

THE STOCKHOLM MANUAL

A practitioner's guide
to conducting IHL assessments
and humanitarian advocacy



The Stockholm Manual

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and humanitarian advocacy**



The International Humanitarian Law Centre is an independent expert group that provides rapid and in-depth legal advice, training and advocacy on the laws of war to ensure the protection of people in conflict zones worldwide.

OUR VISION IS A JUST WORLD IN WHICH INTERNATIONAL HUMANITARIAN LAW PROTECTS EVERYONE.

As a centre of excellence, we share knowledge about and promote international law relevant for situations of armed conflict through research, advocacy, and training. Our rapid and in-depth analyses enable the humanitarian sector to respond to urgent needs and improve international law and its application.

The Centre is part of the Swedish development organisation Diakonia and has regional teams based in Bamako, Beirut, and Jerusalem, which cover conflicts in the Middle East, West Africa, and emerging crises worldwide.

Through our progressive and inclusive approach, we aspire to secure the strongest possible protection for every person affected by armed conflict. No one should be left unprotected; no situation is beyond the law.

Disclaimer:

The Stockholm Manual is not intended to be a comprehensive legal document and does not address all rules of international humanitarian law (IHL), nor does it cover every nuance or issue within the rules discussed. It aims to identify major areas related to the key issues impacting civilians in conflict and those we have assessed as best suited to IHL-informed advocacy.

While the manual uses accurate IHL terminology to ensure clarity and precision, there are occasions where accessibility and usability have been prioritised over technical specificity. This should not be understood as a lack of legal accuracy, but rather as a pragmatic approach to ensure that the message can be understood and delivered by our target audience.

The manual focuses on rules applicable across all forms of conflict—non-international, international, and occupation. It highlights major differences between regimes but is not exhaustive in covering all distinctions. We have endeavoured to avoid expressing specific legal positions and instead present what is generally accepted as the mainstream understanding and application of IHL. Where it is necessary to present our own position, we acknowledge this as part of our mission to promote an inclusive interpretation and application of the law.

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Foreword

We are witnessing a growing and at times blatant disregard for the rules of international humanitarian law (IHL) around the world today. The consequences are borne above all by civilians, who suffer attacks on healthcare and essential services, displacement, denial of humanitarian relief, starvation, and the destruction of their homes and livelihoods – patterns of violence that ripple across generations.

Faced with such challenges, it is more pressing than ever to **promote respect for IHL**. The **Stockholm Manual** is a tool designed to strengthen the capacity of the humanitarian community to engage in IHL-informed analysis and advocacy. If you are seeking to improve the protection of civilians in conflict, the Stockholm Manual can help you understand the strengths and limitations of IHL, assess whether parties are upholding their obligations under the law, and bolster your humanitarian advocacy by reference to objective legal standards.

The Stockholm Manual does not pretend to have all the answers. Nor does it require any legal expertise or close familiarity with the rules of IHL. It meets you where you are at and helps you to ask the right questions. What sets this Manual apart is its ability to **translate the legal standards of IHL into clear, practical guidance** for humanitarian advocacy. It bridges the gap between complex legal frameworks and the operational realities of fieldwork – helping you turn IHL into actionable protection strategies that can influence behaviour, reduce harm, and support affected communities.

Conceptualising the Manual was not straightforward. The way IHL is understood by legal experts in navigating the tangled web of exceptions, caveats, and contingencies is very different to the experience of humanitarian practitioners operating in conflict zones. By the same token, practitioners often observe the civilian impact of armed conflict without exposure to or guidance on the legal complexities inherent in measuring compliance with IHL. For this reason, the Manual is structured around **categories of civilian harm**. It starts with your observations of civilian harm, helps you assess whether the parties to the conflict appear to be adhering to IHL standards, and offers tips for incorporating this assessment in your advocacy.

The Stockholm Manual is a tool to support the humanitarian community. It is shaped by the collective knowledge of those working to protect civilians under the most difficult circumstances. We offer this manual as a practical companion to those advocating for respect for IHL in their day-to-day work and welcome your feedback, comments, and suggestions at sm@ihlcentre.org.

Finally, we would like to express our profound gratitude to ECHO and Sida, who funded this initiative, as well as to the many humanitarian organisations who generously gave their time and input throughout its development. All mistakes or limitations of the Manual remain solely the responsibility of the IHL Centre.

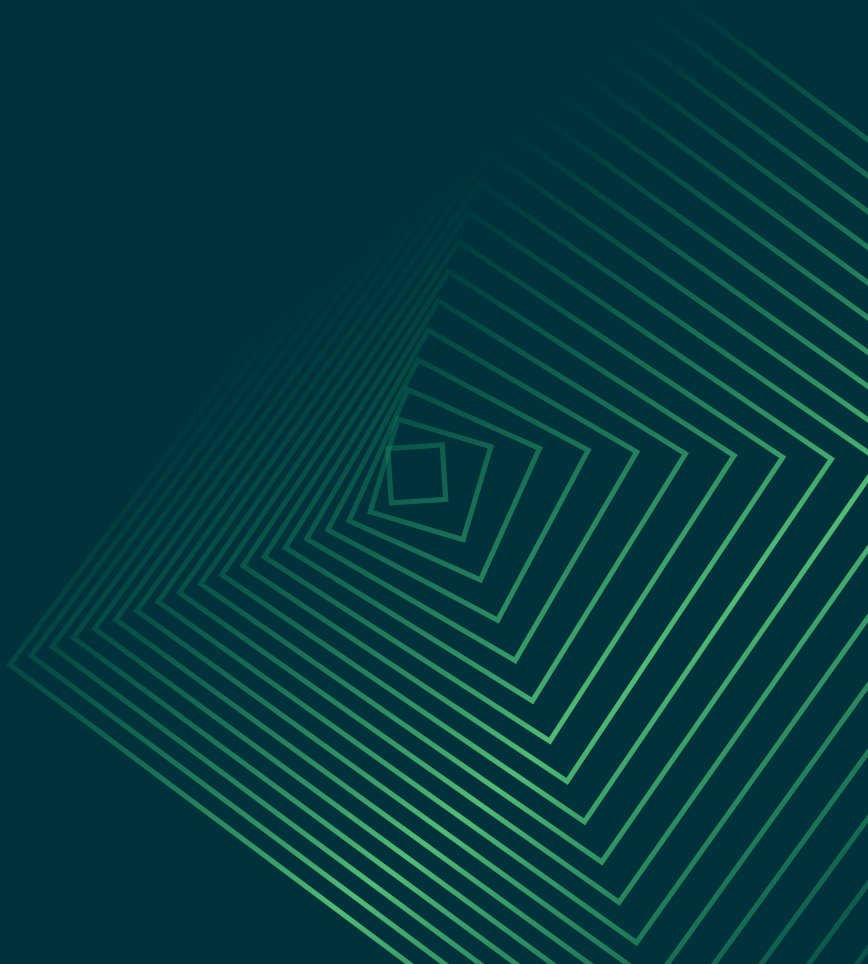
*The Stockholm Manual Drafting Team
Matias, Sofia, Emilie, Christopher, and Stephen*

PART 1

» Introduction

» User Guide

» Preliminary Considerations
and Assessments





1. Introduction

1.1 What is the Stockholm Manual?

The Stockholm Manual (the Manual) is a tool to promote respect for international humanitarian law (IHL). It is designed to strengthen the capacity of humanitarian actors to assess whether parties to a conflict are upholding their IHL obligations and use this assessment to advocate for greater civilian protection. It is our belief that **informed analysis leads to more effective humanitarian advocacy**.

- ♦ **IHL** provides a set of rules designed to limit the effects of war, protect civilians, and ensure access to life-saving services and supplies.
- ♦ **IHL-informed assessments** entail the preliminary evaluation of the parties' adherence to IHL standards.
- ♦ **IHL-informed advocacy** is a tool to generate action in addressing and minimising civilian harm. It is the strategic use of dialogue, persuasion, pressure and influence by humanitarian actors to encourage the parties to a conflict to respect their obligations under IHL.

The Stockholm Manual approaches IHL assessments from the perspective of **strengthening humanitarian advocacy**. It does not provide guidance on documenting violations in support of criminal investigations or prosecutions.

1.2 Who is it for?

The Stockholm Manual has been developed for anyone who wants to use IHL to advocate for the protection of civilians in armed conflict. We describe our target audience as 'humanitarian actors', which includes civil society organisations, humanitarian NGOs, UN agencies, journalists, mandate-holders, and others whose role is to minimise civilian harm through humanitarian action and advocacy.

Many humanitarian actors already use IHL. Others may wish to incorporate IHL in their work but lack legal training and are not sure where to begin. The goal of this Manual is to help you identify those situations where IHL can strengthen your advocacy and reduce civilian harm.

If you want to use IHL to advocate for greater civilian protection in armed conflict, the Stockholm Manual is for you.

1.3 How does it work?

The Manual is organised into four categories, each reflecting a common pattern of civilian harm in armed conflict. You can start with whichever category fits best. Civilian harm is often complex and crosscutting, so you may need to consult multiple categories for the same situation.

Category 1: Harm to Persons and Objects (both during active military operations and in territories controlled by armed actors)

Category 2: Denying Access to Essential Services and Supplies

Category 3: Harm to Persons Displaced by Armed Conflict

Category 4: Harm to Detained or Missing Persons and their Families

Within each category, the Manual helps you to integrate IHL in your advocacy by taking you through the following steps:

- ♦ **Assess the situation.** You will be guided through factual assessments of harm using clear indicators and realistic examples drawn from practice. This helps you evaluate whether parties to a conflict appear to be respecting their obligations under IHL.
- ♦ **Match assessment to advocacy.** You will then be shown how to integrate IHL into your advocacy, tailored to your level of confidence. This approach allows you to act preventatively, respond to harm without suggesting legal responsibility, and call out potential violations of the law when supported by quality information and careful IHL-informed analysis.
- ♦ **Communicate effectively.** Our advocacy guidance will help you to promote respect for IHL in plain, effective language. The aim is to strengthen your voice with credible, law-based arguments that parties to the conflict, governments, or other stakeholders cannot easily dismiss.

Effective advocacy requires balance. If you allege violations without sufficient information, you risk losing credibility and access. But being too cautious when strong evidence is available can waste a vital chance to promote respect for the law and mitigate civilian harm. This Manual helps you navigate that balance by showing how to frame advocacy according to your assessment of the situation.

You will find more information on how to use the Stockholm Manual in the **User Guide**.



2. User Guide



This section will guide you on how to use this Manual, navigate the different sections, and gain a stronger understanding of the type of guidance and support it will cover.

Please note that should you have any questions regarding this manual or IHL, you can contact our [IHL Advisory Service](#) free of charge.

2.1 Structure and content

The Manual is divided into two parts:

- ♦ **Part 1: Introduction, User Guide, and Preliminary Assessments**
- ♦ **Part 2: Categories of civilian harm**

We provide an overview of the structure and content of these parts below to help you navigate to the relevant section and better understand our approach to IHL-informed assessments and advocacy.

Part 1: Introduction, User Guide, and Preliminary Assessments

- ♦ **Introduction.** Introducing the Stockholm Manual, who it's for, and how it works.
- ♦ **User Guide.** Guidance on how to navigate the structure, content, and approach of

the Manual in helping you conduct IHL-informed assessments and advocacy. (You are here!)

- ♦ **Preliminary Assessments.** Core issues, principles, and considerations that you should engage with before conducting IHL-informed assessments and advocacy, including:
 - **Applicability of IHL to your context.** Remembering that IHL only applies to situations of armed conflict, you need to be certain that the context you are assessing meets the legal threshold of armed conflict.
 - **Opportunities and risks.** Consider the strategic, tactical, and practical implication of using IHL in your advocacy.
 - **Organisational protocol.** Reflect on your organisation's role, internal mandates, and opportunities for IHL-informed advocacy specific to your context.

The pros and cons of engaging in IHL-informed advocacy will always be unique to your organisation and the context in which you operate. This section invites you to reflect on these issues from a careful, nuanced, and strategic perspective.

Part 2: Categories of civilian harm

Part 2 is divided into four categories that reflect the most common forms of civilian harm during armed conflict. You are encouraged to select the category that best fits the situation you are assessing, remembering it may cover multiple categories of harm.

Harm to Persons and Objects (Category 1)

Category 1 focuses on death, injury, cruel treatment, torture, conflict-related sexual violence and other forms of physical and mental harm, as well as damage, destruction, seizure and pillage of civilian property. Category 1 consists of two sub-categories: Category 1(A) focuses on the physical harm to persons and objects during the conduct of hostilities, namely when parties to armed conflict engage in military operations, while Category 1(B) addresses harm to persons and property outside the conduct of hostilities, for instance in situations where people are detained in areas with no military operations, or in occupied territories.



Denying Access to Essential Services and Supplies (Category 2)

Category 2 focuses on access to and protection of essential services and supplies during armed conflict. This category includes access to humanitarian assistance, medical treatment, and education, as well as the protection of hospitals, medical staff, and objects essential for the survival of the civilian population. Category 2 addresses the obligation to facilitate essential services and supplies to civilians and the prohibition on attacking the people and infrastructure that deliver them, including the prohibition on using starvation as a method of warfare.



Harm to persons displaced by armed conflict (Category 3)

Category 3 covers the multifaceted harms experienced by forcibly displaced persons, including the impact of displacement on their ability to access essential services and supplies, increased vulnerability to violence and abuse, and the threats to their housing, property, and other protected rights.



Harm to detained or missing persons and their families (Category 4)

Category 4 focuses on the range of harms experienced by persons who are detained or missing in armed conflict, including the adverse impact on their families. Those in detention are at an increased risk of inhumane treatment or conditions which fail to meet their basic needs. Poor record-keeping, failure to allow communication with the outside world, and the failure to account for people killed in armed conflict all increase the risk of persons going missing, putting their families in a state of prolonged uncertainty and distress.

2.2 Guidance and Approach

Within each category, we help you assess whether the parties to a conflict are respecting their obligations under IHL and offer tips for incorporating this assessment in your advocacy.

Given that not all IHL rules are the same – and that some forms of assessment are more complex, nuanced, or sensitive – we do not always provide our guidance in the same way. Broadly speaking, there are two distinct approaches that you will find in this Manual.

Approach 1: Step-by-step guidance on assessments and advocacy

Our predominant approach takes you through 4 key steps in your assessment and advocacy.

1 DEFINITION AND SCOPE

Here we provide you with a definition of the relevant IHL rules and explain how they operate to mitigate civilian harm in situations of armed conflict. We point out any important things to note about the rule's operation, key terminology, and its exceptions.

2 ASSESING THE HARM

This section provides practical indicators and real-world examples – drawn from our experience – to help you assess whether the harm is linked to a party's failure to respect IHL. It demonstrates how IHL applies in practice and offers clear guidance to support your analysis in real-world contexts.

3 EXCEPTIONS OR CAVEATS

In this section, we help you to make a complete assessment of the rule, including any exceptions or caveats. It allows you to say with greater certainty whether there appears to be a failure to respect IHL and puts you in a better position to respond to common justifications or denials by the parties to a conflict.

4 ADVOCACY GUIDANCE

Finally, we take what you have learned from your IHL-informed assessment of the situation and offer key tips and messaging for using this assessment in your advocacy. This guidance is divided into three distinct stages that reflect where you are at in your assessment of the situation:

- **Preventative advocacy** allows you to **remind parties of their obligations** before a violation has occurred. It may incorporate **concerning trends** or early **warning signs** that you have observed or simply highlight the general risk to and vulnerability of civilians in armed conflict.
- **Advocacy in response to harm** is designed for when you have information that civilians are experiencing harm due to the conduct of a party to the conflict. While you may not have sufficient information to suggest a failure to respect IHL, it allows you to **raise concerns** in response to harm and remind parties of their obligations.
- **Advocacy suggesting a failure to respect IHL** is reserved for situations where you have assessed the rules in detail, including applicable exceptions or caveats. It allows you to explain how the conduct appears to violate IHL and, where appropriate, respond to attempted **denials or justifications** by the offending party.

For each of these stages, you will find key tips for conducting IHL-informed advocacy and guidance on using appropriate language.

For the final stage - advocacy suggesting a failure to respect IHL - we provide key messaging based on your level of confidence.

How do you determine your level of confidence?

Your level of confidence is based on:

1. Your **IHL-informed assessment** of whether a party has failed to respect IHL; and
2. The **quality of the information** on which this assessment is based.

We then provide language formulations for using IHL in your advocacy that reflects the outcome of these two considerations.

- **Low level of confidence.** Use this when your assessment presents limited indicators of a failure to respect IHL and/or the quality of information on which your assessment is based is of questionable reliability. While it may still be important to raise concerns over a party's conduct, your language should reflect these limitations.
- **Moderate level of confidence.** Use this when your assessment and the quality of information on which it is based provides **strong indications** that a party to the conflict has failed to uphold its obligations under IHL.
- **High level of confidence.** Use this when your assessment and the quality of information on which it is based provides **clear indications** that a party to the conflict has failed to uphold its obligations under IHL.

Please note: you will find further guidance on how to determine the **quality of information** you receive in Part 1 section 3: **Preliminary Assessments**.

As you can see, our main approach offers detailed, step-by-step guidance on conducting IHL-informed assessments and advocacy. We use this approach for most rules, including those relating to accessing and protecting **essential services and supplies**, the **protection of civilian property** from unlawful seizure, pillage, or destruction, and the rules on **forced displacement, treatment and conditions of detention**, and the **prevention of and search for missing persons**.

This can be contrasted with our **alternative approach**, which adapts either the assessment or advocacy guidance to the complexity, nuance, or sensitivity of the relevant IHL rules.

Approach 2: Nuanced guidance for complex or sensitive rules

Some topics in this Manual do not lend themselves to detailed IHL-informed assessments due to a lack of access, risk of victim re-traumatisation, or legal complexity. This includes IHL rules on the **prohibition of torture, inhumane treatment, conflict-related sexual violence, and arbitrary detention**.

For these rules we take a broader and at times more delicate approach, guiding you through the most important aspects of the legal prohibition and helping you to identify early warning signs or general patterns of non-compliance. We point you in the direction of further resources and offer more general advocacy guidance in response to harm, while still reiterating IHL's core protections.

IHL rules on the **conduct of hostilities** warrant an alternative approach for a different reason. Here, the detail and complexity of the IHL-informed assessments require multi-layered advocacy guidance, offering you various opportunities to engage in advocacy depending on how far you were able to progress in your assessment.



KEY TAKEAWAY

Whichever approach is applicable to your situation, you can be sure that it will clearly explain the operation of IHL in context and help you to conduct thoughtful and contextually specific IHL-informed assessments and advocacy.

2.3 How this Manual interacts with other mechanisms

The Stockholm Manual looks to complement other relevant manuals, toolkits, and protocols. For certain issues, the Stockholm Manual will explicitly direct you to these other resources for more detailed coverage of the topic. For other issues, you may choose to use the Manual in collaboration with other documents and guidance as you see fit. For more information on relevant mechanisms and manuals, please see Annex 2.

Children and Armed Conflict: Monitoring and Reporting Mechanism (MRM)

The MRM, which ‘provides for the systematic gathering of accurate, timely, objective and reliable information on six grave violations committed against children in situations of armed conflict’, interacts with several rules referred to in the Stockholm Manual.¹ It is one of the mechanisms that humanitarian actors and advocates may engage with in order to strengthen the protection of children during armed conflict.

The Six Grave Violations

- ◇ Killing and maiming of children
- ◇ Recruitment and use of children by armed forces and armed groups
- ◇ Sexual violence against children
- ◇ Attacks against schools or hospitals
- ◇ Abduction of children
- ◇ Denial of humanitarian access for children

The six grave violations represent the international community’s assessment of the most harmful conduct inflicted upon children during armed conflict and are based on IHL, IHRL, regional instruments, and national legislation.²

The MRM provides humanitarian actors with different options for engagement or participation in response to issues affecting children during armed conflict.³

How can the Stockholm Manual support work undertaken under the MRM?

While all six grave violations are serious and harmful to children, not all of them automatically constitute violations of IHL. For some - such as attacks on schools or hospitals, or the killing and maiming of children - an IHL violation only occurs if certain legal thresholds are met. As such, assessing whether these acts amount to IHL violations may require a more technical legal analysis of the circumstances and any applicable exceptions to the general prohibition.

1 OSRSG/CAAC, [Monitoring and Reporting on Grave Violations](#).

2 OSRSG-CAAC, [Guidelines](#), Monitoring and Reporting on Grave Violations Against Children, Section C. Legal Framework and Definition of Grave Violations.

3 Watchlist on Children and Armed Conflict, [The 1612 Monitoring and Reporting Mechanism, Resource Pack for NGOs](#), p. 31-32; OSRSG-CAAC, [Guidelines](#), Monitoring and Reporting on Grave Violations Against Children, Section D. Leadership, Roles and Responsibilities, D.1 Country level, International and Local NGOs.

3. Preliminary Considerations and Assessments



Before going to the relevant category of harm in Part 2, it is important to undertake a **preliminary assessment** of three fundamental issues.

1. Applicability of IHL

2. Benefits & Risks

3. Organisational Approach

- ◇ Some of these issues may have already been addressed and established by your organisation and/or humanitarian community.

3.1 Applicability of IHL

Unlike human rights law, which applies at all times, IHL only applies in situations of armed conflict.

However, the structure of IHL is complex and determining whether the situation is an armed conflict is not a simple yes-no answer. IHL also has different rules applicable to different conflict types. You need to know which actors are party to the conflict and therefore bound by IHL.

Assessing if IHL applies to your situation is **crucial** but potentially highly **complex**.

In some instances, the classification of the conflict will be clear, either through a process of external confirmation or through your own internal mandate. At other times, it may be uncertain whether the situation of violence meets the threshold of an armed conflict, or whether it should be classified as an international, non-international, belligerent occupation, or some combination of the above.

The IHL guidance provided in this Manual can be used in all types of conflict unless it is explicitly stated otherwise. Where there is a particular IHL rule that only applies in a specific type of conflict, we will let you know. In such cases, conflict classification will be especially important.

Where you are unsure about the classification of the conflict, we suggest that you:

- review the analysis and position of those within the humanitarian space (Humanitarian Country Team, Protection Cluster)
- Consult one of the many excellent resources on this area of law.⁴
- Contact our [IHL Advisory Service](#) for assistance.

Remember that conflict classification can shift quickly and should be updated as frequently as possible.

⁴ See RULAC: [Rule of Law in Armed Conflicts](#); Diakonia IHL Centre, [Understanding International Humanitarian Law: An Introduction to the Law of Armed Conflict](#), pp. 14-16; ICRC, [How is the term "armed conflict" defined in International Humanitarian Law](#), Opinion Paper 2024).

Guidance Table

The following table is designed to give you some initial guidance on conflict classification. Please note this is one of the most technical areas of IHL and so we suggest you contact our IHL Advisory Service or seek other forms of external support when necessary.

STEP	QUESTION	DETERMINATION	OUTCOME
1	Is there an Armed conflict?	IHL applies only during situations of armed conflict. IHL does not apply to other situations of violence including internal disturbances or tensions such as riots, demonstrations, or isolated or sporadic acts of violence.	If IHL applies: Go to Step 2. If IHL does not apply: You will need to consider other frameworks to support your analysis, which may include domestic or human rights law. The Stockholm Manual will not be relevant where IHL does not apply.
2	What type of Armed conflict is it?	There are two types of armed conflict. The identity of the parties is the key factor to determine whether the conflict is of an international or non-international nature. International armed conflicts (IAC) are those in which at least two States are involved. This includes situations of occupation. The belligerents must be States. Occupation is a factual situation where a state party to an armed conflict exercises effective control over part of a foreign territory. Non-international armed conflicts (NIAC) are those fought between a state and one or more non-state armed groups, or between two or more such groups.	If there are two states fighting against each other it is an IAC. If one or more states are fighting against a non-state armed group or the fighting is between two non-state groups: it is a NIAC.

STEP	QUESTION	DETERMINATION	OUTCOME
3	What laws of IHL apply?	Customary IHL applies in all types of conflict. IAC treaty rules apply in IAC. Occupation treaty rules apply in occupation. NIAC treaty rules apply in NIAC.	All rules in this Manual apply under customary IHL unless it is explicitly stated otherwise. If the conflict is an IAC: You can additionally rely on specific treaty rules contained in the four Geneva Conventions and Additional Protocol I (if it is ratified). If there is an occupation: You can additionally rely on Hague Convention IV and specific treaty provisions in Geneva Convention IV and Additional Protocol I. If the conflict is a NIAC: You can additionally rely on Article 3 Common to the four Geneva Conventions and Additional Protocol II (if ratified)
4	Who is bound by these laws?	All parties to the armed conflict are bound by the relevant rules of IHL, regardless of who started the fighting or the justifications for the armed conflict.	Customary IHL: all parties to the conflict. IACs: All states which are party to the conflict. Occupation: The occupying power is bound by the rules regulating occupation. NIACs: All states and armed groups which are parties to the conflict.

3.2 IHL and Advocacy

This section outlines several key assessments for you to undertake before engaging in IHL-informed advocacy. It is structured as follows:

- ♦ **Forms of advocacy.** Understand your target audience and consider the pros and cons of collaborative, individual, public, and private forms of advocacy before deciding which approach is best suited to your organisation and the context in which you operate.
- ♦ **Benefits and risks.** Consider the varied and multifaceted benefits and risks of conducting IHL-informed assessments and advocacy, both in relation to your organisational mandate, objectives, risk assessment, context, and target audience. Based on these considerations, assess whether IHL-informed advocacy is the best choice from a practical and strategic perspective.

3.2.1 Forms of Advocacy

Your target audience, their understanding and respect for IHL, and your relationship with them will all influence whether or how you want to use IHL in your advocacy.

This section provides some broad preliminary guidance and key considerations before engaging in humanitarian advocacy, which you may want to come back to once you have undertaken assessments of civilian harm.

Know your audience

Effective IHL-informed advocacy begins with understanding your audience. This means actively building relationships with key stakeholders and taking time to assess their familiarity with and support for IHL.

Once you have a sense of their knowledge and perspectives, you can use this to shape your language and approach.

- ♦ **A state military officer**, for instance, may have formal training in IHL and respond well to structured arguments referencing obligations.
- ♦ **A field commander in a non-state armed group** may have limited or no exposure to IHL language and may respond better to practical examples or rights-based reasoning.
- ♦ **Representatives of donor or host governments** often vary widely in their IHL understanding depending on their role—never assume deep legal knowledge.
- ♦ **A civil society organisation** may be well-placed to support community-led initiatives to improve civilian protection, such as by organising local monitoring networks or raising awareness.



KEY POINT

You do not need to cite legal provisions or use technical legal language to be effective. In many cases, using accessible, context-sensitive language—while still clearly referencing the key IHL obligations and humanitarian concerns—will have greater impact.

Collaborative (joint) vs. individual advocacy

The choice between joint/collaborative and individual advocacy is strategic and context dependent.

Collaborative advocacy, whether through formal coordination mechanisms or informal partnerships, can boost credibility, widen access to data, and share risk.⁵ For example:

- ♦ A joint statement from multiple INGOs calling for the protection of hospitals after repeated airstrikes on medical facilities may receive broader attention and exert greater pressure.
- ♦ Coordinated reports on access constraints from multiple field actors in a besieged city help prevent reactionary responses against any one actor.

On the other hand, collaborative advocacy may **reduce flexibility**, **require compromise** on messaging, and **require more time** for approvals and coordination.

Individual advocacy allows full control over targets and messaging, aligning directly with your organisation's risk appetite. For example:

- ♦ A local NGO with deep community ties advocates directly to an armed group about unlawful recruitment practices affecting schools it supports.

⁵ For more on the collaborative approach to advocacy, see GPC's Advocacy Toolkit: https://globalprotectioncluster.org/sites/default/files/2023-04/protection_advocacy_toolkit_eng_v8_screen.pdf

However, individual advocacy places sole responsibility and attribution on your organisation, which can have negative consequences for maintaining access and relationships.

Public vs. private advocacy

Choosing between public and private advocacy is a strategic decision shaped by your organisational mandate, the needs on the ground, and your relationship with key stakeholders. Each approach offers distinct advantages and challenges.

Public advocacy—sometimes called indirect advocacy—is aimed at the general public and typically delivered through media outlets, reports, campaigns, or social media. It can be a powerful tool to **generate international pressure, raise awareness** of violations, or **spotlight** under-reported crises. Public statements can galvanise donors, allies, or diplomatic actors into action.

- ♦ Multiple organisations release a joint report highlighting attacks on health workers, prompting international media coverage and diplomatic pressure.

However, public advocacy may also strain relationships with parties to the conflict and jeopardise humanitarian access. It requires careful messaging to avoid politicisation or unintended consequences.

Private advocacy—or direct advocacy—is directed at a specific audience, such as armed actors, government officials, or community leaders, and is usually conducted behind closed doors. This approach allows for **tailored dialogue, fosters trust**, and may yield more **immediate or tangible results**, particularly when the objective is to secure access or influence behaviour without public scrutiny. It is especially effective in volatile contexts where public exposure could endanger staff or undermine operational presence. For example:

- ♦ An organisation privately negotiates checkpoint access with local commanders, securing safe passage for aid convoys.

On the other hand, private advocacy may lack external leverage, and success often goes undocumented or unnoticed by broader audiences.

Some organisations may adopt a **combined approach**, leveraging private engagement while holding public advocacy in reserve as pressure or to demonstrate transparency. The decision will also depend on how receptive the conflict parties are to public messaging, the degree of operational risk, and the type of influence you aim to exert.

When deciding which route to take, consider the nature of the harm, the receptiveness of your target audience, the risks to staff and beneficiaries, and your organisational mandate. Be prepared to adapt your approach over time in response to evolving dynamics on the ground.

3.2.2 Benefits and risks for undertaking IHL informed advocacy

IHL-informed advocacy offers a legal framework within which the conduct of warring parties can be independently assessed. However, it may also pose certain challenges. This section outlines the opportunities and limitations of IHL-informed advocacy and offers some guidance on whether using IHL is likely to be effective from a practical and strategic perspective.

BENEFITS OF IHL-INFORMED ADVOCACY	RISKS AND LIMITATIONS
Provides a structured, credible, and objective legal framework.	
Strengthens advocacy on protection, access, and aid delivery.	Armed actors may have greater legal expertise and use this to exploit gaps or find loopholes.
Supports both public and private advocacy approaches.	Advocacy may sometimes be rejected or politicised by parties to the conflict.
Enhances credibility and legitimacy with stakeholders.	Overly technical discussions can slow humanitarian response.
Encourages compliance through recognised international standards.	Misinterpretation as involvement in war crimes investigations can endanger staff.

Before engaging in IHL-informed advocacy, reflect on whether—and to what extent—it aligns with **your organisation’s mandate, expertise, and areas of intervention**. IHL can be integrated into humanitarian advocacy in a variety of ways. Even if IHL is not explicitly referenced in your organisation’s mandate, it may still be used to strengthen advocacy efforts in a supportive or complementary role.



KEY POINT

If you are working on any issues related to the protection of civilians in armed conflict, IHL informed advocacy may be appropriate. The assessment of whether to use IHL should be organisation-wide, involving staff across all levels—local, national, regional, and headquarters—and applied both generally and to specific contexts or incidents.

QUESTIONS TO GUIDE MANDATE ALIGNMENT

- How does IHL-informed advocacy support your institutional mandate?
- Does it directly advance your institutional/organisational objectives and strategy?
- Is the issue within your organisation’s expertise and operational scope?
- What are the potential benefits and drawbacks/risks?

MANDATE-SENSITIVE ADVOCACY IN ARMED CONFLICT

When deciding whether to act—publicly or privately—ask:

- Does the incident involve sensitive, confidential or politically charged issues?
- Is more information, consultation, or senior level approval needed before acting?
- Could it affect the safety of your staff, communities, or beneficiaries?
- Might it limit your operational access or effectiveness?

BEFORE PROCEEDING, CONDUCT A RISK ASSESSMENT:

- Identify potential legal, political, operational, and reputational risks.
- Consider your organisation's risk tolerance in light of the potential impact.
- These questions should be assessed generally by context, as well as for specific issues in each context.

The table below outlines core considerations to guide your use of IHL in humanitarian advocacy, along with practical recommendations. Keep in mind that engaging with IHL cannot and should not follow a universally applicable template but requires a context-specific approach.⁶

CONSIDERATION	RISKS	RECOMMENDATION
Does IHL apply?	Reduced impact and loss of credibility if using IHL when it does not apply.	Seek external support where necessary. Consult the Rule of Law in Armed Conflicts or the IHL Advisory Service. Consult other members of protection cluster or advocacy working groups; consult reports and analysis by humanitarian organisations, fact-finding missions, commissions of inquiries, independent experts

⁶ IHL Centre, Experts on International Humanitarian Law, [When is IHL a useful tool](#).

CONSIDERATION	RISKS	RECOMMENDATION
Does using IHL in your advocacy align with your organisation's knowledge, expertise, and sectoral areas of intervention?	Reduced impact and loss of credibility and trust when using IHL advocacy in areas beyond your expertise or mandate.	Focus your advocacy on areas where you have expertise and credibility. For example, if your organisation provides food assistance, it is well placed to speak on issues of humanitarian access. It may be less appropriate to weigh in on legal issues outside that scope. Where appropriate, consider collaborating with others to strengthen legitimacy and impact. This could include working through mandated agencies or coordinating with advocacy working groups or the protection cluster for joint efforts.
What is your specific protection concern and how does IHL address it?	Reduced impact and loss of credibility and trust if you misstate IHL rules or apply them in the wrong context.	Check the information available to you relevant to the protection concern. Consult the Stockholm Manual to identify the relevant type of civilian harm and how IHL speaks to it. Contact IHL Advisory Service.
How sensitive is discussing IHL, publicly or privately?	Expose individuals or agencies to security risks or unintended consequences, especially where IHL is denied, counter-terrorism narratives prevail, or during peace agreements. Loss of access and trust.	Undertake assessment dialogue with other members of the Protection Cluster or advocacy working groups If the parties to the conflict deny the applicability of IHL, develop advocacy on the basis of other legal frameworks (e.g., domestic law, human rights law).
What type and level of risk does IHL advocacy pose for affected communities and beneficiaries?	Expose affected communities and beneficiaries to additional risks if not properly assessed.	The level and type of engagement with IHL will influence the risk level. Choose between public or private advocacy. Assess the risks your advocacy may have and ensure you have appropriate safeguards to protect the identities of key informants and beneficiaries, or to not engage in advocacy if the risks are too high. Cooperate or partner with organisations that can assist you in managing risks.

CONSIDERATION	RISKS	RECOMMENDATION
What type and level of risk does IHL advocacy pose to your operations?	Expose your organisation, staff, or program to unwarranted risks if not properly assessed.	The level and type of engagement with IHL will influence the risk level. Choose between public or private advocacy. Pool resources into collective advocacy (for example, joint statements) Cooperate or partner with organisations that can assist you in managing risks.
Are you addressing the diverse needs of all civilians in your advocacy?	Expose certain groups to additional harm if an inclusive approach is not adopted, including women, children, older persons, persons with disabilities, LGBTQI persons, ethnic minorities, and undocumented migrants.	Consult the IHL Centre's Inclusion Report. Contact the IHL Advisory Service If applicable, engage your protection/inclusion focal points. Adapt your messaging to the specific vulnerabilities applicable to your context.
Does your advocacy reflect a nuanced understanding of the context?	Reduced impact and loss of credibility if the quality, nuance, and context-specific sensitivity of the information on which you base your assessment is flawed.	Consult other members of protection cluster or advocacy working groups; consult reports and analysis by humanitarian organisations, fact-finding missions, commissions of inquiries, independent experts. Ensure you have checked the quality and sources of your information and data and conducted research on previous related issues in your country context. Pool resources into collective advocacy with other actors who have a strong contextual knowledge.

PART 2

- » Category 1: Harm to Persons and Objects
- » Category 2: Denying Access to Essential Services and Supplies
- » Category 3: Harm to Displaced Persons
- » Category 4: Harm to Detained or Missing Persons and their Families

CATEGORY 1

Harm to persons and objects



Introduction and Relevant Considerations



Scope of Category 1

Category 1 focuses on **direct harm to people and objects** during armed conflict. It covers:

- ♦ **Harm to persons**, including death, injury, torture, cruel, inhuman or degrading treatment, and **conflict-related sexual violence**.
- ♦ **Harm to objects**, including **destruction, damage, unlawful seizure and pillage**.

Category 1 consists of two sub-categories:

- ♦ Category 1(A) focuses on the physical harm to persons and objects *during the conduct of hostilities*, namely when a party or parties to armed conflict engage in military operations.
- ♦ Category 1(B) addresses the physical and mental harm to persons and the harm to property *outside the conduct of hostilities*, for instance in situations where persons are detained by a party to the conflict, in areas under the control of an armed group, or in occupied territories.

This Manual will help you assess the level of harm and guide you through the applicable rules of IHL that can be used to strengthen your humanitarian advocacy.

Applicability of IHL

There are some important points to remember about the applicability of IHL:

- ♦ IHL only applies during armed conflict. You should always check that the situation you are assessing qualifies as an armed conflict before using IHL as part of your humanitarian advocacy.
- ♦ The IHL guidance provided in this Manual can be used in all types of conflict unless it is explicitly stated otherwise. Where there is a particular IHL rule that only applies in a specific type of conflict, we will let you know.
- ♦ As a general rule, IHL only regulates conduct which has a sufficient connection to the armed conflict.¹ The key question is whether the conduct in question was **closely related to the hostilities** or took place in **the context and under the influence of the armed conflict**.
- ♦ International Human Rights Law (IHRL) continues to apply during armed conflict and complements IHL in mitigating civilian harm. Depending on the context, the domestic law of the state may also offer an alternative or supplementary legal framework for humanitarian advocacy, although its protections are not always adequate or consistent with international standards.

¹ Under IHL, this requirement of sufficient connection to the armed conflict is referred to as the nexus. See ICRC, [IHL and the Challenges of Contemporary Armed Conflicts, Recommitting to Protection in Armed Conflict on the 70th Anniversary of the Geneva Conventions](#), p. 53.

If you are unsure about conflict classification, determining a sufficient link, or would like further guidance on the interaction between different legal frameworks, please contact our free [IHL Advisory Service](#).

Key Terminology

It is important to be aware that certain terms used in IHL may have a specific definition which differs from their regular meaning.

- ♦ **Conduct of hostilities:** when parties to an armed conflict launch and engage in military operations.²
- ♦ **Principle of distinction:** parties to a conflict must always distinguish between civilians and combatants/fighters, and between civilian objects and military objectives.³ Attacks can only be directed against combatants/fighters and military objectives.⁴
- ♦ **Combatants:** members of a state's armed forces.⁵ Combatant status, namely the right to participate in the fighting and the granting of specific protections when captured by the opposing party, is only applicable in international armed conflicts.⁶
- ♦ **Fighters:** members of organised armed groups that have a fighting function on a continuous basis in the context of a non-international armed conflict.⁷
- ♦ **Military objective:** objects that contribute to military action (through their nature, location, purpose or use) and the destruction of which offers a definite military advantage.⁸
- ♦ **Civilian objects:** all objects that are not a military objective.⁹
- ♦ **Collateral damage:** civilians that are killed or wounded, and/or civilian objects that are damaged or destroyed due to an attack against a military target. The term 'collateral damage' is often used interchangeably with 'incidental civilian harm' and is connected with the principle of proportionality.
- ♦ **Principle of proportionality:** attacks against military objectives that are expected to cause civilian harm that would be excessive in relation to the military advantage anticipated are prohibited.¹⁰
- ♦ **Disproportionate attacks:** attacks that do not comply with the principle of proportionality.
- ♦ **Precautions in attack:** parties to the conflict must take precautionary measures (e.g., choosing the means and methods of attack or providing effective warning to civilians prior to an attack) to minimise civilian casualties and damages.¹¹
- ♦ **Precautions against the effects of attacks:** parties to the conflict must take all feasible precautions to protect the civilian population and civilian objects under their control from the effects of attacks, for example, by removing them from the vicinity of military objectives.¹²
- ♦ **Property:** objects belonging to individuals, communities or the state.¹³ This term is used to refer to objects outside the conduct of hostilities.

2 IHL Centre, [Conduct of Hostilities: General Principles](#).

3 ICRC, CIHL Database, Rules 1 and 7; AP I, Arts. 48, 51(2), 52(2); AP II, Art. 13(1).

4 Ibid.

5 IHL Centre, *Understanding International Humanitarian Law: An Introduction to the Law of Armed Conflict*, p. 19.

6 IHL Centre, *Understanding International Humanitarian Law: An Introduction to the Law of Armed Conflict*, p. 19.

7 How Does Law Protect in War, [Fighters](#).

8 ICRC, CIHL Database, Rule 8; AP I, Art 52(2).

9 ICRC, CIHL Database, Rule 9; AP I, Art. 52(1).

10 ICRC, CIHL Database, Rule 14; AP I, Arts 51(5)(b) and 57(2)(a)(iii).

11 ICRC, CIHL Database, Rules 15-21; AP I, Art. 57(2)(a)(iii).

12 ICRC, CIHL Database, Rules 22-24; AP I, Art. 58.

13 ICRC, [Guidelines](#) on the Protection of the Natural Environment in Armed Conflict, Rules and Recommendations relating to the Protection of the Environment under International Humanitarian Law, with Commentary, para. 185.



Advocating with credibility

This Manual provides tailored advocacy messaging for all audiences. It will help you apply IHL in practice with credibility and impact. Where appropriate, it offers different formulations depending on your **level of confidence**. Remember that your level of confidence (**limited**, **moderate**, or **high**) is based on:

1. An **IHL-informed assessment** of whether a party has failed to respect IHL; and
2. The **quality of the information** you receive.

Below you will find a reminder of **core principles of IHL-informed advocacy** and instructions on how to navigate the **advocacy guidance** provided in this Manual.

Core principles of IHL-informed advocacy

- ♦ **Know your audience & use appropriate language:** Remind parties of their IHL obligations in clear, accessible terms. Tailor tone and framing to stakeholders’ knowledge. Use IHL-informed advocacy where it is most likely to be effective.
- ♦ **Collaborative vs individual:** Collaborative advocacy brings credibility and shared risk but less flexibility; individual advocacy offers greater autonomy but places the responsibility on a single actor.
- ♦ **Public vs private:** Public advocacy raises visibility but risks undermining access; private advocacy preserves relationships but lacks transparency. Sometimes both are needed.

Remember that effective IHL-informed advocacy **does not mean you need to cite legal articles or use legal jargon**. In most cases, you can **remind parties of the key provisions of IHL and their obligation to respect them**—even without full contextual details or without using legal terminology.

Navigating the advocacy guidance

We tailor our advocacy guidance to the nature of the IHL rule and to the level of detail provided in this Manual. For some rules, we acknowledge that there may be difficulty in gaining access to reliable information. Others may require specialised training to avoid the risk of retraumatising victims, for example when advocating in response to torture or conflict-related sexual violence. In these instances, we provide a condensed approach to advocacy that reflects the sensitivities and complexities of the assessment.

Other rules – such as those relating to the protection of property – fall within our normal structure of offering you three stages of advocacy:

- ♦ **Preventative:** remind parties of their obligations before a violation has occurred
- ♦ **in response to harm:** raise concerns in response to civilian harm
- ♦ **suggesting a failure to respect IHL:** explain how the conduct of a party to the conflict appears to violate IHL.

