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**Civilian Protection:
The Imperative Role of Civil Society**

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Master's Thesis

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Civilian Protection: The Imperative Role of Civil Society

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Chapter 1

Rationale for the Study of Civilian Protection:

Civilians are noncombatants who by definition, are not on active duty in the armed services, nor on a police or firefighting force. Yet civilians often shoulder the brunt and brutality of armed conflict around the globe. Throughout the past century, measures have evolved to better protect civilians from physical harm during conflict, each met with varying degrees of success and failure. One of the more recent developments in civilian protection is the norm known as the “responsibility to protect,” which simply put, affirms the international community’s right to protect civilians when a nation state cannot or will not do so itself. Civilian groups, that is, civil society, were instrumental in developing this concept, which arose from a very public debate regarding the failure to protect civilians in both Rwanda and Srebrenica in the 1990s.

There is evidence that civilians involved in armed conflict today are dying in smaller numbers than in earlier times. The Uppsala Conflict Data Program reports that “the average battle-death toll per conflict [involving a state] in the 1950s was almost 10,000, while the equivalent figure for the new millennium has been less than 1,000. These estimates leave no doubt that there has been a huge decline in the deadliness of warfare since the 1950s.”¹ This measurable progress towards a decline in civilian death is a welcome development. However, multiple instances of armed conflict remain where civilians are still not sufficiently protected, and the majority of these conflicts involve a

¹ Human Security Report Project, *Human Security Report 2009/2010: The Causes of Peace and the Shrinking Costs of War* (New York:Oxford University Press, 2011) 166.

non-state actor. In this thesis, I argue that conflict involving an armed non-state actor (ANSA) is fundamentally different from traditional interstate conflict in so far as the methodology of civilian protection is concerned. Therefore, for the norm of civilian protection to be appropriately expanded to include ANSA conflicts, it is imperative that civil society actors, who have greater access and fewer negotiating constraints than states, be treated as partners in the process of norm expansion.

The loss of civilian life in armed conflict is widely condemned. However, there are organized armed groups, both state and non-state actors, which rationalize civilian death in terms of the end justifying the means. Although in most societies there is a cultural taboo against involving non-combatants in warfare, these groups believe their objective is so unique, so imperative, so “justified,” that civilian harm is warranted and defensible to achieve their end. For example, the carpet bombing of Dresden in World War II and the nuclear bombing of Hiroshima and Nagasaki killed tens of thousands of civilians, but both were justified by state actors as a necessary means to end the world war. Similarly, the kidnapping and death of Israeli athletes during the 1972 Olympics were justified by the group Black September as a necessary means to obtain the release of Palestinian prisoners in Israeli jails. Illustrations such as these demonstrate how any group, state or non-state, can characterize their purpose as the exception to the rule against civilian harm.

As will be shown, the norm of civilian protection has evolved since the 1950s. There have been two positive trends concerning civilian death. First, the civilian protection norm has become embedded in the international consciousness of decision makers when the armed conflict involves state actors. Second, civilian death is actually

decreasing when an armed conflict involves state actors only. One can correctly hypothesize that the two trends are related. Over time, the more the norm against physical harm became embedded, the less physical harm to civilians occurred. There is a different outcome, however, when the actors involved in the armed conflict are no longer two or more states only, but include an additional party: a non-state actor. Civilians are better protected from physical harm when the conflict involves solely state actors. Civilians are less protected when the conflict involves non-state actors.

When a conflict involves the state, civilian death is not sanctioned, but often it is permissible or understood as a regrettable outcome. States have codified their prohibitions against civilian death to include exceptions. Just war theory holds that civilians may not be targeted, but there is an intrinsic understanding that conflict involves unintentional harm. “Smart” bombs are designed and marketed to hit an intended target, with the implied acceptance that no bomb is ever one hundred percent accurate. The Geneva Conventions of 1949 (to which the vast majority of states are signatories) affirm that civilians must not be subject to attack. They do not, however, address the issue of accountability when civilians are inadvertently harmed. In practice, history has demonstrated near impunity for a state when it claims a legitimate target was intended but regrettably, civilian death occurred. Examples include: the United States’ use of drones in Afghanistan; Israel’s “Operation Cast Lead” in Gaza for three weeks in 2008/2009 with Israel’s stated goal of halting rocket fire launched by Palestinians in the Gaza strip; and the NATO bombings in 1999 as part of Operation Allied Force that led to the withdrawal of Yugoslav forces from Kosovo, and ended the wars in Yugoslavia of the 1990s. All of these are instances when a state, or group of states in the case of NATO, used lethal force

against a non-state actor and killed civilians. To date, there have been no legal consequences against any of the states involved.

Conversely, when one party to the conflict is a non-state actor, civilian death is never legally sanctioned nor permissible. Several historical events highlight this theory, the attacks on the United States on September 11th, 2001 being one of the most infamous. Although Osama Bin Laden, as head of the non-state group Al Qaeda had declared war on the United States in 1998, the attacks on the Pentagon (a United States military installation), and the thwarted attacks on the U.S. Capitol (a government building), were seen as non-legitimate and labeled terrorism. Armed attacks by other non-state actors against a state have been similarly categorized: the Tamil Tigers against Sri Lankan forces; the Irish Republican Army against British soldiers; Chechen militants against Russian forces; and the Lord's Resistance Army against multiple state armed forces. Table 1:1 highlights the differences in perception of civilian death.

**Table 1:1 Difference between Civilian Harm Caused by
State or Non-state Entity**

	ACTOR	
	<i>State</i>	<i>Non-state</i>
Characteristics of Civilian Harm	Not sanctioned; but permissible	Not sanctioned; not permissible
	Decreasing	Not decreasing
	Constrained by norms, laws, moral obligations that have become institutionalized	Not bound by the usual institutions; need other constraints

It is imperative to categorize behavior causing civilian death as either lawful or unlawful, regardless of identity of the causative agent. The actor responsible for civilian death must be held accountable whether state or non-state. However, more needs to be done to protect civilians from non-state actors. The decade of *relative* peace after the violence of the twentieth century should not reassure us that similar destruction could not occur in the twenty first century. The study and implementation of measures that effectively helped protect civilians from state harm can help inform measures to protect civilians from harm caused by non-state actors. In chapter two I will elaborate my research design.

Chapter 2

Research Design

In this thesis, I hypothesize that unless civil society is treated by states (and international state-based organizations such as the United Nations) as partners in the process of norm expansion, civilian protection in cases involving armed non-state actors (ANSAs) will remain inadequate. I maintain that civil society can play a crucial role in influencing the behavior of non-state actors because civil society has greater access and fewer negotiating constraints than traditional state mediators.

First, concerning *access*: civil society often operates “on the ground” and within the communities affected by an armed conflict. Members have a stake in the outcome, and with strategic planning, can build trust with an ANSA in ways a state may not be capable of. Second, concerning *negotiating constraints*: civil society is not bound by the same legal treaties nor public image constraints as a state or international state-based organization. Whereas a statement such as “we do not negotiate with terrorists” may be part of a state’s strategy, civil society groups such as a non-governmental organization (NGO), may not have the same restrictions when negotiating. According to Claudia Hofman, who has studied the strengths (and weaknesses) of NGOs involved in armed conflict, the flexibility of NGOs is another asset. NGOs are often small in size, and able to respond more quickly to the rapid change in circumstance so often displayed in any conflict. They do not have the multi-layered bureaucracy found within states or large international organizations (IOs). “The small network form of organization appears to be an advantage as it avoids the feedback loop entailed by a larger hierarchical organization,

resulting in lengthy periods of coordination before being able to proceed in communication or mediation processes with armed actors.”³ Timeliness and responsive contact is imperative in conflict resolution, and flexibility decreases constraints to keep positive momentum moving forward.

There is reliable data to now prove that civilian death has markedly decreased since the end of the Cold War, which signaled a decline in both declared war between two states, and undeclared war between the superpower proxies.⁴ Civil society played a norm entrepreneur role in the formation of this civilian protection norm among states. My hypothesis envisions an even larger role for civil society in embedding a civilian protection norm within the behavior of non-state actors as well.

Methodology:

I have chosen to carefully examine three historical conflicts between a state and non-state actors to see whether civil society played a role, and if so, whether their activities helped protect civilians. The cases will inform my hypothesis that unless civil society is treated by states and international organizations as partners in the process of norm creation, civilian protection involving non-state armed groups will remain inadequate.

The three selected examples of armed conflict involving both a state and a non-state actor are:

- The state of Uganda vs. the Lord’s Resistance Army (LRA)

³ Claudia Hofman, *Reasoning with Rebels*. Research Paper, German Institute for International and Security Affairs (Berlin: 2012), 20.

⁴ Erik Melander, Magnus Oberg, and Jonathan Hall, "Are 'New Wars' More Atrocious? Battle Severity, Civilians Killed and Forced Migration Before and After the Cold War." *European Journal of International Relations* (2009), as referenced in Theo Farrell and Olivier Schmidt, "The Causes, Character and Conduct of Armed Conflict, and Its Effect on Civilian Populations, 1990-2010." *Legal and Protection Policy Series* (2012): 8.

- The Republic of the Philippines vs. The Moro Islamic Liberation Front (MILF)
- The state of Libya vs. the National Transitional Council (NTC)

Three geographic locations are specifically represented: North Africa, Central Africa, and Southeast Asia. All three conflicts highlight a particular influence of civil society or a non-governmental organization in creating and/or reinforcing the norm of civilian protection in a non-state actor. In each of the three cases, the following questions are asked:

1. Have civilians been harmed and how much so? I will use statistics on civilian death (discussed below).
2. Was civil society involved and to what degree? What was their role? Here I discuss the work of civil society/NGOs and how it affected civilian protection.
3. Did the role of civil society contribute to decreased civilian death? Did it help protect civilians?

I posit that the more civil society participated, the greater the reduction in civilian harm. Of note, two of the three conflicts have religious overtones; one is clearly grounded in Christian / Muslim hostility (the Philippines); one in *declared* religious fanaticism (in Uganda, but whether the Lord's Resistance Army is strictly fighting on behalf of religious beliefs is widely questioned). This is interesting because civil society groups often challenge the belief system, including religious ideology, of non-state actors in order to influence their behavior and reduce civilian casualties.

In only one conflict is the state overwhelmingly viewed as the protagonist – Uganda. In the conflict in the Philippines, the state is often portrayed as the protagonist,

but certain subsets of the global population are largely sympathetic to the cause of the ANSA, leading to interesting corollary concepts about civilian protection. Lastly, Libya represents a conflict where the state was viewed as the pariah (specifically its head of state - Colonel Qaddafi.⁵) This case study is remarkable because a sector within civil society emerged as the armed non-state actor. Further, as an ANSA, it was the National Transitional Council that was able to garner the support of the international community, not the state of Libya. Given the advent of the Arab Spring, and recent events in the North Africa - Middle East region, it is important to examine how groups within civil society mutate to become ANSAs, how they obtain positive recognition from the international community, and whether their origins within the civil sector influence rates of civilian death during ensuing conflict.

It is worth mentioning that the terms “terrorism” and “terrorist” have been voiced publicly during all three conflicts, with all three official heads of state describing the non-state actor in each conflict as “terrorist.” Several Filipino presidents labeled the MILF a terrorist organization; the Ugandan president Yoweri Museveni, as well as the African Union, declared the LRA a terrorist group; and Qaddafi, the head of state in Libya, initially branded the civil unrest as terrorist. The issue is relevant because the label “terrorist” affects how civil society groups can interact with a non-state actor. One example is the Parents Circle, a group of Israeli and Palestinian relatives who have all lost loved ones to the conflict in the Middle East. In 2008, they were denied permission by Israel to teach classroom presentations about non-violence in the occupied territories

⁵ I have chosen to use the spelling “Qaddafi” for the former Libyan head of state’s last name. There is no exact transliteration from Arabic, and no consensus exists among news sources as to the English spelling. See Eoin O’Carroll, “Gaddafi? Kadafi? Qaddafi? What’s the Correct Spelling?” *Christian Science Monitor* (2011), accessed December 10, 2014, <http://www.csmonitor.com/World/2011/0222/Gaddafi-Kadafi-Qaddafi-What-s-the-correct-spelling>

because Hamas was then in power and had been classified as a terrorist organization. Consequently, NGOs such as the Parents Circle were not permitted by law to interact with Hamas, even when the interaction was solely to gain permission for their presentations. Restrictions on access to, or dialogue with, an ANSA is an increasing concern among NGOs seeking to influence ANSA behavior towards more robust civilian protection.

Definitions:

Before proceeding, I will clarify some important terms.

According to John Keane, civil society “describes and anticipates a complex and dynamic ensemble of legally protected nongovernmental institutions that tend to be nonviolent, self-organizing, self-reflexive, and permanently in tension, both with each other and with the governmental institutions that ‘frame,’ constrict and enable their activities.”⁶ Varshney adds that “informal group activities as well as ascriptive associations should be considered part of civil society as long as they connect individuals, build trust, encourage reciprocity and facilitate exchange of views on matters of public concern – economic, political, cultural and social.”⁷ To be succinct, I define civil society as any group with a common interest that does not formally, or informally represent a state. Some examples of civil society include religious groups (the Catholic church); unions and trade organizations (the International Air Transport Association); non-governmental organizations (the International Rescue Committee); business groups (Chambers of Commerce), and epistemic communities which can influence collective

⁶ John Keane, *Civil Society, Definitions and Approaches* (2009): 1. http://johnkeane.net/wp-content/uploads/2011/01/jk_civil_society_definitions_encyclopedia.pdf

⁷ Ashutosh Varshney, *Ethnic Conflict and Civic Life: Hindus and Muslims in India* (New Delhi: Oxford University Press, 2002), 46.

opinion, such as scholars, scientists, and editorial boards of major news outlets. I will use the term civil society when there are multiple entities involved. I will use the term non-governmental organization (NGO), or international non-governmental organization (INGO) when a singular group within civil society is the influential entity. State based international organizations such as the United Nations or the African Union are not included under the rubric of civil society.

In this thesis, I refer to the civilian protection regime. In the context of international relations, a regime is a “set of explicit or implicit principles, norms, rules, and decision making procedures around which actor expectations converge in a given issue-area.”⁸ Therefore, I define a civilian protection regime as a system with a tripartite foundation:

- laws (including treaties and conventions)
- norms; and
- ethics (including religious sanction),

which, when combined with actors and organizations, serve to protect civilians from physical harm.

The principle known as the Responsibility to Protect (R2P) is a newer term and a useful example of a norm that has emerged from the civilian protection regime. The Responsibility to Protect developed as the global community’s remorseful response to the failures of civilian protection in Rwanda and Srebrenica in the 1990s. The basic presumption of R2P is that the state has the primary responsibility to protect its citizens. Should the state fail in this responsibility, and/or be the actual perpetrator of harm, the

⁸ Stephen D. Krasner, “Structural Causes and Consequences: Regimes as Intervening Variables,” in *International Regimes*, ed. Stephen D. Krasner (Ithaca, Cornell University Press: 1983), 1

international community then has the right to intervene and protect civilians.⁹ More than a decade has now passed since R2P gained formal recognition. Although there is wide consensus regarding the responsibility to protect in theory, the timing of its practice and implementation are widely disputed.

Another important term to clarify is civilian harm. There are many kinds of harm and trauma caused by exposure to armed conflict. Psychological, cognitive and sexual degradations of physical health all deserve attention, but this thesis will use civilian deaths as a measurable outcome primarily because death is more readily and reliably quantified than other types of physical harm. However, even the term civilian casualty or civilian death can lead to fierce debate.

