Conceptualizing Military Siege Warfare Strategy: Objectives, Conduct and Challenges.

A critical review of literature and research agenda

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Abstract

The current international human law framework does not define what the term military siege is. This is despite its consistent and regular use in modern warfare and its resistant repercussions. There is an increased interest among scholars to focus on siege warfare. Despite this increasing interest and relevance of the concept in several settings in contemporary military operations, the fundamental constructs have not been properly defined and operationalized. It was therefore critical that a study is conducted to critically analyze the concept and its objectives; the conduct; and challenges. The analysis was key in crafting a definition of the concept 'siege warfare' and providing possible recommendations regarding its conduct. One challenge however is that modern law still tolerates deliberate infliction of extreme deprivation especially in non-international armed conflict. Besieging forces are also free to reject passages of humanitarian relief without explanation. The study recommended as follows: As a matter of urgency, IHL be improved to include deliberate non-deprivation of foods to civilian in non-international armed conflict and combatants in both international and non-international armed conflict as a war crime under IHL. Given the role of Humanitarian organizations in alleviating human suffering during hostilities, the International Law should include a clause on the non-interference with humanitarian assistance efforts by parties to a conflict both in international and non-international armed conflicts and harsh penalties on indiscriminate attacks in populated areas, among others. A definition for the construct 'military siege' was also provided.

Keywords: Siege Warfare, International Humanitarian Law, Civilians, Combatants, Armed Conflict.

1.0 Introduction

A siege can be described as a military embargo of a town or stronghold with the intention of putting it under its control via abrasion or a well-planned counterattack. This comes from the Latin word *sedere*, which means 'to sit.' Siege battle is a low-intensity type of combat, continuous battle in which one party maintains a solid, immovable protective posture. According to United Nations Office for the Coordination of Humanitarian Affairs (OCHA), an area is besieged when it is

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"surrounded by armed actors with the sustained effect that humanitarian assistance cannot regularly enter, and civilians, the sick and wounded cannot regularly exit."

Military siege warfare has been around for a long time, and it was as frequent in medieval times as it is now. The nature of weapons employed includes bows and arrows, semi-automatic rifles in the medieval ages to modern day sophisticated armour, artillery and air.

Modern military doctrine increasingly avoids the term siege in favor of the broader notion of encirclement.[1] Yet this adjustment to military semantics should not be understood to imply obsolescence. A survey of modern armed conflict reveals sieges to be essential, if operationally undesirable, military actions.[2] The demographics of urbanization and the evolution of warfare from contests over territory to contests for control of populations and human capital suggest continued, or even increased, resort to sieges and other operations that entrap or isolate civilian populations. During the last three decades, highly organized, well-equipped, and capable armed forces have been drawn into or resorted to siege operations in several armed conflicts including Lebanon, Chechnya, Bosnia, Iraq, and Syria, while siege-like conditions quickly developed in Yemen. More than mere contests of willpower, sieges have proved keen tests of applied military doctrine, leadership, and combat effectiveness.

Ancient siege warfare should not be approached as a fortifications-related variation on a general practice of battle, but rather as a fundamentally different sort of combat. Ancient combat was generally fluid, while the siege was sharply defined: in time, in space, and in operational terms. Neither the operational identity of the combatants who were attacking and those defending, nor the identity of the objective could change, and there could be no disputing the result: the town was taken or the siege was a failure.

Like the formal open-field battle, Roman siege warfare was conducted within a set of expectations based not on purely rational expectations of efficiency but instead on a blend of military practicality and cultural preference.

1.1 Statement of the problem

Roman warfare has drawn scholarly and popular attention for a very long time. This attention has usually been focused on major battles, despite the insurmountable difficulty of providing a comprehensible narrative of open-field battle. The siege, defined as much by the presence of a wall as a battle, has attracted far less attention. When a siege does become the object of study it is usually as a discrete historical occasion—rarely is the siege considered as a category of military event.

The concept is an old practice under IHL. In fact, it is as old as military warfare. However, the current international human law framework does not define what the term military siege is. This is despite its consistent and regular use in modern warfare and its resistant repercussions. There is an increased interest among scholars to focus on siege warfare with a view to explaining its unique

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[1] Lionel M. Beehner, Benedetta Berti & Michael T. Jackson, The Strategic Logic of Sieges in Counterinsurgencies, 47 Parameters 77, 77 (Summer 2017).

[2] George W. Gawrych, The Siege of Beirut, in Block by Block: The Challenges of Urban Operations 205 (William G. Robertson ed., 2003) [hereinafter Block by Block]; Rashid Khalidi, Under Siege: P.L.O. Decision making during the 1982 War 43–66 (1986) (describing the military situation giving rise to the 1982 siege of West Beirut); David Koff, Chronology of the War in Lebanon, September–November, 1983, 13 Journal of Palestine Studies 127 (1984) (compiling and chronicling events during the late stages of the Israeli siege of West Beirut).

characteristics that distinguish it from open field battles. Despite this increasing interest and relevance of the concept in several settings in contemporary and future military operations, the fundamental constructs of military siege warfare strategy have not been properly defined and operationalized.

Further, a review of extant literature revealed that scholars have narrated about the planning of siege operations in ancient times, giving chronologies of events and outcomes, but paying little attention to the relationship and applicability of ancient siege warfare strategy to modern warfare. It was therefore critical that a study is conducted to critically analyze the concept and objective of the doctrine of a military siege; the conduct of hostilities during a military siege; and the challenges with regards to military sieges. The analysis was key in crafting a comprehensive definition of the concept 'siege warfare' and providing possible recommendations regarding the conduct of siege warfare.

The purpose of this study was: First, the paper sought to review and report the extant theoretical, conceptual and empirical literature on the construct of military siege warfare with the aim of establishing existing gaps in literature. Secondly, to analyze the objectives, characteristics and challenges of siege warfare. Thirdly, the paper makes recommendations regarding the conduct of military sieges and lastly it proposes a comprehensive definition describing the construct 'military siege'. It is believed that the outcome of this study will improve the theorizing, practice and future research on matters siege warfare strategy. The section that follows provides a review of the objectives of doctrine of military siege doctrine.

