

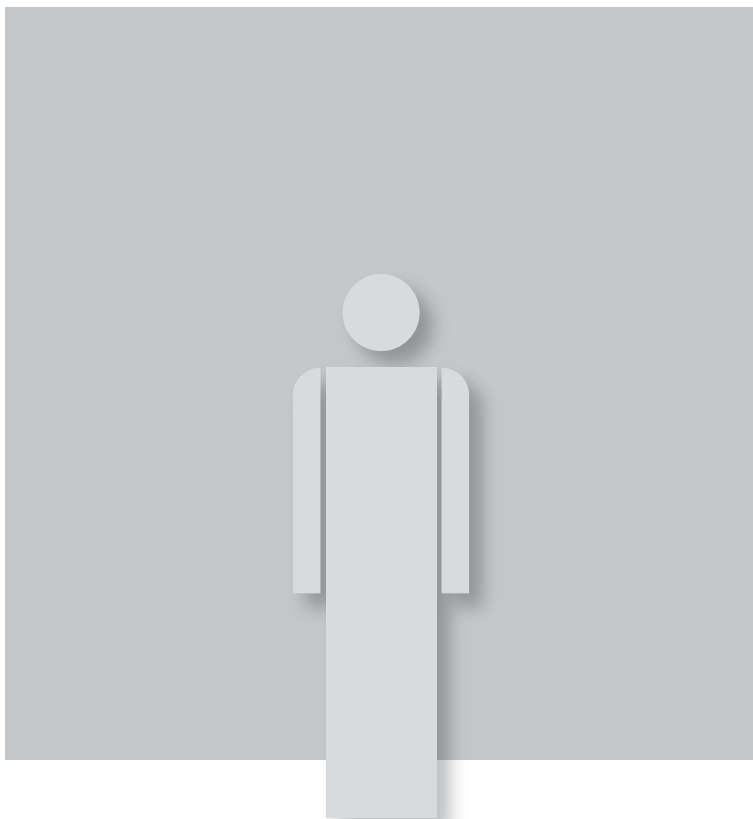
# Protection of Civilians in Armed Conflict



Schweizerische Eidgenossenschaft  
Confédération suisse  
Confederazione Svizzera  
Confederaziun svizra

**Strategy of the Federal  
Department of Foreign Affairs  
(FDFA) 2009–2012**

# 1. Why do we Need to Protect Civilians?



Millions of civilian victims of violence and war are subjected to forced displacement, hostage-taking, rape, torture, extrajudicial executions, and massacres. Classical warfare involving the armed forces of two or more States has become rare, making way instead for non-international armed conflicts in which the official armed forces of a State confront non-state armed groups. In most of these conflicts there is no defined front, nor are there uniform zones controlled by either of the adversaries. Such conflicts are often characterised by an imbalance between the State, which has significant military power at its disposal, and non-state armed groups, which have only very limited military capacities (asymmetric conflict).

These new parameters can often have a negative effect on the respect for the rules governing the conduct of hostilities and can frequently be the cause of numerous and serious violations of international humanitarian law, human rights law and refugee law. The fundamental principle of distinction between civilians and combatants and between civilian objects and military objectives is often challenged with severe impact for the civilian populations. Furthermore, the weaker of the adversar-

ies frequently resort to practices that are prohibited under international law, e.g. deliberate attacks against the civilian population, hostage-taking and the use of human shields. And in their turn, those who have military supremacy sometimes resort to methods and practices that do not spare civilian populations, and often affect them indiscriminately.

Millions of people have been displaced inside their own country as the result of armed conflict or widespread violence. Their need for protection has not tangibly improved in spite of the growing effort of the international community. The protection of refugees has been weakened because many States have introduced more restrictive asylum laws. Waves of mixed migration, the situation of the stateless and the search for durable solutions to the plight of refugees constitute major challenges for the international community, including Switzerland.

