Engaging with weapon bearers to achieve protection outcomes

UNHCR Toolkit: Protection in armed conflict

Protected zones
4 Protected zones

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4.1 Why this module?

• IHL gives belligerents the possibility of setting up various types of protected zone during a conflict. Within these zones, civilians and/or certain other categories of person, including people of concern to us, are safe from the effects of the conflict – as long as all sides obey the rules. While warring parties create such zones all too rarely, we need to know how they work and what conditions apply to them, so that we can help ensure that such zones offer maximum protection.

• Various types of “safe area” have emerged in recent years that differ from the above IHL-based protected zones. Even when such zones are based on a UN Security Council Resolution, they have been attacked and have facilitated abuses and violations of IHL, with serious consequences for displaced populations.

• So-called “safe” areas are sometimes used to restrict people in need of international protection from seeking asylum and to contain displaced persons within limited and dangerous areas inside their country of origin.

• When working in armed conflicts, you therefore need to be aware of the applicable legal framework and the potential protection risks associated with such “safe areas”. You should advocate for solutions that minimize the risks to freedom of movement and the right to seek asylum.

4.2 What will I find in this module?

• The key concepts related to zones created during a conflict that are described as “protected” or “safe”.

• The differences between “protected zones” as defined in IHL and other areas not covered by IHL, and the protection considerations to keep in mind when such areas are established.

4.3 Key concepts

When talking about protected places, we must distinguish between zones and localities established under IHL, and those areas that have no legal basis under IHL. Safe zones or safe areas established by a UN Security Council resolution under Chapter VII of the UN Charter fall between these two categories of zone; they have no basis in IHL, but they do have a legal status, as they are established under the UN Charter.
### Categories of zone and area, and their legal status

<table>
<thead>
<tr>
<th>Name</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hospital zone</td>
<td>Legal terms, defined in IHL.</td>
</tr>
<tr>
<td>Hospital locality</td>
<td>Designating an area as one of these zones imposes legal obligations on parties to a conflict.</td>
</tr>
<tr>
<td>Safety zone</td>
<td>Legal terms, defined in IHL.</td>
</tr>
<tr>
<td>Safety locality</td>
<td>Designating an area as one of these zones imposes legal obligations on parties to a conflict.</td>
</tr>
<tr>
<td>Neutralized zone</td>
<td>Legal terms, defined in IHL.</td>
</tr>
<tr>
<td>Demilitarized zone</td>
<td>Legal terms, defined in IHL.</td>
</tr>
<tr>
<td>Safe zone</td>
<td>Not legal terms under IHL.</td>
</tr>
<tr>
<td>Safe area</td>
<td>Designating an area as a safe zone/area/haven imposes no legal obligations on parties to a conflict unless it has been established by a UN Security Council resolution under Chapter VII of the UN Charter.</td>
</tr>
<tr>
<td>Safe haven</td>
<td>Not legal terms under IHL.</td>
</tr>
</tbody>
</table>

The existence of protected zones as specified under IHL, or of any other “safe zone”, does not relieve weapon bearers of their obligation to respect and protect all those whom IHL defines as protected persons, at all times and in all places – inside or outside such zones.

Protected persons include the entire civilian population, sick and wounded fighters and a number of other groups.22

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22 For a more comprehensive list of protected persons, see “Protected persons” in How does law protect in war?, ICRC, [https://casebook.icrc.org/glossary/protected-persons](https://casebook.icrc.org/glossary/protected-persons).
4.4 Protected zones defined in international humanitarian law

4.4.1 Terminology and rationale

4.4.1.1 Types of protected zone defined in IHL

IHL provides for the creation of special zones to protect civilians from the effects of armed conflict. The essence of such zones is that they constitute geographical locations that remain free from hostilities and other military activities, and where humanitarian needs can be met, including safe shelter, medical treatment and food.

Examples of protected zones defined in IHL:

- Hospital zones.
- Neutralized zones.
- Demilitarized zones.

4.4.1.2 Characteristics common to all protected zones defined in IHL

- They can be established only with the explicit consent of all parties to the conflict, and this consent usually requires a written agreement between the parties.
- They must be demilitarized, and therefore strictly civilian in character.

