Protecting Civilians in a Turbulent Age

The Michael Keenan Memorial Lecture 2025

Dr. Jennifer Welsh

St. Thomas More College
University of Saskatchewan

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St. Thomas More College
1437 College Drive
Saskatoon SK S7N 0W6
Canada

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Jennifer Welsh[i]

I want to begin tonight by telling you about a boy I met in Ituri, in the Eastern part of the Democratic Republic of the Congo (DRC), almost a year ago, at the end of November on a mission with the United Nations High Commissioner for Refugees (UNHCR). I was travelling with the UN Special Rapporteur on the human rights of internally displaced persons (IDPs), at the invitation of MONUSCO – the multidimensional peace operation that has been operating in the DRC for the last three decades. We were visiting one of the many IDP sites that have been created for those forcibly displaced by violence in the Congo's East – violence between communities, violence at the hands of a Ugandan backed rebel, and violence between Congo's state forces and the Rwandan backed M23. The boy was about the age of my own son, 14 or 15, living in an IDP camp called Tsere – near Bunia. Tsere was created in 2019, and has a population of over 3,000, with 70% of its population under the age of 18. The boy was disabled, with difficulty walking – but yet he had been designated as the spokesperson and representative of youth in the camp, eager to talk with us about the protection challenges facing his immediate community, as well as the acute lack of the most basic services – including everything from latrines, fresh water, food, and of course access to education. "I want you to understand," he said, "why every night I sleep standing up. It is because in the hut I live in, made of mud, I can only find one small sliver of ground where the rain cannot come in. But it is also because I worry about my sisters, and my mother. I want to protect them from the rebels who come into our village, but also from the government soldiers who live and work in the training centre nearby." Because I was raised on the prairies, I actually have a fondness for the rain – not even my many years living in the UK could beat that out of me. But I will never

[i] A recording of this lecture can be viewed at: https://www.youtube.com/watch?v=VvhNHSw_T0s.

watch a rain storm again without thinking of that boy. And I find myself wondering, often, how successful he has been in protecting his sisters from the virtual epidemic of sexual and gender-based violence which currently rages in Eastern Congo.

Today, the idea that civilians – such as those in Congo – should be protected, is under siege. (And I point to Congo, because it is under-reported, as are the threats to civilians in Sudan).

In his annual address on protection to members of the United Nations Security Council (UNSC), UN Secretary-General António Guterres referred to the state of the Protection of Civilians around the world as "resoundingly grim." Whereas in 1999 there were roughly 20 on-going armed conflicts around the world, today that number has risen to 120.

2023 saw 33,443 recorded civilian deaths in armed conflicts – a 72% increase from 2022 – and the number of women and children killed has doubled and tripled respectively. The most recent year we have data, 2024, recorded 36,000 civilian deaths in 14 armed conflicts: i.e., a relatively stable level, but still a staggering number.

Added to this are the statistics on forced displacement: 122.6 million people are on the move (the majority displaced as a result of armed conflict).

This violence being experienced by civilians in recent armed conflicts is reaching levels not seen since the Second World War. There is a seeming race to the bottom in terms of the restraint exercised by conflict parties. Today's conflicts involve much greater use of explosive weapons in populated areas; regular attacks on schools, markets, hospitals, and medical personnel; targeting of critical civilian infrastructure; and the denial of access to civilian-populated areas to life-saving humanitarian supplies.

Beyond the highly visible cases of Gaza and Ukraine, civilian casualties have mounted in contexts such as Ethiopia, Myanmar, Sudan, Somalia, and the DRC, including, in some cases, through the widespread use of explosive weapons in populated areas – including displacement camps – and the continued use of landmines. As several UN member states underlined early this year, during the annual Security Council open debate on protection of civilians (POC), the laws and norms at the heart of international humanitarian law (or what I will call tonight IHL) are being routinely violated – challenging the very underpinnings of the multilateral commitment to protection.

And there is one key point I want to underscore: The persistence of threats to civilians in today's conflicts is not always, or even mainly, the result of incidental harm – part of what we might call damage that inevitably occurs within the "fog of war." The terrorizing and targeting of civilians are often an integral part of the strategy of belligerents.

A related and worrying trend is the impact of these belligerent strategies on humanitarian principles. Humanitarian workers in too many contexts today lack access to vulnerable populations and are increasingly at risk of losing their own personnel in conflict zones. In 2024, 360 humanitarian workers were killed in conflict contexts (the deadliest year on record). Added to this are health care workers killed in conflict zones – 900 in 2024 – as well as the destruction of healthcare facilities. There are also major barriers constraining humanitarian access include sanctions regimes, counter-terrorism laws, misinformation, the harassment of staff, as well the outright denial of access by belligerents. These barriers have persisted despite the international legal obligation of all parties to a conflict to provide humanitarian actors with the space that they need to operate.

