



Urban Warfare and International Humanitarian Law

Alvina Hoffmann

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Customary IHL provides important steps forward to ensure the humanitarian conduct of war in urban centres.

The targeting of urban centres is not a new phenomenon in war, yet increasingly wars are fought in urban terrains which has had important impacts on both military strategies and the application of international humanitarian law (IHL). IHL aims to limit the human costs of war by placing legal limits on the conduct of war through its [central principles](#) such as proportionality, distinction and necessity.

- The principle of *proportionality* limits damage caused to civilians in military operations,
- the principle of *distinction* requires all parties to an armed conflict to distinguish between the civilian population and combatants,
- and, finally, *necessity* which permits measures necessary to accomplish a military purpose which are not forbidden by IHL.

But how can lawful warfare be ensured in urban centres where the relationship between war, violence and political spaces has become ever more complex? Customary IHL, which is derived from state practice rather than codified rules, could potentially help close some legal loopholes, so too can the insights of legal, military and urban specialists who tackle different yet interrelated issues in contemporary urban warfare.

Urban militarism in security doctrines and critical urban studies

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When analysing urban warfare, we have to consider three interconnected dimensions:

1. the population,
2. terrain
3. and infrastructure.

These are central elements in military strategies focusing on combat efficiency and the development of appropriate military capabilities. Indeed, urban militarism has come to dominate military and security doctrines in which “the key ‘security’ challenges of our age now centre on the everyday sites, spaces and circulation of cities.” Can these transformations be captured accurately in strategies and, if so, how?

Stephen Graham’s concept of ‘battlespace’ – which points to the implication of everyday sites, spaces and circulations of cities in military conflict – highlights the challenges of meeting strategic aims through military capabilities within the parameters of legality are made increasingly visible through the entanglement of war with urban political spaces.

Moreover, the importance of critical urban infrastructure shows how military targets actively chosen on the basis of cities. Central logistical nodes, such as rail networks and bridges, in urban centres have historically been targeted in wars, but there has been an important shift in contemporary warfare. Today, the aim is much more long-lasting in that it affects the everyday structures maintaining urban life, as Martin Coward argues. This imposes a form of dominance over the urban space which extends beyond the actual conduct of war. Military strategies are therefore based on developing a “range of ‘hard’ and ‘soft’ anti-infrastructure weapons”, aided by advanced technology.

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Col. John A. Warden's 'ring theory' is one central example of an attempt to integrate the challenges of urban warfare into military strategies (for a detailed critical discussion, see [here](#)). Warden's five rings are

- a system which consists of the leadership at the centre,
- followed by system essentials (such as electricity, oil fields, financial resources),
- the infrastructure,
- the civilian population,
- and, lastly, the military fighting force.

Instead of targeting civilians directly, only indirect targeting through hitting the societal infrastructures, the enemy's system essentials, is authorized in Warden's theory. According to Stephen Graham, this theory has had a major influence on "all major US bombing campaigns since the late 1980s." Another example of military strategy is the increasing importance of targeting dual-use infrastructures, i.e. infrastructure that serves both civilians and combatants. The Kosovo War, for instance, saw the use of a [bomb emitting graphite crystals](#) designed to disable electrical power and distribution stations.

Similar graphite bombs had already been used against Iraq in the First Gulf War. The aftermath of this systematic de-electrification was devastating: Since these were interpreted as dual-use items, any attempt to reconstruct the infrastructure was prohibited. Consequently, the aforementioned principle of distinction has become increasingly blurred.

[A report](#) by the United States Marine Corps' Lieutenant General Paul K. van Riper offers a different perspective on urban warfare:

“ urban terrain is highly restrictive, limiting observation distances, engagement ranges, weapons effectiveness, and mobility. These factors tend to force extremely close combat with troops fighting from building to building and from room to room. ”

These impediments on mobility are countered with sophisticated manoeuvres, which use “tempo as a weapon to shatter [the enemy’s] cohesion, organisation, command and psychological balance.” Hence, van Riper imagines a new form of navigating through the space, which would “bypass and isolate the enemy’s centres of resistance, striking killing blows against those enemy units, positions, or facilities upon which his force depends.”