2.0 Theoretical framework

Military Siege Warfare is conducted both in international and non-international arenas. Such operations arise in the international arena as states pursue their national interests. Conflicting interests at the national level between state actors and non-state actors also leads to conflicts as state strive to protect their national security, this being its principle duty. Based on these causal factors, a critical review and analysis of literature is necessary based on certain theories and principles. The arguments of this paper are anchored on certain theories that are focus on the objectives of armed conflict, both international and non-international; the ways and means in which such armed conflicts are conducted; and the need for morality and humanity during the conduct of armed conflicts. The theories and principles in this study are the realist theory of international relations, the four Geneva Conventions of 12 August 1949 including the two Additional Protocols of 8 June 1977 and natural law.

2.1 Realist theory

This theory was proposed by Hans Morgenthau. In the aftermath of the Second World War, Hans Morgenthau (1948) sought to develop a comprehensive international theory as he believed that politics, like society in general, is governed by laws that have roots in human nature. The first assumption of realism is that the nation-state (usually abbreviated to 'state') is the principle actor in international relations. Other bodies exist, such as individuals and organizations, but their power is limited. Second, the state is a unitary actor. National interests, especially in times of war, lead the state to speak and act with one voice. Third, decision-makers are rational actors in the sense that rational decision-making leads to the pursuit of the national interest. Here, taking actions that would make your state weak or vulnerable would not be rational. Realism suggests that all leaders, no matter what their political persuasion, recognize this as they attempt to manage their state's

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affairs in order to survive in a competitive environment. Finally, states live in a context of anarchy – that is, in the absence of anyone being in charge internationally. The often-used analogy of there being 'no one to call' in an international emergency helps to underline this point. Within our own states we typically have police forces, militaries, courts and so on. In an emergency, there is an expectation that these institutions will 'do something' in response. It therefore points out clearly that a State will get involved in siege warfare in pursuit of its interests.

2.2 Geneva Conventions of 12 August 1949

The four Geneva Conventions of 12 August 1949 for the protection of the victims of war are the main sources of international humanitarian law. These conventions are: Convention for the Amelioration of the Conditions of the Wounded and Sick in Armed Forces in the Field (First Geneva Convention); Convention for the Amelioration of the Conditions of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Geneva Convention); Convention relative to the Treatment of Prisoners of War (Third Geneva Convention); Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention).

The Geneva Conventions have been supplemented with the two Additional Protocols of 8 June 1977: Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II). The rules of international customary law also play an important role. Some of them set forth absolute obligations which are binding on all States (jus cogens). Although the 1977 Protocols have not yet been universally adopted." We consider them as part of international humanitarian law for the purposes of our presentation.

2.3 Natural Law

The natural law tradition has a long and venerable history. Hints of its beginning can be found in the writings of the ancient Greek philosophers Plato and Aristotle, and natural law was the dominant view of the Greek stoics. It was widely adopted by Roman jurists and orators such as Cicero. It was something like the official doctrine of the medieval scholastics. It had such powerful advocates as St Thomas Aquinas, Hugo Grotius, Samuel Pufendorf, Francisco Suarez, John Locke in the 17th century and it has many thoughtful contemporary champions as well.

Natural law, as traditionally understood, has sometimes also been called *higher law*, and for good reason. Traditional natural law theorists typically believed that there is a source of law beyond human creation. The dictates of natural law have their source in divine command, human nature, or the order of nature itself. Depending on which version of natural law is adopted, there will be variation concerning how human beings come to know the natural law: through divine revelation, by studying human nature, or by studying the order of the natural world itself. Despite these differences of detail, however, all natural law theorists believe that there is a source of law that is independent of human creation, and that it can be discovered by human beings through the exercise of their reason. As rational creatures, human beings have access to the natural law. Moreover, since the source of natural law (divine command, human nature, or the order of the universe) is unchanging and universal, the natural law is also unchanging and universal.

That is, the natural law is the same for all people, in all places and times. It is this requirement, that all genuine law aims at what is truly good, not just for the ruler but also for the ruled, that sets

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natural law theory apart from others. In short, natural law theorists believe that law, as law, must aim at morally right ends. This law is relevant to the study as it seeks to guide the manner in which the victims of conflicts need to be handled. That absence of a clear definition of the construct 'military siege' doesn't guarantee inhumane treatment of victims of armed conflict, whether civilians, *hors de combat* or combatants.

3.0 Conceptualization of key constructs

3.1 Objective of the doctrine of a military siege

Military siege warfare is a popular strategy employed my militaries world over. There are various reasons for its employment as discussed in the section that follows:

3.1.1 Siege as a means of subduing the enemy to the will of the aggressor. Military sieges have been employed in the past to coerce opposing soldiers into surrendering. During the Middle Ages, A siege's military objective was to compel enemy troops out by destroying their defenses and preventing reinforcements[3]. In effect, sieges allowed one to subjugate an opponent while limiting direct combat and lowering one's individual fatalities. During medieval times, powerful fortresses benefited the defensive; in contemporary combat, more infantry weapons made of cheaper iron favored the offensive.[4] However, because of the increased density of urban terrain in today's world, siege warfare is probably more difficult for the attack. For the most of 2016, the superior Syrian military, aided by Russian weaponry and planes, was not able to evict the limited and struggling Syrian rebel forces from their fortified positions in Aleppo.

3.1.2 To confine the enemy in one observable location. Laying siege to a region looks to be a low-cost tactic for seeming to be on the attack whilst also saving resources for future conflicts and making sure they do not get entangled in a calamity of a high magnitude that would attract the intervention of outside forces / powers on the besieged's behalf.[5] By avoiding direct battle, armed forces can use sieges to keep enemies restricted to urban areas and hinder replenishment while keeping the besieger's own fatalities to a minimum.. These advantages are especially valuable when the opposing armies have a significant military strength gap, and the invading army lacks the financial, human, and military resources to completely conquer and retain the city.

