Why do some civilian lives matter more than others? Exploring how the quality, timeliness and consistency of data on civilian harm affects the conduct of hostilities for civilians caught in conflict.

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Abstract: Normatively, protecting civilians from the conduct of hostilities is grounded in the Geneva Conventions and the UN Security Council protection of civilian agenda, both of which celebrate their 70 and 20 year anniversaries in 2019. Previous research focuses heavily on protection of civilians through peacekeeping whereas this research focuses on ‘non-armed’ approaches to enhancing civilian protection in conflict. Prior research and experience reveals a high level of missingness and variation in the level of available data on civilian harm in conflict. Where civilian harm is considered in the peace and conflict literature, it is predominantly from a securitized lens of understanding insurgent recruitment strategies and more recent counter-insurgent strategies aimed at winning ‘hearts and minds’. Through a structured focused comparison of four case studies the correlation between the level of quality, timely and consistent data on civilian harm and affect on the conduct of hostilities will be reviewed and potential confounders identified. Following this the hypothesized causal mechanism will be process traced through the pathway case of Afghanistan. The findings and analysis from both methods identify support for the theory and it’s refinement with important nuances in the factors conducive to quality, timely and consistent data collection on civilian harm in armed conflict.

Key words: civilian harm, civilian casualties, missingness, protection of civilians, conduct of hostilities, armed conflict, Afghanistan, Iraq, Syria, Yemen, Middle East, Asia
Note from the author: the motivation for this paper comes from the challenges of working in high intensity conflict settings and needing to secure timely, consistent and quality data on civilian harm to first ensure some basic level of accountability for civilian deaths and secondly to support analysis that informs strategic advocacy with the parties, member states and the UN Security Council. As such I draw on personal experiences working predominantly in the Middle East and broader research interests in strengthening access to quality data to inform timely and evidence-based protection interventions.

‘There should be no mistake. Promoting the protection of civilians in armed conflict is no sideshow to the [Security] Council’s mandate for ensuring international peace and security; it is central to it. The ultimate aim of the Council’s work is to safeguard the security of the world’s people, not just the States in which they live. President to UNSC at first meeting on protection of civilians (UNSC, 1999)

‘If the construction doesn’t fit collective interests, they will not be pursued.’ Blattman reviewing Carpenter (2012: 409).

‘However, while the normative framework has been strengthened, compliance has deteriorated.’ UN Secretary General remarks to UNSC on protection of civilians in armed conflict 23 May 2019 (UNSG, 2019)
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Research question: How does the varying quality, timeliness and consistency of data on civilian harm (IV) affect the conduct of hostilities (DV) for civilians in armed conflict?

1. Introduction

2019 marks the 20 year anniversary of the United Nations Security Council (UNSC) protection of civilian (PoC) agenda launched in 1999 and 70 year anniversary of the 1949 Geneva Conventions intended to regulate the conduct of armed conflict. The soul-searching following the 1994 Rwandan genocide motivated the UN and member states to collectively commit to preventing such atrocities in the future. Since then a review of over a decade of UN Secretary General Reports on the Protection of Civilians (PoC) highlight both the lack of progress towards this goal and the fragmentation of the agenda into many inter-related thematic issues including children in armed conflict, sexual violence in conflict and protecting journalists among others.

Despite the never-again statements following the Rwanda and Balkan protection failures, in more recent years violence against civilians appears to have become more accepted as an inevitable consequence of conflict beyond the reach of collective international action (see ICG, 2019). This has not always been the case and appears to have worsened due to the lack of consistent access to quality and timely data on civilian harm across armed conflict contexts and ever shifting geopolitical agendas and alliances. Contextually, the patterns of armed conflict have shifted with significant impacts for civilian harm. This includes the overwhelming shift from the conduct of hostilities across international borders to within countries, over-reaching counter-terrorism legislation and narratives, over-reliance on airstrikes, the use of explosive weapons in densely populated urban areas and increase in the number of conflicts and armed actors (ICRC, 2018).
There is often a disconnect between the UN Security Council (UNSC) statements on PoC and member state actions on the ground, including by those members states with considerable influence over the drafting of such resolutions. The United Kingdom (UK), a permanent 5 member, is the official penholder on drafting PoC resolutions (SCR, 2019) for the UNSC and was also part of the US-led coalition which infamously declared ‘we won’t be counting casualties’ when it invaded Iraq in 2003 (Gregory, 2015 and IBC, 2016). More recently in April 2019, the UK government committed to placing human security at the centre of its defence policy demonstrating that geopolitical alliances and member state action and commitment to PoC shift across time and issues also (Sengupta, 2019).

The broader normative PoC agenda is frequently conflated with peacekeeping operations in the existing peace and conflict literature and discourse. However PoC is normatively based in international humanitarian law (IHL), codified in the 1949 Geneva Conventions and has origins pre-dating the UN Security Council (UNSC) itself. The role of civilians in the peace and conflict literature is typically viewed through a strategic securitised lens in their support to insurgencies through either acquiescence or coercion (Kaylvas, 2006 and Weinstein, 2007). There is a significant gap in the literature and discourse on the normative concern for civilian harm in conflict and non-armed approaches to enhancing PoC.

Where data exists on civilian harm it is of varying quality, timeliness and consistency and almost exclusively focussed on civilian casualties. The latter is problematic recognising attacks on infrastructure such as hospitals and medical facilities have significant implications for civilian harm and suffering. Despite repeated calls in normative and policy forums for a consistent data collection mechanism on civilian harm across conflicts there has been limited

1 Full list of penholder leads can be found in the following link noting the UK also holds the pen on peacekeeping: https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-4FF96FF9%7D/working%20methods_penholders-1.pdf

2 Noting the term peacekeeping has been expanded normatively to peace operations due to the expansion of peace enforcement mandates. For the purposes of this paper the term peacekeeping will be used due to common usage throughout the academic literature.
progress to date. This paper explores a casual mechanism approach to a normative challenge and understanding of how the variation in data on civilian harm affects the conduct of hostilities for civilians caught in conflict.

‘Missingness’ is a statistical term used for data missing from a population and is a pervasive challenge in peace and conflict research more generally, and for understanding the impact of conflict on civilians more specifically. This paper posits that the observed variation in quality, timely and consistent data on civilian harm across conflicts affects the conduct of hostilities. More specifically low quality, inconsistent and lack of timely data facilitates the worsening of the conduct of hostilities through enabling an environment conducive to gross violations of international humanitarian and human rights law, and mass atrocity crimes in particular. The high variation in the quality, timely and consistent data on civilian harm presents challenges for evidence-based advocacy to challenge the harmful conduct of hostilities by the parties and motivate timely action from stakeholders including the international community. This paper undertakes a structured focused comparison (SFC) of four cases from the Middle East and Asia regions including Afghanistan, Iraq, Syria and Yemen to assess correlation. The SFC is followed by more in depth process tracing of the casual mechanism through the pathway case of Afghanistan.
2. Theory

‘The failure of parties to take constant care to spare civilians in the conduct of military operations and to take all feasible precautions to avoid, and in any event minimize, civilian casualties initiates a downward spiral characterized by the death, injury and maiming of hundreds of civilians in conflicts every month’ UN Secretary-General’s Annual PoC Report May 2019 (UNSG, 2019).

i) Previous research

A review of the literature identifies non-armed approaches to enhancing PoC as a research gap within the peace and conflict field that is predominantly concerned with peacekeeping operations. This is to such an extent that when you search journals and other related forums PoC is largely considered synonymous with peacekeeping. The significant investment in PoC research within the context of peacekeeping is likely influenced by member state financial investments and interest in demonstrating results. The broader normative PoC agenda concerned with here has been the focus of ICRC and select number of international NGOs and thinktanks. Comparatively these actors publish far less, with the former self-regulating in line with the humanitarian principles of neutrality and impartiality, and the latter more concerned with real-time strategic advocacy to influence the work of the UNSC and policy responses from member states to mitigate civilian harm. With the resulting challenge being a general lack of understanding and academic coverage of softer ‘non-armed’ measures to enhance protection for civilians in the midst of armed conflict.

The lack of consistent and reliable data across country contexts is referred to as ‘missingness’ in statistics literature, and is a pervasive challenge in peace and conflict research generally and an explicit challenge for this research question. While there is in practice a significant

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3 For one study on the interplay between humanitarian and peace and security actors shared objective of protecting civilians see Metcalfe, 2012. For ICRC, specifically avoiding the politicised nature of documenting civilian harm to ensure continued humanitarian access.

4 The issue of soft versus hard protection discourse is more prevalent in the humanitarian space but both are concerned with protecting civilians.
amount of data being collected on civilian harm, it is often inconsistent across contexts, lacking in timeliness and a defensible methodology which undermine its credibility and ability to influence decision-makers, and inadvertently supports the claims of those with a vested interest in contesting its veracity. This affects UNSC decision making, member state support, media coverage and critically accurate public perceptions of the plight of civilians.

The lack of reliable data on civilian harm in conflict is lamented by the UN SG in the PoC reports, civil society and journalists covering conflicts. The lack of timely credible data contributes to inaccurate understanding of civilian’s protection and assistance needs. The variation in data further contributes to the weak coverage of some crises compared to others, contributes to misconceptions of violations and needs, and enables an environment where some lives are perceived to be worth more than others. The risks of which are captured in the following ‘politics of victimhood and aid: who gets money and attention and who does not.’ (Blattman, 2012: 404). These consequences should not be underestimated and play out acutely in the comparative attention, international condemnation and subsequent humanitarian funding for civilians in Yemen for example, when contrasted to other crises such as Syria. See Schewe (2018) and Malsin (2015) for more detailed discussion on this.

