



# ‘WE ARE AFRAID OF SILENCE’

Protecting Civilians in the Donbass region

**CENTER FOR  
CIVILIANS IN CONFLICT**  
RECOGNIZE. PREVENT. PROTECT. AMEND.

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Protecting Civilians in the Donbass region

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# RECOGNIZE. PREVENT. PROTECT. AMEND.

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Cover photo: A man walks past an unexploded rocket in the eastern Ukrainian city of Kramatorsk, in the Donetsk region, on February 11, 2015. (Getty Images/AFP/Volodymyr Shuvayev)

[civiliansinconflict.org](http://civiliansinconflict.org)

# Organizational Mission

The mission of Center for Civilians in Conflict (CIVIC) is to improve protection for civilians caught in conflicts around the world. We call on and advise international organizations, governments, militaries, and armed non-state actors to adopt and implement policies to prevent civilian harm. When civilians are harmed we advocate for the provision of amends and post-harm assistance. We bring the voices of civilians themselves to those making decisions affecting their lives.

## Acknowledgements

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<http://www.un.org/Depts/Cartographic/map/profile/ukraine.pdf>

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*A man rides a motorcycle past a shelled building on the outskirts of Debaltseve, Ukraine, the site of a major battle in January 2015. Russian-backed separatist forces encircled the city, shelling its inhabitants until the last remaining government forces withdrew. (Jack Crosbie)*

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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."

**'Both sides don't protect civilians at all. They are shooting and playing their game and they don't care about us.'**

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 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.’”<sup>1</sup>

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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>.

## 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.
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, inasmuch 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.

## **Methodology**

“We are Afraid of the Silence” is based on field research conducted in Ukraine between June and October 2016. Center for Civilians in Conflict (CIVIC) interviewed 111 Ukrainian civilians—42 women and 67 men—directly affected by the conflict, including Internally Displaced Persons (IDPs), veterans of the conflict, and civilian men, women, and children living in government- and non-government controlled areas (GCA and NGCA) of Ukraine.<sup>2</sup> In addition, CIVIC participated in over forty conversations with representatives from the Ukrainian government, military and intelligence organizations, members of parliament, civil society and community representatives, and members of the international community.

The majority of the civilian interviews occurred in person in towns and villages affected by the fighting in 2016, including Marinka, Avdiivka, Opytne, Krasnohorivka, Mariupol, Horlivka, and Donetsk City. Other interviews (mostly with IDPs) occurred in person in Kyiv. CIVIC sought a diverse sample of interviewees in terms of gender, age, ethnicity, the geographic location from which displacement occurred, and the time period in which the interviewee had witnessed, participated in, or experienced harm.

CIVIC conducted interviews by phone or email only when it was not possible to reach the civilian in person. In all cases, CIVIC conducted follow up phone or email interviews with civilians, many of whom are living in desperate conditions. For this reason, and because most interviewees asked us to guard their anonymity to protect them, CIVIC has assigned them pseudonyms.

CIVIC conducted most of its research in government-controlled areas (GCAs), and directs 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 EU, 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.’”<sup>3</sup>

With the exception of four emailed interviews, the interviews were semi-structured, with a questionnaire identifying topics to discuss in each interview that encouraged dialogue and a back-and-forth conversation. Interviewers encouraged civilians to elaborate on their observations and feelings in order to paint an emotional and physical portrait of the events they witnessed and experienced.

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2 The larger number of men interviewed reflected our discussions with 28 soldiers and veterans of the conflict, the overwhelming majority of which were men. 22 of the interviewees were IDPs who’d fled the East for central or western Ukraine. Twelve people interviewed lived in the non-government-controlled territories behind the contact line, 25 lived on either side of the contact line, and 14 were living in the grey zone, the area between the positions of the two sides.

3 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>.

CIVIC hired research consultants to conduct all of the interviews. Consultants included three journalists and two Ukrainian citizens with experience as interpreters, both of whom were trained to carry out interviews to CIVIC's standards.

CIVIC did not offer interviewees any incentive for speaking, and ensured civilians understood that they were in control of the interview process from start to finish.

**'Our street is located between two check-points. Firemen and ambulance are not allowed to enter the area. ... We have been living without electricity and water for two years.'**

For the security and privacy of civilian and military interviewees, CIVIC has withheld names and identifying information, where requested, throughout the report.

The report is not a survey. There are no statistically relevant conclusions to be

drawn from the interviews. Further, the report did not seek to document in detail individual violations of international human rights (IHRL) or humanitarian law (IHL)—the goal was simply to identify the main patterns of civilian harm experienced by civilians in the conflict zone. The title was drawn from an interview with Renata, a mother living in the embattled town of Marinka, where gunfire and shelling are commonplace. Marinka's citizens have learned to dread the rare days when fighting stops, because when the fighting breaks out again—and it always does—it does so with unusual ferocity. As Renata put it, "We are afraid of the silence."

**Note:** Post-harm assistance in this report encompasses both reparations, which are a legal remedy to which victims are entitled for violations of international human rights and humanitarian law, and "amends," which include recognition, apologies, monetary compensation, or other forms of assistance for victims of incidental harm. While reparations and amends share a common foundation and take similar forms in some contexts, the making of amends is not legally mandated for civilians harmed within the course of parties' lawful combat operations.



*Residents of Verhnotoretske pass through the final Ukrainian military checkpoint before entering the gray zone, an area controlled by neither force where only locals who live are permitted to drive and travel. These civilians are at the greatest risk of harm from the fighting that rages around them nearly every day and night. (Oleksander Ratushnyak)*

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*A destroyed house lies empty in Nikishyne, Ukraine, a small single-road town about nine miles southeast of Debaltseve. Nikishyne was trapped between retreating government forces in the preamble to the battle of Debaltseve in January 2015 and caught in a heavy crossfire as troops blasted their way through the houses on either side of the main road. A small handful of residents, many of them elderly, still live in the village. (Jack Crosbie)*

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## INTRODUCTION

*“The fighting is still going on today. Every day and every night, there’s something. When I think about my recently deceased grandmother I think: born in war, died in war.”<sup>4</sup>*

In war, one learns to fear routine activities most people take for granted. Where going to work or school, spending time outside with one’s family on a Sunday afternoon, or tending one’s garden were once innocuous activities, they are now life-and-death gambles. Daily life in a conflict zone is hard, and it is hardest for the civilians who are its most common victims. 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, their needs for better protection, and how they believe the Ukrainian government or the separatist forces that contest Ukraine’s sovereignty can assist them to rebuild their lives.

After an initial ceasefire agreement reached at Minsk in September 2014 collapsed, major combat resumed late in the year before culminating in a second ceasefire agreement signed in February 2015 by Ukraine, Russia, and pro-Russian separatist forces, and monitored by the Organization for Security and Co-operation in Europe (OSCE).<sup>5</sup> The Minsk Agreements substantially reduced the casualty rate—its one clear achievement so far. Armed exchanges, from small arms to mortars to heavy artillery and rockets, continued, however, and the full February agreement, which aimed to demilitarize the situation in the east by the end of 2015, has not yet been implemented. Military and civilians continue to die on a near daily basis.

The two warring parties—the Ukrainian military on one side and a mixture of separatist forces and Russian “volunteers” on the other—settled along the “contact line,” a 400 km-long series of fighting positions and trenches starting at the Sea of Azov in the southeast of Ukraine, just outside the city of Mariupol. From there, it runs north to the city of Donetsk, then northeast near the city Luhansk, and finally, east to the Russian border. 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 around and along the contact line controlled by neither side.

4 CIVIC interview with a humanitarian worker, conflict zone, August 2016.

5 The Telegraph, “Minsk Agreement on Ukraine Crisis; Text in Full,” Telegraph.co.uk, February 12, 2015, <http://www.telegraph.co.uk/news/worldnews/europe/ukraine/11408266/Minsk-agreement-on-Ukraine-crisis-text-in-full.html>.

The Ukrainian government designated the conflict area as the “Anti-Terrorist Operation” (ATO) zone,<sup>6</sup> an ongoing operation led officially by the Security Service of Ukraine (SBU), and run in conjunction with Ukraine’s military, national police, and the national intelligence agency. Army, National Guard, and SSB units all maintain checkpoints and operations throughout the area. Officially launched on April 14, 2014, by presidential decree, the ATO is being conducted in Donetsk and Luhansk Oblasts.

The UN’s Office of the High Commissioner for Human Rights (OHCHR) began monitoring the crisis in 2014. According to their 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.<sup>7</sup> 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. The International NGO Safety Organisation has recorded an estimated 925 casualties between June 1 and August 31, 2016. Of those, 754 were combatants and 171 were civilians, including 39 civilian fatalities. The International NGO Safety Organisation (INSO) emphasizes these are conservative estimates and don’t include combatant casualties from the DPR or the LPR. More recently, the OSCE’s Special Monitoring Mission to Ukraine reported an increase in civilian casualties in October 2016 following an ebb in the violence in the previous month.

Complicating matters, the conflict zone includes some of Ukraine’s most densely populated areas. According to the State Statistics Survey of Ukraine, in 2013 the population of Donetsk Oblast was 4.43 million, and the population of Luhansk Oblast was 2.25 million. While it has been impossible for Ukraine to conduct an accurate survey of the people remaining in Donetsk and Luhansk, the Ukrainian Ministry of Social Policy estimates that since 2014 more than 1.7 million have fled the area of fighting. Alarming high numbers of civilians still live close to the fighting. Approximately 800,000 civilians currently live within 5 km on either side of the front: 200,000 people in government-controlled areas and another 600,000 in non-government-controlled areas.<sup>8</sup> This “contact line” area is in range of indirect fire weapons. Further afield, another 1.3 million civilians live within range—up to 90 km on either side—of the heaviest rocket artillery systems. Both sides employ these types of weapons.

Civilians with whom CIVIC spoke this summer and early autumn living in the areas with heaviest fighting confirmed that violence had recently increased in intensity and duration to levels not seen since the earliest days of fighting. Trapped civilians must endure the constant threat of injury or death; an older resident of Marinka told CIVIC, “One day I wanted to pour water into the container on top of my summer shower. When I was on the ladder, I heard the sound of a bullet very close to me. I was very lucky that I wasn’t wounded. I don’t know if they shoot intentionally at civilians or by mistake. I was wearing shorts and a T-shirt and it was obvious that I was just a civilian in my own yard.”<sup>9</sup> Iryna, another civilian, described her mother’s struggle to survive since her home was wrecked by fighting: “Most of the time we don’t leave the house, so what threats can there be apart from the shelling? That is the biggest danger. My mother lives in the summer kitchen of our destroyed house. She sleeps in our neighbor’s basement. Their house is also completely destroyed, but there is still a basement.”<sup>10</sup>

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6 Various translations render the ATO as “Anti-Terror Operation” and “Anti-Terrorist Operation.” The most commonly used phrasing, however, and one used by the Kyiv Post, is the latter.

7 Office of the United Nations High Commissioner for Human Rights (OHCHR), “Report on the Human Rights Situation in Ukraine: 16 May to 15 August 2016,” September 2016, <http://www.ohchr.org/Documents/Countries/UA/Ukraine15thReport.pdf>; Interfax Ukraine, “UN: 16 Civilians Killed, 75 Injured in Aug in Ukraine,” September 10, 2016, <http://en.interfax.com.ua/news/general/369215.html>.