Preliminary Assessment: Determining whether the harm occurred inside or outside of hostilities



Having familiarised yourself with the thematic focus of Category 1, we will now move into the **first assessment phase**, where we will determine whether or not the harm occurred during the conduct of hostilities (military operations).

Why does this distinction matter? As a humanitarian actor, you may be responding to information that a person has died or that a building has been destroyed. Whether or not this harm occurred during the conduct of hostilities will determine which IHL rules apply and therefore shape the content of your advocacy.

♦ **During the conduct of hostilities.** Let's say you are responding to civilian deaths or the destruction of civilian infrastructure that appears to have occurred during hostilities (active military operations). The applicable IHL rules prohibit **targeting civilians and civilian objects** and oblige parties to take **precautions** in attack to avoid civilian harm. However, these rules also accept that some civilian deaths and damage to civilian objects (known as **collateral damage** or **incidental harm**) will be tolerated, providing the civilian harm is **proportionate**. As a result, not every civilian death or destroyed civilian building indicates a violation of IHL.

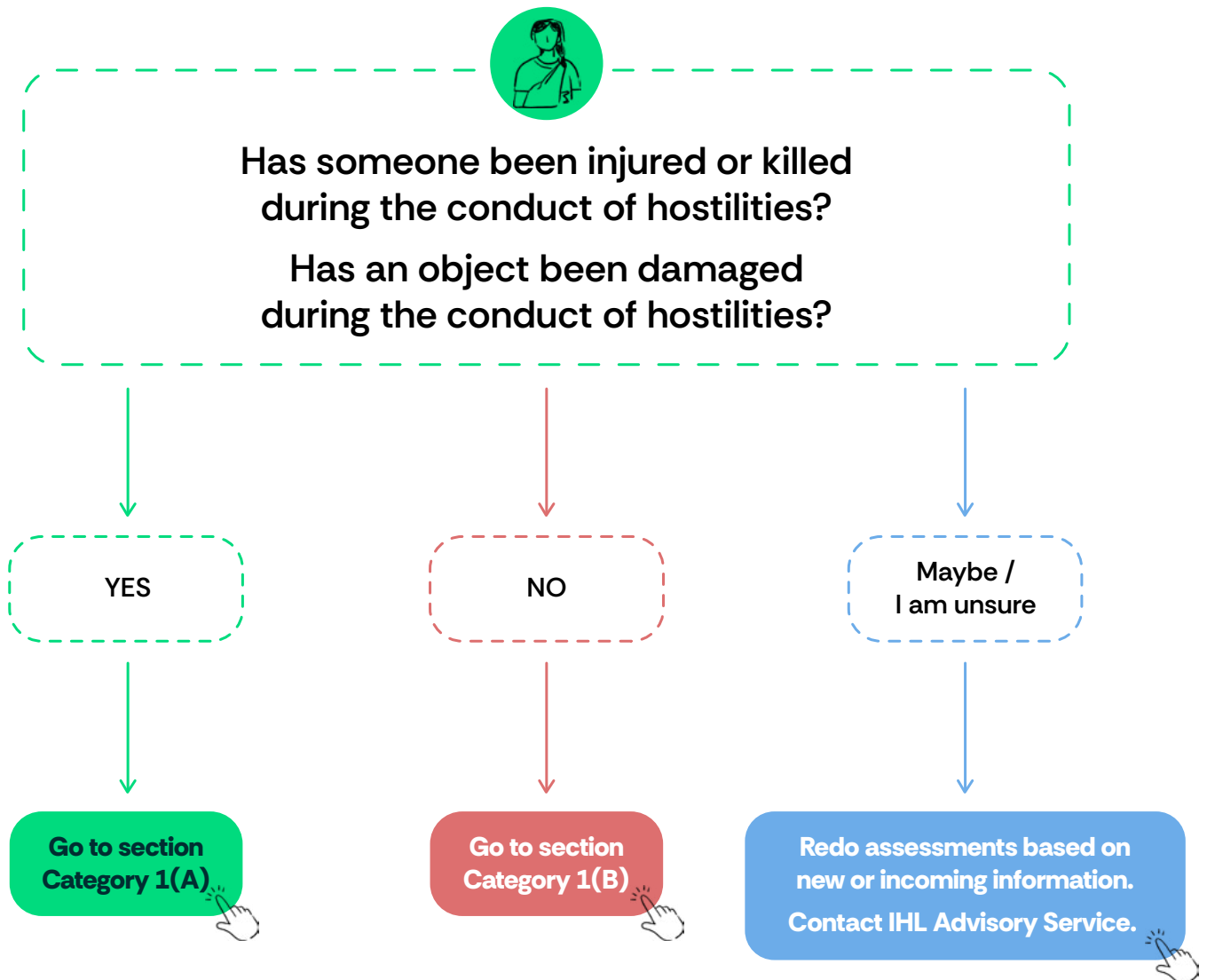
♦ **Outside the conduct of hostilities.** In areas under the control of a party, where active hostilities are not taking place, different rules apply. There is an absolute prohibition on the killing of civilians (murder) and civilian property must not

be damaged, destroyed, or taken without consent, except in extreme cases where it justified by military necessity.

Assessing whether the harm occurred during the conduct of hostilities is therefore an essential first step. The table below provides indicators and examples to help you make this assessment, remembering that it will be difficult where access to information is limited. The examples in this list are non-exhaustive.

It is worth emphasising that **some forms of violence are never allowed**. For example, IHL prohibits sexual violence, torture, and cruel, inhuman or degrading treatment in all circumstances.

SITUATION OR CIRCUMSTANCE	INDICATORS: HOSTILITIES	INDICATORS: OUTSIDE OF HOSTILITIES
Location, timing & environment	Cross fire evidence: reports of harm resulting from one- way or two-way exchange. Indicators of harm resulting from aerial strikes, missile and drone attacks. Indicators of harm occurring in a zone known for ongoing military conflict or active hostilities. Information from military sources or conflict zone monitoring that indicates the incident took place during periods of heightened military activity.	Limited evidence of recent crossfire. Limited reporting that incident occurred during or immediately after periods of heightened military activity. Level of control over area by one warring party appears to be somewhat stable as evidenced by time in area, limited harm inflicted upon any military structures, objects etc.
Equipment	Presence of weapons, ammunition, or military vehicles used in the incident. Deployment of fighter jets. Use of missiles and drone technologies.	Limited presence of military grade weaponry.
Type of wounds and injuries	Trauma consistent with firearms or explosive devices, such as bullet wounds, shrapnel injuries, or blast injuries.	Any injuries consistent with restraint techniques, such as bruising from handcuffs, close-range gunshots wounds, positions of bodies, lack of weapons or combat gear.
Damage patterns & documentation	Destruction typical of military engagements, including extensive damage to buildings, infrastructure, or vehicle. Images or data showing combat activity or damage consistent with armed conflict.	Damage confined to specific areas.



Once you have made your preliminary assessment of whether the conduct during the conduct of hostilities, you will go to either Category 1(A) or 1(B), as shown below. If you are not sure about the context in which the harm occurred, please contact the IHL Centre's Advisory Service.

CATEGORY 1(A)

Physical harm to persons and objects during
the conduct of hostilities



Chapter 1:

Physical harm to persons and objects during hostilities



Category 1A:

Physical harm to persons and objects during the conduct of hostilities

You are here because you have concerns that persons were killed or injured and/or objects were damaged or destroyed during military operations. This section will guide you through the key protections under IHL and instruct you on how to reflect these rules in your humanitarian advocacy.

It is important to keep the following points in mind assessing civilian harm in active conflict situations:

1. Determining civilian status

IHL offers strong protections for **civilians** and **civilian objects**, including a strict prohibition on directly targeting them.¹⁴ However, working out who or what is 'civilian' can be complex.

- ◇ There might be a lack of information about a person's role, function, or activities prior to the attack.
- ◇ Some objects (for example communication towers or radio stations) may serve both civilian and military purposes.

Importantly, even if you are **unsure about the civilian status** of a person or object, you can still raise concerns in response to harm and remind parties of their obligations under IHL.

2. Determining the intent behind an attack

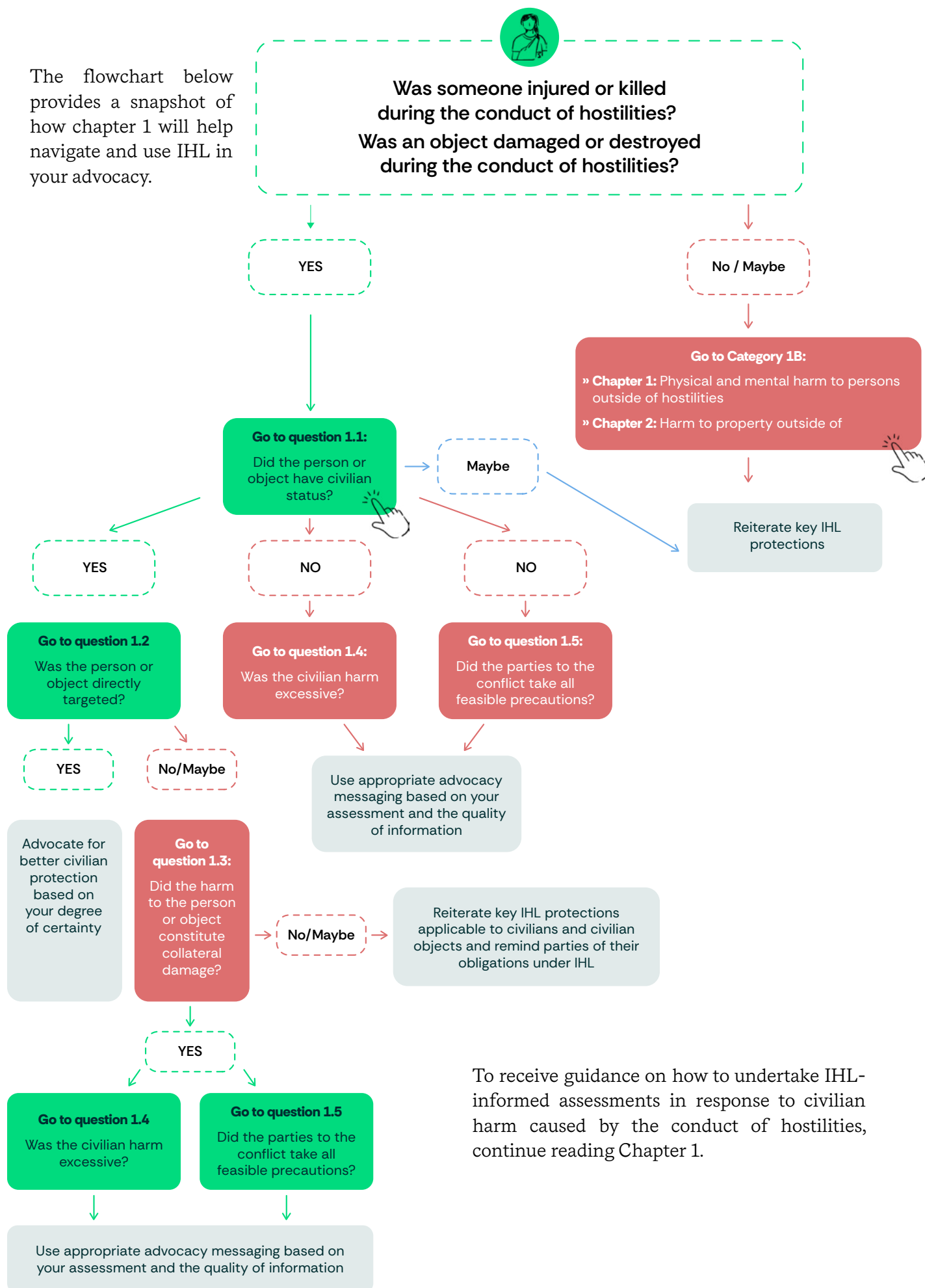
When responding to civilian harm, one key question is **intent**—was the attack deliberately aimed at civilians (which is unlawful), or was the harm incidental to an attack on a military target (which may be lawful under proportionality rules)?

Assessing intent is **especially difficult** in conflict setting without access to sensitive military information on targeting.

- ◇ Parties don't usually disclose the military reasoning behind an attack.
- ◇ You may only see the impact, not the target.

While it is important to be aware of these limitations, they should not discourage you from engaging in IHL-informed advocacy. Your role is to highlight what you *can* observe—civilian harm, absence of military presence, patterns of behaviour—and explain what information you do and don't have. Our advocacy guidance will help you choose the right language depending on your assessment of the situation and the quality of information you receive.

The flowchart below provides a snapshot of how chapter 1 will help navigate and use IHL in your advocacy.



To receive guidance on how to undertake IHL-informed assessments in response to civilian harm caused by the conduct of hostilities, continue reading Chapter 1.

1.1 Did the person(s) or object(s) harmed have civilian status?

Whether a person or object belongs to the ‘military’ or the ‘civilian’ side is of great importance.¹⁵ In accordance with the principle of distinction, a member of the armed forces or a fighter may be lawfully targeted whereas civilians not taking part in hostilities are protected from direct attack. Similarly, a military objective may be lawfully targeted whereas civilian objects are protected from direct attack.

People

Civilians must not be directly attacked.¹⁶ The protection against direct attack ceases when civilians take a direct part in hostilities and only for the time they engage in such acts.¹⁷

To qualify as direct participation in hostilities, a specific act must meet the following cumulative criteria:¹⁸



Threshold of harm: The act must be likely to negatively impact the military capacity or operations of a party to an armed conflict, and



Direct causation: There must be a direct link between the act and the harm likely to follow, and



Belligerent nexus: The act must cause harm in support of a party to the conflict and to the detriment of another.

A civilian who takes part in fighting alongside a party to the conflict is directly participating in hostilities. In contrast, activities such as ‘financial, administrative or political support to armed actors’ do not meet the threshold for direct participation.¹⁹ In many instances, assessing whether civilians have taken a direct part in hostilities and lost protection from attack is challenging. It is important to keep in mind that this assessment is always fact-specific and context dependent. To receive further guidance, please contact our free IHL Advisory Service.



KEY POINT

When civilians take part in hostilities, they temporarily lose their protection from attack, but they remain civilians. In cases of doubt, a person must be presumed to be a civilian.

¹⁵ IHL Centre, [The Principle of Distinction](#).

¹⁶ ICRC, CIHL Database, Rule 1; AP I, Art 48, Art 51(2); AP II, Art 13(2).

¹⁷ ICRC, CIHL Database, Rule 10; AP I, Art. 51(3); AP II, Art. 13(3).

¹⁸ ICRC, Interpretative Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law, Part I: Recommendations of the ICRC concerning the interpretation of International Humanitarian Law relating to the notion of direct participation in hostilities.

¹⁹ ICRC, Interpretative Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law, pp.52-54 and 66-67.

Objects

Civilian objects are all objects that are not military objectives. Given their civilian nature, they are protected from attack.²⁰

Civilian objects may lose protection from attack only if they become military objectives, namely if they fulfil the following two requirements:

- ♦ they make an effective contribution to military action through their nature, location, purpose or use, and
- ♦ their destruction offers a definite military advantage in the circumstances ruling at the time they are targeted.²¹

Regarding the **first requirement**, objects can make an effective contribution to military action through their nature, location, purpose, as shown below:

- ♦ **Nature:** a military camp, military barracks, or military aircraft.
- ♦ **Location:** a mountain pass of strategic importance.²²
- ♦ **Purpose:** a civilian liner which a party to the conflict plans to turn into a troop ship.²³
- ♦ **Use:** railways, bridges, ports, telecommunications, or power stations that are used to support military operations.

Key terminology: Objects that serve civilian functions but also support, through their use, military operations are referred to as **'dual use'** objects. These objects may be targeted subject to the principles of proportionality and precautions in attack.

In terms of the **second requirement**, the destruction of objects that contribute to military action through their nature, location, purpose or use must offer a **definite military advantage**. Examples of a definite military advantage include taking control of a location of strategic importance or destroying military headquarters and equipment of the adverse party.²⁴ The military advantage needs to be assessed from the attacking party's perspective.²⁵



KEY TAKEAWAY

You may not know if an object is a military objective or not. Remember that there is a presumption of civilian status. Moreover, even if an object is a military objective, the attack may be unlawful if it is expected to cause excessive civilian harm.

20 ICRC, CIHL Database, Rule 7; API I, Art 48, Art 52(1).

21 ICRC, CIHL Database, Rule 8; API I, Art 52(2).

22 Yoram Dinstein, 'Legitimate Military Objectives under The Current Jus in Bello', 78 International Law Studies, U.S. Naval War College, p. 150.

23 Purpose refers to the 'intended future use of an object'. Assessing whether an object contributes to military action through its purpose is dependent on the gathering and analysis of intelligence. Yoram Dinstein, 'Legitimate Military Objectives under The Current Jus in Bello', 78 International Law Studies, U.S. Naval War College p. 148.

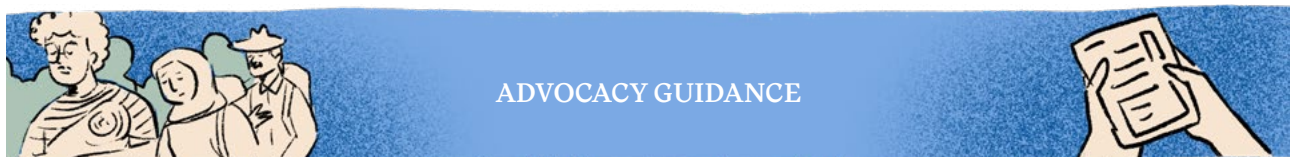
24 International Law Association, The Conduct of Hostilities and International Humanitarian Law, [Final Report](#), p. 17.

25 ICC, Prosecutor v. Dominic Ongwen [Trial Judgement](#), 4 February 2021, para. 2777.

Next Steps

Based on your assessment, we recommend that you take one of the following steps:

- ♦ **Scenario 1:** If you have some level of confidence that the person or object harmed was civilian, we recommend that you go to question 1.2 for guidance on assessing whether the person or object was the intended target of the attack.
- ♦ **Scenario 2:** If you are confident that the person or object harmed was a military target, go to question 1.3.
- ♦ **Scenario 3:** If you are unsure about the civilian status of the person or object harmed, **continue reading the advocacy box below.**



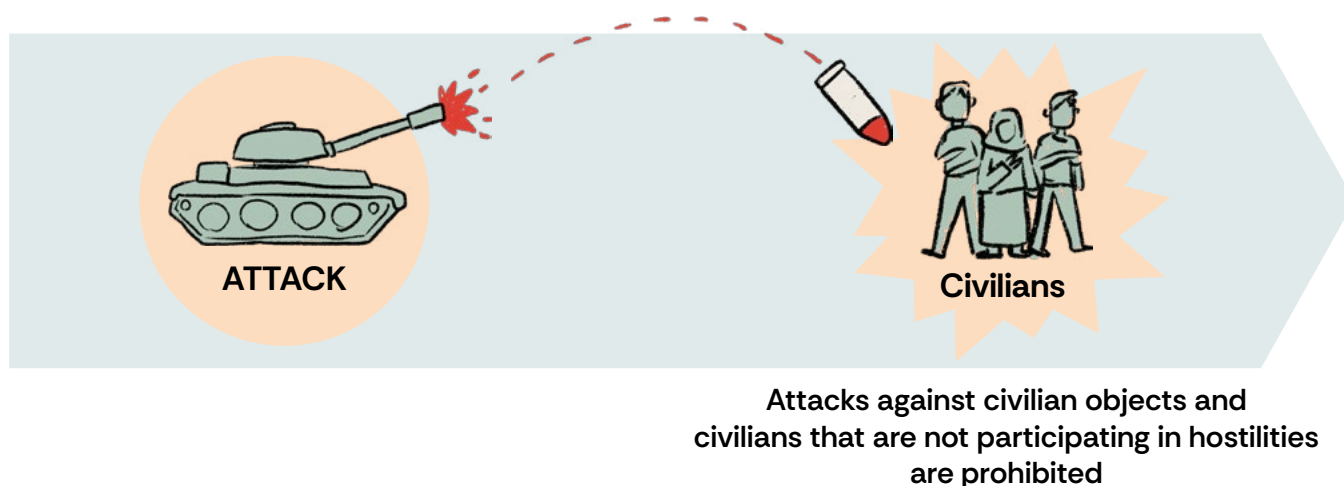
Purpose: Remind parties of their obligations under IHL. If you are unsure whether person or objects harmed were civilian, you can always reiterate the prohibition on attacking civilians and civilian objects.

Key messaging

- *All parties to the conflict are reminded that targeting civilians and/or civilian objects is prohibited.*
- *If there is doubt about the civilian character of persons or objects, parties must presume the person or object is civilian and therefore protected from attack.*
- *All parties to the conflict are obligated under IHL to ensure attacks are only directed against military targets.*
- *Parties to the conflict must ensure attacks on military targets do not cause excessive harm to civilians and civilian infrastructure and take precautionary measures to protect civilians and civilian objects.*

1.2 Was the person(s) or object(s) harmed the intended target of an attack?

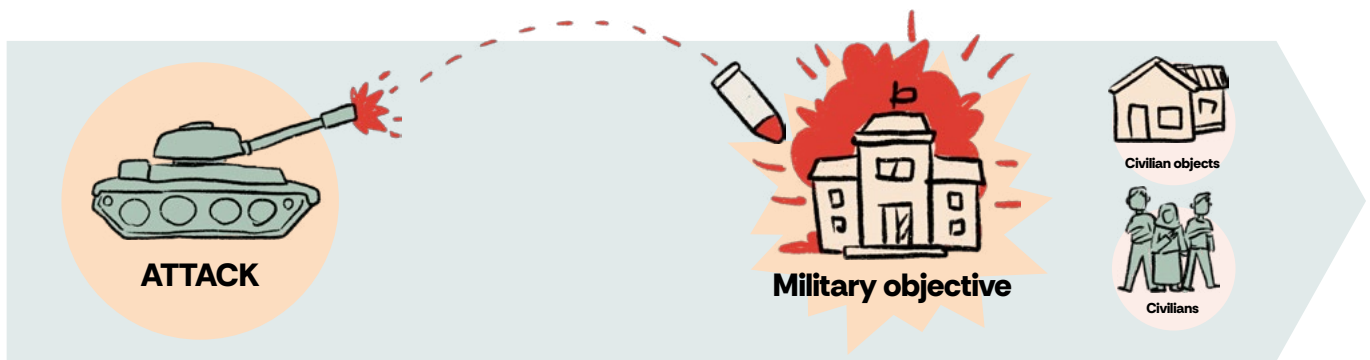
In the previous section, we considered whether the person or object qualified as civilian or military. If the answer to that question is that the person or object was civilian, there can be no legal justification for directly targeting that person or object. In accordance with the principle of distinction, direct attacks against civilians and civilian objects are prohibited.



It is also possible that the physical harm to civilians and/or civilian objects constituted collateral damage.

Key terminology: The term 'collateral damage' refers to civilians that are killed or wounded, and/or civilian objects that are damaged or destroyed due to an attack directed against a military target. In that case, the principle of proportionality and precautions in attack will determine the lawfulness of the attack (see questions 1.4 and 1.5).

Remember: The principle of proportionality prohibits attacks against military objectives that are expected to cause civilian harm that would be excessive in relation to the military advantage anticipated, while the principle of precautions in attack requires parties to the conflict to adopt precautionary measures to avoid or at least minimise civilian harm.



Civilians and/or civilian infrastructure are harmed as a result of an attack directed against a military objective (collateral damage). The attack can be lawful provided that the principles of proportionality and precautions in attack are respected.

In practice, it is often difficult to establish the intentionality of an attack, namely whether civilians or civilian objects were the intended target of the attack or whether the inflicted harm constituted collateral damage.²⁶ This determination requires knowledge of the military targets pursued.²⁷ However, the following factors may help in your assessment:

- ◇ whether any military objectives were in close proximity to the civilians/civilian objects harmed.
- ◇ whether the same civilian object was damaged repeatedly.²⁸
- ◇ whether multiple objects of the same type, such as medical units, were damaged or destroyed.²⁹
- ◇ the type of weapons used, especially where precision weapons are used in harming civilians or destroying civilian objects.³⁰
- ◇ any statements by the party/parties to the conflict indicative of an intent to target civilians or civilian objects.

26 [Report on Violations of International Humanitarian Law and Human Rights Law, War Crimes and Crimes against Humanity committed in Ukraine since 24 February 2022](#) by Professors Wolfgang Benedek, Veronika Bilkova and Marco Sassoli, 13 April 2022, p. 25. [Moscow Mechanism Report]

27 Ibid, p. 25.

28 See Mwatana for Human Rights and Global Rights Compliance, *Starvation Makers, The Use of Starvation by Warring Parties in Yemen*, September 2021, pp. 163-172 describing how the same water facility was targeted three times.

29 Moscow Mechanism Report, above note 26, p. 25: "For instance, while it may be that one hospital was used by the defender for military purposes or destroyed by mistake, it is hardly possible that this is the case when 50 hospitals are destroyed."

30 Report of the United Nations High Commissioner for Human Rights containing the findings of the Group of Eminent International and Regional Experts and a summary of technical assistance provided by the Office of the High Commissioner to the National Commission of Inquiry, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/39/43, 17 August 2018, para. 38(a): "The use of precision-guided munitions would normally indicate that the object struck was the target."



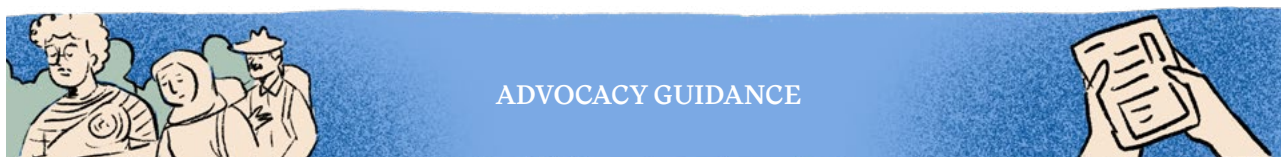
KEY TAKEAWAY

Assessing the intentionality of an attack is difficult. However, this should not discourage you from raising protection concerns or engaging in IHL-informed advocacy. Even if you are unsure whether civilians or civilian objects were the actual target of an attack, you can reiterate key IHL points and protections.

Next Steps

Based on your assessment, we recommend that you take the following steps:

- ♦ **Scenario 1.** If you are unsure whether civilians or civilian objects were directly targeted, we recommend that you continue reading the next section (question 1.3) to consider whether the physical harm to civilians or civilian objects constituted collateral damage.
- ♦ **Scenario 2.** If you have some level of confidence that civilians or civilian objects were directly targeted, continue reading the advocacy box below.



This box will provide you with key tips and suggested messaging tailored to the level of confidence with which you consider that civilians or civilian objects were directly targeted.

Key tips

- Establish robust protection assessment systems to help strengthen your access to information on the civilian impact of attacks, enhancing your advocacy efforts.
- Engage pre-emptively with a diverse range of people from a community including women, older people, and people living with disabilities understand the full impact of hostilities on the civilian population
- Emphasise the presumption of civilian status. Framing your advocacy around this core presumption reinforces the protective purpose of the rule.

Key messaging

Tailor the messaging below in accordance with the guidance provided in the User Guide, supplementing it with details about the specific situation.

Limited level of confidence

- *The information available raises concerns that [Party X] may not have complied with its obligation to protect civilians and civilian objects from attack. All parties to the conflict are obligated under IHL to ensure attacks are only directed against military targets and to carry out military operations with strict respect for civilians and civilian infrastructure. The protections afforded to civilians and civilian objects under IHL must be respected in all circumstances.*

Moderate level of confidence

- *There are [serious/significant] concerns that [Party X] has not complied with its obligation to protect civilians and civilian infrastructure from attack. All attacks must be directed solely against military targets, and parties to the conflict are obligated to conduct military operations with strict respect for civilians and civilian infrastructure. Any direct attack on civilians or civilian infrastructure constitutes a violation of IHL.*

High level of confidence

- *The available information clearly shows that civilians were targeted in violation of IHL. All attacks must only be directed against military targets. Attacks against civilians or civilian objects constitute a violation of IHL.*

1.3 Did the harm to the person or object constitute collateral damage?

Remember, the term ‘collateral damage’ refers to civilian harm that has resulted from an attack against a lawful military target. For example, a party to the conflict is planning an attack against a warehouse where military supplies of the enemy party are stored. In that case, the harm expected to be caused to civilians and civilian objects in close proximity to the warehouse will constitute collateral damage.



Attacks against civilian objects and civilians that are not participating in hostilities are prohibited.

The principle of proportionality, to which the term ‘collateral damage’ is linked, requires that the expected harm to civilians or civilian objects is not excessive when viewed in relation to the military advantage anticipated from an attack.

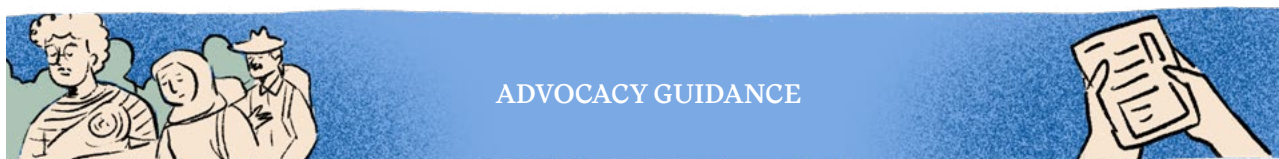
To understand whether physical harm to persons and objects constitutes collateral damage you should consult any relevant statements by the party to the conflict responsible for the attack. Such statements by the party concerned may provide insights into the intended target of the attack and its qualification as a military objective. In addition, you should consult other independent sources that have the capacity to verify the information provided by the party to the conflict and provide relevant analysis.

In most cases, you may be able to identify that physical harm has occurred to civilians and/or civilian objects, but you may be unsure about the intentionality of an attack. As mentioned before, even if this is the case, you can still raise civilian protection concerns.

Next Steps

Based on your assessment, we recommend that you take the following steps:

- ♦ **Scenario 1.** If you have some level of confidence that the civilian harm constituted collateral damage, we recommend that you continue reading the next section (question 1.4).
- ♦ **Scenario 2.** If you are unsure about the intentionality of the attack, **continue reading the advocacy box below.**



If you are unsure whether persons or objects were directly attacked or whether the harm to them constituted collateral damage, you can still use IHL as part of your humanitarian advocacy. You may reiterate IHL protections applicable to civilians and civilian objects and remind parties of their obligations under IHL.

Key messaging

- *Parties are reminded that civilians and civilian objects must be protected against direct attacks. Only military targets may be attacked.*
- *All parties to the conflict are obligated under IHL to carry out military operations with strict respect for civilians and civilian objects.*
- *If there is doubt about the civilian character of persons or objects, parties must presume the person or object is civilian and therefore protected from attack.*
- *The protections afforded to civilians and civilian objects under IHL must be respected in all circumstances*

1.4. Was the civilian harm excessive?

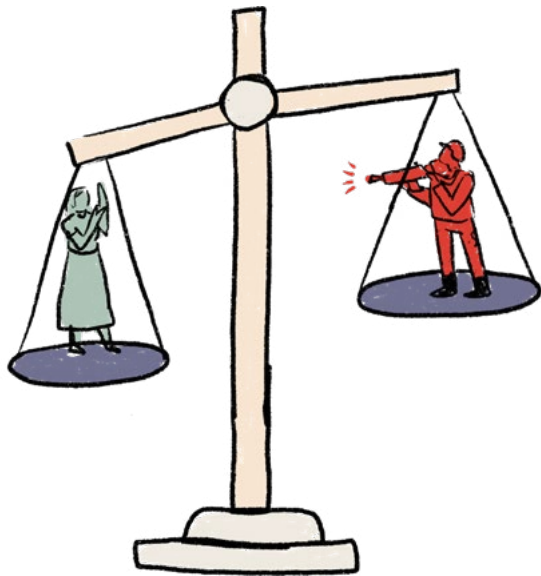
In the previous section, we considered whether the harm to civilians or civilian objects constituted collateral damage. If the answer to that question is yes, the next step in the assessment process is to consider whether the civilian harm was excessive (principle of proportionality).

The principle of proportionality prohibits attacks that may be expected to cause incidental civilian harm which would be excessive in relation to the concrete and direct military advantage anticipated.³¹ Although complex in practice, the principle of proportionality can be broken-down into the following points:

1. There is an attack planned against a military target.
2. It is expected that there will be collateral damage (incidental civilian death, injury, or the destruction of civilian objects)
3. If the expected collateral damage (incidental civilian harm) will be excessive compared to the concrete and direct military advantage anticipated (from striking the military target) then the attack will be disproportionate and unlawful.

31 ICRC, CIHL Database, Rule 14; AP I, Art 51(5)(b); IHL Centre, [The Principle of Proportionality](#).

We will guide you through this rule by looking first at the concept of a military advantage, followed by the expected collateral damage.



1.4.1 Military advantage

One of the two factors that need to be considered under the proportionality rule concerns the advantage anticipated from an attack against a military target. This must be military in nature. Therefore, advantages that are ‘political, psychological, economic, financial, social, or moral in nature’ cannot be considered under the principle of proportionality.³² Moreover, the military advantage must be **concrete and direct** therefore excluding advantages that are potential, and which would only materialise in the long term.³³

1.4.2 Civilian harm

Proportionality assessments include the following types of civilian harm:

- i. The *immediate incidental harm* to civilians and/or civilian objects that results from an attack against a military target. For instance, following an attack against a building part of which is used

as the headquarters of an armed group, the death and injury of civilians present therein and the physical damage to the building constitute the immediate civilian harm; and

- ii. The *indirect or reverberating effects* that can be reasonably foreseen when planning an attack against a military objective. For example, the disruption of healthcare delivery is the indirect harm that needs to be considered by the party planning an attack against a hospital used for military purposes.³⁴



KEY POINT

The indirect or reverberating effects of attacks can be more easily foreseen when critical civilian infrastructure has already suffered extensive incidental harm.³⁵ For example, if the health facilities of a town have been heavily impacted by the conduct of hostilities, a party to the conflict could reasonably foresee the effects that an attack against a military target located close to the only functioning hospital in the area would have on the provision of health care.

1.4.3 Applying the principle of proportionality in practice

Proportionality assessments need to take into consideration information about the location of civilians and the diversity of the civilian population that may be affected by the attack. The civilian population will include infants, children, older persons, women, men, and

32 International Law Association, *The Conduct of Hostilities and International Humanitarian Law*, [Final Report](#), pp. 31-32.

33 [ICRC Commentary on Art. 57 of Additional Protocol I](#), para. 2209.

34 Foreseeability should be understood as “what a reasonable person in the place of the person planning or launching the attack should have foreseen.” Emanuela-Chiara Gillard, [Proportionality in the Conduct of Hostilities, The Incidental Harm Side of the Assessment](#), December 2018, p. 16.

35 ICRC, *Humanitarian Law & Policy*, ‘Israel and the occupied territories: how international humanitarian law applies’, 19 December 2023, <https://blogs.icrc.org/law-and-policy/2023/12/19/israel-and-the-occupied-territories-how-international-humanitarian-law-applies/>.

person with disabilities, all of whom will face differing levels of risk. For example, children are more likely to be killed or severely injured by blast effects due to their smaller bodies and physiological vulnerability. Pregnant women, older persons, and individuals with mobility limitations may not be able to flee an area quickly, placing them at greater risk of death or serious harm during an attack. These foreseeable impacts on different groups within the civilian population must be taken into account.

Considering whether a party to the conflict has complied with the principle of proportionality is a difficult assessment. The information known to a commander at the time of the attack and the intended military target may not be publicly available, and so accurate proportionality assessments may be difficult to undertake. In such cases, the focus is usually placed on examining the results of an attack. While it is true that the actual effects of an attack may be different from those reasonably expected prior or during the attack, the extensive damage or destruction of civilian objects and a high number of civilian casualties may suggest that inadequate precautions were taken and/or that the attack was disproportionate and unlawful.



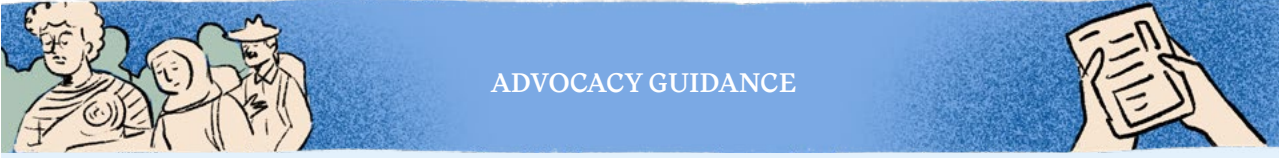
KEY POINT

When reviewing information about the attack and trying to assess the application of the principle proportionality, it could be beneficial to review all statements around the event that have been made, including on social media, as well as any challenges to the official narrative.

Next Steps

Based on your assessment, we recommend that you take the following steps:

- ♦ **Scenario 1.** If you are unsure whether an attack caused excessive civilian harm or not, continue reading the advocacy box below.



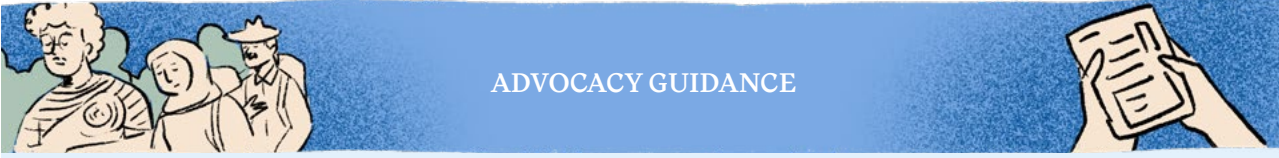
ADVOCACY GUIDANCE

Even if you are uncertain whether an attack caused excessive civilian harm or not, you can still reiterate relevant IHL protections and remind parties of their obligations.

Key messaging

- *Parties to the conflict must protect civilians and civilian infrastructure from the effects of military operations by ensuring the expected civilian harm is not excessive to the anticipated military advantage.*
- *Parties to the conflict must take into account all expected harm against civilians and civilian infrastructure when considering an attack against a military target.*
- *Attacks where the expected harm to civilians or civilian infrastructure is excessive is a violation of IHL*

- ♦ **Scenario 2.** If you consider that an attack caused excessive civilian harm, we recommend that you consult the advocacy messaging provided below and the next section focusing on precautionary measures (question 1.5). This can help strengthen your advocacy, as the rules on proportionality and precautions are interconnected.



ADVOCACY GUIDANCE

This box will provide you with key tips and suggested messaging tailored to the level of confidence with which you consider that an attack caused excessive civilian harm.

Key tips

- Pre-emptive protection assessments can offer baseline information before and after attacks occur, allowing you to understand the implication attacks have on the civilian population.
- You may not have insight about the information parties to the conflict used when making their decisions about attacks and proportionality assessments. You can add language to your advocacy clearly articulating what information you do and do not have, and why you have chosen to advocate with a particular level of confidence.
- Remember that the scale of civilian harm can indicate excessiveness. You may not know the attacker's rationale or intended target. Instead, highlight observable factors like repeated airstrikes in densely populated zones, use of wide-area effect weapons, or consistent destruction of civilian infrastructure.

Key messaging

Tailor the messaging below in accordance with the guidance provided in the User Guide, supplementing it with details about the specific situation.

Limited level of confidence

- *The information available raises concerns about the application of the principle of proportionality. Parties to the conflict must adhere to the principle of proportionality to protect civilians and civilian infrastructure from the effects of military operations.*

Moderate level of confidence

- *There are [serious/significant] concerns that the attack was disproportionate. IHL requires parties to the conflict to protect civilians and civilian infrastructure from the effects of military operations by ensuring the expected civilian harm is not excessive to the anticipated military advantage.*

High level of confidence

- *The available information clearly shows that the attack was disproportionate. Attacks where the expected harm to civilians or civilian infrastructure is excessive constitute a violation of IHL.*

1.5 Did the parties to the conflict take all feasible precautions?

When an attack against a military target has caused incidental civilian harm (collateral damage), it is important to consider whether the parties to the conflict adopted precautionary measures to avoid or at least minimise such harm.

The obligation to take precautionary measures to protect civilians is placed on both the attacker and the defender.³⁶ For instance, the attacker must verify the military nature of targets and provide, as much as possible, effective warnings prior to attacks, while the defending party must avoid locating military objectives within or near densely populated areas.³⁷ The principle of precautions includes the following components:

1. Target verification (attacker)

This obligation requires the attacking party to do everything feasible to verify that an attack will target a military objective.³⁸

2. Choice in the means and methods of warfare to avoid or minimise incidental harm to civilians and civilian objects (attacker)

Considering the timing of an attack or using precision weapons are examples of how the attacker could implement the above precautionary measure.³⁹

³⁶ IHL Centre, [The Principle of Precautions in Attack](#).

³⁷ ICRC, CIHL Database, Rules 15-24; AP I, Arts. 57 and 58; IHL Centre, [The Principle of Precautions in Attack](#).

³⁸ ICRC, CIHL Database, Rule 16; AP I, Art. 57.

³⁹ ICRC, CIHL Database, Rule 17; AP I, Art. 57.



KEY POINT

Assessing the weapons that the party to the conflict has employed in an attack and their effects will often require expert knowledge of weaponry. Check within the Protection Cluster and humanitarian community whether there is someone with this knowledge who can provide input on weaponry used.

3. Assessing the effects of an attack and cancelling or suspending an attack (attacker)

This obligation links back to the principle of proportionality and the requirement that the incidental harm to civilians and civilian objects is not excessive. It requires cancelling or suspending an attack when it becomes apparent that it does not comply with the principle of distinction (the target is not a military objective) or the principle of proportionality (excessive harm to civilians or civilian objects).⁴⁰

4. Issuing effective warning before an attack to enable the civilian population to escape the possible harm, unless circumstances do not permit. (attacker)

Parties to an armed conflict must give effective advance warning to civilians prior to an attack which may affect them, unless circumstances do not permit.⁴¹ Warnings increase the chances for civilians to protect themselves from the effects of attacks.⁴² They can be provided through the dropping of leaflets, phone calls, text or radio messages as well as loudspeaker warnings.⁴³ Warnings should be communicated in a manner that the affected population will understand and provide sufficient time to flee the area before the attack is launched. This

will mean warnings should be provided in the languages of the affected population. Sufficient time must be given to allow all the effected population to flee, including pregnant women, those with infants, older persons and persons with disabilities.

A party providing the civilian population in an area it intends to attack with a warning alone does not automatically render it effective. The indicators below provide guidance on what makes a warning 'effective':⁴⁴

- ◆ The warning is able to reach those affected by an attack.
- ◆ It is credible and clear.
- ◆ It states the location that will be affected by an operation.
- ◆ It specifies what civilians should do to escape harm.
- ◆ It provides the civilian population with enough time to act.

Civilians that do not follow a warning and stay in the area remain civilians protected from attack. A party to the conflict must comply with the IHL rules applicable to the conduct of hostilities even if a warning goes unheeded and civilians remain in the area.⁴⁵ These rules include the prohibitions of attacking civilians and civilian objects and launching disproportionate attacks.

5. Location of military objects and removal of civilians from their vicinity (defender)

Parties must avoid locating their military objectives within or near densely populated areas to minimise the chance of incidental civilian harm resulting from enemy attacks.⁴⁶ In addition, parties to the conflict must, to the extent feasible, remove civilian persons and objects under their control from the vicinity of military objectives.⁴⁷ The evacuation of

40 ICRC, CIHL Database, Rules 18-19; AP I, Art. 57.

41 ICRC, CIHL Database, Rule 20; AP I, Art. 57.

42 IHL Centre, [The Principle of Precautions in Attack](#).

43 International Law Association, Conduct of Hostilities, [Final Report](#), p. 45; Jean-Francois Queguiner, "Precautions under the law governing the conduct of hostilities", *International Review of the Red Cross* (2006), Vol. 88 (864), p. 808.

