This collection of contributions made by renowned international experts and practitioners addresses the new challenges concerning the application of IHL in urban military operations.

The 43rd Round Table on current issues of international humanitarian law – celebrating the 50th Anniversary of the Institute – focused on some of the fundamental issues regarding urban warfare, by examining the lessons learned from recent operations, the humanitarian consequences of urban conflict, the choice of means and methods in the urban context and if a change of approach from the different actors, concerning the protection of civilians, is required in the urban environment.

The Round Table provided a forum to discuss related relevant topics including the challenges faced by women with disabilities living in a city of war, and the vulnerability of modern cities infrastructure affected by war.

The International Institute of Humanitarian Law is an independent, non-profit humanitarian organization founded in 1970. Its headquarters are situated in Villa Ormond, Sanremo (Italy). Its main objective is the promotion and dissemination of international humanitarian law, human rights, refugee law and migration law. Thanks to its longstanding experience and its internationally acknowledged academic standards, the International Institute of Humanitarian Law is considered to be a centre of excellence and has developed close co-operation with the most important international organizations.
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International Institute of Humanitarian Law
Institut International de Droit Humanitaire
Istituto Internazionale di Diritto Umanitario

New Dimensions and Challenges of Urban Warfare

43rd Round Table on Current Issues of International Humanitarian Law
(Online, 9th September - 7th October 2020)

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FrancoAngeli
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The International Institute of Humanitarian Law would like to thank Ms Beatrice Barone, Project Assistant of the Institute, who contributed to the realization of the work, and Ms Shirley Morren, who was involved in the painstaking task of proofreading and editing.

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Stampa: Geca Industrie Grafiche, Via Monferrato 54, 20098 San Giuliano Milanese.
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Preface

The evolution of urban military operations has changed significantly from the past to now. Recent conflicts in Syria, Iraq, Yemen, and eastern Ukraine, for instance, have shown how sieges, aerial and artillery bombardments and heavy street fighting portray modern urban operations.

Military operations in urban environments are the most difficult form of warfare. They highlight major challenges for military forces such as the protection of civilians – with special attention to densely populated areas – the choice of methods and means of warfare and the humanitarian consequences.

The 43rd edition of the annual Round Table on current issues of international humanitarian law, which marked the 50th anniversary of the Institute, was held online in the form of a webinar series because of the Covid-19 restrictions, from 9th September to 7th October 2020. It reached more than 1,450 high-level international experts and practitioners from the different regions of the world.

The Sanremo Round Table, jointly organized with the International Committee of the Red Cross, on “New Dimensions and Challenges of Urban Warfare”, addressed the challenges of contemporary urban warfare from different perspectives and provided substantial inputs and fruitful discussions on how militaries are called to comply with IHL rules in such a complex and constantly changing environment as the urban one.

These proceedings aim to reaffirm, once again, the role of the Sanremo Institute in fostering the dissemination of IHL fundamental principles and its contribution to the development of international humanitarian law.

Fifty years of international meetings and intense training activity have created what has universally become known as the “humanitarian dialogue in the spirit of Sanremo”, attracting more than 20,000 participants, representing nearly all the nations in the world.

Edoardo GREPPI
President of the International Institute of Humanitarian Law
Opening session
Cross-interview

Chair: Helen DURHAM
Director of International Law and Policy, International Committee of the Red Cross (ICRC)

Edoardo GREPPI
President, International Institute of Humanitarian Law (IIHL)

Gilles CARBONNIER
Vice-President, International Committee of the Red Cross (ICRC)

Helen DURHAM
I am very delighted and grateful to have first two distinguished experts with us today. Let me introduce them: Professor Edoardo Greppi is the President of the International Institute of Humanitarian Law and Professor of International Law at the Faculty of Law, University of Turin. Gilles Carbonnier is the Vice-President of the International Committee of the Red Cross (appointed in 2018). So, without further delay, I would like to turn to the two Presidents to have their views on the current challenges posed by urban warfare and the role joint collaboration between the ICRC and the IIHL can play in improving our response to such challenges. Could you give us a brief insight into the ICRC/IIHL relationship over the past 50 years?

Gilles CARBONNIER
This year’s event is unique – not only for its new format – but first and foremost, because it marks an important milestone: 50 years since the International Institute of Humanitarian Law was founded in 1970. The Institute could not have been founded at a better time. In 1969, just one year before the Institute’s inauguration, the ICRC reported at the International Conference that IHL needed to be reaffirmed and developed; the law was “chaotic”, its lacunae “dangerous”. We needed partners with the same aim of progressing the law.

This is why we made contact with the Institute upon its creation, and then participated in the Institute’s very first event in September 1970. After receiving the Declaration of Sanremo, the following month, we wrote to the then-Secretary-General, Ugo Genesio – who sadly left us in 2017 – that we
wished to “continue the harmonious collaboration which was established between the two institutions on the occasion of the Congress of Sanremo”.

Since then, six Presidents of the ICRC – and many Vice-presidents – have come to Sanremo for the Round Table. Indeed, various documents, telexes and telegrams in our archives reveal that, in 1979, we had in attendance not only the President, but also the Vice-president; two of my predecessors, Jacques Moreillon and Yves Sandoz; and Michel Veuthey.

But I want to briefly talk about the rich history of how our institutions collaborated for the milestone of the Additional Protocols to the Geneva Conventions. While sessions were held in Geneva from 1974 to 1977 for the Diplomatic Conference, the Institute, too, had invested in this process: since several dignitaries, including government representatives, were going to be at the Sanremo Round Table in 1974, Jean Pictet himself wrote to some of the invitees to ask that they stay in Sanremo – just for a few days longer – to channel their expertise into a discussion on the draft Protocols. Consequently, several expert meetings took place in Villa Nobel, contributing to the negotiations here in Geneva.

Helen DURHAM

What are the main areas where the IIHL has supported the ICRC over the years (and vice versa)?

Anything you are particularly proud of?

Edoardo GREPPI

Over the years, the Institute and the ICRC have shared the common mission of disseminating international humanitarian law in the armed forces worldwide with the view to assisting governments to fulfil their obligation of ensuring respect for the law of armed conflicts or the law of war among their military personnel.

A particular success, apart from our world-renowned annual Round Table, has been the Institute’s military courses.

In 1972, only two years after the Institute’s foundation, the ICRC collaborated with us to establish in Sanremo a unique international multicultural environment for disseminating IHL to armed forces and training them in its application.

The historic figure of Colonel Frédéric de Mulinen deserves here special mention. After having held various command and staff assignments in the Swiss Army, he was in charge of teaching the law of war at the ICRC when he was “seconded” to the Institute where he spent several months preparing the Institute’s first military course introduced in 1976. He, therefore,
brought extensive experience, competence and strong commitment to the job. He remained course director for almost 20 years and his commitment eventually became full-time. His new and original methodology, within a realistic and practical military context, has been continued and developed at the Institute ever since.

During this 50-year period, the Institute’s military courses have grown in number and their subject matter has expanded greatly. In addition to general courses at a foundation and advanced level there are many courses on specific areas such as detention and targeting – the latter very relevant to the subject of this year’s Round Table. There continues to be close cooperation particularly between the IIHL Military Department and the ICRC Armed Forces delegates department who sponsor many course participants every year and for whom the Institute has conducted training in overseas locations.

There is no doubt that such an incredible success story has been achieved also thanks to the influential support of the ICRC.

Helen DURHAM
This Round Table focuses on new dimensions and challenges in urban warfare. What is, in your view, the impact of military operations conducted in urban environments on the way humanitarian action is carried out?

Gilles CARBONNIER
Military actions in the urban environment not only urge special care towards the observance of IHL but also impact the way humanitarian organizations conduct their work.

Humanitarian assistance was once thought of as a short-term relief effort but it has become increasingly a long-term necessity as conflicts take place in cities and often drag on for many years.

In an environment such as the city, long-term involvement from the humanitarian sector and changes in approaches to work are required. Restoring destroyed cities and urban infrastructures is a difficult and expensive task.

In these situations, the ICRC works across two timelines simultaneously, addressing the immediate needs as well as the future health, water, livelihood and protection systems that ensure people’s survival and dignity.

For example, the ICRC fixes and sets up water supply infrastructure destroyed by war, supports health facilities like hospitals and orthopedic centers or brings mobile health clinics, trains locals to develop skills and
not rely on foreign experts, and helps people start sustainable small businesses through cash grants.

But we, those who work in the field, know from our own experience that the degree of suffering of the civilian population, as well as the cost of the reconstruction process, will be much lower if the law of armed conflicts is respected.

This is why we continue to focus so much on how wars in cities are conducted and the limits that are placed on armed actors and their conduct to cater for the needs of people exposed to urban warfare.

_Helen DURHAM_

Where are we at the moment in the debate around IHL and urban warfare? And in your view, what should we be paying attention to in the evolution of this debate?

_Edoardo GREPPI_

The debate around conflict in the urban environment mirrors the tensions which are inherent in all of IHL i.e. on the one hand it authorises military actors to use lethal force while on the other it seeks to protect civilians acknowledging that in some circumstances there may be incidental harm to civilians and or civilian objects. This is exacerbated in the urban environment because of the increased presence of civilians and the increased density of the urban population. Additionally, the urban environment is more challenging for the military in terms of communications, information and intelligence and movement.

The urban environment presents challenges to all military and humanitarian actors. It is always worth remembering when considering IHL that the decisions being made about it are very often being made by young men and women in a very stressful position, and the confused nature of urban warfare serves only to heighten the stress and anxiety. This is as true now as it was in Stalingrad and Berlin if not more so given the increased involvement of irregular fighters and the greater presence of civilians. This makes decisions on the principle of distinction increasingly difficult. In the confusion and noise of conflict in the urban environment deciding in a split second if someone is directly participating in hostilities is enormously difficult.

The debate on urban warfare needs to take into account the full range of military activity involved from the individual soldiers fighting from house to house to the protection of infrastructure to sustain the civilian population once the conflict has finished, to the targeting of indirect fire weapons. The
proportionality calculus is clearly affected by the increased presence of civilians and civilian objects. This calculus is critical to a correct application of the principles of IHL in any environment and is more complex in the urban environment than on the open battlefields of history. I believe that the fundamental principles of IHL remain valid and have stood the test of time during the changes of warfare as it has evolved in the 20th and 21st centuries. However, these principles need to be correctly applied by those charged with doing so i.e. the military and this has been central to the IIHL’s mission over the last 50 years and will continue to go forward. This is why the training the IIHL delivers is based in realistic, practical scenarios to enable an understanding of the correct application of the principles. It is also why events like the Round Table are so important as they enable free and frank discussions between those who apply the law and other members of the IHL community.

The core of the debate on urban warfare is the balance between military necessity and protecting civilians, what I referred to as the proportionality calculus, and this always depends on the specific circumstances with no two situations ever being the same. This, in the complex, cluttered and confused urban environment, where a crystal-clear intelligence picture is unlikely, is the difficult balance military practitioners must draw.

Helen DURHAM
You have worked with the ICRC, then worked in academia as a professor, and then returned to the ICRC. As a humanitarian and as an academic practitioner, where do you see opportunities for the ICRC in working together with institutions – such as the IIHL – in particular, in view of challenges such as urban warfare?

Gilles CARBONNIER
In recent years, we have seen immense suffering in armed conflict. But we also see, time and again, the positive impact of IHL to protect civilians in armed conflict if its rules are respected. Looking at this dichotomy, I think we need to have serious conversations about how existing rules are interpreted, how they are implemented, and whether new developments in warfare require new rules.

Urban warfare is an excellent example of a situation in which the need to consider the relationship between the notion of military objectives and the other rules on the conduct of hostilities is heightened. In particular, determining the precise contours of the military objective will have weighty
implications for the assessment of distinction, proportionality and precautions in attack.

The IHL community – composed of academics and practitioners – is increasingly devoting attention to emerging concerns. Yet, we must not forget that many of the early challenges relating to the most basic of concepts – such as military objectives – are still the subject of controversy.

Maintaining the appropriate balance between military necessity and humanity, and ensuring protection for victims of war, cannot be achieved without clarification of these basic concepts.

The ICRC spent many years engaging with academic institutions bringing together different communities of practice to discuss important challenges of armed conflict and to ultimately ensure that the future generation of decision-makers would know the fundamental principles of IHL and be able to apply them, and to build support for the work of the ICRC in a variety of spheres.

Thus, I see great value in conferences like the Sanremo Round Table. And I am delighted to see government experts, representatives of international organizations, militaries, humanitarians, and academic experts all present in one virtual room to discuss legal challenges of contemporary armed conflicts.

Helen DURHAM

And from the perspective of the IIHL, how can we support each other to improve the response to such challenges?

Edoardo GREPPI

Following on from what Gilles has just said I think it is important to stress the unique nature of the Institute and the training it delivers. It is not an academic institution such as the ones Gilles has worked in but it is very much focused on how the law is applied and how that practice can be improved. I was looking last week at pictures of our first military course which had an entirely military participation. Last year, over 30% of participation was non-military so the courses are reaching a far wider audience thus developing a greater understanding of the practice of the law. The military participants are both lawyers and operators embedding IHL considerations in military thinking. While there are numerous internationally renowned academics and, of course, ICRC staff members, who contribute to our courses, the key teaching staff is the very experienced military teaching staff.
This means that the Institute can support the ICRC by providing places on training courses both for ICRC staff, but also key personalities identified by ICRC delegations as likely to be influential in ensuring the adherence to the law in times of conflict. Identifying these individuals and sponsoring or part sponsoring their attendance at courses is of mutual benefit as it contributes to the Institute’s mission of disseminating IHL. In the last 12 months the Institute has delivered one of its courses in another country at the request of a delegation and there were plans for this to be done again this year but they had to be postponed.

Key to how the Institute can improve the response to the challenges is the neutral environment it provides for discussion and analysis of the problem and the understanding of the various sides of the problem. One of the issues which I anticipate will be greatly discussed in the sessions ahead is that of distinction in the targeting process and the Institute is one of the few places which provides training on the military processes involved in an open forum.

Applying IHL will always be challenging whether in the urban environment or in any other but by working together I have no doubt that the ICRC and the Institute will help to improve the way conflict actors adhere to and apply it.
Introductory remarks

Félix BAUMANN
Ambassador and Permanent Representative of Switzerland
to the United Nations Office and to the other
International Organisations in Geneva

This event is an incredible profiling opportunity for Switzerland, and for Geneva, one which puts ‘La Genève Internationale’ on the map. I warmly welcome the ICRC and IIHL to hold the opening of this flagship event here in Geneva, despite the exceptional circumstances we are currently living through.

At a time when multilateralism is being called into question, it is essential to have a strong and anchored Geneva to remind us of its importance. Today’s event will contribute to this: Geneva connected with all of you – across the globe – and taking part in this event as an important effort aimed at bringing more clarity as to how States, and parties to armed conflict more generally, interpret and apply the rules of IHL when operating in urban areas, and we once again commend the IIHL for its role in this endeavor. I can only encourage all government experts, representatives of international organizations, militaries, humanitarians, and academic experts present here today to engage actively with this in mind. Protecting civilians from the consequences of armed conflict in populated areas is not just a political goal, it is a humanitarian necessity.
IIHL 50th Anniversary

Gian Lorenzo CORNADO
Ambassador and Permanent Representative of Italy to the United Nations Office and to the other International Organisations in Geneva

Fausto POCAR
Honorary President, IIHL

Gian Lorenzo CORNADO
When celebrating the 50th anniversary of the Sanremo Institute it is significant to look back for a moment to the historical context in which it has been operating since 1970. For half a century, international relations as well as international security have shaped an increasingly challenging environment for the dissemination and training of international humanitarian law. From the Cold War to the Post-Cold war era, and to the so-called globalised era, the Institute was asked to make a conscious and impactful effort to accomplish its mission to promote the development and the application of international humanitarian law in a neutral and independent way, while avoiding feasible influences exerted by international actors whoever they might be. That being so, Professor Pocar, in your opinion, considering the challenges the Institute has faced since its foundation in 1970, which are the most crucial and relevant achievements it has accomplished in its first half century of activity?

Fausto POCAR
Thank you, Ambassador, and let me say that it is a privilege and a great honour to participate in this introductory session of the Round Table.

To answer your question let me go back quickly to the foundation of the Institute, at the Congress of Humanitarian Law convened in Sanremo in 1970.

At the closing of that Congress a resolution was adopted which delineated a programme for the Institute based on harmonising the law of armed conflicts with the principles of humanity. That Round Table dealt with the relationship between human rights and international humanitarian law; it was essential to stress how human rights and humanitarian law went hand in hand, in line with the development of humanitarian law since the beginning, from the second half of the nineteenth century. Great merit goes
to this group of people from Italy and other countries, and especially from
Geneva, who founded an Institute of this kind with a programme to
promote, disseminate, and teach IHL, based on the principles of humanity
as developed hundred years earlier, calling for the full respect of the rules
of IHL. We have to stress that the programme was quite ambitious at the
beginning, especially in those times, where the law of war was not given
the attention it required, partly because of the influence of the UN Charter,
which bans war as a means of settling international disputes. IHL was not
even taught in many universities, certainly not in Italy.

The Institute has been quite successful, I think, in these years both in the
promotion and dissemination. I do not need to elaborate on this issue, as
much has already been said in the opening observations by Prof. Greppi
and Vice-President Carbonnier.

However, let’s look at the numbers. How many people have participated
in courses in Sanremo so far? It’s around twenty thousand military and
non-military officers, a huge number of persons coming from every part of
the world, belonging to more than one hundred and eighty countries, which
is almost the total number of the members of the United Nations.

This is in itself a big achievement which deserves to be recorded. But
there is another achievement which is very important. Having started with
the notion of humanitarian law as limited to the military and to the law of
armed conflicts, the Institute later increased its activity by adopting a wider
notion of humanitarian law to include refugee law, a branch of international
law which is very much linked to the law of war because people frequently
move to get away from a conflict area. Then the Institute added migration
law to the field of its activities, which again may concern people who move
as a result of an armed conflict, and then disaster law. So, we have now a
multifaceted activity in the humanitarian field which is unique and
represents an important factor for attracting interested persons from all over
the world. When I had the honour of presiding the Institute I travelled
worldwide and everywhere I met people who had been to the Institute and
were promoting the Institute and its activities in their countries.

Gian Lorenzo CORNADO

Crucial evidence of the importance of the Institute’s commitment during
the last 50 years consists in its significant contribution to the codification of
the rules of humanitarian law. Since its foundation, the Institute has been
called to lead the development and drafting of military manuals and
operational handbooks in close cooperation with governments, international
and non-governmental organisations, ranging from armed conflict at sea,
the rules of engagement, and the protection of cultural property to, most recently, the gender perspective. Professor, could you briefly illustrate the topics addressed and the role of the Sanremo Institute in this important process?

Fausto POCAR

It is well known that international humanitarian law is not entirely codified, notwithstanding the Hague Regulations at the beginning of the last century, the four Geneva Conventions of 1949 and especially the Additional Protocols of 1977. Additionally, I believe that codification does not consist only of enacting laws and adopting international instruments, it is also a matter of implementing principles enshrined in legal texts through interpretation and practice. The Geneva Conventions, for example, sometimes contain provisions that declare principles or constitute guidelines whose actual value depends on their interpretation and application to the point of becoming referred to as interpreted and applied. It is enough to consider Common Article 3 which is largely based on principles concerning non-international armed conflicts. The concrete repeated practice based on these principles is also a way of codifying the law, of codifying the practice consisting of the application of the principles, so that the effective law that is applied is grounded on that practical application. It would take a long time to mention all the fields in which the Institute has worked, but I wish to stress, in particular, the important manual produced by the Institute on international law applicable to armed conflicts at sea, published in 1994, in close cooperation with the ICRC. Although this manual is a private product elaborated by a group of experts and not made by States, it is used and consulted in most naval military academies worldwide and it is an essential work of reference as to the law applicable to naval warfare. One has to remember that warfare at sea was not regulated by the Hague regulation of 1907 and it is not mentioned specifically in the Protocols of 1977. In this manual there is a clear contribution to the assessment of the law in this field. We also have a manual on the Rules of Engagement, a manual on the Law of NIAC, and a manual made together with UNESCO on the protection of cultural property at war. Last but not least, the Institute has published recently a new manual on Integrating Gender Perspective into International Operations. This is a training handbook which tries to bridge a gap in the application of international military law, where in principle, gender violence, which is still prevalent in many armed conflicts, does not appear to be widely addressed by traditional humanitarian law. This manual tries to limit structural
inequalities and gender stereotypes, by training military and non-military officers, participating in international operations, to respect those principles. I think this manual covers a significant issue also in terms of human rights law.

**Gian Lorenzo CORNADO**

Any military officer, government official, civilian lawyer, practitioner, academic or student who has had the opportunity to attend training courses at the International Institute of Humanitarian Law, could certainly attest to the quality of the training received, not only in the field of international humanitarian law but also in other related fields, such as international refugee law, migration law, human rights and international disaster law. Leaving aside the international reputation the Sanremo Institute enjoys, I would now like to focus on one of the most peculiar features of the Institute: the so-called “Spirit of Sanremo”. Professor, could you describe this key aspect of the Sanremo training experience?