4.4.1.3 Differences between protected zones as defined by IHL

- The category of protected person who may use them (sick and wounded combatants, all civilians, certain categories of civilian, etc.).
- Their location (in, close to or remote from the combat zone).
## Protected zones, as defined by international humanitarian law

<table>
<thead>
<tr>
<th>Armed conflict</th>
<th>Legal basis</th>
<th>Categories of person who may be present in this zone</th>
<th>How created</th>
<th>Location</th>
<th>Time-frame</th>
<th>Rules</th>
<th>Markings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hospital zones and localities</td>
<td>International</td>
<td>Sick, wounded and related personnel</td>
<td>Written agreement between parties or Unilateral declaration, with recognition by other party</td>
<td>Distant from combat zone</td>
<td>Unlimited</td>
<td>Open to occupation No military personnel, equipment or operations</td>
<td>Red cross or red crescent emblem</td>
</tr>
<tr>
<td>Hospital and safety zones and localities</td>
<td>International</td>
<td>Specific categories of civilian: Wounded Sick Aged Children under 15 Pregnant women Mothers of children under 7</td>
<td>Written agreement between parties or Unilateral declaration, with recognition by other party</td>
<td>Distant from combat zone</td>
<td>Limited (as agreed by the parties)</td>
<td>To be agreed upon by the parties</td>
<td>Oblique red bands on white ground</td>
</tr>
<tr>
<td>Neutralized zones</td>
<td>International</td>
<td>All civilians not taking part in hostilities Sick and wounded combatants</td>
<td>Notification to opposing party or Ad hoc agreement if not all conditions satisfied</td>
<td>In or near combat zone</td>
<td>Unlimited</td>
<td>No military personnel, equipment or operations</td>
<td>To be agreed upon by the parties</td>
</tr>
<tr>
<td>Non-defended localities</td>
<td>International</td>
<td>Civilians</td>
<td>Express agreement</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Demilitarized zones</td>
<td>International</td>
<td>Civilians</td>
<td>Agreement between parties Practice of ICRC</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>“Neutralized zones”</td>
<td>Non-international</td>
<td>Civilians</td>
<td>By analogy with the principles of GC IV, Art. 15</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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23 These terms are used to refer to various protections afforded to civilians and medical personnel in armed conflicts under international humanitarian law.
4.4.1.4 Other types of protected zone covered by IHL

1. Humanitarian corridors

While not explicitly mentioned in IHL,24 a humanitarian corridor is a type of demilitarized zone intended to allow the safe transit of humanitarian aid.

The main differences between a humanitarian corridor and a demilitarized zone in the traditional sense are that a humanitarian corridor is of short duration and that it covers a limited area.

2. Open relief centres

These are temporary places that displaced persons on the move can freely enter or leave and in which they can obtain essential relief assistance in a relatively safe environment.

Open relief centres were established during the non-international armed conflict in Sri Lanka between 1990 and 1993. The parties to the conflict respected these centres and maintained their civilian character. UNHCR was party to the agreement governing them.25

Open relief centres come close to the neutralized zones defined in IHL.

4.4.1.5 Objectives of protected zones covered by IHL

The common objective of these various zones is to enhance the protection of civilians by providing shelter from the dangers arising out of armed conflict or by placing certain areas beyond the reach of hostilities. Civilians, wounded fighters and civilian objects are protected under IHL wherever they are, but an agreement by all parties that clearly makes certain places “off limits” can enhance the protection of protected persons and objects.

4.4.1.6 Why must protected zones covered by IHL be demilitarized?

- Protected zones are protected by IHL because they are demilitarized.
- Because they contain no military threats or objectives, and because they can exist only if the parties recognize them through agreement, such zones can reinforce the protection that IHL already affords to civilians and other persons who are not taking part in hostilities.
- If these pre-conditions are not met, the zone created does not enjoy the status of a protected zone under IHL. Nonetheless, any civilians and sick or wounded combatants inside it would still enjoy the protection to which they are always entitled under IHL.

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4.4.2 Examples

Although it has been possible to create protected zones under IHL since 1949, this has rarely happened. The ICRC has recorded those cases in which protected zones were created; its mandated role under the Geneva Conventions includes helping to establish and run such zones under IHL.

Protected zones of the types provided for in the Geneva Conventions, 1949–2016

<table>
<thead>
<tr>
<th>Date</th>
<th>Place</th>
<th>Type of protected zone</th>
</tr>
</thead>
<tbody>
<tr>
<td>1971</td>
<td>Dhaka, Bangladesh</td>
<td>Neutralized zone</td>
</tr>
<tr>
<td>1974</td>
<td>Nicosia, Cyprus</td>
<td>Neutralized zone</td>
</tr>
<tr>
<td>1975</td>
<td>Saigon, Viet Nam</td>
<td>Neutralized zone</td>
</tr>
<tr>
<td>1979</td>
<td>Managua, Nicaragua</td>
<td>Neutralized zone</td>
</tr>
<tr>
<td>1980</td>
<td>N’Djamena, Chad</td>
<td>Neutralized zone</td>
</tr>
<tr>
<td>1982</td>
<td>Port Stanley, Falkland Islands (Malvinas)</td>
<td>Neutralized zone</td>
</tr>
<tr>
<td>1983</td>
<td>Tripoli, Lebanon</td>
<td>Neutralized zone</td>
</tr>
<tr>
<td>1990</td>
<td>Jaffna, Sri Lanka</td>
<td>Neutralized zone</td>
</tr>
<tr>
<td>1991</td>
<td>Dubrovnik, Croatia</td>
<td>Hospital zone</td>
</tr>
<tr>
<td>1991</td>
<td>Osijek, Croatia</td>
<td>Hospital zone</td>
</tr>
<tr>
<td>1994</td>
<td>Chiapas, Mexico</td>
<td>Neutralized zone</td>
</tr>
</tbody>
</table>