In addition to the variation in data there are likely vested interests in the lack of accurate real-time data on civilian harm with parties hotly contesting events when they are recorded, eager to shape the narrative, and often supported by a strong geopolitical backer. See for example Jordanian Foreign Minister’s response to UN Human Rights Council (HRC) report documenting Saudi-led airstrikes (OHCHR, 2015). The lack of collective action to date through the UNSC or other fora is demonstrative of the competing interests theory on normative issues ‘Incentives and institutions matter, but the existence of a pushy moral entrepreneur is essential’ and ‘If the construction doesn’t fit collective interests, they will not
be pursued.’ (Blattman, 2012: 409). This is particularly challenging in the UNSC context where the veto is used by permanent five members to protect their member state interests and block actions that would otherwise enable collective action on behalf of the international community to protect civilians. While it would be naïve to think data alone could overcome these strong geopolitical interests, the lack of quality, timely and consistent data acts as an enabler for impunity negatively influencing the conduct of hostilities and addressing this is a necessary first step to increasing protection for civilians in conflict.

Where the impact of the conduct of hostilities on civilian harm is considered it is predominantly from a securitized lens of understanding insurgent recruitment patterns (Kalyvas, 2006: 10-11) rather than empirical approaches concerned with more consistently collecting and analyzing data to mitigate such harm. There is a persistent securitization of the role of civilians in civil conflicts including by authors such as Weinstein ‘The only threat civilians can mount is that of flight’ (Weinstein, 2007: 175). The securitization lens is highly problematic for mobilising support to protect civilian’s for many reasons notwithstanding promoting compliance with humanitarian and human rights law. To be contrasted with Kalyvas who offers a more realistic assessment of civilians as human beings motivated by protection from harm ‘the only ideology the people have is an anti-atrocity ideology’ (Kalyvas, 2006: 117). Kalyvas further mixes a more rounded understanding of human behavior with the security agenda in stating that indiscriminate violence is counterproductive in civil war (Kalyvas, 2006: 144). According to Kalyvas it is well recognised that insurgents experience a spike in recruitment following indiscriminate violence, including drone strikes (Kalyvas, 2006: 127). The theory that the conduct of hostilities influences grievances among civilian populations and civilian support for non-state actors has gained traction in informing US counter-insurgency strategy and their ‘hearts and mind’ approach in Afghanistan in particular (US Army, 2014). According to Sarah Sewall former US diplomat and expert on
civilians security civilian harm undermines strategic goals ‘... killing the civilian is no longer just collateral damage ... [it] undermines the counterinsurgent’s goals.’ (Gregory, 2015).

ii)  **Normative and policy landscape**

While significant attention has been given to PoC in the context of peacekeeping far less attention has been provided to the broader normative commitments to protecting civilians under international humanitarian law (IHL). PoC under IHL has a much longer history of promoting the protection of persons who are not, or are no longer, taking part in hostilities and restrictions on the means and methods of warfare, including choice of weapons and military tactics (ICRC, 2011). PoC is normatively grounded in IHL, privately pursued by ICRC in dialogue with the parties to the conflict and more publicly pursued through the UNSC PoC agenda. Beyond principled statements in UNSCR’s and less frequent NGO reports, very limited meaningful or independent accountability measures are in place with IHL which lacks the mandated monitoring and reporting mechanisms of international human rights law. Where a civilian harm monitoring mechanism is in place, it is usually in the form of civilian casualty counting mechanism of highly varying quality, timeliness and consistency, which as a result increases it’s contestability.

The UNSC and SG PoC reports repeatedly call for ‘measures to enhance compliance with international humanitarian (IHL) and international human rights law (IHRL)’. The focus of this paper is on ‘non-armed approaches’ to enhancing compliance with IHL and IHRL (SCR, 2017). In 2012, ICRC as the custodian of IHL, in a conference outcome report on ‘International Humanitarian Law and the challenges of contemporary conflicts’ concluded that in a context of recurring gross violations of IHL there is an urgent need for ‘the international community to participate extensively in a debate on how to strengthen monitoring measures applicable to all parties while an armed conflict is ongoing’ and the
need for ‘greater consideration should also be given to the follow-up of offences, in particular in terms of reparation for the victims.’ (*ICRC, 2011). In 2013 the UN SG’s annual PoC report recommended a civilian casualty tracking tool. The call for such a tool is based in member states responsibilities with ‘Civilian harm tracking can be linked to States’ international humanitarian law (IHL) obligations.’ (Policinski, 2015). Further as highlighted in the 2018 UN SG’s annual PoC report ‘The targeting of or failure to protect civilians cannot go unchallenged.’ (UNSG, 2018: 2). To this end promoting compliance through advocacy and accountability is one of the three priority actions under the UN SG’s commitment to advancing protection priority one (Ibid, 12). The 2018 PoC report further highlights the critical ‘need for a concerted effort to overcome a perceived lack of empathy and outrage among the public at large concerning the plight of civilians affected by conflict in other countries…. Further steps include improving our data collection, and its data disaggregation by sex and age, to facilitate evidence-based analysis of trends in civilian harm and improved public reporting.’ (Ibid, 14). Finally, in recognition of the 20 year anniversary of the UNSC PoC agenda, UNSCR1265 on the PoC in armed conflict, and 70 year anniversary of the Geneva Conventions, a joint statement from over 22 international NGOs calls on the UNSC, UNSG and member states to ‘meaningfully improve civilian protection’ through several measures including ‘establish a system-wide approach to record civilian harm’ (2019). The need for quality, timely and consistent data on civilian harm is identified as a priority in the normative and policy literature.

 iii) *Theoretical argument*

This paper posits that the variation in the quality, timeliness and consistency of data on civilian harm affects the conduct of hostilities for civilians caught in conflict. The variation in the quality, timeliness and consistency of civilian harm data acts as an enabler for parties to conduct of hostilities without fear of immediate consequences. In practice this increases
civilian harm due to the lack of international pressure on the parties to show restraint in their conduct of hostilities. The conduct of hostilities by the parties to a conflict is influenced by fear of accountability with absent, low quality or lack of timely data fuelling perceptions of impunity resulting in higher levels of harm, and risk of mass atrocity crimes in particular, for civilian populations. The lack of quality, timely and consistent data further serves belligerents and their supporting member state interests through enabling victor’s justice and manipulation of narratives due to the lack of credible data or accepted evidence to contest the affects of the conduct of hostilities for civilians.

*Defining civilian harm*

Despite strong normative and policy calls for a civilian harm tracking mechanism, there is no comprehensive or consistent system-wide source on civilian harm across conflicts. To date, civilian harm data, where captured through a mechanism, is almost exclusively associated with civilian casualty counting whereas the impact of the conduct of hostilities on civilians are in practical terms much broader in terms of direct and indirect impacts. For example deaths and injuries, deliberate or indiscriminate attacks on hospitals, schools, critical infrastructure, sexual violence, recruitment of children, denial of humanitarian access and deliberate deprivation have immediate, accumulative and longer term effects on civilian harm. Due to practical limitations, while civilian harm tracking should be broader in practice, this paper is constrained to focus on civilian casualty data mechanisms, and documented deaths only, due to data missingness, noting the significant challenges within the quality and consistency of civilian casualty counting practices (see Seybolt et al 2013).

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5 While there is UNSCR1612 mechanism on children in armed conflict which monitors six core child rights violations and UNSCR1960 which monitors and reports on sexual violence in conflict there are specific challenges with each and in practice they have fragmented the PoC agenda without tackling the issue that all civilians – men, women and children – need protection from all types of violence in conflict.
Independent variable (IV)

The variation in data availability, otherwise known as missingness in the literature, is qualified with reference to the quality, timeliness and consistency of the data on civilian harm. While many ad hoc data collection initiatives on civilian harm have been undertaken by various actors, with the exception of Afghanistan, they lack constructive influence. This is due to a range of issues related to the quality, timeliness and consistency which prevent acceptance of their data and the ability to influence the parties to the conflict and those in international decision-making forums.

Dependent variable (DV)

The conduct of hostilities is a technical term under IHL which ‘regulates and limits the methods and means of warfare by parties to the conflict’ (ICRC, 2010). The focus within the methods and means of warfare here will be limited to documented patterns of mass atrocity crimes and is operationalized through reviewing Human Rights Watch (HRW) and the Global Centre for the Responsibility to Protect (GCRtoP) populations at risk reports on such crimes, respective action/ inaction from the parties and/or collective action from the international community including the UNSC and member states. Action or inaction may involve reparations for killed or injured, internal investigations and disciplinary measures, adjustment in conduct of hostilities by a party or parties, UNSC resolutions and statements, and triggers for external investigations such as UN fact-finding missions, Commission of Inquiry (COI) and/ or International Criminal Court (ICC) referrals.

Hypothesis: the variation in the quality, timeliness and consistency of data on civilian harm affects the conduct of hostilities for civilians in armed conflict

The following represents the hypothesised casual process observations that will be process traced through the pathway case of Afghanistan:
For each case where there is quality, timely and consistent data on civilian harm I would expect to see an influence on real time accountability measures such as evidence-based advocacy with the parties and/or international pressure that then positively affect the conduct of hostilities for civilians in that conflict. Conversely for each case with low quality, delayed and/or absent data on civilian harm I would expect to see the prevention of real time accountability measures and worsening in the conduct of hostilities for civilians through the normalising of a culture of impunity.

