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WAR IN CITIES: EMERGING CHALLENGES FOR INTERNATIONAL HUMANITARIAN LAW

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Abstract

This article reviews the conduct of hostilities in urban areas and the challenges it poses to international humanitarian law. Humanitarian law insulates civilians and civilian objects from the dangers of warfare, except for collateral damage. Armed conflict is regulated by fundamental principles such as distinction, proportionality and precaution, which are difficult to respect when warfare is urbanized. The consequence is the breach of protection for civilians and civilian objects: the loss of millions of civilian lives, destruction of homes, hospitals, schools, and other critical civilian infrastructure. The article argues that the conduct of warfare in urban settings weaken the protections available to civilians.

Introduction

Although no rule in the laws of war proscribes the conduct of war in the urban environment, the relocation of the theatre of war from isolated battlefields to cities; densely populated settlements with critical infrastructure, raises new, complex challenges for the law of armed conflict. The situation is exacerbated by the presence of military enterprise near civilian neighbourhoods. The presence of administrative headquarters, telecommunications facilities, health infrastructure, objects of immense cultural value, and concentrations of civilians, provide strategic soft targets for the enemy during war. Antouly has said that cities operate ‘as a source of both threat and attraction’, serving as obstacles to the belligerents in terms of strategic advance and the embodiment of the essence of the adversary.¹ In consequence, invaders loot, destroy and raze cities in order to eradicate all traces of the adversary. Historically, cities have always been affected by warfare, although and perhaps, not on the scale of contemporary times. As ramparts succumbed to the invading belligerents, the civilian inhabitants were slaughtered or enslaved. There are also accounts suggesting that some ancient wars were sometimes waged against cities not for their destruction, but for their conquest.²

¹ Julien Antouly, Urban Warfare: A Challenge for Humanitarian Law and Action. *Humanitarian Alternatives*. < <https://alternatives-humanitaires.org/en/2019/03/25/urban-warfare-challenge-humanitarian-lawaction/#:~:text=Increasingly%2C%20war%20is%20being%20fought,population%20can%20be%20held%20hos> tag e > accessed on 29 April 2022.

² Daniel Palmieri, War and the City: A History. *Humanitarian Law and Policy*. 29 April 2021. < <https://blogs.icrc.org/law-and-policy/2021/04/29/war-city-history/> > accessed 30 April 2022.

Whatever be the case, the development of International Humanitarian Law (IHL) over the ages has been stimulated in part by the desire to protect non-combatants from the

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dangers of military operations. The Fourth Geneva Convention, which was adopted during the post-war campaigns for the universal affirmation of human rights, was negotiated to provide extensive protections to civilians.³ The treaty was adopted following the massacre or subjection of civilians to extreme cruelty during the wars.⁴ However, records of events in contemporary conflicts show a reenactment of this scene. In Ukraine in 2022, Russian artillery and rockets struck cities including the capital Kyiv, as well as smaller regional centres such as Kharkiv, Mariupol and Chernihiv.⁵ In its aftermath, estimates of the cost of reconstruction due to damages to buildings, roads, bridges, railways, ports, health-care facilities, kindergartens, destruction of livestock and crops, destruction of livelihoods, and other infrastructure, lie in the region of billions of dolla⁶

Furthermore, millions of civilians have been displaced in the conflict. In the same way, Aleppo in Syria was devastated by fighting between government and armed rebels. The ancient city was reduced to rubble after explosions rocked whole neighbourhoods, market places, hospitals, and schools.⁷ About 50 million people suffer the lasting consequences of urban warfare in recent times⁸. These developments across the globe have necessitated a reconsideration of the applicability and observance of IHL during contemporary armed conflicts.

This article is divided into 5 sections. Section 1 provides the introduction to the article. In section 2, I discuss the complexities involved in the application of the basic principles of IHL like distinction, proportionality and precaution, to the conduct on hostilities in an urban environment. Section 3 discusses the rules on methods and means of warfare and their relevance to war in cities. In section 4, I

³ Geneva Convention Relative to The Protection of Civilian Persons in Time of War of 12 August 1949

⁴ Jelena Pejic, 'The Other Side of Civilian Protection: The Fourth Geneva Convention' *Articles of War*, Lieber Institute. < <https://lieber.westpoint.edu/other-side-civilian-protection-fourth-geneva-convention/> > accessed 30 April 2022.

