

# Rebellion, War Aims & the Laws of War

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*Abstract: Most wars today are civil wars, but we have little understanding of the conditions under which rebel groups might comply with the laws of war. I ask three questions in this essay: What do the laws of war require of rebels, or armed nonstate actors (ANSAs)? To what extent are rebels aware of the laws of war? Under what conditions do rebel groups comply with international humanitarian law? I argue that the war aims of rebel groups are key to understanding their relationship with the laws of war. In particular, secessionist rebel groups – those that seek a new, independent state – are especially likely to comply with the laws of war as a means to signal their capacity and willingness to be good citizens of the international community to which they seek admission.*

The body of codified laws of war was written by states, principally to govern their conduct during wars with each other. But most wars today occur within, rather than between, states. The shift from interstate war to civil war raises a host of questions about how and whether the existing framework of international humanitarian law (IHL) – also referred to here as the laws of war – constrains states fighting civil wars and, particularly, the rebel groups they fight. In this essay, I focus on the laws of war from the perspective of rebel groups, asking: What do the laws of war require of rebels, or armed nonstate actors (ANSAs)? To what extent are rebels aware of the laws of war? Under what conditions do rebel groups comply with international humanitarian law?

The answers to these questions share a common theme: the political aims of rebel groups condition their view of the laws of war. Groups such as the Kurds, who seek to join the international community of states, strategically use their compliance with the laws of war to demonstrate their capacity and willingness to be good citizens of that community. For example, the Kurdish People's Protection Units (YPG), which have been supported by the West in ef-

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forts to expel the Islamic State from Syria and Iraq, publicly decried Islamic State targeting of civilians during the 2015 battle for Kobane.<sup>1</sup> Groups such as Al Qaeda in the Islamic Maghreb, by contrast, are invested in overturning the existing system and, as such, are unlikely to adhere to the current regime of international humanitarian law. Thus, it should be less surprising – but no less horrifying – to witness their destruction of precious cultural artifacts and the brutal treatment of the civilian populations within their reach.

The framers of international humanitarian law have been unsurprisingly reluctant to conclude formal agreements with rebel groups. These groups, after all, challenge the bedrock of the international legal system: state sovereignty. But given the twin trends of a relative increase in civil wars and certain types of rebel groups seeking to engage with the laws of war, there is an argument to be made that IHL ought to lay out more explicit rules governing rebel group behavior if it is to maintain its relevance.

Which rebel groups might be receptive to such overtures? To answer this question, I first discuss the status rebel groups hold in the existing framework of international humanitarian law. Second, I assess rebel groups' knowledge base of the laws of war. Third, and most important, I argue that rebel groups whose political aims require the support of the international community (defined here as the set of actors committed to the principles embodied in the UN Charter) are most likely to abide by its rules regarding wartime conduct.

The regulation of civil wars, or noninternational armed conflicts, has been among the most controversial issues in writing international humanitarian law. Prior to the formation of the modern state system, the laws of war were used partially to distinguish legitimate belligerents, such as kings, from brigands and pirates. In the eight-

teenth century, for example, only sovereign monarchs had the right to wage war and to claim the right of trial by combat.<sup>2</sup>

Once the laws of war began to be codified in multilateral treaties in the mid-nineteenth century, some of the framers of these laws pushed – albeit with limited success – to extend their scope and applicability to civil wars. The Martens Clause, included in the Second 1899 and Fourth 1907 Hague Conventions, dealt with any controversy about the scope and applicability of the Conventions by generally extending “the principles of international law” to any conflicts not addressed specifically by the Conventions. Article 3 common to the four 1949 Geneva Conventions, often referred to as a “Convention in miniature,” more specifically extends certain protections to noninternational armed conflicts. State parties to the 1949 Geneva Conventions are obliged to refrain from abusing civilian populations under their control; they are also obliged to care for the wounded and sick, including from the opposing force. Finally, the two 1977 Protocols Additional to the 1949 Geneva Conventions were meant to govern civil wars more extensively. But the Additional Protocols differentiated national liberation movements (decolonization, addressed in Protocol I) from noninternational armed conflicts (civil wars, addressed in Protocol II) and accepted the legitimacy of the former much more so than the latter. When it came to the issues of scope and applicability, the main challenge of the Additional Protocols was to navigate the tension of placing some obligations of restraint on states while avoiding any conferral of legitimacy upon armed nonstate actors.