These trends have led in recent years to specific UNSC resolutions calling for the protection of healthcare facilities and humanitarian workers – a worrying trend given that these obligations already exist in IHL. Shouldn't need *additional* UNSC action.

If this is the state of play in 2024, future prospects for the laws of armed conflict look equally troubling. Russia's war with Ukraine has provided a glimpse of what wars among major powers might look like in the future. The Russian deployment of military forces near nuclear power plants and Putin's threats to use nuclear weapons in Ukraine raise important questions about Russian views of IHL and risks of escalation. The dangers seen in the Ukraine War may be more common in the future. To what extent would any "peer-to-peer" great power conflict – say between the US and China – conform with the Geneva Conventions, or would it transform rapidly into a total war in which the destruction of civilians and civil society are part of the strategy? The large-scale combat operations that feature in the military planning of some of the world's leading states are characterized by high-intensity warfare, often in urban settings, with multiple divisions and types of weapons deployed – all of which raise the risk of heavy civilian casualties.

In his recent reports to the UNSC, the UN Secretary-General has pointed to the erosion of laws and norms on protection as a result of non-compliance. And he is right to do so – while a law will not fail to exert force simply because it is violated, it can be argued that regular non-compliance will undermine a law's standing and social impact, whether it is operating within a national or international context. But beyond the issue of non-compliance, the Secretary-General has also pointed to three other themes that I want to return to tonight: the problems of impunity, indifference, and the shrinking – or perceived shrinking – of space for normative agendas related to protection.

First, despite the legal frameworks and norms that have been created, there seem to be few consequences for today's perpetrators of war crimes, crimes against humanity, and forms of ethnic cleansing. Instead, we live in an age of impunity, where even those indicted for crimes still travel freely, and still speak of total victory. Yes, we may say that the hand of justice is long – remember that it took decades for justice to come to Chile's Pinochet. But impunity breeds more impunity.

Moreover – in our current international environment we have a particularly troubling dynamic to contend with: one in which the world's major powers, those meant to "manage threats to international peace and security," are actively challenging established principles of international law, such as territorial integrity, through the use of force. In this context, others who seek to gain advantage – such as the Rwanda-backed M23 in the Congo – can point to a prominent member of the Security Council taking territory blatantly and by force – changing facts on the ground and – in the process – terrorizing civilians. The playbook in the Eastern Democratic Republic of the Congo today is in part inspired by Russia's actions in Donetsk.

During the Security Council debate on the DRC earlier this year, after the beautiful city of Goma fell to the M23 and experienced widespread violence on its streets, some key member states clearly shirked their responsibilities – not just to the civilian population of Congo, but also to the personnel of the UN peacekeeping mission. There were soft calls from China, for example, for outside parties to refrain from interfering in the DRC's territory. But there was no willingness to hold the key outside parties fuelling the conflict to account – even to name them, let alone to shame them.

And despite the scale of suffering in the DRC, the media coverage in most Western states has been noticeably sparse. It was hard to even find a mention of Congo in our newspapers during the crisis at the start of 2025.

This therefore leads me to the second problem mentioned by the UN Secretary-General – the problem of indifference. A distinguished body of International Relations theory – the school of Realism – suggests that all states, especially developed and powerful ones – have particular national interests, which are sometimes geographic. And one of the key proponents of Realism, Hans Morgenthau, argues that states not only pursue those national interests, as an iron law of international relations, but that they *should do so.* (There is an interesting type of morality underpinning this position, which I won't get into here, but it is reinforced by the imperative in democratic societies that foreign policymakers need be held accountable for their decisions and priorities, and therefore have only discretionary responsibilities outside their borders.)

The upshot? It would be naïve to think that all countries can and should bear equal weight in the foreign policies of governments. That is why the principle of *global* collective security has always bumped up against viability and credibility – it is a big stretch to believe that an attack on a state far away should galvanize the response of all others.

But the foundational premise of Realism – the need for a strategic foreign policy wedded to the national interest – has morphed into something much more: a clear position on the part of many that "some conflicts simply matter more," and that there are some humanitarian situations – despite their monumental scale – that we are in practice, if not in rhetoric, indifferent to. We see and acknowledge the mass displacement and violence in Sudan, or in Congo, or indeed in Myanmar, but our foreign policies have little or no space for them.

It is that indifference which has become increasingly corrosive – particularly for the normative idea of civilian protection. And this is especially so when indifference comes with a greater receptivity to the arguments of military necessity – that the way in which force is being used, however regrettable, is needed for some other desired end.

Third, and finally**,** the UN Secretary-General has highlighted the decrease in engagement and dialogue on normative agendas. How often have you heard – I certainly have – that there simply isn't

the "political room" or "space" to raise issues such as protection. There are more pressing geopolitical tensions, or crucial areas where great power cooperation is vital, that make it more difficult to initiate discussions related to the treatment of civilian populations.