⁵ FRANCE 24, 'Urban warfare 'nightmare' looms if Russia enters Ukraine cities' 9 March 2022. < <https://www.france24.com/en/live-news/20220309-urban-warfare-nightmare-looms-if-russia-enters-ukrainecities> > accessed 30 April 2022.

⁶ The Economist, "Russia's War in Ukraine Has caused at Least \$68bn in Physical Damage." < <https://www.economist.com/graphic-detail/2022/04/05/russias-war-in-ukraine-has-caused-at-least-68bn-in-physical-damage> > accessed 30 April 2022.

⁷ Adrian Mourby 'Where are the World's Most War-Damaged Cities?' 17 December 2015.

< <https://www.theguardian.com/cities/2015/dec/17/where-world-most-war-damaged-city> > accessed 30 April 2022.

⁸ Erini Giorgou, 'Explosive Weapons with Wide Area Effects: A Deadly Choice in Populated Areas' *International Committee of the Red Cross*, January 2022.

discuss the rules on sieges or the encirclement of cities and how this implicates the protection of civilians. Section 5 concludes the article.

Difficulty in Applying the Rules on Distinction, Proportionality and Precaution

As a result of the intermingling of combatants with civilians during the conduct of hostilities in urban environments, it is difficult to establish respect for the principle

of distinction. The overarching aim of belligerents is to weaken the military competence of the adversary, hence, civilians may not be attacked.⁹ This principle, which applies to both international (IAC) and non-international armed conflicts (NIAC), has evolved to be a norm customary law.¹⁰ Several provisions in the Additional Protocols guarantee the principle of distinction: Articles 48, 51; 52 of Additional Protocol I of 1977, and 13 of Additional Protocol II.¹¹ According to 48 of Additional Protocol I, ‘in order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.’

The principle prohibits attacks against civilians and civilian objects, as well as attacks on military and objectives and civilian objects. However, warfare in cities renders it difficult for the observance of IHL. It has been noted that it is in cities that military objectives, the civilian population and infrastructure are most closely entwined.¹² Thus, fighting could be so close that a combatant ‘could be in the kitchen of one apartment and be exchanging fire with an enemy in the sitting room whilst there were civilians on the floor above.’¹³ In urban settings, civilians, civilian dwellings, streets, markets impede the targeting of military objects.

⁹ Declaration Renouncing the Use, in Time of War, of Explosive Projectiles under 400 Grammes Weight, November 29/December 11 1868.

¹⁰ See Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 8 July 1996, ICJ Rep. 1996, para. 78, p. 226. For the ICRC position, see IHL Database; Customary IHL. Rule 1. The Principle of Distinction between Civilians and Combatants <https://ihl-databases.icrc.org/customary-ihl/eng/docindex/v1_rul_rule1#refFn_D70F41D7_00003> accessed 10 April 2022

¹¹ Protocol Additional to The Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), of 8 June 1977 and Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to The Protection of Victims of Non-International Armed Conflicts (Protocol II), of 8 June 1977

¹² Vincent Bernard, (2016) ‘War in Cities: The Spectre of Total War’ Vol. 98 (1). *International Review of the Red Cross*, pp1-11, at p. 6.

¹³ ICRC press release upon publication of the ICRC report “*I saw...*”, 14 June 2017.

<https://www.icrc.org/en/document/new-research-shows-urban-warfare-eight-times-more-deadly-civilians-syria-iraq>

¹⁴ See also Article 2 of the 1907 Hague Convention (IX) under which the bombardment of military works, military or naval establishments, depots of arms or war *matériel*, workshops or plant which could be utilized for the needs of the hostile fleet or army, and the ships of war in the harbor, is lawful. By Article 24 (2) of the Hague Rules of Air

IHL in Article 52 (2) of AP I requires the limitation of attacks to only military objectives. These are objects by which nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, offers a definite military advantage.¹⁴ The siting of military objectives and civilian objects side-by-side presents challenges to the conduct of hostilities in urban areas without civilian casualties. John Hopkins has expressed the view that ‘the concealment of military objectives within urban areas makes it difficult

– if not impossible – to distinguish, as required by treaty-based and customary IHL,

between the civilian population and combatants and between civilian objects and military objectives’.¹⁵ Except for situations of direct participation in hostilities, civilians do not lose their protection simply because of they are found near military objects.¹⁶ In some cases, it becomes even more difficult to distinguish between military objectives and civilian objects, especially when objects are prone to dual use, for example, bridges, electricity and communication installations.