To address the issue of equifinality and need to ‘cast the net widely’ a SFC of four cases will be undertaken to explore possible confounders and alternative explanations (Bennett & Checkel, 2015: 23). A very practical challenge for the variation in quality, timely and consistent data on civilian harm relates to access constraints for data collection and verification. The most compelling alternative explanation for both the level of data collection and conduct of hostilities is the role of geopolitical actors and their interests. The possible confounding effect of this variable will be most critically reviewed through the four case studies. Nevertheless, given the lofty and difficult goal of assessing and influencing such a seemingly intractable variable and the inherent conflict of interest among some member states and their ever-shifting foreign policy agendas, the focus remains on the variable of the quality, timeliness and consistency of data collection. This variable is more concrete and within those committed to advancing PoC, including the UNSC, member states and civil society actors, sphere of influence.
3. Methodology

This paper reviews available literature and theories from the peace and conflict research field, as well as normative instruments, commitments and policy reports relevant to implementation of international humanitarian law (IHL) and the PoC agenda of the UN Security Council (UNSC). While much is written and reflected upon related to UNSC PoC mandated peacekeeping, there is significantly less documented on the broader UNSC PoC agenda based in IHL. In addition there is considerably less focus on preventing and mitigating civilian harm through an IHL lens, with more securitized approaches dominating the discourse, such as the impact of civilian harm on recruitment by insurgent groups (Kalyvas, 2006).

To avoid past mistakes of relying on a single case to inform foreign policy and to better appreciate the complexity of different contexts, a structured focused comparison (SFC) of four different cases will be undertaken to identify correlation and isolate from confounders and alternative explanations (Bennett & George, 2004: 67). As highlighted by Gerring, case study research ‘relies heavily on contextual evidence and deductive logic to reconstruct causality within a single case’ and that it is insufficient to assess the covariation between X and Y as there are too many confounding variables that are unable to be controlled for (2007: 172). As a result, this limitation necessitates supplementing the causal analysis with process tracing (Ibid: 173). The SFC of four cases will be used to deductively test the argument by analyzing whether there is correlation between the variation in the level of data collection, namely quality, timeliness and consistency, and affect on the conduct of hostilities for civilians, while controlling for alternative explanations. To assess the causal mechanism, in-depth process tracing through the pathway case Afghanistan will be undertaken. In so doing, equifinality – the challenge that several different pathways may produce a specific outcome – will be taken into account by considering the complex dynamics between the variables (Bennett & Checkel, 2015: 74).
Case selection

The universe of potential cases for this research paper is all countries affected by high intensity armed conflict. To make a contribution to research on the broader normative PoC agenda and non-armed approaches to enhancing civilian protection the four countries selected do not have a peacekeeping presence. All four countries fall within the bottom ten least peaceful country ranking according to the Global Peace Index for 2018 yet only three feature in the bottom ten for the 2018 positive peace index with Afghanistan ranking higher. All four countries are listed as priority countries of concern for protecting civilians in the Inter-Agency Standing Committee (IASC) Global Protection Cluster 2018 centrality of protection review. However the four contexts vary in terms of parties to the conflict, media attention, geopolitical interests and presence of a US-led coalition, and most critically the level of quality, timely and consistent data on civilian harm (Bennett & George, 2004: 69). The selection of four different contexts, parties and geopolitical agendas enables deductive theory exploration and testing to refine the casual mechanism. The in-depth exploration of the pathway case (Gerring, 2007) Afghanistan provides for more detailed process tracing of the impact quality, timely and consistent data has on the conduct of hostilities for Afghan civilians caught up in the conflict. The combined effect of process tracing and SFC of four high intensity conflicts, including that of Iraq which should on the basis of parties to the conflict and geopolitical interests produce a similar outcome to the pathway case of Afghanistan, supports the nuanced assessment of possible confounders and refinement of the theory.

Table 1. Case selection

<table>
<thead>
<tr>
<th>Conflict</th>
<th>Level of quality, timely and consistent data (IV) as of 2018</th>
<th>Impact on conduct of hostilities (DV)</th>
<th>US-led coalition</th>
<th>Other factors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conflict</td>
<td>Conflict type(s)</td>
<td>Population as of 2018²</td>
<td>Estimated civilian deaths as of 2018 – and 2018 figures</td>
<td>Pop in need of humanitarian assistance²</td>
</tr>
<tr>
<td>----------</td>
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<td>--------------------------------------------------------</td>
<td>-----------------------------------------</td>
</tr>
<tr>
<td>Afghanistan 2001-present</td>
<td>Invasion, internationalised internal armed conflict, internal armed conflict, counter-terrorism¹⁰</td>
<td>34,940,837</td>
<td>Total: more than 38,000 (Brown) 2018: 3,804 (UNAMA)</td>
<td>4.2 million (12%)</td>
</tr>
</tbody>
</table>

ISIS has varying levels of operability and capacity across the contexts, noting the significant control of territory and extensive harm inflicted on civilians in Syria and Iraq contrasted to Afghanistan and Yemen for example. Noting ISIS has carried out mass casualty attacks in Afghanistan but does not have the same access to territory or level of support. The Taliban appear to have shown concern and engaged in dialogue and reparations related to some forms of civilian harm.  

NGO’s have a critical role to play and the low rating here is not reflective of their work but rather the high level of perceived impartiality and subsequent acceptance that comes from UN data on civilian harm comparatively.

Relying on CIA Factbook data.

Relying on UNOCHA Humanitarian Needs Overview 2019 % estimates.

Complicated and shifting classification(s) as documented by RULAC 2019.
Iraq 2003-present
Invasion, occupation, insurgency and internal armed conflict, internationalised armed conflict, counter-terrorism
40,194,216
Total: 183,535—206,107 IBC (2003-17)\textsuperscript{11}
2018: 939 (UNAMI)\textsuperscript{12}
6.7 million (16-18%) 2003-2018/9

Syria 2011-present
Other situation of violence, internal armed conflict, internationalised armed conflict, international armed conflict, counter-terrorism
19,454,263
Total: varies from 371,222 to excess of 570,000, (UN-LAS 2016)
2018: unavailable.\textsuperscript{13}
13.1 million (67% of the population) 2011-2018/9

Yemen 2004-present
Internal armed conflict, internationalised armed conflict, counter-terrorism
28,667,230 million
Total: unavailable
2018: more than 2,039 (UNHCR 2019)
22.2 million (75% of the population) 2015-2018/9

Noting the inherent limitations and lack of comparability of the total and 2018 civilian death tolls due to the variation in number of years of conflict across each case study and also the high variation in the data collection methodologies. The poor data quality on civilian deaths across the case studies, with the possible exception of Afghanistan, provides support for operationalizing the conduct of hostilities through the lens of mass atrocity crimes.

**Operationalizations of the independent and dependent variables**

<table>
<thead>
<tr>
<th>IV</th>
<th>The quality, timeliness and consistency of data on civilian harm is operationalized through reviewing the data UN and/ or NGO mechanisms capturing civilian harm, predominantly focused on civilian casualty (deaths) tracking up to 2018*.</th>
</tr>
</thead>
<tbody>
<tr>
<td>DV</td>
<td>The conduct of hostilities is operationalized through reviewing reports on patterns of civilian harm including mass atrocity crimes** reported by GCRtoP and HRW as of 2019.</td>
</tr>
</tbody>
</table>

\textsuperscript{11} Exceptionally high variation in methods, timeframes and estimates. From 2003 to January 2017 relying on IBC Database https://www.iraqbodycount.org/database/ UNAMI have captured from 2008 to present but acknowledge low likelihood of representativity. Contrast with controversial 2006 Lancett study that estimated over 600,000 deaths between 2003 and 2006 alone, also capturing indirect deaths due to impact on infrastructure and access to services.


\textsuperscript{13} The Syrian Observatory for Human Rights (SOHR) estimates 20,000 but the lack of disaggregation between combatants and civilians prevents use of this data.
* Considered the minimum and relatively common measurement across the disparate civilian harm tracking mechanisms. Mechanisms that conflate civilian and combatant harm will be excluded such as ACLED.
**Mass atrocity crimes includes genocide, war crimes, crimes against humanity and ethnic cleansing (GCRtoP, 2018).

Structure of the SFC and process tracing

This is a qualitative study concerned with deductive theory testing and development. The hypothesized impact of the independent variable on the dependent variable will be analysed through a structured focused comparison (SFC) of four case studies. More in depth process tracing will be undertaken through the pathway case of Afghanistan, the only case with a long-standing quality, timely and consistent civilian casualty tracking mechanism and in place for over a decade. This will enable cross case comparison across the different contexts to identify common and contextual confounders and a more detailed exploration of the pathway case to test and refine the theory as appropriate for increased generalisability.

The SFC of the four case studies is further broken down into the following structure to be reviewed across the four case studies including general background information on the conflict, parties and access challenges, level of quality, timely and consistent data collection on civilian harm, affect on the conduct of hostilities, as well as the role of possible confounders and other observations. For process tracing through the pathway case of Afghanistan the following observable implications from my theory which expand on the causal process diagram in Figure I will be explored:

| Entry point: | 1. High intensity conflict  
<table>
<thead>
<tr>
<th></th>
<th>2. Presence of civilian harm tracking mechanism</th>
</tr>
</thead>
</table>
| Step 1: quality, timely and consistent data collection | 1. High intensity conflict increases risk of civilian harm  
|                              | 2. Quality, timely and consistent data collected on that harm |
Step 2: influences real-time
1. Real time data informs advocacy with the parties and international pressure to mitigate civilian harm
accountability measures
2. Real time data informs international pressure and reparations, disciplinary measures and investigations (internal and external)

Step 3/ outcome: affects conduct of hostilities
1. Credible data mechanism and analysis informs advocacy with parties
2. Party/ies adjust the conduct of their hostilities based on advocacy
3. Credible data mechanism thwarts contested political narratives

Table 3. Pathway process tracing

Temporal and geographic scope conditions

The time period for the affect on the conduct of hostilities will be a review of mass atrocity assessments and action as of 2019 for the SFC relying on the GCRtoP populations at risk assessment and HRW annual report. The time period for the level of the quality, timely and consistent data on civilian harm will be from the beginning of the conflict until 2018 and status assessed as of 2018 noting the Yemen case would have had limited chance to affect the conduct of hostilities when contrasted with Afghanistan case for example. For the process tracing of the pathway case of Afghanistan a 10 year time period will be reviewed from 2008 when the civilian harm and casualty tracking mechanisms were initiated and the impact on conduct of hostilities as of 2019. In terms of geography, the four cases selected are from the Middle East and Asia, experience high intensity conflict and in relatively close proximity.