Over the past year, I have found myself reflecting and grappling with these three factors – impunity, indifference, and shrinking space, in the face of multiple protection challenges. And they have also led me to think back to why and how the concept of the civilian – and civilian protection – became a central part of our normative repertoire.

After all, the modern law of armed conflict, particularly as it developed in the 19th century, had a very different focus. It was largely an expression of the desire of belligerents to forge a consensus on how to fight amongst themselves – with rules to protect enemy prisoners, observe truce flags, and outlaw torture. In writing about Henri Dunant's famous description of carnage at the Battle of Solferino, the Yale historian John Fabian Witt notes the way Dunant focused the reader's moral attention on the immediate casualties of combat – wounded soldiers and prisoners of war. It was the combatants that early expressions of international humanitarian law were focused on.

Gradually, however, Geneva-based law and practice, together with organizations delivering humanitarian assistance, turned their attention to the suffering of non-combatants as well. This shift was of course influenced by the Great War – the First World War – when, as Edward Grey wrote, "the lights went out all over Europe." During this four year period of darkness, forced displacement, massacre, starvation, and disease were experienced by non-combatants on all sides. And so after that war's end, non-combatants became more prominent subjects in both the ethics and practice of war. And it was then, too, that they took on the particular label that we take for granted today (the label of civilian). Prior to 1914, various terms were used to describe them – unarmed inhabitants, non-combatants, the enemy population, or the occupied population.

It was in the inter-war period – the 1920s – that humanitarian organizations like the Red Cross began to use the term "civilian," largely in order to distinguish this population from military personnel. They also further expanded their operations, from a concentration on combatants, to provide for the health, sanitation, food and shelter needs of war-affected *civilian* populations.

In focusing on means to reduce *civilian* suffering, these organisations were drawing on an earlier body of national law, the American Lieber Code of 1863, which had been created to regulate the conduct of Unionists in the American Civil War (and which was later translated by European jurists for use in the 1870-71 Franco-Prussian War). Lieber, a former Prussian military officer who fought against Napoleon, gave explicit attention to the protection of non-combatants and their property.

But while he prohibited unnecessary cruelty, wanton violence, rape, and pillage of the non-combatant population, he also articulated what has become known as the principle of military necessity. As John Fabian Witt argues in his analysis of the Code and its use in the Civil War, that rationale of military necessity reflects a deeper view about suffering in war – one that differs from Henri Dunant's more generic account. For Lieber, not all suffering was the same; some of it was in the service of a higher political goal including, in some historical contexts, the rescue of Western civilization from "barbarians." In addition, Lieber suggested that in some cases war could work to ultimately *reduce* suffering. As a result, unlike the laws that Henri Dunant and his followers would advocate, Lieber's instructions were aimed at a particular, and in his view, noble political project – namely, the restoration of the Union and the emancipation of slaves.

In short, this was a different account of the relationship between the ends of war and the means of war. The philosophy was not "a one-size-fits all reduction of suffering," but rather the need for a series of contextual judgments about what level and mode of violence was justified at different points in a particular contest. If military necessity warranted, armies could, for example, force civilians to suffer the effects of siege warfare, bombard historical monuments or institutions of culture. Variations on this logic were in evidence in key episodes during the Second World War, when governments on the Allied side chose to firebomb German cities (killing thousands of civilians) or when the US government weighed the damage that would ensue from the atomic bomb against the prospect of shortening the war in the Pacific and avoiding the deployment of further Allied ground troops.

So, there are two views of suffering in war – one, that it is to be minimized at all cost, and the other, that it is to be balanced against the ultimate aims of the war. Both of these ideas find expression in the Geneva Conventions of 1949 and their Additional Protocols of

1977, the body of that is arguably most influential for national militaries today. It's therefore important for us to remember that the contemporary laws of war attempt to strike a balance between military necessity and humanitarian considerations, wherever and whenever they collide.

But is military necessity gaining the upper hand?

On the one hand, it is true that the principle of distinction – which requires parties to a conflict to at all time distinguish between combatants and civilians, and to direct attacks only at combatants – has been codified in international humanitarian law. On the other hand, Lieber's idea of military necessity is also built into the Geneva Conventions, as part of the legal justification for particular attacks on legitimate military targets – even if such attacks have adverse consequences for civilians. In other words, winning the war, or the battle, is a legitimate consideration for military planners and can form part of a contextual judgment about what level of force should be used – just as Lieber would have wanted.