Jurisprudence from the International Criminal Tribunal for the Former Yugoslavia has affirmed the customary law status of the precautionary principle.¹⁴ In the conduct of ‘military operations’ parties to a conflict are required to exercise care and take all due precautions to ensure that civilians are protected against the effects of hostilities.¹⁵ Considering the grave danger urban warfare poses to civilians, this responsibility imposes a higher standard in direct proportion to the harm to which the civilian population is exposed. Thus, combatants should take constant care to spare the civilian population, civilians and civilian objects.¹⁶ When planning military attacks, commanders must do everything feasible to verify that the

Warfare 1923, ‘factories constituting important and well-known centres engaged in the manufacture of arms, ammunition or distinctively military supplies’ are military objectives.

¹⁴ The Prosecutor v. Kupreskic et al., Case No. IT-95-16-T, Judgment (ICTY Trial Chamber), 14 January 2000, para. 524.

¹⁵ Under Article 57 (2) of Additional Protocol I, the precautionary measures include: (a) (i) doing everything feasible to verify that the objectives to be attacked are neither civilians nor civilian objects and are not subject to special protection but are military objectives; (ii) taking all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects; (iii) refraining from deciding to launch any attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated; (b) (b) cancelling or suspending an attack if it becomes apparent that the objective is not a military one or is subject to special protection or that the attack may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated; (c) *giving an* effective advance warning of attacks which may affect the civilian population, unless circumstances do not permit. By Article 57 (3), when a choice is possible between several military objectives for obtaining a similar military advantage, the objective to be selected shall be that, which upon an attack, may be expected to cause the least danger to civilian lives and to civilian objects.

¹⁶ Article 57 (1) of Additional Protocol I of 1977.

objectives to be attacked are neither civilians, civilian objects, nor subject to special protection but are military objectives.¹⁷

In the words of the International Committee of the Red Cross, ‘military operations’ refer to all movements, manoeuvres and other activities carried out by the armed forces with a view to combat or related to hostilities. These include, for example, ground operations in urban areas, the establishment of military installations including bases, defensive preparations and search operations.¹⁸ Parties defending against hostilities in urban environments have reciprocal responsibilities too. Article 58 of Additional Protocol I imposes obligations known as ‘precautions against the effects of attacks,’ upon such Parties. They are obligated to (a) endeavour to remove the civilian population, individual civilians and civilian objects under their control from

¹⁵ Michael John Hopkins (2010) ‘Regulating the conduct of urban warfare: lessons from contemporary asymmetric armed conflicts’ Vol. 92 (878), *International Review of the Red Cross*, p. 477, range 470-493.

¹⁶ Article 50 (3) of Additional Protocol I, 1977.

the vicinity of military objectives; (b) avoid locating military objectives within or near densely populated areas; and (c) take the other necessary precautions to protect the civilian population, individual civilians and civilian objects under their control against the dangers resulting from military operations.

Sari has pointed out that: ‘authorities defending urban areas often find themselves in a better position to protect the civilian population than the attacking party. They may have at their disposal more comprehensive information about the location of civilians. They should have a better understanding of civilian needs and infrastructure vulnerabilities. They are also likely to be better placed to provide humanitarian relief.’¹⁹ The treaty provision on precautionary measures is applicable to only IACs and binds only Parties to Additional Protocol I. Notwithstanding these provisions, precautionary measures are overstretched so far by war in cities that they have failed to provide sufficient safeguards to civilians against the effects of armed conflict.²⁰

IHL uses the proportionality principle to control the damages caused to civilians and civilian objects by military operations. Proportionality does not prevent combatants

¹⁷ Article 57 (2) (a) (i) of Additional Protocol I of 1977.

¹⁸ International Committee of the Red Cross, ‘Reducing Civilian Harm in Urban Warfare: A Commander’s Handbook’ Geneva, Switzerland, October 2021, p.11.

¹⁹ Aurel Sari, (2019) ‘Urban Warfare: The Obligations of Defenders’ *LAWFARE* January 24 <<https://www.lawfareblog.com/urban-warfare-obligations-defenders>> accessed 3 May 2022.