Figure II. Map of case selection
Data and source criticism

Missingness is a general problem in statistical analysis in the peace and conflict research field and specifically for this research question. As Weinstein notes in his book ‘patterns of violence and abuse vary in important and measurable ways across conflicts, over time and across space’ at the same time as noting counting a relatively simple metric such as the number of violent deaths in conflict is ‘not an easy task’ (2007: 18). To date, despite the UN SG’s 2013 PoC report calling for a civilian harm tracking mechanism and several ad hoc NGO initiatives, there is no comprehensive or consistent source on civilian harm based on member states and non-state actors responsibilities under IHL. Civilian harm, where captured through a UN or NGO mechanism, is almost exclusively associated with civilian casualty counting whereas the impact of the conduct of hostilities on civilians is much broader as outlined in section 2. above.

Primary and secondary data challenges for both the SFC and in-depth process tracing include reliance on media coverage in English, as well as civil society and related geopolitical investments. However, given that all four case studies are high intensity armed conflicts several initiatives provide consistent coverage as of 2019 including Human Rights Watch (HRW) and the Global Centre for the Responsibility to Protect (GCRtoP) populations at risk assessment. Over the time period of the four case studies (2001 to 2018-9), information, communication and technology developments have significantly improved the ability to understand the plight of civilians in previously inaccessible areas and also the ability to document and disseminate such harm in real time. For example, contrast the comparative attention to the 2011 Arab Spring with the 1980’s uprising in Hama Syria (Rodrigues, 2011).
Limitations

For this paper, accurate operationalizations and data, as well as limited peace and conflict research on normative PoC prevents a broader understanding of the issue and why it is important to address. The majority of the mechanisms and available literature focus exclusively on civilian casualties and tracking methods (see Seybolt et al, 2013). Civilian harm recording within the UN has traditionally been led by OHCHR which typically initiates then stops civilian casualty counting citing inability to verify due to lack of access (see Yemen and Syria case studies below). Human rights are increasingly under pressure from conservative and authoritarian member states and their supporters (Hannum, 2019) which is compounded by lack of leadership and prioritization within the UN (Hussein, 2019) making progress on this issue challenging. Some of these political prioritization challenges can be observed through the Annex to the 2018 UN SG’s annual report on children in armed conflict that lists Saudi Arabia as having taken measures to improved children’s protection in Yemen at the same time repeated gross violations were recorded by civil society (HRW Yemen, 2019). Advancements in technology have improved the options for more robust exploration and data gathering, notwithstanding the ethical, safety and logistical implications of collecting data in such settings (Wood, 2006).
4. **Structured Focus Comparison (SFC) and process tracing through case studies**

From the end of the second world war until present there has been an overwhelming shift from international to internal armed conflict, and rapid urbanization with more people living in densely populated urban environments than before (Lee, 2014). This has significant implications for the conduct of hostilities, international humanitarian law principles of distinction, proportionality and necessity in the conduct of hostilities, and consequently civilian harm. In April 2019 the UK Defence Secretary in explaining why human security had become central to their defence policy said ‘In modern warfare there is no frontline and the sad reality is that innocent bystanders are in harm’s way in conflicts around the world’ (Sengupta, 2019).

   a) **SFC of four cases**

   *As outlined in section 3* the SFC of the four case studies will cover general background information on the conflict, parties and access challenges, level of quality, timely and consistent data collection on civilian harm, affect on the conduct of hostilities, as well as the role of possible confounders and other observations.
i) Afghanistan

**General background**

Afghanistan has a long and complicated history of invasion, occupation, tribal dynamics, insurgency and internal armed conflict (RULAC, 2017). The SFC will focus on the period from the US-led invasion of Afghanistan in 2001, insurgency, internationalised internal armed conflict led by the US and subsequently supported by NATO. The US decision to invade Afghanistan in 2001 was primarily motivated by the September 11 attack on the twin towers in New York and following US declaration of a ‘global war on terror’. Following the completion of the NATO mandate in 2014 and drawdown of US troops, the US remains a party to the internal armed conflict through participation in support of the government in combat operations against the Taliban and ISIS (RULAC, 2019). Data collection and access constraints are moderate and relate primarily to insecurity, capacity and geographical coverage.

**Independent variable – quality, timely and consistent data on civilian harm**

Brown University’s costs of war project (2018) estimates more than 38,000 civilian deaths from 2001 to 2018. UNAMA estimates 32,000 civilian deaths as of 2018 since implementing their mechanism in 2008 (UNAMA, 2019). The US-led forces initiated a civilian harm tracking mechanism in 2008 following the Shindand attack which appeared to act a catalyst when combined with the ongoing pressure on the US to increase accountability for civilian harm in Afghanistan (Gall, 2008). The human rights section within UNAMA had been working on various civilian harm data collection methods and finalised their own tool in late 2008. Pressure generated by the high profile incident, advocacy from the Afghan government (BBC, 2007), ongoing civil society pressure, willing individuals within the US military, a party to the conflict with highly trained troops and presence of a willing UN human rights individuals appear to have facilitated the conditions conducive to the emergence of two
complimentary civilian harm tracking mechanisms, the first within the integrated political-human rights mission UNAMA and second within ISAF. The combined accountability effect of these two mechanisms will be explored in the process tracing in section b below.

Dependent variable – affect on the conduct of hostilities

In 2018 UNAMA documented 10,993 civilian casualties of which 3,804 were deaths, the highest level recorded to date (UNAMA, 2019). HRW reported non-state actors deliberately targeting civilians and the indiscriminate conduct of warfare as the main cause (HRW, 2019). 38 mass casualty incidents by ISIS using IEDs, that may constitute mass atrocity crimes, were documented (GCRtoP, 2019). There is evidence that ‘government forces implemented measures to decrease civilian casualties’ (Ibid). The greatest threats to civilians were US-coalition airstrikes and opposition actors use of IEDs, a 23 % deduction in civilian casualties in first quarter of 2019 was attributed to a reduction in IED incidents (Ibid II). UNAMA’s first quarterly report for 2019 found pro-government forces responsible for the majority of civilian casualties as a result of aerial and search operations, some of which may constitute mass atrocity crimes, has been attributed to two particular Afghan force elements that appear to be acting ‘with impunity outside of the governmental chain of command.’ (UNAMA, 2019; Al Jazeera, 2019). The ability to identify this level of specific detail is indicative of a high quality timely data and analysis mechanism in place that is informing media coverage and denunciation statements from the UN and civil society actors.

While the US has been criticized for inconsistency in the amount of reparations for civilian deaths there are protocols and practices demonstrating this is taking place in Afghanistan in contrast to other contexts (Ali, 2017). In 2018 there were failed attempts to pursue longer-term accountability for possible mass atrocity crimes through the ICC, which have stalled due to lack of cooperation from the government and US (GCRtoP, 2019).
Possible confounders and other observations

Several factors can influence the conduct of hostilities and civilian harm, including the presence of non-state extremist actors such as ISIS, and methods and means including IEDs and airstrikes. Further the confounding effects of geopolitics in this case, combined with other conducive factors produced a positive outcome for the level of data collection, analysis and influence on the conduct of hostilities. While geopolitical dynamics supported the mechanism in 2008, the shifting nature of these dynamics and changes in the US administration and subsequent response to the ICC investigation indicate they are not static. The relative lack of barriers in access for data collection and verification indicate a level of cooperation from the government and other parties to the conflict.

This case confirmed my theoretical expectations, including the confounding albeit positive role of geopolitical actors and interests, which in this case aligned with concern over civilian harm due to several conducive factors (contrasted with outcome in Iraq below for example). Further observing that a high profile incident can act as a catalyst for ongoing civil society efforts, and pressure from the Afghan government, highly trained forces and willing individuals within the US military are supportive factors. The level of data, analysis and trends on threats to civilians in Afghanistan is unparalleled across the cases. The analysis and trends are clearly utilised in UN and UNAMA statements and media coverage drawing attention to civilian harm.
ii) Iraq

General background
The 2003 US-led invasion and subsequent occupation of Iraq was motivated by Saddam Hussein’s alleged weapons of mass destruction. The infamous ‘we don’t do body counts’ comment by US General Tommy Franks (Gregory, 2015) in Iraq has enabled what journalists lament as the ‘murkiness’ over civilian deaths in Iraq, some 15 years later (Bump, 2018). There was a progressive drawdown of US and supporting member state troops from 2007 until the end of 2011 (Arango & Schmidt, 2011). With the drawdown the conflict was declared over but high levels of insecurity and violence remained culminating in the rise of ISIS in 2014. Iraq, with the support of a US-coalition remain in a non-international armed conflict with ISIS (RULAC, 2019). In Iraq geopolitical considerations and data collection access confounders collided to prevent timely systematic data collection on civilian harm by the US-led coalition.

Independent variable – quality, timely and consistent data on civilian harm
As a result of the ‘we don’t do body counts’ position of the US General in Iraq, which ran counter to their hearts and minds strategy in Afghanistan, no civilian harm tracking mechanism was initiated within the US-led coalition. UNAMI commenced data collection on civilian harm in 2008 though acknowledges significant limitations in what can be concluded from their data, including access constraints and missingness (UNAMI, 2019). Data on civilian harm prior to this date and from 2003-2018 has been and remains highly divisive.