8 Office for the Coordination of Humanitarian Affairs (OCHA), “Ukraine: Humanitarian Snapshot (as of 8 September 2016),” September 9, 2016, <http://reliefweb.int/report/ukraine/ukraine-humanitarian-snapshot-8-september-2016-enruuk>.

9 CIVIC interview, Marinka, August 2016.

10 CIVIC interview, Krasnohorivka, July 2016.

The majority of the civilians for whom it was physically or financially feasible to leave the area of fighting have done so, fleeing westward to Kyiv and other cities, or to Russia. Many who remain are too old, infirm, or financially insecure to risk moving.<sup>11</sup> Bereft of financial and social assistance, those who remain in the conflict zone endure artillery, mines, booby traps, and mortars. This population includes women, children, and elderly, some of whom are old enough to remember WWII.

## *Nataliya's Story*

*Nataliya, interviewed in Kyiv in August 2016, wanted to leave Horlivka at the end of June 2014, but with an impending battle, most trains west to Kyiv were bypassing the city. This is the story of her struggle to escape:*

I didn't know how to leave with my elder daughter and my granddaughter. I tried to book places in a bus, but there were no tickets left, everyone wanted to leave. ... While I was calling taxi drivers, Kristina decided to go to the park with her baby for a little while. I found a driver, he promised to come the next morning. I called Kristina, she was so happy to hear it. It was 1:30 p.m. I was standing near the win-dow ready to go to the park myself. Suddenly the shelling from a 'Grad' rocket launcher started. 40 rockets fell in one place. You can find videos on the Internet.

I ran to the park to find my girls. I didn't see them, so I ran to the nearest bomb shelter in the hospital, hoping that they were there. There were many people and no electricity. Militiamen didn't allow me to leave for a couple of days, because the shelling didn't stop. I was calling my daughter, but she wasn't there. One of the DPR soldiers ordered me to calm down and promised to find out where my girls were. When he came back, he said that they were fine, that the baby only scratched her hand. He knew that they had been killed, but he didn't want me to panic. When they finally let me go, I ran to the children's hospital right away. Everybody was in the shelter. I didn't find Kira there. Somebody told me that many people had been taken to the mortuary. My daughter and my 10-month-old grand-daughter were there. [...]

I came back home; I was all alone with my grief. All relatives and friends left or were hiding, because the fighting didn't stop. I buried my girls alone. Nobody else came to the funeral, because it was dangerous, people were frightened. I spent the night at the cemetery, I couldn't go back home.

*She eventually found a way out of Horlivka and to Yasynuvata with help from a classmate of her younger daughter. But even there she wasn't safe.*

*"When I came to Yasynuvata, it was very quiet there, children were playing in the streets, people looked happy, and suddenly a shelling started. The railway was damaged, so I had to wait for it to be fixed. Finally, a train arrived and I went to Kyiv."*

11 OSCE Special Monitoring Mission to Ukraine (SMM), "Conflict-Related Displacement in Ukraine: Increased Vulnerabilities of Affected Populations and Triggers of Tension within Communities," July 2016, <http://www.osce.org/ukraine-smm/261176?download=true>.



*Ukrainian heavy weapons on the move. (OSCE/Evgeniy Maloletka)*

## CONFLICT OVERVIEW

The current conflict in Ukraine began when Ukraine's government, led at the time by President Viktor Yanukovich, cracked down on civilian protests. Between November 2013 and February 2014, police units killed more than 100 civilians, drawing harsh condemnation from the international community before Yanukovich ultimately fled the country. In the political chaos that followed, Russia annexed Crimea. Soon after, a separatist movement appeared in Eastern Ukraine. The separatist forces made swift advances until June 2014, when the Ukrainian military made a deliberate effort to stop them.

After these initial low-level clashes, the fighting that followed over the next two years increasingly relied on heavy conventional military weapons in densely populated areas, and saw Russia intervene directly with soldiers, tanks, artillery, and sophisticated anti-aircraft capabilities. Since summer 2014, the conflict has evolved into what is now a frontline extending hundreds of kilometers on both sides.<sup>12</sup>

In February 2015 talks between Russian President Vladimir Putin, Ukrainian President Petro Poroshenko, French President François Hollande and German Chancellor Angela Merkel led to the "Minsk Agreement." Not to be confused with an earlier failed protocol, the Package of Measures for the Implementation of the Minsk Agreements (12 February 2015)<sup>13</sup> called for a bilateral ceasefire and a withdrawal of all heavy weapons from the contact line by both sides, and for an effective monitoring and verification regime to be carried out by the OSCE using all necessary technology such as satellites and remotely-piloted drones.

With the exception of a separatist offensive to claim the strategically important town of Debaltseve, the lines have remained consistent since the February 2015 signing of the Minsk Agreements. However, fighting increased during the summer of 2016 to levels unseen since 2015, and beginning in early June of 2016, both sides registered numerous and widespread violations of the Minsk Agreements. These included (but were not limited to) the use of heavy weapons in areas up to 20 km away from the contact line and in densely populated civilian areas.<sup>14</sup> Higher-intensity fighting is becoming the rule again.

12 Robert McMahon, "CFR Backgrounders: Ukraine in Crisis," 2014, <http://www.cfr.org/ukraine/ukraine-crisis/p32540>.

13 The Agreements comprise several documents: The Protocol (5 September 2014) and the Memorandum (19 September 2014) make up the earlier accord, while the 2015 Package of Measure is an additional document for the implementation of those Agreements.

14 ICG, "Ukraine: The Line," July 18, 2016, <https://www.crisisgroup.org/europe-central-asia/eastern-europe/ukraine/ukraine-line>.



*Residents are warned away from mines near damaged houses. (OSCE/Evgeniy Maloletka)*

## PATTERNS AND CAUSES OF CIVILIAN HARM

Civilians interviewed by CIVIC expressed their main concerns and protection needs in connection with three main activities: artillery shelling; UXOs, mines, and booby traps; and abuses committed by armed actors.

### *Shelling by Artillery, Mortars, and Tanks*

*“Artillery. There are two words to describe it: ‘oy’ and ‘oops.’ Both meant, ‘Seems that we got the wrong object.’”<sup>15</sup>*

As mentioned above, eastern Ukraine includes some of the country’s most densely populated areas, and a large portion of the line of contact in Donetsk Oblast runs through the suburbs of Donetsk City and Mariupol, cities with populations of over 1 million and 500,000, respectively. Almost every shell that impacts in this area causes harm and deprives people of their homes, livelihood, health, and in extreme cases, life.

All of the civilians interviewed had either been victims of shelling, or knew people whose houses and businesses have been destroyed by shelling. Most of them had been either injured or traumatized or knew people who had been injured or killed. Almost all the civilians interviewed described shelling as their primary safety concern.

Veterans interviewed consistently remembered artillery fire in the earlier days of the conflict as inaccurate. The most comprehensive analysis of this type of threat has been carried out by the OHCHR, which found that close to 90 percent of conflict-related civilian deaths in Ukraine have resulted from indiscriminate shelling of residential areas.<sup>16</sup>

Despite the provision in the Minsk Agreements mandating parties to withdraw heavy weapons, ongoing use of such weapons by both sides in populated areas has been amply documented. OSCE recorded over 4,400 violations in September 2016 and the number of violations were so high in August that OSCE could only approximate the number of violations rather than make more precise estimates.<sup>17</sup>

<sup>15</sup> CIVIC interview with a veteran from the Ukrainian army, Kyiv, September 2016.

<sup>16</sup> OHCHR, “Accountability for Killings in Ukraine from January 2014 to May 2016,” 2016, [http://www.ohchr.org/Documents/Countries/UA/OHCHRThematicReportUkraineJan2014-May2016\\_EN.pdf](http://www.ohchr.org/Documents/Countries/UA/OHCHRThematicReportUkraineJan2014-May2016_EN.pdf).

<sup>17</sup> For a full list of OSCE reports, see: Organization for Security and Co-operation in Europe (OSCE). “Daily and Spot Reports from the Special Monitoring Mission to Ukraine,” <http://www.osce.org/ukraine-smm/reports>.



A majority of IDPs interviewed listed the threat of shelling as the principle deciding factor of whether or not to leave the east. Maryna, a Japanese instructor and former resident of Luhansk, described the sequence of events that led to her departure from the city of her birth.<sup>18</sup> While preparing coffee one day, she heard “a strange dull sound.” It wasn’t a storm, as she thought—rather, the first of many artillery shells. Her father, a veteran of the Ukrainian military, ordered her away from the window:

*That was the beginning of those awful times. They usually started shelling at nights. Sometimes there was no electricity or water. The most unpleasant thing, which I'll remember forever, is the sound of exploding [mortars].<sup>19</sup> ... That feeling when you hear the dull ... sound of a [mortar] explosion while lying in your bed at night, and you don't know what to expect next.*

**For a while in 2014 Yasinovataya resident Maya, interviewed in Yasinovataya in August 2016, described how life happens during heavy fighting:**

**“People were mostly staying in the shelters. One day we came out just to take a breath and Grad rockets landed with no warning. Everybody rushed to the shelter, but one of the ladies failed [to reach it in time]. She fell dead on the staircase in front of the shelter with shrapnel in her back and legs. In 10 meters away was a man on the bike. He had lost one of his legs. He recovered and his son took him to his place in Russia.”**

The threat is most immediate in the grey zone. The civilians living between separatist and Ukrainian positions describe being harmed by both sides, which was compounded by destroyed roads and other infrastructures, as well as a lack of water, electricity, and other basic services. One woman in Marinka described the situation: “Every day there is a shelling from both sides. There are also snipers. Militia and the Ukrainian military, all shoot at us. Our street is located between two checkpoints. 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.”

While the intensity is not the same as in 2014, when civilians reported spending most of their days and nights in ad hoc shelters such

as basements or industrial buildings, in certain areas shelling from both sides continues daily. A number of the people interviewed still construe shelling as the main threat to their safety because of the lack of warning, the fact that it can happen at any time, and the severe damage to their homes, businesses, and infrastructure. As one young man living on the contact line in Ukraine said, “Friends from Horlivka warned us, and indeed in the middle of the night [the] nightmare started. ... Self-propelled artillery units of all calibers shelled from Horlivka’s town center for at least an hour with no stops. Even though we knew about it [in advance], the shelling was so heavy that my neighbor, an 84-year-old lady, who was too old to get down to the basement and just stayed inside the house, was killed in her bed after two shells hit her house. ... Ukrainians also knew that rebels would shell and didn’t do anything [to stop it].”<sup>20</sup>

Svetlana, a middle-aged shop-owner living in DPR lives far enough away from the contact line to avoid bullets, but not artillery shells. She said, “[One] old lady from a neighbor’s house was killed by shrapnel as she was too slow to reach shelter after random shelling from the Ukrainian side [the only side in the area shelling]. Another old lady from the same house died after a direct hit of the shell on the apartment above her. Upper floor slabs collapsed and buried her. She died in the hospital after staying for 10 hours under the debris.”<sup>21</sup>

18 CIVIC interview, Kyiv, October 2016.

19 Ukrainians call the shells fired by mortars “mines,” which can be confusing in English. We have replaced the word “mine” with “mortar” in this context for clarity, even though these are not the speaker’s words.

