduction accompanied by threats of execution were said to be employed by the ADF⁹⁴ and M23.⁹⁵ In the latter case, the Group of Experts noted that ‘[t]he youngest children, usually under 15 years old, did not receive full tactical training but carried out chores and acted as escorts or servants to commanders until they became “ripe” for combat duty’.⁹⁶ The collaboration between the national authorities and Wazalendo armed groups risks a situation of de facto impunity for members of armed groups involved in the recruitment and use of child soldiers. For instance, the Group of Experts documented the case of a meeting between FARDC high-ranking officers and leaders of armed groups – some of whom are being sought for arrest by criminal justice authorities for their suspected involvement in the recruitment and use of child soldiers.⁹⁷

Beyond the IHL obligations not to recruit or use children under 15 years of age in armed conflict, there are also human rights law obligations protecting older children. As parties to the African Charter on the Rights and Welfare of the

Child,⁹⁸ International Labour Organization (ILO) Convention 182 of 1999 on the worst forms of child labour, and the 2000 Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the governments of the DRC, Rwanda and Uganda are bound to take measures to ensure that children under the age of 18 years are neither recruited into their armed forces nor allowed to take a direct part in hostilities. Article 4(1) of the Optional Protocol creates similar obligations for armed groups 'that are distinct from the armed forces of a State'. The government shall also 'take all feasible measures' to prevent the recruitment and use of children under the age of 18 by armed groups on their territory (Article 4(2) of the Optional Protocol).⁹⁹

In light of their collaboration with Wazalendo armed groups and their failure to apprehend persons suspected of the war crime of recruitment of child soldiers, the Congolese authorities do not appear to have been living up to these commitments.

End Notes Democratic Republic of the Congo

- 1 Options for adapting the configuration of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo and the future United Nations configuration in the country beyond the current mandate of the Mission: Report of the Secretary-General, 2 August 2023, UN Doc. S/2023/574, 1 [3].
- 2 See Midterm Report of the Group of Experts on the Democratic Republic of the Congo, 30 December 2023, UN Doc. S/2023/990, 8 [22] and following; Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, 10–11 [30]–[33]. See also 'Shifting Frontlines: Visualizing the Evolution of the M23's Territorial Influence in Early 2024 – Democratic Republic of the Congo | ReliefWeb' (21 June 2024), <https://reliefweb.int/report/democratic-republic-congo/shifting-frontlines-visualizing-evolution-m23s-territorial-influence-early-2024> (last accessed 6 December 2024); International Peace Information Service (IPIS), Association pour le développement des initiatives paysannes (ASSODIP), and Danish Institute for International Studies (DIIS), 'Le M23 « version 2 » : Enjeux, motivations, perceptions et impacts locaux' (2024) D/2024/4320/03, https://ipisresearch.be/wp-content/uploads/2024/06/20240403_Le-M23-version-2-Enjeux-motivations-perceptions-et-impacts-locaux.pdf (last accessed 16 December 2024).
- 3 'DR Congo: Civilians in the Firing Line as Use of Heavy Weapons Signals Alarming New Phase of Armed Conflict in the East', International Committee of the Red Cross, 6 March 2024, <https://www.icrc.org/en/document/dr-congo-civilians-firing-line-use-heavy-weapons-signals-alarming-new-phase-armed-conflict> (last accessed 22 November 2024).
- 4 Rwanda's letter dated 12 February 2024 to the President of the UN Security Council protesting SAMIDRC deployment, reproduced in Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, Annex 57: Mandate of Southern African Development Community Mission in the DRC (SAMIDRC), 183.
- 5 See Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, 10 [31] and 12 [40]–[42]. See also T. Bihan, 'Dans l'est du Congo, « la guerre régionale est déjà là » – Entretien', *Afrique XXI*, 20 March 2024, <https://afriquexxi.info/Dans-l-est-du-Congo-la-guerre-regionale-est-deja-la> (last accessed 16 December 2024).
- 6 See Final Report of the Group of Experts on the Democratic Republic of the Congo, supra 8, 10 [30]–[32].
- 7 For a non-exhaustive list of armed groups belonging to the coalition, see Midterm Report of the Group of Experts on the Democratic Republic of the Congo (30 December 2023) UN Doc. S/2023/990, Annex 19: Non-exhaustive list of armed groups from North Kivu and South Kivu provinces part of the 'Wazalendo coalition', 68–69.
- 8 Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, 16 [60].
- 9 Ibid, 9 [22].
- 10 United Nations Organization Stabilization Mission in the Democratic Republic of the Congo: Report of the Secretary-General, 21 September 2023, UN Doc. S/2023/691, 3 [11]; Midterm Report of the Group of Experts on the Democratic Republic of the Congo, 30 December 2023, UN Doc. S/2023/990, 10 [33]–[34].
- 11 United Nations Organization Stabilization Mission in the Democratic Republic of the Congo: Report of the Secretary-General, 21 September 2023, UN Doc. S/2023/691, 4 [16]–[17]; UNSC Verbatim Record (11 December 2023) UN Doc. S/PV.9500, 3 (Ms Keita).
- 12 See letter dated 1 September 2023 from the Permanent Representative of the Democratic Republic of the Congo to the United Nations addressed to the President of the Security Council, 13 September 2023, UN Doc. S/2023/648, Annex, 6; UNSC Verbatim Record, 11 December 2023, UN Doc. S/PV.9500, 18–19 (Mr Zenon Ngay Mukongo; Democratic Republic of the Congo).
- 13 See letter dated 23 November 2023 from the Permanent Representative of the Democratic Republic of the Congo to the United Nations addressed to the President of the Security Council, 26 December 2023, UN Doc. S/2023/904, Annex: Note on the accelerated, gradual, orderly and responsible withdrawal of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo from the Democratic Republic of the Congo: comprehensive disengagement plan and timeline, 7–8 [21]–[25].
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- 15 UNSC Res 2717 (2023) (19 December 2023) UN Doc. S/RES/2717 (2023) 9 [23].
- 16 'In DRC, Insecurity Is at Alarming Levels, Türk Reports' OHCHR, 2 April 2024 11 [40], <https://www.ohchr.org/en/statements-and-speeches/2024/04/drc-insecurity-alarming-levels-turk-reports> (last accessed 17 December 2024); UNSC Verbatim Record, 8 July 2024, UN Doc. S/PV.9681, 18 (Mr Mukongo, Democratic Republic of the Congo); 'UN Peacekeeper Withdrawal Paused in DR Congo', The New Humanitarian, 15 July 2024, <https://www.thenewhumanitarian.org/news/2024/07/15/un-peacekeeper-withdrawal-paused-dr-congo> (last accessed 3 December 2024).
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- 18 Resolution of 8 May 2023, formalized at an Extraordinary Summit of the Heads of State and Government on 11 July 2023. See Final Report of the Group of Experts on the Democratic Republic of the Congo (4 June 2024), UN Doc. S/2024/432, 10 [31] and 21 [88]; United Nations Organization Stabilization Mission in the Democratic Republic of the Congo: Report of the Secretary-General, 21 September 2023, UN Doc. S/2023/691, 2 [10]; UNSC Verbatim Record (28 September 2023) UN Doc. S/PV.9427, 3 (Ms Keita); letter dated 28 June 2024 from the Secretary-General addressed to the President of the Security Council, 1 July 2024, UN Doc. S/2024/519, 1–2.

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- 19 Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, 21 [88]. See also *ibid*, Annex 57: SAMIDRC deployment and operations, 177.
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- 20 See Communiqué adopted by the Peace and Security Council (PSC) of the African Union (AU) at its 1203rd meeting held on 4 March 2024, on Consideration of the Situation in the Eastern Democratic Republic of Congo (DRC) and the Deployment of the Southern African Development Community Mission in the DRC (SAMIDRC) (4 March 2024) PSC/PR/COMM.1203 (2024), 2 [9]; African Union Assembly, Decision on the Report of the Peace and Security Council on its Activities and the State of Peace and Security in Africa, 17–18 February 2024, Dec.868(XXXVII), 5 [14]; UNSC Res 2746 (224), 6 August 2024, UN Doc. S/RES/2746 (2024) Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, Annex 57: SAMIDRC deployment and operations, 177.
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- 21 Protection of Civilians in Armed Conflict: Report of the Secretary-General, 14 May 2024, UN Doc. S/2024/385, 1 [3] and 2 [7].
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- 22 See 'Global Trends: Forced Displacement in 2023' (UNHCR 2024), 9 and 28, <https://www.unhcr.org/global-trends-report-2023> (last accessed 19 November 2024). Figures of internally-displaced persons are not always concordant. Compare with 'Discours prononcé par Francois Moreillon, chef de délégation du Comité international de la Croix-Rouge en RDC au Palais des Nations Unies de Genève', International Committee of the Red Cross, 14 November 2023, <https://www.icrc.org/fr/document/discours-de-francois-moreillon-sur-rdc-au-palais-nations-unies-geneve> (last accessed 22 November 2024); "'The Forgotten People of North Kivu": Focus on the Humanitarian Crisis in This Province of the Democratic Republic of the Congo, as of 1 March 2024', International Committee of the Red Cross, 2024, 6, https://www.icrc.org/sites/default/files/document_new/file_list/icrc_report_the_forgotten_people_of_north_kivu.pdf (last accessed 22 November 2024); Protection of Civilians in Armed Conflict: Report of the Secretary-General (14 May 2024) UN Doc. S/2024/385, 4 [14].
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- 23 See 'The State of the World's Human Rights', Amnesty International, 2024, 147–148, <https://www.amnesty.org/en/documents/po110/7200/2024/en/> (last accessed 4 September 2024).
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- 24 See United Nations Organization Stabilization Mission in the Democratic Republic of the Congo: Report of the Secretary-General, 21 September 2023, UN Doc. S/2023/691, 3 [11] and [14]; Options for adapting the configuration of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo and the future United Nations configuration in the country beyond the current mandate of the Mission: Report of the Secretary-General, 2 August 2023, UN Doc. S/2023/574, 3 [9]–[10]; UNSC Verbatim Record, 8 July 2024, UN Doc. S/PV.9681, 3 (Ms Keita); Human Rights Situation and the Activities of the United Nations Joint Human Rights Office in the Democratic Republic of the Congo: Report of the United Nations High Commissioner for Human Rights, 30 September 2024, UN Doc. A/HRC/57/76, 5 [16]; UNSC Verbatim Record, 20 February 2024, UN Doc. S/PV.9553, 3 (Ms Keita); Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, 32 [153] and 34 [161].
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- 25 Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, 7 [9] and [11]; Options for adapting the configuration of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo and the future United Nations configuration in the country beyond the current mandate of the Mission: Report of the Secretary-General, 2 August 2023, UN Doc. S/2023/574, 3 [10].
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- 26 Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, 27 [121].
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- 27 Options for adapting the configuration of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo and the future United Nations configuration in the country beyond the current mandate of the Mission: Report of the Secretary-General, 2 August 2023, UN Doc. S/2023/574, 3 [10].
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- 28 Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, 7 [11].
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- 29 See Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, Annexes 95 and 96, 264–265.
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- 30 See Midterm Report of the Group of Experts on the Democratic Republic of the Congo, 30 December 2023, UN Doc. S/2023/990, 13 [55]–[56].
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- 31 See R. Moncrieff and O. Sematumba, 'Massacre in Goma Clouds DR Congo's Elections and UN Mission's Future', International Crisis Group, 15 September 2023, <https://www.crisisgroup.org/africa/great-lakes/democratic-republic-congo/massacre-goma-clouds-dr-congos-elections-and-un> (last accessed 5 December 2024).
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- 32 Midterm Report of the Group of Experts on the Democratic Republic of the Congo, 30 December 2023, UN Doc. S/2023/990, Annex 39: The judicial process and the lack of inquiry into other potential suspects of the 30 August 2023 killings in Goma, 117 [36]. See also 'DR Congo: Deadly Crackdown in Goma', Human Rights Watch, 31 August 2023, <https://www.hrw.org/news/2023/08/31/dr-congo-deadly-crackdown-goma> (last accessed 18 November 2024).
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- 33 See Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, 11 [34]. For reporting on indiscriminate attacks carried out by M23/RDF, see *ibid*, Annex 62: Incidents involving heavy artillery fire by M23, RDF and FARDC, resulting in civilian casualties, 197–201 [14]–[31], and, for indiscriminate attacks carried out by the FARDC/Wazalendo coalition, *ibid*, 202–205 [32]–[42]. See also UNSC Verbatim Record, 20 February 2024, UN Doc. S/PV.9553, 2 (Ms Keita); 'DR Congo: Rwandan Forces, M23 Rebels Shell Civilians', Human Rights Watch, 26 September 2024, <https://www.hrw.org/news/2024/09/26/dr-congo-rwandan-forces-m23-rebels-shell-civilians> (last accessed 18 November 2024).
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- 34 Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, 22 [93]–[94].
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- 35 See UNSC Verbatim Record, 8 July 2024, UN Doc. S/PV.9681, 3 (Ms Keita): 'At Least 15 Bombardments Have Hit Sites Hosting Internally Displaced Persons or Their Immediate Surroundings, Killing Almost 30 People and Injuring Many More.' See also 'Escalating Conflict in Eastern DRC Raises Concerns for Civilian Safety and Humanitarian Access', Humanity & Inclusion (HI), 12 February 2024, <https://www.hi.org/en/news/escalating-conflict-in-eastern-drc-raises-concerns-for-civilian-safety-and-humanitarian-access> (last accessed 11 December 2024).
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- 36 "'The Forgotten People of North Kivu'", *supra* 22, p 3.
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- 37 'DR Congo: Civilians in the Firing Line as Use of Heavy Weapons Signals Alarming New Phase of Armed Conflict in the East', International

Committee of the Red Cross, 6 March 2024, <https://www.icrc.org/en/document/dr-congo-civilians-firing-line-use-heavy-weapons-signals-alarming-new-phase-armed-conflict> (last accessed 22 November 2024).

38 Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, 22 [96].

39 Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, Annex 63: Military positions established near or within civilian settlements, 206–207; United Nations Organization Stabilization Mission in the Democratic Republic of the Congo: Report of the Secretary-General, 20 June 2024, UN Doc. S/2024/482, 9 [32].

40 UNSC Verbatim Record, 20 February 2024, UN Doc. S/PV.9553, 2 (Ms Keita).

41 Rule 97, ICRC, Customary IHL Database, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule97> (last accessed 22 November 2024).

42 Art VII(5)(i), read in conjunction with art V(11). According to art VII(5)(i), '[m]embers of armed groups shall be prohibited from ... (i) violating the civilian and humanitarian character of the places where internally displaced persons are sheltered and shall not infiltrate such places'. According to art V(11), 'State Parties shall take measures aimed at ensuring that armed groups act in conformity with their obligations under Article VII'.

43 Art 58 AP I applicable in IAC and/or customary international law (Rule 22 of the ICRC Customary IHL Study applicable in all armed conflicts, and Rule 23, applicable in IAC and arguably in NIAC).

44 Prohibited under art 51(4) AP I during IAC and/or customary international law applicable in armed conflict (Rule 11 of the ICRC Customary IHL Study). See, in this sense, Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, 22 [95].

45 Arts 50(3) and 51(8) AP I applicable in IAC and/or customary international law applicable in armed conflict (Rule 6 of the ICRC Customary IHL Study).

46 Art 57 AP I applicable in IAC and/or customary international law applicable in armed conflict (Rules 15–20 of the ICRC Customary IHL Study; Rule 21 of the ICRC Customary IHL Study, applicable in IAC and arguably in NIAC).

47 Art 57(2)(c) AP I and/or customary international law applicable in armed conflict (Rule 20 of the ICRC Customary IHL Study). See Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, 22–23 [95]–[96] and [97].

48 Art 57(2)(a)(ii) AP I and customary international law applicable in armed conflict (Rule 17 of the ICRC Customary IHL Study). See International Committee of the Red Cross, 'Explosive Weapons With Wide Area Effects: A Deadly Choice in Populated Areas', International Committee of the Red Cross, 2022, 91–92, <https://shop.icrc.org/explosive-weapons-with-wide-area-effect-a-deadly-choice-in-populated-areas-pdf-en.html> (last accessed 6 June 2024).

49 See, e.g., 'DR Congo: More than 44,000 People Receive Emergency Food Aid as Violence in Eastern Provinces Intensifies', International

Committee of the Red Cross, 28 March 2024, <https://www.icrc.org/en/document/dr-congo-more-than-44000-people-receive-emergency-food-aid-as-violence-eastern-provinces-intensifies> (last accessed 22 November 2024); Conflict-Related Sexual Violence: Report of the Secretary-General, 4 April 2024, UN Doc. S/2024/292, 5 [11]; Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, Annex 60: Unprecedented Levels of Conflict-Related Sexual Violence, 192–193; UNSC Verbatim Record, 8 July 2024, UN Doc. S/PV.9681, 3 (Ms Keita).

50 See 'DR Congo: Civilians in the Firing Line as Use of Heavy Weapons Signals Alarming New Phase of Armed Conflict in the East', International Committee of the Red Cross, 6 March 2024, <https://www.icrc.org/en/document/dr-congo-civilians-firing-line-use-heavy-weapons-signals-alarming-new-phase-armed-conflict> (last accessed 22 November 2024). See also See Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v Uganda) (Reparations) [2022] ICJ Rep 13, 77–78 [189]; Conflict-Related Sexual Violence: Report of the Secretary-General, 4 April 2024, UN Doc. S/2024/292, 6 [16].

51 See UNSC Verbatim Record, 28 September 2023, UN Doc. S/PV.9427, 3 (Ms Keita).

52 United Nations Organization Stabilization Mission in the Democratic Republic of the Congo: Report of the Secretary-General, 30 November 2023, UN Doc. S/2023/932, 6 [39]. See also, noting that '[m]ore than 10,000 survivors of gender-based violence sought assistance in North Kivu, South Kivu and Ituri in the months of June and July [2024] alone', UNSC Verbatim Record, 28 September 2023, UN Doc. S/PV.9427, 3 (Ms Keita).

53 Conflict-Related Sexual Violence: Report of the Secretary-General, 4 April 2024, UN Doc. S/2024/292, 12 [32].

54 'DR Congo: Civilians in the Firing Line as Use of Heavy Weapons Signals Alarming New Phase of Armed Conflict in the East', International Committee of the Red Cross, 6 March 2024, <https://www.icrc.org/en/document/dr-congo-civilians-firing-line-use-heavy-weapons-signals-alarming-new-phase-armed-conflict> (last accessed 22 November 2024).

55 'DRC: Alarming Increase in Trafficking for Sexual Exploitation, Say Experts', OHCHR, 4 July 2024, <https://www.ohchr.org/en/press-releases/2024/07/drc-alarming-increase-trafficking-sexual-exploitation-say-experts> (last accessed 18 November 2024).

56 Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, 27 [121].

57 See, for testimonies of individual victims of sexual violence, 'Survivors of Sexual Violence in the Democratic Republic of Congo', International Committee of the Red Cross, 13 June 2024, <https://www.icrc.org/en/document/sexual-violence-survivors-democratic-republic-congo> (last accessed 22 November 2024).

58 See Conflict-Related Sexual Violence: Report of the Secretary-General, 4 April 2024, UN Doc. S/2024/292, 5 [11]; 'DRC: Alarming Increase in Trafficking for Sexual Exploitation, Say Experts', OHCHR, 4 July 2024, <https://www.ohchr.org/en/press-releases/2024/07/drc-alarming-increase-trafficking-sexual-exploitation-say-experts> (last accessed 18 November 2024).

59 Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, Annex 60: Unprecedented

levels of conflict-related sexual violence, 192–193.

60 Conflict-Related Sexual Violence: Report of the Secretary-General, 4 April 2024, UN Doc. S/2024/292, Annex, 33–34.

61 Midterm Report of the Group of Experts on the Democratic Republic of the Congo, 30 December 2023, UN Doc. S/2023/990, 8 [21] and Annex 12: ADF recruitment, including of children, and sexual exploitation of women and girls, 47–48.

62 UNSC Verbatim Record, 20 February 2024, UN Doc. S/PV.9553, 2 (Ms Keita).

63 Common Article 3 of the 1949 Geneva Conventions, art 4(2)(e) AP II applicable in NIAC and customary international law applicable in armed conflict (Rules 87, 90 and 93 of the ICRC Customary IHL Study).

64 Art 17 AP II applicable in NIAC and and/or customary international law applicable in armed conflict (Rule 131 of the ICRC Customary IHL Study). See also United Nations, Commission on Human Rights, Report of the Representative of the Secretary-General, Mr Francis M. Deng, submitted pursuant to Commission Resolution 1997/39: Addendum: Guiding Principles on Internal Displacement (11 February 1998) UN Doc. E/CN.4/1998/53/Add. 2, 6, Principles 3(1) and 9, Principles 11(2)(a) and (b): 'Internally displaced persons ... shall be protected in particular against: (a) rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault; (b) slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation, or forced labour of children.' Ar IX(1)(d) of the Kampala Convention explicitly provides that 'States Parties shall protect the rights of internally displaced persons regardless of the cause of displacement by refraining from, and preventing, the following acts, amongst others ... (d) sexual and gender based violence in all its forms, notably rape, enforced prostitution, sexual exploitation ...'

65 See UNSC Verbatim Record, 28 September 2023, UN Doc. S/PV.9427, 3 (Ms Keita).

66 Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, 27 [122].

67 Conflict-Related Sexual Violence: Report of the Secretary-General, 4 April 2024, UN Doc. S/2024/292, 13 [35]. See also 'UN Representative Alarmed by Sexual Violence against Women and Girls in DRC', UN News, 25 May 2023, <https://news.un.org/en/story/2023/05/1137042> (last accessed 3 December 2024). See also, in the same vein, the position adopted by the Committee of Experts on the Application of Conventions and Recommendations (CEACR) of the International Labour Organization: Observation (CEACR) – adopted 2022, published 111st ILC session (2023), Forced Labour Convention, 1930 (No 29) – Democratic Republic of the Congo (Ratification: 1960), https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID%2CP13100_COUNTRY_ID:4313303%2C102981 (last accessed 18 December 2024).

68 Ibid; UNSC Verbatim Record, 8 July 2024, UN Doc. S/PV.9681, 3 (Ms Keita).

69 See, especially, arts VII(5)(b) and (g) of the 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention): 'Members of armed groups shall be prohibited from ... (b) hampering the provision of protection

and assistance to internally displaced persons under any circumstances; ... (g) impeding humanitarian assistance and passage of all relief consignments, equipment and personnel to internally displaced persons.'

70 See 'DR Congo: The ICRC Suspends Food Aid for Displaced People in Kanyabayonga | ICRC', International Committee of the Red Cross, 4 June 2024, <https://www.icrc.org/en/document/ICRC-suspends-food-aid-for-displaced-in-Kanyabayonga> (last accessed 22 November 2024).

71 Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, 10–11 [32] and 11 [34]; 'Escalating Conflict in Eastern DRC Raises Concerns for Civilian Safety and Humanitarian Access', Humanity and Inclusion (HI), 12 February 2024, <https://www.hi.org/en/news/escalating-conflict-in-eastern-drc-raises-concerns-for-civilian-safety-and-humanitarian-access> (last accessed 11 December 2024).

72 Communiqué adopted by the Peace and Security Council (PSC) of the African Union (AU) at its 1203rd meeting held on 4 March 2024, on Consideration of the Situation in the Eastern Democratic Republic of Congo (DRC) and the Deployment of the Southern African Development Community Mission in the DRC (SAMIDRC), 4 March 2024, PSC/PR/COMM.1203 (2024), 2 [4].

73 See 'Financement de la crise humanitaire à l'est de la RDC : 150 FC par an pour chacun des 7 millions de déplacés de guerre, dénonce l'ODEP', Actualite.cd, 5 June 2024, <https://actualite.cd/2024/06/05/financement-de-la-crise-humanitaire-lest-de-la-rdc-150-fc-par-pour-chacun-des-7-millions> (last accessed 22 November 2024). See also "'The Forgotten People of North Kivu'", supra 22, p 1: 'Out of a total population of 113,6 million, over 25,4 million people will be in need of aid in 2024, according to UN estimates.'

74 'Discours prononcé par François Moreillon, chef de délégation du Comité international de la Croix-Rouge en RDC au Palais des Nations Unies de Genève', International Committee of the Red Cross, 14 November 2023, <https://www.icrc.org/fr/document/discours-de-francois-moreillon-sur-rdc-au-palais-nations-unies-geneve> (last accessed 22 November 2024); 'DR Congo: More than 44,000 People Receive Emergency Food Aid as Violence in Eastern Provinces Intensifies', International Committee of the Red Cross, 28 March 2024, <https://www.icrc.org/en/document/dr-congo-more-than-44000-people-receive-emergency-food-aid-as-violence-eastern-provinces-intensifies> (last accessed 22 November 2024).

75 UNSC Verbatim Record, 11 December 2023, UN Doc. S/PV.9500, 4 (Ms Keita), warning that only 35,5% cent of the \$2,25 billion required to fund the humanitarian response plan for 2023 had been raised so far.

76 Communiqué adopted by the Peace and Security Council (PSC) of the African Union (AU) at its 1203rd meeting held on 4 March 2024, on Consideration of the Situation in the Eastern Democratic Republic of Congo (DRC) and the Deployment of the Southern African Development Community Mission in the DRC (SAMIDRC) (4 March 2024) PSC/PR/COMM.1203 (2024), 1–2 [3].

77 "'The Forgotten People of North Kivu'", supra 22, p 4.

78 Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, 33 [159].

79 'North Kivu: Dozens of Injured Arrive in Goma During Intense Fighting', International Committee of the Red Cross, 9 February 2024,

<https://www.icrc.org/en/document/North-Kivu-Dozens-injured-arrive-in-Goma-during-intense-fighting> (last accessed 29 November 2024).

80 UNSC Verbatim Record, 8 July 2024, UN Doc. S/PV.9681, 3 (Ms Keita).

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86 Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, 23 [99].

87 "'The Forgotten People of North Kivu'", supra 22, p 9; 'UNHCR and UNICEF Express Grave Concern over the Humanitarian Toll on Civilians in Eastern DR Congo', 24 November 2023, <https://www.unicef.org/press-releases/unhcr-and-unicef-express-grave-concern-over-humanitarian-toll-civilians-eastern-dr> (last accessed 22 November 2024); 'DR Congo: Children Killed, Injured, Abducted, and Face Sexual Violence in Conflict at Record Levels for Third Consecutive Year – UNICEF', UNICEF, 28 September 2023, <https://www.unicef.org/press-releases/dr-congo-children-killed-injured-abducted-and-face-sexual-violence-conflict-record> (last accessed 22 November 2024).

88 'Discours prononcé par François Moreillon, chef de délégation du Comité international de la Croix-Rouge en RDC au Palais des Nations Unies de Genève', International Committee of the Red Cross, 14 November 2023, <https://www.icrc.org/fr/document/discours-de-francois-moreillon-sur-rdc-au-palais-nations-unies-geneve> (last accessed 22 November 2024).

89 Midterm Report of the Group of Experts on the Democratic Republic of the Congo, 30 December 2023, UN Doc. S/2023/990, 8 [21]; Midterm Report of the Group of Experts on the Democratic Republic of the Congo, 30 December 2023, UN Doc. S/2023/990, Annex 12: ADF recruitment, including of children, and sexual exploitation of women and girls, 47.

90 Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, 25 [109]–[110]: 'The Group was able to establish the use of child combatants by NDC-R/Guidon, APCLS, FDLR-FOCA, CMC-Domi, the Union des patriotes congolais pour la reconstruction du Congo libre (UPCRL), the Force d'action rapide-Wazalendo (FAR-W) and Nyatura-Abazungu of Jean Marie (see annex 67).' Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, Annex 67: Recruitment and use of children by Wazalendo groups in Petit Nord, 214–216.

91 Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, Annex 65: M23 child recruitment in DRC, 209–211.

92 Ibid, 23 [100]–[101] and Annex 66: Recruitment of children by RDF officers in refugee camps in Rwanda, 212–213.

93 Ibid, 24 [104]–[105].

94 Midterm Report of the Group of Experts on the Democratic Republic of the Congo, 30 December 2023, UN Doc. S/2023/990, Annex 12: ADF recruitment, including of children, and sexual exploitation of women and girls, 47.

95 Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, 23 [101].

96 Ibid, 24 [107].

97 See also Midterm Report of the Group of Experts on the Democratic Republic of the Congo, 30 December 2023, UN Doc. S/2023/990, 10–11 [36]; Final Report of the Group of Experts on the Democratic Republic of the Congo, 4 June 2024, UN Doc. S/2024/432, 26 [114]–[115] and Annex 68: Impunity exacerbating the use of children, 217.

98 See art 22(2) of the African Charter on the Rights and Welfare of the Child: 'States Parties to the present Charter shall take all necessary measures to ensure that no child shall take a direct part in hostilities and refrain in particular, from recruiting any child.' Art 2 defines 'a child', in the framework of the African Charter, as 'every human being below the age of 18 years'.

99 See also the DRC's declaration upon ratification of the Optional Protocol, https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtmsg_no=iv-11-b&chapter=4&clang=_en (last accessed 19 December 2024).

ETHIOPIA

In the reporting period, several armed conflicts emerged or continued in Ethiopia. A pre-existing non-international armed conflict (NIAC) remained ongoing between state armed forces and the Oromo Liberation Army (OLA), while clashes between state armed forces and various Fano Amhara militias also reached the NIAC threshold. An international armed conflict was also deemed to exist between Ethiopia and Eritrea. These conflicts, predominantly affecting the Amhara, Oromia and Tigray regions, have inflicted a heavy toll on civilian populations and induced massive conflict-related displacement. Conduct of hostilities issues that raise concerns over international humanitarian law (IHL) compliance included reported attacks directed at civilians and civilian objects (some of which appeared to be of an inter-ethnic nature) or attacks that appeared potentially indiscriminate or disproportionate. Respect for IHL rules on the protection of civilian objects and private property was also a concern, given reported patterns of the use of schools for military purposes, as well as looting and property destruction. Deaths and injuries linked to explosive remnants of war were also recorded in Tigray. Regarding the treatment of persons, reports of conflict-related sexual violence were prominent in Tigray, Oromia and Amhara during the reporting period. Numerous summary executions by state forces were also alleged in relation to the conflict in the Amhara region. Reports of widespread abductions and kidnapping for ransom by armed actors also raised concerns over compliance with the prohibitions on arbitrary deprivation of liberty and hostage-taking. The reporting period saw a significant increase in food insecurity in Ethiopia, in a context of massive internal displacement, near-drought conditions, economic impacts of conflict and a months-long interruption of food aid following reports of diversion. Although food aid partially resumed, millions of people were reported to be at risk of famine in Tigray. Respect for and protection of medical care are also a serious issue in the Amhara region, as both state forces and non-state armed groups have been accused of attacking medical staff and transports. State forces have also reportedly raided hospitals, looted medical supplies and killed wounded or sick enemy fighters while in hospital. There are also allegations that ambulances have been targeted to prevent the treatment of fighters from non-state armed groups. There are indications that women, children, people with disabilities and the elderly have been particularly affected by the armed conflicts in Ethiopia during the reporting period, raising concerns about the implementation of their specific protections under IHL.

Conflict Overview

In Ethiopia, long-standing internal tensions among regional/ethnically-based groups, as well as intersecting disputes with neighbouring country Eritrea, have periodically flared up into armed conflict over the past decades.¹ The non-international armed conflict (NIAC) in Tigray in 2020–2022 is a highly-prominent example, and the impacts of this situation are still ongoing. During the reporting period, several armed conflicts emerged or continued in Ethiopia, namely:

- a pre-existing NIAC between the Ethiopian National Defence Forces (ENDF) – i.e., government armed forces – and the Oromo Liberation Army (OLA); Two rounds of peace talks held in April and November 2023 both failed²
- NIACs between the ENDF and Fano Amhara militias, as clashes reached the requisite threshold of intensity
- an international armed conflict (IAC) between Eritrea and Ethiopia; this is despite the signature of the Cessation of Hostilities Agreement between Ethiopia and the Tigray People’s Liberation Front (TPLF) on 2 November 2022, which foresees the protection of the sovereignty and territorial integrity of Ethiopia against foreign incursion³

Further details on classification of these conflicts can be found below (‘Conflict Classification’).

These conflicts, predominantly affecting the Amhara, Oromia and Tigray regions, have inflicted a heavy toll on civilian populations and induced massive conflict-related displacement.⁴ It is estimated that during the reporting period, over 2.2 million people remained internally displaced in Ethiopia as a result of conflict.⁵ The armed conflicts in Ethiopia display a consistent pattern of civilian harm, which disproportionately affects women and children. Violent incidents often appear to be of an inter-ethnic nature. Overall, this state of affairs raises serious concerns regarding compliance with international humanitarian law (IHL).

Conflict Classification

A pre-existing NIAC between the ENDF and the Oromo Liberation Army (OLA) continued during the period under investigation. Multiple confrontations between the ENDF and the OLA were reported, including on 10 August 2023,⁶ 28 October 2023,⁷ 12 January 2024⁸ and 21 January 2024.⁹

As for armed violence between the ENDF and Fano Amhara militias, this reached the threshold of intensity required for a NIAC since at least April 2023. Several clashes erupted between Fano Amhara militias and the ENDF during the relevant period. Since Fano Amhara militias exhibit a loose network and a decentralized structure, precise details pertaining to the level of organization of the individual armed groups as well as the existence of regional coalitions among Fano Amhara militias remain insufficiently established. Nevertheless, the decentralized nature of non-state actors does not preclude the existence of a NIAC,¹⁰ and at least certain Fano Amhara militias are sufficiently organized for the purposes of being parties to NIACs.

Furthermore, reports of the presence of Eritrean Defence Forces (EDF) in the Tigray region and the EDF’s control of several parts of two border districts within

Ethiopian territory¹¹ indicate the existence of an IAC between Eritrea and Ethiopia, and possibly a situation of belligerent occupation.¹²

Conversely, reported clashes between the Fano Amhara militias and the OLA do not appear to fulfil the threshold of intensity required for a NIAC.

International Humanitarian Law in Ethiopia, 1 July 2023–30 June 2024

Conduct of Hostilities

Attacks Directed at Civilians, or of an Indiscriminate or Disproportionate Nature

During the reporting period, the available data indicates that parties to the conflicts in Ethiopia were considered responsible for the deaths of at least 955 civilians.¹³ Furthermore, over the course of 2023, 796 civilians, including 53 women, were reportedly injured due to the fighting between the ENDF and the Fano militias in the Amhara, Oromia and Tigray regions.¹⁴ Reporting indicated that violence targeting civilians as well as civilian objects was often inter-ethnic in nature. This raises concerns as to respect for the prohibition on direct attacks against the civilian population and objects, the obligation to take constant care to spare civilians and civilian objects, the prohibition on indiscriminate attacks and the principle of proportionality.¹⁵

Fano militias reportedly conducted attacks resulting in the deaths of 312 civilians during the reporting period, including 46 persons of Agew ethnicity, 32 of Oromo ethnicity, and 3 children.¹⁶ Among these, an attack on 23 February 2024 in Ambela town, Amhara, was marked by violence against civilians and destruction of their property. During this incident, Fano militias reportedly burned over 100 homes and killed more than 32 ethnic Agew civilians.¹⁷ Similarly, in an incident on 7 March 2024, Fano militias allegedly killed at least 11 civilians, destroyed over 240 homes, and looted more than 400 cattle.¹⁸

According to Armed Conflict Location and Event Data (ACLED) data, the ENDF reportedly conducted attacks resulting in the deaths of 643 civilians, including 70 children.¹⁹ These reportedly included 19 strikes using uncrewed aerial vehicles (UAVs) in the Amhara region between August 2023 and January 2024, which allegedly resulted in the death of 264 civilians and the destruction of civilian objects such as schools, hospitals and homes.²⁰ In one incident, on 13 August 2023, healthcare officials in the town of Finote Selam reported that at least 26 people, including children and older persons, had died and 55 others had been injured in a suspected ENDF drone attack. All the victims were reportedly wearing casual civilian clothes or traditional Sunday outfits.²¹ Moreover, three separate drone strikes in November 2023 were reported to have killed 43 people at a market in the town of Zibst;²² seven people, including three teachers, when a drone hit a primary school;²³ and four civilians (an ambulance driver, a pharmacist and two bystanders) in an incident where a drone strike allegedly targeted an ambulance. This was also reported to have seriously wounded the director of the Delanta Hospital on the outskirts of the town of Wegel Tena.²⁴

Protection of Civilian Objects and Private Property

Patterns of conduct were also recorded – notably, the reported use of schools for military purposes, as well as looting and property destruction – which raised concerns about parties’ obligations to do everything feasible to verify that targets are military objectives; to take all feasible precautions to protect the civilian population and objects under their control against the effects of attacks; and to refrain from seizure or destruction of an adversary’s property or pillage.²⁵ By December 2023, in the Amhara region alone, at least 39 schools had allegedly been controlled and used by the ENDF and three schools had been attacked by unidentified actors. Fano Amhara militias also reportedly controlled and used several schools for military purposes in the region.²⁶ Over the year 2023, several incidents of looting and material destruction by parties to the conflict were reported in the regions of Afar, Amhara, Central Ethiopia, Oromia and Tigray. This reportedly included the destruction of almost 2,500 houses and a hospital, and the looting of private properties such as homes, shops and a hospital, as well as vehicles and livestock.²⁷

Explosive Remnants of War

In Tigray, explosive remnants of war remain a particular concern, having caused hundreds of deaths and thousands of injuries in 2023.²⁸ In this respect, the Office of the United Nations High Commissioner for Human Rights (OHCHR) reported that the detonation of unexploded ordnance resulted in ‘at least 1396 victims (64 percent children), including 194 deaths and 1202 injuries’ in the period between January 2022 and December 2023.²⁹

Treatment of Persons

Conflict-Related Sexual Violence

Reports of conflict-related sexual violence, including against children, were prominent in Tigray, Oromia and Amhara during the reporting period. These allegations mainly concerned the commission of sexual violence by state actors, notably the ENDF and the EDF. However, there were also reports concerning non-state actors such as the OLA and Fano Amhara militias.³⁰ These reports all raise concerns regarding compliance with the IHL prohibitions on rape and other forms of sexual violence committed in the context of both IACs and NIACs.³¹

In Amhara, dozens of cases of sexual violence involving the ENDF were documented.³² and over 5,000 survivors reportedly sought support from September 2023 to September 2024.³³ One alleged incident involved the rape of several nuns in Dangila town, Amhara, by ENDF soldiers in early September 2023.³⁴

In Tigray, there have been reports of sexual violence mainly against women and girls, including sexual exploitation and enslavement. These reports primarily concerned allegations against the EDF and, to a lesser extent, the ENDF. Some reports also implicate non-state actors, including the Fano Amhara militias.³⁵

Given the limited availability of data, sources indicate that the extent of conflict-related sexual violence, including rape and sexual slavery, is likely to be significantly higher.³⁶

Summary Executions

Reports indicate the involvement of ENDF in potential extra-judicial and arbitrary executions in relation to the conflict in the Amhara region.³⁷ For instance, on 29 January 2024, the ENDF allegedly executed at least 89 civilians in Merawi town in the aftermath of an attack by a Fano militia on an ENDF military camp.³⁸ The victims, mostly young men but also women, including a pregnant woman, were reportedly dragged from their homes, accused of being or helping fighters, and executed by the ENDF, the majority of them suffering gunshot wounds to the head.³⁹ Other similar incidents were reported, including in Adet on 10 October 2023, where 12 civilians, including religious students under the age of 18 years, were allegedly executed, and in Merawi on 24 February 2024, where eight civilians were allegedly executed.⁴⁰

Concerns Related to Deprivation of Liberty in Armed Conflict

Arbitrary Deprivation of Liberty and Hostage-Taking

Kidnappings were a defining feature of the reporting period in the Amhara region, with widespread abductions for ransom reported across multiple areas,⁴¹ raising serious concerns pertaining to IHL's prohibitions on arbitrary deprivation of liberty and hostage-taking, and the requirement of humane treatment of civilians and those who are not or no longer taking active part in hostilities. The Fano militias reportedly were the primary groups kidnapping civilians, targeting individuals of various ethnic groups. For instance, the President of Debre Birhan University was kidnapped and held for over a month, and three teachers were reportedly abducted on 15 December 2023 in Dembecha town (West Gojjam Zone, Amhara).⁴² Moreover, in 2023, 12 children were reportedly abducted, mainly by the ENDF but also by other actors.⁴³ An escalation in abductions committed by the OLA in the Oromia region has also been reported.⁴⁴ These abductions have been described as initially targeting state officials and their relatives, and limited to OLA strongholds in Western Oromia, but since spreading to new regions and pursuing financial objectives. In some instances, abductions may have been committed by criminal groups solely motivated by financial gain. It has also been alleged that some OLA factions use kidnapping to raise money.⁴⁵

The most significant example of hostage-taking during the reporting period occurred on 28 February 2024, when Fano militia reportedly abducted 273 civilian labourers, demanding ransom for their release. While 271 individuals were eventually freed following partial ransom payments, two were killed. In addition, in separate incidents in July, October and December 2023, the OLA allegedly kidnapped 63 bus passengers, several agricultural researchers and Chinese workers, as well as ten people returning from a religious festival, and killed eight others.⁴⁶ The true scale of abductions is likely to be far greater, as limited data suggests significant under-reporting, notably for fear of retaliation and/or prosecution for funding terrorism where a ransom has been paid.⁴⁷ These incidents highlight the use of kidnapping as a tool of violence and coercion, as well as a means of financial gain in the region.

Finally, several cases of abduction of farmers and theft of livestock by the

EDF in the border areas of Tigray were documented during the reporting period, including incidents where groups of farmers or herders were abducted at once, along with entire herds of animals.⁴⁸ Fears have been expressed that abducted persons were forcibly recruited into the EDF.⁴⁹

These incidents present concerns regarding respect for IHL rules pertaining to the prohibition on hostage taking, pillage, murder, enforced disappearance, arbitrary deprivation of liberty and potential forced recruitment into enemy armed forces.⁵⁰

Humanitarian Relief

Food Insecurity and Humanitarian Assistance

The reporting period saw a significant increase in food insecurity in Ethiopia, in a context marked by massive internal displacement; the interruption of food aid by major humanitarian actors from April to November 2023 following reports of diversion across the country; an economy heavily affected by the conflict; and near-drought conditions.⁵¹ Even though food aid was partially resumed from August to November 2023, the Tigray interim administration emergency task force on 10 January 2024 warned that 4,500,000 people were at risk of famine.⁵²

Humanitarian workers have been also killed during the reporting period. However, the data are unclear as to whether these deaths were at the hands of the parties to the conflict.⁵³

Medical Care

Respect for and Protection of Medical Personnel, Units and Transports

According to reports, the ENDF have carried out attacks on medical personnel, units and transports in 13 towns across the Amhara region.⁵⁴ These have included raids on hospitals, the looting of medical supplies and direct attacks against medical personnel⁵⁵ as well as the disruption of supply routes for medicines and equipment and the apparent targeting of health facilities.⁵⁶ This is illustrated by the reported drone strike on an ambulance on the outskirts of Wegel Tena described above (described above, 'Attacks directed at civilians, or of an indiscriminate or disproportionate nature' which allegedly was carried out to prevent medical personnel from potentially treating Fano fighters in the area.⁵⁷ Two Fano Amhara fighters were also reportedly killed while *hors de combat* (wounded or sick) at Ibex Hospital in Gondar town in late September 2023.⁵⁸ Fano Amhara militias also reportedly conducted attacks against medical personnel and transports during 2023 in the Amhara region.⁵⁹ Such incidents raise serious concerns pertaining to the obligation to respect and protect medical personnel, units and transports exclusively assigned to medical purposes.⁶⁰

Specific Vulnerabilities

Reports indicate that women and children, as well as persons with disabilities and older persons, have been particularly affected by the armed conflicts in Ethiopia

during the reporting period. This raises serious concerns as to the implementation of their specific protections under international customary law applicable to IACs and NIACs.⁶¹

Women and girls were the main victims of conflict-related sexual violence, both by state forces and non-state actors. Internally-displaced persons (IDPs) are also particularly vulnerable to different forms of abuse, including sexual violence, as well as family separation and food insecurity (see also ‘Food Insecurity and Humanitarian Assistance’).⁶²

Moreover, children have been deliberately killed by the parties to the conflict. For instance, on 11 September 2023, 19 youths captured and suspected of being members of Fano militias were allegedly killed by ENDF soldiers in Antsokiya woreda (North Shewa, Amhara).⁶³ Reported executions and abductions of children are also described above (above, ‘Summary Executions’; and ‘Arbitrary Deprivation of Liberty and Hostage-Taking’). Over the same period, reports indicate that 150 children were killed and maimed as a result of explosive remnants of war.⁶⁴ Finally, as described above ‘Attacks directed at civilians, or of an indiscriminate or disproportionate nature’), children have reportedly been killed as a direct result of armed violence, including during airstrikes reportedly carried out by the ENDF. For example, a 19 month-old baby was reported among the victims of an apparent airstrike in the town of Berehet Woreda in late October 2023.⁶⁵

Refugees also bear the brunt of ongoing armed conflicts in Ethiopia.⁶⁶ For instance, according to reports, thousands of Sudanese refugees fled the Kumer camp (Amhara region) on 1 May 2014 after having been attacked and robbed by local militias. Allegations of abductions and killings were also reported.⁶⁷ 2023, Eritrean refugees in the Alemwach camp in the Amhara region were also reportedly attacked following the outbreak of fighting in the area.⁶⁸

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IRAQ

During the reporting period, the state of Iraq was a party to three armed conflicts on its territory. One was a non-international armed conflict (NIAC) against the Islamic State of Iraq and the Levant (ISIL/Da'esh), in which Iraq was supported by the United States (US)-led International Counter Da'esh Coalition. Iraq was also a party to separate international armed conflicts (IACs) with Türkiye and the US, as these states reportedly conducted military operations against armed groups on Iraq's territory, apparently without the government's consent. Regarding the conduct of hostilities or use of force, numerous conflict-related incidents with civilian casualties were reported. There appear to be patterns of civilian harm resulting from direct and disproportionate or indiscriminate attacks, which reportedly were carried out by armed groups, government forces and external actors. Reported use of improvised explosive devices (IEDs) was prominent, and explosive remnants of war (ERW) – many from past conflicts going back as far as four decades – still impact the civilian population, with a significant effect on women and children. Landmines and ERW continue to endanger civilian lives, obstruct the population's safe movement and access to services and affect land cultivation and cattle farming. Regarding the prohibition on ordering conflict-related displacement, concerns were raised by a reported attempt at mass forcible eviction by Iraqi soldiers, reportedly involving 172 families. Challenges in addressing conflict-related sexual violence committed by ISIL also continued, and further instances of conflict-related sexual violence were verified during the reporting period. Regarding the deprivation of liberty in connection with armed conflict, there were frequent reports of abductions of civilians by armed groups – some followed by executions. Concerns were also raised over respect for fundamental fair trial guarantees in cases of people detained and sentenced to death in connection with the conflict with ISIL. Additionally, more than 2,000 children were reportedly held in pre- and post-detention facilities in Iraq. Many are apparently serving prison sentences on national security-related charges, or in connection with their or their family's alleged connection to ISIL. Internally-displaced persons (IDPs), including those displaced in previous conflicts, continued to face obstacles to returning and reintegrating, owing to a lack of documentation, socio-economic exclusion and lack of housing. Significant challenges also remain relating to repatriation and return of persons with real or perceived ISIL links from displaced persons' camps in North-Eastern Syria.

Conflict Overview

The non-international armed conflict (NIAC) between the Government of Iraq and the International Counter Da'esh Coalition, on the one hand the Islamic State of Iraq and, on the other, the Levant (ISIL/Da'esh), has remained largely unchanged. The presence of ISIL in Iraq has been progressively reduced in recent years, leading to a corresponding decline in its activities. During the reporting period, ISIL suffered leadership attrition following increased counter-terrorism efforts by Iraq and the international coalition, which have been successful in dismantling several cells of the group.¹ Nevertheless, ISIL persisted in conducting periodic attacks, following a pattern of low-intensity hostilities with occasional spikes in activity. These activities were mostly around remote and rural areas and primarily conducted with light weapons and explosive devices.²

In the context of the spill-over conflict between Türkiye and the Kurdistan Workers Party (PKK), Türkiye has carried out frequent airstrikes and ground operations targeting PKK positions in the northern regions of Iraq.³ On 14 March 2024, at the third bilateral meeting with Türkiye, Iraq shifted its tolerance policy towards the PKK, which had been in force since the 1980s. Iraq designated the group's presence as a security threat, banned it from the country and announced a common security and counter-terrorism framework with Türkiye.⁴ The two states signed a memorandum of understanding on military, security and counterterrorism cooperation in August 2024.

Furthermore, following the rise in hostilities in Gaza and in reaction to the United States of America (US)'s support for Israel, multiple Iraqi armed groups and militias (primarily those aligned with the 'Islamic Resistance in Iraq') have allegedly carried out sporadic attacks against US personnel and facilities hosting personnel from the US military and international counter-Da'esh coalition.⁵ The US has reportedly conducted airstrikes in response to those attacks, against different facilities and military installations of armed groups allegedly tied to Iran. These airstrikes were condemned by Iraq as a violation of its sovereignty.⁶

Furthermore, the hostilities in Gaza reportedly further increased the population's discontent with the presence of international troops in Iraq. This appears to have accelerated the process of ending the international counter-Da'esh coalition presence in Iraq and transitioning into bilateral security agreements.⁷

Beyond the ongoing armed conflicts, the human rights and humanitarian situation in Iraq remains fragile. At the end of the reporting period, there reportedly were still one million internally displaced persons (IDPs) from previous conflicts.⁸ It has been indicated that IDPs live in private accommodation in urban settings or in formal and informal camps across the country. They are often in situations of critical humanitarian need, which has worsened due to funding shortfalls.⁹ Iraq's decision to close the remaining IDP camps in the Kurdistan region of Iraq, initially set for 30 July 2024 but later extended,¹⁰ is said to risk leaving thousands of IDPs without access to essential services and increasing their humanitarian needs.¹¹ Harsh temperatures, environmental degradation and water shortages also reportedly complicate relocation and increase climate-induced displacement in Iraq.¹²

Furthermore, on 7 September 2023 Iraq requested the United Nations (UN) Security Council to extend the mandate of the UN Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq and the Levant (UNITAD) for only one year, without the possibility of extension, and

requested that all evidence obtained be turned over to Iraq.¹³ The mandate was extended until 17 September 2024.¹⁴ UNITAD's withdrawal and closing of its operations raise concerns about future accountability efforts, the management and preservation of evidence,¹⁵ and the future of the national law incorporating international crimes into Iraq's domestic legal system. A draft law was proposed in the Iraqi Parliament in October 2020, and on March 2023 a joint working group between UNITAD and Iraqi authorities was created to study the issue further.¹⁶ However, no progress appears to have been made by the end of the reporting period.¹⁷ UNITAD's withdrawal is likely to delay the adoption of the national law even further. Currently, conflict-related incidents are prosecuted under Iraqi anti-terrorist law, which has been criticized for its broad and ambiguous provisions, and which does not recognize conflict-related sexual violence as a form of perpetration of terrorism, leaving a gap in the accountability of ISIL members for conflict-related sexual violence.¹⁸

The armed conflicts in Iraq have maintained a low intensity throughout the reporting period. There appear to be patterns of civilian harm from direct and disproportionate or indiscriminate attacks, which were carried out by armed groups, government forces, and external actors. Moreover, explosive remnants of war (ERW) – many from past conflicts going back as far as four decades – still impact the civilian population, with a significant effect on women and children.

Conflict Classification

During the reporting period, the following armed conflicts were taking place on the territory of Iraq:

- a NIAC between Iraq and the United States of America (US)-led International Counter Da'esh Coalition against the Islamic State of Iraq and the Levant (ISIL/Da'esh)
- an international armed conflict (IAC) between Iraq and Türkiye, since the latter did not have Iraq's consent to carry out military operations in Iraqi territory against the PKK¹⁹
- an IAC with the US America who has conducted military operations against armed groups on the territory of Iraq, without the apparent consent of the government.

The NIAC between Iraq and the International Counter Da'esh Coalition against ISIL persists, even though the intensity of the hostilities has drastically decreased since the start of the conflict. Nevertheless, ISIL continues to carry out sporadic attacks against Iraqi security forces. Furthermore, reports indicate that ISIL has retained its organization and has 3,000 to 5,000 active members in Iraq only, with a strong media and financial capabilities, and with the capacity to carry out extraterritorial operations.²⁰

Despite the improvement of relations between Iraq and Türkiye and their agreement to cooperate against the Kurdish armed groups present in Iraqi territory, there are not enough elements to conclude that Iraq has consented²¹ to the totality of Türkiye's military operations on its territory and, thus, the IAC between these states is still ongoing.

Finally, since 21 November 2023,²² Iraq has been involved in an IAC with the US. Notwithstanding Iraq's consent to the presence of US troops in Iraq's territory, the strikes against armed groups and paramilitary groups conducted by the US fall outside the scope of the government's consent,²³ triggering an international armed conflict. Iraq has consistently condemned such attacks, qualifying these as unacceptable violations of its sovereignty.²⁴

International Humanitarian Law in Iraq, 1 July 2023–30 June 2024

Conduct of Hostilities/Use of Force

After a slight decrease in the frequency of ISIL attacks by early 2023, an upward trend can be observed during the reporting period, with a steeper increase as the reporting period progressed. Nevertheless, the levels of violence remained low compared to the preceding year.²⁵ ISIL remained active in the Anbar, Baghdad, Diyala, Kirkuk, Ninawa and Salah al-Din Governorates. The UN Assistance Mission for Iraq (UNAMI) reported 241 attacks between 1 July 2023 and 21 October 2024,²⁶ with 103 attacks occurring in the second half of 2023. Most of the attacks targeted Iraqi security forces personnel or assets, although attacks against civilians, community leaders and civilian objects were also reported. From 1 April 2023 to 21 October 2024, UNAMI recorded 90 conflict-related incidents, with 186 reported civilian casualties (77 killed and 109 wounded), including 66 children (34 killed and 32 wounded).²⁷ Most of the casualties were said to be due to ERW and the use of improvised explosive devices (IEDs), followed by incidental casualties in drone and airstrikes, while casualties resulting from the use of small arms and light weapons remained low. Whereas an assessment of compliance with the rules of conduct of hostilities would require additional information, the number of casualties suggest that civilians may have been unnecessarily exposed to danger, and that parties may not have taken adequate measures to protect civilians and civilian objects from the effects of military operations.

During the reporting period, ISIL appears to have followed a pattern of directly attacking civilians and civilian objects in population-dense areas and urban centres, mainly using IEDs and small arms. For example, on 15 September 2023, an ISIL militant reportedly shot the head of the Council of the Tribal Sheikhs of Tarmiyah and his companion at the village of Al Quasyr, At Tarmiyah area district, Baghdad.²⁸ Another attack in the same area was reported to have taken place the next day, resulting in the injury of three civilians.²⁹ On 30 November 2023, an attack in Diyala, attributed to ISIL, is said to have left 11 dead and 16 injured. Attackers reportedly opened fire on a crowd of civilians gathered around a vehicle that had previously been targeted with IEDs.³⁰ A few months later, on 29 February 2024, ISIL militants allegedly targeted the house of a sheikh with rocket-propelled grenades (RPGs) and gunfire in the Tarmiyah subdistrict, Baghdad. No casualties were reported, but significant damage to civilian objects was caused. The following day two IEDs were reportedly detonated, killing one soldier and wounding four others.³¹ On 22 May 2024 a suspected ISIL roadside attack is reported to have killed five civilians in the Salahaddin province.³²

The use of IEDs appears to have been a recurring practice during the reporting period. They have reportedly been used against security forces and civilians, with the latter including political activists and government officials. When used in areas frequented by civilians, IEDs almost inevitably produce indiscriminate effects, raising concerns over compliance with the fundamental international humanitarian law (IHL) principle of distinction.