The Brown University costs of war project reports 182,000 civilians were killed from direct war-related violence from 2003 to 2018 and states this is lower than the actual figure due to inadequate recording measures by the US and Iraqi Governments (Brown University, 2018). A joint WHO-Iraqi Ministry of Health survey administered in 2007 estimated the civilian death toll at 151,000 during the occupations first three years (Goldenberg & Steele, 2008).
Iraq Body Count (IBC) using ‘passive surveillance’ a relatively conservative method similar to UCDP’s, estimates between 183,535-206,107 civilian deaths from 2003 to 2017 (IBC, 2019). Perhaps the most controversial civilian harm study released, a 2006 Lancet study utilizing random cluster sampling attempted to capture direct and indirect deaths as a result of the invasion estimated civilian casualties at over 650,000 (Hagopian et al, 2014). This resulted in significant debate and contestation including from the US, UK, academics, journalists and IBC. Ultimately all the different mechanisms and debates appear to have done is divert responsibility and pressure from the parties responsible to mitigate civilian harm.

Irrespective of the number and conflicting data methods, the inconsistency and lack of timeliness supported the interests of those that did not want civilian casualties to be recorded and prevented evidence-based advocacy to positively affect the conduct of hostilities for civilians in Iraq.

Dependent variable – affect on the conduct of hostilities

The murkiness remains for civilian harm in Iraq, with the absence of quality, consistent and timely mechanism incomplete data prevented real time measures to protect civilians from the conduct of hostilities. Civil society efforts filled this gap in part by initiating their own data collection mechanism and applying pressure on US political actors. There was little evidence of this informing the conduct of hostilities though it did raise the profile of civilian deaths through the media due to the lobbying efforts of NGOs such as IBC and CIVIC in particular. There is no evidence of data on civilian harm influencing insurgent action with their overreliance on IEDs which contribute to high levels of civilian casualties.

Delayed attention to the conduct of hostilities on civilians in Iraq came as a result of an external event which generated significant media attention and public pressure on the US-coalition. With the assistance of an informant, Chelsea Manning within the US military,
wikileaks released a short video titled ‘Collateral murder’ which shows US military helicopter firing on what turn out to be Iraqi civilians, resulting in the death of seven Iraqis including two Iraqi journalists in 2010 (Reuters, 2012). The shock of watching what are subsequently confirmed to be civilians targeted by laughing US soldiers in a helicopter forced a public dialogue on the lawful conduct of hostilities and civilian harm into the public arena engaging journalists, citizens and US military representatives (Katchadourian, 2010; Rubin 2007).

As of 2018, the invasion, final draw-down of coalition troops in 2011, conflict in neighbouring Syria and subsequent power vacuum, supported conditions conducive to the rise of ISIS in Iraq. In 2014 ISIS rose to prominence declaring it’s Caliphate in June that year, controlling significant territory in Syria and Iraq, imposing harsh conditions on civilians within seized territories, publishing executions of journalists and aid workers, attracting recruits from around the world and committing mass atrocity crimes against the Yazidi ethnic minority among many others (Specia, 2019). Iraq is still technically engaged in an internal armed conflict with ISIS and struggling to provide justice for ISIS atrocity crime survivors and their families through domestic accountability systems according to HRW (2019).

Possible confounders and other observations

This lack of clarity over civilian deaths in Iraq denies a basic level of accountability to Iraqi’s through recognition of their deaths. The problem with this is highlighted by the following quote from IBC ‘When people die, it is not enough merely to establish how many died but to know who died. This knowledge is taken as a given for coalition soldiers killed, but as far as Iraqi civilian victims are concerned, only a tiny minority of their names or identities are part of the public record.’ (IBC, 2019).
The Iraq case study challenges hasty assumptions of the consistent positive confounding effect of the presence of a US-led coalition on tracking civilian harm and influencing the conduct of hostilities, recognising the close temporal proximity between the Afghanistan (2001) and Iraq (2003) conflicts. Finally there is a need to control for the impact of extremist actors with an explicit agenda to maximise civilian harm through mass casualty incidents and the well-documented practice in Iraq and Afghanistan of setting off two IEDs, the first to hit the target and the second to target the responders (Nicolin, 2018).

This case conformed to theoretical expectations noting the explicit decision not to count casualties by the US-led coalition and the exceptional external event of the release of the wikileaks footage in drawing attention to civilian harm. The Iraq case study further highlights the role of civil society engagement and activism that raised the profile on civilian harm in the absence a credible civilian harm tracking mechanism within the UN.
iii) Syria

*General background*

In March 2011 Syria experienced a non-violent protest movement that swept the region as part of the Arab Spring. The reported peaceful protest movement was met with increasing violence amidst competing narratives including the government’s claim to be responding to foreign interference and terrorism, that have become a feature of the conflict. The ICRC took a long time to classify the situation as a conflict due to the difficulty of assessing when internal violence has reached the threshold of non-international internal armed conflict (McCarthy et al 2017). The Free Syrian Army were the first organised non state armed opposition group to be recognised and comprised mainly of army defectors (RULAC, 2019). As the situation progressively deteriorated under the security vacuum a proliferation of non state actors emerged including more extremist elements. In 2012 ISIS expanded its presence into Syria with varying levels of partnership with Jabat Al-Nusra (RULAC, 2019; CNN, 2019). In June 2014 ISIS announced the creation of a caliphate that overrides international borders and in June 2017 Raqqa, the self-proclaimed caliphate capital was re-taken by Kurdish Protection Units with the assistance of the US-backed coalition (RULAC, 2019). The Syrian Government receives considerable political, financial and military support from Russia, Iran and Hezbollah (Reuters, 2018). The US is a party to the non-international armed conflict in Syria through undertaking airstrikes against ISIS and providing support to some opposition groups (RULAC, 2019). Data collection, access and political constraints are very high in terms of independence and security for safe access to both government and opposition-held areas (Henebery, 2018; Citizens for Syria, 2015).

*Independent variable – quality, timely and consistent data on civilian harm*

There is no ongoing official credible data collection on civilian harm within the UN or parties to the conflict. Efforts initiated by OHCHR were subsequently abandoned in 2014 among
claims of the inability to verify and concerns over sources and quality (Ohlheiser, 2014). Prior to this OHCHR invested in analysing several varying and incomplete sources from 2011 to 2014 and were unable to determine the age for 83.3% of the records or distinguish the combatant-non-combatant status (Ball et al, 2014). Within these sources were the often quoted Syrian Observatory for Human Rights (SOHR) which is effectively a Syrian individual in the UK remotely documenting civilian casualties from the beginning of the conflict and providing at times confusing estimates and disaggregation that mixed combatants and non-combatants (SOHR, 2019). The difficulty of accurately documenting is in part circumstantial due to the large impediments from the government and also the high number of missing, detained and tortured in prisons as documented on the SOHR website.

The highly contested nature of figures and narratives concerning civilian casualties is best reflected in the following statement before the UN by Syria’s Foreign Minister Jaafari: “‘Nobody could double-check these figures, or triple-check them; we are not sure about these figures,’” he said, noting that numbers are sometimes exaggerated (Lynch, 2016). Jaafari also stated civilian casualties could be higher than 250,000 “but called the Assad government the victim, not the perpetrator.”’(Lynch, 2016). This narrative was repeated recently in Jaafari’s address to the UNSC in May 2019: ‘The Syrian people have suffered for more than eight years from a terrorist war supported and financed by the governments of well-known countries’ (Souri, 2019). In terms of the importance of these estimates ‘they matter politically, and they matter in terms of setting the historical record straight,’ according to a journalist and academic covering conflict deaths that to be able to protect civilians ‘you have to understand how civilians are being harmed, specifically what is the form of lethality that leads to deaths.’(Lynch, 2016). The contestation of data on civilian harm and competing narratives is particularly acute in the Syria context.
Dependent variable – affect on the conduct of hostilities

The lack of respect for the rules of war and protection for civilians in Syria has been widely documented and acknowledged by the media, IHL specialists, academics, and in international fora including the UNSC. The non-exhaustive multiple and extreme violations of the methods and means of warfare and subsequent credible allegations related to mass atrocity crimes range from the repeated use of prohibited weapons including chemical weapons and barrel bombs, ethnic cleansing, forced starvation, use of sexual violence and enforced disappearances among many others. Between 2013-18 HRW and others ‘investigated and confirmed at least 85 chemical weapons attacks – the majority perpetrated by Syrian government forces’ noting the real number likely higher (HRW, 2019). HRW further reported the chemical attack incident in Douma, Eastern Ghouta motivated increased international attention to civilians in Syria, but Russia effectively vetoed UNSC motions to create a UN-led investigation mechanism (Ibid). 90,000 enforced disappearances have been documented in Syria according to HRW until the end of 2018, the majority by the government (Ibid II). The UN Commission of Inquiry (COI) on Syria report covering 2011 to 2018 found the widespread and systematic use of rape and sexual violence by the government and supporting militias constituted war crimes and crimes against humanity (UN HRC, 2018).

Since the crisis began the Human Rights Council (HRC) has adopted 27 resolutions related to atrocities committed in Syria ‘the majority of which demand that the Syrian authorities uphold their responsibility to protect the population’ (GCRtoP, 2019). Syria has been a permanent feature on the GCRtoP monitor since January 2012. Mass atrocity crimes have been met with competing narratives through the manipulation of social media and new technologies. While social media played a facilitating role in the broader Arab Spring and documenting repressive responses that were not previously possible, a concerning trend has
been documented in Syria, in particular the ‘weaponising of social media platforms’ which has become particularly acute in relation to mass atrocity crimes (Henebery, 2018). The rise of ISIS in 2014 increased reported patterns of war crimes and crimes against humanity including the trafficking of Yazidi women and girls into sexual slavery markets in Ar-Raqqah (UNHRC, 2014). The COI pointed to ‘the lack of a political process that had allowed extremism to fester’ (Ibid).

Syria and the geopolitical deadlocks in the UNSC and elsewhere have had a significant impact on both data collection on civilian harm and the conduct of hostilities. Similar to Yemen, humanitarian access has been deliberately impeded with the second highest level of percentage of the population among the cases in need of humanitarian assistance at 67% (UNOCHA, 2019). The denial of humanitarian access necessitated collective action through civil society and the UNSC in 2015 to secure a resolution to allow cross border humanitarian assistance to ensure aid is provided in line with humanitarian principles, something required under international law but continually obstructed and remains a challenge today (Lowcock, 2017). Syria is not a signatory to the ICC and referral attempts have been blocked at the UNSC.