Accurate assessment of civilian casualties is an important component of the civilian protection regime. Who counts as a civilian, and when? Recent scholarly work has seriously questioned the oft quoted conventional wisdom that 90 percent of victims from armed conflict are civilian.¹⁰ Disputes over body counts have often produced fierce political debate between the actors involved in armed conflict. The discussion is difficult and emotive. Certainly, there are instances when civilians are deliberately targeted. There are just as surely times when civilian death is unintentional. Soldiers who are themselves in harm's way are asked to react under conditions of severe stress. Politics aside, the issue of how many civilians were killed in any conflict is paramount when it comes to helping policy makers design protocols and guidelines, both to help guide soldiers' actions, and to protect civilians.

⁹ International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, (Ottawa: International Development Research Centre: 2001)

¹⁰ Adam Roberts, "Lives and Statistics: Are 90% of War Victims Civilian?" *Survival* 52 (2010): 115-136.

One example is the 2003 U.S. - Iraq conflict. There have been several studies by NGOs, researchers, and government officials attempting to quantify excess civilian death since the U.S. led invasion. One such survey compared mortality rates fifteen months prior to the United States-led invasion, with eighteen months after. Researchers concluded: 1.) that there were more than 100,000 “excess” deaths, primarily from violence; 2.) most violent deaths were caused by airstrikes from coalition forces; and 3.) the collection of public health data is possible even during violent, armed conflict.¹¹ The conclusions were published in 2004 and caused quite a stir, and bolstered the arguments of anti-war factions around the world. Detractors alleged that the study was released prematurely to sway public opinion regarding the American presidential elections which were then upcoming. The ensuing debate further noted that when it was the victim of political violence on September 11, 2001, the United States knew the exact number of civilian casualties: 2,973. Yet when it was the perpetrator of sanctioned violence, the United States did not have accurate counts of civilian casualties in either Iraq, or Afghanistan. The authors rightly pointed out therefore, that since more than half of the reported dead in Iraq were women and children, “it seems difficult to understand how a military force could monitor the extent to which civilians are protected against violence without systematically doing body counts or at least looking at the kinds of casualties they induce.”¹² Further, the Geneva Conventions mandate that an occupying army has direct responsibility for the civilian population they control.

Other studies attempting to quantify civilian deaths in Iraq have used the method of household interviews, as there was no central Iraq death registry (a common problem

¹¹ Les Roberts, "Mortality Before and After the Invasion of Iraq: Cluster Sample Survey." *The Lancet* (2004): 1857.

¹² Ibid, 1863.

during any armed conflict). The studies vary widely in their count, ranging from 128,000 to 1,033,000 excess Iraqi civilian deaths from March 2003 through 2004. That is a discrepancy of nearly 900,000 lives – no small disparity.¹³ The difference in numbers is of vital importance, primarily because each number represents a human being, but also because statistics are quoted by those with political agendas. Those supporting the Iraq invasion could quote the lower figures; those against the invasion could point to a civilian death toll of over one million. Data therefore do matter, and data need to be reliable, politically blind, and factually based. If societies have any hope of ever decreasing civilian harm, it is important to know which military and peacekeeping strategies are effective in protecting civilians, and which are not – and that information must come from objective, reliable data. For this thesis, I have chosen to use data from the Uppsala Conflict Data Program (UCDP), an internationally recognized research institution housed in the Department of Peace and Conflict Research at Uppsala University. The Uppsala Conflict Data Program has been gathering information on violent conflicts since the 1970s. “The data provided is one of the most accurate and well-used data-sources on global armed conflicts and its definition of armed conflict is becoming a standard in how conflicts are systematically defined and studied... The ambition of a systematic data collection means that the coding rules are very strict, and that the standards are set very high for inclusion of information.”¹⁴ As defined by the UCDP, an armed conflict is a contested incompatibility where the use of armed force between two parties results in at least 25 battle-related deaths in one calendar year. Battle-related deaths are fatalities that

¹³ Maria Karagiozakis, "Counting Excess Civilian Casualties of the Iraq War: Science or Politics?" *Journal of Humanitarian Assistance* (2009): <http://jha.ac/2009/06/22/counting-excess-civilian-casualties-of-the-iraq-war-science-or-politics/>.

¹⁴ “About Us,” Uppsala University Department of Peace and Conflict Research, last modified December 12, 2014, http://www.pcr.uu.se/research/ucdp/program_overview/about_ucdp/

can be related to combat in a conflict dyad. "This includes traditional battlefield fighting, guerrilla activities (e.g. hit-and-run attacks / ambushes) and all kinds of bombardments of military units, cities and villages etc. The targets are usually the military itself and its installations, or state institutions and state representatives, but there is often substantial collateral damage in the form of civilians killed in crossfire, indiscriminate bombings etc. All deaths - military as well as civilian - incurred in such situations, are counted as battle-related deaths." ¹⁵

Theoretical Framework:

The act of protecting civilians, often termed international humanitarian intervention, is not itself a new phenomenon. Some of the initial Christian thought about protection of civilians can be attributed to the just war tradition, credited primarily to St. Augustine of Hippo who wrote in the fourth century AD. There are two specific facets of just war theory: *jus ad bellum* (qualifications necessary before participating in a war) and *jus in bello* (right conduct once a war has begun). The three criteria of *jus in bello* are: proportionality, minimum force and distinction. Although all three provide some guidance regarding civilian safety, it is the principle of distinction which mandates that all warring parties distinguish between combatants and noncombatants. ¹⁶ "Many of the rules developed by the just war tradition have since been codified into contemporary international laws governing armed conflict. The just war tradition has thus been doubly influential, dominating both moral and legal discourse surrounding armed conflict." ¹⁷

¹⁵ For definitions of all terms used by the Uppsala Conflict Data Program, see <http://www.pcr.uu.se/research/ucdp/definitions/>

¹⁶ International Committee of the Red Cross "Distinction: Protecting Civilians in Armed Conflict." *icrc.org*. Accessed December 2, 2009. <http://icrc.org/web/eng/siteen0.nsf/htmlall/p0904?opendocument>.

¹⁷ Brian Orend, "Michael Walzer on Resorting to Force." *Canadian Journal of Political Science* 33 (2000):524.

Islamic law has also made important contributions regarding civilian protection. One of its most eminent scholars, Muhammad al Shaybani, wrote Introduction to the Law of Nations in the 8th century. It became an authoritative text on international law ('siyar' in Arabic) and precipitated further Islamic thinking on the subject. Al Shaybani's teachings cover issues such as conduct during war, treatment of "protected" peoples, the question of when fighting is justified, and the treatment of prisoners.¹⁸

Several individuals further contributed to the growing norm of civilian protection. Hugo Grotius, often considered the father of international law, was a 17th century Dutch scholar and statesman who wrote On the Laws of War and Peace. In Book III, Chapter 11 of his treatise, entitled *The Right of Killing Enemies, in Just War, to be Tempered With Moderation and Humanity*, he necessitates, "every possible requisite precaution to spare the innocent, especially women, children and the aged."¹⁹ Grotius was writing his most important work during the Thirty Years War, which eventually ended with the Peace of Westphalia in 1648 and gave birth to what is now recognized as the modern nation-state.

Anarchy best describes the current world order of nation/states. When war occurs, there is no one overarching entity that has the power or the authority to command a stop to violence. Realism as a theoretical framework acknowledges that civilians die as the inevitable outcome of armed conflict. The harm may not be intentional, but a stark reality exists that the security of the state may at times outweigh the security of its citizens. Liberalism also sees civilian harm as an unavoidable consequence of armed conflict. Liberalism promotes institutions and legal structures through which nation states are able

¹⁸ John Kelsay, "Al-Shaybani and the Islamic Art of War." *Journal of Military Ethics* (2003):63-75

¹⁹ Hugo Grotius, *On the Law of War and Peace*, trans. A.C. Campbell (London:1814)

to cooperate to help protect civilians, but the power to participate within these institutions remains with the state.

There exists a valid argument that neither theoretical framework fully explains the near universal recognition of the need to protect civilians, and the all-too-often failure to do so effectively. Additionally, both frameworks have great difficulty rationalizing why a state would protect anyone other than a state's own citizens. Prior to the twentieth century, this phenomena was seen rarely, and employed almost exclusively to protect Christians from the Ottoman Turks.²⁰ Immanuel Kant's categorical imperative of protecting civilians as an end in itself had not yet taken hold within the global conscience. Kant produced most of his philosophical work in the late eighteenth century. Yet the "duty" to protect others would take another two hundred years to become the formalized principle we know today as "humanitarian intervention."

Constructivism has added to liberalism in a way that enhances our understanding of civilian protection. Liberalism supports the extension of human rights principles to everyone, regardless of personal connection or membership within a particular "community". Constructivism uses the building blocks of liberal thinking: institutions, regimes, and laws; and supplements them with norm theory to better house civilian protection concepts.

Alexander Wendt, a noted proponent of constructionism, identified two of its basic tenets: "that the structures of human association are determined primarily by shared ideas rather than material forces, and that the identities and interests of purposive actors

²⁰ Martha Finnemore, "Constructing Norms of Humanitarian Intervention." in *Conflict After the Cold War*, ed. Richard K. Betts, (New York: Pearson, 2008), 238.

are constructed by these shared ideas rather than given by nature."²¹ Essentially, a constructivist might challenge the ideas of state sovereignty, or an individual's nationality, or civilians being afforded special protection. A constructivist makes the distinction between our human reality which stems from the natural world, and that which has been constructed by humankind. For example, that humans require oxygen to live is a natural law. It is not a natural law however, but a social definition constructed by humans, to label someone as Brazilian if they were born in Rio de Janeiro. National boundaries are solely a human construct.

Social constructs and norms have the ability to change throughout the years, often in the name of progress. Behavior once viewed as acceptable can be deemed immoral or illegal decades later. The passage of time has seen the near abolishment of slavery, marked decrease in child labor, and the beginnings of genuine equality for women – to give a few examples of changes in societal norms. Constructivism has consequently become a valid theoretical framework within international relations; one which is able to elucidate political events from a more normative perspective than liberalism. One such event is the end of the Cold War and the breakup of the Soviet Union. Dominant international relations theory could not explain this monumental moment in history. Realism could not account for the intentional Soviet relinquishment of state power. Further, the institutions and cooperation so central to liberalism had little if anything to do with the fall of the Soviet bloc. A constructivist approach however could explain these epic events; modern realities could no longer support a state [a human construct] whose social structure was embedded in totalitarianism, dismissive of ethnic differences, and

²¹ Alexander Wendt, *Social Theory of International Politics* (Cambridge: Cambridge University Press, 1999), 1.

economically chained to an un-winnable arms race. Viewed similarly, civilian protection is also primarily a social construct. Nature does not dictate who is killed and who is spared during armed conflict. Society does.

One aspect of constructivism is norm theory. Since my research focuses on the norm of civilian protection, a close look at the development of norm theory is essential. The decades of the 1960s and 1970s heralded social tumult, not only within society, but within international relations as well. The Cold War was raging, and decolonization was having a domino effect. Indigenous societies on the African continent were dismantling colonial power structures and forming their own nation states. Political scientists followed the field of economics in the hunt for hard data to predict events and change.²² Consequently, empirical research became the gold standard of theory not only within the social sciences – but within its offspring - international relations. However, as any professional in the field of psychology or behavioral studies can attest to, human behavior has yet to be reduced to singular cause and effect rationalization for any individual, let alone a society/state.

Constructivist researchers injected a social component into international relations theorizing. One group elucidated norm theory and subsequently sought to prove the validity of norm theory using hypotheses which could be tested and measured empirically. In 1998, Finnemore and Sikkink postulated their unique theory of norm development and claimed that “norm researchers have made inroads precisely because they have been able to provide explanations substantiated by evidence.”²³ They

²² Theodore Lowi, "The State in Political Science: How We Become What We Study," *The American Political Science Review* 86 (1992):1-7.

²³ Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization* (1998): 890.

described the three stages of the norm “life cycle”: norm emergence, norm cascade, and internalization. (see Table 2:1)

Table 2:1 Stages of Norms

<i>Stage 1</i> <i>Norm emergence</i>	<i>Stage 2</i> <i>Norm cascade</i>	<i>Stage 3</i> <i>Internalization</i>
Norm entrepreneurs with professional organizations	States, international organizations, networks	Law, professions, bureaucracy
Altruism, empathy, ideational, commitment	Legitimacy, reputation, esteem	Conformity
Persuasion	Socialization, institutionalization, demonstration	Institutionalization

²⁴ Martha Finnemore and Kathryn Sikkink, (1998): 898

Norm emergence describes the first stage, when “norm entrepreneurs” use their personal agency to promote political behavior change. “Framing” an issue, now common parlance, was considered novel when introduced by David Snow in the 1980s.²⁵ Framing is a new way of describing an activity whereby norm entrepreneurs educate the elite and societal leaders to new ways of viewing an issue. Consider the fairly recent norm of nuclear abolition. The No Nukes coalition formed in the 1980s and was an attempt by concerned norm entrepreneurs to influence policy makers by warning of the fatal end game of nuclear war. Where once the power of atomic weapons had been viewed as prohibitive security, the No Nukes model re-framed the issue by highlighting the

²⁴ Ibid., 898.

²⁵ Robert D. Benford and David A. Snow, “Framing Processes and Social Movements: An Overview and Assessment,” *Annual Review of Sociology* 26 (2000): 611-639.

insecurity caused by nuclear weapons. A new norm emerged, and the general public was educated to the potential annihilation inherent in nuclear weapons. However, the norm of nuclear abolition never truly reached the “tipping point” wherein, according to Finnemore and Sikkink, at least one third of available actors sign on to the new norm. Hence, nuclear arsenals remain around the globe.

The second stage, termed norm cascade, occurs when a critical number of states reach the tipping point and begin to adhere to the new norm. Finnemore and Sikkink note this generally happens after one third of actors align their behavior with the new norm, a form of state “group think.” A cascade then occurs, with new states signing on relatively quickly.

Lastly, stage 3 is norm internalization. At this stage, the norm has become so embedded, its legitimacy is assumed and a tacit understanding of expected behavior exists. An example here would be the prohibition of slavery in the 21st century. With rare exception, and certainly on a state level, human slavery has been abolished as a state practice.

Finnemore and Sikkink further argue that “world time-context” matters in the development of a norm, meaning that norms are not independent of global historical events. To illustrate this point, consider the new social construct that evolved in the 1990s precisely because of two global events; the genocide in both Rwanda and Srebrenica. Kofi Annan, Director of Peacekeeping Operations at the United Nations (UN) at the time of the genocides, was haunted by the mass killing. Later as Secretary-General, he asked for a new approach as UN protection of civilians in both these instances was a catastrophic failure. From this request, the Responsibility to Protect (R2P) was developed

as a new social construct. Should the state fail in the responsibility of protecting its citizens, and/or be the actual perpetrator of harm, the international community then has the right to intervene. R2P takes away state power, and gives power to the international community – not in the interest of the international community, nor one individual state, but in the interest of individual human beings at risk for harm. This was an entirely new construct.

R2P, while a concept that is maturing, still has serious flaws primarily stemming from “rules” concerning the UN Security Council (SC) and the veto power of specific states. The majority of the international community can agree on the need to intervene and protect civilians (Libya in 2011 and Syria 2012 for example), but any one of the five permanent members of the SC still has the power to block a vote leading to concrete action. This is an example of a new construct (R2P) inhibited by the old order (Security Council veto), and a frustration encapsulated in the words of Rajan Menon:

The source of this failure is neither a lack of people of goodwill nor a surfeit of callousness. Rather, it is the persistence of an international order centered on instrumental connectivity rather than the primacy of universal obligations that permits sovereign states—willful, protective of their freedom of action, and suspicious of supranationalism and binding commitments—to negate or enfeeble collective action, even in the face of epic cruelty.²⁷

Civilian protection emerged as a broadly understood norm among states after the World Wars of the twentieth century. Millions of civilians were killed, and the numbers increase exponentially when counting those injured and displaced. Indeed, as a response to this global indifference between soldier and civilian, the preamble of the Charter of the

²⁷ Rajan Menon, "Pious Words, Puny Deeds: The International Community and Mass Atrocities," *Ethics and International Affairs* (2009): 244.