Attacks may be costly in terms of lives as well as unintended loss or damage. Encircling enemy soldiers and shutting them off after supplies and communications, and forcing their surrender, may be a more effective strategy. Besieging a town or fortress works in the same way. As long as it is aimed against enemy armed troops, siege is a legal kind of warfare.

3.1.3 Siege as a sure way of suppressing rebellions by reducing popular support. Between 2012 and 2016, dozens of cities in Syria were subjected to protracted and recurrent sieges. In June 2015, a Syrian and Hezbollah-backed siege of Madaya, a village in the rural Damascus province, culminated in the city's entire lockdown, resulting in a grave humanitarian catastrophe, is one of the most well-known cases.[6] Syrians in Madaya were practically starving to death as military

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[3] Gillard, E., *Sieges, the Law and Protecting Civilians,* Briefing June 2019, International Law

[4] Stephen Van Evera, "Offense, Defense, and the Causes of War," International Security 22, no. 4
(Spring 1998): 5–43. doi:10.1162/isec.22.4.5.

[5] Downes, *Targeting Civilians,* 158–59.

[6] Editorial Board, "*The Siege of Madaya Casts a Shadow on Syrian Peace Efforts,"* Washington Post, January 9, 2016; and Human Rights Council (HRC), Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, A/HRC/33/55 (New York: United Nations, 2016).

roadblocks and antipersonnel landmines prevented food from being delivered and residents from leaving the besieged enclave.[7] Furthermore, sieges have the potential to relocate inhabitants in crucial contested regions. The insurgency loses human resources as the population abandons them in support of the government of the day. This makes it easier to isolate insurgents from the populace. Furthermore, the siege, in combination with persistent aircraft strikes, forced the populace to flee, significantly reducing the number of people under rebel control.

A siege can encourage the growth of self-sustaining siege economies. A tiny group of Bosnian military in Sarajevo depended mainly on regular civilians who picked up guns to defend the city. Due to a lack of direct access to military equipment or resources, these citizen-soldiers created ad hoc groups around existing social institutions. They depended largely on supply lines left open by Bosnian Serbs on purpose.[8] A tunnel network linking Sarajevo to a Bosnian-controlled region outside the city's borders was the most famous. The Bosnian army's principal way of distributing supplies was through this underground network, humanitarian aid, and weaponry into Sarajevo, preventing the city from devolving into disorder and exacerbating the humanitarian catastrophe[9].

3.1.4 Territorial expansion. In the medieval era, siege was also utilized to ensure total conquest and territory expansion. From Genghis Khan through Kublai Khan, who finally created the Yuan Dynasty in 1271, the Mongol Empire's war against China, which included the Western Xia Dynasty, Jin Dynasty, and Southern Song Dynasties, was highly efficient in the Middle Ages, making it easy for the Mongols to sweep across enormous territories. Even if they were unable to access some of the more heavily defended cities, they employed novel military siege techniques to seize the land and the people. This is similar to defensive operations that may be conducted to seize a key terrain. Once a city has been put under siege and the enemy subdued, the city and its population is put under the administration of the aggressor. This in effect is the expansionist model.

3.1.5 Protracted nature ensures success in battles. Nations embraced military siege because it was seen as a reliable strategy to win battles against opponents at war. For the majority of the 17th and 18th centuries, Western Europe was controlled by siege warfare. A single siege might last a whole war or longer (for instance, Ostend in 1601 to 1604; La Rochelle in 1627 to 1628). As a result, the battles lasted for a long time. On balance, while siege warfare was very costly and time-consuming, it was extremely successful, or at least more so than field battles. The principle was a long, grinding triumph by the stronger economic power. Confrontations between besiegers and relieving troops culminated in battles, but the concept was a gradual, grinding victory by the more powerful economic force. The historical battle that took place in La Rochelle (Le Grand Siège de La Rochelle) occurred in 1627–28 as a consequence of a fight between Louis XIII of France's royal soldiers and the Huguenots of La Rochelle. The blockade was the pinnacle of the Catholic-Protestant conflict in France, and it concluded with a full triumph for King Louis XIII and the Catholics[10].

3.1.6 Cutting enemy lines of communication. Beginning in 2013, President al-Syrian Assad's regime sought to encircle eastern Aleppo, a tiny pocket that was progressively encircled on all

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[7] "Syria: Siege and Starvation in Madaya," Medecins Sans Frontieres, January 7, 2016,
http://www.doctorswithoutborders.org/article/syria-siege-and-starvation-madaya.

[8] Michael Jackson, Samuel Ruppert, and David Stanford, *Contemporary Battlefield Assessment - Bosnia and Herzegovina* (West Point, NY: Modern War Institute, 2015).

[9] Andreas, Blue Helmets.

[10] Glete, Jan, *Warfare at sea, 1500-1650: maritime conflicts and the transformation of Europe.* Routledge, 1999.

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sides by government-controlled forces.[11] At the same time, the regime targeted civilians and fighters equally with systematic bombings and artillery bombardment, scarring Aleppo's population and prompting a mass flight. Military sieges encircle, block roads and cut-off reinforcements and logistics resupply. This starves the besieged forces depriving them of assistance from outside allies.

By surrounding, blocking and ramming eastern Aleppo with aerial bombardments, Assad's troops seized to control of the area governance structure, creating the groundwork for the advance of Syrian army and militia forces on the ground. All while saving troops and avoiding the expensive cost of attacking and defending insurgent areas, the encircling tactics confined the resistance and created a bitter stalemate.

3.2 Conduct of hostilities during a military siege

Although it is evident that a civilian engaged in a military assault might well be targeted as the battle ensues, the real understanding of the term "hostilities" is unclear. "Hostilities" are well explained in Article 51(3) as situations in which a citizen engages in antagonistic activities with or without the use of a weapon[12]. Hostile actions are defined as "acts that are designed to inflict actual harm to armed services personnel and equipment by their character and intent." Many analysts have emphasized that "hostilities" must also encompass acts directed against the adversary in general, as well as activities that hurt civilians. The Israeli Supreme Court defined "hostilities" as "acts that by nature and purpose are designed to inflict damage to the army" in the "targeted murders" case ruled in December 2006[13].