**Fausto POCAR**

Vice-President Carbonnier and President Greppi have already mentioned the “Spirit of Sanremo”. We have used that expression for many years worldwide. Everybody who has been to Sanremo comes back speaking of the spirit of Sanremo. Nobody knows exactly how to describe what it is, but it does depend on the environment in which our courses take place and the type of training that we have always conducted. We train in small classes, comprising participants from different countries with different backgrounds, culture and experience, and the training is based on an exchange of the practice of each of these participants. As a result, participants continue to discuss among themselves during their free time while in Sanremo, and when they leave they remain connected, and continue to exchange their views. This helps tremendously to streamline, to harmonize the approach to international humanitarian law and its implementation worldwide.

The “Spirit of Sanremo” is known everywhere but let me mention one occasion in which this spirit is particularly important, namely the annual competition that the Institute organises for 20 to 30 military academies coming from every part of the world. Each academy sends a group of cadets to participate in this event. The competition is carried out by splitting the groups to form new teams, comprising people who come from different academies. As a result, there may be participants who have more experience or are more proficient in English, and cadets who are less expert
and proficient mixed in the same team. The cadets have to work in an environment which is international and compete against other teams, that are not necessarily comprised of foreigners but also their own compatriots. In this way, they make friends irrespective of the political relations between their countries. Sometimes they make friends even with persons who come from countries that are fighting against each other. This is the typical “Spirit of Sanremo”, where normally international politics are left out and we stick to humanitarian law, as the sole common basis for the participants.

Gian Lorenzo CORNADO

Today, we are opening the 43rd edition of the Sanremo Round Table on Current Issues of International Humanitarian Law. The Sanremo Round Table is considered to be one of the main annual opportunities to debate on the most crucial issues of humanitarian law, as well as providing a major chance to collect innovative and diverse perspectives in this field in a neutral environment. Having been the President of the Institute for several years, what is, in your view, the essence of this event? In other words, what motivates practitioners from all over the world to gather in Sanremo every year for the Round Table, which unfortunately this year has had to be organized online?

Fausto POCAR

You say: “unfortunately”, and it is unfortunate that we cannot be present physically, but we should also look on the other side of the coin. I am informed that this Round Table has received more than 1000 registrations, that means that the number of participants is much larger than the 200 to 300 participants we would normally host on site in Sanremo. Which is the motivation of participants? I think that, as Vice-President Carbonnier has mentioned, initially, at the first Round Table where the negotiations of the Additional Protocols were under discussion, some participants remained after the Foundation Congress in Sanremo, and continued to discuss the issue informally, to resolve some of the difficult problems at that time, particularly, concerning NIAC. Now, that initial motivation continues to get people together to discuss informally questions concerning the implementation of the law but also the question of new rules that could be adopted, and that perhaps those, who would be participating in future international conferences, would adopt. The participants at the Round Tables are a mixture of practitioners, military and public officials, senior and young academics. This makes their experience extremely important
and meeting in an environment like Sanremo, really makes the implementation of the law progress.

_Gian Lorenzo CORNADO_

I would now like to turn to the future and, more precisely, to the challenges to be addressed by the Institute in the coming years. We are well-aware of how much armed conflicts have dramatically changed over the last 50 years, how the civilian population is increasingly affected and harmed by military operations, and how humanitarian law and human rights violations are far from over. I would like to ask you, Professor, what role could the Institute play in the future within this framework? In your opinion, what are the most critical challenges the Institute will have to face to honour its mission of promoting, disseminating and teaching IHL?

_Fausto POCAR_

The list of the challenges is increasingly long, and the role of the Institute has become more and more critical. As you just said, Ambassador, the civilian population is increasingly affected by military operations nowadays. This is due largely to the development of weapons of mass destruction which affects the population, because with such weapons the principle of distinction is not respected. Of course, these events cause refugees to flee from armed conflicts, and mass movements of persons increase. I believe that one of the challenges that we have to work on is also the lack of a system of international monitoring of the respect for international humanitarian law comparable with the system in the field of human rights law. The only monitoring existing now, to a certain extent, is with respect to violations of international humanitarian law that are regarded as war crimes, but this is not enough, both because of the difficulties that the International Criminal Court encounters in exercising its functions and of the limited participation in the Rome Statute. What is the consequence of this? I believe that the role of the Institute will become more and more significant because much will depend on education and training which is the essence in this field as in many other fields. Providing good training, based on manuals that reflect an independent approach, may entail a better and progressive application of existing rules for protection of civilians by states and non-state actors.

The main challenge is to promote the application of the law and verify that its application is effective.

The current Round Table on urban warfare definitely goes in that direction, because it is clear that in this case the main problem is the respect
for the basic principle of IHL, which remains and should remain the principle of distinction, between combatants and non-combatants. Those who are combatants may suffer the negative consequences of the war, but civilians should not. It is important that we continue to work in this direction and establish if not laws, principles that should become principles of customary law, to be applied in the future; we have to work without rest on this main challenge for the future.
I. The evolution of urban warfare over the past 50 years and its impact on civilians
Cities in the crossfire: the evolution of armed conflict in urban areas over the past 50 years

Antony BEEVOR
Military Historian

Since ancient times, the storming and sackage of a city brought mortal terror to its inhabitants. If the commander of the defending force refused surrender terms, then the civilian population faced plunder, rape, murder, mutilation and slavery. Many preferred suicides.

During much of the 19th and early 20th century, however, it seemed that old-fashioned sieges and city fighting had become a thing of the past. Generals much preferred the ‘art of war’ to be performed in open spaces. They dreaded desertion, ill-discipline and drunkenness if their men fought in cities. With almost no training, and no initiative allowed to junior ranks, they were in any case ill-prepared for urban warfare.

In the early 19th century, the bulk of conscripts were from rural communities and had hardly seen a big city. It was a totally alien environment for them. But by 1914, the rapidly rising population in the capitals of Europe, swollen by the internal migration of the late 19th century, also provided a large share of ‘disposable sons’, to use Edward Luttwak’s phrase. So now many of them felt completely lost in the countryside. But the interesting aspect of the First World War, is how once again there were virtually no urban battles.

In the Spanish Civil War, there was street fighting in Madrid in the autumn of 1936 as well as the first area bombing of the city by the German Condor Legion. This was followed by the bombing of Durango, and most famously Guernica, as well as the first use of a napalm prototype at Oviedo.

The first mass atrocity in modern warfare against civilians, the ‘Rape of Nanjing’, took place in 1937 with scenes of unspeakable cruelty. The Imperial Japanese Army tried a policy of terror to make up for its comparative numerical weakness in such a huge land mass, but Chinese resistance did not collapse, if anything it strengthened as it withdrew into its hinterland. Hitler failed to see the lessons for his own ‘race war’ against the Soviet Union four years later.

At the start of the Second World War, in 1939 and 1940, cities such as Warsaw and Rotterdam were bombed, often savagely. But significantly, in the western European theatre, towns were declared open and abandoned to the enemy. When Winston Churchill urged the French General Staff to
defend Paris with house-to-house fighting, the idea was greeted with horror by General Weygand and Marshal Pétain who saw it as revolutionary warfare. Pétain’s reactionary instincts were right about one aspect, however, as events in Stalingrad would prove. Generals lost control of events far more rapidly in an urban setting than in the open.

In the Second World War, the Wehrmacht’s Bewegungskrieg, or war of movement, was eventually ground down in city fighting – Sebastopol, Voronezh and then Stalingrad – even though Hitler had wanted to keep his armies out of cities. Stalin, hoping to force his troops to fight to the end in Stalingrad, did not allow the mass of inhabitants and refugees to flee across the Volga. Some 60,000 died in the bombing and fighting. The fighting was so pitiless that Red Army snipers were ordered to shoot down starving Russian orphans who had been bribed with crusts of bread by German infantrymen to fill their water bottles in the Volga. Of the approximately 10,000 civilians who had against all odds survived the fighting in the ruins, a thousand were orphans. An aid worker just after the battle described them as either completely feral or catatonic.

As the war turned further against him, Hitler refused to abandon cities for reasons of prestige. As the Red Army and their Western Allies reached the border of the Reich, he ordered each one to become a ‘Festung’, or ‘fortress’ – especially Königsburg, Breslau, and Berlin. The fate of civilians trapped there as each city was stormed, were reminiscent of the dark ages.

Berlin was the last great battle in Europe fought between vast conscripted forces. But the age of the nation in arms did not really come to an end in the West until the fall of the Berlin Wall in 1989. Everyone started to speak of the ‘Peace Dividend’. Yet few people saw that the Cold War had been keeping the world in splints or a straitjacket for nearly half a century. When it suddenly ended, old hatreds began to resurface. Ethnic cleansing by para-military groups in the former Yugoslavia shocked the West. NATO armies found themselves in the world of the so-called ‘CNN curve’ – of the something-must-be-done syndrome. In more official language, this was defined as ‘armed humanitarianism’ in the UN Security Council resolution 794 of December 1992. Yet there was no proper debate about the impact on international law and the basic premise of the UN itself that national sovereignty was sacrosanct.

Whether or not ‘armed humanitarianism’ worked as it was supposed to – most of the examples were not exactly encouraging – it did provoke discussions on the new role of the soldier in the 21st Century, even if some of the ideas were revealingly mistaken. Not long after the Fall of the Berlin Wall, Edward Luttwak compared the future role of peace-enforcers to those
of heavily armoured Roman legionaries in outposts along the frontiers of the civilised world. This parallel simply revealed the American optimistic idea of peace-enforcement at the end of the 20th Century.

In the former Yugoslavia and elsewhere, the US adopted a high-tech/low-bodybag arms-length operation, usually conducted with the use of air power. But attempts to police the world from the air were not only morally questionable but they also, almost certainly, proved to be counterproductive. The smart bomb would be answered with the terrorist or suicide bomb.

Intervention in Afghanistan and the invasion of Iraq in 2003 led to the sequence of events, with which we are faced today. The great mistake made in Washington was to assume that after an overwhelming military victory the occupation of Baghdad would be as straightforward as the occupation of Berlin or Tokyo in 1945. The real answer proved brutally simple, as well as painfully ironic. In 1945 the Germans and Japanese were totally crushed after a long war, with their cities laid waste. Civilians and soldiers alike were reduced to zombies through several years of exhaustion, hunger and battle shock. But in 2003, the Coalition’s rapid and overwhelming victory did not have anything like the same effect. The coalition’s smart weapons had avoided the indiscriminate destruction and casualties of sixty years before.

But leaders in Washington, having easily defeated an old-fashioned conventional army, ignored a key change in warfare. Guerrilla or partisan warfare always used to be carried on in mountain ranges, forests or marshes. Now, both the cover to prepare irregular operations and the key targets lie in built-up areas.

Paradoxes abounded. The aerial destruction of Stalingrad in August 1942 turned the city into an ideal killing zone for the Red Army to ambush the Wehrmacht. But the comparative preservation of Baghdad in 2003 for both humanitarian reasons and, let us face it, media considerations, maintained a far better hiding place for resistance groups later. The point is that the Coalition’s victory was an anachronism, not in the way that it was fought, but simply because it was fighting in the field one of the very last remnants from the era of the mass conscript army. The present and the future, in the form of urban terrorism, simply waited in the wings. Many of the terrorists came from the ranks of the Iraqi army which was so thoughtlessly disbanded.

Terrorist groups will extend the practice of deliberately placing their communication centres and headquarters in hospitals and schools, and even holding groups of civilian hostages in a building while provoking
retaliation upon it. Anyone who hopes that the horrors of city fighting against Daesh and other groups in Syria and Iraq represented a particularly cruel exception must think again. Soon 70% of the world’s population will live in conurbations. And cities, especially capitals, attract hostile forces because they provide concealment, a reservoir for recruitment, and represent the centre of power. The guerrilla warfare in mountains and forests is indeed a thing of the past.

It is not just non-state players who target cities. Regular armies are having to prepare too. No commander in their right mind wants to fight in an urban jungle, but the days of manoeuvre in the open are virtually over. So are traditional front lines. Without mass conscription, armies simply do not have the manpower to defend borders or large regions. And, however much a government might want to avoid the destruction of its own infrastructure, the city will become the battlefield because it is the jugular to seize.

The head of the US Marine Corps Warfighting Laboratory recently warned that land forces would eventually find themselves locked in fights within huge, dense urban environments where skyscrapers tower over enormous shanty towns. So, US troops, therefore, need more realistic training to operate within these future megacities. ‘We have to figure out how we are going to fight in this environment’, he said, ‘because the forecast tells us that people all over the world are migrating, and they are migrating toward cities.’ His task is to forecast where the Marine Corps will fight in the future, write concepts and then wargame those concepts in order to feed science and technology development. ‘We are going to have these megacities that are ringed with shanty towns and we are going to fight there because it will be the people who are uneducated, unemployed, the young men who are not married and they are mad about their lot in life.’

Across the Middle East, the North African littoral, East Africa and West Africa, the baby-boom due to improved medical care has contributed to frustration and instability today. Demographics should never be overlooked.

The Pentagon estimates that there are already 24 megacities worldwide. Rapid urbanization will ensure there will be far more in the next ten years. Cities are no longer something you can move through or contain. They can swallow whole units, while enemies are hard to distinguish. Innocent civilians will be even harder to identify and protect.
Protecting civilians during urban warfare: challenges from recent conflict and future prospects

Darren STEWART
Brigadier, Head, Operational Law, British Army Headquarters, and Council Member, IIHL

To those who observe the current state of affairs across the globe, the impact of armed conflict in the urban space might seem a dangerous and new phenomenon which has significantly increased the threat on civilian populations. However, as Sir Antony has just outlined, the conduct of military operations in the urban environment, at least in the context of an international armed conflict, has always been a characteristic of armed conflict, something that has long conjured visions of scale, horror and impact of armed conflict on combatants and civilians alike.

That is not to say things have not changed, they have. We have seen in the last century or so the development of weapons technology which can deliver greater destructive effect, principally through explosives, but also in more sinister ways such as chemical and biological effect. It has also seen the development of precision weapons which has both enabled military commanders to strike military objectives with greater accuracy, but also changed the military calculus in terms of engaging within the urban environment.

The development of the megacity has meant that as the global population expands, we have seen the size and density of urban environments increase. Increasingly these megacities are characterised by highly networked, interdependent infrastructures supporting both civilian and governmental outputs alike.

Significantly, we have also seen the evolution of non-international armed conflicts (NIAC) in such a way that they now typically have a trans-border character, often including more than one state or non-state actors. The widespread access for combatants and fighters to weapons and technology has also often meant that the scale and intensity of violence exceeds that which traditionally our notions of NIAC have been founded upon.
Alongside these developments we have also seen the development of IHL, or as we in the military prefer to call it, the law of armed conflict (LOAC). In the year we celebrate the 71st anniversary of the 1949 Geneva Conventions it is worth reflecting on the positive effect these developments have had. Whether it be the Conventions themselves, the 1977 Protocols Additional to these, or the specific IHL developments in relation to certain weapons through the CCW process or APL and CM Treaties, IHL considerations are now very much a factor in the planning and conduct of military operations by commanders at all levels.

The basic principles of LOAC: military necessity, distinction, avoidance of unnecessary suffering and proportionality continue to have the same weight of validity as they did when first articulated following Henri Dunant’s efforts in the aftermath of the Battle of Solferino 161 years ago. Applied with good faith, LOAC provides for an adequate legal framework to minimise the suffering and destruction which is the inevitable product of armed conflict.

Challenges

The urban environment is perhaps the most complex within which to conduct military operations; characterised by cluttered and congested operating spaces, challenging conditions for intelligence gathering often leading to confused operational pictures for commanders. The ratio of forces required to invest and subdue urban spaces are significant, meaning that urban operations demand a high premium of resource allocation from the military commander. If asked, the overwhelming majority of military commanders would prefer to conduct manoeuvre operations against adversary fielded forces where, through economy of effort and the ability to bring to bear decisive concentration of force against an opponent’s weakest point, they can achieve strategic effect. This is something which is far more difficult in an urban environment.

Developments in weapon accuracy has meant that military commanders are increasingly able to conduct limited operations within urban areas, using surgical strike capability to deal with key military objectives. However, this has not removed the requirement for more traditional tactics involving the use of ground forces to close with and engage opposing forces; an activity that will likely result in considerable casualties and destruction. It is important to reflect on the fact that those conducting such fighting are inevitably scared young men and women
operating under extreme stress and who are routinely required to make life or death judgment calls in an instant. They do not operate with the luxury of overhead full motion video streams or the ability to conduct collateral damage assessment enabled by sophisticated computer modelling.

Weaker adversaries have sought to exploit the urban environment to their own effect and in turn have created significant challenges in relation to the delineation between civilians and combatants (or fighters in a NIAC context). Often the protections intended to be afforded by IHL have been cynically exploited, whether through the deliberate act of using civilians as human shields or the more pervasive effect of melding into the civilian population and conducting operations which fail to comply with a defender’s obligation not to take measures which would place the civilian population at increased risk.

Consequently, (and certainly for Western militaries), planning considerations for military operations conducted in urban terrain have become increasingly sophisticated, focusing on integrating all lines of military capability to deliver military effect. In this context, the pressure on intelligence gathering assets and targeting processes is particularly acute. This in turn has led to an increased focus on mitigating the effects of military operations through the application of LOAC principles of military necessity, discrimination and proportionality, and through taking precautions to minimise the impact on civilian populations.

The motivations for doing so are manifold and include the impact of developments in accountability mechanisms, increased awareness by the military of both the law and the utility of compliance with it in meeting military objectives as well as (at least for democracies) the importance of winning consent and support of those present within a conflict zone. The ever constant 24-hour news and social media and the importance of influencing this for the purposes of winning the consent and support of national populations in sending states and their alliances/coalitions are also strong motivators for compliance. I would also not underestimate the importance of the moral component and the desire of individual combatants to conduct themselves in accordance with LOAC.

That said, it is the case that contemporary conflict continues to see breaches of LOAC which seemingly go without investigation or accountability. This is certainly an area where international cooperation and effort could be enhanced.
Future Prospects

Developments in technology hold much promise in aiding the military commander to minimise incidental harm and loss to the civilian population. In recent years, the effects of miniaturisation and the reduction in cost of technology, such as drones, has seen a significant increase in their usage not only by states but also by non-state actors. The military effectiveness of such capability is not limited to the payload ability of such devices. Contrary to the popular view held in the media and parts of the civil community, remotely operated vehicles (air, land and sea) have as much, if not more, value in the provision of essential intelligence to a military commander who seeks to better understand the confused and cluttered operating space that is the urban environment.

Greater understanding of the intelligence picture brings with it the ability to distinguish civilians and civilian objects more effectively from military objectives and is critical to enabling more effective targeting, particularly in the deliberate targeting context.

Similarly, the development of weapons with greater precision, combined with improvements in intelligence gathering have a positive effect on a military commander’s ability to minimise incidental loss to civilians and civilian property. Within Western militaries these advances have been combined with more effective staff processes to enable military commanders wherever possible, the greatest choice of options to achieve his or her mission whilst complying with their LOAC obligations.

It is important to bear in mind that none of these positive developments change the basic nature of armed conflict which at its essence is the application of force to overcome an adversary. It is a violent activity that produces death and destruction.

In this context, it is understandable that efforts will be focused on seeking to mitigate these consequences wherever possible – it is right and proper to do so.

However, I would sound a note of caution in relation to initiatives that are designed to bring this end about through the banning of certain weapons without a clear understanding of the second and third order consequences such measures may bring about. For example, efforts to ban the use of all explosive weapons in built up areas, or to ban weapon systems that introduce elements of automation may bring about the counter-intuitive effect of leaving military commanders with little option but recourse to more traditional tactics of fighting street by street with the concomitant, adverse impact on the civilian population.
Similarly, attempts to require that all reverberating effects be taken into account for the purposes of targeting, both deliberate targeting undertaken by planning staff in headquarters and engagements undertaken by forces on the ground, need very careful consideration so as not to place difficult, if not impossible, standards on military commanders that are problematic in terms of compliance. Such an approach would create real challenges in terms of enforceability and place further stress on compliance mechanisms already under considerable pressure.

Summary

I would not say that there is no room to improve in terms of seeking to minimise the impact of armed conflict in the urban environment on civilians. Clearly, there is room and IHL continues to play a pivotal role. Technology will continue to evolve and provide positive effects, as will our understanding of urban environments and the way we conduct military operations within such environments.

Accepting, however, that one can civilise only what is inherently a violent and uncivil activity, the continued adherence to and application of the basic LOAC principles will continue to have enduring importance for military commanders, their forces and the civilian population.
Reducing the humanitarian consequences of protracted urban warfare

Cordula DROEGE
Chief Legal Office and Head of the Legal Division, ICRC

The topic of my intervention is about reducing the humanitarian consequences of protracted urban warfare. I would like to address it by first speaking about the humanitarian consequences that the ICRC has witnessed and documented in urban conflicts around the world; and then about the role of IHL protecting the civilian population.

First, let us evoke the picture of humanitarian consequences so that we know why we are here today.

We have just heard a brilliant overview of urban warfare by Sir Antony. So much of the suffering of civilians in urban warfare is as old as cities themselves. Why are we looking at it again, today? What is new?