²⁰ Michael John-Hopkins (2010), “Regulating the Conduct of Urban Warfare: Lessons from Contemporary Asymmetric Armed Conflicts”, *International Review of the Red Cross*, Vol. 92, No. 878, p. 470.

from killing civilians as long as military operations are aimed at enemy combatants. The rule attempts to strike a delicate balance between the two competing goals. Proportionality has been described as the ‘most apparent manifestation of the balance between military necessity and considerations of humanity that underpins international humanitarian law (IHL).’²¹ IHL condemns and describes as indiscriminate ‘an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.’²⁵ Gillard has further opined that compliance with proportionality is expected in situations where attacks result from deliberate targeting where the incidental harm may have been projected, or in other cases where the decision on targeting is made on the spur of the moment as the battle rages on.²²

Means and Methods of Warfare in Violation of IHL

In order to spare civilians and civilian assets from the effects of war, IHL imposes limits on the choice of means and methods of warfare available to belligerents.²⁷ The limitations are also established by Article 35 of Additional Protocol I, which provides as follows:

1. In any armed conflict, the right of the Parties to the conflict to Choose methods or means of warfare is not unlimited.

2. It is prohibited to employ weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering.
3. It is prohibited to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment.

A distinction is often drawn between the ‘means’ (weapons) of warfare and methods (strategies) of warfare. Methods of warfare are the tactics or strategies used in the conduct of hostilities while means of warfare refer to the weapons or weapon systems deployed by parties to an armed conflict.²³ Methods of warfare like pillage

²¹ Emanuela-Chiara Gillard (2018), ‘Proportionality in the Conduct of Hostilities: The Incidental Harm Side of the Assessment’ Chatham House, The Royal Institute of International Affairs, p.3. ²⁵ Article 51 (5) (b) of Additional Protocol I of 1977.

²² Emanuela-Chiara Gillard (2018), ‘Proportionality in the Conduct of Hostilities: The Incidental Harm Side of the Assessment’ Chatham House, The Royal Institute of International Affairs, p.3. ²⁷ Article 22 of Hague Convention IV of 1907.

²³ ‘The Practical Guide to Humanitarian Law’. < <https://www.guide-humanitarian-law-org/content//article/3/methods-and-means-of-warfare/> > accessed 2 February 2022.

of property and cultural heritage;²⁴ attacks against works and installations containing dangerous forces;²⁵ perfidy;²⁶ famine or starvation of civilians;²⁷ and are prohibited by IHL. While it is legitimate to use weapons such as explosives against combatants and military targets, the use of weapons with indiscriminate, wide blast zones against military facilities situated near critical civilian infrastructure, results in civilian deaths, unnecessary suffering, severe damage to civilian services such as water, sanitation, electricity, and healthcare, and communications.²⁸ The deployment of bombs, mines, improvised explosive devices (IEDs), and unexploded ordnance by combatants means that people's dwelling places and shelters become unsafe. Civilians who have escaped the direct effects of the explosions still find themselves exposed to their collateral effects. Furthermore, the use of such weapons in urban areas creates major challenges for the observance of the basic principles of humanitarian law like distinction, prohibition on indiscriminate and disproportionate attacks as well as the obligation to take precautions in attack.²⁹

Urban warfare capitalizes on civilian vulnerability in order to weaken the adversary. There have been reports of the use of human shields in Western Mosul and Marawi.³⁰ The widespread denial of access to food supplies has also been used against civilians in Marawi.³¹ The use of famine or starvation; destruction of farmlands and food supplies, as a method of armed conflict is prohibited under IHL rules.³² Civilians are

compelled to remain in conflict zones in order to serve as human shields. Hostage taking³⁸ and the use of civilians as shield are prohibited by IHL.³³

Places or objects of historical, cultural value have been deliberately targeted in recent armed conflicts. The situation was vividly described by Bonaviri and

²⁴ Article 33 of GC IV, Article 4 of AP II, and Article 4 of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, 1954.

²⁵ Articles 52 and 56 of AP I of 1977, and Article 15 of AP II of 1977.

²⁶ Articles 37-39 AP I of 1977.

²⁷ Article 54 AP I, and Article 14 of AP II of 1977.