During the reporting period, incidents were also reported of physical assaults on civilians by Iraqi soldiers. Two of these incidents involved attacks against Kurdish civilians;³³ one reported assault allegedly resulted in the torture and, ultimately, the death of an Iranian Kurdish cross-border worker.³⁴

Throughout the reporting period, reports of the UN Secretary-General state that Türkiye continued a steady campaign of air and ground operations against the PKK in the north,³⁵ with 15 reported incidents involving civilian casualties. Eighteen civilians were reported killed and 16 wounded.³⁶ In July 2023 four Iraqi citizens from the Yazidi ethno-religious minority group filed a complaint with the UN Human Rights Committee against Türkiye for redress and reparation following an airstrike against a hospital in Sinjar, Iraq, on 17 August 2021.³⁷

Overall, the incidents observed throughout the reporting period raise concerns about a disregard for the fundamental principle of distinction, particularly by ISIL, whose objectives also appear to include the terrorizing of the civilian population.³⁸ The number of reported civilian casualties resulting from Turkish airstrikes also raises concerns regarding compliance with the principles of proportionality and precaution in the conduct of hostilities.

Means of Warfare

Landmines and Explosive Remnants of War

As a result of previous wars, Iraq is massively contaminated with landmines and explosive remnants of war (ERW).³⁹ Despite demining efforts,⁴⁰ awareness campaigns and education programmes,⁴¹ landmines and ERW remain a significant concern in Iraq. According to the UN Secretary-General, they continue to endanger civilian lives by killing and maiming indiscriminately, obstructing the population's safe movement and access to services, and affecting land cultivation and cattle farming.⁴² These challenges appear to be particularly pronounced in former border areas between the Government of Iraq and ISIL-controlled territory. For example, media sources report the following casualties of mine or ERW explosions in these areas: on 28 July 2023, a mine explosion injured a shepherd in the north of Erbil;⁴³ on 17 August 2023, one person was killed and their family injured by an ERW; on 19 August 2023, one child was killed and another injured in the Nineveh Governorate;⁴⁴ and on 23 March 2024 another two shepherds were injured in the south of Kirkuk.⁴⁵

The explosion of remaining landmines and ERW from past conflicts has been a major cause of civilian harm during the reporting period, with a significant effect on children. From 1 April 2023 to 2 October 2024, UNAMI recorded a total of 40 children killed or maimed as a result of explosions (27 killed, 28 wounded), representing 72.4 per cent of the total number of children recorded as affected by serious conflict-related violations.⁴⁶

The risk posed by ERW is reportedly heightened by the increasingly harsh weather conditions across Iraq. Heavy rainfalls across drought-affected land are

said to increase the risk of flooding and landslides, which sweep away ERW to previously-cleared areas.⁴⁷ One incident apparently resulting from this process was reported on 27 March 2024, where two children were seriously injured by a mine.⁴⁸

These incidents showcase the inherently indiscriminate nature of landmines and explosive weapons and the long-term danger they pose to civilian life.

Treatment of Persons

Conflict-Related Displacement

In early January 2024, there was a reported incident involving Iraqi soldiers attempting to forcibly evict 172 Kurdish families from their homes in the Newroz neighbourhood of Kirkuk. This reportedly is where the Iraqi army intends to construct a military base. The eviction attempt was ultimately unsuccessful, but in the process Kurdish civilians reportedly were attacked by Iraqi forces.⁴⁹

Ordering the displacement of civilians for conflict-related reasons during a NIAC is prohibited, except where the security of the civilians involved so demands, or where there are imperative military reasons.⁵⁰ Breaching this prohibition is considered to be a serious violation of IHL.⁵¹

Conflict-Related Sexual Violence

During the reporting period, challenges continued in addressing earlier conflict-related sexual violence committed by ISIL. Furthermore, new cases of conflict-related sexual violence were verified during the reporting period, following the liberation of women from ISIL captivity after years of abduction.⁵²

According to the UN Secretary-General, abducted girls and women have routinely been subjected to sexual violence, including rape and sexual slavery. Even after having been released, these women and girls and their children born of conflict-related sexual violence reportedly still face serious difficulties when it comes to reintegration into their communities. This is due to cultural and societal norms, as well as stigma associated with sexual violence and fear of those with perceived ties to ISIL.⁵³

According to the UN Security Council's Informal Expert Group on Women and Peace and Security, significant gaps remain in accountability for conflict-related sexual violence in Iraq. These are reportedly due to the absence of a comprehensive national legal framework to prosecute conflict-related sexual violence as an international crime; a lack of strong domestic judicial institutions and processes to investigate such conduct; barriers for victims to access the formal justice system; and underreporting of conflict-related sexual violence due to fear of retaliation and stigma.⁵⁴

Concerns Related to Deprivation of Liberty in Armed Conflict

Arbitrary Deprivation of Liberty and Murder/Summary Execution

During the reporting period, reports of abductions of civilians by armed groups were frequent. Abductions constitute a huge risk for civilians living in rural and

remote areas, where there is not a strong presence of state forces and security loopholes can be easily exploited. From the data examined, 44 civilians were reported abducted, with ISIL as the confirmed or suspected perpetrator in most of these incidents. Fourteen of the civilians were found dead a few days later, reportedly executed during abduction.⁵⁵ Among them were two Kuwaiti nationals abducted by ISIL on 24 December 2023 during a hunting trip, whose bodies were found two days later.⁵⁶ From the other persons abducted, six children were released; three civilians were rescued; in one case ransom was demanded; and the fate of 20 individuals remains unclear.⁵⁷

The available open-source information appears to show a pattern of abductions followed by executions, in contravention of IHL prohibitions on arbitrary deprivation of liberty and murder or summary execution.⁵⁸ Reported ransom demands also raise concerns about the potential violation of the prohibition on hostage-taking.⁵⁹ Furthermore, ISIL's apparently routine practice of executing abductees and leaving their bodies on highly-transited areas, sometimes accompanied by publicising the executions on their media channels, points to such conduct having the purpose of spreading terror among the civilian population, in violation of the applicable IHL prohibition.⁶⁰

Fundamental Guarantees

Additionally, during the reporting period UNAMI recorded 39 individuals having been executed following the imposition of the death penalty by the Iraqi authorities.⁶¹ All of these reportedly were individuals tried and convicted under Iraqi counter-terrorism law for affiliation with or membership in ISIL or other terrorism-related charges. UN human rights mechanisms have raised concerns about the broad and ambiguous nature of some of the relevant legal provisions.⁶² Furthermore, the UN and Amnesty International have raised concerns about respect for the right to a fair trial in criminal cases, including reported practices such as the use of torture and ill-treatment to extract forced confessions; summary trials not permitting the defence to present its case adequately; and use of the death penalty for conduct not reaching the threshold of 'most serious crime'.⁶³ Hundreds of execution orders were reportedly also approved during the reporting period.⁶⁴

Moreover, by the end of the reporting period, more than 2,000 children were in pre- and post-detention facilities in Iraq. Many were serving prison sentences on national security-related charges, or in connection with their or their family's alleged association with ISIL.⁶⁵ These children face serious challenges in gaining access to legal, educational and other services.

Even during armed conflict, persons arrested and detained for activities with a nexus to the conflict must benefit from fundamental guarantees, including fair trial guarantees.⁶⁶ The above-mentioned trials and executions during the reporting period raise serious concerns about compliance with relevant IHL obligations.

Specific Vulnerabilities

Displaced Persons/Returnees

IDPs in Iraq, including those from previous conflicts, continue to face significant difficulties returning to their areas of origin due to limited access to public services,

including education and health care; lack of legal documentation which excludes them from government subsidies, recovery and reconstruction efforts and essential basic services; a severe lack of livelihood opportunities and financial resources; and the destruction of their houses.⁶⁷

Under customary international law applicable in both international and non-international armed conflicts, all displaced persons 'have a right to voluntary return in safety to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist'.⁶⁸

Furthermore, thousands of families and children with real or perceived ISIL connections remain in displaced persons' camps in Iraq and Syria. Although Iraq is making efforts to repatriate its citizens from camps in North-Eastern Syria,⁶⁹ significant challenges remain for the repatriation and return of those linked to ISIL (or believed to have such links). Stigma and fear arising from returnees' real or perceived ISIL associations further hinder their access to and reintegration into their communities of origin,⁷⁰ beyond their frequent lack of legal documentation, difficulties in accessing basic services (including healthcare services and education for children) and inability to generate income.⁷¹

End Notes Iraq

- 1 United Nations Secretary-General (UNSG), 19th Report on Threat Posed by ISIS, para 5; UN Security Council, '33rd Report of the Analytical Support and Sanctions Monitoring Team Submitted Pursuant to Resolution 2610 (2021) Concerning ISIL (Da'esh), Al-Qaida and Associated Individuals and Entities' (2024) UN Doc S/2024/92, para 1; UNSG, '18th Report of the Secretary-General on the Threat Posed by ISIL (Da'esh) to International Peace and Security and the Range of United Nations Efforts in Support of Member States in Countering the Threat' (2024) UN Doc S/2024/117, paras 33–36.
- 2 UNSG, '18th Report of the Secretary-General', supra 1, para 5.
- 3 Report of the Secretary-General, 'Implementation of Resolution 2682 (2023)' (2023) UN Doc S/2023/700, paras 26–27; Report of the Secretary-General, 'Implementation of Resolution 2682 (2023)' (2024) UN Doc S/2024/96, para 32; Report of the Secretary-General, 'Implementation of Resolution 2683 (2023)' (2024) UN Doc S/2024/369, para 25; Report of the Secretary-General, 'Implementation of Resolution 2732 (2024)' (2024) UN Doc S/2024/857, para 1.
- 4 Iraq Ministry of Foreign Affairs, 'Joint Statement on the Security Mechanism Meeting Between the Republic of Iraq and the Republic of Turkey in Baghdad on March 14, 2024' (15 March 2024), <https://mofa.gov.iq/2024/44219/> (last accessed 18 December 2024); T. Azhari, E. Toksabay and A. Rasheed, 'Iraq, Turkey to Elevate Security, Economic Ties after Erdogan Visit' *Reuters* (22 April 2024), <https://www.reuters.com/world/middle-east/turkeys-erdogan-iraq-push-reset-ties-cooperation-against-pkk-2024-04-22/> (last accessed 16 December 2024).
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- 6 Report of the Secretary-General, 'Implementation of Resolution 2682 (2023)' (2024) UN Doc S/2024/96, paras 21–31; Report of the Secretary-General, 'Implementation of Resolution 2683 (2023)' (2024) UN Doc S/2024/369, paras 20–22.
- 7 US Department of Defence, US-Iraq Joint Security Cooperation Dialogue Joint Statement (8 August 2023); US Embassy and Consulate in Iraq, Joint Statement from the Leaders of the US and Iraq (15 April 2024); US Embassy and Consulate in Iraq, Joint Statement on US-Iraq Joint Security and Cooperation Dialogue (24 July 2024). In September 2024 Iraq announced on a joint statement with the United States for the end of the military mission of the global coalition in Iraq, which is to be concluded no later than September 2025, transitioning to a bilateral security partnerships. See Iraq Ministry of Foreign Affairs, Joint Statement Announcing the Timeline for the End of Military Mission of the Global Coalition to Defeat Da'esh in Iraq (27 September 2024). The coalition's withdrawal and the transition to bilateral agreements is likely to alter the parties to the ongoing NIAC.
- 8 Report of the Secretary-General, 'Implementation of Resolution 2683 (2023)' (2024) UN Doc S/2024/369, para 58.
- 9 Report of the Secretary-General, 'Implementation of Resolution 2682 (2023)' (2023) UN Doc S/2023/700, para 67; UNAMI Report, January 2024, para 69; C. Linnekar, J. Lesser-Roy and I. Islam, "'Where Should We Go?'" Durable Solutions for Remaining IDPs in Iraq' (DRC, IRC, NRC, 14 May 2024), p 14.
- 10 Report of the Secretary-General, 'Implementation of Resolution 2683 (2023)' (2024) UN Doc S/2024/369, para 58; Report of the Secretary-General, 'Implementation of Resolution 2732 (2024)' (2024) UN Doc S/2024/857, para 34.
- 11 Report of the Secretary-General, 'Implementation of Resolution 2683 (2023)' (2024) UN Doc S/2024/369, para 58; UNICEF, Iraq Humanitarian Situation Report no 1 (30 June 2024); Linnekar, Lesser-Roy and Islam, "'Where Should We Go?'" supra 9, p 10.
- 12 International Organization for Migration (IOM), 'Climate-Induced Displacement – Southern Iraq' (IOM Displacement Tracking Matrix (DTM), October 2023); IOM, 'Climate-Induced Displacement – Central and Southern Iraq' (IOM DTM, May 2024); IOM, 'Climate Vulnerability Assessment in the Kurdistan Region of Iraq' (IOM DTM, June 2024). Iraq is the fifth most vulnerable country to water and food shortage and extreme temperatures; see United Nations Environmental Programme, 'Global Environment Outlook 6 – GEO-6: Healthy Planet, Healthy People' (UNEP, Nairobi, 2019).
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- 14 UNSC, 'Resolution 2697 (2023)' (2023) UN Doc S/RES/2697 (2023).
- 15 UNSG, 'Implementation of Resolution 2697 (2023)' (2024) UN Doc S/2024/20, paras 19–22.
- 16 UN Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL, 'UNITAD and Iraqi Officials Discuss Pathways to Accountability for ISIL's International Crimes, and Launch Joint Working Group' (Baghdad, 6 March 2023), <https://www.unitad.un.org/news/unitad-and-iraqi-officials-discuss-pathways-accountability-isil%E2%80%99s-international-crimes-and> (last accessed 31 January 2025).
- 17 UN General Assembly, 'National Report Submitted in Accordance With Human Rights Council Resolutions 5/1 and 16/21, Iraq' (2024) UN Doc A/HRC/WG.6/48/IRQ/1, para 72.
- 18 UNSC, 'Informal Expert Group on Women and Peace and Security of the Security Council' (2024) UN Doc S/2024/373, p 5.
- 19 Turkish military operations against the PKK in Iraq are part of the non-international armed conflict between them, which originated in Türkiye and spilled over into Iraq.
- 20 UNSC, '34th Report of the Analytical Support and Sanctions Monitoring Team Submitted Pursuant to Resolution 2734 (2024) Concerning Isil (Da'esh), Al-Qaida and Associated Individuals and Entities' (2024) UN Doc S/2024/556, paras 48, 59; UNSG, '18th Report of the

Secretary-General on the Threat Posed by ISIL (Da'esh) to International Peace and Security and the Range of United Nations Efforts in Support of Member States in Countering the Threat' (2024) UN Doc S/2024/117, paras 9–16; UNSG, '19th Report of the Secretary-General on the Threat Posed by ISIL (Da'esh) to International Peace and Security and the Range of United Nations Efforts in Support of Member States in Countering the Threat' (2024) UN Doc S/2024/583, para 5; UN Security Council, '33rd Report of the Analytical Support and Sanctions Monitoring Team Submitted Pursuant to Resolution 2610 (2021) Concerning ISIL (Da'esh), Al-Qaida and Associated Individuals and Entities' (2024) UN Doc S/2024/92, para 5; UN Security Council, '33rd Report of the Analytical Support and Sanctions Monitoring Team Submitted Pursuant to Resolution 2610 (2021) Concerning Isil (Da'esh), Al-Qaida and Associated Individuals and Entities' (2024) UN Doc S/2024/92, para 5; UNSC, '34th Report of the Analytical Support and Sanctions Monitoring Team Submitted Pursuant to Resolution 2734 (2024) Concerning ISIL (Da'esh), Al-Qaida and Associated Individuals and Entities' (2024) UN Doc S/2024/556, para 5.

21 International Committee of the Red Cross, Commentary on the Third Geneva Convention: Convention (III) relative to the Treatment of Prisoners of War (CUP 2021), paras 290–296.

22 Report of the Secretary-General, 'Implementation of Resolution 2682 (2023)' (2024) UN Doc S/2024/96, para 25.

23 The US troops are present in Iraq as per its request and invitation (See 2008 US–Iraq Strategic Framework Agreement for a Relationship of Friendship and Cooperation between the United States and the Republic of Iraq (United States of America–Iraq) (17 November 2008) TIAS 09–101.1). Since December 2021, US troops remained in Iraq in an exclusive support role, to train, advise, assist and share intelligence in support of Iraq's fight against ISIL (see US Department of Defence, US–Iraq Joint Security Cooperation Dialogue Joint Statement (8 August 2023).

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27 Report of the Secretary-General, 'Implementation of Resolution 2682 (2023)' (2023) UN Doc S/2023/700, para 52; Report of the Secretary-General, 'Implementation of Resolution 2682 (2023)' (2024) UN Doc S/2024/96, para 58; Report of the Secretary-General, 'Implementation of Resolution 2683 (2023)' (2024) UN Doc S/2024/369, para 49; Report of the Secretary-General, 'Implementation of Resolution 2732 (2024)' (2024) UN Doc S/2024/857, para 58.

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ISRAEL – PALESTINE

During the reporting period, an international armed conflict (IAC) was ongoing between Israel and Palestine. This is consistent with conclusions by various international bodies that Israel continues to occupy the West Bank (including East Jerusalem) and, regarding Gaza, remains bound by the law of occupation to varying extents. Furthermore, an IAC would subsist given Palestine's lack of consent to Israel's use of force in Gaza. In parallel, at least since 7 October 2023, a non-international armed conflict (NIAC) existed between Israel, on the one hand, and Hamas, Palestinian Islamic Jihad and other affiliated armed groups, on the other. The current report focuses on international humanitarian law (IHL) compliance issues linked to the attacks in Israel on 7 October 2023 and the subsequent hostilities in the Gaza Strip. Numerous reports issued during the reporting period substantiate a reasonable belief that the parties to these hostilities have committed multiple serious violations of IHL.

The report of a Human Rights Council-appointed Commission of Inquiry concluded that during the attacks in Israel on 7 October 2023, the armed wing of Hamas and other Palestinian non-state armed groups committed multiple IHL violations, including murder, torture and inhumane treatment, conflict-related sexual violence, hostage-taking and destruction of civilian property. The use of hostages as human shields was also reported. The aftermath of the attacks also raises concerns about access to and inhumane treatment of hostages (including reports of sexual violence) as well as conflict-related displacement.

Both subsequent Israeli military actions in Gaza and armed groups' rocket and mortar attacks on populated areas in Israel have raised concerns regarding respect for the IHL principles of distinction, proportionality and precautions in attack. Regarding hostilities in Gaza, key concerns include use of explosive weapons in populated areas; denial of humanitarian access and the use of starvation as a method of warfare; conflict-related displacement; and protection of humanitarian and medical personnel and objects. There are also concerns regarding the humane treatment of Palestinians detained in Israel, following a suspension of International Committee of the Red Cross (ICRC) visits after 7 October 2023.

Regarding the humanitarian situation in Gaza, the International Court of Justice (ICJ) issued three provisional measures orders during the reporting period, requiring Israel to 'take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance'. The Court clarified that unhindered aid provision at scale is to be facilitated, including through increasing the number and capacity of land crossings, particularly at Rafah.

Conflict Overview

Current armed conflicts in Palestine and Israel represent the culmination of longer trajectories of military confrontation dating back to the end of the first half of the twentieth century. Since the termination of the British mandate, Israel's Declaration of Independence in May 1948, the Arab-Israeli War of 1948–1949 and the mass displacement and dispossession of Palestinians known as the *Nakba*, the conflicts in the various regions that made up historical Palestine have undergone parallel, yet markedly different, developments.

After having been initially occupied and annexed by the Hashemite Kingdom of Jordan as a result of the Arab-Israeli War, the West Bank (comprising territory on the west of the Jordan River) fell under Israeli authority in the aftermath of the Six-Day War of 1967. According to the interim 1995 Oslo II Accord, this area (which, according to estimates, now includes a Palestinian population numbering 3 million individuals) was divided into three areas, administered by Israel, by the newly-established Palestinian Authority, or jointly by them. With important constituencies in both Israel and Palestine opposing this roadmap, the Oslo Accords failed to gain political momentum: in the absence of a final treaty solidifying their results, a status quo crystallized, marked notably by the eruption of the Second Intifada, the erection of a wall separating Israeli and Palestinian territories and the continuing expansion of Israeli settlements in the West Bank.¹

East Jerusalem, including the Old City, which had remained under Jordanian control after the Arab-Israeli War, was captured by Israel following the Six-Day War. The original idea of a *corpus separatum* (advocated for in the UN Partition Plan for Palestine) was quickly replaced by a factual situation whereby Israel annexed East Jerusalem – first de facto, by extending thereto the application of Israeli law, jurisdiction and administration, then de jure, by declaring in its Basic Law of 1980 (amended in 2000) that 'Jerusalem, complete and united, is the capital of Israel'. These measures have been the subject of widespread condemnation, including by United Nations (UN) Security Council Resolution 478 (1980) and Resolution 2334 (2016).²

As regards the Gaza Strip, this portion of territory (assigned by UN Security Council Resolution 181 (1947) to the future Arab State) was occupied first by Egypt following the Arab-Israeli War of 1948–9, then by Israel as a result of the Six-Day War of 1967. In 2005 the unilateral disengagement of Israel from the Gaza Strip led to the withdrawal of Israeli security forces and settlements from the area. In 2007, following a political crisis between the Palestinian parties of Fatah and Hamas, Hamas took over control of the Gaza Strip. In the same year, Israel imposed a series of movement and import/export restrictions on Gaza.³ In the past 15 years, hostilities between Israel and Hamas and other military groups have ebbed and flowed, with a series of particularly intense confrontations occurring in 2008 (the three week-long Operation Cast Lead); 2012 (the week-long Operation Pillar of Defence); 2014 (the six week-long Operation Protective Edge); and 2021 (the two week-long Operation Guardian of the Walls). A new, particularly destructive phase began after Hamas, the Palestinian Islamic Jihad and other Palestinian armed groups carried out the attack known as Operation Al-Aqsa Flood on 7 October 2023. In response, Israel launched an air campaign and ground invasion of the Gaza Strip which continued throughout the reporting period (1 July 2023–30 June 2024).

Conflict Classification

International humanitarian law (IHL) applies to the two armed conflicts that were occurring in Palestine during the reporting period. One was an international armed conflict (IAC) between Israel and Palestine. Several international bodies (including the International Court of Justice (ICJ), the International Criminal Court (ICC) and the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel) have found that the West Bank (including East Jerusalem) is occupied by Israel.⁴ A similar conclusion has been advanced, to varying degrees, also in relation to the Gaza Strip;⁵ in any case, an IAC would subsist in relation to conduct occurring in that territory due to the Palestinian lack of consent to the Israeli intervention in the Gaza Strip.⁶

In parallel, and at least after the attack on 7 October 2023 and the subsequent Israeli operations in the Gaza Strip, a non-international armed conflict (NIAC) between Israel and Hamas, the Palestinian Islamic Jihad and other affiliated armed groups has been ongoing, primarily on the territory of the Gaza Strip.⁷ The current report focuses on IHL compliance in relation to conducts that have occurred on and after 7 October 2023. As the report details, there are reasonable grounds to believe that parties to the armed conflicts in the Gaza Strip have committed serious violations of IHL.

In addition to the 1949 Geneva Conventions, to which both Israel and Palestine are party, customary IHL is applicable to the different conflicts. This includes, with respect to military occupation by Israel of Palestinian territory, the relevant rules governing such occupation. Palestine, but not Israel, is a party to Additional Protocol I and II, entailing that these protocols do not apply as a matter of treaty law (but rather only to the extent that their content is reflected in customary international law).

International Humanitarian Law in Israel-Palestine, 1 July 2023–30 June 2024

Conduct of Hostilities

Attacks Directed Against Civilians, or of an Indiscriminate or Disproportionate Nature

According to a report by the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, attacks carried out in Israel on 7 October 2023, inter alia, by members of Izz ad-Din al-Qassam Brigades (Hamas's armed wing), the Saraya Al-Quds Brigades (Palestinian Islamic Jihad's armed wing) and other organized armed groups, entailed violations of various IHL obligations.⁸ For example, by launching a reported 2,200 rockets and mortars onto villages, towns and cities in Southern Israel, those armed groups were deemed to have violated the principle of distinction by targeting civilians (see further below, 'Use of Explosive Weapons in Populated Areas').⁹

Even after the Israeli Defence Forces (IDF) started the military operations named ‘Swords of Iron’, Palestinian armed groups reportedly continued to fire thousands of unguided rockets and mortar shells into Israel from the Gaza Strip.¹⁰ According to the Office of the UN High Commissioner for Human Rights, this rocket fire was indiscriminate and raised concerns regarding compliance with fundamental principles of IHL.¹¹ Furthermore, according to the Commission of Inquiry on the Occupied Palestinian Territory, the killing of civilians during the attack and occupation of 24 Israeli villages, during the storming of the Nova festival and ambushes on roads and junctions,¹² was found to have amounted to murder.¹³ (See further see further below ‘Conflict-Related Sexual Violence’.) By setting fire to houses and other property in the kibbutzim in the absence of any imperative military necessity, the Commission further found that the armed groups also breached the customary rule prohibiting the unnecessary destruction of civilian property.¹⁴ To the extent that hostages taken were used to obtain safe passage to Gaza and to be shielded from attack while raiding a house, armed groups were also found to have violated the rule prohibiting the use of human shields.¹⁵ (See further see further below ‘Arbitrary Deprivation of Liberty, Hostage-Taking and Fundamental Guarantees’.)

The conduct of hostilities by the IDF in Gaza also raises serious concerns concerning Israel’s compliance with the principles of distinction, proportionality and precautions in attack. Detailed investigation reports issued by UN bodies and non-governmental organizations (NGOs) during the reporting period found that in numerous instances, there were reasonable grounds to believe that Israel failed to distinguish between civilians and civilian objects, on the one hand, and combatants and military objectives, on the other; that it carried out indiscriminate or disproportionate attacks; and that it failed to take feasible precautions in the conduct of its military operations.¹⁶ (On the reported use of explosive weapons, see ‘Use of Explosive Weapons in Populated Areas’; on reported incidents involving humanitarian personnel and objects, see ‘Protection of Humanitarian Relief Personnel and Objects’.) Israel has challenged these findings on several grounds, including in relation to the over-reliance on public data, the limited understanding of operational constraints and the fact that IHL compliance is conduct, not result-oriented.¹⁷

Journalists also claimed that, especially in the first months of the war, Israel’s high command adopted an order that ‘weakened safeguards meant to protect non-combatants’ – including by admitting a higher proportionality ratio for damage to civilians; by employing weapons that were more destructive than those needed to achieve a certain military objective; and by adopting fewer precautions before, and carrying out fewer verifications after, attacks.¹⁸ While acknowledging this change in policy after the 7 October attack, Israel has maintained that its targeting procedures remained compliant with IHL.¹⁹

Whereas it might be impossible to reach a definitive and encompassing conclusion as to the compliance with applicable IHL rules in all cases, the scale of devastation occasioned by Israeli military operations in the Gaza Strip is sufficient to raise serious concerns about the IDF’s respect for IHL principles governing the conduct of hostilities. This is most clearly evident in relation to the principle demanding that, in the conduct of military operations, parties to an armed conflict take constant care to spare the civilian population, civilians and civilian objects. There are reasonable grounds to believe that several practices allegedly permitted by the order following the 7 October attack are at odds with the principle of precautions in attack. For instance, the reported use of ‘one-ton bomb to destroy whole

office towers ... even when a target could have been killed by a smaller munition²⁰ would seem to amount to a disproportionate attack. This finding is buttressed by the reported use of highly presumptive models to estimate the location and number of civilians in an area.²¹

Several elements reported by journalists would seem to indicate that greater precautions in attack were feasible: for instance, that more precise targeting procedures had apparently been followed in previous campaigns; that the policies followed during the ongoing hostilities were allegedly adopted to speed up the identification of military targets; and that they might have been subsequently replaced by more accurate surveillance to determine the presence of civilians.²²

Allegations were also made by various states that Hamas fighters engaged in tactics that used the civilian population as human shields during the hostilities in Gaza.²³ There were also indications that Hamas's threats and attacks against civilians who wished to leave hindered some evacuation processes.²⁴ During the reporting period, it was also alleged that some Hamas operations were conducted from within and beneath certain hospitals in Gaza, using the network of tunnels under the Gaza Strip.²⁵

Means of Warfare

Use of Explosive Weapons in Populated Areas

According to a report by the Office of the High Commissioner for Human Rights (OHCHR), a number of notable incidents in the conduct of hostilities during the reporting period involved the use of explosive weapons by the IDF in populated areas in Gaza. The report suggests patterns of attacks across the reporting period that are indiscriminate or disproportionate in nature, or where adequate precautionary measures appear not to have been taken. Such attacks resulted in widespread civilian deaths and destruction, and have entailed the use of bombs with wide area effects in or near civilian locations.²⁶ These explosions have caused damage to housing infrastructure, schools, refugee camps and hospitals, with reports that half of all buildings in Gaza were destroyed or damaged during the reporting period.²⁷ Whereas explosive weapons with wide area effects are not as such prohibited, their use in populated areas can breach the prohibition on indiscriminate attacks. In the Gaza Strip, the effects of such weapons on the civilian population – both direct and indirect – are magnified by the high density of the population and by the difficulty for civilians to move across the area. Similar considerations apply to the use by the IDF of white phosphorus, which Human Rights Watch documented in October 2023.²⁸

Furthermore, according to the Commission of Inquiry on the Occupied Palestinian Territory, Hamas and Palestinian Islamic Jihad's launching of rockets and mortars lacking precision guidance systems into Israel violated the prohibition on the use of weapons that are indiscriminate by nature, by virtue of the scale of these attacks and the weapons' inherent lack of precision.²⁹

Methods of Warfare

Denial of Humanitarian Access and Starvation as a Method of Warfare

The food insecurity and health emergencies that the military operations have engendered in the civilian population of the Gaza Strip call into question compliance with several IHL rules. Of particular concern are the reported cutting off by Israel of the supply of electricity, fuel and water to the Gaza Strip and the limitations to the delivery of humanitarian aid, including food, medicine and medical supplies.³⁰ It has been reported that this conduct, among other effects, has seriously impaired the functioning of critical infrastructures (such as water desalination plants and hospitals) and brought about a high risk of famine in several parts of the Gaza Strip.³¹

First, to the extent that Israel retains at least some of its obligations as an occupying power of the Gaza Strip (commensurate with the degree of effective control that it exerts on that territory), there are reasonable grounds to believe that it has failed to comply with its obligations to ensure, to the fullest extent of the means available to it, the food and medical supplies of the population, as well as the medical and hospital establishments and services, public health and hygiene in the occupied territory.³²

Second, serious concerns have been raised that Israel has breached the prohibition on starvation of the civilian population as a method of warfare.³³ By severing the supply of those utilities, Israel would appear to have breached the prohibition on removing and rendering useless objects indispensable to the survival of the civilian population. Importantly, the argument advanced by Israel that fuel may be used by Hamas³⁴ would not be sufficient to allow for the conducts adopted vis-à-vis such utility. Even though the protection of objects indispensable to the survival of the civilian population may be waived if they are used in direct support of military action, the exception would not apply if such conduct may be expected to leave the civilian population with such inadequate food or water as to cause its starvation or force its movement.³⁵

Third, it is reported that there are reasonable grounds to believe that the severe restrictions by Israel to humanitarian relief operations – including at times through the complete sealing off of crossing points – represent a breach of its obligations to allow and facilitate the rapid and unimpeded passage of impartial humanitarian aid to civilians in need.³⁶ Reportedly, consent to the carrying out of humanitarian relief operations has been withheld on arbitrary grounds, and the right to control has been exercised in such a way as to render their delivery impossible.³⁷

On 26 January 2024, in a first order of provisional measures in the case brought by South Africa against Israel under the Genocide Convention, the International Court of Justice (ICJ) held that Israel ‘shall take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by Palestinians in the Gaza Strip’.³⁸ The Court reiterated this point in further orders on 28 March 2024 and 24 May 2024, clarifying that these measures were required to facilitate ‘unhindered’ aid provision ‘at scale’, and that this required increasing the capacity and number of land crossings and keeping them open, particularly at Rafah.³⁹

Treatment of Persons

Conflict-Related Sexual Violence

During the 7 October 2023 attack in Israel, torture, rape and other forms of sexual violence and inhumane treatment were reported to have been committed.⁴⁰

The Special Representative of the UN Secretary-General on Sexual Violence in Conflict issued a report indicating that sexual violence, including ‘rape, sexualized torture, cruel, inhuman and degrading treatment’ had been committed against hostages held by Hamas in Gaza, and that reasonable grounds existed to believe that such violence may be ongoing against those still held in captivity.⁴¹

Rape and other forms of sexual violence in connection with armed conflict are prohibited, and are considered to constitute serious violations of IHL.⁴²

Conflict-Related Displacement

In Palestine, 1.7 million people have been internally displaced as a direct result of the ongoing hostilities.⁴³ During the reporting period, approximately 200,000 individuals in Israel were displaced, primarily from the border areas adjacent to Gaza.⁴⁴ In a report on displacement in Gaza, Human Rights Watch details a number of elements that it considers to demonstrate that Israel’s system of evacuation orders did not comply with IHL;⁴⁵ that Israel failed to adequately provide for displaced persons;⁴⁶ and that it was creating conditions to hinder return permanently.⁴⁷ Also with reference to statements by Israeli officials, the report concludes that displacement in Gaza is coercive and intentional,⁴⁸ and has entailed serious violations of IHL. It is further alleged that at least in some areas, this displacement was ethnically motivated.⁴⁹ In connection with the issue of displacement, the report of the Independent International Commission of Inquiry also mentions indications that Hamas hindered some evacuation processes through threats and attacks against civilians who wished to leave.⁵⁰

Under customary IHL, parties to a NIAC are prohibited from ordering the displacement of the civilian population in relation to the conflict, except in order to ensure the safety of the civilians concerned, or for imperative military reasons.⁵¹ In an IAC context where territory is deemed to be occupied, the forcible transfer or deportation of the civilian population of that territory is prohibited, with exceptions, once again, only foreseen to ensure the safety of the civilians concerned, or for imperative military reasons.⁵² Breaches of these prohibitions are considered to constitute serious violations of IHL.⁵³

Overall, state practice also ‘underlines the duty of parties to a conflict to prevent displacement caused by their own acts, at least those acts which are prohibited in and of themselves’.⁵⁴ In this sense, the customary (and non-reciprocal) obligations on parties to a conflict to comply with fundamental IHL rules on the conduct of hostilities and on protection against effects of attacks are relevant – including the obligations to ‘give effective advance warning of attacks which may affect the civilian population’,⁵⁵ and to ‘take all feasible precautions to protect the civilian population and civilian objects under their control against the effects of attacks’.⁵⁶ Furthermore, all people displaced during armed conflict ‘have a right to voluntary return in safety to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist’.⁵⁷ In the meantime, ‘all

possible measures must be taken' to receive displaced civilians in 'satisfactory conditions of shelter, hygiene, health, safety and nutrition', and to avoid separation of family members.⁵⁸

Concerns Related to Deprivation of Liberty in Armed Conflict

Arbitrary Deprivation of Liberty, Hostage-Taking and Fundamental Guarantees

On 7 October 2023, Hamas and other Palestinian armed groups were reported to have abducted 252 people from Israeli territory and transported them into Gaza. By abducting these people with a view to compelling the Israeli government to release Palestinian prisoners, these groups were found to have resorted to the prohibited conduct of hostage-taking.⁵⁹ Among those taken hostage were 71 civilian women, 36 children⁶⁰ and 138 foreign nationals.⁶¹ On 26 January 2024, the ICJ stated that it was 'gravely concerned about the fate of the hostages abducted during the attack in Israel on 7 October 2023 and held since then by Hamas and other armed groups', and called for their 'immediate and unconditional release'.⁶² The ICRC has also repeatedly called for the release of the hostages.⁶³ As at the end of the reporting period, approximately 120 hostages remained in captivity, with an estimated 80 believed to be still alive.⁶⁴ The abduction of civilians may potentially contravene several fundamental rules of IHL, including the prohibition on the taking of hostages; the prohibition on arbitrary deprivation of liberty; the prohibition on torture or inhumane treatment; and the prohibition on murder. These acts are serious violations of IHL.⁶⁵ During the reporting period, the ICRC reported having made repeated calls for access to the hostages in Gaza, apparently to no avail.⁶⁶ Following the 7 October attacks, the government of Israel reportedly imposed a ban on the ICRC visiting approximately 9,500 Palestinian detainees held in Israeli custody.⁶⁷ While Israeli authorities apparently announced intentions to establish an alternative mechanism to conduct prison visits,⁶⁸ no such body appeared to have been established by the end of the reporting period. Consequently, the ICRC's access to detainees remained suspended at the end of the reporting period.⁶⁹

The lack of ICRC access to persons deprived of their liberty raises significant concerns over parties' fulfilment of obligations under IHL relating to their humane treatment.

In the context of an IAC (such as that which persists in connection with the Israeli occupation of the West Bank and, at least to some extent, Gaza – see above, 'Conflict Classification' the ICRC 'must be granted regular access to all persons deprived of their liberty in order to verify the conditions of their detention and to restore contacts between those persons and their families'.⁷⁰ In the context of a NIAC, the ICRC 'may offer its services' for these purposes.⁷¹ In either case, parties are bound to respect, as a minimum, IHL rules aimed at protecting and ensuring the humane treatment of persons deprived of their liberty.⁷²

Humanitarian Relief

Protection of Humanitarian Relief Personnel and Objects

Between 7 October and the end of the reporting period, the UN Office for the Coordination of Humanitarian Affairs (OCHA) reported that at least 274 humanitarian workers were killed in the Gaza Strip.⁷³ Of these, an estimated 200 were personnel from the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).⁷⁴ Reports cited at least eight strikes on aid workers' convoys and premises in Gaza since the start of hostilities.⁷⁵ Attacks hitting 'dangerously close to humanitarian structures, of whose locations the parties to the conflict are aware and which are clearly marked with the Red Cross emblem', such as that denounced by the ICRC on 21 June 2024, represent, at the very least, a breach of the principle of precautions in attack. They may also constitute violations of the special protection afforded to humanitarian personnel and objects.⁷⁶ According to Human Rights Watch, in relation to several incidents where humanitarian personnel, vehicles or facilities were hit by IDF strikes, Israel has subsequently acknowledged that mistakes had occurred. These, notably, were the 1 April 2024 attack which reportedly hit a World Central Kitchen convoy, and the 9 December 2023 and 5 February 2024 attacks reportedly impacting a UNRWA guest house.⁷⁷

(On humanitarian access, see above, 'Denial of Humanitarian Access and Starvation as a Method of Warfare')

Medical Care

Respect for and Protection of Medical Personnel, Units and Transports

Several IDF attacks are also reported to have impacted medical personnel, vehicles and facilities, all of which are entitled to specific protection under IHL.⁷⁸ Fighting in and around hospitals is said to have become a defining feature of the conflict in Gaza:⁷⁹ an estimated 500 healthcare workers were reportedly killed during hostilities in the reporting period,⁸⁰ and reports up to April 2024 estimate that 24 hospitals within Gaza had been damaged.⁸¹ Even assuming, as claimed by Israel, that medical units were used by Palestinian organized armed groups to commit, outside their humanitarian duties, acts harmful to the enemy,⁸² it is to be recalled that, in any event, protection of the medical unit would cease only after a due warning had been given and remained unheeded;⁸³ the qualification of the medical unit into a medical objective would still have to be positively established;⁸⁴ and the fundamental obligation to respect and protect the wounded and sick in all circumstances would still warrant humanitarian considerations relating to the welfare of the patients being cared for in the facility.⁸⁵

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LEBANON

During the reporting period, multiple parallel situations of armed conflict were ongoing on the territory of Lebanon, namely, the occupation of Shebaa Farms by Israel; an international armed conflict (IAC) between Lebanon and Israel based on Lebanon's lack of consent to Israeli use of force against non-state armed groups within its territory; and a non-international armed conflict (NIAC) between Israel and the non-state armed group Hezbollah, along the southern border of Lebanon. The present report focuses in particular on incidents in connection with military operations between Israel and Hezbollah during the reporting period, particularly since 8 October 2023.

The steady increase in hostilities between Israel and Hezbollah has exacted a heavy toll from the civilian population of Lebanon and Israel. During the reporting period, Hezbollah allegedly fired more than 5,000 rockets, missiles and drones into Israel, with at least 10 civilians reportedly killed; Israeli military attacks on the territory of Lebanon in this period allegedly resulted in the killing of around 100 civilians. These attacks have also reportedly impacted civilians through resultant injuries; destruction of and damage to housing, infrastructure and agricultural land; displacement; and the effects of wildfires. Both parties claim to be targeting military objectives. However, various reported incidents of civilian deaths – as well as Hezbollah's reported use of unguided missiles and Israel's reported use of white phosphorous in populated areas – have raised various concerns regarding compliance with fundamental international humanitarian law (IHL) principles of distinction (including the prohibition on indiscriminate attacks), proportionality and precautions in attack. The potential longer-term effects of hostilities, for instance, damage caused by wildfires and soil contamination reportedly linked to white phosphorous, also raise IHL compliance concerns regarding the protection of the natural environment and of objects indispensable to the survival of the civilian population.

Furthermore, reported incidents regarding Israeli attacks impacting journalists, United Nations (UN) peacekeeping personnel and medical personnel – as well as peacekeeping and medical vehicles and infrastructure – have raised concerns about respect for the special protection of these particular civilians and civilians objects. Allegations regarding Hezbollah launching rockets into Israel from near UN compounds and posts also raise the issue of the potential prohibited use of human shields.

Conflict Overview

Following Lebanon's attainment of independence in 1943 after two decades under French mandate, the country has been marked by multiple armed conflicts. Since the Six-Day War of 1967 (an armed conflict in which Lebanon played a minimal role), the Israel Defence Forces (IDF) have occupied the Shebaa Farms – a small portion of territory that Israel considers part of the Golan Heights, but which is also claimed by Lebanon.¹ The Lebanese Civil War of 1975–1990 represented a watershed moment in the country's history: what started as an internal armed conflict between Christian forces, on the one hand, and a coalition comprising the Palestine Liberation Organization (PLO), Druze and Muslim militias, on the other, triggered a series of events that marked the country's future for decades to come. Syrian forces, which were deployed in Lebanon in 1976, withdrew from the country in 2005. Military intervention by Israel on two occasions (briefly in 1978 and again in 1982) led to the occupation of a security zone in Southern Lebanon which lasted until 2000 – a period during which the Lebanese Shia political party and paramilitary group of Hezbollah came into being and launched guerrilla warfare against the IDF. The Lebanese Civil War also led to the establishment of the United Nations (UN) Interim Force in Lebanon (UNIFIL) in 1978 – a peacekeeping mission whose mandate has evolved over time to reflect the volatile realities in Southern Lebanon.²

In the summer of 2006, an armed conflict between Hezbollah and Israel led to a further ground invasion of Southern Lebanon by the IDF as well as to an aerial and maritime blockade of Lebanon. Israel withdrew from South Lebanon following a ceasefire brokered by the UN, but several armed clashes ensued in the following years, particularly in 2010, 2013 and 2019, mainly between Israel and Hezbollah.

Moreover, throughout the 2010s Lebanon was plagued by instability due to a mix of political crises and the risk of spill-over of the armed conflicts in Syria. Renewed hostilities between Israel and Hezbollah since the October 2023 Gaza conflict led to an increase in military operations on the border between Lebanon and Israel.³ After Hezbollah launched several hundred (if not thousands) of rockets into Israel, the latter responded first with air and artillery strikes in Southern Lebanon, then gradually expanded its operations. On 2 January 2024, a strike on an office in the Dahieh suburbs of Beirut (attributed to, but not commented on by, Israel) killed Saleh al-Aroui (the deputy chief of Hamas's political bureau and one of the founders of the group's armed wing, the Qassam Brigades) as well as six other Hamas officials (including two senior commanders of the Qassam Brigades).⁴ The conflict has led to significant internal displacement, with tens of thousands of civilians from both Israel and Lebanon forced to flee their homes due to sustained rocket, missile and drone strikes.⁵ According to media reports, by June 2024 approximately 60,000 residents from the northern border in Israel and more than 90,000 Lebanese have fled their homes in the area.⁶ The growing tensions and intensification of military operations between the IDF and Hezbollah have been a defining feature of the reporting period.⁷ In the subsequent months, starting from September 2024, Israel's operations have come to include airstrikes (including on Beirut), targeted killing operations and ground operations in Southern Lebanon.

Both Lebanon and Israel are parties to the 1949 Geneva Conventions, the 1954 Hague Convention for Protection of Cultural Property and its First Protocol, and the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiat-

ing, Poisonous or Other Gases, and of Bacteriological Methods of Warfare. Whereas both states are parties to the 1980 Convention Prohibiting Certain Conventional Weapons, Lebanon is also a party to its Protocol III on Incendiary Weapons. Lebanon (but not Israel) is a party to the 1977 Additional Protocols to the 1949 Geneva Conventions; the Second Protocol of 1999 to the 1954 Hague Convention; the 1993 Chemical Weapons Convention; the 1972 Biological Weapons Convention; and the 2008 Convention on Cluster Munitions.

Conflict Classification

During the reporting period (1 July 2023–30 June 2024) multiple parallel situations of armed conflict were ongoing on the territory of Lebanon.

- Shebaa Farms, a territory claimed by Lebanon, continues to be under military occupation by Israel.
- An international armed conflict (IAC) existed between Lebanon and Israel based on Lebanon's lack of consent to Israeli use of force against non-state armed groups within its territory.
- There was a non-international armed conflict (NIAC) occurring along the southern border of Lebanon between Israel and the non-state armed group Hezbollah.

The present entry focuses in particular on the incidents occurring during the reporting period in connection with military operations between Israel and Hezbollah. Since 8 October 2023, a day after the attacks by Palestinian armed groups (including Hamas and the Palestinian Islamic Jihad) in Southern Israel, hostilities in the border region between Israel and Lebanon have steadily escalated, with the parties exchanging a reported 7,491 attacks across the border between 8 October 2023 and 5 July 2024.⁸ The classification of these hostilities under international humanitarian law (IHL) raises complex factual and legal issues, which are briefly discussed below.

First, available data does not seem to support the conclusion that Hezbollah represents a militia 'belonging' to Lebanon within the meaning of Article 4(A)(2) of the 1949 Geneva Convention III – which implies that the armed violence between that armed group and the IDF would be subsumed within the IAC between Lebanon and Israel.⁹ Indeed, the relationship between Hezbollah and Lebanon cannot be said to be one in which '[f]irst, the group ... in fact fight[s] on behalf of that Party [and] [s]econd, that Party ... accepts both the fighting role of the group and the fact that the fighting is done on its behalf'.¹⁰ For instance, Lebanon's caretaker Prime Minister Najib Mikati has on different occasions reaffirmed his efforts to de-escalate the situation and prevent Lebanon from entering the war.¹¹ This does not detract from the fact that (as mentioned above) an IAC between Lebanon and Israel stems from the lack of consent by the former to the military intervention on its territory by the latter.¹²

Second, it does not appear sufficiently warranted, on the basis of available data, to conclude that the Islamic Republic of Iran wields over Hezbollah a form of 'overall control' in the sense expounded by International Criminal Tribunal for the former Yugoslavia (ICTY) case law – which would entail a situation of an IAC between Israel and the Islamic Republic of Iran.¹³ In recent years, several reports have

highlighted the considerable influence exercised by Iran over Hezbollah (particularly in regional conflicts) and the primary role played by the Islamic Republic in providing the armed group with training, weapons and funding.¹⁴ However, expert commentary has so far excluded the fact that (or, at least, questioned the conclusion that) Iran's role in organizing, coordinating or planning the military actions of Hezbollah is of such a character as to internationalize the armed conflict with Israel.¹⁵

Against this composite background, and in light of presently-available material, the conclusion drawn here is to classify the armed violence between Israel and Hezbollah as a NIAC. The intensity of the armed violence, coupled with the level of organization of the paramilitary group Hezbollah, satisfies the threshold criteria for a NIAC to exist under IHL.¹⁶

International Humanitarian Law in Lebanon, 1 July 2023–30 June 2024

Conduct of Hostilities

Attacks Directed against Civilians, or of an Indiscriminate or Disproportionate Nature

The steady increase in hostilities between Israel and Hezbollah has exacted a heavy toll from the civilian population of Lebanon and Israel.

Hezbollah allegedly fired more than 5,000 rockets, missiles and drones into Israel during the reporting period.¹⁷ The scale of operations employing rocket, missile and drone fire has steadily increased across the reporting period, with the largest barrage reported on 12 June 2024 featuring over 250 rockets fired into Israeli territory.¹⁸ According to Israeli authorities, by mid-July 2024, Hezbollah attacks had resulted in the killing of at least 10 civilians.¹⁹ Israeli media also reported the destruction of 1,000 buildings²⁰ and the burning down of an estimated 8,700 hectares of land.²¹

Hezbollah has repeatedly stressed that its attacks targeted Israeli military sites,²² and available reports highlight the increased sophistication in the weapons used by the armed group during the reporting period.²³ Yet, and although communities in Northern Israel had been evacuated, attacks by Hezbollah with anti-tank missiles resulted in casualties among the civilian population in Israel; for example, an attack on an orchard near the border community of Margalioth on 4 March 2024, which allegedly killed one and wounded seven foreign workers.²⁴ It has been reported that similar incidents killed or injured civilians in the border towns of Shtula,²⁵ Mattat²⁶ and Dovev.²⁷ Considering that Hezbollah has increasingly relied on guided anti-tank missiles in its military operations, these attacks raise serious concerns with regard to Hezbollah's compliance with the rules governing the conduct of hostilities (especially the principles of distinction and precautions in attack).²⁸

Furthermore, available data indicates that the bulk of Hezbollah's arsenal consists of unguided rockets and missiles.²⁹ For instance, the Falaq 1 and Falaq 2 artillery rockets (the latter of which was first deployed by Hezbollah in June 2024)³⁰ lack accuracy, with a margin of error of up to 3 kilometres.³¹ By employing means of warfare that cannot be directed at a specific military objective, there are reasonable

grounds to believe that Hezbollah has resorted to indiscriminate attacks prohibited under customary international law applicable in armed conflict,³² and failed to take all feasible precautions to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects.³³ Moreover, by reason of the extensive use of such weapons and reports of resulting wildfires, Hezbollah's conduct raises concerns regarding the risk of widespread, long-term and severe damage to the natural environment, and the lack of feasible precautions to avoid, and in any event to minimize, such incidental damage.³⁴

Attacks carried out by the IDF inside the territory of Lebanon, purportedly against Hezbollah, have reportedly resulted in the killing of around 100 civilians.³⁵ Data supplied by Lebanon's Council of the South and reproduced by UN Office for the Coordination of Humanitarian Affairs (OCHA) also reports that 3,000 housing units were completely or partially demolished, 12,000 severely damaged and 20,000 lightly damaged; that 13 water infrastructures supplying nearly 200,000 residents were damaged; and that the agricultural sector lost 17 million square metres, with farmers being unable to harvest crops from 12 million square metres of their land.³⁶

Israeli officials have maintained that IDF operations are 'carried out, based on precise intelligence, with the goal of damaging Hezbollah's capability, not causing harm to the civilian population'.³⁷ However, a few attacks attributed to Israel raise serious concerns from the viewpoint of compliance with rules governing the conduct of hostilities. On one occasion, according to Human Rights Watch, an Israeli strike on 5 November 2023 killed three children and their grandmother who were travelling by car, also injuring their mother.³⁸ The IDF admitted that it had carried out an airstrike on 'a suspicious vehicle containing several terrorists', and that the 'claim that there were several uninvolved civilians in the vehicle [was] being examined'.³⁹ Moreover, on different occasions, civilians were reportedly killed or wounded as a result of attacks allegedly carried out by Israel against Hezbollah fighters. For instance, in connection with an IDF airstrike in Nabatieh on 14 February 2024 that killed three Hezbollah operatives (including two senior commanders),⁴⁰ it was reported that seven members of an extended family, including three children, died after a multi-storey building was hit.⁴¹ On another occasion, on 5 May 2024, after the IDF claimed that it had carried out an attack on a military site in the area of Mais al-Jabal, it was reported that a family of four (including the two sons, aged 12 and 21) were killed.⁴² Finally, it was reported that at least 14 civilians were wounded in the area of Tyre after a building used by Hezbollah operatives had been targeted by an Israeli attack and collapsed, reportedly killing a senior Hezbollah official (whose death, however, was denied by Israeli officials).⁴³ If confirmed, these attacks would raise serious concerns in relation to Israel's compliance with the principles of proportionality and precautions in attack.

Special Protection of Journalists

With regard to specifically-protected persons and objects, Lebanese authorities have denounced incidents where journalists were killed by Israeli strikes.⁴⁴ (On reported incidents involving medical personnel, see below, 'Respect for and Protection of Medical Personnel, Units and Transports'). In one such strike, taking place on 13 October 2023, one journalist was reported killed and six others injured, allegedly as a result of Israeli fire.⁴⁵ Analyses carried out by Human Rights Watch and Amnesty International found that the group was visibly identifiable as journalists and that there were no military objectives in their vicinity, therefore concluding

that the attack was an apparently deliberate one on civilians.⁴⁶ A report by the United Nations Interim Force in Lebanon (UNIFIL) later confirmed that the killing resulted from an Israeli tank firing two 120 millimetre rounds, that the journalists were clearly identifiable, and that no exchange of fire had been recorded across the border for more than 40 minutes before the strike.⁴⁷ The IDF has expressed regrets about the killing of the journalist,⁴⁸ and Israeli authorities noted that the General Staff's Fact Finding and Assessment Mechanism was examining the incident.⁴⁹ Lebanon also filed a complaint before the UN Security Council in relation to another incident on 21 November 2023, during which two media workers were reportedly killed in a rocket strike near the border with Israel.⁵⁰ The Director-General of the United Nations Educational, Scientific and Cultural Organization (UNESCO) also condemned the killing as a violation of the protection afforded under IHL to journalists and media workers as civilians.⁵¹ Israel declared that its army had taken action against military objectives and that the attack was under review.⁵²

Personnel and Objects Involved in a Peacekeeping Mission

During the reporting period, UNIFIL condemned a number of attacks on its personnel and bases. On several occasions, attacks on UNIFIL patrols could not be attributed definitively.⁵³ However, on at least one occasion (occurring on 25 November 2023) it was reported that 'a UNIFIL vehicle was struck by IDF gunfire during a patrol near Aytaroun village in Southern Lebanon'.⁵⁴ It is prohibited to direct attacks against UN peacekeeping personnel and objects, as long as they continue to fulfil the conditions for protection as civilians or civilian objects (that is, they are not engaged in a peace-enforcement operation and considered combatants or military objectives).⁵⁵

In addition to damage and casualties resulting from direct fire, UNIFIL personnel may have been endangered by the presence of military objectives in the vicinity of its bases. On two occasions, the IDF has accused Hezbollah of launching rockets into Israel from near UN compounds and posts.⁵⁶ If this were to be confirmed, and to the extent that the presence of protected persons (such as members of UN peacekeeping forces) were used to render the attacking forces immune from military operations, such behaviour arguably would qualify as a violation, on the part of Hezbollah, of the prohibition on using human shields.⁵⁷

Means and Methods of Warfare

Use of White Phosphorous

Numerous reports indicate that the IDF has deployed white phosphorous munitions across Southern Lebanon during the reporting period.⁵⁸ In particular, Human Rights Watch has 'verified the use of white phosphorus munitions by Israeli forces in at least 17 municipalities across South Lebanon' between October 2023 and early June 2024; in five of these cases, such weapons would have been used over populated residential areas.⁵⁹ After initially denying the use of white phosphorous,⁶⁰ the IDF has maintained that it does have 'smoke shells that contain white phosphorus', that they 'are intended for smokescreens, and not for an attack or ignition', and that 'under its existing procedures, white phosphorus shells are not to be used in urban areas, "except in certain exceptional cases"'.⁶¹

The reported use of shells containing white phosphorous in Lebanon raises various concerns as to compliance with IHL. First, the use over-populated residential areas raises concerns about compliance with the prohibition on indiscriminate attacks.⁶² Second, considering the findings of the United Nations Development Programme (UNDP) that recourse to white phosphorus has reduced soil fertility and increased soil acidity,⁶³ in so far as attacks featuring this weapon have contaminated farmlands or sparked fires among them,⁶⁴ they would raise concerns regarding compliance with the prohibition on attacking, destroying or rendering useless objects indispensable to the survival of the civilian population.⁶⁵ Third, available evidence indicates that the use of shells containing white phosphorous has resulted in the displacement of the civilian population residing in affected villages.⁶⁶ This raises concerns over Israel's compliance with its duty to prevent displacement caused by its own acts, at least those prohibited in themselves (for instance, if it were to be concluded that the use of white phosphorous in these instances constituted an indiscriminate attack).⁶⁷

Health Care

Respect for and Protection of Medical Personnel, Units and Transports

Available reports also point to several incidents where medical personnel, medical units and medical transports were affected by IDF operations. The World Health Organization (WHO) has condemned some of these incidents,⁶⁸ including an Israeli airstrike on 27 May 2024 near the Salah Ghandour Hospital in Bint Jbeil, which reportedly caused the death of three civilians and minor damage to the hospital itself.⁶⁹ Research carried out by Insecurity Insight indicated that between 8 October 2023 and 30 June 2024, 'at least 39 health workers were killed, 12 ambulances were damaged and health facilities were damaged on 14 occasions'.⁷⁰ Notably, all 39 deaths appear to have resulted from the use of explosive weapons on the part of the IDF.⁷¹ In relation to an incident on 27 March 2024, in which an Israeli strike on the city of Habbarieh in Southern Lebanon killed seven emergency and relief volunteers, Human Rights Watch found that Israel had 'at a minimum [failed] to take all feasible precautions to verify that the target was military and avoid loss of civilian life and damage to civilian objects'.⁷²

End Notes Lebanon

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9 As argued by the Commission of Inquiry on Lebanon in its 2006 'Report Pursuant to Human Rights Council Resolution S-2/1', UN Doc A/HRC/3/2, paras 56–59.