Syrians went to the streets 10 years ago, igniting political tensions that quickly escalated into an armed conflict that has wreaked havoc on the country and its people ever since. The world watched in horror as cherished and near-mythical cities like Damascus, Aleppo, Raqqa, Palmyra, and Homs were destroyed by violent urban warfare, killing, maiming, and displacing their residents. The social fabric of impacted communities has been deeply shattered by war in many places, and entire generations have been deprived of their youth.[14] The section that follows briefly describes the environment in which military sieges are conducted and gives an account of the characteristics of such siege operations:

3.2.1 Urbanization of conflicts. Many of today's violent conflicts take place in cities and towns, affecting an estimated 50 million people globally. Rising population and the adjacency of noncombatants and civilian objects to military objectives increase the risk of civilian death, injury, and displacement, as well as damage to critical infrastructure, disruption of essential services, and loss of access to healthcare, education, and livelihoods.[15] People are particularly susceptible when exploding weaponry with wide-area effects are utilized in urban conflict. The employment of such

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[11] Caerus Associates, *Mapping the Conflict in Aleppo, Syria* (Fort Lauderdale, FL: Caerus / American Security Project, 2014).

[12] Commentary on the Additional Protocols to the Geneva Conventions of 12 August 1949, dated 8 June 1977, at 1943, available at http://www.icrc.org/ihl.nsf/COM/470-750065?OpenDocument [hereafter API Commentary].

[13] "Targeted Killings," Judgment, paragraph 33; ICRC, Third Expert Meeting, *supra*, at 22-24; David Kretzmer, *Targeted Killing of Suspected Terrorists: Extra-Judicial Executions or Legitimate Means of Defense?*, 16 EUR. J. INT'L L. 171, (2005), at page 192, available at: http://www.ejil.org/journal/Vol16/No2/art1.pdf

[14] World Economic Forum, Migration and Its Impact on Cities, In collaboration with PwC, WEF, 2017

[15] World Humanitarian Data and Trends, 2017

weapons also leaves explosive war leftovers, which constitute a continuous deadly threat to people and a substantial impediment to reconstruction and displaced persons' return

As the world urbanizes, so too does conflict. Increasingly, fighting takes place in urban areas, and civilians bear the brunt of it. The use in populated areas of explosive weapons that have wide area effects continues to be a major cause of injury and death among civilians and of damage to civilian objects. Even when services that are indispensable for sustaining life in urban areas are not directly targeted, they are disrupted as an indirect result of attacks, or become more and more degraded until they are at the point of breakdown.[16] In some cases, services are deliberately denied to specific areas, in order to exert pressure on civilians living there. Inhabitants are left without sufficient food or water, sanitation and electricity, and deprived of health care; such privation is aggravated when cities are besieged. In addition, fighting in urban centres results in widespread displacement. Once fighting stops, unexploded ordnance and/or other forms of weapon contamination, and the lack of essential services, prevent many of the displaced from returning.

Civilians are injured and killed on a large scale, as are civilian and other protected items. This can be ascribed in part to the widespread in urban environments, the use of explosive weapons with effects spreading across a wide area. Heavy, largely unguided artillery, mortars, and multi-barrel rocket launchers, big bombs and missiles, and IEDs are the weapons most commonly utilized in urban combat today, despite being built for the open battlefield[17].

3.2.2 Civilian shield. Today, population centers are the scene of 85 percent of violent confrontations. For a number of causes, warfare is taking place in cities. To begin with, the globe is quickly urbanizing; 70 percent of the planet's population is predicted to reside in cities by 2050, with unstable cities accounting for 96 percent of urban development by 2030. In addition, unstable cities have a higher concentration of hazards, such as poverty, youth unemployment, and criminality. As the insecurity situation worsens, sporadic violence might emerge, leading to more organized violence and armed war. Furthermore, non-State armed organizations' vulnerability on open battlefields has compelled combatants to mix with people within cities. In turn, today's urban warfare is characterized by sieges, aerial campaigns, and artillery-based street fighting[18].

3.2.3 Collateral damage. Weapons developed for open battlefields are used to fight conflicts in cities. Aerial bombing and heavy weaponry bombardment offer a greater danger of injury to people in metropolitan areas, where the impact can be amplified by the interconnectedness of infrastructure and services. Because of their intrinsic features and the complexity of urban settings, explosive weapons like as artillery and rockets have a significant potential of hitting humans and/or civilian items, according to the ICRC[19].

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[16] ICRC, Urban Services during Protracted Armed Conflict: A Call for a Better Approach to Assisting Affected People, 2015, available at: www.icrc.org/sites/default/files/topic/file_plus_list/4249_urban_services_ during_protracted_armed_conflict.pdf.

[17] International Committee of the red Cross, International Humanitarian Law and the Challenges of Contemporary Armed Conflicts Recommitting to Protection in Armed Conflict on the 70th Anniversary of the Geneva Conventions, 2019

[18] Gisel, L.Gimeno, P. Hume, K. & Zeith, A., *Urban warfare: an age-old problem in need of new solutions*. 2021, https://blogs.icrc.org/law-and-policy/2021/04/27/urban-warfare

[19] Schmitt, N. & Schauss, M. M. Uncertainty in the Law of Targeting: Towards a Cognitive Framework, *Harvard National Security Journal / Vol. 10,* 2019

3.2.4 Indiscriminate attacks. Persons and civilian objects should not be targeted directly, although some proportionate collateral damage is judged necessary and hence allowed under international humanitarian law. Certain recommendations have been developed to assist opposing parties in deciding where to concentrate their efforts. Assaults against combatants are legal that is if the targets are directly involved in the battles. In this case, this are not categorized as hostilities. The civilians are protected from attack if they have been proclaimed *hors de combat* due to wounds, sickness, or surrender, however they may be taken as prisoners of war[20].