Two main factors should prompt us to continue to focus on urban warfare: (1) the increasing urbanization of armed conflicts; (2) and the immense human suffering and devastating consequences they cause, in particular, when they are protracted. The urbanisation of conflicts is likely to continue and to increase, because (a) cities represent a strategic value as centres of people, power, economic activity, history, and culture. Controlling cities is critical; (b) but also because of – as mentioned by Sir Antony - global demographics (c) and the asymmetry of conflicts. The human suffering that such warfare causes is evident before our eyes. Mosul, Aleppo, Aden, Raqqa, Taiz, Donetsk, Fallujah, Sana’a, Idlib, Tripoli are a living testament to the heavy toll civilians pay when war moves to cities.

There is no question that civilians do not bear the brunt of the humanitarian consequences.

Currently, urban warfare affects over 50 million civilians across the globe with heavy casualty rates. A 2018 ICRC study of the conflict in Iraq and Syria during 2017-2018 showed that urban offensives caused 8 times more civilian casualties than hostilities occurring outside populated areas. The consequences of urban warfare for civilians are direct and indirect, immediate and long term, visible and invisible. Many are instantly killed by bombing or shelling. Many more die because they could not reach a hospital, or because there was no functional hospital to reach. Of those lucky enough to survive, many are disabled for life. Most are scarred with
long-term and grave psychological trauma. The large-scale destruction of civilian homes and critical infrastructure multiplies the short and long-term effects on civilians. This is because, in cities, damage to one part of the infrastructure has reverberating effects on many other parts as infrastructure and services are closely interconnected. As an example, when an electrical substation was hit and destroyed in 2015, it resulted in the immediate shutdown of all the connected water supply installations. Upwards of 400,000 people and the local hospital was instantly cut-off from the supply of safe water. Another important effect is large-scale displacement. It is not surprising that in Syria, a highly urbanized country in which cities have suffered immensely from fighting, eleven and a half million people have fled their homes since the beginning of the armed conflict. Even where hostilities have ended, the contamination with unexploded ordnance hinders the return of the displaced and is a daily threat to life and limb and hampers socio-economic development. Three years after the military operation ended, West Mosul still lies largely in ruins and is heavily contaminated by IEDs and by unexploded ordnances.

Let me now turn to the role of IHL in protecting civilians. IHL embodies a basic principle: war must be waged within certain limits. These limits exist to preserve the lives and dignity of human beings and protect those not taking part in hostilities, notably civilians.

The cardinal IHL principles on the conduct of hostilities: the principle of distinction, proportionality, and precaution, are all about protecting civilians from the effects of fighting. And especially in populated environments, where military targets and civilians and civilian structures are mixed together, respect for IHL is critical. In order to lessen the burden on civilians, and to ensure better respect for IHL, several things need to happen. First of all, of course, is a commitment to respect IHL, and to abstain from deliberate violations of IHL. Yet, we continue to see the contrary every day, so we must double our efforts to convince states and NSAGs of the value of IHL. Second, however, and this is perhaps more the subject of our Round Table, IHL and, in particular, the rules on the conduct of hostilities, need to be interpreted in a way that truly protects civilians and do not hollow-out their content. Yet, there is today a lack of clarity as to how states, and parties to armed conflict more generally, interpret and apply the rules of IHL when it comes to operations in populated areas. The ICRC understands that urban warfare poses significant practical challenges and dilemmas to armed forces to comply with the main principles because of the close proximity of civilian and military objectives.
Military commanders planning and conducting operations in urban areas face difficult choices in terms of means and methods of warfare as they seek to accomplish their mission and preserve their own forces whilst acting in accordance with their IHL obligations and protecting civilians against the effects of hostilities.

A major cause of civilian death and injury and destruction of infrastructure is the use of explosive weapons with wide impact area in urban environments – such as artillery or mortars. These weapons pose no particular problem in open battlefields. In densely populated areas, however, the use of such weapons – even when aimed against lawful targets located in such areas - involves a high risk of striking military objectives and civilians and civilian objects without distinction. Due to the significant likelihood of indiscriminate effects and despite the absence of an express legal prohibition for specific types of weapons, the ICRC has taken the position that their use should be avoided in densely populated areas. My colleague Eirini Giorgou will speak more about this during a webinar in two weeks on 30 September.

The principle of precaution is a useful and practical principle for the conduct of hostilities. Amongst others, it requires parties to the conflict to “take all feasible precautions, in the choice of means and methods of attack” with a view to avoiding, and in any event minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects.” When warfare occurs among civilians a higher burden is set on the parties to comply with the principle. Measures such as to avoid locating military objectives within densely populated areas, or more generally, to employ strategies and tactics that take combat outside populated areas are means to try to reduce urban fighting altogether. Unfortunately, far too often in contemporary conflict, parties to the conflict do the exact opposite and deliberately endanger civilians under their control by using them as shields, although absolutely prohibited under IHL. Civilians used as human shields remain protected, and – while it does raise practical challenges – obliges the other party to take all feasible precautions to avoid harming these civilians and must take them into account in the proportionality assessment. I think that if, during this Round Table, we could have an exchange on how we could get to interpretations of IHL that are genuinely protective for civilians in such dangerous environments, and about feasible measures that militaries could take to better implement IHL rules, it could make a valuable contribution to the aim to reduce civilian suffering in urban settings.
Conclusion

Let me conclude by saying that the ICRC has been present on most of the recent urban battlefields and, together with Red Cross and Red Crescent National Societies, has witnessed the toll combat takes on the population. Over the past ten years, the ICRC has strengthened its multidisciplinary assessment and understanding of the specific risks and vulnerabilities that urban warfare poses to and creates for civilians; and we have reinforced our capacity to respond to these needs by combining what we call in humanitarian jargon prevention, protection and assistance responses. In the years to come, we intend to step up our efforts in the field but also to advocate for better protection of civilians in urban warfare together with the Red Cross and Red Crescent Movement. However, it is ultimately the responsibility of parties to armed conflicts to respect IHL, to redouble their efforts to spare civilian populations from the effects of war, ultimately to prevent the suffering, the displacement, and cater for the needs of civilians. In the case of the evidence before us, human cost in the future cannot be the same as it has been in recent decades.
II. Protecting civilians during urban warfare: lessons learned from recent operations
The destruction of cities: the vulnerability of infrastructures in urban warfare

Wendy PULLAN
Professor of Architecture and Urban Studies and Director of the Centre for Urban Conflicts Research, University of Cambridge

Thank you very much; I am delighted to be with you today. I think I should begin by explaining that I am not a military person and I am not a lawyer. I am an architect and urbanist; this means I am coming to the discussion from a somewhat different place than many of you. But I think it is important to look at the topic of urban warfare through an understanding of cities themselves. The problem of war in cities, from the urban point of view, is regularly seen in terms of injury and loss of civilian life. In this lecture, and not to diminish the tragedy of human suffering and death, I would like to argue that the destruction of infrastructures and ultimately attacks directed at the city itself also play a fundamental role in urban war, devastation and possible recovery.
My talk has a dual purpose: firstly, to focus on the importance of the city as a whole, rather than a series of separate systems, and to consider why the devastation of cities in war depends to a large extent upon complex relationships within them. And secondly, to recognise that wrecked infrastructures and urban sites are very often regarded in terms of collateral damage, yet, increasingly, we are finding their destruction to be intentional, with political aims beyond the immediate conflict.

I should like to first of all point out that when they work, infrastructures are mostly silent and invisible in the city; in normal everyday life, we tend not to bother about them or even think about them. However, if infrastructures are disabled and destroyed, they quickly rise to the surface of our perceptions and concerns to become major disruptions sometimes threatening lives. The more extensive the destruction the bigger the problem: if one bridge is lost, that causes difficulties; but when all five city bridges are taken out, as happened in Mosul in 2016, the situation becomes critical very rapidly. The problem compounds when different types of infrastructures are taken out, with rapid knock-on effects because each one is systematic and interrelated to others within the city. Cities are, of course, made up of various infrastructures most of which are vulnerable in war.
Those that may have been initially thought to be more remote or protected, such as cyber networks, have now become central to widespread hostile strategies. The more obvious urban services such as electricity, sewage and water are regularly attacked in war as are public amenities that are less apparently infrastructural – like public space and civic meeting areas, including streets, squares, markets, parks, etc. – that have to do with urban life as experienced by its citizens. All of these infrastructures are fundamental to the basics of everyday life as well as being complex in their urban interconnections; such infrastructural networks cannot be separated from the entire city and we should not regard them as isolated systems.

The scope of war destruction on urban infrastructures can be understood in several dimensions. The first has to do with extent; infrastructures tend to be broad and made effective through repetition; once destroyed their absence affects many people and diverse functions of the city. The second is duration, something that is particularly relevant in reconstruction. Destruction may be almost instantaneous, but reconstruction is usually slow, costly, complicated and often contested. Temporary solutions may seem necessary or helpful at the time, but eventually what was intended as provisional often becomes permanent and this may not be desirable. The third dimension is intent. As noted already, war destruction is often
regarded as collateral damage but intentional destruction of infrastructures in cities is increasingly common. We may use the term *urbicide*, the killing of cities and urban culture, to refer to such intentional devastation.\(^1\) Sometimes purposeful destruction and collateral damage are both inflicted, making it difficult to analyse the situation accurately and possibly hiding the culpable. And finally, the fourth dimension focuses on perception. To a greater or lesser degree, we try to plan and organise cities, functionally, symbolically, aesthetically, economically. The building and construction of cities is an ordering process. Yet, when relatively intact urban structures are shattered by warfare, order appears to turn into chaos. It is distressing and even shocking to have such a primary expectation smashed and it constitutes an inversion of urban order. All four of these dimensions are at play when a city is seriously attacked.

At this point we can ask: ‘Why are cities so seriously implicated?’ This has partly to do with the conflicts themselves that have changed into what

some call “new wars”. Mary Kaldor² describes new wars as being fought primarily in the name of identity politics rather than ideologies or geopolitics. Such hostilities are directed primarily against civilians and may be used to control them or to displace populations. Combatants may be part of states, from transnational situations, or they may act as proxies of global powers; in some new wars there are non-state individuals and groups (paramilitaries, migrants, minorities, and so on) who become absorbed into the fighting. Beyond Kaldor’s important work, research done in our Centre for Urban Conflicts Research in Cambridge³ shows that many of these hostilities tend to be long-term, some indeterminate, and may proceed in cycles. Periods of heavy violence are often interspersed with times of relative peacefulness. Such a time framework makes the notion of post-conflict questionable. Wars that are declared, fought, negotiated and ended to then lead into a period of post-conflict are increasingly rare. Peace and conflict may be much more simultaneous than we previously thought.

³ The Centre for Urban Conflicts Research, Department of Architecture, University of Cambridge; www.urbanconflicts.arct.cam.ac.uk.
In addition to changes in conflict, cities have also changed. War has moved into urban centres to make them the new arenas of armed conflict. Cities may be intentionally targeted, or hostilities may be generated from within. Not only are cities increasingly the settings for war, but they may also be used with a fair degree of agency to wage war and prolong conflict. Architecture, planning and infrastructural programmes are regularly used strategically for political purposes and that may include exacerbating conflict; certainly, the wall in Palestine is one well-known example of generating conflict through construction. *Ad hoc* urban spaces feature in urban battles; for example, in the recent political protests in Hong Kong the demonstrators used parts of the city – bridges, fly-overs, escalators, road medians, police barriers, etc. – in order to secure and enhance their positions in the urban topography as they clashed with state forces. Urban battles span a wide spectrum from protest to war, potentially engaging civilian individuals and groups and rendering a grey area between police and military. Across the city, demography usually varies and may feature in patterns of violence and destruction, with ethnic cleansing becoming an increasingly common feature. Clearly, cities and their urban infrastructures are implicated well beyond the collateral damage of war.

Example 1: Weaponisation of the health infrastructure, Syria

‘a strategy of using people’s need for health care as a weapon against them’ (Fouad et al, *The Lancet*, 14.3.17)

- Attack on essential activity in Syrian cities
- Attempt to destroy plurality
- Preys on collective identity in particular cities
- Turns positive urban values into a negative

Urbicide

*urbs = city caedere = cut, kill (Latin)*

- Intentional and premediated destruction of cities and their key sites and infrastructures to obliterate urban life and culture
- Rejection of international norms and humanitarian morals, rejection of the common good

[Graph showing targeting of health facilities, Syria 2012-16 (Lancet)]

[Map showing health workers killed in the Syrian conflict 2012-16 (Lancet)]
This brings me to two examples I wish to briefly review here. They illustrate in different ways how intentional attacks on urban infrastructures may be adversely affecting the deepest sense of urban life and well-being. My first example is referred to as the ‘weaponisation of the health infrastructure’, a statement made by some of the health workers who served in the hospitals and healthcare facilities that were so badly attacked by government forces in Syrian cities during the civil war. In an article published in the British medical journal, *The Lancet*, the authors claimed that ‘a strategy of using people’s need for healthcare as a weapon against them’ was central to government targeting.\(^4\) The stricken cities suffered repeated bombardment of essential health infrastructures and as the bombing was selective, it can also be considered an attempt to destroy the plurality of the targeted cities and populations. In a graph prepared for the article (reproduced in my slide) we can see that the cities are diverse and the attacks increased radically between 2012 and 2016. Another graph (also in my slide) shows that by far the greatest amount of destruction was caused by shelling and bombing, indicating a high degree of intentionality. Such attacks prey on collective identity in particular cities, and turn positive values, such as a health infrastructure, into negative ones that act as dangerous targets for destruction and loss of life. This is a key aspect of urbicide, where the intentional and premeditated destruction of cities and their primary sites and infrastructures is carried out in order to obliterate particular urban cultures. Urban life, well-being and physical fabric are so intimately linked that all can be obliterated by selective attack. These practices are a rejection of international norms and humanitarian morals by violent assault.

My second example is well-known as a case of intentional destruction of infrastructure that had significance for civilian society, due to its historical associations and present-day usage. I refer to the bombing by Croat paramilitaries of the Sixteenth-century Stari Most, or Old Bridge, in Mostar in 1993. This bridge was used by people from a variety of ethnic and religious backgrounds; it was an urban meeting place recognised for its diversity. An obituary for the bridge was written by the Croat author, Slavenka Drakulic, who compares the killing of the bridge with a woman who has been slaughtered in the same war. She says: ‘We expect people to die. We count on our own lives to end. The destruction of a monument to civilization is something else. The bridge, in all its beauty and grace, was built to outlive us; it was an attempt to grasp eternity. Because it was the product of individual creativity and collective experience, it transcended our individual destiny. A dead woman is one of us, but the bridge is all of us, forever’.\(^5\) It is a powerful statement. Drakulic was criticised for putting the inanimate bridge above human life. But, as she explains, this bridge was one of the ways that human life was given meaning. One could say it

shows the difference between surviving and flourishing. To this I would add that urban life must have places in which to exist and develop. When we destroy civic space, we are shattering the common good. Conversely, if we enhance such public spaces, are we not making the common good possible?

This brings me to my last point: public space is a critical part of the wider infrastructure of cities that contributes to the urban order and is integral to a full and rich urban life.6 There is much to say about public space in cities that suffer war and violent conflict, and I am limited by the brevity of this talk. However, it is worth pointing out that when war enters cities, the first thing to suffer is usually public space. There are a number of reasons for this: public spaces are often directly and intentionally targeted because they are populous, pluralistic, or associated with symbolic content;

for example, the mixed Sunni-Shia book market in Baghdad’s Al Mutanabbi Street was targeted and bombed by terrorists who wished to disrupt such intellectual and pluralistic activity. Gathering spaces like this are difficult to control and tend to lack security. In some cases, they may already be sites of conflict or dissent. At the same time, urban dwellers seem to innately recognise the need for public space: in the ‘Jungle’ refugee camp in Calais, where people were living in not much more than cardboard boxes, they quickly constructed a ‘high street’ including a café, mosque, church and crèche. In situations of devastating destruction one of the first things that is restored, however tentatively, is public space; for example: on one of the bombed and broken bridges in Mosul an ad hoc market sprang up in the ruins. When it functions well, public space is civic space where, even under the most difficult circumstances, people come together; at its best such space is diverse but inclusive.

Conclusions:

Vulnerability of infrastructures cannot be separated from the vulnerability of cities.

Not only technological or economic problem – social, cultural, political.

Infrastructures are regularly targeted – high profile, pluralistic sites are selected for destruction.

Urban infrastructures represent what is common in the city.

Looking forward - better understanding of cities is necessary –

• Monitor urban metabolisms – what matters? what is common?
• Awareness of likely flash points and points of solidarity
• Knowledge of urban demographies
• Temporary solutions are often permanent
• Future vision is imperative - cities need the means to recover from war

In conclusion, we see that the vulnerability of infrastructures cannot be separated from the vulnerability of cities and urban life. Beyond the more obvious technological or economic problems, all parts of the urban entity are implicated. In war, urban infrastructures, in the widest meaning of the
word, are regularly targeted and high-profile pluralistic sites are often selected for destruction. Together the sites and infrastructures represent what is common in the city and they are more valuable in totality as the city – however diversely conceived – than they are as the sum of isolated parts and systems.

Maintaining urban life in the context of war and violent conflict is complex and difficult. Nonetheless, it is possible to consider some possibilities that are based on the observations I have described here. In addition to limited, short term relief plans cities need the means for viability in the long term, for recovery in the face of intermittent and ongoing conflict. We must monitor urban metabolism to learn what is common within cities and to know what matters most to urban dwellers. We would benefit from a more intensive awareness of likely flashpoints as well as points and places of solidarity; this would include both the obvious urban infrastructures and public spaces that are part of the wider civic culture. A better knowledge of urban demographies, including how and why different groups interact or not, and how physical infrastructures and sites embody these patterns would be helpful at all stages of conflict. Timing is important, and temporary solutions should be undertaken with the knowledge that they will often become long term or permanent. And finally, any vision of the future of the city needs to be carefully considered as one that includes all of its residents and stakeholders to allow as much local participation as possible.

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Eran SHAMIR-BORER
Colonel, Head of the International Law Department, Military Advocate General’s Corps, Israel Defense Forces

Introduction

I am very happy to be participating in this event especially as it is a special occasion to celebrate the Institute’s 50th anniversary. Many of our officers, both legal and non-legal, have trained at the Institute, and on behalf of the IDF and myself I would like to take advantage of this opportunity to extend our deep appreciation and gratitude. I congratulate the Institute and the ICRC for putting together this program in such difficult circumstances. I hope everyone is staying safe and wish everyone the best of health.

But still, this is definitely not the same as past Sanremo conferences. It is less of a Round Table, and more of a rectangular screen, and obviously, we cannot enjoy Sanremo’s gelato.

Nevertheless, I enjoyed last week's opening event, and commend the Institute and the ICRC for continuing to spread the spirit of Sanremo even from a distance. I am particularly honored to be sharing the screen with such esteemed experts.

Israel's Conflicts

I have been asked to speak about the IDF's experience regarding the protection of civilians in the conflicts between Hamas and other non-state armed groups in the Gaza Strip and Israel.

There are many similarities between this conflict and other conflicts between non-state armed groups and law-abiding states. We can identify two main characteristics here:

First, the adversary is aiming at civilians, firing into urban centers, as you can see by some pictures here of rockets landing in Israel:
And second, they are doing this from within their own urban centers, which they use to conceal military assets and militants, as you can see from some examples here:
As a result, civilians are put at the center of the hostilities on both sides. Brigadier Darren Stewart from the British Armed Forces gave some insightful background into these types of conflicts.

These characteristics are present both with regards to the IDF’s conflicts with Hamas and other non-state armed groups in the Gaza Strip, and with Hezbollah in Lebanon and Syria to Israel’s north.

You can see here the proximity of these conflicts to Israel’s Home Front on this map:

![Map showing the proximity of conflicts to Israel's Home Front](image)

The rockets fired by these groups can reach all of Israel. These groups are internationally recognized terrorist organizations which openly declare their aim of destroying Israel and attacking civilians. They use rockets, drones, tunnels and land and sea infiltrations in order to do so, and there have been periods of intensive hostilities in response to increased attacks on Israel. For both conflicts, there is a deliberate strategy of using civilians as shields and the urban surroundings as defenses.

It is not coincidental, but a deliberate strategy. On the right below, you can see an excerpt from a Hamas urban warfare training manual which IDF forces found in Gaza:
It states that when firing among civilians, the enemy – that is the IDF – is forced to restrict its use of weapons and tactics in order to avoid harming civilians and destroying property. The manual teaches that in the urban environment, the enemy cannot get the most use out of their weapons. And it says that fighting amongst civilians means that the enemy is forced to limit its fire, contend with controlling civilians in the midst of the fighting, and provide medical assistance to civilians.

And on the left in the image above, you can see slides from a Hamas training PowerPoint presentation which IDF forces found, titled “Characteristics of Urban Warfare”, and which states that in an urban area:

- It is easy to hide within buildings;
- Buildings make it difficult for the enemy to employ artillery;
- Basements and ground levels provide protection;
- One can take advantage of roofs or narrow passages, as well as the sewers, to flank the enemy; and
- Narrow streets disrupt tanks.

**Lessons Learned**

There are many lessons the IDF has learned from these conflicts. I will highlight just some of them, and underlie it all with the general statement
that Brigadier Stewart made: no matter the challenges in urban conflict, the law of armed conflict (LOAC) remains applicable and relevant, and thus the most important thing is to constantly ensure adherence to LOAC, by all parties. The IDF is committed to LOAC, and is constantly working to honour that commitment by improving its own efforts to implement the rules.