44 Report of the United Nations Fact Finding Mission on the Gaza Conflict, A/HRC/12/48, 25 September 2009, para. 530.

45 ICRC, CIHL Database, Rule 20.

46 ICRC, CIHL Database, Rule 23; AP I, Art. 58.

47 ICRC, CIHL Database, Rule 24; AP I, Art. 58.

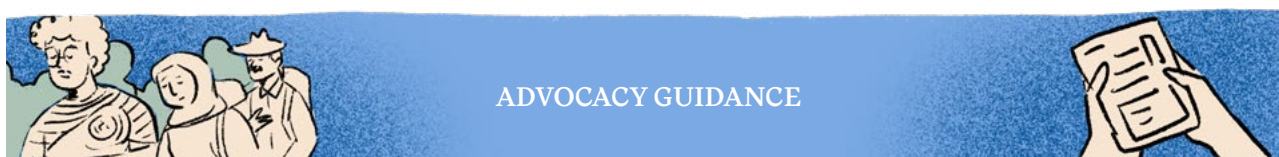
civilians must only be undertaken to the extent necessary for their safety and must comply with the prohibition on forced displacement.⁴⁸

The construction of shelters, the withdrawal of the civilian population to safe places, the distribution of information and warnings are examples of measures that can be implemented by the defending party to protect the civilian population and civilian objects under its control.⁴⁹ Precautionary measures must also take into account the diversity of the civilian population, for example, by ensuring that shelters are accessible to persons who use wheelchairs, and distributing emergency information in all relevant languages and in accessible formats.

Next Steps

Based on your assessment, we recommend that you take one of the following steps:

- ♦ **Scenario 1.** If you are unsure whether a party or parties to the conflict adopted precautionary measures, **continue reading the advocacy box below.**

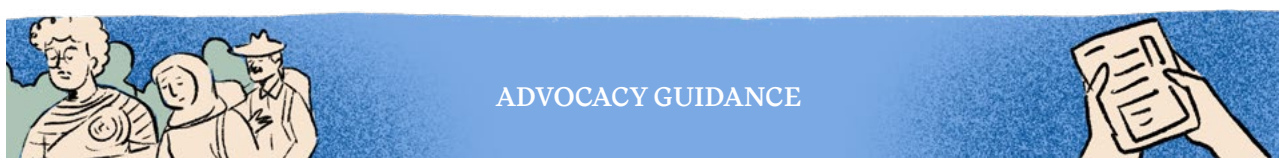


If you are uncertain about the adoption of precautions by a party or parties to the conflict, it is appropriate to remind parties of their obligations and refer to key IHL protections in your advocacy.

Key messaging

- *Parties to the conflict are reminded that precautions must be to protect civilians and civilian objects from the impact of attacks.*
- *The attacking party must adopt precautionary measures to avoid or at least minimise civilian harm.*
- *If it becomes clear that the attack is likely to cause excessive civilian harm, it must be cancelled or suspended.*
- *The defending party needs to take feasible steps to minimise the harm towards the civilian population under its control, most notably by not situating military objects close to civilian objects and removing civilians and civilian objects from the vicinity of military objectives.*

- ♦ **Scenario 2.** If you believe that a party or the parties to the conflict did not take precautions to minimise civilian harm, **continue reading the advocacy box below.**



This box will provide you with key tips and suggested messaging tailored to the level of confidence with which you consider that a party or parties to the conflict did not adopt precautions.

48 ICRC, CIHL Database, Rules 24 and 129.

49 ICRC, CIHL Database, Rule 22.

Key tips

- Your level of confidence around the adoption of precautionary measures in attack may rely on technical information such as analysis on the types of weapons used in an attack. Consulting subject-matter experts is recommended.
- As you may not have insight about the information parties to the conflict used when making their targeting decisions, you can add language to your advocacy clearly articulating what information you do and do not have, and why you have chosen to advocate with a particular level of confidence.

Key messaging

Tailor the messaging below in accordance with the guidance provided in the User Guide, supplementing it with details about the specific situation.

Limited level of confidence

- *(Attacking party) There are concerns that [Party X] may have failed to adopt precautionary measures to minimise the harm civilians faced from the attack, as required under IHL. Parties to the conflict must adhere to IHL and conduct their operations with strict respect for civilians and civilian objects.*
- *(Defending party) There are reports [Party X] may have failed to take precautionary measures to protect the civilian population under its control against the effects of attacks. Parties to the conflict must take feasible steps to minimise the anticipated harm towards the civilian population subject to their control.*

Moderate level of confidence

- *(Attacking party) There are strong indications the attacking party failed to adopt precautionary measures to minimise the harm civilians faced from the attack, as required under IHL. Parties to the conflict must adhere to IHL and conduct their operations with strict respect for civilians and civilian objects.*
- *(Defending party) There are strong indications the party to conflict failed to take precautionary measures to protect the civilian population under its control against the effects of attacks. Parties to the conflict must take feasible steps to minimise the anticipated harm towards the civilian population subject to their control.*

High level of confidence

- *(All parties) The information available clearly shows that the party/parties concerned failed to adopt precautionary measures in violation of IHL. Parties to the conflict must take precautionary measures to protect civilians and civilian objects from the effects of hostilities.*

CATEGORY 1(B)

Physical Harm to Persons and Objects
Outside of Military Operations



Introduction

Category 1(B) provides guidance on how to identify relevant IHL protections and engage in IHL-informed advocacy when dealing with physical harm to persons and objects outside of hostilities. Following on from Chapter 1 in Category 1A (Physical harm to persons and objects during the conduct of hostilities), Category 1B contains the following chapters:

- ♦ **Chapter 2** deals with physical and mental harm to persons outside of hostilities such as unlawful killings, torture, cruel, inhuman or degrading treatment, and conflict-related sexual violence.
- ♦ **Chapter 3** addresses the destruction, seizure and pillage of property in areas under the control of parties to the conflict.

Before you continue reading the specific guidance provided in chapters 1 and 2, it is important to ensure that the harm to persons or objects is sufficiently connected to the armed conflict to engage in IHL-informed advocacy.⁵⁰ Otherwise, other legal frameworks (domestic law, human rights law) may be more appropriate. Establishing a link between the harm and the armed conflict may be more difficult outside of hostilities. This is why further guidance is provided below.

The following points are important considerations to keep in mind when assessing the connection to the armed conflict:

- ♦ The situation and circumstances in which the harm took place.
- ♦ The actors involved.
- ♦ Whether the armed conflict played a substantial role in facilitating the relevant conduct.
- ♦ The purpose or motivation for engaging in such acts.

The following table provides examples highlighting the connection of acts causing harm to persons/objects to an armed conflict or the lack thereof.

50 This connection is referred to as 'nexus' or 'link' to the armed conflict. See ICRC, [IHL and the Challenges of Contemporary Armed Conflicts, Recommitting to Protection in Armed Conflict on the 70th Anniversary of the Geneva Conventions](#), p. 53.

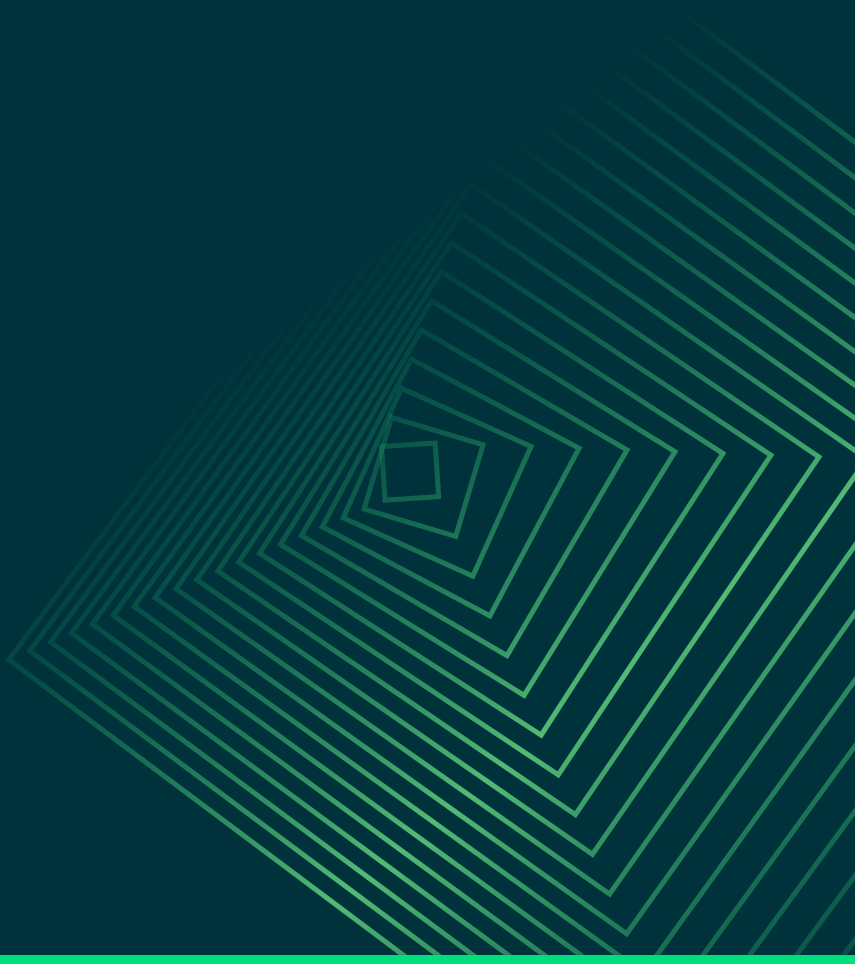
FACT PATTERN	CONNECTION TO AN ARMED CONFLICT
An armed group exercising control over an area executes civilians considered to be sympathetic to the government.	Yes
Country X is involved in a non-international armed conflict outside its territory. Individuals are killed while protesting against the armed conflict in the capital of Country X.	No
In an area under the control of a party to the conflict, humanitarian organisations report increased incidents of domestic violence.	No
Governmental forces retreat from a town previously under their control. A couple of days later the armed forces of the opposing party take control of the town burning down government buildings and houses in close proximity to them.	Yes



KEY POINT

If you are unsure about the harm's connection to an armed conflict, the IHL Centre's Advisory Service can provide advice on a fully confidential basis.

CHAPTER 2



Chapter 2: Physical and Mental Harm to Persons Outside of Hostilities

You are here because you are concerned that civilians were physically or mentally harmed outside of hostilities. For instance, they may have been unlawfully killed or subjected to torture, cruel, inhuman or degrading treatment and/or sexual violence in one of the following circumstances or situations:

- ◆ When *detained* by a party to the conflict.
- ◆ In an *occupied* territory.
- ◆ In an *area controlled by an armed non-State actor*.

This Chapter will help you navigate the applicable IHL rules and provide you with suggested messaging to include in your advocacy, based on your assessment and the quality of information on which that assessment is based. You will find guidance and resources in the following subsections:

- ◆ 2.1 Unlawful killings (murder)
- ◆ 2.2 Torture, cruel, inhuman or degrading treatment
- ◆ 2.3 Conflict-related sexual violence
- ◆ 2.4 Advocacy guidance
- ◆ 2.5 Useful resources on torture and conflict-related sexual violence.

2.1 Unlawful killings outside the conduct of hostilities

The term ‘unlawful killing’ outside the conduct of hostilities refers to the murder of civilians and non-civilian persons (wounded combatants, prisoners of war or fighters).⁵¹ Given the prioritisation of civilian harm in the Manual, this section focuses on the unlawful killing of civilians outside of hostilities.



KEY POINT

The prohibition on unlawful killings applies to everyone. Therefore, even if you are uncertain whether the individual harmed was a civilian, this should not discourage you from using IHL in your advocacy.

Remember: it is important to distinguish between unlawful killings (murder) and deaths that have occurred during the conduct of hostilities.

- ◆ Unlawful killings are prohibited at all times.⁵²
- ◆ Deaths occurring during the conduct of hostilities may or may not be lawful, depending on your assessment of the

51 ICRC Commentary on [Common Article 3](#) (2020), paras. 634-635: “Prohibited as ‘murder’ is the intentional killing or causing of death of such persons, as well as the reckless killing or causing of their death [...]” Regarding the meaning of the term ‘wilful killing’, it refers to “cases where death occurs through a fault of omission. [...] The omission must have been wilful and there must have been an intention to cause death by it.” See ICRC Commentary on [Art. 147](#) of GC IV (1958), p. 597. The ICRC Commentary on [Common Article 3](#) (para. 634) notes that the ICTY Statute and ICC Elements of Crimes do not draw a distinction between ‘murder’ and ‘wilful killing’ in terms of their content.

52 ICRC, CIHL Database, Rule 89; GC IV, Art. 147; API, Art. 75; [Common Article 3](#) to GC I-IV; AP II, Art. 4.

principles of distinction, proportionality, and precautions in attack [see Category 1(A)].⁵³

If you are not sure about the context in which the killings occurred, contact our [IHL Advisory Service](#).

2.2 Torture, cruel, inhuman or degrading treatment

You are here because you have concerns that persons were treated inhumanely. Under IHL, torture, cruel, and inhuman or degrading treatment are prohibited at all times against all persons.⁵⁴ The prohibitions are absolute and subject to no exceptions.⁵⁵

This Manual has prioritised the development of IHL-informed assessments and advocacy in relation to thematic areas where resources are limited or unavailable. Given that there are several resources available on torture, cruel, inhuman or degrading treatment, this section will briefly outline the scope and content of the applicable IHL prohibitions, provide advocacy tips, and point the reader to existing guidance.⁵⁶



KEY POINT

Advocacy can occur even if you are uncertain about the civilian status of persons considering that the IHL prohibition of inhumane treatment applies to everyone.

Torture is defined as the ‘intentional infliction, by act or omission, of severe pain or suffering,

whether physical or mental, for such purposes as to obtain information or a confession, to punish, intimidate or coerce the victim or a third person, or to discriminate, on any ground, against the victim or a third person.’⁵⁷ The IHL prohibition of torture binds both states and armed non-state groups.⁵⁸ Examples of torture include electric shocks, mock executions or burials.⁵⁹ These examples are non-exhaustive.



KEY TAKEAWAY

In order to qualify an act as torture in your assessment, you should have some level of confidence that the physical and mental harm inflicted was **severe** and that the **purposive element** (infliction of severe suffering to gain information, punish, intimidate, coerce or discriminate against the victim or a third person) is fulfilled. These requirements separate torture from other forms of ill-treatment.

Cruel or inhumane treatment (the two terms are used interchangeably) has been defined as ‘treatment which causes serious mental or physical suffering or constitutes a serious attack upon human dignity.’⁶⁰ Examples of acts that have been considered cruel or inhumane include ‘lack of adequate medical attention, inhumane living conditions in a detention centre, beatings, corporal punishment, and involuntary sterilization.’⁶¹ These examples are non-exhaustive.

⁵³ ICRC Commentary on [Common Article 3](#) (2020), para. 636.

⁵⁴ ICRC, CIHL Database, Rule 90; GC I, Art. 12; GC II, Art. 12; GC III, Arts 14, 17, 87, and 89; GC IV, Arts 27, 32; AP I, Art. 75, 76, 77; Common Article 3 to GC I-IV; AP II, Art. 4.

⁵⁵ ICRC, CIHL Database, Rule 90; GC I, Art. 12; GC II, Art. 12; GC III, Arts 14, 17, 87, and 89; GC IV, Arts 27, 32; AP I, Art. 75, 76, 77; Common Article 3 to GC I-IV; AP II, Art. 4.

⁵⁶ OHCHR, Istanbul Protocol: [Manual](#) on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2022 edition); Amnesty International, Combating Torture and Other Ill-Treatment, A [Manual](#) for Action; Council of Europe, [Manual](#) on Conducting Effective Investigations in the cases of ill-treatment; Dignity [Manual](#), Collaboration between medical doctors and lawyers when documenting torture in North Africa.

⁵⁷ IHL does not provide a definition of torture. The definition provided in the text is based on ICTY jurisprudence. See ICRC Commentary on [Art 3](#) GC III (2020), paras 662-663; Manfred Nowak and Ralph Janik, “Torture, Cruel, Inhuman or Degrading Treatment” in Andrew Clapham, Paola Gaeta and Marco Sassoli (eds), The 1949 Geneva Conventions: A Commentary (Oxford University Press, 2015), p. 326.

⁵⁸ The requirement under Article 1(1) of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment that torture is inflicted “by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity” is not applicable under IHL. See ICRC Commentary on [Art 3](#) of GC III (2020), para. 662.

⁵⁹ See ICRC Commentary on Art 3 of GC III (2020), para. 674.

⁶⁰ As with torture, IHL does not provide a definition of cruel treatment. See ICRC Commentary on [Art 3](#) of GC III (2020), paras 651-653; Manfred Nowak and Ralph Janik, “Torture, Cruel, Inhuman or Degrading Treatment” in Andrew Clapham, Paola Gaeta and Marco Sassoli (eds), The 1949 Geneva Conventions: A Commentary (Oxford University Press, 2015), p. 330.

⁶¹ ICRC Commentary on Art 3 of GC III (2020), paras 656-657.



KEY POINT

In contrast to torture, there is no requirement that acts amounting to cruel, inhuman or degrading treatment are carried out for a specific purpose.⁶² Also, the threshold of physical or mental harm for cruel, inhuman or degrading treatment is lower than torture.⁶³

Degrading treatment refers to acts that ‘humiliate, degrade or otherwise violate the dignity of the person to such a degree as to be generally recognised as an outrage upon personal dignity.’⁶⁴ Non-exhaustive examples of degrading treatment include ‘forced public nudity, rape and sexual violence, and inappropriate conditions of confinement’.⁶⁵

2.3 Conflict-related sexual violence

The term ‘conflict related sexual violence (CRSV)’ refers to sexual violence which has a link with the armed conflict and can be perpetrated by both military personnel and civilians against any person.⁶⁶

Humanitarian workers may receive information about CRSV, a serious protection concern that requires a sensitive, survivor-centred response. Practitioners must prioritise survivors’ safety, dignity, and confidentiality, and should not actively seek out survivors.⁶⁷ Instead, they should create safe, accessible spaces where survivors can choose to come forward. These places should be run by specialised staff who are trained on how to handle disclosures of sexual violence.

Due sensitivities of assessing and advocating in response to CRSV, this section does not contain indicators of harm. Instead, it outlines the prohibition of CRSV and its long-lasting impact on civilians, providing you with simple IHL-informed advocacy messaging, and directing you to key resources on this thematic area.

CRSV is often linked to other types of harm experienced by civilians in armed conflict. It can lead to mass killings, civilian displacement, abductions, and kidnappings.⁶⁸ Acts of CRSV can also amount to acts of torture or inhumane treatment, and often require survivors to receive specialised medical care, including for sexual and reproductive health. The risk of CRSV is often higher for persons held in detention.

2.3.1 The prohibition of sexual violence under international law

CRSV has long been a pervasive feature of armed conflict, historically dismissed as an unavoidable consequence of war. Today, it is recognised for what it is: a criminal conduct that, like any other, can and must be prevented.⁶⁹ Despite this recognition, CRSV remains widespread, underreported, and devastating in its impact on individuals and societies.

CRSV is a broad term. It encompasses all acts of a sexual nature imposed by force, or coercion against any victim of any gender identity. These acts include rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilisation, mutilation of sexual organs, sexual exploitation (such as obtaining sexual services in return for food or protection), forced abortions, enforced contraception, sexual assault, forced marriage, or any other form of sexual violence of a comparable gravity.⁷⁰

62 [ICRC Policy torture and cruel, inhuman or degrading treatment inflicted on persons deprived of their liberty](#), Policy adopted by the Assembly Council of the ICRC on 9 June 2011, International Review of the Red Cross, Vol. 93, No. 882 (2011), p.2, fn. 1.

63 See ICRC Commentary on [Art 3 of GC III](#) (2020), paras 665-669; [ICRC Policy torture and cruel, inhuman or degrading treatment inflicted on persons deprived of their liberty](#), Policy adopted by the Assembly Council of the ICRC on 9 June 2011, International Review of the Red Cross, Vol. 93, No. 882 (2011), p.2, fn. 1.

64 ICRC, Advisory Service on International Humanitarian Law, [Prohibition and punishment of Torture and other forms of ill-treatment](#), June 2014.

65 See ICRC Commentary on Art 3 of GC III (2020), para. 708.

66 If you are unsure about whether the harm you observe has a link with the armed conflict, we suggest that you contact our [Advisory Service](#).

67 [GBV Pocket Guide](#), pp. 2-3.

68 OSCE, [Sexual and Gender-Based violence in Armed Conflict](#), p.2

69 Gloria Gaggioli, “Sexual violence in armed conflicts: A violation of international humanitarian law and human rights law”, International Review of the Red Cross (2014), 96 (894), p. 505.

70 ICRC, [Q&A: sexual violence in armed conflict](#), 22 Sept. 2016; Gloria Gaggioli, “Sexual violence in armed conflicts: A violation of international humanitarian law and human rights law”, International Review of the Red Cross (2014), 96 (894), pp. 505-510. See also, International Criminal Court (ICC), Office of the Prosecutor, [Policy on Gender-Based Crimes](#), Dec. 2023, paras. 31-34.

Sexual violence is strictly prohibited under IHL. This means that there are no exceptions which could justify acts of sexual violence under any circumstances. The prohibition is binding on all parties to an armed conflict whether states or non-state armed groups.

Sexual violence is also prohibited by international and regional human rights instruments applicable both in peacetime and during armed conflict.⁷¹ At the domestic level, most states criminalise rape and other forms of sexual violence under national law.

2.3.2 Early warning signs of conflict-related sexual violence

It is important to look for early warning signs of CRSV. Where there are concerning trends in this direction, identifying them provides opportunities for early intervention to promote greater compliance with the law before civilians suffer preventable harm.

- ♦ **A rising climate of rumour and hate speech towards a section of the population.**⁷²
- ♦ **A general climate of abuse:** Arbitrary detention, coercion and abuse can create or escalate sexual violence.
- ♦ **Coincidence with other violence:** Increases in kidnappings, killings, displacements or disappearances often occur alongside rises in sexual violence.
- ♦ **Separation of men and women at checkpoints:** The forced segregation of individuals based on gender at military or rebel checkpoints can signal impending sexual violence.⁷³

- ♦ **Deep-seated gender inequality and patriarchal norms:** When societies marginalise women or view them as subordinate, armed conflict can exacerbate the pre-existing gender inequalities and the risk of sexual violence.⁷⁴

There are several resources for helping to assess early warning signs of CRSV, including:

- 1) [The Early Warning Indicators of CRSV Matrix](#). This tool provides you with an overview of the early warning signs that CRSV may occur and will help you craft an appropriate response. Though its focus is on early warning signs, it also covers signs of ongoing or escalating sexual violence in conflict settings.
- 2) [The UN HANDBOOK for United Nations Field Missions on Preventing and Responding to CRSV](#), 2020. This tool provides guidance on identifying early warning signs of sexual violence in conflict settings. Though it is tailored to UN field mission use and does not list these signs in a single section, it emphasises the importance of integrating gender-sensitive early warning indicators into monitoring and analysis frameworks.

2.3.3 The main factors driving sexual violence in conflict settings

CRSV is often rooted **in pre-existing socio-economic inequalities**, including discriminatory gender norms and patriarchal structures. Its drivers and the circumstances in which it occurs – as well as the profiles of perpetrators – are diverse and deeply interconnected. CRSV in conflict settings may be **perpetrated as a strategy of war, tolerated as a practice even if not explicitly ordered, or committed opportunistically by individuals.**⁷⁵

71 Convention on the Elimination of Discrimination against Women (CEDAW), 1979, Art. 6; Convention on the Rights of the Child, 1989, Arts 19(1) and 34; Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, 1994, Arts 1–3; Protocol to the African Charter on Human and Peoples' Rights of Women in Africa, 2003 (Maputo Protocol), Arts 3(4), 4(2), 11(3), 12(1) (c)(d), 13(c), 14(2)(c), 22(b), 23(b); The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) (2011).

72 Kristin Bergtora Sandvik, Kjersti Lohne, "The struggle against sexual violence in conflict: investigating the digital turn", *International Review of the Red Cross* (2021), 102 (913), pp. 104, 106.

73 Ibid, p. 104.

74 Anne-Kathrin Kreft, "This Patriarchal, Machista and Unequal Culture of Ours": Obstacles to Confronting Conflict-Related Sexual Violence", *International Studies in Gender, State & Society* (2023), Vol. 30, Issue 2, pp. 654–677.

75 ICRC, [Five things to know about sexual violence in conflict zones](#), 17 Jun 2022.

Factors associated with armed conflict that contribute to an increased risk of CRSV include:

- ◇ A pervasive climate of violence and impunity
- ◇ The collapse of institutional protection mechanisms and disruptions of services and social cohesion
- ◇ The proliferation of small arms and light weapons
- ◇ Displacement and limited access to justice and health services, among others, contribute to an increased risk of sexual violence especially among the most vulnerable groups.⁷⁶

Conflict dynamics not only increase the likelihood of CRSV, (and other acts of gender-based violence generally) perpetrated by armed actors but also heighten the incidence of forms of sexual and gender-based violence by other actors. These include members of the host community against displaced persons, organised criminal groups, and at times humanitarian personnel who take advantage of the vulnerability and dependency of those receiving humanitarian support.⁷⁷

- ◇ **Sexual violence as a deliberate tactic of war.** Sexual violence may be strategically employed by arms bearers to terrorise and displace communities, exert dominance, punish and humiliate particular groups, extract information, or destabilise and break down the social fabric of societies.⁷⁸ In some instances, it is perpetrated as a method of ethnic cleansing, targeting specific ethnic groups through systematic acts such as forced impregnation aimed at

altering the demographic composition of the population.⁷⁹

- ◇ **Risk of CRSV exacerbated by socio-economic factors.** Poverty, displacement, and food insecurity significantly increase the risk of CRSV. In some settings, severe deprivation – worsened by restrictive policies limiting women’s access to education and livelihoods – has led to an increase of harmful coping mechanisms such as forced and child marriage, transactional sex and forced prostitution.⁸⁰ These dynamics reflect a vicious cycle, where conflict related sexual violence both stems from and reinforces socio-economic marginalisation.⁸¹



KEY TAKEAWAY

The drivers of CRSV are closely intertwined. Structural gender inequality, militarised violence, economic breakdown, and the collapse of protection mechanisms combine to generate an environment in which sexual violence is ‘both enabled and weaponised’ with devastating and lasting consequences for survivors and their communities. Perpetrators often belong to state or non-state armed actors, such as national security forces, militias, police, and terrorist networks.⁸² However, CRSV is also committed by peacekeepers, humanitarian workers, as well as other individuals.

2.3.4 Understanding the reach and lasting consequences of CRSV

While women and girls bear the overwhelming brunt of CRSV and gender-based violence

76 See, ICRC and the International Red Cross and Red Crescent Movement, Resolution on “[Sexual and gender-based violence: Joint action on prevention and response](#)” at the 32nd International Conference in 2015.

77 ICRC and the Norwegian Red Cross, [That Never Happens Here: sexual and gender-based violence against men, boys and/including LGBTIQ+ persons in humanitarian settings](#), 27 Nov 2021.

78 Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, [Current Trends and Emerging Concerns](#).

79 See, for instance, Human Rights Watch, [Kosovo: Rape as a Weapon of “Ethnic Cleansing”](#), 1 Mar 2000.

80 Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, [Current Trends and Emerging Concerns](#).

81 [Report of the United Nations Secretary-General on CRSV](#), UN Doc. S/2024/292, Apr 2024, para.11.

82 Gloria Gaggioli, “Sexual violence in armed conflicts: A violation of international humanitarian law and human rights law”, *International Review of the Red Cross* (2014), 96 (894), p. 504.

generally,⁸³ survivors in any given conflict-setting will be diverse and include men and boys, LGBTIQ+ persons, persons with disabilities, members of ethnic minorities and displaced individuals, each facing unique risks as well as barriers to support and accountability. Intersectional factors such as gender, age, disability, displacement status, and social marginalisation can increase vulnerability to abuse and shape how individuals experience and are able to respond to sexual violence.⁸⁴ Detention settings are a key context of increased vulnerability to CRSV, especially for men and boys.⁸⁵ LGBTIQ+ persons are also at heightened risk of sexual violence, especially in displacement settings, including as a form of persecution.⁸⁶

- ♦ **Impact on survivors.** The consequences of CRSV are both immediate and long-lasting and tend to affect all dimensions of a person's physical, psychological and social well-being. At the individual level, survivors may suffer from serious physical injuries, sexually transmitted infections, unwanted or unsafe pregnancies, and severe mental harm ranging from depression to post-traumatic stress disorder ('PTSD') and suicidality.⁸⁷ These impacts can make it difficult for survivors to return to school, participate in community life, or seek employment. CRSV can also have devastating social consequences. Survivors may face stigma, victim-blaming, or rejection by their families and/or communities, perpetuating cycles of poverty, social isolation, and are at increased risk of facing future sexual and gender-based violence.⁸⁸

♦ **Impact on children born from CRSV.**

Children born from rape may also face social exclusion and limited access to education due to stigma and uncertain legal status.⁸⁹

- ♦ **Impact on communities.** CRSV has far-reaching impacts on communities as well, weakening social cohesion, fuelling tensions, and eroding trust in institutions – especially when accountability is lacking. Left unaddressed, it hinders reconciliation and poses a serious barrier to post-conflict recovery, transitional justice, and lasting peace.



KEY TAKEAWAY

CRSV has devastating consequences for survivors and directly impacts their families and communities.⁹⁰ In addition to suffering severe physical and psychological harm, survivors may face stigma, rejection by their families and ostracisation which, in turn, may prevent them from seeking the support they need, impact their socio-economic situation, and expose them to the risk of facing future sexual and gender-based violence.

2.3.5 Key challenges in reporting acts of CRSV

CRSV is often dramatically underreported in armed conflict due to fears of retaliation, distrust in the acting authorities, threats, and various stigma faced by those who speak out. These dangers extend beyond survivors to include witnesses, human rights defenders, service providers, journalists, justice actors, and others.

83 UNRIC, [Women and girls are disproportionately affected by CRSV](#), 19 Jun 2024; see also UN Security Council, Resolution 2467, UN Doc. S/RES/2467 (2019), para. 12.

84 All Survivors Project, [Checklist on preventing and addressing CRSV against men and boys](#), 10 Dec 2019, p. 6.

85 UN Security Council, Resolution 2467, UN Doc. S/RES/2467 (2019), Op.32; Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, [Current Trends and Emerging Concerns](#); OSCE-ODIHR, [Sexual and Gender-Based Violence in Armed Conflict](#), 19 Aug 2022, p. 2. See also, All Survivors Project, [Checklist on preventing and addressing CRSV against men and boys](#), 10 Dec 2019, pp. 39-40.

86 ICRC and the Norwegian Red Cross, [That Never Happens Here: sexual and gender-based violence against men, boys and including LGBTIQ+ persons in humanitarian settings](#), 27 Nov 2021.

87 ICRC, [Five things to know about sexual violence in conflict zones](#), 17 Jun 2022.

88 Ibid; see also ICRC, [How does stigma impact victims/survivors of sexual violence during armed conflict?](#), 26 Nov 2024.

89 Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, [Current Trends and Emerging Concerns](#).

90 ICRC, [Prevention and Repression of Rape and Other Forms of Sexual Violence during Armed Conflicts](#); IHL Centre, [Sexual Violence and IHL](#).

Survivor stigma include being associated with the perpetrators, fears of sexually transmitted diseases such as HIV, perceived loss of honour, and the social rejection of children born of rape – often seen as ‘children of the enemy’ and discriminated by their own families and communities.⁹¹ This stigma often results in survivors being shamed and silenced, facing judgment and discrimination from families, communities, and even justice systems – adding to the damaging impact of the assault itself.⁹²

Many survivors are also simultaneously facing life-threatening challenges – such as securing food, medicines and shelter, or searching for missing family members – which can take priority over reporting the violence they have experienced. In addition, material obstacles such as insecurity, damaged infrastructure, roadblocks or arbitrary checkpoints, targeted attacks on health facilities, the disruption of survivor-centred services, and prohibitive transportation costs further hinder access to support for survivors.⁹³

In alignment with the principle of a survivor-centred approach, **humanitarian actors should never pressure survivors to disclose or report CRSV, including to justice mechanisms.** Instead, humanitarian actors have an obligation to ensure that survivors have sufficient information available to them to make an informed decision. Regardless of the choices survivors make about reporting, they should still be able to access support and critical services to meet their needs.

2.4 Advocacy guidance

Normally, we provide you with three stages of advocacy – **preventative, in response to harm, and suggesting a failure to respect IHL.** Given the more nuanced approach in this Chapter to assessing murder, cruel treatment, and CRSV, we have condensed these stages into a single form of advocacy guidance below.



Purpose: highlight early warning signs and/or respond to information of murder, torture, cruel or degrading treatment, or conflict-related sexual violence.

Key tips

- Sensitivity is required when interviewing or receiving reports from people who have experienced traumatic events. Consider creating entry points for survivors to come forward on their own accord in safe settings and to specialised staff who are trained on how to handle disclosures of traumatic events in a survivor-centred manner.
- Emphasise that these are absolute prohibitions under IHL. There are no legal justifications or exceptions torture, cruel treatment, or CRSV.
- Acknowledge that you may have limited access to first-hand accounts. Consider the reliability of the information on which you have based your assessment and how this may impact your advocacy.

91 Ibid.

92 This is phenomenon is called “secondary victimization”, see ICRC, [How does stigma impact victims/survivors of sexual violence during armed conflict?](#), 26 Nov 2024; See also Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, [Current Trends and Emerging Concerns](#).

93 ICRC, [Five things to know about sexual violence in conflict zones](#), 17 Jun 2022.

Key tips specific to conflict-related sexual violence

- Women and children are afforded special respect and protection under IHL, including against acts of sexual violence.⁹⁴ In particular, women must be ‘especially protected’ from sexual violence. This includes rape, forced prostitution and any other form of sexual violence, all of which constitute international crimes.
- IHL emphasises the protection of healthcare facilities and personnel from attack or interference, ensuring they can provide essential services to all, including victims of sexual violence.
- IHL requires that medical care be provided on the basis of need, without discrimination, meaning survivors must receive the same quality of care as any other individual requiring medical attention.

Key messages

Tailor the messaging below in accordance with the guidance provided in the User Guide, supplementing it with details about the specific situation.

Limited level

- *The available information raises concerns about the protection of civilians from [unlawful killing/torture/cruel or degrading treatment/conflict-related sexual violence]. Such act is expressly prohibited under IHL in all circumstances.*

Moderate level of confidence

- *The available information raises [serious/significant] concerns about the protection of civilians from [unlawful killing/torture/cruel or degrading treatment/conflict-related sexual violence]. Such act is expressly prohibited under IHL in all circumstances.*
- *The available information provides strong indications that [Party X] has perpetrated acts of [unlawfully killing/torture/cruel or degrading treatment/conflict-related sexual violence] in violation of IHL.*

High level of confidence

- *The available information clearly shows that [Party X] has perpetrated acts of [unlawfully killing/torture/cruel or degrading treatment/conflict-related sexual violence] in violation of IHL.*

2.5 Relevant resources

This section will signpost you to the various resources available which may assist you further in your understanding of and approach to torture and CRSV. The sources below are relevant to humanitarian action as well as human rights monitoring. Should you have any other questions or queries, contact the [IHL Centre Advisory Service](#).

Torture

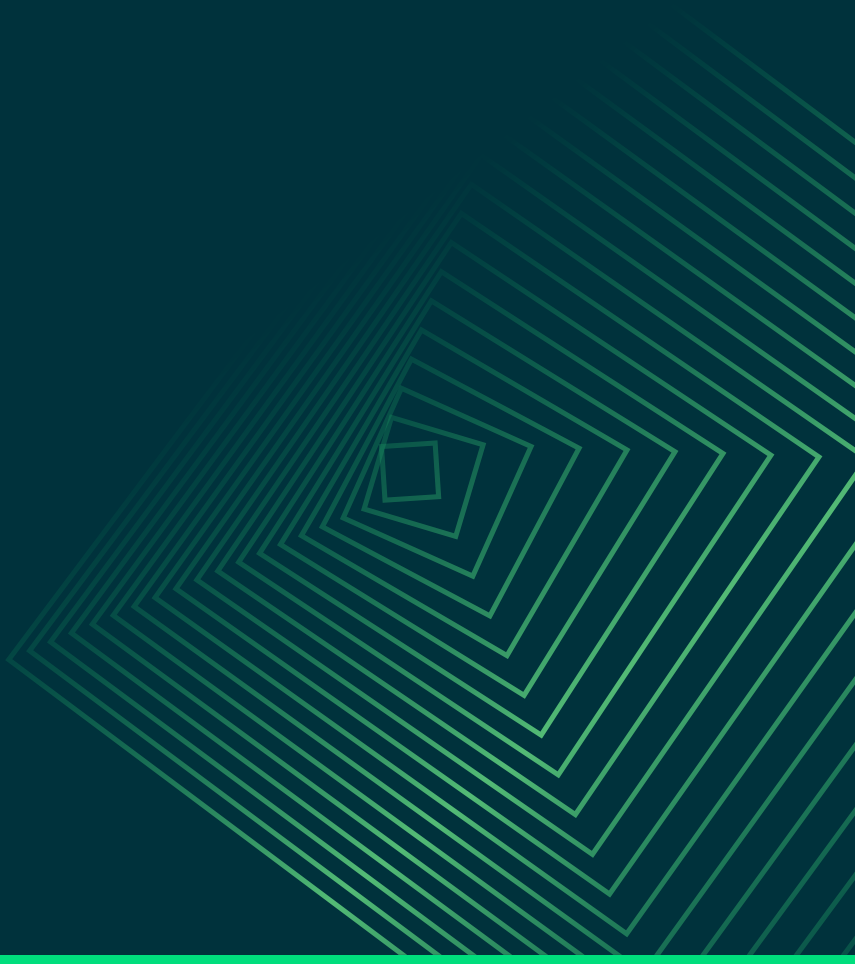
- ◇ OHCHR, Istanbul Protocol: [Manual](#) on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2022 edition).
- ◇ Amnesty International, Combating Torture and Other Ill-Treatment, A [Manual](#) for Action.
- ◇ Council of Europe, [Manual](#) on Conducting Effective Investigations in the cases of ill-treatment.
- ◇ Dignity [Manual](#), Collaboration between medical doctors and lawyers when documenting torture in North Africa.

94 ICRC, CIHL Database, Rules 134-135, GC IV, Art. 24, Art. 50; API, Art. 77, APII, Art. 4(3).

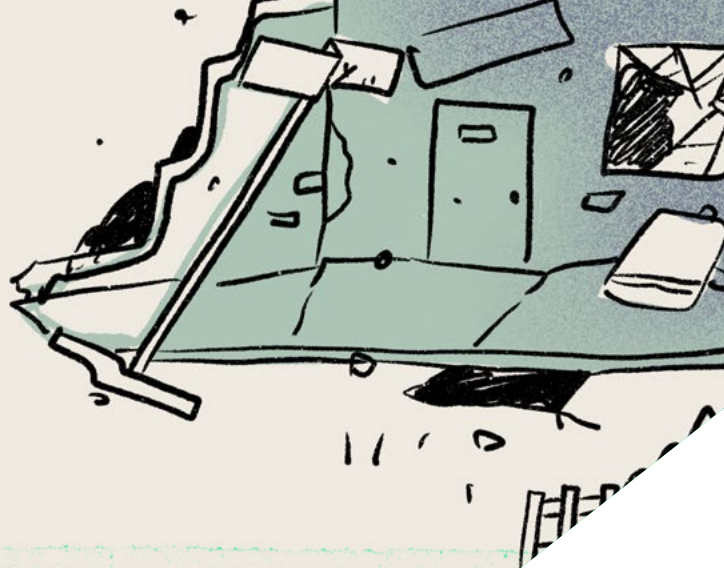
Conflict-related sexual violence

- ◇ [GBV Pocket Guide](#): Guidance for non-technical GBV providers on how to support survivors of GBV when there is no GBV actor in your area. This document provides humanitarian practitioners who are not trained in providing specialised GBV services information on how to handle disclosures of GBV and what to do when they operate in areas where there are no specialised GBV actors.
- ◇ [Guidelines](#) for Integrating Gender-Based Violence Interventions in Humanitarian Action. These guidelines are for humanitarian practitioners who are not specialised GBV providers and provide information on how to mainstream GBV risk mitigation into their existing programming.
- ◇ ICRC and Norwegian Red Cross report, [“That never Happens Here”](#) offers recommendations to humanitarian actors for addressing CRSV against men, boys, including LGBTQI+ persons in humanitarian settings.
- ◇ [WHO’s Ethical and Safety recommendations for researching, documenting, and monitoring sexual violence in emergencies](#): This reference guide provides guidance on how to conduct monitoring of sexual violence in emergency settings and is a primary resource practitioners use in their work.
- ◇ MRM on Grave Violations Against Children in Situations of Armed Conflict, [Field Manual](#). Guidance on how to establish and report on the six grave violations against children, for countries that have an active MRM.
- ◇ [Handbook](#) for United Nations Field Missions on Preventing and Responding to CRSV. Guidance on how to establish and report into the MARA reporting mechanism on Conflict Related Sexual Violence for countries that have a MARA mechanism established.
- ◇ [Istanbul Protocol](#), Manual on the Effective Investigation and Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The Protocol sets out international standards for the effective investigation into and documentation of torture and ill-treatment.
- ◇ Council of Europe, Working with Victims of Sexual Violence during Armed Conflict: A [Manual](#) for Ukrainian Mental Health and Emergency Response Professionals. The Manual supports professional with providing gender-sensitive, victim-centred, social, psychological, medical, and legal assistance to persons affected by sexual violence during the armed conflict in Ukraine.