This cursory treatment of civil wars in major IHL treaties is at least partly a function of who made the laws. States – the framers, ratifiers, and legal subjects of these agreements – have had little desire to legitimize domestic challengers. Some

of the more recent laws of war have revealed chinks in the armor of state sovereignty. A heated debate during one of the *travaux préparatoires* (preparatory works) for the 1977 Additional Protocols centered on whether, how, and which national liberation movements and/or armed nonstate actors could be included in the discussion. The debate concluded with an agreement that certain groups could be present and speak, but could not vote.<sup>3</sup> Delegations from groups such as the People's Movement for the Liberation of Angola and the Palestine Liberation Organization were admitted on these grounds. Protocol I also allowed armed groups to deposit with the Swiss government their intention to comply, but only a very few armed groups have taken advantage of this procedure.

Some have argued that one problem with codified international humanitarian law is that it has not included rebel groups or their concerns in its design.<sup>4</sup> Rebel groups are technically bound to comply with the laws of war via one of two routes: if state ratification applies to all armed groups within the state; or if rebellion is deemed illegal and is expected to be addressed as a matter of domestic law. The first of these routes is fairly attenuated, and the second turns a blind eye to the increasingly international nature of many of today's civil wars. But insofar as, for example, combatant status is only applicable to state – and not rebel – forces in a noninternational armed conflict, then it would seem that codified international humanitarian law places few obligations on rebel groups.<sup>5</sup>

For all that the framers of IHL sought to preclude rebel group participation, certain groups are surprisingly knowledgeable about the laws of war. In 1991, the leftist National Democratic Front of the Philippines publicly committed to adhere to the 1949 Geneva Conventions as well as Additional Protocol II.<sup>6</sup> A few years earlier,

the secessionist Ogaden National Liberation Front in Ethiopia similarly committed to refrain from targeting civilians and abusing prisoners of war and more generally to “willingly comply with international norms of battlefield combat.”<sup>7</sup> And in 2009, the separatist Karen National Union in Burma stated their “commitment to adhere to the international conventions against the use of child soldiers.”<sup>8</sup>

Rebel groups gain knowledge of the laws of war via defectors from the state military, outside consultants, and nongovernmental organizations (NGOs) focused on international humanitarian law. Per the 1949 Geneva Conventions, state militaries are obliged to train their forces in international humanitarian law. Defectors from state militaries to rebel groups bring this training with them and, sometimes, share it with their new comrades. The original founders of the Free Syrian Army assured the international community that government military defectors were operating in accordance with rules of engagement and prior training they received in the Syrian armed forces.<sup>9</sup> It is not known how common this transmission route for IHL to rebel groups is, but it is worth speculating about the types of defectors and rebel groups where we might be most likely to observe this phenomenon. For example, the types of defectors attracted by the possibility of plunder might be less likely to hold high military rank or have served for very long; they might also be defecting from poorly organized and poorly trained militaries. Thus, these defectors' training in and transmission of IHL should be relatively minimal. By contrast, defectors attracted by nationalist causes, such as East Timor's Xanana Gusmão – who served in Portugal's colonial army prior to 1975 – might be of higher rank and have a longer record of military and public service. Rebels that seek to overthrow the central government – via coups or more prolonged efforts – also are likely to be led by military

defectors with long-standing ties to the state military. Defectors from Romania's armed forces were critical to the overthrow of Nikolai Ceaușescu in 1989, and the opposition was much less likely to target civilians than forces that remained loyal to the Ceaușescu regime. These latter types of defectors ought to be more likely to share the basic laws of war with their new comrades as they switch their allegiance.

A second source of knowledge of international humanitarian law for rebel groups is outside consultants. The practice of rebels – and, particularly, petitioners for sovereignty and recognition – hiring outside consultants is long-standing in international politics. For example, the Polynesian royal family hired Western consultants in the nineteenth century to help them negotiate with U.S. and European powers.<sup>10</sup> More recently, the emergence of organizations such as Independent Diplomat, which represents a number of non-state actors and seeks to “promote greater inclusiveness in diplomacy,” has signaled a shift from the occasional use of ad hoc consultants to formal organizations that offer diplomatic services on a more regular basis.

Groups should seek advice from NGOs such as Independent Diplomat when engagement with states aside from the central government they are fighting is key to their political success, and they recognize that they require outside input in order to execute an effective diplomacy. It ought not to be surprising, then, that a survey of Independent Diplomat's client list reveals a majority of secessionists, from the Polisario Front to Kosovo to Somaliland. Also included are the Syrian Coalition and the Turkish Republic of Northern Cyprus.