A. Ground Operations

The first lesson concerns ground operations. Ground operations remain an inevitable reality for many militaries engaged in urban warfare, which involves many harmful but legitimate practices that do not fall under Targeting Law but rather are regulated by other rules of LOAC.

The nature of urban warfare is such that it is virtually impossible to contend with and defeat the enemy through aerial activity alone. The enemy is dispersed and not easily located, there is no single nerve center that can be taken out to defeat it, and often everything is co-mingled with the surrounding civilian environment.

Thus, ground operations remain a vital component of contemporary warfare. These operations involve a completely different set of practices than aerial operations, especially in the urban environment.

Many of these practices, whether deliberately or not, result in harm to civilian objects. For example:

- Forces need to break through walls, in order to locate the enemy or move without exposing themselves to risk (this practice is known as “breaching” in military doctrine);
- They need to use smokescreens to mask their movement in the street;
- They need to detonate IEDs that line the streets where they are operating;
- They need to maneuver with heavy machinery such as tanks, which can cause damage to the surroundings;
- They have to use indirect fire (usually artillery or mortars) to support the ground force’s mission.

All these practices are considered routine for militaries which conduct ground manoeuvres. Their legality is generally undisputed. By recognizing these practices – which often damage civilian property and are sometimes even directed against it – states recognize that rules other than targeting law are applicable here. First and foremost, among these rules is 23(g) of the
Hague Regulations and its corollary customary rule, which states that a party to a conflict may destroy the enemy’s property when military necessity so requires.

I think that more emphasis needs to be put on differentiating between attacks and other common practices that cause damage during conflict. The International Criminal Court is currently considering this issue, in the *Ntaganda* appeal. There is concern that the Office of the Prosecutor’s approach indicates that they consider every act on the battlefield which causes destruction or even mere loss of functionality, as an attack governed by the realm of targeting law.

As well reflected both in states’ practice and in relevant treaties, this view is erroneous, and has serious ramifications for states. The court has now invited experts to give their opinions on what defines 'attack', and I hope that this will bring positive input.

**B. Use of Area Weapons in Urban Warfare**

The second lesson is that when fighting against an adversary that uses the urban terrain for its operations, it is necessary to use a wide range of weapons for a wide range of purposes. This includes, in some circumstances, also area weapons, in particular, artillery and mortars, which can cover an entire area simultaneously, rather than being limited to a single location.

Recently, there have been increasing calls for limiting the use of these weapons. I refer here to the lumping together of different means, including area weapons, in the category of explosive weapons with wide area effects in populated areas. Just recently, the ICRC published another video calling on militaries to stop using all these weapons, and strongly suggested that the use of such weapons was generally unlawful.¹

Now, I do not think anyone rejects that these weapons have risks for civilians or civilian objects, but I do think that there are some very important points which are missing from this conversation. Primarily, why these weapons are used. When discussing the use of area weapons, many seem to assume that such weapons are used for targeting purposes, and thus

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¹ “We are calling on states and parties to armed conflicts to avoid the use of explosive weapons with a wide impact area in populated areas. In other words, as a matter of policy, belligerents should not be using these weapons in cities, towns and other populated areas because of the very high risk of civilian death, injury and destruction”.
raise the question why more precise weapons are not preferred. However, this is often not the case. Area weapons, in particular, artillery and mortars, are used for a range of other military purposes that cannot be achieved in a similarly effective manner by other means.

For instance, when a unit is moving through an area which is controlled by the opposing force, who is all around you, and obviously you do not want to completely bombard the entire area, the use of artillery is crucial in harassing, disrupting and suppressing the opposing force and forcing them to keep their heads down, preventing them from carrying out attacks.

Ground forces essentially need indirect fire support to accomplish their mission and means such as artillery can be fired at ranges, at speeds and with persistence that other means do not provide.

Similarly, when the opposing force is hiding and attacking from behind structures, when units are in the area and need covering fire in order to advance towards their mission, there is a need for such weapons.

These are all well accepted practices, and this fact should be acknowledged and understood.

The ICRC’s video, for example, talks about what kinds of weapons these are, and where these weapons are used, but it does not seek to explain why they are used.

Again, this does not mean there are no risks involved, and militaries must mitigate them. The IDF has stringent measures for the use of such weapons and takes various steps to reduce the risk to the surroundings in compliance with LOAC.

I was thus very encouraged to hear Dr Cordula Droegge state the position that the use of such weapons in urban settings did not need to be banned, but rather that mitigating measures must be taken to reduce civilian harm. I think this is the right approach, and indeed, is right for any means that may be considered by a fighting force.

C. Protection of the Civilians of Law-Abiding States

We must remember that when talking about protecting civilians, we are also talking about our own civilians, whom we are defending. In the decades that these non-state armed groups have been attacking Israel, thousands of civilians have been killed or harmed as a result of attacks deliberately directed against them.

Defending our civilians requires serious and ongoing efforts, such as construction of bomb shelters in every apartment, prepping buildings such
as schools as public shelters, setting up early warning systems and developing and investing in technology like missile defense systems.

Just last night, as the leaders of the United States, Israel, the United Arab Emirates and Bahrain were signing peace agreements, rockets were fired from Gaza into Israeli cities.

You can see here on the right of the image, the warnings that popped up on all Israeli news channels during the ceremony, providing warning to the residents of the cities where the rockets were expected to hit:

One rocket was successfully intercepted over the city of Ashkelon. Unfortunately, the other rocket struck Ashdod, one of the biggest cities in Israel, causing moderate-severe injuries to a 62 year old man, and lightly injuring another civilian.

These defense and warning systems require significant investments and ongoing maintenance.

In the legal discourse, I think we often overlook the civilians that we are defending from attack. For example, what impact does this have on the notion of military advantage? The adversary’s aim is not like in the past – to weaken our armed forces and beat us militarily, but rather to hurt our civilian population. This then can affect how we consider military advantage. There is a military advantage in taking action against any targets whose purpose is to harm the civilian population.
For example, rocket launchers aimed towards civilian population centers. There would be a particular military advantage in attacking those launchers in order to deprive the adversary of its aim to harm our civilians, and such military advantage should be taken into account when conducting proportionality assessments.

**Conclusion**

All these are issues that the IDF is constantly focusing on.

In different IDF publications which I will link to in the chat, there is additional information about lessons learned and practices that we have developed.²

Unfortunately, it seems that our recent conflicts will not be the last time we have to engage in urban warfare.

Our Chief of Staff, Lieutenant General Aviv Kochavi, regularly talks about this publicly, and I would like to quote just one of his speeches, where he said: “The enemy is organized in brigades and platoons, armed with missiles, rockets and advanced weaponry, and is operating from inside densely populated urban areas, with a civilian population that it sees as living flak jackets”.

He then went on to say that: “the changed nature of the terrorist threat Israel faces demands that the IDF make changes and adjust its forces and methods of warfare, so urban areas cannot shield the enemy.”

I believe that the lessons we have learnt and which I have described above are also important for the international community. Initiatives to develop and interpret the law need to be cognizant of the operational challenges caused by non-state armed groups deliberately drawing the fighting into urban areas and their deliberate co-mingling into the civilian

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² For further information on the conflict between Hamas, other non-state armed groups and Israel, including the history of the conflict, Hamas’ methods of operation, and more, see https://mfa.gov.il/protectiveedge/pages/default.aspx; for more information on IDF mechanisms and practices aimed at ensuring compliance with LOAC, see https://mfa.gov.il/ProtectiveEdge/Documents/IDFConduct.pdf; for a detailed description of the operational challenges in urban warfare as experienced by IDF officers, see www.transnat.org/post/operational-challenges-in-ground-operations-in-urban-areas-an-idf-perspective; for more articles written by IDF legal advisers on LOAC, including some of the issues discussed today, see www.idf.il/en/minisites/military-advocate-generals-corps/publications/; as well www.transnat.org/post/challenges-in-the-interpretation-and-application-of-the-principle-of-distinction-during-ground-opera.
environment, as well as their deliberate attacks against civilians on the other side. Such initiatives need to be relevant and practical. For this reason, I am glad for Round Tables such as this one, which help contribute to these efforts.
I am going to address the issue of the challenges of protecting civilians from a commander’s perspective and I am going to focus on Basra where I was a Brigade Commander in 2007. And rather than talking about lessons learned, although part of it is about lessons learned, I intend to talk about how I protected civilians whilst I conducted my operations.

I am going to start with the context: this is important as I think it is different from the environment which Israel faces at the moment. So, my brigade was deployed two and a half thousand miles away from UK, inside Iraq. It was for UK a campaign of choice not a campaign of national survival. We were conducting a Counter Insurgency Operation (COIN), something which British militaries have done across the world for many years, and the guiding principle in our doctrine has always been minimum force. It was also a multinational operation, and I had several other troop-contributing Nations present within the brigade structure. In legal terms, our presence was enshrined in a United Nations Security Council resolution which was aligned with the consent of the Iraqi Government for us to be inside their country and operate inside their country. It was also guided by our own UK Law and Policy (and I will discuss RoE later), and clearly, we were compliant with the Geneva Conventions, particularly Common Article 3.

I just want to talk about internment, because it was an important aspect in the conduct of COIN, to be able to remove those who could be interfering and be a threat to our own security from the battlespace. At the end of the initial phase of the Iraq operation, at the end of the war, the prisoners of war UK had taken were due to be released back to the Iraqi Government or to the Iraqi people. Thereafter, anyone who we deemed to be an imperative threat to our security, could be held without trial. Now, our aim was to process those civilians or those potential insurgents through the Iraqi judicial process, that way we would bolster the Iraqi Government’s ability to look after its own internees, but also, it would
relieve us of the responsibility. The challenge we had with that, however, was that it was very difficult to provide evidence that was usable in court in Iraq. A lot of it, of course, was classified evidence; secondly, some of the crimes for which people were caught and arrested were punishable by death under Iraqi Law and our own government would not allow us to pass those we had interned into the Iraqi government system or Iraqi judicial system, if they were to face a death penalty.

And finally, there were concerns throughout our time, about the quality of Iraqi jails and the treatment of internees who were passed into the Iraqi judicial system. So, in addition to that, we also built and manned our own intern facility in Basra, where we held those who we arrested in Basra. Now Basra itself is a city of about 1.3 million people. There are essentially 5 to 10 tribal groupings which exist within the city. It is predominantly Shia and when we arrived in 2003, and it was still the same in 2007, it was a very poor, broken place and it had not been looked after by Saddam Hussein. Many of the people who lived there, particularly, for example, the Marsh Arabs, had been forcibly removed from their habitats by the Saddam regime, and it was a teeming city that lacked decent infrastructure, particularly in the height of summer, and it was very unpleasant for the local people to live there. It was something that the British Government, as one of their objectives, looked to improve. So, one of our key objectives when we arrived in Basra in 2003 was to improve the infrastructure, particularly fresh water and electricity. Secondly, we wished to build a resilient Iraqi security force which would then allow us, the UK, to withdraw from Iraq and hand everything back to the Iraqi Government.

I deployed into Basra in 2007 with a brigade of about 10,000 men and women. We were deployed around the international airport, but also, we had locations in the city, in particular, one of Saddam Hussein’s former homes, Basra Palace. The brigade’s main effort was to train the Iraqi security forces, which would then allow us to hand over to them all the rules of security that we were conducting. We were, however, faced with a very violent insurgency. A grouping known as Jaysh al-Madi, was opposed to our presence and was conducting its own political campaign within Basra and also more broadly, under Muqtada al-Sadr, across Iraq and we were seen as an opposing force to their desire to dominate the city. They were terrorising the local people, they limited our ability to conduct humanitarian work and to guarantee the safety of those conducting humanitarian work and they continued on a regular basis to attack both our fixed locations, particularly around the international
airport, but also the bases in the city. They attacked our patrols with direct fire weapons, RPGs, small arms, and indirect fire into the camps. So, the context in which I was operating was how to constrain, how to counter this insurgent group, and, at the same time, protect the local population within which they were operating.

I want to cover five main areas which were ways in which I intended and did protect the Iraqi people in Basra. First of all, and I mentioned earlier, we were wholly constrained, and rightly so, by our nationally imposed rules of engagement. Now, these rules of engagement were given to me by the Headquarters in London, and I was wholly accountable for the force that I used. The posture we adopted was one of self-defence, and that largely follows our doctrine of minimum force, which means that we could only use fire, lethal force to protect our own lives and save the lives of others.

So, in an indirect fire example in June and July 2007, over 200 rounds of indirect fire landed in our base around the international airport; and in very similar circumstances to the imagery provided by Colonel Erin, these rockets were fired from within the urban area of Basra.

At no time, at no stage did I return fire – I was not allowed under the rules of engagement. I did not want to do so, because if we had fired our artillery into the city, not only would we have damaged the infrastructure, but clearly we would have caused collateral damage and significant casualties to civilians. So, we absorbed the indirect fire, and only if the attacks were launched from rural areas, away from the city, did I permit our gunners to return fire against these indirect attacks against us. And, equally, with direct fire we only returned fire against those who fired upon us; there was no first use of force or initial use of force. The violence we used or the direct fire we used was always in response to people firing at us. And every time my soldiers used fire or fired with their weapons, at a suitable moment, they had to sit down and write down why they had fired, whom they had fired at, and how many rounds they had fired and the context in which they had fired the weapon. And that, in due course would come back through me into my office so I could get a good picture of how much fire we were using. And I also had a lawyer in my outer office who sat with me all the time, whose advice to me was constant in terms of the proportionality and the applicability of the force we were using.

Secondly, we targeted the insurgents very carefully. The challenge of understanding and the identification of insurgents who are operating inside a city in very difficult. They are hard to determine against civilians, so you have to target very carefully those who are using force against you. An
example is when indirect fire was used there would at times be an un-
manned vehicle flying over Basra which would spot where the vehicle fired
from. We would follow that vehicle until perhaps three or four people got
out, went into a house. We would then watch that house and then later that
night, at a time of our choosing, we would target that house to arrest those
inside it who we believed had conducted the attacks against us. Similar
signals intelligence from mobile phone used also allowed us to target
particular individuals.

Thirdly, we used precision fires, and I think that has been brought up
by Colonel Erin and clearly the Israeli Defence Force has probably the
most advanced precision weapons in the world. They certainly have spent
the most on investing in understanding this sort of weaponry. So, a very
simple precision weapon is snipers; but we also had more sophisticated
missiles, rockets which were very precise where they landed and had very
small warheads which did very little damage when they exploded on
impact.

Fourthly, training. All my soldiers underwent extensive training in the
rules of engagement (ROE) before they were deployed. They were taken
through scenarios with crowds to replicate civilians in urban training in
UK, that allowed them to practice and understand the sort of environment
they might have to be faced with. When we went into the cities to do
targeted operations, we mainly operated at night, because our night vision
devices were far superior to those of the insurgents, and, therefore, we
could dominate the night, but that all requires a great deal of training.

Finally, I tried to relieve casualties or potential casualties through what I
would broadly call diplomacy. I spent a lot of my time, conducting key
leader engagement, which essentially means that I am meeting local
politicians, the Government of Basra, local sheiks, local leaders and I am
using that time to understand both what is going on in the city, to
understand issues they may have about what is happening to their own
people, and to build up a more sophisticated picture of what is going on and
where shortages were, how civilians were suffering and what they were
suffering from.

So, I wouldn’t want to define these five points as lessons learned. I think
they were rather ways in which I conducted my operations in order to limit
the potential collateral damage to civilians in the city.

To conclude I think it is very apparent to everyone that operating in
cities is difficult. The enemy, the insurgent has a considerable advantage; it
is a difficult space to manoeuvre in; they can hide; they can appear and
disappear very quickly; and they are difficult to operate against. Equally, I
would recognise that the weapons we have are very capable of causing huge damage to the city or to buildings, to infrastructure. And I would say the lesson I learnt mostly is that you have to limit the use of force, otherwise you lose the consent of the local people and if you lose consent on a Counter insurgency campaign, the campaign is lost.
III. Addressing the humanitarian consequences of urban warfare in the midst of the hostilities
How women with disabilities address the challenges of living in a city at war

Amina AZIMI
Afghan Landminer Survivors’ Organisation
and Empowering Women with Disabilities, Kabul

Good evening ladies and gentleman. Thank you all for giving me the opportunity to speak today.

My name is Amina and I am talking to you from Kabul. The city where, when I was 8 years old, a rocket injured me on my way back home after an afternoon spent with my sister.

Often, schools become a dangerous place during war. Buildings are damaged and children are not safe. If you have an accident like mine and you cannot stand on your feet, school becomes a dream.

I remember I was sad after the accident because I was in the hospital and I feared I could not go back ever again.

Also, when I was injured my family financial condition worsened and I feared to be a burden for them. The war was ravaging and people, including my parents, could not go out to work.

Poverty spiked day after day and we didn’t have money to pay transport to my daily rehabilitation sessions. Luckily, the ICRC hosted me for 4 months in a rehabilitation center.

My relatives and other people visiting me said “You are a girl with an impairment; it would be better to die than live a crippled life”. Underestimating the abilities of people with disabilities is very common in Afghanistan.

I was shocked and miserable. I was told I couldn’t do anything for myself anymore, and that my family had to assist me for everything. I did not know that was not true.

What happened to me happens to thousands of other women with disabilities living in a city at war: freedom is limited, access to schools restricted, employment rights are not guaranteed.

Stigma from relatives and neighbors is high.

Often, women with disabilities are exposed to sexual harassment and violence. Often, we are divorced and live in dire social and economic situations. These harsh conditions have a negative impact on our physical and mental health.
I was impaired and raised in a city at war. But, then, I became an engaged citizen.

Cities at war pose significant challenges on women with disabilities, and civilians in general. This is why I have decided to personally engage to raise awareness on women’s and disability rights, especially among people in rural areas. After recovery, I decided to travel to far-away provinces to meet with disabled people who had been isolated. I wanted to inform them of their rights.

Warring parties should avoid using explosive weapons with wide area effects in populated areas. Nor fighting should happen in public spaces or close to public transport so that civilians can work, go to school or to the market without discrimination.

In these contexts, women’s rights should be acknowledged and protected, allowing them to access services and participate in society.
Humanitarian consequences and protection risks faced by civilians during urban warfare

Caroline BAUDOT
Deputy Head of Unit, Protection of the Civilian Population Unit, ICRC

This presentation discusses the main patterns of risk and the humanitarian consequences that civilians face during urban warfare and how they relate to the use of force and the treatment of civilians by armed actors.

I will first consider how the risks civilians face are linked to the different situations they may find themselves in during urban warfare – whether they remain in the city at war, cross the frontlines, or are displaced. I will then consider how the different means and methods employed by parties to armed conflict, be it states or non-state armed groups, affect civilians differently and can exacerbate risks for civilians, with a focus on four possible urban warfare scenarios.

I contend that this civilian harm can be anticipated and thus reduced. Parties to a conflict should consider the full range of civilian harm likely to result from urban warfare and should do so before, during and after hostilities. Finally, I will describe some of the work and protection response of the International Committee of the Red Cross (ICRC) in urban warfare settings.

Patterns of risk for civilians

Civilians face different risks depending on whether they remain in the city during fighting, leave their homes and cross front lines or become displaced. While this categorization of situations is helpful, it is also limited because this is rarely a linear experience and civilians will not all have the same experience at the same time. Civilians are not one homogeneous group of people; their vulnerability to certain risks varies depending on a range of factors, such as their gender, age, ethnicity, health or socioeconomic status.
Remaining in situ

When civilians live in a city that is at war, they find themselves quite literally in the middle of it, with fighting taking place around them in an unpredictable way. Many civilians are killed; others are seriously injured or left with disabilities. Civilian property and infrastructure – people’s homes, schools, health-care facilities, shops and markets – are often damaged or destroyed, or may become inaccessible because of the fighting. Water and electricity supplies may be intermittent or cut off completely. Food is no longer available or it becomes too expensive for most people to afford.

For civilians, any activity or movement outside their home can be life-threatening. Civilians interact daily with ever-present armed actors who control cities, neighbourhoods and streets. A visit to a health-care centre becomes a dangerous undertaking, if a functioning facility can be found. Shortages of medical staff and supplies are commonplace.

Children – both boys and girls – stop going to school if the buildings have been damaged or destroyed. They may decide not to go because the school is occupied by armed actors or because they risk being forcibly recruited by armed actors – a risk men are also likely to face. With the breakdown of the rule of law and social norms, combined with the presence of armed actors, there is often an increase in sexual violence against women and girls, men and boys.

People lose their jobs and livelihoods when it becomes too dangerous to go to work or if their workplace is destroyed or closed as the economic situation deteriorates. The result is that the number of people living in poverty increases. The link between conflict and poverty is now well established.

Crossing front lines

Faced with these risks, civilians have to decide whether to stay in their home or to leave and find somewhere safer to live. This truly is a life or death decision, and one that is often made by men on behalf of the entire family as women often have less decision-making power. It is also worth remembering that the choice is sometimes made for civilians, as they may be forced to leave if they lose their homes or access to services. On the other hand, they may be unable to leave because of ill health, be prevented from leaving by parties to the conflict or be deprived of their liberty.
When civilians leave their homes in search of a safer place to live, either within or outside the city, they will have to cross front lines. They face significant danger in doing so, unless all parties provide safety guarantees to civilians. When escaping a conflict zone, many people are killed or wounded in crossfire. They may be directly targeted by armed actors, particularly if a party to the conflict seeks to keep civilians in an area under their control and use them as human shields.

