

Distinction Between Civilian and Non Civilian

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Throughout antiquity there has always been the tension between differentiating being civilians and non-civilians in conflict. In some of the earliest recorded times in history we have stories of the Israelites marching around Jericho and bringing its walls down, barbarian tribes facing off with Romans, peasants storming castles, and modern era minutemen arising against the British. The common factor amongst these illustrations is at any given moment these combatants morphed between civilian and non-civilian rolls fluidly causing one to ask the question, then, as well as today, was the distinction between civilian and non-civilian accurate, or still accurate, in internal conflict? This situation seems not to be new in overall history but in the modern era we have grown accustomed to uniformed armed conflict, the idea of non-uniformed conflict catches us by surprise leaving us unprepared to deal with not just the armed conflict but the humanitarian relief that can come due to the conflict itself. In like manner, we have grown accustomed to international conflict and find it difficult to grasp intra-national or internal conflict when differentiating between civilian and non-civilian. In today's world there is little difference between civilian and non-civilian in internal conflict.

The first topic that should be addressed is why there can be so much confusion between civilian and non-civilian during both military operations and humanitarian relief. As mentioned in the introduction combatants can morph between civilian and non-civilian rolls fluidly. Nothing makes this easier than the dispensing of wearing uniforms. Uniforms have played a major role in conflict for centuries. Uniforms were the key indicator of who was on whose side. A well-funded ruler or country could identify their army quickly by seeing what they were wearing. The early and mid-nineteenth century produced some of the most elaborate and colorful ones seen. These armies fought battles in open fields and massed in huge formations. Once the fighting stopped the beautifully adorned units would move on. If there were civilians

involved in the conflict they were easy to spot. Aid and recovery for the civilian population could be administered.

There is nothing said in the Customary International Humanitarian Law rules requiring uniforms. This not only muddies the water in war actions and internal conflict but it makes it makes it difficult when performing humanitarian aid. CIHL Volume I Rule 4 gives the definition of armed forces as “The armed forces of a party to the conflict consist of all organized armed forces, groups and units which are under a command responsible to that party for the conduct of its subordinates” (Henckaerts and Doswald-Beck, 2009, pg 14). This definition needs to be weighed against Rule 5 defining civilians as “Civilians are persons who are not members of the armed forces. The civilian population comprises all persons who are civilians” (Henckaerts and Doswald-Beck, 2009, pg 17). Aid agencies can find themselves in a situation where they maybe be providing aid to those that caused the crisis which could damage their charter of neutrality by giving the impression of support of one side or the other.

The United Nations had tried to mitigate the confusion during conflict. One way was by more clearly defining the difference between civilian and combatant. It also pin pointed the use of uniforms as a major indicator within the battle field or conflict zone. “The principle of distinction requires the parties to a conflict to distinguish at all times between civilians and combatants, and attacks to be directed only against combatants. Parties to the conflict should distinguish themselves from civilians by using distinctive uniforms or other forms of identification” (OHCHR, 2011, pg 65). It is also important to point out that the United Nations understands in today’s internal conflicts, just as times in antiquity there exists opportunity for civilians to morph back and forth from combatant to non-combatant and back again. The UN also states in their document on human rights that “Combatants may be attacked until they

surrender or are otherwise hors de combat, while civilians may not be targeted, unless and for such time as they directly participate in hostilities, and they are protected by the principles of proportionality and precaution against the incidental effects of attacks against military objectives and combatants" (OHCHR, 2011, pg 20). One key take away from this is the understanding that civilian can and will directly participate in armed conflict. Insurgency, counterinsurgency (COIN) and internal conflict are the major ways armed conflict plays out in today's world.

Far away are the days of the field battle or the main battle line and a clearly defined combatant. There are many examples world wide of internal conflict but I find that Somalia is one example of the blurred lines between civilian and non-civilians, being a failed state or at best a non-effective limited government. William Zartman defines a failed state "as the decision making center of government, the state is paralyzed and inoperative; laws are not made, order is not preserved, and societal cohesion is not enhanced...As a territory, it is no longer assured security by a central sovereign organization. As the authoritative political institution, it has lost its legitimacy. As a system of socioeconomic organization, its functional balance of inputs and outputs is destroyed" (Zartman, 1995, pg 5). In the books Pirates of Somalia and Black Hawk Down, descriptions are given throughout both books of no centralized authority with armed gangs and insurgence working with under-world or tribal leaders to bring about economic successes through various internal conflict actions. Allegiances and alliances are fluid and chaotic changing to the highest bidder or to whatever economic ends are devised at any given time. Power is controlled by armed civilians who may be combatants at one moment or fishermen at another. Economic success seems to be derived by who can mass enough firepower to achieve the best end. Poverty and power run hand in hand.

