Collateral Damage:
The Effects of Legal Acts of Warfare on Civilians

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I was born in a country that no longer exists, the ‘Former’ Yugoslavia. As a young child, I had the unfortunate experience of living through a civil war that will forever shape the person I am, and will affect the choices I make in life. While this does not define all of me, it is a big part of who I am. As a result, I decided to write my Honours Thesis on a topic that is very close to my heart and has even influenced my career choice: civilian rights during times of conflict. I chose to write about how civilians’ rights are infringed upon during legal acts of warfare because it is a reality that occurs all too often today. Many acts of warfare are legal under international law, going directly against the rights of civilians. Having experienced first hand what such infringements of rights can do to individuals and their families, I feel this is an important issue and contradiction in international law to address. Whenever we hear news stories about conflicts around the globe, the focus is rarely on the rights of innocent people; instead, we see/read reports that focus on the battles of the day, rarely anything more. The topic of civilian anguish is simply too ugly to discuss. I want to change this reality.

As I plan to do in my career after University, I want to give a voice to civilians who are not being heard; and as a result, live a lower quality of life due to circumstances beyond their control. The conditions in which people find themselves in during times of war, and after, should not be something that the rest of the international community simply accepts as reality. I am thoroughly aware that this thesis will not change international legislation, or the conditions civilians live in during times of conflict. However, it is my hope that this thesis will contribute to the fight for human rights around the world, and will be considered to hold some value in the ongoing discussions on this issue.
Figure 1: (Left) This is one of the first pictures of my brother and I upon our arrival to Canada in 1995. (Right) This is a picture of one of our cabins in the Former Yugoslavia following a fire during the Balkans War.

Writing this thesis has been a challenging and emotional process for me. I have had to tap into parts of my memory and childhood that have laid dormant for some time. I used to keep these memories at bay by avoiding the topic of war, even avoiding watching the news because some of the stories hit too close to home. Nonetheless, I am now at a place in my life at which I can share my story with others in an effort to hopefully bring attention to the issue of human rights amidst time of warfare.

Thank you for coming on this journey with me, and I hope that you are inspired to do what you can to help raise awareness to the issue of civilian human rights during times of conflict, or otherwise, around the world.

*Tina Frimpong*
INTRODUCTION

People may not realize that no laws exist that compel “warring parties” to provide aid to civilians they harm so long as the harm caused is “considered legal”. For example, “a fighter jet can strike a weapons cache next to a home, or a convoy can speed through a playground”, but as long as the “armed forces follow the Geneva Conventions’ rules of discrimination and proportionality, they never have to explain, apologize or pay” for any harm or losses they cause. For the purpose of this thesis, I will be relying on the definition of “civilian” as set out in the Fourth Geneva Convention. The Convention defines civilians as “those who, at a given moment and in any manner whatsoever, find themselves in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals”. Not included in this definition, are individuals who “at a given, moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals”. Also excluded from protection, are “nationals of states not bound by the Convention, nationals of a neutral or co-belligerent state found in the territory of a belligerent state while their state has diplomatic relations with the state in whose power they are, and persons protected by any of the other 1949 Conventions”\(^1\). Negligence to address the problems faced by civilians during times of war “have practical drawbacks”. For those who survive a conflict, “nothing can generate more hatred toward a foreign government than never having their grief acknowledged. Therefore, the necessity to research the struggles faced by civilians becomes an “act of strategic self-interest” for nations and governments around the globe, as well as part of our own social responsibility\(^2\).

When we talk about warfare, it is difficult not to mention the United States as they are such a global superpower. The same is true when talking about protection of civilians during war. In fact, the U.S. has “long taken precautions to avoid harming civilians in armed conflict” with the creation of Abraham Lincoln’s Lieber Code. The Lieber Code stated that, “the unarmed citizen is to be spared in person, property, and honor as much as the exigencies of war will admit”. However, over the years, the U.S., and many other nations, have strayed from the proclamation made in the Lieber Code intended to protect civilians during times of war. For instance, in 1999, during NATO’s involvement in the civil war in the Former Yugoslavia, “the U.S. Air Force unintentionally bombed the Chinese embassy in Belgrade”, due to reliance on out-of-date maps of “civilian infrastructure”. This error resulted in unnecessary casualties\(^3\). Even if individuals survive a conflict in their region, it is not to say that their suffering is over once the conflict ends. Civilians are left to suffer with issues like poverty, psychological effects, “infectious disease, malnutrition and complications of pregnancy”, to name a few, even once a conflict comes to an end. Some of these effects will be life-long\(^4\).

I feel as though it is important, for the benefit of individuals all around the globe, to examine how legal acts of warfare affect civilians. This is important because the actions committed by states under international law, even though they are legal, still cause harm to civilians as the effects of war run so deep. This is an important issue to address because it can be very easy to justify the atrocities of war simply because international legislation states that such conduct may be justified. With so many conflicts currently being waged in various countries, legislative justification is not enough when it comes to the suffering of civilians during times of armed conflict. As a result, I will explore how acts of war, which are provided for under

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international law, continue to harm civilians, even though on paper those actions are perfectly legal.

In order to illustrate this point, I will discuss one civil war (the 1990’s war in the Former Yugoslavia), and one war of self-defense (the 1967 Six Day War). I will also look at current international legislation and how it defines and justifies various acts of war, following which I will set out the effects these legal acts of war have on civilians. Throughout my research, I have come to the conclusion that the most important impact war has on civilians is with respect to civilians’ quality of life. What I mean by quality of life is a person’s basic necessities (ie. food, shelter, etc.), psychological effects (ie. trauma) and effects on the community (ie. infrastructure, peace, etc.). Therefore, I have dedicated three sections of this thesis to discussing these three aspects of civilians’ quality of life. Following that analysis, I provide recommendations to what I believe will minimize the harm to civilians during times of war.

I hypothesize that the effects on civilian’s’ lives and well-being will be numerous and very serious. I expect to find that many harms suffered by civilians will be carried with them for their entire lives, even after the fighting has subsided. I predict this as I have seen how lasting the negative effects of war can be on individuals first hand. My family and I have been living away from our homeland for about 15 years now, and the experiences we lived through during a civil war still affect us today. I suspect this is the case for many victims/survivors of war. I also expect that my research will reveal that no real deterrent exists to discourage states or military groups to wage war. I base this hypothesis on the fact that new conflicts are continuously arising all over the world, for various reasons. If a true deterrent existed, as far as international law is concerned, how could this be the case?
BACKGROUND

What is Armed Conflict?

Armed conflict is the “instrumental use of [armed] violence by people who identify themselves as members of a group – whether this group is transitory or has a more permanent identity – against another group or set of individuals, in order to achieve political, economic or social objectives”. According to Kekes, “war is organized violence by voluntary, conscripted, or mercenary armed forces; planned by the leaders of a nation or a group; [and] involves the use of weapons; armed at an enemy; and may be offensive or defensive”. “War may be waged by clandestine resistance fighters, guerillas, partisans, terrorists, crime syndicates, warlords and their followers; it may be civil, religious, ethnic, or tribal; it may take the form of terrorism, genocide, and massacres; it may be waged by armed forces against a group of fellow citizens or against some transnational group; the enemy aimed at may or may not be armed or organized and may or may not include civilians; and the violence involves killing, disabling, and generally subduing the enemy”. Wars are pursued for numerous reasons, such as: “conquest, domination, fear, hatred, ideology, independence, power, prejudice, religion, self-determination, territory”, etc. The 20th century has experienced an earth-shattering amount of deaths as a result of organized violence such as war. It is estimated that, the number of casualties in the 20th century ranges between 160 million and 188 million. Even though leaders are aware of the fact that going to war will result in irreparable harm, at times leaders feel as though they have no other choice. In most situations, their “nation or group has been attacked and its survival” hinges on the country defending itself.

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However, “waging either a defensive or offensive war is almost always a matter of choice between available options”\(^9\).

For the purpose of this thesis, I will focus specifically on wars of self-defense and civil wars. Wars of self-defense refers to wars in which a country or region has the right to defend itself and its people from attacks/conflict\(^10\). Civil wars are conflicts between “factions or regions within the same country”\(^11\). I have chosen to examine the 1967 Six Day War waged between Syria, Egypt, Israel and Jordan when referencing wars of self-defense; and the Balkans Civil War, 1992 – 1995, when discussing civil wars. As I will argue these two wars differ in many ways; however, the side effects on the civilian population, the country and even the world remains the same, regardless of the type of war.

I chose to write about the 1990’s Balkans War because I endured the hardships of that war for three years first hand. I unfortunately, experienced the emotional side of that conflict when I was younger. I now wanted to examine that same conflict from an intellectual point of view in the hopes of putting some of the experiences I went through into perspective. I then decided to also write about wars of self-defense by looking at the Six Day War because, to me, it was a perfect parallel to civil wars. During civil wars, communities are divided and turn against one another; the sense of unity that existed prior to the conflict is gone and people who were once neighbors and friends, become enemies. In wars of self-defense, on the other hand, there is a greater sense of unity as everyone comes together to fight/defend themselves against a common threat. As a result, I thought researching the two different types of war fare would be a nice contrast.

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Balkans Civil War (1992 – 1995)

In 1992, a conflict erupted in the Bosnia and Herzegovina region of what is now known as the Former Yugoslavia. The core of this conflict was sovereign territorial control and control between the Republic of Bosnia and Herzegovina and Republika Srpska and the Croatian Republic of Herzeg-Bosnia. Republika Srpska is one of two “political entities in Bosnia and Herzegovina”; the other political entity being the Federation of Bosnia and Herzegovina. The Croatian Republic of Herzeg-Bosnia was an “unrecognized entity in Bosnia and Herzegovina” between 1991 and 1994. Herzeg-Bosnia was declared a “separate and distinct political, cultural, economic and territorial” region of Bosnia and Herzegovina. In order to fully understand the emotions that lead to the Balkans conflict, we must go back to see the political changes that led to the turmoil that eventually resulted in a civil war.

Between 1943 and 1980, the Former Yugoslavia was governed by “the firm hand of president Josip Broz Tito”. “The Tito system had been founded on three core principles: self management (embodied in its well-known workers’ councils), brotherhood and unity (the doctrine of ethnic harmony through one-party rule), and non-alignment in foreign policy”. All three of these principles began to deteriorate “following Tito’s death in 1980”. This deterioration led to the “Communist Party elders” losing the “capacity and the will to assert firm control”. As a result, “new associations” and groups materialized. These new groups came equipped with very “clear political programs”.

In 1987, “an internal coup” within the Serbian “party organization brought power to Slobodan Milošević”. Milošević’s aim was to reverse the Tito system “with its sundry

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institutional checks and careful proscription of all nationalist points of view”. To do this, Milošević ignited the rivalry between the Serbians and Albanians, convincing the Serbian people that they must seek justice against their Albanian neighbors to regain greater control of the Kosovo region of the country. From 1988 to 1989, Milošević also succeeded in bringing down the governments of Vojvodina, Montenegro and Kosovo, following which Milošević placed his supporters in all positions. Milošević’s ultimate goal was to bring “Serbian-dominated parts of Bosnia into his New Yugoslavia”. Following Milošević’s takeover, politicians in Slovenia and Croatia became convinced that he was a “threat to the stability of the entire country”. As a result, the Slovenian Assembly amended its constitution to allow for the “exclusive right to impose a state of emergency in the republic or to authorize the presence or movement of military formations within its borders”. This was the beginning of the end for Yugoslavia. In early 1992, the war spread to Bosnia and any hope of a reconciliation between Croatia and Bosnia seemed non-existent.

The war in the Balkans finally came to an end on December 14, 1995 following the signing of the Dayton Accord. The Dayton Accord, also known as the “General Framework Agreement for Peace in Bosnia and Herzegovina”, aimed to promote peace and stability in Bosnia and Herzegovina. The Dayton Accord also led to territorial changes throughout all of Yugoslavia. Below are two maps illustrating the territorial divisions prior to, and following the Dayton Accord.

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16 The animosity between the Serbian and Albanians is due to the fact that Kosovo, which was once the “core part of Serbia”, was now 90% populated by Albanians. (Sabrina Petra Ramet, “War in the Balkans”, Foreign Affairs (Fall, 1992): 83.)


The war has done irreparable damage to most of the region. Many Croatian, Serbian and Muslim villages have completely disappeared from the map as a result of the war. The landscape of many cities has been forever changed. For example, The Bosnian capital of Sarajevo was placed under siege during the war and was bombarded daily. As a result, the “unique cultural blend that gave Sarajevo a special charm has been extinguished forever”\(^\text{22}\)”. The Balks War in the 1990’s has forever changed the region of Yugoslavia both geographically and culturally. This is just one illustration of how a war can change and affect a region and its people, not only during the duration of an armed conflict, but for a lifetime.

*Six Day War (June 1967)*

The Six Day War, also known as the June War, was waged between June 5 and June 10, 1967 between Israel, Jordan, Syria and the region now known as Egypt. The war was instigated by surprise air strikes by Israel “against Egyptian airfields in response to the mobilization of Egyptian, and other forces, on the Israeli border”\(^\text{23}\)”. The creation of the State of Israel was not swift. In 1946, U.S. President Truman “established a special cabinet committee” that worked alongside a British taskforce to debate the “future of Palestine”. Soon after, President Truman “declared his support for a Jewish state”. The following year in 1947, the United Nations (“U.N.”) Special Commission on Palestine investigated the Palestinian issue and endorsed the “partition of Palestine into a Jewish and an Arab state”. This lead to the acceptance of Resolution 181, “also known as the Partition Resolution”, in 1948 by the U.N. which split Britain’s “former Palestinian mandate into Jewish and Arab States”. As a result, “the area of religious significance surrounding Jerusalem would remain a corpus separatum under international control administered by the U.N.” Immediately following the endorsement of Resolution 181, Arab states “threatened to attack”. Despite the unease, Israel was officially recognized as a state on May 14, 1948. The


Arab states did not recognize this new state of Israel as they felt it was prejudiced to the “Arab population that would remain in Jewish territory under the partition".  