10 ICRC, Commentary of 2020, art 4 GC III, para 1005.

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LIBYA

Three parallel non-international armed conflicts (NIACs) were ongoing in Libya during the reporting period: one between the Government of National Unity (GNU), which controls Western Libya, and Islamic State-Libya; one between the Libyan National Army (LNA), which controls Eastern Libya, and Islamic State-Libya; and one between the LNA and the Front pour l’alternance et la concorde au Tchad (FACT). Parties to the armed conflicts in Libya are reported to have committed unlawful killings, engaged in arbitrary detention, abductions and enforced disappearances, and perpetrated acts of torture and ill-treatment, including sexual violence. It has been reported that women and children allegedly associated with Islamic State of Iraq and the Levant (ISIL) remain arbitrarily detained and exposed to sexual violence and abuse. Although information in this regard is limited, the United Nations Support Mission in Libya indicated that Islamic State-Libya fighters were also being held without due process. Reported incidents in LNA-controlled Eastern Libya (ascribed to the LNA or affiliated groups) involve unlawful killings, torture and ill-treatment, as well as arbitrary deprivation of liberty and enforced disappearances. Migrants and refugees have also continued to be subjected to various forms of abuses and ill-treatment – including arbitrary deprivation of liberty, hostage-taking, torture, sexual violence, slavery, forced labour, enforced disappearances and murders – in both government-controlled Western Libya and LNA-controlled Eastern Libya. Not all such acts are considered to be linked to the conflict and, therefore, subject to international humanitarian law (IHL). However, this is considered to be the case regarding people in LNA-controlled territories, as the LNA is bound by IHL relating to the treatment of individuals, including refugees and migrants, in Libyan territory under its control. Furthermore, several incidents of denial of humanitarian access were said to have occurred during the reporting period. Particularly in light of ongoing humanitarian needs, this raises issues regarding parties’ obligations not to arbitrarily withhold consent to humanitarian relief, and to authorize and facilitate the rapid and unimpeded passage of humanitarian aid, subject to their right of control.

Conflict Overview

The origin of the ongoing armed conflicts in Libya can be traced back to the fall of the Gaddafi regime in 2011, and subsequent disputes among Libyan political elites and their aligned armed groups on the formation of a unified government.¹ The political unrest and instability following the end of the Gaddafi regime escalated to armed conflict in February 2014. One of the parties to this conflict was the Libyan National Army (LNA), established by former army General Khalifa Haftar,² which managed to capture several key cities in Eastern Libya, including Benghazi.³ Opposing the LNA was the Libya Dawn coalition, formed by Misrata-based armed groups,⁴ which took control of Tripoli.⁵ These developments left Libya divided between two rival parliaments: the House of Representatives in Tobruk, which endorsed the LNA,⁶ and the interim General National Congress in Tripoli, aligned with the Libya Dawn Coalition.⁷

In December 2015 the Government of National Accord (GNA) was established by the 2015 United Nations (UN)-brokered Libyan Political Agreement.⁸ The GNA was declared by the Joint Communiqué of the Ministerial Meeting for Libya (Rome Communiqué) as ‘the sole legitimate government of Libya’.⁹ This position was endorsed by the UN Security Council in Resolution 2259 (2015)¹⁰ and recalled in subsequent resolutions.¹¹ However, the Libyan Political Agreement did not result in the unification of the country’s political and governing institutions, as had been hoped.¹² Instead, the LNA continued its military campaign to expand its control over Central and Eastern Libya,¹³ and launched an offensive on Tripoli in Western Libya in April 2019,¹⁴ which continued throughout 2020.¹⁵ On 23 October 2020, the Agreement for a Complete and Permanent Ceasefire in Libya was concluded between the GNA and LNA, and led to the establishment of the Government of National Unity (GNU), which superseded the GNA the following year.¹⁶ However, although hostilities have reportedly ceased between the parties to the conflict following the Ceasefire Agreement, a real risk remains of a resumption of hostilities. This is due to the prevailing political deadlock, as a result of the indefinite postponement of the Libyan national elections that were planned for December 2021.¹⁷

Both the internationally-recognized Government of Libya and the LNA have been fighting separately against the Islamic State in Iraq and the Levant-Libya (Islamic State-Libya) since 2015. Having exploited the power vacuum and political instability in the post-Gaddafi Libya, Islamic State-Libya was already in control of cities such as Derna and Sirte in 2014.¹⁸ However, the then GNA, with considerable aerial support from the United States of America (US), launched a successful offensive against Islamic State-Libya, which drove the group out of Sirte and Derna in 2016.¹⁹ General Haftar’s LNA had also carried out several operations against Islamic State-Libya before turning its focus onto the Libyan capital, Tripoli, in 2019. Even more recently, the LNA reportedly ‘conducted regular counter-terrorist operations in southern Libya, specifically targeting bases belonging to Islamic State in Iraq and the Levant-Libya’.²⁰

Another armed conflict in Libya is that between the LNA and the Front pour l’alternance et la concorde au Tchad (FACT). FACT is a Chadian armed group based in Libya, from where it conducts offensives against the Government of Chad. Although FACT once fought alongside LNA, from which it received weaponry and considerable resources, the two groups opposed each other during and after the

FACT offensive in April 2021 that killed the President of Chad, Idris Déby.²¹ Since then, the LNA has conducted successive aerial attacks against FACT,²² and violent clashes between the LNA and FACT were reported as recently as August 2024.²³

In August 2023 the Chadian Government forces also bombed FACT positions in Southern Libya.²⁴ FACT accused the GNU of having authorized these bombardments,²⁵ and it was reported that the GNU had approved the Chadian strike.²⁶ Between 2019 and 2020, the Wagner Group provided support to the LNA, notably through the deployment of numerous mercenaries specialized in military tasks, including sniper teams, air support and establishment of bases.²⁷ Although the group reportedly resumed its role in military training and protection services after the October 2020 ceasefire,²⁸ reports indicate that thousands of Russian operators, allegedly affiliated to the Wagner Group (now renamed Africa Corps), have travelled to Libya since the beginning of 2024.²⁹

Conflict Classification

Three parallel non-international armed conflicts (NIACs) were ongoing in Libya during the reporting period (1 July 2023–30 June 2024):

- a NIAC between the GNU and Islamic State-Libya
- a NIAC between the LNA and Islamic State-Libya
- a NIAC between the LNA and FACT

An earlier NIAC between the GNU and the LNA, which controls Eastern Libya, effectively ended with the October 2020 ceasefire agreement.³⁰ This agreement was largely respected during the reporting period.

Separate NIACs between the Government of Libya and Islamic State-Libya, and between the LNA and Islamic State-Libya, continued during the reporting period. Although the intensity of conflict involving Islamic State-Libya has diminished since 2015, the group still maintains a presence and retains the capability to perpetrate attacks in Libya.³¹ Both the Government of Libya and the LNA conduct regular counter-terrorism operations against the group in the south of the country.³² Accordingly, the conflicts continue to meet the intensity requirements for a NIAC.³³

A third NIAC in Libya exists between the LNA and FACT. Since April 2021, when President Déby of Chad was killed in FACT's offensive in the area of Tibesti, Northern Chad, the LNA has conducted several airstrikes against FACT positions in Libya, including during the reporting period.³⁴ For example, the LNA conducted airstrikes against FACT fighters along the border with Chad on 25 August 2023.³⁵ This occurred a week after the Chadian Air Force, with the approval of the Libyan Government,³⁶ launched drone strikes on FACT positions along the international border between Chad and Libya.³⁷

The three NIACs in Libya are regulated by Common Article 3 to the Geneva Conventions and customary international humanitarian law (IHL). Although Libya is a state party to Additional Protocol II, Islamic State-Libya did not meet the territorial control requirement of the Protocol during the reporting period.

Several sporadic armed clashes among the various armed groups affiliated with the Libyan Government also occurred during the reporting period. Outside the context of armed conflict, the legality of use of force by state organs is determined

in accordance with international human rights law. In line with the right to life, the use of lethal force by state officials is considered lawful 'only when strictly necessary in order to protect life or prevent serious injury from an imminent threat'.³⁸

International Humanitarian Law in Libya, 1 July 2023–30 June 2024

Treatment of Persons

Murder, Torture and Inhumane Treatment, Arbitrary Detention, Abductions and Enforced Disappearances

According to multiple sources, parties to the armed conflicts in Libya have committed unlawful killings, engaged in arbitrary detention, abductions and enforced disappearances, and perpetrated acts of torture and ill-treatment, including sexual violence.³⁹

In January 2024 the International Security Agency (ISA) and the Deterrent Agency for Combating Organized Crime and Terrorism (DACOT), which form part of the GNU, announced the capture of Hashim Abu Sidra ('Khubeib'), thought to be Islamic State-Libya's leader. The ISA also reported the arrest of an individual alleged to be a Syrian member of the Islamic State of Iraq and the Levant (ISIL).⁴⁰ During the reporting period, according to the United Nations (UN) Support Mission in Libya (UNSMIL), at least 25 women and 45 children allegedly associated with ISIL 'remained in arbitrary detention', often exposed to sexual violence and abuse.⁴¹ Among these, 34 children were held in Judaydah prison in 2023 due to their mothers' alleged association with Islamic State.⁴²

It has been reported that members of Islamic State-Libya have previously been convicted of crimes in Libya and received severe sentences, including 23 Islamic State-Libya members sentenced to death in May 2023.⁴³ This indicates that fighters are being detained for the purpose of criminal prosecution. Although application of the law of criminal procedure may constitute a valid ground for detention in these circumstances, deprivation of liberty would become arbitrary if procedural safeguards and fair trial guarantees were disregarded.⁴⁴ Even though information regarding the detention of Islamic State-Libya fighters in Libya is limited, the United Nations Support Mission in Libya (UNSMIL) has indicated that Islamic State-Libya fighters were being held without due process. The organization therefore urged the Libyan authorities 'to ensure due process, release those arbitrarily detained and facilitate repatriation processes'.⁴⁵

Reported incidents in Eastern Libya involve unlawful killings, torture and ill-treatment, arbitrary deprivation of liberty and enforced disappearances. For instance, it was reported that on 17 April 2024, torture inflicted on a regular soldier by an LNA unit in the south of Sabha resulted in the death of the victim.⁴⁶ In another incident, Ibrahim Al-Darsi, a House of Representatives member, reportedly disappeared in Benghazi on 17 May 2024.⁴⁷ According to UNSMIL's report of 8 August 2024, the whereabouts of Ibrahim Al-Darsi remains unknown.⁴⁸

According to Amnesty International, in the first half of 2024, the LNA-affiliated 'Internal Security Agency' armed group⁴⁹ arrested dozens of people without warrants, in LNA-controlled areas in Eastern and Southern Libya. This included

women and elderly men. These individuals were reportedly detained incommunicado for several months, with some subjected to enforced disappearance for up to 10 months. The report states that none of these individuals was charged with an offence, brought before a judge or allowed to challenge the legality of their detention, and two people died in suspicious circumstances.⁵⁰ Finally, the abduction of five boys by the LNA in 2023, who have since remained deprived of liberty, was verified by the UN Secretary-General.⁵¹

Abuses and Ill-Treatment of Migrants and Refugees in Eastern Libya

Abuses and ill-treatment of migrants and refugees in Libya have long been documented and reported.⁵² As of May 2024, the number of migrants in Libya was reported to stand at 725,304, including 149,000 Sudanese refugees (among them more than 96,000 Sudanese fleeing the conflict in Sudan since April 2023).⁵³ During the reporting period, according to various sources, migrants and refugees have continued to be subjected to various forms of abuses and ill-treatment – including arbitrary deprivation of liberty, hostage-taking, torture, sexual violence, slavery, forced labor, enforced disappearances and murders⁵⁴ – in both government-controlled Western Libya and LNA-controlled Eastern Libya. According to the UN Secretary-General, as of July 2024, non-state armed groups (NSAGs) arbitrarily detained more than 3,000 people in six unofficial detention centres.⁵⁵

Not all reported ill-treatment and abuses of refugees and migrants in Libya are connected with the armed conflict and subject to the rules of IHL. However, the treatment of refugees and migrants in the hands of the LNA in Eastern Libya is governed by IHL, as ‘the way in which non-state armed groups exercise control over, and interact with, persons living in the territory under their de facto control is inherently linked to the conflict in question’.⁵⁶ The LNA, therefore, is bound by IHL relating to the treatment of individuals, including refugees and migrants, in Libyan territory under its control. For instance, in 2023 it was reported that multiple abuses were committed against migrants in places of detention located in Sabah, which is under the control of the LNA. The reported abuses include sexual slavery and repeated rapes.⁵⁷

Humanitarian Relief

Humanitarian Access and Facilitation of the Passage of Humanitarian Relief

In 2023, 40 incidents of denial of humanitarian access – perpetrated by the GNU, the LNA, and their affiliates – were documented by the UN Secretary-General.⁵⁸ According to the World Food Programme, around 800,000 people in Libya are in need of humanitarian assistance, and humanitarian needs have increased since the passage of Storm Daniel in September 2023, which caused flooding and considerable damage in the east of the country.⁵⁹ Information on the exact circumstances surrounding the denial of humanitarian access is lacking. However, such denials may amount to violations of IHL rules prescribing that when the population is in need, parties to the conflict may not arbitrarily withhold consent to humanitarian relief, and are obliged to authorize and facilitate the rapid and unimpeded passage of humanitarian aid, subject to their right of control.⁶⁰

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MALI

Three non-international armed conflicts (NIACs) were ongoing between state forces and non-state armed groups (NSAGs) in Mali. The non-state parties to these conflicts are al-Qaeda affiliate Jama'at Nusrat al-Islam wa al-Muslimeen (JNIM); Islamic State in the Sahel; and the CSP-PSD/CSP-DPA separatist armed group coalition. Malian state forces are supported by allied local militias and by the Africa Corps/Wagner Group. Additional Protocol II applies to the armed conflict with JNIM, as this group holds the required level of territorial control. All parties to the conflicts are reported to have directly attacked civilians or conducted indiscriminate or disproportionate attacks in breach of international humanitarian law (IHL). Such attacks allegedly included drone strikes by state forces, NSAG attacks aimed at enforcing sieges and attacks on civilian settlements. Non-state armed groups also continue to use a range of improvised explosive devices (IEDs) in the conduct of hostilities in Mali. Among others, this raises concerns about respect for the IHL principle of distinction, as well as mine ban treaties to which Mali is a state party. Non-state armed groups in Mali are reported to be imposing movement restrictions, checkpoints and using sieges as a method of warfare in different parts of the country. This impedes affected communities' access to food and other essential goods by. Concerns arose about the use of starvation as a method of warfare, especially as two cities with populations of over 100,000 people were besieged by non-state armed groups for several months, resulting in severe shortages and hunger. The kidnapping of over 100 civilians on a bus raised concerns about arbitrary deprivation of liberty in violation of IHL. Numerous instances of apparent targeting of humanitarian and medical personnel and facilities were also reported. These included attacks against medical centres, and killings and kidnappings of medical and humanitarian staff. Incidents of denial of humanitarian access were also reported. Regarding the treatment of persons, concerns were raised about reported conduct that may breach IHL prohibitions on murder; torture and inhumane treatment, conflict-related sexual violence and conflict-related displacement. There are grounds for particular concern about the situation of elderly people and persons with disabilities, given their frequent inability to flee violence. Children have also been at particular risk of recruitment and use in hostilities.

Conflict Overview

For more than a decade, Mali has been engaged in multiple non-international armed conflicts (NIACs) against non-state armed groups operating on its territory. There have been conflicts with Tuareg separatist armed groups in the north; with an al-Qaeda affiliate, the Group for the Support of Islam and Muslims (Jama'at Nusrat al-Islam wa al-Muslimeen (JNIM)); and the Islamic State in the Sahel, previously known as Islamic State in the Greater Sahara (ISGS).¹ There have also been instances of armed violence involving armed groups that did not amount to armed conflicts, either because the group was not sufficiently organized or, more commonly, because the violence was not of a sufficiently repeated and intense nature.

Between 2014 and 2015, pro-government armed groups formed the Plateforme des mouvements du 14 juin 2014 d'Alger (Platform), while separatist armed groups established the Coordination des Mouvements de l'Azawad (CMA).² The CMA was composed of the Mouvement national pour la liberation de l'Azawad (MNLA), the Haut conseil pour l'unité de l'Azawad (HCUA) and the Mouvement arabe de l'Azawad (MAA).³ Platform included the Mouvement pour le salut de l'Azawad (MSA), as well as the Groupe d'autodéfense touareg Imghad et alliés (GATIA).⁴ In 2015 these two coalitions engaged in peace talks with the Malian Government, which led to the conclusion of the Agreement for Peace and Reconciliation in Mali on 20 June 2015.⁵

From 2021 to April 2024, in an effort to apply the 2015 peace agreement, separatist armed groups from the CMA and pro-government armed groups from Platform coalesced under the Cadre stratégique permanent pour la paix, la sécurité et le développement (CSP-PSD). This lasted until the formal end to the peace agreement on 25 January 2024.⁶ Kidal, a town in the north of the country, was under the control of CSP-PSD for a decade until November 2023, when it was seized by the Malian army.⁷ Hostilities between the Malian Armed Forces (FAMA) and separatist ethnic Tuareg armed groups had resumed in August of that year, leading to the dissolution of the CMA, Platform and CSP-PSD in September 2023 and the creation of the Cadre stratégique pour la défense du peuple de l'Azawad (CSP-DPA) in April 2024.⁸ The CSP-DPA, which brings together separatist armed groups from Northern Mali, including former members of the CMA, is led by the MNLA.⁹ Ethnic armed groups allied to the Malian Government, as well as self-proclaimed 'self-defence groups' and militias such as the Arab MSA, Tuareg GATIA, Dongo Dan Na Ambassagou or Dozo have also for several years been fighting Islamist armed groups.¹⁰ The MSA left the CSP-PSD before its dissolution, but has remained allied with FAMA in their fight against the Islamic State in the Sahel.¹¹

FAMA were initially supported by international partners – the French Armed Forces and the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA).¹² However, France's mission came to an end on 9 November 2022,¹³ prior to the period under review. MINUSMA's mandate came to an end during the period under review,¹⁴ and the United Nations (UN) force had completely withdrawn by the end of 2023.¹⁵ The only remaining foreign military presence in Mali is the Wagner Group (or, as it is now known, the 'Africa Corps'),¹⁶ which has been deployed since December 2021 in support of the authorities in their operations against jihadist armed groups and now separatist armed groups.¹⁷

Conflict Classification

For the reporting period (1 July 2023–30 June 2024), three NIACs were ongoing in Mali:

- a NIAC between FAMa and JNIM
- a NIAC between FAMa and the Islamic State in the Sahel
- a NIAC between FAMa and CSP-PSD/CSP-DPA

The legal framework applicable to the three NIACs involving FAMa comprises Common Article 3 to the Geneva Conventions and customary international humanitarian law (IHL) in all cases. The conflict between FAMa and JNIM was also regulated by Additional Protocol II (Mali acceded to the Protocol in 1989). JNIM satisfies the criteria as set out in Article 1(1) of Additional Protocol II relating to territorial control. Since its emergence in 2017, JNIM has carried out numerous violent attacks against FAMa and entities supporting them, in particular Africa Corps/Wagner Group, and clashes between the opposing sides intensified during the period under review. JNIM, despite its decentralized structure, is led by a single commander (Iyad Ag Ghaly).¹⁸

The Islamic State for the Greater Sahara was founded in 2015, in the same year pledging allegiance to the Islamic State. The NIAC between FAMa, supported by Africa Corps/Wagner Group and allied militias, and the renamed Islamic State in the Sahel continued during the review period, despite relatively limited reported attacks by the group on the state armed forces.¹⁹ There were, however, several attacks by the group in which civilians were targeted.²⁰

Although NIACs between the FAMa and Tuareg separatist armed groups ended in the aftermath of the 2015 peace agreement between the Malian Government and the main movements for the liberation of Azawad,²¹ hostilities between the FAMa and Tuareg separatist groups resumed between August and September 2023.²² As noted above, the resumption of hostilities led to the dissolution of CSP-PSD, as well as of the CMA and Platform, and the creation of the CSP-DPA in April 2024, which is comprised of Tuareg separatist groups from the north, including former members of the CMA.²³ Since the start of hostilities, several clashes between the FAMa and the now CSP-DPA have been recorded.²⁴ The CSP-DPA is led by Bilal Ag Acherif, the leader of the MNLA.²⁵ Since the CSP-DPA displays sufficient stability, a NIAC is considered to exist between CSP-DPA and FAMa, supported by Africa Corps/Wagner Group and allied militias.

Given the doubts surrounding the fulfilment of organization criteria by the Dongo Dan Na Ambassador or Dozo militias, as well as the exact nature of their relations, these actors could not be equated to parties to the ongoing armed conflicts. As it remains unclear whether the fighting between JNIM and the Islamic State in the Sahel,²⁶ as well as other armed groups, has reached the required intensity for a non-international armed conflict, these clashes do not yet constitute separate NIACs.

International Humanitarian Law in Mali, 1 July 2023–30 June 2024

Conduct of Hostilities

Attacks Directed Against Civilians or of an Indiscriminate or Disproportionate Nature

The fighting in Mali has taken a heavy toll on civilians, who— according to the UN Secretary-General – have often been directly targeted by attacks by parties to the conflict.²⁷ Reports indicate that JNIM, the Islamic State in the Sahel and FAMA have all either directly attacked civilians or conducted indiscriminate or disproportionate attacks during the reporting period.

For instance, in Kidal, a Tuareg rebel stronghold in North-Eastern Mali, three FAMA drone strikes targeted the outskirts of two military camps and a gathering of ‘notables’ in the town on 7 November 2023. According to the CSP-PSD, 14 civilians, including 8 children, were killed and a further 30 wounded. Pictures of five bodies, including those of two young children, and three other bodies were shared with the media.²⁸ This appears *prima facie* to indicate a possibly disproportionate attack. In another incident, on 16 February 2024, an outdoor wedding in Konokassi (Segou region) was reportedly hit by a FAMA drone, causing the death of at least five men and two boys, and injuring three more. When villagers attempted to bury the dead on the following day, they were allegedly hit by a second drone strike, which killed five men and two boys and injured six others. According to the villagers, while JNIM controlled the area, no fighters were present during the wedding.²⁹ This appears *prima facie* to indicate a possibly indiscriminate attack. During the night of 17 March 2024, the Malian air force reportedly carried out two drone strikes hitting a car and makeshift shelter in the village of Amarakad (Gao), allegedly killing at least 13 civilians, including seven children between the ages of 2 and 17, and injuring over a dozen others. FAMA stated that the air-strikes ‘contributed to neutralizing many terrorists and some of their vehicles’. This was contradicted by seven survivors and witnesses interviewed by Amnesty International.³⁰ In this case, also, there are *prima facie* indications of a possibly disproportionate attack.

Non-state armed groups have also engaged in regular unlawful attacks affecting civilians. For example, on 7 September 2023, fighters believed to be affiliated to JNIM were reported to have fired at least three rockets at a boat travelling on the Niger River from Gao to Mopti, which subsequently caught fire. While varying casualty figures were reported, estimates ranged from at least 49 civilian deaths up to 120. Fatalities resulted from drowning as well as from gunfire and the blaze aboard the boat. According to reports, a few FAMA soldiers were also present on the boat to ensure the safety of passengers, who exchanged gunfire with the fighters. The attack was reportedly linked to the enforcement of JNIM’s siege of the city of Timbuktu, discussed below (‘Sieges and Starvation of the Civilian Population as a Method of Warfare’).³¹ While targeting FAMA soldiers would not necessarily violate IHL, the expected civilian harm appeared to be clearly excessive compared to the anticipated military advantage, which indicates that the attack may have been disproportionate and, thus, unlawful.

Human Rights Watch also reported an attack conducted by JNIM on 27 January 2024 on the villages of Ogota and Ouémbé in Mopti region, which is populated mainly by ethnic Dogon. This was apparently a retaliation for the refusal of some members of the Dan Na Ambassagou militia to lay down their arms, despite an agreement with JNIM to do so. As a result, 28 villagers in Ogota, of whom 3 were children, and 4 villagers in Ouémbé were reported killed, while 150 homes in Ogota and 130 homes in Ouémbé were also apparently burnt down. Witnesses described the attackers invading the villages, shooting at everything that moved for over an hour, and then setting the villages on fire. JNIM is said to have returned on 1 February 2024 to burn down the remaining homes.³²

Means of Warfare

Landmines and Other Explosive Devices

Non-state armed groups continue to use a range of improvised explosive devices (IEDs) in the conduct of hostilities in Mali. The widespread use of IEDs, some of which constituted anti-personnel mines, caused a significant number of civilian casualties in 2023.³³ According to Mines Advisory Group (MAG), for instance, armed conflicts in Central and Northern Mali have left the region highly affected by landmines and unexploded ordnance, threatening people's lives and livelihoods.³⁴ The Armed Conflict Location and Event Data Project (ACLED) recorded 200 incidents involving emplaced explosive devices during the reporting period,³⁵ and the UN Office for the Coordination of Humanitarian Affairs (OCHA) reported that the number of incidents linked to the presence of explosive devices was already higher in the first five months of 2024 than it was in the whole of 2022 or 2023 respectively.³⁶ The presence of such devices increases the risk of civilian harm, with no mine action operators remaining active in the area since the departure of MINUSMA.³⁷

Some devices used by non-state armed groups may constitute improvised anti-vehicle mines. On 11 March 2024, a goods truck leaving the market of Delimane drove over an IED thought to have been laid by the Islamic State in the Sahel. Three civilians were killed and a fourth was injured in the explosion.³⁸ On 4 May 2024, a cart with civilians aboard struck an IED likely planted by JNIM militants between Boni and Isseye (Douentza, Mopti), killing three civilians and injuring another.³⁹ These incidents raise concern about the risk of indiscriminate effects from the use of these weapons.

As with any other weapon, the use of IEDs is subject to the fundamental rules of IHL governing the conduct of hostilities, such as the principle of distinction – including the prohibition of indiscriminate attacks – and the principle of proportionality.⁴⁰ This is especially relevant if IEDs are used in areas frequented by civilians and if their detonation cannot be controlled. All parties to the conflict are also required to 'take all feasible precautions in the choice of means and methods of warfare' so as to avoid or minimize incidental civilian injuries or loss of life.⁴¹

Types of IEDs employed in the conflict in Mali also include devices that are victim-activated and meet the definition of an anti-personnel mine in the 1997 Anti-Personnel Mine Ban Convention to which Mali is a state party.⁴² The Convention prohibits all use of anti-personnel mines by any state actor. Mali is also a state party to the Convention on Certain Conventional Weapons and its protocols restricting

the use of all landmines, including anti-vehicle mines (1980 Protocol II and 1996 Amended Protocol II). The Amended Protocol II applies to all parties to a NIAC.⁴³

Methods of Warfare

Sieges and Starvation of the Civilian Population as a Method of Warfare

Non-state armed groups in Mali are imposing movement restrictions and checkpoints and using siege tactics in different parts of the country. These practices impede affected communities' access to food and other essential goods (see also below 'Protection of Humanitarian Relief Personnel and Objects' and 'Humanitarian Access and Facilitation of the Passage of Humanitarian Relief'), and sometimes force people to leave towns. On certain occasions, such tactics were reportedly used by certain groups because of a community's perceived support of the government.⁴⁴

According to reports, Timbuktu was besieged by JNIM in early August 2023 following the withdrawal of MINUSMA and FAMA's reoccupation of the Goundam and Ber military camps in the Timbuktu region. Initially, JNIM is said to have warned trucks against entering Timbuktu and threatened to attack those attempting to enter the city. By mid-August, all roads linking Timbuktu to Southern Mali, as well as connections via the Niger River, were reportedly blocked.⁴⁵ In September 2023, the only commercial airline still serving Timbuktu cancelled its flights for security reasons.⁴⁶ Reports mention that, as a result, by mid-October 2023, the 136,000 inhabitants of the besieged city (including 74,000 children) were facing a severe shortage of food, fuel and medicines, the prices of which had skyrocketed.⁴⁷ In December 2023 JNIM is reported to have temporarily eased the siege, allowing food trucks to enter and some flights to Bamako to resume. However, upon allegations of FAMA exploiting the lifting for military purposes, JNIM apparently reinstated the siege several weeks later.⁴⁸

Ménaka came under siege by the Islamic State in the Sahel in early 2024, with access to the town reportedly blocked and goods trucks turned back as from January 2024.⁴⁹ Various sources indicate that by May 2024, more than 140,000 people were trapped in the town and were in desperate need of basic necessities. Over 80,000 were reportedly children, a third of whom were displaced and often unaccompanied. Reports state that 40,000 people were suffering from hunger and 800 faced catastrophic food insecurity.⁵⁰ According to Save the Children, the situation in Ménaka had deteriorated considerably by June 2024, with only a very limited amount of essential supplies allowed into the city.⁵¹

In the first half of 2024, it was further reported that all movements to and from Boni (Central Mali) had been blocked for several months, with only sporadic exceptions, resulting in an acute shortage of basic necessities, with prices soaring to unprecedented levels.⁵²

Looting and property destruction have also been recurrent practices of both state forces and non-state armed groups in the various armed conflicts in Mali. Thus, ACLED reported 263 events of looting and property destruction in the reporting period, including the seizure of livestock, vehicles, fuel and money.⁵³ Examples of reported looting in conjunction with other potential IHL violations can be also seen below, 'Murder/Summary Execution, Torture and Inhumane Treatment'.

Parties to armed conflict are prohibited from using starvation as a method of warfare by depriving them of objects indispensable to their survival, including

by impeding relief supplies. This is a serious violation of IHL.⁵⁴ They are therefore prohibited from attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population, such as food, crops, livestock and drinking water installations.⁵⁵ Furthermore, the theft of civilian property by a party to an armed conflict breaches the prohibition on pillage.⁵⁶

Treatment of Persons

Murder/Summary Execution, Torture and Inhumane Treatment

FAMa, accompanied by Africa Corps/Wagner Group, have allegedly arrested, abducted, killed and tortured civilians, or threatened them with such acts of violence. Such incidents were generally reported during ‘counter-terrorism’ operations and/or in retaliation for armed group attacks in Central and Northern Mali, and often appeared to target victims on the basis of their ethnicity. Non-state armed groups were also reported to have committed such acts. The UN Secretary-General reported that 1,300 civilians were killed in security incidents in 2023.⁵⁷

Among many examples of such conduct, Human Rights Watch has reported that on 27 July 2023, FAMa soldiers summarily executed four men and 17 year-old boy in Gadougou, an ethnic Fulani settlement in Nara region, where JNIM operates. Witnesses stated that the soldiers were searching for Islamist fighters and targeted the victims on the basis of their ethnicity, accusing Fulani of being jihadists.⁵⁸ On 6 August 2023, FAMa soldiers and associated ‘white’ fighters reportedly conducted home raids and arrested 16 men aged between 20 and 87, along with a 15 year-old boy in Sambani (Timbuktu), accusing them of collaborating with Islamist groups on the grounds that they did not have their identity cards or were wearing short pants and a beard. Soldiers and fighters also reportedly looted motorcycles. The following day, villagers apparently found the bodies of those arrested about one kilometre from Sambani, bearing signs of torture such as severed ears, wounds to the shoulders and back, as well as broken arms and bullet wounds to the head.⁵⁹ On 5 October 2023, FAMa soldiers accompanied by Africa Corps/Wagner Group personnel are said to have extrajudicially executed 17 Tuareg villagers in Ersane in Bourem district, Gao region, where a lull in hostilities had been recorded at that time. Media and local sources reported that all the victims had been beheaded, 15 of the bodies had been booby-trapped, and water sources and shops had been destroyed.⁶⁰

The intensification of JNIM attacks against FAMa positions in Northern Mali in early 2024 led to a further reported rise in violence against civilians by FAMa and Africa Corps/Wagner Group.⁶¹ For the period between December 2023 and January 2024 alone, reports of such incidents included the murder and possible torture of 21 to 27 men and one woman on the day of the weekly fair in the village of Gatie Loumo (Mopti region) on 18 December 2023. FAMa soldiers and Wagner fighters are said to have also looted motorcycles, stores and money. The murder and looting were allegedly committed based on suspicions of collaboration with and/or membership of Islamist armed groups. FAMa claimed to have ‘neutralized’ 11 terrorists during the operation.⁶²

On 26 January 2024, in the village of Ouro Fero (also called Welingara), various sources report that FAMa, accompanied by Wagner Group personnel, carried out door-to-door searches for Islamist fighters, during which they are reported to have arrested 25 male civilians, including a man with poor eyesight and four boys

(aged 12 to 16). The bodies of the victims, bound and blindfolded, were reportedly found the same day four kilometres away, having apparently been shot and burned. The operation was allegedly conducted in retaliation to an attack on a military base in Mourdiah carried out on 25 December 2023 and claimed by JNIM.⁶³ In another incident, on 8 May 2024, FAMA and Africa Corps/Wagner Group personnel killed two men and one boy in Barikoro, a village in an area under the control of the JNIM. They claimed to be looking for ethnic Fulani men who they thought were collaborating with JNIM. Several bodies were later found riddled by bullets.⁶⁴

Non-state armed groups were similarly reported to have carried out multiple summary executions. For instance, on 6 August 2023, JNIM are reported to have stormed the village of Bodio, killing 15 civilians between 18 and 81 years of age. Sources state that they also looted livestock and civilian property and burned down at least 10 houses. These acts were said to be retaliation against villagers for having broken an agreement with JNIM, under pressure from a joint patrol of FAMA, Wagner and Dan Na Ambassagou militia. All the civilians killed were said to have been shot in the head. As a result, the vast majority of the villagers reportedly left Bodio to go to Bandiagara to find shelter in a school.⁶⁵

On 25 June 2024, JNIM reportedly shot two men in the head and burned at least 10 homes in the village of Tégourou. According to the witnesses, they acted in retaliation for the community's alleged collaboration with Dan Na Ambassagou militia.⁶⁶ On 19 June 2024, Islamic State in the Sahel fighters are alleged to have murdered four fishermen in Lellehoye village (Ansongo, Gao).⁶⁷ Murder, torture and other inhumane treatment committed in connection with an armed conflict are serious violations of IHL and war crimes.⁶⁸

Conflict-Related Sexual Violence

In 2023 the UN Secretary-General reported cases of rape, gang rape, forced marriage, abduction and trafficking for sexual exploitation of civilians, particularly affecting displaced women and girls. These practices are reported to be perpetrated mainly by non-state armed groups, but also by state actors.⁶⁹ Conflict-related sexual violence in Mali has been growing as the presence of armed actors has increased.⁷⁰ The termination of MINUSMA has significantly hampered the ability of humanitarian actors to monitor the prevalence of sexual violence, leading to significant underreporting of the phenomenon and even greater socio-economic exclusion of the survivors.⁷¹ Support to survivors has also been impaired due to attacks on healthcare centres.⁷²

According to the UN Secretary-General, in 2023, humanitarian actors recorded 158 instances of conflict-related sexual violence perpetrated against 90 women and 68 girls, 65 percent of whom were displaced.⁷³ The majority of these cases involved rape, forced marriage and sexual exploitation, and were committed by non-state armed groups.⁷⁴ The Global Protection Cluster reported more than 1,200 cases of conflict-related sexual violence in the first half of 2024, mostly affecting women and girls (98 percent) but also men and boys in some instances.⁷⁵

Rape and other forms of sexual violence are serious violations of IHL and war crimes.⁷⁶

Conflict-Related Displacement

A range of factors related to the armed conflicts have led to civilians deciding to move to 'safer' areas in Mali. According to the Internal Displacement Monitoring Centre (IDMC), in 2023 there were 152,000 new displacements involving a total of 344,000 internally-displaced persons (IDPs).⁷⁷ According to Human Rights Watch, by late August 2024, more than 600,000 Malians were displaced both inside and outside the country.⁷⁸ Displacement per se, however, is not an IHL violation, as civilians may be fleeing hostilities, even those lawfully conducted, for their own safety. They may also flee for fear of hostilities that have not yet reached them.

Under IHL, parties to a NIAC are prohibited from ordering displacement of the civilian population in relation to the conflict, except to ensure the safety of civilians or for imperative military reasons.⁷⁹ Multiple cases of orders given by the parties to the conflict to leave villages or coercion leading to displacement were recorded by ACLED during the reporting period.⁸⁰ On 15 July 2023, for instance, the residents of the village of Tawarde (Gao) were ordered by JNIM to leave the village and the surrounding area. Some sources claimed that the order had been issued to ensure the safety of the population, while others alleged that the residents, who belong to the Chamanamass and Imagrane Tuareg communities, were displaced on the grounds that they supported the Islamic State in the Sahel.⁸¹ In another incident, following the killing of around 40 civilians by FAMA and Africa Corps/Wagner Group personnel on 19 May 2024 in the village of Amassine (Kidal), all the inhabitants left the village a week later.⁸²

Concerns Relating to Deprivation of Liberty in Armed Conflict

Arbitrary Deprivation of Liberty and Hostage-Taking

On 16 April 2024, JNIM allegedly kidnapped 110 civilians aboard a public bus travelling between Bandiagara and Bankass towns (Mopti region).⁸³ Local authorities reportedly signed informal agreements with the armed group, allowing dozens of hostages to be released on 24 April 2024.⁸⁴

The kidnapping of civilians in connection with an armed conflict is prohibited as an arbitrary deprivation of liberty.⁸⁵ Where this is done to compel a third party to do or to abstain from doing any act as an explicit or implicit condition for release, the situation is likely to constitute hostage-taking, which is a serious violation of IHL.⁸⁶

Humanitarian Relief

Protection of Humanitarian Relief Personnel and Objects

According to sources, humanitarian personnel has also been exposed to violence by the parties to the conflict. Twenty-eight acts of violence against humanitarian workers were reported for 2023, mainly kidnapping followed by shootings. These acts allegedly were mainly committed by JNIM, but also by Africa Corps/Wagner

Group personnel (and in one instance, the Islamic State in the Sahel).⁸⁷ The situation subsequently worsened, with 151 incidents of violence against humanitarian personnel reported in the first half of 2024. This included two people who were killed and seven others who were abducted or deprived of their liberty.⁸⁸

Parties to armed conflicts are obliged to respect and protect humanitarian relief personnel and objects.⁸⁹

Humanitarian Access and Facilitation of the Passage of Humanitarian Relief

For 2023, the UN Secretary-General reported 67 incidents of denial of humanitarian access in Mali. These mainly involved non-state armed groups (notably JNIM and IGSG) but also FAMA.⁹⁰ For example, since the middle of 2022, it has been reported that the road leading to Boni (central Mali) has been regularly blocked by JNIM in retaliation for the inhabitants' suspected cooperation with FAMA.⁹¹ Instances of bureaucratic impediments to humanitarian action were also noted.⁹²

Parties to a conflict may not arbitrarily withhold their consent to humanitarian relief for civilian populations in need, and they are obliged to authorize and facilitate the rapid and unimpeded passage of humanitarian aid, subject to their right of control.⁹³

Medical Care

Respect for and Protection of Medical Personnel, Units, and Transports

There have been persistent reports of the targeting of medical personnel and facilities. For 2023, the UN Secretary-General reported numerous attacks against medical centres, including six attacks against hospitals.⁹⁴ The main perpetrator was said to be JNIM, but a number of attacks were also ascribed to FAMA and Africa Corps/Wagner Group personnel, Islamic State in the Sahel, Dozo militia and GATIA.⁹⁵ Over the first half of 2024, 16 incidents of violence against healthcare personnel and facilities by armed actors were reported. As a result, one medical staff member was killed and eight others were kidnapped.⁹⁶ The kidnappings took place when the medical personnel were travelling to remote areas to provide care. Often, the perpetrators reportedly wanted to steal the vehicle and/or obtain a ransom.⁹⁷ Africa Corps/Wagner Group personnel reportedly quadrupled their attacks against medical facilities and personnel between 2022 and 2023.⁹⁸

Specific Vulnerabilities

Elderly People and People With Disabilities

The elderly and people with disabilities, often unable to flee, have reportedly been victims of attacks or acts of violence as a result. For instance, Human Rights Watch documented that on 23 January 2024 in Nienanpela village, a 75 year-old man who was unable to flee was executed by FAMA and Africa Corps/Wagner Group fighters.⁹⁹

Furthermore, according to the UN Population Fund, women and girls with disabilities are up to ten times more at risk of sexual violence in Mali because of their disability.¹⁰⁰

Child Recruitment and Use in Hostilities

An issue of particular concern is the number of children who have been recruited or used by parties to the armed conflicts in Mali. In this regard, the UN Committee on the Rights of the Child has expressed its deep concern about ‘widespread recruitment and use of children by armed groups in the regions affected by armed conflict’ in the country.¹⁰¹ The UN Secretary-General’s report on the issue of children and armed conflict for 2023 indicated that 691 children (660 boys, 31 girls) under the age of 18 years were recruited and used in hostilities by various actors in Mali. FAMA, as well as the Islamic State in the Sahel and JNIM, also reportedly used children in support roles in 2023.¹⁰² Treaties to which Mali is a state party mandate a minimum age of 18 for recruitment and participation in hostilities.¹⁰³

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MOZAMBIQUE

During the reporting period, the armed forces of Mozambique (FADM) were involved in a non-international armed conflict (NIAC) against the Islamic State Mozambique Province (ISM). The FADM were supported by the armed forces of Rwanda, Tanzania and South Africa, as well as the Southern African Development Community Mission in Mozambique (SAMIM) until 8 July 2024.

During the reporting period, there were consistent reports of direct attacks against and abuse of the civilian population, mostly by the ISM. ISM violence often reportedly focused on Christian populations, resulting in massive displacement of vulnerable populations following attacks, or even when the nearby presence of ISM fighters was only rumoured. Insecurity caused by the activities of non-state armed groups and unpredictable acts of violence reportedly disrupted the safe passage of aid convoys. Furthermore, insecurity and attacks against relief personnel are reported to have led to the suspension of humanitarian activities. The destruction and seizure of civilian property reportedly was a recurring practice of the ISM, occurring in almost every attack, especially with the renewed intensity of the conflict from early 2024. This included reports of destruction of houses, churches, schools and hospitals, and looting of villages. These reported practices raise concerns, among others, regarding respect for the international humanitarian law (IHL) principle of distinction, prohibitions on unnecessary destruction and the pillage of property (particularly objects indispensable to the survival of the civilian population) and the special protection of humanitarian and medical personnel and facilities, as well as places of worship. There are also concerns regarding the use of violence aimed at spreading terror among the civilian population, on the part of the ISM.

Other reported practices raising concerns regarding potential serious violations of IHL (mostly on the part of ISM) include conflict-related sexual violence; murders and summary executions; conflict-related displacement; and arbitrary deprivation of liberty (in the form of abductions). Regarding children specifically, there are particular concerns about killings, abductions, sexual violence, displacement and recruitment of children by the ISM, as well as the exacerbation of other child protection concerns by the conflict and related insecurity.

Conflict Overview

A non-international armed conflict (NIAC) continued during the reporting period between Mozambique and the Islamic State Mozambique Province (ISM), also known as Al-Sunna Wal-Jamma and Al-Shabaab, in Cabo Delgado province in the north of the country. Mozambique's state armed forces are supported by those of Rwanda, Tanzania and South Africa, as well as the Southern African Development Community (SADC) Mission in Mozambique (SAMIM).¹ This conflict maintained a low level of intensity during the second half of 2023. There was a spike in activity from January 2024 onwards, following seasonal patterns of intensity after the rainy season and the holy month of Ramadan. Since Rwanda's and SAMIM's intervention in July 2021 and the retreat of ISM from their positions in Mocimbo do Praia town in August 2021, the intensity of the conflict has progressively decreased. Nevertheless, there were relevant developments pertaining to the various conflict parties during the reporting period.

Despite some fluctuations, ISM has remained in control of territory in the Macomia district. More concretely, this territory is comprised of the Catupa forest, a 40 kilometre strip along the coast between the villages of Quiterajo and Pangane,² and territory in the Chai administrative post, south east of Chai village. ISM also has a smaller presence in the south of Mocímboa da Praia district.³ Throughout the last six months of 2023, the situation remained largely unchanged, with the lowest levels of intensity since the start of the conflict. This lull followed the killing of Bonomade Machude Omar, the operational leader of the insurgent group in August 2023.⁴ Nevertheless, by the end of 2023, ISM managed to modestly expand its presence towards the west, along the Messalo River in the Muidumbe district.⁵

During the first six months of 2024, ISM intensified its activities.⁶ ISM is reported to have taken advantage of the lack of offensive action from Mozambican and supporting states' troops and the beginning of SAMIM's withdrawal, and used that momentum to consolidate and expand its presence. Concretely, control of Mucojo village was retaken by ISM in February 2024,⁷ followed by other tactical victories, such as taking control of Quissanga for some days in March 2024,⁸ and of Macomia town on 10 May 2024.⁹ June 2024 saw another decline in ISM's activities,¹⁰ following its defeat on 29 May 2024, when the Rwandan Security Forces successfully repelled ISM's attack to Mbau, reportedly killing dozens of its fighters. Throughout the reporting period, ISM has enjoyed mostly unhindered freedom of movement across the territories under its control,¹¹ and ISM's control over those territories continued beyond the current reporting period.¹²

On the other side of the conflict, there were significant changes pertaining to the forces supporting Mozambique's efforts against ISM. These included, most notably, a decision that SAMIM would end by 15 July 2024.¹³ By April 2024, SAMIM troops started a phased draw-down,¹⁴ concluding the withdrawal on 8 July 2024.¹⁵ Following concerns of security gaps due to SAMIM's withdrawal, other states increased their support on a bilateral basis. Rwanda committed 2,500 additional troops, which deployed in May 2024.¹⁶ In January 2024, Tanzania recommitted to continuing its bilateral support of Mozambique.¹⁷ Tanzania's forces continued their operations despite SAMIM's withdrawal.¹⁸ Likewise, on 16 April 2024, South Africa extended, on a bilateral basis, the deployment of its 1,500-strong force that was already located in Mozambique as part of SAMIM.¹⁹

The centre of ISM's activity was in and around the districts of Macomia,

Mocímboa da Praia and Muidumbe,²⁰ although the geographical range of activities of the group expanded to the districts of Chiúre, Ancuabe, Pemba, Quissanga, and the southernmost districts of Cabo Delgado, as the reporting period progressed.²¹ Regular clashes were reported, with significant casualties on both sides. It is estimated that ISM has around 250-300 active fighters.²²

On the northern front, no further cross-border attacks from ISM in Tanzania have been reported since 2022. The Namoto border crossing between Cabo Delgado and Tanzania opened in September 2023, followed by six other posts on the northern border of Mozambique in October 2023.²³ However, Tanzania maintained a strict policy of returning migrants from Mozambique, as well as a strong military presence along the border.²⁴

Finally, the reporting period saw the consolidation of local militias devoted to fighting against the ISM, most notably the Naparamas and Força Local, ostensibly in support of the Mozambican forces. These militias appear to be contributing to escalating conflict dynamics, and they are likely to become increasingly significant actors in the future.

Conflict Classification

During the reporting period, the armed forces of Mozambique (FADM) were involved in a NIAC against ISM. FADM were supported by SAMIM until 8 July 2024,²⁵ as well as the armed forces of Rwanda, Tanzania²⁶ and South Africa.

Despite the decrease in the estimated number of ISM fighters²⁷ and the killing of its leader in August 2023, ISM maintained its armed violence against state and international forces. ISM operated in small mobile groups and cells with increasing sophistication,²⁸ and was able to conduct multi-pronged assaults on state positions,²⁹ as well as gather and exploit tactical evidence to repeatedly ambush state and supporting forces.³⁰

Thus, the NIAC between the Government of Mozambique and ISM is regulated by Common Article 3 (CA3) of the Geneva Conventions 1949, Additional Protocol II (to which Mozambique adhered in 2002), and rules of customary international law applicable in NIACs.

International Humanitarian Law in Mozambique, 1 July 2023–30 June 2024

As set out below, among other concerning allegations arising from the conflict in Mozambique, there were consistent reports of direct attacks against and abuse of the civilian population, mostly by ISM. ISM violence often reportedly focused on Christian populations, resulting in massive displacement of vulnerable populations following attacks or even when the nearby presence of ISM fighters was only rumoured.³¹

Additionally, the growing discontent of Cabo Delgado's population with the perceived performance of FADM and its supporting forces led to sporadic tensions and violence affecting the civilian population.

A lack of detailed information made it somewhat difficult to assess whether the reported harm to civilians during some reported incidents occurred as part of

the conduct of hostilities, or while a person was under the control of the armed group. Regardless, the incidents demonstrate a concerning pattern of violence used to instigate fear, forcefully impose religiously motivated norms and punish civilians for their perceived collaboration with state or insurrectional forces. Some of the reported conduct raises concerns about respect for the international humanitarian law (IHL) prohibition on acts or threats of violence with the primary purpose of spreading terror among the civilian population,³² in addition to fundamental IHL rules protecting civilians and civilian objects.

Conduct of Hostilities

Attacks Directed Against Civilians, or of an Indiscriminate or Disproportionate Nature

The armed conflict in Mozambique was marked by recurrent reports of direct attacks against the civilian population and civilian objects during the reporting period, particularly by ISM. A shift in the group's strategy and intensity of its activities can be observed as from the start of 2024, coinciding with the call from the Islamic State in Iraq and Syria (ISIS) to 'kill them wherever you find them'.³³ During 2023, the group was reported to have focused its attacks mostly on state and supporting forces,³⁴ with a reported 38 per cent of incidents targeting civilians.³⁵ In early 2024, the number of ISM attacks reportedly tripled, and the percentage of reported incidents targeting civilians also increased dramatically to over 70 per cent.³⁶

In one reported set of incidents in November 2023, ISM reportedly conducted several attacks against different villages, with dozens of victims.³⁷ On 5 January 2024, ISM reportedly killed four civilians in Chibanga, including a Médecins Sans Frontières local community worker.³⁸ In May 2024, the village of Musufina was allegedly raided by ISM, wounding civilians and destroying houses.³⁹ During the attacks on Mbau in June 2024, at least three civilians, including a child, were reportedly killed.⁴⁰

Such ISM attacks appeared to be mostly motivated on religious grounds, with Christians as the primary target. For example, on 3 September 2023, ISM fighters reportedly assaulted several civilians for wearing shorts instead of trousers. In the same month, in the settlement of Naquitengue near Mbau, ISM reportedly separated Christians from a group of civilians and shot them.⁴¹ In the same month, in the settlement of Naquitengue, ISM rounded up a group of individuals, grouped them according to religion and killed Christians, also destroying their houses – something which ISM amplified on its media platforms.⁴² (See also below, 'Destruction and Seizure of Property'; below, 'Summary Executions/Murder'.)

Certain ISM attacks, conducted shortly after tactical defeats against the armed forces, appeared to be of a retaliatory nature. For example, the above-mentioned ISM attack targeting the village of Naquitengue appeared to have been in retaliation for the August 2023 killing of ISM leader Bonomade Machude Omar mentioned above.⁴³ In addition, insecurity caused by the activity of non-state armed groups and unpredictable acts of violence reportedly disrupted the safe passage of aid convoys.⁴⁴ This situation was said to have been aggravated during seasonal rains and floods. Furthermore, insecurity and attacks against relief personnel are reported to have led to the suspension of humanitarian activities.⁴⁵

In other instances, Mozambican forces were accused of directly attacking civilians suspected of being part of ISM, or conducting indiscriminate attacks.⁴⁶ For

example, in January 2024, the Mozambican navy reportedly attacked a boat, killing all of the estimated 30 people on board.⁴⁷ A similar incident reportedly occurred shortly afterwards, where a boat was allegedly fired upon, killing 12 fishermen on board.⁴⁸ Although it is not possible to conclude whether these attacks contravene applicable IHL, the number of reported victims and the seeming lack of measures taken to spare the civilian population might signal a violation of the principles of proportionality and precaution in attack by the Mozambican armed forces.

Destruction and Seizure of Property

The destruction and seizure of civilian property reportedly was a recurring practice of ISM, occurring in almost every attack, especially with the renewed intensity of the conflict from early 2024. This included reports of the destruction of houses, churches, schools and hospitals, and looting of villages.

The reported destruction of civilian infrastructure appears to have been motivated by religious factors, as churches and property of Christian civilians were said to have been deliberately targeted. ISM routinely claimed these acts as attacks against ‘Christian’ villages. For example, on 3 January 2024, ISM reportedly attacked Ntotwe, setting stalls and dozens of houses on fire.⁴⁹ Similar attacks were reported two days later at Chimbanga, Anotadora and Chinda, where the armed group claimed to have burned down 70 houses.⁵⁰ Reported attacks with a clearly religious motivation continued throughout January 2024, peaking in the month of February, when ISM claimed to have burnt down 18 churches in just three weeks.⁵¹ For instance, in February 2024, ISM reportedly attacked the village of Nacoja, burning down churches and houses,⁵² as well as the post office, houses, a hospital, a church and a market in Mazeze.⁵³ These patterns of attacks continued throughout the following months. Noteworthy incidents include a reported attack on 25 April 2024 in Nassiua, where the group claimed the burning of a church, two ‘Christian’ schools, vehicles and many houses,⁵⁴ and a reported attack on 3 May 2024 in Nacoja, also involving the burning of large numbers of houses.⁵⁵

The reported looting and seizure of weapons, ammunition, food, livestock, medical supplies, vehicles and other goods also appeared to be an indispensable element of ISM attacks. During its offensive on Quissanga, where ISM remained for 17 days in March 2024, fighters allegedly looted several stores, medical vehicles, building materials and foodstuffs.⁵⁶ From 4 March 2024, ISM conducted an offensive on Quirimba island, allegedly looting shops, residences and cattle farms over several days.⁵⁷ During the takeover of Macomia on 10 May 2024, ISM is reported to have systematically looted the town, including international non-governmental organization (NGO) warehouses and vehicles, and distributed some of the looted goods among residents.⁵⁸ The alleged looting of vehicles marked with a humanitarian organization’s logo raises concerns about their potential misuse by ISM. ISM also reportedly set up roadblocks near Nagororo on 11 February 2024, stopping buses and forcing passengers to hand over their belongings,⁵⁹ and near Quissanga on 17 February 2024, exhorting drivers to pay a fee.⁶⁰

The widespread practice of looting and destruction of property, coupled with the systematic violence accompanying it, has reportedly further compounded the humanitarian consequences of the armed conflict on the civilian population: exacerbating their suffering, undermining their safety and wellbeing, and placing additional strain on an already fragile healthcare system.⁶¹ This conduct raises serious concerns regarding respect for IHL rules protecting civilian objects from

attack – including more specific rules prohibiting destruction or wilful damage to cultural property, including institutions dedicated to religion and education; prohibiting attacks on, or the destruction, removing or rendering useless of objects indispensable to the survival of the civilian population; and requiring respect for and protection of medical and humanitarian objects. IHL also prohibits pillage and the destruction or seizure of the property of an adversary unless required by imperative military necessity.⁶²

Treatment of Persons

Conflict-Related Sexual Violence

As is frequently the case concerning sexual and gender-based violence, precise information and reporting on this issue remained limited. The United Nations (UN) Secretary-General's 2023 thematic report on children in armed conflict documented 12 incidents of sexual violence against 12 girls—five attributed to the Mozambique Armed Forces, three to the Rapid Intervention Unit of the police and four to armed groups.⁶³ Other reported incidents of sexual violence included alleged rapes by members of the Mozambican Armed Forces in Nangade district on 24 July 2023⁶⁴ and on the road towards Mucojo in June 2024.⁶⁵

Furthermore, the abduction and sexual exploitation of girls by ISM remained a significant concern during the reporting period.⁶⁶ Alleged kidnappings of women and girls were reported, for example, on 16 November 2023, when 11 girls were reportedly abducted from Mapate,⁶⁷ and in late January 2024, when a woman and children were reportedly kidnapped in Impiri.⁶⁸

Summary Executions/Murder

ISM attacks against villages reportedly were often accompanied by extrajudicial executions of civilians, frequently through beheadings. This contravenes fundamental IHL rules requiring humane treatment and prohibiting murder. It also raises serious concerns regarding the prohibition on violence with the primary purpose of spreading terror among the civilian population. For example, on 17 July 2023, the bodies of two decapitated fishermen were reportedly found by locals.⁶⁹ The executions appear to occur without provocation and sometimes through chance encounters. Nevertheless, the beheadings are allegedly being used primarily as a form of punishment against practices incompatible with ISM's interpretation of Shari'a law, which is said to translate into significant targeting of people of Christian faith. Reported incidents include, on 9 July 2023, two fishermen being captured near Litamanda with one, believed to be a Christian, beheaded, while the other, believed to be Muslim, released.⁷⁰ On 13 October 2023, a group of hunters were reportedly attacked and two were beheaded.⁷¹ On 17 February 2024, four people were reportedly beheaded in Magaia village.⁷² On 7 March 2024, coinciding with the Mozambican Women's Day celebration, five women were reportedly kidnapped and beheaded in Namaluco.⁷³ On 9 April 2024, insurgents allegedly beheaded at least four people in the same village, who were making a traditional alcoholic drink.⁷⁴ The frequency of this practice appeared to spread terror amongst the civilian population in Cabo Delgado, an effect reportedly only strengthened by ISM's dissemination of their actions on their media channels.⁷⁵

Incidents of killing and mistreatment of civilians perpetrated by FADM were also reported, although fewer in number compared to those attributed to ISM. For example, in January 2024, it was reported that the armed forces killed three young men in villages surrounding Mucojo, in at least one case seemingly perceiving the man to be a member of ISM.⁷⁶ This reportedly incited the withdrawal of FADM troops from the village and its subsequent capture by ISM. On 6 February 2024, FADM allegedly beat and burned more than ten people, as well as verbally abusing them, accusing them of collaboration with ISM.⁷⁷ On 12 March 2024, a civilian was allegedly beaten to death by two members of the armed forces, who were later arrested.⁷⁸ Although SAMIM denied the involvement of its troops,⁷⁹ South African soldiers who were part of SAMIM allegedly shot a civilian in July 2023, hitting him in both legs before abandoning him.⁸⁰

Conflict-Related Displacement

The armed conflict in Mozambique continued to displace thousands of people in the reporting period. By the end of 2023, 76 per cent of Mozambique's internally displaced persons (IDPs) were in Cabo Delgado – an estimate of over 542,000 people,⁸¹ almost all of whom were displaced due to the armed conflict.

