

The Bosphorus Consensus Declaration

Protecting civilians in armed conflict is legally obligatory under international humanitarian law (IHL) and morally imperative by the standards of most religions and civilizations. More, it is strategically sound and politically wise. Yet, the world is trending in the opposite direction. In the First World War, 10 million people died and the ratio of civilians to soldiers killed was 1:1. In the Second World War, 60 million people died and the ratio of civilians to soldiers killed rose to 2:1. In more recent conflicts, notably Iraq, the ratio of civilians to soldiers killed appears to have climbed much higher. If the world does not learn these lessons of history, it will be condemned to repeat them, first as tragedy and then as ever greater tragedy as the slaughters spread.

Fatalists fear the lessons are unlearnable: the strong will do what they can and the weak will suffer what they must, as has always been the case. Others regard international protection efforts with cynicism, as do-good, or worse, feel-good postures, just so many pious wishes from people comfortably distant from conflict. It is true that international law and law enforcement are less developed than their domestic counterparts are, but it is also true that both are more advanced than the fatalists realize and cynics admit.

We are, in fact, making progress in learning the lessons of history, just not as well or as fast thus far as we ought to. The ban on the use of poisonous gas on the battlefield enacted after World War I has, with a few unspeakable exceptions, largely been respected. No nuclear weapon has been used since 1945. The Nuclear Non-Proliferation regime, ratified by 188 countries, has seen far fewer nuclear weapons states emerge than its architects dared hope, notwithstanding problems presented by actual and potential outliers. One hundred and fifty-five states parties have endorsed the Ottawa Anti-Personnel Land Mine Treaty, banning the production, storage, transfer and use of anti-personnel landmines. The UN Charter, the Genocide Convention, the Refugee Convention, the Convention Against Torture and the four 1949 Geneva Conventions and their subsequent Protocols all represent attempts by civilization to learn the lessons of the past. The Geneva Conventions and Protocols, the main instruments of International Humanitarian Law (IHL), contain nearly 600 articles. They are comprehensive in their scope and, as the searing debates in the US over practices in Guantanamo and Abu Ghraib showed, and the condemnation of those practices by others attested, they are taken seriously by signatories. Albeit not always seriously enough.

The challenge for the international community at this point in time is not just to develop more international law, notably regarding cluster munitions. It is to ensure compliance with existing law and to avoid backsliding by those who would ignore strategic reality.

Much is changing for the better. More than 100,000 UN forces are in the field, all with mandates to protect civilians in conflict. That is new. Two of the great violators of IHL, Serbia's Slobodan Milosevic and Liberia's Charles Taylor, have been brought before international courts; Joseph Kony of Uganda's Lord's Resistance Army of child

soldiers and the perpetrators of the Darfur crimes against humanity face indictment by the International Criminal Court. That, also, is new. A hybrid peacekeeping force of 27,000 soldiers is being deployed to Darfur, the first time that the UN and the African Union have joined forces to put boots on the ground

But what is really new and potentially very promising is that military doctrine is beginning to recognize that protection of civilians is militarily advantageous.¹ In counterinsurgency warfare, which is likely to be the dominant type of warfare in the foreseeable future killing civilians is not incidental to military goals; it subverts them. “Collateral damage”, once shrugged off as regrettable, - is counter-productive because in the cold calculus of warfare it creates enemies faster than they can be destroyed, and alienates populations whose support is essential to ultimate success.

More profoundly, countries and armed groups that fail to distinguish between civilians and military targets will find themselves progressively isolated. As the 2006 conflict between Israel and Lebanon showed, states and non-state actors alike will have to confront the reality that, in the eyes of ordinary citizens, attacking civilians is neither just nor justifiable.

Nonetheless, the carnage goes on. Never a day goes by in the Middle East when civilians are not killed, maimed or otherwise victimized unnecessarily. And hardly a day goes by when the day before did not seem a better day to act than the day after.