20 CIVIC interview, DPR, September 2016.

21 CIVIC interview, DPR, August 2016.

Serious injuries are commonplace. A mother from Marinka recounted how her son wanted to go and see his grandmother, and shelling started when he was in the yard. Her son was wounded and taken out of the town for medical assistance. “Doctors [in Kurakhove] couldn’t operate [on] him, so we were sent to Zaporizhia,” she said. “[An] X-ray examination showed that my son had a piece of shrapnel in his head.”<sup>22</sup>

In 2016, Liliana, from Krasnohorivka, sustained serious injuries from the shelling of her home. She does not know if they were caused by the “metal shrapnel” or by “[fragments] from the apartment and chairs.” The shockwave knocked her unconscious, the blast filled her entire home with smoke, and shrapnel tore through her entire apartment, damaging all of her belongings.<sup>23</sup>

One woman, speaking on the condition of anonymity, talked of injuries she and her daughter sustained when her home was hit during an artillery exchange between the Ukrainian military and separatist forces in the middle of a night in early July 2016, and of the stress she incurred as a result. She was burned and deafened, while shrapnel from the blast hit her daughter, causing her to lose 1.5 liters of blood and inflicting permanent injury. As a consequence, she has not returned to her home.<sup>24</sup>

**“When the shelling started [in 2015], I put my other son and my 5-month-old daughter on the floor. The ceiling fell on us. I tried to dig up our girl at first. Then we pulled out our son. When we went down to the basement, I noticed that my daughter’s intestines were outside. ... Ukrainian soldiers came right away and took us to the hospital. Some people may be very angry with them, but I am very grateful. They saved me when I was pregnant. ... Our daughter underwent five operations but didn’t survive.”**  
—CIVIC interview, Marinka, July 2016.

In addition to the damage to infrastructure, agriculture, their homes and businesses, and the possibility of physical injury or death, 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: “I don’t want my children to live in a place where shooting doesn’t stop,” she said. “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].”<sup>25</sup>

In Marinka, the grandson of an older woman named Valentina developed a fear of his father after he tried to protect him from shelling: “He was in the house with his son when the shelling started. As soon as he heard the sound of shelling, he pulled his son on the floor and covered him with his body. My son was injured. But my grandson is afraid of him because at that moment he thought that his father wanted to strangle him. He can’t understand that his father saved him, he still can’t look at [his father].”<sup>26</sup>

Further along the contact line in another heavily shelled region, 61-year-old Olena is consumed with anxiety: “When I came back here after the New Year, the situation was better. It was much calmer,” she said. “And now we can hear shelling much more often. I wake up at night because of that terrible sound and can’t sleep anymore.”<sup>27</sup>

22 CIVIC interview, Marinka, July 2016.

23 CIVIC interview, Krasnohorivka, July 2016.

24 CIVIC interview, Krasnohorivka, July 2016.

25 CIVIC interview, Kyiv, August 2016.

26 CIVIC interview, Marinka, July 2016.

27 CIVIC interview, Avdiivka, July 2016.

Both sides exacerbate the dangers to civilians by placing temporary and permanent military positions and checkpoints in or near residential areas—sometimes directly beside homes. Neither the Ukrainian military nor the separatist forces have made serious efforts to separate their positions from civilian populations.<sup>28</sup> This practice has resulted in a great deal of harm to civilians when the separatist forces shell Ukrainian positions, and vice versa. “On the one hand, it’s good that [the Ukrainian soldiers] are here,” said an older woman living and working in the Avdiivka Coke factory. “On the other hand, if they weren’t so close to my house, it would still be whole, it wouldn’t have been hit with artillery.”<sup>29</sup> Her house was destroyed by artillery fired from the DPR in June 2016. “The separatists who shot my house were definitely targeting Ukrainian soldiers, they missed and hit my house instead. ... Civilians would be safer if the soldiers were in another place.”

One Ukrainian veteran from a tank unit remembered: “The first two times we were based in fields, and only the last time we stayed on a territory of a ruined school. It was bombed by the separatists. Civilians were angry at us. Why are you standing here? They will shoot at us. And they were right. In a couple of days, the separatists started shelling the village. We caused harm even with our presence.”<sup>30</sup>

Many civilians we interviewed perceived this shelling as intentional rather than accidental or incidental. Valentina, the 61-year-old pensioner living in Marinka mentioned earlier, described how all the houses in her street were shelled by the military in July 2014.<sup>31</sup> An older woman from Nizhnya Krynka said “I don’t know whether it was on purpose or not, but Ukrainian [military] shelled residential areas, even the cemetery, every day.”<sup>32</sup>

A Ukrainian military veteran felt that the civilians were sometimes to blame: “Another time a young woman took her daughter for a walk during heavy shelling. The child was killed. She blamed us for it! Us! Why didn’t she hide?”<sup>33</sup>

The separatist forces, at least, seem to be well aware of the consequences of this tactic, as they often set up near civilian areas, fire their weapons, and then quickly leave, knowing that retaliation will follow. As one man living in Luhansk said, “The separatists and Russians will put artillery or rockets by a building [that is in use by civilians], shoot at Ukrainian positions, and then Ukrainians will shoot back. ... We saw seven rockets explode outside our apartment in this way.” An electrician living in Horlivka said “I personally witnessed 300 meters from my house rebels’ artillery consisting of three Grad [trucks]. They made all preparations and sent rockets to Ukrainian territory, and immediately left to avoid the reply. This was in the middle of the residential areas. ... Naturally Ukrainians shelled back with [rockets] landing all around.”<sup>34</sup>

## On The Ground

***While conducting our research in Marinka in early August, CIVIC researchers witnessed first-hand a half-hour exchange between separatist forces and Ukrainian army involving tanks, 82mm mortars, and 120mm mortars. The separatist forces initiated the attack by shelling a Ukrainian army position in a factory, 300 meters away from a residential area occupied by over 100 civilians, including women and children. CIVIC researchers could see and feel the 120mm mortar impacts on and near the factory, shaking the earth and rattling windows. The lethal blast radius for a 120mm mortar is 60 meters from impact, and it is standard military knowledge across all countries and organizations that the weapon is dangerous outside of shelter within 250 meters.***<sup>35</sup>

28 Article 58 of Additional Protocols I and II, to which Ukraine is a party, states that, to the maximum extent possible, states must attempt to remove the civilian population and objects from the vicinity of military objectives, and avoid locating military objectives within densely populated areas. See <https://ihl-databases.icrc.org/ihl/WebART/470-750074?OpenDocument>.

29 CIVIC interview, Avdeyevka, July 2016.

30 CIVIC interview, Boryspil, September 2016.

31 CIVIC interview, Marinka, July 2016.

32 CIVIC interview, Nizhnya Krynka, July 2016.

33 CIVIC interview, Kyiv, July 2016.

34 Conduct prohibited by Article 58 of Additional Protocol I.

35 Global Security, “Military: Appendix B, Target Effects Planning,” Section B-7: Suppressive Effects of High-Explosive Mortar Rounds, see figure for 120mm mortar, <http://www.globalsecurity.org/military/library/policy/army/fm/7-90/Appb.htm>.

After two years of living in proximity to heavy fighting, civilians in many areas of the front have developed vital survival skills that they never thought would be necessary: they perform a series of deliberate risk assessments, including range estimation (awareness of what types of weapons can reach their homes and from what angle), threat pattern analysis (what time of day is safe to venture outside their homes for provisions or to avoid cabin fever), and risk/reward (whether or not to leave their homes at all).

## *UXOs, Mines, and Booby Traps*

*“Only 40 percent of the population has stayed. ... Taking into account the agricultural field full of unexploded shells, I think our village will become a ghost town soon.”<sup>36</sup>*

The threat posed to civilians doesn’t end when the shelling stops. In areas such as Horlivka, civilians we talked to reported a danger posed by mines, booby traps, and UXOs, including artillery and mortar rounds. Reports of over 1,410 mine and UXO-related casualties since 2014 in the conflict zone illustrate the continued threat the wide variety of weapons in use poses to civilians.<sup>37</sup> 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 Yenakiyevo recounted an instance where “kids in our town played with a grenade they found and were seriously injured.”<sup>38</sup>

Explosive Ordnance Disposal (EOD) experts interviewed for this project stated that munitions dud rates (the percentage of munitions that fail to explode) for the type of artillery and mortar systems employed in Ukraine today are in the low single digits—just 3–4 percent. Yet, given the volume of artillery and mortar shells fired

over the course of the conflict, this still amounts to a substantial number of unexploded shells. UXOs remain where they fall—in the earth, in a building, in trees—still capable of detonating at any time and causing civilian harm. Many of the UXOs in any conflict zone remain a threat years or even decades<sup>39</sup> after fighting has ceased.

**‘Many fields in Donbass are full of mines. They were agricultural, but now they’re full of mines.’**

Ilyia from Slovyansk, a city in the conflict zone that saw heavy fighting in 2014, said, “After rebels

left, we found many land mines and [shells in the ground]. I personally found three unexploded shells in my ruined house and in the garden. Mortar shells were stuck out of asphalt on the main highway and you had to apply slalom driving to avoid them. Even now after Ukrainians have done the minesweeping, locals still find many [booby traps] and [shells] in our area.”

UXOs also have an economic and ecological impact, particularly for farmers. A volunteer working along the contact line on the Ukrainian side noted that “Many fields in Donbass are full of mines. They were agricultural, but now they’re full of mines.”<sup>40</sup>

Even those fighting are concerned. One Ukrainian veteran of the conflict zone stated that “the biggest threat for me now from the military point of view is crossing the contact line, where [there are] IED and [UXO] all along the roads and shooting may start at any time.”<sup>41</sup>

36 CIVIC interview with a mechanic on an agricultural farm living in non-government-controlled Donetsk Oblast, August 2016.

37 Conversation, HALO Trust, Kyiv, September 2016.

38 CIVIC interview, Yenakiyevo, August 2016.

39 Adam Higginbotham, “There Are Still Thousands of Tons of Unexploded Bombs in Germany, Left Over From World War II,” January 2016, <http://www.smithsonianmag.com/history/seventy-years-world-war-two-thousands-tons-unexploded-bombs-germany-180957680/?no-ist>.