The establishment of the new Israeli state immediately engulfed a war between Israel and the Arab States. The Arab States fought against Resolution 181, while the new State of Israel fought to keep the land that was designated to them. The war ended in 1949, in which Israel prevailed; however, Egypt, Lebanon, Transjordan, and Syria refused to accept its existence as a separate state. The agreement reached following the conflict resulted in Israel obtaining “some territory formerly granted to Palestinian Arabs under the U.N. resolution in 1947”. Egypt and Jordan maintained “control over the Gaza Strip and the West Bank, respectively”. These borders were maintained until 1967. 

The Suez War in 1956 and the 1967 Six Day War were both revived attempts to destroy the “new” state of Israel. The Suez War was waged between Egypt on one side, and Britain, France and Israel on the other. The Suez War was fought over the Suez Canal, which is an “artificial sea-level waterway in Egypt, connecting the Mediterranean Sea and the Red Sea”. This conflict arose as a result of the Egyptian President, Gamal Adbel Nasser’s choice to “nationalize the Suez Canal”. The main intention behind the attack was to “regain Western control of the Canal and to overthrow Nasser”. Following the Suez War, the United Nations Emergency Force was assigned to protect the “Egyptian–Israeli border to prevent both sides from recommencing hostilities”.

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27 The Straits of Tiran are the "narrow sea passages between the Sinai and Arabian peninsulas which separate the Gulf of Aqaba from the Red Sea", (The Six-Day War: Egypt Reimposes a Blockade on the Straits of Tiran, Web site, Jewish Virtual Library, https://www.jewishvirtuallibrary.org/jsource/History/block2.html.)
The tension leading up to the Six Day War was due to the Palestine Liberation Organization ("PLO"). The PLO was created in 1964 with the intention of establishing an "independent state of Palestine". Israel invaded the "Jordanian-controlled West Bank" due to PLO "sabotage acts" against Israel. Israel launched flights over Syria, which resulted in air conflicts over Syrian territory. In just six days, Israeli forces had seized control of the "Gaza Strip and the Sinai Peninsula from Egypt, the West Bank of the Jordan River, including East Jerusalem, from Jordan, and the Golan Heights from Syria". Israel had tripled the area it controlled, by the conclusion of the six-day conflict. The end of the war came about as a result of a "United Nations brokered cease fire". Israel’s triumph in the Six Day War allowed it to "unify Jerusalem". In 1967, following the Six Day War, the United Nations Security Council endorsed Resolution 242. Resolution 242 "established a formula for Arab-Israeli peace whereby Israel would withdraw from territories occupied in the war in exchange for peace with its neighbors". This resolution continues to be the "basis for peace negotiations" even today.

Following the Six Day War, hundreds of thousands of Palestinians were displaced from their homeland (West Bank and Gaza regions) and started new lives in Jordan. Even though this war lasted for only six days, the casualties suffered by the people remained significant. Approximately 1,000 Israeli civilians were killed, and approximately 4,500 were wounded. Roughly 15,000 Arab soldiers were either killed in battle or went missing during the war.

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32 This Day in History: Six Day War Ends, Web site, [http://www.history.com/this-day-in-history/six-day-war-ends](http://www.history.com/this-day-in-history/six-day-war-ends).
Approximately 6,000 Jordanian civilians lost their lives or went missing, with about 1,000 Syrian casualties. The damage and loss of life resulting from a war that took about one week to resolve is so significant, it sadly illustrates how quickly the casualties of war can add up, even over a span of just a few days.

Both of these wars occurred as a result of many years of friction between numerous parties, and both are complex conflicts. Rarely is a war straightforward. In order to fully grasp how and why civilians suffered as a result of these wars, it is important to examine how harm is established during armed conflicts and what responsibility the soldiers, military and government hold toward civilians, if any. These elements of harm will be discussed in greater detail in the following Theoretical and Historical Background Section.
THEORETICAL & HISTORICAL BACKGROUND

Before we can determine whether a war is just or not, it is important to understand the principles that govern harm and principals involved in the justification of warfare. There are numerous factors that need to be taken into consideration when determining the validity of an individual’s, or a nation’s, actions. The principles that need to be considered when rendering this type of a decision include: John Stewart Mill’s Harm Principle, Legal Paternalism, the Collective Benefits Principle, the Need Principle, the Justice Principle and the Theory of Just War. None of these principles, by itself, is sufficient to fully validate what constitutes as harm during times of war. As a result, they must all be used in conjunction with one another. The issue of harm is valid because even though there are legal/philosophical justifications for acts of war, such actions remain harmful to civilians. All of these principles will be explored in greater detail below. I will then apply the Harm Principle in two different conflicts, which will help to illustrate how just actions during times of war are determined and what that means for the affected community.

Harm

In order to be able to determine wrong and right actions, it is important to first understand the meaning of harm as outlined by John Stewart Mill’s Harm Principle. Mill’s Harm Principle states that individuals are permitted to do anything they want as long as their actions do not cause harm to others. Mill believes that individuals are rational beings who will make “decisions based on their best interests”. As a result, according to Mill, all citizens are free to act as they wish, as long as their actions do not negatively impact others. In his opinion, if an individual’s actions cause harm to anyone, the government possesses the authority to “intervene and protect these liberties that are protected democracy”. The Harm Principle is applied differently to

individuals and the state. The “constituent parts of an individual have no inherent worth; it is only the individual himself that is of value”. Since nations are composed of individuals, “the constituent parts of the nation are themselves valuable”. If a government causes harm to its residents the “sovereignty of the nation and the sovereignty of the individuals’ conflict”. As a result, a “case can be made for humanitarian war—military intervention that prevents a nation from harming its citizens37”.

This Principle has been widely accepted in our society and has been applied with respect to decriminalizing victimless crimes. The Harm Principle protects individuals only from each other; it does not protect individuals from themselves or “external factors” such as government organizations. By not providing protection for individuals against such factors can result in an environment that is harmful and unethical for the rest of society. As a result of such shortcomings, the Harm Principle cannot be relied upon alone in determining whether or not a government has the adequate authority to intervene in the liberty of its citizens38. This relates to the harm of war in that the government, in this scenario, is given the same powers as the individual is prescribed under the Harm Principle.

The Harm Principle raises more questions than it answers; as a result, it is not sufficient to guide the government’s limitations on its citizens alone. Some questions raised by the Harm Principle include, but are not limited to: Can the harm be both physical and psychological? Does the harm have to be premeditated? Does the principle apply in circumstances where there is a lack of action? Is the principle limited only to human beings? Does the principle apply if an individual wishes to be harmed? In order to ensure the success and growth of a society, it is imperative to “protect life”, and not allow for actions leading to murder, for instance. The Harm

Principle fulfills this requirement because its primary objective is to protect life; it does not address the five aforementioned questions. Even though Mill neglects to address many factors, the Harm Principle remains a vital part of “effective governmental policy”39; this is because its policies have to be dictated by the Harm Principle. The government does this by forming policies that limit harm between its citizens.

The Harm Principle is not a concept that can be applied in all situations; there are cases in which society is justified in interfering in the actions of individuals, even if those actions are not harming others. The two exceptions to the Harm Principle are children and barbaric, or “backward” societies. Children, who have not yet reached the age of maturity40, may need “protection against their own actions”. Neither of these groups (children and/or backward societies) “have yet developed to a point at which force can be replaced by free and equal discussion”. Once they develop to such an extent, the Harm Principle will then apply even in these instances41. Mill neglects to outline exactly what constitutes harm42 and whether harm must be intentional.

While the Harm Principle may be sufficient to justify harm in certain situations; it is not sufficient to do so, on its own, when applied to circumstances involving warfare. The Principle lacks the ability to be the only element for justification in such circumstances as war is complex and involves many issues which the Harm Principle does not address. As a result, a “properly protective government” would need to rely on additional principles in order to adequately protect its citizens. In order for a government to protect its own citizens, it may need to cause harm to the citizens of other nations. An example of this would be the proxy wars within the third world.
during the Cold War\textsuperscript{43}. Proxy wars are conflicts “instigated by a major power that does not itself become involved” in that war\textsuperscript{44}. In order to ensure the safety of its democratic citizens, the west felt it needed to interject in the actions of the 3rd world where the East was trying to establish a strong hold of its own ideological government; thus, strengthening its position and threatening the power of the West via threatening the safety of its own citizens. The West needed to protect the existence of its democratic society by promoting democracy where communism would grow stronger; thus threatening the Western democratic society\textsuperscript{45}.

These additional principles are to be applied in conjunction with the Harm Principle are: “Legal Paternalism, Collective Benefits Principle, Need Principle and the Justice Principle\textsuperscript{46}”. Legal Paternalism grants the government authority to “protect an individual from harming” themselves (ie. suicide). The Collective Benefits Principle would permit the government to restrict “individual liberty in order to provide a resource to the people as a whole”. The Need Principle allows the government to restrain the “liberty of individuals in order to do what is just” and to provide all citizens with “equal treatment” in all essential aspects of a person’s life (ie. “non-discrimination”). Lastly, the Justice Principle justifies the government accepting resources, such as taxes and blood donations, from citizens in an effort to “accommodate individuals in need, through programs such as welfare”.

In the context of war, these supplementary principles are necessary in order to address more complex situation that arise during times of conflict which the Harm Principle is not

\textsuperscript{43}The Cold War refers to the relations between the United States and the Soviet Union from 1945 to 1980. During this time, the two sides never fought one another as any consequences would be too detrimental to both sides. However, they “fought for their beliefs” by utilizing “client states who fought on their behalf”. (What Was the Cold War, History Learning Web site, http://www.historylearningsite.co.uk/what%20was%20the%20cold%20war.htm.)


\textsuperscript{45}What Was the Cold War, History Learning Web site, http://www.historylearningsite.co.uk/what%20was%20the%20cold%20war.htm.

specific enough to address. These principles are important during times of conflict as they allow for the government to obtain resources and assistance to help its citizens in areas the Harm Principle does not specifically address. For instance, many individuals in war zones will require blood donations to recover from injuries sustained during the conflict. The Justice Principle, would then allow the government to accept such donations. In addition, the community may require access to certain programs to help them with the basic necessities of life, in which case the Need Principle, and even the Collective Benefits Principle, would come into play.

In situations of warfare, just as the Harm Principle can be applied to individuals, it may also be used to justify a state’s ability to harm other nations, should it be deemed necessary. With bodies such as the United Nations (“U.N.”)\(^48\), even wars which are confined to certain areas are becoming “world wars”. This is because countries that are not affected by the conflict are quick to intervene to offer aid in various ways. As a result, “applying the Harm Principal to the realm of nation states, any just war standard must specify what circumstances justify intervention by an international coalition”. This is necessary because it provides a justifiable reason for implementing warfare between nations, it would be unreasonable to assume that nations can attack each other without just cause or sound reason. Committing the act of war without recognized legitimate reason would not be condemned by the international system\(^49\).

**Principles Of Just War**

With regards to the morality of war, individuals hold one of three points of view. The first of these viewpoints is pacifism. Individuals of this view believe that it is never right for a state to resort to war; furthermore, it is never right for an individual to engage in war. The second point of view is known as political realism. This is the belief that war is “beyond and is


unconstrained by morality”. The third belief is referred to as the “Theory of Just War”, being that war can, at times, be “morally permissible and that there are moral constraints on the conduct of war”. The biggest contributions to the Theory of Just War have been made by “theologians and jurists”, as opposed to philosophers. The way in which the Theory of Just War is viewed socially has changed over the years. The older texts focused more on “moral rights, justice and desert”. More recently, this theory has become more developed with respect to international law. Today, this theory has a greater focus on the “regulation of war” in ways that restrict its occurrence and the harm it causes on all those who are impacted by war.

The Theory of Just War is comprised of two principles: *jus ad bellum* and *jus in bello*. *Jus ad bellum* refers to principles that “govern the right to commit war”, whereas *jus in bello* refers to principles that “govern the conduct in war”. *Jus ad bellum* is comprised of six principles, while *jus in bello* is made up of two such principles. All of these principles state a fundamental “condition of permissibility”. Meaning in order for a war to be permissible, that war must fulfill every prerequisite of *jus ad bellum*. Likewise, both provisions of *jus in bello* must be fulfilled in order for an act of war to be legitimate.

The most important principle of *jus ad bellum* is “the requirement of just cause”. Just cause refers to the need for a sufficient reason for war; there must be a specific goal or cause for the war that is able to justify the horrific actions that arise during times of conflict. Should a state become threatened, or even attacked by another state, that nation would have a just cause for war. Just wars are reactive in nature but cannot be defensive, “since they may also be punitive or restitutionary”. As per the “contemporary theory, defense against aggression” is the only

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uncontroversial justified cause for war\textsuperscript{52}. According to “classical writings”, a just cause for war exists “only if the people warred against” have also committed wrongs against others that are so serious in nature that it would make individuals “morally liable to military attack\textsuperscript{53}”.

Jeff McMahan, an American Philosopher, has begun to introduce a new term, “justified war”, with respect to a just cause of war. Justified war indicates that “wars in which some or all of those whom it is necessary to attack as a means of achieving the war’s aims are not liable to attack, but for which there is nevertheless a lesser-evil justification”. That is, a justification based on the fact that the expected harms that the war would deter would be substantially greater than the harms it would cause. Although this term does not seem to have caught on just yet, McMahan suggests that it would be more beneficial to make distinctions between “just, justified, and unjust wars”, as opposed to only between just and unjust\textsuperscript{54} McMahan’s argument has validity in that a lesser-evil justification can, in turn, help to save more lives because achieving success in certain war aims will thusly help to end the war quicker; therefore, risking less lives. Unless, of course, the aim of the attack is to harm a greater number of citizens. This is necessary to understand because it is one way of decreasing or minimizing harm to civilians as, for example, ending the war or minimizing causalities of the future.