United Nations reads: “we the people of the United Nations [are] determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind,”³³ A norm cascade occurred in 1949 with the ratification of *Geneva Convention IV Relative to the Protection of Civilian Persons in Time of War*. Henceforth, any new member of the United Nations was effectively signing on to the notion of the protection of civilians during warfare. The ensuing half century saw the internalization of this norm, both legally within what is now the specialty field of International Law, and institutionally within international organizations such as the International Committee of the Red Cross and Amnesty International, and non-governmental organizations (NGOs) like Human Rights Watch and Witness.

Thus, the norm of civilian protection has generally followed a typical norm life cycle as outlined by Finnemore and Sikkink if one is referring to state behavior. Although far from absolute, a norm exists to protect civilians during armed conflict between states. There are two exceptions to this argument however. First, specific states, as with specific individuals, deem themselves “exempt” from the norm, giving rise to the problem of a non-conforming state. Second, states are not the only actors on the stage of armed conflict. As I will discuss in depth in the next chapter, civilian protection when armed non-state actors (ANSAs) are involved is more problematic than when a state actor is involved. True, in the twentieth century, the enormous loss of civilian life was caused specifically by states. However, information from the Uppsala Conflict Data Program shows that by 2010 there were thirty active armed conflicts around the globe, in twenty five locations, and none of these conflicts involved two or more states only; all involved

³³ “Charter of the United Nations,” (1945): Preamble.

at least one non-state actor.³⁴ This fact makes clear the need to extend civilian protection norms to include the behavior of non-state actors. But at present, the life cycle of the norm of civilian protection by non-state actors is largely at stage 1 – the tipping point has not been reached, there has been no norm cascade, and there is no broad internalization of the norm within ANSA behavior.

I have established that the civilian protection norm that exists within state actors is vastly different than that within non-state actors. A historical accounting is essential to explain the disparity. It will inform my hypothesis about the necessary involvement of civil society and international NGOs to better protect civilians during armed conflict involving an ANSA.

³⁴ Lotta Themner and Peter Wallensteen, "Armed Conflict, 1946-2010," *Journal of Peace Research* (2011): 525-36.

CHAPTER 3

Evolution of the Norm of Civilian Protection

Until the invention of gunpowder, conflict was conducted primarily by hand to hand combat. Historically, the “smartest” of weapons may well be the sword, as the intended recipient of its thrust was rarely an accidental victim. Gunpowder changed the way wars were waged. With longer range weapons came a far greater potential for the intended target to be missed – thereby increasing the chance of unintended harm to a noncombatant.

Throughout history there have been attempts to modify warfare in order to decrease human loss of life. Sun Tzu is considered one of the world’s greatest strategists concerning warfare. His treatise, *The Art of War*, even though written in 6th century B.C., is required reading today at many military institutions. Tzu’s recommendations for the conduct of war do not directly address the issue of civilian protection, but he does counsel against attacking cities, or large population centers. “Thus, what is of supreme importance in war is to attack the enemy's strategy; next best is to disrupt his alliances; the next best is to attack his army. The worst policy is to attack cities. Attack cities only when there is no alternative.”³⁵

Henri Dunant, a Swiss businessman, came to his concern about civilian casualties almost accidentally. He was seeking water rights for a business opportunity in Algeria, and decided to appeal directly to Napoleon. Inadvertently, Dunant stumbled upon one of the deadliest conflicts of the 19th century, the battle for the Italian city Solferino. In 1862, he published *A Memory of Solferino*, a book in three parts. The first and second describe

³⁵ Sun Tzu, *The Art of War*, trans. Samuel B. Griffith (New York: Oxford University Press, 1963), 77-78.

the battle itself and its aftermath; “chaotic disorder, despair unspeakable, and misery of every kind.” The third section outlines Dunant’s plan.

“The nations of the world should:

- form relief societies to provide care for the wartime wounded;
- each society should be sponsored by a governing board composed of the nation's leading figures,
- appeal to everyone to volunteer,
- train these volunteers to aid the wounded on the battlefield and to care for them later until they recovered.”³⁶

A committee, then conference was formed to explore the possibility of putting Dunant’s plan into action. In 1864 twelve nations signed a treaty, called the Geneva Convention, which allowed for the protection of medical personnel treating war wounded through use of an emblem – a red cross on a white background. Thus began the organization the Red Cross (known today as the International Committee of the Red Cross). The global community did eventually recognize the importance of this specific type of civilian protection by awarding Dunant (and an international pacifist, Frederic Passy) the first Nobel Peace Prize in 1901. Neither man attended the ceremony, nor delivered a lecture, and Dunant died a hermit in 1910. But most importantly, this 1864 Geneva Convention marks the first time nation states, together, agreed to modify the conduct of war.

Unfortunately, with the advent of two world wars in the twentieth century, gains made by the fledgling civilian protection regime were soon lost. By 1945 civilians had

³⁶ “Henry Dunant – Biography,” accessed April 24, 2011, http://www.nobelprize.org/nobel_prizes/peace/laureates/1901/dunant-bio.html?print=1&iframe=true&width=100%&height=100%#.VJWRCP8CA00

been slaughtered by the millions, exemplifying a near complete disregard for civilian security by states. The Charter of the United Nations (UN) sought to incorporate lessons learned by stating its determination “to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow.”³⁷ Thus occurred formal recognition that war no longer neatly complied with the distinction between combatant and non-combatant, and in fact, the majority of persons killed during conflict in the first half of the twentieth century were non-combatants.

Although expectations of normative state behavior were being *written* into the UN Charter, it became necessary for the concept of civilian protection to become *codified*. This happened with the Geneva Conventions in 1949. It is Convention IV – “Relative to the Protection of Civilian Persons in Time of War” that most clearly spells out international law regarding civilian protection.

- Civilians are not to be subject to attack
- There is no destruction of property unless by military necessity
- Individuals or groups must not be deported, regardless of motive
- Civilians must not be used as hostages
- Civilians must not be subject to outrages upon personal dignity
- Civilians must not be tortured, raped or enslaved
- Civilians must not be subject to collective punishment and reprisals
- Civilians must not receive differential treatment based on race, religion, nationality, or political allegiance

³⁷ *Charter of the United Nations* (New York: United Nations, 1945), Preamble.

- Warring parties must not use or develop biological or chemical weapons and must not allow children under 15 to participate in hostilities or be recruited into the armed forces ³⁸

Physical harm to civilians certainly did not cease with the coming into force of Convention IV. The global community would soon learn that conventions, declarations and treaties meant little without the guarantee of punitive repercussions for offenders. Although there are no exact estimates, the three year Korean War killed approximately three million people. ³⁹ The ten year war between Iraq and Iran throughout the 1980s killed more than one million (primarily combatants), and like the Korean War, not an inch of land was gained by either side. From 1950 through the 1980s, lethal wars continued – the majority of the most deadly between states fighting by proxy during the Cold War - or nascent states shrugging off their colonial oppressors in Africa. Regarding the war in Indochina, “Vietnamese military and civilian deaths ranged from 1.5 million to 3.8 million, with the U.S.-led campaign in Cambodia resulting in 600,000 to 800,000 deaths, and Laotian war mortality estimated at about 1 million.” ⁴⁰ Instability in Africa is another cause of civilian death. Although declared interstate conflict on the continent is rare, civil wars and intrastate conflict pose a real threat to civilians. There were more than 70 military coups and 13 presidential assassinations in Africa from 1960 through the

³⁸ Geneva Protocol II Additional to the Geneva Convention of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts 1977

³⁹ John Tirman, *The Deaths of Others*, (New York: Oxford University Press, 2011), 92. Author offers an in depth accounting of civilian casualties during wars involving the United States in the twentieth century.

⁴⁰ John Tirman, “Why Do We Ignore the Civilians Killed in American Wars,” *Washington Post*, January 6, 2012. http://www.washingtonpost.com/opinions/why-do-we-ignore-the-civilians-killed-in-american-wars/2011/12/05/gIQC4eP_story.html

1980s⁴¹ – leading to volatile political situations and uncertainty over who exactly, or what faction, had legitimate claim to the state's right to use force.

Civilians in Central and South America were not spared the violence. Civil wars, proxy wars, insurgencies and state violence all caused the death of thousands, if not millions, of non-combatants in Guatemala, Chile, El Salvador, Argentina, Peru and Nicaragua in the 1980s. There are no exact figures for civilian casualties. But perhaps a phrase attributed to Stalin summarizes the indifference to civilian immunity best, "A single death is a tragedy; a million deaths are a statistic."⁴²

In the 1990s two major incidents of catastrophic loss of civilian life commanded international attention. In 1994, the Rwandan genocide occurred. In the span of six months, an estimated 800,000 Tutsis were killed,⁴³ this in the age of near instant communication and the ubiquitous global media. Further, the majority of deaths were not caused by aerial bombardment, where one could reason that dropping bombs on large population centers could quickly account for massive civilian casualties. The weapons of the Rwandan genocide were primarily guns, machetes, and hate speech broadcast by radio. The UN peacekeeping forces stationed in Rwanda (UNAMIR) were little more than eyewitnesses, and even had the size of their force initially reduced, despite the urgent warnings of their commanding officer, Lieutenant General Romeo Dallaire. One purported reason for inaction was because the Rwandan hostilities were viewed as an internal conflict, and UN Security Council Resolution 872 (which established UNAMIR)

⁴¹ Jesse Driscoll, "Social Conflict and Political Violence in Africa." *SPICE Digest, Freeman Spogli Institute for International Studies*, Spring (2009): 1-3.

⁴² John Tirman, *The Deaths of Others*, (New York: Oxford University Press, 2011), 316

⁴³ Philip Verwimp "Death and Survival During the 1994 Genocide in Rwanda." *Population Studies*, 58(2004): 233-245.

was limited to peacekeeping. The UN therefore did not initially see justification for sending more protective forces.

The second instance that weighed heavily on the collective global conscience was the slaughter of 7,000 - 8,000 Muslim men and boys at Srebrenica in Bosnia in July of 1995. The UN was held particularly responsible for not preventing this massacre because the Security Council had declared Srebrenica a “safe area” in April 1993, and UN protection forces were present within days of the mandate. Two years later, this small protection unit was quickly overrun by Serbian military, who then murdered all able bodied Muslim males.

Ultimately, these two failures provoked intense international discussion regarding the concept of *humanitarian intervention* – armed intervention into another state, without the agreement of that state, to address the threat or actual infliction of grave and large scale violations of fundamental human rights.⁴⁴ Civilian protection clearly failed in both Rwanda and Srebrenica. Why? That question was ultimately put to the UN General Assembly in 1999 by then Secretary General of the United Nations, Kofi Annan. Consequently, an International Commission on Intervention and State Sovereignty was created and issued its report entitled *The Responsibility to Protect*. The shift in focus embodied in this document from the concept of **state sovereignty** to **state responsibility** should not be underestimated. Before this report’s publication, the rights of the state were viewed as preeminent. Now the emphasis was the rights of citizens, and the state’s responsibility to protect those rights. After 450 years, the Westphalian tradition of state sovereignty was being pushed to share its dominant role within international affairs.

⁴⁴ Fernando Teson, *Humanitarian Intervention: An Inquiry Into Law and Morality*, (New York: Transnational Publishers, 1988), 5.

Rather than focusing on the safety of the state, the responsibility to protect contends that the government's primary duty is the safety of its citizens. "If the government is unable or unwilling to fulfill that role, or if it itself is the perpetrator of massive human rights crimes, then the responsibility devolves to the international community to act in its place."⁴⁵ This comes in the form of peacekeeping, or actions undertaken to protect the peace. As events demonstrated in Libya in 2011, the international community's resolve to move from abstract *responsibility to protect* to concrete action has been, and will continue to be tested.

The subsequent creation of the International Criminal Court (ICC) in 2002 marked another momentous advance for the protection of civilians. Prior to the ICC, international law lacked the enforcement ability to hold individuals accountable for the most serious international crimes, including harm to civilians. Rather than establishing ad hoc tribunals to continually respond to genocide, war crimes and crimes against humanity, the international community created the ICC to be a standing court ready to accept cases within its jurisdiction – with the ultimate goal of prevention.⁴⁶ Unfortunately, not all UN member states (including the United States) have ratified the ICC, nor are there adequate personnel to investigate and apprehend suspects. But the ICC is yet another tool outside of a singular state's control that can potentially aid in the prosecution of those who harm civilians.

⁴⁵ Christopher C. Joyner, "The Responsibility to Protect," in *International Law*, ed. Charlotte Ku and Paul F. Diehl, (Boulder: Lynne Rienner Publishers, 2009), 326.

⁴⁶ Phillipe Kirsch, "The Role of the International Criminal Court in Enforcing International law," in *International Law*, ed. Charlotte Ku and Paul F. Diehl, (Boulder: Lynne Rienner Publishers, 2009), 237.

In May, 2009, the *Report of the United Nations Secretary-General on the Protection of Civilians in Armed Conflict* was released to mark the 10th anniversary for the protection of civilians as a thematic issue. Five core challenges were outlined:

- enhancing compliance by parties to conflict with international law, in particular in the conduct of hostilities;
- enhancing compliance with the law by non-state armed groups;
- enhancing protection through more effective and better resourced peacekeeping and other relevant missions;
- enhancing humanitarian access; and
- enhancing accountability for violations of the law.⁴⁷

In this report UN Secretary General Ban Ki-Moon noted advances in the civilian protection regime, but clearly stressed how much more progress must be made. He was blunt in his criticism of both state and non-state actors in their disregard for civilian populations, and frequently cited the situation in Gaza in late December 2008 as an example.⁴⁸ Ki-Moon noted not only the many incidences of direct civilian harm, but the blatant restrictions put on access to humanitarian aid – which further exacerbated civilian suffering. Lastly, he also called upon the Security Council (SC) to demand accountability from all warring parties, and to use all legal means at their disposal to end impunity of perpetrators.⁴⁹ The Secretary-General recognized an important shift in armed conflict today. Most battles are no longer fought between two states. The majority of armed

⁴⁷ Ban Ki-Moon, *Report of the Secretary General on the Protection of Civilians in Armed Conflict*, (New York: United Nations, 2009), 6-16.

⁴⁸ Operation Cast Lead was a three week Israeli military response to rocket fire from the Gaza strip in the Palestinian territories beginning in late December, 2008. Air strikes initiated the Israeli campaign, then Israeli troops began a ground incursion into densely populated Palestinian cities. Civilian death occurred on both sides.

⁴⁹ *Ibid.*, 13-16.

conflict occurring since the 1990s involves at least one non-state actor. It follows therefore that if civilians are to be better protected, the international community must hold non-state actors as accountable as states for their actions during warfare.

The Challenge of Armed Non-State Actors:

Armed non-state actors denote individuals or groups who do not legitimately represent a nation/state. ANSAs are:

- (i) willing and capable to use violence for pursuing their objectives, (ii) not integrated into formalized state institutions such as regular armies, police or special forces, (iii) possess a certain autonomy with regards to politics, military operations, resources and infrastructure, and (iv) shaped through an organizational relationship or structure that exists over a specific period of time (spontaneous [protests] would not qualify).⁵⁰

Armed non-state actors have existed for as long as their counterpart – the state. For centuries, armed groups have challenged state authority, and states have responded with the goal of preserving that authority. ANSAs have further challenged customary law identifying the state as the sole legitimate entity in the use of force. States may respond with the use of force, but laws and norms exist limiting the use of force by states. The question remains however; how can the behavior of non-states be similarly influenced to conform to the norm of civilian protection? Of note, there are ANSAs that voluntarily adhere to the norm prohibiting civilian harm. Liberation groups such as the African National Congress (ANC) provide a specific example. Although the ANC deliberately took part in an

⁵⁰ Ulrich Schnechener, "Spoilers or Governance Actors? Engaging Armed Non-State Groups in Areas of Limited Statehood," *SFB Governance Working Paper Series No. 21*(2009): 8.

armed struggle against the apartheid regime in South Africa, its leadership formally renounced civilian targets.⁵¹ The purpose of this thesis is to better understand ANSAs that do not commit to the protection of civilians.