Possible confounders and other observations

The Syria case study suffers from the geopolitical challenge of more than one competing geopolitical actor with the high strategic engagement of Russia and the US which plays out in the UNSC, and to lesser extent Saudi Arabia and Iran. Narratives and the role of social media and ‘fake news’ is acute in Syria and particularly in relation to mass atrocity crimes. While propaganda is, in general, a feature of many conflicts, the combination of a lack of independent civilian harm monitoring mechanism and flagrant manipulations of social media are particularly dangerous with harmful consequences for the conduct of hostilities. Data
collection and geopolitical barriers intersect to prevent access for credible data collection and verification on civilian harm.

This case confirmed to theoretical expectations that the low quality, timely and consistent data facilitated the worsening of the conduct of hostilities in the form of the high levels of mass atrocity crimes reported. The case confirmed the confounding role of geopolitical actors and interests, which further prevented access necessary for data collection and verification on civilian harm.
iv) Yemen

General background

The internal armed conflict between the two main parties, the Houthi rebels and the Yemeni government commenced in 2004, significantly escalating in September 2014 when the Houthi rebels seized control of Sanaa resulting in several Arab states led by Saudi Arabia to join the conflict at the request of the recognised government in 2015 (Al Jazeera, 2018). Iran provides support to the Houthi rebels but not at a sufficient threshold to gain recognition as a party to the conflict (RULAC, 2019). The US is considered a party to the conflict through carrying out drone strikes on behalf of the government and likely also under support-based approach in assistance provided to Saudi for aerial re-fuelling (RULAC, 2019). The focus of this case commences with the significant escalation following the engagement of the Saudi-led coalition from March 2015. In terms of general data collection and access, barriers are very high including large geographical coverage, human resources, technology and strong political and insecurity impediments (MOSQUN+, 2018; ACLED, 2018).\(^1\)

Independent variable – quality, timely and consistent data on civilian harm

Similar challenges to those encountered with civilian harm recording in Syria are documented: the UN stopped counting in 2017 according to the Washington Post (Fahim, 2018), the Office for the High Commissioner for Human Rights (OHCHR) reported 17,640 civilian casualties between 26 March 2015 and 8 November 2018 (OHCHR, 2018), and an ‘independent’ estimate of 70,000 deaths is missing coverage for 7 months of the crisis and conflates civilian and combatant deaths (Bazzi, 2019). One issue most agree on is that there are likely many more than reported with Al Jazeera lamenting ‘Getting accurate information

\(^{1}\)‘The stringent control by the governing authority on any data collection leads to delayed and/or partial data collection. In addition, NGOs and potentially the IPC process are being used as a political tool to recognise the political authority of both controlling entities in Yemen.’ MOSQUN+ 2018: 9.
on the death toll is difficult’ (2018). Many rely on a 2015 OHCHR report finding the Saudi-led coalition airstrikes responsible for close to two thirds of reported civilian casualties and damaged or destroyed civilian buildings (OHCHR, 2015). While the source is credible, using 2015 data to raise concerns over civilian harm in 2018 is problematic, particularly given that the protection cluster had initiated the Civilian Impact Monitoring Project (CIMP).

The CIMP recorded 4,836 deaths with considerable disaggregation and analysis of trends for 2018 (UNHCR, 2019). The project initiated by the protection cluster in late 2017 commenced real time provision of data in August 2018 ‘for real-time collection, analysis and dissemination’ with the purpose of informing and complementing protection programming (CIMP, 2019). The 2018 report finds 53% of civilian casualties were women and children, 95 incidents involving more than 10 civilian casualties constituting 44% of the total number of deaths and further finds airstrikes responsible for 54% of civilian deaths and 76% of incidents impacted infrastructure (UNHCR, 2019). In addition to direct casualties, Save the Children have estimated indirect child deaths as a result of famine at 85,000 since March 2015 (McKernan, 2018).

In practice the multiple sources and lack of consistent civilian harm data mechanism within this case appears to enable poor reporting and understanding of civilian harm by the general public. Further the competing figures enable those who conduct the atrocities to operate in a grey area and their supporters to push the envelope on contesting the data and generating counter narratives.

*Dependent variable – the conduct of hostilities*

The Yemen crisis is considered ‘a protection crisis with violations of IHL and IHRL… high numbers of civilian casualties, with regular airstrikes, armed clashes and deliberate targeting of civilians and civilian infrastructure’ (UNHCR, 2018: 27). This assessment is supported by
other UN, civil society and media sources. The low estimates over civilian death tolls have been directly attributed to the lack of public outcry and impunity Saudi Arabia and allies experience over their conduct of hostilities in Yemen: ‘The figure is regularly reported as 10,000 dead in three-and-a-half years, a mysteriously low figure given the ferocity of the conflict.’ (Cockburn, Oct 2018). Further ‘The absence of credible figures for the death toll in Yemen has made it easier for foreign powers to shrug off accusations they are complicit in a human disaster.’ (Ibid). An example of this can be observed in the Jordanian Foreign Minister’s ‘absolute rejection’ of OHCHR’s 2015 report on Yemen to the HRC that documented possible war crimes by the Saudi-led coalition (OHCHR, 2015).

In response to the high general levels of civilian harm reported in Yemen, the US administration quietly sent former Deputy Assistant Secretary of State Dafna Rand to provide technical support and training to the Saudis (Bazzi, 2015). Rand had previously worked in ‘US military’s Central Command to reduce civilian casualties in Afghanistan, and US officials had thought the Saudis could use similar techniques to reduce casualties in Yemen.’ (Bazzi, 2019). While the measures were ultimately ineffective in questioning before US Congress Rand said: ‘It was very clear that precision was not the issue, and that guiding was not the issue… even when the US government told them which targets not to hit, we saw instances where the coalition was targeting the wrong thing.’ (Bazzi, 2019). In other words deliberately targeting civilians and civilian infrastructure. Rand further stated that while there were some constructive interlocutors within the Saudi Ministry of Defense ‘there was a lack of political will at the top senior levels to reduce the number of civilian casualties,’ with a Yemeni civil society representative further adding ‘It’s not a matter of training. It’s a matter of accountability. They don’t care’ (Ibid).
HRW in its 2018 annual report found ‘Parties to the conflict have exacerbated what the UN has called the world’s largest humanitarian catastrophe, including by unlawfully impeding delivery of desperately needed humanitarian aid.’ (HRW, 2019). Yemen consequently, compared to the other cases has the highest levels of civilians in need of humanitarian assistance at 75 per cent of the overall population and high risk of famine and cholera (UNOCHA, 2019). 15 HRW reports gross violations by the parties including indiscriminate artillery attacks, use of banned weapons, arbitrary detention and enforced disappearances, targeting of civil society and blocking humanitarian access among many other violations. None of the parties have carried out credible investigations into IHL violations and the coalitions Joint Incident Assessment team (JIAT) has not conducted any credible investigations nor provided compensation (HRW, 2019). Yemen is not a signatory to the ICC.

While the impact of data from a credible UN mechanism initiated in 2018 may be too soon to realistically assess on the conduct of hostilities, the absence of quality, timely data to date and harmful conduct of civilians conforms to theoretical expectations. The high profile Kashoggi incident and media coverage is attributed to increasing the spotlight on Saudi’s conduct of hostilities in Yemen and to have placed pressure on the US (Adams, 2018). The incident and subsequent pressure on the US, is also reported to have influenced the Stockholm agreement reached in Sweden in December 2018 (Cockburn, 2018). 16 In the absence of UNSC or other formal collective action, coordinated citizen activism has also emerged from union leaders in Italy blocking the loading of a Saudi ship in Genoa referring to civilian deaths in Yemen ‘We will not be complicit in what is happening in Yemen’ (Reuters, 2019).

15 UNOCHA’s HNO estimate is higher at 80 % based on a lower total population estimate than CIA Factbook.
16 ‘On the same day as the Hodeidah ceasefire was being announced in Sweden, the US Senate was unanimously approving a resolution holding Saudi Crown Prince Mohammad bin Salman – architect of the war in March 2015 – accountable for the murder of the journalist Jamal Khashoggi in Istanbul two months ago’. 
**Possible confounders to control for and other observations**

The Yemen case study experiences a complicated combination of geopolitical factors. First the Saudi-led coalition which according to substantive evidence has credibly targeted civilians and critical infrastructure. This conduct of hostilities is further complicated by the involvement of the US which has provided technical support on more precise targeting with no demonstrable progress and continues to sell weapons to the Saudi-led coalition. The media coverage of high profile incidents such as the killing of Kashoggi increased domestic pressure on the US. The geopolitical elements appear to be complicated by conflict of interests related to economic interests such as arms sales, maintenance of ongoing broader alliances (ie this is one issue of many in the Saudi and US) and impacted by a shift in leadership within the US. The specific geopolitical dynamics in Yemen raises questions on the ability to affect the conduct of hostilities without a high profile incident, but would still be important for issues such as recognition and longer term accountability recognising geopolitical interests and powers are always shifting, such as the changes in the US political leadership and impact on US foreign policy. The Yemen case has a comparatively shorter timeframe under review than the others, though very high ‘unofficial’ estimates of civilian casualties, limited media coverage notwithstanding the impact of the Kashoggi case, high number of credible mass atrocity incidents and exceptionally high percentage of the country in need of humanitarian assistance.

This case confirmed my theoretical expectations, including the confounding role of geopolitical actors and interests which appear acute in this case. Geopolitical interests and data collection barriers intersect to prevent access for credible data collection and verification on civilian harm. Further observing that high profile incidents unrelated to a conflict can attract significant media attention that shifts the balance of power, domestic pressures and
geopolitical alliances. The impact on coordinated citizen action in Italy and France is interesting to observe also.