By the end of the reporting period, the number of IDPs from Cabo Delgado decreased to 541,400,⁸² indicating that some people were able to return to their homes. However, significant and concerning trends of displacement were observed during the reporting period, particularly during the first six months of 2024, reflecting the renewed intensity of the conflict and the expansion of ISM activity. For example, between 26 December 2023 and 17 January 2024, the International Organization for Migration (IOM) recorded 5,343 forced internal displacements due to attacks or fear of attacks. This number represented an increase compared to previous months, but shortly afterwards displacement numbers again surged. Between 8 February and 3 March 2024, following the takeover of Mucojo and Quisanga, the IOM recorded over 99,000 forced internal displacements, peaking on 17 February 2024 with over 17,500 displacements.⁸³ Most of these displaced persons had reportedly returned to their houses within a month.⁸⁴

Similarly, from 17 April to 5 May 2024, IOM registered over 54,000 forced internal displacements, all due to attacks or fear of being attacked.⁸⁵ Thousands of displacements were also recorded in the months prior to and between these peaks. However, a sharp decline was observed in June 2024, with displacement numbers barely surpassing 350.⁸⁶

The continuous clashes and attacks, the prevailing sense of insecurity and the ease with which ISM moves throughout the districts of Cabo Delgado, coupled with the destruction of property and the brutality of the armed group, reportedly led to these high and volatile displacement figures. As mentioned above, the fear instilled by ISM's activities, particularly among the Christian population, at times led to entire communities fleeing at the mere rumour of the group's presence.⁸⁷

Under customary IHL, parties to a NIAC are prohibited from ordering the displacement of the civilian population in relation to the conflict, except to ensure the safety of the civilians concerned, or for imperative military reasons. In any event, state practice also 'underlines the duty of parties to a conflict to prevent displacement caused by their own acts, at least those acts which are prohibited in and of themselves', such as attacks on civilians, indiscriminate attacks or violence aimed at spreading terror among the civilian population.⁸⁸

Concerns Related to Deprivation of Liberty in Armed Conflict

Arbitrary Deprivation of Liberty

Reports indicated an ongoing pattern of abductions in violation of fundamental IHL rules requiring the humane treatment of civilians and prohibiting the arbitrary deprivation of liberty. There are several reported cases of abductions by ISM when attacking villages. For example, on 20 September 2023, the armed group reportedly attempted to round up around 200 people, allegedly for forced recruitment, but ultimately abducted approximately 30 individuals.⁸⁹ Similar incidents were reported in October, in Chicuemba, Awasse, Litandacua and Pangane.⁹⁰ These abductions reportedly continued throughout the reporting period, including on 9 February 2024, when ISM allegedly abducted five people from Nacoja and nearby communities,⁹¹ and on 17 April 2024, when three women were held by members of ISM during their raid in Mopuanha before being released.⁹²

Some abductions were followed by executions and beheadings, as indicated below, 'Summary Executions/Murder'. On rare occasions, however, abductees were released.⁹³

The incidents recorded during the reporting period also indicate that children and the youth were directly targeted (see below, 'Children').

Specific Vulnerabilities

Children

According to the UN Secretary-General, children in the Cabo Delgado region have become victims of killings, abductions, sexual violence and recruitment by ISM,⁹⁴ in contravention of fundamental IHL prohibitions as well as rules protecting vulnerable persons affected by armed conflict.⁹⁵ During the reporting period, child abductions and the use of children in combat were routinely reported. As one example, children were reportedly amongst the insurgent forces fighting against state and supporting forces when ISM attacked Macomia on 10 May 2024.⁹⁶ The UN recorded 92 abductions of children during 2023, of which 40 involved recruitment, while four cases of sexual violence were verified.⁹⁷ The systematic abduction of children, particularly girls, remained a serious concern throughout the reporting period. For example, on 16 November 2023, ISM reportedly abducted 11 girls from Mapate.⁹⁸ On 3 January 2024, several youths from Ntotwe were reportedly abducted,⁹⁹ and later that month, children and women were also reported kidnapped during an attack in Impiri.¹⁰⁰ (See also above, 'Arbitrary Deprivation of Liberty'.)

According to the United Nations Children's Fund (UNICEF), persistent attacks against villages, abductions and other violence have also led to significant displacement of children, as well as separation from their families.¹⁰¹ In all the large and sudden displacement incidents recorded by IOM during the reporting period, approximately 60 per cent of those displaced were children. By the middle of 2024, children accounted for 52 per cent of all IDPs in Cabo Delgado.¹⁰²

Finally, in addition to reported conflict-related sexual violence, particularly

against girls (see above, 'Conflict-Related Sexual Violence'), it has been found that the conflict and related insecurity in Cabo Delgado have exacerbated gender-based violence more generally, including against girls. The situation has also reportedly increased reliance on coping strategies such as forcing girls into marriage, and disrupted already limited services to protect girls in or at risk of child marriage.¹⁰³

End Notes Mozambique

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MYANMAR

During the reporting period, the armed forces of the Myanmar military junta (Tatmadaw) were engaged in non-international armed conflicts (NIACs) throughout Myanmar's territory with various non-state armed groups (NSAGs). These conflicts were active in Sagaing and Magway Regions and in Shan, Chin, Kachin, Kayah, Kayin and northern Rakhine States. Reports indicate that both the Tatmadaw and NSAGs have directly attacked civilians and civilian objects or conducted indiscriminate attacks, raising concerns about respect for the principle of distinction. Hundreds of civilian casualties were reported, as well as widespread destruction of and damage to homes and private property. The military was reported to have burned down entire villages, as well as used potentially indiscriminate means of warfare such as airstrikes, artillery shelling and explosive weapons. Attacks reportedly impacted, and in some cases potentially targeted, internally displaced person (IDP) camps, schools, medical infrastructure and places of worship. NSAGs have allegedly burned down homes and public buildings (including schools and hospitals) where displaced people were sheltering. The continued prevalence of landmines and high numbers of casualties raised further concerns. Elderly people and people with disabilities were reported to be particularly vulnerable to the impacts of hostilities, as they experienced difficulties in fleeing to safety. Severe restrictions on humanitarian access (particularly in the context of a Tatmadaw blockade in Rakhine state) reportedly disrupted essential supplies and services and contributed to high levels of food insecurity and the closure and breakdown of medical services. The latter is reported to have a particular impact on persons with disabilities and women, among others. This situation, along with reported attacks on food supplies, raises concerns regarding the use of starvation as a method of warfare, as well as parties' obligations to provide medical care to the wounded and sick. Further reported practices that give rise to concerns about potential serious violations of international humanitarian law (IHL) include torture and inhumane treatment (particularly in military detention); conflict-related sexual violence (by the military and NSAGs); conflict-related displacement (including IDPs' living conditions, especially for women and girls); and arbitrary deprivation of liberty (particularly reported abductions for use as human shields or for forced recruitment, or reported arbitrary arrests and incommunicado detention in the context of enforcing conscription laws).

Conflict Overview

Following the National League for Democracy (NLD) government's ousting through a military coup in February 2021, the level of armed violence in Myanmar increased rapidly and significantly. The armed forces of the military junta (the State Administrative Council), known as the Tatmadaw, are engaged in non-international armed conflicts (NIACs) with multiple non-state armed groups. The NSAG's include various ethnic armed organizations (EAO's), many of which have formed alliances or otherwise cooperated and coordinated in their conflicts with the Tatmadaw, notably the Three Brotherhood Alliance consisting of the Arakan Army, the Ta'ang National Liberation Army and the Myanmar National Democratic Alliance Army. There are various People's Defence Forces (PDF) operating locally, sometimes under the rubric of the National Unity Government or EAO's.

During the reporting period (1 July 2023–30 June 2024), the Tatmadaw intensified their airstrikes and ground operations, causing significant civilian casualties and provoking further internal displacement. Soldiers of the regime were also responsible for many cases of enforced disappearance. Military operations by groups belonging to the Three Brotherhood Alliance, the Kachin Independence Army and the Karen National Liberation Army resulted in rapid consolidation of control over more territory by these non-state armed groups, especially in border areas. Both the military and non-state armed groups are reported to have burned down homes and even entire villages. The period was also marked by a dramatic rise in the use of landmines. Reports of abuses by the NUG-backed PDF have also increased.

In Rakhine State in particular, armed clashes between the military junta and the Arakan Army have reignited, leaving Rohingya civilians vulnerable to death, injury and displacement, with limited access to humanitarian aid. The *Rohingya Genocide* case before the International Court of Justice (ICJ), which was brought by The Gambia in 2019 on behalf of 57 members of the Organisation of Islamic Cooperation, continued to proceed to the merits phase during the reporting period.¹ In November 2023, Canada, Denmark, France, Germany, The Netherlands, the Maldives and the United Kingdom announced that they were joining the case against Myanmar. Their declarations of interventions were accepted by the Court in July 2024.² In the same month, the United Nations (UN) Special Rapporteur on the Situation of Human Rights in Myanmar, Thomas H. Andrews, told the Human Rights Council that Rakhine State was facing a terrifying situation similar to the run-up to 'genocidal violence' eight years earlier against the Rohingya.³ In August 2024, he issued a press release in which he declared that '[g]iven the horror that is unfolding, once again, for the Rohingya in Myanmar, I implore world leaders to replace words of commemoration with action'.⁴

Intense fighting between the Myanmar military junta and a number of organized armed groups, in particular the Arakan Army, Ta'ang National Liberation Army, MNDAA, the Kachin Independence Army and the Karen National Liberation Army, continued across many regions of Myanmar during the reporting period. Operation 1027, launched by the Three Brotherhood Alliance, allowed them to gain significant territorial control in the Northern Shan State. Elsewhere, military offensives by the Kachin Independence Army, the Arakan Army and various Karen resistance groups allowed them also to take over control of parts of the Kachin, Rakhine and Kayah States, respectively. The Sagaing region has also witnessed intense fighting, including airstrikes and artillery shelling by the Tatmadaw. Military

actions resulted in 562 verified civilian deaths in the first quarter of 2024, almost double the number of civilians killed in the first quarter of 2023 (303). Between 1 August 2023 and 31 March 2024, incidents of artillery shelling killed at least 376 civilians, more than double the number of verified civilian deaths (150) over the course of the preceding eight months.⁵

The NUG's has attempted to structure the PDF's that it supports under some form of responsible command,⁶ including by issuing a military code of conduct, announced on 22 March 2024, exhorting all PDF soldiers to 'respect and apply International Humanitarian Law (IHL) and International Human Rights Law (IHRL)' and providing clear and concise rules on targeting, detention, treatment of civilians, and treatment of women, lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI) persons and children.⁷ It further cautions that violators of the code would be 'charged seriously in accordance with existing laws' and that 'commanders are responsible for ensuring that these rules are respected, through monitoring and enforcement'.⁸

In November 2023, Kawlin was seized by PDF forces in the Sagaing region.⁹ Following Operation 1027, the PDF forces joined with KNLA and coordinated attacks, prompting the temporary loss of military control over Myawaddy. In April 2024, drone attacks were launched on military facilities in Naypyitaw. The UN High Commissioner for Human Rights recommended to the NUG to 'ensure that armed groups which are either under its control or influence respect international humanitarian law and human rights' and issued the same call to 'ethnic armed organizations and anti-military armed groups'.¹⁰

Conflict Classification

Myanmar was engaged during the reporting period in multiple NIACs on its territory involving various EAOs including:

- the Tatmadaw and the Arakan Army
- the Tatmadaw and the Ta'ang National Liberation Army
- the MNDAA and various other EAO's other anti-Tatmadaw armed groups

These armed conflicts are all governed by Common Article 3 to the Geneva Conventions and customary international humanitarian law (IHL). Myanmar is not a state party to Additional Protocol II.

International Humanitarian Law in Myanmar, 1 July 2023–30 June 2024

Conduct of Hostilities

Attacks Directed against Civilians or of an Indiscriminate and Disproportionate Nature

Reports indicate that the Tatmadaw repeatedly targeted civilians and civilian objects or launched indiscriminate attacks in populated areas.¹¹ In the first quarter

of 2024 alone, the military's attacks caused at least 562 verified civilian deaths.¹² In January and February 2024, the military carried out extensive attacks in Mongmit, a town in Shan State, damaging or burning down at least 500 homes.¹³ Reportedly, 73 civilians were killed and a further 103 were injured in airstrikes and artillery shelling by the military in the Rakhine and Chin States in the first half of March 2024.¹⁴ The armed forces also reportedly destroyed critical infrastructure, such as roads, bridges and communication lines. The UN High Commissioner for Human Rights has reported that '[w]hile it remains difficult to ascertain the compliance of each military attack with international humanitarian law, the widespread and systematic patterns of destruction, coupled with the corresponding rise in civilian casualties, suggest that the military has consistently failed to adequately take into account the principle of distinction between civilian and military targets'.¹⁵

Notable incidents include the 7 January 2024 military airstrike in Kanan village in the Sagaing region, which struck close to the St Peter Baptist Church, damaging the church and a nearby school, and leading to the deaths of 17 civilians (including children) who were attending the church and playing near the school.¹⁶ This prompted Amnesty International to call for the incident to be investigated as a war crime.¹⁷ On 5 February 2024, a military airstrike on a school in Demoso township, Kayah State, killed 4 children and injured 27 others.¹⁸ In May 2024, the Myanmar military launched an aerial attack against a monastery in Saw Township, Magway region, following up initial airstrikes with heavy gunfire, causing civilian deaths and injury. According to Amnesty International, the indiscriminate nature of the attack is indicated by the shooting of civilians attempting to flee, coupled with the bombing of a religious site.¹⁹

Indiscriminate attacks prohibited under IHL include attacks that employ a method or means of combat the effects of which cannot be limited as required by the law.²⁰ Munitions that have a large explosive yield (for instance, large bombs), weapons that lack accuracy and/or precision (for instance, artillery) and weapons that fire multiple munitions simultaneously over a large area may violate IHL when used in populated areas.²¹ Since October 2023, the military has increasingly relied on airstrikes and artillery strikes that can have such indiscriminate effects. The Sagaing region, in particular, bore the brunt of such means of warfare during the reporting period.²² In Kachin State, an airstrike on the Munglai Hkyet internally displaced person (IDP) camp in October 2023 killed 28 civilians, including 12 children.²³ International human rights organizations reported that photos and videos of the aftermath of the attack suggested that it most certainly was an unguided large air-dropped bomb.²⁴

During this reporting period, it was also recorded that the Myanmar military resorted to the use of cluster munitions.²⁵ In December 2023, the military reportedly used cluster bombs to attack Namkham township in Northern Shan State, killing one civilian, injuring five others and damaging homes. Having documented the remains of a cluster munitions dispenser at the scene, Amnesty International called for an investigation into the military's repeated use of cluster munitions as a war crime.²⁶ The use of cluster munitions is prohibited under the 2008 Convention Against Cluster Munitions. Although Myanmar is not a state party to this treaty, it is still bound by customary IHL on targeting (including the fundamental principles of distinction and prohibition on indiscriminate attacks).²⁷

The Tatmadaw have reportedly burnt down entire villages on several occasions, especially in areas with perceived or actual support for the PDF or armed groups, in clear contravention of IHL. For instance, in December 2023, the military

was reported to have raided Kya Paing village in Monywa Township, Sagaing, and burnt down 200 houses.²⁸ Reports suggest that while most residents fled the village the moment soldiers began torching houses, at least 10 charred bodies of civilians were discovered.²⁹ Witnesses also reported that several families were split up and no longer had a place to live.³⁰ Between January and February 2024, military attacks in Mongmit town reportedly led to at least 500 homes being burned down or damaged.³¹ In ground operations, militias affiliated with the Tatmadaw are said to operate in conjunction with military operations. These militias have reportedly committed some of the worst atrocities in Myanmar.³²

Non-state armed groups have also been accused of directly attacking civilians or civilian objects or conducting indiscriminate attacks. In Rakhine State, for instance, the Arakan Army is reported to have burned down a school and a hospital where Rohingya people had been seeking shelter.³³ In April–May 2024, there were reports of the Karen National Liberation Army and PDF destroying civilian infrastructure such as bridges and railways.³⁴ The destruction of the Mrauk-U archaeological museum also reportedly prompted most of the residents of Mrauk-U to flee. While witnesses claimed that military shelling caused the destruction, the Tatmadaw insisted that the Arakan Army was responsible for the shelling.³⁵

Reports suggest that besides the military, non-state armed groups have also employed arson to destroy civilian property. For instance, in May 2024, the Arakan Army allegedly set fire to homes in Buthidaung town, including Rohingya homes and public buildings where displaced Rohingya were sheltering.³⁶ In the immediate aftermath of this alleged arson campaign, reports suggested that most of the displaced Rohingyas had no access to food, shelter or medicine.³⁷

Means of Warfare

Landmines

The United Nations (UN) stated in 2024 that nearly all states and regions in the country were affected by mines, and that Myanmar now ranks as one of the world's most mine-affected nations. Despite the threat, the prevailing situation means that mine action operations were restricted to risk education and some victim assistance.³⁸ A United Nations Children's Fund (UNICEF) report on the use of landmines by both the military and non-state armed groups, as well as explosive remnants of war incidents, reveals a total of 692 civilian casualties, with 102 killed and 590 maimed in Myanmar in January–June 2024. This figure constitutes 66 percent of the total casualties of 1,052 reported in the year 2023.³⁹ Of these casualties, Shan State, Sagaing region and Rakhine State account for more than half, with children constituting 32 percent of the total.⁴⁰ The UN has reported that landmines have significantly impaired agricultural and livelihood activities, resulting in increased food insecurity.⁴¹

Myanmar is not a state party to the 1997 Anti-Personnel Mine Ban Convention, which prohibits all use of anti-personnel mines by any state actor. Myanmar also is not a state party to the Convention on Certain Conventional Weapons and its protocols restricting the use of all landmines, including anti-vehicle mines (1980 Protocol II and 1996 Amended Protocol II). The Amended Protocol II governs the conduct of all parties to a NIAC.⁴² However, as with any other weapon, the use of all mines is subject to the fundamental rules of IHL governing the conduct of hostilities.

Thus, their use must comply with the principle of distinction, including the prohibition on indiscriminate attacks, especially if used in areas frequented by civilians.

Methods of Warfare

Humanitarian Access, Starvation as a Method of Warfare and Protection of Humanitarian Personnel and Objects

According to the Food and Agriculture Organisation (FAO), during the reporting period, Myanmar was a hunger hotspot of very high concern.⁴³ The UN Office for the Coordination of Humanitarian Affairs (OCHA) projected that the rising levels of food insecurity in Myanmar risked malnutrition among children.⁴⁴ As at June 2024, OCHA reported that the escalating conflict across Myanmar significantly increased the need for humanitarian assistance, with at least 18,6 million people in need.⁴⁵ Food insecurity reportedly was continuing to rise, with 13,3 million people – almost a quarter of the population of Myanmar – facing severe food insecurity.⁴⁶

In this context, attacks against food and essential supplies were reported in Myanmar. In a notable incident, fighting between the Myanmar military and the Arakan Army in Rakhine State in June 2024 led to the UN World Food Programme's warehouse being looted and burned down. By UN estimates, the warehouse was 'holding 1,175 metric tons of life-saving food and supplies – enough emergency food to sustain 64,000 people for one month'.⁴⁷

Reports also indicate that aid organizations faced severe restrictions and bureaucratic constraints on providing humanitarian assistance. In particular, Rakhine State was reported to be under both NUG restrictions on humanitarian work and a Tatmadaw blockade, which is said to have contributed to the deterioration of the humanitarian situation, including serious disruption of basic supplies and services.⁴⁸ Myanmar's Organisation Registration Law, enacted in 2022, effectively prohibits the delivery of aid to areas outside the military's control by prohibiting the organisations from liaising with non-state armed groups.⁴⁹ Similarly, the NUG reportedly urged local and international non-governmental organizations (NGOs) and civil society organisations to apply for authorisation from them before implementing humanitarian programmes in NUG-administered areas.⁵⁰

Apart from restrictions on humanitarian assistance, aid workers have also faced violence. For instance, the UN reports that a rescue worker in Kayah State was shot at while evacuating civilians.⁵¹

Parties to armed conflicts are prohibited from using starvation as a method of warfare by depriving the civilian population of objects indispensable to their survival, including by impeding relief supplies.⁵² Attacks against objects indispensable to the civilian population's survival, such as foodstuffs, agricultural areas for their production, crops, livestock, drinking water installations and supplies, and irrigation works are also prohibited under IHL.⁵³ Parties to the conflict may not arbitrarily withhold their consent to humanitarian relief for civilian populations in need. They are obliged to authorize and facilitate the rapid and unimpeded passage of humanitarian aid, subject to their right of control.⁵⁴ Parties to armed conflicts are further obliged to respect and protect humanitarian relief personnel and objects.⁵⁵ They may also only temporarily restrict the essential movements of authorized humanitarian personnel for reasons of imperative military necessity.⁵⁶

Treatment of Persons

Torture and Inhumane Treatment

The UN High Commissioner for Human Rights reported that torture and other inhumane treatment continued to be pervasive in military custody during the reporting period.⁵⁷ Victims described being forced into stress positions for prolonged periods; being suspended from the ceiling without food or water; having snakes brandished at them to instil fear; and undergoing beatings with iron poles, bamboo sticks, batons, rifle butts, leather strips, electric wires and motorcycle chains.⁵⁸ In January 2024, an arrested member of the Kachin Independence Army was reportedly admitted to the intensive care unit at the Mandalay Obo Prison after he had allegedly been beaten for several hours.⁵⁹ Torture and other inhumane treatment are prohibited by IHL and considered a serious violation.⁶⁰

Conflict-Related Sexual Violence

The reporting period also saw numerous reported instances of conflict-related sexual violence. For instance, in August 2023, the Ogre Column – a military unit operating in the Sagaing region – is alleged to have raped and killed two women in the Wetlet township.⁶¹ The military junta also reportedly committed widespread acts of sexual violence during arrest, interrogation and detention.⁶² The Special Rapporteur on the Situation of Human Rights in Myanmar suggests that sexual violence by non-state armed groups, including ethnic armed groups and the PDF, also increased during the reporting period.⁶³ For instance, in April 2024, three instances of sexual abuse were reported to have been perpetrated by NUG de facto police against female prisoners being held at a prison under NUG control in Kantbalu township, Sagaing region.⁶⁴ Conflict-related sexual violence is prohibited by IHL and considered a serious violation.⁶⁵

Conflict-Related Displacement

The Office of the UN High Commissioner for Refugees (UNHCR) reports that intensified airstrikes, artillery shelling, drone attacks as well as the use of anti-personnel mines have significantly increased internal displacement in Myanmar, with the number totalling 3,2 million internally displaced persons as of June 2024.⁶⁶ In Rakhine State alone, OCHA estimated that 290,000 people had been newly displaced since November 2023.⁶⁷

Attacks involving non-state armed groups have also reportedly caused significant displacement. For instance, in Kachin, more than 18,000 people were displaced in 10 townships since the Kachin Independence Army launched its armed offensives, jointly with the PDF, on 7 March 2024. Similarly, in the Kale township in Sagaing region, an estimated 28,000 people were displaced since the escalation of fighting between the military and the PDF since February 2024.⁶⁸

OCHA reported that surging displacement has meant that most IDPs have had to endure squalid conditions and inadequate shelter in informal sites or in jungles and forests.⁶⁹ Women in particular are reported to be increasingly vulnerable in overcrowded IDP camps.⁷⁰ Furthermore, authorities have reportedly closed down or threatened to close down IDP camps without providing adequate alternative

shelter, which is said to have increased forced returns to unsafe locations or onward displacement to informal sites.⁷¹

Under customary IHL, parties to a NIAC are prohibited from ordering the displacement of the civilian population in relation to the conflict, except in order to ensure the safety of civilians or for imperative military reasons.⁷² State practice also ‘underlines the duty of parties to a conflict to prevent displacement caused by their own acts, at least those acts which are prohibited in and of themselves’ (for instance, attacks that do not respect fundamental IHL principles on the conduct of hostilities).⁷³ All people displaced during armed conflict ‘have a right to voluntary return in safety to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist’.⁷⁴ In the meantime, ‘all possible measures must be taken’ to receive displaced civilians in ‘satisfactory conditions of shelter, hygiene, health, safety and nutrition’, and to avoid the separation of family members.⁷⁵

Concerns Related to Deprivation of Liberty in Armed Conflict

Arbitrary Deprivation of Liberty

During the period under review, abduction and forced military conscription were reported as systematic practices used by the Myanmar military, in particular to target civilians perceived to be associated with the NUG, the PDF and ethnic armed groups.

The abduction of civilians for use as human shields and for forcible recruitment has been commonly reported. In September 2023, for instance, the Myanmar military reportedly rounded up civilians from the Tha Kyin village in response to a PDF drone attack that killed seven soldiers. According to a witness, all villagers the military encountered were captured and drugged. After alleged torture and interrogation, 30 people were reportedly held as human shields.⁷⁶ By May 2024, the military had reportedly abducted and forcibly recruited at least 1,500 Rohingya Muslim men and boys.⁷⁷ The UN reports that individuals are sent to the frontline or serve as porters and human shields to protect other troop movements, including against landmines.⁷⁸ The Arakan Army is also reported to have forcibly recruited Rohingya men into its ranks.⁷⁹ The UN reports that forced recruitment by the Kachin Independence Army has also been verified.⁸⁰ Non-state armed groups, including the MNDA, also reportedly abducted civilians in the Shan State, with a view to forcibly recruiting them into their ranks.⁸¹ The abduction of civilians in connection with armed conflict constitutes an arbitrary deprivation of liberty prohibited by IHL.⁸²

On 10 February 2024, the 2010 People’s Military Service Law entered into force by an order of the junta, making military conscription compulsory for men aged 18 to 35 years and women aged 18 to 27 years. Ever since this announcement, daily reports of arbitrary arrests, incommunicado detentions and enforced disappearances increased, with groups of men in particular reportedly being arrested in their homes, on roads and in places of employment.⁸³ Reports suggest that instead of sending letters summoning prospective draftees to recruitment centres, as required under the law, the military resorted to randomly arresting young civilians at gunpoint and sending them to training centres.⁸⁴ Moreover, the military is also reported to have threatened to burn down the homes of recruits who did not come forward.⁸⁵ National

military conscription does not per se violate IHL, but the way in which it is carried out or enforced can raise other significant concerns regarding respect for IHL and human rights, including with regard to arbitrary deprivation of liberty.

Medical Care

Obligation to Provide Medical Care to the Wounded and Sick

Access to medical care for conflict-affected people has also been severely hindered in Myanmar. For instance, in 2024 the UN reported that the State Administration Council blocked access to medical care and prosthetics for victims of landmine explosions and explosive remnants of war incidents.⁸⁶ Reports on the situation in the Rakhine State are even more grim – especially given reported damage to health-care infrastructure by hostilities, the closure of hospitals, and the context of the Tatmadaw blockade, which is reported to have severely curtailed the availability of essential medical supplies and services.⁸⁷ In what the UN described as ‘a disturbing but not isolated example’, a displaced Rohingya woman in prolonged labour passed away, having been stopped twice at military checkpoints and returned home for lacking proper travel authorisations.⁸⁸ In March 2024, the military also reportedly closed a public hospital in Maungdaw township, depriving the local Rohingya population of their already-limited access to medical treatment.⁸⁹ In June 2024, due to ‘extreme escalation of conflict, indiscriminate violence and severe restrictions on humanitarian access in northern Rakhine State’, Médecins Sans Frontières (MSF) was forced to suspend its medical assistance operations in the Rathedaung, Buthaung and Maungdaw townships.⁹⁰

Specific Vulnerabilities

The Elderly and People with Disabilities

OCHA reported that people with disabilities could no longer access specialist care, owing to a breakdown in public services. OCHA states that along with the elderly, persons with disabilities experience difficulties in fleeing to safety from approaching hostilities.⁹¹ There have been reports of elderly persons dying in their burning homes, being unable to evacuate, as well as of an elderly disabled man being tortured by the military junta.⁹²

Women and Girls

According to OCHA, the situation in Myanmar, including ‘displacement, security risks, damage to infrastructure including health facilities, internet shutdowns, and the breakdown of the rule of law’, has reduced availability of services to prevent and respond to violence against women and girls. The living conditions in displaced persons’ shelters have particularly negative impacts on women and girls in terms of security and hygiene, and shortages of healthcare workers and medical supplies especially limit possibilities to meet women’s healthcare needs.⁹³

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NIGERIA

In the reporting period, armed conflicts persisted between Nigerian state forces – supported by a multinational African Union (AU) force and local militias – and the non-state armed groups Boko Haram and the Islamic State in West Africa Province (ISWAP). Boko Haram and ISWAP exercise territorial control over parts of Nigeria that enables them to conduct sustained and concerted military operations, meaning that Additional Protocol II – to which Nigeria is a state party – is also applicable to these non-international armed conflicts (NIACs). The two non-state armed groups were also engaged in a NIAC against each other. These conflicts were located in the north-eastern states of Adamawa, Borno and Yobe. With regard to the conduct of hostilities/use of force, armed groups reportedly continue to target civilians in attacks. There were also reports of state armed forces conducting a number of indiscriminate airstrikes, with major loss of civilian life reported in certain incidents. Boko Haram and ISWAP were also reported to have used a range of improvised explosive devices (IEDs) during the reporting period. Among others, this raises concerns regarding respect for the international humanitarian law (IHL) principle of distinction (including the prohibition on indiscriminate attacks) and under the 1997 Anti-Personnel Mine Ban Convention (to which Nigeria is a state party). Frequent reports of the (often mass) abduction of civilians by Boko Haram and ISWAP raised concerns regarding the prohibitions on arbitrary deprivation of liberty and hostage-taking. Abductees are often reported to be internally-displaced persons (IDPs), women, and/or children. IDPs, especially women, are reported to be especially vulnerable to abductions and other forms of abuse, with many also remaining in insecure and unsatisfactory living conditions during displacement. Women and girls are also at risk of a range of forms of violence and deprivation that violate (or potentially indicate a lack of respect for) IHL, and are particularly affected by a lack of protection and access to basic services. Child protection is also a prominent issue in the context of the armed conflicts in Nigeria, especially for those who have been separated from their families, forcibly recruited to participate in conflict, or previously associated with armed groups. Nigeria has been cited among the countries worldwide with the highest numbers of (verified) grave violations against children, with abduction, recruitment and use in hostilities, and sexual violence being the most prevalent.

Conflict Overview

Over the past decade, Nigeria has been involved in non-international armed conflicts (NIACs) with non-state armed groups on its territory – notably Boko Haram and the Islamic State in West Africa Province (ISWAP), which in turn have engaged in conflict with one another. Since 2015, the African Union (AU) Multinational Joint Task Force (MNJTF) – comprising soldiers from Benin, Cameroon, Chad, Niger and Nigeria – has been supporting Nigerian state forces in combating Boko Haram and ISWAP. Local militia – the Civilian Joint Task Force (CJTF) – have also been supporting authorities against Boko Haram.¹

Armed conflicts with and among non-state armed groups persisted in the north-eastern states of Adamawa, Borno and Yobe in the reporting period (1 July 2023–30 June 2024). These groups reportedly continue to target civilians in attacks. In addition to summary executions, there were frequent reports of abductions, particularly of children. There were also reports of state armed forces conducting a number of indiscriminate airstrikes, with major loss of civilian life reported in certain incidents.

In 2023 Nigeria recorded 291,000 new conflict displacements, one of the highest figures in West Africa. Around 3.3 million people were living in internal displacement as a result of conflict and violence at the end of 2023, about half of them in Borno State. This was a slight decrease from the 3.6 million reported in 2022, but Nigeria was still among the ten countries with the largest number of internally-displaced persons (IDPs) globally.² In addition, some 400,000 Nigerian refugees and asylum seekers live in exile, many in neighbouring countries. This means that around 3 percent of the world's displaced population are Nigerians.³

Overall, the International Organization for Migration (IOM) described the context of conflict in the north-east and north-west zones of Nigeria as ‘a large-scale humanitarian and protection crisis and one of the most severe in the world, characterized by forced displacement and human rights violations’.⁴

Conflict Classification

During the reporting period, three parallel NIACs were ongoing on the territory of Nigeria:

- a NIAC between the Nigerian Armed Forces – supported by the MNJTF and CJTF – and the non-state armed group Boko Haram⁵
- a NIAC between the Nigerian Armed Forces – supported by the MNJTF – and ISWAP
- a NIAC between Boko Haram and ISWAP

The legal framework applicable to the NIACs involving the Nigerian Armed Forces includes Common Article 3 to the Geneva Conventions of 1949 and customary international humanitarian law (IHL). Boko Haram and ISWAP exercise territorial control over parts of Nigeria, which enables them to conduct sustained and concerted military operations, meaning that Additional Protocol II is also applicable to these NIACs. Nigeria acceded to the Protocol in 1988. The third NIAC between ISWAP and Boko Haram is governed by Common Article 3 and customary IHL.

The violence, particularly in the north-west of the country involving the Nigerian Government and loosely organised militia groups locally called ‘bandits’, is a situation of armed violence falling below the threshold of a NIAC.

Conduct of Hostilities/Use of Force

Attacks Directed against Civilians or of an Indiscriminate or Disproportionate Nature

The Nigerian Armed Forces have reported conducting airstrikes in the reporting period against Boko Haram and ISWAP in North-Eastern Nigeria in the context of the ongoing armed conflict, and also against ‘bandits’ as part of its law enforcement operations in North-Western Nigeria. The legality of airstrikes against Boko Haram and ISWAP is determined based on IHL rules on the conduct of hostilities, while the airstrikes conducted against ‘bandits’ are subject to law enforcement rules under international human rights law regulating the use of force. The Nigerian Armed Forces reported targeting these strikes at Boko Haram/ISWAP fighters, and has also apparently targeted logistics bases, training camps and ammunition storage areas belonging to Boko Haram and ISWAP.⁶

On 6 December 2023 the Office of the United Nations High Commissioner for Human Rights (OHCHR) issued a statement deploring an airstrike in Kaduna State in Northern Nigeria that reportedly left at least 80 civilians dead and more than 60 injured – ‘the latest of at least four airstrikes that have resulted in significant civilian fatalities since 2017’.⁷ OHCHR noted that the authorities termed the civilian deaths ‘accidental’, but called on them ‘to take all feasible steps in future to ensure civilians and civilian infrastructure are protected consistent with Nigeria’s international law obligations’.⁸ The Office stated that they must ‘review rules of engagement and standard operating procedures to ensure that such incidents do not happen again’.⁹

In 2023 communities in Borno State, at the epicentre of the Boko Haram conflict, witnessed a resurgence in attacks and kidnappings by armed groups.¹⁰ Attacks on many civilian victims are reported, most often in apparently deliberate attacks. Some attacks appear to target agricultural workers, who are shot, beheaded or have their throats slit. For example, in the last two weeks of June 2023, Borno State was reported to have experienced four attacks by Boko Haram fighters that killed at least 36 people. The attacks, which were ‘mostly targeted at farmers in their fields’, included one on 26 June where suspected Boko Haram fighters allegedly ambushed eight farmers on their way to a farm, then killed seven farmers in the Damboa Local Government Area (LGA).¹¹ Reports also indicate that Boko Haram killed 10 workers in their fields in the Mafa area of Borno State on 25 September 2023.¹² On 30 October 2023, Boko Haram fighters reportedly shot and killed 17 villagers who refused to pay a ‘harvest tax’ in a raid on Gurokayeya village, Yobe State.¹³ Among other examples of similar attacks targeting civilians, 15 rice farmers harvesting crops were said to have been killed by Boko Haram in a village 15 kilometres from Maiduguri, the capital of Borno State, on 6 November 2023.¹⁴

On 30 June 2024 Boko Haram allegedly targeted a wedding, as well as the victims’ subsequent funeral and a hospital in Gwoza town, Borno State, with a series of body-borne explosive devices. The attacks, which may have been carried out by female suicide bombers (a favoured tactic of Boko Haram) killed more than 32 civilians.¹⁵ Information is lacking as to the intended object of these attacks.

However, if civilians and civilian objects were indeed directly targeted, the attacks could be considered to violate the prohibition on acts of violence with the primary purpose of spreading terror among the civilian population.¹⁶

Outside the context of armed conflict, there are also reports of the killing of civilians as a result of airstrikes conducted by the Nigeria Armed Force against ‘bandits’ in the north-west of the country. On 3 December 2023, at least 85 civilians who were observing the Maulud procession in Kaduna State were reportedly killed in an airstrike.¹⁷ The deaths were a ‘bombing mishap’, President Bola Tinubu said. The head of the army, Lieutenant General Taoreed Lagbaja, apologised to the residents and paid a condolence visit to the village of Tudun Biri. He expressed regret about ‘the unfortunate mishap’, describing it as ‘a very disheartening occurrence’ according to a statement released by the army. General Lagbaja explained that the armed forces had ‘wrongly analysed and misinterpreted their pattern of activities’ as being similar to that of bandits.¹⁸ In May 2024 the military announced that two army personnel were being court-martialled over the Tudun Biri airstrike.¹⁹ It subsequently provided little information on the investigation or its progress, according to Human Rights Watch.²⁰

On 10 April 2024 an airstrike, reportedly targeting armed kidnapping gangs and their hideouts, killed at least 33 people in the north-west of Zamfara State.²¹ The Nigerian Armed Forces conducted several other airstrikes said to target the so-called ‘kidnapping gangs’²² and ‘oil thieves’²³ during the reporting period. As these airstrikes are conducted as part of a law enforcement operation in North-West Nigeria – outside the context of the armed conflicts against Boko Haram and ISWAP – their legality is determined by relevant law enforcement standards under international human rights law. The authorities are not allowed to use lethal force in such a situation unless the person or persons targeted pose an imminent threat of death or serious injury. Even against a person who poses such a threat, the use of force is allowed only as a last resort and should not exceed the degree necessary to respond to such threat. Furthermore, the intentional lethal use of force – such as in an airstrike – is only lawful when strictly unavoidable to protect life.²⁴ Based on reports, the airstrikes conducted by the Nigerian Armed Forces in North-West Nigeria against ‘kidnapping gangs’ and ‘oil thieves’ do not appear to meet these requirements. Moreover, according to reports cited above, the strikes too often result in the killing of innocent bystanders. If confirmed, this may amount to arbitrary deprivation of life.

In its November 2023 report on follow-up to its earlier Concluding Observations on Nigeria, the Human Rights Committee regretted the lack of information provided on the investigations into allegations of human rights abuses committed in the context of the conflict with Boko Haram, both by non-state and state actors, and reiterated earlier recommendations in this regard.²⁵ In its 2019 Concluding Observations, the Committee had called on the Nigerian authorities to conduct ‘prompt, impartial and effective investigations into allegations of human rights abuses committed in the context of the conflict with Boko Haram, both by non-state and state actors, in order to identify, prosecute and punish those responsible, and ensure that victims have access to effective remedies and full reparation’.²⁶

Means of Warfare

Landmines and Explosive Remnants of War

Boko Haram and ISWAP used a range of improvised explosive devices (IEDs) during the reporting period. Command-detonated devices are also employed, and improvised mines placed on roads are especially common. A total of 159 such incidents were recorded for 2023 by the United Nations (UN) Mine Action Service (UNMAS). Some at least appeared to be capable of detonation by the weight of a person as well as a vehicle, meaning that they amount to anti-personnel mines.²⁷

In some incidents, civilians have been killed where the intended object of attack seemingly was the opposing party to the conflict. For example, on 17 April 2024, 10 persons were reportedly killed and 20 others injured by the explosion of an IED allegedly planted by ISWAP. This reportedly occurred when a civilian vehicle drove over the IED on the Baga road in Kukawa, in Borno State.²⁸ The IED was said to have been planted to target the troops of Sector 3 Operation Hadin Kai of the Nigerian Army.²⁹ On 29 January 2024, it was reported that an IED planted by suspected Boko Haram/ISWAP fighters killed 13 civilians along the Firgi to Pulka road (Gwoza LGA, Borno State), after a vehicle transporting farmers had caused it to detonate.³⁰ On 31 October 2023, reports mention that 20 villagers returning from burying the victims of an attack by Boko Haram fighters on Gurokayeya village died when their vehicle drove over an explosive device planted by the group.³¹

As with any other weapon, the use of all improvised mines and other IEDs is subject to the fundamental rules of IHL governing the conduct of hostilities, such as the principle of distinction, including the prohibition on indiscriminate attacks, and the principle of proportionality.³² This is especially relevant if IEDs are used in areas frequented by civilians and if their detonation cannot be controlled. All parties to the conflict are also required to ‘take all feasible precautions in the choice of means and methods of warfare’ so as to avoid or minimize incidental civilian injuries or loss of life.³³

Types of IEDs employed in Nigeria also include devices that are victim-activated and meet the definition of an anti-personnel mine in the 1997 Anti-Personnel Mine Ban Convention or are anti-vehicle mines.³⁴ Nigeria is a state party to the 1997 Anti-Personnel Mine Ban Convention, which prohibits all use of anti-personnel mines by any state actor. The authorities are also required to clear all mined areas containing anti-personnel mines by Nigeria’s treaty deadline of 31 December 2025. It will not meet this deadline and will need to seek a further extension from the other state parties. Clearance in Nigeria is conducted exclusively by the security forces. All explosive ordnance items identified during surveys and community assessments are reported to the authorities for removal, but there is no record of items having been cleared in the course of explosive ordnance disposal (EOD) and IED disposal operations during the reporting period.³⁵

Nigeria is also a signatory, but not a state party, to the Convention on Certain Conventional Weapons and its Protocols Regulating Landmines (1980 Protocol II and 1996 Amended Protocol II). The Amended Protocol II applies to all parties to a NIAC.³⁶

Concerns Related to the Deprivation of Liberty in Armed Conflict

Arbitrary Deprivation of Liberty and Hostage-Taking

The abduction of civilians is a recurrent issue in Nigeria. A decade after the infamous Chibok schoolgirls' kidnapping, reports indicate a spate of abductions by armed groups during the reporting period.³⁷ Several significant incidents were reported of abductions by Boko Haram and ISWAP in North-East Nigeria, as well as by 'bandits' in North-West Nigeria (and, thus, outside the context of armed conflict). In March 2024 UN High Commissioner for Human Rights, Volker Türk, 'expressed outrage at the recent abductions by gunmen of hundreds of people in Nigeria'. He stated that children had been abducted from schools and women taken while searching for firewood. 'Such horrors must not become normalised', the High Commissioner declared.³⁸

On 22 August 2023 more than 40 women who left an IDP camp to gather firewood were abducted by Boko Haram in Mafa district of Borno State.³⁹ The abducted women were later freed after a state official had reportedly paid a ransom for their release.⁴⁰ If a detaining party to an armed conflict seeks to compel a third party to do or to abstain from doing any act as an explicit or implicit condition for the abductee's release, such as demanding a ransom, the situation is likely to constitute hostage-taking, which is a serious violation of IHL.⁴¹

On 29 February 2024 Boko Haram reportedly abducted over 200 IDPs, many of whom were women, in Ngala local government area, Borno State.⁴² In his dedicated report on children and armed conflict in Nigeria, covering 2022 and 2023, the UN Secretary-General confirmed that the abduction of children remained the most prevalent grave violation against them. This was especially the case in 2023, when the number of children verified as having been abducted was the highest recorded since 2014.⁴³

The abduction of any civilian in connection with an armed conflict is prohibited as an arbitrary deprivation of liberty.⁴⁴

Specific Vulnerabilities

Internally-Displaced Persons

IDPs are especially vulnerable to abductions and other forms of abuse (on abductions, above, 'Arbitrary Deprivation of Liberty and Hostage-Taking'). This is due to both the ongoing armed conflicts and the armed violence with 'bandits'. In May 2024, the International Rescue Committee (IRC) publicly expressed its concern at the humanitarian impact of increasing insecurity in North-West Nigeria due to conflict between armed groups. In Zamfara and Sokoto States, the IRC noted, armed attacks displaced at least 10,000 people and killed at least 92 in March and April 2024. Many others were kidnapped in these attacks.⁴⁵ As a result of the attacks and consequent displacement, the IRC further warned, 'many people are residing in open spaces with minimal belongings and without basic necessities. More than half of the people affected by these attacks are women, which leaves them at risk of exploitation and abuse.'⁴⁶

Under customary international law, parties to a NIAC are required to take ‘all possible measures’ to ensure that displaced people ‘are received under satisfactory conditions of shelter, hygiene, health, safety and nutrition and that members of the same family are not separated’.⁴⁷

Women and Girls

According to IOM, the protracted armed conflict occasioned by the activities of the non-state armed groups in the north-east of the country and the counterinsurgency operations of the national security forces

have led to insecurity and heightened protection challenges for women and girls. Their protection needs are immense, as they lack adequate protection and access to basic services, and are at risk of violence, abduction, rape, gender-based violence, forced and child marriage, food insecurity, weakened basic socioeconomic services, destruction of the health system, and other violations of their rights.⁴⁸

A study reported upon by the BBC in the middle of the year found that Boko Haram had used more women as suicide bombers than any other armed group in history. Numbers suggested that more than half of all suicide bombers used by Boko Haram are female. There has been speculation that some may be the missing Chibok schoolgirls, but this claim has not been confirmed.⁴⁹

Children

The IOM has generally reported that child protection concerns in the context of conflicts in Nigeria were ‘enormous, especially for unaccompanied and separated children, and those formerly associated with armed groups or forcefully recruited to participate in the conflict’.⁵⁰

More detail on documented grave violations against children in these contexts was provided by reports of the UN Secretary-General. In his dedicated report covering 2022 and 2023, he noted that the country taskforce had verified 2,519 grave violations against 1,250 children (502 boys, 743 girls, 5 sex unknown) in the three conflict-affected states of Borno (2,278), Adamawa (238) and Yobe (3) in the north-east.⁵¹ The most prevalent violation against children was abduction, followed by recruitment and use as soldiers and sexual violence.⁵²

In his annual report for 2023 to the UN Security Council on children in armed conflict, the Secretary-General further cited Nigeria as one of the seven countries with the highest numbers of (verified) grave violations against children.⁵³ The UN verified 1,995 grave violations against 943 children (367 boys, 571 girls, 5 sex unknown) over the course of the year. This included 740 children who were victims of multiple violations. A total of 685 children (254 boys, 431 girls) were recruited and used by Boko Haram (510) and ISWAP (170), all following their abduction, and by the CJTF (3) and the Nigerian Security Forces (2). Some 295 children (including 7 boys) were victims of sexual violence during their association.⁵⁴

The same report noted that the UN had verified the killing (39) and maiming (43) of 82 children (20 boys, 57 girls, 5 sex unknown) by unidentified perpetrators (28), ISWAP (23), the Nigerian Security Forces (19) and Boko Haram (12). The UN verified sexual violence against 366 children (7 boys, 359 girls), by JAS (286) and ISWAP (80) following their abduction.⁵⁵ Some 859 children (310 boys, 549 girls) were abducted by Boko Haram (616) and ISWAP (243). Most of the children

(680) escaped, while 179 remain unaccounted for.⁵⁶ The Secretary-General listed ISWAP and Boko Haram for the violations they had committed against children in 2023.⁵⁷

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THE PHILIPPINES

The Government of the Philippines remained involved as a party to multiple, parallel non-international armed conflicts (NIACs) against non-state armed groups (NSAGs): on the one hand, against the New People's Army; on the other, against a number of NSAGs operating in Mindanao, in particular, the Moro National Liberation Front, the Moro Islamic Liberation Front, the Abu Sayyaf Group, the Bangsamoro Islamic Freedom Fighters and the Dawlah Islamiyah-Maute Group. Practices raising international humanitarian law (IHL) compliance concerns in the conduct of hostilities – particularly regarding the principle of distinction – included state forces allegedly killing civilians after 'red-tagging' them, that is, labelling them as being members or sympathizers of the New People's Army (NPA) or 'terrorists' and, therefore, lawful targets. Armed groups were also reported to have conducted attacks, among others, on buildings dedicated to religion or education. Fighting between various parties in the Philippines caused severe internal displacement during the reporting period. Reports suggest that certain parties may not be taking sufficient precautions to protect civilians from the effects of hostilities. Some reports also suggest that the living conditions of some internally-displaced persons (IDPs) remain unsatisfactory, including those of IDPs who fled several years ago and remain displaced. Arbitrary arrests and disappearances, in particular based on the above-mentioned practice of 'red-tagging' by state forces, were commonly reported during the relevant period. While there were no major humanitarian access incidents reported in connection with the conflicts, there are concerns that a 'prior state recognition' requirement for humanitarian actors in the 'humanitarian exemption' in the Philippines' 2020 Anti-Terrorism Act has the potential to impede the prompt delivery of humanitarian relief. The 2024 annual report of the United Nations (UN) Secretary-General on 'Children and Armed Conflict', which considered all grave violations that took place against children in 2023, verifies that the recruitment and use of children in hostilities continued in the Philippines, by both state and non-state forces. Similarly, incidents of killing and maiming of children have also been reported.

Conflict Overview

During the reporting period, the Government of the Philippines continued to be involved in a non-international armed conflict (NIAC) against the New People's Army (NPA). The NPA is the armed wing of the Communist Party of the Philippines and a member of the National Democratic Front of the Philippines (NDFP) movement (a coalition of various political parties, trade unions, farmers' unions, indigenous rights groups, and so forth).

The NPA, active since 1969, has for a long time engaged in guerrilla-style warfare with the aim of overthrowing the Government of the Philippines. Despite several rounds of peace talks over the years, the NPA has continued to operate across the country. After peace talks between the NDFP and the government concluded in November 2023, the government announced in early 2024 that no active fronts of the NPA remained in the country and several NPA fighters surrendered and registered for the government's amnesty programme.¹ Yet, clashes between the NPA and the armed forces of the Philippines, causing deaths and displacement, continued to be recorded throughout the reporting period.

The government also continued to be involved in multiple parallel NIACs in the Mindanao region against the Moro National Liberation Front (MNLF), the Moro Islamic Liberation Front (MILF), the Abu Sayyaf Group (ASG), the Bangsamoro Islamic Freedom Fighters (BIFF) and the Maute Group (now known as Dawlah Islamiyah, and which has pledged allegiance to the Islamic State). In the Mindanao region, which is home to the majority of Muslims in the Philippines, armed conflict aimed at obtaining independence for the Muslim population has been ongoing since the 1970s. The region was accorded autonomous status by law in 1989, and is officially called the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM). While peace talks to decommission the MILF ahead of the 2025 regional elections are ongoing, the reporting period saw armed confrontations continue between the armed groups and the governmental armed forces, resulting in several recorded civilian casualties, internal displacement as well as arbitrary deprivation of liberty. Further sporadic fighting between the MILF and the Dawlah Islamiyah has also been recorded.²

The overall human rights situation in the Philippines remained dire during the reporting period. Although a declaration of martial law in Mindanao was officially lifted in 2019, Amnesty International reported that the armed forces of the Philippines continued to commit widespread human rights violations through the practice of 'red-tagging' (publicly linking individuals and organizations to proscribed communist groups, leaving them vulnerable to attacks) and the use of anti-terror laws against humanitarian groups, among others.³ Moreover, Amnesty International indicated that the 'war on drugs' continued despite a change in government, and that accountability for associated abuses, including extra-judicial killings, remained scarce.⁴

Conflict Classification

The Government of the Philippines is involved in multiple, parallel NIACs against –

- the non-state armed group New People’s Army (NPA)
- a number of non-state armed groups (NSAGs) operating in Mindanao, in particular, the MNLF, MILF, ASG, BIFF and the Dawlah Islamiyah-Maute Group.

The conclusion of a peace agreement in itself is not sufficient to determine the end of a NIAC if there is no cessation of armed confrontations without a real risk of resumption. Although this reporting period saw the Government of the Philippines and the NPA sign an agreement for a peace process,⁵ armed confrontations between the NPA and the government continued, with the consequence that the NIAC between parties has not come to an end. Similarly, even though the MILF signed a peace agreement with the Government of the Philippines in 2014, armed confrontations – however sporadic – continued to occur during the reporting period. Accordingly, it is too early to conclude that the NIAC between the state and the MILF is over. Moreover, armed confrontations between the state and the remaining NSAGs in Mindanao continued to be regular during the reporting period. While levels of intensity oscillated, treaty and customary international humanitarian law (IHL) continues to be applicable.

International Humanitarian Law in the Philippines, 1 July 2023–30 June 2024

Conduct of Hostilities

During the reporting period, human rights groups expressed concern about the armed forces of the Philippines killing civilians by ‘red-tagging’ them – as noted above, this involves labelling them as being members or sympathisers of the NPA or ‘terrorists’. The practice has been a persistent and pervasive threat to civil society in the Philippines for decades now, with the United Nations (UN) condemning it as a violation of human rights,⁶ including the right to life, the right to fair trial, and freedom of expression, inter alia. A wide range of actors, including human rights defenders, journalists, labour union activists, student activists and indigenous groups, have been red-tagged and ultimately killed over the years.⁷ As red-tagging blurs the distinction between civilians and combatants by labelling individuals as NPA members and, thus, positioning them as lawful military targets, this practice also raises concerns regarding respect for the IHL principle of distinction.