In the case of a defensive war, such as the Six Day War, a “threatened wrong” caused by numerous states, not individuals must exist. This threatened wrong can be caused either directly or indirectly in the state’s effort to aid or to defend the main perpetrator. In addition, the “harm that it would be necessary to inflict as a means of preventing the wrong are ones to which the victims would be morally liable by virtue of the nature of the wrong and the degree of their

\textsuperscript{52} Robert E. Goodin, Philip Pettit and Thomas W. Pogge, \textit{A Companion to Contemporary Political Philosophy}, 2\textsuperscript{nd} ed. (New York: Hobokan, 2012), 670.

\textsuperscript{53} Robert E. Goodin, Philip Pettit and Thomas W. Pogge, \textit{A Companion to Contemporary Political Philosophy}, 2\textsuperscript{nd} ed. (New York: Hobokan, 2012), 671.

responsibility for it”. In other words, the threatened wrong must be serious enough so as to make the guilty individuals “liable to be killed” as a means of preventing such acts. In order for just cause to justify a source for war, large numbers of civilians must be attacked where only military intervention could assist in achieving the “justifying aims”. This account of a just cause for war illustrates that, in order for a just cause to justify an act of war, it must guarantee that the wrongs are to be carried out with the intent of achieving the aims of a just war\textsuperscript{55}. “Preventative war and humanitarian intervention” are other forms of war that have the potential to be just. These types of war are not strictly defensive wars; however, they are not responsive to an attack by another state. Preventative wars and humanitarian intervention are acts of war that are responsive to a “threat of attack that is not imminent, and to violations of human rights within the state that is attacked\textsuperscript{56}”.

The second principle of \emph{jus ad bellum} requires that war can only be initiated by actors with the necessary authority such as government and state officials\textsuperscript{57}. The third principle governing the resort to war is that of “right intention”. The rule of right intention states that attackers may turn to war only for the right reasons. In addition, this requirement also stipulates that the aim of the war must be to achieve the just cause; the just cause cannot be used as a cover-up for ulterior motives. A weakness of this requirement is that while right intention permits “some intentions other than to achieve the just cause”, it does not specifically state what those parameters are. This is problematic due to the lack of detail, which has the potential to lead to confusion\textsuperscript{58}. Furthermore, these same philosophers are of the opinion that a state may proceed with war although it may be for the wrong reasons and/or with bad intentions. More traditional

\textsuperscript{57} Robert E. Goodin, Philip Pettit and Thomas W. Pogge, \textit{A Companion to Contemporary Political Philosophy}, 2\textsuperscript{nd} ed. (New York: Hobokan, 2012), 671.
\textsuperscript{58} Robert E. Goodin, Philip Pettit and Thomas W. Pogge, \textit{A Companion to Contemporary Political Philosophy}, 2\textsuperscript{nd} ed. (New York: Hobokan, 2012), 672.
philosophers believe that acts carried out with the wrong intentions are simply wrong; and therefore, should not be carried out. It seems unreasonable to accept that a state may go to war to achieve a just cause simply because the opposing “state’s intention would be bad”. The only significant factor in these types of situations is whether or not the just cause is achieved\textsuperscript{59}. The actions must justify the intentions, which in turn must be sound according to the proper conducts of war.

“Last resort” is the fourth principle of resort to war. This requirement states that, in certain circumstances, war is necessary in order to achieve a just cause. It is important to note that this principle is not meant to be interpreted as stating that, war is justified only if all less destructive routes of achieving the just cause have been attempted without success as there may be situations (ie. wars of self-defense) in which there is no time to attempt resolutions other than combat\textsuperscript{60}. The fifth principle of \textit{jus ad bellum} is proportionality. The proportionality principle requires that expected positive effects of war must be important enough to condone causing the expected negative aftermath. Furthermore, it exemplifies the notion that the ends justify the means. For instance, engaging in a war to defend a miniscule piece of land would be unreasonable if it had a high chance of leading to a nuclear war. Like the rule of right intention, the proportionality principle also needs to provide greater details with respect to which effects count as negative enough that they would justify waging war on another state\textsuperscript{61}.

The only actions that can reasonably be justified in favor of war, as per the proportionality principle, are those that arise from the “achievement of the just cause”. This requirement is a regulation on the types of permissible intentions allowed to be pursued as a means of war.

\textsuperscript{59} Robert E. Goodin, Philip Pettit and Thomas W. Pogge, \textit{A Companion to Contemporary Political Philosophy}, 2\textsuperscript{nd} ed. (New York: Hobokan, 2012), 672.

\textsuperscript{60} C Robert E. Goodin, Philip Pettit and Thomas W. Pogge, \textit{A Companion to Contemporary Political Philosophy}, 2\textsuperscript{nd} ed. (New York: Hobokan, 2012), 674.

\textsuperscript{61} Robert E. Goodin, Philip Pettit and Thomas W. Pogge, \textit{A Companion to Contemporary Political Philosophy}, 2\textsuperscript{nd} ed. (New York: Hobokan, 2012), 674.
Therefore, positive effects that are not part of a just cause cannot be pursued by an act of war; as a result, such effects cannot validate the war by being contrasted against the expected negative effects\(^{62}\). It is also important to note that not all negative effects of war are given the same weight. For example, let us assume that we would have to harm a large number of the opposition’s soldiers so as to secure our own safety. Most of those soldiers would be “emotionally and cognitively immature young men who had been conscripted and lied to by their government”. If we were to experience a somewhat inconsequential loss by giving into the aggressor’s demands, “even a war of defense might be disproportionate”. This example illustrates that the deaths of “unjust combatants” do count in the proportionality calculation. However, these deaths do not count in the same way as the deaths of innocent civilians would. For instance, “a war that would require the killing of 100,000 unjust combatants to prevent them from unjustly killing 10,000 civilians would not be disproportionate\(^{63}\)”.

The final requirement for *jus ad bellum* is that of “reasonable hope of success in achieving the just cause”. According to this requirement, if a war had no chance of success (achieving its desired just cause) it would be wrong for a state to put its citizens, combatants and non-combatants through the tragedy of war for “no good reason”. This is, in some ways, an unnecessary requirement because, if there is a small chance of “achieving a just cause, there will be little expected good to weigh against the expected bad effects of war, in which case war would be disproportionate\(^{64}\)”.

The two requirements for *jus in bello* are “discrimination and proportionality”. The principle of discrimination states that, while it is acceptable to attack other soldiers, it is not

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acceptable to deliberately attack civilians. The proportionality requirement states that the positive effects of war must be significant enough to condone the harms the war would cause, especially the “foreseeable but unintended harms” that would affect innocent civilians. If no just cause exists, acts carried out by unjust combatants will produce negative effects. Such actions that can have “justificatory force”, cannot produce positive effects as actions that are produced as a result of just cause. Therefore, “acts of war by unjust combatants can be neither discriminate nor proportionate”. Unjust combatants are soldiers who take part in unjust wars because they “lack a just cause”. There is, almost always, substantial unpredictability as to whether or not a war is just; as a result, it is challenging to identify just and unjust combatants.

_Soldiers’ Responsibilities Regarding Just Wars_

According to literature on the subject, when it comes to the morality of war, the majority opinion seems to be that it is inconceivable to fight without a just cause. In addition, the combatants who partake in such a war cannot escape liability for their actions by alleging that the government is responsible for concluding whether the wars it participates in are just. It has been argued that it is absurd to expect soldiers to be capable of knowing whether a war is just or unjust. This can be seen in the actions of the Nazi soldiers during WWII as they were forced to side with their country, and commit gruesome crimes in the process, even though they did not agree with everything that Hitler was commanding the soldiers to do. Hitler tempted the soldiers by taking exceptional care of their families and paying them double the salary. The soldiers

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69 Jeff McMahan, “Can Soldiers Be Expected to Know Whether Their War is Just?” (2012): 1.
were participating in the war mostly because of what they stood to gain, and less so because they agreed with Hitler’s point of view.

Unjust combatants usually make one of two errors: they either believe that their war is just, or despite the fact that it may not be just, their participation in it is “nevertheless morally permissible”. Unjust combatants may be mistaken about “matters of empirical fact that are relevant to the moral evaluation of the war”. The moral conclusion that they arrive at as a result of their mistaken beliefs may or may not be the correct conclusion. Regardless, because the “factual beliefs” are inaccurate, the odds that the moral beliefs based on them are true will be “low”. Even if the unjust combatants are aware of all the pertinent “non-moral facts” they may arrive at an inaccurate conclusion.

As there are various degrees of “epistemic justification, action based on epistemically justified non-moral beliefs” may not be excused. What this means, is that an individual may be justified in holding a certain belief; however, the degree of certainty regarding the truth of that belief is low. Alternatively, an individual may argue that the “degree of credence that the belief warrants is low”. As a result, the beliefs of an unjust combatant, “whose relevant non-moral beliefs are epistemically justified may be: weakly justified, strongly justified or justified to some intermediate degree”. This is applicable to the topic of this thesis because it helps to explain how unjust combatants may go about justifying their actions during unjust wars. If the combatants have limited knowledge of the facts, which is usually the case, they may use what little information they have to justify their participation in the conflict. However, stretching the facts or basing actions on inaccurate information does not make the soldier’s actions just.

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72 Jeff McMahan, “Can Soldiers Be Expected to Know Whether Their War is Just?” (2012): 1.
73 Jeff McMahan, “Can Soldiers Be Expected to Know Whether Their War is Just?” (2012): 2.
More important than the “degree of credence a soldier is warranted in according to his beliefs”, is the “degree to which” an individual’s rationalized knowledge justifies “his objectively wrongful action”. This depends on how much is at stake; morally, he must make a determination as to whether or not to fight. Let us assume that a soldier lacked the “non-moral beliefs that support the permissibility of fighting”; as a result, he would not fight. “The more that is at stake morally in the decision the soldier makes based on these beliefs, the more important it is that his beliefs be true; and the more important it is that the beliefs be true, the less excuse he has if he is in error and acts on the basis of false beliefs.”

Let us examine another example to better clarify this claim. Let us assume that a soldier is instructed to participate in an unjust war. The soldier believes, with a high degree of certainty that this war is just and his participation in it is lawful. Next, imagine two possible variations of this scenario. In one, the war is small, triumph in it would not be fatal, and the soldier is likely to be placed in an area where fighting is remote; therefore, his participation is unlikely to make any significant impact. Under these circumstances, the soldier’s beliefs may provide justification for his participation. In a second scenario, triumph would be devastating, and the soldier’s participation would result in the slaughter of a large number of enemy combatants. In addition, his actions would also be a powerful contribution for whichever side he was a part of. In this second scenario, even though his belief is rationalized, it would “provide a much weaker excuse for his participation. This is intuitively plausible”. Two identical false beliefs, with the “same degree of epistemic justification” produce a more substantial justification when what is at stake is of “lesser moral significance”. When the moral stakes are high, a soldier’s belief must be extremely “well grounded” to justify an “excuse of equal strength” if his belief is proven to be true.

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74 Jeff McMahan, “Can Soldiers Be Expected to Know Whether Their War is Just?” (2012): 2.
false\textsuperscript{75}. This is relevant because if you go into combat without educating yourself as to why the war is being carried out, then the combatants may very well be harming individuals who do not need to be harmed in order to conduct the war.

When a soldier is attempting to make such a moral decision regarding whether or not to fight in a war, at risk is the “moral difference between the two ways in which he may get it wrong: by fighting in a war that is unjust and by refusing to fight in a war that is just\textsuperscript{76}”. This is a very difficult decision for any soldier as they must choose whether or not to fight in that war, where there is very much at stake. In addition, the circumstances in which they must make this decision tend to be “conditions of substantial factual and moral uncertainty, in which the justified level of credence in any set of relevant factual beliefs is quite low\textsuperscript{77}”. In addition to moral issues, soldiers must also consider potential risks of their own misconduct. In addition, soldiers take the risk of deliberately injuring and killing innocent civilians and/or violating their rights\textsuperscript{78}.

There are three reasons that help to justify why the moral liability a soldier faces may support the soldier’s “refusal to fight”. The first reason for this derives from the “moral asymmetries between doing and allowing and between intending and merely foreseeing.” If a soldier does not participate in a war that is later proven to be just, the result may be the deaths of innocent civilians who he could have rescued. It is likely, however, that those civilians will be saved by whichever soldier replaces the one who is not willing to fight in the war. If the soldier fights and the war turns out to be unjust, he may be responsible for causing the deaths of innocent civilians. However, it is important to note that those civilians may have also been killed by the individual replacing that soldier if he chose not to participate in the war\textsuperscript{79}.

\textsuperscript{75} Jeff McMahan, “Can Soldiers Be Expected to Know Whether Their War is Just?” (2012): 2-3.
\textsuperscript{76} Jeff McMahan, “Can Soldiers Be Expected to Know Whether Their War is Just?” (2012): 3.
\textsuperscript{77} Jeff McMahan, “Can Soldiers Be Expected to Know Whether Their War is Just?” (2012): 3.
\textsuperscript{78} Jeff McMahan, “Can Soldiers Be Expected to Know Whether Their War is Just?” (2012): 4.
\textsuperscript{79} Jeff McMahan, “Can Soldiers Be Expected to Know Whether Their War is Just?” (2012): 4.
The second reason why the “moral risks” faced by combatants may justify their refusal to participate in war deals with “considerations that are available to soldiers independently of the facts about the particular war in which they have been commanded to fight in”. The first consideration is that the possibility of a war being unjust is greater than the possibility of that war being just. It is important to note that no war can exist in which both sides are acting in a just manner. The fact that wars cannot be just on both sides, coupled with the assertion that some acts of warfare are just on one side, and others are unjust on both sides, suggests that combatants have fought unjustly more often than justly. Therefore, the conclusion can be drawn that these facts must remain true today.

The final consideration that upholds the view that “the moral presumption against fighting”, in times of uncertainty, is that individuals are willing to believe their “side in any dispute is in the right”. Soldiers should be dubious of their “own sense that their war is just”, particularly when the rationalization for the war is contentious. However, soldiers should trust their judgment when they suspect their war to be unjust. The concern here is that “the morally safer course for individual combatants may be disastrous for their society”. Their actions are determined by what their government tells them, thus soldiers can be led blindly into an unjust war and cause atrocities.