Civilians continue to face risks after they have crossed front lines. Armed actors may delay or deny them access to safer areas. For example, if armed actors refuse to let them pass checkpoints, civilians are then forced to remain close to the fighting for prolonged periods of time, without shelter or assistance.

Authorities may also screen civilians, looking for combatants or fighters from the other party. While it may be a government’s prerogative to conduct security screenings in the interests of its national security, the screening process itself may lead to violations and abuse against civilians, especially men, including disappearances and torture. Family members often get separated in the screening process and may need time to be reunited.

**Becoming displaced**

When civilians reach safer areas, they must find a place to live, but they are now away from their home, family and social network. Displaced people may go to a camp, but other risks exist there too. Inside a camp, these risks include lack of access to employment opportunities and to adequate assistance and services. Civilians may face abuse and violence, particularly if armed actors are present, and they may have their movements restricted, either severely or completely.

Some displaced people decide to stay with host communities or relatives. This support mechanism is soon strained as the resources available to host an extended community are often limited. Others try to manage on their own. When people are displaced in cities, they may struggle to access assistance because they are less visible to the authorities and humanitarian organizations.
Returning to the city

After some time – this may take years during a protracted conflict – the question of returning home in the city will arise. Some individuals and families may want to return home but may be prevented from doing so by the government or their community. Others may have to delay their return. The higher the impact of urban warfare – in terms of the level of destruction (homes and infrastructure), disruption to services and the presence of explosive remnants of war – the longer it will take for a safe, dignified and voluntary return to be an option for displaced people. Conversely, some people may not want to return home, but may be forced to do so by the authorities.

How means and methods correspond to civilian harm

I have covered many humanitarian consequences observed in most urban warfare settings and I will now consider how the means and methods employed by armed actors correspond to the risks that civilians face, focusing on four scenarios likely to occur during urban warfare. These scenarios may occur in isolation or overlap and can occur concurrently within the same urban area.

One such scenario is siege. When parties to armed conflict resort to siege tactics, civilians see the accessibility and availability of supplies essential to their survival such as food, water and health care reduced even further. Even when advance warnings are given by parties carrying out an attack, these warnings often do not reach or may not be understood by all civilians who may be affected. Civilians are often unable to act on warnings of attacks by taking the necessary measures to protect themselves. The wounded and sick rarely receive the medical care and attention required by their condition and are seldom evacuated.

In a second scenario, all parties may deploy ground troops to clear an urban area and one or more front lines may cut across an urban area, which exposes civilians to a different set of risks. They may be unable to cross the front line(s) to reach services or supplies or family members located in an area controlled by the other party. As parties gain and lose territory and the front line shifts, civilians often fall under the control of a new armed actor and run the risk of being ill-treated, particularly if they are perceived as being affiliated with the other party. Civilians may move ahead of the front line as it shifts and be displaced on multiple occasions.
In a third scenario, attacks may be carried out through indirect fire and aerial bombardment. When explosive weapons with wide-area effects are used in populated areas, the risk of mass civilian deaths and injuries increases greatly, with civilians hit directly or because critical infrastructure is incidentally damaged or destroyed, which disrupts essential services. In addition, the deliberate targeting of health facilities or economic infrastructure directly kills or injures people and it increases the risk of long-term harm to civilians, which is sometimes the exact intention.

A fourth scenario may be of asymmetric warfare, where the resources or strengths of the parties involved differ significantly and one party to the conflict does not have the capacity to permanently control an urban territory. One party launches attacks against the party that does control the area, with civilians often bearing the brunt of the attacks. In addition, the party controlling the urban area may ill-treat some civilians for their perceived support for the other party. This often takes the form of violence, arbitrary arrests and detention, and restricted movement, which consequently affects civilians’ access to health care, education and their livelihoods.

Reducing harm to civilians

By identifying these trends and patterns of risk, it becomes possible to link civilian harm to specific situations and means and methods of warfare. It is, therefore, possible for authorities and parties to armed conflict to anticipate these humanitarian consequences and to reduce the risks faced by civilians.

The humanitarian consequences of urban warfare have reached unprecedented levels in recent years and we have seen harm suffered by civilians that is simply unacceptable. ICRC acknowledges the immense challenges of fighting in urban settings and that some harm may not be unlawful during armed conflict. However, the humanitarian consequences of urban warfare can be reduced or minimized by implementing a range of measures.

When considering how to better protect civilians, states and armed actors should take into account the whole range of civilian harm, beyond violations of international humanitarian law (IHL). Civilian harm needs to be understood within broad parameters that include the short-, medium- and long-term impacts of urban warfare on civilians. This includes the reverberating effects of damaged or destroyed infrastructure, ill-treatment...
by armed actors, the length of time people are displaced, and the significant
damage to the country’s economy, cultural heritage and education, to name
but a few.

Efforts to protect civilians should start before the first shot is fired. This
can be put into practice with training that explains what protecting civilians
means in reality and how it can be operationalized during urban warfare,
for example, considering how to create safe exit routes for civilians.
Military planning should include the provision of medical care and
humanitarian assistance for civilians. Mitigating civilian harm should also
form part of the relationship and dialogue with partner forces.

Efforts to reduce civilian harm during military operations must be
stepped up through improved targeting procedures, battle-damage
assessments and after-action reviews that include civilian harm as a
standard component, as well as civilian casualty tracking. These efforts
should continue after the last shot is fired, such as by providing ongoing
medical treatment to affected civilians, rebuilding the urban environment,
restoring essential services and weapon decontamination.

The ICRC’s work to promote the protection of civilians

At the ICRC, we respond to urban warfare in a holistic way before,
during and after hostilities. Many of our activities are well known:
providing parties to a conflict with training in IHL, supporting the drafting
of codes of conduct, contributing a humanitarian perspective to military
exercises and planning in terms of how to protect civilians, and promoting
good practice in mitigating civilian harm.

The ICRC has several forthcoming publications that focus on how
military forces can integrate the protection of civilians into their urban
warfare planning and conduct, and into relationships between partner
forces. We also support states in developing and implementing policies that
protect civilians.

In addition, we conduct confidential, bilateral dialogue with parties to a
conflict on how to improve compliance with IHL and how to protect
civilians in specific operations. We may carry out after-action reviews that
focus on the protection of civilians and we may discuss lessons learned
with parties to a particular armed conflict. ICRC seeks to develop
arguments that will resonate with parties. For example, in some contexts,
ICRC has successfully convinced some non-state armed groups to
withdraw from health-care facilities through dialogue based on Islamic law
and its overlap with IHL. Our dialogue can be preventive, as well. For instance, when we communicate with parties to a conflict about protecting critical infrastructure in broad terms, we may identify specific infrastructure that is at risk and explain how civilians would be impacted if this were to be affected by fighting. We may also organize or facilitate medical evacuations, such as those we carried out in Ta‘izz, Yemen, or in Mindanao, in the Philippines.

Finally, we recognize that individuals and communities affected by urban warfare are often the first agents of their own protection, and we seek to understand and support civilian self-protection measures. Of course, these measures are rarely sufficient; IHL compliance remains an obligation and a necessity in order for civilians to be safeguarded. However, when civilian actions do have positive consequences, it is vital for the ICRC and parties to the conflict to better understand these actions in order to support them.
Persons displaced by urban fighting: understanding their needs and how to respond

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The number of Internally Displaced Persons (IDPs) has reached a historic high. The end of 2019 showed a global increase of 45.7 million IDPs as a result of conflict and violence. This data was recorded by the Internal Displacement Monitoring Centre in their report focusing on 61 countries and territories. This is an alarming number, and includes 8.5 million newly displaced by the continuing conflict.

I am working with the global UNHCR protection cluster. We are working in over 32 operations in Asia, Middle East, Americas and Africa. Although we are a global protection cluster based in Geneva, we work with national protection clusters in the field. There are 25 clusters and sectors worldwide and 7 working groups.

We work with areas of responsibility on child protection, gender-based violence, housing, land and property and mine action. We have over 1000 members and run over 100 locations. As mentioned earlier, we work with humanitarian agencies, international organisations and non-governmental organisations in ensuring protection in humanitarian crises, especially in conflict-induced situations.

In relation to the work that we have been doing, the Inter-Agency Standing Committee (IASC) defines protection as “All activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (i.e. International Human Rights Law, International Humanitarian Law and International Refugee Law)”.

What does that mean in practice when we are talking about persons in displacement, especially in urban warfare settings, and how can we respond to their needs?

We have to look at what the risks are especially the protection risks that are raised, namely, violations and human rights violations faced by the affecting populations. And how do we formulate a response to eliminate or address these issues as part of the response? As humanitarian actors, whether we are dealing with mine action, gender-based violence or child protection, we are all responsible for ensuring an effective protection response so we are able to respond effectively to the protection needs of
persons who are displaced and they can be men, women, children, boys or girls.

Whether I talk about the centrality of protection or the national protection clusters in the field, it is important that all our colleagues and protection actors work to incorporate such protection principles and ensure meaningful access, safety and dignity when offering humanitarian aid.

And what does that mean?
The four elements we are looking at are:
- prioritisation of safety and dignity and the “do no harm” principle;
- meaningful access for persons who are displaced, especially in situations of urban warfare, to ensure that people with special needs, with disabilities have the ability to access these services;
- accountability where those persons who are displaced, have mechanisms to ensure that their voice can be heard and that they are able to address access to some of the services provided;
- encouraging participation and empowerment: it is always important that IDPS affected by urban warfare are able to effectively participate in decision making.

Some of the risks that were highlighted earlier, continue to exist even in urban settings. We have seen an increase in situations where impacts are higher in cities, including gender-based violence, violence against children, child recruitment, freedom of movement due to densely-populated areas they are in with higher impact and civilian casualties, family and child separation resulting from these conflicts, and potentially contaminated land due to unexploded ordinances, not to mention problems with evictions and shelter and land and property as a result of being in displacement.

What can we do and how can we respond to the needs of people, civilians who are impacted by these crises?

Overall, we see that whether you are in the urban centre or in rural areas the impact on civilians is quite high and displacement is increased. Through the protection cluster, we want to ensure that there are response strategies in place, that protection principles are maintained: accountability is respected, the “do no harm” theory is put into practice, access and empowerment is encouraged. So adapting these systems is really key and through the clusters at a national level and working closely with our areas of responsibilities (AoR) we work to monitor these protection risks and incidents that may occur whether it concerns child protection, or gender-based violence or potential mine hazardous issues.
Due to Covid-19 not only do we have a combination of conflict but also a pandemic. Consequently, at the cluster level, our response and support are needed to ensure that health services need to continue as well as vital protection services.

We work with our partners on the ground to address these incidents through our work with child protection Area of Responsibility, gender-based violence, mine action and housing, land and property. This is in the form of referral pathways in gender-based violence related cases, guidance to protection actors on the ground and how to work and collaborate closely together.

Due to Covid-19 we have seen protection partners and clusters having to adapt through these existing systems, through community networks, and through community leaders and grass root organisations.

What we have done as national coordinators and AoR leaders is to try to play a more collaborative and collective role in response to the displaced community and determine the needs that they may have, whether it be a child protection risk, gender-based violence or an increase in other risks that they may be facing. The coordinators and the AoR leaders need to work with their community, they need to work with the leadership on the ground to be able to address and mitigate these protection risks of violence. Moreover, in other situations, whether in urban centres or rural areas, in order to achieve and ensure protection outcome that will ensure effective response for displaced persons, we need to have a strong evidence base and this is achieved through the analysis of these protection risks, through our protection monitoring on the ground and collection of vital data.

Here are some examples of the work that has been done:

In Syria, as you know, there has been an ongoing conflict and civilians have been exposed to hostilities, to indiscriminate attacks, to the use of improvised explosive devices as well as ground offensives.

More than 1.2 million have been forcibly displaced to North West Syria from Northern Hama, Southern Idlib and west of Aleppo and their freedom of movement has been compromised. In addition, where you have this combination of urban warfare as well as a Covid-19 pandemic the displaced community suffer from an increase in negative coping mechanisms as well as risks, potential threats and vulnerabilities whether it is gender-based violence, or child protection-related issues. An intermingling can be seen because of the situation involving housing, land and property as well as challenges in accessing their civil documentation.

How do we address those needs?
What they have done, as an example through the protection sector area in Syria, is that they have expanded the mobilization of community volunteers and community-based organisations. As mentioned earlier, we need to involve the community and also work closely with the displaced in order to prevent and mitigate and address these risks.

How do we do that? We have to strengthen and improve the identification of these individuals, households and vulnerable persons. We must continue our protection advocacy, working with areas of responsibilities in Mine action, GBV and child protection.

One good practice that has been highlighted was in April 2018 when the offices in Hama and Homs facilitated and simplified the access of IDPs and others, to obtain assistance for damaged housing. How did they do that? They had this centre where displaced persons could apply not only for government housing compensation, but shelter rehabilitation and recovery of their lost documents.

Another example we have seen at the national cluster level is the work that has been done in Yemen: the continuing conflict there is impacting the safety and well-being of civilians across 47 active front lines across 10 governorates.

As of August 2020, there has been an estimated 1.318 civilian casualties, and this includes not only casualties but damage to both the civilian infrastructure, health, education and transportation.

Due to this urban warfare, we have also seen that the health facilities in Yemen continue to be attacked, even during the Covid-19 pandemic.

And what was the response?

The protection cluster continued to work through a victim assistance project support addressed to the injured and displaced. They did this through covering medical expenses, referring displaced persons to specialized services and including needed cash assistance and psychosocial support.

The mine action AoR conducted surveys and cleared contaminated land and then provided mine education.

The child protection AoR provided psychosocial support and critical child protection services, including family tracing and reunification. And the GBV AoR distributed dignity kits and multi-sectoral services.

In addition, one of our field examples highlighted the fact that, in Iraq in 2016, there were more than 53,412 families displaced. Protection partners had scaled up their operations in the Nineweh governorate. During the protection cluster they had a more mobile approach to reach the affected populations, involving 66 mobile protection teams, including mobile teams
dedicated to child protection and GBV. Messaging was developed by the Communication with Communities (CwC) Taskforce under the protection cluster to ensure that dissemination was done in the displacement routes.

I would like to conclude by emphasising that the work being done aims to ensure the centrality of protection and the protection of mainstreaming principles within the community.

So, look how a collaborative response has been adopted and how protection partners and areas of responsibility have ensured training, guidance and referrals for men, women and children who are displaced because of this urban warfare. All efforts should continue to ensure protection monitoring for the displaced community, protection advocacy with humanitarian leadership, and finally, communication with communities to include the community leaders and grass root organisations.
Challenges of ensuring the prompt evacuation and care of wounded and sick during urban operations

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All of us who have witnessed at first hand the horrors of war in a city will understand the speed and extent to which all semblance of control can be lost. The challenges of providing medical care in urban warfare mirror the complexity and chaos of that conflict. It is no accident that adversaries choose to fight in cities. If you are a weaker or irregular force it is the best way to blunt the superiority of advanced armies. It is also worth reminding ourselves that casualties are not just an inevitable consequence of conflict.

Causing casualties is a deliberate strategy increasingly employed by combatants in recent years. It forces the other side to use precious resources in caring for their wounded, and may be a more effective way of slowing an advance than simply killing the enemy. It undermines the will of the people and increases pressure to concede.

So I want to look at this problem from a number of angles, and for simplicity I will describe three levels of control where we might find ourselves.

The first is the tactical level, that is the delivery of care to an individual patient or casualty; second is the operational level, that is the level at which care is organised and delivered, and third, the strategic level; the level at which responsibility for delivery of medical support is planned, debated, and decided. Each level will differ for different actors at different times and phases of combat.

At the tactical level the problems are well known. Medical facilities in cities often occupy easily identifiable and strategic locations. They are large and complex installations, and it makes complete sense for an adversary trying to delay an attacking force to establish defensive positions in a hospital, using its workers and inhabitants as a human shield. We know this is contrary to IHL, but we know it happens. The attacker is impeded while he debates the issues of proportionality and necessity before attacking a protected site. We also know that in some situations, in particular, in the case of internal conflict between government and irregular forces, where
the opposition is attempting to gain some sort of legitimacy and control over a civilian population, government forces may deliberately target medical facilities to demonstrate that the rebels cannot provide protection and support to the civilian population. Where those facilities are by necessity also providing medical support to the fighters of the rebel force the government may even claim that the medical facility is a legitimate target. So often in conflict, medical facilities, rather than being spared, are deliberately destroyed. It is the same with medical personnel. Not only do they risk injury when responding to attacks that have caused civilian casualties, they are increasingly being deliberately targeted as a way to draw forces into areas where they can be attacked further.

Provision of medical support relies on a spectrum of capability to be effective. It needs people with the right skills and training, but it is often the professionals who find it easiest to leave a conflict area as fighting escalates, leaving behind less skilled or untrained people to respond. In any case, very few peacetime clinicians have the skills and training required to manage successfully the challenges of wounds caused by a wide range of explosive, incendiary and chemical weapons. Patterns of injury are complex and the immediate and long-term management requires a degree of training in which few health services invest in peacetime. They also need the right equipment and supply lines to provide, replenish, maintain and repair equipment and medical supplies, including blood in large quantities, and it requires an intact infrastructure of water, electricity and shelter to provide suitable conditions for care, the very things that may be targeted in order to deny their utility to an enemy. Patients often have to be moved from point of injury to a surgical facility and then to a tertiary hospital, but each of those movements may involve hazardous journeys with inadequate vehicles and over dangerous routes.

And typically during the confusion of urban warfare it is not immediately clear who has been injured and so at some point there will be a need to distinguish between civilian casualties and combatant casualties of either side. During the relief of Mosul we saw all of these factors in operation. Medical facilities were occupied by Da’esh, the staff who remained were unpaid and demoralised, and civilians trying to leave the city were deliberately attacked. Supply lines were non-existent.

Combatants from both sides were evacuated alongside civilians, by any means available, often still carrying weapons or even concealed explosive devices, and this placed an enormous strain on the military attempting to control movement and on medical responders attempting to identify and prioritise the wounded.
At the operational level there will be a number of agencies attempting to provide medical support. In all but the most extreme cases there will usually be a national mandate and primacy will reside with national governments. They will usually have at least some control over civilian healthcare facilities and their own military healthcare capability.

Depending on the duration and extent of hostilities they will have been supplemented by a mixture of NGO and INGO capabilities, each with their own mandate and limitations on action. A relatively recent arrival has been the appearance of independent private medical providers – like the Australian company Aspen Medical, which provided level 2 surgical and obstetric hospitals around Mosul during the liberation battle. They have been accredited by the WHO as a level 2 capability, and undertake to adhere to humanitarian principles, but might be viewed by more traditional NGOs as too closely aligned with the international bodies that contract with them.

Where a military alliance has been formed, contributing forces will usually make their own provision for supporting their own forces, and independent chains of treatment and evacuation may operate in parallel, although in the case of NATO troops, considerable progress has been made in provision of integrated medical evacuation chains where one or two nations may take a lead role. Until relatively recently those military treatment capabilities have had a primary role supporting friendly forces, but under IHL they have also treated enemy combatants, and have made only limited provisions for civilian casualties under so-called eligibility criteria.

When these different capabilities are operating in the same space there is a strong case for close cooperation and even integration but that is fraught with difficulty. For many INGOs the prospect of cooperating openly with military medical facilities exposes them to the accusation that they have compromised their neutrality. That might not be true but the optics may be different and if, for example, MSF were seen to be operating alongside American troops in Iraq, even if only treating civilian patients, their actions might be portrayed or viewed in Yemen or Afghanistan as a form of collaboration with America and could lead to MSF facilities being targeted in those places. So the maintenance of a neutral posture may trump the imperative to provide open access to care in some situations. NGOs might be expected to work closely with existing national facilities but might have elected to set up separate, independent capability that may end up competing for resources, including staff, with indigenous capability. During the liberation battle in Mosul the WHO took on a leading role
coordinating the evacuation and treatment of civilian casualties, organised in line with military doctrine through different roles of care. But while the military is organised along those lines and rehearses for the complexity of conflict, passing patients seamlessly through an evacuation chain which is already difficult to recreate when an ad-hoc alliance of healthcare organisations come together for the first time, is not so obvious. In addition to the challenges of just providing the right care, are all the additional problems of standardisation, integration, data sharing and prioritisation of resource allocation. This requires a high degree of data management and communication which is impossible to establish once conflict has started.

At the strategic level planning has to take into account many factors before agreeing courses of action. There will always be a debate about whether civilians should be evacuated in advance if conflict is anticipated, but rarely do they have the luxury or the will, and rarely will it be planned. Refugee flows are unpredictable but provision must be made to support them in all basic needs, including healthcare. This would be the subject of a whole seminar in itself.

Local civil authorities will usually have the best understanding of capability and capacity but during conflict this will be disrupted and destroyed unpredictably. It will always be necessary to prioritise certain capacities, in addition to the provision of care for the wounded. High on the list will be the maintenance of some specialist capability, with obstetric, maternity and child health near the top. It is a sad fact that large numbers of children have been injured in recent conflicts but the understanding of the effects of explosive and kinetic weapons on children is largely unresearched. Beyond the current conflict zones there is hardly any specialist provision for the care of children injured by these weapons and the legacy of their injury and disability will be carried for decades once the conflict is over. Mental health services are also among the first to suffer, and although there is always a rallying call for provision of psychological support to the survivors of conflict, there is less focus on the maintenance of services to those already suffering from chronic and acute psychiatric problems.