The rights and needs of children in armed conflicts are also inadequately taken into account and respected. For example, thousands of children are still being abducted, recruited or forced to participate in hostilities. The rights and specific needs for the

## 2. Why does the FDFA Need a Strategy on Civilian Protection?

protection of *women* and girls are not sufficiently recognised; women and girls are the main victims of acts of sexual violence committed in many wars and conflicts. And finally, the rights and needs of other population groups, including people with disabilities, older persons, members of minority groups, and those unable to leave their place of residence require not only vigilance but also resolute and appropriate action.

In view of the developments outlined above, the protection of civilians in armed conflict has become a matter of growing concern for the international community, which faces two main challenges:

- To make both States and non-state armed groups alike respect international law during periods of armed conflict;
- To provide an adequate response in the field to the rights and needs of the civilian population

### **Protection of civilians in armed conflict:**

*“The concept of protection encompasses all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of human rights, refugee and international humanitarian law. Human rights and humanitarian actors shall conduct these activities impartially and not on the basis of race, national or ethnic origin, language or gender”.* Protection is defined as follows: *“Any activity – consistent with the above-mentioned purpose – aimed at creating an environment conducive to respect for human beings, preventing and/or alleviating the immediate effects of a specific pattern of abuse, and restoring dignified conditions of life through reparation, restitution and rehabilitation”.*

*Definition adopted by the Inter-Agency Standing Committee (IASC) in 2001; this definition also underpins FDFA Strategy.*

The protection of civilians in armed conflict is firmly anchored in Swiss legislation and is a central component of Switzerland’s foreign policy:

- In accordance with the Swiss Federal Constitution, Switzerland has a duty to contribute to the relief of populations in need and to promote respect for human rights, democracy and peaceful coexistence.
- The promotion and defence of international law is one of the central pillars of Switzerland’s foreign policy.
- Its dual function as depositary and high contracting party to the Geneva Conventions and their Additional Protocols confers on Switzerland a unique legitimacy in its efforts to ensure respect for international humanitarian law.

- By adopting federal legislation and approving the relevant financial commitments frameworks, the Parliament has provided Switzerland with the necessary instruments and resources to implement policies in the following areas: conflict transformation; support to selected regions with fragile States, conflicts or major security risks; promotion of human rights; and international humanitarian aid. Among these policies the protection of civilians in armed conflict is a priority.

By developing a strategy, the FDFA is asserting its commitment to respond more effectively to the challenges associated with the protection of civilians in armed conflict, to enhance the effectiveness of its multilateral and bilateral efforts, to consolidate its international stance on the issue, and to bring its influence to bear more persuasively in the ongoing debate, especially within the United Nations. The FDFA is aware that to accomplish these goals a higher degree of co-ordination is required between the relevant domestic services as well as with the international system.

# 3. International Response



## **Strengthening the normative framework and its instruments of implementation**

A number of treaties and other instruments intended to improve the protection of civilians in armed conflict have been adopted or have entered into force in recent years. Constant efforts are required to ensure that these instruments are strengthened and disseminated. A variety of processes have been initiated in order to clarify the provisions of international law with regard to certain issues on which doubts and uncertainties still exist.

The creation of international tribunals and truth commissions constitutes a fundamental response in the fight against the impunity of perpetrators of the most serious crimes under international law (genocide, crimes against humanity, and war crimes). The international criminal tribunals paved the way for the creation of the International Criminal Court (ICC), the first permanent international criminal court to be created by a multilateral treaty. This development and the reinforcement of specific and targeted mechanisms for facilitating the implementation of international law are seen as a means to ensure the future protection

of civilians. The monitoring and reporting mechanism created by UN Security Council Resolution 1612 on children in armed conflict is an interesting and innovative example thereof.