The context for the application of IHL becomes even more challenging given the multiple roles that civilians can play in directly or indirectly supporting the war effort of one (or more) side. The power of civilian support was evident in the Second World War, when citizens did everything from sewing wounded soldiers' pajamas to working in munitions factories. This gave rise to the argument on the part of some that these civilians were not strictly innocent and thus legitimate targets of attack. While IHL is reasonably clear that civilians far from the battlefield retain their immunity from attack, there are ambiguities associated with the non-combatant identity. My colleague and friend Hugo Slim, former director of policy for the International Committee of the Red Cross, has written that civilians are "not simple two-dimensional caricatures," that "suffer violence and receive aid." In many wars, civilians are far from passive or apolitical: instead, they actively assist one or other side of the conflict, whether voluntarily or through coercion.

This ambiguity implies that, in every armed conflict, what constitutes distinction cannot be determined a priori, in a categorical fashion; instead, it depends on a contextual judgment about who is – to use the ICRC's terminology – "directly participating in hostilities." In the past few decades, particularly in civil war contexts, adherence to the principle of distinction has been compromised by two developments: first, the actual battlefield is

becoming less distinct with fighting taken place in civilian population centres; and second, civilians are becoming increasingly involved in activities more closely resembling war-fighting – whether it be, for example, by damaging military objects of the "enemy side," sabotaging the transmission of information, or providing targeting intelligence with their mobile phones. The conflict between Russia and Ukraine is a notable example in which civilians have played these roles.

Indeed, the use and diffusion of new technologies are undergirding new forms of information warfare – campaigns that seek to either de-legitimize enemies or rally support for one's side. In this context, civilians who engage in data collection or dissemination can either "knowingly or unknowingly become an instrumental part of a conflict faction's strategy." And in the process, there are challenges with the maintenance of "civilian status." (Of course, there is also the flip side to this, related to the way that humanitarian actors are responding and innovating, by using digital technology to map, to track, and to protect. But perhaps we can come back to that later.)

It's also worth noting that international humanitarian law itself seems to concede the difficulties involved in upholding the principle of distinction. In Article 50 of Additional Protocol I of the Geneva Conventions, it states that: "in case of doubt whether a person is a civilian, that person shall be considered a civilian." But as we have seen over recent years – a period in which the lethality of civil conflict for civilians has intensified – warring sides have driven a bulldozer through this slim opening, claiming that their destruction is aimed only at combatants.

This is true not only for ruthless directors of armed conflicts like Bashar al-Assad or Vladimir Putin, but also for liberal democracies when they are at war. The practice of U.S. drone strikes during the first term of the Obama Presidency drew on the questionable assumption that all "fighting-aged males" in a certain vicinity were combatants, unless there was specific evidence to the contrary. This permissive approach to defining targets not only ran against the spirit of the Additional Protocol to the Geneva Conventions, but also challenged the core normative advance made during the twentieth century to explicitly protect civilians. And more recently, we have the case of the Israeli armed forces in Gaza, where there is credible evidence that there have been violations of the principle of distinction, as well as the war crime of starvation.

And when liberal democracies are not directly challenging core norms themselves, they are often permitting – or even worse, actively assisting – others to do so, through either the provision of political cover or military weapons. Canada, along with other liberal democracies, needs to consider its obligations under the Arms Trade Treaty, which in Article 6 prohibits transfers of weapons if the transferring state has knowledge that the arms would be used to commit grave breaches of the Geneva Conventions, and in Article 7 requires states to assess the potential risk that a transfer could be used to contribute to IHL violations (including the potential for arms to be re-exported to a party involved in a conflict).

So my point so far is that even if we might see the body of rules to regulate war as one of the great achievements of the multilateral system, we need to remember the delicate balance that modern IHL represents. It requires political commitment and vigilance on the part of national armed forces, and the various organisations that try to hold them to account for their conduct in war. Without it, the mutual interest that warring parties *might have* in respecting the laws of rightful conduct in war – laws that apply to *both* sides – quickly erodes. It is then only a small step back down the ladder into unregulated killing.

It's also worth noting, however, that our normative architecture for protection, particularly that rooted in the UN system, has not relied on the law alone. As Kofi Annan famously said of the principle of the responsibility to protect: we don't need new law; we have all the law we need. What we need is for actors to comply with their existing legal obligations.

So I want to turn now to some of the more recent protection architecture that was built in a global geopolitical context quite different from our own. After the end of the Cold war, UN member states – led in part, but not exclusively by Western states – engaged in international cooperation to generate a powerful commitment to place the civilian at the centre of *policy and practice* on peace and security. This was reflected in UN Security Council resolutions and policy guidelines on the protection of civilians – with an upper case P and C – and through the principle of the Responsibility to Protect (R2P).

The emergence of R2P and POC at the turn of the new millennium, as some of you will remember, was a direct response to the failures to protect civilians – particularly in the "safe areas" of the former Yugoslavia and from genocide in Rwanda – and the

perceived need to clarify the broader protection roles and responsibilities of UN forces and member states. And there is a point that bears repeating: failures to protect populations tarnished the reputation of the United Nations but also its member states. Subsequent assessments pointed to weaknesses in command and control, intelligence and information sharing, and ill-fated tactical choices, all of which contributed to failures to protect civilians.