*SFC Comparative Analysis Findings*

Individual findings are discussed at the end of each case study and comparative analysis in in the following. The structure and ownership of the civilian harm tracking mechanism matters to affect the conduct of hostilities. The optimal conditions are dual tracking mechanisms, a civilian harm tracking mechanism within the armed force/group and civilian harm recording mechanism within the UN or related credible entity. Methodologies, including disaggregation were weak across the case studies with the exception of Afghanistan and the recently launched mechanism in Yemen.

There are two possible confounding variables identified including geopolitical actors and access, with some interplay between them as observed in Iraq, Syria and Yemen. Generally the weaker the mechanism and engagement of more than one geopolitical actor or competing interest, the higher the risk of gross violations and mass atrocity crimes for civilians as observed in Syria and Yemen, with some interesting variation in Yemen. While geopolitical dynamics supported civilian harm tracking in Afghanistan, similar dynamics did not influence the US-led coalition in Iraq. The variation may be explained due to the lack of a credible UN mechanism and timing of high profile incidents. Where quality, timely and consistent data mechanisms on civilian harm are present they may influence the main actors conduct of hostilities but have limited observable impact on non-state extremist actors such as ISIS and the use of IEDs. High profile incidents that attract significant media attention play a key role in increasing attention to and public pressure on the parties to protect civilians. This pressure appeared most effective on the US in Afghanistan and likely combined with other supportive factors including the militaries ‘hearts and minds’ strategy,
host government pressure and highly training forces. High profile unrelated incidents such as the Kashoggi case in Yemen can shift the balance of power and disrupt geopolitical partnerships such as the US-Saudi alliance to increase accountability through domestic pressure in the US.

Airstrikes and IEDs were commonly reported as presenting high risks for civilian casualties across the cases. Impeded humanitarian access and consequences for civilian harm were particularly acute in Yemen as well as Syria. Mass atrocity crimes may be a better proxy indicator of civilian harm given the many factors that influence civilian death tolls including spring offensives, stage of the conflict, use of IEDs and airstrikes for example.

Through the SFC I have observed how data on civilian harm can have a ‘powerful influence on public opinion, prodding governments into action’ and how ‘the U.N. publishes death counts in other war zones, including Afghanistan and Yemen, to increase pressure on the combatants’ (Lynch, 2016). Conversely I have also seen how the lack of data in Iraq and Syria in particular has concerning observable implications for the lack of pressure on combatants, their backers and the subsequent conduct of hostilities.

While each case has its nuances, through the SFC of the four cases there is support for correlation in line with my theoretical expectations between the variation in quality, timely and consistency of data on civilian harm and affect on the conduct of hostilities for civilian populations. The potential confounding effects of geopolitical interests on both variables were explored across the cases confirming that it is an important factor but that the impacts vary and in the case of Afghanistan and to a certain extent Yemen, can contribute to increased attention to civilian harm due to the higher domestic accountability of the US.
b) Process tracing through pathway case

To further explore the casual relationship between the independent and dependent variables, in depth process tracing will be undertaken through the pathway case of Afghanistan. The process tracing is informed by Checkel & Bennett’s good practice guidance, including the approach of combining SFC with more in-depth process tracing (2015: 21). Afghanistan has been selected due to being a high intensity conflict with a strong civilian harm monitoring mechanism situated within the UN since 2008, regular analysis and reporting, UNSC resolution 2210 (2015) mandating UNAMA to monitor the situation of civilians and the practice of structured engagement with the parties to the conflict to affect the conduct of their hostilities vis a vis civilians.

i) Quality, timely and consistent data

As identified through the SFC, Afghanistan has the most robust quality, timely and consistent data collection on civilian harm through the dual ISAF and independent UN casualty tracking mechanisms. Both mechanisms have been identified as best practice in the literature. The tracking cell established within ISAF called the Civilian Casualty Mitigation Team (CCMT) ‘cited transparency and buy in from leadership from leadership’ as critical supportive factors for its success (Policinski, 2015). In terms of limitations there is a significant gap in systematic data collection between 2001 and 2008. In terms of disaggregation UNAMA’s mechanism disaggregated child casualties in 2018 (927 deaths) but fails to consistently report gender disaggregation in contrast to Yemen’s recently implemented UN mechanism.

In addition to the high profile incident of an attack on a funeral in Shindand that attracted significant media attention (Gall, 2018), it appears the Afghan government and people played an important role in placing pressure on the US-led coalition with President Hamid Karzai in 2007 stating: ‘I hope the international community will find with us, with our relevant
ministries, a mechanism that will bring an end to collateral damage, to damage to civilians.’ (BBC, 2007). While more civilians were killed in Afghanistan in 2018 than any prior year according to UNAMA data, several factors appear to have influenced this trend including the drawdown of US troops and reliance on airstrikes and increase in IED incidents attributed to ISIS (Al Jazeera, 2019). There is also the possible influence of political shifts within the US administration.

\[ ii) \] **Influences real time accountability**

Dual data mechanisms and the independence of UNAMA provides a high level of accountability for civilians in conflict. This is observed in UNAMA’s response to the first quarterly PoC report for 2019 which demonstrated a reduction in civilian casualties overall due to less IED incidents but overall that pro-government forces had killed more civilians than opposition forces prompting their call to recall the Khost Protection Force due to allegations of acting with impunity (UNAMA, 2019). The involvement of the UN as an independent actor appears to neutralize geopolitical power imbalances in support of greater accountability and protection for civilians.

UNAMA data collection, analysis and publishing since inception provides a level of recognition for civilian harm in Afghanistan that is not experienced elsewhere. Families affected by the conduct of hostilities can receive reparations for loss of family members at the discretion of the area commander. While there are criticisms concerning the variation in calculations, this is a measure that is not experienced in any of the other case studies (Naples-Mitchell, 2018). Civilian casualties also feature in US domestic political processes including Senate hearings and there is a significant amount of publically available information on US military policy and strategies concerning civilian harm (US Senate, 2009). Key American
NGOs also play a role in raising the profile of attention to civilian harm domestically and within the UN including CIVIC, Airwars and Interaction.

In addition to basic accountability through the recognition of civilian deaths by a credible mechanism, ongoing data collection enables analysis and identification of trends such as who is most at risk, where and from what. The data and analysis it supports has significant potential for evidence-based protection advocacy with the parties as demonstrated in Afghanistan (Niland, 2011). It also influences domestic accountability processes in the US and addresses barriers within the military to documenting civilian harm (Mahaney & Moorehead, 2019).

While the mechanism supports real time accountability and such data can support longer term accountability measures, the confounding role of shifting geopolitical interests is observed in 2018-19. As of April 2019 ICC judges rejected opening an investigation into allegations of war crimes in Afghanistan in what HRW labelled as ‘giving undue weight to politics and practicalities’ (HRW, 2019). A potentially overlooked area is the role of domestic pressure influencing the conduct of hostilities overseas with a survey indicating Americans support for drone strikes against ‘terrorists’ needs to be weighted against the 80% who also expressed moderate and high levels concern for such strikes endangering the lives of civilians (Ron, 2019). Standard opinion polls reportedly neglect to weigh public support against the consequences.

iii) Outcome – affects the conduct of hostilities

High profile incidents such as the 2008 targeting of a funeral in Shindand and subsequent media coverage appear to provide the catalyst to pressure the US to track and implement measures to reduce civilian harm. The introduction of the UN civilian harm mechanism enabled both the Afghan government and UN to contest US-led coalition response collateral
damage narratives to incidents such as the 2007 Shindand clashes where they claimed ‘they killed 136 Taliban and knew of no civilian deaths.’ (BBC, 2007). A critical shift considered to influence the conduct of hostilities is the strategic shift led by US General Petraeus’ from ‘enemy-centric operations’ to ‘a more population-centric approach’ (Gregory, 2015). The hearts and mind approach was enacted at least in part to match the Taliban/ Afghan cultural practice of compensation for conflict-related deaths.

In the 2019 UNSC open debate on PoC in armed conflict the UN SG reported the UN civilian casualty recording in Afghanistan had ‘led to the adoption of measures by pro-Government forces to minimize harm.’ (UNSG, 2019). In contrast to the other high intensity conflict case studies there are no reports of barrel bombs, chemical weapons, forced starvation, cholera epidemics or extreme denial of humanitarian access. The mechanism appears to have generated pressure on US-led coalition with the Afghan Government and the Taliban to comply with IHL to protect civilians and affected the conduct of hostilities including methods and means of warfare. The use of airstrikes by the US-led coalition while permitted under IHL present a high risk for civilian casualties. Further the use of IEDs by the Taliban and ISIS present high threats to civilians due to inability to discriminate between combatants and civilians.

Confounders and other observations

The challenge with civilian casualty data seems similar to that of sexual violence in conflict, relatively good data availability indicates there is a mechanism and system for documenting rather than an indication of prevalence that can inform cross-country comparisons. Civilian death tolls as a result are at best a proxy indicator, supporting analysis of trends and evidence-based advocacy at the country level, and in the case of contested narratives an
important basic accountability measure for civilian deaths. Other variables including the
presence of ISIS and use of IEDs, as well as airstrikes increase risks for civilian harm.

Credible mechanisms provide recognition of civilian deaths not experienced elsewhere and
should not be underestimated, as well as the opportunity for reparations and can assist
accountability processes. Civilian casualties while rarely recorded or representative remain a
basic accountability measure for civilian lives taken in conflict. There is a need for a broader
approach to capture the direct and indirect consequences of war on civilian harm recognising
the impact on pre-existing fragility including ‘poverty, malnutrition, poor sanitation, lack of
access to health care, and environmental degradation’ (Brown University, 2018).