It was with all these realities in mind that 30 academics, journalists, civil society representatives, international officials and former diplomats and generals from Israel, the Occupied Palestinian Territories,² Egypt, Jordan, Lebanon, Algeria, Morocco, Turkey, Iran, the UN, and international and local human rights and humanitarian organizations from across the region gathered in Istanbul from September 4-6, 2007 under auspices of the independent Fund for Peace (FfP), based in Washington DC, with support from the Ford Foundation, and the Canadian Center for International Governance Innovation (CIGI). They met to consider how to raise public consciousness and press decision-makers to do more to protect civilians caught in conflict. The Bosphorus Consensus is their answer.

¹ For example, according to the US Army/Marine Corps Counterinsurgency Field Manual of 2007, Security for civilians, rather than destruction of the enemy, is the top priority of counterinsurgency warfare.

² Three Palestinians living in Gaza and the West Bank were unable to obtain Israeli exit permits.

Bosphorus Consensus Declaration on Protecting Civilians in Conflict in the Middle East

I. Parties to the Consensus agree to promote the following principles:

1. **Targeting civilians in conflict is never just or justifiable.**
2. **International Humanitarian Law (IHL) must guide the actions of all parties to a conflict, state and non-state actors alike.**
3. **The principle of distinction under IHL must be upheld: parties to a conflict must distinguish between civilians and combatants, and neither target civilians nor subject them to avoidable harm.**
4. **The principle of proportionality under IHL must be preserved: parties to a conflict must not attack military objectives if doing so can reasonably be expected to cause loss of civilian life, or damage to essential civilian infrastructure, disproportionate to the specific, tactical military gain anticipated.**
5. **Weapons of war, such as cluster munitions, and methods of war, such as forced population displacement, which can be expected to result in extensive and avoidable civilian casualties and suffering, must be prohibited.**
6. **Attacks against civilians should be condemned by those people on whose behalf the attacks are purported to be made.**
7. **Humanitarian personnel must not be denied access to vulnerable populations, nor themselves be targeted for attack, nor denied protection when under attack.**

II. In order to raise public consciousness and increase pressure on decision-makers to protect civilians caught in conflict in the Middle East, parties to the Bosphorus Consensus agree to:

1. **Support the creation of a new regional forum consisting of local civilian (non-governmental) organizations in the region and their international counterparts to jointly monitor and publicly report on attacks on civilians by state and non-state actors alike that violate these principles.**
2. **Create informal networks with counterpart organizations in the Middle East and beyond to advance the Bosphorus Consensus principles and actions.**
3. **Promote the advancement of these principles and actions through advocacy, networking, and other forms of public action to persuade relevant decision-makers to comply with International Humanitarian Law and respect the Bosphorus Consensus.**

4. **As one discrete step, support and promote a prohibition on cluster munitions, among other weapons that indiscriminately and disproportionately harm civilians.**

III. In order to promote the protection of civilians in armed conflict in the Middle East, parties to the Bosphorus Consensus invite others to undertake the following actions:

1. **The Secretary General, the UN’s Emergency Relief Coordinator, the UN Genocide Advisor and others in a position to do so should systematically, urgently and publicly bring the targeting of civilians in armed conflict to the attention of the Security Council; UN members should ensure that these officials are appropriately resourced to accomplish these tasks.**
2. **The Security Council, the General Assembly and the UN member states, as well as the other constituent parts of the emerging international judicial system, should collectively and individually hold states and non-state actors alike, especially decision-makers, accountable for targeting civilians in violation of International Humanitarian Law.**
3. **The Security Council should consistently mandate UN peacekeeping, political and peace-building missions to protect civilians, particularly those under imminent threat of physical danger, and should together with the UN General Assembly ensure that such missions are properly resourced to accomplish this purpose.**
4. **In light of the persistent carnage in the Middle East, “the Group of Elders,” the Arab League and other influential groups and organizations should consider taking a lead in promoting the protection of civilians in conflict and strongly condemn the targeting of civilians, in keeping with International Humanitarian Law and consistent with the Bosphorus Consensus.**

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