Military sieges are governed by Article 27 paragraph I, which states that all reasonable measures must be taken to maintain religious, artistic, scientific, or philanthropic structures, historical shrines, health facilities, and places for meetings for people in need. The besieged must identify such locations with distinct and obvious markers. Upon being identified, these should consider sacred and a no go zone for the combatants. If it happens that the combatants are hiding there, then harmless strategies need to be employed.

In a city, services rely on the state of critical infrastructure and their destruction brings a lot of suffering to innocent civilians. The attackers for instance, might cut off the water supply to a whole neighborhood or hospital, dramatically raising the dangers to public health and well-being. Furthermore, this may have long term and far-reaching consequences, and may result in vast sections of the system being in disarray, making it much more difficult to resolve.

3.2.5 Superfluous injury. Several weapons have been prohibited or have had their use severely limited based on this principle. It is, for example, prohibited to employ combustible weaponries. Protocol III of the CWC prohibits the use of incendiary weapons such as flamethrowers or napalm against people or property. The Protocol also forbids the use of such weapons against military installations that are in direct range to persons or property owned by civilians. Besides the bloody and inhumane nature of sieges as described in this section, there exists cases where militaries have been humane enough to restrict their ways and means to certain understandable levels as evidenced in the case concept that follows;

Iraqi military operations in Mosul prioritized civilian safety in their concept of operations, were well-coordinated with humanitarian actors, and had orders to restrict the use of heavy weaponry. Residents were given pamphlets and elite forces were taught to minimize civilian casualties in urban combat. Nevertheless, the activities were fraught with difficulties, since residents were unable to leave and evacuation tactics were tested[21].

Despite efforts to reduce civilian casualties, the tempo of fighting in Syria has been too fast for the resources committed to bear dividends. The speed and tempo of operations, population density, the impact of operations on civilians, and the enemy's tactics must all be considered while selecting tactics and weaponry[22].

Although there has been a focus on improving targeting in Yemen, we are seeing major gaps in the Saudi-led coalition's policy execution. Although an investigative team was formed and some

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[20] International Committee of the Red Cross, *The Use of Force in Armed Conflicts Interplay Between the Conduct of Hostilities and Law Enforcement Paradigms*

[21] UNEP, Iraq: Mosul battle brings environmental damage, with serious impacts on health, prospects of recovery [EN/AR], 2016. https://reliefweb.int/report/iraq/iraq-mosul-battle-brings-environmental-damage-serious-impacts-health-prospects-recovery

[22] Ibid 20

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of its results were made public, there are still gaps in recognizing mistakes and adjusting strategies as a result[23].

Civilians' lives and livelihoods are endangered by the outcomes of a war that uses explosive weaponries, which obstruct humanitarian relief and rebuilding, restrict movement and return of displaced persons, and obstruct socioeconomic recovery. It is more difficult to clear ERW or improvised explosive devices in densely inhabited regions (IEDs). Furthermore, the number of new ERW is increasing, even in inhabited areas, and IEDs (used both for offensive and as booby traps) are getting more complex and having a bigger impact.[24].

The majority of armed troops aren't built to combat in cities. They were created for a certain sort of adversary and environment, while the weapons used in cities were created for open battlefields. For example, when the military is charged with "liberating" a city, training in urban combat may be restricted to a small number of techniques, such as entering and clearing rooms, which is insufficient. Because of the high incidence of civilian losses in the battles in Seoul and Manila, the employment of explosive weapons has been restricted.

3.2.6 Case Concept

The case concept is an extract from a report written by an Independent International Commission of Inquiry on the Syrian Arab Republic, 29 May 2018. Drawing from numerous first-hand accounts, the report highlighted the negative impact of sieges and "evacuation agreements" on the civilian population in the Syrian Arab Republic between November 2012 and April 2018. Its findings were based on over 400 interviews.

Over the past five and a half years, the Independent International Commission of Inquiry on the Syrian Arab Republic[25] regularly documented the use of siege warfare and the devastating consequences its continued use poses to Syrian men, women, and children.[26] Syrian civilians in besieged areas countrywide have been encircled, trapped, and prevented from leaving; indiscriminately bombed and killed; starved, and routinely denied medical evacuations, the delivery of vital foodstuffs, health items, and other essential supplies – all in an effort to compel the surrender of those "governing" or in control of the areas in which they live. These sieges have mostly been carried out by the Syrian state and its affiliates, but also by armed opposition groups and terrorist organisations. Characterised by pervasive war crimes, sieges throughout Syria have remained the primary method of warfare employed by parties to the conflict, repeatedly laid with impunity and in clear breach of international human rights law and international humanitarian law (IHL).

Such sieges have lasted months and often years – the longest running of which was in eastern Ghouta, which lasted for over five years (2013-2018). In some instances, with increasing shortages of food, water, and medicine leading to moderate or severe acute malnutrition and deaths among

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[23] Humanitarian Response Plan, Yemen, 2021

[24] Explosive Remnants of War risk civilian lives in Gaza amid funding crisis

[25] The Commissioners were Paulo Sérgio Pinheiro (Chair), Karen Koning AbuZayd, and Hanny Megally. coisyria@ohchr.org | @UNCoISyria

[26] The Commission relies on the definition of siege as defined by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), which notes that an area is besieged when it is "surrounded by armed actors with the sustained effect that humanitarian assistance cannot regularly enter, and civilians, the sick and wounded cannot regularly exit."

vulnerable groups, including children, the elderly, and the infirm, besieged armed groups have confiscated or hid food items, distributing them preferentially to those within their ranks, their family members, and confidants over the civilian population at large.[27] In other instances, those in control of besieged areas have prevented civilians from leaving, by using them as human shields. The intolerable aspects of living or dying under siege have also at times been further exacerbated by the use of prohibited chemical weapons, and cluster munitions in densely populated civilian areas, intended to sow terror and desperation among the besieged population.