Outside consultants can also take the form of military advisors from states supporting rebel groups. Rebels seeking external patronage certainly do what they can to orient themselves toward poten-

tial patrons. For example, the Mujahedin-e-Khalq (MEK) presented itself as “a democratic organization that seeks to bring down Iranian tyrants, both secular and religious” as part of a strategy to lobby the U.S. government to remove the MEK from the Foreign and Terrorist Organization list.<sup>11</sup> Insofar as external patrons also care about IHL, this preference might influence rebel group behavior.<sup>12</sup> Military training provided by third party states also could include training in IHL.

A third transmission route of IHL to rebel groups is via NGOs explicitly focused on the laws of war. The International Committee of the Red Cross (ICRC) is the most prominent of these groups. The ICRC includes as one of its current strategic objectives “further develop[ing] methods and tools for engaging non-State armed groups, in particular relating to their compliance with IHL.”<sup>13</sup> To this end, the ICRC conducts training sessions with armed nonstate actors, provides them the opportunity to issue unilateral declarations or conclude agreements to abide by IHL, and has created a “Unit for Relations with Arms Carriers” charged with engaging armed nonstate actors with respect to international humanitarian law.<sup>14</sup> The ICRC is, however, limited in its engagement with armed nonstate actors by its state-based model; if a state opposes ICRC engagement with armed nonstate actors within its borders, it can deny the ICRC access.

In the same spirit of the ICRC's efforts, the United Nations has begun to create a series of “Action Plans” with rebel groups. Action Plans are created with groups identified as having violated the laws of war regarding children, often via the use of child soldiers, and are “written, signed commitments between the United Nations and those parties who are listed as having committed grave violations against children.”<sup>15</sup> To date, the UN has agreed to Action Plans with at least a dozen groups, in-

cluding the Moro Islamic Liberation Front in the Philippines and the Unified Communist Party of Nepal.

Finally, a new set of humanitarian NGOs has focused, either principally or secondarily, on training armed nonstate actors in international humanitarian law and persuading them to comply with the laws of war. An excellent example of this type of NGO is Geneva Call, which offers “Deeds of Commitment” that rebel groups can sign. Signing groups pledge not to use antipersonnel landmines, child soldiers, and/or sexual violence in wartime. As part of their meetings with armed nonstate actors, Geneva Call offers training in international humanitarian law, including monitoring and verification for groups that have signed one or more Deed of Commitment. Unlike organizations such as the ICRC or the United Nations, Geneva Call focuses on armed nonstate actors exclusively – Geneva Call’s organizational structure means that it is also less vulnerable to state-imposed constraints. One recent analysis of the signatories to Geneva Call’s best-known Deed of Commitment – the Deed of Commitment for Adherence to a Total Ban on Anti-Personnel Mines and Cooperation in Mine Action – has found that legitimacy-seeking groups – those that seek external and internal approval of their right to rule – are the most likely to sign the Landmine Ban Deed of Commitment.<sup>16</sup> Here we begin to bridge the gap between knowledge of IHL and action based on that knowledge. As with the alternative routes to knowledge of IHL, it appears that groups that need support from the international community might be especially likely to signal their intention to abide by IHL.

War aims ought to condition rebel compliance with international humanitarian law. I distinguish four “ideal types” of rebels, according to their war aims. Ideal types are not ideal in the sense that they side-

line many other factors, which in this case include: the possibilities of mixed types; groups changing type over time; the influence of foreign fighters; and other war aims that might be excluded from this list. The argument laid out below, based on ideal types, is thus a first step in understanding the relationship between rebel war aims and compliance with the laws of war.

The first ideal type I consider is center-seeking rebels – those that seek to overthrow and replace the government. Recent examples include rebels in Libya, who succeeded in overthrowing Gaddafi, and “moderate” rebels in Syria, who have not (at least as of this writing) succeeded in overthrowing Bashar al-Assad. Historical examples include the Cuban revolutionaries of the 1950s and the Sandinistas in Nicaragua in the 1970s. A second ideal type is secessionists: groups trying to carve out their own, independent state. Successful secessionist wars have led to the creation of states like Bangladesh, East Timor, and even the United States. Unsuccessful secessionist rebel groups include the Chechens and the U.S. Confederacy. Third, there may also be a category of rebel groups whose principal war aim is plunder and, in particular, profit from trade in illegal goods, such as gems or drugs. Groups driven primarily by profit are difficult to identify, but could include the Revolutionary United Front in Sierra Leone and the National Patriotic Front of Liberation in Liberia. Finally, religionist rebel groups, the fourth ideal type, aim to evangelize, proselytize, and either convert or cleanse those who cannot be converted. While religionist rebel groups, such as the Lord’s Resistance Army, Boko Haram, and the Islamic State, may seem to represent a new phenomenon, there are in fact many historical examples, from the Yellow Cliff rebels in 1866 China to the Brazilian Canudos at the turn of the twentieth century.