During the reporting period, in a notable incident in July 2023, an indigenous volunteer teacher accused of being an NPA militant was reportedly shot and killed in the Lemulan village. Civil society organisations reported that he was targeted for his work as an indigenous educator.⁸ In September 2023 it was reported that the armed forces killed a civilian farming couple in Masbate,⁹ but the government reported these as deaths of ‘NPA rebels’, implying that they were lawful military targets.¹⁰ Similarly, in June 2024, after a 16 year-old was

reportedly killed by the armed forces in what was called a ‘military operation’, the government claimed that the teenager was an NPA rebel, whereas the family denied the allegation.¹¹

Two UN Special Rapporteurs have identified the country’s National Task Force to End Local Communist Armed Conflict (NTF-ELCAC) as playing a central role in the recent red-tagging of individuals.¹² Reportedly, the NTF-ELCAC shares numerous posts and press statements on social media ‘wrongly vilifying young activists as “terrorists” or falsely accusing them of being associated with armed groups’.¹³ Although both UN rapporteurs recommended that the task force be abolished,¹⁴ and the Supreme Court of the Philippines also ruled in May 2024 that red-tagging threatened the right to a person’s right to life, liberty or security,¹⁵ the Government of the Philippines refused to abolish the task force.¹⁶ Reported attacks by non-state armed groups against ‘soft targets’, such as buildings dedicated to religion or education, were also of concern in terms of respect for the IHL principle of distinction. In a notable incident in December 2023, claimed by the Daulah Islamiyah-Maute Group, a bomb explosion at a Catholic mass in the gymnasium of the Mindanao State University killed 4 civilians and injured 50 others.¹⁷ This attack reportedly involved an improvised explosive device (IED) detonated by mobile phone.¹⁸ In October 2023, members of the NPA reportedly shot at polling officials and a soldier at the Dinawacan Elementary School, which at the time was in use as a polling station.¹⁹ The same month also saw an attack by unidentified assailants, injuring three civilians and a member of the personnel at the Simuay Junction Elementary School in the Maguindanao del Norte province, which at the time was in use as a polling station.²⁰

Treatment of Persons

Conflict-Related Displacement

Fighting between various parties in the Philippines has caused severe internal displacement during the reporting period. The UN Office for the Coordination of Humanitarian Affairs (OCHA) reports that between November 2023 and June 2024, armed encounters between government forces and NSAGs, as well as among NSAGs, displaced more than 20,000 persons.²¹ In September 2023, a gunfight between the MILF and the Dawlah Islamiyah-Maute Group in Datu Hoffer Ampatuan town displaced 70 families of the local indigenous community.²² In the first half of January 2024 alone, more than 8,500 people were displaced in the Maguindanao del Sur region due to armed conflict between various MILF factions.²³ Similarly, in April 2024, confrontations between the MILF and BIFF in Barangay Pimbalkan and Maguindanao del Sur resulted in the displacement of over 7,800 people.²⁴

While such displacement is not necessarily due to violations of IHL rules, reports suggest that certain parties do not take sufficient precautions to protect the civilian population against the effects of attacks, including through temporary evacuation.²⁵ In one notable incident, in February 2024, the military launched an airstrike that led to the deaths of three ‘NPA-rebels’, while displacing more than 1,000 individuals from two localities in Negros Occidental.²⁶ However, ahead of the airstrike, only 300 people were evacuated to safer areas, prompting criticism.²⁷ The displacement reportedly caused severe disruption to livelihoods and education.²⁸ However, the government reported that the Department of Social Welfare and

Development (DSWD) was prompt to respond and provide food and other essential supplies to those taking temporary shelter in designated evacuation centres.²⁹

While it appears that the DSWD generally is prompt in responding to the basic needs of internally displaced persons (IDPs), some reports suggest that the living conditions of IDPs are difficult. For instance, the OCHA reports that several legacy IDPs from the 2013 Zamboanga siege and the 2017 Marawi conflict continue to live in transitory sites instead of in permanent shelters.³⁰ Moreover, the Commission on Human Rights of the Philippines, the independent national human rights institution established under the Philippines Constitution, admits in a 2023 submission to the UN Special Rapporteur on the Rights of Internally Displaced Persons that IDPs from the 2013 Zamboanga siege in the Philippines continue to suffer as a result of a lack of water supply, shelter and healthcare facilities.³¹

OCHA estimates that a total of 118,700 people remained displaced in Mindanao at the end of June 2024 (including protracted displacement from previous reporting periods). It further notes that military operations against non-state armed groups also ‘trigger cyclical displacements, making the displacement situation complex and often protracted’.³² Recognising the challenge of securing the safe return of IDPs, especially in regions such as Mindanao, where displacement is protracted and non-state armed groups maintain a strong presence, the BARMM Parliament recently adopted a law – the Rights of Internally Displaced Persons Act of 2024 – with a view to facilitating the sustainable return of IDPs to their places of origin, or sustainable integration into local host communities, or sustainable resettlement elsewhere.³³

Concerns Related to Deprivation of Liberty in Armed Conflict

Arbitrary arrests and disappearances, in particular based on the above-mentioned ‘red-tagging’ by state forces, were commonly reported during the 2023–2024 reporting period. In one notable incident in September 2023, two environmental activists – reported as being abducted by the armed forces of the Philippines on the ground of alleged associations with the NPA – were freed two weeks later. The military presented them before a press conference, claiming that they were being held in a ‘safe house’ after they had sought help from authorities. However, the two activists denied this and accused the military of abducting them, leading to perjury charges and prompting several international human rights organizations to flag the incident as an enforced disappearance,³⁴ prohibited under customary international humanitarian law.³⁵

Humanitarian Relief

In the reporting period, the sources consulted recorded no major incidents of denial of humanitarian access, or restrictions imposed on humanitarian/aid workers, whether by non-state or state actors. In the Mindanao region, the potential humanitarian constraints flagged by the humanitarian analysis organization ACAPS were disruptions likely to be caused by floods and landslides, but not parties to the conflict.³⁶

In addition to national authorities, the International Committee of the Red Cross (ICRC), in partnership with the Philippine Red Cross (PRC), was able to re-

spond to conflict-related displacement response during the reporting period.³⁷ However, at the same time, local human rights defenders and activists continued to be red-tagged, as explained above. Moreover, the ‘humanitarian exemption’ in the Philippines’ 2020 Anti-Terrorism Act – exempting humanitarian activities conducted by the ICRC, the PRC and ‘other state-recognized impartial humanitarian partners or organizations in conformity with ... international humanitarian law’ from the offence of ‘providing material support to terrorists’³⁸ – has been a cause for concern as the ‘prior state recognition’ requirement has the potential to impede the prompt delivery of humanitarian relief.³⁹

In BARMM, the newly-adopted law on the rights of IDPs emphasises that the Bangsamoro Government has ‘the primary duty to provide immediate relief and humanitarian assistance to IDPs, families and communities’, in addition to guaranteeing safe and free passage of humanitarian assistance to IDPs and unimpeded access to persons engaged in giving such assistance.⁴⁰

Specific Vulnerabilities

Children

According to the UN Secretary-General’s 2024 report on children and armed conflict in the Philippines, while the number of grave violations against children in the Philippines have reduced, they continued to occur during the reporting period.⁴¹ The 2024 annual report of the UN Secretary-General on children and armed conflict, which considered all grave violations that took place against children in 2023, verifies that the recruitment and use of children as soldiers continued in the Philippines during the reporting period, and could be attributed to the NPA, the Dawlah Islamiyah-Maute Group, the ASG and the armed forces of the Philippines.⁴² Children were used in both combat and support roles (including as informants for the armed forces of the Philippines).⁴³ According to the UN, the highest number of such incidents of recruitment and use of child soldiers could be attributed to the NPA, at 14 verified incidents.⁴⁴ Similarly, incidents of killing and maiming of children have also been reported, as is evidenced by the death of a 16 year-old in an operation in June 2024 mentioned above.⁴⁵

End Notes The Philippines

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RUSSIA-UKRAINE

The period under review saw the continuation of an international armed conflict (IAC) initiated in 2014 that opposes the Russian Federation and Ukraine. This entails both hostilities between Russian and Ukrainian forces, as well as the Russian occupation of Crimea, the city of Sevastopol and the regions of Kherson, Zaporizhzhia, Donetsk and Luhansk.

Regarding the regions under occupation, Russia considers these part of its own sovereign territory and rejects the application of the law of occupation. This has resulted in alleged violations of the law of occupation, such as the reported forced imposition of Russian citizenship for residents of the occupied territories; the application of Russian law; alleged cases of forced conscription into the Russian armed forces; and the imposition of changes in the education system, which have been found unlawful by international courts and particularly affect children.

Regarding the conduct of hostilities, shelling, air and drone strikes reportedly remained the primary cause of reported casualties among civilians, which primarily are attributed to the actions of Russian forces. Attacks apparently targeting civilians or civilian objects, as well as the use of explosive weapons in populated areas, raise concerns, among others, regarding respect for the fundamental international humanitarian law (IHL) principle of distinction. Attacks reportedly damaging medical facilities, as well as reported 'double-tap' attacks, also raise concerns regarding the protection of medical personnel and units and the wounded and sick. Further reported practices that raised concerns about Russia's IHL compliance included reported attacks on cultural property, grain exports and energy infrastructure. Ukrainian strikes in Russian-controlled territory have also reportedly resulted in civilian casualties, although to a far lesser extent. The non-cooperation of Russian authorities reportedly makes independent verification of such claims impossible.

Other reported practices during the reporting period that raise concerns about serious violations of IHL by Russian forces and authorities include summary executions, torture and inhumane treatment, conflict-related displacement and arbitrary deprivation of liberty (including potential enforced disappearances). The International Committee of the Red Cross (ICRC) has also reportedly not been granted full access to prisoners of war during the reporting period, in particular those held by Russian authorities.

Conflict Overview

The period under review saw the continuation of an international armed conflict (IAC) initiated in 2014 that opposes the Russian Federation and Ukraine. This entails both hostilities between Russian and Ukrainian forces, as well as the Russian occupation of Crimea, the city of Sevastopol and the regions of Kherson, Zaporizhzhia, Donetsk and Luhansk.

The most recent phase of the conflict that followed the Russian invasion of 24 February 2022 has seen allegations of massive violations of international humanitarian law (IHL), with the overwhelming majority reportedly perpetrated by Russian armed forces. Allegations of violations of IHL within Ukraine, especially in areas controlled by the Ukrainian Government, are well documented, having attracted the attention of numerous monitoring bodies.¹ The extent and gravity of the alleged violations imputed to Russia is alarming. It has led the Office of the High Commissioner for Human Rights (OHCHR) to refer to ‘persistent patterns of violations of ... [IHL]’.² Strong words have been used to denounce the conduct of Russian forces in Ukraine: reference was made to Russia’s ‘general disregard for the basic principles set out in IHL’³ or to its ‘blatant disregard for human life and dignity’.⁴

Regarding the regions under occupation, Russia considers these part of its own sovereign territory and rejects the application of the law of occupation (see section below – ‘Classification’). According to some reports, many of the policies implemented by Russia in Crimea in breach of the law of occupation appear to have the purpose of erasing Ukrainian sovereignty in the institutions of the occupied territories.⁵ As the United Nations (UN) General Assembly put it, ‘the temporary occupation of Crimea became a blueprint for a grave human rights crisis in other territories of Ukraine under temporary military control by the Russian Federation’.⁶

Some of the most striking reports of violations concern the reported imposition of Russian citizenship on residents of the occupied territories – in breach of the prohibition on compelling the population of occupied territory to swear allegiance to the hostile power,⁷ the application of Russian law, even retroactively,⁸ and alleged cases of forced conscription into the Russian armed forces.⁹

A decree issued by the President of the Russian Federation on 27 April 2023 asserted that, starting on 1 July 2024 (this deadline was later pushed to 31 December 2024), all persons residing in the occupied territory as of 30 September 2022 (date of the attempted annexation) would be considered foreigners unless they took the necessary steps to acquire Russian citizenship.¹⁰ Faced with the choice of being deprived of their rights as citizens and being treated as foreigners in their own country, the inhabitants of the occupied territories are not in a position to make a free choice concerning the acquisition of Russian citizenship.¹¹ Moreover, to the extent to which it deprives protected persons of the benefits of the Fourth Geneva Convention, the conferral of Russian citizenship amounts to a violation of Article 47 of Geneva Convention IV.¹² Even in the case of a genuine choice to acquire Russian citizenship – a decision that arguably could be equated to a renunciation of the rights conferred upon protected persons – it is guaranteed that ‘[p]rotected persons may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention’.¹³ Russia, therefore, could not rely on the nationality requirement in Article 4(1) of Geneva Convention IV to justify its treatment of such persons in deviation from the Convention.¹⁴

Conflict Classification

During the reporting period, an IAC was ongoing between the Russian Federation and Ukraine, including the occupation by Russia of the parts of Ukrainian territory (Crimea, the city of Sevastopol and the regions of Kherson, Zaporizhzhia, Donetsk and Luhansk) which were ‘actually placed under the authority’ of Russian armed forces.¹⁵

It is not contested that the law of international armed conflict remains applicable to the conduct of hostilities between the armed forces of the two states. In terms of the application of IHL, the main area of difference in the views of the parties to the conflict concerns the application of the law of belligerent occupation to the regions of Ukraine that have been illegally annexed by Russia, including Crimea, the city of Sevastopol and the regions of Kherson, Zaporizhzhia, Donetsk and Luhansk. Russia treats these regions as part and parcel of its own sovereign territory, imposing on them its own political, administrative and legal system.¹⁶ It claims, incorrectly, that it is Ukraine that was – or remains – an occupying power in areas Ukraine controls, in Donetsk, Kherson, Luhansk and Zaporizhzhia.¹⁷ As a result, Russia rejects in principle any constraint resulting from the law of belligerent occupation, in particular the customary IHL duty to respect ‘unless absolutely prevented, the laws in force in the country’. While the position of Russia is legally unsound (according to the European Court of Human Rights, among other international bodies),¹⁸ it represents a formidable practical obstacle to the effective implementation of the law of occupation.

International Humanitarian Law in Russia-Ukraine, 1 July 2023–30 June 2024

Conduct of Hostilities

Attacks Directed against Civilians and Civilian Objects, or of an Indiscriminate or Disproportionate Nature

There are no reliable total figures for civilian casualties in the Russia-Ukraine conflict during the reporting period (1 July 2023–30 June 2024), but in light of available sources, such casualties can be estimated to number in the tens of thousands. While the reported civilian casualty figures, especially fatalities, appear to have dropped during the second year of the full-scale invasion of Ukraine, shelling, air and drone strikes reportedly remained the primary cause of reported casualties among civilians.¹⁹ According to a February 2024 report by the Office of the High Commissioner for Human Rights (OHCHR), ‘[s]ince 24 February 2022, conflict-related violence in Ukraine has killed at least 10,582 civilians and injured 19,875 (30,457 total civilian casualties)’.²⁰ In 2023, on average, 163 civilians were reportedly killed and 547 injured each month.²¹

Reporting by OHCHR indicates that most civilian casualties in Ukraine resulted from shelling and multiple launch rocket system (MLRS) attacks near the frontline. However, a significant proportion of casualties were also said to have

‘occurred far from the frontline from attacks with missiles and loitering munitions, predominantly launched by Russian armed forces’.²² In many cases, reports indicate that such missile attacks were seemingly directed against civilian objects, with no evidence that such objects were being used for military purposes or close to a military objective.²³ This raises concerns, among others, regarding respect for the fundamental IHL principle of distinction. In addition, as a minimum, the high numbers of civilian casualties overall also raise concerns about compliance with the principles of proportionality and precaution in attack.

In June 2024 the UN Secretary-General reported 243 verified attacks on schools and 92 on hospitals in Ukraine, resulting in extensive damage and destruction. The vast majority of attacks were attributed to Russian forces and affiliated armed groups.²⁴ This raises concerns, among others, regarding respect for the fundamental IHL principle of distinction, as well as the special protections afforded to medical units and personnel.²⁵

Other reported incidents that appear to display disregard for IHL are so-called ‘double tap’ attacks – in other words, attacks launched soon afterwards on the location of an earlier initial attack, when emergency services have arrived at the scene.²⁶ Intentionally attacking medical personnel or persons *hors de combat* (for instance, wounded persons) are serious violations of IHL, constituting grave breaches of the Geneva Conventions and the Additional Protocol I.²⁷

It has also been established that strikes by Ukraine in Russian-controlled territory, both in Ukraine and Russia, have also resulted in civilian casualties, although to a far lesser extent than military operations conducted by Russia in Ukrainian government-held territory.²⁸ Due to the lack of cooperation by Russian authorities with independent fact-finding bodies, it is difficult to assess the credibility of Russian allegations of violations of the rules on the conduct of hostilities by Ukrainian forces in Russian-controlled territory.²⁹ Thus, for instance, when the UN Security Council met on 30 December 2023 to discuss Russian allegations regarding the shelling of the city centre and residential neighbourhoods of Belgorod with cluster munitions, it was clarified that the UN was ‘not in a position to independently verify the various reported attacks or casualty figures’.³⁰ Similarly, Russian claims of a ‘double tap’ attack by Ukrainian forces in the village of Sadove, Kherson region, on 7 June 2024, could not be independently verified.³¹ Further investigations of those incidents that took place in Russian-controlled areas are therefore needed.

Another aspect that might require further investigation is the claim by Russia that some civilian casualties caused by loitering munitions in government-controlled areas in Ukraine result from Ukraine’s deployment of air defence systems in residential neighbourhoods,³² which could potentially breach the principle of precaution against the effects of attacks, including the obligation to locate military objectives away from densely populated areas.³³ However, it is to be recalled that a failure by one party to comply with the duty to take precautions against the effects of attacks in no case releases the other party from the duty to respect the principles of distinction, proportionality or precaution in attack.

Attacks against Cultural Property

Cultural property in Ukraine has also reportedly been severely impacted by Russian military tactics. Some airstrikes and missile attacks were reportedly directed against cultural property, as was the case of attacks directed against buildings within the

perimeter of the historic centre of the city of Odesa – an area inscribed on the World Heritage List – in July 2023.³⁴ Besides the principle of distinction, these reports indicate a disregard for IHL rules on special protection of cultural property in the conduct of hostilities. These include the rules contained in Additional Protocol I to the 1949 Geneva Conventions (which lists attacking cultural property as a grave breach);³⁵ the 1954 Hague Convention for the Protection of Cultural Property (to which Russia and Ukraine are both state parties);³⁶ and customary IHL.³⁷ Damaged cultural property also included, for instance, the Ukrainian Orthodox Church’s Transfiguration Cathedral in the centre of Odesa,³⁸ which is also protected under the above-mentioned rules as a place of worship. The actions of occupation authorities have also reportedly resulted in the destruction of cultural property: in November 2023, in the Ivanivskyi district of Kherson region, the occupation administration ‘announced the demolition of 14 memorials dedicated to the Holodomor famine suffered between 1932 and 1933’.³⁹ Moreover, in March 2023, Russia adopted a law that had the effect of appropriating museum collections and archival documents on the territories of Donetsk, Kherson, Luhansk and Zaporizhzhia regions.⁴⁰ Such acts of destruction and appropriation would appear to amount to breaches of IHL rules prohibiting property destruction or confiscation in occupied territory,⁴¹ as well as those requiring the special protection of cultural property.⁴² Such acts may qualify as grave breaches of the Fourth Geneva Convention if they constitute ‘extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly’.⁴³

Attacks against Grain Export Infrastructure

Further reported practices that raise serious concerns in terms of IHL compliance are attacks against critical infrastructure related to Ukrainian grain exports.⁴⁴ There are indications that repeated attacks directed at grain silos, vehicles transporting grain or port facilities are aimed at weakening Ukraine’s economic power rather than at achieving a ‘definite military advantage’, as required by the definition of military objectives enshrined in the First Additional Protocol and customary IHL.⁴⁵ OHCHR thus noted that some of the attacks occurring during July and August 2023 coincided with the expiration of the Black Sea Grain Initiative and reduced Ukraine’s practical capacity to export food.⁴⁶ It further noted that ‘[g]iven the importance of agricultural exports to the Ukrainian economy (40 percent of total export revenues), reduced export volumes, particularly of wheat, threaten “shockwaves across the entire Ukrainian economy”’.⁴⁷ Despite Russian claims that such attacks are justified on account of the use of grain infrastructure for military purposes,⁴⁸ the Organization for Security and Co-operation in Europe (OSCE)’s Office for Democratic Institutions and Human Rights (ODIHR) noted that ‘there is no information available supporting that the entirety of the port infrastructure targeted offered an “effective contribution” to Ukraine’s military action’.⁴⁹ Therefore, the reported practice of attacking grain export infrastructure raises concerns about respect for the principle of distinction between military objectives and civilian objects.

Attacks against Energy Infrastructure

The reporting period saw reports of repeated waves of attacks targeting the Ukrainian electric grid with the effect of disrupting access to electricity for millions of Ukrainians and disrupting access to water, gas, heating and other essential services

for hundreds of thousands of Ukrainians.⁵⁰ OHCHR noted that '[t]he cumulative impact of these sustained attacks on energy infrastructure could potentially deprive the civilian population of services necessary for its survival, particularly when the winter season starts'.⁵¹ Attacks against energy infrastructure have also been reported in areas under Russian control.⁵²

On 25 June 2024 the International Criminal Court (ICC) announced that a Pre-Trial Chamber had issued arrest warrants against Sergei Shoigu, former Minister of Defence of the Russian Federation, and Valery Gerasimov, Chief of the General Staff of the Russian Armed Forces and First Deputy Minister of Defence for their role in attacks on critical infrastructure in Ukraine, including strikes against power plants and sub-stations, from 10 October 2022 until at least 9 March 2023.⁵³ The Pre-Trial Chamber affirmed that 'there are reasonable grounds to believe that the alleged strikes were directed against civilian objects, and for those installations that may have qualified as military objectives at the relevant time, the expected incidental civilian harm and damage would have been clearly excessive to the anticipated military advantage'.⁵⁴ While these facts predate the reporting period for this report, these proceedings are highly relevant to the practices reported above during the reporting period.

While the tactic deployed by Russia has been described as aiming for the maximization of civilian suffering,⁵⁵ it is generally accepted that to the extent that they provide electric power to the enemy armed forces, electric installations qualify as military objectives.⁵⁶ The Eritrea-Ethiopia Claims Commission, citing the cases of stations that are segregated from a general power grid and that are limited to humanitarian purposes, noted that 'not all power stations would qualify as military objectives'.⁵⁷ Nevertheless, when electric power plants are connected to an integrated power grid so that electric power produced in one facility can easily be rerouted to the place where it is needed for military purposes, as is the case in Ukraine, it may well be that they remain a lawful military objective.⁵⁸

In such cases, the lawfulness of the attack will therefore essentially depend on compliance with the rules on proportionality and precautions in attack. The secondary effects of the destruction or neutralization of power-generating installations on the civilian population – sometimes also referred to as 'reverberating effects' – must be balanced against the concrete and direct military advantage anticipated from the attack.⁵⁹ Finally, and irrespective of other considerations, attacks launched on 'objects indispensable to the survival of the civilian population' with the 'specific purpose' of denying their sustenance value to the civilian population are prohibited.⁶⁰ Thus, the UN General Assembly called upon all parties to the armed conflict in Ukraine 'to spare civilian objects, including those critical to the delivery of essential services to the civilian population'.⁶¹

Means of Warfare

Use of Explosive Weapons in Populated Areas

The leading cause of civilian casualties in Ukraine in 2023 was the reported use of explosive weapons with wide area effects in populated areas, which raises serious concerns about the indiscriminate character of such attacks.⁶² While findings of violations could only be made on a case-by-case basis, considering all relevant evidence – which is not readily available for all cases – a number of reported incidents

appear to represent violations of the principle of distinction between civilians and civilian objects, on the one hand, and combatants and military objectives, on the other.

For instance, on 5 October 2023, a funeral reception taking place in a cafe in the village of Hroza, Kharkiv region, reportedly was the object of a Russian missile attack, resulting in the death of 59 civilian persons: 36 women, 22 men and 1 boy.⁶³ Russian authorities affirmed that the attack had targeted a concentration of Ukrainian military personnel.⁶⁴ In the days that followed the attack, OHCHR staff inspected the site of the incident and conducted numerous interviews with witnesses.⁶⁵ OHCHR found that none of the military personnel present at the ceremony had attended the reception, and that they had all left the village by the time of the attack. OHCHR also ‘found no indication of the presence of legitimate military targets at or near the funeral reception at the time of the incident’.⁶⁶

Considering these elements, it appears that Russian forces may have breached the fundamental principle of distinction, including the prohibitions on directing attacks against civilians and civilian objects, or on indiscriminate attacks. Even if some members of the Ukrainian armed forces had been present at the reception, this would not deprive civilian attendees of their protection or negate the obligations to respect IHL rules on proportionality or precaution in attack. OHCHR wrote that ‘[t]he attack in Hroza village, although more lethal, aligns with a pattern of several attacks in the reporting period, where powerful missiles struck populated areas under the control of Ukraine, resulting in multiple civilian casualties and significant damage to civilian property and infrastructure’.⁶⁷

Treatment of Persons

Murder/Summary Executions

Human Rights Watch reported cases of summary executions of surrendering Ukraine soldiers by Russian forces.⁶⁸ Similar allegations concerning the summary executions of surrendering Russian soldiers by Ukrainian forces have likewise been reported in the international media.⁶⁹ Such acts, if confirmed, would amount to murder of persons *hors de combat*, which is a serious violation of IHL.⁷⁰ There are no indications that these allegations have been properly investigated by the relevant authorities.

Torture and Inhumane Treatment

Multiple independent fact-finding mechanisms and international bodies have reported numerous and concordant testimonies of former detainees – both civilians and prisoners of war – who have claimed to have been subjected to torture or to have witnessed torture being inflicted on other detained persons either in occupied regions of Ukraine or in Russia. Sources include the UN Secretary-General (relaying findings by OHCHR);⁷¹ ODIHR;⁷² the Independent International Commission of Inquiry on Ukraine;⁷³ members of the OSCE’s Moscow Mechanism;⁷⁴ and the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.⁷⁵ The seemingly widespread and systematic character of the practice, as attested to by the similar methods of torture applied across various detention facilities, points towards the existence of a state policy.⁷⁶ As noted by the UN

Secretary-General, the systematic practice takes place in a climate of generalized impunity, if not encouragement from higher levels of hierarchy. According to the Secretary-General, such impunity is now explicitly enshrined in Russian law, with the adoption, on 24 June 2023, of a law that exempts individuals serving in the Russian armed forces from criminal liability.⁷⁷

Methods of torture reportedly include sexual violence,⁷⁸ including cases of rape or threats thereof; threats of causing harm to family members; mutilation; stress positions; electric shocks to sensitive parts of the body, including the genitals; beatings with various instruments; cuttings; putting sharp objects under the fingernails; and mock executions.⁷⁹ In some cases, victims have been tortured to death or summarily executed.⁸⁰ Conditions of detention have also been reported to fall far below applicable standards, with reports of seriously overcrowded cells, lack of heating, inadequate food, water or medical care – access to it being denied altogether in some cases – or sanitation.⁸¹

Conflict-Related Displacement

Since Ukrainian residents of Crimea who have not acquired Russian citizenship are treated as foreigners, hundreds have reportedly been expelled to government-controlled regions by the occupation authorities for infringement of residence regulations for foreign nationals.⁸² The entry into force of Decree 307 of 27 April 2023 (see ‘Conflict Overview’) would expose many inhabitants of the occupied regions of Ukraine to the risk of deportation if they do not comply with Russia’s annexation policy by taking up Russian citizenship.⁸³ Orders of deportation have also reportedly been used by the occupation authorities as a sanction for breaches of the regime of martial law imposed in certain occupied regions of Ukraine,⁸⁴ or for perceived opposition to the Russian occupation. Other reasons for forced displacement include measures of coercion taken by the occupation authorities aimed at forcing residents to collaborate with the occupying authorities,⁸⁵ or transfers of civilian persons deprived of liberty.⁸⁶

Furthermore, while international efforts have permitted the reunification of several hundred children initially transferred to Russia with their families in Ukraine, thousands more remain separated.⁸⁷ Continuing reports of the practice of forcible transfer and deportation of children within occupied regions of Ukraine and from such regions to the territory of Russia have emerged.⁸⁸ Prior to the reporting period, charges were brought at the ICC against President Vladimir Putin and Maria Alekseyevna Lvova-Belova, the Presidential Commissioner for Children’s Rights, regarding these practices. During the reporting period, the latter affirmed that the arrest warrant had not in any manner affected the usual conduct of affairs of her office.⁸⁹

Under IHL, it is prohibited to deport or forcibly transfer civilians within or from an occupied territory, unless this is necessary for the security of the civilians involved or for imperative military reasons.⁹⁰ All persons displaced in connection with armed conflict have ‘the right to voluntary return in safety to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist’.⁹¹ In the meantime, ‘all possible measures must be taken’ to receive displaced civilians in ‘satisfactory conditions of shelter, hygiene, health, safety and nutrition’, and to ‘avoid separation of family members’.⁹²

Concerns Related to Deprivation of Liberty in Armed Conflict

Arbitrary Deprivation of Liberty

It has been reported that civilian persons deprived of liberty in occupied territories have often been held incommunicado for long periods and are not allowed contact with family members or lawyers,⁹³ raising concerns of breaches of numerous IHL rules.⁹⁴ According to a report of the UN Secretary-General, Russian authorities have failed to inform the ICRC's Central Tracing Agency of the fate and whereabouts of detained persons.⁹⁵ Reports that the authorities have refused to divulge such information, even when faced with requests from family members, indicate that such cases may amount to enforced disappearances.⁹⁶ A report of the OSCE's Moscow Mechanism takes the view that Russia 'has, consistently and deliberately, resorted to such incommunicado detentions with respect to Ukrainian civilians'.⁹⁷ The UN Working Group on Enforced or Involuntary Disappearances 'remains deeply concerned by the ongoing influx of reports concerning enforced disappearances perpetrated by armed forces and affiliated armed groups against civilians and prisoners of war since the beginning of the armed conflict in Ukraine in February 2022'.⁹⁸

Enforced disappearances amount to serious violations of customary IHL⁹⁹ and violate numerous provisions of IHL treaties, including the guarantee of 'the right of families to know the fate of their relatives'.¹⁰⁰

ICRC access

While the ICRC reported in June 2024 that its staff had been able to visit 3,000 prisoners of war on both sides, it also called on the parties to the armed conflict 'to fully comply' with their obligations under IHL, 'notably by granting us full, regular and unimpeded access to all those they are holding captive'.¹⁰¹ Other reports indicate that the ICRC was not always able to exercise its right of access to persons held in detention by Russian authorities, especially civilians. This is in contrast to its reported access to Russian prisoners of war held in detention by Ukrainian authorities.¹⁰²

Specific Vulnerabilities

Children

It has been reported that changes imposed in the education system by occupation authorities have disrupted the proper functioning of educational institutions in the occupied regions of Ukraine. The occupying authorities have reportedly replaced the Ukrainian curriculum with a Russian curriculum that includes elements of pro-Russian political indoctrination; coerced teachers into teaching in Russian, causing some teachers to refuse to return to work; and targeted teachers who taught the Ukrainian curriculum online.¹⁰³ Amnesty International reports that parents who refused to bring their children to school 'were subjected to intimidating questioning and threats by their superiors'.¹⁰⁴ One teacher interviewed by Amnesty

International was of the view that Russian education policies in occupied territory and their implementation were aimed at the ‘elimination of the Ukrainian identity’.¹⁰⁵ Due to the shortage of teaching staff, the quality of teaching reportedly was very low.¹⁰⁶

In addition to the general duty to ensure public order and respect the laws in force in occupied territory,¹⁰⁷ an occupying power ‘shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children’.¹⁰⁸ According to the ICRC, ‘the occupying authorities are bound not only to avoid interfering with [children’s institutions’] activities, but also to support them actively and even encourage them if the responsible authorities of the country fail in their duty’.¹⁰⁹ The Ukrainian law on education guarantees education in the Ukrainian language, and the sweeping changes brought to the education system, therefore, appear to be incompatible with those obligations.¹¹⁰

In its judgment of 31 January 2024, the International Court of Justice (ICJ) held that structural changes in the education system in Crimea resulting in restricted access to education in the Ukrainian language ‘constitute[d] a pattern of racial discrimination’ in breach of the Convention for the Elimination of all Forms of Racial Discrimination’.¹¹¹ In addition, the European Court of Human Rights held that Russia was responsible for an administrative practice in Crimea ‘which amounted to a denial of the substance of the right to education’, as well as a violation of the right to education under Protocol No 1 to the European Convention on Human Rights.¹¹² These findings are relevant to the developing situation in other occupied regions of Ukraine, as the obligation of an occupying power to ensure public order ‘comprise[s] the duty to secure respect for the applicable rules of international human rights law’.¹¹³

End Notes Russia – Ukraine

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3 'Fifth Interim Report on Reported Violations of International Humanitarian Law and International Human Rights Law in Ukraine', 2024, para 3, https://www.osce.org/files/f/documents/a/e/573346_2.pdf, (Mr Matteo Mecacci, ODIHR Director).

4 D. Mijatović, Council of Europe Commissioner for Human Rights, 'Russia's Full-Scale Attack on Ukraine, 2 Years On: Our Common Struggle in Defence of Ukrainian People's Human Rights', 23 February 2024, <https://www.coe.int/en/web/commissioner/-/russia-s-full-scale-attack-on-ukraine-2-years-on-our-common-struggle-in-defence-of-ukrainian-people-s-human-rights>.

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9 Ibid. If confirmed, this would be in breach of the prohibition set out in art 51(1), Geneva Convention IV, and customary IHL (art 23(h), 1907 Hague Regulations; Rule 95, ICRC, Customary IHL Database, <https://>

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SOMALIA

During the reporting period, a non-international armed conflict (NIAC) was ongoing between the Somali armed forces and al-Shabaab, with state forces being supported by the African Transition Mission in Somalia (ATMIS) and the United States of America.

Regarding the conduct of hostilities, reports indicate that airstrikes conducted against suspected al-Shabaab fighters, as well as attacks by al-Shabaab using rocket and mortar fire and improvised explosive devices (IEDs), killed and injured civilians and damaged civilian objects, in circumstances suggesting a lack of compliance with the principles of distinction, proportionality or precaution in attack.

Reports of unfair trials in connection with the conflict, including the imposition of the death penalty, were also a concern during the reporting period. These reports implicated federal and Puntland military courts, as well as al-Shabaab, and raised concerns about convictions, sentencing and executions in the absence of essential fair trial guarantees.

Reported attacks on humanitarian and medical personnel and transports, as well as on medical facilities, were said to have impeded humanitarian access, leading to the reduction of humanitarian organizations' activities. This raises concerns about respect for the special protections afforded to humanitarian relief and medical personnel and objects.

Specific child protection concerns were also raised by reported international humanitarian law (IHL) violations committed against children, particularly abduction, recruitment and use of children in hostilities, rape and other forms of sexual violence.

Conflict Overview

Between 1991 and 2004, following the overthrow of President Mohamed Siad Barre, Somalia lacked an effective government and was the scene of various violent power struggles and local armed conflicts. The dire security and humanitarian situation that ensued was deemed to necessitate the deployment of various United Nations (UN) peacekeeping and peace-enforcement forces, as well as the intervention of forces of the United States of America (USA). Authority over Somalia's territory was further contested by the region of Somaliland unilaterally declaring independence in 1991, and the region of Puntland declaring autonomy in 1998.¹

While a transitional government was established in 2004, violence and limited government control over the state's territory continued. This period saw the rise of Islamist armed groups, which took control of the capital, Mogadishu, and other areas in 2006, prompting intervention by Ethiopia and the African Union (AU) in support of the government, as well as the deployment of a new UN peacekeeping force. In this period of intensified fighting, the Islamist armed group al-Shabaab, which had captured key towns, allied itself with Al-Qaeda and mounted an offensive on the capital, as well as taking control of further territory. Amid severe al-Shabaab restrictions on humanitarian access and attacks on humanitarian workers, a famine killed over 260,000 people in 2010–2012. After al-Shabaab lost key towns to Somali government forces, supported by Kenya and the AU, an internationally recognized federal government was established in Somalia in 2012. Al-Shabaab continued intensive armed activities, including across the border in Kenya, and continued to fight for territorial control against the federal government (which was supported by AU peacekeeping forces, Kenya, Ethiopia and the USA). Inter-regional tensions within Somalia also sporadically erupted into conflict. The humanitarian situation has remained concerning in recent years, with high levels of civilian casualties, displacement, food insecurity and attacks on humanitarian missions.²

During the reporting period, a non-international armed conflict (NIAC) continued between Somalia's state forces – supported by the African Transition Mission in Somalia (ATMIS)³ and the USA – and al-Shabaab. ATMIS was replaced by the African Union Support and Stabilization Mission in Somalia (AUSSOM) when its mandate expired at the end of 2024, after the end of the reporting period.⁴

Armed clashes were also ongoing in Somalia between the Somalia Armed Forces, supported by ATMIS and the USA, and Islamic State Somalia Province (a splinter group of al-Shabaab which pledged allegiance to Islamic State), and between Islamic State Somalia Province and al-Shabaab. These clashes have been sporadic, including during the reporting period,⁵ staying below the threshold of intensity for a NIAC under international humanitarian law (IHL).

Nevertheless, Islamic State Somalia Province is reported to have become increasingly active in recruitment, finance and logistics, and continues to present a serious threat to stability in Somalia.⁶ Indeed, the group appears to have been able to generate substantial revenue through various illicit activities, in particular extortion and tax collection, and displayed the ability to support other Islamic State affiliates as far away as Afghanistan.⁷ Islamic State Somalia Province has benefited from a significant flow of foreign recruits, which has allowed the group to build up its capabilities to take on al-Shabaab. However, its ability to conduct military operations and attacks in Somalia, though, remains relatively limited.⁸

A separate conflict that erupted in January 2023 between the Government of Somaliland, a self-declared independent region of Somalia, and the Sool, Sanaag, and Cayn (SSC) militias – Dhulbahante clan militias in the disputed Sool region – has subsided following the withdrawal of Somaliland forces and the establishment of the SSC Khaatumo administration.⁹ However, sporadic clashes continued, including during the reporting period.

Conflict Classification

For the reporting period (1 July 2023–30 June 2024) a single NIAC was ongoing in Somalia:

- a NIAC between the Somali Armed Forces, supported by ATMIS and the USA, and al-Shabaab

The conflict is governed by Common Article 3 to the Geneva Conventions and customary IHL applicable in non-international armed conflict. Somalia is not a state party to Additional Protocol II.

International Humanitarian Law in Burkina Faso, 1 July 2023–30 June 2024

Conduct of Hostilities

Attacks against Civilians, or of an Indiscriminate or Disproportionate Nature

Reporting concerning the period covered by this report indicates that airstrikes conducted against suspected al-Shabaab fighters, as well as attacks by al-Shabaab using rocket and mortar fire, have killed and injured civilians and damaged civilian objects in circumstances suggesting a lack of compliance with rules of IHL governing the conduct of hostilities.

One such incident occurred on 18 March 2024 when strikes by Somali armed forces, using Turkish TB-2 drones, reportedly killed 23 civilians and injured 17 others at Jaffey farm around Baqdaad village, Lower Shabelle region.¹⁰ According to eye witnesses, an initial strike hit a local mosque during the Taraweeh prayer in the evening, damaging the building and a nearby house.¹¹ Survivors of this attack reportedly fled to Jaffey farm to seek refuge.¹² It was reported that two successive strikes then hit the farm approximately 30 minutes apart, with each killing and injuring several civilians (including people who went to the farm to help survivors of the first attack).¹³

An official statement from the Government of Somalia claimed that 15 al-Shabaab fighters were targeted and killed in this operation.¹⁴ While detailed information about the planning of the attack is not publicly available, the circumstances and consequences of the strikes raise concerns about compliance with IHL, specifically regarding whether the attacking party took all necessary precautions to minimize incidental harm to civilians and civilian objects.¹⁵ This includes the

time, place and nature of the attacks, since they were conducted in a residential village, during the time when civilians often gather at a mosque for prayers, and involved a follow-up strike where there was a likelihood of causing significant harm to civilian first responders to the previous strike.

During the reporting period, Al-Shabaab also targeted Aden Adde International Airport, where the UN compound is also located, with mortars and rockets. In one such incident on 19 August 2023, a rocket attack on the airport area impacted 'one United Nations facility and a commercial compound hosting several United Nations entities, injuring two United Nations personnel and temporarily suspending air traffic'.¹⁶ Similarly, on 11 January 2024, a number of mortar rounds landed inside the Aden Adde International Airport area, killing a UN Guard Unit member and damaging infrastructure.¹⁷

Civilian airports, as civilian objects, only lose their protection if their use makes an effective contribution to military action of parties to the conflict (and for such time as they make this contribution). There is no information indicating that during the time of the above-mentioned attacks, the Aden Adde International Airport, which also houses many diplomatic missions, including UN facilities, was being used in a manner that would lead to the loss of protection.

Means of Warfare

Use of Explosive Weapons in Populated Areas

Several al-Shabaab attacks involving IEDs were reportedly conducted in places frequented by civilians, such as markets, hotels and service stations, and reportedly resulted in civilian deaths, making them of serious concern regarding respect for fundamental principles of distinction and proportionality. In its June 2024 report, the UN Support Office in Somalia (UNSOS) stated that '[t]he increase in civilian casualties [in Somalia] is due to the increased number of al-Shabaab attacks using improvised explosive devices'.¹⁸

In one reported incident on 23 September 2023, a suicide truck bomb exploded at a government checkpoint in Beledweyne city's Nur Hawaad neighbourhood, damaging civilian buildings and reportedly killing up to 30 people, including 10 security personnel and 20 civilians, and injuring at least 50 people.¹⁹ On 6 February 2024, it was reported that four IEDs, suspected to have been planted by al-Shabaab, simultaneously detonated inside the Bakara market in Mogadishu, killing 10 people, mostly civilians, and injuring a further 20 people.²⁰ The SYL Hotel attack on 15 March 2024, which reportedly caused the death of four people, including a television journalist, was said to have involved the use of two vehicle-borne IEDs.²¹ On 6 April 2024, the local service station in Balcad town, Shabelle Dhexe region, was also allegedly attacked by al-Shabaab with a vehicle-borne IED, reportedly killing a member of the armed forces and injuring several civilians, and causing severe damage to the local hospital.²²

As with any other weapon, the use of IEDs is subject to the fundamental rules of IHL governing the conduct of hostilities, such as the principle of distinction (including the prohibition on indiscriminate attacks).²³ This is especially relevant if IEDs are used in areas frequented by civilians and if their detonation cannot be controlled. Even in targeting a military objective, the principle of proportionality applies, as does the principle of precaution in attack, which requires parties to

‘take all feasible precautions in the choice of means and methods of warfare’ so as to avoid or minimize incidental civilian injuries or loss of life.²⁴ Furthermore, the use of such weapons in public places frequented by civilians, such as markets and hotels, raises concerns regarding compliance with the prohibition on violence aimed at spreading terror among the civilian population.²⁵

Concerns Related to Deprivation of Liberty in Armed Conflict

Fundamental Guarantees

Reports of unfair trials in connection with the conflict, including the imposition of the death penalty, continued to be of concern during the reporting period. Concerns have been expressed that military courts falling under the authority of the Somali Armed Forces lack institutional independence and impartiality.²⁶ In particular, judges and officers of military courts reportedly remain under the chain of command of the military.²⁷ Persons who are tried by the military court are also said to have limited access to legal counsel and the right to appeal.²⁸ In March 2024, a military court in Puntland reportedly sentenced six Islamic State Somali Province fighters to death. It was claimed that 23 of the executions in Somalia in 2023 had been carried out by military authorities in Puntland or Mogadishu.²⁹

Al-Shabaab also continues to carry out death sentences against persons accused of spying or working with the government or its allies, following a process that allegedly violates essential fair trial guarantees and reportedly involves inhumane treatment and forced confessions.³⁰ For example, on 8 June 2024, four men accused of sharing intelligence information with the USA army and Turkish military were reportedly sentenced to death by an al-Shabaab court and executed in the Kurtunwaarey town in Lower Shabelle.³¹ In January 2024, at least seven people accused of being spies of the USA, Kenya and the Government of Somalia were reportedly executed in Jilib town after similar proceedings.³² Al-Shabaab court proceedings reportedly do not afford judicial guarantees, such as legal representation and appeals; they are further thought to rely heavily on confessions obtained through interrogation, with the attendant risk of torture or other inhumane treatment.³³

Even during armed conflict, persons arrested and detained for activities with a nexus to the conflict must benefit from fundamental guarantees, including a fair trial. Unless they are based on a judgment passed by a regularly constituted court, after a fair trial affording essential judicial guarantees, the passing of convictions and sentences and carrying out of executions are serious violations of IHL.³⁴

Humanitarian Relief

Protection of Humanitarian Relief and Medical Personnel and Objects

According to reports, humanitarian personnel have been subjected to various attacks by al-Shabaab in Somalia. On 4 April 2024, Turkish and Somali aid workers who were travelling to a displaced persons’ camp to deliver food were reportedly

killed when their vehicle was hit by a roadside explosion claimed by al-Shabaab.³⁵ On 10 January 2024, al-Shabaab allegedly shot and killed one person and kidnapped five others when a UN-contracted helicopter, which was carrying medical personnel and soldiers conducting a medical evacuation, landed due to an engine issue in territory held by the group.³⁶ On 1 January, a humanitarian aid worker was reportedly abducted by al-Shabaab in Gedo region, although he was released the same day following clan negotiations.³⁷ These attacks on humanitarian personnel are reported to have impeded the delivery of humanitarian assistance to those in need.³⁸

Attacks targeting medical care facilities have also been reported. One such reported incident concerned an attack apparently targeting Las Anod General Hospital on 8 July 2023.³⁹ Seven hospital staff and three caretakers were reported wounded and two ambulances destroyed as a result of the attack.⁴⁰ Médecins Sans Frontières (MSF) withdrew its services from the hospital in the aftermath, citing concerns for the safety of patients and healthcare workers.⁴¹

The abovementioned reports indicate a lack of regard for the fundamental IHL principle of distinction. They also raise concerns about respect for the special protections afforded to humanitarian relief and medical personnel and objects, including medical units (such as hospitals) and medical transports.⁴²

Specific Vulnerabilities

Children

Reported violations of IHL committed against children, particularly abduction, recruitment and the use of children in hostilities, and rape and other forms of sexual violence, continued to be a serious concern in the context of the armed conflict in Somalia during the reporting period. Both al-Shabaab and the Somali armed forces are listed in the annex of the latest annual report of the UN Secretary-General on children and armed conflict for recruitment and use of children.⁴³ During the reporting period, Al-Shabaab reportedly continued the practice of abducting children for the purpose of recruitment and use in armed conflict, particularly in Hiraan, Bay, Shabelle Hoose, Bakool and Juba Dhexe.⁴⁴ While the recruitment and use of children in the Somali armed forces is reported to have decreased,⁴⁵ children reportedly continued to be recruited by government allied clan militias, known as ‘community defence forces’, to participate in fighting against al-Shabaab alongside the Somali national army.⁴⁶

According to the UN Secretary-General’s April 2024 report on conflict-related sexual violence, rape and other forms of sexual violence were also perpetrated against girls by Al-Shabaab and the Somali armed forces. Al-Shabaab, the Somali National Army and other allied clan militias are listed in the annex of the report as being credibly suspected of rape or other forms of sexual violence in armed conflict.⁴⁷ The report also indicated that incidents of rape and other forms of sexual violence affecting 231 girls in Somalia had been verified.⁴⁸ One example during the reporting period concerned two sisters, aged 15 and 16 years respectively, who allegedly were raped by two members of the Somali National Army on 26 February.⁴⁹ Two other minors were allegedly sexually assaulted in Marko, Marka district, Shabelle Hoose region, by the same military officers.⁵⁰

End Notes Somalia

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SOUTH SUDAN

Two parallel non-international armed conflicts (NIACs) were ongoing in South Sudan in the reporting period: a NIAC between the South Sudan People's Defence Forces (SSPDF) and the non-state armed group Sudan People's Liberation Army-In Opposition (SPLA-IO), and a NIAC between the SSPDF and the non-state armed group National Salvation Front (NAS). In addition to Common Article 3 and customary international humanitarian law (IHL) applicable to NIACs, the conflict involving SPLA-IO is additionally governed by Additional Protocol II to the Geneva Conventions. This is because SPLA-IO met the threshold of territorial control required for application of the Protocol, to which South Sudan is a state party.

Reports on violence affecting civilians for the reporting period are concerning, even though the number of instances of civilians harmed has slightly reduced in comparison to previous years. Owing to the nature of available data, it is complicated to assess whether each instance of violence displays a nexus with an armed conflict or indicates a potential IHL violation. Overall, reported incidents clearly signalling potential IHL violations were relatively sparse during the reporting period, which could be explained by an under-reporting of incidents, the relative de-escalation of violence, the difficulty of attributing violence to a precise actor or a combination of the three.

Nevertheless, a number of incidents and practices were reported that raise concerns regarding IHL compliance, including some which indicate potential serious violations of IHL. Relevant reports relate to instances of alleged attacks directed against civilians (mainly shooting incidents implicating SSPDF soldiers or NAS fighters in Central Equatoria State); murder or summary execution of people in the power of a party to a conflict; conflict-related sexual violence; conflict-related displacement; arbitrary deprivations of liberty (including enforced disappearances and abductions, many of which were allegedly for forced recruitment into the NAS); torture and inhumane treatment; attacks on humanitarian personnel and objects; and impediment of humanitarian access.

Conflict Overview

In 2005, after several decades of civil war in Sudan, the Comprehensive Peace Agreement was signed between the Government of Sudan and the Sudan People's Liberation Army/Movement (SPLA/M), an armed group aiming to secure the independence of what now is South Sudan. The agreement opened the way to a referendum, the results of which led to the independence of South Sudan in July 2011. In the same month, the United Nations (UN) Security Council adopted Resolution 1996, establishing the UN Mission in the Republic of South Sudan (UNMISS), which was tasked with the consolidation of peace and security, among other issues.¹

Upon independence, the Sudan People's Liberation Army (SPLA) became the national army, while the Sudan People's Liberation Movement (SPLM) became the ruling party, led by President Salva Kiir from the Dinka community. Riek Machar, from the Nuer community, was appointed the Vice-President of South Sudan.² In 2013, power struggles at the top of the government led to a fall-out between the President and Vice-President, and clashes erupted between different factions of the SPLA.³ These events marked the beginning of several armed conflicts in South Sudan, with Riek Machar as the leader of the newly formed Sudan People's Liberation Movement/Army-in-Opposition (SPLM/A-IO).⁴

After several years of fighting and the emergence of new actors – including the National Salvation Front (NAS) in 2017⁵ – the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS) was signed in October 2018. The Revitalized Agreement bound President Kiir, Riek Machar and other stakeholders.⁶ Yet, a coalition of groups, including NAS, refused to sign the R-ARCSS, claiming that it failed to address the root causes of conflict in South Sudan.⁷ In the same month, President Kiir issued a decree changing the name of the national army (SPLA) to the South Sudan People's Defence Forces (SSPDF).⁸

The 2018 Revitalized Agreement aimed at creating a framework for peace and stability. To do so, it set down a number of initiatives, including a permanent ceasefire between parties to the agreement; the creation of a unified national army (the Necessary Unified Forces, or NUF); and national elections, the first in South Sudan, which were set to take place in December 2024.⁹ In addition, Riek Machar was reappointed as First Vice-President of South Sudan in 2020.¹⁰

Since 2018, however, the implementation of the Revitalized Agreement has suffered significant delays and obstacles.¹¹ The ceasefire has been violated by all parties; NUF lacks efficiency for a variety of reasons (for instance, marginalization of certain factions,¹² budget issues, fragmented loyalties and lack of equipment). On 13 September 2024, the transitional period was extended until February 2027, with national elections postponed to December 2026.¹³

In 2024 all the main actors (SSPDF, SPLA-IO, NAS) remained engaged in hostilities, albeit at a lower intensity compared to the situation prior to the 2018 Revitalized Agreement. Intercommunal tensions continued to be high and gave rise to the majority of incidents and civilian deaths reported over the reporting period (1 July 2023–30 June 2024).¹⁴ These incidents do not have a nexus to an armed conflict regulated by international humanitarian law (IHL). In May 2024 a new peace mediation led by Kenya, known as the Tumaini Initiative, was launched, with a view to fostering peace talks between the government and groups that refused to sign the 2018 Revitalized Agreement, including NAS.¹⁵ Nevertheless, a splinter group from SPLA-IO, known as the Kitwang faction, did not participate in the talks.¹⁶

Reports by UNMISS on violence affecting civilians for the reporting period depict a bleak picture even though the number of instances of civilians harmed has slightly reduced in comparison to previous years. Parties to the conflicts remained responsible for 20 percent of the overall civilian harm documented during the period.¹⁷ Overall, 421 civilians were harmed by parties to the conflicts, with 91 killed, 99 injured, 132 abducted and 81 subjected to conflict-related sexual violence.¹⁸ Several comments must be made in relation with these figures. First, UNMISS quarterly briefs are not sufficiently detailed to fully grasp the details of each case. As a consequence, it is complicated to assess whether each instance of violence displays a nexus with an armed conflict, and if the acts, therefore, are subject to IHL. In other words, these figures cannot and should not necessarily be interpreted as IHL violations. For example, it is unclear whether civilians killed or injured were targeted, if they were incidentally harmed during the conduct of hostilities, or harmed in a context in which IHL does not apply.

Conflict Classification

Two parallel non-international armed conflicts (NIACs) were ongoing in South Sudan in the reporting period:

- a NIAC between the South Sudan People's Defence Forces (SSPDF) and the Sudan People's Liberation Army-In Opposition (SPLA-IO)
- a NIAC between SSPDF and the National Salvation Front (NAS).

However, it must be noted that both conflicts are characterized by defections, with high-ranking officers frequently changing allegiance for political or economic gain.¹⁹ This practice contributes to the fragmentation and splintering of armed groups, creating challenges in accurately mapping the organization of the groups. For instance, several commanders of SPLA-IO, led by its Chief of General Staff, Simon Gatwech Dual, splintered from SPLA-IO and created what now is known as the Kitgwang faction in August 2021.²⁰ Defections from NAS were also documented, particularly in 2024, with Kennedy Kenyi Abdu Lopiong now operating an SSPDF-allied proxy force, and John Latio Kenyi Loburong as the leader of a new group, the National Salvation United Forces.²¹

The signature of the Revitalized Agreement in 2018 by both the SPLM/A-IO (led by Riek Machar)²² and the Government of South Sudan, with its promise of a ceasefire, could have hinted at a declassification of the conflict. However, the Revitalized Agreement has not led to a peaceful settlement in practice, and clashes between the two parties – albeit lower in intensity compared to 2018 – remain frequent, particularly in Unity and Upper Nile States.²³ Examples of clashes include an attack by SSPDF and SPLA-IO defectors on an SPLA-IO base in Unity State on 28 November 2023, ultimately leading to the displacement of hundreds of civilians,²⁴ or a battle on 29 January 2024 in Unity State, which resulted in dozens of SSPDF and SPLA-IO fighters being killed or wounded after an SSPDF convoy attempted to force its way through a SPLA-IO checkpoint.²⁵ Furthermore, SPLM/A-IO reportedly controls and administers certain areas, preventing SPLM from carrying out any form of activity.²⁶

The conflict between SSPDF and SPLA-IO is governed by Common Article 3 to the Geneva Conventions, Additional Protocol II (to which South Sudan acceded

in 2013) and customary IHL. The SPLA-IO met the requirements under Additional Protocol II of territorial control.²⁷

The second NIAC in South Sudan during the reporting period opposed SSPDF and NAS, which has not signed the Revitalized Agreement. Subsequent peace talks have yet to bear fruit. Both parties remained engaged in frequent clashes, particularly in Central and Western Equatoria States.²⁸ For example, clashes in Mundri, Western Equatoria State, between SSPDF and NAS in April 2024 led to the displacement of more than 6,000 civilians.²⁹ In February 2024, clashes led to the displacement of over 5,400 civilians.³⁰ In March 2024, NAS elements allegedly launched an attack on SSPDF in Minga Paya, Greater Equatoria region, killing 17 soldiers, including the SSPDF commander, and triggering the displacement of more than 4,000 civilians.³¹

It is not clear that NAS exercises control over any part of South Sudan's territory as required by Additional Protocol II. The Protocol thus is not applicable. This conflict, therefore, is governed by Common Article 3 and customary IHL applicable to NIACs.