40 CIVIC interview, Avdiivka area, August 2016.

41 CIVIC interview, Kyiv, July 2016.

No mine clearance is being conducted along the contact line, though HALO Trust<sup>42</sup> and the Danish Demining Group<sup>43</sup> assisted with education and removal in areas affected by the fighting in 2014. While 37,000 explosive remnants have already been located and removed between September 2014 and October 2016 in these regions, many more remain, creating an ongoing risk to civilians and soldiers alike.<sup>44</sup> One pro-separatist pensioner living in Donetsk said, “The main threat used to be morning shelling and harassment from the volunteer battalions in Ukrainian-controlled territory. Now when Ukrainians were kicked away, the main threat is [the unexploded shells and mines] left after them. A few villagers received heavy wounds and sometimes died just walking through the bushes or working in the kitchen gardens.”<sup>45</sup>

Anti-tank and anti-personnel mines and booby traps also threaten civilians living and working in the east of Ukraine. Svetlana, an old woman displaced from non-government-controlled Horlivka shared a story about waiting on a bus to visit her home in March 2015 when the Ukrainians shut down the checkpoint. Rather than wait the night for the checkpoint to open again, the bus driver and many cars turned around and drove off-road, single file. The bus struck what she thinks may have been an anti-tank mine. “It was a huge explosion ... I tried to get up [but] I found my leg stuck in the front seat and two men had to break it to set me free. ... 20 persons [were] wounded and four died. Old women who [were going] to Artemivsk to get their earned pension or buy cheaper food died.”<sup>46</sup>

Sasha and Anton, civilians living in non-government-controlled territory, described civilians receiving serious injury or dying while triggering UXOs assumed to be harmless. And Artem, an electrician living in non-government-held territory, described an incident in March 2015 when he, his son and three workers—along with another team from Horlivka—went to repair powerlines in the grey zone:<sup>47</sup>

*At some point we heard a heavy explosion when the Horlivka car ran over a land mine right in the middle of the road. We rushed to them to help and ran over another antitank land mine 30 meters away from the first car. I do not remember anything, but I guess I was thrown out of the car and that saved my life. My son and the driver were less lucky and they died immediately in the totally destroyed car.*

Artem said he didn’t know who planted the mines in the middle of the road, but, “Both sides were warned about our visit in advance and confirmed that the way was clear. ... We had instructions not to leave the road and we stayed on it all the time.”

Ukraine’s government has taken steps to counter the effect of mines and unexploded ordnance. For instance, a joint project by the OSCE and the State Emergency Service of Ukraine (SESU) aims to increase the state’s ability to clear these weapons.<sup>48</sup> Furthermore, Ukraine’s Civil-Military Cooperation (CIMIC) (discussed later in this report) program works with HALO Trust by collecting civilian-reported UXOs and mines and forwarding them to HALO to be properly marked and cleared. Nevertheless, this occurs well behind the front lines in the conflict zone, as HALO is limited to activity outside areas with ongoing hostilities.<sup>49</sup> The area outside of government control is difficult to clear and mines and explosives remain a potent threat to the civilian population.

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42 HALO Trust, “Where We Work: Europe and Caucasus, Ukraine,” 2016, <https://www.halotrust.org/where-we-work/europe-and-caucasus/ukraine/>.

43 Danish Demining Group (DDG), “Where We Work: Ukraine,” 2016, <http://danishdemininggroup.dk/danish-demining-group/where-we-work/ukraine>.

44 OSCE, “Cleaning-up Unexploded Ordnance in Eastern Ukraine,” July 31, 2015, <http://www.osce.org/ukraine/175491>. CIVIC interview, Donetsk Oblast, August 2016.

45 CIVIC interview, Donetsk Oblast, August 2016.

46 CIVIC Interview, Bakhmut, October 2016.

47 CIVIC interview, Horlivka, September 2016.

48 OSCE, “OSCE Helps Ukraine to Clear Donetsk and Luhansk Regions of Unexploded Ordnance,” July 30, 2015, <http://www.osce.org/ukraine/175256>.

49 Conversation with HALO Trust, September 2016.

## Abuses against Civilians

*“The most dangerous role in war is [being a] civilian”*

This report did not seek to systematically document serious abuses committed by the warring parties against civilians. Such abuses, whether they constitute violations of Ukrainian law, IHL, or IHRL, need to be investigated and addressed by a court of law or a transitional justice mechanism, rather than by policy mechanisms designed to protect civilians. During CIVIC’s research, however, many civilians and security forces recounted allegations of abuses against civilians. OHCHR, Human Rights Watch and Amnesty International are documenting more comprehensive accounts of abuses.<sup>50</sup>

“The most dangerous role in war is [being a] civilian,” said one female Ukrainian veteran of the conflict zone. “From the very beginning, everyone is a potential traitor. Whatever side you take. It may change at a glimpse, but your neighbors won’t forget.”<sup>51</sup> For civilians living near military positions, navigating through everyday life can be extremely hazardous. Ilya of Slovyansk remembered separatist forces shooting at him in 2014: “Right when we were about to drive away rebels didn’t like something and they’ve sent a few spurts of fire into our car. Hundreds of bullet holes were all over the car and my driver got so scared that he was close to madness.”<sup>52</sup>

In 2014, for much of the population in the east, gunfire was characteristic of the threat to civilians. It is still common on the contact line, and dangerous to the people living there. Andrey, an entrepreneur living in non-government-controlled territory, remembered workers being targeted by Ukrainian soldiers: “This winter due to shelling in [the grey zone] my internet line was cut. I sent workers to repair it. When repairing the line, a sniper from the Ukrainian side shot two of my workers, one in the knee and one in the calf. They were wearing clearly identifying cloths and didn’t have anything that could be considered weapons or observing equipment. Ukrainians did it a few times with other companies’ workers who tried to repair anything close to the grey zone.”<sup>53</sup>

A veteran of World War II living in a government-controlled area near the contact line said of the separatist forces that they “shoot into the areas where there are people. It’s not just artillery either, they use machine guns to shoot at people. ... This war is much worse than [WWII].”<sup>54</sup>

Some Ukrainian veterans recalled seeing or hearing about serious crimes in their area, including rape, torture, and murder. Many more described acts of banditry, lawless behavior, and sexual exploitation and abuse (SEA), including trading food to impoverished women living along the contact line for sexual favors. “In Zaiceve there were prostitutes going from our position to their homes,” said one former soldier. Others described the rate of trade for different sexual services: “In Kharkiv’s military hospital, guys told me, that for 14 jars of canned meat and 500 UAH [\$20 USD] the whole platoon could have a woman.”<sup>55</sup>

Veterans interviewed by CIVIC claimed not to have participated individually in looting or sexual abuse, but were aware of their existence, and sometimes benefited from the illegal behavior of those around them. The same former soldier who knew the rate of exchange for prostitutes in Kharkiv said his platoon didn’t commit any misdeeds, but admitted that other units in his company, to which his platoon was attached, did, and that he profited from it. He said some of these other units robbed a shop and stole alcohol, bread, and cheese and they gave his platoon a “bag of alcohol—cognac, vodka, beer, and all the other stuff.” He excused the looting by saying the company had lost two soldiers in a fight earlier. “We were tired and angry,” he said.<sup>56</sup>

50 OHCHR, “Ukraine - OHCHR Reports,” <http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/UAREports.aspx>; Human Rights Watch, “Ukraine: Events of 2015,” 2016, <https://www.hrw.org/world-report/2016/country-chapters/ukraine#ff7afc>; Amnesty International, “Україна Amnesty International 2015: Україна,” February 24, 2016, <http://amnesty.org.ua/nws/richna-dopovid-amnesty-international-2015-ukrayina/>.

51 CIVIC interview, Kyiv, September 2016.

52 CIVIC interview, Slovyansk, October 2016.

53 CIVIC interview, Donetsk, August 2016.

54 CIVIC interview, Avdiivka, July 2016.

55 CIVIC interview, Kyiv, July 2016

56 Ibid.

Numerous civilians described widespread looting of deserted houses and threats from members of the armed forces including mock executions and death threats: “My neighbor said that [members of a volunteer battalion] ordered him to lie down on the floor and shot a couple of times near his ear,” said a resident of Pisky. “In the end, my neighbor was falsely accused [by members of a volunteer battalion] of being a spotter [for the separatist forces] and arrested. His house was looted, they took everything. And then those soldiers said that the Right Sector volunteers did it.”<sup>57,58,59</sup>

Civilians also recount being subject to abusive practices by soldiers from both sides. Vitaly, an IDP who fled the contact line, described an event he observed: “There was another family. The husband suffered from epilepsy. One night two stoned [Ukrainian] soldiers came to their house. They ordered the man to undress and to do push-ups like in the army. He escaped and ran to our house naked. His wife also escaped. He saw that those soldiers were looking for something and then [the soldiers] set his house on fire.”<sup>60</sup>

**‘Often they create some fake charges to put you to the basement and get cash from a person.’**

Other civilians described interactions with separatist forces who, armed with machine guns, responded to requests for assistance with threats. In some cases, Ukrainian soldiers threatened unarmed civilians with families and young children if they thought that shooting came from their homes. Civilians are also faced with the

threat of harassment from local government. In Horlivka, for example, local police bodies and pro-Russian separatist militias “have failed for two years already”<sup>61</sup> to protect civilians. One of the journalists interviewed in the report described how police officers try to earn money by any means: “Often they create some fake charges to put you to the basement and get cash from a person. Also lots of weapons in [peoples’] hands and I’m really afraid of any drunk person as he may shoot you for nothing.”<sup>62</sup>

## Why Civilians Stay

*“There is no place for pensioners to go”<sup>63</sup>*

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 and pro-Russian. 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 there are practical reasons compelling them to stay. And regardless of people’s reasons for remaining, both sides have a responsibility to take all necessary measures to ensure the protection of civilians from armed hostilities.

Some civilians who shared their stories with CIVIC and still living along the contact line or in the grey zone were too old or infirm to move. Others lacked the financial means to start a new life elsewhere, while others had 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 stayed behind to protect their property.

57 Right Sector is a well-known volunteer battalion that has been very active on the front since Euromaidan in March of 2014.

58 CIVIC interviews, Marinka, Avdiivka, Opytne, July-August 2016.

59 CIVIC interview, Pisky, July 2016.

60 CIVIC interview, Pisky, July 2016.

61 CIVIC interview, Horlivka, July 2016.

62 CIVIC interview, Horlivka, July 2016.

63 CIVIC interview, Luhansk, August 2016.

And many of the men and women interviewed stated they remained because they had nowhere else to go. More specifically, they lacked the money or possibility to find new accommodation. Their jobs and livelihoods were invariably linked to the towns they lived in or their familial ties to the land were too strong. In some cases, families became destitute after shelling destroyed their homes and belongings, and could not leave the area for lack of resources or family to assist them. Nadiya, a nurse living and working along the

**‘We didn’t manage to escape in time so we stayed. Besides, there is no place for pensioners to go.’**

contact line on the Ukrainian side, had just taken out a bank loan in 2014 when heavy fighting broke out. Her home was heavily damaged, as was her workplace and that of her husband. Their reason for staying is clear: “I worked in a local hospital [before the fighting] but now it is destroyed. I was advised to go to Mariupol but I couldn’t leave my mother and my children here. And with the salary of 1200 UAH [\$48 USD], you can’t really rent an apartment and live there. My

husband also lost his job because of the fighting. The factory where he used to work is also destroyed. Only my mother receives her pension.”<sup>64</sup>

Many older interviewees felt that their age inhibited them from moving from their homes, either because it was physically too difficult or because the social barriers were too great to begin over again. “We didn’t manage to escape in time so we stayed,” said Rostyslav, a mechanic living in non-government-controlled Luhansk. “Besides, there is no place for pensioners to go.” Furthermore, he said that he did not want to leave because he had lived in his house—built by his parents—for 50 years.<sup>65</sup> Anna, a retired 61-year-old grandmother living in Avdiivka told CIVIC: “[I’ve been here] since I was 16 years old. ... I got married here, and my grandchildren were born here. So you can imagine how hard it is to leave this place, our apartment.”<sup>66</sup>

A number of interviewees alluded to the fact that most of their neighbors who left eventually returned after failing to settle in Russia or other parts of Ukraine. Many left after hearing rumors that their city would be shelled, but had no option other than to return because they lacked the financial capacity to settle elsewhere. Some wanted to remain closer to family members who had refused to leave or could not physically do so. Looting was another concern for some civilians: “I am a pensioner,” said Liliya, a 61-year-old woman staying in a damaged apartment in Marinka. “I have nowhere to go. My daughter’s apartment in Marinka was also shelled and then looted. There is nothing left. ... I don’t want to go anywhere because I am afraid that our house will be looted and I want to save at least something for my children.”<sup>67</sup>

Civilians who stayed behind 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.”<sup>68</sup>

64 CIVIC interview, Marinka, July 2016.

65 CIVIC interview, Luhansk, August 2016.

66 CIVIC interview, Avdiivka, July 2016.

67 CIVIC interview, Marinka, July 2016.

68 CIVIC interview, Horlivka, August 2016.





*Anatoliy and Svetlana in their garden in Pisky, Ukraine, in November 2015. Anatoliy and Svetlana have children living on both sides of the contact line, but decided to remain in their modest home on the outskirts of Pisky, despite the fighting that still flares up in their neighborhood. (Jack Crosbie)*

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## EXPECTATIONS & NEEDS OF CIVILIANS

### *Move the fighting away from civilian areas*

*“I’m just tired of war. I’m ready to live near military checkpoints but I beg for only one thing: don’t shoot.”<sup>69</sup>*

After two years of fighting, many civilians living on both sides of the conflict line have become understandably jaded. Although ultimately they want peace to return to their region, in the short-term they would settle for a modicum of security. At the very least, they want the different sides to stop shooting at one another in civilian areas.