Finally, we should consider the question of high-level coordination between civil authorities, who usually retain primacy even when they have called for support from external allies, international bodies, and the military. Here I think it would be fair to say that progress has been made. UNOCHA has developed its understanding and capacity to act in the sphere of conflict and remains the best organisation to coordinate and cajole the plethora of civilian actors attempting to provide aid. But it is the military
who bring the greatest organisational ability to bear, most recently through the creation of the civil military operations centre, the CIMIC-COE.

The major advantage that the military have is their ability to organise and prepare in advance for different contingencies, and to maintain a comprehensive picture of what is happening and who is involved. I have often stated that the military is paid to plan and practise, only rarely having to do it for real, whereas the NGO community is only paid when it has to do something and so is often poorly prepared and has rarely rehearsed for the unexpected. Part of this preparation is the building of relationships and the building of trust, which can only come about through dialogue and the planning and exercising of scenarios but the sharing of information remains a huge challenge.

In all conflict fought by states who have signed up to and abide by the Geneva Conventions and Protocols and a host of subsequent UN conventions, the protection of civilians is now a primary consideration. It extends to the setting of strategic goals and dominates the planning process when courses of action are debated. As a result, military planners will have access to comprehensive data about organisations, infrastructure and consequences of actions they may take. They are able to share that information with accredited bodies, but inevitably will not always do so, citing operational security. Whereas in previous conflict targeting, decisions might have been based on the military value of a target, there is now a much more comprehensive arrangement whereby an assessment should be made that takes into account the impact on the civilian population of any deliberate action. This becomes increasingly hard to apply once troops are responding to a tactical threat and collateral damage still occurs with depressing frequency. This may give rise to further distrust when actions are taken that appear to have caused unnecessary damage or injury. The military powers have a responsibility to openly and transparently share information, also when things go wrong, something that often conflicts with the military mindset.

I would like to finish by returning to the tactical, and to say that recent conflict has shown us that however desperate the situation may become, on the streets of Aleppo, in Idlib, or Hodeida, there are always brave people who will organise and provide medical care, however basic it may be. They are often the last resort for civilians caught up in conflict. An important part, therefore, of providing medical support in urban conflict is to identify and support those civil society bodies as early and as much as is possible. They are often the front line of medical support.
IV. The choice of means and methods in urban warfare
The challenges of applying the principles of distinction, proportionality and precaution in urban environment characterised by dual-use objects and intermingled civilians and military

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First, I would like to thank the International Institute of Humanitarian Law and the ICRC for putting on this series of webinars. The Sanremo Round Table is an important forum for IHL issues, and even during a global pandemic, it is good that we are able to discuss these critical topics.

For today’s topic, the choice of means and methods in urban warfare, I will primarily draw from my experiences advising the commanders of Operation Inherent Resolve, the coalition of more than 30 states that assisted Iraq in driving out the Islamic State, or ISIS.

I acknowledge at the outset that the battle of Mosul in 2016 and 2017, while being the largest urban operation since the Second World War, was not between two state armies under responsible commands. Instead, the fight was between a coalition of states committed to abiding by the Law of War, and a collection of unlawful belligerents who openly refused to abide by the Law of War. ISIS also took every opportunity to use our compliance to their advantage. It is worth noting that urban operations might look very different between two state armies that are both committed to observing the Law of War.

Despite the fact that, throughout the conduct of the Battle of Mosul, the enemy actively used our Law of War compliance as both a sword and a shield, Coalition commanders were absolutely committed to distinguishing between civilians and combatants; using force against only military objectives; weighing the concrete military advantage to be gained against the risk of harm to civilians and civilian objects; and preventing unnecessary suffering. Adherence to those basic Law of War principles allowed us to defeat a determined and brutal enemy with far fewer civilian casualties than could have been sustained. Urban operations, as we all know, inevitably puts large numbers of civilians at risk. However, the Law of War is not results-based, it is principles-based. And like in Mosul, the extent of civilian damage or destruction is not necessarily an indicator that
parties violated the Law of War. To determine whether there was a violation of the Law of War, one must look at what commanders decided, what facts were known to them at the time, and what feasible precautions they took to protect civilians and civilian objects on the battlefield.

One of the challenges we faced during that battle was an enemy that used civilian objects, as well as civilian persons, to protect itself. For example, in the battle of Mosul, we found that ISIS purposely emplaced many of their headquarters and weapons storage sites in mosques, churches, and schools – especially as firing points – knowing that those areas receive special protection under the Law of War. The enemy was acutely aware that the Coalition was committed, on principle, to observing the Law of Armed Conflict. That did not always stop commanders from pursuing those objectives, for as we know, protected objects lose their protective status when one of the parties converts their use to a military purpose. When cases like this arose, our commanders had to weigh both the long-term effects of destruction and damage to civilian objects, and the military necessity of the strike.

Commanders also factored in the speed of the operation. The ground forces were primarily Iraqi forces, and we had to understand the amount of force they had, the number of people they had, and the impact of the current fight on civilian suffering overall. Our position was that the longer such an urban operation took, the greater the likelihood that civilians would suffer from hunger, thirst, disease and simply being exposed to battlefield conditions. That meant that the speed of the operation was one of the factors commanders used in weighing the proportional response.

One of the key means and methods the Coalition used to help mitigate risk to civilians was technology. In examining the feasible precautions commanders took in the Battle of Mosul, one cannot understate the value of technological advances such as UAV feeds, which provided commanders views of the city and the ability to determine civilian pattern of life. While we were there, we adopted a very deliberate process in target selection based on intelligence gathered along with direct observation – sometimes days or even weeks of observation.

This information allowed the commander to understand both the pattern of civilian life in the area, and the relative value of the ISIS target. It also allowed commanders to sync strikes with times civilians were less likely to be present or harmed. On our staff, one of the precautions we took was to designate a specific person to monitor observed video feeds and record when civilians were present on a map overlay that commanders could examine when later looking at targets in that area. This kind of technology
and our technique of tracking patterns enabled us to survey specific targets and to establish civilian pattern of life, and thus reduce civilian harm.

Even with all these advantages and the best of intentions, fog and friction in war are inevitable. Commanders could not see and know everything that transpired on the ground, and likely will not know everything in the future even as technology advances. In Mosul, even with the sophisticated intelligence we had, ISIS’s knowledge of our desire to obey the Law of War empowered them to use children and human shields to surround key leaders or locations. This forced commanders to decide between the value of the target and the harm that destroying that lawful military target would cause. It meant that commanders talked with attorneys and other staff members, and weighed tactical, strategic, and Law of War principles when deliberately considering specific targets. Many strikes were defensive in nature where time was of the essence, but even in those cases commanders often used tactical patience and had access to attorneys and other staff experts.

One of the techniques ISIS used was constructing “wormholes,” or digging tunnels into buildings that were close together, thereby establishing fighting positions in multiple adjacent buildings. Thus with a few soldiers, ISIS could make it look as if there were many. Knowing that ISIS used that tactic, commanders were able to harness tactical patience and wait to develop the situation in order to gain a clear understanding of how many fighters there really were before striking.

We expected to see human shields, but one of the other tactics we saw surprised us, because we had never seen it before. We called it “CIVCAS entrapment,” or civilian casualty entrapment; where ISIS intentionally rounded up civilians, or put explosives where civilians were gathering and sheltering, and tried to get Coalition forces to strike that area in order to maximize civilian deaths. They then used news of the casualties as a form of information warfare, as propaganda against the Coalition. Once we discovered the enemy was doing this, it drove our ability to analyze what we looked for, so we could begin to spot instances in which ISIS was trying to gather groups together and then put snipers or firing positions in front of them. In those cases, commanders learned to refrain from striking.

As I touched on previously, Coalition strike cells, even in defensive engagements, were manned with staff members who analyzed the battlefield. Each strike cell included a Judge Advocate (lawyer), who could advise the commander on the Law of War; weaponeers, who estimated the size of a weapon’s blast radius and the effect of different fuses that timed the explosion of weapons; and it incorporated an overlay of the city.
Commanders received input from the staff and discussed Law of War principles before giving the okay to strike each target.

One example of this process was a situation in which Iraqi forces were on the roof of a building next to a hospital occupied by ISIS fighters. The hospital was six stories high, and ISIS began using the sixth floor as a firing position against the Iraqi soldiers. The rounds ISIS fired started a fire in the building where the Iraqi soldiers were. These friendly forces were caught between a blazing fire beneath them, and steady ISIS weapons fire from above. Their escape was cut off while they took ISIS fire from the hospital next door. Clearly, once ISIS began using the top of the hospital as a firing position, they converted the building into a lawful military objective. The Coalition commander in that case relied on the Judge Advocate and the weapon experts to fashion a strike that would specifically target the fighters on the upper floors of the hospital. With that strategy, we were able to take out the ISIS fighters on the top floor while preserving the rest of the hospital and any civilians or wounded who might have been on the lower floors.

Another practice we engaged in was the maintenance of strike logs, and we also fully investigated each allegation of potential civilian injury or death. Although not required by the Law of War, this was a way that we could examine our own actions, incorporate lessons learned, and then take those lessons learned and operationalize them to avoid risk to civilians of the future. This consistent after action review, in response to allegations of civilian injury or death, allowed us to improve our own actions. Maintaining strike logs and reviewing each allegation also allowed us to review UAV feeds when available, as well as strike logs, in order to fully and fairly evaluate the strike.

Typically, our investigations determined that we caused civilian casualties in less than half of 1% of the total strikes – both offensive and defensive. ISIS intentionally targeted civilians and tried to prevent them from leaving the city. But even with so many civilians remaining in contested areas, we were able to avoid far larger numbers of civilian deaths by using these means and methods. Mosul today is recovering from that great battle. As soon as areas were cleared, the Iraqi army and the Mosul civil defense were able to begin cleaning and repairing infrastructure.

Certainly, it would be ideal if we could avoid conflict in areas with concentrated civilian populations, just as it would be ideal if the world had no conflict at all. Unfortunately, that is not the world we live in, and urban operations are often unavoidable because that is where the enemy chooses to hide and fight. Fighting in urban areas creates many complications and
risk to both fighters and civilians. Unprincipled enemies may choose to fight in urban areas precisely because they are able to use the principles and protections of international humanitarian law as both a sword and a shield. Giving commanders maximum flexibility to use a broad range of weapons, technology, and creativity allows states that are committed to observing Law of War principles the ability to win while minimizing civilian death and destruction in comparison to what is possible.
Explosive weapons in populated areas: the law and the policy

Eirini GIORGOU
Legal Advisor, International Committee of the Red Cross

I am very pleased to see a panel on means and methods of warfare. While civilian harm in urban warfare can have many causes and compounding factors, the choice of means and methods of warfare is of paramount importance: it can significantly aggravate or mitigate such harm.

We have seen this in practice. Mosul is of course a striking example. While East Mosul suffered relatively low damages, West Mosul, where there was an increased resort to heavy indirect fire and air support, was in large parts reduced to rubble. In the previous panel we heard what this means for the people of Mosul today, three years after the military operation ended.

We have also seen it in Afghanistan and Somalia, when comparing the level of civilian casualties before and after ISAF restricted the use of airstrikes and AMISOM restricted the use of indirect fire. These examples demonstrate that, while urban warfare is in any case a nightmare for civilians, some means and methods of warfare cause more civilian harm than others. They cause civilian harm to a degree that can even be considered unacceptable from a moral, a humanitarian, and often a legal point of view too.

I am talking, of course, about heavy explosive weapons. Airstrikes, indirect fire – they often involve the use of explosive weapons with a wide impact area, i.e. weapons that put entire areas at risk of harm either because of their inaccuracy, or because of their large payload and consequent large destructive radius, or because they are designed to fire multiple munitions simultaneously over a wide area. These are the weapons predominantly in use in urban warfare today: heavy, mostly unguided artillery, mortars and multi-barrel rocket launchers, large bombs and missiles, and IEDs.

Many of you will be familiar with the ICRC’s position in this respect – it was also referred to in previous panels. In the ICRC’s view, the use of explosive weapons with a wide impact area should be avoided in populated areas, due to the significant likelihood of indiscriminate effects. I will say a few words about what this means in practice – and what it does not mean – later on. But first, let me explain where this call for avoidance is based.
It is based primarily on facts: the grave pattern of civilian harm observed when heavy explosive weapons are used to strike military objectives located in populated areas like towns and cities. The ICRC observes this pattern of harm first-hand, being present on the ground in most conflict areas around the world. I am not only talking about the harm directly caused by the explosion — all those who are killed or injured, left with disabilities or psychological trauma, and all the homes and critical infrastructure that are damaged or destroyed. But also, all the indirect or reverberating effects, especially as a result of the disruption of essential services like water, sanitation, electricity and health care. Lack of essential services typically leads to more deaths, disease and displacement (as we heard from the previous panel last week). The use of heavy explosive weapons in populated areas may ultimately affect a much larger part of the civilian population than those in the vicinity of the explosion. And yet these effects are often overlooked or ignored.

Our call for avoidance of the use of heavy explosive weapons in populated areas is also based on the law. There is no general prohibition in IHL on the use of explosive weapons with a wide impact area in populated areas. However, when parties to a conflict do so, they must comply with all the IHL rules regulating the conduct of hostilities, in particular, the prohibitions of indiscriminate and disproportionate attacks and the obligation to take all feasible precautions in attack. But using heavy explosive weapons in populated areas in compliance with IHL is by no means an easy task.

Many of the weapons we are talking about are inherently inaccurate or imprecise either by design (because their intended use is to saturate entire areas) or because they are susceptible to many factors that alter the munition’s trajectory. As such, they put at risk of impact large areas — often hundreds of meters wide — around their target. In populated areas, military objectives are often located in close proximity to civilians and civilian objects. The inaccuracy of such weapons raises serious questions as to whether they can be directed against a specific military objective in these circumstances, as is required by the prohibition of indiscriminate attacks.

Even if the use of heavy explosive weapons in populated areas is not indiscriminate in a particular situation, parties must still assess the proportionality of their attacks. They must factor in the civilian harm that may be expected to incidentally result from an attack, whether directly or indirectly. Indirect or reverberating effects of the attack (e.g. those civilians that will fall ill or die because of the lack of essential services) must be considered as soon as they are reasonably foreseeable. What is
reasonably foreseeable, in the ICRC’s view, is that a reasonable commander, making use, in good faith, of the information available to him, should be expected to anticipate such effects. In light of the grave pattern of civilian harm, there are serious questions as to whether and how the armed forces factor, reverberating effects into their proportionality assessments and discussions with operators, raise doubt as to the extent to which collateral damage estimation methodologies, currently in use, account for such effects.

To summarize the legal concerns: it is particularly challenging to use explosive weapons with wide area effects in populated areas in conformity with IHL, in particular, as regards the prohibitions of indiscriminate and disproportionate attacks.

This confirms the paramount importance of complying with IHL, especially when hostilities are conducted in urban environments that expose civilians to great risks. But the conversation should in my view not stop here. I have often heard the argument that “using EWIPA is OK, as long as IHL is respected”. However, even in cases where states claim to have complied with IHL, the level of civilian harm caused is often unacceptably high. This begs serious questions about how IHL rules are being interpreted and applied. I have also heard the argument that “if non-state armed groups did not violate IHL by targeting civilians or using them as human shields, we would not be forced to use EWIPA, therefore, the problem would be resolved”. Of course, targeting civilians and using human shields are prohibited under IHL. These and other IHL violations by the adversary undoubtedly increase the risk of civilian harm. At the same time, the higher such risk, the more care is required by the opposing party to avoid or mitigate it. Complying with IHL obligations is indeed not subject to reciprocity.

There is often lack of clarity, and sometimes disagreement, on how states interpret and apply IHL in relation to the use of explosive weapons in populated areas. In one of the previous panels, it was noted that indirect fire is mainly used in populated areas for harassment, suppression or cover/manoeuvre purposes. It was submitted that such uses of indirect fire did not constitute an attack and were, therefore, not subject to IHL rules on distinction, proportionality and precautions. I respectfully disagree. Such uses of indirect fire are ‘acts of violence against the adversary’ as per the definition of attack under IHL, and are, therefore, governed by the IHL rules regulating the conduct of hostilities, irrespective of their operational purpose. With regard to harassing and suppressive fire in particular, leading commentators agree that this mode of fire must be used in
conformity with the prohibition of indiscriminate attacks and, in particular, that it must be directed against a specific military objective.

Debates about IHL compliance in relation to the use of EWIPA are important. But there is also an urgent need for concrete action to address the significant civilian harm caused by these weapons, regardless of the legality of their use. This is why the ICRC is focusing on promoting ‘good practices’ to enhance the protection of civilians in populated areas, on the basis of an ‘avoidance policy’.

An avoidance policy is not a “ban” on the use of all or certain explosive weapons in populated areas. It does not imply that such use is per se unlawful, nor does it purport to reinterpret or amend the law in this regard. It is in essence a change of mindset. A policy to ‘avoid’ suggests that explosive weapons with a wide impact area should not be used in populated areas unless sufficient mitigation measures are taken to reduce significantly the weapons’ area effects and the consequent risk of civilian harm.

An avoidance policy is not a binary, ‘black-and-white’ approach; it does not always come down to choosing an expensive precision-guided munition over a traditional artillery gun. Rather, it involves a combination of mitigation measures to help ensure that the weapon will no longer have wide area effects, that the area of impact of the weapon is no longer populated, or that the risk for civilians and civilian objects is otherwise sufficiently reduced. Changing the munitions’ fuse or warhead to ensure the effects are contained on the target, choosing the angle of attack so as to reduce the weapon’s impact area, keeping minimum safety distances from civilians and civilian objects, ensuring the reverberating effects of attacks are avoided or minimized, are examples of such mitigation measures the ICRC has identified based on extensive dialogue with states and armed forces and on existing military policy and practice.

Beyond targeting, mitigation measures should be taken at all levels and cover all aspects of operations: ensuring that armed forces are properly trained and equipped for fighting in populated areas, including equipped with weapons that do not have wide area effects; ensuring that the interconnectedness of critical civilian infrastructure and essential services is understood and integrated into military doctrine, planning and decision-making processes; taking all feasible measures at the strategic, operational and tactical levels to minimize hostilities in populated areas or to displace them outside of populated areas; ensuring that lessons learned, including with regard to the effects of specific types of weapons in populated areas, are incorporated as soon as possible into future planning, doctrine, training
and practice; sharing such mitigation measures with partner forces and supported parties to armed conflict; and, finally, ensuring that the protection of civilians is explicitly identified as a strategic objective at the highest level prior to military operations, and is integrated into all military orders.

IHL requires that all feasible precautions are taken in attack to avoid or minimize civilian harm, including in the choice and use of weapons. Depending on the circumstances, many of the mitigation measures I just mentioned with regard to the planning and execution of attacks may be required under the principle of precaution, insofar as they are feasible. However, in some cases there may be no feasible mitigation measures that can sufficiently reduce the risk of civilian harm. In such cases, an avoidance policy means that heavy explosive weapons should not be used. The measures I mentioned earlier, to be taken at strategic, operational and tactical levels, will help ensure alternative options are available, reduce the instances where the use of EWIPA would be considered in the first place, and thus facilitate the implementation of an avoidance policy.

In the ICRC’s view, an avoidance policy can facilitate respect for IHL and strengthen the protection of civilians, in environments – such as urban areas – where both are considerably challenging.

Is an avoidance policy realistic? Whilst the ICRC recognizes that no armed conflict is ever the same, and that every commander’s mission is different, ISAF and AMISOM offer two examples of how restrictions on the use of heavy fire can be enacted with positive effect and without negatively impacting the achievement of the military mission.

To conclude: states and non-state parties to armed conflict must simply do better.

Both humanitarian and legal considerations argue in favour of an avoidance policy, along with examples where restrictions and limitations on the use of EWIPA have effectively reduced civilian harm.

The ICRC engages with militaries to identify good practices that can serve as mitigation measures in the context of an avoidance policy.

In this respect, we are very encouraged by the attention the international community is paying to this issue, as demonstrated by the participation of over 70 states in the ongoing diplomatic process to elaborate a political declaration on EWIPA. The ICRC firmly supports this process. We are confident it will deliver a strong Declaration with clear commitments to take concrete action to advance the protection of civilians, also by imposing restrictions and limitations to the use of explosive weapons in populated areas.
Bonnes pratiques concernant le choix et l’usage des moyens et méthodes de guerre dans les opérations en ville

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**Introduction générale sur les défis posés aux armées par les opérations en ville**

Je suis très heureux de participer pour la première fois à cette manifestation prestigieuse qui me conduit au cœur des enjeux qu’affrontent les forces armées françaises dans un contexte d’une intensité particulière, à double titre : des engagements extérieurs qui sont à un point haut depuis le second conflit mondial, dans des conflits qui ont tous le caractère de conflits armés non internationaux.

Les premiers intervenants de cette table ronde ont illustré la variété et la complexité des questions juridiques auxquelles les armées sont confrontées, s’agissant de l’identification de l’ennemi et de l’appréciation des dommages collatéraux en zone urbaine. Autant d’exigences cardinales pour assurer le respect intransigeant des principes de distinction et de proportionnalité.

Réfléchir sur les défis juridiques et opérationnels posés par les opérations extraterritoriales armées en zones urbaines, dans un contexte marqué par les nombreux combats urbains menés, au cours de ces dernières années est urgent et relève d’un impératif autant éthique que juridique.