²⁸ Eirini Giorgou (2022), 'Explosive Weapons with Wide Area Effects: A Deadly Choice in Populated Areas' *International Committee of the Red Cross*. Reports of Note, January.

²⁹ Vincent Bernard (2016), 'War in Cities: The Spectre of Total War', *International Review of the Red Cross*, 98 (1), pp1-11.

³⁰ Priya Pillai (2017), 'Challenges of Urban Warfare'. 8 July. <<https://www.ilg2/2017/07/08/challenges-of-urban-warfare/>> 8 May 2022.

³¹ Priya Pillai, (2017), *Ibid*.

³² Article 54 Additional Protocol I, and Article 14 of Additional Protocol II, 1977.

³³ Article 49 Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (GC IV), Article 51 (7) GC IV, and Article 17 AP II. See also Tobias Vestner (2019) Issue 8. 'Addressing the Use of Human Shields,' *Strategic Security Analysis*. Geneva Centre for Security Policy, p. 3.

Debuch: 'In urban warfare, cultural sites are often destroyed as specific military targets, especially by armed non-state actors (i.e., Palmyra, or transformed into battle fields (i.e., Aleppo, and the Damascus Citadels). Moreover, urban cultural heritage is increasingly suffering from the reverberating effect of armed attacks, as shown in

Sana'a, Mosul, Raqqa, Gaza, Sabratha, Lubumbashi and Donetsk.'³⁴ Several treaties, including the Geneva Conventions;³⁵ and the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict.³⁶ Pillage is also proscribed under the Hague Rules, while it constitutes a war crime under the Statute of the International Criminal Court.³⁷ The ICRC has said that 'State practice establishes the prohibition against pillage as a norm of customary international law applicable in both international and non-international armed conflicts'.³⁸

Siege Warfare

A siege conjures images of the military encirclement, isolation and bombardment of an area containing enemy combatants and civilians, as well as the restriction of the movement of individuals and essential supplies into and out of that area, in order to force it to capitulate. Sieges are becoming a regular feature of urban armed conflicts beginning from World War II, leading to unimaginable misery for the civilian population. Sieges have not been defined in international law, but they involve the isolation of the enemy forces with a view to cut them off from supplies. At one end of the spectrum is the invading force which wants to overcome the city, while at the other end lies the defence forces and civilians trapped in the city, and who have to resist and endure the suffering for as long they can. 'Sieges' and the 'encirclement' of an area are mentioned in several provisions of IHL.³⁹

³⁸ Common Article 3 of the Geneva Conventions of 1949; Articles 34 & 35 of Geneva Convention Relative to The Protection of Civilian Persons in Time of War of 12 August 1949; and Article 75 of Additional Protocol I, 1977.

³⁴ Gianluigi Mastandrea Bonaviri and Hani El Debuch (2021), 'Urban Warfare and Cultural Heritage: Current Challenges and Future Perspectives', p. 12 < <https://www.glsars.library.mcgill.ca/article/view/143> > accessed 8 May 2022.

³⁵ Article 33 of GC IV 1949 and Article 4 of AP II, 1977.

³⁶ Article 4, Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, 14 May 1954.

³⁷ Articles 8 (2) (b) (xvi) and 8 (2) (e) (v) of the Rome Statute of the International Criminal Court 1998.

³⁸ International Committee of the Red Cross. IHL Database Customary International Law, Rule 52. Pillage. < https://ihl-databases.icrc.org/customary-ihl/eng/docindex/v1_rul_rule52#Fn_EF13E406_00001. > accessed 5 April 2022.

³⁹ Article 27 Regulations concerning the Laws and Customs of War on Land annexed to 1907 Convention (IV) respecting the Laws and Customs of War on Land (1907 Hague Regulations); Article 15, 1949 Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field 1949 (GC I); Article 18 Geneva Convention For the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (GC II); and Article 17 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War (GC IV).