Ulrich Schnechener has developed a framework in which to analyze various ANSAs, their general characteristics, and their motivation. (see Table 3:1 below)

	Change vs. Status Quo	Territorial vs. Non-Territorial	Physical vs. Psychological Use of Violence	Political/Ideological vs. Profit-Driven Motivation
Rebels, Guerrillas	Change	Territorial	Physical	Political
Militias	Status quo	Territorial Non-territorial	Physical Psychological	Political
Clan Chiefs, Big Men	Status quo	Territorial	Physical	Political
Warlords	Status quo	Territorial	Physical Psychological	Profit-driven
Terrorists	Change	Non-territorial	Psychological	Political
Criminals, Mafia, Gangs	Status quo	Non-territorial	Psychological	Profit-driven
Mercenaries, PMCs/PSCs	Indifferent	Territorial	Physical	Profit-driven
Marauders, 'Sobels'	Indifferent	Non-territorial	Psychological	Profit-driven

TABLE 3:1 Types of Armed Non-State Actors

⁵² Schnechener, (2009)

Some ANSAs are viewed as potential allies in reduction of violence against civilians; some as spoilers. Some are motivated by political ideals; some by the goal of acquiring territory. Behavior of these groups is not static, and often groups can transition from one category to another, or exhibit a hybrid of descriptors. The objective is not to

⁵¹ John D. Battersby, "A.N.C. Acts to Halt Civilian Attacks." *New York Times*, August 21, 1988.

⁵² Ulrich Schnechener, *Spoilers or Governance Actors? Engaging Armed Non-State Groups in Areas of Limited Statehood*, SFB Governance Working Paper Series No. 21(2009):17

rigidly classify a non-state group; rather it is to learn about the group's behavior, particularly its violent conduct, and posit ways that behavior might be influenced. As can be seen in Table 3:1, ANSAs can use physical violence, psychological violence, or both to promote their cause. Strategies that aim to reduce violence must then promote norms that address both physical (civilian protection) and psychological (civilian immunity) aspects.

The case studies chosen for this thesis exemplify several types of the aforementioned ANSAs: rebels/guerrilla (Moro Islamic Liberation Front); hybrid of warlord and Big Man (Lord's Resistance Army); and a fluctuation between rebel/guerrilla and clan chiefs (National Transition Council). Whether the type of ANSA makes any difference to NGOs attempting to influence behavior will be discussed in my analysis of the case studies.

ANSAs are not party to treaties; nor are they recognized by the United Nations as having a voice at the "official" table. So the Secretary General's problem (as well as society's) is very real. This critique is well summarized in the 2011 Report of the Secretary General's Panel of Experts on Accountability in Sri Lanka:

Although non-state actors cannot formally become party to a human rights treaty, it is now increasingly accepted that non-state groups exercising de facto control over a part of a State's territory must respect fundamental human rights of persons in that territory. Various organs of the United Nations, including the Security Council, have repeatedly demanded that such actors respect human rights law. Although the Panel recognizes that there remains some difference of views on the subject among international actors, it proceeds on the assumption that, at a minimum, the LTTE [an ANSA] was bound to respect the most basic human rights of persons within its power, including the rights to life and physical security and

integrity of the person, and freedom from torture and cruel, inhuman or degrading treatment and punishment.⁵³

What then would compel a non-state actor to recognize and honor customary international humanitarian law, in particular the principle of distinction? Scholars, diplomats, in-the-field negotiators, and others have been both asking this question, and implementing possible answers into best practice these past five years. The landscape of warfare has changed, and traditional means of resolving conflict all too often fail. Innovative and constructive approaches are needed to engage players who may have little incentive to abide by customary law. If state power is the very thing an ANSA is fighting against, the opposing state will likely have little control over the behavior of the ANSA. If international organizations like the United Nations are not directly involved in a timely and effective fashion, civilians are at risk. Civil society and INGOs therefore have a void to fill, and a crucial role to play. They can do this primarily through two means:

- conflict resolution, thereby ending direct assault on civilians; or
- norm diffusion – making sure civilian protection becomes the standard principle guiding armed operations.

Claudia Hofman pioneered the research introducing this premise. Prior to her research published in 2012, there had been no systematic appraisal of the strengths and weaknesses of INGOs in their attempt to engage armed non-state actors. She gives two examples of an INGO engaging in conflict resolution: the Center for Humanitarian Dialogue with the Free Aceh Movement in Indonesia, and the Carter Center in Uganda with the Lord's Resistance Army, and examines the particular work of these INGOs in

⁵³ United Nations, *Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka*, by Marzuki Darusman, Steven Ratner, and Yasmin Sooka (New York: United Nations, 2011), 54.

negotiating a reduction in violence against civilians. Regarding norm diffusion, or the *penetration* of civilian protection into the modus operandi of an armed group, Hofman highlights two other INGOs: Geneva Call in persuading Kurdish groups like the PKK to stop landmine use; and the global efforts of the International Committee of the Red Cross (ICRC) to hold all warring parties to the principle of distinction between combatant and non-combatant.⁵⁴ Hofman is blunt in her assessment of both the weaknesses and the strengths of INGOs.

States and international organisations need to recognize the contribution that INGOs can make to their policies and priorities... [They] should consider awarding limited mandates to specialised INGOs to discuss individual issues with armed groups and extending unofficial support to selected INGOs in engaging armed actors. With greater support from the international community, INGOs' contributions could become more substantial and could complement other ongoing efforts to change the behaviour of armed groups. By understanding the individual strengths and weaknesses of INGOs, as well as their different goals and practices, it could become possible to combine approaches to overcome the weaknesses of individual approaches and to achieve a more comprehensive strategy for engaging non-state armed actors.⁵⁵

Whereas Hofman focuses primarily on the concrete means of civilian protection, ie; conflict resolution and norm diffusion, I am interested in two particular attributes of civil society and INGOs that enhance these means. INGOs with *access* to non-state actors, and *less negotiating constraints*, can work directly to decrease conflict and spread protection norms.

⁵⁴ Claudia Hofman, *Reasoning with Rebels*. Research Paper, (Berlin: German Institute for International and Security Affairs, 2012), 1-28.

⁵⁵ *Ibid.*, 6

Lastly, what is also important to the violence-reduction equation is the historical context within which each ANSA operates. The time period, as well as the social, political and economic circumstances of each armed conflict can all play a role in civilian harm. In the following chapter, I use case studies to evaluate why civilians were effectively protected in certain armed conflict situations, and not in others. Further, the case studies will help determine what role, if any, civil society and INGOs played in that protection.

CHAPTER 4:

Case Studies

So far, we have traced the history of civilian protection throughout the last century. We have concluded that civilian protection has become more effective for conflicts involving two states (interstate). Further, we know the vast majority of current armed conflict today involves a non-state actor, and statistically, these conflicts tend to result in major harm to civilians.

An interesting study of third party attempts to mediate intrastate conflict occurring in African states from 1993 to 2007 communicates the importance of third party intervention. Using the Uppsala Conflict Data Program, Croicu and colleagues examined 2500 events of peacekeeping during the study timeframe and found that two variables had a benign effect on the amount of violence after an intervention. First, former colonial powers, which often retain a vested self-interest in enhancing stability in a former colony, have a positive effect in reducing violence. Second, international organizations (IOs) and NGOs, which may be viewed as more neutral, and instead “motivated by general principles that connect to international law, and by a desire to cultivate a reputation for being successful in peacemaking,” also have the effect of reducing violence.⁵⁶ The Economic Community of West African States (ECOWAS) was specifically mentioned, as well as Sant’Egidio, an Italian INGO well respected for its mediation in armed conflicts. Both entities had *access* to ANSAs because of their reputation and their stated mission, and *fewer negotiating constraints* led to opportunity

⁵⁶ Mihai Croicu, et al. "Mediation and Violence: Searching For Third Party Intervention That Matters" (paper presented at the 48th annual convention of the International Studies Association, San Francisco, California, April, 2013).

to both deescalate conflict as well as spread the norm of civilian protection. My hypothesis will test whether civil society and NGOs engaging with ANSAs in the three case studies had similar success. In this chapter, I use three case studies, analyzing the degree of civilian harm involved, and the role of civil society. I am interested in determining whether the actions of civil society groups were instrumental in protecting civilians.

Case #1: The Lord's Resistance Army vs. Uganda

Historical Context of the Conflict and Extent of Civilian Harm:

The Lord's Resistance Army (LRA) began as an armed resistance group against the government of Uganda in 1986. The LRA persists to the present day, giving it the dubious distinction of causing one of Africa's most longstanding violent armed conflicts. Millions of civilians have been displaced; tens of thousands have died. There have been sputtered attempts to resolve the insurgency by four African governments, the African Union, the United Nations and the United States. Yet still the LRA remains, weakened significantly but active, to continue its reign of terror among the civilian population.

The history of post-colonial Uganda is similar to that of other African nations. Uganda was formerly a territory of the United Kingdom and achieved its independence in 1962. Until 1986, power and the presidency transferred back and forth between several individuals including Milton Obote, Idi Amin Dada, and Uganda's current president Yoweri Museveni – who himself came to power as the leader of a rebel group the

National Resistance Movement/Army.⁵⁷ Since then, Museveni is largely credited with creating a relatively successful economy in comparison to other African nations.

1986 also saw the formation of the LRA. Its leader Joseph Kony is from the northern part of Uganda known as the Acholi region. Initially, Kony characterized his movement as one intending to defend the rights of the marginalized Acholi people. Those in the region however, quickly realized that Kony had few political goals concerning their welfare. The LRA instead practiced mass murder, rape, and mutilation to perpetuate its terror. Losing public support, the LRA resorted to the abduction of children to continue its operations. “A 2006 study funded by UNICEF estimated that at least 66,000 children and youth had been abducted by the LRA between 1986 and 2006.”⁵⁸

Important to the history of the LRA is the Rwandan genocide and its aftermath.

Uganda joined Rwanda in intervening militarily in the Democratic Republic of Congo (DRC) in 1996 and 1998. During this period, a major war unfolded in Congo involving militaries from six African countries and a broad array of rebel groups. While much of the fighting was directly linked to ... the presence of Hutu militias seeking refuge in Congo, all of these military forces sought to exploit the rich natural resources in eastern Congo for their own benefit.”⁵⁹

The effect of these past military exploits remains today. The four African nations integrally involved in combatting LRA forces in 2014 continue to be deeply distrustful of each other’s motives, which ultimately impedes the LRA’s defeat.

⁵⁷ Enough Project, last updated 2014, *Beginnings in Uganda*. Accessed April 21, 2013. <http://www.enoughproject.org/conflicts/lra/beginnings-in-uganda>.

⁵⁸ United States Department of State, "The Lord's Resistance Army," *U.S. Department of State*. March 23, 2012. Accessed November 5, 2013. <http://www.state.gov/r/pa/prs/ps/2012/03/186734.htm>.

⁵⁹ Enough Project, last updated 2014, *Beginnings in Uganda*. Accessed April 21, 2013. <http://www.enoughproject.org/conflicts/lra/beginnings-in-uganda>.

Throughout the years, there have been several military attempts to neutralize the LRA threat which have all ended in failure. Some would rightly argue that Kony's response to each military deployment seeking his capture has only exacerbated civilian harm. In 2002, the Ugandan army launched Operation Iron Fist. Its aim was to crush the LRA insurgency. Its ultimate effect was the spread of LRA violence into three neighboring countries and the displacement of more than 1.7 million Ugandans.⁶⁰ Beginning in 1996, the Ugandan government had set up "protected villages" in efforts to reduce civilian harm. By 2004, these villages had morphed into squalid camps housing nearly eighty percent of the population of Northern Uganda, as characterized by The Resolve, a research and advocacy NGO focusing on the LRA crisis. "Within these camps, problems of starvation, poor sanitation, psychosocial trauma, lack of education, HIV/AIDS ... persisted on a gross level. In 2005, reports revealed that nearly one thousand people were dying each week as a result of camp conditions."⁶¹ The camps not only failed to protect civilians; the camps, in fact, contributed to civilian death.

Two important events occurred however, in late 2005. A referral to the International Criminal Court by the Ugandan government two years earlier culminated in arrest warrants issued for Joseph Kony and four of his top aides. Also, the LRA moved the base of their operations from Uganda to South Sudan, then to the Democratic Republic of Congo (DRC), and eventually to Central African Republic (CAR), making the LRA not only a Ugandan menace, but a regional threat.

Negotiations throughout 2006 and into 2008 failed to broker a peaceful resolution. Dubbed the Juba peace process (because meetings took place in the new South Sudan

⁶⁰ The Resolve, last updated July 2010, *The LRA Crisis: Basic History*. Accessed November 5, 2013. <http://www.theresolve.org/the-lra-crisis/basic-history/>.

⁶¹ Ibid.

capital of Juba), talks between LRA senior officers and the Ugandan government were unsuccessful in resolving the conflict. “Hope for a final agreement was sustained by a series of intermediary agreements, including one on transitional justice mechanisms in Uganda, and by the efforts of special envoys from the US, Europe, Africa and the UN to keep the parties at the table.”⁶² For his part, Kony reportedly ordered the execution of his top deputy Vincent Otti for being too in favor of a peace agreement. Kony also failed to show for a peace agreement signing ceremony in April 2008. With all factions growing frustrated, LRA attacks on civilians resumed. Mediators set a November 30th, 2008 deadline for Kony to sign an agreement, and in fact, Kony did meet with civil society leaders from Northern Uganda on November 29th. Unfortunately, they were unable to obtain his signature for a truce. Peace talks ended in failure, and the next wave of LRA terror began.

Operation Lightning Thunder was launched by the Ugandan military mid-December 2008. With an initial goal of routing LRA forces from Garamba National Park in DRC, the operation failed miserably, despite US financial and logistical support. LRA reprisal attacks, the so-called Christmas Massacres, killed hundreds of Congolese civilians. In the years since, LRA senior commanders have repeatedly been able to elude capture by shifting base operations between three countries (DRC, CAR and South Sudan), capitalizing on the inability of these three governments and Uganda to coordinate their efforts. Of note, there has not been an LRA attack on Ugandan soil since 2006. Museveni remains halfheartedly committed to disarmament efforts; as Ugandans are now for the most part protected. But he is keenly aware of a possible renewed incursion into Uganda’s northern territory, as there has been historical precedent.

⁶² Ibid.

The Role of Civil Society/NGOs in Civilian Protection:

According to the Office of the United Nations High Commissioner for Human Rights, the LRA's systematic violations of international law, human rights and international humanitarian law have resulted in more than 100,000 deaths, between 60,000 and 100,000 children abducted and 2.5 million people displaced.⁶³ These statistics provide a stark reminder of the lethal threat the LRA has wreaked upon the civilian population of Central Africa for more than twenty five years. There is now however, a marked decrease in fatalities stemming from LRA violence. Themner and Wallenstein, researchers focused on armed conflict note:

In the conflict between the Ugandan government and its allies, and the rebel groups LRA (Lord's Resistance Army) and ADF (Allied Democratic Forces), the fighting de-escalated in 2012 and *did not cross the 25 battle-related deaths threshold*. [emphasis mine] Both rebel groups are based outside Uganda, and Kampala is dependent on the assistance of neighbouring governments to be able to confront them... As for LRA, the group has split up into smaller units, moving over a large area and avoiding direct contact with enemy forces, making them difficult to track down.⁶⁴

The threat to civilians directly caused by the LRA is now in its twenty eighth year. Civilian death has been greatly attenuated, yet despite the military efforts of four African states, the violence continues. With historical precedent as support, civilians understandably distrust military intervention as the sole path to lasting protection. The

⁶³ United Nations, *Report of the Secretary-General on the Activities of the United Nations Regional Office for Central Africa and on the Lord's Resistance Army-affected Areas*, S.6971 (New York: United Nations, 2013), 5.