Both R2P and POC were propelled by the normative impulse to prioritize the security not just of sovereign states but of individuals, both in countries' foreign policies and in the work of international organizations.

The explicit authorization to protect civilians under Chapter VII of the UN Charter was first mandated by the Security Council in 1999, when Resolution 1270 authorized the UN Mission in Sierra Leone (UNAMSIL) "to afford protection to civilians under imminent threat of physical violence." But the genesis of UNAMSIL's landmark mandate, and the broader thematic work of the Security Council on POC, can be traced back to Kofi Annan's 1998 report to the Council on conflict in Africa, which identified POC in conflict as a "humanitarian imperative" and called upon the Council to address *both* the deep causes and immediate implications of civil wars. In February 1999 the Security Council, under the Canadian presidency, hosted its first open debate dedicated to POC, followed by the release of a Council presidential statement and the Secretary-General's first report on "the protection of civilians in armed conflict." It's crucial to underscore just how pathbreaking these moves were, and the creative diplomacy that was required to achieve them.

These foundational resolutions and documents articulated a broad and multidimensional POC agenda that the Security Council continued to pursue throughout much of the following two decades.

While POC's birth and early development took place within the UN, the other principle – R2P – was initially conceived and advocated from *outside* the UN Secretariat – though with Annan's strong encouragement. The independent International Commission on Intervention and State Sovereignty (ICISS), created by the Canadian government, provided the intellectual underpinnings for the Responsibility to Protect, through its efforts to reshape the meaning of sovereignty and to identify a spectrum of actions, to address the challenge of a particular set of threats to civilians – known as atrocity crimes: genocide, war crimes, crimes against

humanity, and ethnic cleansing. (These acts, by their very nature, are matters of global concern, given they have the status of international crimes; states cannot hide behind the claims that they are matters of "domestic" or "national" jurisdiction alone).

The concept of R2P subsequently entered the UN system as part of the preparatory documents for the 2005 world summit, marking the 60th anniversary of the UN. Member states affirmed the primary responsibility of states themselves to protect their own populations from genocide, war crimes, ethnic cleansing and crimes against humanity. But the Summit Outcome Document also outlined a collective responsibility on the part of states to assist each other in fulfilling this responsibility, and declared their preparedness to take timely and decisive action, through the Security Council and in accordance with the UN Charter, when national authorities "manifestly fail" to protect their populations.

Both of these principles – POC and R2P – gained significant declaratory support – through resolutions of and debates within both the UN Security Council and General Assembly. In addition, as political principles, they were designed to try to catalyze the political will to prioritize protection – even in hard cases – and to build institutional capacity to make protection a reality on the ground. And finally, they were designed to be diffused beyond the UN system – to regional organizations, to individual national governments, and to civil society actors.

There is, as some of you will know, intense academic discussion of the degree to which these principles delivered on those goals over the last two or more decades. And as with all principles, they have been shaped by discourse and practice – including significant examples of instrumentalization and selective use by states.

But above all, they have evolved through periods of contestation. One element of that contestation worth highlighting is the degree to which some states have emphasize the primacy of the state – or national authorities' primary responsibility for protection – and minimized the nature and scale of the international community's responsibility to engage in protective action. And there have been high profile episodes where protection through the "sharp end of the stick" – whether through NATO's action in Libya in 2011, or peacekeepers' robust use of force in the DRC or Côte d'Ivoire, have generated various forms of backlash. External actors have been accused in some cases of acting partially against state

authorities (implicitly or explicitly advocating for regime change), while in other cases they have been charged with partiality in favour of a government, by supporting a counter-terrorism operation or the extension of state authority – even when that authority also entails threats to the security of civilians.

Over time, lessons were seemingly drawn from particular cases where there were efforts to implement commitments to protection. (I say "seemingly," because we might debate whether these were the only or "right" lessons that could be drawn). One of those lessons is that member states external to a crisis should think long and hard about the costs of using military means to address protection failures. The forces of third-party actors always bring chaos and destruction, it is frequently argued, leaving societies less stable and more violent than they would have been without external intervention.

The combined experience of Western states in Afghanistan and Iraq – military actions that were not primarily, I hasten to add, interventions for protection – have only amplified the power of this lesson learned. Any military action to prevent or respond to protection threats – or indeed the commission of atrocity crimes – is judged today not in terms of whether it meets its immediate goal, but rather in terms of whether the state in which intervention occurs becomes *generally* more stable. And when this test is applied, the conclusion invariably appears to be that the costs outweigh the benefits.