*The Harm Principle And Principle Of Just War At Work*

The international intervention in both Kuwait and Kosovo are examples of how Mill’s Harm Principle, and the criteria for a just war, are implemented in international conflicts. These two examples emphasize both the “success and failure of meeting just war criteria”. In 1990, Iraq attacked Kuwait; and took complete control of the area within 12 hours. This conflict involved
both the United States, as well as the U.N. The U.N. Security Council became involved in this conflict as Iraq’s actions “interfered with the recognized sovereignty and independence of Kuwait, thereby violating international law”; and as a result, also violating the U.N. Charter.\(^{84}\) The U.N. Charter calls for its members to resolve their conflicts by “peaceful means” and to abstain from threatening or using “force against the territorial or political independence of any state”.\(^{85}\) This in turn became a UN Chapter VII multilateral mission, meaning that the conflict jeopardized international peace and freedom. Two requirements of a lawful mission under Chapter VII are that it must satisfy the collective security provisions of the U.N. Charter, and all permanent Security Council members must agree with the U.N.’s actions; both of which were fulfilled in this case.\(^{86}\)

The United States’ President at the time, George H.W. Bush, was quick to proclaim that the “invasion will not stand”, and that “no nation should rape, pillage, and brutalize its neighbor”. Over the coming months, President Bush worked to persuade the American people that intervening in the Iraqi-Kuwait conflict was their “moral responsibility”. According to the Harm Principle, as “Kuwait’s sovereignty was violated, a military response was justified”.\(^{87}\) Following the war, the United States declared that it had met its objectives with respect to the conflict. The “ejection of Iraq from Kuwait was a just end”; however, this is only half of the just war requirement. In order for a war to be lawful, the benefits must outweigh the cost/harm. Following discussions regarding possible alternatives to war in this situation (ie. sanctions), it was determined that all other attempts would cause greater suffering than assistance to the Iraqi

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people. This conflict, as a result, successfully “met the criteria” of just war”, as it “achieved a just end and minimized harms\(^88\).”

A counter example to the situation in Kuwait is the humanitarian crises in Kosovo in the 1990’s, where the criteria for just war was not met. The ethnic cleansing of Albanians at the hands of Slobodan Milošević, seemed to undoubtedly constitute harms against humanity against its own people. It was clear that something needed to be done. As a result, then U.S. President Bill Clinton and NATO decided to take the situation into their own hands. However, the actions taken were not consistent with the principles of just war. The involvement of NATO forces lead to an immense increase in civilian casualties. This "collateral damage can be directly attributed to the "no-cost" strategy employed by NATO troops, which refused to risk American and European lives” even though the well-being of the Serbian people was in jeopardy. The just end NATO set out to achieve in Kosovo “was not merely tainted, but completely undercut by unjust means”. It is important to note that, while the bombing of Serbia resulted in many civilian casualties, it also prevented a greater wrong, genocide\(^89\).

Both the Kuwait and Kosovo scenarios demonstrate “equally justifiable criteria” for resorting to war. In the case of Kuwait, “as one nation had harmed another, and a successful war minimized costs, the Harm Principal criterion was met”. It is important to note that, because the Iraqi-Kuwait conflict was waged mostly in a deserted area, not many civilian casualties occurred; however, many soldiers lost their lives during this conflict. The events that unfolded in Kosovo, on the other hand, were determined to be “rendered unjust by immoral means”. These are just two examples that demonstrate the “necessity of just means in waging war\(^90\).”

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It would be juvenile to assume that all wars from now on will be waged in a just way. Therefore, as “unjust wars will continue to be fought”, it is crucial that the individuals who partake in such combat, especially those who believe their motives may be unjust but remain engaged in combat, should “respect certain rules and obey certain constraints”. As a result, it is absolutely crucial to “regulate and constrain the unjust wars that will inevitably occur”. If states and military groups were more cautious about entering, and instigating, armed conflicts, the frequency of unjust wars will likely decrease, which in turn would result in less harm being caused to innocent civilians, as well as combatants. One way that this may be achieved is through greater verbal negotiations and peaceful resolutions to disagreements between opposing sides versus war.

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Two categories of international law are valid with respect to civilian human rights: International Criminal Law and International Humanitarian Law. These two divisions of international law cover a broad range of conduct which exists in order to protect civilians against harm. While it may seem as though the international body of law is vast, it still leaves much to be desired. When so much legislation exists on the issue, along with organizations, such as the U.N., and treaties such as the Geneva Convention, how are we, as a global community not able to better protect civilians and bring the responsible individuals to justice? I will attempt to answer this question in this section, at least in part as it is a very complex issue. In this section, I will set out the parameters for both International Criminal Law and International Humanitarian Law. In addition, I will discuss protections granted to civilians under the 4th Geneva Convention.

International Humanitarian Law

International Humanitarian Law (“IHL”) is the section of international law “which is inspired by considerations of humanity”, and is applicable only to situations of armed conflict. IHL is also known as “the Law of War and the Law of Armed Conflict”; all these terms can be used interchangeably. Its goal is to lessen the hardships of “those not, or not longer, taking part in hostilities and to render the fighting more humane by restricting the use of barbaric weapons”. This section of international law is “inspired by considerations of humanity and is centered on the protection of certain vulnerable individuals in time of armed conflict and on rendering the fighting more humane”. The two primary sources of International Humanitarian Law are “the Hague and Geneva Conventions”. The Hague Conventions lists “restrictions on the means and methods of warfare”, while the Geneva Conventions “provide protection to certain categories of

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vulnerable persons”. Both the Hague and Geneva Conventions are binding “on all states”, regardless of whether or not they “acceded to the relevant treaties93”.

International Humanitarian Law’s origins can be traced back to the 16th and 17th Centuries. The rationalization of the laws “governing the conduct of hostilities, was to minimize the harm inflicted in the exercise of the right of a sovereign to wage a just war”. The Geneva Convention for the Ameliorations of the Condition of the Wounded on the Field of Battle (Red Cross Conventions) was approved in 1864. This Convention established the “foundation for contemporary humanitarian law” in the following ways: it provided “standing written rules of universal scope to protect the victims of conflicts”; it was “open to all States”; it required the extension of “care without discrimination to wounded and sick military personnel”; and it required that all “medical personnel, transports and equipment” be marked with a red cross on a white background symbol. Following the adoption of this Convention, numerous other conferences were held with respect to maintaining peace and better defining the “rules of warfare”94.

In 1977, two protocols were added to the existing Geneva Conventions in the hopes of providing “greater protection to victims of both international and internal conflicts”. Protocol I addresses the “protection of victims of international armed conflicts, as well as “military and civilian medical workers in international armed conflicts”. Protocol II expands on the protections “for victims caught up in high intensity internal conflicts such as civil wars”. Protocol II does not apply to “internal disturbances such as riots, demonstrations and isolated acts of violence95”. In my opinion, the addition of these two Protocols to the Geneva Conventions signals that the additional protection is needed for civilians during times of armed conflict. While these protocols

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were added to the Conventions in 1949, I believe that the regulations or laws protecting civilians need to constantly be added and/or amended. Our society is constantly changing and evolving; therefore, our laws and regulations that govern warfare must do the same in order to remain current and effective. If we continue to apply laws from decades ago, to situations that occur today, we run a high risk of ineffectively addressing important issues that will bring harm to civilians during times of war.

*International Criminal Law*

“International Criminal Law is a body of international rules designed both to proscribe certain categories of conduct (war crimes, crimes against humanity, genocide, torture, aggression, terrorism) and to make those persons who engage in such conduct criminally liable. They consequently either authorize states, or impose upon them the obligation to prosecute and punish such criminal conducts”. In addition, criminal law also “regulates international proceedings before international courts and tribunals, for prosecuting and trying persons accused of such crimes”. International criminal law originates from international humanitarian law, human rights law and national criminal law. International humanitarian law supports “principles and rules” devised to monitor conflict both by restricting “states in the conduct of armed hostilities” and by safeguarding individuals who do not participate, or no longer participate (having fallen into the hands of the enemy) in combat. International crimes “include war crimes, crimes against humanity, genocide, torture, aggression and some extreme forms of international terrorism”.

The most crucial international law statues include the “London Agreement of August 8, 1945, setting out the substantive and procedural law of the IMT of Nuremberg”, and the “1998

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Statute of the International Criminal Court, a lengthy and detailed document that sets out a “list of crimes subject to the jurisdiction on the proceedings before the Court”. Even though one of the intentions of international law is to protect civilians, three circumstances exist which may result in the civilian(s) having to relinquish their “protected status”. “Hostile activity by civilians during combat may lead to loss of protecting. The same can be said for “non-combat activity of civilians, which is prejudicial to the national or military security of the enemy occupying power”. Lastly, “under certain restricted circumstances, the enemy power may deprive civilians of their Fourth Convention rights because of harm which the civilians may do to that power’s interest in the future”. The Fourth Convention will be explained in greater detail below.

The rules which “regulate international proceedings before international criminal courts and tribunals (procedural criminal law) govern actions by prosecuting authorities and the stages of international trials”. International Criminal Law is “a branch of public international law”. The rules that make up this body of law originate from international law (“treaties, customary law, etc.”). As a result, like other laws, they are open to interpretation by the courts and society.

The most valid of these treaties when it comes to civilians’ rights during times of armed conflict, is the Fourth Geneva Convention. The Fourth Geneva Convention specifically addresses the “protection of civilian persons in time of war”. This treaty addresses “all civilians who do not belong to the armed forces, take no part in the hostilities and find themselves in the hands of the enemy”. This Convention establishes the “minimum standards of protection for such civilians,

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which include protection against acts or threats of violence, insults and public curiosity, and protection from being used to shield military operations\textsuperscript{104}.

\textit{Nuremberg Trials}

International criminal law is constantly evolving. One example of this growth is the broadening of the laws themselves. International law, until recently, applied only to states. If an individual committed a war crime, the country in which they lived would be held politically responsible for the crime. International criminal law does not yet allow for entire states to be punished\textsuperscript{105}. As a result of the Nuremberg Trials, the individuals themselves began to be held responsible for their transgressions. The Nuremberg Trials were a series of “13 trials carried out in Nuremberg, Germany between 1945 and 1949”, and were held for the sole objective of “bringing Nazi war criminals to justice”. The defendants included “Nazi Party officials and high-ranking military officers along with German industrialists, lawyers and doctors” who were charged with crimes against peace and crimes against humanity. Although they were disputed at first, the Nuremberg Trials are now viewed as a “milestone toward the establishment of a permanent international court, and an important precedent for dealing with later instances of genocide and other crimes against humanity\textsuperscript{106}”.

Prior to the Nuremberg Trials, no precedent existed for “international trials of war criminals”. Earlier occurrences of “prosecution for war crimes” existed, such as the “execution of Confederate army officer Henry Wirz for his maltreatment of Union prisoners of war during the American Civil War”. However these earlier cases were tried in accordance with “the laws of a single nation” as opposed to two or more nations with “different legal traditions and practices”, as was the case of the Nuremberg trials which included France, Britain, the Soviet Union and the

\textsuperscript{105} Antonio Cassese, \textit{International Criminal Law}, 2\textsuperscript{nd} ed. (New York: Oxford University Press, 2008), 5.
The resolution of the Nuremberg cases resulted in the creation of the “United Nations Genocide Convention (1948), the Universal Declaration of Human Rights (1948) and the Geneva Convention on the Laws and Customs of War (1949)”. The Nuremberg Trials were later used as precedents for other international war crime trials such as the “International Military Tribunal, the 1961 trial of Nazi leader Adolf Eichmann and for the war crimes committed in the Former Yugoslavia and Rawanda\textsuperscript{108}.

Once individuals were being penalized, the law also needed to be altered so as to reflect this change\textsuperscript{109}. For example, “previously the indiscriminate bombing of civilians was only considered a wrongful act attributable to the relevant belligerent state and entailed to international responsibility of that state vis-à-vis the enemy belligerent. Gradually the same act also came to be regarded as a war crime for which those ordering and executing the indiscriminate attack had to bear individual liability\textsuperscript{110}. A recent example includes war criminals such as Milošević and Karadžić being charged with war crimes they orchestrated during the 1990’s Balkans war. Unfortunately, neither of these alleged war criminals have been fully brought to justice as Milošević died during his trial, and Karadžić’s trial remains on-going.

Human rights law is comprised of “international treaties and conventions granting fundamental rights to individuals by simultaneously restricting the authority yielded by states over such individuals. Also included is voluminous case law of “international bodies such as the European Court of Human Rights, the Inter-American Court of Human Rights and the UN Human Rights Committee”. Human rights law sets out the “fundamental rights of suspects and

accused persons, of victims and witnesses”. It also determines the conditions that will ensure a fair trial\textsuperscript{111}.

Laws of armed conflict regulate “conduct causing harm”, as well as “conduct creating an unacceptable risk of harm”. In this way, international law tries to be proactive by attempting to prevent certain crimes from ever taking place. This is especially important as international crimes affect society on an international level and affect millions of lives; therefore, the more crimes that can be prevented from fully coming to fruition, the better\textsuperscript{112}. One of the intentions behind the regulation of war crimes is to act as a deterrent in the hopes of discouraging others to commit similar crimes. However, whether the codification of international crimes truly achieves this goal remains a topic of much debate. War crimes are a relatively new addition to criminal law. “This category of international crimes emerged in the second half of the nineteenth century”. War crimes are the “first exception to the concept of collective responsibility prevailing in the international community”. As a result, states are no longer held responsible for the actions of individuals. With this exception, individuals can be held liable for crimes they commit. The first event that led to the emergence of “the class of war crimes” was the “codification of the customary law of warfare, at both a private or semi-private level and at state level”. The second development, was the creation of the Lieber Code\textsuperscript{113}, 1863. Crucial trials, such as \textit{Henry Wirz}\textsuperscript{114}, at the end of the American Civil War helped to solidify the need for better regulation of war crimes\textsuperscript{115}.