⁶⁴ Lotta Themner and Peter Wallenstein, "Armed Conflicts, 1946-2012," *Journal of Peace Research* (2013):7, accessed April 25, 2014, <http://jpr.sagepub.com/content/early/2013/06/28/0022343313494396.full#T3>.

capture, trial, and accountability of Joseph Kony for his crimes, and disarming of his troops seems a likelier final solution.

International NGOs such as Invisible Children, the Enough Project, Human Rights Watch, Resolve, Amnesty International, and others have been active in trying to end this crisis. In particular, they lobbied the U.S. Congress and the Bush and Obama Administrations to become more actively involved in ending the LRA threat. U.S. based activist groups took up the anti-LRA cause beginning 2004-2006. The pressure of these INGOs to capture Kony and relieve civilian suffering helped push President Obama to sign into law the “Lord’s Resistance Army Disarmament and Northern Uganda Recovery Act” in 2010. As required by this legislation, the Obama administration reported to U.S. Congress its “Strategy to Support the Disarmament of the LRA” that November. The strategy described four main objectives: protect civilians; capture Kony and LRA senior commanders; disarm, demobilize and reintegrate former LRA fighters; and provide humanitarian relief to affected communities. It further outlines “U.S. assistance in support of efforts of the government of Uganda and civil society to promote comprehensive reconstruction, transitional justice and reconciliation in Uganda.”⁶⁵ In response to this new American interest, thirty four African civil society organizations sent an “urgent appeal to President Obama” in December 2010 calling for the immediate implementation of the strategy. They noted the stated goal of increased civilian protection and urged the President to place top priority on this goal. The organizations were blunt in their assessments of the failures of both UN peacekeepers and their own national armies in keeping them safe. Despite the military engagement of four nations, and the presence

⁶⁵ The White House, *Strategy to Support the Disarmament of the Lord's Resistance Army*, Barak Obama, Report to United States Congress, (Washington D.C.: The White House, 2010), 1.

of UN “blue helmets”, LRA attacks were still occurring and civilians were still being harmed. The appeal ended by stating, “we have suffered so much from a war that is not our own and have often felt forgotten and ignored by our own governments and by the international community. This new strategy has given us hope.”⁶⁶ Partially in response to this pressure, President Obama authorized a deployment of one hundred military advisors in October 2011. By year’s end, the advisory force had taken up positions in CAR, South Sudan and DRC. Concurrently, the African Union designated the LRA a terrorist group in an effort to encourage regional cooperation towards the LRA’s defeat.

In addition, in 2012 the Lord’s Resistance Army garnered broad international public condemnation. Much of this attention was initiated by the release of a video, *Kony 2012*, which went viral on the internet and was viewed more than 100 million times. The producers of the video were from the NGO Invisible Children Inc. and they listed four goals for their campaign: make Kony infamous; increase civilian protection; pressure international governments to support regional efforts at stopping LRA violence; and the arrest and trial of Kony and his top commanders before the ICC.⁶⁷ Although an American-based NGO, the group has regional offices in Africa, and partners with civil society in Sudan, Uganda, CAR, and DRC to implement on-the-ground activities in Central Africa. Some of the more novel approaches to civilian protection include encouraging defections from the LRA by concrete means: FM radio, defection flyers, and

⁶⁶ Representatives from 34 civil society groups, “Urgent Appeal to President Obama from Central African Civil Society on Ending the Menace of the Lord’s Resistance Army,” *Human Rights Watch*. December 21, 2010. Accessed April 21, 2013. <http://www.hrw.org/news/2010/12/21/urgent-appeal-president-obama-central-african-civil-society-ending-menace-lords-resi>.

⁶⁷ Invisible Children Inc., *Kony 2012 Year In Review: Results*. Accessed November 5, 2013. <http://invisiblechildren.com/kony/#epic-progress>.

high frequency radio networks.⁶⁸ The Invisible Children website details the organization's:

investment in data-gathering since 2010, when it launched the LRA Crisis Tracker, broadcasting LRA movements and attacks based on information relayed via 71 high-frequency radios. The community reports are vetted through regional experts and updated to the tracker twice daily. The tracker provides an email subscription service, which Invisible Children says is used by state and military officials in the U.S. and central Africa, local communities, and other NGOs.⁶⁹

Local Civil Society:

Civil society in Uganda has also taken on an important role in civilian protection. Civilians recognize that the military alone cannot solve the LRA problem for a variety of reasons: national armies and their commanders distrust one another; the area of LRA operations is remote, densely forested, and often lacks communication capability; and LRA soldiers are often men and boys who have been abducted from the very villages in need of protection, not recruits who agree with Kony's ideology. Several Ugandan NGOs and religious groups have formed in order to address and exploit these particular nuances in the cause of better protection. Some of these are described below:

Jamii Ya Kupatanisha (JYAK) is the Ugandan branch of the INGO Fellowship of Reconciliation and a Swahili phrase which transliterates its name. The group began as a peace club in 1988 and has grown to become a national organization working on

⁶⁸ Ibid.

⁶⁹ Jessica Testa, "Two Years After KONY 2012, Has Invisible Children Grown Up?" *BuzzFeed News*. March 9. Accessed November 4, 2014. <http://www.buzzfeed.com/jtes/two-years-after-kony-2012-has-invisible-children-grown-up>.

peacebuilding, and since 2007, reintegration of childhood soldiers back into society.⁷⁰

JYAK has published four training manuals, and has worked with the Ministry of Education in Uganda on changing the culture of violence through peace building for Ugandan school children.

Center for Conflict Resolution (CECORE) has worked in the Great Lakes region of Africa since 1995. Its projects include working in the massive camps that have become home to millions of refugees seeking safety from the LRA, primarily by “training the trainers” in conflict resolution. The group is also involved in Peace Radio, and the Women’s Peace Initiative (prior and during the Juba talks). CECORE played an active role in Building Bridges, a program that promotes dialogue between two parties in an armed conflict and one which eventually led to an agreement between the Ugandan government and the United National Rebel Front II – a truce that holds to this day. Because of their experience in negotiating and resolving conflict, they are working in both a local and regional capacity to deflate LRA violence.⁷¹

Acholi Religious Leaders Peace Initiative (ARLPI) is an interfaith organization formed in 1997 as a “proactive” response to the violent conflict in northern Uganda. They work using dialogue between opposing factions, reconciliation, and peace building strategies.⁷² Concretely, ARLPI contributed to the development of the Ugandan Amnesty Act which granted former LRA foot soldiers, themselves often the victims of abduction and forced conscription, amnesty under certain conditions. They also brought international attention to the plight of the *night commuters*, children who travel from their

⁷⁰ “Jamii Ya Kupatanisha,” PeaceDirect, accessed November 8, 2014, <http://www.insightonconflict.org/conflicts/uganda/peacebuilding-organisations/jyak/n.d>.

⁷¹ “Center For Conflict Resolution, About Us,” 2012 CECORE Center For Conflict Resolution, accessed November 8, 2014, http://cecore.or.ug/?page_id=6.

⁷² “Acholi Religious Leaders Peace Initiative,” Accessed November 8, 2014. <http://www.arlpi.org/about-us>

remote villages nightly to elude possible abduction by sleeping outside in the streets of more populated cities. ARLPI partnered with groups such as Invisible Children, based in the United States, and organized a campaign wherein activists slept outside overnight in American cities to highlight the insecurity and danger faced by African children daily. This example demonstrates a strategic partnership between a grass roots, local NGO and a wealthy, international NGO combining strengths to address a specific need –in this case, the protection of central African children from roaming LRA units.

The Acholi Religious Leaders have offered to mediate the situation between state representatives and the forces loyal to the LRA multiple times. In 2008, rebel leaders had begun negotiations when a Ugandan military offensive drove them into neighboring countries, causing the current regional threat.

In 2010, Archbishop Odama of Gulu (then head of ARLPI) and Anglican Bishop MacLeod Baker Ochola II traveled to the U.S. and urged “U.S. officials to end the use of force in dealing with the LRA. They cited numerous occasions on [sic] which force did not work against the rebel group,” and in fact had led to a backlash of violence against civilians. Both men said that they did not oppose the Lord's Resistance Army Disarmament and Northern Uganda Recovery Act, signed by President Obama (described earlier), but were clear that non-military, complementary strategies were necessary to ultimately put an end to the violence. Of note, Bishop Ochola's daughter committed suicide in 1987 after being brutally attacked by the LRA ⁷³ giving him unique credibility in lobbying efforts as a bereaved family member, religious leader, and an Acholi citizen.

⁷³ Barb Frazee, “Ugandan Bishops Tell U.S. Leaders Military Option Won't Work Against Rebels,” *Catholic News Source* (2010): September 15, accessed November 8, 2014, <http://www.catholicnews.com/data/stories/cns/1003722.htm>

Youth United for Environmental Protection and Community Development

(JUPEDEC), is another such group. As a local NGO operating in CAR, it agrees that civil society has played a vital role in the hunt for Kony. Recognizing that the insurgency cannot end by military force alone, JUPEDEC acknowledges that the fight against the LRA will involve many actors: civil society, the church, the army and local authorities all must be mobilized to call for LRA members to defect. "The more we multiply military attacks, the more we aggravate the situation of the civilian population; hence the need to focus on encouraging defections. The LRA has been in existence for 26 years, and armed response has not been able to stop it," Alexis Lewis Mbolinani (JUPEDEC's coordinator) stated in 2012.⁷⁴

Civil society leaders from all countries affected by the LRA problem met [in October 2013] in Brussels with European and American activists. In a joint statement, they called for urgent action to end the atrocities perpetrated by the LRA, and to help affected communities recover from years of both psychological and physical trauma. "The LRA remains a critical situation in the region," said Archbishop of Kisangani Marcel Utembi from the DRC, "In order to overcome this crisis, we need a coordinated approach from every actor in the region, and increased support to local organizations working to help those most affected."⁷⁵

In sum, civil society groups have been involved in the conflict in a variety of ways: mediation, advocacy, demobilization, reintegration, transitional justice, and

⁷⁴ IRIN News, "CENTRAL AFRICAN REPUBLIC: Victims cry foul over Uganda's LRA strategy," October 20, 2012. Accessed April 8, 2014. <http://www.irinnews.org/report/96666/central-african-republic-victims-cry-foul-over-uganda-s-lra-strategy>

⁷⁵ Hirondelle News Agency, "Uganda: ICC and Civil Society Want More Action On LRA Atrocities," October 8, 2013. Accessed April 8, 2014. <http://www.hirondellenews.com/icc/320-collaboration-with-states/34396-81013-icclra-icc-and-civil-society-want-more-action-on-lra-atrocities>

education about safety. According to the U.S. State Department, “more than 12,000 former LRA fighters and abductees have left the group and been reintegrated through Uganda’s Amnesty Commission since 2000. Many more have escaped and returned to their communities without going through reception centers.”⁷⁶ More recently, a report written by Kasper Agger for the Enough Project entitled *Completing the Mission* detailed further success:

U.S. advisors and their African partners have made progress in significantly reducing LRA attacks, increasing LRA defections, improving human security and protection for civilians, increasing intelligence collection and analysis, and improving logistics with supply lines. LRA attacks have dropped by 53 percent over the past two years, and LRA killings decreased by 67 percent from 2011 to 2012. At least 31 Ugandan LRA fighters—15 percent of the core fighting force—have defected over the past 18 months. The number of defections this year exceeds those of the previous two years combined.⁷⁷

Examples of direct civil society involvement in partnership with the military include tracking the whereabouts of LRA members in the bush and informing authorities; putting in place early warning systems to warn neighboring communities by radio of approaching danger; and weekly security meetings with both African and U.S. advisors. Communication here can be bi-directional: locals adding to intelligence collection, and

⁷⁶ United States Department of State, "The Lord's Resistance Army." *Office of the Spokesperson*, 2012/448 (Washington D.C.: United States Department of State, 2012), 1. Accessed November 5, 2013. <http://www.state.gov/r/pa/prs/ps/2012/03/186734.htm>.

⁷⁷ Kasper Agger, "Completing the Mission: U.S. Special Forces Essential for Ending the LRA ," *Enough*. October 3, 2013. Accessed November 29, 2013. <http://www.enoughproject.org/reports/completing-mission-us-special-forces-are-essential-ending-lra>.

advisors passing on important information to the local community. All of the above efforts have combined to reduce civilian death, a welcome outcome.

Case Study #2: The Moro Islamic Liberation Front vs. the Philippine Government

Historical Context of the Conflict and Extent of Civilian Harm:

Conflict has existed for centuries on the large island of Mindanau, part of the Philippine archipelago. The island was initially settled by Muslim traders in the first millennium, long pre-dating the arrival of Spaniards in the seventeenth century. Whereas the island of Luzon (home to the modern capital city Manila), and many of the surrounding smaller islands were predominantly converted to Catholicism, Mindanau remained Islamic in its cultural, religious and political life. Hence the term ‘Moro’ has been used when referring to the inhabitants of Mindanau. In the 1960s, the government of the Philippines initiated a resettlement policy whereby Christians from northern islands were moved to the resource-rich south and western part of Mindanau. This government intervention is the root cause of the present day conflict in Mindanau. Muslim inhabitants were discriminated against, property was confiscated and re-allocated, and Christians were heavily favored in terms of the opportunity for employment and advancement. In the 1970s, native Muslims reacted to the new Christian elite majority by forming an armed resistance group known as the Moro Nationalist Liberation Front (MNLF). For more than three decades now, civilians have lived through alternating periods of armed conflict and peace negotiations.

The worst violence occurred from 1972-1976, during dictator Ferdinand Marcos’ presidency, when an estimated one hundred twenty thousand Filipinos were killed and

more than one million internally displaced persons were created.⁷⁸ Today the conflict continues, attenuated, yet still causing civilian harm.

The Tripoli Agreement, signed in 1976, did quell much of the large scale violence, but never provided a complete resolution. The negotiations were sponsored by the government of Libya and the Islamic Conference of Foreign Ministers, and agreed upon by the Marcos government of the Philippines and the MLNF. However, within a year the ceasefire collapsed and a splinter group, the Moro Islamic Liberation Front (MILF) was formed – a less conservative faction of the MNLF representing those frustrated by an unfulfilled promise of regional autonomy. With the Corazon Aquino administration of 1986 came new opportunities for real peace. In 1989, legislation was passed creating the Autonomous Region of Muslim Mindanao (ARMM), but also requiring a vote by plebiscite in the thirteen provinces and nine cities of the affected portion of Mindanao. Only four of the provinces voted for inclusion in ARMM, largely because other provinces now had a Christian majority stemming from migration policy initiated thirty years before. The MNLF broke off talks with the Aquino government, and the next phase of armed conflict resumed.⁷⁹

1996 marked yet another peace accord between the chairman of the MNLF, Nur Musari, and then president Fidel Ramos. This agreement established the Southern Philippines Council for Peace and Development, and set up special zones particularly targeted for economic development. In three years, provinces would again be asked to join the ARMM. Only one additional province voted yes to the plebiscite. The late 1990s

⁷⁸ Thomas McKenna, "The Origins of the Muslim Separatist Movement in the Philippines." *Asia Society*. Accessed November 29, 2013. <http://asiasociety.org/origins-muslim-separatist-movement-philippines?page=0,1>.

⁷⁹ Ibid.

also saw the waning influence of the MNLF (due to its failure to implement economic reforms and widespread corruption), prompting the further rise in power of the MILF. In April 2000, new president Joseph Estrada declared an “all-out war policy” against the MILF for alleged atrocities against civilians. Complicating most armed conflict in the Philippines however, is the presence of armed clans whose feuds date back centuries and can be mistaken for Moro insurgent activity.

