

International Humanitarian Law and the protection of food systems, health care and aid operations in Sudan

Attacks on health care and food-related infrastructure in Sudan reflect a broader pattern of harm to civilian objects, raising serious concern under IHL. Health workers, facilities, and transports are afforded special protection and must be respected and protected at all times. Food systems, including markets and agricultural areas, are also protected under IHL as objects indispensable to the survival of the civilian population. Additionally, aid workers who are civilians under IHL, are also protected against attack, unless and for such a time they directly participate in hostilities. IHL also provides protection to humanitarian operations and prohibits the disruption and interference of humanitarian operations. Conflict parties must ensure that humanitarian relief is facilitated and unimpeded and access constraints may contribute towards the denial of objects indispensable to the survival of the civilian population (such as food assistance). In Sudan, where the majority of the population is dependent on humanitarian aid, the disruption of relief operations has foreseeable and severe humanitarian consequences, reinforcing the obligation on all parties to facilitate safe, sustained and unimpeded humanitarian access.

Attacks on health care

Since the beginning of the conflict, health care has consistently and systematically come under attack by both parties to the conflict. Health facilities have been struck by explosive weapons, some directly whilst others affected by the blast wave caused by explosives used in the vicinity of the facilities. These incidents indicate that at the very least, armed actors are not taking the necessary precautions to protect and respect these facilities.

Unlike the general protection afforded to civilian objects, a higher threshold is placed regarding the loss of protection of a health facility and their protection can only be lost in very limited and exceptional circumstances – if used to carry out “acts harmful to the enemy” outside of its health care functions, and only after a warning is issued prior to an attack. In all of the incidents of attacks on health care in Sudan since the start of the conflict identified by Insecurity Insight, there is no publicly reported information on whether these thresholds were respected and whether adequate precautions were taken by the armed actor to mitigate foreseeable impact. There is no evidence on whether warnings were issued prior to an attack. Additionally, multiple attacks on the same facility may indicate a pattern of targeting or a failure to take feasible precautions.

Attacks on food systems and civilian survival

Food systems are protected under IHL as objects indispensable to the survival of the civilian population. Attacks affecting agricultural areas, markets and food supply chains, alongside the disruption to humanitarian operations, risk compounding food insecurity and undermining civilian resilience. In Sudan, damage to essential infrastructure and constraints on humanitarian access have had cascading effects on food availability and access. When such impacts are foreseeable, parties to the conflict are required to take all feasible precautions to avoid or minimise harm.

Marketplaces are civilian spaces where communities access food, essential goods and services and so qualify as civilian objects and are protected under IHL. Marketplaces are protected against attacks, unless they are being used for military purposes. If there is any doubt whether or not it is being used for military purposes it must be assumed to be civilian. In Sudan, there have been numerous reports of conflict actors storing weapons inside marketplaces leading to their repeated attack by opposing parties. However, conflict parties still have an obligation to take all necessary precautions to minimize the impact on civilians, including assessing whether an attack is proportionate to the military advantage gained through the attack. Some attacks on marketplaces occurred during hours when the market was open leading to significant civilian casualties, whilst the use of explosive weapons in the market not only led to significant casualties, but also severely damaged or destroyed infrastructure and stalls. In one incident, in El Fasher city, a market was struck by at least 30 artillery shells reportedly by the RSF, which killed at least four people and injured six others including three children.

Attacks on Aid workers and humanitarian operations

Under IHL aid workers and humanitarian operations are protected against attacks and interference. Since the start of the conflict, humanitarian personnel and operations have been repeatedly affected by violence, including the killing of aid workers, attacks on convoys, and interference with the delivery of assistance, which may indicate a failure by armed actors to ensure their protection. In Sudan, where large segments of the population are heavily reliant on humanitarian assistance due to the destruction of food systems and other essential infrastructure, such disruptions have severe and foreseeable consequences. Attacks on aid operations and interference with humanitarian access limit the delivery of life-saving assistance, delay response efforts, and increase the vulnerability of affected populations. Where such acts contribute to the denial of objects indispensable to civilian survival.

Conclusion

The combined effects of attacks on health care, food systems, and humanitarian operations raise serious concerns regarding compliance with the principles of distinction, proportionality, and precautions under IHL. Attacks on health care and food infrastructure, alongside repeated interference in humanitarian operations, risks compounding food insecurity, undermining civilian resilience, and contributing to conditions that may amount to the deprivation of objects indispensable to survival. Such conduct raises serious concerns regarding compliance with IHL, as well as obligations to protect humanitarian actors and ensure the continued delivery of assistance to affected populations.