Overall, reported incidents clearly signalling potential IHL violations were relatively sparse during the reporting period. This could be explained by an under-reporting of incidents, the relative de-escalation of violence, the difficulty of attributing violence to a precise actor or a combination of the three. UNMISS reports suggest that the decrease is a result of parties to the conflict adhering to their obligations under the 2018 Revitalized Agreement on the Resolution of Conflict in the Republic of South Sudan,³² but evidence for this assertion is lacking. Based on available data, there have been reported instances of attacks directed against civilians; the killing of civilians in the power of a party; torture; conflict-related sexual violence; conflict-related displacement; arbitrary deprivation of liberty (including enforced disappearances and abductions); impediment of humanitarian relief; and attacks on humanitarian workers.

International Humanitarian Law in South Sudan, 1 July 2023–30 June 2024

Conduct of Hostilities

Attacks Directed against Civilians, or of an Indiscriminate or Disproportionate Nature

The Ceasefire and Transitional Security Arrangements Monitoring and Verification Mechanism (CTSAMVM) – the multinational body monitoring compliance with the Revitalized Agreement – has documented the killing of several civilians by SSPDF soldiers as well as by NAS fighters in Central Equatoria State. For example, on 1 July 2023, it was reported that a father and his two sons walking to their fields in Lasu Payam passed a group of SSPDF soldiers. After an unspecified altercation, one of the boys, aged 13 years, became scared and ran away. The SSPDF soldiers then allegedly shot him in the thigh, fatally wounding him. His father was also reportedly shot but eventually recovered.³³

According to a CTSAMVM report, on 8 September 2023, the executive chief of Ombasi Boma, a local municipality, and two other civilians were killed by sus-

pected NAS fighters. On 19 September 2023, it is reported that SSPDF launched operations to 'weed out' NAS elements in the area, instructing civilians to move to the roadsides to stay clear of operations until 26 September 2023. On 22 September, four civilians (two adults, a girl of 15 and a boy of 11) were reportedly working in their fields when they saw an SSPDF patrol. The SSPDF soldiers allegedly opened fire on them after they attempted to run away, killing one adult and the two children. According to the surviving victim, the boy was clubbed to death.³⁴

These attacks, which appear to have been directed against civilians, raise concerns regarding respect for the fundamental IHL principle of distinction. Even if targeting suspected fighters, parties to a conflict nevertheless are required, as a minimum, to respect IHL principles of proportionality and precautions in attack.

Treatment of Persons

Murder/Summary Execution

CTSAMVM has documented several instances of individual civilians being killed while in the power of a party to a conflict. For example, on 11 June 2023, it reported that after an ambush of SSPDF soldiers by NAS fighters in Central Equatoria State, the local chief was arrested by SSPDF reinforcements on suspicion that he had assisted in harbouring the fighters who perpetrated the ambush. While still in custody on the way to the SSPDF base, the chief was allegedly shot and killed by SSPDF.³⁵

Murder in connection with an armed conflict is a serious violation of IHL.³⁶

Conflict-Related Sexual Violence

While underreporting remains a significant factor (likely due to societal stigma and fear of reprisals), UNMISS reports that between July 2023 and June 2024, there were at least 81 instances of conflict-related sexual violence committed by parties to the conflicts.³⁷ This suggests that sexual violence continues to be a significant hallmark of the South Sudan conflicts, contrary to parties' obligations to treat civilians humanely.

Available data include reports of three incidents of SSPDF soldiers allegedly raping civilian women in the Juba county and Lainya county of Central Equatoria State.³⁸ The Report of the Secretary-General on Conflict-Related Sexual Violence noted that the proximity of the military to civilians also increases the risk of sexual violence, as acts of sexual violence were reportedly perpetrated against women and girls near barracks of SSPDF, checkpoints and displacement sites.³⁹ One account reports that National Security Services operatives (who regularly form part of, or operate alongside, SSPDF) sexually assaulted underage girls in the Morsak area, but the number of victims was unreported.⁴⁰

Rape, as well as other sexual violence, is prohibited by IHL, and considered a serious violation.⁴¹

Conflict-Related Displacement

As of September 2024, there were 1,84 million internally displaced persons (IDPs) in South Sudan.⁴² The country also experienced an influx of more than 700,000 returnees, refugees and asylum-seekers.⁴³ During the reporting period, several new

mass conflict-related displacement incidents were noted in the context of hostilities between SSPDF and NAS: for example, clashes in February 2024 reportedly led to the displacement of over 5,400 civilians;⁴⁴ clashes in Mundri, Western Equatoria State, in April 2024, reportedly displaced more than 6,000 civilians;⁴⁵ and an alleged NAS attack on SSPDF forces in Minga Paya, Greater Equatoria region, reportedly triggered the displacement of more than 4,000 civilians.⁴⁶

During NIACs, it is prohibited to order the displacement of the civilian population for reasons connected to the conflict, except where necessary for the safety of the civilians concerned or for imperative military reasons.⁴⁷ Such displacement is considered a serious violation of IHL.⁴⁸ While not all displacement resulting from hostilities constitutes an IHL violation as such, parties are obliged to ‘prevent displacement caused by their own acts, at least those acts which are prohibited in and of themselves’.⁴⁹ Furthermore, all displaced persons ‘have a right to voluntary return in safety to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist’.⁵⁰ In the meantime, ‘all possible measures must be taken’ to receive displaced civilians in ‘satisfactory conditions of shelter, hygiene, health, safety and nutrition’, and to ‘avoid separation of family members’.⁵¹

Concerns Related to Deprivation of Liberty in Armed Conflict

Arbitrary Deprivation of Liberty, Inhumane Treatment and Enforced Disappearance

Reports indicate a rising trend in the abduction of civilians, allegedly motivated by NAS efforts to replenish its diminished troop numbers.⁵² In July 2023–March 2024, 27 civilians were reportedly abducted by NAS, and a further 24 abductions considered attributable to SPLA-IO and NAS.⁵³ Between April and June 2024, reports indicate that NAS abducted 92 civilian men.⁵⁴

While SSPDF have been seemingly less implicated in abductions and enforced disappearances during the reporting period, one notable case of enforced disappearance reportedly perpetrated by SSPDF was that of ex-Juba mayor Kalisto Lado. Lado, a vocal critic of alleged SSPDF land grabbing in Central Equatoria State, was reportedly taken on 30 March 2024 by members of the National Security Service. No information as to his whereabouts or wellbeing was disclosed until his release from detention on 6 September 2024.⁵⁵

UNMISS and the Office of the UN High Commissioner for Human Rights (OHCHR) have documented 80 incidents of arbitrary arrest and detention of 273 civilians by SSPDF and NAS between January 2023 and May 2024, and 33 instances (affecting 52 victims) of similar conduct by the SPLA-IO and NAS. Forms of arbitrary arrest and detention reportedly include detention on grounds of alleged affiliation with NAS, detention during disarmament exercises as part of intimidation of communities, as well as undisclosed detention amounting to enforced disappearance. Cases of torture and inhumane treatment have also been documented.⁵⁶

Arbitrary deprivation of liberty, enforced disappearances and torture and inhumane treatment are all practices that are prohibited by customary IHL in connection with armed conflict, and constitute serious violations.⁵⁷

Humanitarian Relief

Protection of Humanitarian Relief Personnel and Objects and Humanitarian Access

In 2024 South Sudan continued to face critical humanitarian challenges, caused by a variety of factors such as intercommunal violence, food insecurity, public health challenges, climate shocks and armed conflicts, including the aftermath of conflicts in neighbouring Sudan. Overall, the UN Office for the Coordination of Humanitarian Affairs (OCHA) estimated that 5.9 million people were covered by humanitarian assistance out of 9.3 million people in need of assistance, in a country with a total population of 12.4 million.⁵⁸ As a consequence, a broad spectrum of humanitarian actors operate in South Sudan, ranging from programmes and agencies of the UN to international and national non-governmental organizations (NGOs). Many of these humanitarian actors are responding to the challenges created by armed conflict.

Challenges for humanitarian relief include widespread insecurity, in particular frequent attacks on and looting of convoys, as well as administrative hampering and the detention of humanitarian workers. The wide array of humanitarian needs – particularly related to public health challenges and climate shocks – means that not all events adversely affecting humanitarian relief display a nexus with armed conflict. As a consequence, it is difficult to determine with certainty which events are covered by IHL, and which are not. In addition, the International Committee of the Red Cross (ICRC) noted in an earlier study that in South Sudan, many aid workers were not killed because of their affiliation with the aid organization but because of family ties.⁵⁹

In sum, however, South Sudan remained one of the most dangerous places for aid workers during the reporting period.⁶⁰ The UN Secretary-General documented 198 incidents of attacks impacting humanitarian workers, including the killing of four humanitarian workers in 2023.⁶¹ Between 1 July 2023 and 30 June 2024, OCHA reported 415 incidents, including the detention of 23 humanitarian staff, and the killing of one.⁶² Reports of the UN Secretary-General on the situation in South Sudan covering 1 June 2023 to 30 June 2024 document similar figures, with 422 incidents of restrictions to humanitarian access in South Sudan: 190 of these involved violence against humanitarian personnel and assets; 91 concerned looting and the theft of humanitarian assets; 28 involved attacks on humanitarian convoys and commercially contracted vehicles; 49 required relocation of humanitarian staff members due to active hostilities and clashes between armed groups; 9 entailed detention of humanitarian personnel by authorities; and one led to the death of a humanitarian worker.⁶³

Regarding attacks against humanitarian staff or convoys, examples include the reported kidnapping in October 2023 of an international NGO aid worker assigned to an IDP camp by members of the Agwelek forces/Kitgwang faction of the SPLA-IO in Eastern Malakal payam, Malakal county. This reportedly was related to claims that the aid worker had ties with the leader of the National Democratic Movement.⁶⁴ His whereabouts remain unknown.⁶⁵ In the same month, unidentified armed individuals in Eastern Equatoria allegedly fired on a vehicle belonging to an NGO, injuring the driver.⁶⁶

In November 2023 a humanitarian aid worker was reportedly killed in a road ambush in Warrap State. It remains unclear whether the victim was targeted

as such, or if this was part of an intercommunal clash.⁶⁷ In the same month, another humanitarian worker was reportedly killed in the Greater Pibor area while conducting a community visit investigating a potential measles outbreak.⁶⁸ In February 2024 a humanitarian convoy escorted by peacekeepers in Jonglei State was reportedly ambushed by armed men, leading to an exchange of fire with UNMISS peacekeepers.⁶⁹ In June 2024 a convoy of four trucks transporting relief food was said to have been robbed in Lukuangole county in the Greater Pibor Administrative area. The attackers were not identified.⁷⁰

Regarding the detention of humanitarian relief workers, examples include the reported detention on 31 August 2023 of a humanitarian worker and his 40 year-old civilian brother on unclear charges by SSPDF in Yei River county, Central Equatoria. Both were arrested in their homes before being taken to Morsak military barracks.⁷¹ In addition to these incidents, bureaucratic regulations introduced in February 2024 were also reported to have severely hampered the ability of humanitarian organisations to conduct their work – sometimes going as far as bringing them to a complete halt. Notably, the Government of South Sudan imposed a series of taxes and charges at border crossings, including on fuel, critical for air deliveries.⁷² In May 2024, it was reported that the Government of South Sudan removed the contentious taxes and fees.⁷³

Parties to armed conflicts are obliged to ‘allow and facilitate the rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control’.⁷⁴ Furthermore, according to customary international law, humanitarian relief personnel and objects used in humanitarian relief operations must be respected and protected.⁷⁵

End Notes South Sudan

- 1 UN Security Council Resolution 1996, adopted on 8 July 2011, para 1.
- 2 UNMISS, 'Conflict in South Sudan: A Human Rights Report', 8 May 2014, para 32, https://unmiss.unmissions.org/sites/default/files/unmiss_conflict_in_south_sudan_-_a_human_rights_report.pdf.
- 3 *Ibid*, paras 32–48.
- 4 *Ibid*, para 42.
- 5 NAS is led by Thomas Cirillo, former lieutenant-general and deputy chief of staff for logistics who defected from SPLA. 'Children and Armed Conflict in South Sudan, Report of the Secretary-General', UN Doc S/2018/865, 25 September 2018, para 13, https://unmiss.unmissions.org/sites/default/files/children_and_armed_conflict_in_south_sudan.pdf; 'Cirillo Calls for New Leadership Without Kiir, Machar', *Radio Tamazuj*, 24 October 2017, <https://www.radiotamazuj.org/en/news/article/cirillo-calls-for-new-leadership-without-kiir-machar>.
- 6 'Report of the Secretary-General on South Sudan (Covering the Period From 2 September to 30 November 2018)', para 3, https://unmiss.unmissions.org/sites/default/files/secretary-generals_report_1.pdf.
- 7 *Ibid*, para 4.
- 8 *Ibid*, para 11.
- 9 Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan, 12 September 2018, para 2.1 (for the permanent ceasefire), paras 2.2.2–2.2.6 (for the national army), para 1.20 (for the national elections, <https://docs.pca-cpa.org/2016/02/South-Sudan-Peace-Agreement-September-2018.pdf>).
- 10 'Situation in South Sudan, Report of the Secretary-General', UN Doc S/2020/536, 15 June 2020, para 2, https://unmiss.unmissions.org/sites/default/files/secretary-generals_report_on_the_situation_in_south_sudan_15_june_2020.pdf.
- 11 'Letter dated 4 December 2023 from the Secretary-General addressed to the President of the Security Council', UN Doc S/2023/955, 4 December 2023, para 8; 'Report of the Commission on Human Rights in South Sudan', UN Doc A/HRC/55/26, 13 March 2024, para 1.
- 12 'Report of the Commission on Human Rights in South Sudan', supra 11, para 16.
- 13 'Letter dated 25 November 2024 from the Panel of Experts on South Sudan established pursuant to Security Council resolution 2206 (2015) addressed to the President of the Security Council', UN Doc S/2024/855, 29 November 2024, para 23, <https://docs.un.org/en/S/2024/855>.
- 14 Aggregated figures from the following reports on the situation in South Sudan by the UN Secretary-General: UN Doc S/2023/657, 11 September 2023, para 69; UN Doc S/2023/976, 12 December 2023, para 85; UN Doc S/2024/188, 26 February 2024, para 64; UN Doc S/2024/572, 29 July 2024, para 65, https://unmiss.unmissions.org/sites/default/files/secretary-generals_report_on_the_situation_of_south_sudan_29_july_2024.pdf.
- 15 'Situation in South Sudan, Report of the Secretary-General', UN Doc S/2024/572, supra 14, para 4.
- 16 The National Salvation Front was initially absent from this initiative but joined consultative talks held in Rome in August 2024.
- 17 The overwhelming majority of harm comes in intercommunal violence and the acts of other militia groups that are not party to an armed conflict.
- 18 Figures aggregated from four quarterly UNMISS briefs: 128 victims (43 killed, 64 injured, 8 abducted and 13 subjected to CRSV) for July to September 2023; 72 victims (15 killed, 7 injured, 24 abducted, 26 subjected to CRSV) for October to December 2023; 77 victims (roughly 21 killed, 23 injured, 7 abducted and 26 subjected to CRSV) for January to March 2024; 144 victims (12 killed, 5 injured, 92 abducted and 16 subjected to CRSV, and other unspecified) for April to June 2024.
- 19 'Report of the Commission on Human Rights in South Sudan', supra 11, para 17; 'Letter dated 25 November 2024 from the Panel of Experts on South Sudan Established Pursuant to Security Council Resolution 2206 (2015) addressed to the President of the Security Council', supra 13, summary.
- 20 See Small Arms Survey, 'Mapping Actors and Alliances Project in South Sudan – 13 September 2021 Update', <https://smallarmssurvey.org/sites/default/files/2021-10/HSBA-MAAPSS-Update7-September2021-SPLA-IO-Split.pdf>; 'Situation in South Sudan, Report of the Secretary-General', UN doc S/2024/188, supra fn 14, para 19.
- 21 'Situation in South Sudan, Report of the Secretary-General', UN Doc S/2024/572, supra 14, para 24; 'Letter dated 25 November 2024 from the Panel of Experts on South Sudan Established Pursuant to Security Council Resolution 2206 (2015) addressed to the President of the Security Council', supra 13, paras 24–30.
- 22 Note that the denomination SPLM/A-IO refers to both the political (SPLM-IO) and armed (SPLA-IO) wings of the movement. From an IHL perspective, the parties to this NIAC are SSPDF and SPLA-IO.
- 23 See, e.g., 'Report of the Commission on Human Rights in South Sudan', supra 11, para 17; 'Letter dated 26 April 2024 from the Panel of Experts on South Sudan Established Pursuant to Security Council Resolution 2206 (2015) addressed to the President of the Security Council' (26 April 2024) UN Doc S/2024/343, paras 49 and 85–87; 'Yakani Warns of Return to War as Peace Parties Clash in Unity State', *Sudans Post*, 28 November 2023, <https://www.sudanspost.com/yakani-warns-of-return-to-war-as-peace-parties-clash-in-unity-state/>.
- 24 'Letter Dated 26 April 2024 from the Panel of Experts on South Sudan Established Pursuant to Security Council Resolution 2206 (2015) Addressed to the President of the Security Council', supra 23, para 84.
- 25 *Ibid*, para 87.

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- 28 'Letter Dated 28 November 2023 from the Panel of Experts on South Sudan Established Pursuant to Security Council Resolution 2206 (2015) addressed to the President of the Security Council', UN Doc S/2023/922, 1 December 2023, para 72; 'Situation in South Sudan, Report of the Secretary-General', UN Doc S/2024/776, 25 October 2024, para 22.
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- 30 '5,400 Displaced in Recent NAS-SSPDF Clashes in Wonduruba', *Eye Radio*, 20 February 2024, <https://www.eyeradio.org/5400-displaced-in-recent-nas-sspdf-clashes-in-wonduruba/>.
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- 31 'Situation in South Sudan, Report of the Secretary-General', UN Doc S/2024/572, supra 14, para 24.
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- 32 UNMISS, 'Quarterly Brief on Violence Affecting Civilians: Q3 2024', https://unmiss.unmissions.org/sites/default/files/q3_brief_violence_affecting_civilians_0.pdf. As noted, however, NAS is not a signatory to the R-ARCSS.
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- 35 CTASMVM, 'Report 2023/10 – Killing of Two SSPDF Soldiers and a Boma Chief in Central Equatoria State', 24 October 2023, <https://ctsamvm.org/wp-content/uploads/2024/01/CTSAMVM-REPORT-2023-10-KILLING-OF-TWO-SSPDF-SOLDIERS-AND-A-BOMA-CHIEF-IN-CENTRAL-EQUATORIA-STATE.pdf>.
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- 36 Rules 89 and 156, ICRC, Customary IHL Database, <https://ihl-databases.icrc.org/en/customary-ihl/v1>; Common Article 3 to the Geneva Conventions of 1949.
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- 37 Figures aggregated from 4 UNMISS quarterly briefs: UNMISS Human Rights Division, 'Brief on Violence Affecting Civilians, July–September 2023', https://unmiss.unmissions.org/sites/default/files/q3_brief_violence_affecting_civilians_0.pdf; UNMISS Human Rights Division, 'Brief on Violence Affecting Civilians, October–December 2023', https://unmiss.unmissions.org/sites/default/files/q4_brief_on_violence_affecting_civilians_0.pdf; UNMISS Human Rights Division, 'Brief on Violence Affecting Civilians, January–March 2024', <https://www.ohchr.org/sites/default/files/2024-07/q1-brief-south-sudan-violence-civilians-march-1-en.pdf>; UNMISS Human Rights Division, 'Brief on Violence Affecting Civilians, April–June 2024', https://unmiss.unmissions.org/sites/default/files/quarterly_brief_on_violence_affecting_civilians_april_-_june_2024.pdf.
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- 44 '5,400 Displaced in Recent NAS-SSPDF clashes in Wonduruba', supra 30.
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- 46 'Situation in South Sudan, Report of the Secretary-General', UN Doc S/2024/572, supra 14, para 24.
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- 49 Rule 129 (commentary), ICRC, Customary IHL Database, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule129>.
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- 53 UNMISS Human Rights Division, 'Brief on Violence Affecting Civilians, July–September 2023', supra 37; UNMISS Human Rights Division, 'Brief on Violence Affecting Civilians, October–December 2023', supra 37; UNMISS Human Rights Division, 'Brief on Violence Affecting Civilians, January–March 2024', supra 37.
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- 54 UNMISS Human Rights Division, 'Brief on Violence Affecting Civilians, April–June 2024'.

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SUDAN

During the reporting period, at least three non-international armed conflicts (NIACs) were ongoing in Sudan. Two involved the Sudanese Armed Forces against the Rapid Support Forces (RSF) and the al-Hilu faction of the Sudan People's Liberation Movement/Army-North (SPLM-N/al-Hilu) respectively. The non-state armed groups in these two conflicts met the territorial control requirement for the application of Additional Protocol II. A third NIAC involved the RSF and SPLM-N/al-Hilu in opposition to each other. Concerns regarding the conduct of hostilities included alleged attacks directed against civilians and disproportionate attacks. A number of such attacks have been ascribed to Sudanese armed forces and RSF, and reportedly involved airstrikes, shelling and localized ground operations against homes and villages. These incidents reportedly led to numerous civilian casualties, the destruction of homes and public infrastructure and the curtailment of access to water, electricity and food. Attacks on schools and places of worship were also reported, as well as ethnically-motivated attacks and instances of the use of human shields. Widespread abductions, arbitrary detentions and/or enforced disappearances by both the Sudanese Armed Forces and RSF were also reported. Detainees were allegedly subjected to torture, including sexual violence or other inhumane treatment. Some reportedly died as a result while others were summarily executed. Issues raising concern over compliance with international humanitarian law (IHL) rules on the treatment of persons included reports of torture or cruel, inhumane and degrading treatment; conflict-related sexual violence; potential serious IHL violations in the context of ethnically-based violence against the Masalit community; and conflict-related displacement. Numerous attacks on medical personnel and facilities, as well as violence against humanitarian workers, were also allegedly carried out by parties to the conflicts. More generally, in a context of acute hunger and severe food insecurity, humanitarian access has been significantly and persistently restricted not only by the fighting but also by the conduct of parties to the various conflicts. This raises concerns regarding the prohibited use of starvation as a method of warfare. Finally, there have been continued reports of children being recruited and used to actively participate in hostilities – mostly as soldiers, but also in support or other functions.

Conflict Overview

Sudan has experienced a series of major armed conflicts since its independence in 1956, many of which have been characterized by serious violations of international humanitarian law (IHL). In particular, the conflict that erupted in Darfur in 2003, which pitted government forces and Janjaweed militias against rebel forces, notably the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM), involved widespread abuses by state forces of civilians in the region.¹ In Kordofan and Blue Nile States, the Sudan People's Liberation Movement/Army-North (SPLM-N), which split into two factions in 2017, has been fighting the government for over a decade.²

Following the ousting of President Al Bashir by the military in April 2019, Sudan was led by a transitional government. Dissent between the leaders of the Sudanese Armed Forces and the Rapid Support Forces (RSF) – a paramilitary body composed of former Janjaweed fighters – over the integration of the RSF into the armed forces triggered the outbreak of fighting in Khartoum in mid-April 2023. The violence rapidly spread to other parts of Sudan, particularly Darfur and Kordofan.³ Hostilities in the non-international armed conflict (NIAC) between the Sudanese Armed Forces and the RSF were intense,⁴ with widespread and very serious violations of IHL on both sides. This continued throughout the reporting period (1 July 2023–30 June 2024), despite commitments made in writing to respect and protect civilians in the Jeddah Declaration of May 2023.⁵

Both the Sudanese Armed Forces and the RSF have consistently targeted civilians, including medical personnel and humanitarian workers, while also launching indiscriminate attacks that have resulted in thousands of deaths and serious injuries among the civilian population. Individual civilians have been abducted and children have been unlawfully recruited. A particular feature of the conflict has been widespread sexual violence, especially at the hands of the RSF. While most of the victims have been women and girls, men and boys have also been targeted for rape and other forms of sexual violence. Data from the Armed Conflict Location and Event Data Project (ACLED) indicated a total death toll by the end of the reporting period (soldiers/fighters and civilians) of at least 18,760.⁶ The violence and the acts of the belligerents have provoked widespread displacement of civilians both internally and across Sudan's international borders.⁷

Conflict Classification

During the reporting period, at least three NIACs were ongoing on the territory of Sudan:

- a NIAC between the Sudanese Armed Forces and the RSF
- a continuing NIAC between the Sudanese Armed Forces and the al-Hilu faction of SPLM-N (SPLM-N/al-Hilu)
- a NIAC between SPLM-N/al-Hilu and the RSF

The first two of these armed conflicts are regulated by Common Article 3 to the Geneva Conventions, Additional Protocol II (to which Sudan has been a party since 2006), and customary IHL.⁸ The territorial control requirement for the application

of Additional Protocol II was met in both conflicts over the course of the reporting period. In particular, the RSF exercised sustained territorial control over significant parts of Sudan.⁹ Combat between the Sudanese Armed Forces and the RSF remained intense during the reporting period.¹⁰

The NIAC between the Sudanese Armed Forces and SPLM-N/al-Hilu was fought in Kordofan and Blue Nile States. SPLM-N/al-Hilu reportedly controlled significant territory, mostly in South Kordofan, which enabled the group to engage in regular and intense combat with the government armed forces.¹¹

The NIAC between SPLM-N/al-Hilu and the RSF was subject to Common Article 3 and customary IHL. Although the requirement of territorial control was satisfied, one of the parties must be the armed forces of the state for Additional Protocol II to apply.¹²

It was uncertain whether fighting between the RSF and members of the Darfur Joint Protection Force allied to the Sudanese Armed Forces, and fighting between the Sudanese Armed Forces and militias allied to the RSF, were of a sufficient intensity in either case to amount to a distinct NIAC.

International Humanitarian Law in Sudan, 1 July 2023–30 June 2024

Conduct of Hostilities

Attacks Directed against Civilians and Indiscriminate or Disproportionate Attacks

Despite their signature of the Jeddah Declaration, it has been reported that both the Sudanese Armed Forces and the RSF have repeatedly and deliberately attacked civilians in the conduct of hostilities. Attacks are said to involve airstrikes, shelling and localized ground operations against homes and villages.¹³ The use of explosive weapons with wide area effects in populated areas is likely to breach the fundamental IHL prohibitions on indiscriminate and disproportionate attacks.¹⁴

For instance, between April and October 2023 in Nyala (South Darfur), the Panel of Experts on the Sudan indicated that the Sudanese Armed Forces and the RSF regularly shelled populated areas without distinguishing fighters from civilians. Between 3 and 13 September, the panel reported that the Sudanese Armed Forces subjected civilian neighbourhoods in Nyala to intense aerial bombardment, destroying a large part of the town and its public infrastructure. As a result, communication networks were disrupted, the main market was destroyed, water and electricity were cut off, and access to food was severely limited.¹⁵ Reports also indicated that the RSF and allied armed groups surrounded the neighbourhoods of al-Jamrek, al-Thawra, al-Tadamon and al-Madares, intensively shelling those areas and sniping at the inhabitants, causing extensive civilian casualties. The armed forces allegedly also shelled the Taiba bridge on 22 August 2023, killing and injuring dozens of civilians, mostly women and children, who were sheltering nearby.¹⁶ In another reported incident, the armed forces bombed Hadra elementary school on 14 March 2024, killing 11 children and two teachers and wounding 46 children.

The battle for El Fasher, the capital of the North Darfur region, also saw reports of repeated attacks of an indiscriminate nature launched by the two main

warring parties.¹⁷ During the reporting period, the RSF allegedly shelled a religious school in El Fasher, killing at least 34 people, most of them children.¹⁸ More broadly, there have been large numbers of reports of ethnically-motivated attacks in the Darfur region against Masalit and non-Arab communities by the RSF and allied militias.¹⁹ For instance, from late April to early November 2023 (with peaks in June and November), thousands of members of the Masalit community in El-Geneina (in West Darfur), including children, were reportedly killed by snipers or as a result of the use of explosive munitions.²⁰

In 2023, the United Nations (UN) also reported several instances of the RSF using civilians, in particular detainees, as human shields to seek to deter attacks by the Sudanese Armed Forces against their sites.²¹ The use of human shields during armed conflict is prohibited under customary IHL.²²

Concerns Related to Deprivation of Liberty in Armed Conflict

Arbitrary Deprivation of Liberty and Enforced Disappearance

During the reporting period, civilians, including women and children, were reportedly subjected to widespread abductions, arbitrary detentions and/or enforced disappearances by both the Sudanese Armed Forces and the RSF. In addition to civilians, many detainees apparently were soldiers/fighters from the adverse party. Between mid-April 2023 and early 2024, for instance, hundreds of fighters were reported to have been captured by the Sudanese Armed Forces and the RSF, but their fate remained unknown.²³ Many detainees, whether civilian or military, were allegedly subjected to torture, including sexual violence, or other inhumane treatment while in captivity.²⁴ Some are said to have died as a result of their treatment while others were summarily executed.²⁵

Civilians were reportedly often detained on the basis of alleged support to the adverse party. This is said to have occurred particularly in Khartoum, in West and Central Darfur, and in Nile State.²⁶ According to reports, detention was typically effected without a warrant – or indeed any form of legal documentation – and was often accompanied by acts of violence. The arrestees reportedly were neither informed of the reasons for their arrest, nor were they charged with the commission of any criminal offence.²⁷ According to the Independent International Fact-Finding Mission for the Sudan, legal assistance and family visits were routinely denied. In some instances relatives reported being forced to pay a ‘ransom’ to the RSF to obtain the release of – or merely to be able to visit – their family members.²⁸ In other cases, detainees were said to be held incommunicado for several months, while the whereabouts of hundreds remain unknown.²⁹ This conduct typically amounts to an enforced disappearance, which is a serious violation of IHL.³⁰

Detention conditions for all were described as routinely inhumane, with extremely overcrowded structures and a lack of access to adequate food, water and sanitation, and without medical attention for those who needed it.³¹ Numerous detainees reportedly died during incarceration as a result of the conditions and medical neglect.³² In one Sudanese Armed Forces’ facility alone, 11 detainees reportedly died between 9 May and 21 August 2023 through lack of water and food.³³ In another instance, one person reported being detained by the army with

more than 70 other people in a room measuring only 6 x 4 metres, with one small window for light and a dysfunctional ventilator. It was mentioned that due to the size of the room, everyone had to stand, and they were only allowed to use the toilet once a day.³⁴

Treatment of Persons

Torture and Cruel, Inhumane or Degrading Treatment

There were widespread reports of acts of torture or other inhumane treatment being committed by the Sudanese Armed Forces, the RSF and affiliated militias. These acts reportedly occurred during raids of people's homes, at checkpoints or during detention. Alleged acts that would constitute serious IHL violations included the pouring of boiling or very cold water over the victim; whippings; beatings with iron cables, whips, guns and weapons; the pulling out of fingernails and/or toenails; electric shocks; suspension in stress positions; the breaking of bones; or being forced to kneel unprotected under the hot sun for an extended period.³⁵ These acts were allegedly inflicted to intimidate or coerce the victims, to obtain a confession and/or to punish the victims for acts they had allegedly committed.³⁶

Conflict-Related Sexual Violence

Reported torture and inhumane treatment of men and boys detained by the Sudanese Armed Forces and the RSF are said to have also involved cases of sexual violence, including rape, threats to commit rape, forced nudity and beatings on the genitals.³⁷ In one reported instance from December 2023, a young man died while in army detention after having been brought back from an interrogation, covered in blood and possibly having been raped.³⁸ Despite these and multiple other alleged violations involving men and boys, most of the very widespread sexual violence during the conflict is reported to have been perpetrated against women and girls, and predominantly by RSF fighters. In Darfur and Greater Khartoum, for instance, women and girls have reportedly been abducted by the RSF and affiliated militias to be sexually assaulted and/or exploited and kept in conditions of sexual slavery for periods ranging from days to several months. Captives have allegedly been threatened with violence or death when attempting to leave or resist.³⁹

For 2023, the UN received credible information on more than 160 women and girls held in captivity who were raped and kept in slave-like conditions.⁴⁰ Some of the women and girls reportedly were forced to prostitute themselves or to marry their captors. In other cases, relatives reportedly paid a significant ransom to release them from captivity.⁴¹ While women and girls of child-bearing age were primarily targeted, girls as young as eight and women as old as 75 were also reportedly raped.⁴² In one reported instance, a victim was held for 35 days and frequently gang-raped by members of the RSF. In another instance, in May 2023, a victim of gang rape by the RSF in Khartoum state is said to have succumbed to her injuries and the lack of medical care.⁴³ A precise assessment of the extent of sexual violence, however, is difficult across Sudan, due to pervasive societal stigma, distrust of the justice system, heightened insecurity and fear of retaliation faced by survivors and/or healthcare providers.⁴⁴

Potential Serious Violations against Members of Specific Ethnic Groups

Another particular issue raising concerns about potential serious IHL violations is the ethnically-based violence against the Masalit community. This reportedly occurred especially in El-Geneina and on the road to Chad between late April and early November 2023, with a peak of violence recorded on 14 and 15 June and a renewed surge of incidents in November. Thousands of murders, tortures, rapes and other forms of sexual violence are believed to have been committed by the RSF and affiliated militias.⁴⁵ Masalit men were frequently said to have been targeted for killings and, while a number of women and children were also killed, they were more often physically assaulted and/or raped. Rapes were also reportedly perpetrated against pregnant women.⁴⁶ Perpetrators were reported as using racial slurs against their victims – insulting men before killing them and saying to the women they had raped that ‘Masalit girls [will] give birth to Arab children’.⁴⁷ In one reported incident, the RSF allegedly broke into a house, opened fire on three male children (10, 16 and 17 years of age), then took the rest of the family outside their home and told them to leave because they were Masalit.⁴⁸ Allegations of other ethnically-based detention and violence against Arab and African communities by the RSF – and sometimes the Sudanese Armed Forces – were reported in El Fasher, Nyala and Zalingei.⁴⁹

Conflict-Related Displacement

As at July 2024, sources reported that more than 10 million people (mostly children) had been displaced by the hostilities and food insecurity, including 7.9 million who were internally displaced and 2.1 million who had fled to neighbouring countries since mid-April 2023.⁵⁰ The majority of the displacements reportedly took place in Darfur.⁵¹ Camps of internally-displaced persons (IDPs) in Darfur were reportedly subjected to attacks in violation of IHL, causing further displacement. For instance, the Panel of Experts on the Sudan reported that on 31 October 2023, following the takeover of the Sudanese Armed Forces base in Zalingei by the RSF, at least 16,250 IDPs were violently displaced from Hasahisa camp.⁵²

The forced displacement of the civilian population for conflict-related reasons is prohibited under Additional Protocol II, except where the security of the civilians involved so demands, or where there are imperative military reasons.⁵³ This prohibition is also part of customary IHL applicable during NIACs.⁵⁴ In any NIAC, ordering the displacement of the civilian population for reasons related to the conflict and not required for the security of the civilians involved or imperative military necessity is a serious violation of IHL.⁵⁵

Humanitarian Relief

Attacks on Humanitarian Relief and Medical Personnel and Objects

Numerous attacks on medical personnel and facilities were allegedly carried out by parties to the conflicts, including in airstrikes or by shelling.⁵⁶ These included the following reported attacks against medical facilities during the reporting period: Al Shuhada Hospital north of Khartoum, on 9–10 October 2023; Al Nao Hospital, on the edge of the capital, on 9 October 2023 and 19 June 2024; and South Hospital,

on 25, 26 and 31 May 2024 and Babiker Nahar Children's Centre on 11 May 2024, both in El Fasher.⁵⁷

Médecins sans Frontières (MSF) reported more than 60 distinct attacks on medical staff, assets and infrastructure being perpetrated by both the Sudanese Armed Forces and the RSF between August 2023 and April 2024.⁵⁸ Other accounts cited female staff being targeted for sexual violence because of their medical work and other medical staff being attacked and killed because of their ethnicity.⁵⁹ Reports have also emerged of medical staff being kidnapped by RSF members and forced to treat fighters, notably in Nyala.⁶⁰

As a result of this apparently targeted violence, sources report that a large number of medical facilities were destroyed or permanently closed, while many medical personnel left the affected areas in fear for their lives. Coupled with a shortage of medical supplies, the healthcare system was reported to be so severely disrupted that less than one-third of medical facilities in conflict-affected areas were still operating by the end of 2023.⁶¹

Humanitarian workers were also allegedly subjected to acts of violence by parties to the conflict. In 2023, 20 were reported killed, 35 others wounded and a further 34 detained.⁶² On 10 December 2023, according to the International Committee of the Red Cross (ICRC), one of the organization's convoys escorting civilians was attacked by Sudanese soldiers, who killed two people and injured seven others, including three ICRC staff. The ICRC stated that this occurred despite prior coordination with the relevant parties to the conflict, 'who gave their agreement and provided the necessary security guarantees'.⁶³ On 2 May 2024, the ICRC further reported that two of its drivers had been killed by unidentified gunmen.⁶⁴ Two of the staff from the Sudanese Red Crescent Society were further reported as having been killed by fighters, although it could not be identified whether the perpetrators belonged to either the Sudanese Armed Forces or the RSF.⁶⁵ Threats by parties to the conflict against humanitarian personnel supporting victims of reported sexual violence were also recorded.⁶⁶ In addition, humanitarian supplies were reportedly looted on several occasions.⁶⁷

Under IHL, medical and humanitarian personnel, facilities, objects and transports must be respected and protected, and attacks on these, therefore, are prohibited.⁶⁸

Humanitarian Access and Starvation as a Method of Warfare

The conflict in Sudan has precipitated an alarming escalation in food insecurity, now at its highest levels ever recorded under the Integrated Food Security Phase Classification (IPC) – a multi-partner initiative for improving food security. This particularly affected populations in Khartoum, Kordofan and Darfur. By the end of the reporting period, various sources reported that 26.5 million people – more than half of Sudan's entire population – were suffering from acute hunger,⁶⁹ and close to 16 million people were in need of humanitarian assistance.⁷⁰ As from around the middle of April 2023, around 700,000 people are reported to have fled to the Nuba Mountains, an area that for decades has been under SPLM-N/al-Hilu control. This influx reportedly led to such a deterioration in the humanitarian situation that the SPLM-N/al-Hilu declared a famine.⁷¹ In October 2023, the Kalma IDP camps (Nyala) were reportedly besieged by the RSF, with people prevented from leaving and suffering a severe lack of food.⁷²

Indeed, despite the catastrophic situation across many parts of Sudan, multiple sources report that humanitarian access has been significantly and persistently

restricted, not only by the fighting, but also by the conduct of parties to the various conflicts.⁷³ Between April and December 2023, the UN Secretary-General reported 1,107 incidents in which humanitarian access was restricted.⁷⁴ In 2023, 49 incidents of denial of humanitarian access were verified by the UN Secretary-General, and around 1,000 other instances of denial of access were reported.⁷⁵ In addition, 50 humanitarian warehouses and 86 offices were said to have been looted, and 220 vehicles had been stolen from humanitarian actors as of the end of September 2023.⁷⁶ Both the Sudanese Armed Forces and the RSF reportedly hampered humanitarian access to locations controlled by the opposing party.⁷⁷

Of particular concern were the reports of the Sudanese Armed Forces blocking humanitarian relief entering Darfur from Chad through the Adre crossing in February 2024 and of the RSF besieging El Fasher, the capital of North Sudan. Both of these actions reportedly further obstructed the flow of food and other essential aid to those in desperate need.⁷⁸ After intense fighting between the Armed Forces and the RSF and their respective allied militias for control of El Fasher that began in April 2023, the RSF blocked the last supply route to the city in April 2024 and completely encircled it, resulting in acute food insecurity for the hundreds of thousands of civilians trapped inside.⁷⁹ By June 2024, the population was reported to be on the brink of starvation, prompting the UN Security Council to adopt Resolution 2736 in which it called on the RSF to halt the siege of El Fasher and on the parties to the conflict to allow civilians wishing to relocate in safer areas to do so, and to allow and facilitate the ‘rapid, safe and unhindered’ passage of humanitarian relief.⁸⁰ Although the RSF claimed to have opened two humanitarian corridors to allow civilians to leave, the Sudanese Armed Forces and allied armed groups opposed the evacuation of the city, fearing that it would be a prelude to a full-scale assault.⁸¹

In conflict-affected areas, the UN Fact-Finding Mission documented patterns of targeting objects indispensable to the survival of the civilian population by the Sudanese Armed Forces, the RSF and allied militias. Water, sanitation facilities, communications and electricity networks as well as markets and homes were reportedly attacked, damaged or destroyed by the armed forces and the RSF in Khartoum, Darfur and other areas, leaving civilians in dire straits, with no choice but to flee and seek refuge in other locations.⁸² Multiple sources reported that damage to and disruption of the water service left people without safe water or electricity, especially in Greater Khartoum and Darfur, resulting in the outbreak of infectious diseases and risks of malnutrition.⁸³

According to the World Food Programme (WFP), the displacement of farmers forced to flee their lands due to ongoing fighting has severely limited civilian access to food.⁸⁴ Fighting during Sudan’s usual harvest season has reportedly led to significantly-reduced produce available for sale.⁸⁵ According to the UN Food and Agriculture Organization (FAO), widespread attacks on civilian infrastructure necessary for the survival of the civilian population, including the destruction of food stocks, disrupted trade routes and barriers to accessing key agricultural inputs, all hindered the ability to provide sufficient food for civilian populations. Cereal production, a critical source of nutrition for civilians in Sudan, reportedly declined by 46 percent in 2023 due to the conflict. The FAO expected this decline to continue, with restrictions on agricultural resources likely presaging a sharp reduction in crop planting for the forthcoming season.⁸⁶

Parties to armed conflicts are prohibited from using starvation as a method of warfare by depriving the civilian population of objects indispensable to their survival, including by impeding relief supplies. This is a serious violation of IHL.⁸⁷

Parties, therefore, are prohibited from attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population, such as food, crops, livestock and drinking water installations.⁸⁸ Parties to the conflict may not arbitrarily withhold their consent to humanitarian relief for civilian populations in need, and they are obliged to authorize and facilitate the rapid and unimpeded passage of humanitarian aid, subject to their right of control.⁸⁹

Specific Vulnerabilities – Children

Child Recruitment and Use in Hostilities

There have been continued reports of children being recruited and used to actively participate in hostilities, predominantly in Darfur, but also in Kordofan and Khartoum.⁹⁰ In 2023, according to the Secretary-General, the UN verified that at least 209 children (174 boys and 35 girls) were recruited by the parties to the conflict. While most reportedly were used as soldiers, many were also assigned to support or other functions.⁹¹ Evidence gathered by the International Fact-Finding Mission for the Sudan indicates that the RSF used teenage boys as prison warders and to inflict torture on other detainees, notably in Al Nakheel Police Station in Omdurman.⁹²

The extent of the problem, however, seems significantly greater than the limited data available would suggest. Reports indicate that the RSF and affiliated militias have recruited and used children in hostilities on a widespread, even systematic basis. In addition, the Sudanese Armed Forces are said to have trained and armed children in a popular mobilization known as *Istinfar*, to be used in combat against the RSF. The army has also apparently formed alliances with armed groups known for the recruitment and use of children in hostilities, such as the SLM/Minnawi and JEM, and it is believed that it has carried out patrols with children.⁹³ Instances of children accompanying RSF and allied militias, wearing RSF uniforms and fighting alongside the RSF, were reported by the Fact-Finding Mission, notably in Darfur and Khartoum.⁹⁴

The recruitment and use in hostilities of children under the age of 15 years is prohibited under Article 4(3) of Additional Protocol II as well as under customary law applicable during NIACs.⁹⁵ These acts are serious violations of IHL.⁹⁶

End Notes Sudan

- 1 'Findings of the investigations conducted by the Independent International Fact-Finding Mission for the Sudan into violations of international human rights law and international humanitarian law, and related crimes, committed in the Sudan on the context of the conflict that erupted in mid-April 2023', UN Doc A/HRC/57/CRP.6, 23 October 2024, paras 110–121 and 154, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session57/A-HRC-57-CRP-6-en.pdf> (last accessed 30 June 2024).
- 2 See, e.g., K. Ammar Hassan, 'Spilling Over: Conflict Dynamic in and Around Sudan's Blue Nile States, 2015–19', HSBA and Small Arms Survey, March 2020, https://smallarmssurvey.org/sites/default/files/resources/HSBA-Report-Sudan-Blue-Nile_0.pdf (last accessed 30 June 2024).
- 3 'Findings of the investigations conducted by the Independent International Fact-Finding Mission for the Sudan', supra 1, paras 53–56, 93 and 154.
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- 5 Jeddah Declaration of Commitment to Protect the Civilians of Sudan, signed at Jeddah, 11 May 2023, <https://reliefweb.int/report/sudan/jeddah-declaration-commitment-protect-civilians-sudan> (last accessed 30 June 2024). The Declaration was signed by Rear Admiral Mahjoub Bushra Ahmed Rahma of the Sudanese Armed Forces and Brigadier General Omer Hamdan Ahmed Hammad of the RSF.
- 6 ACLED data, <https://acleddata.com/2024/07/12/sudan-situation-update-july-2024-the-rsf-marches-on-sennar-and-west-kordofan/> (all references to ACLED data are on file with the research team of the IHL in Focus project).
- 7 UN Office for the Coordination of Humanitarian Affairs (OCHA), 'Sudan Humanitarian Update', 29 July 2024, <https://www.unocha.org/publications/report/sudan/sudan-humanitarian-update-29-july-2024> (last accessed 30 June 2024).
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- 9 'Map of the Areas of Control in Sudan', *Sudan War Monitor*, 2 November 2023, <https://sudanwarmonitor.com/p/map-of-the-areas-of-control-in-sudan/>; J. Pospisil, 'Sudan: Civil War Stretches Into a Second Year With no End in Sight', *The Conversation*, 23 April 2024, <https://theconversation.com/sudan-civil-war-stretches-into-a-second-year-with-no-end-in-sight-227417>.
- 10 ACLED, 'Situation Update, January 2024: Sudan: The Rapid Support Forces (RSF) Gains Ground in Sudan', 12 January 2024, <https://acleddata.com/2024/01/12/sudan-situation-update-januar-2024-the-rapid-support-forces-rsf-gains-ground-in-sudan/> (last accessed 30 June 2024).
- 11 N. Casey, 'What is This Unusual Rebel Army in Sudan Fighting For?', *The New York Times*, 8 August 2024, <https://www.nytimes.com/2024/08/08/magazine/sudan-who-are-the-splm.html>; 'Sudan SPLM-N El Hilu Leader: "We Will Defend Our People and Let the Army Know"', *Dabanga Sudan*, 22 March 2024, <https://www.dabangasudan.org/en/all-news/article/sudan-rebel-leader-after-attack-on-nuba-village-school-we-will-defend-our-people-and-let-the-army-know>; 'Map of the Areas of Control in Sudan', supra 9, which details areas under control as of late 2023.
- 12 Art 1(1) of Additional Protocol II determines that the material jurisdiction of the Protocol is limited to armed conflicts 'which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol' (added emphasis).
- 13 See, inter alia, 'Letter dated 15 January 2024 from the Panel of Experts on the Sudan addressed to the President of the Security Council, Final Report of the Panel of Experts on the Sudan', UN Doc S/2024/65, 15 January 2024, paras 57 and 111–113, <https://docs.un.org/en/S/2024/65> (last accessed 30 June 2024); 'Situation of Human Rights in the Sudan, Report of the United Nations High Commissioner for Human Rights', UN Doc A/HRC/55/29, 4 March 2024, paras 18 and 23, <https://docs.un.org/en/A/HRC/55/29> (last accessed 30 June 2024); 'Protection of Civilians in Armed Conflict, Report of the Secretary General', UN Doc S/2024/385, 14 May 2024, paras 7–8 and 24, <https://docs.un.org/en/S/2024/385> (last accessed 30 June 2024); and 'Findings of the investigations', supra 1, paras 124–138, 141, 233–235 and 290.
- 14 International Committee of the Red Cross (ICRC), 'Explosive Weapons in Populated Areas', June 2023, https://www.icrc.org/sites/default/files/document/file_list/4716_002_ewipa_factsheet_web.pdf (last accessed 17 January 2025).
- 15 'Letter dated 15 January 2024', supra 13, para 112.
- 16 *Ibid*, para 111; 'Situation of human rights in the Sudan', supra 13, para 23; 'Findings of the investigations', supra 1, para 132.
- 17 Yale School of Public Health, Humanitarian Research Lab, 'Free-Fire Zone: Widespread Aerial and Artillery Bombardment Across El-Fasher', Report, 13 September 2024, <https://files-profile.medicine.yale.edu/documents/5821eb40-d432-4e71-867d-53870f829e7a> (last accessed 30 June 2024); Office of the UN High Commissioner for Human Rights (OHCHR), 'Sudan: Türk Sounds Alarm Over Hostilities in El Fasher, Warns of Serious Human Rights Violations', Press release, 26 September 2024, <https://www.ohchr.org/en/press-releases/2024/09/sudan-turk-sounds-alarm-over-hostilities-el-fasher-warns-serious-human>; 'Findings of the investigations', supra 1, para 134; E. Ogao, 'Inside Sudan's El Fasher, a City Under Siege Amid a Civil War', *ABC News*, 6 October 2024, <https://abcnews.go.com/International/inside-sudans-el-fasher-city-siege-amid-civil/story?id=114176497> (last accessed 30 June 2024).
- 18 Report of the Independent International Fact-Finding Mission for the Sudan, UN Doc A/HRC/57/23, 5 September 2024, para 43, <https://docs.un.org/en/A/HRC/57/23> (last accessed 30 June 2024).

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- 19 United Nations, 'Statement by Ms Alice Wairimu Nderitu, UN Special Adviser on the Prevention of Genocide, on the Devastating One Year of Fighting in Sudan', Press release, New York, 14 April 2024, https://www.un.org/en/genocideprevention/documents/USG_Nderitu_Sudan_one%20year_15042924.pdf (last accessed 30 June 2024); Human Rights Watch, "'The Massalit Will Not Come Home': Ethnic Cleansing and Crimes Against Humanity in El Geneina, West Darfur, Sudan', 9 May 2024, <https://www.hrw.org/report/2024/05/09/massalit-will-not-come-home/ethnic-cleansing-and-crimes-against-humanity-el> (last accessed 30 June 2024).
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- 20 'Letter dated 15 January 2024', supra 13, paras 54, 87–89 and 92–93; 'Situation of human rights in the Sudan, Report of the United Nations High Commissioner for Human Rights', supra fn 12, paras 40–41; 'Findings of the investigations conducted by the Independent International Fact-Finding Mission for the Sudan into violations of international human rights law and international humanitarian law', supra fn 1, paras 153, 156–57, 160, 162–64, 235 and 293.
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- 21 'Situation of human rights in the Sudan', supra 13, paras 28–29.
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- 22 Rule 97, ICRC, Customary IHL Database, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule97> (last accessed 30 June 2024).
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- 23 'Situation of human rights in the Sudan', supra 13, para 53.
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- 24 'Situation of human rights in the Sudan', supra 13, para 54; Report of the Independent International Fact-Finding Mission for the Sudan, supra 18, paras 71–79; 'Findings of the investigations', supra 1, paras 171 and 240.
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- 25 'Protection of civilians in armed conflict', supra 13, para 7.
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- 27 Report of the Independent International Fact-Finding Mission for the Sudan, supra 18, para 74; 'Findings of the investigations', supra 1, paras 242 and 246.
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- 28 'Findings of the investigations', supra 1, para 254.
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- 44 'Situation of human rights in the Sudan', supra 13, para 50; 'Conflict-Related Sexual Violence', supra 40, paras 65–66; MSF, 'A War on People', supra 35, pp 4 and 21; 'Findings of the investigations', supra 1, para 176.
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SYRIA

Multiple international and non-international armed conflicts (IACs and NIACs) occurred or were ongoing on the territory of Syria during the reporting period. Syria was involved in various IACs by virtue of different foreign states' military operations against non-state armed groups (NSAGs) on its territory without government consent (for instance, the member states of the United States-led Global Coalition against Da'esh; Türkiye; Israel; and the United States). Israel and Iran were also deemed to be involved in an IAC given Israel's use of force against Iranian state actors operating in Syria. Occupation of Syrian territory also continued in parts of the north (by Türkiye) and the Golan Heights (by Israel). The Syrian Government – acting with the support of the Russian Federation and Iran-backed militias – was engaged in multiple NIACs with NSAGs. A NIAC also existed between the Syrian Democratic Forces (SDF) opposition group, supported by the Global Coalition against Da'esh, against Islamic State in Iraq and the Levant (ISIL); in the north, Türkiye was also engaged in NIACs against Kurdish NSAGs and ISIL.

Most of the fighting was concentrated in the north of Syria. All of the parties to the NIACs in Syria were reported to have directed attacks against civilians and civilian objects or conducted indiscriminate or disproportionate attacks. Yet, civilian casualties and destruction of civilian objects in the conduct of hostilities, to a large extent, appeared to be attributable to state actors. In particular, reports on the alleged targeting of critical infrastructure (such as power plants, water and energy infrastructure, hospitals and airports) as well as attacks impacting on first responders, raised concerns about respect for the principle of distinction and for rules on special protection (for instance, of medical personnel and objects, and objects indispensable to the survival of the civilian population). The use of explosive weapons in populated areas – particularly by Syrian state forces, Russia and Türkiye – appeared to have been indiscriminate, and was also reported as having led to a significant increase in civilian deaths.

Various parties in the Syrian conflict, including the government and NSAGs, reportedly engaged in arbitrary detention, enforced disappearances, and torture. Despite a 2023 order by the International Court of Justice, the Syrian government continued these abuses, targeting civilians, returning refugees, and deportees. NSAGs were also accused of similar violations, including inhumane detention conditions and child abductions for recruitment.

Conflict Overview

In the aftermath of the pro-democracy uprisings known as the Arab Spring that swept nations in North Africa and the Middle East from December 2010, protests against the regime of Bashar al-Assad broke out in March 2011. The protests were brutally suppressed by the Syrian security forces. By January 2012, civil unrest had escalated into multiple non-international armed conflicts (NIACs) across much of the country, opposing the Syrian Government, led by Bashar Al-Assad, and a number of non-state armed groups, with devastating humanitarian consequences. The Syrian government forces were supported by Russian armed forces and Iranian-backed militias.¹ These armed conflicts involved systematic violations of international humanitarian law (IHL).

During 13 years of armed conflict in Syria, several international armed conflicts (IACs) have also emerged. The emergence in 2013 of the Islamic State in Iraq and the Levant (ISIL), also called Da'esh or Islamic State, led to the formation of an international coalition in 2015 ('Operation Inherent Resolve'). Led by the United States of America (USA) and involving more than 70 states, this coalition aims to contain the influence of ISIL in the region and beyond. As a result, much of the territory that had been under ISIL control from 2013 to 2019 was retaken by the Syrian Democratic Forces (SDF) with support from the international coalition.² The coalition's military intervention in Syria took place without the consent of the Syrian Government, meaning that it constituted an IAC.

As from 2016, Turkish armed forces carried out air and ground operations against both ISIL and the Kurdish People's Protection Units (YPG) along the border between Türkiye and Syria.³ In so doing, it acted with the help of the Syrian opposition armed group, the Free Syrian Army – and later the Syrian National Army. Türkiye considers the YPG and the SDF as the Syrian branch of the Kurdistan Workers' Party (PKK). Türkiye has conducted three major military operations: Euphrates Shield (2016–2017), Olive Branch (2018) and Peace Spring (2019), which resulted in the establishment of control over a part of Northern Syria and the involvement of Turkish officials in directly administering the occupied territories.⁴ These operations also amount to an IAC.

Part of Syrian territory, the Golan Heights, has since 1967 been occupied by Israel. Israel has further carried out airstrikes on Syrian territory without the consent of the Syrian Government, allegedly targeting Iranian military assets. This trend continued during the reporting period. Furthermore, the USA has also carried out strikes on Syrian territory, reportedly targeting assets of or groups associated with the Islamic Revolutionary Guard Corps, without the consent of the Syrian Government. These situations similarly amount to IACs.