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. “[The military] should remove their checkpoints from the village because when they shoot, the separatists strike back and mortars fall on our homes,” says 18-year-old Olga, living in what remains of Opytne. “Both sides don’t protect civilians at all. They are shooting and playing their game and they don’t care about us.”<sup>70</sup> Svoboda, an elderly widow in Marinka had similar sentiments: “I’m just tired of war. I’m ready to live near military checkpoints but I beg for only one thing: don’t shoot!”<sup>71</sup>

### *Post-Harm Assistance*

*“Nobody there can help. I received only a certificate of destruction, that’s it. When I said that my child died, they said it’s a usual thing at war.”<sup>72</sup>*

Civilians expect government authorities to take responsibility for assisting those who have been harmed by the conflict, but most respondents said that the government and the military did little to nothing to help them with damage, injury, and death caused by security forces.

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69 CIVIC interview, Marinka, August 2016

70 CIVIC interview, Opytne, August 2016.

71 CIVIC interview, Marinka, August 2016.

72 CIVIC interview, Marinka, July 2016.

There is currently no mechanism designed to assist Ukrainian civilians harmed in the conflict, and all initiatives to this effect are ad hoc and insufficient. 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, and an acknowledgment of responsibility from those who caused the harm. Little of this is currently forthcoming.

“The Ukrainian government and military will never admit shelling of residential areas,” said Vladimir, from Makiivka in the Donetsk region.<sup>73</sup> Natasha, a pensioner from Kommunar in the Donetsk region, said that “the OSCE came ... to talk to the relatives of those killed and to those who were harmed [to evaluate the extent of damage and its origin], but I guess no one carried any punishment [for that harm].”<sup>74</sup> Another civilian living in non-government-controlled Donetsk stated, when asked whether the military or government responsible for harming them had accepted responsibility, “No and never will, this is all the price of war. As they say ‘acceptable punishment.’”<sup>75</sup> Civilians reported similar experiences on both sides of the contact line.

Civilians report receiving no special care when injured in the fighting. “I don’t need an apology from the government, it’s not worth anything,” said one woman who’d been seriously injured by shelling.<sup>76</sup> “My health is one thing I’d like back. Also, a livable pension, for someone to fix my daughter’s apartment [damaged by shelling], and for my hospital bills to be paid for as well.”

*Yurii, a businessman in his late fifties from Donetsk, saw both of his houses in Donetsk and Horlivka were destroyed during the fighting and said:*

**“For two years I have been looking for an organization or institution in Ukraine that could help me, and I haven’t found it. I am not even asking for compensation, but I want at least that someone register the fact of destruction. [...] A year ago I appealed to the European Court of Human Rights [ECHR]. At first we lodged a complaint against Russia. Russians, of course, denied their presence in Donbass. So then we also filed a lawsuit against Ukraine. But it may take some years before the ECHR will pass a verdict. So I was recommended to appeal to a Ukrainian court as well.”**

*Olena, from Pisky in the Donetsk region, also appealed to the ECHR, against both Russia and Ukraine. However, she stated, “Ukraine doesn’t care about IDPs. I have a feeling that they just want to get rid of us.” Having a fair and equitable way to address civilian harm would show that the government does care about its people and takes its responsibility seriously.*

CIVIC observed widespread damage to civilian infrastructure and homes. This included sporadic access to electricity, as well as issues with water and the total absence of gas in certain towns or villages in the conflict zone, and assistance in rebuilding homes and essential infrastructure has emerged as a crucial concern. Nikolai, an older man who fled from non-government-controlled Donetsk, recounted an attack on his first-floor apartment, as well as other apartments in the building where “the third, fourth and fifth floors were destroyed. And in my apartment only windows were broken. I wasn’t there when it happened. I stayed in the hospital.” In addition, “[the separatist forces] stole all the documents confirming ownership rights for our apartments and office, as well as the keys. So now we can’t even prove that those apartments belong to us.”<sup>77</sup> Danilo, a seventeen-year-old living in Donetsk

who was orphaned when his father was killed fighting for the separatist forces in the September 2014 battle of Illovaysk, says of the conflict: “All around us men lost their apartments after shelling. The infrastructure had been damaged all over the place so we stayed with no electricity and hot water.”<sup>78</sup>

73 CIVIC interview, Makiivka, August 2016.

74 CIVIC interview, Kommunar, August 2016.

75 CIVIC interview, Donetsk, August 2016.

76 CIVIC interview, Krasnohorivka, August 2016.

77 CIVIC interview, Luhansk, August 2016.

78 CIVIC interview, Donetsk, August 2016.

Civilians living on the contact line also singled out the cost to heat their apartments in the winter as a cause for concern. In some places, shelling damaged gas lines, leaving civilians to heat their homes with far more expensive electricity. For retired civilians like Lev living in Marinka, this can stretch thin budgets to the breaking point. “There are big problems with utility services,” he said. “From summer 2014 till now our village didn’t have gas because of broken tubes. We refit our heating boilers and stoves to electricity but the tariff remains the same. ... So we should pay a lot of money from my pension to feel the heat, especially in winter. It is obvious that people get sick from living like this. Sometimes there were situations when we didn’t have electricity. Living conditions are hard without help from government.”<sup>79</sup> Yelena, an old woman displaced from non-government-controlled Horlivka, echoed this idea: “Here the biggest threat is to die of hunger as the utility payments (as well as the rental prices) are much higher than pensions”<sup>80</sup>

Another source of concern for civilians are pre-existing financial obligations that continue after the destruction of property. A few civilians described taking out loans to purchase houses or apartments that were subsequently destroyed in the fighting, or to pay electricity or gas bills for damaged apartments later occupied by the military.

Many civilians have tried to bring these concerns to the local authorities, but for the most part with disappointing results. The only institutional response seems to be the issuing of “certificates of destruction” by local administration officials in the East. This is a welcome initiative, and some civilians have used their certificates as the basis for legal cases against Ukraine and/or Russia. Others hope that in the future, the certificate will entitle them to some form of assistance from the government. However, the current process, despite the goodwill of many who administer it, is flawed and can increase frustration among civilians.

In some places, civilians did not know that registering a claim was a possibility, or knew it was possible but saw the process as fruitless. Civilians from all over the conflict zone, in both government- and non-government-controlled areas reported that the process of registering harm with civil-military authorities was so bureaucratic, confusing, and lengthy that some didn’t bother applying for the certificate, and simply continued to live in their damaged homes. Some like Roman, whose apartment was damaged by shelling, said they reported this harm to the local authorities, who did nothing to help them.<sup>81</sup> Local authorities share this frustration. “I take [civilians’] reports and collect them,” said an administrator on the contact line in the conflict zone who wished to remain anonymous, “but there isn’t much more we can do. There isn’t any money or funding.”<sup>82</sup> In addition to recording civilian harm, he refers harmed civilians to international humanitarian aid NGOs.

Understandably, civilians expect these certificates to lead to some form of compensation, but they are invariably disappointed. “Our apartment was damaged at night from between the 16th and 17th of August by [artillery] from the direction of Ukrainian checkpoints,” says Victor, describing an event that occurred during one of CIVIC’s three visits to the contact line.<sup>83</sup> “Police [assessed and officially recorded] the condition of our broken apartment. Then we went to the local civil-military administration in Marinka to fill the forms to get some compensation for the destruction of our property. ... We’re still hoping to get compensation.”

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79 CIVIC interview, Marinka, August 2016.

80 CIVIC interview, Horlivka, October 2016.

81 CIVIC interview, Marinka, August 2016.

82 CIVIC interview, Marinka, August 2016.

83 CIVIC interview, Marinka, August 2016. While it’s impossible to assign responsibility for this specific attack without a forensic investigation, to CIVIC researchers the shell appeared to have come from the Ukrainian side. The shelling that occurred between August 16–17, 2016, in Marinka was heavy, and lasted several hours.

Another woman living in Krasnohorivka, a heavily-shelled town near Marinka and Avdiivka, mentioned that when she reported damage to the police, they visited her home but “didn’t actually do ... anything.”<sup>84</sup> The Akhmetov Foundation, a private charity which provides humanitarian aid, helps with hospital expenses but the woman and her family did not receive any help to rebuild because “the government said the shelling ‘wasn’t our fault,’ and the separatists obviously didn’t send [them] money either.”<sup>85</sup> This sentiment is often repeated. One woman said that she didn’t file any official complaint because, “Nobody there can help. I received only a certificate of destruction, that’s it. When I said that my child died, they said it’s a usual thing at war.”<sup>86</sup>

Another civilian living in the conflict zone was happy that the separatist forces had been pushed out, but also noted the government’s inability to help restore his damaged home: “Before the elections to the Verkhovna Rada [Ukraine’s national legislature] there were many candidates who listened carefully and promised to help. As expected, the new government immediately forgot all promises right after the elections. No one needs us.”<sup>87</sup>

In some instances, civilians, like this resident of a non-government-controlled area, noted that when their house was shelled, “There was no chance to report at all. Actually no one accepted any claims as both sides said they never shelled residential areas.”<sup>88</sup>

Yuri, a young man whose home was damaged during fighting, sought help getting the damage to his property validated in non-government-controlled Donetsk. But his efforts came to nothing: “I’ve given a report to the utility company, but no help resulted. There were no organizations in Horlivka to report the [other] damage.” In Makiivka, Taras, a logistics manager, stated that “you may come to the police department if something happens with you ... [but] there were no organizations in the DPR at that time to report about harm. Now I know that local government rebuilt about 100 houses, which were destroyed. Mostly it is in

Ilovaysk town.” Otherwise, “there was no assistance.”<sup>89</sup> Some were directly threatened, like Toma, an IDP who returned to non-government-controlled territory to evaluate the state of his property: “When I saw that our house had been looted, I went to the local police. When I said that I lived in Kyiv, they didn’t want to accept my complaint. They even threatened to put me in prison.”