Unlike her predecessor, the next president Gloria Arroyo issued an “all-out peace policy” toward the MILF. This cease fire was broken in 2003 when the Filipino military launched a new offensive in Central Mindanau against what was termed criminal elements. Talks hosted by the Malaysian government again led to a peace agreement. As described by Shiavo-Campo and Judd, “the Government – MILF Joint Ceasefire Coordinating Committee on the Cessation of Hostilities (JC-CCCH) was tasked to monitor any violation of the ceasefire agreement. It was also agreed during the exploratory talks to welcome an International Monitoring Team, led by Malaysia, to complement the work of the JC-CCCH and strengthen the peace process at the ground level.”⁸⁰ Several countries as well as INGOs serve in this role as international monitors. Nonviolent Peaceforce (NP) is one such organization I will focus on later.

Presently (2014), negotiations have again resumed between the MILF, which claims to represent the Bangsamoro people (the collective name of peoples living in Muslim majority Mindanau) and the Philippine government. The current president, Benigno Aquino, is now halfway through his six year term and seems committed to expending political capital to secure a lasting settlement. For their part, the MILF refuses

⁸⁰ The World Bank, *The Mindanau Conflict in the Philippines: Roots, Costs, and Potential Peace Dividend*, by Salvatore Shiavo-Campo and Mary Judd, 31822 (Washington D.C.: The World Bank, 2005), 3.

to lay down their arms until regional autonomy becomes a political reality. Many potential spoilers to a firm agreement remain, not the least of which is a possible constitutional challenge as to whether Mindanao can legally form independent political, judicial and legal systems, yet still remain part of the nation-state the Philippines.⁸¹

Statistically, civilian death has markedly decreased from the 1970s to present day. More than one hundred thousand civilians were killed during the first Marcos presidency (1972-1976).⁸² According to the Uppsala Conflict Data Program (UCDP), the armed conflict between the Philippine government and the MILF did not meet the threshold criteria of twenty five battle deaths to be included in their list of intrastate armed conflicts for 2012. That is a positive outcome. Unfortunately for civilians, conflict between the Philippine government and other armed groups, notably the radical Abu Sayyaf and the Bangsamoro Islamic Freedom Movement, did make the registry – with an estimated 114 battle deaths in 2012.⁸³

Civilian protection in Mindanao remains a serious issue. Western media have chosen to highlight several instances when tourists have been kidnapped and/or taken hostage. The instances of harm and death of Filipino civilians receives much less of a global spotlight. The looming menace of armed conflict remains an intractable problem,

⁸¹ International Crisis Group, *The Philippines: Breakthrough in Mindanao*, Asia Report No 240 (Jakarta: International Crisis Group, 2012), 2.

⁸² Thomas McKenna, "The Origins of the Muslim Separatist Movement in the Philippines." *Asia Society*. Accessed November 29, 2013. <http://asiasociety.org/origins-muslim-separatist-movement-philippines?page=0,1>

⁸³ Lotta Themner and Peter Wallensteen, "Armed Conflicts, 1946-2012," *Journal of Peace Research* (2013): 7. As defined by the UCDP, battle-related deaths are: fatalities that can be related to combat in a conflict dyad. The targets are usually the military itself and its installations, or state institutions and state representatives, but there is often substantial collateral damage in the form of civilians killed in crossfire, indiscriminate bombings, etc. All deaths – military as well as civilian – incurred in such situations are counted as battle-related deaths.

as civilians rightly remember instances of broken cease-fires and renewed fighting in 2000, 2003 and 2008.

The Role of Civil Society / NGOs in Civilian Protection:

While the public stance of the Philippine government concerning negotiations certainly plays a major role in engaging the MILF (“all out war” vs. “all out peace”), the role of civil society in decreasing civilian harm has also been crucial. INGOs such as Nonviolent Peaceforce and Geneva Call were specifically asked to become involved in ceasefire monitoring and abolition of landmines respectively.

Nonviolent Peaceforce (NP) was formed in 2002 as an organization dedicated to the concept of unarmed civilian peacekeeping. Although based in the state of Minnesota in the United States, delegates from forty nine countries representing various sectors of civil society met in India for the convening event. Within one year, Nonviolent Peaceforce had peacekeepers deployed and on the ground in their first mission in Sri Lanka.

The objectives of NP are fourfold:

- ✓ To foster a lasting peace between warring parties
- ✓ To protect civilians during violent conflict
- ✓ To promote the theory and practice of unarmed civilian peacekeeping
- ✓ To develop and train a pool of civilian peacekeepers willing to deploy to conflict zones

Further, Nonviolent Peaceforce abides by three guiding principles: nonviolence – weapons will never be carried or used by their peacekeepers; nonpartisanship – NP staff

will show no favoritism towards any faction involved in a conflict; and noninterference – NP has no preference in the outcome of the conflict.⁸⁴ The overarching goal is reduction in violence, regardless of its source.

Nonviolent Peaceforce was approached by civil society groups operating in the Mindanao area of the Philippines initially in 2003. These groups were interested in nonviolent methods to assist in resolving what was then a decades-old conflict. After a three year consultative phase, NP Philippines was officially launched in 2007. By 2010, NP employed fifty nine staff, and was engaged in the following activities:

- civilian protection to local and international human rights groups;
- accompaniment of victims of human rights violations and affected population;
- trainings [sic] in human rights protection and International Humanitarian Law (IHL), early warning for affected population and community based organizations;
- documentation and reporting of human rights violations;
- regular needs assessments among the affected population, especially Internally Displaced Persons (IDPs);
- organization and facilitation of dialogues and information-sharing meetings on security situation for international diplomats, local civil society organizations and representatives of the conflict parties;
- local and international cease-fire monitoring initiatives and structures.⁸⁵

NP partnered with local civil society organizations such as Consortium of Bangsamoro Civil Society Organizations, Ginapaladtaka (G7), United Youth for Peace and Development (UNYPAD), Chrislam, Magungaya Center for Palma Inc., Kadtuntaya Foundation Inc. (KFI), Mindanao Peoples Caucasus (MPC), Bantay Ceasefire,

⁸⁴ “About Nonviolent Peaceforce,” Accessed April 29, 2013, <http://www.nonviolentpeaceforce.org/about>

⁸⁵ Swisspeace, *Nonviolent Peaceforce: Evaluation of NP's Project in Mindanao, Philippines*, by Cordula Reimann, (Bern: Swisspeace, 2010), 10.

Bangsamoro Center for Just Peace (BCJP), Magungaya Mindanao Inc (MMI), Madia Center for Peace and Development (MCPD), and CSOs for Peace.⁸⁶ Because of their careful planning and strategic collaborations, NP in the Philippines was able to engage both state and non-state actors in their work.

Given the thirty year cycle of violence/ceasefire/violence, both the Philippine government and the MILF agreed to an International Monitoring Team (IMT) in 2004 as part of the peace process. A civilian protection component was added in 2009, and that year NP accepted the offer to join the IMT. The team primarily consists of non-Filipinos to enhance its neutrality. Their focus is to monitor and enforce the latest ceasefire. In April 2014, the IMT, which includes both military and civilian contingents, was reduced from its original sixty members to thirty six. The draw down in part stems from plans for the MILF and Philippine government to sign final peace accords by the end of 2014.⁸⁷

Since the region has a history of tenuous cease fires at best, the Coordinating Committees on the Cessation of Hostilities also proactively recognized the ability of outside individuals and groups to reignite conflict. For centuries, allegiance within the Philippine archipelago has often been to one's clan, not to a national identity. Further, "regular" criminal activity exists in the region as elsewhere. To separate out which armed clashes accurately involved MILF forces, and which involved apolitical, illegal misconduct or *rido* (clan dispute), the Ad Hoc Joint Action Group (AHJAG) was formed. AHJAG has four members; two from the MILF and two from the government. Their job is to prevent potential *spoilers* from derailing the peace process, an example of which

⁸⁶ Ibid., 11

⁸⁷ Gilbert Felongco, "Philippines: International monitoring team draws down forces." *gulfnews.com*, March 9, 2014. Accessed April 29, 2014. <http://gulfnews.com/news/world/philippines/philippines-international-monitoring-team-draws-down-forces-1.1301274>

was AHJAG intervention to win the release of a kidnapped police officer in Mindanao in December 2013 - which could have led to flare up of violence.

As noted above, groups other than the MILF and the Philippine government have contributed to renewed violence towards civilians. Just as surely, outside groups can contribute towards civilian protection. **Geneva Call** is another such group and a neutral and impartial humanitarian organization dedicated to engaging armed non-state actors (ANSAs) towards compliance with the norms of international humanitarian law (IHL) and human rights law (HRL). The organization focuses on ANSAs that operate outside effective state control and are primarily motivated by political goals.⁸⁸

Geneva Call has been operating in the Philippines since its inception in 2000. The INGO's original focus was the elimination of land mines, which had been used by both sides of the conflict throughout its history. The *Deed of Commitment for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action* is an instrument developed by Geneva Call which now has forty three NSA signatories, including three in the Philippines: the MILF, the Revolutionary Workers Party of Mindanao (RPM), and the Revolutionary Workers Party of the Philippines/ Revolutionary Proletarian Army-Alex Bocayo (RPM/RPA-ABB). Additional to their work on banning land mines,

Geneva Call co-organized three trainings [sic] of MILF members on human rights and international humanitarian law, including programs targeting women and youth. These training workshops were carried out in partnership with the International Committee of the Red Cross (ICRC) and local civil society actors, including the Institute for Bangsamoro Studies, the Southeast Asia Coalition to Stop the Use of Child Soldiers (SEACSUCS), and the Center for Muslim Youth Studies (CMYSI).

⁸⁸ "Humanitarian Norms," Geneva Call, accessed April 28, 2014, <http://www.genevacall.org/what-we-do/humanitarian-norms/>

Geneva Call also helped to facilitate the development of a joint government/MILF unexploded ordnance clearance program that will be undertaken by the Swiss Foundation for Mine Action (FSD) and local civil society actors.⁸⁹

In a novel collaboration between the MILF and the Government of the Republic of the Philippines (GRP), Geneva Call led a mission in 2009 to investigate allegations of landmine use by the MILF. As a signatory to the *Deed of Commitment*, the MILF had previously agreed to both internal and external monitoring of the land mine ban. Because there are no concrete enforcement mechanisms if an ANSA breaks its commitment and disregards the ban, it is adherence to the norm of landmine prohibition that holds the ANSA accountable. Of note, Nonviolent Peaceforce, as a trusted nonpartisan NGO, accompanied the mission team in its investigation. Ultimately, the team found that AP landmine use had occurred, but was not able to irrefutably identify the perpetrator. A member of the mission team, Eric David, Professor of International Law at the Free University of Brussels and legal and fact-finding expert, said, “As far as I am aware, this is the first time in the history of international relations that such a fact-finding mission has been carried out with the agreement of, and facilitation by, both parties to an armed conflict, in casu, a State and a non-State actor.”⁹⁰

The increased civilian protection offered by two international NGOs as illustrated in the conflict between the Philippine government and the MILF is exceptional. First, to have a purposefully unarmed “force” providing protection to civilians is distinctive. This ideal recalls the one-to-one protection afforded to Central American potential targets for

⁸⁹ “Mission,” Geneva Call, accessed December 7, 2013, <http://www.genevacall.org/who-we-are/>

⁹⁰ “Geneva Call Verification Mission in the Philippines finds evidence of AP mine use, but MILF responsibility not established,” Geneva Call, last modified March 26, 2010, <http://www.genevacall.org/geneva-call-verification-mission-philippines-finds-evidence-ap-mine-use-milf-responsibility-established/>

assassination by groups such as Witness For Peace⁹¹ in the 1980s. It is also an ideal that has attracted the attention of policymakers in recent years. Both the United States Institute for Peace and the United Nations Institute for Training and Research held conferences on the practice of unarmed civilian peacekeeping in 2012. Practitioners from the field in both Sudan and the Philippines placed an:

emphasis on the need to integrate civil society into UN peacekeeping efforts on a collaborative basis, as different actors have limitations and can complement each other. Speakers pointed out that unarmed civilian peacekeepers often have an enhanced knowledge of and access to local communities, which facilitate their interaction with different stakeholders at the local level ... and stressed the necessity for both local and national strategies to find political solutions and address the causes of conflict.⁹²

Second, an INGO (Geneva Call) led the mission to investigate possible landmine use. This unique circumstance provides an example of how a specialized INGO can render unique services that ultimately increase civilian protection. Again, since an ANSA cannot be a signatory to a ban on landmines, Geneva Call filled the void in both creating the Deed of Commitment, and working towards the accountability of all parties involved in an armed conflict that includes landmine use.

⁹¹ Witness For Peace was a NGO that provided accompaniment to individuals who were targeted for assassination in Central America during the civil wars in Guatemala, Honduras and El Salvador. Those providing accompaniment were often Americans with the rationalization that the targeted person would be better protected if a U.S. citizen were present as an observer.

⁹² United Nations Institute for Training and Research, "Unarmed Civilian Peacekeeping: Has Its Time Come?" *United Nations Institute for Training and Research: About Us*. September, 2012. Accessed December 10, 2014. <http://www.unitar.org/unarmed-civilian-peacekeeping-has-its-time-come>

Case Study # 3: Libya vs. National Transition Council

Historical Context of the Conflict and Extent of Civilian Harm:

The beginnings of the Libyan conflict center largely in what has popularly been known as the “Arab Spring.” Set off by the overthrow of Tunisian president Ben Ali, and fueled by the call for Egyptian president Mubarak’s resignation, Libyans began publicly expressing their discontent in early 2011. By October 2011, the conflict had formally ended, and Colonel Qaddafi was dead.

Muammar Qaddafi deposed then King Idris I in 1969 in the “bloodless coup.” Qaddafi immediately abolished the Libyan Constitution, and enunciated his political philosophy in *The Green Book*, published in 1975. In theory, Qaddafi attempted to form a direct democracy through a system of people’s committees and the indirectly elected General People’s Congress. In practice, the committees proved little more than a reward system for Qaddafi supporters and loyalists. Political opposition parties were outlawed, and there was no freedom of the press as both the media and internet service providers were state run. Labor unions were prohibited. Non-governmental organizations were allowed to exist, but at a minimum, were indirectly connected to the Qaddafi regime.¹⁰⁵ Of note, Qaddafi himself held no real title within Libya, having “resigned” in 1977. The official leadership was the Socialist People's Libyan Arab Jamahiriya (“the state of the masses”), although by accounts both national and worldwide, Qaddafi retained almost exclusive power.

¹⁰⁵ Freedom House 2011, *Freedom In the World: Libya*. Accessed April 26, 2013. http://www.freedomhouse.org/report/freedom-world/2011/libya#.U2Zi_Vfi2LE

For all its shortcomings, there were enormous gains in the lives of most Libyans during the Qaddafi years. According to a United Nations International Children's Education Fund (UNICEF) report in 2009, Libya had:

- a buoyant growth rate, with GDP having risen from \$27.3 billion in 1998 to \$93.2 billion by 2009 according to the World Bank;
- high per capita income (estimated by the World Bank at \$16,430);
- high literacy rates (95 per cent for males and 78 percent for females aged fifteen and above);
- high life expectancy at birth (74 years overall; 77 for females and 72 for males); and
- a consequent ranking of 55 out of 182 countries in terms of overall "Human Development".¹⁰⁶

Despite these gains, Libyans were aware of the marked disparity in wealth between the Qaddafi family and close loyalists, and the average Libyan. According to the International Crisis Group:

an important element of Libyan public opinion, at least, had come to see things differently and, instead of comparing present conditions to the past, compared them instead to the impressions they have of conditions in other oil-rich Arab countries. Given a population of a mere six million, many Libyans believe their country ought to resemble Dubai.¹⁰⁷

Indeed it was this exact economic inequality that Qaddafi himself initially tried capitalize on by blaming "the government" in January 2011 for the housing shortage and encouraging Libyans to take what was rightfully theirs. Popular unrest, awareness of current events in Tunisia and Egypt, and the arrest of an admired lawyer Fathi Terbil in

¹⁰⁶ International Crisis Group, *Popular Protest in North Africa and Middle East (V): Making Sense of Libya*, Middle East/North Africa Report No 107 (Cairo: International Crisis Group, 2011), 1-2.