Each type of rebel group has different incentives to comply with the laws of war.

Tanisha M. Fazal

Many of these incentives are independent of the law, and might naturally generate behavior that is either consistent or inconsistent with it. Other incentives are more directly tied to the laws of war – via the international community that espouses it – and speak to cases in which rebels seek to send specific signals to third-party observers. Either path suggests that rebels' relationship with the laws of war is strategic. Observed compliance is not induced by the law per se, but is instead either coincidence or a means to an end. An optimistic view of the future of the laws of war in the civil war context would suggest that this is precisely how the law will become strong. Compliance may eventually be motivated by the law itself.

In assessing the relationships that different rebel groups might have with the laws of war, I will focus on the prohibition on civilian targeting, widely considered to be at the heart of international humanitarian law today. Rebels that seek to overthrow and replace a central government have mixed incentives with respect to civilian targeting. With the exception of rebels perpetrating military coups, center-seeking rebels require the support of the civilian population, especially if they employ guerrilla warfare. Conventional wisdom suggests that, because guerrillas must rely on civilians for food, cover, and comfort, they will not bite the hand that feeds them. But another perspective points to the fact that weak rebels in particular have few tools aside from coercion to gain the allegiance of a civilian population.<sup>17</sup> What is more, the fear of infiltration and betrayal is constant for center-seeking rebels, who might lack the ethnic cues and social networks that differentiate secessionist rebels from their opponents.<sup>18</sup> Civilian targeting is one strategy to distinguish friend from foe, or at least to send signals of the group's capacity to make this distinction and thus deter any potential government collaborators or defectors. Al-

geria's Groupe Islamique Armé (GIA) operated via this logic in the late 1990s; in one particularly brutal incident, GIA guerrillas "beheaded five local girls (some of whom dated militiamen) and threw their heads on the doorsteps of the houses of people who were suspected of intending to defect."<sup>19</sup> We should expect, then, that center-seeking rebels will sometimes engage in civilian targeting, but perhaps especially so at the beginning of their life cycle, when they are weak and deploy force to coerce civilians to aid their cause.

Secessionist rebel groups face a very different set of incentives. From a military perspective, the civilians within easiest reach of secessionists are those who are meant to make up the population of their new state; targeting them would be counterproductive. One exception is noncoethnics residing in territory claimed by the secessionists, and whom secessionists might want to evict from the area. For example, during the Croatian war for independence, secessionist rebels targeted Serbian civilians, homes, and churches throughout Slavonia, especially in Krajina. Consistent, however, with the notion that secessionists seek to portray themselves as good citizens of the international community, Croatian officials then publicly disavowed and condemned these practices.<sup>20</sup> It is also possible that secessionists might want to target civilians over the putative border, but doing so would be militarily risky. Secessionist movements tend to emerge in areas of ethnic concentration. If secessionists were to target civilians outside their region, they would leave their own population vulnerable to counterattack.

Secessionists also have few political incentives to target civilians. More than any other type of rebel group, secessionists must gain the support of the international community if they are to realize their political aims. While center-seeking rebel groups might welcome – even depend

on – external support, most countries today have a policy of recognizing states, not governments. When a new government takes control of an existing and previously recognized state, past recognition of the state continues even if the new government is unsavory and diplomatic relations are severed.

To recognize an entirely new state is a much more difficult matter. There is no default of recognition for militarily victorious secessionists, as there is for center-seeking rebels. As a matter of policy, states tend to require at a minimum that secessionists demonstrate control over a specific population and territory, convene a government, and be able to engage in relations with other states; in some cases, aspiring states must also show themselves to be democratic and respectful of human rights.<sup>21</sup> As a matter of practice, states tend not to recognize new secessionist movements as states without the support of their regional security organizations and, importantly, the great powers.<sup>22</sup> Because the checklist for receiving recognition as a new state is much longer than that for receiving recognition as the new government of a previously recognized state, secessionist movements have strong incentives to pay attention to the desires of the international community empowered to admit them to the club of states.