CHAPTER 3

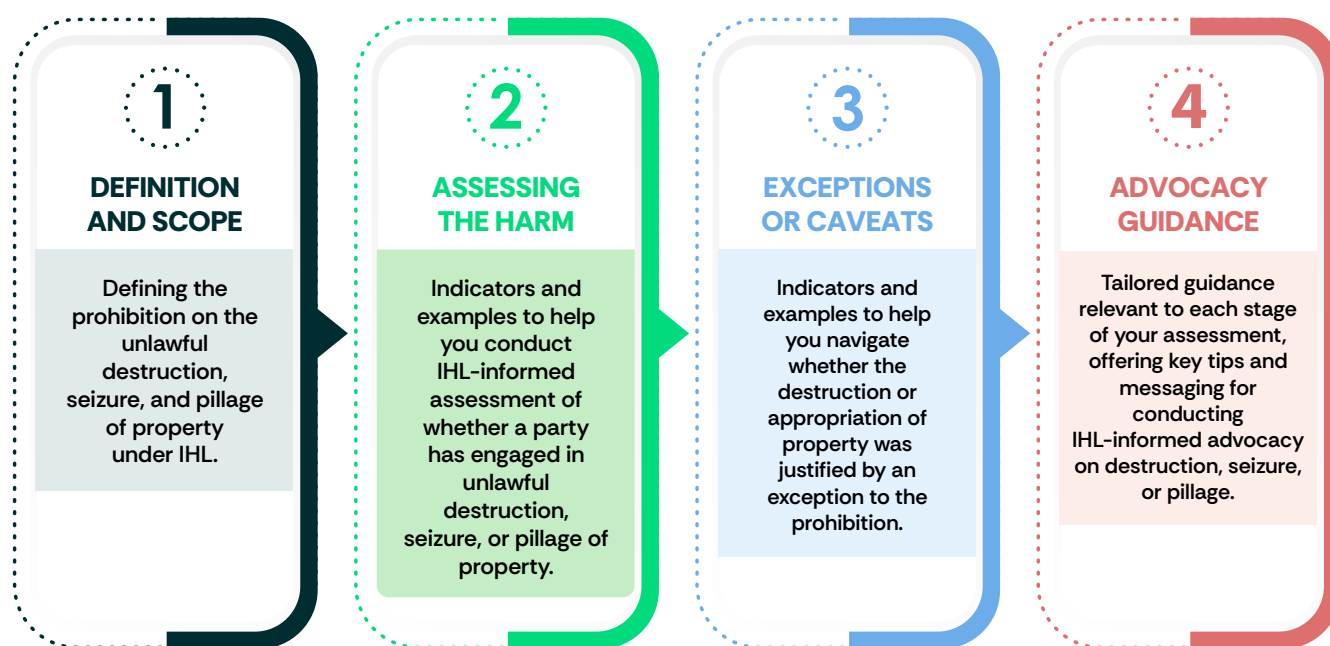


Chapter 3: Harm to Property Outside of Hostilities



You are here because you have concerns that property has been destroyed, seized or pillaged outside of hostilities, for instance in an occupied territory or in areas controlled by an armed non-state actor.

This chapter will help you navigate the IHL rules applicable to the protection of property and provide you with suggested messaging to include in your advocacy based on your assessment and the quality of information on which that assessment is based. Our guidance is divided in the following sections:



1 3.1 DEFINITION AND SCOPE

Under IHL, **unlawful seizure, destruction, and pillage of civilian property** are prohibited.⁹⁵

- ◇ Property is considered '*destroyed*' when it is set on fire, demolished, pulled down or damaged to such an extent that it no longer serves its purpose.⁹⁶ These examples are non-exhaustive.
- ◇ Property is *seized* when it is taken without payment or compensation.⁹⁷

95 ICRC, CIHL Database, Rules 50-52; 1907 Hague Regulations, Arts 23(g), 28, 46-47, 52-53, 55-56; Geneva Convention IV, Art. 33, 53.

96 ICC, Prosecutor v. Dominic, [Trial Judgement](#), 4 February 2021, para. 2775; ICC, Prosecutor v. Germain Katanga, [Trial Judgement](#), 7 March 2014, para. 891.

97 Yoram Dinstein, *The International Law of Belligerent Occupation* (2nd edn, CUP 2019), p. 227.

- ◇ Pillage is ‘the appropriation or obtaining of public or private property by an individual without the owner’s consent, in violation of international humanitarian law.’⁹⁸

Destruction and seizure of property are prohibited unless justified by **military necessity**. You will find further guidance on this in section: Exceptions and caveats.

ARE YOU CONCERNED ABOUT THE PROTECTION OF PROPERTY IN AN OCCUPIED TERRITORY?

In occupied territories, IHL rules prohibit the destruction of private and public property.⁹⁹ The destruction of property (private and public) in occupied territories is allowed only ‘when rendered absolutely necessary by military operations.’¹⁰⁰ Moreover, an Occupying Power is prohibited from **confiscating private property**.¹⁰¹ Exceptions apply to the above prohibitions.

IHL rules also prohibit the **pillage** of public and private property in occupied territories.¹⁰² The appropriation of property in an occupied territory must be unlawful for the conduct to amount to pillage. For example, the requisition of movable private property by an Occupying Power would not constitute pillage.¹⁰³ Please contact our free [IHL Advisory Service](#) in case you would like to receive further guidance on the protection of property in occupied territories.

2

ASSESSING THE HARM

The harm to property may consist of property being destroyed, seized or pillaged. IHL prohibits these acts, subject to the applicable exceptions.¹⁰⁴

Destruction or seizure of property

The IHL rules prohibiting the destruction or seizure of enemy property outside of hostilities cover both private and public property. Enemy property refers to property that belongs to persons other than those forming part of or being aligned with the armed force or group undertaking the destruction or seizure of property.¹⁰⁵



KEY POINT

Advocacy can occur even if you are uncertain about the type of property concerned, as IHL prohibits the destruction and seizure of property both private and public.

98 ICRC Commentary on [Art 15](#) of GC I (2016), para. 1494.

99 ICRC, CIHL Database, Rule 51; GC IV, Art. 53.

100 GC IV, Art. 53. The wording “when rendered absolutely necessary by military operations” included in Article 53 of Geneva Convention IV is considered ‘more restrictive than military necessity’. See Marco Sassoli, IHL: Rules, Controversies and Solutions to Problems Arising in Warfare (Edward Elgar 2019), p. 333.

101 ICRC, CIHL Database, Rule 51; 1907 Hague Regulations, Art. 46.

102 ICRC, CIHL Database, Rule 52; 1907 Hague Regulations, 47.

103 1907 Hague Regulations, Art. 52; ICRC, CIHL Database, Rule 51.

104 ICRC, CIHL Database, Rules 50-52; 1907 Hague Regulations, Arts 23(g), 28, 46-47, 52-53, 55-56; Geneva Convention IV, Art. 33, 53.

105 ICC, Prosecutor v. Bosco Ntaganda, [Trial Judgment](#), 8 July 2019, para.1160.

If you are concerned that property has been destroyed or seized, we recommend that you continue reading the next section which will help you navigate relevant exceptions or caveats in order to assess whether such acts were lawful or not. This will help you frame your advocacy as accurately as possible and strengthen its impact.

Pillage of property

The prohibition of pillage covers all types of property including property belonging to private individuals, communities or the State.¹⁰⁶ In case it is unclear to whom the property belongs, the person who had the property under him or her can be considered as the ‘owner’.¹⁰⁷ In addition, the prohibition of pillage concerns organised forms of pillage as well as individual acts.¹⁰⁸

Examples of pillage include:

- ◇ Looting of food items, harvests, grains, crops and livestock
- ◇ Looting of personal belongings
- ◇ Pillaging household items
- ◇ Looting of medical equipment
- ◇ Pillaging convoys of humanitarian aid



KEY POINT

Advocacy can occur even if you are uncertain about the type concerned, as IHL prohibits the pillage of both private and public property.

If you are concerned that property has been pillaged, we recommend that you continue reading the next section which will help you navigate relevant exceptions or caveats in order to assess whether the conduct was lawful or not. This will help you frame your advocacy as accurately as possible and strengthen its impact.

3

EXCEPTIONS AND CAVEATS

This section focuses on relevant exceptions and caveats applicable to the IHL prohibitions of destruction, seizure, or pillage of property.

Destruction or seizure

A party to the conflict may lawfully destroy or seize property belonging to the adversary when this is required by imperative military necessity, namely measures that are necessary to achieve a lawful military purpose and are not prohibited by IHL.¹⁰⁹ The following table provides examples to help you understand the meaning of the term ‘military necessity’.

¹⁰⁶ ICRC Commentary on [Art 33](#) of GC IV, pp. 226-227.

¹⁰⁷ ICC, Prosecutor v. Bosco Ntaganda, [Trial Judgment](#), 8 July 2019, para. 1034.

¹⁰⁸ ICRC Commentary on [Art 15](#) of GC I (2016), para. 1495.

¹⁰⁹ ICRC, CIHL Database, Rule 50; 1907 Hague Regulations, Art. 23(g); ICRC, [The Principles of Necessity and Humanity](#); How does Law Protect in War, [Military Necessity](#).

CONDUCT	JUSTIFIED BY IMPERATIVE MILITARY NECESSITY
Seizing of private houses at the top of a hill by an armed group controlling the area to use them as military observation points	Yes
Burning of crops by a party to the conflict retreating from an area formerly under its control to prevent its adversary to access food supplies	No. There is no military purpose to justify the taking of such measures. Additionally, the burning of crops would violate the IHL prohibition of destroying objects indispensable to the survival of the civilian population.

The examples above are merely illustrative. Assessing whether the seizure or destruction of property is justified by imperative military necessity is always context dependent.



KEY POINT

The burden is on the party that has destroyed or seized property to demonstrate that its actions were justified by imperative military necessity.

In **international armed conflicts**, a state party to the conflict may lawfully seize property belonging to the adverse State which can be used for military operations including, among others, arms and ammunition¹¹⁰

Pillage

The appropriation of property must be unlawful under IHL for the act to amount to pillage.¹¹¹

The seizure of enemy property for reasons of imperative military necessity does not constitute pillage, as IHL permits the taking of property in such circumstances.¹¹² For example, the seizure of private houses at the top of a hill by an armed actor controlling the area to use them as military observation points would not amount to pillage as the property would be seized for a lawful military purpose.

In case of an **international armed conflict**, a state party to the conflict may lawfully seize property belonging to the adverse state that can be used for military operations including, among others, arms and ammunition.¹¹³

¹¹⁰ ICRC, CIHL Database, Rule 49; ICRC Commentary on [Art 15](#) of GC I (2016), para. 1496.

¹¹¹ ICRC Commentary on [Art 15](#) of GC I (2016), para. 1496.

¹¹² ICRC, [Guidelines](#) on the Protection of the Natural Environment in Armed Conflict, Rules and Recommendations relating to the Protection of the Environment under International Humanitarian Law, with Commentary, para. 184.

¹¹³ ICRC, CIHL Database, Rule 49; ICRC Commentary on Art 15 of GC I (2016), para. 1496.

Apart from the aforementioned exceptions, the seizing of public or private property without the consent of the owner would constitute pillage.¹¹⁴

4



ADVOCACY GUIDANCE

In this section, we take what you have learned from your IHL-informed assessment (above) and offer the following three stages of advocacy guidance:

- ♦ **Preventative advocacy** – remind parties of their IHL obligations before a violation occurs, especially when risks or early warning signs are present.
- ♦ **Advocacy in response to harm** – raise concerns about harm and the conduct of the relevant party, without suggesting a violation of IHL.
- ♦ **Advocacy suggesting a failure to respect IHL** – raise concerns about a possible IHL violation where you have assessed all elements of the rule, including any exceptions or caveats.

When suggesting a failure to respect IHL, you will find language suggestions crafted to reflect your level of confidence (limited, moderate, or high), based on the extensiveness of your IHL-informed assessment and the quality of information you have received.



PREVENTATIVE ADVOCACY



Purpose: Promote respect for IHL and prevent violations before they occur. Highlight concerning trends or early warning signs where applicable.

Key tips

- **Raise awareness of legal protections early.** Emphasise that under IHL, the destruction or seizure of civilian property is strictly prohibited unless imperatively required by military necessity — and pillage is prohibited at all times. Ensure parties understand these obligations before an armed conflict begins.
- **Encourage preservation plans for civilian infrastructure.** Advocate for the mapping, marking, and protection of key civilian property and infrastructure to enable a more accurate response to unlawful destruction or appropriation.

Key messaging

- *IHL prohibits the destruction or seizure of property both public and private, unless justified by imperative military necessity.*
- *Pillage is prohibited.*

¹¹⁴ ICRC Commentary on [Art 15](#) of GC I (2016), para. 1494; ICRC, [Guidelines](#) on the Protection of the Natural Environment in Armed Conflict, Rules and Recommendations relating to the Protection of the Environment under International Humanitarian Law, with Commentary, para. 184.



ADVOCACY IN RESPONSE TO HARM

Purpose: Respond to conduct causing civilian harm without necessarily suggesting a failure to respect IHL.

Key tips

- **Emphasise civilian harm and its impact.** Focus on the practical consequences for civilians: destruction of homes, looting of food stocks.
- **Engage constructively with parties.** Seek clarification on specific incidents, using neutral language. Emphasise civilian protection.

Key messaging

- *There are [serious/significant] concerns over the [destruction/theft/looting/appropriation] of civilian property.*
- *Parties to the conflict are reminded that [destruction/seizure/appropriation] of property are prohibited under IHL, unless justified by imperative military necessity.*
- *IHL prohibits the pillage of property.*
- *Appropriations of property that are not lawful under IHL amount to pillage.*



Purpose: Suggest a failure to respect IHL based on a complete and contextually specific assessment of the rule(s), including the exceptions and/or caveats.

Remember: Even if you are unsure of whether an exception applies, you can still raise concerns over a failure to respect IHL. The burden is on the party engaging in seemingly unlawful conduct to justify that an exception to the rule applies.

Key tips

- **Consider patterns and context.** Emphasise repeated looting by armed forces or affiliates. Highlight where civilian homes have been destroyed without any obvious military benefit or need.
- **Look for patterns of discrimination.** If the destruction or seizure appears targeted against a specific group, it may indicate unlawfulness and strengthen advocacy.

Key messaging

Tailor the messaging below in accordance with the guidance provided in the User Guide, supplementing it with details about the specific situation.

Limited level of confidence

- *The information available raises concerns about the protection of [add specific property] from destruction or seizure. IHL prohibits the destruction or seizure of enemy property unless justified by military necessity.*
- *The information available raises concerns that [Party X] has pillaged civilian property. The pillage of property is prohibited under IHL.*

Moderate level of confidence

- *The available information raises [serious/significant] concerns that [Party X] has [unlawfully destroyed/seized] civilian property in violation of IHL. IHL prohibits the destruction or seizure of enemy property unless required by imperative military necessity.*
- *The information available provides strong indications that [add specific property] was pillaged in violation of IHL.*

High level of confidence

- *The available information clearly shows that [Party X] has [unlawfully destroyed/seized/pillaged] civilian property in violation of IHL.*

CATEGORY 2

Denying Access to Essential Services
and Supplies



Introduction and Relevant Considerations



Scope of Category 2



Category 2 focuses on access to and protection of essential services and supplies during armed conflict.

Essential services and supplies are those that are necessary to meet the humanitarian needs of civilians. They include but are not limited to food, shelter, water, sanitation, health care, fuel, electricity, and education. Essential services are interdependent: the disruption of one service often impacts the provision of others.

Meeting the needs of civilians is context dependent and will vary depending on the type of harm, and the individual's needs. Civilian populations are not homogeneous, they are diverse and will include, women and girls, men and boys, older persons, the wounded and sick, as well as persons with disabilities. Essential services must be tailored to the specific and differing needs of individuals within the affected population; for instance, a postpartum, breastfeeding mother will require different healthcare and nutritional support than a woman of the same age who is not postpartum.



This category will help you conduct IHL informed assessments and advocacy where civilians are denied access to essential services and supplies.



Applicability of IHL

There are some important points to remember about the applicability of IHL:

- ❖ IHL only applies during armed conflict. You should always check that the situation you are monitoring qualifies as an armed conflict before using IHL as part of your humanitarian advocacy.
- ❖ The IHL guidance provided in this Manual can be used in all types of conflict unless it is explicitly stated otherwise. Where there is a particular IHL rule that only applies in a specific type of conflict, we will let you know.
- ❖ As a general rule, IHL only regulates conduct which has a sufficient connection to the armed conflict. The key question is whether the conduct in question was **closely related to the hostilities** or took place in **the context and under the influence of the armed conflict**.
- ❖ International Human Rights Law (IHRL) continues to apply during armed conflict and complements IHL in mitigating civilian harm. Depending on the context, the domestic law of the state may also offer an alternative or supplementary legal framework for humanitarian advocacy, although its protections are not always adequate or consistent with international standards.

If you are unsure about conflict classification, determining a sufficient link, or would like further guidance on the interaction between different legal frameworks, please contact our free [IHL Advisory Service](#).

Advocating with credibility

This Manual provides tailored advocacy messaging for all audiences. It will help you apply IHL in practice with credibility and impact, offering different formulations depending on your **level of confidence**. Remember that your level of confidence (**limited**, **moderate**, or **high**) is based on:

3. An **IHL-informed assessment** of whether a party has failed to respect IHL; and
4. The **quality of the information** you receive.

Below you will find a reminder of **core principles of IHL-informed advocacy** and instructions on how to navigate the **advocacy guidance** provided in this Manual.

Core principles of IHL-informed advocacy

- ♦ **Know your audience & use appropriate language:** Remind parties of their IHL obligations in clear, accessible terms. Tailor tone and framing to stakeholders' knowledge. Use IHL-informed advocacy where it is most likely to be effective.
- ♦ **Collaborative vs individual:** Collaborative advocacy brings credibility and shared risk but less flexibility; individual advocacy offers greater autonomy but places the responsibility on a single actor.
- ♦ **Public vs private:** Public advocacy raises visibility but risks undermining access; private advocacy preserves relationships but lacks transparency. Sometimes both are needed.

Remember that effective IHL-informed advocacy **does not mean you need to cite legal articles or use legal jargon**. In most cases, you can **remind parties of the key provisions of IHL and their obligation to respect them**—even without full contextual details or without using legal terminology.

Navigating the advocacy guidance

For each chapter in this Category, we provide you with **advocacy guidance** specific to your situation and the applicable rules of IHL. In most cases, this guidance is divided into three distinct stages that reflect where you are at in your IHL-informed assessment of the situation:

- ♦ **Preventative advocacy** allows you to **remind parties of their obligations** before a violation has occurred. It may incorporate **concerning trends** or **early warning signs** that you have observed or simply highlight the general risk to and vulnerability of civilians in armed conflict.
- ♦ **Advocacy in response to harm** is designed for when you have information that civilians have experienced harm due to the conduct of a party to the conflict. While you may not have sufficient information to suggest a failure to respect IHL, it allows you to **raise concerns** in response to harm and remind parties of their obligations.
- ♦ **Advocacy suggesting a failure to respect IHL** is reserved for situations where you have assessed the rules in detail, including applicable exceptions or caveats. It allows you to explain how the conduct appears to violate IHL and, where appropriate, respond to attempted **denials or justifications** by the offending party.

Within our advocacy guidance, you will find **key tips** for humanitarian actors and guidance on using appropriate language to advocate with credibility based on your **level of confidence**.

Category 2 flowchart

The following flowchart provides you with an overview of Category 2. You can use it to guide you directly to the relevant protection concern you may have.



Humanitarian assistance

If you have concerns that:

- Humanitarian assistance is being refused or obstructed?
- Humanitarian assistance is being diverted or pillaged?
- Humanitarian personnel or objects are being intentionally attacked?

Go to Chapter 1:
Denying Access to Humanitarian Assistance



Objects indispensable to the survival of civilians

If you have concerns that:

- Objects indispensable to the survival of civilians are being attacked, destroyed, or rendered useless?

Go to Chapter 2:
Harm to Objects Indispensable to the Survival of Civilians



Starvation

If you have concerns that:

- Civilians are at risk of starvation?
- Starvation is being used as a method of war?

Go to Chapter 3:
The Prohibition of Starvation



Medical services

If you have concerns that:

- Medical personnel, units, or transports are being harmed or intentionally targeted?

Go to Chapter 4:
Harm to Medical Services



Education

If you have concerns that:

- Schools are being attacked?
- Children are being denied access to education?
- Education services are operating in a discriminatory or culturally insensitive manner?

Go to Chapter 5:
Denying Access to Education



CHAPTER 1



Chapter 1: Denying Access to Humanitarian Assistance



Overview

You are here because you have concerns that humanitarian assistance is not reaching those in need and/or humanitarian personnel or objects are being attacked. We will briefly define humanitarian assistance under IHL and then explain how to navigate this section.

What is humanitarian assistance?

You will already have a solid understanding of what constitutes humanitarian assistance. The purpose here is to emphasise three important points about its meaning under IHL.

3. IHL says that where the needs of civilians are not being met, parties to the conflict must facilitate humanitarian aid to those in need, such as food, water, medical supplies, shelter, bedding, and other essential services and supplies.¹ This definition is **non-exhaustive** and **context-specific**, meaning that the determination of what qualifies as humanitarian assistance depends on the needs of the individuals within the affected population
4. Humanitarian assistance should be interpreted broadly, encompassing a wide range of needs tailored to individuals based on factors such as gender, age, and disability or health status. It includes mobility devices including wheelchairs and walking sticks, glasses and hearing aids, fuel, electricity, transport, and all

humanitarian activities that are aimed at preserving life, alleviating human suffering, and addressing essential needs.

5. Humanitarian assistance must comply with the principles of **humanity** and **impartiality**, which means that the assistance must have a **humanitarian purpose** (humanity) and must be delivered to those in need without **adverse distinction** (impartiality).² Where these principles are adhered to, it is often referred to as **principled humanitarian assistance**.

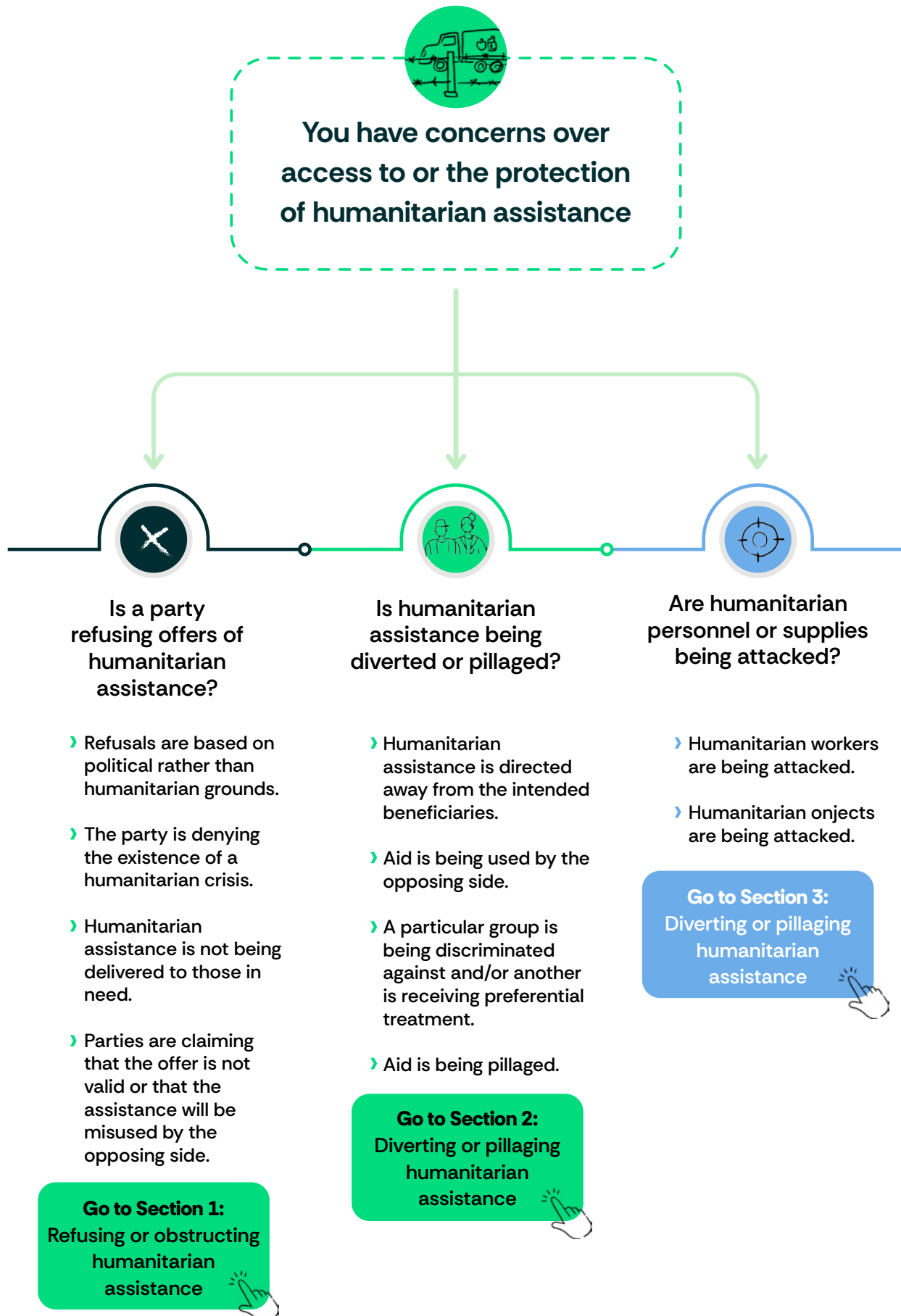
Why does this definition matter? The determination of whether aid qualifies as principled humanitarian assistance under IHL carries legal consequences. Parties to a conflict are only obliged to accept and facilitate principled humanitarian assistance where the needs of civilians are not being met.

How to navigate this chapter

This chapter will guide you on how to use IHL rules on humanitarian assistance as part of your humanitarian advocacy. It provides you with a step-by-step approach for assessing the situation and determining which IHL rules may assist you in advocating for greater humanitarian protection. These rules can be broken down into the following three main protection concerns:

1 ICRC, CIHL Database, Rule 55; AP I, Art 70(1); AP II, Art 18(2); GC IV, Arts 23, 59, 60, 61.

2 OCHA, 'Message on Humanitarian Principles', July 2022.



1.1 Refusing, obstructing, or denying access to humanitarian assistance



➤ You are here because you have concerns that a party to the conflict is **rejecting** offers of humanitarian assistance, failing to **facilitate** it to those in need, or **denying** civilian access.

1

DEFINITION AND SCOPE

Defining the prohibition on arbitrarily refusing, obstructing, or denying access to humanitarian assistance.

2

ASSESSING THE HARM

Indicators and examples to help you conduct an IHL-informed assessment of whether a party has arbitrarily refused, obstructed, or denied access to humanitarian assistance.

3

EXCEPTIONS OR CAVEATS

Guidance to help you assess whether the refusal or obstruction of humanitarian assistance is justified by one of the applicable exceptions or caveats.

4

ADVOCACY GUIDANCE

Tailored guidance relevant to each stage of your assessment, offering key tips and messaging for conducting IHL-informed advocacy on the prohibition on denying access to humanitarian assistance.

1

DEFINITION AND SCOPE

There are three components to the prohibition on denying humanitarian assistance.

First, parties to a conflict are prohibited from **arbitrarily refusing offers of humanitarian assistance**.³ This prohibition is sometimes framed as a positive obligation to **accept impartial humanitarian assistance where the needs of civilians are not being met**. Both formulations are accurate descriptions of the law. The scope of this obligation can be broken down into three components:

- ◆ The **needs of civilians are not being met**, remembering that the civilian population is diverse and will include infants, children, pregnant, nursing and post-partum mothers, older persons, women and men, and persons with disabilities.
- ◆ The party has **received offers** of humanitarian assistance.

3 ICRC, CIHL Database, Rule 55; AP I, Art 70(1); AP II, Art 18(2); GC IV, Arts 23, 59.

- ◇ That assistance **must be accepted**, provided it complies with humanity and impartiality. Refusing an offer of impartial assistance where **the needs of civilians are not** met is arbitrary and unlawful.⁴

Second, parties are prohibited from **obstructing the delivery of humanitarian assistance**. This means that parties are not allowed to block or unduly delay the delivery of assistance that has already arrived in the relevant territory.⁵

Finally, parties are prohibited from **denying civilians the ability to access** to such assistance.

We will guide you through each of these issues in turn.

2

ASSESSING THE HARM

In a moment, we will look at examples that suggest a party to a conflict may be unlawfully refusing, obstructing, or denying access to humanitarian assistance. Before that, it is worth highlighting possible **early warning signs** that civilians are at risk from a lack of access to humanitarian assistance.

CONSIDER CONCERNING TRENDS OR EARLY WARNING SIGNS

Monitoring for early warning signs or concerning trends that a party to a conflict may seek to deny humanitarian aid can provide you with important opportunities for early intervention. Such intervention can promote greater compliance with the law and help prevent civilian harm. Early indicators that a party may deny humanitarian assistance can include the following scenarios:

- Recently transitioned or transitioning states (to a new government) may be more likely to publicly refuse aid and insist on their own ability to meet the needs of civilians, as the new government wants to demonstrate its capacity to govern and provide for its people without help. Where such ability is overstated, it can lead to unlawful refusal or obstruction.
- If a state or non-state armed group is known to harbour mistrust of foreign cooperation and suspicion of underlying political interference from humanitarian actors, or does not have sufficient structures in place to facilitate external support, that party may pose a particular risk of unlawfully refusing or obstructing humanitarian aid.
- Where a non-state armed group controls territory to the exclusion of the state, the state party may be more likely to unlawfully refuse humanitarian access to the territory under the control of the armed group in an attempt to undermine the latter's governance capacity.
- If a conflict is divided on ethnic, religious, or political lines – especially where such groups are geographically separated – parties to the conflict may be more likely to unlawfully refuse aid to certain groups based on their perceived allegiances.
- Demands for control over aid targeting, beneficiary lists, or distribution channels, as well as attempts to co-opt aid delivery through state or affiliated actors, may suggest that the receiving party is poised to unlawfully interfere with and obstruct the delivery of aid.

4 ICRC Commentary on AP I (1987), Art 70, para 2803 (“...once the conditions laid down by Article 70 are fulfilled, relief actions may be undertaken and the parties must allow them to take place”); ICRC, 2020 [Commentary on Common Article 3](#), paras. 874-875. (“No valid reasons to refuse such an offer exist ... when the Party to which the offer of services is made is not able to address the humanitarian needs itself.”); Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict (2016), para 44 (“...a refusal to consent to a relief operation that meets the cumulative conditions set out under international humanitarian law would be arbitrary and therefore unlawful”).

5 ICRC, CIHL Database, Rule 55; AP I, Art 70(1); AP II, Art 18(2); GC IV, Arts 23, 59.



Having considered possible early warning signs, we now turn to examples that suggest an unlawful refusal or obstruction of humanitarian assistance has occurred. Under IHL, parties to the conflict must accept offers of **impartial** humanitarian assistance where the **needs of civilians are not met** and facilitate it to those in need in a timely manner. Restrictions on aid convoys and the freedom of movement of humanitarian personnel can only be imposed in circumstances of imperative military necessity - for example, in the case of a military operation in a particular location, and even then, only temporarily.⁶

The next table provides several scenarios that suggest unlawful refusal or obstruction of humanitarian assistance and directs you to the appropriate IHL rule to use as part of your advocacy.⁷

⁶ API, Art 70 (3).

⁷ The majority of the examples provided have been extracted from the UN fact-finding missions and commissions of enquiry, as well Human Right Reports, including the following: OHCHR, UN Security Council Briefing: 'Shocking Increase in Denial of Access to LifeSaving Humanitarian Aid for Children in Conflict Zones Worldwide', SC/15651, 3 April 2024; OCHA, UN Reports of Israeli Obstruction and Violence in Aid Operations in Gaza (2025); UNICEF / CAAC, Background Note on Denial of Humanitarian Access in the CAAC Agenda (2025); UN-WGCAAC, Report to UN Member States, April 2024.

Examples of refusing or obstructing of humanitarian assistance

Scenario

Factual scenario involving the refusal or obstruction of humanitarian assistance.

Assessment and advocacy

Depending on your assessment of the situation and the reliability of the information you have obtained, it may be appropriate to include this IHL rule in your advocacy.



A party to the conflict appears to have **failed** to meet the needs of the civilian population, as demonstrated by a **needs assessment**. Despite this, that party appears to be refusing offers of **impartial** humanitarian assistance.⁹

This scenario suggests a **failure to respect IHL**. If a party is unable or unwilling to meet the needs of civilians and has received offers of impartial humanitarian assistance, it is required to provide its consent.



A party to the conflict appears to be refusing or obstructing humanitarian assistance in a manner that will lead to another **violation** of international law, such as starvation of civilians, collective punishment, or a denial of fundamental human rights.¹⁰

This scenario suggests a **failure to respect IHL**. It is unlawful to refuse offers of impartial humanitarian assistance that result in the refusing party violating its other fundamental obligations under international law.



A party is refusing to accept or facilitate aid with the **intent** or **effect** of **discriminating** against a particular group or section of the population. For example, systematically rejecting offers of humanitarian assistance for crisis affected regions populated by ethnic groups perceived as politically favouring the opposition.¹¹

This scenario suggests a **failure to respect IHL**. It is unlawful to selectively withhold consent with the intent or effect of discriminating against a particular group or section of the population.



A party to the conflict appears to be refusing to facilitate access to impartial humanitarian assistance, claiming it will interfere with its military operations.

This scenario is **ambiguous**. A party is legally able to temporarily refuse access to some relief consignments where it is justified by imperative military necessity, for example where there is an ongoing military operation in the relevant area.¹² However, issuing a blanket refusal humanitarian assistance on grounds of military necessity is arbitrary and unlawful.¹³

8 ICRC, [2020 Commentary on Common Article 3](#), para 873; [Oxford Guidance on Humanitarian Relief](#), paras. 43-54; Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, UN doc (1 August 2010), para. 81.

9 [Oxford Guidance on Humanitarian Relief](#), para. 51.

10 Dapo Akande and Emanuela-Chiara Gillard, 'Arbitrary Withholding of Consent to Humanitarian Relief Operations in Armed Conflict' 92 International Law Studies (2016) 483, p. 9; [Oxford Guidance on Humanitarian Relief](#), para. 51.

Examples of refusing or obstructing of humanitarian assistance

Scenario

Factual scenario involving the refusal or obstruction of humanitarian assistance.

Assessment and advocacy

Depending on your assessment of the situation and the reliability of the information you have obtained, it may be appropriate to include this IHL rule in your advocacy.



A party appears to be refusing or obstructing the delivery of aid to territory controlled by a NSAG on grounds of counterterrorism; to undermine the group's political ambition or legitimacy; to punish the NSAG; or based on unfounded claims that the assistance would be used to finance or assist the NSAG's military.¹⁴

This scenario suggests a **failure to respect IHL**. A party is prohibited from refusing impartial assistance for 'arbitrary or capricious reasons'¹⁵ or in a manner that is unreasonable, unjust, or disproportionate in the circumstances.¹⁶ Refusing aid for political reasons and/or denying it to civilians as a means of punishing the opposing party is arbitrary and unlawful.



A party to the conflict appears to be refusing or obstructing humanitarian assistance due to allegations that the provider is seeking to interfere politically or that it will not deliver aid impartially.

This scenario is **ambiguous**. A party may lawfully refuse assistance if the offer is not compliant with the principles of humanity or impartiality. However, a refusal may be arbitrary where there is no basis to the allegation of political interference, especially where the party has shown it is capable of delivering aid with humanity and impartiality.



A party to the conflict appears to be obstructing humanitarian aid by confiscating humanitarian objects or resources, restricting movement of humanitarian workers, interfering with the hiring practices of humanitarian organisations, and/or imposing excessive checkpoints, security searches, visa restriction, or inspections.

This scenario is **ambiguous**. Parties are allowed to exercise control over the facilitation of aid and conduct necessary security and administrative checks (see exceptions or caveats below), but these must not amount to obstruction. Ultimately, the party must take measures to ensure that the assistance actually reaches those in need.



KEY TAKEAWAY

The above scenarios are designed to help you assess whether a party may have unlawfully refused or obstructed humanitarian assistance. If you would like tailored support on the situation you are monitoring, please contact our advisory service.

11 Article 71(3) AP I; [Oxford Guidance on Humanitarian Relief](#), para. 61.

12 ICRC, [2020 Commentary on Common Article 3](#), para. 877.

13 Claudia McGoldrick, 'The Future of Humanitarian Action: An ICRC Perspective' (2011) 93(884) *International Review of the Red Cross* 965, p. 973.

14 ICRC Commentary to the APs para. 2805; ICRC 2020 commentary to Common Article 3, para. 871-873.

15 Human Rights Council, General Comment No. 35, Liberty and Security of Person (Art. 9), UN doc CCPR/C/GC/35, 28 Oct 2014, paras 11 and 12; [Oxford Guidance on Humanitarian Relief](#), para. 53-54.

Even where aid is delivered to affected areas, civilians may be effectively deprived of access due to active hostilities, movement restrictions, checkpoints, abandoned anti-personnel mines, or the targeting of those attempting to reach aid. These barriers can make it dangerous or impossible for civilians to obtain food, water, medicine, or other essentials, particularly in remote or contested areas. This form of obstruction, though sometimes less visible, can have equally devastating consequences and may reflect broader patterns of conduct that violate IHL—especially when it disproportionately impacts vulnerable populations or forms part of a deliberate strategy to starve or displace civilians.

Scenario	Assessment and advocacy
 Civilians are unable to reach a distribution site due to ongoing shelling in the surrounding area.	Under IHL, parties must take all feasible precautions to protect civilians during military operations.¹⁹ Continued shelling that prevents safe access to aid may breach this obligation. Advocacy should focus on the need for temporary ceasefires, safe corridors, or deconfliction mechanisms to enable access.
 A military checkpoint consistently turns civilians back from accessing an aid centre located in an opposition-controlled area.	Arbitrary denial of movement through checkpoints that prevents civilians from accessing essential aid may violate the obligation to facilitate humanitarian relief and the principle of distinction.²⁰ Advocacy can call for checkpoint procedures that prioritise humanitarian access and civilian movement.
 Civilians attempting to collect food or water are shot at or intimidated by armed actors.	Direct attacks or threats against civilians attempting to access aid violate the prohibition on targeting civilians and may amount to use of starvation as a method of warfare.²¹ Advocacy should highlight these violations and call for guarantees of safe passage.
 Widespread presence of abandoned anti-personnel mines prevents access to wells and farmland.	Parties must clear and mark mines and other explosive remnants of war.²² The inability of civilians to safely reach aid due to uncleared mines points to a failure to meet this obligation. Advocacy can push for mine clearance, marking, and risk education in humanitarian access routes.
 Aid has arrived at a town, but civilians from neighbouring communities are blocked from entering the town to access it.	Blocking civilians from crossing into aid-accessible areas may amount to arbitrary denial of access and collective punishment, both prohibited under IHL. Advocacy should emphasise non-discrimination and the need for equitable access to assistance, regardless of where civilians reside.

16 ICRC, CIHL Database, Rule 15;

17 ICRC, CIHL Database, Rule 55;

18 AP I, Art. 51; Rome Statute Art. 8(2)(b)(xxv).

19 ICRC, CIHL Database, Rules 81-83.



The next section covers legal **exceptions or caveats**. You may not have the resources to assess whether these apply – and that’s okay. You can still **raise concerns**

based on observable harm and conduct. You will find tailored suggestions that reflect where you got to in your IHL-informed assessment in **section Advocacy guidance**.

3

EXCEPTIONS OR CAVEATS

In this section, we will help you assess whether a party’s actions may have been justified under IHL, or whether there is information to suggest that a legal exception or caveat is being **exploited** by that party.

Where parties deny or obstruct humanitarian assistance, they may attempt to justify their conduct. Under IHL, a party will be justified in refusing to accept or facilitate humanitarian assistance where:

4. the needs of the civilian population have been met or will be met through other means
5. the offer of assistance is not in accordance with the fundamental principles of humanity and impartiality
6. the offer is otherwise not suited to the needs of the population, or
7. it is conducting necessary security checks on the contents of aid consignments.

We will guide you through each of these exceptions in turn.

(1) The needs of the civilian population have been or will be met through other means

A party to a conflict is not required to accept offer of humanitarian assistance if the needs of the civilian population are or will be fulfilled by other means.²⁰ A party may claim that it has the ability to respond to the humanitarian situation

itself, or that it will accept assistance from other actors. In such situations, it is important to recall that whether or not the needs of the civilian population have been met is a factual assessment. Where civilians continue to suffer from lack of access to essential services and supplies, it will be a clear indication that the state or other party to the conflict failing to meet their needs. If this is the case, the party’s claim that it has the situation under control might be disingenuous and the refusal of assistance may be unlawful.

On the other hand, if there are indications that a party is meeting the needs of civilians through other means, it will be lawfully justified in refusing an offer of humanitarian assistance.

(2) The offer does not comply with the fundamental principles of humanitarian assistance

A common justification for refusing humanitarian assistance is to claim that the offer did not comply with the fundamental principles of humanity, impartiality, neutrality, or independence. This area of law can be difficult to navigate because the meaning ascribed to these terms is not always consistent.

Humanity requires that the purpose of the assistance is to alleviate human suffering. When would a party be justified in refusing an offer of assistance on the basis that it does not comply with humanity? Here are some examples:

- ♦ The aid will not be provided in a manner that respects the human rights and dignity of the recipients.
- ♦ Humanitarian access is made conditional upon receiving favours or personal benefit.
- ♦ It is not determined by humanitarian need and/or is adversely influenced by political or other factors. For example, the aid is used as a cover to interfere politically.²¹

Impartiality requires aid to be delivered to those

²⁰ ICRC, CIHL Database, Rule 55; AP I, Art 70(1); AP II, Art 18(2); GC IV, Arts 23, 59; ICRC Commentary on AP I (1987), Art 70, para 2809; Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict (2016), para 80.

²¹ ICRC Commentary on AP I (1987), Art 70, para 2804; Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict (2016), para 77.

in need without adverse distinction. Examples that do not comply with the principle of impartiality and may be lawfully rejected include situations where:

- ◇ The offer is only directed at civilians from a particular segment of the population
- ◇ The offer is contingent upon religious or political conversion (would also violate humanity)
- ◇ The actor delivering the assistance that has shown a propensity to give preferential treatment to certain social, racial, religious, political, or ethnic groups, thereby adversely discriminating against other such groups.²²

WHAT ABOUT NEUTRALITY AND INDEPENDENCE?

It is important to distinguish between **humanity and impartiality**, on the one hand, and **neutrality and independence** on the other.

- **Humanity** and **impartiality** are legal prerequisites for aid to qualify as ‘humanitarian assistance’ under IHL. If the offer does not comply with humanity and impartiality, it is not humanitarian assistance under IHL and may be lawfully refused.
- **Neutrality** and **independence** are *operational principles*. Neutrality can be defined as a commitment not to engage in political controversies or take sides. Independence is a commitment to be autonomous from political, military, economic, or other objectives. These principles help in negotiating access to affected communities and in building trust within those communities. They are important and many organisations have committed to them, but they are not legally required under IHL.²³

Why does this matter?

This distinction matters because aid that fails to comply with humanity and impartiality is not humanitarian assistance under IHL and may be lawfully refused or obstructed at any time. By contrast, parties are prohibited from arbitrarily refusing impartial aid, even if the offering organisation or state is neither neutral nor independent.

Some organisations deliver impartial, purely humanitarian aid while also engaging in public advocacy or sharing an affiliation with a state or political entity. These organisation or entities may not be neutral or independent. However, if such aid is the only assistance available, and civilians will otherwise not have their needs met, it must be accepted by the parties and facilitated to those in need.²⁴ Refusing or obstructing aid in these circumstances is unlawful.

(3) The offer of assistance is unnecessary or inappropriate

A party will be justified in refusing humanitarian assistance that is ill-suited to the needs of the affected population. This determination will again depend on the factual needs assessment of the civilian population. The receiving party may be in an informed position to determine the precise nature of civilians’ needs and should be afforded a margin of appreciation. Nonetheless, independent needs assessments and monitoring can help ensure that humanitarian needs are not overlooked in favour of political or other factors.

²² Ibid.

²³ ICRC, [2020 Commentary on Common Article 3](#), para. 835.

²⁴ ICRC Commentary on AP I (1987), Art 70, para 2803 (“...once the conditions laid down by Article 70 are fulfilled, relief actions may be undertaken and the parties must allow them to take place”); ICRC, [2020 Commentary on Common Article 3](#), paras. 874-875. (“No valid reasons to refuse such an offer exist ... when the Party to which the offer of services is made is not able to address the humanitarian needs itself.”); Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict (2016), para 44 (“...a refusal to consent to a relief operation that meets the cumulative conditions set out under international humanitarian law would be arbitrary and therefore unlawful”).