¹⁰⁷ Ibid., 2

Benghazi all combined to lead to the first public demonstrations against the state in mid-February 2011. The Libyan conflict was born.

February 17th 2011 had been marked by the Muslim diaspora as “The Day of Rage,” the anniversary of the publication of a Danish cartoon perceived as an insult to the prophet Muhammad. Libyan opposition groups capitalized on this sentiment and began calling for massive public demonstrations around the country to express a deeper discontent with the current economic and political situation. Protests happened in several cities, including Benghazi and Tripoli, and protestors were fired on by police and security forces. The conflict escalated over the next week, and confirmed reports of aerial targeting of civilians by government security forces soon garnered worldwide attention. (Although Western media was characterized by the International Crisis Group as one sided, there were several global news outlets reporting on the rioting, looting and burning of official state buildings by the protestors also.) Ahmed Jibril, a Libyan diplomat who joined the protesters, explained:

Qaddafi’s guards started shooting people in [sic] the second day, and they shot two people only. We had on that day in Al-Baida city only 300 protesters. When they killed two people, we had more than 5,000 at their funeral, and when they killed fifteen people the next day, we had more than 50,000 the following day This means that the more Qaddafi kills people, the more people go into the streets.¹⁰⁸

By February 26th, acting with unusual alacrity, the United Nations Security Council unanimously approved Resolution 1970 – notable because it marked the first time a state had been referred to the International Criminal Court. Further, Resolution

¹⁰⁸ "Libya Focus," *Menas Associates*. February, 2011. Accessed April 26, 2013. <http://www.menas.co.uk/search.aspx?menuid=14&a=1&r=1&q=libya+focus+february+2011&csurl=http%3a%2f%2fwww.menas.co.uk%2fhome.aspx>.

1970 implemented an arms embargo, restricted travel on certain regime members and froze assets. Key to the resolution's unanimity was the defection of the Libyan ambassador to the United Nations, Ibrahim Dabbashi, who convinced other Council members to vote in favor. In public statements, Dabbashi went on to:

thank Council Members for their unanimous action, which represented moral support for his people, who were resisting the attacks. The resolution would be a signal that an end must be put to the fascist regime in Tripoli. He launched an appeal to all the officers of the Libyan armed forces to support their own people and renounce their support for Muammar Al-Qadhafi, whom he called 'criminal' and whom he said was prepared to go to extremes to keep up the repression.¹⁰⁹

On March 17, 2011 the U.N. deepened its commitment to the Libyan opposition by passing Resolution 1973 which explicitly stated civilian protection as its goal. Ten Security Council members voted in favor; none opposed; and five, including permanent members Russia and China abstained. Resolution 1973 authorized a "no-fly zone" over Libya and approved "all necessary means" to protect civilians, except by a foreign occupying force. Within days, French forces and others had crippled the Libyan air capabilities, allowing the opposition to survive and gain crucial support. On March 31st, NATO officially took over operational command of the no-fly zone, legitimizing the intervention as an international effort rather than that of a singular nation.

Who exactly comprised the Libyan opposition at this point? It is a difficult question to both quantify and qualify. The most well-known opposition unit was the Libyan Islamic

¹⁰⁹ United Nations Department of Public Information, "In Swift, Decisive Action, Security Council Imposes Tough Measures on Libyan Regime, Adopting Resolution 1970 in Wake of Crackdown on Protesters," *News and Media Division*. February 26, 2011. Accessed April 27, 2013. <http://www.un.org/News/Press/docs/2011/sc10187.doc.htm>. 2011

Fighting Group. However, also battling were every day Libyans who made up the self-proclaimed National Liberation Army, “young men — students, artists, athletes, doctors, lawyers and yes, some Islamists — (who) left their homes to take on Gadhafi's army. Their strength was thought to lie in their diversity, in their willingness to fight and to die for the right to live outside of Gadhafi's brutal autocratic grip.”¹¹⁰ Ultimately, the various factions of the opposition melded into what became known as the National Transitional Council (NTC) – united in their demand for the ouster of Qaddafi, and goal of new Libyan leadership.

By June, 2011, the conflict had become a stalemate. Gains and losses were traded by both sides over the summer, with control of Tripoli the perceived yardstick of victory. This happened on August 22 when opposition forces took the capital. Politically, important recognition of the NTC as the de facto government of Libya came from the United Nations and the World Bank less than a month later, in September.

Qaddafi was killed by extrajudicial means on October 20, 2011, formally marking the end of the conflict. Subsequently, the NTC gained increased international recognition as the governing entity of Libya, giving the interim council badly needed public, financial and political support. The revolution was over, and the difficult task of rebuilding and governing Libya began. Once the armed conflict had subsided, the new Libya could lay down its weapons, and take stock of its loss.

According to the Uppsala Conflict Data Program, one-sided violence is the use of armed force, by the government of a state or by a formally organized group, against civilians which results in at least 25 deaths in a year. During the eight months of armed

¹¹⁰ Lourdes Garcia-Navarro, "As Tide Turns, Rebels' Dream Of 'Free Libya' Dims." National Public Radio Special Series. March 16, 2011. Accessed April 27, 2013. <http://www.npr.org/2011/03/16/134594253/as-tide-turns-rebels-dream-of-free-libya-dims>.

conflict between the government of Libya and the National Transition Council, estimates of civilian death span a range from 2422 civilian casualties according to the Uppsala Conflict Data Program,¹¹¹ to several thousands of civilian casualties caused by Qaddafi forces, the *thuwar* (revolutionary forces) and NATO combined as measured by the UN Human Rights Commission on Libya.¹¹² The wide disparity may exist because the Uppsala group requires confirmation from two sources before including a death in their data set.

The Role of Civil Society / NGOs in Protection of Civilians:

The Libyan conflict started out as civil society's peaceful protests over a dictator's absolute grip on power. Initially, civilian Libyans were not armed. But as the state's response to protests became more violent, civil society's counter response saw an exponential increase in civilian participation, some of whom chose to arm themselves. As established, most conflict today involves a non-state actor. However, the designation of non-state actor does not always follow a neat algorithm. The Libya/NTC conflict highlights this issue, and is important because segments of civil society quickly joined the armed group to create a council (the NTC) comprised mainly of civil society actors.

The resistance fighters gradually organized themselves into geographically rooted militias (or *kataeb*), each led by a single military commander, who was often recruited from the ranks of defectors from the national army. Communication constraints prevailing in the early phase of the conflict

¹¹¹ Uppsala Conflict Data Program, "UCDP Battle-Related Deaths Dataset 1989-2013," Uppsala University (2014), http://www.pcr.uu.se/research/ucdp/datasets/ucdp_battle-related_deaths_dataset/

¹¹² United Nations, *Report of the Independent Commission of Inquiry on Libya*, Human Rights Commission (New York: United Nations, 2012) 149-170.

prevented the *kataeb* from fusing into a unified military structure with a single chain of command.¹¹³

In essence, sectors of civil society *became* the armed non-state actor – the National Transitional Council. By the first week of March, 2011, the National Transitional Council had established itself as the principal coordinating group of the rebelling factions. The Council was made up of a wide swath of civil society: activists, lawyers, academics, former military, persons representing political prisoners, businessmen, and its initial president was the first high ranking defector from the Qaddafi regime, the Minister of Justice.¹¹⁴

The NTC was complemented by a military council set up to coordinate armed activities that oversaw at least some of the opposition troops. As the conflict progressed, the NTC affirmed its commitment to International Humanitarian Law [IHL] by issuing ‘codes of conduct’ on the treatment of detainees and prisoners, and a frontline manual on the fundamental rules of IHL.¹¹⁵

Thus, as a non-state actor comprised of segments of Libyan civil society, the NTC was able to influence the behavior of its members through norm diffusion. The “rules of conflict” were disseminated among the *thumar* both verbally and in print. Further, the Report of the Independent Commission of Inquiry on Libya determined that the organization of the *thumar* and the intensity of the violence gave rise to a *non-international armed conflict* which triggered the application of international humanitarian

¹¹³ Kubo Macak and Noam Zamir, "The Applicability of International Humanitarian Law to the Conflict in Libya," *International Community Law Review* 14 (2012):408.

¹¹⁴ Dan Murphy, "The Members of Libya's National Transitional Council." *Christian Science Monitor*, September 2, 2011, <http://www.csmonitor.com/World/Backchannels/2011/0902/The-members-of-Libya-s-National-Transitional-Council.2011>

¹¹⁵ Kubo Macak and Noam Zamir, "The Applicability of International Humanitarian Law to the Conflict in Libya," *International Community Law Review* 14 (2012):409.

law, and more specifically Protocol II and Common Article 3. On March 19, 2011, an international coalition joined the conflict and began employing force through aerial targeted bombing to enforce Resolution 1973. Because of this, the Commission found that the necessary elements of an *international armed conflict* had also been fulfilled. The Commission further concluded that this was legally separate from the non-international armed conflict, and was thus a “co-existing international armed conflict.”¹¹⁶ The terminology concerning the Libyan conflict is important both legally and academically. The determination of co-existing conflicts holds all parties accountable: the government of Libya as a signatory to various treaties and conventions; NATO as an “instrument” of the United Nations in this context, and the NTC as a non-state party to an armed conflict that if it were to receive formal recognition, would want to be viewed as observant of common international humanitarian standards.

NGOs played a role in mitigating civilian casualties both during the active phase of the conflict, and its aftermath. As early as April of 2011, three Libyan experts began conducting workshops in Eastern Libya to help community leaders build civil capacity, reaching over one hundred eighty participants. The core training revolved around how to effectively plan, implement and monitor relief and development programs. The NTC had recently established a committee to oversee humanitarian activities, and civil society was beginning to organize its response regarding the effects of the armed conflict on a civilian population, as well as its hopes for the future of Libya. NGO projects at this point tended to focus on emergency relief, and assistance for displaced persons.¹¹⁷ As the war

¹¹⁶ United Nations, *Report of the Independent Commission of Inquiry on Libya*, Human Rights Commission (New York: United Nations, 2012), paragraph 4-28.

¹¹⁷ “Civil Society Training Workshops,” *Humanitarian Forum*, accessed December 10, 2014, <http://humanitarianforum.org/pages/en/civil-society-training-wo>

progressed, NGOs active both inside and outside Libya began to fill the civil vacuum. The **New Libya Foundation** is one such group, and was founded very early on in the conflict (February 25, 2011). Its mission is to “nurture the successful development of civil society organizations in Libya through training, education, access to resources and financial assistance. Our vision is broad with our immediate focus on: civic engagement, inclusiveness, and association.”¹¹⁸ The Foundation has also set up an “Incubator Center” which organizes networking events for Libyan civil society to meet and interact with government officials, international organizations, funders and other elites. This is important because although the *new* Libya has a General National Congress comprised of elected representatives, the bulk of the work and decision making regarding political life comes from local councils. Sadat el-Badri, chairman of the Tripoli Local Council, says that while he classifies his organization as “government” more than “civil society”, he admits that seventy to eighty percent of the activity is done by NGOs.¹¹⁹ As a fledgling democracy, participation by civil society is essential. Without the rule of law, new political structures, and a civil society empowered as a true stakeholder in the future of Libya, the country could devolve back into conflict and chaos. NGOs serve an important role in moving forward. **Libyan Human Rights Solidarity** and the **World Organization Against Torture (OMCT)** are two such examples. Khaled Saleh, Secretary General of the Libyan Human Rights Solidarity group visited the eastern city of Benghazi in August of 2011. Although based in Switzerland, Saleh saw that:

¹¹⁸ New Libya Foundation, “About Us,” Accessed May 3, 2013.
<http://www.newlibyafoundation.org/?p=811>

¹¹⁹ Fadil Aliriza, *ForeignPolicy.com*. August 16, 2013. Accessed May 2, 2014.
http://www.foreignpolicy.com/articles/2013/08/16/libyas_unarmed_revolutionaries 2013

As an organization, it was important to be present and to work inside Libya in order to promote the culture of human rights on the largest scale. At the moment, we have an office in Benghazi that has started to organize conferences and training courses to raise Libyans' awareness about human rights. We will organize the first training course for a group of lawyers, jointly with the Cairo Institute for Human Rights.¹²⁰

Libyan Human Rights Solidarity was also actively involved in training rebels in international humanitarian law, specifically the treatment of prisoners from Qaddafi's forces. Similarly, the World Organization Against Torture began its work in Libya in 1996, focusing on the maltreatment of prisoners. Since the 2011 revolution began, "it has been accompanying civil society in fighting against torture and supporting legal reforms."

¹²¹ More recently in 2013, the NGO organized the workshop *Uniting Public Institutions and Civil Society to Monitor and Implement the New Law Against Torture: Challenges and Prospects*. The workshop was in response to the Libyan General National Council passing new laws forbidding the use of torture and prohibiting forced disappearances, common practices during the Qaddafi regime.

Lastly, the well-known international non-governmental organization **ACTED** has been operating in Libya since early 2012. Its main office is in Tripoli, although there are thirty nine national and two international staff spread throughout the country. Two of ACTED's main projects are to "support the emergence and development of civil society in Libya" and to "enhance the civil and political participation of youth in Libya."¹²²

¹²⁰ Mohamed Cherif, "NGO champions human rights in Libya." *SWI*. August 20, 2011. Accessed December 10, 2014. <http://swissinfo.ch/eng/ngo-champions-human-rights-in-libya/3> 2011

¹²¹ World Organization Against Torture, "Libya: Libyan public institutions and NGOs draft '10 Steps to End Torture'," *OMCT.org*. April 25, 2013. Accessed December 10, 2014. <http://www.omct.org/events/libya/2013/04/d22233/?prn=12013>

¹²² ACTED, "Libya," *ACTED*. Accessed December 10, 2014. <http://www.acted.org/en/libya>

Libyans under the age of forty have only ever known political life under a dictator.

Freedom of the press, freedom to assemble, and freedom of association are all nascent concepts for two generations of Libyans. The advocacy and skill-based training provided by ACTED and other NGOs not only help fill a void in political and civic life, they are a barrier to a return to authoritarian rule.

As reflected in the discussion above, the role of civil society in Libya has been more important post-conflict than during the seven months of actual heavy fighting. During the active phase of armed conflict, top priority was placed on physical security, and the link between civil society and decreasing civilian death was relatively weak. Instead, civil society has been developing the vital capacity to reduce future conflict. As stated prior, NGOs in Libya were not allowed to exist unless they were sponsored by a member of Qaddafi's family or political ally. Political parties were outlawed. Free speech was nonexistent. Further, throughout Qaddafi's forty year rule, there were no independent human rights organizations or other civil society groups.¹²³ Since the end of the Libyan conflict, *thousands* of NGOs have been formed, representing the interests of a wide swath of Libyan civil society. These NGOs are necessary in their work to involve ordinary Libyans in government institutions and decision making. In the aftermath of the revolution, armed militias were the groups with the most influence over newly elected public officials. Guns then held more sway than ballots. Currently, in 2014, armed factions within Libya are still fighting each other, although the battle related death threshold of twenty five has not been reached. NGOs play a vital role in tempering the violence and providing alternatives to weapons as a means to settle dispute. Many NGOs

¹²³ United Nations, *Report of the Independent Commission of Inquiry on Libya*, Human Rights Commission (New York: United Nations, 2012) , 37

working on governance, rule of law, and democratic ideals offer hope for an alternative future. In this way, Libya is setting precedent for other post-conflict transitions involving an armed non-state actor.