Noncombatant immunity and adherence to international humanitarian law more generally are principles closely associated with the international community. Secessionists sensitive to this dynamic will understand the negative reputational repercussions of targeting civilians, and how these could damage their long-term political goals. This was certainly the case for the Chechen separatist movement following its 2004 attack on a Russian school, after which international opinion turned squarely against the Chechens.<sup>23</sup>

In contrast to center-seeking rebels and secessionists, maintaining control over the

resources they plan to plunder and access to black markets is central to the political aims of rebel groups driven by trade in illicit goods. These groups are often quite shadowy, and so we know less about them compared to other types of rebels, but they are typically presumed to attract soldiers with little allegiance to a cause and few scruples about abusing civilians within reach. For example, significant violence against civilians in Latin America since 2000 has been perpetrated by Colombian rebel groups and the Mexican cartel Los Zetas, both of which engage heavily in illegal drug trading.<sup>24</sup> For resource-based rebels, the motive to target civilians is to ensure their complicity in maintaining the illegal trade of whatever good is being sold. The opportunity to target civilians lies with the typically undisciplined and mercenary nature of the foot soldiers of these groups;<sup>25</sup> with little to restrain them and an absence of a higher calling, these groups are more likely to engage in civilian targeting compared with center-seeking or secessionist rebels. Much of this same logic can be applied to groups dependent on external financial support: if they do not rely on the civilian population for aid and comfort, the civilian population tends to be that much more vulnerable to being targeted by rebels.

Finally, consider religionist rebel groups. Note that a group may be religious but not “religionist.” For example, the Moro Islamic Liberation Front has a strong Islamic identity, but its aim has been, at different times, secessionism or autonomy. It has never sought to overthrow the existing system of sovereign states. Religionist groups, by contrast, view the divine as the main source of sovereignty. They seek to remake the existing political order into a religious one, and thus hold few to no allegiances to the existing system of state sovereignty.

How religionist groups treat civilians will depend in part on their religious in-

terpretations. Of late, religionist groups have grabbed headlines in part because of their systematic abuse of civilian populations. The Lord's Resistance Army systematically targeted schools and hospitals in northern Uganda and abducted hundreds of children to serve as soldiers and sex slaves.<sup>26</sup> Boko Haram has routinely attacked civilian locations with no military objective or utility, such as markets, transport hubs, restaurants, and places of worship.<sup>27</sup> The Islamic State has committed widespread and systematic violations of international humanitarian law and gross human rights violations in areas under its control, including unlawful killings, abductions, rape, and possibly genocide.<sup>28</sup> These religionist groups exhibit a zealotry that is used to justify persecution of non-believers and abuse of civilian believers, with the end goal of creating a new type of religious sovereignty.

To summarize, among these four types of rebel groups we should expect to observe the highest levels of civilian targeting from resource-based and religionist groups, a medium level of civilian targeting from center-seeking groups, and the lowest level of civilian targeting from secessionist groups. Existing scholarship supports the claim that secessionists will be less likely to target civilians than non-secessionists. In one study, I found secessionists to be 30 percent less likely to target civilians than nonsecessionists; secessionists are also less likely to use terrorism in civil war compared with rebel groups with other types of war aims.<sup>29</sup>

For many of the same reasons that they are unlikely to target civilians, secessionists are also less likely to violate other laws of war, such as those protecting culturally significant property. Given that secessionists tend to operate in the territory they seek to govern, the cultural property most accessible to them is likely to be culturally valuable to the secessionists, and

thus they would be incentivized to protect rather than destroy it. What is more, given that the international community has very clearly expressed opposition to the destruction of cultural property through, for example, the 1954 Hague Convention on the Protection of Cultural Property, any secessionists that attack the cultural property of others would damage their reputation with the international community whose support they require to attain their political goals. In this vein, Tuareg separatists in Northern Mali have denounced attacks on Timbuktu's Sufi shrines perpetrated by nearby armed groups like Ansar Dine.<sup>30</sup> Similarly, secessionists appear to be half as likely as nonsecessionists to employ child soldiers, and also particularly likely to be responsive to international pressure to stop using child soldiers.<sup>31</sup>

Much of the behavior described above is based on military strategic incentives, rather than the law itself. Secessionists are unlikely to target civilians in part because they want to protect, and not damage, the people who would compose the population of their new state. Because they could ransom them, resource rebels might be especially unlikely to kill prisoners-of-war. Any such coordination with the behavior dictated by the laws of war could not necessarily be called compliance, because it is not the law that is inducing this behavior. What independent power, then, might the laws of war exert over rebel groups?