(4) The refusing party is conducting necessary security or administrative checks

While parties have an obligation to facilitate humanitarian assistance to those in need without adverse distinction and in a **timely manner**, they have the right to control how humanitarian assistance is delivered, conduct security checks, and impose certain technical arrangements.²⁵ This is often referred to as the **right of control**.

In exercising their rights of control, parties to a conflict are entitled to:

- ♦ ensure that the delivery of aid is exclusively humanitarian in nature, which can include inspecting relief consignments to confirm that they do not contain weapons or military equipment.
- ♦ supervising the facilitation of humanitarian assistance to ensure that it is delivered impartially without adverse distinction.²⁶
- ♦ protect humanitarian workers by directing them away from active combat zones
- ♦ proscribe certain routes and modalities so that the delivery of aid does not unnecessarily interfere with military operations
- ♦ ensuring that humanitarian relief supplies and equipment meet minimum health and safety standards.²⁷

Possible exploitation of exceptions

A party may claim that blocking humanitarian aid is not unlawful obstruction but rather the lawful exercise of their **rights of control**. This

may involve refusals to deliver items that they say pose an unacceptable security risk to their armed forces, claiming that the relief consignments will be diverted or used for military purposes by the opposing side.

Dual-Use Items and Security Claims

Blocking dual-use items can be lawful—but only under strict conditions. The risk of military use must be clearly **substantiated and proportionate**. Humanitarian actors should remain alert to:

- ♦ **Overbroad or vague justifications** that lack evidence.
- ♦ Patterns of obstruction framed as security control, but which systematically deprive civilians of essential goods.

If these conditions are not met, the refusal likely amounts to **unlawful obstruction**, not a lawful exercise of control.

Diversion, Pillage, and Blanket Refusals

Parties may also cite concerns that the opposing side will intercept or misuse humanitarian aid. While diversion is a legitimate concern, it **cannot justify blanket refusal** of assistance. Instead, IHL expects the party to:

- ♦ Implement practical risk mitigation (e.g. monitoring, escorts, adjusted delivery routes).
- ♦ **Ensure aid still reaches the civilian population**, even in contested areas.

Technical Arrangements

Technical arrangements—such as inspection procedures or coordination mechanisms—are part of legitimate control. But they must not be manipulated to delay, block, or deter aid efforts. If a party imposes **excessive administrative burdens** or acts in bad faith, this may breach the obligation to ensure:

²⁵ ICRC, CIHL Database, Rule 55; API, Art 70(3); API II, Art 18(2); GC IV, Arts 23, 59; ICRC Commentary on API (1987), Art 70, para 2803.

²⁶ API I, Art 70(3)(a); GC IV, Art 23.

²⁷ UNOCHA, [Oxford Guidance on Humanitarian Relief](#), October 2016, paras 66–69.

- ♦ **Rapid and unimpeded humanitarian access**, and
- ♦ The **prohibition on arbitrary obstruction**.



KEY TAKEAWAY

Facilitating humanitarian assistance is an obligation of result. This means that the aid must reach those in need, without delay. The right of parties to control the delivery of assistance and impose technical arrangements only regulates how such assistance is delivered; it does not allow the receiving party to renege on its obligation or cause unnecessary delays.

4



ADVOCACY GUIDANCE

In this section, we take what you have learned from your IHL-informed assessment (above) and offer the following three stages of advocacy guidance:

- ♦ **Preventative advocacy** – remind parties of their IHL obligations before a violation occurs, especially when risks or early warning signs are present.
- ♦ **Advocacy in response to harm** – raise concerns about harm and the conduct of the relevant party, without suggesting a violation of IHL.
- ♦ **Advocacy suggesting a failure to respect IHL** – raise concerns about a possible IHL violation where you have assessed all elements of the rule, including any exceptions or caveats.

When suggesting a failure to respect IHL, you will find language suggestions crafted to reflect your **level of confidence** (limited, moderate, or high), based on the extensiveness of your IHL-informed assessment and the quality of information you have received.



PREVENTATIVE ADVOCACY



Purpose: Promote respect for IHL and help prevent violations before they occur. Highlight concerning trends or early warning signs where applicable.

Key tips

- **Build relationships** with community leaders and local populations to understand pre-existing needs and gaps in access to essential services.
- **Engage with communities** to raise awareness of their rights and the obligations of the parties to the conflict.
- **Help parties understand** that ‘facilitation’ includes issuing permits, granting access, supporting logistics, ensuring safe passage, and cooperating with impartial humanitarian organisations.
- **Encourage** pre-authorised humanitarian corridors, pre-clearance of dual-use items, and standardised administrative procedures — reducing delays and points of obstruction.
- **Clearly communicate** the goals and principles of your organisation with relevant stakeholders.

Key messaging

- *All parties to the conflict are reminded of their obligation under IHL to meet the needs of the civilian population, including infants, children, pregnant, nursing and post-partum mothers, older persons, women and men, and persons with disabilities.*
- *All parties to the conflict are obliged under IHL to facilitate humanitarian assistance to those in need without adverse discrimination. Aid must be delivered without delay.*



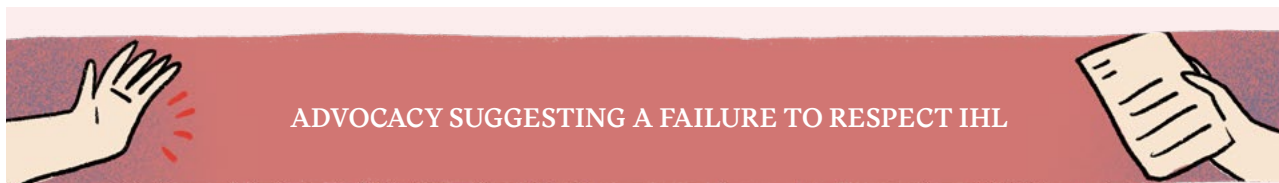
Purpose: Respond to conduct causing civilian harm without necessarily suggesting a failure to respect IHL.

Key tips

- **Highlight the humanitarian impact.** Focus on the consequences of access restrictions (malnutrition, loss of medical services) and contrast this with the positive benefits of fulfilling the obligation to facilitate aid to those in need.
- **Use neutral, fact-based language.** Avoid premature accusations. Highlight delays, denials, and impediments factually.
- **Encourage constructive alternatives.** Suggest options like monitored delivery, third-party oversight, or vetting of personnel or cargo to address legitimate concerns about diversion, security, or interference.
- **Amplify voices of affected communities.** Elevate stories from civilians or community leaders experiencing aid blockages to make the case for access more compelling and less confrontational.
- **Consider** tracking denials and obstructions of humanitarian assistance to assess trends or patterns in obstruction and denials. Joint tracking can be done by Access Working Groups or other relevant interagency forums where appropriate and available.

Key messaging

- *The available information raised [serious/significant] concerns that the civilians in [location] are suffering from a lack of access to essential services and supplies. There are concerning reports that aid is being [refused/stopped at checkpoints/delayed] and not reaching those in need.*
- *[Party X] is reminded of its obligation to facilitate humanitarian assistance to those in need without adverse discrimination. Aid must be delivered without delay.*



Remember: Even if you are unsure of whether an exception applies, you can still raise concerns over a failure to respect IHL. The burden is on the party engaging in seemingly unlawful conduct to justify that an exception to the rule applies.

Key tips

- **Articulate the legal threshold clearly.** Frame the message around the strictness of the obligation. Civilians must be provided access to humanitarian assistance. Parties to a conflict must facilitate it to those in need without adverse discrimination in a timely manner.
- **Anticipate common justifications.** Pre-empt denials or pushbacks by addressing the right of control but clearly articulating that it does not justify blanket refusals or unreasonable delay. The obligation is one of result: civilians must be provided with access to humanitarian aid.
- **Demonstrate arbitrariness or discrimination.** Emphasise patterns of denial that target specific communities, delay aid unnecessarily, or rely on vague or shifting justifications — strengthening the allegation of unlawful obstruction.
- **Consider collective advocacy.** Support advocacy through collective mechanisms (clusters, humanitarian country teams) or international bodies to amplify impact and credibility.

Key messaging

Tailor the messaging below in accordance with the guidance provided in the User Guide, supplementing it with details about the specific situation

Limited level of confidence

- *The available information raises concerns that [Party X] is failing to uphold its obligations under IHL to accept and/or facilitate humanitarian assistance to those in need without adverse discrimination and without delay.*
- *There are concerns that [Party X] is unlawfully obstructing humanitarian assistance. While parties have the right to control the distribution of aid and conduct necessary security checks, blocking or unreasonably delaying aid violates IHL. All parties are obliged to facilitate humanitarian assistance to those in need without adverse discrimination and without delay.*

Moderate level of confidence

- *The available information strongly suggests that [Party X] is failing to uphold its obligations under IHL to accept and/or facilitate humanitarian assistance to those in need without adverse discrimination and without delay.*
- *The available information strongly suggests that [Party X] is unlawfully obstructing humanitarian assistance. While parties have the right to control the distribution of aid and conduct necessary security checks, blocking or unreasonably delaying aid violates IHL. All parties are obliged to facilitate humanitarian assistance to those in need without adverse discrimination and without delay.*

High level of confidence

- *There are clear indications that [Party X] is failing to uphold its obligations under IHL to accept and/or facilitate humanitarian assistance to those in need without adverse discrimination and without delay.*
- *The claim by [Party X] that [explain justification or denial] appears invalid. While parties have the right to control the distribution of aid and conduct necessary security checks, blocking or unreasonably delaying aid violates IHL. All parties are obliged to facilitate humanitarian assistance to those in need without adverse discrimination and without delay.*



1.2 Diverting or pillaging humanitarian assistance

1

DEFINITION AND SCOPE

Defining the prohibition on diverting or pillaging humanitarian assistance.

2

ASSESSING THE HARM

Indicators and examples to help you determine whether a party is diverting or pillaging humanitarian assistance contrary to IHL.

3

EXCEPTIONS OR CAVEATS

Indicators and examples where exercising control over humanitarian assistance is justified under IHL. There are no exceptions or caveats to the prohibition on pillaging.

4

ADVOCACY GUIDANCE

Remind parties of the prohibition on diversion and pillaging and their obligation to facilitate rapid and unimpeded humanitarian assistance to those in need.

1

You are here because you are concerned a party to the conflict has diverted or pillaged humanitarian supplies. Our guidance on conducting IHL-informed assessments and advocacy is divided into the following sections.

DEFINITION AND SCOPE

Diversion is the redirection of humanitarian services or resources away from the intended beneficiaries towards a different target, whether that be the armed forces of a party to the conflict or a discrete sector of the civilian population. Under IHL, diversion is prohibited.²⁸ IHL also prohibits the **pillage** of property, including humanitarian supplies. Pillage is ‘the appropriation or obtaining of public or private property by an individual without the owner’s consent, in violation of international humanitarian law.’²⁹

The only caveats are that parties retain the right to control (and may therefore contest the allegation that they are diverting unlawfully) and that appropriations by a party to the conflict for reasons of military necessity are excluded from the definition of pillage. You will find guidance on these under section **Exceptions or caveats**.

²⁸ Customary IHL, Rules 55-56 ; GC IV, Art 23; AP I, Art 70(2) and AP II, Art 18(2). The prohibition on diversion derives from the obligation to facilitate rapid and unimpeded humanitarian assistance to those in need without adverse distinction.

²⁹ ICRC, 2016 Commentary on Article 15, GC I, para. 1494.

2

ASSESSING THE HARM

Here you will find examples to help you determine whether humanitarian assistance may have been diverted or pillaged contrary to IHL, and how you can best incorporate IHL as part of your humanitarian advocacy.

Diversion

There are two broad categories of aid diversion: (1) where aid is diverted through extortion (usually to benefit the offending party); and (2) where aid is diverted away from a particular sector of the population due to practice or policies of discrimination.

Unlawful Diversion of Humanitarian Aid Through Extortion

Extortion is a serious form of aid diversion that can take place at both the leadership and operational levels of armed actors. It may occur through formalised policies (e.g. within NGO coordination units) or be carried out by individuals or factions operating with limited oversight, such as checkpoint guards or local commanders.

Extortion typically involves pressuring humanitarian actors to make payments, use specific suppliers, or concede resources in exchange for access or protection. These practices compromise humanitarian principles and often amount to violations of IHL.

Common forms of extortion-based diversion include:³⁰

♦ Forced procurement arrangements:

Humanitarian actors are compelled to use certain contractors (e.g. for food, water, or building materials), allowing affiliated businesses to skim off profits or pay kickbacks to the group in control.

- ♦ **Registration or project-based ‘taxes’:** Authorities impose mandatory fees for NGO registration or introduce taxes on new health, education, or infrastructure projects — including those exclusively intended for humanitarian purposes.
- ♦ **Protection payments:** Aid organisations are required to pay unofficial fees to secure safe passage through checkpoints or areas controlled by the group.
- ♦ **Inflated consultancy or overhead costs:** Groups pressure organisations to allocate humanitarian funding to pay politically connected foreign consultants, or to cover inflated overheads not related to delivery.
- ♦ **Confiscation of aid or services:** Armed actors take a portion of humanitarian supplies or demand services (e.g. medical treatment, food distribution) for themselves or their affiliates.
- ♦ **Political or military conditionality:** Access to aid is made contingent on supporting, endorsing, or promoting the political or military objectives of the party controlling the territory.

Unlawful Diversion of Humanitarian Aid Through Discrimination

In some contexts, humanitarian assistance is unlawfully diverted or withheld based on the perceived identity, political affiliation, or loyalty of the intended beneficiaries. This form of diversion often serves discriminatory or coercive purposes and may amount to collective punishment or persecution, in violation of IHL.

Discrimination-based diversion can include both overt policies and informal practices,

30 UN OCHA, ‘Yemen Humanitarian Response Plan (HRP) Extension June – December 2020’ (June 2020) p. 13; UN Security Council, *Final Report of the Panel of Experts on Yemen*, Doc. S/2023/130 (21 February 2023) p. 41; Diakonia IHL Centre, ‘Protection of the Civilian Population: Humanitarian Assistance and Access in Armed Conflict’ (June 2023), p. 49; Ashley Jackson, ‘Aid Diversion in Afghanistan: Is it Time for a Candid Conversation?’ Afghanistan Analysis Network, p. 10; Lena Schellhammer, ‘Breaking the Silence: Lessons from humanitarian access negotiations under counter-terrorism legislation in north-western Syria’, Centre for Humanitarian Action (March 2021).

and may be implemented through control over access points, beneficiary lists, or local distribution networks.

Common discriminatory practices include:

- ♦ **Manipulating beneficiary selection:** Authorities interfere with aid registration or distribution to prioritise individuals affiliated with their political party, movement, or ethnic/religious group — such as family members, friends, or supporters.
- ♦ **Geographic or identity-based exclusion:** Aid is redirected away from particular regions, communities, or identity groups (e.g. ethnic minorities, religious groups, or LGBTI individuals) as a form of marginalisation or reprisal.
- ♦ **Conditionality of political allegiance:** Beneficiaries are required to pledge loyalty, provide political support, or refrain from criticism in order to access humanitarian assistance.
- ♦ **Punitive withholding of aid:** Assistance is deliberately denied to sections of the population as a form of collective punishment, coercion, or to further political or military objectives.

Pillage

Humanitarian supplies, like any goods, may be at risk of being pillaged during an armed conflict. The factual assessment of whether humanitarian supplies have been pillaged will be relatively straightforward. Where it appears that humanitarian supplies have been taken, stolen, looted, or removed without the consent of the humanitarian provider, there is cause for concern that these supplies have been pillaged. Equally, humanitarian buildings, facilities, and vehicles are sometimes unlawfully appropriated contrary to the prohibition on pillaging.

Pillaging can be perpetrated by anyone during an armed conflict. It may be a party to the conflict that is responsible, an individual, or a criminal network. Where the conduct is perpetrated by a party to the conflict, it will have a sufficient connection to the conflict and will be regulated by IHL. If committed by individuals, criminal networks or other private actors, it may need to be shown that the act was sufficiently connected to the conflict by demonstrating that the armed conflict played a part in the perpetrator's ability and/or motivation to take the humanitarian supplies.

3 EXCEPTIONS OR CAVEATS

There are no exceptions to the prohibitions on pillaging or diverting humanitarian supplies. However, there are some caveats or possible justifications that you should be aware of.

- ♦ **The right of control:** Remember that parties are entitled to control the delivery of humanitarian assistance, choose certain supply routes, ensure that it is facilitated in accordance with humanity and impartiality, and generally supervise and impose certain technical and administrative arrangements. A party may therefore reject the allegation of diversion, claiming instead that it is lawfully exercising its **right of control**.
- ♦ **Appropriations justified by military necessity:** A party to the conflict may claim that it was justified in appropriating humanitarian supplies due to military necessity. Under IHL, appropriations justified by **military necessity** do not constitute pillaging.³¹ This distinction operates as a very narrow caveat and will only apply in extreme cases. Where humanitarian supplies have been taken, it is appropriate to raise concerns that a

31 1907 Hague Regulations, Arts 23(g) and 52-53; GC IV, Art 55; Customary IHL Database, Rules 50-51.

party may have unlawfully pillaged or diverted those supplies. It is the responsibility of the party taking the humanitarian supplies to justify its actions as lawful.

Monitoring this distinction will require you to look closely at the situation on the ground to assess whether any interference by a party to the conflict is the legitimate exercise of control rights or unlawful obstruction or diversion.

4



ADVOCACY GUIDANCE

In this section, we take what you have learned from your IHL-informed assessment (above) and offer the following three stages of advocacy guidance:

- ♦ **Preventative advocacy** – remind parties of their IHL obligations before a violation occurs, especially when risks or early warning signs are present.
- ♦ **Advocacy in response to harm** – raise concerns about harm and the conduct of the relevant party, without suggesting a violation of IHL.
- ♦ **Advocacy suggesting a failure to respect IHL** – raise concerns about a possible IHL violation where you have assessed all elements of the rule, including any exceptions or caveats.

When suggesting a failure to respect IHL, you will find language suggestions crafted to reflect your **level of confidence** (limited, moderate, or high), based on the extensiveness of your IHL-informed assessment and the quality of information you have received.

Are you monitoring a situation of international armed conflict? You can find additional guidance relevant to detaining powers at the end of this section. These rules impose more comprehensive requirements applicable in international armed conflicts, but they can also provide a framework for strengthening your advocacy in any type of conflict.



PREVENTATIVE ADVOCACY

Purpose: Promote respect for IHL and prevent violations before they occur. Highlight concerning trends or early warning signs where applicable.

Key tips

- **Engage authorities early on dual-use concerns.** If parties fear aid might be misused by enemy forces, consider negotiating practical, transparent solutions — such as sealed containers, GPS-tracked convoys, or third-party monitoring.
- **Build relationships with stakeholders.** If applicable, consider advocating for local authorities or armed actors to make commitments that aid will not be interfered with — and reference those commitments in all logistics agreements.
- **Assess patterns of coercion or political pressure.** Watch for warning signs like arbitrary taxation, demands for registration, or the forced hiring of specific vendors.
- **Collective advocacy.** Consider coordinating with other humanitarian actors and donors to establish red lines, jointly document risks of diversion, and push back against attempts to normalise exploitative practices.

Key messaging

- *All parties to the conflict are reminded that diverting or pillaging humanitarian assistance is strictly prohibited under IHL.*
- *Humanitarian assistance must be allowed to reach the intended civilian population, without manipulation, redirection, or appropriation for political or military benefit.*
- *Emerging patterns of interference with humanitarian aid delivery — including requests for payments, redirection of resources, or beneficiary discrimination — raise concerns and must be addressed immediately.*



ADVOCACY IN RESPONSE TO HARM

Purpose: Respond to conduct causing civilian harm without necessarily suggesting a failure to respect IHL.

Key tips

- **Emphasise the humanitarian impact.** Frame the issue around harm to civilians. Explain the consequences of diversion and pillaging of humanitarian supplies and link it to the obligation to ensure civilians have access to essential goods and services.
- **Seek explanations and build clarity.** Ask parties why aid was delayed or withheld, and seek documentation or justifications. This keeps the dialogue open and can expose weak or unlawful rationales without prematurely alleging violations of IHL.
- **Avoid politicisation of the message.** Where diversion may be politically motivated, avoid echoing politically charged claims. Instead, focus on unmet needs and the shared humanitarian interest in stable distribution.
- **Offer practical solutions.** Suggest ways to reduce risks of misuse without halting aid, such as community-based distribution, neutral branding, or third-party observation.
- **Needs assessments.** Conducting needs assessments in collaboration with local actors can support your organisation if you need to defend your selection criteria in the face of attempted diversion.

Key messaging

- *There are concerning reports that humanitarian assistance is being redirected away from certain communities, or that parties are demanding payment or favours for safe passage or distribution.*
- *Humanitarian assistance must be delivered to those in need, without redirection, interference, or exploitation. We urge all parties to uphold their obligations and remove any barriers to aid reaching civilians.*



Purpose: Suggest a failure to respect IHL based on a complete and contextually specific assessment of the rule(s), including the exceptions and/or caveats.

Remember: Even if you are unsure of whether an exception applies, you can still raise concerns over a failure to respect IHL. The burden is on the party engaging in seemingly unlawful conduct to justify that an exception to the rule applies.

Key tips

- **Anchor the claim in specific IHL provisions.** Connect the conduct with the explicit prohibitions under IHL against pillaging and diversion.
- **Anticipate common justifications or denials.** Parties may inspect aid for security, but they cannot seize, tax, or reallocate assistance for their own benefit or to punish civilians. Be prepared to counter vague claims like ‘logistical delays’ or ‘coordination issues’ with observed patterns of interference or contradictory behaviour, reminding parties that aid must reach intended beneficiaries without delay.
- **Document discriminatory patterns or extortion.** If diversion favours one political group or extracts financial gain from NGOs, this can also amount to adverse distinction or extortion under IHL and human rights law.

Key messaging

Tailor the messaging below in accordance with the guidance provided in the User Guide, supplementing it with details about the specific situation

Limited level of confidence:

- *The available information raises concerns that [Party X] may be interfering with humanitarian assistance by [diverting/pillaging] aid intended for civilians.*
- *While security controls are permitted, the redirection or misuse of aid violates IHL. Parties must not divert, pillage, or exploit humanitarian assistance.*

Moderate level of confidence:

- *The available information strongly suggests that [Party X] is unlawfully interfering with humanitarian assistance through [diversion/misappropriation/pillage/extortion].*
- *Under IHL, humanitarian assistance must reach its intended beneficiaries without interference. Redirection for political or military purposes constitutes a violation of IHL.*

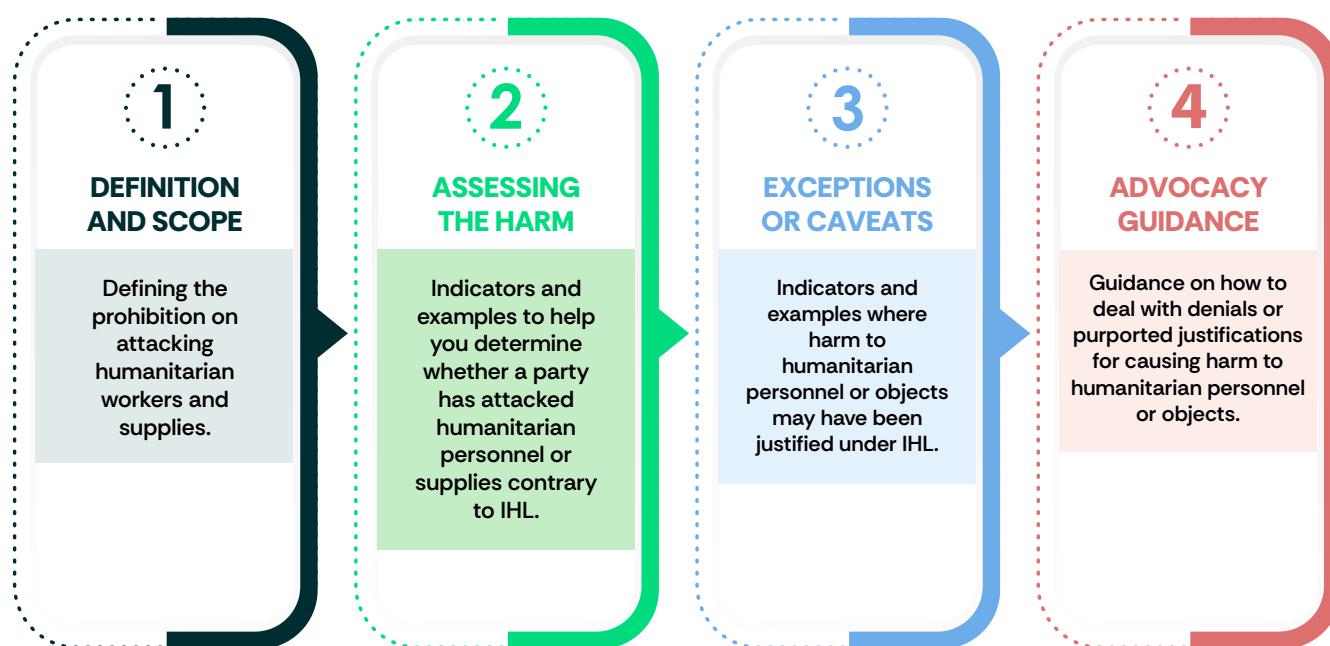
High level of confidence:

- *The available information clearly shows that [Party X] is [diverting/pillaging] humanitarian aid in violation of IHL.*
- *While parties may inspect aid, there is no legal justification for reappropriating relief supplies for their own use or to reward loyalists or punish others. This conduct must cease immediately.*



1.3 Attacking humanitarian personnel or objects

You are here because you have concerns that humanitarian workers or objects have been attacked or at risk of attack. Under IHL, humanitarian personnel, convoys, supplies, and all objects necessary for the delivery of essential humanitarian aid are protected and must not be attacked. If you have concerns that the parties to the conflict may be failing to respect these obligations, this section can help you determine whether and to what extent you can incorporate IHL as part of your humanitarian advocacy.



KEY POINT

There is another type of humanitarian object that is protected from attack – under IHL these are called ‘objects indispensable to survival of the civilian population’ or OIS. As the name suggests, they are things that are essential for the survival of the civilian population like water plants, food crops, or electricity sources. Because these objects have elevated protection under IHL, we deal with them separately. You can find step-by-step guidance on responding to harm to OIS in [Chapter 2: Objects indispensable to the survival of civilians](#).

1

DEFINITION AND SCOPE

Humanitarian personnel include all workers engaged by humanitarian organisations to carry out humanitarian operations and activities. **Humanitarian objects** and activities include all goods and services necessary for the survival and immediate wellbeing of persons affected by armed conflict.

Under IHL, attacking humanitarian personnel and objects is strictly prohibited. Where you have concerns that such attacks have or may occur, you can use IHL as part of your humanitarian advocacy.

2

ASSESSING THE HARM

This section will help you assess intentional harm to humanitarian personnel or objects during the conduct of hostilities.

The term ‘conduct of hostilities’ refers to situations where a party to the conflict launches and/or engages in military operations or military battles.³² Whenever you are assessing conduct during the conduct of hostilities, you will likely face difficulties in gaining access to reliable information. Parties usually do not make the information on which they based targeting decisions, proportionality assessments, or anticipated military advantage publicly available. For more detailed guidance on navigating the conduct of hostilities rules, please consult **Category 1(A): Harm to persons and objects**.

Despite these challenges, we offer the following examples and indicators to help you assess whether the harm to humanitarian personnel or objects may have been the result of an intentional attack.

SCENARIO	IHL-INFORMED ASSESSMENT
Humanitarian vehicle or convoy marked with recognisable humanitarian symbols was attacked	If the object was clearly marked, visible, and distinct from military vehicles, an attack suggests a possible violation of the IHL prohibition on targeting humanitarian objects.
Repeated attacks on the same humanitarian facility or personnel over a period of time	Repetition may indicate a deliberate pattern, especially if the party had prior notice or was informed of the humanitarian character of the location or personnel.
Lack of any known military objective in the vicinity of the strike	Under IHL, attacks must be directed at military objectives. Absence of such nearby targets raises concerns of unlawful intentional targeting.
Facility was registered or coordinates were provided to the parties to the conflict (‘deconfliction’)	If parties were formally notified and still attacked the location, this undermines any claim of accident or mistaken identity and suggests possible intent.
Attack occurred shortly after aid was delivered or following public announcements of humanitarian activity	Temporal proximity to known humanitarian operations may suggest premeditation and a motive to deter or punish humanitarian action.

Party to the conflict has issued rhetoric or threats against humanitarian actors

Previous requests to investigate similar incidents have been refused or ignored

Prior hostile statements (for example, labelling NGOs as enemies or collaborators) may support an inference of retaliatory or deliberate targeting.

Lack of willingness to investigate or explain raises concerns and may indicate systematic or deliberate targeting practices.



Advocacy signposting: based on your assessment of the intentionality of the attack, we recommend you take one of the following steps:

- ◇ If you are **unsure** whether the humanitarian personnel or objects were intentionally targeted, you can still **raise concerns** about the fact that they have been harmed during an attack. However, we encourage you to keep reading the **exceptions and caveats** to get a clearer picture of the situation.
- ◇ If you have some **level of confidence** that the humanitarian personnel or objects were intentionally targeted, you can raise these concerns or suggest a **failure to respect IHL**. However, before doing so, you will need to keep reading the **exceptions and caveats**.
- ◇ If you think that the humanitarian personnel or objects were not intentionally targeted but harmed during an attack on a military objective, go to **Category 1(A)** for guidance on the conduct of hostilities, in particular the prohibition on disproportionate attacks and the obligation to take precautions in attack.

3

EXCEPTIONS OR CAVEATS

Where humanitarian personnel or objects have been attacked, the responsible party may claim that the attack was lawful because the humanitarian personnel or objects had become **military targets**.

Under IHL, humanitarian personnel who **directly participate in hostilities** or humanitarian objects that are **used for a military purpose** lose protection from attack for such time as the relevant conduct takes place. Where humanitarian personnel or objects are attacked under these limited circumstances, the attack will be lawful, providing it also complies with the principles of **proportionality** and **precautions**.

The next table provides some guidance on situations where humanitarian personnel or objects may lose their protection from attack.³³ Importantly, such determinations are highly fact specific and require expert assessment. Further, in cases of doubt over whether a humanitarian object is being used for a military purpose or whether a humanitarian worker is actively participating in hostilities, they **must not be attacked**. Humanitarian personnel and objects are presumed to have retained their **protected civilian status** unless and until there is clear evidence to the contrary.

33 The majority of the examples provided have been extracted from the UN fact-finding missions and commissions of enquiry, as well Human Right Reports, including the following:



Conduct



Legal test



Examples that may meet this threshold



Examples that do not meet this threshold

Direct participation in hostilities	For civilians to lose protection from attack, their conduct must be designed and likely to cause direct harm to a party to the conflict.	Civilians participate in the fighting on the side of a party to the conflict, or gather and transmit tactical intelligence to a party to the conflict. ⁷	The 'purchase, production, smuggling and hiding of weapons', or 'the financial, administrative or political support to armed actors' does not amount to direct participation in hostilities. ⁸
Military objective	A civilian object will become a lawful target where it makes an effective contribution to military action and where its destruction offers a definite military advantage .	A humanitarian convoy is used to transport weapons, or a medical unit is used to shield troops and launch attacks.	Hospitals that are used to treat wounded and sick soldiers or buildings frequented by soldiers on ordinary business do not lose their protection from attack.

Remember: the party responsible for the attack may not release the information on which it based its targeting decisions, and it may be difficult to obtain credible information on what is happening on the ground in a war zone. These factors alone should not dissuade you from using IHL rules on the protection humanitarian personnel and objects as part of your advocacy.

4



ADVOCACY GUIDANCE

In this section, we take what you have learned from your IHL-informed assessment (above) and offer the following three stages of advocacy guidance:

- ♦ **Preventative advocacy** – remind parties of their IHL obligations before a violation occurs, especially when risks or early warning signs are present.
- ♦ **Advocacy in response to harm** – raise concerns about harm and the conduct of the relevant party, without suggesting a violation of IHL.
- ♦ **Advocacy suggesting a failure to respect IHL** – raise concerns about a possible IHL violation where you have assessed all elements of the rule, including exceptions and caveats.

When suggesting a failure to respect IHL, you will find language suggestions crafted to reflect your **level of confidence** (limited, moderate, or high), based on the extensiveness of your IHL-informed assessment and the quality of information you have received.



Purpose: Promote respect for IHL and prevent violations before they occur. Highlight concerning trends or early warning signs where applicable.

Key tips

- **Reinforce the protected status of humanitarian action.** Humanitarian personnel, vehicles, facilities, and goods retain civilian protection under IHL and may not be attacked. This applies even when delivering politically sensitive aid.
- **Ensure visibility and coordination mechanisms are in place.** Encourage robust coordination between humanitarian actors and military actors (such as a humanitarian notification mechanism) to minimise risk of misidentification. Advocate for early deconfliction procedures, including visibility and communication.
- **Promote civilian character of aid distribution points.** Humanitarian sites where workers deliver aid can include current or former fighters and in some cases be misused to recruit fighters. Such activity can put civilians and humanitarian workers at risk.

Key Messaging:

- *All parties to the conflict are reminded that humanitarian personnel and assets are protected under IHL. They must not be attacked, harassed, or obstructed in the delivery of life-saving assistance.*
- *The delivery of humanitarian relief must be respected and facilitated. Visibility mechanisms and coordination with humanitarian actors are crucial to minimising risk.*



Purpose: Respond to conduct causing civilian harm without necessarily suggesting a failure to respect IHL.

Key tips

- **Emphasise humanitarian impact.** Consider using survivor testimonies and operational impact assessments. Bring attention to the direct impact on humanitarian personnel or objects, as well as the impact on civilian access to aid and suspension of programmes.
- **Request clarification on targeting decisions.** If appropriate and feasible, consider requesting an explanation from the party involved while signalling concern.
- **Encourage urgent remedial steps.** If appropriate, consider protective measures such as reinforced coordination, improved signage, or temporary ceasefires for aid delivery.
- **Acknowledge limited information.** Be aware that you may not be able to access sensitive targeting information, but do not let this prevent you from raising concerns in response to harm caused to humanitarian personnel or objects.

Key messaging

- *There are concerning reports of harm to humanitarian personnel and/or objects in [location]. These incidents threaten access to life-saving aid and jeopardise civilian well-being.*
- *All parties are reminded of their obligation under IHL to respect and protect humanitarian relief personnel and objects at all times. IHL explicitly prohibits targeting humanitarian personnel or objects and any harm must be investigated.*



Purpose: Suggest a failure to respect IHL based on a complete and contextually specific assessment of the rule(s), including the exceptions and/or caveats.

Remember: Even if you are unsure of whether an exception applies, you can still raise concerns over a failure to respect IHL. The burden is on the party engaging in seemingly unlawful conduct to justify that an exception to the rule applies.

Key tips

- **Build a strong factual basis for the allegation.** Use the assessment guidance to determine the time, location, visibility, pattern of attack, and proximity to military objectives to the extent feasible.
- **Anticipate common justifications or denials.** If the party claims the humanitarian object was being used for military purposes, examine the credibility of this assertion and whether the object lost protection under IHL, noting that you may not have access to all necessary information.
- **Emphasise the consequences for civilians.** Link attacks on humanitarian assets to the broader harm to civilian populations.

Key tip in response to claims that the harm to humanitarian personnel/object was incidental

- **Principle of distinction.** Parties to an armed conflict must carry out their military operations with strict respect for civilian lives and infrastructure, including humanitarian personnel and objects.
- **Precautions and proportionality.** Parties to the conflict must adhere to the principles of proportionality and precautions in attack to protect civilians and civilian infrastructure from the effects of military operations. Disproportionate attacks are unlawful under IHL.
- **Civilian harm.** All foreseeable civilian harm that can be expected from an attack against a military objective must be considered under the principle of proportionality. The value of civilian objects is linked to their usefulness to civilians. Accordingly, humanitarian personnel and objects should be ascribed high civilian value in any proportionality assessment.

For more detail on proportionality and precautions in attack, see Category 1(A).

Key messaging

Tailor the messaging below in accordance with the guidance provided in the User Guide, supplementing it with details about the specific situation.

Limited level of confidence:

- *The available information raises concerns that [Party X] may have intentionally attacked humanitarian personnel or objects in violation of IHL. Humanitarian personnel and object are protected and IHL explicitly prohibits parties from attacking them.*
- *There has been no information provided to substantial [Party X's] claim that the humanitarian personnel objects had become a military target. We call on [Party X] to clarify the circumstances surrounding the incident and to take urgent steps to ensure the safety and protection of humanitarian operations. Intentional attacks against humanitarian personnel and objects are prohibited.*

Moderate level of confidence:

- *The available information strongly suggests that [Party X] intentionally targeted humanitarian personnel and/or objects in violation of IHL.*
- *There is no indication that the object in question had become a military objective. We call on [Party X] to clarify the circumstances surrounding the incident and to take urgent steps to ensure the safety and protection of humanitarian operations. Intentional attacks against humanitarian personnel and objects are prohibited.*

High level of confidence:

- *There are clear indications that [Party X] intentionally targeted humanitarian personnel and/or objects in violation of IHL. The object or person attacked [bore visible markings/was previously notified/had no proximity to military objectives/was clearly humanitarian].*
- *Claims by [Party X] that [explain justification] do not appear supported by available facts. Intentional attacks against humanitarian personnel and objects are prohibited.*

CHAPTER 2



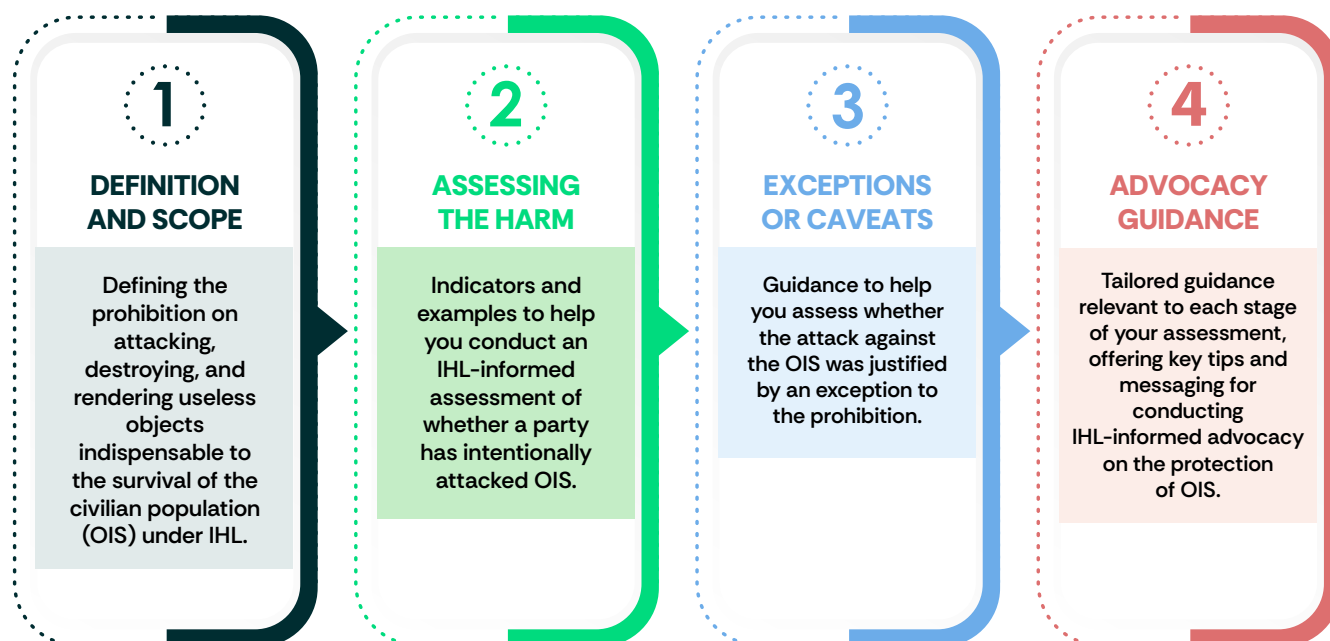


Chapter 2: Harm to Objects Indispensable to the Survival of Civilians

You are here because you have concerns about objects indispensable to the survival of the civilian population (OIS) being harmed and want to advocate for their protection. Under IHL, OIS are granted elevated protection against attack, destruction, removal, or any act that renders them useless. This heightened protection exists because by definition, OIS are essential for ensuring civilian survival.

Even where OIS are used in support of the military effort, IHL still provides them with a higher level of protection. As you work through this section, you will be provided with step-by-step guidance for assessing the situation you are dealing with, and determine whether parties to the armed conflict have complied with their obligations under IHL regarding OIS. Finally, you will be guided on how to use your findings and the IHL rules as part of your advocacy.

Our guidance on protection of OIS divided into the following sections:



1

DEFINITIONS AND SCOPE

There is **no exhaustive list** of what constitutes an OIS. A key indicator is that its damage or destruction must have the potential to compromise the survival of the civilian population in the given context. The category of objects falling under OIS is therefore broad and refers to objects which are of ‘basic importance for the population from the point of view of providing the means of existence’.³⁴

34 ICRC, [1987 Commentary to Additional Protocol II](#), para 4803.

OIS include clothing, means of shelter, medicines, assistive devices such as mobility aids and glasses, and other objects and services necessary for healthcare.³⁵ The following objects will likely fall within the definition of OIS:



Foodstuffs



Agricultural areas and produce, including crops and livestock



Drinking water installations which include:

- water reservoirs.
- wells and pumps or any infrastructure whose loss would deprive the civilian population of access to water.
- power plants necessary for supplying power necessary for the purification of drinking water.



Supplies for irrigation works, including dams and dykes.



Energy infrastructure critical to the effective operation of other indispensable objects. For example, an electricity generating plant whose purpose is the purification of water is a form of 'drinking water installation' indispensable to ensuring the provision of water to the civilian population.



Medicine and medical equipment.



Assistive devices (including wheelchairs, walking sticks, white canes, glasses, hearing aids and other communication devices) and facilities that maintain and repair such devices.



Blankets.



Housing and means of shelter.



KEY POINT

Recognising that the civilian population is not one homogeneous mass is essential to understanding what falls within the definition of OIS. What may be essential to the survival of a person with a disability may not be the same as what is essential for a nursing woman or elderly person. At the IHL Centre, we take the position that the list of OIS must reflect the realities of the diversities within the civilian population.

³⁵ What can be considered indispensable to the civilian population is context specific and may also vary depending on the climate and weather conditions faced by civilians. See also in this respect: ICRC, [1977 Commentary to API, Art 96](#), para. 2779; Akande and Gillard, "Conflict induced food insecurity and the war crime of starvation of civilians as a method of warfare", BSG Working paper series, BSG-WP-2019/030, November 2019, p.6; Dinstein, *The Conduct of Hostilities under the Law of International Armed Conflict*, Cambridge University Press, 2016, p.289.

OIS are civilian objects and therefore are protected from attack. They are also granted elevated protection under IHL because of their life-sustaining role to civilians. IHL prohibits **any type of harm** to OIS, including their removal, destruction, attack or any act rendering them useless.³⁶

There are limited circumstances under which, for reasons of military necessity, a party to the conflict can perform these acts (attack, destroy, remove or render useless OIS). Even then, IHL imposes strict obligations on both the party attacking the OIS, and the party using it in support of military action. These are discussed in section 3.