**‘Soldiers always helped us during hardest times, shared their [food] with us, evacuated civilians from the most dangerous places.’**

Some civilians appreciated spontaneous initiatives by soldiers. A local deputy and

humanitarian coordinator living in the grey zone stated, “In the beginning soldiers brought us food products and gas. Now we help civilians ourselves. I ask what they need, especially elderly people, and bring them medications and other [needed] products.”<sup>90</sup> A woman told CIVIC how members of the military helped her by taking the family to the hospital, helped her to restore the roof of her house, and provided clothing.<sup>91</sup> Others with experience with both sides of the conflict said that the Ukrainian soldiers have been more helpful than the separatist forces they replaced: “Soldiers always helped us during hardest times, shared their [food] with us, evacuated civilians from the most dangerous places. At the times that rebels controlled Avdiivka there was complete chaos and lawlessness: people would disappear, property was taken by force.”<sup>92</sup>

84 CIVIC Interview, Krasnohorivka, July 2016

85 CIVIC interview, Krasnohorivka, July 2016.

86 CIVIC interview, Marinka, July 2016.

87 CIVIC interview, Popasna, October 2016.

88 CIVIC interview, Horlivka, July 2016.

89 CIVIC interview, Makiivka, August 2016.

90 CIVIC interview, Opytne, July 2016.

91 CIVIC interview, Marinka, July 2016.

92 CIVIC interview, Avdiivka, October 2016.

Some local and international humanitarian NGOs have provided material support, but overall they struggle to assist on such a huge scale. CIVIC interviewed some civilians who had lost their homes, and they pointed out that NGOs could not (and weren't expected to) assist them with that level of assistance. Some organizations provided financial assistance for medical treatment, but not all civilians fall under categories that can obtain help.<sup>93</sup> If one receives a salary, "no matter how small," they appear to be exempt from assistance from the government—and certain local humanitarian NGOs.<sup>94</sup>

### *Improve Checkpoint Crossings between GCAs and NGCAs*

*"You need to go on foot to the checkpoints and wait for 24 hours."*

There are currently five official crossing points in Donbass: four in Donetsk and one in Luhansk, for pedestrians only. Civilians need to pass through official (and unofficial) crossings to see relatives, fulfill legal obligations in government-controlled areas such as registration for pensions or benefits, or to evaluate property in non-government-controlled areas. These crossing points are especially dangerous for civilians.

There are no standardized procedures for crossing, in part because different units operating in different areas, and in part because the LPR and DPR themselves treat the process of crossing between government-controlled areas and non-government-controlled areas differently. Some checkpoints are near to each other—within rifle range—while others are far away.

Civilians are compelled to wait for hours, and in some cases overnight, the most dangerous time to be in close proximity to military targets. The threats inherent to crossings and checkpoints are all exacerbated by mines, artillery shelling, and gunfire—more so at some checkpoints than others. One woman described taking her children across checkpoints to attend school, despite the shelling.<sup>95</sup> Families have been separated by the conflict, and understandably want to be reunited, yet shooting between opposing sides frequently makes it too dangerous to cross. Said one 30-year-old teacher in July 2016 who fled non-government-controlled Makiivka for government-controlled territory: "My parents are still there. I'm in contact with them ... in Makiivka there is no shelling."<sup>96</sup> The biggest problem is going back and forth from the occupied territories to other Ukrainian regions. Ukraine cannot organize a decent process of crossing the contact line for its citizens. You need to go on foot to the checkpoints and wait for 24 hours."<sup>97</sup> Since this interview, things got worse, as the INSO reported several shelling incidents in Makiivka. The most recent one occurred on October 27, 2016, when a shell hit a residence, killing three civilians and wounding five children.

Tatiana, in her late forties and approaching her retirement, said, "Marinka is a part of Donetsk and many people worked or studied there. Now it's a problem to go there because of shootings and very long lines of people between checkpoints. Waiting can be very dangerous at these checkpoints, especially in case of a big fight."<sup>98</sup>

Vasiliy fled Luhansk during the fighting in 2014 and lives as an IDP in government-controlled Ukraine. "It is very difficult to cross the line of demarcation between Luhansk and Ukraine," he said. "Of course all of our possessions remained in Luhansk. ... [The journey] was dangerous because of many checkpoints."<sup>99</sup> He explained that due to his limited pension and the prohibitively high rents away from the contact line, he must occasionally return to his home. This was a concern echoed by others, for whom misfortune and the conflict had forced them to navigate the checkpoints between GCAs and NGCAs.

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93 CIVIC interview, Horlivka, August 2016.

94 CIVIC interview, Marinka, August 2016.

95 CIVIC interview, Marinka, July 2016.

96 CIVIC interview, Marinka, July 2016.

97 CIVIC interview, Kyiv, July 2016.

98 CIVIC interview, Marinka, August 2016.

99 CIVIC interview, Kyiv, July 2016.

## *Resettlement Assistance Away from the Contact Line or Grey Zone*

*“If the government were to offer resettlement as an option we could move away from here”<sup>100</sup>*

Some civilians CIVIC talked to expressed a desire to move but could not afford to; they continue to live in or near the conflict zone. Some mentioned there was no type of assistance available to help resettle them to other areas in Ukraine. “If the government were to offer resettlement as an option we could move away from here, but nobody has offered this option,” said an older woman named Victoria living on the contact line. “I have a granddaughter who lives in Lviv. And another studies in Donetsk. There’s no work here, and no jobs. Many people used to work in the mines, now the mines are closed. I don’t know what to do after this because our apartment is destroyed.”<sup>101</sup>

Similarly, many civilians living in DPR or LPR territory told us that staying was their only option, given that the threat of shelling or invasion from Russia or attack by Ukraine had reduced their property value to almost nothing. Older people with houses or apartments in the DPR or LPR are simply too poor to leave. As Fran, an IDP living in Kyiv said, “Ukrainian authorities should think how to support real IDPs. I don’t know about any single initiative which was really helpful. If we could get from Ukrainian government any flat or a house as a property [away from the contact line] that would be a great assistance as now we work just to pay for a rented flat, but not for living.”<sup>102</sup>

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100 CIVIC interview, Krasnohorivka, July 2016.

101 CIVIC interview, Krasnohorivka, July 2016.

102 CIVIC interview, Kyiv, July 2016.







*An amputee walks down a long line of cars at the Volnavakha checkpoint near Mariupol in July 2015. Bus services do not cross the contact line, so travelers without a personal vehicle must disembark and walk down long lines of cars and across several kilometers of no man's land to reach their destination. (Jack Crosbie)*

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## TOWARD BETTER CIVILIAN PROTECTION

The Ukrainian Government bears the primary responsibility for protecting all of its citizens, and there are clear legal and ethical reasons why the government and military should focus on developing the capability to better protect civilians living along the contact line.<sup>103</sup>

Beyond that, there are strategic reasons why the Ukrainian government should protect civilians in this conflict. Prioritizing civilian protection is a straightforward way of demonstrating good faith and building trust with disenfranchised civilians in the east. As Oleksandra, a humanitarian worker with extensive experience in the East observed, “The main problem is the attitude of the government [local and central] toward civilians. Nobody cares about civilians. ... A lot of people can’t leave the area or village because when they leave and get to the west or center of Ukraine, due to propaganda local civilians in Ukraine say, ‘All of you are separatists,’ and so on.”<sup>104</sup> If the ultimate goal is to reunite Ukraine and reintegrate the alienated and distressed population in the Donbass region, protecting and assisting civilians harmed by the conflict should be prioritized.

President Poroshenko announced in September 2016 that joining NATO was a “strategic goal” for Ukraine. The Maidan revolution was sparked by a widespread desire to sign an association agreement with the EU, and a big effort is underway to modernize Ukrainian laws policies and institutions, and bring them in line with EU and NATO laws and values.

The protection of civilians has become a strategic priority for both NATO and the EU. On July 9, 2016, NATO adopted a comprehensive policy on civilian protection “based on legal, moral, and political imperatives. The aim of an overarching policy is to instill a coherent, consistent and integrated approach to PoC [protection of civilians] in NATO and NATO-led operations, missions and other Council-mandated activities.”<sup>105</sup>

In the EU, civilian protection is enshrined in the 2009 Lisbon Treaty. It includes and constitutes one of the bases for humanitarian assistance under the Common Security Defense Policy and the EU Civil Protection Mechanism, and is consistently reaffirmed by EU representatives. As recently as June 2016, the Deputy Head of the Delegation of the EU to the UN stated that:

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103 Legal obligations are derived from international and national law. Ukraine, like all nations in the world, is bound by the provisions of customary IHL, which outlines the duty and obligations of states to protect civilians during armed conflict. Article 8 of the Rome Statute—the treaty that created the International Criminal Court—lists the offenses that constitute war crimes including grave breaches of the Geneva Conventions, as well as a long list of offenses that, if directed against civilians in times of conflict, may lead those accused to prosecution in The Hague. While Ukraine is not a party to the Rome Statute, on September 8, 2015, it lodged a declaration with the court, allowing it jurisdiction in the Donbass region affected by separatist forces. Chapter 19 of the Ukrainian Criminal Code outlines offenses related to military service. Regarding the actions of troops in the conflict zone, several prohibitions of actions apply, including Article 433, which restricts the unlawful destruction or taking of property under the pretext of military necessity, both of which have been amply documented in this and other reports.

104 CIVIC interview, Galcinovka, August 2016.

105 North Atlantic Treaty Organization (NATO), “NATO Policy for the Protection of Civilians,” July 9, 2016, [http://www.nato.int/cps/en/natohq/official\\_texts\\_133945.htm?selectedLocale=en](http://www.nato.int/cps/en/natohq/official_texts_133945.htm?selectedLocale=en).

The protection of civilians in armed conflicts remains an acute and urgent concern for the EU and its Member States. We concur with the Secretary-General, as expressed in his report of June 2015, that prevailing disrespect for international humanitarian law by some States and non-State armed groups, and pervasive impunity for violations, have become one of the most critical challenges for the protection of civilians. Upholding the norms that safeguards humanity was at the heart of the recent World Humanitarian Summit and we must take forward the commitments that were made there to enhance the protection of civilians in armed conflict.<sup>106</sup>

In the United States, on July 1, 2016, US President Barack Obama signed an Executive Order (EO) establishing as law pre- and post-harm civilian protection measures.<sup>107</sup> This policy, which applies to all US government agencies, acknowledges the fundamental importance of protecting civilians during conflict, and places civilian protection at the heart of military operations. The EO specifically includes directives relating to training military personnel on how to mitigate harm and reduce civilian casualties, using technology to better discriminate between civilian and combatant, and to take all feasible precautions in conducting attacks to reduce the likelihood of civilian harm. Additionally, the EO requires conducting investigations into allegations of harm, establishing better relationships with civil society, and providing post-harm assistance.

If Ukraine aims to adopt these standards and values, it must develop comprehensive policies to protect civilians. Ukraine has taken steps in the last two years to strengthen civilian protection, and these efforts, described below, show a growing institutional awareness of the need for better civilian protection, and should be recognized and supported.