## **Strengthening the international political response**

The main international political debate on the protection of civilians in armed conflict is held within the UN Security Council. To optimise civilian protection, it favours an integrated approach which acknowledges that the imperatives of peace, security, human rights and development are interdependent. The Security Council faces three major challenges in this regard: systematically reminding the parties to the conflict of their obligations under international humanitarian law, strengthening and systematising reporting on protection-related issues, and evaluating the impact of peace-keeping missions on civilian protection.

The UN General Assembly has adopted a number of texts relating to the protection of civilians, e.g. the outcome document of the 2005 World Summit, which refers to the Guiding Principles on Internal Displacement; resolutions concerning internally displaced persons, children in armed conflict and violence against women, especially as the victims of sexual abuse.

The UN Economic and Social Council (ECOSOC) approaches the protection issue principally from the humanitarian angle, and its resolutions have paved the way for measures that enhance the effectiveness of the humanitarian response.

As far as specialised bodies are concerned, the activities of the Executive Committee of the High Commissioner for Refugees (UNHCR) in relation to international protection have culminated in a variety of conclusions on the situation of internally displaced persons and refugees. The special sessions of the Human Rights Council have demonstrated that it is able to react swiftly to urgent situations involving civilians thanks to its capacity to convene on a quasi-permanent basis.

Certain regional intergovernmental organisations (African Union, Economic Community of West African States, European Union, Organization for Security and Co-operation in Europe, Council of Europe) have also shown a commitment to strengthening the legal framework for the protection of civilians, as well as to stepping up direct action in the field.

### **Enhancing the effectiveness of the operational response**

A variety of agencies and operational processes endeavour to improve the protection of civilians in armed conflict.

- One of the goals of the humanitarian reform of the United Nations system was to strengthen the humanitarian response in the sector protection, in particular by creating a mechanism that regulates the division of responsibilities between UN agencies and their partners – the so called cluster leads. Since the creation of the “cluster approach”, real progress has been made in terms of inter-agency coordination and the enhancement of civilian protection capabilities, competencies and skills.

- The International Committee of the Red Cross (ICRC), and to a certain extent the national Red Cross and Red Crescent societies, make a vital and specific contribution to the efforts of the international community to protect civilians.
- The main donor States have designated the protection of civilians a fundamental objective of their humanitarian action.

## 4. Switzerland's Response



Switzerland's humanitarian tradition gives it a particular legitimacy. Switzerland also has certain comparative advantages: neutrality, lack of a colonial past, non-membership of military alliances, and above all, expertise and experience.

To put these advantages to good use in relation to international law, in international political debate and in operational response, especially of a humanitarian nature, Switzerland is able to draw on a wealth of experience and various instruments.

Furthermore, Switzerland has made respect for international law, as well as its promotion and implementation permanent features of its foreign policy. It demands strict compliance with international humanitarian law and intervenes in certain conflicts at the bilateral and multilateral levels. It frequently calls on States to ratify the relevant treaties and to incorporate them into their national legislation. In the context of armed conflict, Switzerland also promotes and defends human rights, especially those of particularly vulnerable groups. And in the fight against impunity, Switzerland supports mechanisms for monitoring and implementing international law, as well as international criminal justice and transitional justice.

Switzerland also works to clarify and strengthen the applicable rules, notably in relation to the challenges arising from the evolution of contemporary armed conflict. To this end, it manages or participates in a number of processes, supports think tanks and organises conferences and expert meetings.

Switzerland actively participates in multilateral political debate on the protection of civilians in armed conflict by taking a stance in various forums, either on behalf of Switzerland or as a member of a group of States. In particular, it sets out to influence the debate in the Security Council on this issue. Furthermore, Switzerland actively supports the Human Rights Council. At the European level it works within the Organization for Security and Co-operation in Europe (OSCE) and the Council of Europe. As far as regional organisations outside Europe are concerned, Switzerland cooperates for instance with the Organization of American States and the African Union, as well as with the relevant regional sub-organisations.

## Promotion of “rapid and unimpeded” humanitarian access

In many armed conflicts humanitarian access to the civilian population is heavily restricted. An operational response alone cannot resolve this problem. A variety of political means and a solid argumentation based on legal arguments must also be used.