KEY POINT

This protection afforded to OIS is also complemented by other rules of IHL. For example, IHL prohibits acts of pillage. This prohibition also plays a role in restricting or prohibiting the destruction, exploitation, or seizure of food and water.³⁷

2

ASSESSING THE HARM

IHL prohibits any type of harm towards OIS. It does not matter whether the act was committed in offence or in defence.³⁸ Even if an OIS is damaged, but can subsequently be repaired or recovered, this damage is still prohibited under IHL.³⁹ The following acts constitute a prohibited form of harm to OIS:

PROHIBITED ACTS AGAINST OIS			
 ATTACK	 DESTRUCTION	 REMOVAL	 RENDERING USELESS
An aerial campaign specifically targeting crops grown for civilian consumption.	Dismantling or destroying, a power station that is critical to civilian livelihoods, for example one that facilitates water pumping and purification.	Removing food items and grains (OIS) from a village.	Polluting a drinking water reservoir, for example with chemical products, rendering it effectively useless for civilian consumption.

³⁶ Customary IHL, Rule 54; AP I, Art 54(2); APII, Art 14.

³⁷ ICRC, Legal Brief Note, [Starvation, Hunger and Famine in Armed Conflict](#), June 2025, p. 4.

³⁸ ICRC, [1987 Commentary to API](#), para. 2101.

³⁹ ICRC, Legal Brief Note, [Starvation, Hunger and Famine in Armed Conflict](#), June 2025, p. 2.

PROHIBITED ACTS AGAINST OIS			
 ATTACK	 DESTRUCTION	 REMOVAL	 RENDERING USELESS
Shelling grain storage silos in a besieged city, depriving civilians of access to food.	'Flooding vast areas of agricultural land necessary to feed the civilian population.	Looting OR removing livestock from villages.	Laying anti-personnel mines in farming areas making farming difficult or impossible, thus rendering the fields virtually useless.
Bombing a water treatment plant used by a town during armed conflict.	Setting fire to crops and agricultural machinery OIS which causes damage and destruction.		Removing key parts from water pumps.

Any **intentional attack** against an OIS which exclusively serves a civilian function (and is therefore not a military objective) is always prohibited under IHL. There can be no legal justification for this.

In most cases you will not know whether an OIS was intentionally targeted or whether the harm caused to them constituted **collateral damage**. This determination requires knowledge of the military targets pursued by a party to an armed conflict, and in most cases this information is not publicly available. This should not discourage you from including IHL in your advocacy. The following table is designed to help you make an assessment of whether the OIS was intentionally targeted.⁴⁰

⁴⁰ The majority of the examples provided have been extracted from the UN fact-finding missions and commissions of enquiry, as well Human Right Reports, including the following: UN Security Council, Presidential Statement on Attacks against Critical Civilian Infrastructure, SC/14506 (27 Apr 2021); OHCHR, Press Note: Attacks on Civilians and Infrastructure in Ukraine, (Oct 2022); UN Security Council, Secretary-General Report (2024).

SCENARIO	EXPLANATION
Whether any military objectives were located in close proximity to the OIS that was harmed.	Attacks must be directed at military objectives, not civilian objects. If there were no military targets near the OIS, it weakens any claim that the harm was incidental or collateral. In contrast, if there are no military objectives close to the OIS, it is more likely that any damage was intentional.
Whether there was repeated damage to the same OIS over a period of time.	Repeated harm to an OIS may suggest intentionality. Similarly, a pattern of harm to different OIS can indicate intentionality.
If the attacking party had publicly threatened OIS located in the area before the strike.	Threats can provide evidence of intent. It is rare that a party will admit to intentionally targeting an OIS. You may be able to infer intentionality even without such a clear statement.
If the type of weapon or method of attack used against the OIS allowed for precision targeting (for example precision guided munition)	The choice of weapon can reveal whether an attack was deliberately aimed at an OIS or, if on the contrary it resulted from imprecise targeting.



Advocacy signposting: based on your assessment of the intentionality of the attack, we recommend you take one of the following steps:

- ♦ If you are **unsure** whether the OIS was intentionally targeted, you can still **raise concerns** about the fact that it has been harmed during an attack. However, we encourage you to keep reading the **exceptions and caveats** to get a clearer picture of the situation.
- ♦ If you have some **level of confidence** that the OIS was intentionally targeted, you can raise concerns or suggest a **failure to respect IHL**. However, before doing so, you will need to keep reading the **exceptions and caveats**.
- ♦ If you think that the OIS was **not** intentionally targeted but harmed during an attack on a military objective, go to **Category 1(A)** for guidance on the conduct of hostilities, in particular the prohibition on disproportionate attacks and the obligation to take precautions in attack.

3

EXCEPTIONS OR CAVEATS

The predominant exception to the prohibition on attacking OIS is where the OIS has become a **military objective**.⁴¹ Under IHL, OIS that make an **effective contribution to military action**, and whose total or partial destruction would provide a definite **military advantage** to the attacking party, are classified as a military objective and may be targeted so long as the attack respects the other principles relating to the conduct of hostilities.⁴²

This section is divided as follows:

- ◇ First, it will provide you with indicators to help you assess whether the OIS had temporarily lost its protection from attack.
- ◇ Second, if you think it has lost its protection, our guidance will be divided as follows:
 - **For the attacking party**, we will again remind you of the obligations to take precautions and the prohibition on disproportionate attacks. We will also flag additional considerations which apply specifically in the case of an attack against an OIS which has been used in support of the military effort.
 - **For the party using it in support of military action**, we will provide guidance to help you assess whether the party using the OIS in support of military action is failing to respect IHL by exposing the OIS to harm.

Which acts can lead to temporary loss of protection?

An object indispensable to the survival of the civilian population may effectively contribute to military action (and therefore lose its protection) either because of the way it is used, or because of its location or purpose. When an OIS serves both a military and a civilian function, it is often referred to as a **dual use object**, which can be targeted. The scenarios below will help you assess whether an OIS could become a military objective and therefore lost its protection from direct attack. They are only illustrative and should not be seen as an exhaustive checklist.

- ◇ A food warehouse used for both civilian and military consumption.
- ◇ An irrigation canal used for civilian purposes serving as part of a defensive line.
- ◇ A water treatment plant that supplies drinking water exclusively to the armed forces.
- ◇ A hydroelectric dam supplying energy exclusively to military installations.
- ◇ A field of crops which is no longer harvested for civilian consumption is used to provide cover for the enemy.
- ◇ A water tower functioning as an observation post for the military.

In the examples above, the use of the OIS or its location allow it to make an effective contribution to military action. It is therefore a military objective and may be targeted. However, importantly, attacking such objects is only lawful where their destruction offers a definite military advantage, and where the expected civilian harm is not excessive and appropriate precautions have been respected. When the OIS serves a **dual function** parties must factor the OIS' civilian use into any proportionality determination.

41 The other exception, which applies exclusively to international armed conflict, permits a state to destroy OIS located on its own territory to prevent or slow down the advance of invading enemy forces. This exception, also referred to as the scorched earth exception, is very narrow in scope and its continuing relevance and applicability is disputed by some states and IHL experts. See API, Art 54(5).

42 Regarding what constitutes a military objective in an IAC, API, Art 54 (3) states: "Objects used by the adverse party 'as sustenance solely for the members of the armed forces', or Objects used by the adverse party "in direct support of military action" can be targeted." Though this rule is from API, the commentary to APIII arguably also brings Art 14, API in line with these rules. See for example ICRC, [1987 Commentary to Art 14 APII](#), paras 4806-4807.



KEY POINT

You may be unsure about whether the OIS was also a military objective. The party responsible for the attack may not release the information on which it based its targeting decisions, and it may be difficult to obtain credible information on what is happening on the ground in a war zone. These factors alone should not dissuade you from using IHL rules as part of your advocacy.

Next steps:



Advocacy signposting: based on your assessment of whether the OIS was a **military objective**, we recommend you take one of the following steps:

- ♦ If you are **unsure** whether the was a military objective, you can still **raise concerns** about the fact that they have been harmed during an attack and **remind parties of their obligations**.
- ♦ If you have some **level of confidence** that the OIS was **not** a military objective, and you have some level of confidence that it was **intentionally targeted**, then you should consider using your advocacy to **suggest a failure to respect IHL** – see **section 2.4 Advocacy guidance**.
- ♦ If you have some **level of confidence** that the OIS was a military objective, keep reading to assess whether the attack was **proportionate** and/or whether the party who used the OIS failed to take precautions against the effects of attacks.

When an OIS has lost its protection, can IHL still be used in response to an attack?

Yes. When an OIS has lost its protection, both the attacking party and the party using it in support of the military effort continue to be bound by several IHL obligations.

- ♦ **For the attacking party**, your assessment and advocacy should focus on whether the attack was **proportionate**, and whether **adequate precautions were taken to avoid and, in any event, minimise, harm to civilians**. If the attack did not comply with these principles, it will be unlawful under IHL.

The attacking party must respect the principle of proportionality and precautions in attack. They must refrain from carrying out an attack that is anticipated to cause **incidental harm to civilians and civilian objects which would be excessive in relation to the concrete and direct military advantage anticipated from the attack**.⁴³ To achieve this, they must take precautions in the means and methods of the attack to spare civilian harm.

- ♦ At the IHL Centre, we take the position that when assessing the anticipated civilian harm, the attacking party must take into account both the immediate civilian harm as well as the indirect or reverberating effects such as the indirect effects on the provision of essential supplies to the civilian population, and the possibility of starvation of the civilian population. Destruction or damage to the OIS may have much greater consequences on civilians than that caused by the destruction of an ordinary civilian object.
- ♦ For example, the direct consequences of attacking an electricity generating and distribution system that provides essential energy for the freezing of foodstuffs is

43 ICRC, CIHL Database, Rule 14; API Art 51(5)(b).

the physical destruction of the system itself. An indirect consequence is that energy is no longer provided to keep adequate temperatures necessary to the preservation of foodstuffs. This results in the despoliation of the goods, which increases the risk of starvation. Such effects are referred to as “reverberating effects”, and must be taken into account in the proportionality assessment.

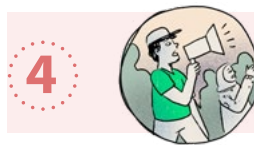
- ♦ An attack against an OIS is **very unlikely** to be proportionate if it was foreseeable that it would cause the **starvation** or **forced displacement** of civilians.⁴⁴ For example, attacks against crops used exclusively for feeding the military may not be conducted, whatever the military advantage, if such an attack is expected to cause starvation or forced displacement of civilians.



KEY POINT

Adherence to the principle of proportionality is inherently complex. Information related to the intended military target and the military advantage anticipated from an attack may not be publicly available. While an assessment can be made based on the consequences of an attack—such as the extent of civilian harm caused—it is important to use cautious and precise language, acknowledging the gaps in available information. For more information related to the principle of proportionality and precautions in attack, please consult **Category 1(A)**.

- ♦ **For the party using the OIS in support of military action: You can remind the party using the OIS of their obligation to ensure precautions against the effects of attacks.**⁴⁵ For example, if a party is using a water reservoir located close proximity to a village, any attack on that water reservoir may endanger the civilian population. The party using OIS in support of military action should therefore avoid doing so if this causes unnecessary risks to civilians.



ADVOCACY GUIDANCE

In this section, we take what you have learned from your IHL-informed assessment (above) and offer the following three stages of advocacy guidance:

- ♦ **Preventative advocacy** – remind parties of their IHL obligations before a violation occurs, especially when risks or early warning signs are present.
- ♦ **Advocacy in response to harm** – raise concerns about harm and the conduct of the relevant party, without suggesting a violation of IHL.
- ♦ **Advocacy suggesting a failure to respect IHL** – raise concerns about a possible IHL violation where you have assessed all elements of the rule, including exceptions and caveats.

When suggesting a failure to respect IHL, you will find language suggestions crafted to reflect your **level of confidence** (limited, moderate, or high), based on the extensiveness of your IHL-informed assessment and the quality of information you have received.

44 IHL makes a distinction between the rules regulating attacks against an OIS occurring in an IAC, and those occurring in a NIAC. In a nutshell, there is no need for a proportionality assessment in an IAC if it was foreseeable that the destruction would lead to starvation or forced displacement of the civilian population (on this point see in particular API, Art 54 para.3b). In NIACs, so long as the principles of proportionality and precautions are respected, the attack will be lawful. Please note that there exists a very protective interpretation of the law of NIACs which states that OIS should never be attacked, even when they constitute a military objective, see for example Customary IHL Study, Commentary to [Rule 54](#). Please see Category 1 of this Manual for more detail on these principles.

45 ICRC, Customary IHL Database, Rule 22; API, Art 58; APII, Art 13 (1).



PREVENTATIVE ADVOCACY

Purpose: Promote respect for IHL and prevent violations before they occur. Highlight concerning trends or early warning signs where applicable.

Key tips

- **Raise awareness of what constitutes OIS in practice.** Many parties may not realise that agricultural infrastructure, seed banks, water pumps, and storage depots fall under OIS protection. Advocacy should spell this out clearly.
- **Promote practical safeguards and mapping exercises.** Encourage identification, registration, and mapping of OIS, especially in areas near military activity. Satellite imagery and field assessments can help document and protect them.
- **Use environmental and humanitarian impact assessments.** Advocate for regular risk assessments of potential operational impacts on food and water systems to promote accountability in planning and targeting.
- **Work through civilian-military coordination platforms.** Leverage existing platforms such as CMCoord to share information about OIS presence and importance.

Key messaging

- *All parties are reminded that IHL prohibits attacks against objects indispensable to the survival of the civilian population, including food sources, water infrastructure, and agricultural land. These objects benefit from elevated protection under IHL due to the fact that civilians rely on them for their survival. Parties to the conflict are reminded that it is prohibited to attack, destroy, or render useless objects indispensable to the survival of civilians.*
- *Parties must take steps to ensure that OIS are respected and protected in all military operations and that precautionary measures are taken to prevent their destruction.*



ADVOCACY IN RESPONSE TO HARM

Purpose: Respond to conduct causing civilian harm without necessarily suggesting a failure to respect IHL.

Key tips

- Document and describe the harm in accessible terms. Focus on the real-world consequences of the incident, such as the disruption to food supply chains, destruction of wells, contaminated water. Explain why the objects harmed are indispensable to civilians.
- **Raise the alarm about downstream consequences.** Highlight the risk of displacement, malnutrition, or waterborne disease outbreaks if OIS are no longer available to the population.
- **Use harm to advocate for better protections moving forward.** Frame incidents as early warning signs of escalating risk and argue for enhanced protection or notification zones around OIS.
- **Coordinate with humanitarian and development actors.** Consider collaborating with other actors on food security, WASH, and agriculture to amplify messages about the operational impact on civilians.

Key messaging

- *There are concerning reports that essential civilian infrastructure [highlight OIS harmed] has been damaged or destroyed in [location], disrupting access to [explain the nature and extent of civilian harm].*
- *All parties are reminded of their obligations under IHL to protect objects indispensable to the survival of the civilian population and to avoid causing civilian harm. It is expressly prohibited under IHL to target objects indispensable to the survival of civilians.*



Purpose: Suggest a failure to respect IHL based on a complete and contextually specific assessment of the rule(s), including the exceptions and/or caveats.

Remember: Even if you are unsure of whether an exception applies, you can still raise concerns over a failure to respect IHL. The burden is on the party engaging in seemingly unlawful conduct to justify that an exception to the rule applies.

Key tips

- **Use pattern-based evidence.** Remembering that it can be difficult to show intent, repeated attacks, lack of military presence near the object, or targeting during harvest can help provide indicators of intent to deprive civilians of essential goods.
- **Anticipate attempted justifications.** Be prepared to assess and counter claims that the OIS was being used for military purposes, especially in cases involving fuel depots, seed stores, or irrigation points.
- **Link to other legal frameworks and actors.** Consider referencing UNSC Res. 2417 (on starvation and conflict) where applicable or other instruments or organisations that support your claims and align with broader humanitarian and legal consensus.

Key messaging

Tailor the messaging below in accordance with the guidance provided in the User Guide, supplementing it with details about the specific situation.

Limited level of confidence:

- *The available information raises concerns that [Party X] may have carried out attacks or operations that damaged or destroyed objects indispensable to the survival of civilians.*
- *Under IHL, all parties must avoid harming objects such as water systems, agricultural land, and food stocks. The impact of such harm must be urgently assessed and addressed.*

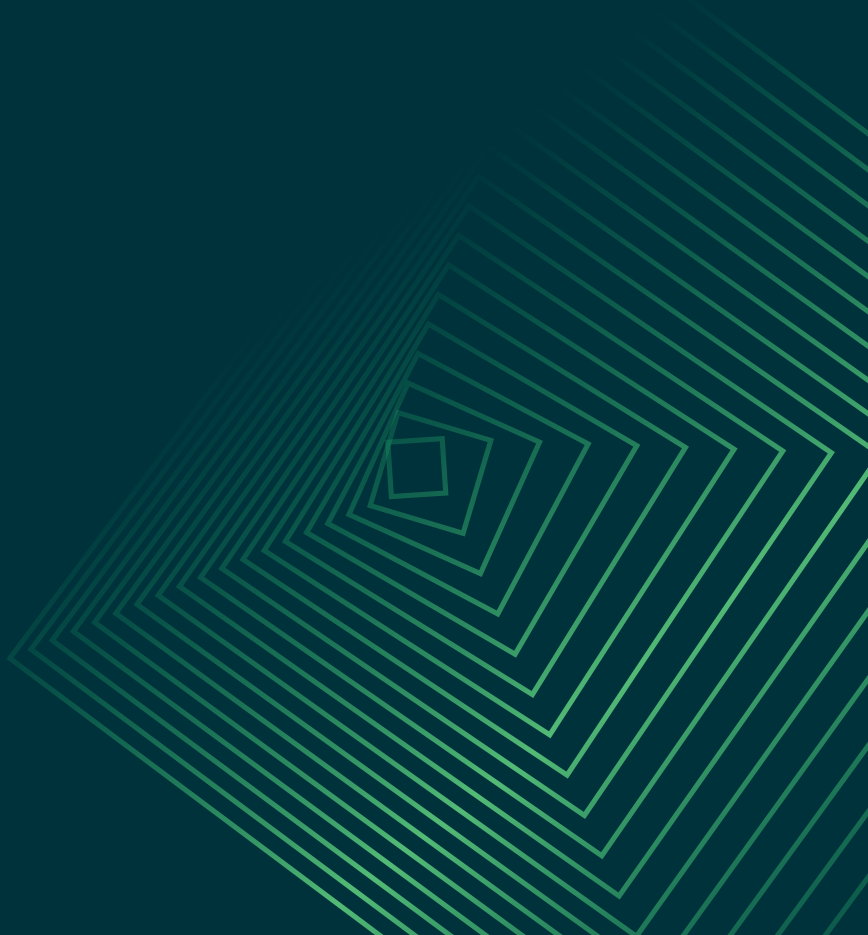
Moderate level of confidence:

- *The available information strongly suggests that [Party X] has targeted or destroyed objects indispensable to civilian survival, including [e.g. water infrastructure, crop fields] in [location], in violation of IHL.*
- *While parties may target military objectives, the destruction of OIS not directly contributing to military action is prohibited and risks constituting a war crime. No information has been provided to suggest that the OIS was serving a military function.*

High level of confidence:

- *There is clear evidence that [Party X] has deliberately attacked or destroyed civilian food, water, or agricultural infrastructure in [location], in breach of its obligations under IHL.*
- *The claim that [Party X] targeted a military objective is not supported by the facts available. The conduct appears intended to deprive civilians of essential resources and violates the prohibition on attacking OIS.*

CHAPTER 3



Chapter 3: The Prohibition of Starvation



During armed conflict, civilians may find themselves cut off from food, water, or other goods or services essential for their survival. The conflict may disrupt critical infrastructure, destroy economic livelihoods, and cause people to flee their homes. IHL contains several rules designed to protect civilian access to essential goods and services. A failure to respect these rules increases the risk of starvation, especially for those already experiencing hardship or discrimination. This Chapter will help you understand how to use IHL in response to the risk or occurrence of starvation in armed conflict.

Key Terminology

Under IHL, **starvation** occurs where civilians are deprived of access to food and other resources indispensable to their survival.⁴⁶ Starvation **does not** require evidence of civilian deaths or severe malnutrition. This can be contrasted with **famine**, which requires critical levels of acute malnutrition and death.⁴⁷ **Why does this matter?** You can draw attention to starvation as soon as civilians are deprived of essential goods and services. You do not need to wait until they are dying.

This Chapter is structured as follows:

6. The prohibition of starvation as a method of warfare
7. Other IHL rules providing a line of defence against starvation in armed conflict.
8. Advocacy guidance

3.1 The prohibition of starvation as a method of warfare

IHL explicitly prohibits using starvation as a method of warfare.⁴⁸ This prohibition targets a narrow and extremely serious form of conduct: *intentionally* using starvation as a weapon to achieve a military objective. This rule is not about negligence, disregard, or even recklessness—it is about **deliberate policies or actions designed to starve the civilian population**. There are three principal ways this can manifest:

3. **Sieges or blockades** that intentionally cut off food, water, and other essentials to civilians.
4. **Denial of humanitarian access or assistance**, where relief is intentionally withheld, obstructed, or manipulated to prevent civilian access.
5. **Attacks on objects indispensable to civilian survival**, such as food stores, crops, water systems, and agricultural infrastructure, carried out with the aim of depriving civilians of the means to survive.

Invoking this specific IHL prohibition in your advocacy should therefore be reserved for situations where there is **reliable information** that the party responsible is not merely failing to uphold IHL but is deliberately violating it with the **intention to starve civilians** as a strategy of war.

⁴⁶ ICRC, CIHL Database, Rule 53, API, Art 54(1); ICRC, ICRC, 1987 Commentary to API Art 54, para. 2086.

⁴⁷ The Integrated Food Security Phase Classification (IPC)

⁴⁸ ICRC, Customary IHL Database, Rule 54; [and 1987 Commentary to API, Art 54, para.2087.](#)

Information suggestive of an intent to starve civilians may include public statements, consistent patterns of conduct, or a demonstrated willingness to use starvation to achieve broader military goals—such as weakening opposition-held areas by cutting off essential supplies, starving civilians perceived to support the enemy, or forcibly displacing civilians by creating intolerable conditions. The following sections will provide you with indicators for assessing intentional starvation.⁴⁹



KEY POINT

Parties to a conflict may unlawfully use starvation as a form of **collective punishment**. Assessing such conduct also required looking at indicators of **intent**, but this time focusing on information suggesting starvation is being used to coerce, punish, or threaten civilians, without necessarily aimed at achieving some military objective.

3.1.1 Indicators that sieges or blockades are being used to intentionally starve civilians

The table below outlines key indicators that may suggest a siege or blockade is being used not merely as a military tactic, but as a deliberate method of starving the civilian population—an act prohibited under IHL. While no single indicator is determinative, the presence of multiple, consistent signs may strengthen the basis for raising concerns that a party is intentionally using starvation as a method of warfare in violation of IHL.

CATEGORY	INDICATOR	EXPLANATION / RELEVANCE
Nature of the Siege or Blockade	Complete or near-complete encirclement with no humanitarian corridors or civilian evacuation routes.	Prevents civilians from accessing food, water, or fleeing to safety, heightening their vulnerability to starvation.
	Prolonged duration of siege or blockade with ongoing denial of humanitarian access.	Indicates disregard for mounting civilian suffering and points to a possible strategy of starvation rather than short-term military necessity.
	Blanket restrictions on goods entering the besieged or blockaded area, including food, water, medicine, and fuel.	Suggests deliberate deprivation when restrictions do not distinguish between civilian and military needs.
	Blocking or destroying access to subsistence resources (e.g. farmland, fishing areas, water wells)	Prevents self-sufficiency within the besieged area, increasing dependency and likelihood of starvation.

⁴⁹ The majority of the examples provided in the following tables have been extracted from the UN fact-finding missions and commissions of enquiry, as well as Human Rights Reports, including the following: OHCHR, Policy Paper: Sieges, Starvation and the Conduct of Hostilities in Syria (2018); Human Rights Commission, South Sudan, “There Is Nothing Left for Us”: Starvation as a Method of Warfare in South Sudan (2020); UN Press Release, ‘Using starvation as a weapon of war in Sudan must stop: UN experts (26 June 2024); Financial Times, Global Famine Deaths Rise as Starvation Used as Weapon (2025); Integrated Food Security Phase Classification, ‘Famine Review Committee: Gaza Strip, August 2025’.

CATEGORY	INDICATOR	EXPLANATION / RELEVANCE
Actions Targeting Civilian Survival	Destruction or removal of essential infrastructure inside the siege area (e.g. markets, bakeries, water systems, food depots)	May indicate deliberate efforts to eliminate survival resources available to civilians, beyond what is justified by military necessity.
	Denial of medical evacuations or humanitarian services for starvation-related or chronic conditions	Can reflect a broader strategy to increase suffering and pressure the population, particularly the most vulnerable.
Statements and Conduct of the Besieging Party	Public or internal statements expressing intent to “starve out” a population or weaken morale through deprivation.	Indicates direct intent to use starvation as a weapon, particularly when accompanied by ongoing restrictions.
	Rhetoric suggesting civilians must suffer to force surrender of opposition forces (e.g. collective punishment logic)	Points to punitive motives that may breach IHL and the principle of distinction.
	Failure to provide or allow basic mitigation measures (e.g. humanitarian convoys, safe corridors).	Reflects intent to maximise suffering rather than comply with obligations to protect civilians.
Strategic and Operational Context	Similar siege tactics used across multiple locations, following a consistent pattern	Suggests an intentional military strategy involving starvation rather than isolated conduct.
	Use of siege in areas with little or no ongoing combat or where alternative military options exist	Weakens claims of military necessity and strengthens inference of intent to target civilians through starvation.

3.1.2 Indicators that the denial of humanitarian assistance is being used to intentionally starve civilians

The following table outlines key indicators that may suggest a party to the conflict is intentionally using the **denial, obstruction, or manipulation of humanitarian assistance** as a method of starving civilians. These indicators are designed to help you assess whether restrictions on aid go beyond operational or security constraints and instead reflect a deliberate strategy of starvation.

CATEGORY	SCENARIO	EXPLANATION / RELEVANCE
Obstruction of Humanitarian Relief Operations	Systematic denial or delay of humanitarian access despite clear civilian needs.	May indicate a deliberate strategy rather than incidental or logistical failure.
	Rejection of aid convoys without valid justification.	Suggests arbitrary or punitive motive rather than genuine security concern.
	Unreasonable bureaucratic impediments to humanitarian operations.	Blocks aid effectively and systematically, often without transparency.
	Use of vague or shifting reasons to deny access.	Use of inconsistent justifications may mask unlawful intent to deprive.
Attacks or Threats Against Humanitarian Actors and Supplies	Attacks on aid convoys, warehouses, or distribution points without military justification.	Destroys or deters delivery mechanisms civilians depend on to survive.
	Targeting or harassment of humanitarian staff.	Undermines humanitarian presence and the ability to deliver essential services.
	Looting or destruction of aid shipments by tolerated actors.	Demonstrates disregard for humanitarian protection and neutral operations.
Manipulation or Diversion of Aid	Interference with the distribution of aid to its intended beneficiaries to prevent certain segments of the population from receiving aid.	Intentionally depriving part of the population that is opposed to the party to the conflict may suggest an intention to starve by weaponizing humanitarian assistance.

3.1.3 Indicators of intentional starvation

CATEGORY	INDICATOR	EXPLANATION / RELEVANCE
Nature and Pattern of Attacks	Repeated attacks on agricultural areas (e.g. farms, livestock, orchards) without military targets nearby, especially when done near harvest or production times.	Suggests targeting of civilian food production, not legitimate military objectives.
	Attacks coupled with other potentially unlawful acts, such as obstructions of humanitarian access through arresting, intimidating or blocking aid convoys, illegally seizing property of humanitarian actors, or sieges or blockades.	Indicates intent to starve civilians as the ultimate objective, achieved through a multitude of coordinated acts.
	Targeted destruction of water sources essential for drinking and agriculture	Such sources are critical for survival; targeting them may indicate deliberate deprivation.
	Destruction of markets, food distribution points, or transport routes for civilian goods	Disruption of supply chains that civilians rely on may be part of a starvation strategy.
Timing and Context	Attacks carried out during planting or harvest seasons	Timing may reflect an effort to collapse agricultural output and induce hunger.
	Strikes on food aid warehouses just before planned distributions	May indicate an intent to prevent distribution of life-saving assistance.
Absence of Military Justification	No evidence that the targeted objects served a military purpose.	Lack of military justification reinforces inference of unlawful intent.
	Disregard for humanitarian notifications to avoid specific sites	Shows disregard for coordinated efforts to protect essential civilian infrastructure.
Strategic or Rhetorical Indicators	Statements about cutting off 'lifelines' or making civilians 'suffer'	Reveals punitive or coercive intent behind the attacks.
	Use of rhetoric framing starvation as a legitimate tactic or punishment	Signals acceptance or endorsement of starvation as a weapon.



KEY TAKEAWAY

Determining whether the starvation was deliberate may be difficult to establish. In most cases, parties are unlikely to publicly declare their intention to starve the civilian population. They may seek to justify their actions, deflect blame, or deny that starvation is occurring. **However**, where parties to the conflict appear to be causing or increasing the risk of starvation through their actions, it raises concerns that starvation is being used as a method of warfare. You can find guidance and language to support your advocacy in **section 3.3: Advocacy guidance**.

3.2 IHL: A line of defence against starvation in armed conflict

IHL has several rules that together mitigate the risk of starvation by prohibiting attacks against civilian infrastructure, the denial of humanitarian aid, and forcible displacement of civilians, to name a few. As stated by former UN Emergency Relief Coordinator Mark Lowcock, these IHL rules provide a ‘line of defence’ against starvation in armed conflict.⁵⁰

For some humanitarian actors, there is a tendency to focus narrowly on the intentional use of starvation as a method of warfare—a serious violation, but one that requires a high threshold of intent and may be difficult to prove or easy for parties to deny. While it is important to monitor such conduct, you may be more likely to encounter situations where starvation results from broader patterns of IHL violations—such as indiscriminate attacks that destroy food and medical facilities or politically-motivated denials of humanitarian assistance. In these cases, your advocacy can be stronger if it links starvation to the documented failures by parties to respect their obligations under IHL,⁵¹ without necessarily suggesting that the starvation of civilians was intentional.

50 UNOCHA, ‘[Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator Mark Lowcock – Speech at the Hertie School of Government](#)’, 3 September 2018.

51 The majority of the examples provided have been extracted from the UN fact-finding missions and commissions of enquiry, as well Human Right Reports, including the following: Human Rights Council, Conference room paper of the Commission on Human Rights in South Sudan, ‘There is nothing left for us: Starvation as a method of warfare in South Sudan’, UN Doc A/HRC/45/CRP.3, 5 October 2020;

Rules that Help Prevent Starvation in Armed Conflict

IHL RULE(S)	EXPLANATION OF THE RULE	HOW IT REDUCES THE RISK OF STARVATION
Prohibitions on targeting civilians, indiscriminate attacks, and disproportionate attacks	IHL prohibits attacks against civilians and civilian objects, ⁵² as well as those which are indiscriminate or disproportionate in their impact on civilians relative to the anticipated military advantage. ⁵³ Link: Category 1(A) for step-by-step guidance.	These core targeting rules prevent direct or excessive harm to civilians and civilian infrastructure such as food markets, farms, water systems, and health centres – but also transport routes, irrigation systems, and food distribution points. They protect not just lives but the systems civilians depend on to access food and water, thereby helping to mitigate the risk of starvation.
Prohibition on attacks likely to cause widespread, long-term, and severe damage to the environment	Methods of warfare that cause widespread, long-term, and severe environmental damage are prohibited. ⁵⁴ For more detailed guidance on the scope of this rule, please contact our Advisory Service.	Environmental degradation—such as destruction of arable land, poisoning of water, or deforestation—can devastate agriculture and food chains. This rule helps preserve the natural foundations of food security, including access to water and areas dependent on subsistence farming.
Prohibition on the indiscriminate use of anti-personnel mines and the failure to remove unexploded ordnance.	Anti-personnel mines must not be used in an indiscriminate manner. For parties to the Ottawa Convention, their use is prohibited entirely. ⁵⁵ Unexploded ordnance and other remnants of war must be cleared. For more detailed guidance on the scope of this rule, please contact our Advisory Service.	Mines can render farmland, water access points, and roads unusable, preventing food production and distribution long after fighting ends. Their indiscriminate use or the failure to clear mines, unexploded ordnance, and other remnants of war directly contributes to hunger and starvation by isolating communities from their means of survival.
Prohibition on attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population	It is prohibited to target foodstuffs, agricultural areas, crops, livestock, water installations, and other essentials for the survival of civilians. ⁵⁶ For detailed guidance, see Chapter 2: Objects Indispensable to the Survival of Civilians.	By definition, objects indispensable to the survival of civilians are essential for civilians to maintain access to food, water, and other resources critical for their survival. When these objects are destroyed or rendered useless, it can directly contribute to starvation.

52 AP I, Arts. 48 and 51.

53 AP I, Art. 51(4)–(5); Customary IHL Rules 1, 11 and 14.

54 AP I, Art. 35(3); Customary IHL Rule 45.

55 Customary IHL Rules 81–83.

56 AP I, Art. 54; Customary IHL Rule 54.

Obligation to allow and facilitate rapid and unimpeded humanitarian relief

Parties must allow and facilitate impartial humanitarian relief operations to civilians in need.⁵⁷ Offers of assistance must not be refused arbitrarily. Aid must not be obstructed, diverted, or pillaged.⁵⁸ Humanitarian and medical staff and objects must be respected and protected.⁵⁹

For detailed guidance, see: **Chapter 2: Denying Access to Humanitarian Assistance.**

Denying or delaying humanitarian aid can result in starvation when civilians are dependent on external assistance. This rule ensures that lifesaving aid reaches affected populations in a timely manner without adverse distinction.

Attacking or intimidating humanitarian and medical services can lead to withdrawal or suspension of aid operations, placing civilians at even greater risk of starvation.



KEY TAKEAWAY

The rules listed above are prohibited in and of themselves. However, where they are causing or increasing the risk of starvation, there will usually be benefit in connecting the failure to respect these rules with the consequence of causing or increasing the risk of starvation. You can find tips on how to incorporate these rules when advocating against starvation in our Advocacy guidance below.

4



ADVOCACY GUIDANCE

Normally, we provide you with three stages of advocacy – **preventative, in response to harm**, and **suggesting a failure to respect IHL**. Given the cross-cutting nature of starvation, we instead provide a condensed form of advocacy guidance that reflects the two forms of assessment detailed above:

- ❖ Advocacy in response to information suggesting that starvation was used intentionally as a method of war; and
- ❖ Advocacy in response to a failure to respect IHL and the associated increase in the risk of starvation.

The primary purpose here is to ensure that humanitarian advocacy properly reflects the severity of starvation and responds to both a potential failure to respect IHL and the need for urgent protective action.

⁵⁷ ICRC, Customary IHL Database, Rule 55; AP I, art. 70; AP II, art. 18(2).

⁵⁸ ICRC, Customary IHL Database, Rules 52 and 111; GC IV, Art. 33.

⁵⁹ ICRC, Customary IHL Database, Rules 25 and 30; GC IV, Art. 20; AP I, art. 71.



Starvation as a method of warfare is strictly prohibited under IHL and may constitute a **war crime**. This prohibition is **absolute**—there are no exceptions based on military necessity. When there are credible indicators that parties are using deprivation of food or other life-sustaining items to punish or weaken the civilian population or to coerce adversaries, humanitarian advocacy must reflect the gravity of the violation.

Key Tips

- **Use appropriate language.** Given the absolute prohibition and the severe civilian impact, use unequivocal language when there is reliable information suggesting starvation is being used deliberately as a weapon. At the same time, be wary that it is difficult to establish intent. Use the indicators of intent from the assessment phase.
- **Highlight that starvation is a method, not just an outcome.** Emphasise that even if no one has yet died from hunger, actions taken to deprive civilians of food or essential services—when used to gain military advantage—may already amount to starvation as a method of warfare.
- **Identify patterns, not just individual acts.** Focus on the cumulative impact of policies such as siege tactics, blocking agricultural inputs or outputs, sustained obstruction of aid, or destruction of food production and distribution systems.
- **Engage diplomatic channels and collective advocacy.** Escalate concerns through coalitions or diplomatic avenues to increase pressure, particularly where access to affected populations is constrained or independent verification is difficult.

Suggested Messaging

- *There are serious concerns that [Party X] is deliberately depriving the civilian population of food and essential services in [location] to achieve military or political aims. Such conduct, if confirmed, constitutes starvation as a method of warfare, which is absolutely prohibited under IHL and may amount to a war crime.*
- *Starvation is not defined by the number of deaths but by the use of hunger as a weapon. The pattern of conduct in [region]—including repeated targeting of food systems, denial of aid, and destruction of crops and markets—raises grave concerns of deliberate starvation of civilians.*
- *We urge all parties to cease any actions that intentionally contribute to the deprivation of food, water, and life-sustaining services. These acts are prohibited under IHL and can amount to a war crime attracting individual criminal responsibility.*



- **Highlight the interconnected obligations.** Emphasise that protecting OIS, facilitating humanitarian access, and refraining from pillage are all vital to preventing starvation—even where starvation is not deliberately used as a weapon.
- **Stress urgency and consequences.** Frame advocacy around the life-saving importance of access to food and clean water. Delays in delivery or the destruction of essential infrastructure can trigger a humanitarian crisis.
- **Document and communicate the impact.** Use available data on malnutrition, market collapse, displacement, or harvest loss to demonstrate the real-world effects of the conduct.
- **Focus on preventing further harm.** Where appropriate, focus on forward-looking, good-faith compliance messaging. Highlight the opportunity for the party to prevent further harm.
- **Promote coordinated, systemic response.** Advocate not only with conflict parties, but also with humanitarian coordination platforms, donors, and third states to prioritise access, protection of food systems, and funding. Consider connecting your advocacy with other organisations like the Famine Early Warning Systems Network and strengthening advocacy by reference to Security Council Resolution 2417 on starvation in armed conflict.

Suggested Messaging

- *The continued destruction of farmlands, water systems, and markets in [location] is contributing to a growing risk of starvation among civilians. These objects are protected under IHL and must not be targeted or used in a manner that undermines their essential function.*
- *Civilians in [area] are facing catastrophic food insecurity. The obstruction of humanitarian assistance and destruction of OIS—whether deliberate or not—violates the obligation of parties to prevent starvation and facilitate relief efforts.*
- *We urge [Party X] to immediately cease actions that are depriving civilians of access to food and water. IHL requires that objects indispensable to civilian survival be protected and humanitarian access facilitated.”*
- *While we have no conclusive evidence that starvation is being used deliberately, the observed conduct in [region] is significantly increasing the risk of starvation. The relevant IHL obligations must be respected to prevent an irreversible humanitarian disaster.*

CHAPTER 4



Chapter 4: Harm to medical Services



In armed conflicts, medical personnel, facilities, and transports are frequently placed at risk. Hospitals are bombed, ambulances come under fire, and health workers are killed or injured with devastating consequences for those harmed, their patients, and the broader civilian population. When health services are attacked or disrupted, entire communities can be left without access to essential care.⁶⁰

IHL grants **elevated protection** to medical units, transports, and personnel.⁶¹ However, parties to a conflict may claim that such protections no longer apply in specific situations. For example, they might argue that a hospital was being used for military purposes, or that medical staff were engaging in acts harmful to the enemy. These allegations—whether substantiated or not—are often used to justify attacks on healthcare services.

This Chapter will help you:

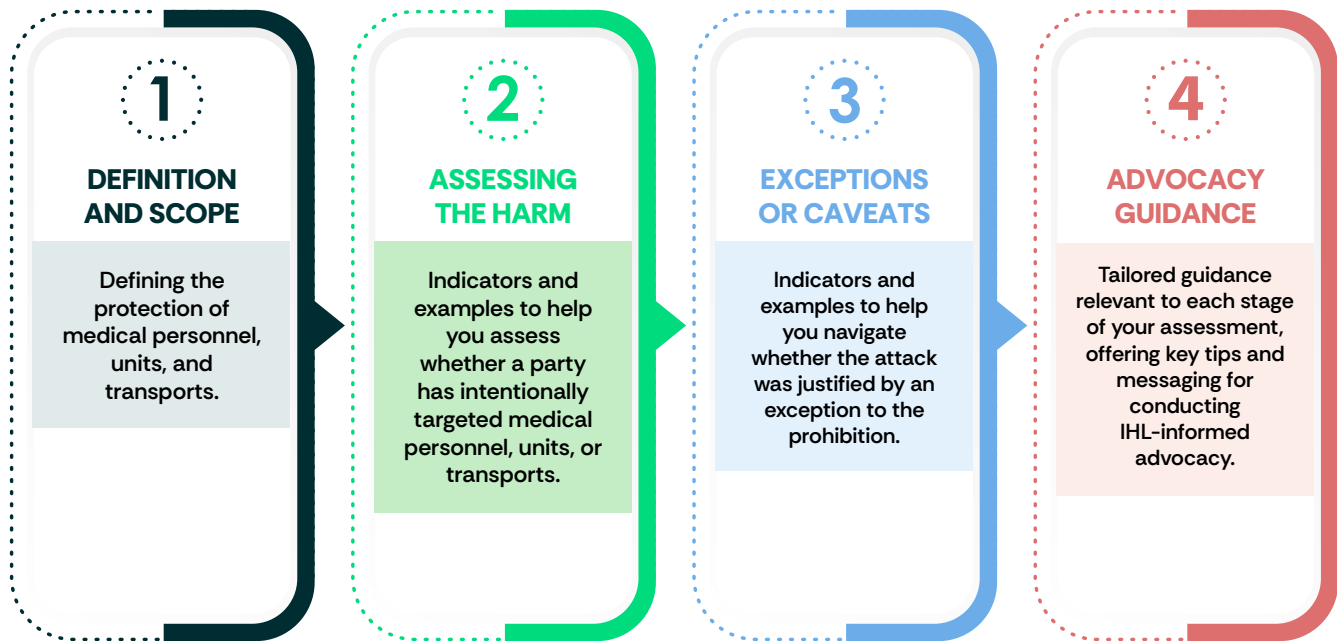
- ♦ understand the IHL rules protecting medical personnel, units, and transports;
- ♦ assess situations where protection may have been lost or claimed to be lost; and
- ♦ use that assessment to strengthen your IHL-informed advocacy; and

Prohibiting attacks against medical services is a priority in armed conflict and there is a risk that the narrow exceptions will be exploited by the responsible party.



⁶⁰ IHL Centre, [Protection of Medical Personnel and Units during Armed Conflict](#), October 2024, p. 4.

⁶¹ ICRC, Advisory Service, [Respecting and Protecting Health Care in Armed Conflicts and in Situations not Covered by IHL](#); ICRC Blog, [“What objects are specially protected under IHL?”](#), 14 August 2017.