\textsuperscript{113} The Lieber Code of 1863 was “issued by Army order no. 100 of President Lincoln as Instruction for the Government of the United States in the Field”. The Lieber Code was applied during the American Civil War, 1861-1865) (Antonio Cassese, \textit{International Criminal Law}, 2\textsuperscript{nd} edt. (New York: Oxford University Press, 2008), 28.)
\textsuperscript{114} The \textit{Henry Wirz} case addressed the “serious ill-treatment of prisoners of war”.
The doctrine of Strict Legality, on the other hand, suggests that the only way an individual may be “held criminally liable and punished” is, if at the time the act is carried out, that act was classified as an offence. Currently, “most democratic civil law countries uphold the doctrine of Strict Legality as an overarching principle”. These countries uphold the Strict Legality doctrine “to articulate four basic notions”: criminal offences may only be set out in legislation; criminal legislation “must abide by the principle of specificity; criminal offences cannot be “retroactive”; and use of metaphors in the application of criminal law is restricted\textsuperscript{116}.

\textit{War Crimes & Crimes Against Humanity}

One important area of international law that affects civilians during times of warfare is that of war crimes. War crimes are “serious violations of customary or treaty rules belonging to the corpus of the international humanitarian law of armed conflict\textsuperscript{117}”. Essentially, war crimes fall under the category of international criminal law. In order for criminal offences to amount to war crimes, a link must exist between the crime and an “international or internal armed conflict\textsuperscript{118}”. The absence of such a link would result in the crime being treated as a typical criminal offence and not as a war crime\textsuperscript{119}. War crimes must infringe the “rule protecting important values” of an individual or a community, as well as carry with it “grave” repercussions for the victim(s). In order for a war crime to exist, the rule breached must exist in “customary law or be part of an applicable treaty”. In addition, the infringement must involve, “under customary or conventional law, the individual criminal responsibility of the person breaching the rule\textsuperscript{120}.”

\textsuperscript{116} The principle of specificity ensures that the rules that govern criminal conduct must be clearly stated (Antonio Cassese, \textit{International Criminal Law}, 2\textsuperscript{nd} edt. (New York: Oxford University Press, 2008), 37.)
\textsuperscript{117} Antonio Cassese, \textit{International Criminal Law}, 2\textsuperscript{nd} edt. (New York: Oxford University Press, 2008), 81.
\textsuperscript{118} Antonio Cassese, \textit{International Criminal Law}, 2\textsuperscript{nd} edt. (New York: Oxford University Press, 2008), 82.
\textsuperscript{119} Antonio Cassese, \textit{International Criminal Law}, 2\textsuperscript{nd} edt. (New York: Oxford University Press, 2008), 83.
\textsuperscript{120} Antonio Cassese, \textit{International Criminal Law}, 2\textsuperscript{nd} edt. (New York: Oxford University Press, 2008), 81.
The legislation pertaining to war crimes is set out in the “law of the Hague” and the “law of Geneva”. These laws also regulate individuals’ actions during times of conflict, as well as the actions of the individuals who, at one point participated in the armed conflict, but no longer do (ie. prisoner of war)\(^{121}\). War crimes may occur during both international (“large-scare and protracted armed conflict within a sovereign state”) or internal times of conflict (civil wars). This was not always the case, it was only in 1995, following the International Criminal Tribunal for the Former Yugoslavia’s (“ICTY”) decision in \(Tadić\) that lead to the inclusion of civil war under the umbrella of war crimes\(^{122}\). The ICTY is a U.N. “court of law dealing with war crimes that took place during the conflicts in the Balkans in the 1990’s\(^{123}\). The significance of \(Tadić\) was that he was the first individual to be tried by an international criminal court of war since the Nuremberg Trials. \(Tadić\) was convicted of “crimes against humanity, grave breaches of the Geneva Conventions, and violations of the customs of war\(^{124}\).”

There are three instances in which a violation of international humanitarian law is considered a war crime, even though the infringement may lead to “state responsibility”. The first such instance is if a “violation has been consistently considered a war crime by national or international courts”. This includes such crimes as unauthorized killings of prisoners of war or innocent civilians. The second instance includes violations that are considered war crimes by “statutes of an international tribunal”. The last such instance includes situations when case law and/or international tribunals do not provide for a precedent on an issue. This makes it difficult for an individual to know or predict whether or not their actions would amount to a war crime\(^{125}\).

In order to prove a war crime was committed, the element of mens rea, and sub-element of knowledge, must exist\textsuperscript{126}. Mens rea refers to the mental element of a crime. Mens rea indicates that a person is cognizant of the fact that their actions are criminal\textsuperscript{127}. The knowledge element of a war crime refers to the ability of an individual to know that there was a possibility that their actions would cause harm, loss of life or damage to civilians. In order to prove that a war crime was committed, both the knowledge and mens rea elements must be proven\textsuperscript{128}.

The “creation of the IMT and trials at Nuremberg of major German criminals marked a crucial turning point for international law; this lead to the emergence of crimes against peace and crimes against humanity”. This was also the first time senior state officials were held personally responsible for their actions during war. High-ranking individuals were no longer “protected by state sovereignty”; they could now be tried before the entire international community and punished by “foreign states”\textsuperscript{129}.

Crimes against humanity also directly affect the civilian population of an area in which armed conflict exists/existed. These types of crimes first came about in 1915 as a result of “mass killings of Armenians in the Ottoman Empire”. The Russian, French and British governments decided to take a stand against these types of atrocities by making a declaration that such actions constituted a crime against humanity. Crimes against humanity establish a severe “attack on human dignity or a grave humiliation or degradation” of an individual. Crimes against humanity do not occur as a result of an isolated event. Rather, they are part of a “systematic practice of atrocities”. Such Crimes against humanity continue to occur because governments continue to “tolerate and condone” such actions\textsuperscript{130}.

\textsuperscript{126} Antonio Cassese, International Criminal Law, 2\textsuperscript{nd} ed. (New York: Oxford University Press, 2008), 92.
\textsuperscript{127} Legal Dictionary, Web site http://legal-dictionary.thefreedictionary.com/mens+rea
\textsuperscript{128} Antonio Cassese, International Criminal Law, 2\textsuperscript{nd} ed. (New York: Oxford University Press, 2008), 93.
\textsuperscript{129} Antonio Cassese, International Criminal Law, 2\textsuperscript{nd} ed. (New York: Oxford University Press, 2008), 29-30.
\textsuperscript{130} Antonio Cassese, International Criminal Law, 2\textsuperscript{nd} ed. (New York: Oxford University Press, 2008), 98.
Loss Of Protection

While protections are in place to ensure civilians safety during times of armed conflict, civilians also have responsibilities that they must fulfill in order to maintain that protection. Civilians are to be safeguarded during war as they do not, usually, pose a threat to either side. However, if a civilian obtains a weapon and decides to partake in the conflict, they automatically relinquish their right to protection against harm and automatically stand to be attacked as if they were part of the war effort. Civilians who forfeit their right to protection during a conflict, are “liable to punishment by their captor”, should such a situation arise\textsuperscript{131}. The punishment of any civilian who crosses this line into enemy territory, could only be fairly determined following a just trial\textsuperscript{132}.

Two sections of the Fourth Geneva Conventions deny civilians’ rights “even when the affected individual has not been involved in and is not suspected of hostile activity”. Article 35 of the Fourth Geneva Convention states that, “all protected aliens are permitted to leave the territory of a party to the conflict unless their departure is contrary to the national interests of the State”. The second of these two articles, Article 42, allows “internment of or imposition of assigned residence on an alien, if the security of the Detaining Power makes it absolutely necessary\textsuperscript{133}”.

International law is complex, and there are many aspects of international legislation which pertains to civilians and the protection of their rights during times of armed conflict. The dominant areas include war crimes and crimes against humanity. These aspects of international law are most crucial for civilians during times of conflict because these sections of law are meant

to protect civilians’ lives, well-being and quality of life. In addition, such regulations ensure that any individuals who caused harm to civilians during time of war, are held accountable for their actions post-conflict. However, as this section sets out, attributing accountability for harms committed is not as clear-cut as one may think. It is a very complex task with a lot at stake for the accused.
Under the umbrella of psychological effects of war on civilians, a person’s mental health, education, family structure, economics and politics are also included. It is difficult to ever get a full picture of how war affects individuals psychologically as the effects are “complex, chronic and multiple”. However, we are able to get a glimpse at the problem through research that has been conducted in this field thus far. This area requires constant research and updating as a result of its complexity. In this section, I will summarize various studies which looked at psychological effects on victims of war. As the most common ailment for victims has been found to be Post Traumatic Stress Disorder (“PTSD”), I will set out how this disorder affects individuals who have survived traumatic events. In addition, I will discuss how the psychological stress of war impacts mothers, children and future generations.

Based on the research already conducted in this area, it has been shown that civilians are able to “maintain good functioning” following exposure to stressful situations. These results “appear to be more common than originally” suspected. This is encouraging as it shows that the psychological effects of traumatic situations may not be as lasting, or damaging, as originally suspected. As a result, the affected individuals would be able to function as they once did, prior to the traumatic/stressful event. However, simply because research has shown that individuals function better than expected following exposure to stressful situations such as war, it does not

134 Elie Karam and Michela Bou Ghosn, “Psychological Consequences of War Among Civilian Populations”, Department of Psychiatry and Psychology, Balamand University Medical School (2003): 413.
mean that no problems remain. Victims of war still suffer due to the circumstances they are exposed to as a result of armed conflict.\textsuperscript{137}

When considering the psychological effects of war on civilians, the civilians’ quality of life must also be taken into consideration so as to account for the “effects of both mental illness and relevant interventions on the broader context of patients’ lives”. This is associated with the World Health Organization’s (“WHO”) definition of health, which is stated as, the “state of complete physical, mental and social-wellbeing, and not merely absence of disease and infirmity”. This is the definition of health I will be relying on for the purpose of this thesis. This definition is adequate for the purposes of this thesis because it does not only refer to the absence of disease, but it is a very inclusive definition and encompasses the many issues that may arise for patients due to war.\textsuperscript{138}

The Institute of Development Research and Applied Care (“IDRAC”) has focused on the “mental health consequences of war on civilians”.\textsuperscript{139} The term “war stressors” refers to the various causes and forms of stress that arise during times of conflict. War stressors occur both during war and linger for many years, even decades, once the war is over. The types of war stressors that can arise in the midst of an active war “include both strictly military trauma such as shelling and snipers, and other life-threatening situations such as torture, genocide, and traumatic but not strictly military stressors, such as sexual assault, harassment, loss of material property, health, and education”.


\textsuperscript{139} Elie Karam and Michela Bou Ghosn, “Psychological Consequences of War Among Civilian Populations”, \textit{Department of Psychiatry and Psychology, Balamand University Medical School} (2003): 413.
and living in detrimental conditions (ie. lack of food, water or shelter)\textsuperscript{140}. Following the initial state of conflict, war stressors that arise include: “loss of jobs, bankruptcy, resettlement, exile, family disruption, educational disruptions, continuous exposure to reminders of the events, and threats of more trauma to come”. War refugees are faced with additional stresses as they work on re-building their life in a new environment. Refugees are worried about settling into a new society, accessing services such as “education, general health, specialized mental health care, unemployment, legal barriers, exploitation for political purposes and discrimination”. Recent advancements in technology and warfare have lead to the creation of new war stressors for civilians to be concerned with. These new stressors include “chemical, biological and nuclear/radiological materials\textsuperscript{141}”. This illustrates the substantial list of issues civilians are plagued with following a conflict, even if they do not remain living in the affected area\textsuperscript{142}.

\textit{Mental Health}

Mental health issues are critical to address in victims of war as they can be so damaging to an individual’s quality of life, especially if the issues the victim is plagued with are with them for the duration of their life, which is often the case. The most common mental health disorders that arise in civilians who have suffered through war are “depression, PTSD, substance abuse, somatic complaints, sleep disturbances, pathologic grief and family violence\textsuperscript{143}”. In this thesis, I will focus on the general effects of mental health disorders on victims and their families, and specifically look at the role PTSD plays in the quality of civilians’ lives during and post conflict. I chose to focus mostly on PTSD as almost all other mental health disorders arising as a result of

\begin{footnotesize}
\textsuperscript{140} Elie Karam and Michela Bou Ghosn, “Psychological Consequences of War Among Civilian Populations”, \textit{Department of Psychiatry and Psychology, Balamand University Medical School} (2003): 414.
\textsuperscript{141} Elie Karam and Michela Bou Ghosn, “Psychological Consequences of War Among Civilian Populations”, \textit{Department of Psychiatry and Psychology, Balamand University Medical School} (2003): 414.
\textsuperscript{142} Elie Karam and Michela Bou Ghosn, "Psychological Consequences of War Among Civilian Populations", \textit{Department of Psychiatry and Psychology, Balamand University Medical School} (2003): 413.
\textsuperscript{143} Elie Karam and Michela Bou Ghosn, “Psychological Consequences of War Among Civilian Populations”, \textit{Department of Psychiatry and Psychology, Balamand University Medical School} (2003): 414.
\end{footnotesize}
exposure to conflict, if not resolved, are connected with the disorder in that the individual will eventually develop PTSD.

PTSD has been shown to affect both children and adults alike. Women are at a higher risk for developing this chronic disorder than men\textsuperscript{144}. Substance abuse, including cigarette smoking, alcohol and marijuana consumption have been reported to be higher among individuals who were exposed to the effects of war, compared to individuals who were not. An increase in substance abuse following acts of war leaves the individual at a greater risk for PTSD, and depression down the road. PTSD also affects body handlers, peacekeepers and the family members of individuals suffering with PTSD first hand\textsuperscript{145}. Individuals experiencing “impulse control, dissociation, somatic symptoms and personality changes” are diagnosed as suffering from Disorders of Extreme Stress Not Otherwise Specified (DESNONS). DESNONS is considered to be an elevated form of PTSD\textsuperscript{146}.