Switzerland is committed – politically, legally and operationally – to ensuring rapid and unimpeded humanitarian access to civilians affected by armed conflicts. In statements to the Human Rights Council, the UN Security Council and the UN General Assembly, Switzerland regularly stresses the vital importance of gaining rapid and unimpeded access. It also uses its bilateral contacts with relevant authorities and with non-state armed groups to remind them of the importance of humanitarian access to civilians. In certain situations, Switzerland, together with its humanitarian partners, also maintains contact with the competent authorities in order to facilitate access to humanitarian actors working in conflict zones.

Switzerland has recently launched an initiative which aims to provide national authorities, international organisations and humanitarian actors working in the field with a range of practical tools, such as a guide on the normative framework underpinning humanitarian access in situations of armed conflict.

At the bilateral level, Switzerland participates in peace processes in a variety of countries, within the framework of which it tackles issues relating to the humanitarian situation and the protection of civilians. Switzerland also carries out bilateral peace and human rights promotion programmes in a variety of conflict and post-conflict settings. In situations of armed conflict Switzerland maintains contact with the parties to the conflict and takes steps to remind them of the obligation to respect the rules of international humanitarian law. It also launches or supports initiatives which address the issue of civilian protection.

At the operational level, Switzerland’s Humanitarian aid constitutes one of its main focal areas of action, in particular through the emphasis it places on respect for humanitarian principles, its universality, as well as through its efforts to defend victims and the commitment of sizeable financial resources. In addition to its financial contributions to the main international organisations with a protection mandate and its aid activities, which often include a protection dimension, Switzerland deploys experts from the Swiss Humanitarian Aid Unit or the Swiss Expert Pool for Civilian Peacebuilding. Through its actions and its

## Protection and promotion of the rights of displaced persons

In over 50 countries beset by armed conflict and violence today, several million of people live in exile within their own countries (internally displaced persons or IDPs). Together with women, children, and refugees, IDPs are a priority population group for Swiss assistance and protection. Switzerland honours this commitment at both the bilateral and multilateral levels, focusing on the following priorities:

- Support partners engaged in IDPs protection;
- Dissemination and implementation of international law and other normative instruments (soft law), particularly the Guiding Principles on Internal Displacement;
- Strengthening national capabilities to protect IDPs;
- Rights to housing, land and property (HLP rights);
- Relationship between forced displacement, dealing with the past and transitional justice;
- Inclusion of IDPs as well as their specific rights and needs in peacebuilding initiatives.

Switzerland also facilitates dialogue between all actors concerned – national authorities, representatives of the displaced, civil society, donor countries – with the aim of identifying concrete measures to protect IDPs, implementing the rights of these people and finding durable solutions.



# 5. Strategic Choices



By developing a specific strategy, the FDFA has defined a *common vision*, namely that Switzerland is to promote greater respect for the dignity and rights of civilians, and to establish itself as one of the most committed States in this regard.

It has also adopted a *common narrative* based on international law and on a shared understanding of the protection of civilians. This narrative is set out in a reference document which was developed during a consultation process with all relevant services.

Furthermore, the FDFA has identified *priority areas of action*, defined in accordance with the needs of civilian populations in terms of support and protection, the severity and scale of violations, the experience acquired by the FDFA (e.g. tradition, know-how, and comparative advantages), the general priorities of Swiss foreign policy and the global challenges relating to the protection of civilians.

The FDFA has thus defined *three strategic objectives* with corresponding specific outcomes for the next four years:

- *The normative framework ensuring the protection of civilians in armed conflict is adequate, known and respected by all parties involved*
  - The normative framework ensuring the protection of civilians in armed conflict is clarified, strengthened and disseminated.
  - The involved parties, in particular non-state actors, comply with the normative framework and respect their obligations.
  - The monitoring and implementation mechanisms of the normative framework are strengthened and used.