1

DEFINITION AND SCOPE

IHL affords protection to:

- ♦ **medical personnel**, namely persons assigned by a party to the conflict exclusively to the “search for, collection, transportation, diagnosis or treatment including first-aid treatment of the wounded, sick and shipwrecked, or for the prevention of disease”,⁶² or to the “administration of medical units or to the operation or administration of medical transports”.⁶³
- ♦ **medical units** including but not limited to hospitals, healthcare facilities, pharmacies, maternity units, and sexual and reproductive health clinics.⁶⁴
- ♦ **medical transports** including but not limited to ambulances and medical convoys.⁶⁵

⁶² API, Art 8(e).

⁶³ ICRC, Customary IHL Database, Rule 25; API Art 8©. This definition includes the following categories of medical personnel: i) Military or civilian medical personnel of a party to the conflict; ii) Medical personnel of National Red Cross or Red Crescent Societies, the ICRC and other voluntary aid societies recognized and authorized by a party to the conflict; iii) Medical personnel provided by a party to the conflict for humanitarian purposes by a neutral or other State which is not a party to the conflict, by a recognized and authorized aid society of such a State, or by an impartial international humanitarian organization.

⁶⁴ AP I, Art 8(e).

⁶⁵ AP I, Art 8(g).



KEY POINT

The emblems of the Red Cross, Crescent and Crystal constitute a visible sign of the protections afforded by IHL to medical units, transports and personnel.⁶⁶ Nonetheless, it is important to remember that medical units, transports and personnel remain protected irrespective of whether or not they are marked by or wear the armlet or clothing marked by one of the emblems.⁶⁷ The elevated protections afforded to them derives from the functions they carry out under the authorisation of a party to the conflict.⁶⁸ If they haven’t been authorised to carry out their functions by a party to the conflict, medical personnel remain protected under the general protection afforded to all civilians.

Under IHL, medical units, transports and personnel exclusively assigned to medical functions must be respected and protected in all circumstances:⁶⁹

⁶⁶ ICRC, Use of Emblems (Law and Policy, Blog Post).

⁶⁷ ICRC, [2016 Commentary on Art 42 of GC I](#), para. 2653; [ICRC, 2016 Commentary on Art 40 of GC I](#), para. 2585.

⁶⁸ Sassoli, IHL: Rules, Controversies and Solutions to Problems Arising in Warfare, Edward Elgar, 2019, pp. 244-245.

⁶⁹ ICRC, Customary IHL Database, Rules 25, and 28-29, GC IV, Arts 18, 20 and 21; AP I, Arts 12, 15 and 21; AP II, Arts 9 and 11.

- ❖ The obligation to **respect** requires that they must not be attacked, and that parties to the conflict do not interfere with their work.⁷⁰ There are very limited circumstances under which party may be justified in attacking them. Even then, IHL imposes strict obligations on both the party attacking it, and the party using it in support of military action.
- ❖ The obligation to **protect** goes further, requiring parties to take steps to facilitate the operation of medical services and protect them from harm, for example by securing roads so that medical transports can safely transport patients.⁷¹ Parties must also adopt measures to ensure that medical personnel can perform their functions, for instance by “reacting against third parties seeking to interfere with their ability to carry out their work”.⁷²

This Chapter focuses exclusively on **physical harm to medical personnel, units, and transports**. Should you require further guidance on potential failures to facilitate medical work, please contact our IHL Advisory Service.

2

ASSESSING THE HARM

You are here because you are concerned that medical personnel have been injured or killed and/or medical units or transports have been damaged or destroyed. Depending on your assessment of the situation, you may be able to use IHL to raise these concerns in your advocacy. This section will help you make an assessment on whether the harm was intentional.



KEY POINT

In most cases you will not know whether medical personnel and/or healthcare facilities and transports were directly targeted or whether the harm caused to them constituted **collateral damage**. This determination requires knowledge of the military targets pursued by a party to an armed conflict, and in most cases this information is not publicly available.⁷³ **This should not discourage you from including IHL in your advocacy. You can advocate for better humanitarian protection even when you do not know whether medical personnel and objects were intentionally targeted.**

The following table provides a non-exhaustive list of indicators that may help you in determining whether the attacks on medical services were intentional.⁷⁴

70 ICRC, [2016 Commentary on GC I](#), para. 1799.

71 ICRC, [2016 Commentary on GC I](#), para. 1805; IHL Centre, [Violations of the IHL Rules on the Protection of Health Care applicable in Gaza](#), 21 March 2024.

72 ICRC, 2016 Commentary on Art 24 of GC I, para. 1984.

73 [Report on Violations of IHL and Human Rights Law, War Crimes and Crimes against Humanity committed in Ukraine since 24 February 2022](#) by Professors Wolfgang Benedek, Veronika Bilkova and Marco Sassoli, 13 April 2022, p. 25. [Moscow Mechanism Report]

74 The majority of the examples provided have been extracted from the UN fact-finding missions and commissions of enquiry, as well Human Right Reports, including the following: OHCHR, Thematic Report: Attacks on Hospitals during the Escalation of Hostilities in Gaza (7 October 2023–30 June 2024) (2024); Safeguarding Health in Conflict Coalition, Epidemic of Violence: Violence Against Healthcare in Conflict (2025); United Nations High Commissioner for Human Rights, “Report containing the findings of the Group of Eminent International and Regional Experts and a summary of technical assistance provided by the Office of the High Commissioner to the National Commission of Inquiry, Situation of human rights in Yemen, including violations and abuses since September 2014”, UN Doc [A/HRC/39/43](#), 17 August 2018, para. 38(a).

SCENARIO	ASSESSMENT
Whether any military objectives were located in close proximity to the medical units or transports or that was harmed, or the medical personnel that was injured or killed.	Attacks must be directed at military objectives, not civilian objects. If there were no military targets near the medical facility or personnel, it weakens any claim that the harm was incidental or collateral. In contrast, if there are no military objectives close by, it is more likely that any harm was intentional.
Whether there was repeated damage to the same medical unit, or transport or if many medical personnel were killed/injured over a period of time.	Repeated harm against one or many medical facilities or against medical personnel may suggest intentionality.
If the attacking party had publicly threatened medical facilities or personnel located in the area before the strike.	Threats can provide evidence of intent. It is rare that a party will admit to intentionally targeting a medical facility or medical personnel, not least because of the international condemnation this would attract. You may be able to infer intentionality even without such a clear statement.
If the type of weapon or method of attack used against the medical facility and/or personnel allowed for precision targeting (for example precision guided munition).	The choice of weapon can reveal whether an attack was deliberate or, if on the contrary it resulted from imprecise targeting.



KEY POINT

No single indicator is likely to be determinative when assessing intentionality. However, the more indicators above that are present, the more likely it is that the attack was directed against medical personnel, units, or transports, and this should be reflected in your advocacy.



KEY TAKEAWAY

Even if you are unsure whether the medical unit, transport or personnel was intentionally harmed, you can reiterate the following key IHL protections:

- ◇ Medical personnel, units and transports exclusively assigned to medical functions must be respected and protected.
- ◇ Medical personnel, units and transports must not be attacked.
- ◇ Medical personnel, units and transports lose their protection if, and only for such time, that they commit or are used to commit acts harmful to the enemy, and warning to stop this activity go unheeded.



Advocacy signposting: based on your assessment of the intentionality of the attack, we recommend you take one of the following steps:

- ◇ If you are **unsure** whether medical personnel, units, or transports were intentionally targeted, you can still **raise concerns** about the fact that they have been harmed during an attack and **remind parties of their obligations**. However, we encourage you to keep reading the **exceptions and caveats** to get a clearer picture of the situation.
- ◇ If you have some **level of confidence** that medical personnel, units, or transports were intentionally targeted, you can raise concerns or suggest a **failure to respect IHL**. However, before doing so, you will need to keep reading the **exceptions and caveats**.
- ◇ If you think that medical personnel, units, or transports were not intentionally

targeted but harmed during an attack on a **military objective** (collateral damage), go to **Category 1(A)** for guidance on the conduct of hostilities, in particular the prohibition on disproportionate attacks and the obligation to take precautions in attack.

3

EXCEPTIONS OR CAVEATS

Under IHL, medical personnel, units or transports lose their protection from attack **only** if they commit or are used to commit, outside their humanitarian functions, acts harmful to the enemy. Even then, IHL imposes strict requirements on both the attacking party and the party engaging in acts harmful to its enemy.

This section is divided as follows:

- ◇ Firstly, it will provide you with indicators to help you assess whether the medical unit, transport or personnel had been used to commit **acts harmful to the enemy outside their humanitarian function**.
- ◇ Secondly, if you think they have lost their elevated protection, **IHL provides the following rules:**
 - For the attacking party, an effective warning must be issued before it launches an attack against the medical personnel, units, or transports that are committing acts harmful to the enemy.
 - For the party using medical personnel, units or transports to commit acts harmful to the enemy, they must refrain from such use and take measures to respect and protect their vital work.

Which acts can lead to temporary loss of protection?

You are here to assess whether or not the medical unit or personnel or transport has temporarily lost their protection.

Under IHL, medical units, transports, and personnel only lose their protection where they are used to commit acts harmful to the enemy outside their humanitarian function. Suspension of protection therefore requires the act to meet two criteria cumulatively.⁷⁵

- ◇ It must be outside the humanitarian function of medical unit or transport; and
- ◇ It must be harmful to the enemy.

It is therefore important to clarify which acts outside the humanitarian functions of medical units, transports and personnel may be considered harmful to the enemy. The table below provides illustrative examples to help you make this assessment. The examples on the right would not constitute acts harmful to the enemy and therefore would not lead to a loss of protection. The examples on the right **may** lead to a loss of protection, bearing in mind that the assessment will always be fact specific and that, in cases of doubt, **medical units, transports or personnel retain their protected status**.⁷⁶

ACTS AND SITUATIONS WHICH WOULD NOT QUALIFY AS HARMFUL TO THE ENEMY	ACTS AND SITUATIONS WHICH MAY QUALIFY AS HARMFUL TO THE ENEMY
Personnel working in a medical unit are equipped with light weapons for their own defence or to protect the wounded and sick in their charge.	Hospital grounds are used as military barracks, a military base or military observation point
Small arms and ammunition taken from injured fighters or combatants are present in a medical unit.	A party to the conflict is firing weapons from the roof of a hospital.
Wounded and sick combatants or fighters are present in a medical unit for treatment.	Storing weapons in a hospital.
A field hospital located near the front line has two visibly armed guards stationed outside to protect the facility from looting and attacks.	Military personnel fire weapons at the enemy or engage in other acts that constitute direct participation in hostilities.
An ambulance makes regular deliveries of water, first aid kits, and medicine to a besieged urban area where both civilians and some injured opposition fighters are present.	Medical transports are used to transfer uninjured combatants or fighters.

⁷⁵ ICRC, 2016 Commentary on [Art 21 of GCI](#), para. 1840, IHL Centre, [Violations of the IHL Rules on the Protection of Health Care applicable in Gaza](#), 21 March 2024.

⁷⁶ These examples were drawn from the following sources: ICRC, 1958 Commentary on Geneva Convention IV, p. 154; ICRC, 2020 Commentary on GC III, paras 806, 808; Human Rights Council, Detailed findings of the Group of Eminent International and Regional Experts on Yemen, "Situation of human rights in Yemen, including violations and abuses since September 2014", UN Doc. [A/HRC/45/CRP.7](#), 29 September 2020, para 86; Human Rights Council, Report of the Group of Eminent International and Regional Experts, Situation of human rights in Yemen, including violations and abuses since September 2014, UN Doc [A/HRC/42/CRP.1](#)* 3 September 2019, paras. 73, 163.

ACTS AND SITUATIONS WHICH WOULD NOT QUALIFY AS HARMFUL TO THE ENEMY

Medical staff refuse a request from military authorities to disclose the names of injured fighters being treated at their facility.

A medical vehicle is used to evacuate wounded enemy fighters from a combat zone, passing through areas of ongoing hostilities.

ACTS AND SITUATIONS WHICH MAY QUALIFY AS HARMFUL TO THE ENEMY

Medical transports are used to transfer ammunition.

A medical aircraft is used to gather or transmit military intelligence



KEY POINT

Treating injured **enemy combatants or fighters** does not constitute an act outside humanitarian functions that is harmful to the enemy. Caring for enemy combatants or fighters may cause indirect harm (the fighters may re-join the battlefield once treated), but this act is still compatible with medical and humanitarian functions and does not lead to a loss of protection.⁷⁷



Advocacy signposting: based on your assessment of whether the medical personnel, units, or transports were used to commit acts harmful to the enemy outside their humanitarian function, we recommend you take one of the following steps:

- ♦ If you are **unsure** whether the medical personnel, units or transports were used to commit acts harmful to the enemy, you can still **raise concerns** about the fact that they have been harmed during an attack. Although your language should reflect this uncertainty, remember that the **burden** is on the attacking party to demonstrate that this limited exception applies.
- ♦ If you have some **level of confidence** that medical personnel, units, or transports were used to commit acts harmful to the enemy, you should **keep reading** the next section to assess whether an **effective warning** was provided.
- ♦ If you have some **level of confidence** that medical personnel, units, or transports were **not** used to commit acts harmful to the enemy that they were **intentionally targeted** in accordance with the previous assessment, this suggests a **failure to respect IHL**. You can find key tips and model language formulation in **section: Advocacy guidance**.

If medical personnel, units, or transports are used to commit acts harmful to the enemy, can IHL still be used in response to an attack?

Yes. If you have some level of confidence that medical personnel, units or transports committed or were used to commit acts harmful to the enemy outside their humanitarian function, both the attacking party and the party using it in support of the military effort continue to be bound by several IHL obligations.

⁷⁷ Dinstein, *The Conduct of Hostilities under the Law of International Armed Conflict*, 3rd ed, Cambridge University Press, 2016, pp. 202 and 224.

- ◇ With respect to the **party that has targeted medical units, transports or personnel due to their hostile acts**, your assessment and advocacy should focus on whether the attacking party has provided **warning** before launching an attack.

Obligation to provide warning: IHL requires that a warning is issued before a party to the conflict launches an attack against medical personnel, units or transports that commit or are used to commit, outside their humanitarian functions, acts harmful to the enemy.⁷⁸ Medical personnel, units or transports will only lose their protection if the warning remained unheeded, namely where the harmful act to the enemy does not cease.⁷⁹

Modalities: A warning may take the form of an order to put an end to the harmful act transmitted on the spot, a radio message, a press release, an email addressed to the military authorities, or recorded telephone warnings.⁸⁰ The above examples are not exhaustive.



Moreover, a warning must satisfy the following conditions:



It must be clear and specific.⁸²



It must reach those committing an act harmful to the enemy.⁸³



It must set, where appropriate, a reasonable time limit which must be of a duration sufficient to allow the unlawful acts to cease, or allow for the evacuation of the wounded and sick and the medical personnel present in the medical unit or transport. A warning that does not satisfy the above requirements cannot be considered effective.⁸⁴

A warning that does not satisfy the above requirements cannot be considered effective.

78 ICRC, Customary IHL Database, Rule 28; GC IV, Art 19; AP I, Art 13(1); AP II, Art 11(2).

79 AP I, Art 13 (1); AP II, Art 11(2); ICR, Customary IHL Database, Rule 28; ICRC, 2016 Commentary on [Art 21 of GC I](#), para. 1853. Even though not specifically mentioned in treaty and customary IHL, the ICRC Commentary takes the view that the warning requirement also applies to medical personnel considering that the humanitarian purpose underlying the rules on the protection of medical personnel and of medical units and transports is the same. See ICRC, 2016 Commentary on [Art 24 of GC I](#), para. 2008.

80 ICRC, 2016 Commentary on [Art 21 of GC I](#), para. 1850; Report of the United Nations Fact Finding Mission on the Gaza Conflict, UN Doc A/HRC/12/48, 25 September 2009, para. 634.

81 Report of the United Nations Fact Finding Mission on the Gaza Conflict, UN Doc [A/HRC/12/48](#), 25 September 2009, paras 634, 646; Kolb and Nakashima, 'The notion of 'acts harmful to the enemy' under IHL', International Review of the Red Cross, No 912, 2019, p. 1181.

82 ICRC, [2016 Commentary on GC I](#), para. 1850.

83 GC IV, Art 19; AP I, Art 13(1); AP II, Art 11(2); Customary IHL Database, Rule 28; ICRC, [2020 Commentary on GC III](#), para. 806.



KEY POINT

In certain exceptional circumstances, it may be lawful not to give warning, for instance, ‘when combatants approaching a military medical establishment or unit come under fire from persons inside it.’⁸⁴ Not providing warning due to ‘an immediate threat to the lives of advancing combatants’ is an exceptional decision that must be taken with utmost caution in light of the risks it involves for the wounded and sick.⁸⁵

What happens after a warning has been provided?

Once a warning has been provided and remains unheeded, military units, transports or personnel that commit or are used to commit, outside their humanitarian functions, acts harmful to the enemy may be targeted in accordance with the principles of **proportionality** and **precautions** in attack, provided they constitute lawful military targets.



KEY POINT

Medical units and transports that are used to commit, outside their humanitarian functions, hostile acts to the adversary are highly likely to qualify as military targets.⁸⁶ However, an act harmful to the enemy committed by medical personnel outside their humanitarian functions may not necessarily amount to direct participation in hostilities which is the conduct that turns a civilian into a military target for the time he or she takes a direct part.⁸⁷ This is because the scope of the notion ‘action harmful to the enemy’ is much broader than direct participation in hostilities.⁸⁸ In case you would

like to receive further guidance on this issues, please contact our IHL Advisory Service.

- ♦ **With respect to the party that has used a medical unit or transport to commit acts harmful to the enemy.**

The use of medical units or transports for military purposes by parties to an armed conflict will lead to loss of protection. Such use endangers the safety of the wounded and sick as well as of medical personnel and disrupt the provision of medical care to those in need.⁸⁹ IHL requires parties to take precautions against the effect of attacks, which means removing civilians and civilian object away from military targets to the greatest extent. Using medical personnel and supplies in a way that subjects them to attack significantly increases the risk of civilian harm.



ADVOCACY GUIDANCE

In this section, we take what you have learned from your IHL-informed assessment (above) and offer some tips incorporating this assessment in your advocacy. You will find advocacy guidance relevant to the key issue that came out of your assessment, namely:

- ♦ Advocacy in response to **intentionally targeting medical personnel, units, or transports.**
- ♦ Advocacy focusing on whether there was an **effective warning** before attacking medical services that were being used to commit **acts harmful to the enemy.**

We provide three distinct stages of advocacy that reflect where you are at in your assessment:

84 ICRC 2016 Commentary on [Art 21 of GC I](#), paras 1848-1849.

85 ICRC, 2016 Commentary on [Art 21 of GC I](#), para. 1849.

86 Ibid, para. 1847.

87 Ibid, para. 2003.

88 Ibid, para. 2003.

89 ICRC, 2016 Commentary on Art 19 of GCI, para. 1800.

- ◇ Preventative advocacy – remind parties of their IHL obligations before a violation occurs, especially when risks or early warning signs are present.
- ◇ Advocacy in response to harm – raise concerns about harm and the conduct of the relevant party, without suggesting a violation of IHL.
- ◇ Advocacy suggesting a failure to respect IHL – raise concerns about a possible IHL violation where you have assessed all elements of the rule, including exceptions and caveats.

When suggesting a failure to respect IHL, you will find language suggestions crafted to reflect your **level of confidence** (limited, moderate, or high), based on the extensiveness of your IHL-informed assessment and the quality of information you have received.

Advocacy in response to intentionally targeting medical personnel, units, or transports



Purpose: Promote respect for IHL and prevent violations before they occur. Highlight concerning trends or early warning signs where applicable.

Key tips

- **Proactively identify and share the location of medical facilities and transports (where safe).** Encourage conflict parties to recognise and respect known medical locations through deconfliction mechanisms or military-to-humanitarian liaison channels.
- **Ensure recognition of emblems and signs.** Advocate for respect of the Red Cross, Red Crescent, or equivalent medical emblems and ensure medical transports and units are clearly marked where operationally feasible and safe.
- **Clarify legal scope of ‘acts harmful to the enemy’.** Where appropriate, engage with armed actors to explain that treating wounded enemy combatants or operating near frontlines does not strip medical units of protection.

Key messaging

- *Medical personnel, units, and transports are protected under IHL at all times. Treating wounded individuals — including enemy combatants — does not justify attacks.*
- *Parties are reminded of their obligation to ensure these facilities and transports are respected and protected, and to prevent misunderstandings that could endanger medical services.*



Purpose: Respond to conduct causing civilian harm without necessarily suggesting a failure to respect IHL.

Key tips

- **Emphasise humanitarian impact.** Outline who or what was harmed, the nature of the harm, and its consequences for the wounded and sick or the broader health system.
- **Encourage investigation and review.** Suggest that parties clarify the circumstances of the attack, assess whether targeting protocols were followed, and adjust conduct accordingly.
- **Promote temporary protective measures.** Recommend buffer zones, notification procedures, or escorts to reduce future risk of harm.
- **Engage health actors and affected communities.** Involve local health professionals and humanitarian actors in messaging to give voice to those directly impacted and enhance credibility.

Key messaging

- *Reports of damage to medical facilities and harm to medical personnel in [location] are deeply concerning. This affects access to life-saving care for all civilians, especially the wounded and sick.*
- *We urge all parties to take immediate measures to ensure respect for the protected status of medical services under IHL.*
- *Parties are reminded of their obligation to ensure these facilities and transports are respected and protected, and to prevent misunderstandings that could endanger medical services.*



Purpose: Suggest a failure to respect the **prohibition on intentionally targeting medical personnel, units, or transports** based on a complete and contextually specific assessment of the rule(s), including the exceptions and/or caveats.

Remember: Even if you are unsure of whether an exception applies, you can still raise concerns over a failure to respect IHL. The **burden** is on the party engaging in seemingly unlawful conduct to justify that an exception to the rule applies.

Remember: This advocacy guidance is in response to information suggesting an **intentional attack** against medical personnel, units, or transports that were **not being used to harm the enemy**. For guidance around **warnings**, see the following subsection.

Key tips

- Consider collective advocacy in conjunction with clusters or working groups. The [Surveillance System for Attacks on Healthcare](#) can provide useful data on the number and types of attacks on healthcare in your context, which you can use in your advocacy and in your analysis prior to your advocacy.
- Encourage marking and visibility. Where appropriate, encourage medical personnel, objects, and vehicles to be clearly marked and operating in accordance with deconfliction measures.

Key messaging

Tailor the messaging below in accordance with the guidance provided in the User Guide, supplementing it with details about the specific situation.

Limited level of confidence:

- *The available information raises concerns that medical units or personnel may have been intentionally targeted or harmed during recent operations in [location] in violation of IHL. All parties are reminded that IHL expressly prohibits targeting medical personnel, units, or transports.*
- *We urge [Party X] to clarify the circumstances of this incident and to ensure that medical services are respected and protected in accordance with IHL.*

Moderate level of confidence:

- *The available information strongly suggests that medical facilities and/or personnel were deliberately or indiscriminately targeted in [location], in violation of IHL protections.*
- *There is no indication that these facilities had lost their protected status. Such conduct undermines humanitarian access and medical neutrality.*

High level of confidence:

- *There is clear evidence that [Party X] intentionally attacked medical personnel or units that were engaged in exclusively medical functions, in breach of their special protection under IHL.*
- *The claim by [Party X] that [insert justification, if applicable] appears unfounded. No information has been provided to support the claim that the medical personnel, units, or transports had become military objectives.*

Advocacy on the obligation to provide an effective warning



Purpose: Suggest a failure to respect IHL based on a complete and contextually specific assessment of the rule(s), including the exceptions and/or caveats.

Remember: Even if you are unsure of whether an exception applies, you can still raise concerns over a failure to respect IHL. The **burden** is on the party engaging in seemingly unlawful conduct to justify that an exception to the rule applies.

Remember: This advocacy guidance applies to information suggesting that **no warning was given** or that the warning was **ineffective**. This guidance assumes that the medical personnel, units, or transports were otherwise lawful military targets.

Key tips

- **Clarify that protection is not lost immediately upon harmful conduct:** Emphasise that providing an effective warning is a legal obligation before launching an attack.
- **Request clarity.** Where appropriate, consider asking the relevant party whether a warning was issued, how it was communicated, to whom, and whether a reasonable response time was provided. Absence of such evidence should be flagged as a potential IHL violation.
- **Highlight that warnings must be effective.** Vague, general, or last-minute warnings are insufficient. A lawful warning must be specific, timely, and effective.

Key messaging

Tailor the messaging below in accordance with the guidance provided in the User Guide, supplementing it with details about the specific situation.

Limited Confidence

No warning given:

- *Available information raises concerns that an attack on medical personnel or a facility took place without any prior warning, in possible breach of IHL requirements.*
- *While protection may be lost if medical units commit acts harmful to the enemy, IHL clearly requires that a warning be issued and go unheeded before any attack can be lawfully carried out.*

Warning not effective:

- *There are concerns that the warning provided prior to the attack on the medical facility in [location] did not meet the standard of effectiveness required by IHL.*
- *The timing, content, and method of delivery of the warning appear insufficient to allow the medical unit to comply and avoid attack.*

Moderate Confidence**No warning given:**

- *There is credible information suggesting that medical facilities or personnel were attacked without any specific warning, in violation of IHL. These facilities retained their protected status.*
- *No information has been provided indicating that a warning was given prior to the attack. Under IHL, the absence of a warning renders the attack unlawful, even if harmful conduct were suspected.*

Warning not effective:

- *Available evidence strongly suggests that the warning provided was not effective: it was vague, not clearly directed to the relevant personnel, or did not allow a reasonable time for compliance.*
- *Under IHL, warnings must be clear, timely, and offer a genuine opportunity to cease harmful conduct. This standard appears not to have been met in the case of [location].*

High Confidence**No warning given:**

- *The evidence clearly shows that [Party X] carried out an attack against a medical unit/personnel without issuing any warning, as required under IHL. This constitutes a clear violation of the protections afforded to medical services.*
- *The failure to issue a warning before attacking medical personnel in [location] directly contravenes the requirements of GC I–IV and AP I. These protections are essential to preserving medical neutrality and ensuring the wounded and sick receive care.*

Warning not effective:

- *The facts clearly show that the warning issued before the attack on [medical facility/personnel] failed to meet the threshold of an effective warning under IHL. It did not provide the required clarity, notice, or opportunity to respond.*
- *IHL requires that a warning be not only issued, but effective. The attack in [location] proceeded despite an ineffective or perfunctory warning, constituting a clear violation of the protected status of medical personnel and units.*

CHAPTER 5



Chapter 5: Denying Access to Education

Overview

You are here because you have concerns that civilians are being denied access to education. IHL rules can help you to advocate for the continuity of access to education during armed conflict.

Education should be understood in a broad sense to include both physical and moral education, as well as schoolwork and religious instruction.⁹⁰ There is no checklist of activities that constitute education under IHL but keep in mind that the term should be interpreted broadly.

When conflict begins, schools and educational services are amongst the least resilient to the outbreak of hostilities.⁹¹ When schools stop functioning, children face higher risks of kidnapping, forced recruitment, and sexual violence, amongst others. Because of the life-sustaining and protective role that education provides, it is recognised as an essential public service and humanitarian need.⁹²

Access to education under IHL is mainly guaranteed for children, though there are limited protections for adults too.⁹³ Children benefit from an elevated protection during armed conflict, which parties must respect by providing them with the care and aid

they require, including ensuring that they maintain continued access to education.⁹⁴

- ♦ **Who qualifies as a child under IHL?** IHL does not have a clear definition of who is a child. Instead, there are different age-limits with respect to different provisions, although 15 years is the most common. For the purposes of this chapter, anyone below the age of 18 qualifies as a child, unless the IHL rule specifically states otherwise.⁹⁵ Be mindful that this approach may be challenged by parties to the conflict, for example if they rely on national laws, military regulations, or regional norms that define the age of a child differently in specific circumstances.

How does IHL protect continued access to education during armed conflict? IHL does not provide for an explicit right to access education. It does however contain several rules which seek to ensure that, where education was provided before the outbreak of hostilities, it can continue uninterrupted, especially during a protracted armed conflict.⁹⁶

This Chapter will focus on two protection concerns which you may have, providing you with relevant indicators to assess compliance. The graph below illustrates this structure.

⁹⁰ ICRC, 1987 Commentary to GC IV, Art 24.

⁹¹ ICRC, Council of Delegates, Resolution, "Education, Related humanitarian needs", CD/17/R6, p.1.

⁹² ICRC, Q&A Access to Education, 1 April 2019. On the importance of ensuring continued access to education during armed conflict, see also ICRC, Report, "IHL and the Challenges of Contemporary Armed Conflicts", 2019, p.45.

⁹³ See in particular for detainees, GC IV, Art 94.

⁹⁴ ICRC, Customary IHL Database, Rule 135; Art 77, APII, Art 4(3).

⁹⁵ This is also the definition adopted under most IHRL treaties, including the 1989 Convention on the Rights of the Child, and the 2000 Optional Protocol to the Convention on the Rights of the Child.

⁹⁶ BIICL, Handbook, "Protecting Education in Insecurity and Armed conflict", Second Edition, p.18.

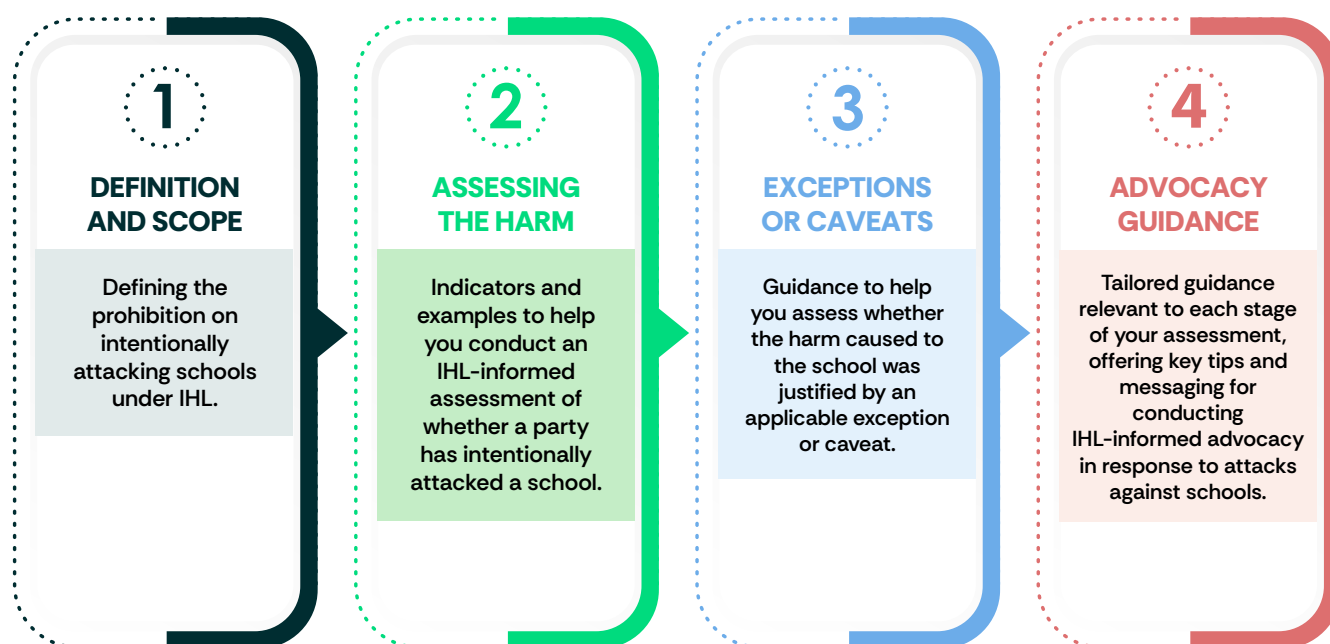


5.1 Attacks against schools



The prohibition on attacking schools contributes to respect for the broader obligation to ensure continued access to education during armed conflict. Schools are civilian objects and are therefore protected from attack. They may however temporarily lose their protection if they are used in support of the military effort.

This section will provide you with indicators and IHL-informed advocacy guidance in relation to harm to schools which takes place during the conduct of hostilities.⁹⁷



⁹⁷ If you are unsure whether the situation you are assessing took place during the conduct of hostilities, refer to the guidance provided in Category 1, 'Determining whether the harm occurred inside or outside of hostilities'.

1

DEFINITION AND SCOPE

IHL does not provide a definition of schools or other educational buildings.⁹⁸ Schools are civilian objects and therefore benefit from the same protection afforded to other civilian objects under IHL.⁹⁹ In particular, they should not be attacked. Like other civilian objects, they may temporarily lose their protection if they are used in support of the military effort. Even when a school has temporarily lost its protection, IHL imposes strict obligations on both the attacking party, and the one using the school in support of the military effort.

This section adopts the definition of schools under the Safe Schools Declaration, which states that schools are places used principally for education, whatever they are called in the local context.¹⁰⁰ It includes pre-primary or early childhood education centres, primary or secondary schools, learning centres, and tertiary education centres such as universities, colleges, or technical training schools.¹⁰¹ Schools will also include education facilities for children with disabilities. This definition is not legally binding. It will however provide a strong indication that the building in question is a school.

2

ASSESSING THE HARM

You are here because you have received information that one or several educational buildings are either at risk of, or have been, damaged or destroyed. This section will help you make an assessment on whether the harm was intentional. This assessment is important because it can strengthen your advocacy and will help you use appropriate language for the situation.

In practice, it is often difficult to establish whether the school was the actual target of the attack or whether the inflicted harm constituted collateral damage. This determination requires knowledge of the military targets pursued. In most cases, parties to armed conflicts do not share publicly information about their military operations and the intended targets. However, the non-exhaustive list of factors below can help you in assessing intentionality, especially when considered cumulatively.

SCENARIO	EXPLANATION
 Whether any military objectives were located in close proximity to the school attacked.	The presence of a military objective in close proximity to the school may suggest that damage to the school was incidental, and the unfortunate result of an attack against a lawful military objective. In contrast, if there are no military objectives close to the school, it is more likely that any damage was intentional.

98 Bart, 'The Ambiguous Protection of Schools under The Law of War – Time for Parity With Hospitals and Religious Buildings', *Georgetown Journal of International Law*, Vol. 40, No. 2, 2009, p. 427.

99 Civilian objects can never be the target of an attack, nor the subject of reprisals or other acts of violence under IHL.

100 GCPEA, *Commentary on the Guidelines for protecting schools and universities from armed conflict*, p.7 Please note: Excluded from the definition of schools are "institutions dedicated to the training and education of personnel who are, or who will become, members of the fighting forces of parties to armed conflict (e.g. military colleges and other training establishments)."

101 Ibid.

SCENARIO	EXPLANATION
 Whether the same school or schools were damaged repeatedly.	Repeated harm to a school may suggest intentionality. Similarly, a pattern of harm to different educational buildings can indicate intentionality.
 Any statements by the party/parties to the conflict indicative of an intent to target schools.	It is rare that a party will admit to intentionally targeting schools. You may be able to infer intentionality even without such a clear statement.
 If the type of weapon or method of attack used against the school allowed for precision targeting (for example precision guided munition)	The choice of weapon can reveal whether an attack was deliberately aimed at a school or, if on the contrary it resulted from imprecise targeting.



KEY POINT

The more indicators above that are present, the higher your level of confidence that a school was intentionally attacked. This should be reflected in your advocacy.



Advocacy signposting: based on your assessment of the intentionality of the attack, we recommend you take one of the following steps:

- ♦ If you are **unsure** whether the school was intentionally targeted, you can still **raise concerns** about the fact that it has been harmed during an attack and **remind parties of their obligations**. However, we encourage you to keep reading the **exceptions and caveats** to get a clearer picture of the situation.
- ♦ If you have some **level of confidence** that the school was intentionally targeted, you can raise concerns or suggest a **failure to respect IHL**. However, before doing so, you will need to keep reading the **exceptions and caveats**.
- ♦ If you think that the school was **not** intentionally targeted but harmed during an attack on a **military objective** (collateral damage), go to **Category 1(A)** for guidance on the conduct of hostilities, in particular the prohibition on disproportionate attacks and the obligation to take precautions in attack.

3

EXCEPTIONS OR CAVEATS

There is only one exception to the prohibition on the intentional targeting of schools and that is where the school has been turned into a military objective. In this case, the school temporarily loses its protection from direct attack and becomes a **lawful military target**. Even then, important IHL rules and protections remain for both parties – the party that has/is seeking to attack the school and the party that is using the school for a military purpose.

This section is divided as follows:

- ◆ First, it will provide you with indicators to help you assess whether the school had temporarily lost its protection from attack.
- ◆ Second, if you think it has lost its protection, we will explain the following IHL obligations:
 - For the attacking party, we will again remind you of the obligations to take precautions and the prohibition on disproportionate attacks in Category 1.
 - For the party using it as a military objective, we will provide guidance to help you assess whether the party using the school is failing to respect IHL by placing children, educational staff, and the school building itself at an increased risk of harm.

Which acts can lead to temporary loss of protection?

Schools may lose their protection when they make an effective contribution to military action because of their location, use or purpose, thus turning them into a military target.¹⁰² If a school is used outside of its educational functions for other civilian use, it does not lose its protection.¹⁰³

The scenarios below will help you assess whether a school has lost its protection from direct attack. They are only illustrative and should not be seen as an exhaustive checklist.

¹⁰² When parties take over a school or other civilian building, it is sometimes informally referred to as 'occupation'. However, the term occupation has a strict legal meaning under IHL. In order to avoid confusion and to ensure clarity regarding this term, avoid using it in relation to a school used for military purposes. See: UNICEF, Guidance Note on Security Council Resolution 1998, May 2014, p. 12.

¹⁰³ This would be the case for example, if the school was used to host IDPs during a conflict.



Situations in which the school may temporarily lose its protection from attack



A party uses several classrooms and lockers to store or hide weapons. It is not necessary for it to use the entire school building¹.



A commander uses a school to house members of its armed forces.



A university is temporarily used as a training centre for the military.



A school is used as a command and control centre, where commanders plan and coordinate attacks from.



The roof of a school is used by a commander as an observation post to keep track of enemy movement.



Soldiers use a school's location (either because it is elevated, or otherwise difficult to reach) to provide them with cover from attacks against enemy forces.



Situations in which the school will not lose its protection from attack



A school which reinforces political support of its students for one party to the conflict over the other through its curriculum or in any other way.



The school building is used as housing for internally displaced people or providing shelter to civilians.



University premises being used as a polling stations during elections, even if security forces are present within the premises².



Humanitarian aid bodies using the school as a food distribution centre for the relief of civilians.



KEY TAKEAWAY

You may be **unsure** about whether the school was being used for a military purpose. The party responsible for the attack may not release the information on which it based its targeting decisions, and it may be difficult to obtain credible information on what is happening on the ground in a war zone. These factors alone should not dissuade you from using IHL rules as part of your advocacy.



KEY POINT

In case it is unclear whether the school is a military objective, it must be presumed to retain its civilian status by the parties to the conflict.¹⁰⁴

When a school has lost its protection, can IHL still be used in response to an attack?

Yes. When a school has lost its protection, both the attacking party and the party using the school in support of the military effort continue to be bound by several IHL obligations.

- ♦ **The party targeting the school** continues to be bound by all the general IHL rules relating to the conduct of hostilities, in particular the principle of precautions and proportionality. For further guidance on these rules, see **Category 1(A)**.
- ♦ **The party using a school** in support of the military effort continues to be bound by both the obligation to protect civilians and civilian objects under its control against the effects of attacks, and the obligation to grant elevated protection to children.¹⁰⁵

Parties are required to take all feasible precautions to protect civilians and civilian objects under their control against the effects of attacks. For example, if there are children or other civilians present within the school building, the party using it for military purposes has an obligation to ensure that they are protected from the dangers arising from a potential attack. This could include taking measures such as:

- ♦ ordering a temporary or permanent evacuation of civilians from the school.

- ♦ whenever possible, confining the military use to a separate section of the building to where students and teachers are present.

Equally, if the school is located within a densely populated area, a party cannot turn it into a military objective without taking adequate **protections to minimise civilian harm**. The party should assess whether an alternative military location is available or ensure a temporary evacuation of civilians which are located within the vicinity of the school.

The obligation to afford children elevated protection. If there are children present in the school building, the party using it must ensure that adequate measures are in place to protect them. This may include restricting the times and length of the military use, for example ensuring that it only occurs outside term time.

Equally, the presence of armed forces within the school building means that students are at a greater risk of forced recruitment, physical and sexual abuse. Children's elevated status under IHL means that these risks must be factored in by the party using the school in support of the military effort, and that they must take all precautions to ensure the safety of children.¹⁰⁶

The following scenarios will help you make an assessment as to whether the party using the school for military purposes has complied with its precautionary obligations and the obligation to afford children elevated protection. These scenarios are for illustrative purposes only.

¹⁰⁴ ICRC, Customary IHL Database, Rule 10 and API, Art 52(3).

¹⁰⁵ ICRC, Customary IHL Database, Rule 22 and 135; API, Art 58(c), APII, Art 13(1).

¹⁰⁶ Remember, the rules of IHRL continue to apply. If there is a prolonged use of schools for military purposes, a party may be violating its obligations under IHRL, at a minimum the prohibition on interfering with or obstructing the right of children to access education.

SCENARIO	EXPLANATION
A school is used as a military training ground during term time, and remains open to children and educational staff thus putting children and other civilians at increased risk.	Using a school as a military training ground whilst it is still fully operating as an educational facility puts children and other civilians at significant risk. In this situation, the party using the school for military purposes is likely to be violating its obligation to take feasible precautions against the effects of the attack, whilst also failing to adequately respect children's elevated protection.
A school, located at the heart of a bustling town, is turned into a major command and control centre. Some limited efforts are made to minimise harm to civilians, including minimising periods during which the school is used as a control centre.	Because the school is located at the heart of a busy town, it is unlikely that the party using it is fully complying with its precautionary obligations. The fact that it is limiting the military use to specific times is encouraging, but on its own, may not suffice to significantly prevent harm to civilians. ¹⁰⁷
An armed group uses an abandoned school building as a military base.	It is likely that the armed group is respecting its precautionary obligations, as well as the elevated protection granted to children. Using an abandoned school building is likely to cause minimal civilian harm.



KEY POINT

- ◆ If the military forced students and teachers to work or perform tasks for the operation of the armed forces, this may amount to a violation of the prohibition of forced recruitment into the armed forces.¹⁰⁸
- ◆ International Human Rights Law offers additional protection to schools during armed conflict. National legislations may also contain provisions prohibiting the use of schools for military purposes during armed conflict.

Using a school in support of military effort is likely to attract international condemnation from States, NGOs, and other international actors.¹⁰⁹ The Safe Schools Declaration, an intergovernmental political commitment aimed at protecting schools, teachers, and students from harm, reflects the commitment of many States to restrict the military use of schools and ensuring the safety of education during armed conflict.¹¹⁰

¹⁰⁷ Parties to the conflict must, to the extent feasible, avoid locating military objectives within or near densely populated areas: see Customary IHL, Rule 23.

¹⁰⁸ Customary IHL, Rule 136, API Art 77(2) and APII, Art 4(3)(c).

¹⁰⁹ Though there is no explicit prohibition, UNSCR 2143 expressed "deep concern" about the military use of schools by armed forces. See also [UNSCR 1998 \(2011\)](#), [UNSCR 2225 \(2015\)](#) and UNSCR 2601 (2021).

¹¹⁰ The Safe School Declaration also offers concrete guidance for deterring armed forces from using educational facilities.