To put it another way, if we cast our eye over contemporary decision-making with respect to situations that feature protection crises, the pendulum appears to have swung towards inaction. A current example is the on-going tragedy unfolding in Sudan, where thousands of civilians have been brutally killed and millions displaced. Worries about potential quagmires and the costs of full-scale intervention loom large in Western capitals and show little signs of abating – particularly if we consider not only the demanding standard with which interventions are judged, but the risks of escalation that would come with any robust action, or the huge barriers to acting with robust means in contexts where great powers are involved.

I'm not contesting the wisdom of such pragmatic calculations. They are more than expedient; they also come with their own form of morality, centred around concepts of prudence, attention to consequences and an ethic of "do no harm."

My only point is that perhaps we should not be wholly content with this resting place. We should ask additional questions, or consider alternative dimensions of the problem. The moral philosopher Michael Walzer, in commentary on the long Syrian civil conflict, and the tragedy of the refugee crisis it generated, argued that there is a significant risk associated with the obsession in Western societies with the costs of military action: namely, that the costs of 'doing nothing' will be systematically underplayed. It is both wise and morally necessary to assess the potential for creating further harm through one's actions; but it is equally important to illuminate and evaluate the effects of *not* acting. And I would merely suggest that that evaluation consider the civilian population, and how its protection might be affected – or, more importantly, what *alternative* kinds of action might reduce threats to their security.

Let me begin to draw my comments to a close, but returning to where I started: the on-going erosion of respect for international humanitarian law.

There is a curious situation here, which will be obvious to many who have been hanging around university campuses over the past year or so. The challenges to the laws of war and long-standing humanitarian principles are creating a gap between the public's knowledge and expectations regarding legal instruments such as the UN Charter and the Geneva Conventions – which are at an all-time high – and the actual reality of compliance with the law. Students and member of the public have more awareness of these principles than ever before and want to see them respected, at the very same time that we are entering into a vicious cycle, where not respecting the law becomes the "new normal."

There is also a popular perception, which takes a different shape in different parts of the world, that violations of IHL are treated inconsistently and that accountability for those violations is selective – only some are held accountable for their crimes. This too has significant consequences for the legitimacy of rules and norms related to protection. In particular, geopolitical polarization has made it more difficult to discuss the application of IHL impartially. Conflict parties are seemingly permitted to flout the laws of war if they are considered allies of powerful Western countries: states and other actors frequently render judgment on whether an act is illegal or legal based on who the belligerent is, rather than what action they are taking. This is dangerous for any legal system.

Finally, although compliance with IHL remains a critical objective, the law itself is increasingly instrumentalized and politicized. Canadians – along with citizens of other countries – have at times been frustrated with their governments' seeming inability to pronounce clearly on whether IHL is being violated, while our computers and TV are presented with continued scenes of widespread civilian suffering. Too often today, military leaders and governments focus intense effort on defending the unintentional killing of civilians or the targeting of so called dual-use infrastructure as legally justified, claiming consistency with the legal principles such as proportionality and unintended harm. But these decisions about particular tactics in war – a specific attack, for example, in a civilian populated area – take place behind closed doors with legal advisors. They are not transparent to a broader public.

More troubling, we are seeing permissive interpretations of the rules embedded in the Geneva Conventions, and weak assessments of who is a lawful target, what is a military object, what is justifiable incidental harm to civilians, and what is a feasible precautionary action to avoid harm.

This is why in his 2024 report on the Protection of Civilians, the UN Secretary-General argued that we need to move beyond narrow questions of compliance with particular principles of IHL, toward a broader civilian harm mitigation approach. This approach encourages states and their armed forces to ensure that their broader policies and practices consider both the direct and indirect effects on civilians of the use of force, and that they elevate the minimization of harm – not just compliance with a specific IHL principle – in their rules of operation and training of personnel.

So what might a broader "civilian harm mitigation" mean, in practice? Here are a few ideas. It would involve, for example:

- developing and adopting national policy and operational measures to strengthen civilian protection (Canada does not have such a policy)
- considering patterns of harm inflicted on civilian populations over time (including, for example, physical and mental health, and disruption of health systems)
- invoking other norms that values civilians, particularly those codified in international human rights law; these would include consideration of how conflict affects the

right to an adequate standard of health, the right to education, the right to a clean environment
- prohibiting the development and use of particular categories of weapons: like the Ottawa Treaty on landmines, or the recent political declaration on the use of explosive weapons in populated areas
- fighting mis and disinformation that harms civilians or humanitarian workers

I would make the case that the protection of civilians, both now and going forward, requires this kind of broader perspective that is aimed at addressing the full range of civilian harm. I hasten to add that this not because the law is unimportant – far from it – but because it only takes us so far.