As if it were not enough to endure collective punishment[28] through the use of such prohibited methods, once the parties in charge finally capitulate and accept to enter a truce and "evacuation agreement", the majority of civilians have faced the further punishment of being left with little option but leave their homes – to become internally displaced – often to a pre-determined destination, not of their own choosing, but set out within the "agreements". To remain would otherwise risk incurring the wrath of the winner, which has most often been the Syrian state. For example, medical personnel and healthcare providers have become a primary target for providing assistance during sieges, and are often among the first to seek to evacuate.[29] Up to 50,000 Syrian men, women, and children have been displaced under the framework of local truce agreements in 2018 alone.

While siege warfare is not in itself prohibited under IHL, the laying of sieges must be in conformity with all relevant IHL rules.

3.2.7 Siege warfare and IHL. Modern International Humanitarian Law bans the purposeful deprivation of food to people as a means of warfare. This norm, which is based on the IHL concept of difference, first appears in both Additional Protocols of 1977 (Art 54(1) API; Art 14 APII), and in both international and non-international armed conflicts, customary law is now recognized (CIHL Study Rule 53). With respect to conflict of an international scale, the Rome Statute states that "intentionally employing civilian famine as a technique of warfare" constitutes a war crime, but not in non-international armed conflicts.[30]. This is because when doing so innocent civilians suffer. Therefore, such technique should be avoided at all costs.

The concept of military purposes became crucial when the focus of legislation on the conduct of hostilities moved from the ban of launching attacks to defenseless towns and villages to one which emphasizes that only military targets might be assaulted. Until at least one of the categories

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[27] See A/HRC/31/68, para. 120; A/HRC/37/72, para. 12 and Annex II, para. 32. The Commission notes that the deliberate starvation of civilians is a war crime. See International Committee of the Red Cross (ICRC), Customary International Humanitarian Law, 2005, Volume I: Rules [hereinafter "ICRC Rule"], at Rules 53 and 156. The Security Council has expressed grave concern at the "the use of starvation of civilians as a method of combat, including by the besiegement of populated areas" in Resolution 2258 (2015), and further recalled "that starvation of civilians as a method of combat is prohibited by international humanitarian law" in Resolution 2401 (2018).

[28] ICRC Rule 103

[29] Laws 19, 20, and 21of the Syrian Arab Republic contravene the customary international humanitarian law rule that under no circumstances shall any person be punished "for performing medical duties compatible with medical ethics", regardless of the person benefiting therefrom. See A/HRC/24/CRP.2, para. 21; see also ICRC Rule 26.

[30] United Nations Mine Action Service, *Explosive Remnants of War risk civilian lives in Gaz*a amid funding crisis, UNMAS, 2019

between which the aggressor must differentiate is stated, the differentiation axiom is effectively worthless.[31].

Civilians are described in Protocol I's Art. 50(1) by their omission from the consequent categorization of combatants: everyone who is not a belligerent is a civilian who is guarded by the rules controlling the conduct of hostilities. The symbiosis of the two main categories, civilians and combatants, is essential to making sure that IHL is complete and effective, ensuring that no one can fight without being attacked, or be attacked without being capable of defending themselves – Nevertheless, this is far from the reality in the actual sense[32].

The overriding concept of IHL controlling means and tactics of warfare is that the participants to a conflict do not have a limitless right to pick means and methods of combat. The principles forbidding the employment of tactics and methods of combat that inflict needless damage or suffering[33] and this is where the idea banning means and techniques of warfare that have indiscriminate consequences comes from. It is specifically banned to use weapons, ammunition, and materials and techniques of combat that are designed to cause needless harm or suffering. Protocol I also prohibits the use of weapons or tactics of conflict that are harmful to the environment; the land, fauna and flora. The environment is a global aspect that needs to be respected and conserved at all times. It is prohibited to use fighting tactics or weapons should respect the existing laws / principles that protect the environment[34]. Today armed conflicts appear to be much aware of the aspect of hostilities, but violations of the IHL's provision on the same is on the rise.

The status of self-selected use of humans as shields during siege battles is more debatable. Some believe that voluntarily this practice amounts to partaking in hostilities, resulting in the individuals involved losing protection from when functioning as human shields, the repercussions of hostilities. Others argue that in order to be classified as direct involvement, an act must cause harm to the adversary or its military activities through a tangible chain of causality. Human shields are used for moral and legal reasons rather than for physical protection: to prevent the adversary from assaulting.

In international military conflicts, civilians are protected under humanitarian law "until and until they take an active involvement in hostilities." It is obvious that civilians, as opposed to combatants, may be legally penalized under domestic law for just engaging in hostilities, in addition to losing protection from being attacked whilst partaking in hostilities. In other words, they are referred to as "illegal" or "unprivileged" fighters or battlers since they do not have the "luxury" of not being punished for picking up arms as a combatant or aggressor.

International humanitarian law forbids excessive assaults in order to protect civilians and civilian property from the impacts of conflict to the greatest extent feasible. A disproportionate attack is described as " an attack that is likely to produce in a high number of civilian fatalities, injuries, or

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[31] HR, Art. 25. *Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land.* The Hague, 18 October 1907.
[32] Art. 51(3) and infra, Conduct of Hostilities, II. The civilian population's protection from the consequences of hostilities, 7) Loss of protection: The concept of direct participation in hostilities and its consequences
[33] P I, Art. 35(2). Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.
[34] P I, Art. 35(3). Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.

property damage, or a combination of these, in contrast to the concrete and direct military benefit predicted." Specific items are protected against attack by IHL. It forbids attacks on civilian targets, which are any things that aren't classified as military objectives; As a result, a civilian object is one that does not contribute to military activity due to factors such as location or function, and whose destruction would give no military benefit. Cultural artifacts, things vital to the civilian population's existence, such as water, and works and installations harboring hazardous forces are all examples of specially protected objects (Dykes, dams, and nuclear power plants are examples of infrastructure). Strikes on strategic forces near such locations are also prohibited if they would cause significant damage to endanger the innocent civilians.[35]

Not only the attacking side, but also the defensive side, is responsible for ensuring the safety of the innocent civilians and populations' property during conflicts. In general, the latter must take the appropriate steps to safeguard the civilian population, individual citizens, and civilian property under its control from military operations' hazards. Civilians may not be utilized to protect military targets or activities from assault under any circumstances. Since the defensive side had control over its civilian populace, scholarly works have proposed that the defender should carry greater responsibility for adopting measures.