The observable implications through the process tracing are that reviewing the varying level
of data on civilian harms affect on the conduct of hostilities as operationalised through mass
atrocity crimes can indicate restraint, notwithstanding the use of IEDs and airstrikes. High
profile incidents act as catalyst in support of generating pressure for a mechanism and
geopolitical dynamics can work in support of civilian casualty tracking where a US-led
coalition present. Further conducive factors include domestic pressure in the US, from the
host government and civil society, together with supportive individuals within the US
military and UN mission. Lastly there is a need for dual civilian harm tracking with the more
independent UN mechanism playing an important accountability role in cross-checking self-
reported civilian harm estimates by armed forces. Further discussion of the observable
implications from the process tracing and the SFC findings will be discussed in the empirical
results section below.
5. **Empirical results**

*i) Findings and analysis*

In line with my hypothesis I expected to see a clear relationship between quality, timely and consistent data on civilian harm and affect on the conduct of hostilities, notwithstanding the previously acknowledged confounding role of geopolitical actors and interests and practical access constraints. Through the SFC of four cases I identified support for correlation between the variation in the quality, timely and consistent data on civilian harm and affect on the conduct of hostilities. What I found through process-tracing the pathway case of Afghanistan is the conduct of hostilities is strengthened through the presence of two mutually reinforcing mechanisms. The first a civilian harm tracking cell located within the armed forces (ISAF), the second an independent UN civilian harm tracking mechanism that enables accountability through cross-checking, analysing and advocating on behalf of civilians. The combined effect of which provides a more conducive environment for improving the conduct of hostilities including compensating victims and mitigating civilian harm.

The lack of a military civilian harm tracking cell across the remaining SFC cases and the varying level of quality, consistent and timely data mechanisms on civilian harm prevented a more precise comparison across the cases due to the significant variations in data availability and an inability to know the counterfactual – what would the situation be had no mechanism in place in that specific context or had a robust dual mechanism in place from the onset similar to the pathway case.

I anticipated the role of geopolitical actors and interests to be complex and high risk for confounding my hypothesized casual mechanism. What was found instead across the SFC of cases and process tracing of the pathway case is that the role of geopolitics is nuanced depending on the actor and interests, and rarely static. The pathway case illustrated in what
was predominantly a more permissive environment how these geopolitical interests combined with high profile incident, US domestic pressure, strong host government advocacy and willing individuals within the US-led coalition can be mobilized in support of developing a civilian harm tracking and analysis mechanism within the armed forces. It further highlighted the critical accountability measure of an independent UN mechanism that supported regular dialogue to promote protection for civilians.

Despite geopolitical interests undermining civilian harm tracking efforts in Iraq, Syria and Yemen, the shifting nature of geopolitical interests and high profile incidents can increase support for civilian harm tracking as observed in Afghanistan and to a lesser extent Yemen. The presence of the US, ideally leading multinational forces, with the ability to shame on civilian harm through media, political and public pressure, increases likelihood of improving data collection and also the conduct of hostilities. At the same time there is a need to avoid ‘over intellectualising foreign policy decisions’ on civilian harm which is supported by comparing US actions in Afghanistan with Iraq where the presence of the US-multinational forces had the opposite effect on civilian harm tracking (Bennett & Checkel, 2004: 98). This indicates the decision to support and therefore the level of civilian harm tracking is highly contextual due to shifting agendas, pressure generated through high profile incidences and appears in part to be individually motivated. These shifting agendas indicate the need for an independent UN mechanism to neutralise the influence of geopolitics and reliance on willing individuals to support data collection on civilian harm to better ensure real-time accountability for the conduct of hostilities.

While geopolitics appears to exert the greatest influence on the quality, timely and consistent data mechanism, access, security and human capacity constraints also present varying level of challenges for data collection. Access for data collection and verification presented acute
challenges in Iraq, Syria and Yemen, with some variations related to security, mobile coverage and human capacity. Non-security access constraints can interact with geopolitical interests and subsequent government barriers which prevent humanitarian access and access for data collection and/or verification as observed in Syria and Yemen. In contrast with Afghanistan where data collection and verification is possible and the main parties, with the exception of ISIS, expressed or demonstrated support for protecting civilians even if their conduct was not always consistent with this objective. While new technology has significant potential to overcome past data collection access challenges, it has created new challenges for contesting narratives on civilian harm as observed in Syria case study.

The necessary first step to protecting civilians from the harmful conduct of hostilities is quality, timely and consistent data on civilian harm. The next more critical step is the analysis of that data to inform timely action to mitigate civilian harm from the conduct of hostilities. While there are observable patterns of correlation across the SFC – each context is unique, improved consistent data collection would address part of a complex casual problem in conflict. Finally the inconsistent attention to and contested measurements of indirect conflict deaths is a grey area that requires more consideration in future data collection on civilian harm.

ii) How may the research design have influenced the results?

The selection of case studies I am familiar with and no peacekeeping presence may have influenced the results. Confirmation bias has been avoided by selecting four cases with high variations in civilian harm tracking, differing geopolitical interests and parties to the conflict. Further possible bias has been mitigated through relying on a pathway case I have not worked on directly and a wide literature review across the available sources.
iii) Alternative explanations

The complex confounding effects of geopolitical interests and actors and their intersection with barriers to access for data collection and verification for civilian harm has been explored through the SFC. Interestingly, through the pathway case of Afghanistan geopolitical and access challenges to data collection and verification on civilian harm were overcome. This is likely due to civil society pressure, supportive individuals within the US military, host government advocacy and the presence of an independent UN mechanism. Lastly while it is likely several factors influence the conduct of hostilities and subsequent civilian harm, the focus here has been one concrete measure to improve protection for civilians in armed conflict.
6. Summary and conclusions

i) Theory testing and refinement

Through reviewing the relevant peace and conflict literature together with normative and policy developments related to the PoC, this paper has contributed to theory development and testing of how the varying quality, timely and consistent data on civilian harm affects the conduct of hostilities for civilians in conflict. The SFC of four cases supported testing for correlation between the independent and dependent variable and controlling for potential confounders. The hypothesized casual story was process traced through the pathway case of Afghanistan. Through both processes I found empirical evidence in support of correlation and the casual pathway in support of my hypothesis that the variation in the quality, timeliness and consistency of data on civilian harm affects the conduct hostilities for civilians in conflict.

The operationalization of the conduct of hostilities through a review of mass atrocity crimes proved important. By way of contrast civilian casualty estimates and trend analysis while providing useful insights for advocacy within a conflict do not necessarily provide a useful indicator for comparing civilian harm across conflict contexts due to the high level of contextual factors including the presence of extremist actors and role of airstrikes and IEDs. As anticipated geopolitical actors and interests can influence one or both variables though in unpredictable ways. High profile incidents that attract media attention increase public pressure on parties and their supporters. This was most strongly observed in relation to the engagement of US domestic political interests in Afghanistan and to a lesser extent in Yemen.

In terms of refining my theoretical argument, it is the presence of a dual civilian harm tracking mechanism, one within a well-trained armed force combined with an independent
UN mechanism that affects the conduct of hostilities, providing a higher level of accountability for civilian harm in conflict. Further observing such credible data collection mechanisms can support the analysis of trends and inform evidence-based advocacy with the parties as observed in the pathway case.

Geopolitical dynamics in the regions are such that none of the countries under review are likely to have a protective PoC peace operation deployed, and the failed attempt in Syria is illustrative of this. These current political realities increase pressure to find non-armed policy responses to positively influence and mitigate civilian harm in such contexts. Forward looking, improved quality, timely and consistent data collection and analysis across conflicts could support identification of specific high-risk indicators for mass atrocity crimes and inform preventive responses.

ii) Need for a quality, timely and consistent civilian harm tracking mechanism across conflicts

While databases such as UCDP and ACLED have proven useful for researchers, the absence of a real-time civilian harm tracking mechanism that analyses trends and can inform evidence-based responses to affect the conduct of hostilities for civilians remains a significant gap. Based on this research the most effective civilian harm monitoring mechanism has two key mutually reinforcing components. This includes a civilian harm tracking mechanism located within an armed force and a parallel independent UN civilian harm tracking mechanism to cross-reference and inform timely advocacy with parties and other measures to minimize civilian harm. Recognising not every armed actor has the resources to support civilian casualty tracking, scaled approaches could be developed that are commensurate with the resources of the group to positively affect the conduct of hostilities on civilians (Keene, 2014). Finally implementation of more consistent, timely and quality
civilian harm tracking mechanisms, in addition to greater real-time protection for civilians would over time ideally shift the focus from mitigating the conduct of hostilities to more proactive measures to protect civilians from such harm including mass atrocity crimes.

iv) Opportunities for future research

In terms of future research opportunities, expanding the number of cases and regions, including those with the presence of peacekeeping interventions could assist in refining the casual argument. Longer term investments involving the coding of mass atrocity events and running regression analysis on the varying levels of data on civilian harm against conflict intensity, percentage of population in need of humanitarian assistance and conflict duration variables could prove useful. Given the complex role of geopolitical actors and interests, follow up research could triangulate findings here with more in depth discourse analysis and ethnographic methods to better understand how incidents influence member state actions and the difference between member states stated positions and actual practice on particular issues observing how they shift within and across conflicts, and time also. Future research would ideally explore how an independent data mechanism on civilian harm could be designed and consistently implemented to overcome the geopolitical challenges and narratives that play out in the UNSC. There are likely relevant lessons from UNSCR1612 resolution on children and armed conflict on how to avoid political interference in listing or delisting those responsible for gross violations.

Finally, while positivist causal pathway methods play an important role for many research questions, to date the little research invested in understanding how to better protect civilians in conflict without the use of force or deterrent presence of peacekeeping, and the problematic securitised focus of academic questions on civilian harm, indicate the importance of bringing in other perspectives and methods. Normative literature and ethnographic
approaches could provide a more fuller picture, including insight into the complex geopolitical dynamics in UN decision-making fora and inform more grounded policy responses.
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