Against this backdrop, other parallel armed conflicts also developed in Syria between the abovementioned actors and a plethora of armed groups that formed and dissolved over time.⁵

The humanitarian consequences of more than a decade of hostilities between different actors involved in the armed conflicts ongoing in Syria have been devastating. As at March 2024, the Syrian Network of Human Rights (SNHR) documented the death of 231,278 Syrians, including 17,000 killed under torture,⁶ and a further 12 million displaced in the region, of which 6,8 million were internally displaced persons (IDPs).⁷ During these hostilities, a wide range of means and methods of warfare were used, including many that are prohibited under international

law. For example, the Syrian armed forces reportedly conducted 217 attacks using chemical weapons, mostly in rural Damascus and Idlib.⁸ According to SNHR, the peak of these attacks occurred between 2015 and 2016.⁹ ISIL also carried out five chemical weapon attacks in Aleppo governorate.¹⁰ The indiscriminate use of barrel bombs, cluster munitions and incendiary weapons by government forces has also been documented.¹¹

The pace of hostilities began to decrease as from 2020, a year that marked the conclusion of an agreement between Türkiye and Russia in March 2020. The two states committed to a halt of hostilities in Idlib province between Syrian government forces (supported by Russia) and the Turkish forces, following an escalation of violence resulting in high casualties. The agreement further established a ‘safety corridor’ along the M4 highway that separates Idlib and Aleppo provinces from south to north.¹²

Despite occasional violations of the ceasefire, the agreement led to an overall reduction in armed violence.

Between March 2020 and March 2024, the Syrian Government regained control of 70 percent of Syria’s overall territory. Türkiye and its Syrian opposition allies, the opposition factions under the leadership of Hay’at Tahrir Al-Sham (HTS) in Idlib province and the Kurdish SDF, then controlled the north of Syria.¹³ According to SNHR, the number of civilians killed between March 2023 and March 2024 decreased to 1,054.¹⁴

Aside from the conduct of hostilities, grave concerns have been expressed about the detention practices of parties to the conflict in Syria by multiple international and national stakeholders, including with respect to the systematic use of torture and ill-treatment and the widespread occurrence of enforced disappearances. For example, in a dedicated report covering 1 January 2020 to 30 April 2023 (prior to the period covered by the current report), the United Nations (UN) Commission of Inquiry on Syria highlighted the ‘continuing widespread and systematic’ use of torture and other ill-treatment, including enforced disappearances, in detention facilities in the country between 1 January 2020 and 30 April 2023.¹⁵ Detainees described being subjected to a range of acts of torture and inhumane treatment, usually to force them to ‘confess’ or as punishment or intimidation. These reportedly included suspension by one or two limbs for prolonged periods or being folded into car tyres. It was indicated that severe beatings all over the body included the genitals, and were often perpetrated using sticks, cables or other tools. Other methods mentioned by victims included electric shocks, the burning of body parts and sexual violence.¹⁶

Conflict Classification

Multiple international and non-international armed conflicts occurred or were ongoing on the territory of Syria during the reporting period (1 July 2023–30 June 2024).

IACs on Syrian territory included the armed conflicts between Syria and the members of the global coalition against ISIL (Global Coalition Against Da’esh);¹⁷ between Syria and Türkiye; between Syria and Israel; between Syria and the United States; as well as between Israel and Iran. Occupations of parts of Northern Syria (by Türkiye) and of the Golan Heights (by Israel) also continued (see ‘Conflict Overview’).

Since 2017 Israel has conducted frequent airstrikes on Syrian territory. These reportedly targeted Iran-backed armed groups and Iranian military personnel and

assets that were present in territories under the control of the Syrian Government, without the latter's consent. As of December 2023, the Israeli army was reported to have conducted approximately 50 airstrikes in various locations in Syria, targeting Iranian officials affiliated with the Islamic Revolutionary Guard Corps and other Shia non-state armed groups, particularly Hezbollah. Between the beginning of 2024 and the end of the reporting period, the Israeli Defence Forces reportedly conducted 53 airstrikes in Syria, targeting Syrian government forces, the Iranian Revolutionary Guard Corps and various Shiite armed groups from Lebanon, Iraq, Syria and other nations.¹⁸ Certain airstrikes reportedly targeted military objectives in residential areas, causing a number of civilian deaths.¹⁹

The Syrian Government, acting with the support of the Russian Federation and Iran-backed militias (such as the Islamic Revolutionary Guard Corps, the Lebanese Hezbollah and 'Mahdi' soldiers),²⁰ was also engaged in multiple NIACs with non-state armed groups, including ISIL, HTS, SDF and the Syrian National Army.

The Global Coalition Against Da'esh and SDF were also involved in a NIAC with ISIL. During the reporting period, the US-led coalition conducted numerous airstrikes against the group, particularly in Deir Ezzor, East Syria.²¹

The USA also carried out military operations against Shia armed groups in Syria. These groups had launched around 130 attacks against US military bases in North-Eastern Syria since December 2023. In response, US forces launched strikes inside Syria against Iran-backed armed groups such as Abu All-Fadh al-Abbas Brigade and Fatemiyoun Brigade, as well as Iran's Islamic Revolutionary Guard Corps. These attacks took place without the consent of the Syrian Government.²²

In relation to the IAC between the Syrian Government and Türkiye, Türkiye was carrying out military operations against Kurdish non-state armed groups and ISIL on Syrian territory (which amounted to NIACs) without government consent, particularly in the parts of Northern Syria it controlled.²³

International Humanitarian Law in Syria, 1 July 2023–30 June 2024

Conduct of Hostilities

Attacks Directed against Civilians, or of an Indiscriminate or Disproportionate Nature

In the period covered by this report, most of the fighting was concentrated in the north of Syria and involved all the main parties to the armed conflicts. All the parties to the NIACs in Syria were reported to have directed attacks against civilians and civilian objects or conducted indiscriminate or disproportionate attacks. Yet, civilian casualties and destruction of civilian objects in the conduct of hostilities, to a large extent, appeared to be attributable to state actors.²⁴ (See also below, 'Use of Explosive Weapons in Populated Areas'.) Non-state armed groups – including HTS, which was active in government-controlled Idlib province – reportedly caused fewer or no civilian casualties.²⁵

In addition to apparent indiscriminate attacks against civilians involving the use of explosive weapons in populated areas, mostly by various state actors (see

below, 'Use of Explosive Weapons in Populated Areas'), Action on Armed Violence reports that 2023 saw intentional targeting of critical infrastructure such as power plants, hospitals and airports. Reports indicate that schools were also targeted. Most of these acts reportedly were carried out by state actors.²⁶ On 11 July 2023, in Atarib town in Western Aleppo, a marked vehicle of first responders was hit by a missile reportedly launched by Syrian government forces while the medical personnel were on their way to a site that was shelled earlier for a rescue operation. The attacked vehicle was on a road surrounded by flat agricultural land. It was reported that a drone was patrolling the area before the strike.²⁷ These reports raise serious concerns regarding respect for the principle of distinction, as well as for the special protections of medical personnel, objects and infrastructure, and objects indispensable to the survival of the civilian population, among others.

From July to September 2023, Syrian government forces conducted artillery attacks against multiple villages and towns situated along the front lines of Idlib province as well as the north-west of Aleppo province, causing civilian casualties and property damage. The common denominator in these attacks, as set out by the UN Independent International Commission of Inquiry on the Syrian Arab Republic, was that no military activity or object was recorded in the vicinity of the attacked locations before each incident.²⁸ This signals potential issues regarding compliance with the fundamental principle of distinction.

On 5 October 2023, an attack that apparently targeted the military academy in Homs (territory under the control of the Syrian Government) during a graduation ceremony reportedly killed 135 people, including 56 civilians (of whom 39 were women and another was a child). No actor claimed responsibility for the attack.²⁹ Even if the military academy could be considered a military objective, the high proportion of civilian casualties and the timing of the attack (during a ceremony when civilians were present) raise concerns about respect for the IHL principles of proportionality and precaution in attack. Syrian government forces subsequently intensified hostilities against HTS between October 2023 and January 2024. According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), these military operations by the Syrian armed forces affected 50 villages and urban centres across Idlib province, including Idlib city and Ariha and Jisr al-Shughur towns. The operations which took place on 5 October alone killed 16 civilians and displaced 1,000 families.³⁰ The nature and apparent targets of these operations raise serious concerns about compliance with the principle of distinction.

Russian air forces were also reported to have conducted attacks against IDP camps in Idlib province. On 24 October, Russian air forces targeted Saraqib IDP camp outside Hamama village. The airstrike killed five civilians – three women and two children – and injured five others. At least 250 people were displaced as a result of this attack.³¹ The Independent International Commission of Inquiry on the Syrian Arab Republic noted that Russian drones were patrolling the sky before the attack, and that it does not appear that there were military objectives or activities in the vicinity of the targeted location.³² The presumed civilian character of the apparent target (an IDP camp), as well as the reported absence of military objectives nearby, raise serious concerns about respect for the principle of distinction.

The humanitarian consequences of these and other attacks were serious. According to OCHA, from 5 to 27 October 2023, 2,300 locations in Idlib and Western Aleppo were affected by shelling and airstrikes conducted by Syrian government and Russian forces. A reported 70 civilians were killed (including 3 humanitarian

workers, 14 women and 27 children) and a further 338 civilians were injured, 77 of whom were children. These attacks prompted the displacement of more than 120,000 Syrians. Between October and December 2023, OCHA reported that at least 99 civilians were killed and more than 400 others were injured in the course of the hostilities.³³ While this overall information may not allow for an assessment of further specific incidents in light of IHL, these significant civilian casualties and displacement incidents may nevertheless signal broader IHL compliance issues.

Reports indicate that military operations conducted by Türkiye have also resulted in civilian casualties and destruction or damage to civilian objects, raising concerns about compliance with fundamental IHL rules on the conduct of hostilities. Relevant reported examples are detailed in the paragraphs below.

In October 2023, it was reported that the Turkish army conducted drone attacks in Al-Hasakah governorate – a territory under the de facto control of the Kurdish SDF – allegedly targeting water and energy infrastructure and resulting in civilian casualties. This attack reportedly was in retaliation for an attack in Ankara on 1 October 2023 by the Kurdistan Workers' Party (PKK).³⁴ On 4 October 2023, in the aftermath of the attack three days earlier, Hakan Fidan, Minister of Foreign Affairs of Türkiye, declared that 'all PKK and People's Protection Units infrastructure' were 'legitimate targets'.³⁵ SDF, the military wing of the People's Protection Unit (YPG), denied any involvement in the 1 October attack in Ankara.³⁶

On 5 October 2023, Turkish armed forces reportedly conducted 24 strikes using unmanned aerial vehicles (armed drones), apparently targeting infrastructure across North-East Syria. The strikes also reportedly hit residential neighbourhoods, agricultural lands, factories, a school and a hospital.³⁷ The attacks reportedly killed 9 civilians and injured 15 others.³⁸ One of the strikes is said to have landed in the vicinity of the Washokani IDP camp where 16,000 displaced persons were located.³⁹ Other attacks were said to have targeted roads used by humanitarian workers who were present at the camp during these attacks. These events reportedly impacted the delivery of humanitarian aid and the movement of aid workers.⁴⁰ In addition to the general rules on the conduct of hostilities, these reports raise particular concerns regarding respect for the special protections of humanitarian and medical personnel and objects, among others.

The airstrikes also targeted public infrastructures such as Amuda and Qamishli electricity transfer stations (serving more than 90,000 people), which led to water cuts impacting residents. The Turkish drones also targeted a gas pumping station, which directly affected hospitals and bakeries that rely on these public infrastructures for their functioning. Turkish drones further struck the Alouk water station, which led to a power cut affecting approximately 610,000 Syrians.⁴¹ As of June 2024, Alouk station still was not functioning at complete capacity due to the damage caused by the strike, which continued to affect the population's access to potable water.⁴² Furthermore, according to NES NGO Forum, 'more than one million people in eleven major cities and over 2,750 villages have been cut off from electricity; critical shortages and prohibitive inflation rates in diesel, kerosene, and cooking gas threaten access to cooking and heating for both IDPs in camps and local populations'.⁴³ This raises particular concerns in light of the customary prohibition on attacks against objects indispensable to the survival of the civilian population⁴⁴ (such as water infrastructure, as well as energy infrastructure which is 'critical to the effective operation of other indispensable objects',⁴⁵ as apparently was the case here). The conditions under which such objects may be deemed to have lost their protection as civilian objects are also stricter than those applicable to civilian

objects more generally – especially in a NIAC context where certain specific customary exceptions to protection do not appear to apply.⁴⁶ Even in the event of loss of protection, a far more stringent application of the principles of proportionality and precaution in attack would be called for in such cases, especially taking into account the reverberating (reasonably foreseeable indirect) effects of such attacks on civilians, which were indeed visible from reports on the incidents in question.

More generally, given the reported context of retaliation for attacks in Ankara, it is also relevant to recall the total prohibition on reprisals in NIAC contexts, as well as – in any event – the prohibition on reprisals against protected objects, including those indispensable to the survival of the civilian population, in an IAC context.⁴⁷

Means of Warfare

Use of Explosive Weapons in Populated Areas

According to Action on Armed Violence, in 2023, the use of explosive weapons increased the number of civilian deaths by 38 percent in comparison to 2022. Among the 1,797 civilians reportedly killed in 2023, at least 335 children were victims of explosive weapons. Among the 928 events reported where explosive weapons were used, 58 percent were said to have been initiated by state actors, mainly the Syrian and Russian armed forces as well as those of Türkiye, while 33 percent were allegedly conducted by non-state armed groups. These weapons were reported to have been mostly used in populated areas in cities and villages, which is where 90 percent of civilian casualties were recorded.

Reports have indicated that explosive and incendiary weapons have been used by government forces across the NIACs in which they were involved, in a seemingly indiscriminate manner, repeatedly hitting populated areas during the reporting period. For example, on 6 October 2023, Syrian government forces reportedly struck multiple sites in Turmanin town. According to a report of the Independent International Commission of Inquiry on the Syrian Arab Republic, Grad rockets fell in the centre of the town near a market and shops, and a 220 millimetre 9M27-K Uragan artillery rocket system fired 9N210 sub-munitions which landed near a medical facility and a school. These incidents reportedly killed 5 civilians, including children and women, and injured 27 others. There do not appear to have been military objectives or military activities in the vicinity of the impacted locations at the time of the attacks.⁴⁸

The Commission of Inquiry further reported similar incidents in the same month where explosive weapons appear to have been used indiscriminately. For example, on 8 October, the city of Idlib was reportedly attacked with Grad rockets launched from Saraqib, a town under Syrian Government control. The attacks reportedly hit houses, main roads, the education directorate and five hospitals, which are said to have been clearly visible and well known as part of the hospital compound of Idlib governorate. The attacks reportedly damaged the hospitals, impeded access to healthcare in the city, killed 5 civilians (including 2 children), and injured 30 other civilians. On 22 October 2023, an explosive munition was reportedly fired by Syrian government forces at Qarquur village in Idlib province, killing six children, aged from two to six years, who were playing in front of their home. A second attack (with three additional munitions) reportedly hit the family members who came to their rescue.⁴⁹

Concerns Related to Deprivation of Liberty in Armed Conflict

Arbitrary Deprivation of Liberty, Torture and Inhumane Treatment

Most parties to the armed conflict in Syria (both state and non-state actors) reportedly detained both civilians and fighters/military personnel in connection with the conflict during the reporting period. According to SNHR, 157,287 civilians were arrested between March 2011 and June 2024. A total of 112,713 people were considered to have been subjected to enforced disappearances, of whom 1,305 were children and 6,698 were women.⁵⁰ Aside from the many who remained detained or unaccounted for, SNHR reported hundreds of new cases of arbitrary arrest and detention in the reporting period – of which a significant proportion were deemed to constitute enforced disappearances.⁵¹

UN reports indicated that arbitrary detention and torture continued unabated in the territories under the control of the Syrian Government during the reporting period,⁵² despite provisional measures issued by the International Court of Justice (ICJ) on 16 November 2023 ordering the Syrian Government to ‘take all measures within its power to prevent acts of torture and other cruel, inhuman or degrading treatment or punishment and ensure that its officials, as well as any organizations or persons which may be subject to its control, direction or influence, do not commit any acts of torture or other acts of cruel, inhuman or degrading treatment or punishment’.⁵³ From January to June 2024, 549 civilians were reportedly arrested by government authorities, of whom 482 were reportedly considered to have been subjected to enforced disappearances.⁵⁴ In addition to these continued patterns,⁵⁵ the Syrian Government was alleged to have detained Syrians returning from abroad, including refugees and asylum-seekers deported from Lebanon.⁵⁶ From January to December 2023, 763 Syrian refugees were documented as having been deported from Lebanon to Syria.⁵⁷ Those forcibly returned to Syria, in most cases, were said to have been arrested upon their return at checkpoints run by the Military Security Intelligence Directorate, or by militias backed by the Syrian Government.⁵⁸ These people were also reportedly subjected to inhumane treatment and dire conditions of detention.⁵⁹

Non-state armed groups also reportedly detained both civilians and fighters or military personnel in territories under their control. According to Amnesty International, SDF operated multiple facilities with thousands of persons detained. The majority of the detainees (men and boys) were reportedly arrested during the Baghouz battle against ISIL in March 2019.⁶⁰ They were said to have been detained in two detention facilities: Sini prison near Al-Shaddadi city (around 800 detainees) and Panorama prison in Al-Hasakah city (around 4,000 detainees).⁶¹ Approximately 900 people captured prior to the March 2019 territorial defeat of ISIL – for example, when they left ISIL-controlled areas, or during or after other military operations against ISIL – were reported to have been detained in other detention facilities. This number includes women and children.⁶²

The Independent International Commission of Inquiry on Syria raised concerns about conditions of detention in SDF facilities, finding that these could amount to cruel or inhumane treatment.⁶³ According to Amnesty International, persons deprived of their liberty were kept in overcrowded cells without ventila-

tion and had very limited access to healthcare, with many of them suffering from diseases such as scabies and tuberculosis.⁶⁴ These diseases are largely reported to have been the result of poor hygiene and nutrition conditions, as detainees are said to be purposefully deprived of water and food.⁶⁵ Many detainees reportedly died as a result. In March 2024 a riot was reported in two SDF-administered detention facilities in Raqqa. The detainees were said to be protesting inhuman conditions, ill-treatment and lack of access to medical care, as well as a delay in releasing detainees who had served their sentences.⁶⁶ According to the UN Commission of Inquiry on Syria, at least 5 detainees were killed and 11 were injured by SDF forces, who used force in response to the riot. Investigations were said to be ongoing.⁶⁷

SDF was also managing Al-Hol and Al-Roj camps in North-East Syria, where around 46,000 people, believed to be affiliated with ISIL, were said to be held. Among the detainees, it was reported that 36 percent were Syrian, 45 percent were Iraqi and 19 percent were foreign nationals.⁶⁸ SDF reportedly continued its practice of separating boys aged 13 years and above from their mothers or female guardians, preventing any contact between them.⁶⁹ This practice raises concerns, among others, regarding respect for the customary IHL rule requiring respect for family life, and its corollary that families deprived of their liberty must not be separated.⁷⁰

SNHR and the UN Commission of Inquiry on Syria also reported the abduction of Kurdish children (boys and girls) by SDF as new recruits for their military activities,⁷¹ as well as refusal on the part of SDF to provide information to parents and guardians on the children's whereabouts.⁷² Recruitment and use in hostilities of children under 15 years of age is prohibited under customary IHL and may amount to a serious violation.⁷³ In addition, the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict – which prohibits the recruitment and use in hostilities of children under 18 by armed groups – is applicable on Syrian territory, as Syria is a state party to the Optional Protocol.⁷⁴ Furthermore, the abduction of civilians for forced recruitment amounts to an arbitrary deprivation of liberty, as well as potentially enforced disappearance, both of which entail serious violations of IHL.⁷⁵

The Syrian National Army (SNA) – backed by Turkish military forces – has also reportedly been implicated in arresting and detaining people in areas controlled by the Syrian Government and SDF in Afrin, an area in North-West Syria under Turkish control.⁷⁶ Those arrested reportedly include refugees and IDPs voluntarily returning to their places of origin. From January to June 2024, SNA is reported to have arrested 219 persons, with 162 considered to have been subjected to enforced disappearance.⁷⁷ There were also allegations that SNA perpetrated torture and inhumane treatment of detainees. Many of these practices reportedly occurred under the supervision of Turkish officers,⁷⁸ raising concerns about Türkiye's compliance with IHL and with other applicable obligations under international law, including under the European Convention on Human Rights.

HTS were reported to be involved in abductions and arbitrary detention in Idlib governorate and the north-west of Aleppo governorate.⁷⁹ In the first half of 2024, HTS reportedly arbitrarily deprived 121 people of their liberty, of whom 88 were considered to have been the victims of enforced disappearances.⁸⁰ HTS was also reported to have subjected detainees to inhumane treatment, and it was also alleged that secret summary trials were conducted by the group.⁸¹

End Notes Syria

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- 14 Ibid, p 7.
- 15 Report of the International Independent Commission of Inquiry on the Syrian Arab Republic, "'No End in Sight": Torture and Ill-Treatment in the Syrian Arab Republic 2020–2023', UN Doc A/HRC/53/CRP.5, 10 July 2023, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coisyrria/A-HRC-53-CRP5-Syria-Torture.pdf>.
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55 Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, UN Doc A/HRC/55/64, supra 24, pp 10–11; Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, UN Doc A/HRC/57/86, supra 19, p 5.

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60 Amnesty International obtained the official figure of 6,000 men and boys who were captured after the fall of Baghouz. See Amnesty International, 'Aftermath. Injustice, Torture and Death in Detention in North-East Syria', April 2024, p 57.

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64 Amnesty International, 'Aftermath', supra 60, pp 74, 78–80.

65 Amnesty International, 'Aftermath', supra 60, p 78; Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, UN Doc A/HRC/55/64, supra 24, p 18.

66 Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, UN Doc A/HRC/57/86, supra 19, p 20.

67 Ibid.

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78 Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, UN Doc A/HRC/57/86, supra 19, p 14; Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, UN Doc A/HRC/55/64, supra 24, p 13. The presence of Turkish officers in detention facilities run by SNA was well documented before 2023 by Human Rights Watch. See Human Rights Watch, 'Everything is by the Power of the Weapon', supra 4, pp 28–46.

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YEMEN

During the reporting period, the internationally recognized Government of the Republic of Yemen and its supporting forces continued to be engaged in two non-international armed conflicts (NIACs) against non-state armed groups on Yemen's territory: one against the Houthis, and one against Al-Qaeda in the Arab Peninsula (AQAP). Both the Houthi movement and AQAP exercise sufficient territorial control over parts of Yemen to trigger the application of Additional Protocol II, to which Yemen is a state party.

Regarding the conduct of hostilities, reports of attacks that apparently targeted civilians or were indiscriminate raised concerns regarding the principle of distinction. These included reports of sniping and attacks on residential neighbourhoods by Houthi forces and associated militias (including a potential prohibited reprisal); shelling of houses by government forces and the Joint Forces of the Western Coast; and attacks on schools and hospitals attributed to government and affiliated forces and the Houthis. The reported attacks on medical facilities, as well as targeting of ambulances by AQAP, raise serious concerns about respect for the special protection of medical personnel, facilities and transports. Civilian casualties have also been alleged following strikes on Houthi-controlled areas by the United States (US) and United Kingdom (UK)-led coalition, though limited information regarding international humanitarian law (IHL) compliance is available. There are continued high levels of reported casualties resulting from the use of landmines, particularly by Houthi forces.

In Houthi-controlled areas, several serious incidents were reported that displayed disregard for the special protection of humanitarian personnel and raise concerns about serious violations of IHL. Among others, these incidents entailed murder, death in custody, abduction, arbitrary deprivation of liberty and enforced disappearance. Deprivation of liberty and enforced disappearance raised concerns beyond the case of humanitarian workers (and beyond Houthi-controlled territories). Inhumane conditions, torture, inhumane treatment and sexual violence in Houthi detention facilities were reported.

Over and above the insecurity of humanitarian personnel, other obstructions to humanitarian access also raised concerns about parties' obligations to facilitate the passage of relief – particularly, the requirement that women humanitarian workers be accompanied by male guardians in Houthi-controlled territory, which also impacts on assistance to women and girls.

Prohibited recruitment and use of children in hostilities by government and affiliated forces and Houthi forces were also reported. Particular concerns were raised by reports of coercive Houthi child recruitment practices, including abductions.

Conflict Overview

At the beginning of the reporting period (1 July 2023), the situation in Yemen was described as relatively calm.¹ This followed a 2022 truce between the internationally recognized government of Yemen (IRG) and AnsarAllah – more widely known as the Houthi movement – which has been fighting the Yemeni Government for two decades and currently controls the capital Sana'a and the Northern Yemeni governorates.² The Special Envoy of the United Nations (UN) Secretary-General for Yemen, however, cautioned that 'although fighting has decreased markedly since the start of the truce, the front lines are not silent'.³ Parties to the conflict committed to a nationwide ceasefire in December 2023, but the evolution of the situation prevented the ceasefire from becoming a reality.⁴

Since the autumn of 2023, developments related to the escalation of the Gaza conflict destabilized the country. Houthi forces conducted attacks against merchant ships travelling across the Red Sea, and against Israel.⁵ In response, the United States (US) and the United Kingdom (UK) conducted airstrikes in Houthi-controlled areas of Yemen, starting in early 2024.⁶ At the same time, the Houthis intensified their operations against IRG forces, causing several hundred casualties.⁷ In March 2024 the Special Envoy warned that '[i]n a worst-case scenario, the parties could decide to engage in risky military adventurism that propels Yemen back into a new cycle of war'.⁸ In April 2024 he reported on the escalation of hostilities on several fronts.⁹ However, in May 2024 he affirmed that the situation remained contained despite threats by the Houthis to return to war.¹⁰ In June 2024 he stated that '[a]part from occasional flare-ups, the military situation along the front lines has remained relatively stable since the April 2022 truce', but warned of the potential for escalation, especially in connection with the regional situation.¹¹ Overall, 197 armed clashes were reported between the IRG and the Houthis during the reporting period, which were said to have resulted in hundreds of fatalities.¹²

In the context of the conflict between the Yemeni Government and Houthi forces, a Saudi Arabia-led coalition of states – then additionally comprised of the United Arab Emirates (UAE), Bahrain, Egypt, Jordan, Kuwait, Morocco, Qatar and Sudan – had intervened in support of the government in 2015.¹³ Saudi Arabia and the Houthis had reportedly been engaging in bilateral peace talks prior to the reporting period, and the coalition announced in March 2023 that it would suspend its operations in Yemen.¹⁴ Following the outbreak of the Red Sea crisis in November 2023, talks between Saudi Arabia and the Houthis were reportedly suspended.¹⁵ Nevertheless, Saudi Arabia was mentioned as having played a supporting role in the IRG-Houthi ceasefire agreement of December 2023,¹⁶ and few instances of hostilities involving Saudi Arabia were reported in 2023 and 2024. The most significant reported incident was in October 2023, when the Houthis killed four Saudi soldiers on the border between Saudi Arabia and Yemen.¹⁷

In parallel developments, the Houthis reportedly increasingly cooperated and coordinated their actions with Al-Qaida in the Arab Peninsula (AQAP).¹⁸ AQAP, which was established in 2009, took control of several cities in Southern Yemen following the political and security vacuum resulting from the 2011 uprising against then President Ali Abdullah Saleh.¹⁹ However, since 2016, AQAP suffered setbacks and lost significant territorial control due to offensives conducted by IRG²⁰ and the Southern Transitional Council (STC), as well as drone strikes carried out by the US.²¹ This led to a period of retrenchment from 2019 to 2022.²² Nevertheless,

AQAP still exercises territorial control in Abyan and Shabwa governorates and, since late 2022, has resumed its operations against STC.²³ During the reporting period, 33 armed clashes between AQAP and STC forces were recorded, the vast majority in Abyan governorate, resulting in dozens of fatalities.²⁴ Conversely, only three clashes against the Yemeni Government and no hostilities against the Houthis were reported.²⁵

STC, backed by the UAE, is a secessionist entity established in 2017 claiming to represent the Southern Yemeni people, and has fought the Yemeni Government since early 2018.²⁶ Skirmishes between STC and the Houthis were reported as early as 2019.²⁷ Following the Riyadh Agreement,²⁸ signed between the Yemeni Government and STC on 5 November 2019, a new government, including STC, was formed in early 2021.²⁹ STC also joined the Presidential Leadership Council formed in April 2022 and continued to constitute an integral part of IRG.³⁰ Although several military confrontations occurred between the Yemeni Government and STC following the Riyadh Agreement,³¹ no clashes were reported during the period under review.³² In an attempt to seize new territory in Lahj governorate in August 2023, however, the Houthis clashed with STC, resulting in several casualties.³³ Following the escalation in the Red Sea, STC also aligned with the new US and UK-led coalition.³⁴ During the reporting period, numerous clashes between the Houthis and STC took place.³⁵ Several joint operations against the Houthis were also conducted by IRG and STC.³⁶

The National Resistance Forces (NRF), also known as Guards of the Republic Brigades, were established in early 2018 as a paramilitary unit led by Brigadier General Tariq Saleh, the nephew of the then President Ali Abdullah Saleh, and backed by the UAE. Since then, they have fought the Houthis alongside the Yemeni Government to free Yemen's West Coast and the northern governorates from the Houthis' presence.³⁷ In July 2019 the Joint Forces in the West Coast were formed, comprised of NRF, the STC-affiliated Southern Giants Brigade and the Tihama Resistance. Although also backed by the UAE, the Joint Forces are not entirely subordinated to STC. They have nevertheless been an integral part of the Presidential Leadership Council since 2022.³⁸ During the reporting period, dozens of clashes were attributed to the Joint Forces or their components.³⁹

Regarding the humanitarian situation, food insecurity remained a major concern across the country throughout the reporting period, endangering the lives and wellbeing of the population, in particular women and children.⁴⁰ The Special Envoy stressed that the conflict has a 'disproportionate impact' on women in Yemen.⁴¹ The same may be said about children. In July 2024, shortly after the end of the reporting period, Joyce Msuya, UN Acting Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, estimated that 'one in every two children under the age of five are now estimated to be experiencing chronic malnutrition or stunting'.⁴² Pressure on food security was heightened by disruptions to transport infrastructure. According to the Panel of Experts on Yemen, Houthi attacks on commercial ships 'led to increased prices of goods and delays in the delivery of humanitarian assistance'.⁴³ The resurgence of cholera, starting in October 2023, for the first time since 2019, further aggravated the situation, especially in areas controlled by the Houthis.⁴⁴ Underfunding of humanitarian activities represents an additional difficulty for humanitarian actors.⁴⁵

Conflict Classification

Two non-international armed conflicts (NIACs) continued to take place on the territory of Yemen during the reporting period:

- a NIAC between the armed forces of IRG (now the Presidential Leadership Council) and its supporting forces (including the Southern Transitional Council and militias composing the Joint Forces on the Western Coast) and the Houthis
- a NIAC between IRG and its supporting forces and AQAP

These NIACs are regulated by Common Article 3 to the Geneva Conventions, Additional Protocol II (which Yemen ratified in 1990) and customary international humanitarian law (IHL). Both the Houthi movement and AQAP exercise sufficient territorial control over parts of Yemen to trigger the application of Additional Protocol II.⁴⁶ Although STC and the Joint Forces on the West Coast seemed to maintain a certain autonomy, they are to be considered state organs given that they are officially integrated into the Yemeni Government.

The NIAC between the Yemeni Government and STC is considered to have come to an end before the reporting period. Similarly, a NIAC between AQAP and the Houthis ended before the period under review as there was ‘a lasting cessation of armed confrontations without real risk of resumption’.⁴⁷

Given that IRG had consented to the intervention of the Saudi-led coalition, such foreign involvement would not affect the classification of its ongoing conflict against the Houthis.⁴⁸ Noting, however, that the coalition had reportedly announced a suspension of its military operations in Yemen in March 2023,⁴⁹ and only minor skirmishes involving Saudi troops were reported in October 2023,⁵⁰ it is considered that members of the Saudi-led coalition were not involved in a NIAC with the Houthis during the reporting period.

In addition, the airstrikes conducted by the US and UK-led coalition would trigger an international armed conflict (IAC) between these states and Yemen if this occurred without the Yemeni Government’s consent. The intervening states’ exclusive reliance on their claimed right of self-defence in their public statements would seem to point to a lack of consent. However, the fact that the Yemeni Government ‘called on the west to supplement the air campaign by providing arms, training and intelligence sharing to government forces’⁵¹ indicates that the Yemeni Government did consent to the operation.⁵²

As far as the existence of a NIAC between the Houthis and the US and UK-led coalition is concerned, Human Rights Watch has affirmed that Houthi attacks against civilian ships could amount to war crimes, indicating that it considers that IHL is applicable to these acts.⁵³ However, the UN Security Council refrained from any references to IHL in this context. While Resolution 2722 (2024) condemns the attacks, it rather refers to the UN Convention on the Law of the Sea (UNCLOS) and uses language borrowed from the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation.⁵⁴ Moreover, although the Houthis conducted numerous attacks on ships travelling in the Red Sea,⁵⁵ these attacks were directed against ships with the flags of various states, and were not limited to US, UK or Israeli-flagged vessels.⁵⁶ Consequently, it does not seem that the intensity threshold was reached between the Houthis and any of these discrete states, which

would be required to conclude that any additional NIAC was initiated during the period under review.

Violations of IHL have reportedly been committed by most parties to the armed conflicts in Yemen, in a climate of impunity.⁵⁷ Concerns have been raised in particular in relation to the conduct of hostilities, including the destruction of civilian homes and infrastructure; casualties resulting from the use of landmines; the recruitment of children; sexual violence; obstructions to humanitarian access; and aid delivery and forced disappearance.⁵⁸ In its 2023 Final Report, the Panel of Experts on Yemen established pursuant to Security Council Resolution 2140, referring to the period of 1 December 2022 to 31 August 2023, affirmed that most violations of IHL were attributable to the Houthis. These included attacks directed against civilians and civilian infrastructure in Yemen.⁵⁹ However, while conduct attributable to the Houthis appears to raise the most concern with respect to IHL compliance, actions attributable to other actors also raise serious concern.

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Conduct of Hostilities

Attacks Directed against Civilians, or of an Indiscriminate or Disproportionate Nature

Instances of the targeting of civilians in Houthi sniper attacks have been reported by Human Rights Watch. For example, residents of the frontline village of al-Shaqb in Sabir Al-Mawadim district told the organization that a Houthi sniper shot and seriously injured a child who was returning home from school on 23 March 2024.⁶⁰

According to the Panel of Experts on Yemen established by the UN Security Council, Houthi forces also reportedly launched indiscriminate attacks against residential neighbourhoods in the reporting period, resulting in at least 153 fatalities and 180 injuries, including women, children and older persons.⁶¹ An example is the case of the bombing of the Al-Zailai family homes in Al-Hufrah neighbourhood, Rada'a district, in Al-Bayda governorate, on 19 March 2024. The National Commission to Investigate Alleged Violations to Human Rights (NCIAVHR) investigated and documented the case, attributing the incident to members of an armed group affiliated with the Houthis.⁶² NCIAVHR describes the attack as a measure of retaliation for the inability of the group to find a member of the family accused of the killing of some of its members. The explosion reportedly resulted in the burial of an entire family, causing the death of nine persons and injuring nine more, and extensive damage to neighbouring buildings.⁶³ The Commission affirmed that 'this type of violation is exclusively perpetrated by the Houthi group'.⁶⁴

Instances of apparent attacks on civilians and civilian objects implicating other parties to the conflicts have also been reported. For example, the Joint Forces of the Western Coast allegedly shelled a residential house with 120 millimetre mortars in Maqbana district, Western Taiz governorate, on 24 August 2023.⁶⁵ Governmental forces were also said to have shelled a house in Al-Zahir district, Al-Bayda governorate, on 31 August 2023, reportedly resulting in the death and injury of children.⁶⁶

The above-mentioned reports raise serious concerns regarding compliance with the fundamental principle of distinction by the parties implicated. The reported bombing of the Al-Zailai family homes as an act of retaliation raises additional concerns regarding the use of reprisals. Attacks that are indiscriminate or directed against civilians or civilian objects constitute serious violations of IHL.⁶⁷ The use of reprisals, as well as of other countermeasures against civilians, are entirely prohibited during NIACs.⁶⁸

A significant number of attacks against schools and hospitals were reported by the Panel of Experts on Yemen in its 2024 final report,⁶⁹ as well as in the UN Secretary-General's report on children and armed conflict for 2023. The latter affirmed a total of 37 attacks on schools (20) and hospitals (17). Fifteen of these verified attacks were attributed to the Yemen Armed Forces and affiliated armed forces and groups, followed by the Houthis (12 attacks).⁷⁰ In its 2023 final report, the Panel of Experts on Yemen further noted an 'increasing trend in targeting ambulances, including military ambulances, primarily by AQAP'.⁷¹ These reports likewise raise concerns regarding respect for the principle of distinction, as well as the special protections of medical personnel, facilities and transports.⁷²

Limited information is available as to compliance with IHL by the US and the UK in the context of the naval bombardment and airstrikes against Houthi-controlled areas. There have been allegations that these resulted in deaths and injuries to Yemeni civilians.⁷³ The 2024 Final Report of the Panel of Experts on Yemen states that '[c]onfidential sources informed the Panel that at least 13 civilians had been killed and 26 injured in two airstrikes led by the United States-United Kingdom coalition on 8 April and 30 May 2024 in Hudaydah Governorate'.⁷⁴ Airwars claims that five airstrike incidents took place in February and May 2024, each reportedly resulting in civilian casualties.⁷⁵ The existence of civilian casualties does not mean that an IHL violation occurred but does call for investigation in line with IHL.

One reported incident, involving a series of airstrikes on the Coast Guard building located in the Salif (Al Sulayf) seaport in Al Hudayhah governorate, allegedly resulted in the death of up to 16 civilians and injuries to 41 others, according to a Houthi military spokesperson.⁷⁶ However, it is unclear how many of the victims were civilians.⁷⁷ According to the UK Ministry of Defence, the strikes – using Paveway IV guided bombs – were aimed at 'buildings identified as housing drone ground control facilities and providing storage for very long range drones, as well as surface to air weapons used to impede coalition operations to safeguard shipping in the region'.⁷⁸ The Ministry declared that '[a]s ever, the utmost care was taken in planning the strikes to minimise any risk to civilians or non-military infrastructure. Conducting the strikes in the hours of darkness should also have mitigated yet further any such risks'.⁷⁹ In any event, the circumstances of this attack should be carefully investigated.

Means of Warfare

Use of Landmines

The widespread presence of landmines and explosive remnants of war is a source of constant threat to the security of the civilian population in Yemen.⁸⁰ It is reported to be one of the causes for the high number of civilian casualties, despite the decrease in violence resulting from the truce.⁸¹

Houthi forces have been using anti-personnel mines for years. Recent information indicates that they have been producing mines locally.⁸² During the reporting period, the Panel of Experts on Yemen received reports concerning mines being emplaced in civilian areas after the withdrawal of Houthi forces. The Panel stated that '[t]ypically, the Houthis position anti-personnel mines in and around schools, mosques, houses, including under mattresses, wells, and other water sources'.⁸³

Yemen is a state party to the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction. The Convention applies only to state actors. The Houthis aver that they are bound by the Convention as a result of their claim to be the legitimate government of Yemen.⁸⁴

Yemen is also a state party to the Convention on Certain Conventional Weapons, but not to its protocols restricting the use of all landmines (1980 Protocol II and 1996 Amended Protocol II).⁸⁵ Nevertheless, as with any other weapon, the use of all mines is subject to the fundamental rules of IHL governing the conduct of hostilities. Thus, their use must comply with the principle of distinction, including the prohibition on indiscriminate attacks, especially if used in areas frequented by civilians.

Concerns Related to Deprivation of Liberty

Arbitrary Deprivation of Liberty, Enforced Disappearance, Torture and Inhuman Treatment

Reports have emerged about arbitrary detention and harassment of Yemeni staff working for international organizations.⁸⁶ Humanitarian workers have been abducted and/or detained by the Houthi de facto authorities and kept in detention. Thus, in July 2023, Ms Joyce Msuya, UN Assistant Secretary-General for Humanitarian Affairs and Deputy Emergency Relief Coordinator, noted that five UN staff members abducted in February 2022 remained missing and that two UN staff members had been in detention in Sana'a since November 2021, and called for their immediate release.⁸⁷ In June 2024, 13 UN staff members, together with 'five staff members of international non-governmental organizations and many more from national non-governmental organizations and civil society', were reportedly detained by the Houthis.⁸⁸ These persons have been kept in detention without information being made available as to their whereabouts and/or without access being given to their families, employers or legal representatives,⁸⁹ raising concerns about enforced disappearance. Although the grounds for detention of these persons were initially not communicated, the Panel of Experts on Yemen later reported that '[t]he detainees face accusations of espionage for the United States and Israeli intelligence services, among others'.⁹⁰ The Panel also reported that 'alleged confessions of some detainees have been broadcast'.⁹¹

Concerns have also been reported regarding abduction, enforced disappearance and incommunicado detention in Yemen beyond the case of humanitarian personnel.⁹² The extent to which all reported incidents have a nexus to armed conflict and, therefore, would be governed by IHL is not clear. However, this is considered to be the case regarding deprivation of liberty by Houthi de facto authorities, as 'the way in which non-state armed groups exercise control over, and interact with, persons living in the territory under their de facto control is inherently linked to

the conflict in question'.⁹³ Such instances of secret and incommunicado detention are particularly concerning in light of the reported poor conditions of detention in Houthi facilities, where detained persons have reportedly been subjected to inhumane treatment and torture, including the denial of medical care and recourse to sexual violence as a form of torture.⁹⁴

These reports all raise concerns regarding potential serious violations of IHL (arbitrary deprivation of liberty, torture and inhumane treatment, sexual violence and enforced disappearance, among others).⁹⁵

Humanitarian Relief

Protection of Humanitarian Relief Personnel and Objects and Humanitarian Access

In areas controlled by the Houthis, the security of humanitarian relief personnel has constantly been under threat. Ms Edem Wosornu, Director of Operations and Advocacy at the UN Office for the Coordination of Humanitarian Affairs (OCHA), noted with concern that '[m]isinformation and disinformation against humanitarians are on the rise across Yemen, making our work more dangerous and more difficult than it already is'.⁹⁶ Two security incidents resulting in the deaths of humanitarian workers were reported in the period covered. On 21 July 2023, the head of the World Food Programme office in Taiz was reportedly murdered by two masked men.⁹⁷ The case was said to be under investigation.⁹⁸ On 25 October 2023, the Safety and Security Director at Save the Children died in custody after having been held incommunicado since his arrest on 9 September, forcing the organization to suspend operations in Northern Yemen for 10 days.⁹⁹ There have also been numerous reports of arbitrary detention and abduction of humanitarian workers, as detailed above ('Arbitrary Deprivation of Liberty, Enforced Disappearance, Torture and Inhuman Treatment'). Aside from indications of serious violations of IHL (murder, arbitrary detention and enforced disappearance, among others), all the above-mentioned cases indicate a failure by the Houthi de facto authorities in their obligations to respect and protect humanitarian relief personnel.¹⁰⁰

Such incidents have seriously impeded the activities of humanitarian agencies, putting in question their ability to assist millions of people across the country,¹⁰¹ with some humanitarian actors avoiding Houthi-controlled areas due to safety concerns.¹⁰² These difficulties were compounded by other obstacles and restrictions, including the closure of roads;¹⁰³ insecurity and bureaucratic constraints, in some cases leading to prolonged delays (both in Houthi-controlled and government-controlled areas);¹⁰⁴ and, especially, the long-standing requirement that women be accompanied by a male guardian in their movements in Houthi-held areas (*mahram*).¹⁰⁵ The application of the *mahram* requirement has led to restrictions on the movement of female national staff of humanitarian agencies, resulting in limitations on the ability of humanitarian organizations to deliver healthcare services to women and girls, especially reproductive healthcare services.¹⁰⁶ In November 2023 the World Food Programme temporarily had to pause the delivery of food in Houthi-controlled areas 'while it continued discussions with the Houthi de facto authorities on who to prioritize for assistance'.¹⁰⁷ The second quarter of 2024 saw an increase in access constraints in Houthi-controlled areas, indicating that the situation was worsening.¹⁰⁸

All of the above-mentioned obstacles to humanitarian access signal issues regarding compliance with the duties of parties to a conflict to ‘allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control’.¹⁰⁹ In addition, the *mahram* requirement raises particular issues regarding duties of Houthi de facto authorities to ‘ensure the freedom of movement of authorized humanitarian relief personnel essential to the exercise of their functions’, except for temporary limitations in cases of imperative military necessity.¹¹⁰ It also raises issues regarding adverse distinction in the treatment of the civilian population. The prohibition on adverse treatment according to IHL is considered to apply to the delivery of humanitarian assistance, and the denial of assistance based on the sex or gender of the beneficiaries would constitute a breach of this prohibition.¹¹¹ This would clearly apply where, for instance, a woman or girl is denied access to medical treatment because the guardianship requirement impedes her freedom of movement. It would also be the case where the denial of humanitarian relief results from the imposition of such requirement on female staff of humanitarian agencies. In addition, the inability to provide humanitarian relief caused by the imposition of a discriminatory requirement on female staff, with the knowledge that this would result in disparate access for women and girls, arguably would amount to a prohibited arbitrary denial of access to humanitarian relief.¹¹² In this regard, the right of the authorities ‘to verify whether the relief operation or assistance rendered is in conformity with the relevant rules and declared objectives’ shall not ‘unduly delay the providing of humanitarian assistance’.¹¹³

Specific Vulnerabilities

Children

According to the report of the UN Secretary-General on children and armed conflict, violations related to the recruitment of children and their use in hostilities have been committed by many actors in the conflict, including the Yemen Armed Forces, their affiliated armed forces and groups, and the Houthis.¹¹⁴ AQAP also reportedly ‘use[d] children in reconnaissance activities to obtain information on government positions’.¹¹⁵ The Houthis have allegedly used children as ‘human shields, as spies, for planting landmines and other explosive devices, for reconnaissance, as cooks and in combat’.¹¹⁶ The recruitment of girls with a view to their integration into the female security wing of the Houthis (known as the Zaynabiyat) reportedly increased in frequency, starting in autumn 2023.¹¹⁷

Although the verified figures provided by the UN Secretary-General indicate that more cases of recruitment are attributable to the Yemen Armed Forces and affiliated armed forces and groups than to the Houthis, the most serious concerns involve coercive child recruitment practices by the Houthis.¹¹⁸ Following the outbreak of the Gaza conflict, the Houthis recruited numerous people, including children.¹¹⁹ According to the Panels of Experts on Yemen, the Houthis ‘have reportedly mobilized boys as young as 10 or 11, often despite parental opposition’.¹²⁰ Methods of recruitment allegedly used by the Houthis include the recourse to coercion, threats or abduction. Children have also reportedly been trained and indoctrinated in Houthi summer camps after having been sent in return for a financial reward for their parents.¹²¹

The recruitment and use in hostilities of children under the age of 15 years is prohibited under Article 4(3) of Additional Protocol II, as well as under customary international law applicable in NIAC.¹²² These acts are considered serious violations of IHL.¹²³ Yemen is also a state party to the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, which requires state parties to avoid the compulsory recruitment of children under 18 or their use in hostilities, and prohibits all recruitment and use in hostilities of children under 18 by non-state armed groups.¹²⁴

End Notes Yemen

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3 UN Security Council Verbatim Record, supra 1, p 2. See also UN Security Council Verbatim Record (16 August 2023), UN Doc S/PV.9396, p 2 (Mr Grundberg). For detailed data up to March 2024 on the impact of the conflict on civilians, see the website of the Civilian Impact Monitoring Project: Yemen, <https://civilianimpactmonitoring.org> (last accessed 10 October 2024). See also 'Civilian Impact Monitoring Project: 2023 Annual Report: 1 January–31 December 2023', Protection Cluster Yemen, 2024, <https://civilianimpactmonitoring.org/onewebmedia/CIMP%20Annual%20Report%202023.pdf>.

4 See UN Security Council Verbatim Record (14 February 2024), UN Doc S/PV.9548, p 2 (Mr Grundberg).

5 See Final Report of the Panel of Experts on Yemen Established Pursuant to Security Council Resolution 2140 (2014), UN Doc S/2024/731, 11 October 2024, para 54: 'At least 134 attacks were carried out from Houthi-controlled areas against merchant or commercial vessels and against United States and United Kingdom warships in the Red Sea and the Gulf of Aden between 15 November 2023 and 31 July 2024.'

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METHODOLOGY NOTE

The IHL in Focus Global Report considers 22 armed conflicts over the period 1 July 2023–30 June 2024. These 22 conflict situations were selected from those appearing in the Geneva Academy’s Rule of Law in Armed Conflicts (RULAC) project, which classifies situations of conflict under international law into international and non-international armed conflicts (IACs and NIACs), as well as military occupations.¹ Selection was made using a simple overlay analysis which took into account (i) the volume of military operations and other conflict-related incidents; (ii) the scope and scale of civilian impact; (iii) the nature and gravity of prima facie concerns related to international humanitarian law (IHL) compliance; (iv) the risk of escalation; and (v) geographical representativeness.

Given the breadth and complexity of topics covered under IHL, the report focuses on specific themes within these conflicts: conduct of hostilities; means and methods of warfare; medical care in conflict; deprivation of liberty; humanitarian relief; civilian displacement; conflict-related sexual and gender-based violence; torture and other inhumane treatment; protection of women; and protection of children. In selecting these themes, consideration was given to IHL violations that (i) are the most causative of civilian harm; (ii) can be feasibly assessed and with sufficient accuracy through open-source information; (iii) are deemed significant in relation to their scope, scale, gravity or remediability; and (iv) are likely to increase in number and gravity over the coming decades.

The raw data upon which the report entries are based was drawn from the Armed Conflict Location and Event Data Project (ACLED) data set, which records disaggregated and granular conflict incident data.² ACLED was selected from five similar tools, following a testing process whereby 15 ‘near certain’ or ‘possible’ IHL violations were retrospectively identified as present in the dataset, and a legal analysis of the cited sources was conducted. A key benefit of ACLED is that the data set can be narrowed by applying thematic, temporal and situational filters. A set of simulations was thus conducted to identify which combination of filters would produce a comprehensive yet manageable set of data incidents, and these filters were applied uniformly across all 22 conflicts.

This dataset was then augmented by reviewing additional information retrieved from a list of ‘trusted sources’, including reports by United Nations (UN) entities, regional organizations, international non-governmental organizations (NGOs), open source intelligence (OSINT) organizations and traditional media outlets. The list was developed iteratively based on a literature review, outcomes of the IHL in Focus Expert Preparatory Meeting,³ bi-lateral discussions with humanitarian agencies and NGOs, and interviews with thematic and country experts. This step was included to (i) ensure that relevant incidents not included/missing from ACLED were accounted for in the analysis; (ii) facilitate verification and/or triangulation of incident data collected; and (iii) ensure a pool of information broad enough to ground an IHL analysis. Importantly, citizen-generated data was excluded from the sources reviewed. This decision was based on the technical, methodological and safety challenges posed by the process of gathering and analysing this type of information.

From this broader conflict incident data set, a legal analysis of incidents was performed geared towards identifying, on the basis of the available evidence, IHL violations. To aid this process and promote uniformity in analysis, a legal guidance note was developed specific to each of the ten priority themes, with detailed information on applicable IHL rules, their sources and their interpretation. Finally, it is important to note that all conflict incident information gleaned from ACLED and trusted sources was recorded in Excel spreadsheets, with active links archived.

End Notes Methodology Note

1 Through an open-access online portal, the RULAC project monitors the evolution of all ongoing armed conflicts, summarizes key developments in their unfolding, and analyses since and until when IHL applies to international and non-international armed conflicts as well as military occupations.

2 ACLED is a data collection, analysis and mapping project that reports on political violence globally and is uploaded on a weekly basis. It collects data through a variety of sources (including traditional media, reports, local partner data and 'new media') and uploads it only following a coding and internal review process. See ACLED (Armed Conflict Location and Event Data), <https://acleddata.com/>.

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IHL RULES IN KEY THEMATIC AREAS

The rules governing the conduct of hostilities form the core of international humanitarian law (IHL). Primarily designed to protect the civilian population from the effects of the hostilities, in treaty law they are set down in detail in Additional Protocol I to the Geneva Conventions, with fewer rules and less detail also found in Additional Protocol II. The fundamental rules on the conduct of hostilities in Additional Protocol I are generally considered to reflect customary international law.

Under the relevant rules, parties to the conflict must at all times distinguish between civilians and combatants/fighters and between civilian objects and military objectives.¹ Attacks must be directed at military objectives, with attacks directed at individual civilians or the civilian population or civilian objects and indiscriminate attacks strictly prohibited.² Acts or threats of violence whose primary purpose is to spread terror among the civilian population are similarly prohibited.³

A civilian object is any object that is not a military objective. A military objective is an object that makes an effective contribution to military action through its nature, purpose, location or use, and of which the destruction, capture or neutralization offers a definite military advantage under circumstances at the time.⁴ Therefore, civilian objects can become legitimate targets if their purpose, location or use makes an effective contribution to military action, but the loss of protection from attack persists only for such time as they are military objectives. In case of doubt, there is a presumption against loss of protection for objects normally dedicated to civilian purposes.⁵

When targeting a military objective, a party to the conflict must respect the IHL proportionality rule. This treaty and customary rule prohibit the launching of attacks that may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.⁶ Underpinning the rules of distinction and proportionality in attack is the duty to take precautionary measures in attack. This comprises the duty to take all feasible measures to verify that the target is lawful to attack, to select means and methods of warfare that minimize the risk to civilians and to provide effective advance warning if circumstances allow.⁷

There is a further duty on all parties to the conflict to take all feasible precautions to protect civilians and civilian objects under their control against the *effects* of attacks. Such measures include, where possible, evacuating areas containing military objectives of civilians and removing civilian objects from the vicinity of military objectives; avoiding locating military objectives in or near densely populated areas; and taking other precautions to protect civilians and civilian objects from the dangers of military operations.⁸

In addition to the general protection accorded to civilians and civilian objects, given their importance to the civilian population, critical infrastructure – objects indispensable for the survival of the civilian population and works and

installations containing dangerous forces – as well as cultural property and the environment, benefit from additional, ‘special’ protection under IHL. The highest level of ‘special protection’ is accorded to hospitals and mobile medical facilities. Even if these objects are used for military purposes – in violation of the obligations on a party to an armed conflict – the adversary may only launch an attack on that military capability after a warning has been given to cease those military activities and reasonable time has been allowed for the other party to comply. The rule of proportionality in attack will still apply.

The protection of objects indispensable for the civilian population and the interconnected prohibition of starvation of civilians as a method of warfare are anchored to the protection of civilians from the effects of armed conflict. As such, it is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuff, agricultural areas for the production of food, crops, livestock, drinking water installations and supplies and irrigation works.⁹ Other objects beyond food and water are also essential to the survival of the civilian population, such as medicines, medical supplies, means of shelter and energy infrastructure.¹⁰ These objects may only be attacked where they are military objectives and if their destruction is not expected to lead to the starvation of the civilian population.¹¹

The protection afforded to works and installations containing dangerous forces reflects the dangers arising from their damage or destruction. Thus, dams, dykes and nuclear power stations are protected from attack even when this infrastructure is a military objective, as well as military objectives at or near these works, if the attack may cause the release of dangerous forces and consequent severe losses among the civilian population.¹² It is only under very specific circumstances that these objects lose protection from attack, and parties to the conflict have stricter precautionary obligations to avoid releasing dangerous forces.¹³

The natural environment is generally protected as a civilian object by the overall principles and rules applicable to the conduct of hostilities.¹⁴ Parties to a conflict have an added obligation to protect the environment from the effects of hostilities,¹⁵ and attacks that are intended or may be expected to cause widespread, long-term and severe damage to the natural environment, thereby prejudicing the health or survival of the population, are prohibited.¹⁶

Selected Rules on Means and Methods of Warfare

The use of any weapon is subject to the principles of distinction and proportionality in attack, as underpinned by the duty to take precautions in attack, as outlined above.¹⁷ In addition, two general principles, which are of a customary law nature, govern the legality of the use of weapons in any armed conflict. The first, which seeks to protect civilians, makes it unlawful to use inherently indiscriminate weapons.¹⁸ This is a logical corollary of the prohibition on indiscriminate attacks. The second general principle, which primarily protects combatants and others who are directly participating in hostilities, prohibits the use in any armed conflict of means and methods of warfare that are of a nature to cause superfluous injury or unnecessary suffering.¹⁹ A means of warfare is a weapon or weapon platform. A method of warfare is the manner in which a weapon is used.²⁰

An indiscriminate weapon is one that either cannot be targeted at a military objective or whose effects cannot be sufficiently limited. Few weapons are prohibited as being inherently indiscriminate. V2 rockets used in the Second World War, and early Scud missiles with rudimentary guidance systems developed afterwards,²¹ as well as certain, more modern unguided missiles,²² are rare examples of weapons that cannot be targeted with sufficient accuracy at a military objective. Biological weapons are accepted examples of weapons whose effects cannot be limited to a military objective.²³

A weapon that has frequently – but incorrectly – been cited as inherently indiscriminate is the anti-personnel mine. This is due to the fact that the mine is activated by the victim rather than the soldier. An anti-personnel mine thus cannot ‘distinguish’, at the moment of triggering, between the footfall of a soldier or that of a civilian: either will detonate the weapon. This would tend to suggest that its effects are indiscriminate.²⁴ However, it is possible to use anti-personnel mines in a discriminate manner – by emplacing them in a marked and fenced area, especially where military personnel patrol the exterior of the area. This will ensure that the victims predominantly are military and not civilian.²⁵

The second general principle of weapons law is the unnecessary suffering rule. Article 35(2) of Additional Protocol I prohibits the employment in armed conflict of ‘weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering’. The unnecessary suffering rule was first found in Article 23(e) of the 1899 Hague Regulations. Even before that provision was adopted, the 1868 St Petersburg Declaration ‘codified the customary principle that the use of weapons that cause unnecessary suffering is prohibited, which is still valid today’.²⁶ The rule prohibits the use of weapons whose characteristics are such that they would inflict injury or suffering beyond what is necessary to render a fighter *hors de combat*. The International Court of Justice (ICJ) has defined unnecessary suffering as ‘a harm greater than that unavoidable to achieve legitimate military objectives’.²⁷

The use of weapons of a nature to cause unnecessary suffering is also identified as a war crime under the Rome Statute of the International Criminal Court (ICC).²⁸ The Court, however, only has possible future jurisdiction for the war crime of ‘employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering’ during an international armed conflict (IAC). Even in such a case, jurisdiction is dependent upon a specific weapon being included in an annex to the Statute. This has not occurred.