The modernization and reform of Ukraine's Ministry of Defense and professionalization of the military has been noted in conversations with many observers, including representatives of NATO, international NGOs, and veterans of the war.<sup>108</sup>

First, volunteer battalions<sup>109</sup> lacked training, discipline, and accountability, and were the origin of protection concerns for Ukrainian civilians on both sides. For the most part, they have been integrated into formal state structures, and now exist as semi-autonomous units within the National Guard. While some concerns remain, these units are, in principle, subordinate to the government and its Ministry of Internal Affairs or Ministry of Defense.

Second, military training has improved from the 5-day or two-week crash courses in military discipline described by volunteers and by the hastily-mobilized Ukrainian Army soldiers in the Spring of 2014. Now, recruits are trained to a higher military standard, with junior soldiers receiving as much as two months of training, including marksmanship, emergency medical procedures, discipline, and tactical movement, before joining a unit near the front.<sup>110</sup> Initiatives like the Joint Multi-National Training Brigade,<sup>111</sup> begun in Spring 2015 after the conflict stabilized, where NATO combat units provide training for Ukrainian conventional and special forces in counter-insurgency style warfare, have trained thousands of Ukrainian soldiers to the standards of a full-time, active duty professional military organization.

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106 "Statement on Behalf of the EU and Its Member States by H.E. Mr. Ioannis Vraïlas, Deputy Head of the Delegation of the European Union to the United Nations, at the Security Council Open Debate on Protecting Civilians in the Context of Peacekeeping Operations," June 10, 2016, <http://eu-un.europa.eu/eu-statement-United-nations-security-council-protecting-civilians-in-the-context-of-peacekeeping-operations/>.

107 Office of the Press Secretary, President of the United States, "FACT SHEET: Executive Order on the US Policy on Pre & Post-Strike Measures to Address Civilian Casualties in the US Operations Involving the Use of Force & the DNI Release of Aggregate Data on Strike Outside Area of Active Hostilities," July 1, 2016, <https://www.whitehouse.gov/the-press-office/2016/07/01/fact-sheet-executive-order-us-policy-pre-post-strike-measures-address>; NATO, "NATO Policy for the Protection of Civilians," July 9, 2016.

108 CIVIC interviews, Kyiv, July-September 2016.

109 Groups of civilians who formed paramilitary organizations to support (or in the case of the separatist forces, oppose) Ukraine's government. In the earlier months of fighting, volunteer battalions did a disproportionate amount of the fighting on Ukraine's front lines, and, while supported by many in Ukraine, were subject to limited accountability and no oversight, and were accused of war crimes.

110 Cami McCormick, "'Re-Tooling an Army from Scratch,' as It Fights a War," February 1, 2016, <http://www.cbsnews.com/news/us-ukraine-army-re-tool-troops-training-russia-backed-rebels/>.

111 US Army Europe, "Joint Multinational Training Group-Ukraine," April 22, 2015, <http://www.eur.army.mil/jmtg-u/>.

Training on the protection of civilians, though, is still deficient.<sup>112</sup> No soldier or volunteer interviewed for this report described any systematic or formal training in IHL beyond the occasional ad hoc lecture or a pamphlet handout. And nobody described going through the type of practical exercises or realistic training that brings civilian protection from the realm of the abstract to the realm of reality.

Third, the creation of CIMIC in January 2015 has made a positive difference in those communities hit hardest by the fighting. CIMIC originated in part from the recognition that the Ukrainian army was doing a poor job interacting with communities and responding to their needs. Now, CIMIC teams live and work in or near contested villages along Ukraine's line of contact, as well as in conflict zone administrative hubs like Mariupol and Kramatorsk. CIMIC recognizes the importance of a gender balance, and Mariupol's CIMIC team is 50 percent female, a goal for all CIMIC teams when and where this is possible. There are over 100 enlisted soldiers and officers assigned to CIMIC on a rotating basis, and assignments can last 3–6 months before individuals then typically return to their home units.

Another important development is the creation of the Ministry for the Temporarily Occupied Territories and Internally Displaced Persons of Ukraine (MOT) in June 2016.<sup>113</sup> As documented in this report, civilians on the contact line, as well as IDPs, consistently complained about the government's inability or unwillingness to assist them. The MOT was directed to resolve these issues. It has a wide mandate: ensuring formulation and implementation of state policy on the temporarily occupied territories areas of Donetsk and Luhansk region, with the end goal of reintegrating it and its population into Ukraine.

Additionally, the MOT has authority to ensure the application of IHL in Ukraine's conflict zone, and hold violators of IHL accountable for their actions. This includes a requirement to interact with the Ministry of Defense, the Security Service of Ukraine, the National Police, the State Border Guard Service of Ukraine, the National Guard of Ukraine, the State Emergency Service and other law enforcement agencies.

After considering all of the above, CIVIC believes the following recommendations will enable all parties to better protect civilians.

### *Abide by the Minsk Agreements' restrictions on heavy weapons*

The agreement signed by the leaders of Ukraine, France, Russia and Germany on February 15 2015, revived the original Minsk agreement (signed in September 2014). It called for a cease-fire, which has not been observed by either side. It also called for an absolute prohibition of the employment of weapons over 100mm caliber, anecdotally and collectively known as "heavy weapons."<sup>114</sup> The most effective way to reduce civilian harm is to not use heavy weapons in populated areas by parties to the conflict, in accordance with the Minsk Agreements. Unfortunately, all parties routinely violate the prohibition on heavy weapons, as regularly documented by the OSCE, and civilians are harmed as a result.<sup>115</sup> As OHCHR observed, the use of heavy weapons in June and July of 2016 doubled the number of civilian casualties.<sup>116</sup>

All parties to the conflict should abide by the Minsk Agreements and IHL, thus ensuring that artillery weapons are outside of range of one another and thus employed less frequently or not at all. Additionally, and beyond the sensible restrictions provided by IHL, parties to the conflict should consider exercising judicious use of force whenever responding to opposing fire in populated areas.

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112 Ibid.

113 Regulation No. 376, June 8, 2016, <http://cis-legislation.com/document.fwx?rgn=86793>.

114 "Heavy weapons" refers to artillery over 100mm in caliber.

115 For a full list of OSCE reports, see: Organization for Security and Co-operation in Europe (OSCE). "Daily and Spot Reports from the Special Monitoring Mission to Ukraine," <http://www.osce.org/ukraine-smm/reports>.

116 OHCHR, "Report on the Human Rights Situation in Ukraine: 16 May to 15 August 2016," September 2016, <http://www.ohchr.org/Documents/Countries/UA/Ukraine15thReport.pdf>.

## *Adopt a government-wide policy on civilian protection and post-harm assistance*

Establishing a clear policy at the national level, similar to the ones established by the US and NATO on civilian protection, but adapted to the needs and realities of Ukraine, is a necessary first step. Such a policy would signal that the protection of civilians is a priority at the highest levels of government, provide a framework for all institutional initiatives in this domain, designate leaders who are responsible for implementation, and attract the support of Ukraine's international partners.

CIVIC interviews suggest that veterans would support this endeavor. Many veterans stated that assisting civilians is already seen as the right or "normal" human thing to do. A former Aidar battalion volunteer, when asked about the training his unit received with regards to ways to protect civilians in conflict areas, said "Theoretically, everybody knew [civilians were being killed]. Civilians... [we moved them] away, hid [them] in bunkers, [separated them] from the ... combat units. Humanity awakened among many [at war]."<sup>117</sup> Another former commander in a different volunteer battalion said "We helped. It was our [unit's] official policy. Help. To your fullest [capability]. Everybody understood that you have to be human with civilians."<sup>118</sup>

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 to all the agencies involved in implementation the necessary funding.

## *Create a mechanism to track, investigate and analyze civilian harm*

The ability to track and analyze civilian harm and appropriately investigate incidents of alleged or known civilian harm is integral to gaining knowledge and tactical information on how to prevent, verify, and appropriately respond to civilian victims and their families. Currently, Ukraine's army lacks this capability, as there is no dedicated staffing, function, or analysis in place. Thus, the Ukrainian army is unable to investigate allegations of harm, take responsibility for harm it causes, distinguish the harm caused by separatist forces from the harm it causes itself, or provide amends or other post harm assistance to civilians when it does cause harm. All these are key tasks to ensure credibility and transparency with the local population; without it, civilian populations will not distinguish between the harm caused by separatist forces and the harm caused by their own government.

Ideally—as was the practice in NATO's International Security Assistance Force in Afghanistan—the Ukrainian military should develop a Civilian Harm Mitigation Team (CHMT) at the HQ level. The team could consist of key members of the armed forces as well as key members of other ministries who deal with civilian issues including the MOT and others. Together, this team would work to synchronize efforts to both protect civilians and respond to alleged and known civilian harm through the provision of humanitarian aid, post harm assistance programs, and amends where appropriate.

Each unit headquarters should have a dedicated CHMT liaison trained and tasked with reporting up to the CHMT any alleged or confirmed incidents of harm. The CHMT would be responsible for establishing a system to receive reports of incidences of harm, and to ensure the local authorities, civil society organizations, media, and civilians themselves know how and where to report allegations. Trained investigators would conduct interviews and gather information to support or refute the allegations, while simultaneously ensuring that civilians know all allegations of harm are taken seriously.

Currently, some local authorities are already collecting data reflecting civilian harm, with the intent to empower civilians to claim assistance at some later date. A CHMT could analyze this information not only to track civilian harm, but to analyze trends to understand how civilians are being harmed and how to better protect them.

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<sup>117</sup> CIVIC interview, Kyiv, September 2016.

<sup>118</sup> CIVIC interview, Kyiv, August 2016.

## *Eliminate the use of mines and booby traps and mark and remove UXOs*

Reducing the use of heavy weapons reduces the number of civilian casualties, but it also reduces the number of artillery shells and rockets that fail to explode. This in turn limits civilians' exposure to UXOs.

Mines, more dangerous than UXOs because they are designed and emplaced with the intent to injure or kill, are another source of harm. Ukraine signed the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction ("Mine Ban Treaty") in 1999, and

**'We helped. It was our [unit's] official policy. Help. To your fullest [capability]. Everybody understood that you have to be human with civilians.'**

it entered into force on June 1, 2006.<sup>119</sup> As of August 2016 however, Ukraine was not in compliance with Article 5 of the Mine Ban Treaty regarding the destruction of mines in mined areas. Ukraine is also not a signatory to the Convention on Cluster Munitions which prohibits cluster munitions and provides a framework to destroy existing stockpiles.<sup>120</sup> Its soldiers have emplaced mines, as have volunteers fighting on the Ukrainian side. This is unacceptable, particularly when mine fields are not marked, or marked poorly.

Incidents involving mines, IEDs and/or booby traps along Ukraine's contact line between May and August 2016 resulted in at least 13 deaths and 41 injuries, part of an overall increase in casualties based on research conducted by OHCHR.<sup>121</sup>

The most dangerous of all are the booby traps. These are found in various forms, to include grenades wired to detonate with a trip wire lashed to a tree or door, or explosives concealed beneath toys, trash, or other rubbish. These devices target the curious and unwary—predominantly children—and cause great harm.