As stated in an [ICRC report from October 2015](#), the long-lasting and deep structural changes that the destruction of urban spaces leaves behind for local populations remains under-researched. Reconstruction after ceasefire agreements is not a straightforward task, as crucial infrastructure might still be perceived as ‘dual-use infrastructure’, which is an object that serves both military and civilian purposes.

What are the challenges for IHL and to what extent can these be mitigated?

Customary IHL could provide a way forward, based on the principles of proportionality and [precaution](#), requiring all parties to armed conflict to “take all feasible precautions to protect the civilian population and civilian objects”.

Customary IHL – A way forward?

As [Michael John-Hopkins](#) notes in a report, the oscillating character and dense populations of urban areas challenge the efficiency of military objectives.

Moreover, IHL allows for a wide scope of possible interpretations. For instance, when it is to be decided at the outset whether an armed conflict is international or non-international.

In addition, while treaty-based IHL outlines broad humanitarian protection – both in the [Fourth Geneva Convention on the Protection of Civilian Persons in Time of War](#) and the [Additional Protocol I on the Protection of Victims of International Armed Conflicts](#) – important states involved in operations that take place in urban environments have not ratified Protocol I, including the US and Israel. [Between 2005 and 2007 more civilians than combatants died](#), mostly in conflict zones where the US or Israel were involved. Consequently, the application of customary IHL is even more pressing.

The distinction between civilians and combatants, a central principle of IHL, might not always be possible in urban settings. Rule 15 of the 2005 [ICRC compilation of customary IHL](#) states that “constant care must be taken to spare the civilian population, civilians and civilian objects” as well as that “all feasible precautions must be taken to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects.”

Emphasising feasibility could give a wide range of organizations the ability to examine the legality of attacks.

This echoes Article 57 of the Additional Protocol I, which obliges parties involved in armed conflicts “to comply with the full range of feasible means in order to gather the most accurate intelligence possible and ensure that the

object of attack is a military one” and stresses that “failure to exercise due diligence and reasonableness in that regard [...] will amount to a violation of this precautionary rule.” Yet its application is context-bound, can vary according to specific circumstances, and has to be followed by all parties in the same manner.

Closely tied to this principle is the application and prohibition of certain weapons, especially “those that have wide fatal and destructive impact zones.” Some weapons of this kind, from nuclear weapons to cluster munitions, are not yet regulated by treaties or ratified by states, but should nonetheless be considered as violations of this principle if applied in contexts of potentially indiscriminate attacks.

With regards to proportionality, article 57 (2) (a) of the Additional Protocol I states that belligerents should “refrain from deciding to launch any attack [...] which would be excessive in relation to the concrete and direct military advantage anticipated.” Yet precaution might be inhibited by time constraints, which could potentially authorize the “militarily superior side [...] to] classify most military objectives as ‘immediate targets’ and subject them to truncated precautionary measures or take no precautionary measures whatsoever.” However, these attacks might still violate proportionality and hence conflict with legal principle.

This is especially the case in urban contexts, where rapid responses might be as inefficient since asymmetric conflicts are characterized by “unconventional tactics such as emerging, attacking, and disappearing in a fleeting moment.” Once again, this is crucial and can provide a very strong legal argument for the application of precautionary measures over the general argument of time constraints. Consequently, precaution and proportionality are crucial for a more

humane conduct of war in urban environments, most of all for the protection of civilians.

What remains unchallenged are the long-term transformations of urban spaces and blurred categories such as 'dual-use infrastructure'. Targeting electrical power and distribution stations should be more directly linked to the principle of proportionality.

Conclusion

Drawing on research in critical urban studies can help get a better understanding of the urban environment and its co-constitutive relationship with warfare and hence the legal loopholes that are generated. Customary IHL provides important steps forward to ensure the humanitarian conduct of war in urban centres, yet more remains to be done.

Image credit: [U.S.Army/Wikimedia](#).

About the Author

Alvina Hoffmann is a 2nd year PhD Candidate in the department of War Studies at King's College London. Her work focuses on the intersection between rights claims practices and geopolitics in the context of the annexation of Crimea, the Sami people and the Internet. She works for *Millennium: Journal of International Studies* as review article editor and social media officer, for *e-IR* as associate features editor and is the co-convenor of the research group *Doing IPS*.

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