Lieux de pouvoir politique et économique, de symboles et d’histoire, les villes ont, hier et aujourd’hui, été au cœur des enjeux stratégiques. Que l’on pense aux guerres de l’antiquité, réelles ou mythiques, au sac de Rome par les barbares, à la bataille de Stalingrad, au martyr de villes tombées durant les guerres de Yougoslavie, telles Sarajevo ou Vukovar. Cette longue liste est aujourd’hui complétée par les combats au sein des villes syriennes et irakiennes, Alep, Homs, Raqqa ou Mossoul.

Mais la densification urbaine des espaces – phénomène commun à tous les continents – s’amplifie. Deux personnes sur trois habiteront

Dans ce contexte, l’actuel essor des combats en milieux urbain apparaît comme une tendance systémique et les défis en résultant, en termes d’application du droit international humanitaire, doivent être identifiés et donner lieu à une réflexion approfondie.

1 - Dans ce contexte, la conviction du ministère des armées est que le droit international humanitaire recèle en son sein les outils devant permettre de régir les combats en zone urbaine

Les forces armées françaises ont pleinement conscience des défis posés par le développement des combats en zones urbaines, en particulier s’agissant de la protection des populations civiles.

La présence de la population et des infrastructures civiles sur ce champ de bataille peut rendre plus délicate leur protection contre les risques de dommages incidents. L’environnement urbain est aussi rendu plus dangereux par certaines méthodes de guerre mises en œuvre par certains acteurs, dont les groupes armés non étatiques.

Dans ce contexte, la conviction du ministère des armées est que le droit international humanitaire recèle en son sein les outils devant permettre de régir les combats en zone urbaine en veillant constamment à épargner la population civile, les personnes civiles et les biens de caractère civil ce malgré leur forte spécificité. Le respect du droit international humanitaire (DIH) guide l’ensemble de la planification et de la conduite des opérations menées par les forces armées françaises ou auxquelles elles participent et, ce, quel que soit le milieu d’intervention. Si les principes fondamentaux du DIH étaient universellement respectés, ils limiteraient efficacement et durablement les pertes et les dommages incidents causés en milieu urbain.

Nous ne chercherons pas, cependant, à éluder une véritable difficulté qui, nous le savons bien, suscite de fortes inquiétudes de la part des acteurs humanitaires. Je veux parler de la question de l’usage, en milieu urbain, des armes explosives.

Autrement dit, le principe de précaution dans l’attaque implique-t-il nécessairement l’exclusion de certaines catégories d’arme?

Pour le ministère des armées, la réponse à cette question est clairement négative. L’emploi de munitions précises couplées à des procédures de ciblage rigoureuses doit permettre d’éviter les effets indiscriminés et de limiter les dommages incidents.
Il est vrai que les conflits en Syrie et au Yémen mettent en évidence l’effet dévastateur des armes explosives, lorsqu’elles sont utilisées sans discernement – c’est-à-dire en violation du DIH – dans des zones densément peuplées.

Le caractère insuffisamment discriminé de l’emploi de ces armes en milieu urbain peut tenir à la largeur de leur rayon de destruction eu égard à leur puissant effet de souffle et à leur large rayon de fragmentation, mais également à l’insuffisante précision de leur système de transport sur l’objectif, ou encore à une conception consistante à délivrer de multiples munitions sur un large périmètre.

L’enjeu essentiel réside donc dans l’emploi proportionné et précautionneux des armes explosives en général et en milieu urbain plus particulièrement.

2 - L’application de bonnes pratiques concrètes et pragmatiques par les forces armées françaises permet un emploi proportionné et précautionneux des armes explosives en milieu urbain

Celui-ci passe par cinq éléments essentiels : une organisation permettant de respecter le DIH, notamment via une chaîne de commandement des opérations composées de différents niveaux décisionnels avec des prérogatives et des responsabilités croissantes; deuxièmement, des règles opérationnelles d’engagement claires, déclinant le DIH ; troisièmement, un processus de ciblage strictement défini et encadré intégrant les principes fondamentaux du DIH, quatrièmement, des procédures rigoureusement adaptées au milieu urbain et cinquièmement la diffusion du DIH aux forces combattantes.

1. L’organisation de la chaîne du commandement

Pour réaliser un choix conforme au DIH des moyens et méthodes de guerre au regard de l’objectif militaire ciblé ainsi que pour s’assurer de leur

1 A l’instar des bombes de forte puissance (y compris nucléaires), des mortiers ou roquettes de gros calibre, des missiles guidés de grande puissance et des projectiles d’artillerie lourde.

2 Il s’agit généralement d’armes à feu indirect (mortiers, roquettes, artillerie) et des bombes non guidées larguées par aéronef.
emploi respectueux en milieu urbain, une première bonne pratique est celle qui consiste à établir une chaîne de commandement distinctement organisée. Celle-ci devrait être composée de différents niveaux décisionnels disposant de prérogatives et de responsabilités différentes et croissantes en fonction des niveaux.

Les forces armées françaises s’appuient sur une chaîne de commandement dans laquelle les responsabilités sont nettement distinguées. Les différents niveaux de responsabilités qui la composent permettent une prise de décision éclairée par le niveau de responsabilité le plus compétent pour apprécier les conséquences attendues de l’emploi de la force.

Au sein d’une coalition, la France est en mesure de veiller au respect du DIH et des règles opérationnelles d’engagement par ses forces armées à travers l’exercice d’un contrôle national qui lui permet de conserver une capacité autonome d’appréciation de la situation, et de maîtriser l’emploi des moyens mis à la disposition de la coalition.

Des conseillers juridiques opérationnels, insérés auprès du commandement en opérations, conformément à l’article 82 du PA I au CG de 19493, sont présents à tous les niveaux de décision appropriés et apportent l’éclairage juridique nécessaire au commandement dans l’emploi de la force.

2. La définition de règles opérationnelles d’engagement en déclinaison du DIH

Ensuite, les règles opérationnelles d’engagement (ROE) élaborées en lien avec les conseillers juridiques opérationnels définissent les conditions dans lesquelles l’usage de la force est autorisé ainsi que les modalités de son emploi. Elles déclinent les objectifs politiques et stratégiques de la mission ainsi que les principes du DIH. Elles veillent à ce que l’emploi de la force soit envisagé comme le dernier recours, et ce de manière graduée par rapport à la menace ou à l’objectif militaire à atteindre, dans le respect des principes du droit international humanitaire.

3 « Les Hautes Parties contractantes en tout temps, et les Parties au conflit en période de conflit armé, veilleront à ce que des conseillers juridiques soient disponibles, lorsqu’il y aura lieu, pour conseiller les commandants militaires, à l’échelon approprié, quant à l’application des Conventions et du présent Protocole et quant à l’enseignement approprié à dispenser aux forces armées à ce sujet. »
Ces règles d’engagements sont taillées sur mesure pour chaque théâtre d’opérations et il n’est pas doute que si des opérations devaient avoir le en milieu urbains elles, ainsi que tous les plans nécessaires à celles-ci, seraient adaptés à cet environnement.

3. Un processus de ciblage strictement défini et encadré intégrant les principes fondamentaux du DIH, prérequis à l’usage d’armes explosives en opérations

Dans ce cadre, le ministère des armées met en œuvre un processus de ciblage strictement défini et encadré intégrant les principes fondamentaux du DIH et respectant les ROE. Ce processus permet d’assurer le caractère militaire de l’objectif et d’éviter, et en tout cas de réduire au minimum les pertes en vies humaines dans la population civile, les blessures aux personnes civiles et les dommages aux biens de caractère civil qui pourraient être causés incidemment. A chaque étape, l’ensemble des expertises opérationnelles, techniques et juridiques sont sollicitées dans le cadre d’un examen contradictoire afin de placer le commandement en position de prendre des décisions informées.

Ce processus décline concrètement les principes du droit des conflits armés en plusieurs étapes :

- En premier lieu, par le choix des cibles.

  Le but est de faciliter l’identification précise des objectifs militaires qui permettront de maximiser l’effet sur l’ennemi tout en limitant les dommages collatéraux sur les populations au strict nécessaire. Cette étape contribue au respect des principes de distinction et de proportionnalité. Elle repose sur une fonction « renseignement » robuste.

  En pratique, pour des forces armées modernes, prendre toutes les précautions possibles consiste à déployer une gamme de moyens permettant de disposer d’un renseignement intégré et performant, fondé sur l’utilisation de technologies de pointe mises en œuvre par un personnel entraîné.

  Cette exigence d’une information riche et pertinente innerve toutes les questions relatives à la bonne application du droit international humanitaire en zone urbaine, comme l’illustre en premier lieu l’application du principe de distinction entre civils et combattants.
○ En deuxième lieu, par le choix de la munition la plus adaptée à l’effet recherché, à la cible ainsi qu’à son environnement.

Cette étape permet de limiter au maximum les effets de l’arme choisie et de minimiser le risque de dommages collatéraux, couplé avec une méthodologie d’évaluation de ces dommages incidents (reposant sur la simulation des effets d’une arme et sur une analyse systémique), dans le but de déterminer les modes d’actions les plus adaptés permettant de protéger la population civile et les biens de caractère civil. Il traduit en cela le principe de proportionnalité. L’utilisation d’une technologie avancée et d’équipements adaptés mériterait d’être encouragée.

L’obligation tirée des articles 51 et 57 du Premier Protocole additionnel met en rapport, d’une part, les dommages pouvant être causés par une opération et, d’autre part, l’avantage militaire qui peut en être retiré. Les pertes en vies humaines, les blessures aux personnes et les dommages aux biens civils, ne doivent, en effet, pas « être excessifs par rapport à l’avantage militaire concret et direct attendu ». Et il va sans dire que la violation du DIH par l’ennemi, notamment par le recours aux boucliers humains, est sans incidence sur les obligations qui pèsent sur nos armées en termes de respect du principe de proportionnalité.

Ce principe et l’obligation qui en découle prennent un relief particulier en milieu urbain.

L’évaluation de ces dommages incidents, en l’absence de présence systématique de forces au sol près des cibles militaires, est plus difficile et requiert des précautions supplémentaires. Evaluer suppose de recourir à des méthodes éprouvées. Les moyens sophistiqués que nous déployons au Sahel, qui incluent l’usage de techniques d’imagerie diverses, ainsi que notre capacité à y évaluer les dommages dans un délai très bref après leur réalisation en sont un parfait exemple.

En prélude à nos débats à venir sur ce sujet, je veux souligner enfin que, dans leurs « dossiers d’objectifs » de cibles, les forces armées françaises s’assignent l’objectif de ne provoquer aucun dommage collatéral. Notre armée témoigne ainsi que le seuil de l’application du principe de proportionnalité peut, malgré les difficultés, être placé à un niveau très élevé.
o En dernier lieu, par la définition d’autorités chargées de l’engagement des cibles (Target engagement authority - TEA).

Elle permet de vérifier le respect des prérogatives de chaque niveau décisionnel et du principe de nécessité au regard des opérations conduites et de l’avantage militaire recherché.

Dans la mesure du possible, jusqu’à la délivrance de l’armement, l’observation in situ par des hommes ou des moyens technologiques avancés est recherchée de façon à annuler la frappe si les conditions exigées ne sont plus réunies.

4. Des procédures rigoureusement adaptées au milieu urbain

La sphère urbaine est un environnement particulièrement complexe qui nécessite la mise en œuvre de procédures rigoureusement adaptées. Ainsi, les forces armées françaises se sont progressivement dotées:

- De concepts doctrinaux relatifs aux opérations en milieu urbain ;

- D’un mode d’action spécifique (appelé « Action en zone urbaine » ou AZUR) visant à répondre aux exigences et contraintes des engagements opérationnels en zone urbaine et incluant des phases de stabilisation et de reconstruction ;

- D’un parcours de formation spécifique visant à acquérir et mettre en pratique les savoir-faire techniques et tactiques du combat en zone urbaine en s’appuyant sur des zones d’entraînements réalistes, configurés au plus près des réalités urbaines dans lesquelles les armées ont vocation à intervenir (ex : Centre d’entraînement aux actions en zone urbaine de Sissone ou CENZUB).

Les forces françaises mettent à profit les enseignements tirés de l’expérience des opérations urbaines pour qu’elles puissent servir pour la conduite des opérations futures. Ce retour d’expérience sert de base à l’amélioration de la doctrine d’emploi des forces et est intégré dans la préparation opérationnelle.
5. *La diffusion du DIH aux forces armées*

Enfin, un autre exemple de bonne pratique réside dans la formation des forces armées françaises. Tout membre des forces armées françaises est ainsi formé aux règles de la conduite des hostilités pendant sa formation initiale. Ces règles sont par la suite systématiquement et régulièrement rappelées pendant l’accomplissement des missions opérationnelles.

Les conseillers juridiques opérationnels, insérés auprès du commandement en opérations, favorisent également la diffusion du DIH.

Qui plus est, le ministère des armées promeut et diffuse le DIH auprès de forces armées alliées, lorsqu’elles le demandent, et s’assure de faire connaître son interprétation du droit auprès de ses partenaires dans le cadre d’opérations menées en coalition.

Ces exemples ne sont pas exhaustifs et ces bonnes pratiques, mises en œuvre par les forces armées françaises, ne se limitent pas au choix et à l’emploi de moyens et méthodes de guerre en respect du DIH. En effet, elles s’inscrivent dans une vision plus globale et sont complétées par d’autres types d’actions comme celles pour appuyer et compléter l’assistance aux populations civiles ainsi que celles dites « post-conflit », s’inscrivant dans les efforts de stabilisation et de reconstruction ainsi que dans le cadre d’obligations internationales (protection contre les mines ou les restes explosifs de guerre) pour favoriser le retour rapide et sécurisé des populations.

**Conclusion**

Les forces armées françaises ont pleinement conscience des défis posés par le développement des combats en zones urbaines, en particulier s’agissant de la protection des populations civiles.

La conviction du ministère des armées est que le droit international humanitaire recèle en son sein les outils devant permettre de régir les combats en zone urbaine en veillant constamment à épargner la population civile, les personnes civiles et les biens de caractère civil ce malgré leur forte spécificité.

Le respect du droit international humanitaire guide l’ensemble de la planification et de la conduite des opérations menées par les forces armées françaises ou auxquelles elles participent et, ce, quel que soit le milieu d’intervention. La protection des civils n’est pas perçue comme une
contrainte par les forces armées françaises : c’est un objectif prioritaire de toutes les opérations qu’elles conduisent ou auxquelles elles participent.

Ces différentes mesures pratiques et concrètes mises en œuvre par le ministère des armées contribuent au respect impératif des principes de la conduite des hostilités et mériteraient d’être encouragées en vue d’une meilleure protection des populations civiles lors d’opérations en milieu urbain.
V. Is a change of approach required to better protect civilians in the urban environment?
Putting the protection of civilians at the heart of military thinking

Sahr MUHAMMEDALLY
MENA & South Asia Director at Center for Civilians in Conflict (CIVIC)

Modern conflicts are complex, dynamic and fragmented, and when they occur in urbanized environments the risk to civilians and civilian objects grows exponentially. Protecting civilians in urban environments requires a comprehensive approach to foresee and mitigate such risks.

Combat in urban areas is both manpower and resource intensive. Separating military targets from civilian populations is hard in any environment. But in urban areas, the density of the population, civilian objects – such as homes and schools – and infrastructure – such as hospitals, electric power grids, and water sources – magnifies the risks. Urban environments favor the defender, even if the attacking force is technologically and materially superior. The terrain makes detection and identification difficult, as surface and subterranean areas can cover and conceal military objectives and be used to launch attacks from. These complexities are compounded by available munitions, such as explosive weapons with wide-area effects, which when used in urban areas have devastating consequences for civilians and infrastructure.¹

All parties to the conflict have a general obligation to take constant care to spare civilian population and objects from direct attacks. Article 58 of Additional Protocol I of the Geneva Conventions obligates defending forces to protect the population under their control from the effects of attacks; to remove civilian populations from the vicinity of military objectives; and to avoid locating military objectives within or near densely populated areas. Article 57 requires the attacking party to take all feasible precautions in the choices and means and methods of attack to avoid and minimize incidental loss of civilian life, injury, and damage to civilian objects; to provide effective warnings; and to cancel or suspend an attack if incidental loss would be excessive to the direct military advantage

anticipated. Implementing the constant care obligation, also depends on capabilities, such as equipment, munitions, trainings, and resources available to parties to the conflict.

Applying a comprehensive civilian harm mitigation (CHM) life cycle\(^2\) approach to decisions and actions by armed actors before, during, and after military operations is needed to deal with complexities of urban war. This includes CHM in: mission/mandate development, use of force guidance, scenario-based trainings, tactical execution, intelligence/information gathering, choice of munitions, pre- and post-strike assessment, and learning and adapting.

During mission planning, forces should be adequately informed considering all the potential risks to civilians and civilian objects. Evaluating the likelihood of civilian harm in urban areas helps calibrate risks, enabling forces to improve tactical planning, proceed or suspend attacks depending on whether civilians may or may not be present, and choose munitions to minimize incidental harm. Forces should not assume that civilians will simply leave when fighting begins, because many are unable to do so. They should also consider the direct and indirect effects on civilians if essential services are damaged. Lastly, it is crucial to determine how resources – including technology and human intelligence – can be used to inform where civilians will be present or will move during military operations and if enemy forces will use them as human shields, thus allowing the forces to adapt their tactical approach.

This evaluation of risks should be a multi-disciplinary approach involving consultations with other government agencies, humanitarian actors, health professionals, engineers, urban planners, and technology experts. For example: working with urban planners to assess the potential impact of weapons on infrastructure below and above ground; communicating with humanitarian actors on displacement and safe routes for civilians; using technology experts to help identify civilian presence and enemy targets inside buildings and underground; developing procedures for security screenings of persons in accordance with international law standards on humane treatment and detention; learning from cultural experts on how to effectively warn civilian populations, acknowledge civilian harm, and be responsive to victims’ concerns; allocating resources

\(^2\) CIVIC defines civilian harm mitigation (CHM) as “all measures taken by armed actors to prevent, minimize, and address civilian harm resulting from their own presence, activities, and operations.”
for removal of dead bodies and disease prevention; relying on engineers for quick restoration of essential services; and making resources available for clearing explosive remnants of war to allow civilians to return home safely.

Linking risk assessment to post operation assessment is also essential to ensure not only compliance with international humanitarian law, but to also identify lessons and learn from operations. Most armed actors, track combatants and friendly forces killed, but many still do not track civilian deaths, injuries, or damage to infrastructure. This is a missed opportunity to assess impact on civilians, identify mistakes or violations, and learn and improve to overcome challenges in real time.

Applying a holistic CHM framework to military operations would better enable armed actors to identify risks to civilians and civilian objects, with follow-on planning, training, and resourcing for appropriate mitigation measures. Critically, bringing partners along and sharing CHM good practices is essential as many of today’s conflicts are fought with partners in a coalition or in an advisory support.

Finally, it is important to study the spectrum of conflict – from World War II to Grozny, Fallujah in 2004, and more recently Mosul, Raqqa, Donetsk, Taiz, and Marawi – to inform planning and avoid mistakes. Types of conflict can include: counterinsurgency and asymmetric warfare; great power competition, which includes high intensity conflict and cyberattacks impacting civilians and essential services; and violence resulting from the outbreak of disease or due to the climate crisis. Thus, building capabilities across the spectrum of urban operations and types of conflict necessitates foreseeing risks to civilians and civilian objects, and planning, training, and resourcing to mitigate those risks.

In today’s conflicts, we have seen that tactical choices have a strategic impact on long-term stability both within the country, but also regionally. How one fights can lay the conditions for the day after, creating protracted displacement, fueling conflict, or bolstering recruitment to non-state armed groups, instead of paving the way for stability. Applying a comprehensive civilian harm mitigation approach can reduce humanitarian suffering in urban operations, strengthen protection norms, and contribute to stabilization efforts.
Doctrine, planning and training for urban warfare: what remains to be done

John W. SPENCER
Brigadier General, Major, Chair of Urban Warfare Studies with the Modern War Institute at the U.S. Military Academy at West Point

Thank you and thank you to the Institute for having this conversation. I have enjoyed all the webinars and the discussions of such a critical issue as we move forward in the world in a new age of warfare. I really appreciated Sir Antony Beevor’s really strong comments on how warfare has changed and whether all parties recognise that.

So, to answer the question – is a change of approach required to better protect civilians in the urban environment? – my answer, as a student of urban warfare from past to present day, is absolutely yes.

Number one, I think there is a loss in translation in all our different communities. So, when you say urban warfare to me, as an old Army guy, I do not know what you are talking about. Are you talking about counter insurgency? Counter terrorism? Is the environment permissive or is it what we call a non-permissive environment? I think that is the challenge as we have seen cities being destroyed in the last ten years, because of the practice of non-state actors, some of them backed by state actors, depending how you look at it, moving into dense urban areas, and sieging cities as critical terrain to their political objectives. And then different militaries are given the mission to reclaim those cities. That is a very small aspect or a very unique aspect of urban warfare that we have seen rise exponentially from World War II to now. In the Army, if you name a mission, we are talking about “City attack operations.” We are talking about Aleppo, Raqqa, Mosul, Falluja, operations that we have all seen in the media where militaries destroy cities in order to liberate them, to take them back. I think that is the loss in translation because when you say “we need to do better things in urban warfare” to a military audience, they are going to show you the urban warfare training they are doing, and I have travelled the world and watched urban warfare training exercises, and not all of them train this very specific aspect of high-intensity combat in dense urban areas.