4.5 Zones not defined in IHL

In the post-Cold War era, a new type of internationally sanctioned zone emerged, known variously as a “safe zone”, “safe area” or “safe haven”. The first instance of such zones was the “safe havens” established in northern Iraq to protect the Kurdish population. These were established after the UN Security Council passed Resolution 688 (1991). Subsequently, the UN Security Council imposed “safe areas” in Bosnia-Herzegovina (1993), as did the French-led Operation Turquoise in Rwanda (1994). More recently, in May 2017, Russia, Turkey, and Iran signed a joint agreement regarding the creation of four “de-escalation” zones within Syria.

These new types of zone differ significantly from the protected zones defined in IHL:

- They do not require the consent of the parties to the conflict.
- They are not required to have an exclusively civilian character.

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The country names shown are those applying today and in some cases differ from the names used at the time.

27 UN Security Council Resolution 819 (1993), demanded that “all parties and others concerned treat Srebrenica and its surroundings as a safe area which should be free from any armed attack or any other hostile act”.
4.5.1 What arguments are put forward for the establishment of safe zones?

Safe zones are often proposed in conflicts where:

- there is a high degree of disregard for IHL, with considerable humanitarian impact;
- a political solution is still far off.

They are often regarded as a measure of last resort to protect civilians.

4.5.2 Who is likely to propose a safe zone?

- **Third governments** unwilling to intervene in the conflict but under pressure from public opinion and media in their countries to “do something”. They may depict safe zones as a non-military, non-political means of limiting the theatre of war and protecting civilians from hostilities.

- **Neighbouring governments**. If large numbers of refugees are arriving in their countries, they may look for “alternative options” in the refugees’ country of origin. This was, for example, said to be the motive behind UN Security Council Resolution 688 (1991), following which safe havens were established in northern Iraq, and the Turkish government’s call for safe zones in northern Syria.

4.5.3 What are the main dilemmas related to safe zones?

**a) A safe zone requires agreement or a credible military deterrent**

The vast majority of the so-called “safe” zones have been anything but. The most dramatic example was the fall of Srebrenica in 1995. The report of the UN Secretary-General on that incident perfectly illustrates the main dilemmas:

“Protected zones and safe areas can have a role in protecting civilians in armed conflict, but it is clear that either they must be demilitarized and established by the agreement of the belligerents, as in the case of the “protected zones” and “safe havens” recognized by international humanitarian law, or they must be truly safe areas fully defended by a credible military deterrent. The two concepts are absolutely distinct and must not be confused. […]

The safe areas were established by the Security Council without the consent of the parties and without the provision of any credible military deterrent. They were neither protected areas nor safe havens in the sense of international humanitarian law, nor safe areas in any militarily meaningful sense.”

**b) Safe zones may lead to extension or escalation of the conflict**

If a safe zone is enforced through military presence, the military or security forces present would probably become a (new) party to the armed conflict and thus make the safe zone a legitimate target under IHL. Furthermore, armed actors could try to establish a base inside the zone, using it to launch or plan attacks on parties outside. In both instances, the civilian character of the zone would be undermined, and the zone would risk becoming a target for attack.

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c) Some civilians will be outside the safe zone

Logistics and cost will limit the area that a zone can cover. Some civilians will inevitably find themselves outside the scope of the protection the zone could have offered them, and may be unable to reach it.

Safe zones may increase attacks on unprotected civilians outside such zones.

4.5.4 Protection risks to consider when the creation of safe zones is proposed

Before supporting the creation of a so-called “safe zone”, or operating within it, humanitarians must undertake a thorough analysis of the new or increased protection risks the zone may pose to affected populations.

A non-exhaustive list of potential risks includes the following:

- Unless all parties to the conflict agree on the safe zone, it may become a target for military attacks, putting civilians and humanitarian workers at severe risk.
- Parties to a conflict may use the creation of a safe zone to pursue their own political and military objectives, especially when no agreement is reached, and parties do not wish to reach one. In Sudan, for instance, NGOs accused the Sudanese government of using the “Darfur Action Plan” (2004), which provided for a safe zone for displaced persons in Darfur, to carry out a policy of ethnic cleansing towards certain groups in that region.
- It is difficult to establish clear structures or mechanisms to guarantee the safety of civilians in a safe zone, especially if no agreement between the parties is in place and/or the conflict involves a multitude of non-State armed groups and proxies.
- Experience in conflicts such as Bosnia-Herzegovina, Sri Lanka and Syria shows that safe zones do not prevent armed actors from committing serious violations of IHL and human rights, and may even facilitate the commission of such violations.
- The measures necessary to enforce a safe zone may compromise its civilian character.
- If a safe zone is not demilitarized it may attract attacks, banditry or crime.
- If a safe zone is not demilitarized, fighters/combatants may withdraw into it and hide, before taking up arms again. This would endanger the civilian character of the zone. It may also increase the risk of recruitment and forced recruitment of displaced persons, and the diversion of humanitarian aid.
- Enforcing a safe zone can create an illusion of security among civilians, which may prompt them to take greater risks.
- Declaring a zone “safe” may be understood to mean that other areas of the country are “unsafe” in the sense that, outside the designated safe zones, it is permissible to conduct attacks without restriction. Creating such an assumption could undermine the fundamental rule of IHL that all civilians are to be respected and protected under all circumstances.
- Safe zones increase the risk of border closures and restrictions on the freedom of movement of civilians.
- Safe zones can be used to keep people in their countries of origin, reject them at the border and deny them access to asylum.

The dilemma

<table>
<thead>
<tr>
<th>If a “safe” zone is</th>
<th>If a “safe” zone is</th>
</tr>
</thead>
<tbody>
<tr>
<td>undefended or</td>
<td>defended by</td>
</tr>
<tr>
<td>insufficiently</td>
<td>military means</td>
</tr>
<tr>
<td>defended</td>
<td></td>
</tr>
</tbody>
</table>

- It may become a deadly trap, putting people at severe risk.
- It may attract attacks or lead to an escalation of hostilities.
4.5.5 Considerations for UNHCR engagement with safe zones

If the decision to create a safe zone is taken, UNHCR should attempt to minimize the protection risks for displaced populations, both those who are inside and those who are outside the zone.

Among other measures, we should advocate for the following:

- The right to seek and enjoy asylum is not compromised.
- Borders remain open, to ensure that people in need of international protection are not confined to potentially dangerous areas inside their country of origin.
- The principle of non-refoulement is respected. Refugees must not be forced to return, or coerced into doing so, and internally displaced persons must not be obliged to return to their places of origin.
- No restrictions are imposed on the freedom of movement of people fleeing violence.
- People living in a safe zone have full access to basic services, and to humanitarian assistance when needed. On the other hand, moving to a safe zone should not be a precondition for accessing basic services or humanitarian assistance.
- All parties to the conflict give the necessary assurances for the safety of the affected populations and of humanitarian personnel, and UNHCR is given full access — including guarantees for the security of its staff — to undertake protection and assistance work.
- There is close coordination with other humanitarian actors, and joint monitoring and assessment are undertaken.

Lastly, UNHCR must formulate clear messages on the role, mandate and limitations of humanitarian action, if any, inside such areas. Humanitarian action is no substitute for a political process in providing safety and achieving solutions, nor can it guarantee protection against violations of IHL.

It is essential to avoid the perception that UNHCR is facilitating or promoting involuntary return. We can only conduct protection activities without this perception arising if humanitarian space is preserved.

Get informed

- Read the legal background to IHL-based protected zones in How Does Law Protect in War?, Vol. I, Chapter 13, “Zones created to protect war victims against the effects of hostilities”.
- Follow the links on the page above to any IHL instruments or entries in the Customary International Humanitarian Law database that could be relevant to your work.
- Find out about protected zones or safe areas in the country where you are working and what the legal basis is for them. What is working well in those zones? What problems arise, and how could they be addressed?
- Refer to the relevant sources under “Further references and guidance” below.
4.6 Further references and guidance

1. IHL texts

- Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Geneva, 12 August 1949, especially Art. 23 on hospital zones.


- Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949, especially Art. 14 on hospital zones and Art. 15 on neutralized zones.

- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, especially Art. 59 on non-defended localities and Art. 60 on demilitarized zones.

- ICRC Customary IHL Database:
  - Rule 35. “Hospital and Safety Zones and Neutralized Zones.”
    https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule35.
  - Rule 36. “Demilitarized Zones.”
    https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule36.
  - Practice Relating to Rule 55. “Access for Humanitarian Relief to Civilians in Need.”

2. Other sources

  - Online version: https://casebook.icrc.org/.
  - PDF files of print version:
    https://www.icrc.org/en/document/how-does-law-protect-war-0. (Links are at bottom of page)


• Creating safe zones and safe corridors in conflict situations: Providing protection at home or preventing the search for asylum? POLICY BRIEF 5, Geoff Gilbert and Anna Magdalena Rüscher, UNSW Sydney/Australia Global University, June 2017.

• Expert Roundtable, Practical Guidelines to Mitigate the Humanitarian Impact of “Stabilization” or “De-escalation” Zones, Harvard University, 16 May 2017.