This approach of civilian harm mitigation is all the more important in light of the effect of technological advancements such as the use of artificial intelligence in targeting and military operations. While technology has always had mixed effects – at times helping to "humanize" war by restricting harm to combatants – contemporary developments are moving at a pace that makes it difficult for legal frameworks to cope. Stepping back to think about whether civilians are protected, as opposed to whether a particular law is being respected, may be a more productive way of ensuring that new technologies avoid harm rather than creating a more permissive environment for the violation of IHL.

With respect to the development of autonomous weapons systems (AWS) and the application of artificial intelligence (AI) in the context of armed conflict, Canada – along with other states – has placed an emphasis on the concept of "appropriate human involvement" aimed at ensuring that human beings are the ones making decisions on how AI tools and autonomous weapons are ultimately used. (As an aside here, I would point to the UN Secretary-General's proposal for a legally binding instrument that would restrict the use of targeting by lethal autonomous weapons.) Alternatively, a variety of legal analysts are calling for states that are designing, developing or deploying AWS or AI tools to act on "their due diligence obligations," by considering all the conceivable ways that such systems might violate not only IHL and other applicable rules of international law, but also the security of civilians.

Zooming out from these ideas and initiatives related to new technologies, there are also other modes of pursuing civilian protection that do not focus solely on legal obligations. Key to this is

the need to think more about how diplomacy – including conflict prevention and resolution – can be seen as another way of advancing POC. It is noteworthy that China, for example, views preventing and ending armed conflicts as offering the best path to protecting civilians, and this view is gaining increased traction in parts of the Global South. Countries like Canada need more reflection on how to incorporate political solutions more firmly within a broader POC strategy, and to relate conflict prevention more explicitly to protection objectives. This requires a hard look at diplomatic capacity, and the kinds of resources and skills needed to work through partnerships to advance conflict prevention.

Similarly, POC – and specifically civilian harm mitigation – needs to figure more prominently in relationships with allies and partners – including by factoring it into arms sales and economic assistance to other governments. The conflict over Gaza, as with previous conflicts in Yemen and elsewhere, has increased public scrutiny of contracts for weapons sales and the need for Canada – and other states – to honor their obligation to *ensure respect* for IHL and avoid complicity in civilian harm.

Finally, since direct intervention by Western states to protect is unlikely in the foreseeable future, states such as Canada need to reflect on how their policy and programming – both nationally and through multilateral efforts – can empower civilians in their own *self-protection*. In recent years, a significant body of academic research has emerged on this theme, and NGOs like CIVIC, Oxfam, and Non-Violent Peaceforce have been pioneering efforts to support local self-protection efforts. Donor countries need to double down on investigating how they can support this kind of activity – whether through supporting local protection committees, helping to build civilians' skills to engage in dialogue with armed actors, or assisting with tactical innovations liked unarmed accompaniment of vulnerable populations. This is particularly urgent, given the move internationally to rethink peacekeeping and peace operations – in ways that are likely to mean a much smaller international footprint.

In one of the last meetings I attended in Goma on November 30 – in retrospect, during the eerie calm before the storm – we discussed what had been learned from the UN peacekeeping mission's withdrawal from South Kivu, in terms of community-based protection, and community-based alert systems – and how these could be strengthened in parts of the East, before any further draw down of the UN's presence.

This takes me back to the boy from Bunia, who – while he might not have articulated it as such – was engaged in his own form of family self-protection.

It is all too easy, at this moment in global politics, to be paralyzed by the apparent triumph of forces, and the particular alignment of power and interests, that seem to mitigate against anything resembling a "civilian-centred" approach to peace and security. Many have, understandably, become cynical about the gap between words and deeds, and deeply suspicious of the words themselves. The protection of civilians, as I said at the outset, is itself under siege.

But that does not mean it has been defeated. I'll share with you what I often say to my students: I don't believe we have the luxury of cynicism. One of my great mentors, the late Edward Luck – the very first Special Adviser to the UN Secretary General on the R2P – liked to say that responsibility to protect was not just about states, or organizations like the UN, but that there was an important *individual responsibility to protect.* And what he meant was that individuals, in their individual roles, can choose to prioritize protection and advocate for protection, no matter how constrained they may be.

I should stress here that I'm of course highly attuned to structural factors – I'm an international relations scholar after all, and recognize that it can be hard for individuals to make a difference. But because we are in a particularly troubling time globally – it does feel, very much like at the start of the 20th century, "the lamps are going out" across many countries and places – it's worth thinking about what those of us who want to keep civilian protection on the global agenda – can do. Our answers to that will be different, depending on our identities, our roles, our capacities. But I'd like to think – even if it's hard to summon the belief – that the lights might go back on again.