The 2011 situation in Libya further provided a test case of whether the United Nations would be held accountable for its 2009 recommendations regarding protection of civilians. Security Council Resolution 1973, passed on March 17, 2011 had the express intent of protecting civilians. Its language clearly invoked the Responsibility to Protect paradigm.

The Security Council ... expressing grave concern at the deteriorating situation, the escalation of violence, and the heavy civilian casualties, Reiterating the responsibility of the Libyan authorities to protect the Libyan population and reaffirming that parties to armed conflicts bear the primary responsibility to take all feasible steps to ensure the protection of civilians, ... Demands the immediate establishment of a cease-fire and a complete end to violence and all attacks against, and abuses of, civilians;¹²⁵

The frenzy of diplomacy and relative speed with which the UN passed Resolution 1973 in 2011 marked a stark departure from the inaction of the United Nations in Rwanda in 1994. Widespread protests had begun in Libya in mid-February. Within a month the international community acted, approving a no fly zone over Libya and authorizing *all necessary measures* to protect civilians. Later in 2011 however, the international community did not take similar decisive action in Syria, where armed resistance groups were demanding the ouster of President Assad. Instead, the U.N. Security Council deadlocked, and could not reach a unanimous vote regarding

¹²⁵ United Nations Security Council, "Resolution 1973," (New York: United Nations), March 17, 2011.

intervention. There were legitimate questions as to whether civilian protection was the sole reason for international intervention in Libya, and critics alleged that the ouster of Qaddafi was the true primary objective. In part because of the removal of a head of state from power, Russia and China declined to authorize another U.N. Security Council resolution permitting international involvement in Syria similar to Resolution 1973 concerning Libya.

The conflicts in Libya and Syria both started out as peaceful protests by civil society. The estimated civilian death in Syria between March 2011 and April 2014 is now more than 190,000 persons.¹²⁶ From 2012-2014, the number of civilian deaths in Libya did *not* meet the threshold mark of twenty five to be included in the Uppsala Conflict Data Program. Scholars and policy decision makers continue to debate whether the swift decision by the United Nations Security Council sanctioning international intervention in Libya led to the relatively short lived armed conflict there. It is certain however that ultimately, Libyan civilians were better protected, and through a variety of instruments:

- the U.N. Security Council basing its intervention on principles contained within the Responsibility to Protect paradigm
- various sectors of civil society who then became the armed non-state actor were made aware of international humanitarian law during armed conflict. This gave the insurgency a legitimacy both within the civilian population that they would be rightly protected if the ANSA did indeed seize power

¹²⁶ Nick Cumming-Bruce, "Death Toll in Syria Estimated at 190,000." *The New York Times*, August 23, 2014: A8. http://www.nytimes.com/2014/08/23/world/middleeast/un-raises-estimate-of-dead-in-syrian-conflict-to-191000.html?_r=0

from state forces, and within the international community that the NTC was a serious entity committed to basic humanitarian principles

- the rise of non-governmental organizations, post-conflict, focused on governance and rule of law in a country that previously had few to none.

The Libyan conflict, like most modern conflict, was a complex situation with rapidly changing events. As the U.N. Report of the Independent Commission of Inquiry on Libya has documented, all actors within the conflict caused civilian death. However, it was the National Transitional Council itself, as the ANSA, which allowed for the opportunity for the creation of civil society groups and NGOs. Non-withstanding the external pressure from the international community during war, ongoing pressure from NGOs and civil society groups helped lead to internalization of the norm of civilian protection in Libya.

Chapter 5

Conclusion and Recommendations: Towards Better Protection of Civilians

The vast majority of today's armed conflicts involve at least one armed non-state actor. Decreasing armed conflict and its pursuant harm to civilians is a common goal shared by the global community. I argued in this thesis that any approach to decreasing civilian death during armed conflict must thus include engaging non-state actors.

Civil society and international non-governmental organizations (I/NGOs) have a unique and crucial role in influencing the behavior of a non-state actor. If the norm of civilian protection is to be appropriately expanded to include conflicts involving armed non-state actors, it is imperative that civil society actors, who have greater access and fewer negotiating constraints than states, be treated as partners in the process of norm expansion.

Civilians are less likely to die and more likely to be better protected physically when an armed conflict is state – state. Conventions, international law, and the norm expansion of protection guaranteed to civilians have all contributed to this positive outcome since World War II. When the armed conflict involves a non-state actor, however, civilians remain at higher risk for death. The challenge therefore is how to expand the norm of civilian protection to encompass the behavior of armed non-state actors (ANSAs).

Civil society and international NGOs can assist in the process of norm expansion to ANSAs. First, they have fewer constraints placed upon them than state actors. NGOs have their own mission and by-laws. They are accountable to a board of directors or similar entity, not a nation/state, nor government agency. Whereas the state may have the publicly declared policy of non-negotiation with non-state actors (or substitute the nom de guerre “terrorists”, “rebels”, or “insurgents” here), it may well be the *explicit* mission and role of an international NGO to negotiate with the non-state actor – thereby relieving the state from this function, and allowing a specialized NGO or specific sector of civil society to take on this vital role instead. For example, in Colombia, “the President officially appointed the Catholic Church as channel for negotiations with the Fuerzas Armadas Revolucionarias de Colombia (FARC), despite this group's presence on [terror watch] lists maintained by the United States and the EU. [Another example is the case of third party mediators engaging in] regular talks with all sides of the Israeli–Palestinian conflict, including Hamas.”¹²⁷

In this thesis, I focused on three case studies to test the hypothesis that civil society and NGOs are necessary interlocutors in conflict involving a non-state actor. Civil society assists in expanding the norm of civilian protection in a variety of ways, *access* to ANSAs and *fewer negotiating constraints* being two of the most crucial. Each of the case studies below clearly illustrates the role that civil society and international NGOs were able to take on because of decreased negotiating constraints:

1. In the conflict between Uganda and the Lord’s Resistance Army (LRA), it was civil society leaders who met directly with senior LRA representatives

¹²⁷ Nicolas Florquin and Elisabeth Decrey Warner, “Engaging Non-State Armed Groups or Listing Terrorists? Implications for the Arms Control Community,” *Disarmament Forum*, April (2008), 19.

to try to broker a peace agreement in 2008. This occurred after the Juba peace process between the LRA and the Ugandan government collapsed.

2. In the Philippines, where successive administrations refused communication with the Moro Islamic Liberation Front (MILF), two specialized INGOs are involved in negotiations and ceasefire monitoring. Nonviolent Peaceforce is playing an active role in unarmed civilian peacekeeping, and meets with representatives of all sides of the conflict to discuss and review standards of international humanitarian law. The second INGO, Geneva Call, is engaging ANSAs in two ways: negotiating with ANSA leadership to become a signatory to the Deed of Commitment for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action, and leading the de-mining efforts in the Mindanau area.
3. The case study of the conflict between Libya and the National Transition Council (NTC) is unique, but presents clear evidence for the role of civil society in negotiations. Members of the Libyan government defected and became de facto members of civil society. Ahmed Jibril, a Libyan diplomat; Ibrahim Dabbashi, Libya's ambassador to the United Nations; and Moustafa Jalil, former Minister of Justice turned first head of the NTC are three such examples. In my definition of civil society, I included epistemic communities which can influence collective opinion. These former governmental elites each went on to help negotiate an end to the conflict by engaging with both the international community, and the

National Transition Council; soliciting the former for political support and assistance to end the fighting, and influencing the latter to uphold humanitarian law.

The second crucial manner in which civil society and international NGOs assist in the process of norm expansion to ANSAs is through access. INGOs have entrée to the non-state actor not always granted to states or their representatives. Some NGOs are already an established presence in the geographical area of conflict. They may have an existing relationship with the ANSA, or members of the ANSA, that precedes the armed conflict. Other NGOs rely on their reputation to gain entrée, such as the International Committee of the Red Cross. Still other NGOs have a specialized service or skillset that the ANSA may see as desirable. All the above qualities can open the door to communication, build trust, and improve access, as illustrated in the case studies below:

1. In the conflict between Uganda and the Lord's Resistance Army (LRA), civil society and Ugandan NGOs had access to the LRA because they live and work in the communities most affected. Civil society is instrumental in tracking LRA movement and attacks, and reporting this information via radio to authorities and neighboring communities to prevent further civilian harm. The INGO Kony 2012 was instrumental in building the infrastructure necessary for radio communications. Additionally, several Ugandan NGOs fill the role of assisting former LRA soldiers to demobilize and reintegrate within their communities.
2. In the Philippines, the INGOs Nonviolent Peaceforce and Geneva Call both gained access to the MILF over time and by gaining trust. Both

organizations are committed to neutrality and nonpartisanship within the conflict, exhibiting these values over the test of time. Further, both groups had national and international staff; the national staff are known members of the community who were vested in ending the conflict within their own community, and international staff enhance impartiality.

3. The case study of the conflict between Libya and the National Transition Council (NTC) is again unique because the armed non-state actor arose from civil society. Of the members of any given Libyan community, some chose to take up arms, others chose to start NGOs. They had access to each other because they knew, worked and lived with each other under Qaddafi's rule. Organizations such as Libyan Human Rights Solidarity and the World Organization Against Torture trained and worked with the opposition forces regarding humanitarian law. Hundreds of other NGOs formed once the NTC made clear that the formation of Libyan NGOs would be welcomed; many of them focusing on governance and rule of law.

On the other hand, international "terrorist blacklists" can limit civil society and I/NGO access to an ANSA. The inclusion of an individual or an organization on an *international* watch list is often not a transparent process, and thus open to political influence. There are also no "gradations" within lists, which can lead to confusion, and can be counterproductive in two ways. First, INGOs functioning as interlocutors with an armed non-state actor may find their funding from states and other organizations in jeopardy. Second, ANSAs which may have renounced arms, and which may be the very

groups likely to engage in negotiations, are treated in the same way as groups perpetrating active campaigns of terror. The Iranian opposition group, the People's Mujahedin Organization of Iran (PMOI) provides one such example. They sought to be removed from European terror watch lists for years. Despite evidence that the group had ceased military action since 2001, and rulings in favor of the PMOI by both the Court of First Instance of the European Communities and the Proscribed Organisations Appeal Commission, the listing stood until 2009 for the EU, and 2012 for the United States.¹²⁸ Caution should be taken with regard to the prohibition of engaging or interacting with ANSAs. This can lead to entrenched positions, exacerbate the conflict at hand, and ultimately lead to more civilian harm, which was especially true in the case study of the Philippine / MILF conflict. Lack of access also blocks the dissemination of norms that promote civilian protection.

Civil society and NGOs play a further role in resolving armed conflict because they generally lack an agenda other than an end to that conflict and decrease in civilian harm. A state's foremost responsibility is the security of its citizens, but competing interests may interfere with that obligation. Similarly, armed non-state actors rarely have civilian protection as the sole reason for the formation of their group. For example, the African National Congress was formed to fight against apartheid policies, which in essence would help protect black citizens, but its formation was not solely for the protection of civilians. Organized parties do not take up arms exclusively to protect civilians from arms. The state and/or non-state actor in any armed conflict usually has other interests, whether that be political power, territory, or economic gain. The agenda of a neutral third party in an armed conflict, whether civil society or an INGO, is

¹²⁸ Ibid., 19.

altruism: that of assisting in norm diffusion and preventing civilian harm. Therefore, it is critical that the NGO be viewed as impartial and objective. “The perceived independence of INGOs from the control of other entities, particularly national governments, often increases their credibility among armed actors.”¹²⁹ In the three case studies, all of the NGOs and sectors of civil society highlighted took great care to put civilian protection as their primary objective. They may each have a unique mission, whether it is de-mining efforts or reintegrating child soldiers, but the end goal is common – decreased civilian harm.

In spite of their contributions, NGOs also have attributes in need of improvement in order to increase their effectiveness. Civil society and I/NGOs have no “legal” authority to make decisions, or enforce decisions once agreed upon. This lack of authority is a double edged sword. Lack of legal authority can devalue the role of I/NGOs, and make it more difficult to entice engagement with the ANSA. However, lack of legal authority can potentially enhance the moral authority of I/NGOs, as moral authority relies on altruism in its origin, and not external directives. An example is the Deed of Commitment for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action, conceived by the INGO Geneva Call. There are no legal ramifications for an ANSA if it does not sign onto the *Commitment*. Geneva Call cannot ban them from international organizations. Nor will they likely be held accountable in the Court of Justice. ANSAs understand that Geneva Call has no jurisdiction over their behavior. They sign the *Commitment* because they recognize the altruism inherent in Geneva Call’s endeavors, and want to increase their own moral authority within both the

¹²⁹ Claudia Hofman, *Reasoning with Rebels*. Research Paper, German Institute for International and Security Affairs (Berlin: 2012), 20.

relevant civilian population and the global community by adhering to standards of international humanitarian law.

Another challenge posed by the civilian protection work of I/NGOs is the issue of personal or institutional ego. If the success or failure of negotiations is specifically tied to one individual, or one organization, there exists the possibility that the success of the individual or entity will override the success of the goal of civilian protection. Egos can be a real barrier to negotiations. Situations where the norm of civilian protection supersedes all else are preferable. The model posed by the International Committee of the Red Cross (ICRC) is a good example. The names of the individuals involved in negotiations or meetings are seldom made public, nor are the findings of the ICRC, except in rare instances. The focus is always on all parties abiding by international humanitarian law.

Two other issues are important to civil society and I/NGOs being treated as partners in the process of norm expansion: trust and resources. It takes time to build trust if the non-governmental organization is not well known to the various warring factions. ANSAs may be suspicious of INGO personnel with whom they do not have a relationship. Questions as to an NGO employee's true identity and purpose may arise. Conferring trust is a process that must be respected as impartiality, neutrality and discretion are qualities integral to a relationship with ANSAs.

Lack of resources represents a significant challenge to the work of INGOs. If only the global community allocated as many resources to those entities engaging in conflict resolution and norm diffusion using non-military means, as those employing the military. During fiscal year 2012, the United States Department of Defense budget (not including

Iraq/Afghanistan wars) amounted to more than 500 *billion* USD,¹³⁰ compared to 2.78 *million* USD operational expenditures for Geneva Call.¹³¹ More funding for organizations that do the concrete work of conflict resolution and norm diffusion is imperative. An increase in financial support can: train mediators, place more aid workers on the ground educating ANSAs and increasing awareness of international humanitarian law, support unarmed peacekeeping, purchase hand held radios, radio towers and communication capabilities, fund de-radicalization and de-mining programs; as well as the many other ways civil society and INGOs strategically adapt to each armed conflict in order to enhance civilian protection.

Civil society and INGOs play a unique and crucial role in influencing the behavior of a non-state actor. “Governments, international organizations and NGOs should thus not squander the opportunity of integrating NSAs into international law... Instead, it seems promising to keep communications channels open, in order to convince NSAs of the necessity of maintaining civil rights standards. Neither the exclusion of these actors nor their demonization can bring an end to the suffering of the civilian population – on the contrary.”¹³² The resolve of the international community to adequately protect civilians was put to the test after WWII. By and large, civilian death decreased in state/state conflict. The resolve of the international community is again being tested; this time concerning conflict that includes a non-state actor. My hypothesis demonstrates that to expand the norm of civilian protection to include conflicts involving armed non-state

¹³⁰ Brad Plumer, “America’s Staggering Defense Budget, In Charts,” *Washington Post*, January 7, 2013, <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/01/07/everything-chuck-hagel-needs-to-know-about-the-defense-budget-in-charts/>

¹³¹ “Financial Statements for the Year 2012,” *Geneva Call*, BDO auditor, December 31, 2012. http://www.genevacall.org/wp-content/uploads/dlm_uploads/2014/01/Financial-Statement-2012.pdf

¹³² Stefanie Herr, “Binding Non-State Armed Groups to International Humanitarian Law,” *Peace Research Institute*, (Frankfurt: 2010), 27.

actors, civil society and NGOs must be treated as partners in the process of norm expansion.

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