



Aftermath of battles and conflict: from challenges to solutions

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The end of intense combat during armed conflict – whether permanent or temporary – does not automatically correlate with an end to human suffering. The last four posts in our series ‘IHL in the aftermath’ aimed to paint a scene of the human suffering in the aftermath of conflict, but also proposed some solutions.

In this fifth instalment, ICRC Chief Protection Officer Christian Cardon de Lichtbuer, ICRC Head of Operational Law Unit Thomas de Saint Maurice, and ICRC Senior Legal Adviser Kelisiana Thynne propose some concrete recommendations as to what can be done before, during and after conflict to reduce human suffering.

ICRC Humanitarian Law & Policy Blog · Aftermath of battles and conflict: from challenges to solutions

Picture the end of a battle or armed conflict. It is a period of violent *transition*. Armed confrontation has ended or at least entered a period of remission. Skirmishes may still take place, but a process of stabilization, at times temporary, has been set in motion. The risks associated with the fighting lessen as active hostilities end, although the security situation may deteriorate for other reasons – such as an attempt to sabotage the peace process, stigmatization of parts of the population, acts of retribution or widespread poverty. The previous posts have aimed to illustrate the real challenges and human suffering that people face in the aftermath of conflicts and battles.

As was outlined in the *first* and *second* posts, and through examples expanded upon through fictional scenarios in the *third* and *fourth* posts, while humanitarian challenges remain and indeed become acute in the aftermath, is it sometimes unclear who has the responsibility to deal with these issues, and under which legal framework. Even those well-established obligations under international humanitarian law (IHL) on the wounded and sick, the dead, detainees, missing and families of missing, removal of weapon contamination and investigation and prosecution of war crimes are too often neglected in the aftermath.

We have identified the specific vulnerabilities in the aftermath, and there are no doubt more which we could expand upon. This series has so far aimed to draw more attention to these vulnerabilities. But now, what are the next steps?

Laying the groundwork

First, in peacetime and from the very beginning of hostilities, parties to the conflict have to be aware of the inevitable aftermath. They need to be prepared to mitigate the humanitarian consequences of a conflict during and after it occurs. Every possible measure must be put in place before the outbreak of hostilities to support civilians dealing with the effects of the conflict. This includes preparations for the adequate treatment of detainees, the dead and missing in accordance with IHL, which requires dedicated financial and human resources and internal coordination. States must already – during peacetime – establish a *National Information Bureau* or an equivalent entity, to collect and centralize information about prisoners of war, civilians deprived of their liberty and other protected persons for onward transmission to the ICRC *Central Tracing Agency* and the families.

Parties should prepare for the correct use and destruction of weapons after a conflict – this includes appropriately training staff and laying out standard operating procedures for marking weapons and clearing and destroying them. This should also include adequate implementing legislation for relevant weapons treaties in domestic laws. When involved in *partnered military operations* with other States or actors, parties to the conflict should clarify roles and expectations regarding the aftermath. Depending on the situation, States involved in extra-territorial operations may need to support the host States in dealing with the long-lasting consequences of war on its territory.

Governments or detaining authorities must put in place *grounds and procedures* to prevent the arbitrary deprivation of liberty, beginning with screening and questioning in post-combat scenarios to avoid overly broad criteria for detention and *de facto* long-term detention. States must also put in place safeguards against disappearances or people going missing and ensure they are integrated into the planning phase of future operations for the aftermath, as well as measures to ensure the *respectful and dignified management of the dead*. To *prevent children from being recruited into the armed forces*, governments must ensure proper documentation (e.g. birth certificates for all children), provide tracing services for families of separated children, and register internally displaced and refugee children.

During and after the battle

Second, during the conflict, parties to a conflict must abide by the existing rules of IHL in relation to the conduct of hostilities, the protection of the civilian population, detainees, the missing, the dead, war crimes investigations and prosecutions, sexual violence, access to education and the protection of the natural environment to enable the population to build back better once the violence has subsided. The level of humanitarian suffering at the end of conflict is often a result of poor implementation of the rules on the conduct of hostilities and can jeopardize the return of civilians for years, if not decades. For example, in order to protect the natural environment, governments should *abide by the rules relating to the conduct of hostilities and take other measures, such as checking deforestation and excessive use of natural resources*. They must also *mark and clear all unexploded remnants of war* and solicit international support for humanitarian demining.

Third, while it is important to build back better, thought must be given to the immediate humanitarian consequences that are ongoing and likely to be long-term. Parties to a conflict must remember that some IHL obligations continue to apply even after a conflict has ended. They must share information between parties as to the whereabouts and treatment of detainees who have not yet been released. They must also ensure measures are in place for the missing, people separated from their loved ones, and the dead. The wounded and sick must be cared for and the requirement for health care may last a long time, realities for which they should be prepared.

Concrete, practical measures must be put in place to ensure health services, protect schools and the environment, and guard against continued weapon damage. Government institutions must strengthen the resilience of essential services to *ensure inclusive and equitable access for civilians* and be able to *structure and enable health systems that provide* physical and mental health care, as well as essential drugs, while respecting the principles of non-discrimination and equitable access to vulnerable populations. Governments must take measures to ensure that *sexual violence prevention and response services* are accessible to all, boys, girls, men and women, including the most vulnerable individuals such as people with disabilities, people deprived of liberty, migrants, and others. Finally, States must have in place adequate systems for the *investigation* and prosecution of war crimes, encourage reconciliation and contribute to restoring normal relations in the life of a nation affected, and consider offering *amnesties* to those who fought (as long as they have not committed war crimes).

Humanitarian support

It is governments which have the primary responsibility for ensuring that their civilian populations are able to recover in the aftermath of conflict, but often they need help. Governments should not shy away from accepting that help. Humanitarian organizations can continue to offer their services to support governments in an impartial way to provide humanitarian assistance. At every stage of a conflict, including in its aftermath, States must facilitate – and not hinder – the work of impartial humanitarian actors.

What we as humanitarians need to do in the aftermath is to support humanitarian recovery in a sustainable way. Recovery from a conflict is a long-term goal and, as humanitarians, we are most familiar with an emergency response. We need to adapt our ways of working to ensure that we can assist where needed, provide more long-term assistance, and support the development of local humanitarian response through the Red Cross Red Crescent Movement,

and finally support governments to take over in peace. That is ultimately our goal as a Movement ‘to help without discrimination those who suffer and thus contribute to peace in the world’.

The aim of everyone in the aftermath of conflict should be to create a lasting peace. If parties to a conflict have implemented IHL obligations into their laws, policies and practices before conflict, ensure those obligations are applied during conflict, and recognize that IHL still protects after conflict, human lives can recover better. In the immediate moment of transition and uncertainty of aftermath, IHL remains relevant and human suffering must be addressed in any possible and sustainable way.

Going forward, we hope to engage more with parties to conflicts (before, during and after) on planning and preparing for the aftermath. We also hope to work more practically to assuage the harm and suffering to civilians in the aftermath. We will seek to influence parties to conflict and encourage them to respect their legal obligations, while also speaking with those supporting the parties to conflict, those who were previously involved but withdrew, and others who might protect and assist victims of armed conflict in the aftermath.

Now, the challenge put forth to practitioners, militaries, governments, lawyers, and humanitarians is to expand on the issues identified in this series – take them forward, debate them, discuss with us, and amongst each other, and ultimately do more to prepare and plan for the aftermath of battles and conflict so that civilians are not left to bear the brunt of an already devastating war.

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