



‘WE ARE AFRAID OF SILENCE’

Protecting Civilians in the Donbass region

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EXECUTIVE SUMMARY

In war, one learns to fear routine activities most people take for granted. Today, in eastern Ukraine, going to work or school, spending time outside with one's family on a Sunday afternoon, or tending one's garden are life-and-death gambles. This report documents the harm—death, injury, or destruction of property—civilians suffered, and, most importantly, continue to suffer when caught in the crossfire of Ukraine's ongoing conflict. It aims to bring to light the suffering of those who stayed and those who left, and examine their views on how the government can protect them better and help them rebuild their lives. It then provides some ideas and recommendations, mostly directed to the Ukrainian government and its international partners, on these very issues.

Following the February 2015 ceasefire agreement, the two sides settled along the “contact line,” defined by two approximately 400 km-long series of fighting positions and trenches running parallel to one another. In some places, the contact line is close enough for combatants to hurl hand grenades at one another, while in other places several hundred meters separate the two sides. Some civilians live in villages in the “grey zone,” the areas close to contact line under effective control of neither side.

The Office of the United Nations High Commissioner for Human Rights (OHCHR) began monitoring the crisis in 2014. According to its most recent report, since the crisis in Ukraine began following Russia's annexation of Crimea on March 1, 2014, the conflict has claimed over 9,600 lives, injured more than 22,000 people, and displaced over 1.7 million civilians within and outside Ukraine. While the contact line has barely moved and casualties and civilian displacement have dropped sharply since the partial implementation of the Minsk Agreements, heavy fighting continues on a daily basis, and casualties have been rapidly climbing in recent months. The International NGO Safety Organisation (INSO) has recorded a total of 171 confirmed civilian casualties—39 of them fatal—between June 1 and August 31, 2016. As this is a minimum and conservative estimate, numbers could be much higher.

In addition to physical harm, civilians must also contend with psychological damage. Psychological scars are prevalent throughout all age groups interviewed, but especially among children and the elderly. A woman who fled Donetsk to Kyiv in August of 2015 described her young son's problems as stemming from the war: “My youngest son is two years old now. He doesn't talk yet and he's very anxious, because he spent the first months of his life in the war zone. But we will have to go back, if we don't have enough money to stay [in Kyiv].”

Some civilians see the conflict as being pointless, and view the harm caused by both sides as essentially unnecessary. These civilians are becoming increasingly cynical about life and their government's ability to provide security. “Both sides don't protect civilians at all,” said 18-year-old Olga, living in what remains of Opytne. “They are shooting and playing their game and they don't care about us.”

Civilians interviewed by CIVIC expressed their main concerns and protection needs in connection

with three main activities: artillery shelling; unexploded ordnance (UXOs), mines, and booby traps; and abuses committed by armed actors.

Ongoing use of heavy artillery by both sides in populated areas has been amply documented. The Organization for Security and Cooperation in Europe (OSCE) recorded so many violations in August 2016 that it could only approximate the number rather than make more precise estimates. In September 2016, the OSCE recorded more than 4,400 violations. Many civilians perceive the persistent shelling of civilian areas as intentional rather than accidental. A woman from Nizhnya Krynka said “I don’t know whether it was on purpose or not, but the Ukrainian [military] shelled residential areas, even the cemetery, every day.”

The threat posed to civilians doesn’t end when the shelling stops as the reports of over 1,410 mine and UXO-related casualties since 2014 illustrate. Children are uniquely vulnerable, as they may view UXOs as toys. At least 40 of the reported casualties from UXOs from March 2014 through October 2016 have been children. A mother of two in Yenakiyevu recounted an instance where “kids in our town played with a grenade they found and were seriously injured.” UXOs also have an economic impact, particularly for farmers. A volunteer working along the contact line noted that “Many fields in Donbass are full of mines. They were agricultural, but now they’re full of mines.”

During CIVIC’s research, many civilians and security forces also recounted allegations of abuses against

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civilians. A veteran of World War II living in Ukraine near the contact line said the separatist forces “shoot into the areas where there are people. It’s not just artillery either, they use machineguns to shoot at people. ... This war is much worse than [WWII].”

Some Ukrainian government and military officials (as well as many veterans of the conflict) expressed the view that civilians

who stayed along the contact line did so by choice, and are thus pro-separatists. However, the vast majority of the civilians CIVIC spoke to painted a completely different picture. For the people living near daily gunfire, they stay because some practical reasons, often beyond their control, compel them to.

Some civilians are too old or infirm to move. Others lack the financial means to start a new life elsewhere, while others have family obligations that forced them to remain. Some saw their neighbors who had left come back after finding life as a displaced person harder than life in a conflict zone. Others saw their neighbors’ homes and shops looted when they left, so they stay behind to protect their property.

Those who stay not only contend with the duress of life in a conflict zone, but also face mistrust and discrimination from both sides. As Vira, a civilian living in non-government-controlled Horlivka, said: “There are no laws in this land and nobody knows to whom we can report. Ukraine will say that we support separatists by living in our home. Separatists will say that we are Ukrainian collaborators or something like this. Nobody has money, nobody helps.”

Civilians demand reasonable forms of assistance: help to cover health care costs for those injured in the conflict, fulfillment of pensions, assistance to repair or rebuild their damaged homes, logistical and financial assistance to temporarily resettle to safer parts of Ukraine, and an acknowledgment of responsibility from those who caused the harm. Little of this is currently forthcoming. “If the government were to offer resettlement as an option we could move away from here, but nobody has offered this option,” said a woman named Victoria living on the contact line. Civilians who have chosen or are forced to stay have similarly reasonable requests: an end to fighting in or near civilian areas, an end to discrimination against them, and improvements at checkpoints to allow them to cross the contact line more easily.

