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# A PROGRESSIVE GOAL FOR CIVILIAN PROTECTION

# Article36

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

The protection of civilians in armed conflict is often framed in terms of what international humanitarian law (IHL) requires - which risks an approach driven by considerations based around minimum legal compliance. While legal protections are essential, this approach can serve to narrow our collective ambition for civilians living through war. This paper proposes a mechanism by which actors working to promote stronger protection of civilians can orientate their policy positions to a more progressive and ambitious goal.

The Charter of the United Nations declares the peoples' determination, *inter alia*, 'to promote social progress and better standards of life in larger freedom.'<sup>1</sup> These foundational commitments should orient our understanding of what civilians are entitled to, not only as peacetime aspirations but also in situations of armed conflict.

In this formulation, the Charter adopts a progressive aspiration for people's experience of life: it is not striving for a static state, but for continuing progress, *better* standards and a *larger* experience of freedom. This form of dynamic goal setting is structurally important because it works against claims that this objective has now been fulfilled – it works against assertions that current conditions are sufficient.

The protection of civilians agenda should be more explicitly guided by this progressive aspiration of the UN Charter. This would help to avoid the stagnation of a narrow focus on the minimum protections afforded by IHL and would enable a forward-looking, dynamic approach to policy making around the protection of civilians.



In a 2021 policy paper *A Perspective on Protecting Civilians*, Article 36 proposed the notion of the 'full protection of civilians' to serve as a positive goal for work to reduce civilian harm.<sup>2</sup> This proposal developed from reflection on how analysis of harms from conflict and proposals for protective policies have tended to be narrowed or shut down within a discourse dominated by IHL. Specificities of the IHL framing, coupled with the tendency of many states to align with (perceived) national military interests over general civilian concerns, tend to work against a collaborative effort to recognise and address the full range of harms arising from armed conflict. This matters because an IHL-dominated framing can implicitly limit what is considered actionable, narrowing attention only to supposedly 'illegal' harms and overlooking wider, cumulative, and long-term impacts on civilian lives that can fall outside legal considerations.

By contrast, working for the full protection of civilians (as proposed in that paper) can validate consideration of wider and more diffuse forms of harm, including patterns of harm that can be identified over time, and foster policies that would respond to these concerns.

This approach was drawn upon by the UN Secretary-General in his 2024 *Report on the protection of civilians in armed conflict*.<sup>3</sup> He noted that 'protecting civilians, both now and in the future...requires a broader approach that is aimed at addressing the full range of civilian harm':

...every day, civilians are killed and injured and experience long-term suffering as incidental harm that may be considered lawful. That the incidental harm is acceptable under the law does not change the reality of the experience or lessen its practical impact on the lives of those affected...

If the protection of civilians agenda is to have meaning for all civilians affected by conflict, it is essential to work towards the full protection of civilians, to adopt an approach whereby protecting civilians is an ongoing and evolving challenge and goal, with the aim of strengthening compliance and accountability while also seeking to understand the complexity of civilian harm and identify effective legal, policy and operational responses to address it.

As with the dynamic aspiration of the UN Charter, the 'full protection of civilians' formulation should be understood to function as a progressive goal - driving towards people's

wider and fuller personal and social interests. The 2021 Article 36 paper noted:

...our notion of the 'full protection' of civilians can be imagined...: not as a concrete state but as an abstract point towards which there can be continuous movement and convergence.

There is an intentional conceptual tension built into this proposal, in that the term 'full protection of civilians' suggests a static point that can be achieved, whereas our policy framing is explicit in its emphasis on continuous movement and on the unattainability of the end-state. Again, the 2021 paper notes:

The full protection of civilians should be understood as aspirational state towards which we can be progressively striving, but never reaching.

In response to this proposal, a number of policy interlocutors have expressed that they would prefer a goal formulated more along the lines of 'the fuller protection of civilians' or 'the better protection of civilians'.

The significance of these alternative formulations is not simply semantic, but political. The intent of the 'full protection' formulation is to establish a point of reference towards which movement can be directed. 'Fuller' protection, or 'better' protection, do not establish that sense of direction. They are bland and mundane – formulations that almost any state might adopt without it communicating anything significant. Lacking tension and direction, such formulations are unlikely to provide sufficient energy to avoid being pulled back by the tendency of states to prioritise an IHL dominated discourse.

However, concern with the 'full protection' formulation are related to concerns, for some, that it must necessarily seem too constraining of military capability to be compatible with the militarised identity of most nation states. This tension in the 'full protection' orientation is a challenge that needs to be acknowledged and navigated in political strategy.

'Working towards the full protection of civilians', and variants thereof, can provide one approach that brings in and emphasises the sense of progressive motion whilst retaining the directing language. However, a more subtle approach might be to conceptually and politically to bring the aspiration of the full protection of civilians together with the dynamic aspiration of the UN Charter.

Given the clear focus of the UN Charter on 'sav[ing] succeeding generations for the scourge of war', we would not imagine that the Charter's determinations should be suspended in circumstances of war. Rather we should be promoting recognition that people in times of war continue to have a claim to social progress and to better standards of life in larger freedom.

This is to say, our collective commitment to civilians in times of armed conflict is not just to assert the minimum mandatory protections enshrined in IHL, but also to maintain their claim to the fullness of societal aspiration enshrined in the Charter.

Working for the full protection of civilians means working to ensure that people suffering from the scourge of war - under conditions of extreme violence - must still retain an undiminished claim to social progress and to better standards of life in larger freedom. Whilst it is imperative that people are afforded their legal protections, our ambitions for the protection of civilians in conflict cannot be reduced only to that.

Establishing such understandings more explicitly within the formal multilateral policy discourse would be an important step. States should develop this position through national and group statements, resolutions and other policy tools within the formal multilateral discussions and processes on the protection of civilians.

At a time when civilian protection and international law are under attack, such a movement would empower positive and ambitious approaches, whilst reinforcing the guiding aspirations that form the basis of the UN Charter.

## Endnotes

- 1 United Nations Charter, full text online at <https://www.un.org/en/about-us/un-charter/full-text>
- 2 Article 36, 2021, *A Perspective on Protecting Civilians*, policy commentary by Richard Moyes, August 2021, online at: <https://article36.org/wp-content/uploads/2021/08/A-perspective-on-protecting-civilians-Richard-Moyes.pdf>
- 3 United Nations, Report of the Secretary-General, 2024, *Protection of civilians in armed conflict*, S/2024/385, online at <https://digitallibrary.un.org/record/4048290?ln=en&v=pdf>