A lack of forgiveness and feelings of revenge are “indicators of poor mental health” which lead to PTSD and depression. A survey conducted by the Centers for Disease Control and Prevention of Kosovo Albanian households, found that over 80% of the surveyed individuals still maintained “strong feelings of hatred toward the Serbs”. These feelings of animosity stem from the 1990’s war in the Balkans during which the Kosovo Albanians and Bosnian Serbs were on opposing sides\textsuperscript{147}. Holding on to such ill feelings will prevent healing of the mental and emotional scars of war. Due to the trauma of war, it is reasonable for victims to experience feelings of “traumatization” or “brutalization”. While these feelings of agony are to be expected,

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\item \textsuperscript{144} Elie Karam and Michela Bou Ghosn, “Psychological Consequences of War Among Civilian Populations”, \textit{Department of Psychiatry and Psychology, Balamand University Medical School} (2003): 414.
\item \textsuperscript{145} Elie Karam and Michela Bou Ghosn, “Psychological Consequences of War Among Civilian Populations”, \textit{Department of Psychiatry and Psychology, Balamand University Medical School} (2003): 415.
\item \textsuperscript{146} Elie Karam and Michela Bou Ghosn, "Psychological Consequences of War Among Civilian Populations", \textit{Department of Psychiatry and Psychology, Balamand University Medical School} (2003): 415.
\end{itemize}
it does not mean society should accept them. If victims of war do not resolve these stressful feelings, greater harm will result for the individual victims, as well as their communities. To avoid new cycles of violence, some humanitarian organizations provide “counseling and interventions on a large scale” for all civilians in the hopes of preventing greater harm to the affected individuals.\(^{148}\)

Another study that illustrates the psychological impacts of war on civilians is the CONNECT study. To date, this study is the largest study that looked at quality of life and “associated factors in both residents of post-conflict regions and in compatriot refugees in the West”. The CONNECT study looked at the “mental health consequences” of the 1990’s Balkans war “in both people who reside in the countries of the region and those who were resettled in Western Europe” between the ages of 18 and 64 years old. This study was conducted between January 2005 and November 2006 and spanned the regions of Croatia, Serbia, Bosnia and Herzegovina, FYR Macedonia, Kosovo, Germany Italy and the United Kingdom. The conductors of the CONNECT study recruited individuals by utilizing a “multi-stage probabilistic sampling frame and random-walk approach”. This form of approach is used in “post-emergency settings when complete data on the affected population is still not available”. All participants of the study had reported as “experiencing at least one war-related, potentially traumatic, event and lived in areas that had been directly exposed to war activities.\(^{149}\)

The CONNECT study evaluated the participants’ “socio-demographic characteristics including age, sex, marital status, educational level, current employment status and accommodation”. Furthermore, “traumatic experiences before, during and after the war were


assessed\textsuperscript{150}. The CONNECT study concluded that, even nearly one decade after the Balkans war, individuals were still suffering with the trauma they experienced during the conflict. This includes the participants who remained living in the area, as well as those who had immigrated to Western Europe. In fact, the refugee portion of the sampled population struggled more so than the civilians who remained living in the affected areas. The reason for this aggravated struggle was due to the challenges refugees faced in a new country (ie. finding employment, housing, etc.). The participants who exhibited the lowest quality of life were those who had the greatest exposure to “war-related traumatic events”. All participants expressed displeasure with their “employment and financial situation”. On the other hand, they were very satisfied with their family relationships\textsuperscript{151}.

A different study that was conducted in six countries (Bosnia and Herzegovina, Croatia, Serbia, Italy, Germany and the United Kingdom) that looked at the effects of PTSD on individuals who had both recovered from the disorder, as well as those still suffering with it, had “identified several factors of the recovery processes that have not been reported before”. This study is unique because it included individuals who were currently suffering with PTSD, as well as those who had recovered from the disorder. Sampling such a diverse group resulted in the inclusion of a “variety of experiences”. This study looked at the rates of severity of PTSD in individuals aged 18 to 65, who had stayed living in the Former Yugoslavia region, as well as those who had immigrated to other European countries. All individuals who were surveyed “experienced at least one war-related event, with the last event at or after the age of 16, and

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suffered no mental impairment due to brain injury or organic cause”. It was determined that the civilians who had immigrated elsewhere suffered higher rates of PTSD than those who did not. The severity of the PTSD was measured on a scale from 0 to 4 (4 being the maximum possible distress). On average, the participants reported a rate of distress between 3.60 and 3.97. The traumatic experiences that resulted in such a high level of PTSD included: “bombardment/shelling, lack of shelter, being under siege, murder or death of a close person due to violence, witnessing murder or death, combat situations, serious injury, torture, kidnapping, concentration camp/prison incarceration and non-sexual and sexual assault by a known person.”

The same survey produced a list of eight factors “which people attribute their recovery from war-related posttraumatic symptoms”. These factors are: “1) Social attachment and support; 2) Coping strategies; 3) Personality hardiness; 4) Mental health treatment, 5) Material Support; 6) Normalization of everyday life; 7) Psychological safety; and 8) Community involvement”. A specific breakdown, listing the “eight identified factors of recovery from symptoms and specific topics constituting each factor” can be found at Appendix A. Most factors listed “included more than one topic”. “More specific contents within each topic are presented as

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facets of the recovery process. As this is a very comprehensive list, I will only discuss the most frequent recovery factor that arose for both groups in detail.

The most frequent “recovery factor was found to be social attachment and bonding to at least one person, and social support”. This includes support systems like “family, friends, informal network and personal relations with professional care providers”. Families are able to assist with emotional and “practical support” which assist with PTSD related symptoms.

Friends were also recognized as being a “source of support” for both groups that were surveyed. Those individuals who participated in the war effort felt as though the only ones who could fully understand what they were going through emotionally, and as a result provide support, were other veterans. The informal network was also listed under the social attachment and support category as being helpful with recovery from PTSD. The informal network includes such individuals/organization as volunteers, a “senior colleague at work, a military commander, members of a sports club, neighbors who cared, a priest who was patient and brought food and clothing, etc.

The last sub-category listed under the social attachment and support factor is that of professionals. This includes professional in various fields such as medicine, social assistance, etc.

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158 The informal network was particularly helpful for my family and I when we first moved to Canada. We had moved to Canada without speaking any English and not being familiar with the landscape or resources available to newcomers. The volunteers assigned to our family (a married couple, Dulce and Dave) were an essential life source for our entire family. They not only helped us find our way in a new country, they also included us in family events and Canadian holiday celebrations which helped us adjust to our new culture, and it most definitely decreased the stress our entire family was feeling.
While both the CONNECT and the Centers for Disease Control and Prevention studies list a variety of psychological stresses faced by victims as a result of armed conflict, they are both in agreement about the prolonged cases of PTSD occurring among refugees as opposed to the individuals who remained living in the war affected areas. While this may be a surprising fact, it stresses the need for better resources, assistance and perhaps more research to help minimize the additional stresses of such a drastic life change on refugees.

Children

More heartbreaking than anything may be the fact that stresses experienced by an expectant mother during conflicts is likely to cause adverse effects on her offspring through “intergenerational biological mechanisms”. “Many exposures during development are mediated by maternal phenotype and reflect stresses to which mothers were originally exposed”. Exposure to stressful events or situations by an expectant mother has been shown to lead to “adverse health effects” in the baby, along with “increased risk of infection and mental disorders, long-term impairment in offspring social mobility and socioeconomic positions”. One example of an “intergenerational effect is stillbirth after physical violence against a pregnant woman”. In fact, during the siege of Srajevo, “perinatal mortality and morbidity more than doubled, and there was a rise in congenital malformations from 0.4% to 3%".\(^{160}\)

Children who have been subject to violence, including warfare, have exhibited long-term health problems, along with issues relating to “brain structure and neural function”. Studies have shown that children who experience violence are at an increased risk for “committing child abuse as an adult”. Children in these situations also suffer with mental illness, such as “PTSD, depression, anxiety, functional impairment, behavioral problems and Attention Deficit Hyperactivity Disorder”, similar to adults. Even though children are usually very resilient and

able to heal from many unfortunate events, the types of events individuals are exposed to during war are simply too severe for even the most resilient children to overcome them so easily.

It is imperative that the global community does not turn a blind eye to the psychological effects civilians experience following a war. It is not uncommon for countries to simply be forgotten by the international community immediately following the resolution of a conflict. However, although the conflict on the ground may be over, the mental battle the civilians face post war lasts for decades, even lifetimes. As a result, it is crucial for other countries to lend a helping hand in terms of financial and resource assistance to aid in the psychological recovery of civilians and future generations post-war.
EFFECTS OF WAR ON THE COMMUNITY

Exposure to the gruesome reality of war causes civilians to experience thoughts and feelings similar to those of a cancer patient. Civilians are forced to question the world they live in, their priorities, morality and life. Victims of war carry with them the “knowledge that no limits exist for what can be done to people who are without power”. These effects live with the individuals for life; they never leave. This section will focus on the effects of war on the impacted communities. The types of post-conflict effects civilians are forced to deal with that affect their community include: “fragmented families, damage to infrastructure, destruction in public services, unstable political conflict, and possible military confrontation”. Of these effects, I will focus on how damage to infrastructure impacts the victims of war. I have chosen to focus on this specific effect simply due to the limited amount of research and writings specifically regarding the effects of war on a community as a whole.

Communities affected by war suffer both during the battle and after the resolution of that conflict. The loss of resources is very common for individuals affected by war and the “uprooting” that arises as a result of conflict. This encompasses the “physical, social and psychological demands of situations involving mass destruction and casualties”, either due to “pain, injury, devastation or because of the symbolic and personal relevance of loss”. This destruction of resources can decrease both the individual’s and the community’s ability to endure traumatic situations and to “recover from its consequences”. This is especially the case when “individuals or communities have depleted psychosocial and economic resources due to forced relocation and socioeconomic disenfranchisement”.

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161 Suzan Song and Mohammed Shaheen, “Assessing the Impact of Violence and War on Youth in Low-and Middle Income Countries”, Child Youth Care Program (2013): 275.
One “theoretical model” used to understand the “attributions of recovery from trauma and subsequent stress is the Conservation of Recovery Theory (“COR”). COR recommends that individuals aim to “obtain, retain and protect their personal resources, either instrumental (ie. money, shelter or valuables), social (ie. social support or status) or psychological (ie. self-esteem or sense of autonomy)”. This is not surprising, as we all want to hold on to the life, home and support we have grown accustomed to. During times of conflict, civilians are forced to adjust and change many of these important aspects of their life at the drop of a hat; without much time to contemplate various options. As a result of needing to make such drastic life changes so quickly, it is not surprising that civilians want to protect as much of their old life as they possibly can; not being able to do always do so creates additional stress and hardship.\(^{163}\)

I can personally relate to the COR theory and how victims of war aspire to get their old life back, for lack of a better term. In the early 1990’s, the majority of my family and I resided in the Bosnian province of the Former Yugoslavia. Every Sunday evening, we would all get together at my grandparents’ house for dinner. During one of these Sunday dinners, a friend of my parents’ who happened to be a soldier fighting in the war, showed up at my grandparents’ door and informed us that there was a way for our family to escape the fighting and travel to the Serbian area of the country. However, we would have to leave immediately and could not tell any of our friends that we were leaving. Doing so would jeopardies our lives, as well as the lives of the individuals helping us to escape.

My parents, younger brother and I had about one hour to pack before we had to leave. How do you prepare for the rest of your life in 60 minutes? My mom packed the essentials for all of us, or at least whatever could fit in the one suitcase we were permitted to take. She tried to pack a few family pictures and family momentos as we did not know when we would return, if

ever, and what the state of the town we lived in would be. No matter how much we tried to hang on to our house, our valuables, our family and everything else that mattered to us, we simply could not take it all with us. We, like many other families around the world, had to focus on the most important part, staying alive and seeking a better life elsewhere. Even if victims are fortunate enough to escape and/or survive war, they will continue to yearn for the community and life they had left behind, never completely giving up hope that they will find a replica of what they left behind in their new community.

Fragments of buildings that have been ravaged during times of conflict are all too common in many countries around the world. Even though a war may end, the visible ruins linger for much longer; some remain forever. Such destruction has been linked to death, “the awareness of which prompts investment in enduring cultural beliefs and values that seemingly defy the test of time”. Furthermore, exposure to ravaged landscapes have shown to cause “fear and promote aggressive and militaristic response” in individuals in affected areas. Such destruction is a permanent reminder of everything unfavorable war brings into peoples’ lives. Images from both the Balkans War and Six Day War illustrating the types of destruction which will be discussed in this section can be found at Appendix B.

The research in this area is based on the Terror Management Theory ("TMT"). TMT is employed in this instance when researching the probability that witnessing destroyed landscapes enhances “awareness of death”. This heightened awareness further leads to rise in “dogmatic certainty” regarding a person’s “cultural beliefs”, along with “support for violent and aggressive defense” of an individual’s “cultural worldview”. TMT states that the realization of the unavoidable nature of death generates the possibility for “existential terror that would undermine adaptive behavior unless effectively managed”. Further studies show that exposure to locations

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that can be linked to death, are able to initiate “terror management processes”. This would include exposure to hospitals, shelled buildings, cemeteries and funeral homes)\textsuperscript{165}.

Broken Windows Theory (“BWT”) is another method that illustrates how “visible signs of deterioration or destruction” can lead to “disorder in a community”. BWT focuses on how graffiti, litter, or broken windows on buildings leads to damage in a community. While BWT does not directly focus on conflicts, it is valid in this instance as wars have been shown to lead to an increase in graffiti, litter and broken windows. Therefore, BWT would be applicable for our purposes. Exposure to this type of destruction, as covered by the BWT, has been shown to result in increased rates of criminal behavior such as “littering, trespassing and stealing money”. As a result, we can infer that there is a connection between “visible infrastructure damage and caustic behavior that TMT may also be able to help inform”. The “rubble of destroyed buildings and neighborhoods” that arise due to war, often act as a reminder to civilians of how fragile life is\textsuperscript{166}.