- *The operational response with regard to the protection of civilians in armed conflict is effective*
    - The humanitarian principles (humanity, neutrality, independence, impartiality) are respected by all relevant operational actors.
    - Humanitarian access as well as the safety and security of all relevant operational actors are guaranteed.
    - The response by operational actors in favour of civilians in armed conflict is improved and takes into account the rights and specific needs of the most vulnerable groups, in particular women and children, displaced persons and refugees.
  
  - *The FDFA possesses the necessary competencies and skills to protect civilians in armed conflict*
    - Protection is integrated into all relevant areas of FDFA action.
    - The FDFA has the necessary tools to optimise the effectiveness of its actions to protect civilians.
    - The FDFA efficiently manages its knowledge in the area of protection
- To promote internal coherence and the use of synergies in its actions, the FDFA develops the necessary instruments for the implementation, monitoring and evaluation of this strategy. A *strategic framework for the 2009–2012 period* lists the anticipated outcomes, as well as the activities and success indicators. A *steering group* is created to ensure the direction, co-ordination and monitoring of the implementation of the *FDFA Strategy on the Protection of Civilians in Armed Conflict*.

**FDFA Strategy on the Protection of Civilians in Armed Conflict (2009–2012): Vision, Principles, Objectives.**

**Vision**

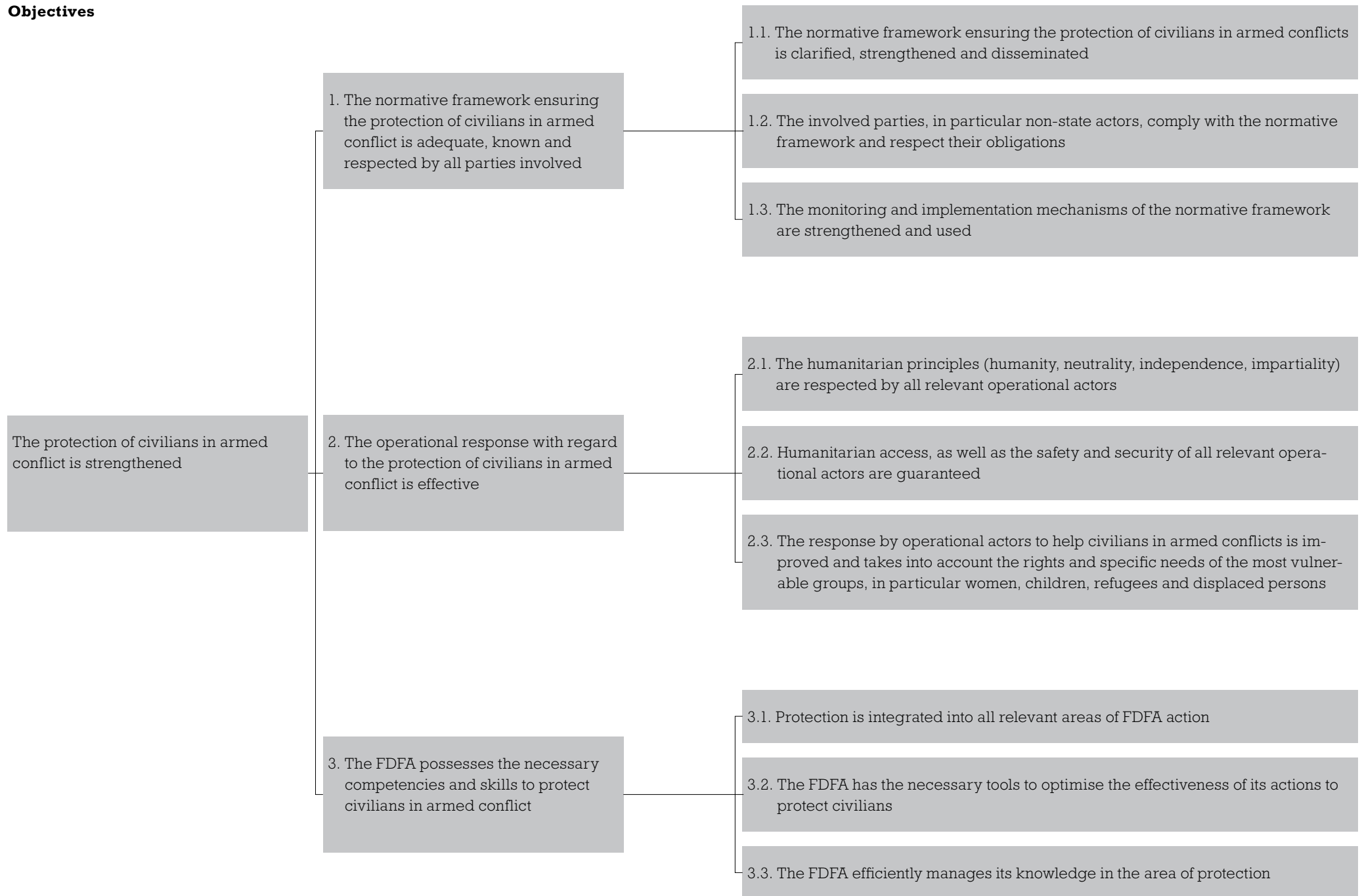
The FDFA reinforces its commitment to the protection of civilians in armed conflict through coherent, targeted, effective and efficient action.