While HALO Trust and the Danish Demining Group have operations in eastern Ukraine focused on education, awareness, and demining, the UN Mine Action Service (UNMAS) does not. They conducted a technical assessment mission early in 2016, but ultimately decided against deploying a permanent mission to Ukraine.<sup>122</sup> Their assistance is sorely needed.

In the meantime, Ukraine should enact legislation as soon as possible to establish a national demining authority and a functioning national demining center to support clearance. The center would collect data on the number and location of mines, cluster munitions, and UXOs, establishing a centralized database that would support analysis and planning for clearance purposes.<sup>123</sup>

While demining operations may not be practical or safe during ongoing combat operations, Ukraine would be wise to establish the legal and financial framework necessary to accomplish this as quickly as possible after combat ends. Doing so would minimize the already unacceptably high levels of harm to soldiers and civilians inflicted by mines employed by both sides.

119 "Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction," September 18, 1997. For full text and State Parties, see: <https://ihl-databases.icrc.org/ihl/INTRO/580>.

120 "Convention on Cluster Munitions," May 30, 2008. For full text and State Parties, see: <https://ihl-databases.icrc.org/ihl/INTRO/620?OpenDocument>.

121 OHCHR, "Report on the Human Rights Situation in Ukraine: 16 May to 15 August 2016," September 2016, <http://www.ohchr.org/Documents/Countries/UA/Ukraine15thReport.pdf>.

122 Donbass International News Agency, "UN Mine Action Service Will Not Open Program for Ukraine," April 5, 2016, <https://dninews.com/article/un-mine-action-service-will-not-open-program-ukraine>.

123 Landmine & Cluster Munition Monitor, "Ukraine Mine Action," August 8, 2016, <http://www.the-monitor.org/en-gb/reports/2016/ukraine/mine-action.aspx>

## *Improve Training on Civilian Protection*

Soldiers and other government personnel need better training on IHL and civilian protection. This training should be based on real-life situations faced by soldiers in eastern Ukraine and should allow them to experience decision making in a scenario designed to test their practical application of classroom learning.

Medical training, marksmanship, field craft (essentially, basic soldier skills), and basic IHL training were all mentioned in interviews, but training in civilian protection was either absent or so minimal as to be ineffective. “No,” replied one veteran of Debaltseve when asked whether he received training on IHL or civilian protection.<sup>124</sup> “No, to kill only,” said another. “To save your life and the life of your brother in arms. You are an animal—running around like a lizard with a machine gun.”<sup>125</sup> A veteran of the east and a military psychologist said “We had two hours of international humanitarian law. ... Nobody was serious about it. Even among professional soldiers most had no idea about this.”<sup>126</sup>

As a consequence of this inadequate education on IHL, a substantial number of soldiers and volunteers who served on the front lines were unclear as to the difference between a combatant and a civilian. Residents were considered either actively or potentially pro-separatist or pro-Russian, and were therefore not determined to be “civilians.” A former soldier said “Any person with a cell phone near your position is a potential enemy.” Then, later, in the interview, “Everything that’s moving—shoot. Who’s investigating?”<sup>127</sup> Another: “In the first contact I figured out that civilians are our enemies. They didn’t have weapons, but they were correcting enemy fire.”<sup>128</sup> It is important for training not only to cover tactical measures but also to begin to shift the mindset of the military to one where people living along the contact line are presumed to be civilians to be protected, as the law mandates.

At a minimum, soldiers and commanders of field units should receive in-depth training on the four principles of the law of armed conflict, and in particular the requirement to distinguish between civilians and combatants. Additionally, commanders should understand the strategic benefits of protecting civilians and their property.

In addition to classroom instruction, key leaders at the unit level should receive practical, hands-on training through the use of situational training exercises. Where possible, this training should be extended to individual soldiers on the ground. Training should include not only how to distinguish civilian from combatant, but how to treat civilians in the unfortunate instances where they are harmed.

One obvious step would be for the Ministry of Defense to distribute IHL Pocket Cards from the International Committee of the Red Cross. These include simple explanations of key IHL rules, but are backed up with the force of the Ministry and include sanctions for failure to adhere to them. Combined with training from non-commissioned officers, all Ukrainian troops should understand that IHL applies to them.

Regardless, a culture of protecting civilians and discretion in using force in populated areas should be cultivated into Ukraine’s military policy, and it begins with training.

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124 CIVIC interview, Kramatorsk, July 2016.

125 CIVIC interview, Ivano-Frankivsk region, July 2016.

126 CIVIC interview, Kyiv, July 2016.

127 CIVIC interview, Kyiv, September 2016.

128 CIVIC interview, Kyiv, September 2016.

## *Streamline and make checkpoint procedures at crossings points safe*

Internally displaced persons and families separated by the contact line routinely emphasized checkpoint crossings from GCAs to NGCAs as places of great danger.<sup>129</sup> The Ukrainian government should take steps to both make the process quicker, and provide adequate and safe holding areas near checkpoints. The current process exposes civilians to danger from mines along the roadside, shelling, direct fire, exposure to elements during summer and winter, and banditry. In addition, this process is lengthy and confusing.

**‘In the first contact I figured out that civilians are our enemies. They didn’t have weapons, but they were correcting enemy fire.’**

That Ukraine maintains active crossing points is to its credit, especially given the nature of the conflict. The presence of heating tents in the winter months at some civilian checkpoints is a sign of progress. Likewise, signs providing information to better prepare civilians for checkpoint crossing is a positive step. Nevertheless, it must do more to ensure the rights and dignity of those civilians who must make the crossing for personal or legal reasons.

The three following 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. The checkpoints and roads—especially in the grey zone—leading to checkpoints must be free of weapons, mines, and other dangers; and (3) soldiers and/or police assigned to the checkpoints must receive specialized training in how to treat civilians with dignity and respect.

## *Improve Community-Government Relations*

The relationship between local communities in the Donbass region and the government has been strained as a result of the conflict, and the Ukrainian government should take significant measures to rebuild confidence, legitimacy, and trust—currently quite low along the contact line.

Establishing better relations would counter the dominance of pro-Russian and pro-separatist media and messaging that likely influences people.<sup>130</sup> Many civilians on both sides of the contact line interviewed see the government as too poor and ultimately uninterested in helping them “As far as I know local government don’t have money to help us,” said a kindergarten teacher in Marinka.<sup>131</sup>

To address these concerns, the government of Ukraine should first and foremost separate civilians from military forces, by removing military units from civilian areas, inasmuch 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.

129 OSCE SMM, “Conflict-Related Displacement in Ukraine: Increased Vulnerabilities of Affected Populations and Triggers of Tension within Communities,” July 2016, <http://www.osce.org/ukraine-smm/261176?download=true>.

130 Stephen Ennis, “How Russian TV Uses Psychology over Ukraine,” February 4, 2015, <http://www.bbc.co.uk/monitoring/how-russian-tv-uses-psychology-over-ukraine>.

131 CIVIC interview, Marinka, August 2016.



Second, the government should establish real-time communications through various media and other mechanisms that would provide information to local communities about key local, national and international developments. This will be challenging, given that the LPR and DPR block many websites and television channels that are not pro-Russian or pro-separatist, but what practical efforts are possible should be undertaken.

Some IDPs with whom CIVIC spoke claimed to suffer discrimination from local people and state institutions, and felt that the Ukrainian government was deliberately marginalizing them. One former teacher from Makiivka said: “The bureaucratic apparatus is working against IDPs, it’s very intimidating. ... Psychologically it’s very hard when there is a division between IDPs and other Ukrainian citizens, when every time you need something, you have to show some certificate.”<sup>132</sup>

The Ukrainian government has already put in place structures that could go a long way towards rebuilding the relationship with affected communities, CIMIC and the MTO, described above.

Feedback from civilians about CIMIC, though sparse, was positive. However, CIMIC is plagued by limited staffing and funding, and it cannot be expected that this small, specialized unit of 100 officers can do the community relations work for a 250,000-person military.<sup>133</sup> And though the nearly thirty CIMIC representatives CIVIC interviewed seemed motivated, not one recalled receiving formal training on how to interact with civilians in or out of combat operations.

The MOT has a clear, ambitious and civilian-focused mission, but one lawyer familiar with the workings of various ministries estimated that the MOT was created with an operating budget of only a few hundreds of thousands of dollars.<sup>134</sup>

Despite these limitations, the Ukrainian government should take steps to improve community-government relations by providing full political and financial support to CIMIC and the MOT. Among the MOT’s initial priorities, should be to redeploy local officials back to front line areas to restore vital services if possible. These officials should be encouraged to establish with their LPR and DPR counterparts informal crossing points where local people registered in settlements close to the contact line could cross to buy food, visit relatives, and receive pensions, health and psychiatric support. To avoid these crossing points being taken over by criminal groups, they could be monitored by the OSCE.

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132 CIVIC interview, Kyiv, August 2016.

133 Matthew Schofield, “Ukraine’s Military Has Rebounded despite Budget and Battle Woes,” November 9, 2015, <http://www.mcclatchydc.com/news/nation-world/world/article43759791.html>.

134 CIVIC conversation with lawyer, Kyiv, September 2016.





*Local residents pass the contact line via an exploded bridge in Stanitsa Luhanska, Luhansk region eastern Ukraine, on Saturday, Jan. 16, 2016. (OSCE/Evgeniy Maloletka)*

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## CONCLUSION

Ukraine has come a long way since 2014 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. CIMIC and the Ministry of Occupied Territories are encouraging first steps to building institutions willing and capable of protecting civilians. When respected, the Minsk Agreements' provisions on heavy weapons drastically reduce civilian casualties.

However, there is still a great deal of work to do. The overarching challenge will be to institute the appropriate mix of policies, training, and mechanisms to inculcate a civilian protection mindset in all Ukrainian institutions, particularly its security forces. The end state is a military where no veteran or soldier would say, as one did to an interviewer, "To my mind there are no civilians in the ATO."

UXOs and mines are a huge threat that will remain active for years to come. The more artillery shells fired and the more mines placed, the greater the cost of cleanup in the months and years ahead. The other great challenge will be to adequately fund the Ministry of Occupied Territories, CIMIC, and all other reform efforts.

The international community also must support efforts in Ukraine to demilitarize the conflict and protect civilians. Assuming a coherent and accountable government plan to protect civilians is developed, the international community should provide political, technical, and financial support to all initiatives mentioned in this report, in terms of government policies, training, and demining.

It will take effort to build institutional capacity, but as experience in other countries has shown, this is not implausible. And the appetite for implementation is great, both among veterans who served in the conflict zone and wish to see their efforts bear fruit, and the civilians who live there.

**RECOGNIZE. PREVENT. PROTECT. AMEND.**



## **ABOUT THE REPORT**

"We are Afraid of the Silence" is based on field research conducted in Ukraine between June and October 2016. Our research in the area near the contact line examined actions by the various warring parties that impact civilians and how civilians perceive security forces' efforts at protection. Finally, it recommends ways for the warring parties and the international community to address civilian protection needs.

## **ABOUT CENTER FOR CIVILIANS IN CONFLICT**

Center for Civilians in Conflict (CIVIC) works to improve protection for civilians caught in conflicts around the world. We call on and advise international organizations, governments, militaries, and armed non-state actors to adopt and implement policies to prevent civilian harm. When civilians are harmed, we advocate for the provision of amends and post-harm assistance. We bring the voices of civilians themselves to those making decisions affecting their lives.

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