There may be less civilian injury if commanders prioritize civilian safety via policy and practice. For example, the African Union Mission in Somalia (AMISOM) noted in its 2011 Indirect Fire Policy that indirect fire from either side put civilians at danger of death, injury, and property damage. The Indirect Fire Policy, which banned the employment of mortars and other indirect fire weapons, was already yielding beneficial results by the end of 2011[36].

3.3 Challenges with regards to military sieges

Through the history of warfare, human suffering has seldom been direr than during sieges. Although bombings, envelopments, and other forms of maneuver often deprive civilian populations of life-sustaining support, no military operation does so as drastically, as deliberately, or as systematically as siege. Sieges attempt to achieve through sequestration and deprivation what might otherwise require enormously costly assaults or bombardments. By their very nature, sieges involve a stark, deliberate, and sustained conflict between the interests of humanity and military necessity.

3.3.1 Comparably harsh legal regime that accompanies siege. Formerly in the medieval age, sieges licensed merciless looting and killing of defeated military forces and civilian populations alike.[37] While the practice of pillage is no longer lawful, modern siege law still tolerates deliberate infliction of extreme deprivation especially in non-international armed conflict. Besieging forces have also been free to reject passages of humanitarian relief without explanation. States have

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[35] P I, Art. 56; P II, Art. 15. *Protection of works and installations containing dangerous forces.* ICRC, 1977
[36] UNHCR, *Civilian Harm in Somalia: Creating an Appropriate Response*. Campaign for Innocent Victims in Conflict (CIVIC), 2011
[37] JOSH LEVITHAN, ROMAN SIEGE WARFARE 205 (2013) (describing "thorough plunder" as the primary activity of the post-siege setting in Roman war); Geoffrey Parker, Early Modern Europe, in THE LAWS OF WAR: CONSTRAINTS ON WARFARE IN THE WESTERN WORLD 48 (Michael Howard, George J. Andreopoulos & Mark R. Shulman eds., 1994); MAURICE KEEN, THE LAWS OF WAR IN THE LATE MIDDLE AGES 120–22 (1965).

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consented to restraints on their prerogative to deny offers of relief under only the narrowest conditions.[38]

3.3.2 Continued destruction of historiography. Historiography has a basic difficulty when it comes to military actions. They are fatal occurrences that, at the same time, elicit unique cultural representations.[39] These traits clearly apply to early modern siege warfare, with the extra complication that a siege placed huge numbers of noncombatants directly in the line of fire, resulting in a strange fusion of soldiers and civilians. Any attempt at historiographical reconstructing and contextual understanding must be based on a large amount of source material – literary, visual, and material artefacts – that arose during the siege.

3.3.3 Continued targeting of religious structures, medical facilities, schools. Religious structures, medical facilities and schools in besieged cities/towns, have been destroyed in the past as a result of military sieges according to historical sources. For example, In the times of the First Jewish Revolt (70 CE), the Siege of Jerusalem was a Roman military siege of Jerusalem. The city's fall marked the conclusion of a four-year conflict in Judaea against the Jewish rebellion, which culminated into the destruction of the second temple. The entirety of what we know about the siege originates from Flavius Josephus' voluminous writings[40].

3.3.4 Urbanization of armed conflicts. Conflict increases as the globe becomes more urbanized. Fighting is increasingly taking place in urban areas, and people are bearing the brunt of it. In cities, military and civilian persons and items are frequently mixed. This intermingling poses significant problems for parties participating in urban warfare, both militarily and in terms of minimizing civilian casualties. Because urban combat puts civilians in jeopardy in ways that are unique to it, the concepts and rules of IHL are essential[41].

One of the numerous negative impacts of urban warfare on people is displacement within cities or to other places. Aside from the danger to civilians and the interruption of critical urban services, Demolition to or destruction of civilian homes is one of the primary causes of long-term homelessness, which is generally caused by the deployment of powerful explosive weapons. It may grow depending on the conditions[42]

3.3.5 Civilian suffering. Another issue with military siege is that many things are utilized for both military and civilian functions at the same time. A shooting position, for example, might be on the roof of a civilian home or an apartment in a multistory structure that serves as a command post. A power plant, for example, might supply energy to both a military base and the surrounding neighborhood. It will become a legitimate target if its employment for military objectives turns a

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[38] See infra text accompanying note 135.

[39] Barkawi, T. & Brighton, S. "Powers of War: Fighting, Knowledge, and Critique*," International Political Sociology 5, no. 2 (2011), 126–14*

[40] Lohnes, K., *Siege of Jerusalem: Jewish-Roman war* [70 CE], 2020. https://www.britannica.com/event/Siege-of-Jerusalem-70

[41] ICRC, Urban Services during Protracted Armed Conflict: A Call for a Better Approach to Assisting Affected People, 2015; available at https://www.icrc.org/sites/default/files/topic/file_plus_list/4249_urban_services_during_protracted_armed_conflict.pdf.

[42]ICRC, *Displaced in Cities: Experiencing and Responding to Urban Internal Displacement Outside Camps*, ICRC, 2018, pp. 18ff.; available at https://shop.icrc.org/displaced-in-cities-experiencing-and-responding-to-urban-internaldisplacement-outside-camps-2926.html.

civilian item – or a separable portion of it – into a military target. In some cases, the attackers intentionally make innocent civilians to suffer, so as to make the target surrender to their demands.