Exposure to post-war rubble does not always have such a negative effect on individuals and the community. Studies have shown that such destruction can also bring a nation together. Such visible reminders of war also remind individuals of their “compassionate religious values”, and bring about a more charitable and empathetic side to citizens. It seems as though the destruction of communities “may merely activate the terror management system, whereas the additional social or environmental cues surrounding the destroyed site may have a strong influence on the form of the emergent terror management response”. While this is type of a reaction to post-war destruction is a positive one, it is not the dominant one. Exposure to


damaged infrastructure is still more likely to instigate negative behavior as opposed to positive behavior\textsuperscript{167}.

The PTSD study that was conducted and first mentioned in the Psychological Effects Section of this thesis listed community involvement as one of the eight factors of recovery from PTSD related symptoms. This involved volunteering and assisting others in their community with various things. Participants of the survey stated that they were helping out within their community because they felt it was their duty to help others in need and because they wanted to “serve as role models” that their peers can look up to. Community involvement “reflects strong altruistic motives, such as helping other people and being involved in humanitarian activities. This is consistent with the reciprocal altruism as one of the powerful social norms that people derive self-esteem from\textsuperscript{168}”. This is yet another example of the importance of community in the lives of war victims. Even though these victims have lost so much, they still strive to rebuild their community which in turn helps them heal from the stresses of war.

The research conducted in this area proposes that “destroyed infrastructure can carry an existential signature”, serving as a daily remainder of “one’s own transience and encouraging hostile worldview defenses\textsuperscript{169}”. Such reminders are likely to lead to negative thoughts and actions, as opposed to positives ones. This is yet further proof of how vast the effects of war are on children and adults alike.


EFFECTS OF WAR ON BASIC NECESSITIES

Armed conflict causes “lasting changes in social conditions through increased poverty, lack of employment, community violence, inadequate living circumstances and changed social networks”. All of these components affect a civilian’s basic life necessities. The basic necessities affected as a result of armed conflict includes: starvation and malnutrition, loss of homes and possessions, lost or interrupted education, lack of electricity, loss of financial funding, decrease hygiene and loss of employment\(^\text{170}\). Throughout my research, I found that there is a lack of specific research conducted with respect to the effects of war on civilians’ basic necessities. The information I came across was either very general, or was very specific to children. As a result, in this section, I will share some personal experiences with you that my family and I went through. I hope that by sharing the experiences I lived first hand in an armed conflict will make the effects of war on civilians somewhat more real for you, the reader, as well as fill in gaps that I was not able to adequately provide through my research.

The PTSD study that was discussed in the Psychological Effects Section of this Thesis found that material support was crucial to the surveyed individuals’ recovery from PTSD. The most invaluable material support was “housing since this meant satisfying one of their basic needs”. This “included help with reconstructing or building a house, and being provided accommodation by the authorities”. Also mentioned under the material support category were social benefits, which include such things as “money allowances, food and clothing and help with schooling of children\(^\text{171}\).”


Malnutrition among children, as well as adults, is very common during conflicts. Two types of malnutrition can arise as a result of war: “acute malnutrition or chronic malnutrition”. Acute malnutrition leads to higher fatality rates, while chronic malnutrition leads to “stunting and subtle prolonged deficits associated with lower school attainment and reduced adult income”. “Food security falls during conflict” for varying reasons (ie. “reduced crop production or breaks in the supply chain and trade restrictions”). Starvation and malnutrition during war is a gradual process, it does not happen over night. However, once it sets in, it becomes a very difficult problem to fix\textsuperscript{172}. For instance, the lack of food I witnessed in the city my family and I lived in, in the Former Yugoslavia was gradual. At first a few grocery and convenience stores began to close, and soon enough there were no stores open at all. Once the food supply in the city was completely depleted, civilians began to travel to nearby villages and neighboring countries (ie. Croatia) to bring food. Once the villages became plagued with war as well, civilians then began helping one another and trading various food items in order to survive. There was some assistance, food wise, offered by organizations such as the U.N.; however, when a person is on the brink of existence, ugly feelings like greed set in and this leads to theft resulting in unfair distribution of assistance.

Perhaps the most difficult loss, in terms of basic necessities, to deal with is the loss of one’s home. During times of armed conflict, many civilians lose their homes for a variety of reasons. They may lose their residence due to it being struck down or they may be forcefully evicted by military personnel. Losing one’s home means losing a place of safety, comfort and all of one’s belongings and family memories. This loss is not a temporary one; in most cases it is permanent\textsuperscript{173}.

\textsuperscript{172} Delan Devakeumar, Marion Birch, David Osrin, Egbert Sondorp and Jonathan CK Wells, ”The Intergenerational Effects of War on the Health of Children”, BMC Medicine (2014): 5.
During times of war, civilians either lose their jobs or are not able to work for a period of time. This leads to a lack of finances which then affects many other areas of an individual’s life. Without employment, a person does not receive a pay cheque; and as a result, is unable to pay for necessities like food, clothing, etc. It is also difficult to pick up odd jobs during times of armed conflict as it is unsafe to be out and about and many times there are barely any jobs available as many business close their doors during war\textsuperscript{174}.

Due to the various every-day necessities war affects (ie. electricity, clean running water, etc.) many tasks which one may take for granted become impossible to carry out. For instance, if there is no running water, it is difficult to shower or to wash dishes and laundry. Without electricity, it becomes a challenge to keep warm at night during the colder months of the year; it becomes challenging to cook and individuals will likely need to rely on candlelight in order to see at night. These effects may seem minor in comparison to injury or loss of life; however, if individuals are forced to live under such conditions for any permanent period of time, it will begin to affect other areas of their lives and will leave lasting psychological effects, which will be harder to fix. For instance, not being able to shower regularly or maintain the level of hygiene a person had prior to the war will start to affect that person’s self esteem and self worth. This may seem like an insignificant effect to evaluate; however, during times of war many of the things that matter to a person are taken away, it is important to hold on to as much of your “old” life as you can during such a complex ordeal. Poor hygiene can also lead to health problems such as infections\textsuperscript{175}. For example, when we were left without water in Zavidovici, we had to wash our clothes in the local rivers. This was a tough reality to make peace with, that in the 20\textsuperscript{th} century,

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{image.png}
\caption{A figure related to the text content.}
\end{figure}

we needed to wash our clothes in the river, but during a war you just have to roll with the punches, there is no room for luxury.

Loss of such basic resources as water and electricity affects civilians in other ways as well. If these resources are lacking, it make it difficult for local businesses and hospitals to function properly. Imagine a hospital that is trying to treat wounded individuals, and it has no power and no backup generator. This would make it very difficult for the doctors and nurses to deliver much needed care to the sick and wounded, resulting in even greater harm to civilians, as they now cannot receive the care they so desperately need.

The basic necessities that civilians lose or have to compromise during times of armed conflict are just one piece of the puzzle. However, coupled with the psychological effects of war they have to deal with, along with the effects to their community, it is enough to push a person over the edge. When a conflict occurs anywhere in the world, by taking away the basic necessities of citizens, the self worth of these individuals is greatly diminished. Unfortunately, this can easily magnify the other effects of war as the loss of basic necessities leaves an individual very vulnerable.
Conclusion

Civilians’ rights are not adequately considered during times of armed conflict. This has been shown throughout this thesis as a result of close examination of current international legislation, international treaties such as the Geneva Conventions and the effects on civilians’ lives both during and after a conflict. Civilians are affected by legal acts of warfare due to the fact that war impacts their quality of life in every way (ie. basic necessities, well being, community, etc.). With new conflicts constantly arising all over the world, this means that the lives of millions of civilians are forever changed due to war. It is important to ignite discussions on the issue of civilians’ rights during times of legal armed conflict in order to prevent further harm to individuals, especially children. The consequences of war on civilians are very serious and last a lifetime; therefore, we owe it to one another to do everything we can to try and minimize the suffering of other people; no one should ever so unfortunate to have experience the atrocities of war. Wars are political battles, not private ones. Therefore, civilians should not have to pay the ultimate price for something they have no control over and are not responsible for instigating.

Recommendations

As has been demonstrated in this thesis, the current legislation and programs that assist civilians affected by armed conflict around the world are not sufficient. While they can be beneficial at times, more needs to be done in order to protect this fragile group in our society. I believe that we are on the right track in terms of international legislation and studies that are being conducted in war-torn areas. However, there seems to be a lack of full application of international laws, in some instances as well as the fact that currently, consequences to international laws do not act as enough of a deterrent to discourage individuals, militaries and/or
states from waging wars, at least not in a manner that does not affect civilians on such a grand scale.

Based on the research I have conducted for this thesis, coupled with my personal experience of war, I provide recommendations which I believe would decrease the negative effects of war on civilians and their communities as a result of legal acts of warfare. It would be juvenile to think that the effects on civilians during an armed conflict, even if conducted in a perfectly legal manner, could ever be zero. However, more can certainly be done to minimize the current effect of legal warfare on civilians. Even though a goal of zero, in terms of the effect on civilians, is likely unattainable, the global community as a whole should work harder to bring the numbers down as close to zero as possible. If more is done to protect civilians, it would improve their lives and communities, as well as the global community as a whole as the affected individuals would have more to contribute to society and would live more productive lives.

Recommendations Regarding Social And Psychological Factors

Throughout my research, I came across many studies, conducted both during and after a conflict. However, the focus of these studies were adults, not children or youth. Due to the lack of resources for youth who are dealing with the psychological aftermath of war, there needs to be a more “effective use of existing resources in addressing the negative impact” on young children, youth and the affected communities. As was mentioned in the Psychological Effects Section of this thesis, children suffer just as much, if not more, than adults during a conflict as well as following the resolution of the war. Because war can leave life-long effects on children, it is important to address how the impact of war affects the lives of these children as they grow older.

Similar to the global upraise in protecting our climate and environment to ease the climate/environmental hardships on future generations, the same can and should be done when it comes to armed conflict. “The notion of intergenerational justice emphasized a temporal
dimension, giving future generations rights that those currently alive should maintain. The extent to which existing legislative powers can be used to uphold these rights is uncertain, but legal bodies could potentially extend their scope to the violation of the rights of future beings\textsuperscript{176}. The first step to achieving this goal is greater clinical research in this area. The second step would be to implemented programs based on the acquired research. In order to reach the greatest possible number of affected children and youth, these programs would need to be implement in the affected communities, as well as around the world where the people from the affected area(s) have immigrated to\textsuperscript{177}.

Another area that has not been properly researched in terms of the affect acts of warfare have on civilians is the “association between post-war mental distress, social environment and quality of life\textsuperscript{178}”. As per the findings of the aforementioned CONNECT study, aid programs that deal with assistance with “social outcomes such as employment, living conditions and social networks” must be provided to individuals in war-affected areas, as well as those who have immigrated elsewhere. If only the psychological side effects of war are addressed and the social aspects are neglected, any aid provided to these civilians will not be fruitful. The psychological effects are only part of the puzzle\textsuperscript{179}. Greater research in this area would paint a more complete picture of just how deeply war affects civilians. Most studies focus just on the mental effects or just on the social environment, but no study has yet tacked the aftermath of war on civilians in this more wholesome manner.

\textsuperscript{177} Suzan Song and Mohammed Shaheen, “Assessing the Impact of Violence and War on Youth in Low-and Middle Income Countries”, \textit{Child Youth Care Program} (2013): 276.
Recommendations Regarding Accountability Of States

While some countries may be quick to offer compensation to the communities they affect during war, there is usually a lack of accountability for the casualties caused. One example of this is the on-going fighting in Afghanistan. The U.S. military offered compensation in Afghanistan; however, they “refused to admit causing civilian casualties when it engaged in attacks”. Such denial angers the civilian population and it may lead to further, greater consequences. While it cannot be denied that civilians in war-torn areas are in need of financial assistance, it is crucial to also take responsibility for wrongs committed against them. This type of accountability is important for the victims’ self worth as well as healing. As was discussed earlier in the Psychological Effects Section, lack of accountability by soldiers or the government was detrimental to the victim’s mental health and hindered their recovery from PTSD\(^{180}\).

Even though the U.S. can stand to greatly improve the way in which they treat civilians during times of war, other developed nations can also look at the U.S. as an example in one sense of how to properly react to civilians’ needs in time of war. When General Stanley McChrystal replaced General David McKiernan as the U.S. Commander of International Forces in Afghanistan, he implemented policies which allowed the U.S. “military’s treatment of civilians to exceed the requirement of international law” even. McChrystal achieved this incredible milestone by holding meetings with Afghan civil-society groups to “discuss what his forces were trying to do and why”. Through these types of meetings, members of the community could ask questions and raise any concerns they had, and they would receive honest and immediate feedback from the individual(s) in charge of the operation in Afghanistan. “McChrystal’s policies were not just public relations ploys; they saved lives”. Even as the battle against the Taliban reached its climax, the “civilian casualties caused by U.S. strikes” decreased by 50%

“within one year” following McChrystal’s appointment. This, is yet another way through which the invading military can validate the concerns and struggles of the impacted civilians’ during a very uncertain time. More nations need to implement the types of policies created by McChrystal as they will lead to decreased civilian casualties during attacks, as well as decrease the possibility of psychological harms among civilians, such as PTSD\textsuperscript{181}.

Many countries, including the United States and Canada, do not have a specific individual who is “responsible for monitoring civilian harm or figuring out ways to respond to it”. This is a huge detriment to humanity. Conflicts are on-going all over the world, and unfortunately, civilians are being harmed at an ever increasing rate; yet, there is no one monitoring these harms and working to provide assistance so desperately needed by civilians, at least not on a regular or consistent basis. This is something that must be rectified as soon as possible by nations who are currently involved in active warfare. In addition, any countries planning to go to war, or assist others in battle, should appoint someone to monitor harms caused to civilians during the conflict and organize the necessary assistance to the affected communities\textsuperscript{182}. If all countries that are involved in battle had an individual, or organization, fulfilling such a role, it would hold all nations involved more accountable as there would be exact data with respect to harms caused to civilians as opposed to allowing such wrongs to easily be swept under the rug, as is the current case. Ideally, greater accountability will result in assistance for the victims, as well decreased civilian casualties. It is my hope that such actions will lead to decreased casualties as the various militaries will have to publicly answer for any harm caused to civilians; therefore, they would work harder to minimize harm to civilians.