Riordan has pointed out that it is difficult to successfully conduct a siege without breaching the rules of IHL.⁴⁰ It is impossible to isolate combatants and military objects from the civilian population and direct attack against the former, or to force the defending forces to surrender without cutting off food supplies to the besieged city, without starving civilians. In a publication by Harvard Law School, a siege was variously described as a military tactic, a method of warfare, or an operational strategy. Besieging forces, whether operating on their own or with or through partners, seek to compel the surrender, reduce adversary resistance, or lay the ground for an assault by encircling or otherwise isolating an area such as a town...and cutting off essential supplies to it.⁴¹

Chatham House has succinctly captured the implications of siege warfare on IHL: ‘Three sets of rules of IHL are of particular relevance to sieges. The first comprises the rules regulating the conduct of hostilities; these are primarily of relevance to the bombardment dimension of sieges. The second set is the prohibition of starvation of civilians as a method of warfare, as well as the rules regulating humanitarian relief operations; these are of relevance to the encirclement dimension. The parties to the conflict bear a responsibility to ensure the survival of the civilian population, even if incidental harm is inevitable. The third comprises the rules on evacuations, which can provide a way of alleviating the adverse effects of sieges on civilians.’⁴²

Siege warfare imposes obligations on the parties to the conflict to distinguish between military objectives and civilian objects, and to direct attacks against only the former. Even where a siege appears justified on the ground of military necessity, there are still obligations to provide corridors for humanitarian services or assistance to the civilian population; and refrain from using starvation of the civilian population as a method of conflict. Article 15 of the First Convention (GC I) provides that: ‘at all times, and particularly after an engagement, Parties to the conflict shall, without delay, take all possible measures to search for and collect the wounded and sick, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead and prevent their being despoiled. Whenever circumstances permit, an armistice or a suspension of fire shall be arranged, or local arrangements made, to permit the removal, exchange and transport of the wounded left on the battlefield. Likewise, local arrangements may

⁴⁰ Riordan, K. (2010), ‘Shelling, Sniping and Starvation: the Law of Armed Conflict and the Lessons of the Siege of Sarajevo’, *Victoria University of Wellington Law Review*, 41(2): p. 149, at p. 150

⁴¹ Harvard Law School (2022), ‘International Law Applicable to Urban Siege Warfare: Exploring Contemporary and Future challenges and Opportunities’, < <https://www.pilac.law.harvard.edu/events/siegeworkshop> > accessed on 8 May 2022.

⁴² Emanuela-Chiara Gillard (2019), ‘Sieges, the Law and Protecting Civilians’ Chatham House: The Royal Institute of International Affairs < https://www.chathamhouse.org/sites/default/files/publications/research/2019-0627-Sieges-Protecting-Civilians_0.pdf > accessed 8 May 2022.

be concluded between Parties to the conflict for the removal or exchange of wounded and sick from a besieged or encircled area, and for the passage of medical and religious personnel and equipment on their way to that area.’

The protection of civilians from the dangers of military operations is a theme which is evident in all IHL conventions. Article 3 Common to the Geneva Conventions imposes a responsibility upon the belligerents to treat humanely, and without any adverse distinction, persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause. The provision also mandates parties to collect and care for the wounded, sick and shipwrecked. Relief operations for such individuals may be conducted with the assistance of an impartial humanitarian institution, like the International Committee of the Red Cross. Customary IHL rules states that the parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control.⁴³

Conclusion

The changing nature of armed conflict raises new concerns for IHL. The protection of civilians remains a central issue in urban warfare. The conduct of war in cities with high civilian populations and concentrations of infrastructure indispensable for their survival, results to unbearable suffering for individuals not participating in hostilities. As noted in this paper, it becomes increasingly difficult to apply the principles of distinction, precaution, and proportionality to urban armed conflict. Although these principles have evolved to ensure that warfare is conducted humanely, the urban setting heightens disrespect for the rights of civilians. The situation is exacerbated by the use of siege warfare. Nevertheless, several measures in IHL may be used to mitigate the exposure of civilians to harm. It is imperative for parties to maintain respect for IHL. As previously noted, IHL imposes an obligation on parties to a conflict to undertake relief measures for civilians trapped in cities.

⁴³ International Committee of the Red Cross IHL Data Base Customary International Law, ‘Rule 55. Access for Humanitarian Relief to Civilians in Need’. < [10](https://ihl-databases.icrc.org/customaryihl/eng/docs/v1_rul_rule55#:~:text=receive%20humanitarian%20relief-.Rule%2055.,to%20their%20right%20of%20control.&text=Volume%20II%2C%20Chapter%2017%2C%20Section%20C.> accessed 9 May 2022.</p></div><div data-bbox=)