Our research showed the absence of institutional mechanisms and policies to protect civilians from harm and provide assistance to those who are harmed. One woman in Marinka described the situation: “Every day there is shelling from both sides. There are also snipers. Militia and the Ukrainian military, all shoot at us. Our street is located between two check-points. Firemen and ambulance are not allowed to enter the area. If someone needs to receive an injection or first aid, I do it myself. We have been living without electricity and water for two years.”

Nevertheless, since 2014, Ukraine has come a long way on the protection of civilians. It has a relatively functioning army again, a robust National Guard, and has taken positive steps to curb the worst excesses by paramilitary organizations operating in the conflict zone. Ukraine’s Civil-Military Cooperation (CIMIC) and the Ministry of Occupied Territories (MOT) are encouraging first steps to building institutions willing and capable of protecting civilians.

In the conflict zone, ad hoc initiatives such as the “certificates of destruction” issued by local authorities, cases of soldiers helping to rebuild damaged property and to evacuate civilians prove that, in the absence of national policies, the need for better protection and assistance is recognized by state representatives living alongside civilians.

It will take effort to build institutional capacity, but as experience in other countries has shown, this is not implausible, and this effort is needed in order to build the conditions for an effective reunification of Ukraine when the time comes. All Ukrainian citizens, on both sides of the contact line, must know that their government is there to protect and assist them. The following recommendations could be helpful in achieving this important goal.

CIVIC conducted most of its research in government-controlled areas (GCAs), and directed most of its recommendations to the government in Kyiv for a number of reasons. First, the Ukrainian government has responsibility for the safety and well-being of all Ukrainian citizens on its entire territory, and could stand to benefit from new ideas and recommendations in this domain, especially with a view to the eventual reunification of the country. Second, the government seems determined to learn from and apply best practices and values of the European Union (EU), the North Atlantic Treaty Organization (NATO) and other international bodies. This report, and its key recommendations, rely in great part on those best practices and values. Third, international NGOs have increasingly faced limited access and harassment in the self-proclaimed “Donetsk People’s Republic” (DPR) and “Luhansk People’s Republic” (LPR). Furthermore, local civilians’ contact with foreigners often led to warnings from separatist authorities. According to the International Crisis Group, “Local residents whose work often brought them into contact with foreigners were warned it was ‘time to choose a side.’”¹

Recommendations

To the Government of Ukraine

1. Adopt a government-wide policy on civilian protection and post-harm assistance similar to those established by the U.S. and NATO, but adapted to the needs and realities of Ukraine. Any policy should include all facets of protection, including mechanisms to prevent harm and to provide amends and post-harm assistance when civilians are harmed as a result of operations, and allocate the necessary funding to all agencies involved in implementation.
2. Create the capacity to track, investigate, and analyze civilian harm by committing to the development of a Civilian Harm Mitigation Team (CHMT) at the Ukrainian military’s HQ level. This team could also work to synchronize military efforts to protect civilians, facilitate the response to alleged and known civilian harm, and liaise with other government entities to ensure the provision of humanitarian aid, post harm assistance programs, and amends where appropriate.

¹ International Crisis Group (ICG), “Russia and the Separatists in Eastern Ukraine”, February 5, 2016, p. 4, <https://www.crisisgroup.org/europe-central-asia/eastern-europe/ukraine/russia-and-separatists-eastern-ukraine>.

3. Improve security forces' training on International Humanitarian Law (IHL) and civilian protection by basing it on real-life situations faced by soldiers in eastern Ukraine. This "scenario-based training" would allow them to understand the practical application of key concepts learned in classroom training.
4. Improve community-government relations by providing full political and financial support to CIMIC and the MOT. Among the MOT's initial priorities, should be redeployment of local officials back to front line areas to restore vital services if possible, and finding ways to enable civilians in NGCAs to receive pensions, health care and psychological support.
5. Establish real-time communications through various media that would provide information to local communities about key local, national, and international developments, while recognizing the difficulties in reaching the population in NGCAs given the censure applied by the de facto authorities there.

To the Government of Ukraine and the de facto authorities in the self-proclaimed Luhansk and Donetsk People's Republics

1. Abide by the Minsk Agreements' restrictions on heavy weapons, cease all use of weapons over 100mm, and move them away from the contact line as agreed.
2. Separate civilians from military forces by removing all military units from civilian areas, insomuch as possible. Any military targets, soldiers and/or equipment should not be placed within a certain distance of any building being actively used as a home or shelter by civilians—e.g., no closer than the blast radius of the predominant weapon used by the opposing side. Nor should civilians involuntarily be moved from said buildings.
3. Eliminate the use of mines and booby traps and mark and remove UXOs with help from organizations such as HALO Trust, the Danish Demining Group, and the UN Mine Action Service (UNMAS). Furthermore, the government of Ukraine should enact legislation as soon as possible to establish a national demining authority and a functioning national demining center to support clearance.
4. Streamline and make checkpoint procedures at crossings safe by taking steps to both make the process quicker, and provide adequate and safe holding areas near checkpoints. The following three steps are necessary: (1) revoke the Temporary Order requiring a permit to cross the contact line so wait-time for civilians is reduced; (2) treat checkpoints as absolute no-fire areas; and (3) provide soldiers and/or police assigned to the checkpoints with specialized training in how to treat civilians with dignity and respect.

To the International community

1. Push for full compliance of Minsk Agreements by all parties, using what pressure the international community can bring to bear on Kyiv and Moscow.
2. Assuming a coherent and accountable government plan to protect civilians is developed, provide political, technical and financial support to all initiatives mentioned in this report, in terms of government policies, training and demining.