In 2011, the U.S. put together a “military draft handbook on mitigating civilian harm” in the hopes of decreasing civilian casualties. However, this handbook focuses specifically on Afghanistan, not any other current conflicts and is not applicable to any future conflicts either. While this handbook is a good starting point, I believe that it would be beneficial for each country to create its own handbook similar to the one created for the Afghanistan conflict. One alternative to each country drafting such a document, it may also be fruitful to have one international military handbook. Regardless if this handbook is created by each individual country, or by the international community as a whole, it must be very comprehensive. Furthermore, failure by any member of the military to follow protocols set out in the handbook must be policed either by each country or by an international body. If no consequences and/or deterrents exist for not following the guidelines, the handbook itself would become useless and we will, once again, be exactly where we started and high numbers of civilian casualties will continue.

_USE OF DRONES_

In conducting my research, I came across various sources, which state that the use of Drones is one way to mitigate civilian casualties as the drones can be pointed to specific locations. This is not necessarily the case. While the use of drones allows operations to be carried out “with few boots on the ground”, this new technology brings with it new risks as well. While the use of drones allows the military to pinpoint a specific location to send the drone to, the use of drones also damages the surrounding area as well, which in turn causes damage to surrounding infrastructure as well as harm to civilians. In addition, there are usually very few, if any, soldiers on the ground in the area where the drones are sent to, it becomes nearly impossible to “investigate the collateral damage and explain he losses to families”. “As the use of drones

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becomes the norm, the White House needs to rethink its opaque policy, figuring out how to limit the harm inflicted on civilians in the first place and how to address it when it does occur”. It is possible to reduce the harm caused to civilians and to alleviate the “fallout caused by drone strikes”. However, in order to do so, that would require the “lifting of the veil of secrecy that shrouds the CIA-led drone program and publicly explaining how the CIA defines civilians in this context”.  

Recommendations Regarding Future Studies

Even though wars have been waged for centuries, and despite the fact that countless studies have been conducted with respect to war, more research is needed in order to better understand how individuals are affected by conflict in an ever changing society. Some of these studies will need to be conducted on the ground during times of war, and others will be undertaken post conflict. Regardless of which methods are applied by researchers, it is important for “researchers and providers to understand the context and derive questions that are of priority and relevance to the setting since assuming answers without understanding the context may end up being detrimental” to the study. In order to ensure that researchers remain respectful and sensitive to the situation of civilians affected by war, they should implement a needs assessment into their research. A “needs assessment is a preliminary survey of available community resources, as well as the mental health and psychosocial needs of the community”. Conducting a needs assessment is a time consuming task; therefore, it should be utilized only in situations that do not involve surveying civilians in an area actively involved in a conflict.

A needs assessment is conducted in the following way:

1. “Description of the past/present conflict, how it affected the population.

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2. Identification of an appropriate research population (taking into account effects on non-researched populations).

3. Identification of mental health services available in the country (mental health policy and mental health personnel, paraprofessionals, social workers, traditional healer, women’s associations, community leaders, etc.).

4. Identification of local means of healing.

5. Identification of traumatic events experienced by the population.

6. Identification of the main characteristics in culture, religion, and socio-political organization.

7. Description of how people deal with the consequences of violence and trauma at various levels (individual, family, and community) and how the coping mechanisms are affected by the current situation\textsuperscript{185}.

Whenever possible, these seven steps should be “adapted to the local context by involving various stakeholders, local and international grassroots organizations involved in relief and social programs, and the policy makers”\textsuperscript{186}.

\textit{Recommendations Regarding Legislation}

As set out in the law section of this thesis, there seems to be adequate legislation and treaties in place when it comes to armed conflicts and civilian protection. However, since one purpose of the legal system is to act as a deterrent against similar crimes in the future, it seems as though the current laws and treaties are not sufficient to achieve this goal. On paper, these regulations seem almost without fault; however the way in which they are applied is where the problem arises. If military personnel and governments around the world were genuinely

\textsuperscript{185} Suzan Song and Mohammed Shaheen, “Assessing the Impact of Violence and War on Youth in Low-and Middle Income Countries”, \textit{Child Youth Care Program} (2013): 282 – 283.

\textsuperscript{186} Suzan Song and Mohammed Shaheen, “Assessing the Impact of Violence and War on Youth in Low-and Middle Income Countries”, \textit{Child Youth Care Program} (2013): 283.
threatened with severe consequences due to unjust actions during times of armed conflict, it would be logical to assume that the amount of conflicts around the world would decrease, and that the treatment of civilians during times of war would improve. If this goal of deterrence is to ever be achieved the international community will need to come together and be fully honest with one another regarding their military’s actions in past and current conflicts. Hopefully, such open and honest dialogue will lead to proper implementation of all international and human rights legislation pertaining to armed conflicts which will, in turn, act as more of a deterrent for the entire international community.
APPENDIX A

(This table is taken from the Recovery from Posttraumatic Stress Symptoms: A Qualitative Study of Attributions in Survivors of War by Dean Ajdukovic et al.)

Factors to which recovery from war-related posttraumatic symptoms is attributed.

<table>
<thead>
<tr>
<th>Factor of recovery and support</th>
<th>Topic</th>
<th>Facets of recovery process</th>
<th>Recovered group</th>
<th>Unrecovered group</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social attachment</td>
<td>Family</td>
<td>Emotional bonding, patience, understanding for mental health problems</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Attachment to children and responsibility for them</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Behavioural self control to avoid harming family</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Progress of children as asset for future life</td>
<td>Feeling only when family members close by and available</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Family helps orientation to the future</td>
<td>Burden to family; worried about future</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Active role within family and reciprocal social transactions</td>
<td>Dependant on family, feeling a worthless member, passive role within family</td>
</tr>
<tr>
<td>Friends</td>
<td></td>
<td></td>
<td>Opportunity to discuss war related experiences in a trusting and understanding environment</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Emotional and instrumental support</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Downward social comparison with friends who are worse off</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Common experiences with veteran friends from the same unit</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Other friends with corresponding interests</td>
<td>Primarily friends with same war-related experiences</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Making new friends</td>
<td></td>
</tr>
<tr>
<td>Informal network</td>
<td>Volunteers, boss at work, military commander, a priest, sport club members, neighbours</td>
<td>Being important to other people, other people show interest in them</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Instrumental support</td>
<td></td>
</tr>
<tr>
<td>Professionals</td>
<td></td>
<td></td>
<td>Relations beyond strictly professional relationship important as reassurance and social acknowledgment</td>
<td></td>
</tr>
<tr>
<td>Coping strategies</td>
<td>Active coping</td>
<td>Seeing tangible effects of own work</td>
<td>Having a paid job; productive family member</td>
<td>Prefer simple jobs that do not require much concentration</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Having a paid job; productive family member</td>
<td>Prefer simple jobs that do not require much concentration</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Meaningful activities that ensure recognition and reassurance of own value</td>
<td>Whatever activity to control thoughts and intrusive memories</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Feeling of self-efficacy, productive individual</td>
<td>Spending time off work with people to control intrusive memories</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Everyday work routine and job related responsibilities</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Maintaining a paying job as an aspect of self-worth</td>
<td></td>
</tr>
<tr>
<td>Sharing traumatic Experiences</td>
<td></td>
<td></td>
<td>Important to get “those things out”</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Avoiding people who constantly talk about war</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Was relieving to share experiences, not practiced any moreStill relieving to share experiences</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Memory of suffering became integrated life experience</td>
<td>Hoping to forget the past or obsessively talking about the past</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Talking about war and losses not so important any more</td>
<td>Suppress intrusions by avoiding talking about these issues</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Self-taught redirecting thoughts to children and “cheerful topics”</td>
<td></td>
</tr>
<tr>
<td>Openness to new life experiences</td>
<td></td>
<td></td>
<td>Highly valued emotional and behavioural self-control</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Able to continue working or interacting despite agitation</td>
<td>Use of “time-out” to regain self-control when angry</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Able to deal with anger a constructive way</td>
<td>Attempt to self-control anger and recognize risk situations</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Renewed belief in people</td>
<td>Self-isolate to reduce irritation by other people</td>
</tr>
</tbody>
</table>
Avoided by other people because of problems with emotional control

| Feeling at peace with past doings | Feeling "moral restlessness"
|----------------------------------|----------------------------------|
| Calming                          | Being alone in a quiet environment
| Positive memories and hope       | Memories related to time before war
| Idealized sentiments about pre-war life |

Cont.

<table>
<thead>
<tr>
<th>Factor of recovery</th>
<th>Topic</th>
<th>Facets of recovery process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recovered group</td>
<td>Topic</td>
<td>Facets of recovery process</td>
</tr>
<tr>
<td>Hope for better future founded in own pre-war achievements</td>
<td>Unrecovered group</td>
<td>Symptoms increase after visiting homeland</td>
</tr>
<tr>
<td>Pre-war memories strengthening and related to future plans</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Personality hardiness</td>
<td>Challenge</td>
<td>Facets of recovery process</td>
</tr>
<tr>
<td>Self-attributes as: grit, defiance, spite, self-discipline, ability to enjoy a moment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Self-efficacy, commitment to improve own situation, humour</td>
<td>Accepting things as they are feeling that nobody helped the recovery,</td>
<td></td>
</tr>
<tr>
<td>Future outlook</td>
<td>Facets of recovery process</td>
<td></td>
</tr>
<tr>
<td>Life optimism, future outlook, hope</td>
<td>Low expectancies about future,</td>
<td></td>
</tr>
<tr>
<td>Mental health treatment</td>
<td>Mental health services</td>
<td>Facets of recovery process</td>
</tr>
<tr>
<td>Easy access to mental health services</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Timely mental health interventions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Psychotherapy and medication both helpful</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Psychotherapy</td>
<td>Facets of recovery process</td>
<td></td>
</tr>
<tr>
<td>Opportunity for talking about problems and concerns with a professional</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clarity of the treatment structure</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Therapy in the mother language</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unhappy with passive therapist</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Awareness of recovery progress</td>
<td>Modest expectations from therapy but were aware of positive effects</td>
<td></td>
</tr>
<tr>
<td>Compliance with therapy requirements</td>
<td>Embittered and chronically dissatisfied</td>
<td></td>
</tr>
<tr>
<td>Psycho-education</td>
<td>Facets of recovery process</td>
<td></td>
</tr>
<tr>
<td>Understanding of own psychological status</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Understanding connection of mental health status and symptoms</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Normalization of symptoms</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Receiving practical suggestions what to do and not to do</td>
<td>Guidance from practitioners for managing provocative situations</td>
<td></td>
</tr>
<tr>
<td>Medication</td>
<td>Facets of recovery process</td>
<td></td>
</tr>
<tr>
<td>Medication as necessary part of healing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unhappy with strong side effects</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medication helpful to clam when agitated</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Psychol-education</td>
<td>Facets of recovery process</td>
<td></td>
</tr>
<tr>
<td>Understanding of own psychological status</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Understanding connection of mental health status and symptoms</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Normalization of symptoms</td>
<td></td>
<td></td>
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<tr>
<td>Receiving practical suggestions what to do and not to do</td>
<td>Guidance from practitioners for managing provocative situations</td>
<td></td>
</tr>
<tr>
<td>Relationship with professionals</td>
<td>Facets of recovery process</td>
<td></td>
</tr>
<tr>
<td>Reassuring relationship with a practitioner</td>
<td></td>
<td></td>
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<tr>
<td>Trusting competencies of a practitioner</td>
<td></td>
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<tr>
<td>Trust in a practitioner generalized into trust towards other people</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Received material support</td>
<td>Housing</td>
<td>Facets of recovery process</td>
</tr>
<tr>
<td>Reconstructing/building a house</td>
<td></td>
<td></td>
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<tr>
<td>Provision of accommodation from the authorities</td>
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<td></td>
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<tr>
<td>Unhappy with poor accommodation</td>
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<td></td>
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<tr>
<td>Social benefits</td>
<td>Facets of recovery process</td>
<td></td>
</tr>
<tr>
<td>Money allowance, food, clothing, schooling of children</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Seen as temporary assistance to help get on own feet</td>
<td>Not seen as temporary</td>
<td></td>
</tr>
<tr>
<td>Insufficient, low subsidy</td>
<td></td>
<td></td>
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<tr>
<td>Normalization of everyday life</td>
<td>Establishing everyday routine</td>
<td>Facets of recovery process</td>
</tr>
<tr>
<td>Children go to school, family together, living from own work, young family members have a perspective for schooling and work</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Opportunity for employment and decent housing</td>
<td></td>
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<tr>
<td>Routine social relations</td>
<td>Feeling accepted in the local community</td>
<td></td>
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<td>------------------------------------------------</td>
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<tr>
<td></td>
<td>Enjoying normal changes in the family structure</td>
<td></td>
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<tr>
<td></td>
<td>Making new friends</td>
<td></td>
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<tr>
<td>Psychological safety</td>
<td>Reducing life uncertainty</td>
<td></td>
</tr>
<tr>
<td></td>
<td>No references to physical safety</td>
<td></td>
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<tr>
<td></td>
<td>Obtaining citizenship status, work permit, accommodation</td>
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<tr>
<td>Factor of recovery</td>
<td>Topic</td>
<td>Facets of recovery process</td>
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<tr>
<td></td>
<td>Recovered group</td>
<td>Unrecovered group</td>
</tr>
<tr>
<td>Community</td>
<td>Involved beyond network of family and</td>
<td>Volunteering</td>
</tr>
<tr>
<td>involvement</td>
<td>friends</td>
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<td></td>
<td>Modelling behaviour that can empower</td>
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<td></td>
<td>peers</td>
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<td></td>
<td>Helping others to “pay debt” for the</td>
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<tr>
<td></td>
<td>received help in the past</td>
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<td></td>
<td>Strengthened by helping people who are</td>
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<tr>
<td></td>
<td>more miserable</td>
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</table>
Figure 2: The aftermath of an attack on a building on the first day of the Six Day War\textsuperscript{187}.

Figure 3: War torn neighborhood in Sarajevo during the Balkan's war\textsuperscript{188}.


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