Switzerland can therefore help promote greater respect for the dignity and rights of civilians. It is one of the most committed countries in this field.

**Main principles**

- 1 – Application of international law and other normative instruments (soft law)
- 2 – Commitment to all civilians, taking account of their specific rights and needs
- 3 – Humanitarian involvement in all types and all stages of armed conflict
- 4 – Engagement at the multilateral and bilateral levels, and in the political, judicial and operational spheres
- 5 – Definition of thematic priorities
- 6 – Search for allies and partners
- 7 – Coherent and co-ordinated commitment

## Objectives



**The main treaties and instruments of international law dealing with the protection of civilians in armed conflict (normative framework):**

**Treaties**

- Geneva Conventions (1949) and their Additional Protocols (1977 and 2005).
- Convention Relating to the Status of Refugees (1951).
- Convention on the Prevention and Punishment of the Crime of Genocide (1948).
- Rome Statute of the International Criminal Court (1998).
- International Covenant on Economic, Social and Cultural Rights (1966).
- International Covenant on Civil and Political Rights (1966).
- International Convention for the Protection of All Persons against Forced Disappearance (2006).
- Optional Protocol to the Convention on the Rights of the Child, with regard to the Involvement of Children in Military Conflicts (2000).
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984).
- Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons (1980) and its Annex Protocols.
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (1997).
- Convention on Cluster Munitions (2008).
- Great Lakes Protocol on the Protection and Assistance to Internally Displaced Persons (2006).

- African Union Convention on the Protection of and Assistance to Internally Displaced Persons (2009).

**Other instruments**

- Guiding Principles on Internal Displacement (1998).
- Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law (2005; also known as the “Joinet Principles”).
- Principles on Housing and Property Restitution for Refugees and Displaced Persons (2005; also known as the “Pinheiro Principles”).
- UN Security Council resolutions, particularly: “Protection of civilians in armed conflict”: S/RES/1265 (1999); S/RES/1296 (2000); S/RES/1674 (2006); S/RES/1738 (2006). “Children and armed conflict”: S/RES/1612 (2005). “Women and Peace and Security”: S/RES/1325 (2000); S/RES/1820 (2008).
- UN General Assembly resolutions, particularly: A/RES/46/182; A/RES/58/114; A/RES/59/141; A/RES/63/138; A/RES/63/153.
- Resolutions of the ECOSOC Humanitarian Affairs Segment (e.g. E/2002/32; E/2004/50; E/2006/5).

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