So, it is not necessarily about a single building, where we know there is an insurgent, or about a permissive environment, such as
counterinsurgency, like lots of people experienced in Iraq and Afghanistan. I think this is the first notion that is lost in translation.

Number two is doctrine. Does doctrine need to be updated? Absolutely, but there is a loss in translation when we say doctrine. Doctrine is not just what is in the books of a military, it is the way they do things, and I think that is the change. If you ever want to see a reflection of what is in the books and what a military is doing, you have to go to their large-scale training events. Again, I have travelled the world and the number one thing that I see absent at all these training events is civilians. You see militaries training large-scale brigade and above, warfighting experiments or annual/monthly training events, and there may be 10 to 15 civilians in a complex of over 700/800 buildings. That is not what we are seeing in warfare because we are talking about a very specific type of warfare. So, I would want to see that change, where civilians in every building all over the training area became a common aspect of the environment from small-level training all the way up to combatant command, NATO, UN-type of war game exercises. In this way, the military cannot assume that civilians would be able to leave the combat area before the mission and that only the enemy would be left. There are some historical reasons for this, but that has to change because that is not the type of warfare we are seeing today. As Antony Beevor said, that is not the warfare of the future. Manoeuvre warfare on the open terrain is over.

Lastly, the thing I think needs to change is our different approaches to solve this problem. Personally, I do not know if we have convinced enough people that there is a major problem. The data that I am seeing is not enough to allow a military to say “I really need to change”. Could you show that the rise of explosive force in this type of operation has changed from 20 years ago? Many of the participants have pointed out that we have to answer the question why we are using explosive force in these operations. Well, we have done these operations in the past and maybe the data will show that we are not as destructive or civilians are not as vulnerable as before, when the military had different tools – that is one of the problems. The big change we need is different types of data, different narratives to show success in this type of operations – again very specific city attack operations, which is not a military term, but it is the way I call it. Could we change and show in different city attacks where the mitigation techniques we are talking about in this very specific type of operations were successful but also show the failures of where something else could have been done? In my personal opinion, I do not think that a political declaration to limit the use of explosive wide-effect weapons would be as
effective as we need it to be, because we have not identified why somebody would go to that tool in these operations. We need to look at the soldiers who are trying to attack a fortified position, which is the situation in city environments. Do they have the right type of tools? Most militaries lack the ability to use smoke operations. They will say they do, but they really do not have the capability and just that one aspect would protect militaries. If they did have the capability, they would not reach back for that one tool, which is a very highly explosive weapon. Also, I do not think precision-guided munitions are the answer. One, they were not designed to protect civilians. Precision-guided munitions were designed to precisely kill an enemy far away. We will adapt them and there are low collateral damage precision guided munitions. They are also very expensive and few militaries have the high inventory of them required for this type of operation. Even the US military experienced this problem in the 2017 battle of Mosul when they fired their entire national stock of Hellfire missiles and ran out and they could not get any more because they could not be produced fast enough.

We have to look at the challenges of this very specific operation and then address them. I would rather see a political declaration for nations to invest in urban warfare. We do not have urban warfare schools, we do not have urban warfare research centers that could show the data needed for major change. We do have some experimentation of different militaries in robotics and drones and, I agree, that is a great investment because with a drone, let us say an armed vehicle which is a drone as there is nobody in it, can move down the street and take fire. The biggest concern of a military trying to do a city attack is when they have to approach a defence as they are totally vulnerable on today’s battlefield unlike, I would say, in any other era. They resort to explosive weapons, as one of our other guests said, in order to cover themselves. So, if you have a robotic device, a drone, a semi-autonomous tank or an armed vehicle running down the street, it would draw the fire of the enemy and I guarantee you this would reduce the amount of force used in this operation.

In conclusion, we have to look at why there has been a rise in destroying cities to save them. And then whether the military has the right tools to accomplish this political objective, which I think will occur more because there is such a gap in military capability for national leaders to ask their military to re-take a city without destroying it. If a military invested heavily in understanding the challenge and the tools needed for the mission, I think you would see a reduction in the actual mission, and less civilians in the crossfire.
Collecting the views of armed non-state actors on the conduct of hostilities in urban settings

Annyssa BELLAL
Senior Research Fellow and Strategic Adviser
in International Humanitarian Law, Geneva Academy
of International Humanitarian Law and Human Rights

Thank you very much for the invitation, and I was also very interested to listen to the past debate and today’s preceding interventions. What I would like to bring to the debate today is a bit of a different perspective as I do feel that the approach we have on this issue should change. And to put it in a nutshell, much more engagement with armed groups to collect their practice and interpretation on humanitarian norms is needed. The preceding speaker talked about being “lost in translation” when approaching the issue and I think it is a very nice image when we talk about armed groups. They are not only often ‘lost in translation’, because they were not consulted when the rules on conduct of hostilities were drafted and might have different understandings of them, but they are also ‘lost in the debates’, because we usually do not even involve them or ask them what they think about this kind of debates and what they think about the norms that they are bound to respect.¹

Talking with armed groups is even more important today, because the majority of armed conflicts are NIACs. As we all know, armed groups are heavy users of improvised explosive devices (IEDs), including in urban environment, and they do cause huge civilian casualties. There are documented reports of the use of such weapons by, for example, the Islamic State or Al-Shabaab in different contexts. I understand that there might be reticence from a political and policy point of view to engage with these actors, especially about the topic of conduct of hostilities whether in urban settings or more generally. That said, one should be aware that there are different types of armed non-state actors, and it is important that the international community or even the scholarly community not only focus on so-called ‘terrorist organisations’, because such an approach would lead

to a narrow understanding of the reality which surrounds armed groups practice on the issue of the conduct of hostilities. Unfortunately, this is the tendency today. But ISIS, Al Qaeda or other Jihadist groups are not the only existing groups today, and the approach on the conduct of hostilities should not be one solely of ‘counterterrorism’. In addition, when the international community addresses these actors, it is often only through the compliance lens, that is to say, that the international community tend to focus on the violations that armed groups commit, but studies and initiatives, such as the ICRC ‘IHL in Action’, show the importance for humanitarian engagement to highlight how parties to armed conflict, including armed groups, also respect the norms and not only violate them.

The studies on the conduct of hostilities in general rarely include the views and interpretation that these actors have of very basic notions of IHL. Who do they consider to be a civilian, for example? How do they assess in practice the proportionality principle? What exact precautions, what measures do they take prior to an operation, taking place in a populated area? These questions are asked by some international or non-governmental organisations, but it is not really the rule.

We believe that including armed non-state actors in the discussion or to promote the ownership of international law by these actors is actually a very important source of restraint, as the ICRC’s study on roots of restraints has highlighted. It also helps us to include the views of armed non-state actors on the rules on conduct of hostilities. It also helps us to understand the reasons for non-compliance and improves policies to encourage a better and a much more efficient engagement of these actors to humanitarian norms, which ultimately will enhance the protection of civilians.

At the Geneva Academy, we have engaged in a research project with Geneva Call on these very issues and I would like to give you some preliminary findings that we have already discovered with two armed groups: one in Mali, the MNLA, and the FARC in Colombia. While we have observed that armed groups usually do not have a very detailed understanding or approach to norms on the conduct of hostilities, the declared strategy of the MNLA, for example, which was active in Mali between 2012 and 2017, was, and I quote, “to attract enemy forces out of cities so as to avoid civilian casualties and the destruction of civilian
property”\textsuperscript{2}. So the MNLA would, at least, declare in their policies that they would take special precaution when combat took place in an urban environment.

Another study conducted by Geneva Call also highlighted the effort that some groups take to avoid the use of IEDs or explosive devices in populated areas to avoid high civilian casualties\textsuperscript{3}. At the same time, the same study did highlight the fact that very few groups had actually articulated written policies on the issue. This is also where the international community can work with these actors to help them implement, more clearly, in a written manner, the type of rules that are binding on them with regard to the conduct of hostilities in urban environment. Of course, we are not naïve, in the sense that we are very much aware that there might be a discrepancy between the declared practice of these groups, what they actually say and what they do in practice. In fact, there have been numerous reports of human rights organisations that highlight how they violate what they say, but it is the same with states. I mean, states also adopt laws and are bound by the same rules, but they may also, in practice, violate the rules.

But when you have written policies or Codes of Conduct, when you try to engage with armed non-state actors in a dialogue about such norms, it is a very good way to start the conversation with them and try to actually convince them to adopt the necessary changes in behaviour when violations do occur.

\textsuperscript{2} See From Words to Deeds Research Project, Case Study 1, the MNLA, available on words2deeds.org.

\textsuperscript{3} See www.genevacall.org/fr/new-study-better-protect-civilians-explosive-weapons-armed-non-state-actors/.
Concluding session
Closing words

Helen DURHAM
Director of International Law and Policy, International Committee of the Red Cross

We have come to the end of our annual Round Table, which this year had to be held in an online setting due to the rather exceptional circumstances. We would have loved to welcome everyone in beautiful Sanremo for this 43rd Round Table and celebrate the 50th anniversary of the IIHL with all of you in person. Certainly, we very much missed the personal interaction with each of you at the Round Table. The circumstances, however, forced us to test this new online setting, and I would like to thank all of you for having accompanied us to the end of the Round Table in this new format. What I can generally say, is that this 43rd Round Table, although in form of online webinars, was a great success in terms of the high quality of the presentations by the many panelists over the past four weeks. I would like to take this opportunity and thank them for their excellent contributions.

We opened this year’s Round Table early September at the ICRC Humanitarium in Geneva with a cross-interview between Gilles Carbonier, Vice-President of the ICRC, and Prof. Edoardo Greppi, President of the IIHL, followed by introductory remarks by Ambassador Félix Baumann from Switzerland. We continued with celebrating the 50th anniversary of the IIHL. Fausto Pocar, Honorary President of the IIHL, and Ambassador Gian Lorenzo Cornado from Italy underscored the Institute’s main achievements over the last 50 years and the challenges laying ahead.

After the Opening Session, we started with our first panel with our three eminent experts stressing the importance to continue focusing on urban warfare today from a historical, military and humanitarian perspective. The panelists noted that urban warfare is nothing new and has always severely impacted the civilian population. They also highlighted many developments over the last century that demand a continuing focus on urban warfare and challenges to better protect civilians in those contexts. These include the development in weapon technology; the growing urbanization; and the evolution of non-international armed conflicts and non-state armed groups, among others.
It was fascinating to hear during the second panel on how cities and urban infrastructures are not only affected collaterally, but increasingly used to wage war and prolong conflicts. One panelist introduced the notion of urbicide and discussed it in relation to practices witnessed in urban warfare. Panelists also shared their experience regarding the protection of civilians. They highlighted the challenges that enemy tactics may pose, the necessity to have diverse means and methods adapted to the urban terrain and the importance of limiting the use of force in order not to lose the support of the population.

The third webinar was maybe the emotionally most intense: Amina Azimi offered us an insightful testimony that brought to evidence how the use of explosive weapons in urban areas can change a child’s life forever. The panelists then exposed the variety and devastating nature of the humanitarian consequences caused by urban warfare. They highlighted the challenges they face when trying to effectively respond to the people’s need. I think one important message that came out from this panel – and throughout this Round Table – is that the civilian harm we observe in today’s urban conflict is unacceptable. But I believe it is not inevitable. We all can and need to do more to protect civilians and civilian objects from being harmed.

To achieve this, the choice of appropriate means and methods in urban warfare is of paramount importance. It was fascinating to hear during the fourth webinar deep legal discussions on the challenges for armed forces of applying the core principles of IHL and the need to avoid the use of certain weapons – such as EWIPA – unless sufficient mitigation measures were taken. I am very grateful to the panelists for having shared with us best practices in the choices of means and methods of warfare in urban operations based on their past military experience. It also became clear that while IHL poses limits to the conduct of hostilities, we need more clarity as to how states, and other parties to armed conflict, interpret and apply the rules of IHL when operating in urban environments.

During today’s last webinar of this year’s Round Table, we examined whether a change of approach to better protect civilians in urban environment was necessary. In my view, today’s question has touched upon the heart of the discussion on urban warfare, reflecting this general agreement we have observed over this past month: more can and must be done to protect civilians in contemporary urban armed conflicts. But, if we all do agree on the fact that more needs to be done, why is it so difficult to change? Where do the barriers lie? I believe that our panelists today offered excellent insights into how to strive to do better. For instance – through
incorporating the study of past urban operations into military doctrine, or by prioritizing civilian protection as a key strategy. We also looked at the specific challenges with respect to non-state armed groups. At the ICRC, we do speak with non-state armed groups around the world about the protection of civilians during conflicts. However, we also need to step up our efforts in this respect, as we need to do for military forces.

Let me conclude by saying that while we do not agree on everything, this Round Table provided – as every year – a forum for lively debates on contemporary challenges for IHL raised by urban warfare. What has become clear, however, is that civilians and civilian infrastructure and services are often the first casualties when fighting moves to cities.

At the ICRC, we remain committed to further reinforce strategies to influence the behavior of all arms carriers towards better protecting civilian populations and civilian objects against the devastating consequences of urban warfare. We will continue to provide protection and assistance to people affected by urban warfare in the most critical circumstances. We will also continue to publish analysis, reports and recommendations that are grounded in our worldwide first-hand experience of the suffering caused by urban warfare. Among others, I am glad to announce that we will shortly launch a blog post series dedicated to urban warfare. Stay tuned and do not hesitate to contact us if you would like to contribute!

Before passing the floor to Professor Greppi, I would like to sincerely thank a number of people. First, Professor Greppi, it is always an honor to co-host such a Round Table with you. Also, my thanks go to Gian Luca Beruto and Mark Dakers from the IIHL. On the side of the ICRC, I would like to thank Laurent Gisel, Anna Greipl and a range of colleagues who helped us organize this event in an online format. Finally, panelists and participants, thank you very much for your fruitful contributions and I look forward to passing the floor to Professor Greppi.
Closing words

Edoardo GREPPi
President, International Institute of Humanitarian Law

Thank you, Helen, for the support and co-operation between the ICRC and the Institute in preparing and delivering this unique Round Table. In these difficult times it is important that the debate and discussion on key topics of IHL continue and, even in online form, the Round Table has, as ever, enabled and contributed to this.

Over the past five webinar sessions we have heard a wide range of perspectives on the challenges presented by urban warfare and how best they may be dealt with both now and in the future. In the opening conversation with yourself and Gilles I mentioned the tensions between the legitimate use of force by military actors and the protection of civilians and this has been a recurring theme throughout the webinars. Another recurring theme has been whether, when military actors can use force within the law, they should consider restricting their means and methods of warfare on a policy basis rather than a legal one. In the urban environment this is one of the contextual factors which will affect what I referred to in our first webinar as the proportionality calculus. I feel sure that all those who have attended these webinars now have a far more comprehensive understanding of the challenges of urban warfare from all standpoints.

These challenges are likely to increase rather than decrease as the world’s population becomes more and more urbanised, and all of us within the IHL community must continue to find ways to meet these challenges. Constructive dialogue between those with the heavy responsibility of applying military force in a legal and accountable manner and those who wish to ensure that this is done is the best means of making progress in this regard. I am reminded of Gen. Bashall’s comments that as a responsible and professional military officer he welcomed accountability and thought it entirely right that he should be held to account.

We should also remember that while, for responsible actors who act within the law, technology makes better protection of civilians achievable, there are other actors who have little or no interest in protecting civilians and indeed may deliberately target them. We must all strive to do all we can to convince those actors that civilians must be spared from being unnecessarily and indiscriminately exposed to the horrors of conflict.
After all we have heard in these webinars, I take the view that fundamental legal principles can provide protection to civilians in the urban environment. The critical factor is the correct interpretation and application of those principles in any given environment, and I would call on all states to co-operate to their fullest extent to achieve this and to ensure compliance with the law and accountability for failures to adhere to it. We at the Institute together with our close colleagues and friends at the ICRC will continue to strive to encourage, facilitate and assist in ensuring and where necessary improving adherence to the law.
### Acronyms

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<th>Acronym</th>
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<tr>
<td>AMISOM</td>
<td>African Union Mission in Somalia</td>
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<td>AoR</td>
<td>Area of Responsibility</td>
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<td>APL Treaty</td>
<td>Convention on The Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Ottawa Convention/Mine Ban Treaty)</td>
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<td>AZUR</td>
<td>Action en zone urbaine</td>
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<td>CCM</td>
<td>Convention on Cluster Munitions</td>
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<td>CCW Convention</td>
<td>Convention on Certain Conventional Weapons</td>
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<td>CENZUB</td>
<td>Centre d’entrainement aux actions en zone urbaine</td>
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<td>Conventions de Genève</td>
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<td>Counter Insurgency Operation</td>
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<td>Daesh</td>
<td>al-Dawla al-Islamiya fil Iraq wa al-Sham</td>
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<td>DIH</td>
<td>Droit international humanitaire</td>
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<td>EWIPA</td>
<td>Explosive Weapons in Populated Areas</td>
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<td>Acronym</td>
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<td>FARC</td>
<td>Fuerzas Armadas Revolucionarias de Colombia</td>
</tr>
<tr>
<td>GBV</td>
<td>Gender-Based Violence</td>
</tr>
<tr>
<td>IASC</td>
<td>Inter-Agency Standing Committee</td>
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<tr>
<td>ICRC</td>
<td>International Committee of the Red Cross</td>
</tr>
<tr>
<td>IDF</td>
<td>Israel Defense Forces</td>
</tr>
<tr>
<td>IDP(s)</td>
<td>Internally Displaced Persons</td>
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<tr>
<td>IEDs</td>
<td>Improvised Explosive Devices</td>
</tr>
<tr>
<td>IHL</td>
<td>International Humanitarian Law</td>
</tr>
<tr>
<td>IIHL</td>
<td>International Institute of Humanitarian Law</td>
</tr>
<tr>
<td>INGO</td>
<td>International Non-Governmental Organization</td>
</tr>
<tr>
<td>ISAF</td>
<td>International Security Assistance Force</td>
</tr>
<tr>
<td>ISIS</td>
<td>Islamic State of Iraq and Syria</td>
</tr>
<tr>
<td>LOAC</td>
<td>Law of Armed Conflict</td>
</tr>
<tr>
<td>MNLA</td>
<td>Mouvement national de libération de l’Azawad</td>
</tr>
<tr>
<td>MSF</td>
<td>Médecins sans frontières</td>
</tr>
<tr>
<td>NATO</td>
<td>North Atlantic Treaty Organization</td>
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<tr>
<td>NGO</td>
<td>Non-Governmental Organisation</td>
</tr>
<tr>
<td>NIAC</td>
<td>Non-International Armed Conflict</td>
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<tr>
<td>NSAG</td>
<td>Non-State Armed Group</td>
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<td>PA I</td>
<td>Protocole additionnel I</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Full Form</td>
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<td>--------------</td>
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</tr>
<tr>
<td>ROE</td>
<td>Rules of Engagement</td>
</tr>
<tr>
<td>RPG</td>
<td>Rocket-Propelled Grenade</td>
</tr>
<tr>
<td>TEA</td>
<td>Target Engagement Authority</td>
</tr>
<tr>
<td>UAV</td>
<td>Unmanned Aerial Vehicle</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
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<td>UNESCO</td>
<td>United Nations Educational, Scientific and Cultural Organization</td>
</tr>
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<td>UNHCR</td>
<td>United Nations High Commissioner for Refugees</td>
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<td>UNOCHA</td>
<td>United Nations Office for the Coordination of Humanitarian Affairs</td>
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<td>WHO</td>
<td>World Health Organization</td>
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Acknowledgements

L’Istituto Internazionale di Diritto Umanitario ringrazia vivamente i Governi e gli Enti che hanno concesso un contributo finanziario o il patrocinio per la Tavola Rotonda.

The International Institute of Humanitarian Law warmly thanks those Governments and Organisations that have given either a financial contribution or their patronage on the occasion of this Round Table.

L’Institut International de Droit Humanitaire tient à remercier les gouvernements et les organisations qui ont accordé leur appui financier ou leur patronage à l’organisation de cette Table Ronde.

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This collection of contributions made by renowned international experts and practitioners addresses the new challenges concerning the application of IHL in urban military operations.

The 43rd Round Table on current issues of international humanitarian law – celebrating the 50th Anniversary of the Institute – focused on some of the fundamental issues regarding urban warfare, by examining the lessons learned from recent operations, the humanitarian consequences of urban conflict, the choice of means and methods in the urban context and if a change of approach from the different actors, concerning the protection of civilians, is required in the urban environment.

The Round Table provided a forum to discuss related relevant topics including the challenges faced by women with disabilities living in a city of war, and the vulnerability of modern cities infrastructure affected by war.

The **International Institute of Humanitarian Law** is an independent, non-profit humanitarian organization founded in 1970. Its headquarters are situated in Villa Ormond, Sanremo (Italy). Its main objective is the promotion and dissemination of international humanitarian law, human rights, refugee law and migration law. Thanks to its longstanding experience and its internationally acknowledged academic standards, the International Institute of Humanitarian Law is considered to be a centre of excellence and has developed close co-operation with the most important international organizations.