The use of the following weapons in any armed conflict would be unlawful under the unnecessary suffering rule: explosive bullets; projectiles filled with glass; bullets that easily expand or flatten in the human body; poison and poisoned weapons; weapons containing any substance intended to aggravate a wound; bayonets with a serrated edge; and lances with barbed heads.²⁹

There are also IHL rules governing specific weapons. Prohibited for use as a means or method of warfare are the following as a matter of customary law: chemical weapons;³⁰ blinding laser weapons;³¹ and riot control agents.³²

The claimed illegality of the use of incendiary weapons against combatants/fighters is controversial.³³ However, air-dropped incendiary weapons may not be used against military objectives in any concentration of civilians.³⁴

Outside the realm of IHL, disarmament treaty law prohibits the use in all circumstances – including in peacetime – of anti-personnel mines³⁵ and cluster munitions.³⁶ The two treaties regulate only use by any state actor. The use of neither

weapon is prohibited under customary IHL. Two protocols to the Convention on Certain Conventional Weapons also restrict the use of all landmines (including anti-vehicle mines): the 1980 Protocol II and 1996 Amended Protocol II. The Amended Protocol II governs the conduct of all parties to any armed conflict.³⁷

Other Selected Rules on Methods of Warfare

Certain other methods of warfare are prohibited in any circumstance, such as an order not to take the surrender of the enemy ('denial of quarter'), perfidy and pillage, whereas others are allowed but only under strictly defined circumstances, such as the seizure and destruction of property.

The prohibition on perfidy is a long-standing customary rule of IHL applicable in all armed conflicts.³⁸ The rule prohibits conduct that would undermine the protections afforded by IHL to certain objects and individuals. It thus is illegal to act so as to cause an adversary to believe that a person or object is entitled to protection under the rules of IHL with the intent to betray that confidence in order to kill, injure or capture that adversary.³⁹ Pretending to be medical personnel engaged in treating patients and then attacking the enemy would be one example, among many. Conversely, ruses of war, this is, tactics intended to mislead an adversary or to induce them to act recklessly based upon an erroneous representation of facts that would not, if true, imply protection under IHL, are not prohibited.⁴⁰ Although only expressly recognized in Additional Protocol I, the prohibition on perfidy is a well-established customary rule of IHL, applicable to international and non-international armed conflicts (NIACs).

Since starvation of the civilian population as a method of warfare is prohibited in international and non-international armed conflicts,⁴¹ sieges, embargoes or blockades whose primary goal is to starve the civilian population are unlawful. However, if the civilian population cannot be adequately provided with objects indispensable for their survival, an obligation exists to allow the evacuation of the area of civilians or to allow the passage of foodstuffs and other essential supplies.⁴²

The destruction and seizure of property are regulated in the context of military occupation, and differ depending on whether the property is public or private – a determination that must be made according to the national legislation of each state. The rules regulating the treatment of property are codified in the Hague Regulations of 1907, which are considered to reflect customary law.

The overarching rule in respect of property is the absolute prohibition on pillage,⁴³ which must be differentiated from lawful acts of appropriating property from the adversary. In this regard, the confiscation of private property is prohibited, except for goods susceptible of direct military use which might be seized by the army of occupation, who has to restore them or provide compensation. Furthermore, the army of occupation may demand requisitions in kind or in service from the population of the occupied territory to satisfy their needs, as long as fair value compensation is paid for any requisitioned goods; the requisition is proportional to the needs of the occupied territory's population; and it does not involve the inhabitants taking part in military operations.⁴⁴ The regulation slightly differs in relation to public property. The seizure of movable public property is allowed, which might be used for military operations, without need of compensation.⁴⁵ Similarly, immovable public property may be administered by the occupying power according to the rules of usufruct, safeguarding its underlying value.⁴⁶

Detailed rules on the confiscation, requisition or seizure of property do not exist in NIACs. Those issues remain regulated under national law of the territory in which the conflict is taking place.

In addition to the rules on appropriation of property, the destruction of public and private property is subject to different legal constraints. Such destruction is prohibited in both types of armed conflict unless rendered absolutely necessary by military operations.⁴⁷

Selected Rules on Medical Care

The IHL set of rules on medical care require the protection and respect of the wounded and sick, and the protection of medical units, transports and personnel. The rules on medical care lie at the heart of IHL and apply to all armed conflicts.

The wounded and sick must be protected and respected irrespective of their status,⁴⁸ provided they refrain from any act of hostility.⁴⁹ The obligation to protect requires the parties to the conflict to exercise due diligence to protect the wounded and sick by preventing them from being harmed by others or by natural causes, which includes the obligation to search for them and to collect them to ensure their adequate care.⁵⁰ Once in the power of a party, the wounded and sick must be respected and treated humanely and must receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition, without any adverse distinction on any ground other than medical.⁵¹ Attacking and ill-treating the wounded and sick are strictly prohibited.⁵²

Furthermore, in IACs, parties under whose treatment the wounded and sick are must record and transmit the identity of the persons they are taking care of to the protecting power to avoid the wounded and sick being considered missing or dead.⁵³ Medical personnel can neither be compelled to disclose information about the persons under their care, nor they can be punished for refusing to give such information.⁵⁴

When the needs of the wounded and sick are not being met, impartial humanitarian organizations may offer their services,⁵⁵ subject to the consent of the relevant authorities, who cannot arbitrarily withhold such consent.

The treatment of the wounded and sick would not be possible without a working healthcare system and qualified professionals. Thus, IHL requires special protection for medical units, personnel and transports, which has been a cornerstone of IHL since the first Convention in 1864.

Medical units and transports, whether military or civilian, must at all times be protected and respected, provided they are assigned exclusively for medical purposes,⁵⁶ and shall not be made the object of attack.⁵⁷ The protection from attack ceases only and for such time as medical units and transports are used to commit acts harmful to the enemy, outside their humanitarian function.⁵⁸ Nevertheless, any attack directed at a medical unit or transport must be preceded by a warning, with a reasonable time limit, and the warning must remain unheeded.⁵⁹

Under the obligation to respect, medical units and transports must be allowed to carry out their work without any interference to their functionality, which prohibits, *inter alia*, the blockage of supplies that would make the treatment of wounded and sick impossible.⁶⁰ Furthermore, mobile medical units, medical objects and transports may only be seized and requisitioned provided they are not diverted from their medical function, and if the needs of any wounded and sick already under treatment and of the civilian population in occupied territory have

been satisfied.⁶¹ Fixed medical units and their personnel must be allowed to pursue their medical duties when they fall in the hands of the adverse party.⁶²

Correspondingly, medical personnel⁶³ must be protected and respected in all circumstances.⁶⁴ Medical personnel, however, are required to provide care without adverse distinction while respecting medical ethics,⁶⁵ and must be granted all available help for the performance of their duties.⁶⁶ They cannot be punished for carrying out their medical activities, regardless of who benefits from the care, nor forced to carry out tasks incompatible with their humanitarian mission or contrary to the rules or medical ethics.⁶⁷

Medical units, transports and personnel must at all times identify themselves while performing their medical duties, by wearing the distinctive emblem of the red cross, the red crescent or the red crystal.⁶⁸

Selected Rules on Deprivation of Liberty

The IHL rule governing the deprivation of liberty in armed conflict largely differs according to whether the situation is classified as an IAC or a NIAC. In the latter, IHL only provides basic rules on the treatment of persons deprived of liberty, offering no explicit provisions regarding the grounds for internment or the procedure. In contrast, a comprehensive and detailed regulation exists for IACs, regulating the grounds of detention and internment⁶⁹ of combatants and civilians in occupied and own territory, as well as their treatment and release, once the grounds for internment have ceased. Despite these differences, IHL consistently mandates that all persons deprived of liberty be treated humanely and with dignity, without any adverse distinction, and prohibiting torture and any form of ill-treatment, regardless of the conflict classification.⁷⁰

In IACs there are different regimes applicable depending on the status of the individual, although the grounds of internment are largely similar. In the case of combatants, once they fell in the power of the adversary party and obtain the status of prisoners of war (PoWs), they can be interned for security reasons until the cessation of active hostilities, without the need to follow any particular procedure.⁷¹ In contrast, the internment of civilians for imperative reasons of security must be done on an individual basis, following the decision of a board on the grounds of internment, with the possibility of appeal, and the decision should be reviewed every six months, whether in occupied or in own territory.⁷² Combatants and civilians can also be detained for the commission of crimes foreseen in the legislation of the state under whose power they are.⁷³ In the context of occupation, the occupying power must respect the existing laws and judicial framework of the occupied territory. It may only adjudicate cases through non-political, properly constituted military courts sitting within the occupied territory pursuant military legislation enacted by the occupying power, permitted under specific circumstances.⁷⁴

While different conventions regulate the treatment of interned PoWs and civilians, the basic guarantees and conditions of internment remain largely comparable, differing only in a few respects. Notably, PoWs must be held in camps that meet specific standards and cannot be interned in penitentiaries, as may sometimes be the case for civilians.⁷⁵ Nevertheless, imprisonment in confined spaces without daylight is explicitly prohibited in both cases,⁷⁶ and confinement is permitted solely as a disciplinary measure, subject to particular safeguards.⁷⁷ In any case, PoWs and civilian internees, including those awarded disciplinary punishment, are entitled to write

and receive correspondence and, in the case of civilians, to also receive visits.⁷⁸ Only in extreme circumstances may the communication rights of civilians be restricted.⁷⁹

In NIAC, IHL only offers basic guarantees for the treatment of persons deprived of liberty with a nexus to the conflict, without explicitly regulating the grounds or the procedure for internment of enemy fighters or civilians who have participated in the conflict. This regulatory gap has sparked significant debate over the legality of internments in NIACs. The prevailing view nowadays is that internment is permissible only if the detaining power has adopted legislation defining the grounds and the procedures for internment, in accordance with international human rights law. Despite the debate about the legality of internment, the detaining power remains responsible for ensuring that the conditions of internment of the persons deprived of liberty are fulfilled, including their rights to communicate with the outside world.⁸⁰ The detention of individuals in a NIAC is regulated by the domestic legislation of the state in which the conflict takes place, as governed by international human rights law.

Under all circumstances, the taking of hostages (deprivation of liberty of an individual followed by threats against them to compel the other party to do or to abstain from doing any act) is strictly forbidden in IHL in all armed conflicts.⁸¹

To ensure the respect for the law, safeguard the proper treatment of persons deprived of liberty, as well as to restore contacts between those persons and their families, IHL has entrusted the International Committee of the Red Cross (ICRC) with the right, in IACs, to regularly visit and privately interview with PoWs and civilians deprived of liberty, wherever they are, which the state cannot oppose except for imperative and temporary security reasons.⁸² Conversely, in NIACs, ICRC visits require the approval of the territorial state, which is not legally obligated under IHL to grant access.⁸³

Selected Rules on Humanitarian Relief

The IHL rules on humanitarian relief regulate humanitarian access and facilitation of humanitarian assistance, as well as the protection of humanitarian relief personnel and objects. Beyond the dichotomy of international and non-international armed conflicts, the rules differ according to whether or not the situation is classified as a military occupation. Rules on humanitarian relief are cross-cutting, as they address a party's obligations towards persons in its power and in that of the enemy, and impact both the conduct of hostilities and the treatment of persons in the power of a party to the conflict. Humanitarian assistance consists of food, water, medical supplies, clothing, bedding, means of shelter, other supplies essential to the survival of civilian population and objects necessary for religious worship.⁸⁴

The primary responsibility for meeting the needs of the population lies with the party in whose power the civilian population and other protected persons are.⁸⁵ However, when their needs are not being met, impartial humanitarian organizations or third states may offer humanitarian assistance, which must be impartial, humanitarian and conducted without adverse distinction.⁸⁶ Humanitarian relief is subject to the consent of the parties concerned, who cannot arbitrarily withhold it.⁸⁷ In IACs, this means that the consent of the state on whose territory the assistance is to be delivered is required, as well as the consent of the adverse state and the third state on whose territory the assistance must traverse or from which it is initiated.⁸⁸ Nevertheless, in the context of occupation, when the local population

is inadequately supplied, the occupying power is obliged to grant such consent.⁸⁹

According to the wording of the provision, only the consent of the territorial state is required in NIACs. Accordingly, if the government withholds its consent, the consent of the armed group would be insufficient, even for areas not controlled by the government.⁹⁰ However, in the view of many non-governmental organizations (NGOs) and experts, cross-border operations can be carried out without the consent of the government as long as the neighbouring state adjacent to the territory and the armed group controlling the territory have given their consent.⁹¹ Once consent has been given, the parties concerned are required to allow and facilitate the rapid and unimpeded passage of humanitarian relief, subject to their right of control.⁹² That control cannot unduly delay or make implementation of humanitarian relief operations impossible.⁹³

The presence of humanitarian relief personnel, which is required to deliver humanitarian assistance in practice, is also subject to the approval of the territorial state. Once approved, relief personnel, as well as humanitarian relief objects, must be respected and protected, and their work must be facilitated.⁹⁴ Humanitarian workers, however, are subject to the territorial state's legislation and security requirements, which can terminate their mission or prosecute them if they do not comply with their mandate or the conditions imposed upon them.⁹⁵ Regardless of approval, humanitarian relief personnel and objects benefit from the same general protection as civilians, respectively civilian objects, and humanitarian relief objects might fall within the category of objects indispensable to the survival of the civilian population and be protected as such.⁹⁶

Selected Rules on the Displacement of Civilians

IHL contains neither a comprehensive set of rules on conflict-related displacement, nor an overarching prohibition on conflict-related displacement. IHL regulates only the conduct of the parties towards the people in their power in the context of occupation and in NIACs. Beyond those two situations, displacement is only incidentally regulated in some provisions regulating the conduct of hostilities.

In the context of occupation, the forcible transfer of the population within or from occupied territory is generally prohibited, regardless of the motive.⁹⁷ This prohibition includes transfers of civilians who have been interned and detained. Only temporary evacuations within the occupied territory are permitted if the security of the civilians so require, or if imperative military necessity so demands. Evacuation outside the occupied territory might only take place when it is materially impossible to do otherwise. In any case, evacuated persons must be transferred back to their homes as soon as the reasons for evacuation have ceased.⁹⁸ Additionally, corollary to the prohibition on annexation, the occupying power is prohibited under any circumstances to transfer its own population into occupied territory.⁹⁹

Similarly, in NIACs, it is prohibited to order the displacement of civilians for reasons related to the conflict, except where required for their own security or for imperative military reasons.¹⁰⁰ Compelling civilians to leave their territory for reasons related to the conflict is also prohibited.¹⁰¹

In all cases of displacement, either in international or non-international armed conflicts, all possible measures must be taken to ensure that displaced or evacuated civilians are received in satisfactory conditions of shelter, hygiene, health, safety and nutrition, and that family members are not separated.¹⁰² Furthermore,

displaced persons have a right to voluntary return in safety to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist,¹⁰³ and their property must be protected and respected while they remain displaced.¹⁰⁴

Beyond those two situations, displacement is only dealt with as an accessory matter in rules governing the conduct of hostilities. In particular, IHL prohibits the parties to the conflict from ordering movements or to take advantage of their displacement to shield military objectives or favour or impede military operations.¹⁰⁵ Furthermore, in line with IHL's goal of protecting the civilian population from the effects of hostilities, the destruction of objects indispensable to the survival of the civilian population is prohibited, even if they are used by the adverse party in direct support of military action, if its destruction would cause the forcible movement of the civilian population.¹⁰⁶ Notwithstanding those prohibitions, the parties to the conflict remain obliged to remove the civilian population, individual civilians as well as civilian objects from the vicinity of military objectives.¹⁰⁷

Despite the lack of regulation, the few IHL rules concerning displacement evidence that conflict-related displacement is conceived as an exceptional circumstance to protect the civilian population, and temporary in nature. Additionally, other legal regimes applicable in armed conflict concurrently with IHL also inform the duties and obligations of states towards displaced civilians.

Selected Rules on Conflict-Related Sexual and Gender-Based Violence

Conflict-related sexual and gender-based violence (SGBV), which includes 'rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage and any other form of sexual violence of comparable gravity',¹⁰⁸ is not, as such, explicitly addressed by IHL treaty rules.¹⁰⁹ IHL has also faced criticism for reproducing traditional stereotypes, in particular by emphasizing the honour and reproductive role of women, depicting women as inherent victims and minimizing sexual violence committed against men and boys.¹¹⁰ Similarly, IHL is formulated upon assumptions – that women and men belong to exclusive and binary categories, all the individuals are heterosexual, and gender identity is aligned with the sex assigned at birth – that neglect *lesbian, gay, bisexual, transgender, intersex and queer* (LGBTIQ+) individuals.¹¹¹

However, several IHL provisions, in particular those addressing human treatment and specifically protecting women, include SGBV in their prohibitions,¹¹² as echoed by customary law, which prohibits 'rape and other forms of sexual violence'.¹¹³ In IACs, parties to the conflict must treat the persons in their power humanely without any adverse distinction based upon sex or any similar criteria, protect them against violence, and respect their person as well as their honour.¹¹⁴ Women are entitled to special respect and 'shall be protected in particular against rape, forced prostitution and any other form of indecent assault'.¹¹⁵ In NIACs, persons who do not (or no longer) take part in hostilities must be treated humanely, without any adverse distinction based on sex or any other similar criteria.¹¹⁶ In particular, they are protected against violence to their person, including cruel treatment and torture, as well as 'outrages upon personal dignity, in particular humiliating and degrading treatment',¹¹⁷ which explicitly includes 'rape, enforced prostitution and any form of indecent assault' under Additional Protocol II.¹¹⁸ Such

conduct might amount to grave breaches¹¹⁹ or other war crimes.¹²⁰

In order to be governed by IHL, SGBV must present a nexus with the armed conflict. Although the exact scope of the required nexus is still debated,¹²¹ a conduct is generally considered to be sufficiently related to the armed conflict when the conflict has played a major part in the perpetrator's decision or ability to commit it, the manner in which it was committed or the purpose for which it was committed.¹²² Indicative factors of such nexus include the status of the perpetrator and the victim (that is, whether they had a combatant role); the author's affiliation to a party to the conflict; the victim's (real or perceived) affiliation to a party; the conduct's conformity with the aim of a party; or the fact that the conduct was part of, or committed in the context of, the perpetrator's official duties.¹²³ However, the fact that the chaos caused by the armed conflict and, for instance, the resulting climate of impunity, allowed SGBV to be committed is not in itself sufficient.¹²⁴

Selected Rules on Torture and Other Inhumane Treatment

The principle of humane treatment is at the core of IHL, which must be respected in both international and non-international armed conflicts,¹²⁵ and which embodies the absolute prohibition on torture, cruel, inhuman or degrading treatment. Although equally prohibited under IHL,¹²⁶ torture and cruel, inhuman or degrading treatment constitute different forms of ill-treatment and should be interpreted in light of the definitions and details provided by international human rights law and international criminal law.¹²⁷

Torture is defined as the intentional infliction on a person of severe mental or physical pain or suffering for a specific purpose, such as the extraction of information or confession, punishment, intimidation, coercion or discrimination.¹²⁸ Under human rights law, torture must be inflicted, instigated, consented or acquiesced to by a public official or other person acting in an official capacity.¹²⁹ However, IHL, as interpreted in particular by the International Criminal Tribunal for the former Yugoslavia (ICTY), foresees that torture might also be committed by a member of a non-state armed group¹³⁰ or an individual regardless of their official status.¹³¹

Cruel treatment refers to acts that cause serious mental or physical suffering or injury, or constitute a serious attack on human dignity that goes beyond mere degradation or humiliation.¹³² The notion of cruel treatment is intrinsically linked to human dignity,¹³³ and determining whether a specific behaviour constitutes cruel treatment must be assessed on a case-by-case basis.¹³⁴ While torture requires specific intent and purpose, under international human rights law, cruel and inhuman treatment may also result from negligence or, for instance, the general conditions of deprivation of liberty, whereas international criminal law does not require a specific intent but excludes negligence.¹³⁵

Degrading treatment constitutes the less severe form of ill-treatment, which does not need to cause severe pain or suffering, but intends or results in the humiliation of the victim.¹³⁶ The threshold of severity is fulfilled when the conduct inflicts a real and serious humiliation or degradation to the victim or otherwise constitutes a serious attack on human dignity,¹³⁷ which would be so intense 'as to be generally recognized as an outrage upon personal dignity'.¹³⁸

In conformity with these prohibitions, certain forms of punishment are

specifically outlawed by IHL,¹³⁹ and torture or other inhumane treatment amounts to a grave breach (in international armed conflict), when ‘wilfully causing great suffering or serious injury to body and health’,¹⁴⁰ and to (other) war crimes.¹⁴¹

Selected Rules on Gender and the Protection of Women

Under IHL, special protection is afforded to women, based upon perceived vulnerabilities, whether objectively and physiologically justified, or based on social stereotypes. Treaty IHL also understands gender as limited to biological sex and does not go further than a binary distinction between males and females. This obvious gap has been tentatively addressed in international criminal law case law, as well as in customary IHL.

The special protection afforded to women seemingly is in tension with the prohibition on discrimination based on sex. On the one hand, treaty and customary IHL (in both IAC and NIAC) prohibit adverse distinction¹⁴² and, on the other, certain rules and provisions afford women special protection. The prohibition on adverse distinction implies that when men and women belong to a broader category, such as civilians in the power of the enemy, or wounded, sick or shipwrecked, no difference of treatment may exist based on sex. Yet, women, as a category on its own, do benefit from special protection according to IHL. In particular, the law protects pregnant women and maternity cases. For example, certain rules on humanitarian assistance foresee that certain goods, such as essential foodstuffs, clothing and tonics, must be allowed through if related to expectant mothers and maternity cases.¹⁴³ The transportation of maternity cases must also be respected and protected.¹⁴⁴ In the same vein, expectant mothers must be the object of particular protection and respect.¹⁴⁵ In addition to expectant mothers, mothers of children under the age of seven years may be protected from the effects of war through safety zones and localities.¹⁴⁶ As prisoners of war or civilian internees, numerous rules protect women, notably related to the protection of their sexual integrity.¹⁴⁷

As prisoners of war, women must be treated with all regard due to their sex,¹⁴⁸ enjoy separate dormitories and conveniences from men¹⁴⁹ (also for persons whose liberty has been restricted in NIAC).¹⁵⁰ The distinction also remains when undergoing judicial or disciplinary punishment.¹⁵¹

Regarding the prohibition on rape and other forms of sexual violence, which is found in both treaty law of international armed conflict¹⁵² and international armed conflict,¹⁵³ as well as in customary IHL,¹⁵⁴ Geneva Convention IV simply relies on the protection of women’s honour, a terminology that has since been abandoned in Additional Protocols I and II. This notion prohibits rape, forced prostitution and indecent assault. Under treaty IHL, however, this prohibition concerns only women. Subsequent case law under international criminal law has also tackled the definition as well as the different constitutive elements of rape as a war crime.¹⁵⁵

Selected Rules on Children

Beyond general protection rules, such as humane treatment, numerous IHL instruments foresee provisions relating to children, who are regarded as particularly

vulnerable. It must nevertheless be noted that not all instruments share the same scope, as the age to define children generally varies between 15 to 18 years. In any case, rules pertaining to the protection of children cover a broad range of situations.

Above all, under treaty law governing international and non-international armed conflict, children are entitled to special respect and protection.¹⁵⁶ In addition to treaty law, this requirement reflects customary law applicable in all armed conflicts.¹⁵⁷

Similarly, in all armed conflict, children shall be provided with the care and aid they require. Rules pertaining to IAC are more developed, comprising detailed provisions on food, clothing and care of orphaned or separated children, as well as regarding distribution of specific relief consignments.¹⁵⁸ In NIACs, treaty rules are more limited but nevertheless mention that children shall be provided with the care and aid they require, in particular religious and moral education.¹⁵⁹ In addition, all rules specify that children may be evacuated from areas in which hostilities are taking place.¹⁶⁰

In occupied territories, the occupying power may not compel persons under 18 years of age to work.¹⁶¹ It must also facilitate the care and education of children and take all necessary steps to facilitate the identification of children.¹⁶² In case of detention in occupied territory, proper regard shall be paid to the special treatment due to minors.¹⁶³ In case of internment in either occupied territory and on the territory of a party to the conflict, protected persons under the age of 15 years shall be given additional food.¹⁶⁴

Perhaps more importantly, IHL governing all armed conflicts strictly regulates the recruitment and use of children in armed conflicts. However, it must be noted that those instruments adopt a different scope regarding the precise age of children to be protected. In any case, and under Additional Protocols I and II, the age of 15 is the minimum threshold below which recruitment – whether voluntary or compulsory – and participation in hostilities of children is prohibited.¹⁶⁵ This age limit forms the basis of the corresponding war crime.

However, the Optional Protocol on Children in Armed Conflict (OPAC) to the Convention on the Rights of the Child raises the threshold of compulsory recruitment and of use in hostilities to the age of 18 years.¹⁶⁶ Regarding voluntary recruitment, OPAC creates a difference between non-state armed groups – which are prohibited from recruiting and using children under 18 in hostilities – and states, which are required to raise the age for voluntary recruitment above 15 but may allow children under 18 to enlist voluntarily. These rules are human rights law standards but are not reflected in IHL rules.

During the conduct of hostilities, IHL does not afford special protection to children directly participating in hostilities. As such, they remain legitimate targets, regardless of whether such children voluntarily joined or were forcibly recruited into the armed forces/armed group. However, such children participating in hostilities will benefit from special protection once they fall into the power of a party, whether or not they are prisoners of war.¹⁶⁷

To aid this process and promote uniformity in analysis, a legal guidance note was developed specific to each of the ten priority themes, with detailed information on applicable IHL rules, their sources and their interpretation. Finally, it is important to note that all conflict incident information gleaned from ACLED and trusted sources was recorded in Excel spreadsheets, with active links archived.

End Notes IHL Rules in Key Thematic Areas

1 Art 48, Additional Protocol I; art 13, Additional Protocol II.

2 Arts 51–52, Additional Protocol I; art 13, Additional Protocol II; International Committee of the Red Cross (ICRC) Customary IHL Rule 11: 'Indiscriminate attacks', <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule11>.

3 Art 51(2), Additional Protocol I; art 13(2), Additional Protocol II.

4 Art 52(2), Additional Protocol I, ICRC Customary IHL Rule 8: 'Definition of Military Objectives', <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule8>.

5 Art 52(3), Additional Protocol I.

6 Art 51, Additional Protocol I; ICRC Customary IHL Rule 14: 'Proportionality in Attack', <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule14>.

7 Art 57, Additional Protocol I; ICRC Customary IHL Rules 15–21.

8 Art 58, Additional Protocol I; ICRC Customary IHL Rules 22–24.

9 Art 54, Additional Protocol I; art 14, Additional Protocol II.

10 ICRC Customary IHL Rule 54: 'Attacks Against Objects Indispensable to the Survival of the Civilian Population', <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule54>.

11 Art 54(3), Additional Protocol I. Notably, exceptions to the protection of objects indispensable to the survival of the civilian population only exist in international armed conflicts.

12 Art 56, Additional Protocol I; art 15, Additional Protocol II.

13 Art 56(3), Additional Protocol I.

14 ICRC Customary IHL Rule 43: 'Application of General Principles on the Conduct of Hostilities to the Natural Environment', <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule43>.

15 Art 35, Additional Protocol I. In NIACs, the scope of the obligation is limited to effects occurring in other states.

16 Art 55, Additional Protocol I. The applicability of this rule to NIACs is less clear.

17 The term 'weapon' is employed on numerous occasions in the 1977 Additional Protocol I but is not found in the 1977 Additional Protocol II. It is not defined in the Protocols.

18 ICRC Customary IHL Rule 71, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule71>.

19 ICRC Customary IHL Rule 70, <https://ihl-databases.icrc.org/en/>

[customary-ihl/v1/rule70](https://ihl-databases.icrc.org/en/customary-ihl/v1/rule70).

20 Thus, for instance, in the ICRC commentary on Additional Protocol I, poison is cited as a means of warfare, while poisoning wells is a method of warfare. ICRC commentary on the 1977 Additional Protocols, 1987, paras 1402, 1963.

21 S. Casey-Maslen, 'Weapons', ch 11 in B. Saul and D. Akande (eds), *The Oxford Guide to International Humanitarian Law*, Oxford University Press, Oxford, 2020, p 265.

22 Report of the detailed findings of the independent commission of inquiry established pursuant to Human Rights Council Resolution S-21/1, UN Doc A/HRC/29/CRP.4, 22 June 2015, para 97.

23 See, e.g., UN General Assembly Resolution 2603 A (XXIV), adopted on 16 December 1969 by 80 votes to 3, with 36 abstentions, second preambular para.

24 S. Casey-Maslen and S. Haines, *Hague Law Interpreted: The Conduct of Hostilities under the Law of Armed Conflict*, Hart, Oxford, 2018, p 21.

25 A. Bellal and S. Casey-Maslen, *The Additional Protocols to the Geneva Conventions in Context*, Oxford University Press, Oxford, 2022, para 12.43.

26 German Ministry of Defence, *Law of Armed Conflict Manual, Joint Service Regulation (ZDv) 15/2*, Berlin, 2013, para 119.

27 ICJ, *The Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, 1996, §78.

28 Art 8(2)(b)(xx), 1998 Rome Statute of the International Criminal Court.

29 ICRC *Commentary on the 1977 Additional Protocols*, para 1419.

30 ICRC Customary IHL Rule 74, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule74>.

31 ICRC Customary IHL Rule 86, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule86>.

32 ICRC Customary IHL Rule 75, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule75>.

33 Bellal and Casey-Maslen, *The Additional Protocols to the Geneva Conventions in Context*, supra 25, para 12.19.

34 See, e.g., *The Regulation of Incendiary Weapons under International Humanitarian Law*, United Nations Office for Disarmament Affairs (UNODA), Geneva, 2024, paras 4.2, 6.2.

35 Art 1(1)(a), 1997 Anti-Personnel Mine Ban Convention.

36 Art 1, 2008 Convention on Cluster Munitions.

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- 37 Art 1(2), 1996 Amended Protocol II.
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- 38 ICRC Customary IHL Rule 65: 'Perfidy', <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule65>.
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- 39 Art 37(1), Additional Protocol I; ICRC Customary IHL Rule 65: 'Perfidy', <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule65>.
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- 40 Art 37(2), Additional Protocol I; ICRC Customary IHL Rule 57: 'Ruses of War', <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule57>, each including a non-exhaustive list of allowed ruses of war. The essential difference between lawful ruses of war and unlawful acts of perfidy is that the latter involve an invitation to betray the confidence of the adversary based under the cover of a legal protection.
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- 41 Art 54(1), Additional Protocol I; art 14, Additional Protocol II; ICRC Customary IHL Rule 53: 'Starvation as a Method of Warfare', <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule53>.
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- 42 ICRC Customary IHL Rule 53: 'Starvation as a Method of Warfare', <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule53>.
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- 43 Art 47, Hague Regulations; art 33(2), Geneva Convention IV; ICRC Customary IHL Rule 52: 'Pillage', <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule52>. Pillage is defined as the forcible taking of property from the enemy's subject for private or personal use. The difference between pillage and lawful seizure of property lies at the purpose for which the property was seized or requisitioned.
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- 44 Art 52, Hague Regulations; art 55(2), Geneva Convention IV.
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- 45 Art 53, Hague Regulations.
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- 46 Art 55, Hague Regulations.
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- 47 Art 53, Geneva Convention IV; ICRC Customary IHL Rule 50.
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- 48 Art 12(1), Geneva Convention I; art 12, Geneva Convention II; art 16, Geneva Convention IV; art 7, Additional Protocol II.
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- 49 Art 8(a), Additional Protocol I; ICRC, *Commentary Geneva Convention I*, 2016, para 1344.
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- 50 Art 15(1), Geneva Convention I; art 8, Additional Protocol II; ICRC Customary IHL Rule 109: 'Search For, Collection and Evacuation of the Wounded, Sick and Shipwrecked', <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule109>. There are slight differences if the combat is occurring on land, in which case the obligation to search for and collect is present at all times; whereas if the combat is at sea, the obligation only arises after the engagement. See art 15(1), Geneva Convention I and art 18(1), Geneva Convention II, respectively.
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- 51 Art 12, Geneva Convention I; art 12, Geneva Convention II; Common Article 3 to the Geneva Conventions; art 10, Additional Protocol I; art 7(2), Additional Protocol II; ICRC Customary IHL Rule 110: 'Treatment and Care of the Wounded, Sick and Shipwrecked', <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule110>.
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- 52 Art 12, Geneva Convention I; art 12, Geneva Convention II; art 11, Additional Protocol I; art 7(1), Additional Protocol II.
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- 53 Art 16, Geneva Convention I; art 19, Geneva Convention II.
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- 54 Art 16(3), Additional Protocol I; arts 10(3)-(4), Additional Protocol II.
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- 55 Common Art 3(2) to the Geneva Conventions.
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- 56 Arts 8(e) and (g), Additional Protocol I.
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- 57 Arts 19 (medical units) and 35 (medical transports), Geneva Convention I; art 18, Geneva Convention IV; art 12, Additional Protocol I; art 11, Additional Protocol II.
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- 58 For a detailed list of harmful acts, see art 22, Geneva Convention I; art 35, Geneva Convention II; art 13, Additional Protocol I, and ICRC Customary IHL Rule 28: 'Medical Units', <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule28>. Notably, the treatment of wounded and sick of enemy combatants or fighters does not constitute a harmful act depriving medical units and transports from protection.
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- 59 Art 21, Geneva Convention I; art 34, Geneva Convention II; art 19, Geneva Convention IV; art 13, Additional Protocol I; art 11(2), Additional Protocol II.
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- 60 Y. Sandoz et al, *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, ICRC, 1986, para 517.
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- 61 Art 33, 35 Geneva Convention I; art 57, Geneva Convention IV; art 14, Additional Protocol I.
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- 62 Art 19, Geneva Convention I.
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- 63 Art 8(c), Additional Protocol I.
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- 64 Art 24, Geneva Convention I; art 36, Geneva Convention II; art 20, Geneva Convention IV; art 15, Additional Protocol I; art 9(1), Additional Protocol II.
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- 65 Art 40, Geneva Convention I; art 16, Additional Protocol I; art 12, Additional Protocol II.
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- 66 Art 24, Geneva Convention I; art 15, Additional Protocol I; art 9, Additional Protocol II.
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- 67 Art 16(2), Additional Protocol I; arts 9(1) and 10(1) and (2), Additional Protocol II.
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- 68 Art 18, Additional Protocol I; art 12, Additional Protocol II.
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- 69 Internment refers to administrative deprivation of liberty due to security concerns, whereas detention is used to refer to the deprivation of liberty following the commission of a criminal offence.
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- 70 Common Art 3 to the Geneva Conventions; arts 13 and 14, Geneva Convention III; arts 27 and 32, Geneva Convention IV; art 75, Additional Protocol I; arts 4 and 5, Additional Protocol II.
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- 71 Arts 21 and 118, Geneva Convention III.
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- 72 See arts 42 and 43, Geneva Convention IV for the provisions applicable in the territory of the state, and art 78, Geneva Convention IV in

the context of occupation.

73 Arts 82 and 85, Geneva Convention IV; art 43(2), Additional Protocol I. PoWs' earlier participation in hostilities is not subject to penalties, but they can be punished for international crimes committed while participating in hostilities.

74 Arts 64–67, Geneva Convention IV.

75 The conditions of internment, rights and guarantees of interned PoWs are regulated in Part III (arts 21–108) of third Geneva Convention III. For the places of internment, see arts 22 and 97, Geneva Convention III.

76 Art 87(3), Geneva Convention III; art 118(2), Geneva Convention IV.

77 Art 98, Geneva Convention III; art 125, Geneva Convention IV.

78 For correspondence, see, arts 71, 98(5) and 108(3), Geneva Convention III; arts 25, 107 and 125, Geneva Convention IV. For visits, see art 116, Geneva Convention IV.

79 Art 5, Geneva Convention IV.

80 Art 5(2)(b), Additional Protocol II.

81 Art 34, Geneva Convention IV; art 75(2)(c), Additional Protocol I; art 4(2)(c), Additional Protocol II.

82 Art 126, Geneva Convention III; art 143, Geneva Convention IV.

83 Common Art 3 to the Geneva Conventions.

84 See art 23, Fourth Geneva Convention; art 69(1), Additional Protocol I (occupied territory) to which art 70(1), Additional Protocol I (applicable to non-occupied territory) refers.

85 See, e.g., arts 39(2), 55(1), 76(1), 81(1) and 89, Geneva Convention IV; arts 15 and 26, Geneva Convention III; arts 69(1) and 70(1), Additional Protocol I; art 5(1)(b), Additional Protocol II.

86 Art 23, Geneva Convention IV; art 70(1), Additional Protocol I; art 18(2), Additional Protocol II. See also ICJ, *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America)*, Judgment (Merits), ICJ Reports 1986, §242.

87 Art 70(1), Additional Protocol I; art 18(2), Additional Protocol II; ICRC Customary IHL Rule 55, <https://ihl-databases.icrc.org/en/customary-ihl>. See also Principle 25(2) UN Guiding Principles on Internal Displacement, annexed to UN Economic and Social Council, 'Report on the Representative of the Secretary-General, Mr Francis M. Deng' (1998) UN Doc E/CN.4/1998/53/Add.2; D. Akande and E-C. Gillard, 'Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflicts', OCHA, 2016, para 49; J. Pejic, 'Humanitarian Assistance: Between the Law and Reality', *Articles of War*, 21 February 2023, <https://lieber.westpoint.edu/humanitarian-assistance-between-law-reality/>. Denial of consent is arbitrary notably when it violates any of the refusing authorities' obligations under IHL or international human rights law. However, when consent is arbitrarily withheld, IHL does not foresee a right to access. M. Sassòli, *International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare*, 2nd edn, Edward Elgar Publishing, 2024, paras 10.240–10.244.

88 Akande and Gillard, 'Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflicts', supra 87, paras 23 and 104–105; Pejic, 'Humanitarian Assistance', supra 87.

89 Art 59(1), Geneva Convention IV. See also art 69, Additional Protocol I.

90 'ICRC Customary IHL Q&A and Lexicon on Humanitarian Access' 96 *IRRC* (2014) 359, p 39. See also Pejic, 'Humanitarian Assistance: Between the Law and Reality', supra 87.

91 See 'Cross Border Aid into Syria is Legal', <https://www.crossborderislegal.org/> (last accessed 11 February 2025); American Relief Coalition for Syria, '2014 is Not 2022 : Why the Continuation of UN-Coordinated Cross-Border Aid Into Syria Absent a UN Security Council Resolution is Lawful', 2022, <https://www.arcsyria.org/sites/default/files/2022-11/ARCS%20XBHA%20Full%20Report.pdf>; Letter by 16 pre-eminent international jurists, 'There is Still No Legal Barrier to UN Cross-Border Operations in Syria Without a UN Security Council Mandate', 2023, https://www.crossborderislegal.org/_files/ugd/166212_e8342039d1794a54812386ec69b6906f.pdf; M. Bothe et al, *New Rules for Victims of Armed Conflicts: Commentary on the Two 1977 Protocols Additional to the Geneva Conventions of 1949*, 2nd edn, reprint revised by M. Bothe, Martinus Nijhoff, 2013, p 801. See also N. Nishat, 'The Right of Humanitarian Initiative of the ICRC', in A. Clapham et al (eds), *The 1949 Geneva Conventions: A Commentary*, Oxford University Press, 2015, p 502; Sassòli, *International Humanitarian Law*, supra 87, paras 5.184 and 10.239.

92 Art 125, Geneva Convention III; arts 23, 59 (3)–(4) and 142, Geneva Convention IV; art 70(3), Additional Protocol I; ICRC Customary IHL Rule 55. See also Akande and Gillard, 'Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflicts', supra 87, paras 59–72.

93 Arts 23 and 59(3), Geneva Convention IV; arts 70(2) and (3)(a)–(b), Additional Protocol I.

94 Art 59(3), Geneva Convention IV; arts 70(4) and 71(1)–(3), Additional Protocol I; ICRC Customary IHL Rules 31, 32 and 55.

95 Art 71(4), Additional Protocol I; ICRC Customary IHL Rule 56. However, they shall never be punished for carrying out medical activities: art 16(1), Additional Protocol I; art 10(1), Additional Protocol II.

96 On the protection of civilian population and objects, see arts 51 and 52, Additional Protocol I; ICRC Customary IHL Rules 1 and 7. On the protection of objects indispensable to the survival of the civilian population, see art 54, Additional Protocol I; ICRC Customary IHL Rule 54.

97 Forcible displacement includes situations of coercion through fear of violence, duress, detention, psychological oppression, abuse of power and coercive environments. ICTY, *Prosecutor v Stakić* (Appeals Judgment) Case no 97-24-A, 22 March 2006, §281.

98 Art 49, Geneva Convention IV.

99 Art 49(6), Geneva Convention IV.

100 Art 17(1), Additional Protocol II.

101 Art 17(2), Additional Protocol II.

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- 102 Art 49, Geneva Convention IV; ICRC Customary IHL Rule 131: 'Treatment of Displaced Persons', <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule131>.
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- 103 ICRC Customary IHL Rule 132: 'Return of Displaced Persons', <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule132>.
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- 104 ICRC Customary IHL Rule 133: 'Property Rights of Displaced Persons', <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule133>.
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- 105 Art 51(7), Additional Protocol I.
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- 106 Art 54(3), Additional Protocol I.
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- 107 Art 58, Additional Protocol I; art 13(1), Additional Protocol II; ICRC Customary IHL Rule 24: 'Removal of Civilians and Civilian Objects from the Vicinity of Military Objectives', <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule24>.
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- 108 United Nations Secretary-General, 'Conflict-Related Sexual Violence, Report of the Secretary-General', UN Doc S/2024/292, 4 April 2024, para 3.
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- 109 C. Chinkin, 'Gender and Armed Conflict', in A. Clapham and P. Gaeta (eds), *The Oxford Handbook of International Law in Armed Conflict*, Oxford University Press, 2014, pp 681–683.
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- 110 Ibid, pp 682–683 and 697–698; J. Gardam and M. Jarvis, *Women, Armed Conflict and International Law*, Kluwer Law International, 2001, pp 93 and 96–97; D Otto, 'The Exile of Inclusion: Reflections on Gender Issues in International Law over the Last Decade', 10 *Melbourne Journal of International Law*, (2009), pp 11–26; S. Sivakumaran, 'Sexual Violence Against Men in Armed Conflict', 18 *European Journal of International Law* (2007), pp 253–277, at pp 253 and 260; Sassòli, *International Humanitarian Law* supra 87, paras 10.167–10.169.
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- 111 Sassòli, *International Humanitarian Law*, supra 87, para 10.175.
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- 112 Ibid, para 10.167.
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- 113 ICRC Customary IHL Rule 93. This prohibition applies to both IACs and NIACs.
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- 114 Art 75 (1), Additional Protocol I; ICRC Customary IHL Rules 87 and 88. See also art 27(1), Geneva Convention IV, which limits its application to protected persons.
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- 115 Art 76(1), Additional Protocol I. See also art 27(2), Geneva Convention IV, which is limited to protected persons.
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- 116 Common Art 3(1), Geneva Conventions; art 4(1), Additional Protocol II.
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- 117 Common Art 3(1)(a) and (c), Geneva Conventions; arts 4(2)(a) and (e), Additional Protocol II.
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- 118 Arts 4(2)(e) and (f), Additional Protocol II.
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- 119 Geneva Convention III art 130; Geneva Convention IV art 147. Inhuman treatment wilfully causing great suffering or serious injury to body or health amounts to grave breaches and shall be understood as including instances of SGBV. Sassòli, *International Humanitarian Law*, supra 87, para 10.167.
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- 120 ICC Statute, arts 8(2)(b)(xxii) and 8(2)(e)(vi). Under the ICC Statute, war crimes include 'committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, and any other form of sexual violence also constituting a grave breach of the Geneva Conventions [or] a serious violation article 3 common to the four Geneva Conventions'.
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- 121 For instance, the UN Secretary-General adopts a very broad notion of conflict-related sexual violence, while others advocate a more restrictive view of the *nexus*. See UN Secretary General, 'Conflict-Related Sexual Violence, Report of the Secretary-General', UN Doc S/2024/292, 4 April 2024, para 3; E. Pothelet, *Searching for the 'Nexus': A Proposal to Refine the Applicability of IHL and of War Crimes Law*, PhD thesis, 2020, pp 235–244 and 256–285, <https://archive-ouverte.unige.ch/unige:154772>; Sassòli, *International Humanitarian Law* supra 87, paras 6.820–6.92.
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- 122 ICTY, *Kunarac et al*, Appeal Judgment, IT-96-23 and IT-96-23/1-A, 12 June 2002, §58; ICC, *The Prosecutor v Germain Katanga*, Judgment pursuant to article 74 of the Statute, ICC-01/04-01/07, 7 March 2014, §1176; ICC, *The Prosecutor v Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Trial Judgment, ICC-01/12-01/18-2594-Red, 26 June 2024, §1099.
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- 123 ICTY, *Kunarac et al*, Appeal Judgment, IT-96-23 and IT-96-23/1-A, 12 June 2002, §59; ICC, *The Prosecutor v Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Trial Judgment, ICC-01/12-01/18-2594-Red, 26 June 2024, §1100.
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- 124 Sassòli, *International Humanitarian Law*, supra 87, p 224, para 6.90.
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- 125 Common Art 3, Geneva Conventions; art 12(1), Geneva Convention I; art 12(1), Geneva Convention II; art 13, Geneva Convention III; arts 5 and 27(1), Geneva Convention IV; art 75(1), Additional Protocol I; art 4(1), Additional Protocol II; ICRC Customary IHL Rule 87.
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- 126 Torture, cruel, inhuman or degrading treatment are prohibited under Geneva Conventions I-IV in Common Article 3(1)(a); art 12(2), Geneva Conventions I and II; arts 13(1), 14(1), 17(4), 87(3), 89(3) and 108, Geneva Convention III; arts 27, 31, 32, 118 and 119, Geneva Convention IV; art 75(2), Additional Protocol I; art 4, Additional Protocol II; ICRC Customary IHL Rule 90.
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- 127 M Nowak and R Janik, 'Torture, Cruel, Inhuman, or Degrading Treatment or Punishment', in Clapham et al, *The 1949 Geneva Conventions* supra 91, 319–320, paras 5–7; C. Droege, "'In Truth the Leitmotiv": The Prohibition of Torture and Other Forms of Ill-Treatment in International Humanitarian Law', 89 *IRRC* 867 (2007), 515–541, at 517.
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- 128 Art 1(1), Convention against Torture and other Cruel, Inhuman or Degrading Treatment and Punishment (CAT). See also art 7(2)(e), ICC Statute (crime against humanity); ICC, Elements of crimes, arts 8(2)(a) (iii)–1 and 8(2)(c)(i)–4, War crime of torture. See also Nowak and Janik, 'Torture, Cruel, Inhuman, or Degrading Treatment or Punishment', supra 127, pp 320, 324, 326 and 341, in paras 8, 17, 24 and 93.
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- 129 CAT art 1(1).
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- 130 See the wording of Geneva Conventions art 3, 'each party to the conflict'; ICTY, *Prosecutor v Kunarac and Others*, Cases no IT-96-23 and

IT-96-23/1 (Trial Chamber), 22 February 2001, §491, confirmed by the Appeals Chamber Judgment, 12 June 2002, §148; ICTY, *Prosecutor v Kvočka et al*, Case no IT-98-30/1-A (Appeals Chamber), 28 February 2005, §284.

131 ICTY, *Prosecutor v Kunarac and Others*, Cases no IT-96-23 and IT-96-23/1 (Trial Chamber), 22 February 2001, §§494 and 496, confirmed by the Appeals Chamber Judgment, 12 June 2002, §148. See also Nowak and Janik, 'Torture, Cruel, Inhuman, or Degrading Treatment or Punishment', supra 127, pp 324–326 and 336, paras 19–24 and 68.

132 ICTY, *Prosecutor v Delalić and Others*, Judgment, Case no IT-96-21 (Trial Chamber), 16 November 1998, §543; ICTY, *Prosecutor v Naletilić and Martinović*, Judgment, Case no IT-98-34-T (Trial Chamber) 31 March 2003, §246; ICTY, *Prosecutor v Kordić and Cerkez*, Judgment, Case no IT-95-14/2 (Trial Chamber), 26 February 2001, §256; ICTY, *Prosecutor v Blaškić*, Judgment, Case no IT-95-14 (Trial Chamber), 3 March 2000, §§154–155. See also Droege, "'In Truth the Leitmotiv'", supra 127, p 520.

133 ICRC, Commentary on Article 3, Geneva Convention I, 2016, para 557, https://ihl-databases.icrc.org/en/ihl-treaties/gci-1949/article-3/commentary/2016?activeTab=1949GCs-APs-and-commentaries#_Toc465169893; ICRC Commentary on Art 13, Geneva Convention III, 2020, paras 1570 and 1574–1575, <https://ihl-databases.icrc.org/en/ihl-treaties/gciii-1949/article-13/commentary/2020?activeTab=1949GCs-APs-and-commentaries>. See also Droege, "'In Truth the Leitmotiv'", supra 127, p 521.

134 ICRC Commentary on Article 3, Geneva Convention I, 2016, para 553; Human Rights Committee, *Vuolanne v Finland*, 2 May 1989, UN Doc CCPR/C/35/D/265/1987, §9.2; European Court of Human Rights, *Kudła v Poland*, Judgment, 26 October 2000, §§90–94; African Commission on Human and Peoples' Rights, *Huri-Laws v Nigeria*, Comm no 225/98, Fourteenth Activity Report, (2000) AHRLR 273, §41; ICTY, *Prosecutor v Limaj and Others*, Judgment, Case no IT-03-66-T (Trial Chamber), 30 November 2005, §232. See also Droege, "'In Truth the Leitmotiv'", supra 127, pp 522–523.

135 Human Rights Committee, *Deidrick v Jamaica*, Views (Comm no 619/1995), 9 April 1998, §9.3; ICC Statute and Elements of Crimes, arts 8(2)(a)(ii) and (c)(i). See also Nowak and Janik, 'Torture, Cruel, Inhuman, or Degrading Treatment or Punishment', supra 127, pp 321, 329–330, 332 and 341, paras 10, 36, 45–46 and 94.

136 European Court of Human Rights, *Tyrer v United Kingdom*, Judgment, 25 April 1978, §32; Human Rights Committee, *Osborne v Jamaica*, Comm no 759/1997, UN Doc CCPR/C68/D/759/1997 (2000); Inter-American Court of Human Rights, *Winston Caesar v Trinidad and Tobago*, Judgment, 11 March 2005, Series C, no 123 (2005). See also Nowak and Janik, 'Torture, Cruel, Inhuman, or Degrading Treatment or Punishment', supra 127, paras 11–12, 49, 53 and 93.

137 ICTY, *Prosecutor v Kunarac and Others*, Judgment, Cases no IT-96-23 and IT-96-23/1 (Trial Chamber), 22 February 2001, §§501 and 507.

138 ICC, Elements of crimes for arts 8(2)(b)(xxi) and 8(2)(c)(ii): War crime of outrages upon personal dignity. See also ICTY, *Prosecutor v Zlako Aleksovski*, Judgment, Case no IT-95-14/I-T (Trial Chamber), 25 June 1999, §54; ICTY, *Prosecutor v Kunarac and Others*, Judgment, Case no IT-96-23 and IT-96-23/1 (Trial Chamber), 22 February 2001, §507.

139 Arts 17, 87, 89 and 108, Geneva Convention III; arts 32 and 118, Geneva Convention IV.

140 Art 50/51/130/147, Geneva Conventions I-IV, respectively.

141 Arts 8(2)(a)(ii)–(iii), (b)(xxi) and (c)(i)–(ii), ICC Statute.

142 See Common Article 3(1); art 12, Geneva Convention I; art 12, Geneva Convention II; art 16, Geneva Convention III; art 13, Geneva Convention IV; art 75, Additional Protocol I; ICRC Customary IHL Rule 88.

143 Art 23, Geneva Convention IV.

144 Arts 21 and 22, Geneva Convention IV.

145 Art 16, Geneva Convention IV.

146 Art 14, Geneva Convention IV.

147 See, among others, art 97(4), Geneva Convention IV and art 108, Geneva Convention III.

148 Art 14, Geneva Convention III.

149 Arts 25 (dormitories) and 29 (conveniences), Geneva Convention III.

150 Art 5(2)(a), Additional Protocol II.

151 Arts 97(4) and 108(2), Geneva Convention III.

152 Art 27(2), Geneva Convention IV; art 76, Additional Protocol I.

153 Art 4(2)(e), Additional Protocol II.

154 ICRC Customary IHL Rule 93.

155 See ICTR, *Prosecutor v Akayesu*, Judgment, 2 September 1998 (§§597–598, 688 and 731) for the definition of rape, or ICTY, *Prosecutor v Kunarac*, Judgment, 22 February 2001 (§§438–442) for the elements of consent.

156 Art 77(1), Additional Protocol I; art 4(3), Additional Protocol II. The Convention on the Rights of the Child mentions 'protection and care of children who are affected by an armed conflict' (art 38(4)).

157 See ICRC Customary IHL Rule 135.

158 See, among others, arts 23 (consignment of foodstuffs, clothing and tonic intended for children under 15), 24 (measures relating to child welfare, such as maintenance, exercise of religion and education), 38 (preferential treatment for children under 15 years of age), Geneva Convention IV, and art 70(1), Additional Protocol I.

159 Art 4(3), Additional Protocol II.

160 For IAC, see art 17, Geneva Convention IV. For NIAC, see art 4(3)(e), Additional Protocol II.

161 Art 51, Geneva Convention IV.

162 Art 50, Geneva Convention IV.

163 Art 76, Fourth Geneva Convention.

164 Art 89(5), Geneva Convention IV.

165 See art 77(2), Additional Protocol I; art 4(3)(c), Additional Protocol II; art 38, CRC. Nonetheless, the exact scope of the notion of 'participation in hostilities' remains unclear. The ICC, in *Prosecutor v Lubanga* (14 March 2012), §§627–628, has adopted an understanding of participation in hostilities that is broader than the traditional concept of direct participation in hostilities. On the other hand, art 77(2) of Additional Protocol I adopts the same language as the one used for direct participation in hostilities.

166 Arts 1 and 2, OPAC.

167 Art 77(3), Additional Protocol I.

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