Another example of such non distinction between civilian and non-civilian in Gaza Strip and West Bank. Palestinian youth have continuously clashed with Israel military for decades. International humanitarian law sets rules that limit the effects of armed conflict on people, including civilians, persons who are not or no longer participating in the conflict and even those who still are (OHCHR, 2011, pg 12). These youth, as with the Somali illustration above, flux between civilian and combatant since there is no centralized army. This internal conflict has produced more questions than answers in the world of political opinion.

A third example is that of the Helmand Providence in Afghanistan. As US and coalition forces attempt to change the hearts and minds of the Afghan people the examples of insurgence working within the region has caused both the armed forces and international aid agencies to work cautiously with each other keeping in mind that coalition aims and aid agency aims may be the same at times but aid agencies must remain neutral. Differentiating between coalitions aligned civilians contrasted to Taliban or Al-Qaeda controlled civilians or even operatives may be a difficult proposition to determine. One more example of difficulty determining allegiances is “broad outlines of conflict are set by the differential privileges of the various tribes. This has resulted in an unequal distribution of patronage positions and development money, and consequently the Panjpai resent the Zirak tribes. The Taliban have proven particularly adept at exploiting this structural rift” (Gordon, 2001, pg 24).

Though the example sited seems to create a mountain of confusion of whose who and what can be done to differentiate between civilian and non-civilian internal conflict there are set ways to work through the problem to come up with solutions. Conflict sensitive approach and conflict analysis can aid us in working through this problem. To start a conflict approach and conflict analysis one should start with understanding conflict itself and find where a situation of tensions,

escalation, possibly resulting in a stalemate or de-escalation which may lead to a settlement /resolution and reconstruction/reconciliation, or alternatively to an unstable peace (OECD, 2004, pg 1). This suggests that there is history attached to the internal conflict with multiple players, causes, assumptions and facts. John Paul Lederach points out that for one to be successful and this analysis one must see the internal conflict through conflict transformation lenses; one lens to see the immediate situation, another to see the underlying patterns and context, and a third to discern the conceptual framework that binds them together (Lederach, 2003, pg 1).

One continues through the analysis to determine who the actors are, how they relate to each other as well as how they are aligned and interact with each other both politically and economically. “An improved understanding of the political and economic contexts of relief could make a significant difference to aid programming in a number of ways” (Collinson, 2003, pg 2). This understanding takes us from the question who is civilian and who is non-civilian into the process of asking what can be done with and for both. One example of working both is US Army Civil Affairs synchronizing national assistance projects with other programs, military and civilian, ensuring a constant and accurate flow of information between the military and civilian agencies to contribute to the common operating picture (ATP 3-57.30, 2014, pg 2-11).

Using our Somalia example conflict analysis pointed out that the villagers had their economics disrupted by over fishing on the Somali coast by other nations causing them to resort to an economic practice of piracy. This produced a negative peace at best and open conflict at worse. The objective was to transform a negative peace into a positive peace involving a very different set of circumstances and strategies, bringing about a different type of resilience to help them both catalyst and then manage change toward positive peace making it resilient community

is one which is able to successfully resist pressure to resort to violence as it resolves or manages the tension (Menkhaus, 2014, pg 4).

In our Palestinian and Afghanistan examples, being conflict sensitive and doing good analysis that is neutrality elevated, humanitarian assistance becomes less a policy instrument and allows those who morally feel compelled to act the opportunity (OECD, 2004, pg 15). Depending on one's perspective then, conflict sensitivity is either key to ensuring humanitarian aid efficacy in an increasingly political operating environment synonymous with it (OECD, 2004, pg 16). With the concepts of Do No Harm and Good Enough we can analyze and plan, looking for flashpoints that move away from civilian and non-civilian to those in need, looking for resiliency strategies that go beyond what the political picture looks like seeking out deeper struggles and solutions.

In responding to the question, “Is the distinction between civilians and non-civilians still accurate in today’s internal conflict?” I looked at how we can differentiate between civilian and non-civilian in the customary sense. The use of uniforms and command and control has been, at least in the modern era, the most telling way to make that distinctions. But as pointed out through examples of Somalia, Palestine and Afghanistan, distinction aren’t always there and with the flux individuals make between roles civilians and non-civilian we move our thinking from that dichotomy to conflict sensitive approach, looking at what makes actors move from one designator to another and through conflict analysis plan to perform or provide humanitarian aid as neutrally as possible assisting communities to transition from internal conflict to community resilience.

Sources

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