A succession of protracted and deadly sieges has characterized high-intensity wars in the Middle East. Seiges of major towns in Iraq (Ramadi, Mosul, and Fallujah) and Syria (Aleppo, Raqqa, Eastern Ghouta), and also dozens more small towns or villages, are among them. Yemen's siege of Hodeidah is still ongoing, with the people facing famine, and a fresh round of sieges is expected in Syria's Idlib. These sieges, whether carried out by Syrian/Russian/Iranian troops, the anti-ISIS multinational alliance, or the Saudi-led alliance, have all resulted in severe civilian suffering, high fatalities, and huge physical devastation[43].

Exploding weaponry is used in a large impact area this form of weaponry include weapons that deliver substantial explosive power from afar and across a large area, is one of the distinguishing aspects of urban warfare. While these weapons are typically not a reason for concern when deployed on wide battlefields, they may be deadly to civilians when utilized against military targets in populated places like towns and cities[44]. Their traces may be found in recent and continuing armed conflicts such as Gaza, Libya, Afghanistan, Somalia, Ukraine, Iraq, Syria, and Yemen: Everything that armed wars are renowned for: death, serious injuries (sometimes resulting to permanent impairments), mental and psychological anguish, and large-scale devastation of homes, hospitals, schools, and infrastructure vital to the running of key services

 Modern siege warfare, appears to be characterized with indiscriminate attacks and crossfires under the disguise of trying to crack criminals. It is difficult to target this weaponry at a specific military goal as specified in this rule due to "their low precision: there's a good risk they'll hit both military objectives and persons and civilian items. While improving delivery system accuracy might assist decrease weapons' wide-area impacts in inhabited areas, big-calibre munitions, such as those with a large damaging radius relative to the size of the military goal, could be employed instead — potentially in contravention of IHL.

A complex network of linked infrastructural systems is required to provide vital services to the civilian population in metropolitan settings. The most significant infrastructure nodes in a system allow a significant chunk of the population to get operations, and damage to them would be particularly worrying if the system as a whole failed. These nodes are sometimes known as "single points of failure." People, hardware, and consumables all rely on the operation of services, both of which can be directly or indirectly disrupted. A faulty electrical transformer, for example, might cut off the water supply to a whole neighborhood or hospital, dramatically raising the dangers to public health and well-being.[45]

4.0 Recommendations

While all law of war rules and principles reflect a balance between humanity and military necessity, few skew so drastically to the former as the law of siege. At a time when legal vindication of humanitarian interests during war is ascendant, the conventional law of siege may seem an outlier full of glaring gaps in logic. Arising from the above, this study therefore proceeds to make the following recommendations:

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[43] The Ceasefire Centre for Civilian Rights, *Humanitarian limits on the use of siege warfare,* 2020.

[44] ICRC, *IHL Challenges Report* 2015, p. 49.

[45] Ibid..34

4.1 As a matter of urgency, IHL should be improved to include deliberate non-deprivation of foods to civilian in non-international armed conflict and combatants in both international and non-international armed conflict as a war crime under IHL.

4.2 Given the role of Humanitarian organizations in alleviating human suffering during hostilities, the International Law should include a clause on the non-interference with humanitarian assistance efforts by parties to a conflict both in international and non-international armed conflicts.

4.3 Harsh penalties on indiscriminate attacks in populated areas. When civilians are not in the middle of a battle, they can be best safeguarded. Because urban warfare takes place among people, parties must uphold their responsibilities to safeguard persons and non - combatants under their custody from the effects of attacks. Harsh penalties should be set for parties engaged in indiscriminate attacks. Avoiding military targets in or near highly inhabited regions, or, more broadly, adopting methods and tactics that take conflict outside of populous areas, are examples of ways to try to avoid urban fighting entirely.

4.4 States to file Rules of Engagement with UNSC regarding protection of civilians during hostilities. Given the inherent problems of conducting hostilities in urban areas, as well as citizens' particular vulnerability in the area, it is important that military policies and procedures, including the choice of means and tactics of combat, pay appropriate attention to civilian protection. This requires drafting and filing of such ROE with the UNSC prior to commencement of hostilities. While there are few instances of stated limits on large explosive weapons and related techniques of warfare in inhabited regions, this is to say policies tend to be ignored with respect to the plight of civilians during war.

Policies can be an important instrument for protecting civilians and limiting the impacts of urban combat, but they should not be utilized to provide civilians with protection that is weaker or less than that provided by IHL. IHL forbids assaults on people and civilian objects, as well as indiscriminate assaults against military targets as well as people or civilian property with no regard for distinction. IHL also bans assaults that are likely to result in unintended civilian harm that is disproportionate in comparison to the expected tangible and direct military advantage. The history of warfare is littered with examples of sieges being utilized as a tactic. Some are well-known for their astronomically high mortality tolls. Large numbers of civilians are frequently killed or injured during sieges. Recent sieges have been accompanied by shelling and occasionally fierce warfare between besieging and besieged troops, putting those trapped in the besieged region in continual risk. Siege conditions sometimes include little or no electricity, as well as deteriorated public services.[46]

4.5 Adoption of the following aspects in regards to the definition of military siege, **"***Encirclement military operations in international and/or non-international armed conflicts prohibiting deprivation of foods and interference of humanitarian aid to both combatants and civilians as a means of warfare.***'**

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[46] ICTY, Prosecutor v. Milomir Stakic, Judgment (Appeals Chamber), IT-97-24-A, 22 March 2006, paras 281, 284–287; ICTY, Prosecutor v. Blagojevic and Jokic, Judgment (Trial Judgment), IT-02-60-T, 17 January 2005, paras 596 and 600–601.

5.0 Conclusion

Military siege warfare has been around for a long time, and it was as frequent in medieval times as it is now. Military commanders must seek and receive intelligence on urban services and infrastructure before initiating strikes, as the cumulative impact of direct and echoing civilian injury becomes increasingly predictable for warring parties. They should consider reverberation impacts on critical services while planning or launching strikes. Military troops must be educated and equipped to fight in cities, and special military formations for urban combat should be established. Urban warfare institutions are required to collect and disseminate lessons gained, as well as to gain and enhance awareness of urban combat vulnerabilities. Tactics must be adopted to counter the enemy's tactics.

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