So let me close with what I, as part of the mission, sought to advocate for, and support – in our conversations with government officials and members of the armed forces, with civil society both in Kinshasa and in the East, in our discussions with international organizations and with humanitarian NGOs:

- Insisting on the preservation of the civilian character of IDP sites (which have become infiltrated by armed groups, regularly subject to attack, and sites of child abduction and sexual and gender-based violence)

- Mobilizing action to reduce the risk to IDPs from unexploded ordinances
- Amplifying the alarm raised in relation to sexual and gender-based violence, and underscoring the specific challenges faced by women and girls (including by addressing particular protection threats associated with leaving the sites in search of food and the urgent need to fund and support the creation of livelihoods to enhance women's autonomy)
- Calling on the government to invest in and strengthen police capacity in and around camps to provide security
- Supporting community alert systems that could help warn of impending dangers, and outlining how and where national and regional governments could embed alert systems their own structures to support more local actors
- Encouraging donors and external actors to support civilians in their own self-protection strategies – including how to engage in dialogue with armed actors
- Reiterating calls for belligerent parties to invest in good faith in the peace process in the DRC to address the underlying causes and drivers of conflict
- Pressuring all UN member states to call out those violating core protection norms – publicly in the Security Council chamber and more privately in their bilateral relationships

Are these measures working effectively? And are they enough? A double NO! But motivating our mission, and I hope others working in the protection space, is the moral imperative to consider the costs of inaction.

Jennifer Welsh

Jennifer M. Welsh is the Canada 150 Research Chair in Global Governance and Security at McGill University, and the Director of the Max Bell School of Public Policy. She was previously Chair in International Relations at the European University Institute and Professor in International Relations at the University of Oxford, where she co-founded the Oxford Institute for Ethics, Law, and Armed Conflict. From 2013-2016, she served as Assistant Secretary-General and Special Adviser to the UN Secretary-General, Ban Ki-moon, on the Responsibility to Protect. She currently sits as a member of the IDP Protection Expert Group, based in UNHCR.

Jennifer's research has focused on contemporary challenges in global governance, conflict management, and Canadian foreign policy, including humanitarian action, collective responses to genocide and war crimes, the protection of civilians in armed conflict, and forced displacement. While at McGill, Jennifer has led several collaborative research projects with Canadian and international scholars, built a vibrant community of faculty and students interested in global affairs and Canada's role in the world, and co-directed a Canada-wide research network on Women, Peace, and Security. She has frequently provided input into policy initiatives for the Canadian government and the United Nations, as well as for international NGOs. She is also a leading public intellectual in Canada, through her CBC Massey Lectures (published as *The Return of History: Conflict, Migration and Geopolitics in the 21st* Century), her op-ed writing for Canadian newspapers, and her role as co-host of the bilingual podcast, *Tour de Table.* Jennifer co-chairs the Advisory Board of the Global Centre for the Responsibility to Protect and the Committee on Security Studies for the American Academy of Arts and Sciences. Her research and policy engagement have been recognized through her election as Fellow of the Royal Society of Canada and as International Member of the American Academy of Arts and Sciences.

Jennifer has a BA from the University of Saskatchewan in Political Science, and a M.Phil. and D.Phil. from the University of Oxford, where she studied as a Rhodes Scholar.

The Michael Keenan Memorial Lecture

Michael Gregory Keenan, professor and dean of St. Thomas More College, was born in Toronto on 23 May 1937. After elementary and secondary education at Owen Sound and Toronto, he enrolled in psychology at Assumption University in Windsor, receiving his BA in 1961 and his MA the following year.

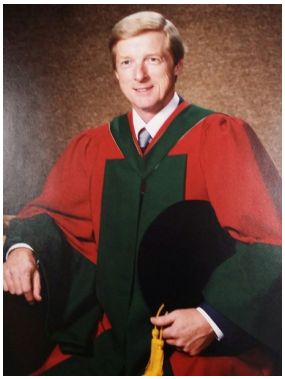
In 1962 he married Patricia Kohlmeier of Rochester, NY. They had three children, Kathleen, Kevin, and Terrence.

From 1963 to 1965 he was instructor at Christ the King College (now King's College) at the University of Western Ontario.

He came to St. Thomas More College in 1965 as a lecturer, on the invitation of the principal, Rev. Peter Swan, CSB, and held this position until 1967 when he left to take up doctoral studies at the University of Waterloo, where he received his PhD in 1971. While at Waterloo, he also served as lecturer at St. Jerome's College.

In 1971 he returned to STM as an assistant professor, and from 1974 as associate professor. In 1975 he was named first dean of the college, and he held this position for two five-year terms. After a lengthy battle with cancer, he died on 31 October 1986.

In December 1986, the Board of Governors of St. Thomas More College set up a memorial fund. In the spring of 1987, the college's faculty administration forum approved an annual public lecture by a distinguished visiting professor on topics reflecting the range of disciplines at St. Thomas More College. The lectures are held each fall on a date close to the anniversary of Dr. Keenan's death.



Dr. Michael Keenan

Pat Keenan

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