Codified laws of war could affect rebel group behavior in at least three ways. First, compliance with the laws of war is largely reciprocal. If governments – especially those that are signatories to the second 1977 Additional Protocol common to the 1949 Geneva Conventions – comply with their commitments regarding treatment of rebel groups, rebel groups might be likely to reciprocate. Colombia is a party to both treaties, and during peace negotiations taking

place between 1998 and 2002, the FARC publicly announced that “commanders and combatants shall study and put into practice rules of international humanitarian law applicable to the conditions of our revolutionary war.”<sup>32</sup> Although the FARC has not always lived up to this promise, they announced in 2012 that they would stop kidnapping and would release hostages – civilians, soldiers, and policemen – some of whom have been held since the 1990s.<sup>33</sup>

Unfortunately, however, these examples are few and far between. Governments are very likely to engage in civilian targeting in civil war and, once they do, rebels are three times more likely to target civilians than if they had not suffered civilian targeting themselves.<sup>34</sup> But reciprocity is not guaranteed. Sometimes rebels exercise and publicize restraint to contrast with government violations, which leads to a second type of possible relationship between rebel group behavior and the laws of war.<sup>35</sup> During the Eritrean war of independence, the Eritrean People’s Liberation Front was praised for providing relatively decent conditions to surrendering Ethiopian troops, despite the fact that rebel prisoners were generally mistreated and abused at the hands of the Ethiopian government.<sup>36</sup>

Similarly, among rebel groups, secessionists are especially likely to engage explicitly with the laws of war. As argued above, secessionists must persuade the international community to let them into the club of states, and the international community is clearly committed to the laws of war. Secessionists might therefore view positive engagement with the laws of war as one strategy to increase their odds of success.<sup>37</sup> Secessionists dominate among the small group of rebels that has deposited intentions to comply with the 1949 Geneva Conventions with the Swiss Government; likewise, they appear to be most likely to have participated in international humanitarian law-making conventions.

The laws of war were not designed with rebel groups in mind. Individual states have committed to adhere to the laws of war in their own conduct of civil war, but there have been few opportunities for rebel groups to bind themselves in turn. Nonetheless, rebel groups may be increasingly aware of the laws of war, and one type, secessionists, appear to be especially likely to comply with the laws of war.

For those invested in the project of international humanitarian law, this state of affairs suggests at least two parallel (but not mutually exclusive) ways forward. First, international humanitarian lawmakers could take on the challenging task of developing laws that explicitly apply to – and create incentives for compliance by – non-secessionist rebel groups. Here, one strategy could be to encourage a revision of recognition policies for new governments of existing states such that recognition is tied to compliance with the laws of war on the part of center-seeking rebels.

Second, efforts could be made to strengthen secessionists’ commitment to international humanitarian law. If secessionists are more compliant with the laws of war than nonsecessionists, and there is a desire to observe more compliance along these lines, then compliance ought to be publicized and rewarded, just as noncompliance is sanctioned and punished. For example, compliant rebels could be assigned combatant status, and thus receive the protections accorded to prisoners of war. Human rights groups may have been reluctant to praise compliance for fear of future noncompliance that could undermine their credibility. But this reticence may be worth rethinking, as both NGOs and the media could play a role in rewarding compliance.

Recent history, however, has not followed this path. Secessionists compliant with international humanitarian law have not been rewarded for good behavior, and secessionists violating the laws of war have often es-

caped punishment. What is more, even though secessionists are decreasingly likely to use major violence to press their political claims, recent scholarship has shown nonviolence to be comparatively *unsuccessful* for secessionists.<sup>38</sup> There is therefore a gap between how the international community tells secessionists to behave, and how the international community itself behaves with regard to secessionists.

Bridging this gap may well be the most productive track for those who seek to strengthen the reach of the laws of war in the context of civil war. Organizations

such as the ICRC may be beginning to question the viability of their state-based model in a world of civil wars by, for example, creating an office dedicated to working with armed nonstate actors. Future initiatives could be more focused on secessionists, taking advantage of the international community's preexisting leverage with this group of rebels. But any change along these lines will require navigating the tension between protecting state sovereignty on the one hand and compliance with the laws of war on the other.

#### ENDNOTES

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