4



ADVOCACY GUIDANCE

In this section, we take what you have learned from your IHL-informed assessment (above) and offer some tips incorporating this assessment in your advocacy. You will find advocacy guidance relevant to the key issue that came out of your assessment, namely:

1. Advocacy in response to intentionally targeting schools.
2. Advocacy in response to information suggesting that a school has become a lawful military target.

We provide three distinct stages of advocacy that reflect where you are at in your assessment:

- ♦ **Preventative advocacy** – remind parties of their IHL obligations before a violation occurs, especially when early warning signs are present.
- ♦ **Advocacy in response to harm** – raise concerns about harm and the conduct of the relevant party, without suggesting a violation of IHL.
- ♦ **Advocacy suggesting a failure to respect IHL** – raise concerns about a possible IHL violation where you have assessed all elements of the rule, including exceptions and caveats.

When suggesting a failure to respect IHL, you will find language suggestions crafted to reflect your **level of confidence** (limited, moderate, or high), based on the extensiveness of your IHL-informed assessment and the quality of information you have received.

Advocacy in response to intentionally targeting schools

Advocacy in response to intentionally targeting schools



Purpose: Promote respect for IHL and prevent violations before they occur. Highlight concerning trends or early warning signs where applicable.

Key tips

- **Reinforce presumption of civilian character:** Emphasise that schools are presumed to be civilian objects and must not be targeted unless and until there is reliable evidence that they are being used for military purposes.
- **Promote preventive military coordination mechanisms:** Encourage pre-conflict or early-conflict coordination with parties to identify and avoid targeting civilian infrastructure, including through no-strike lists, GPS coordination, and civil-military liaison mechanisms.
- **Discourage military use of schools:** Highlight that using schools for military purposes, such as barracks or weapons storage, endangers children.
- **Work with education and protection actors.** Consider collaborating with organisations monitoring attacks on education, such as the UN Monitoring and Reporting Mechanism on grave violations, GCPEA, UNICEF or national education clusters to gather data and deliver coordinated messages to all parties.

- **Advocate for endorsement of international standards:** Encourage parties to endorse the Safe Schools Declaration and integrate its guidelines into military training, operational planning, and rules of engagement.
- **Take an inclusive approach.** Ensure the needs of all children, regardless of gender, disability, ethnicity, or religion, are considered when doing advocacy and implementing programming on access to education.

Key messaging

- *All parties to the conflict are reminded that schools are presumed to be civilian objects and must not be attacked. Any doubts about their use must be resolved in favour of protection.*
- *The presence of children in schools places a heightened responsibility on all parties to avoid harm and ensure civilian protection.*



Purpose: Respond to conduct causing civilian harm without necessarily suggesting a failure to respect IHL.

Key tips

- **Highlight the humanitarian impact of school damage or destruction.** Emphasise how harm to schools deprives children of safe learning spaces, undermines community resilience, and disrupts recovery.
- **Use incident data and testimonies.** Cite information from local education actors, education clusters, or humanitarian monitors to draw attention to specific patterns or isolated incidents.
- **Leverage self-interest.** Remind parties that protecting civilian infrastructure can help preserve social stability, public support, and legitimacy in contested areas.
- **Encourage investigation and mitigation measures.** Ask parties to investigate the incident, publicly reaffirm protection of schools, and take forward-looking steps to prevent recurrence.

Key messaging

- *The destruction/damage to the school in [location] has had a devastating impact on children's education and the broader community. It places the lives on children in danger.*
- *[Party X] is reminded that IHL prohibits attacking schools and educational facilities. [Party X] is urged to reaffirm its commitment to protecting schools and take all feasible precautions to avoid future harm.*



ADVOCACY SUGGESTING A FAILURE TO RESPECT IHL



Purpose: Suggest a failure to respect IHL based on a complete and contextually specific assessment of the rule(s), including the exceptions and/or caveats.

Remember: Even if you are unsure of whether an exception applies, you can still raise concerns over a failure to respect IHL. The **burden** is on the party engaging in seemingly unlawful conduct to justify that an exception to the rule applies.

Key tips

- **Assess loss of protection claim.** Before asserting a violation, assess whether credible information suggests that the school was used for military purposes. If not, it likely remained a protected civilian object. Request clarity from the attacking party if appropriate.
- **Look for patterns.** Repeated attacks against schools, the absence of any known military objectives nearby, or inflammatory statements may all indicate intent to target the school.

Key messaging

Tailor the messaging below in accordance with the guidance provided in section XX of the User Guide, supplementing it with details about the specific situation.

Limited Confidence

- *The available information raises concerns that the attack on the school in [location] may not have complied with IHL. Under IHL, schools are presumed to be civilian objects unless used for military purposes.*
- *There is no publicly available evidence indicating that the school was used in a way that would cause it to lose protection under IHL.*

Moderate Confidence

- *The available information strongly suggests that [Party X] violated IHL by attacking a school in [location] that was not being used for military purposes.*
- *Despite the absence of evidence that the school in [location] had lost its civilian character, it was targeted, suggesting a failure to respect the principle of distinction.*

High Confidence

- *There is clear evidence that [Party X] unlawfully targeted a school in [location] in breach of IHL. The school was not being used for military purposes at the time of the attack.*
- *[Party X] has not provided any justification for the attack. Schools are protected civilian objects under IHL, and attacks on them—absent concrete evidence of military use—are prohibited.*

Advocacy where a school has become a lawful military target

This section will provide you with advocacy guidance where, based on your assessment, you believe that the school had become a military target and lost its protection from attack. Your advocacy can be directed at:

1. The attacking party to remind it of its obligation to take precautions in attack and of the prohibition on launching disproportionate attacks.

2. The party that is using the school for a military purpose in order to encourage them to stop such use for the protection of the school, children, and civilians generally.



Purpose: Suggest a failure to respect IHL based on a complete and contextually specific assessment of the rule(s), including the exceptions and/or caveats.

Remember: Even if you are unsure of whether an exception applies, you can still raise concerns over a failure to respect IHL. The **burden** is on the party engaging in seemingly unlawful conduct to justify that an exception to the rule applies.

Remember: This advocacy guidance applies to both the attacking party and the party using the school for a military purpose. This guidance assumes that the school has become a lawful military target.

Key tips

- **Reinforce protection.** Remind the attacking party that even if a school loses protection due to military use, all attacks must comply with proportionality and precautionary obligations. Remind the occupying party that use of a school for military purposes endangers civilians and may amount to a violation of IHL.
- **Advocate for advance warning:** Where a party intends to attack a school that has become a legitimate military objective, it must—**where feasible**—issue an effective warning unless circumstances do not permit.
- **Engage through education actors:** Coordinate messaging with education stakeholders, school officials, and protection clusters to reinforce the impact of school militarisation and support efforts to vacate and rehabilitate schools.
- **Leverage child protection norms:** Link the military use of schools to broader child protection concerns, referencing instruments like the **Safe Schools Declaration**, UN **Security Council Res 2601 (2021)**, and the **Monitoring and Reporting Mechanism (MRM)** on grave violations against children.

Key messaging

Limited level of confidence

To the attacking party:

- *If there is any doubt as to whether a school constitutes a military objective, [Party X] must presume that it has retained its civilian status and protection unless and until there is clear evidence to the contrary.*
- *Even if a school has lost protection due to military use, all feasible precautions must be taken to avoid civilian harm. [Party X] is reminded of its obligations to take all feasible precautions to avoid civilian harm, including by damaging or destroying schools, and to give effective advanced warning of an attack. [Party X] is further reminded of the explicit prohibition on launching disproportionate attacks and must consider the significant civilian harm in attacking a school.*
- *Failure to issue warnings or to consider less harmful alternatives could amount to an unlawful attack under IHL. If the anticipated civilian harm from attacking the school is excessive compared to the military advantage, the attack must be cancelled or suspended. Launching such an attack is disproportionate and unlawful under IHL.*

To the party using the school:

- *There is credible information suggesting the school in [location] may be used for military purposes. [Party X] is reminded of its obligation to take precautions against the effects of attack, which includes not locating military objectives in or near civilian infrastructure like school. [Party X] is strongly encouraged to restore the school's civilian character to prevent civilian harm and protect education.*
- *The continued presence of military personnel or equipment in schools puts children and teachers at unacceptable risk.*

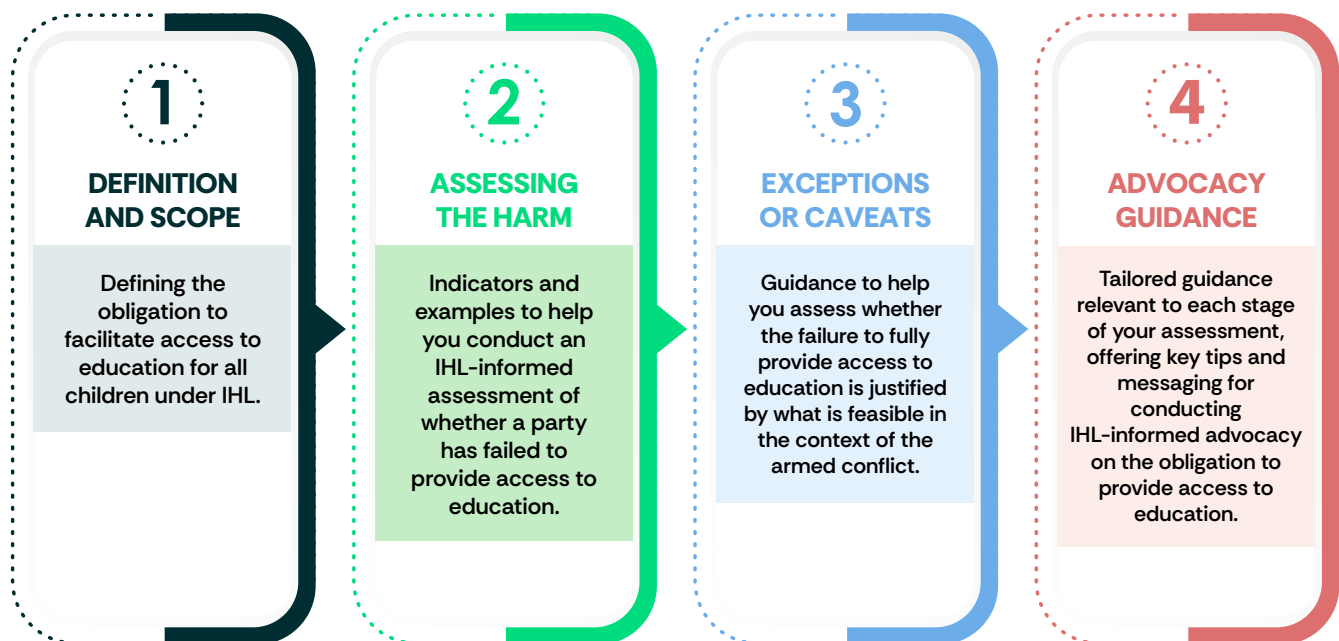
5.2 Facilitating access to education



You are here because you have concerns that children are being denied access to education due to the policies or conduct of a party to the conflict. It is likely that you will be dealing with a situation of protracted armed conflict or occupation where parties to the conflict have some degree of control over the territory where the educational institutions are located.

Access to education may be disrupted when parties adopt practices or policies that directly impede it—such as failing to take positive steps to ensure education continues—or do so indirectly, for example through discriminatory measures that restrict access for certain groups of civilians.

This section will help you conduct IHL-informed assessments and advocacy in response to civilians being denied access to education in armed conflict.



1

DEFINITION AND SCOPE

IHL does not provide for a right to education as such. Rather, when education was provided prior to the outbreak of hostilities, parties are required to ensure that:

- ◇ **Access to education for children continues.**¹¹¹ This translates into an obligation for parties to refrain from certain acts or omissions which are likely to impede access to education. There is no exhaustive list of such measures under IHL, and therefore context is key.
- ◇ **Access to education is not discriminatory.**¹¹² This means that education must be provided without any adverse distinction based on race, colour, language, religion or belief, political or other opinion, national or social origin, ethnicity, wealth, birth disability, status aged or gender. This list is not exhaustive and additional criteria such as language or displacement status may also be relevant.
- ◇ **Education is provided in a culturally sensitive manner.** IHL places special emphasis on children's education being provided, as far as possible, in a culturally sensitive manner consistent with the wishes of their parents or guardians.¹¹³ This requirement is aimed at preventing further traumatising of children, and ensuring that they retain their cultural identity and a link to their roots.¹¹⁴ Education must not be used as a vehicle for political or ideological manipulation.

These obligations derive from several IHL provisions, in particular from the elevated protection which is afforded to children during armed conflict.¹¹⁵ This means that they are entitled to special respect and protection, of which continued access to education is an integral part.¹¹⁶



KEY POINT

Many international and regional treaties applicable during armed conflict do provide for a right to education.¹¹⁷ Sometimes, domestic law will also contain such obligations. Referencing them where appropriate can strengthen your advocacy.

2

ASSESSING THE HARM

You are here because you have concerns that a party to the conflict is failing to facilitate access to education. You may have concerns either that: continued access to education is not sufficiently ensured, or that it is being provided discriminately, or in a manner which seems culturally insensitive.

This section will provide you with indicators for assessing these three types of harm.

Impeding or failing to ensure continued access to education

Parties to a conflict are prohibited from impeding or failing to ensure continued access to education.

IHL does not prescribe specific measures for ensuring children's continued access to education during conflict, granting parties significant discretion in how they fulfil this obligation. As a result, assessing compliance across different situations can be challenging.

¹¹¹ ICRC, Customary IHL Study, Commentary to Rule 135.

¹¹² ICRC, Customary IHL Database, Rule 88, Common Art.3 Geneva Conventions. Please note, all rules of IHL apply in accordance with this principle, also referred to as the principle of non-discrimination.

¹¹³ This requirement is expressed in several provisions mentioning continued access to armed conflict. See for example GC IV, Art 24, API, Art 78 and APII, Art 4.

¹¹⁴ ICRC, 1987 Commentary to APII, Art 4, para 4552.

¹¹⁵ ICRC, Customary IHL Database, Rule 135.

¹¹⁶ A protective interpretation of IHL also places a special emphasis on the fact that, as much as possible education should be delivered in keeping with the wishes of their parents. See GC IV Art 24; API Art 78; APII Art 4.

¹¹⁷ 1989 UN Convention on the rights of the Child Articles 28 and 29; 1952 European Convention on Human Rights, Protocol 1, Art 2; 1981 African Charter on Human and Peoples' Rights, Art 17.



KEY POINT

Context is key when assessing whether a party is impeding access to education. Often, one isolated act will not be sufficient to qualify as a violation of IHL. Children will face different barriers in accessing education in different situations, which inevitably means that parties will have to take different courses of action to comply with their obligations.

Indicators that a party may not be fully complying with its positive obligation to ensure continued access to education include the following:



Actions or omissions affecting educational staff and organizations



Systematically recruiting teachers to take part in hostilities instead of actively facilitating their work.



Actions or omissions affecting the running schools or other places of learning



Failing to prevent pillage of educational facilities.



Actions or omissions affecting humanitarian staff and organisations



Failing to protect humanitarian workers who provide access to essential services such as education.



Failing to ensure that appropriate funding is dedicated to education of children, including that teachers have access to appropriate salaries and teaching materials.



Using schools for military purposes.



Failing to coordinate with humanitarian organisations to ensure access to education.



Failing to set up temporary alternative mechanisms for delivering education, for example evening classes or distant learning classes (online or through a radio system) or setting up temporary learning spaces.



Failing to protect educational and humanitarian supplies from acts of pillage. These can include books and other materials essential for education, from acts of pillage.



Failing to adopt protective measures to ensure the safety of schools including regulations around the presence of weapons on the premise, and the usage of schools for military purposes, or risk assessments around the security of schools.



Diverting or refusing humanitarian consignments carrying purely educational materials.



If children's school records, ID cards or birth certificates are lost or unable to be accessed as a result of the armed conflict, the parties shouldn't bar access to schools solely on this basis.

IS THE SITUATION YOU ARE MONITORING AN IAC?

In an IAC, there are **two situations** for which IHL explicitly mentions an **obligation to take measures to ensure the continuity of education for children**:

Situation 1: When the children are under 15, orphaned or separated from their family as a result of war. Children separated as a result of war includes children whose parents or other caregivers have been killed or severely injured in hostilities or children who have lost touch with their caregivers for any other reason resulting from the war. In this case, parties to the conflict have an obligation to facilitate the continuity of their education, which as far as possible should be ensured by persons of a similar cultural tradition.¹¹⁸

Situation 2: When children, regardless of their age, are evacuated for reasons related to the armed conflict, their education must be provided with the greatest possible continuity. As with other provisions relating to continued access to education, all possible measures should be taken to ensure that education is provided in accordance with the wishes of their parents, to ensure that the children remain rooted in their cultures and traditions and to prevent any further trauma. Any measures aimed at converting children to a religion other than that of their family, even if such conversion is voluntary, are of course prohibited. Similarly, indoctrination is also prohibited.¹¹⁹

Remember that evacuation, despite the dangers and risks of traumatising it may cause, is a measure which should be taken only when it is in favour of children, to ensure their continued well-being, of which access to education is an integral part.

This Manual does not include indicators for assessing compliance with either of these two obligations. If you require any further information, please contact our [IHL Advisory services](#).

Impeding access to education through discriminatory measures

All rules of IHL apply in accordance with the principle of ‘no adverse distinction’.¹²⁰ This principle forbids parties from adversely distinguishing between persons based on their race, colour, language, religion or belief, political or other opinion, national or social origin, ethnicity, wealth, birth disability or other status, age or gender. This list is **not exhaustive**, and additional criteria—such as **language or displacement status**—may also be relevant.

In the context of the protection of education, parties must refrain from taking actions which would impede access to education for specific groups of children.¹²¹ Each child affected by armed conflict should be given an equal opportunity to access educational services, regardless of any criteria such as gender, disability status, ethnicity or political affiliation.



KEY POINT

Some IHRL treaties also provides for the prohibition of non-discrimination in accessing education, which you can use to strengthen your advocacy.¹²²

¹¹⁸ GC IV, Art 24.

¹¹⁹ API, Art 78; ICRC, 1987 Commentary to Art 78, para. 3238.

¹²⁰ Customary IHL, Rule 88; Common Art. 3 to the Geneva Conventions.

¹²¹ BIICL, [Protecting Education in Insecurity and Armed Conflict](#), A Summary, p.8.

¹²² See for example UNESCO, 1960 Convention against Discrimination in Education.

CONSIDER CONCERNING TRENDS OR EARLY WARNING SIGNS

It is important to monitor for early warning signs that a party may be likely to adopt discriminatory measures impeding access to education for certain groups. Where there are concerning trends in this direction, it may provide opportunities for early intervention to promote greater compliance with the law before civilians suffer preventable harm.

Early indicators that a party may adopt **discriminatory policies or actions** that could deprive certain groups of access to education, and therefore provide for a good opportunity to advocate for greater compliance include the following scenarios:

- If a party to the conflict has issued hostile statements targeting specific ethnic, religious, or political groups.
- If a party has issued local policies targeting girls and women and restricting their rights in other domains than education.

This section aims to provide you with indicators that a party may be failing to comply with the prohibition on adverse distinction in the context of access to education. These examples are merely illustrative, and do not provide an exhaustive list of all types of discrimination.

SCENARIO	EXPLANATION
An armed group has a policy which effectively denies access to schools for children belonging to a particular ethnic or religious group, either indirectly (for example by limiting schooling to children living in certain locations), or directly (for example by enacting a policy which forbids schooling for certain students of a different ethnicity or religion).	This is a form of discrimination based on ethnicity or religion. In the case where the armed group enacts policies forbidding schooling for certain students or a different ethnicity or religion, this is a clear example of adverse distinction. In the case where they limit schooling only to children in certain locations, knowing those locations are predominantly inhabited by one ethnic/religious group, that's an indirect way of achieving the same discriminatory result.
An armed group imposes bans on secondary and higher education for girls on the grounds that they are concerned with their security, which prevents them from accessing learning opportunities in the territory they control.	The ban applies only to girls — this is a distinction based on sex, which is an explicitly prohibited basis for adverse distinction in IHL. The 'security' reason used to justify the policy is blanket and group-based — it targets all girls, regardless of their individual circumstances. The real effect is therefore discrimination.

SCENARIO	EXPLANATION
Refugee or internally displaced children are barred from enrolling in local schools or face unsurmountable bureaucratic barriers , such as requiring documents on their residency that they cannot obtain because of displacement.	Displaced and refugee children often need more support to access education. This scenario illustrates a discrimination based on their displaced status: the affected children are excluded because they are refugees or internally displaced persons (IDPs). The ‘bureaucratic’ requirement (e.g., residency documents) appears neutral but has a disproportionate effect on displaced children because they can’t reasonably meet it.

In all of these examples, access to educational services is restricted for certain groups of children, either directly or indirectly.

Impeding access to education through cultural insensitivity

During armed conflict, children are particularly vulnerable, as many become separated from their families, evacuated, or orphaned. In such circumstances, the risks of forced assimilation, indoctrination, and cultural erasure - often perpetuated through education systems - are heightened. These practices can serve as tools for parties to the conflict to exert control or influence over civilian populations. To safeguard against this, IHL requires that wherever possible, education be provided in a manner that respects cultural identity and sensitivity.¹²³

Culturally appropriate education during conflict **builds resilience**, maintains psychological wellbeing, and **reduces children’s vulnerability** to recruitment, trafficking, or exploitation. On the contrary, forcibly excluding children from culturally appropriate education may amount to discrimination and undermines their community’s **post-conflict recovery and reconciliation** capacity.

The following scenarios may help you identify situations where a party to the conflict are failing to make sufficient efforts to provide education in a culturally sensitive manner. Remember, this is not an exhaustive checklist, and you must look at the broader context in which these measures are taking place when making any IHL assessment.

SCENARIO	EXPLANATION
A party restricts certain subjects taught in schools, or bans the use of certain textbooks of some cultural significance.	Certain subjects taught in school can be essential to ensuring that children maintain a cultural identity and link to their roots during armed conflict. Banning them, especially when coupled with other measures, can be indicative of a failure to respect cultural sensitivities.

123 BIICL, [Protecting Education in Insecurity and Armed Conflict](#), p. 8. See also, GC IV, Art 24, API, Art 7, APII, Art 4(3)(a).

SCENARIO	EXPLANATION
A party imposes strict dress codes which are not aligned with the cultural or educational preferences of the children's communities.	Imposing strict dress codes in a manner which is inconsistent with local communities' preferences risks alienating children from their own cultures and traditions. These acts could therefore be indicative of a failure to provide education in a culturally sensitive manner.
A party makes drastic changes to the educational curriculum, replacing it with a foreign curriculum.	Tampering with an existing curriculum could be a sign of political and/or cultural indoctrination.
The school is used as a place for forced conversion of children to a religion other than that of their families ¹²⁴	Children's religions should be respected, and parties cannot forcibly convert them to another religion.
If schools using the local language are forced to use another language.	Depending on the circumstances, forcing children to use another language can be indicative of a failure to respect their cultural identity.
An occupying power makes changes to the national curriculum. They omit certain references to historical events, for example resistance events by the occupying state's population and prohibit certain textbooks. They replace references to the occupied state's poetry, literature and history with their own.	The occupying power cannot interfere with the curriculum to serve its own purposes including the indoctrination of children.

Assessing the harm in occupied territory

If you are assessing a situation of occupation, all of the above rules apply. There are also some additional IHL treaty provisions which you can leverage as part of your advocacy. The table below provides you with an overview of specific obligations on occupying powers relating the maintaining and facilitating continued access to education. These may not always be feasible in armed conflicts and can be subject to certain restrictions based on safety of civilians or the security of the occupying powers. However, there exists a clear legal basis to raise these obligations with the occupying power.

¹²⁴ This may also contravene other rules of IHL, in particular the obligation to respect the conviction and religious practices of persons hors de combat. See Customary IHL, Rule 104.

FACILITATING ACCESS TO EDUCATION IN OCCUPATION

Regarding access to educational services for children on occupied territory:

The occupying power has the duty to maintain law, order and public life on the territory it occupies. In relation to education, they must ‘facilitate the proper working of all institutions devoted to the care and education of children’¹²⁵ in cooperation with the national and local authorities. The occupying power must therefore not only avoid interfering with education, but must support educational institutions actively.¹²⁶ Additional scenarios which may be indicative of non-compliance in occupied territory include:

- An occupying power interferes with local administrative procedures, for example by forcing teachers to obtain further qualifications than are necessary to perform their activities. If these additional qualifications place an undue burden on the ability of educational staff to teach, this may amount to an obstruction of educational services.
- An occupying power fails, in coordination with the local authorities, to provide the resources necessary for the proper functioning of schools. This could mean failing to allocate more funding to the payment of salaries for teachers or facilitating the adequate provision of supplies such as running water to the school.

Regarding the obligation to provide education in a culturally sensitive manner on occupied territory:

The law of occupation largely restricts the ability of the occupying power to tamper with existing national laws and institutions. In the context of ensuring culturally sensitive education to children, this means that the occupying power must refrain from interfering with curriculums, tamper with educational materials, or adjust syllabi ‘except insofar as necessary to remove educational materials that promote hatred and intolerance’.¹²⁷ This would be the case for example if an occupying power systematically omits references to historical events in school textbooks, or replaces references to the occupied states poetry, literature and history with their own.

Early warning signs that an occupying power may be at risk of interfering with curriculum could include situations in which the occupying power is seeking to challenge the political and cultural history of the invaded territory, and perceives schools as a political power, or if they are seeking to annex the occupied territory.

Feasibility

The legal framework for occupation is extensive. Of course, the occupying power is not expected to fulfil all duties relating to education on the territory it occupies immediately. The measures it is required to take will depend upon, amongst other things, the resources it has available to it, whether there are continued military operations on the ground, as well as the nature and duration of occupation. However, the expectations and requirements will become more extensive the longer the situation of occupation lasts.¹²⁸

¹²⁵ [GC IV, Art 50.](#)

¹²⁶ ICRC, [1985 Commentary to GC IV, Art 50.](#)

¹²⁷ Horowitz, “The Right to Education in Occupied Territories: Making More Room for Human Rights in Occupation Law,” *Yearbook of International Humanitarian Law*, Vol. 7 (2004), 2006, pp. 233-281.

¹²⁸ ICRC, Humanitarian Law and Policy Blog, [IHL and occupied territory](#), 26 July 2022.

3

EXCEPTIONS AND CAVEATS

Assessing compliance with any of the obligations described above is challenging because IHL does not provide for a checklist list of actions to ensure the continuation of education in a non-discriminatory and culturally sensitive manner.¹²⁹ Parties therefore have a significant degree of discretion in deciding which measures to take, or avoid, when trying to meet these obligations.

- ◆ Exceptions to the obligation to facilitate the continuation of access to education.

Whether a justification exists to a measure which impedes access to education will depend upon the broader context and the measure itself. For example, if an armed group in control of a territory converts a school building into a military training centre, this action will have an impact on access to education. If an armed group converts the only school in a community into a military training site and does nothing to provide education alternatives, this almost certainly breaches their obligations. By contrast, if the group temporarily relocates schooling to another safe building, away from hostilities, it is more likely they are complying with IHL.

Similarly, humanitarian supplies such as textbooks may be subject to security and administrative checks, just like other relief consignments. These checks may impact access to education but can under certain circumstances be justified.¹³⁰

- ◆ Exceptions to providing access to education without adverse distinction

There is no exception to the prohibition on adverse distinction.

However, it is worth emphasising IHL that the reason for the term ‘adverse’ is that IHL allows favourable distinctions. This means differential treatment that responds to the specific needs of children is permitted—and in some cases required—to make education accessible for some groups of children.¹³¹ For instance, displaced or refugee children might require different administrative arrangements to ensure effective enrolment in school.



KEY POINT

Parties sometimes claim “security measures” to bar girls from accessing education. If no alternative arrangements are made, such a restriction amounts to prohibited discrimination and breaches the principle of no adverse distinction.

- ◆ Exceptions to providing education in a culturally sensitive manner.

The obligation for education to be delivered in a culturally appropriate manner is subject to a feasibility requirement. For example, in situations of displacement, it may not be possible to provide teaching in every child’s native language, or to fully reflect all customs and traditions. In such cases, compliance must be judged in light of the broader circumstances of the conflict.



KEY TAKEAWAY

The exceptions and caveats outlined above are not exhaustive. The overall question is whether children continue to have *effective and continued access* to education. If restrictions—whether justified individually or not—end up denying access to education to all children, or to a particular group (such as girls), it is likely that parties are failing to comply with their obligations under IHL, and probably IHRL.

¹²⁹ In fact, such a checklist would be counterproductive as ensuring access to education is highly context dependent, and likely dependent on a plethora of factors.

¹³⁰ ICRC, Customary IHL Database, Rule 55; GC IV Art 23, API Art 70(3). See also Chapter 1 of Category 2.

¹³¹ Customary IHL, Rule 88.

4



ADVOCACY GUIDANCE

In this section, we take what you have learned from your IHL-informed assessment (above) and offer the following three stages of advocacy guidance:

- ♦ **Preventative advocacy** – remind parties of their IHL obligations before a violation occurs, especially when risks or early warning signs are present.
- ♦ **Advocacy in response to harm** – raise concerns about harm and the conduct of the relevant party, without suggesting a violation of IHL.
- ♦ **Advocacy suggesting a failure to respect IHL** – raise concerns about a possible IHL violation where you have assessed all elements of the rule, including exceptions and caveats.

When suggesting a failure to respect IHL, you will find language suggestions crafted to reflect your **level of confidence** (limited, moderate, or high), based on the extensiveness of your IHL-informed assessment and the quality of information you have received.

- ♦ **Are you assessing a situation of occupation?** Occupying powers are subject to more stringent and comprehensive rules on facilitating access to education. You can find some additional guidance for advocating in situations of occupation at the end of this section. Note that while only applicable in occupation from a technical legal perspective, these additional rules can be used as a benchmark to support your advocacy in any conflict setting.



Purpose: Promote respect for IHL and prevent violations before they occur. Highlight concerning trends or early warning signs where applicable.

Key tips

- **Emphasise the continuity of education as a protection activity.** Education contributes to psychosocial well-being, resilience, and protection from recruitment or abuse. Frame it as a civilian protection obligation.
- **Promote early planning and coordination.** Encourage parties to work with education actors (including local authorities and international NGOs) to assess access barriers and provide logistical support.
- **Raise potential risks of discrimination or insensitivity.** The risk will be elevated where there is a history of discrimination against minority groups or displaced persons.
- **Leverage relevant political commitments.** Reference the Safe Schools Declaration, UN Security Council Resolution 2601 (2021), and any applicable national or regional frameworks supporting education in emergencies.
- **Engage with local communities.** Raise awareness to help ensure civilian populations understand their rights and the obligations of the parties to the conflict. This can encourage community-led advocacy efforts.

Key messaging

- *All parties are reminded of their obligation to ensure that children and students in conflict-affected areas continue to have safe access to education without adverse discrimination.*
- *Education enhances the safety and wellbeing of all children, regardless of [specify which identity type is at risk of exclusion in your context, for example: gender, race, ethnicity, political background, language, etc.], even during times of conflict. Continued access to education for children is an obligation under IHL parties to the conflict must uphold.*



Purpose: Respond to conduct causing civilian harm without necessarily suggesting a failure to respect IHL.

Key tips

- **Emphasise the human impact.** Where education has been disrupted, show the effects on children, teachers, and communities.
- **Use strategic entry points.** Connect education access to longer-term stability and post-conflict recovery.
- **Collective advocacy.** Consider reinforcing your message through joint advocacy with UN agencies, local NGOs, and child protection bodies.

Key messaging

- *General harm to access: There are concerning reports that access to education in [location] has been severely disrupted, leaving many children without learning opportunities. We urge all parties to prioritise support for safe, sustained access to education.*
- *Discriminatory denial of access: The available information raises concerns that children are being denied access to education on the basis of [explain discriminatory behaviour]. [Party X] is reminded of its obligation to provide safe access to education for all children regardless of [specify which identity type is at risk of exclusion in your context, for example: gender, race, ethnicity, political background, language, etc.]*
- *Cultural/linguistic insensitivity: Information suggests that current educational provision may not be accessible to key population groups due to language or curriculum concerns.*
- *[Party X] is reminded of its obligation to provide safe access to education for all children in a manner that respect their cultural or linguistic identity.*
- *We urge education providers to work with community representatives to ensure culturally appropriate education.*



Purpose: Suggest a failure to respect IHL based on a complete and contextually specific assessment of the rule(s), including the exceptions and/or caveats.

Remember: Even if you are unsure of whether an exception applies, you can still raise concerns over a failure to respect IHL. The **burden** is on the party engaging in seemingly unlawful conduct to justify that an exception to the rule applies.

Key tips

- **Clarify the actor's degree of control.** Make clear when a party exercises control over the relevant territory and thus bears responsibility for ensuring access to education.
- **Reinforce that obstruction may be passive or active.** Excessive administrative barriers or neglect can also amount to unlawful disruption.
- **Cite cumulative impact.** Show how repeated closures, under-resourcing, or intimidation amount to a systemic denial of access. Use local voices when safe. Communities affected by discriminatory or culturally insensitive practices can help frame the issue more powerfully.
- **Offer pragmatic solutions.** Where appropriate, suggest interim or alternative education arrangements that the party could enable or facilitate.
- **Reference or coordinate with international reporting mechanisms.** Consider connecting your advocacy work with the Committee on the Rights of the Child, OHCHR, or MRM for grave violations.

Key messaging

Tailor the messaging below in accordance with the guidance provided in section XX of the User Guide, supplementing it with details about the specific situation.

General failure to facilitate access to education

Limited level of confidence

- *There are growing concerns that [Party X] is not fulfilling its obligation to facilitate access to education in [location], leaving significant portions of the population without services essential to civilian life.*

Moderate level of confidence:

- *The available information strongly suggests that [Party X] is failing to uphold its duty to ensure access to education in areas under its control. IHL requires parties to take proactive steps to facilitate essential civilian services.*

High level of confidence:

- *There is clear evidence that [Party X] is failing to fulfil its obligation under IHL to facilitate access to education in [location]. This has resulted in prolonged, widespread exclusion of children from learning opportunities in violation of international law.*

Discriminatory denial of access to education

Limited level of confidence

- *There are credible indications that access to education in [location] may be restricted based on group identity in violation of IHL. We urge a review of current policies to ensure education is available to all without discrimination.*

Moderate level of confidence:

- *The information available strongly suggests that [Party X] is denying access to education for certain population groups in [location] based on ethnicity, religion, or political affiliation, in breach of its IHL obligations.*
- *Party X appears to be failing to uphold its obligation to provide safe access to education for all children regardless of [specify which identity type is at risk of exclusion in your context, for example: gender, race, ethnicity, political background, language, etc.]*

High level of confidence:

- *There is clear evidence that [Party X] is deliberately restricting education access to [group], constituting an unlawful adverse distinction and violating IHL.*
- *The available information clearly shows that [Party X] is failing to uphold its obligation to provide safe access to education for all children regardless of [specify which identity type is at risk of exclusion in your context, for example: gender, race, ethnicity, political background, language, etc.]*

Culturally inappropriate education**Limited level of confidence:**

- *There are indications that current education services may not be linguistically or culturally accessible to all affected communities. We encourage adjustments to promote inclusive education.*
- *[Party X] is reminded of its obligation to provide safe access to education for all children regardless of [specify which identity type is at risk of exclusion in your context, for example: gender, race, ethnicity, political background, language, etc.]*

Moderate level of confidence:

- *The available evidence strongly suggests that current education provision in [location] is failing to meet the needs of minority communities, undermining access and participation.*
- *[Party X] appears to be failing to uphold obligation to provide safe access to education for all children in a manner that respect their cultural or linguistic identity.*

High level of confidence:

- *There is clear evidence that education provision in [location] systematically excludes [group] through language or content that is culturally inappropriate, violating IHL obligations to ensure access without discrimination.*
- *The available information clearly shows that [Party X] is failing to provide education to all children in a manner that respect their cultural or linguistic identity.*



In situations of occupation, IHL imposes more stringent obligations on the occupying power to facilitate access to education. These obligations go beyond the general rules applicable in other forms of conflict and include proactive duties to preserve, support, and if necessary, directly provide for the continued functioning of educational institutions and access for the occupied population.

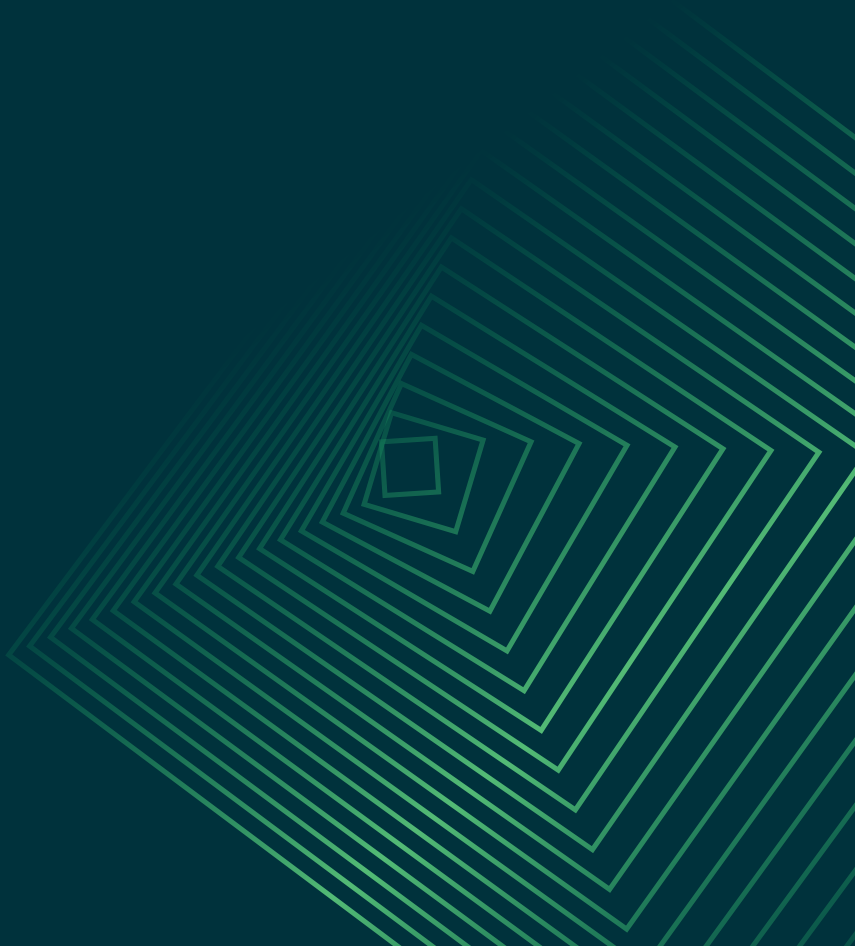
While these rules apply specifically in the context of occupation, they can also inform and bolster advocacy efforts in any conflict setting by offering a benchmark for good practice and a reminder of the deeper responsibilities that arise when a party exercises prolonged control over territory.

Key Obligations on the Occupying Power

- **Preservation and support of existing educational institutions.** The occupying power must, to the fullest extent of the means available to it, ensure the proper functioning of schools and other educational facilities already in place prior to the occupation. [GC IV, Art. 50]
- **Non-discriminatory access to education.** Education must be made available without adverse distinction based on race, religion, ethnicity, political affiliation, or other protected characteristics.
- **Support for cultural and linguistic identity.** Education should respect the cultural and linguistic heritage of the occupied population, especially in curricula and teaching language.
- **No interference in civilian educational administration.** The occupying power should not arbitrarily interfere with local educational authorities or coerce the use of education to advance its own political or military objectives.
- **Special protection for children.** Particular attention must be paid to the education of children, especially orphans and those separated from their families due to the conflict. The occupying power must facilitate their education, including by cooperating with national and international organisations where needed.
- **Duty to cooperate with humanitarian and educational organisations.** The occupying power must allow and facilitate the work of impartial humanitarian and educational organisations that seek to support or restore access to education.

CATEGORY 3

Harm to persons displaced
by armed conflict



Category 3 Harm to persons displaced by armed conflict



Introduction and Relevant Considerations

Scope of category 3

Category 3 focuses on harm to persons who have been displaced during armed conflict. It provides practical guidance to help you understand the extent to which IHL regulates displacement, including the legal justifications that may be raised by the parties to a conflict for forcibly removing civilians, and the protection owed to such persons once displaced.

Displacement is often an inherent feature of war. It occurs when people flee violence, when their homes are destroyed, or when they are forced to evacuate. Understanding the interaction between IHL and displacement is crucial for assessing civilian harm, identifying possible non-compliance with the law, and advocating for better civilian protection.

It is important to recognise that displacement causes profound and often long-lasting harm to civilian populations. It separates families, destroys livelihoods, and exposes displaced persons to heightened risks of violence, exploitation, and food insecurity. It disrupts access to essential services such as healthcare, education, and shelter. Even where displacement is deemed necessary for the safety of civilians or armed forces, we must acknowledge the acute and multifaceted harm it causes.

Applicability of IHL

There are some important points to remember about the applicability of IHL:

- ♦ IHL only applies during armed conflict. You should always check that the situation you are assessing qualifies as an armed conflict before using IHL as part of your humanitarian advocacy.
- ♦ The IHL guidance provided in this Manual can be used in all types of conflict unless it is explicitly stated otherwise. Where there is a particular IHL rule that only applies in a specific type of conflict, we will let you know.
- ♦ As a general rule, IHL only regulates conduct which has a sufficient connection to the armed conflict.¹ The key question is whether the conduct in question was **closely related to the hostilities** or took place in **the context and under the influence of the armed conflict**.
- ♦ International Human Rights Law (IHRL) continues to apply during armed conflict and complements IHL in mitigating civilian harm. Depending on the context, the domestic law of the state may also offer an alternative or supplementary legal framework for humanitarian advocacy, although its protections are not always adequate or consistent with international standards.

If you are unsure about conflict classification, determining a sufficient link, or would like further guidance on the interaction between different legal frameworks, please contact our [IHL Advisory Service](#).

¹ Under IHL, this requirement of sufficient connection to the armed conflict is referred to as the nexus.

Advocating with credibility

This Manual provides tailored advocacy messaging for all audiences. It will help you apply IHL in practice with credibility and impact, offering different formulations depending on your **level of confidence**. Remember that your level of confidence (**limited, moderate, or high**) is based on:

5. An **IHL-informed assessment** of whether a party has failed to respect IHL; and
6. The **quality of the information** you receive.

Below you will find a reminder of **core principles** and instructions on how to navigate our **advocacy guidance**.

Core principles of IHL-informed advocacy

- ♦ **Know your audience & use appropriate language:** Remind parties of their IHL obligations in clear, accessible terms. Tailor tone and framing to stakeholders' knowledge. Use IHL-informed advocacy where it is most likely to be effective.
- ♦ **Collaborative vs individual:** Collaborative advocacy brings credibility and shared risk but less flexibility; individual advocacy offers greater autonomy but places responsibility on a single actor.
- ♦ **Public vs private:** Public advocacy raises visibility but risks undermining access; private advocacy preserves relationships but lacks transparency. Sometimes both are needed.

Remember that effective IHL-informed advocacy **does not mean you need to cite legal articles or use legal jargon**. In most cases, you can **remind parties of the key provisions of IHL and their obligation to respect them**—

even without full contextual details or without using legal terminology.

Navigating our advocacy guidance

For each chapter in this Category, we provide you with **advocacy guidance**. In most cases, this guidance is divided into three distinct stages that reflect where you are at in your IHL-informed assessment of the situation:

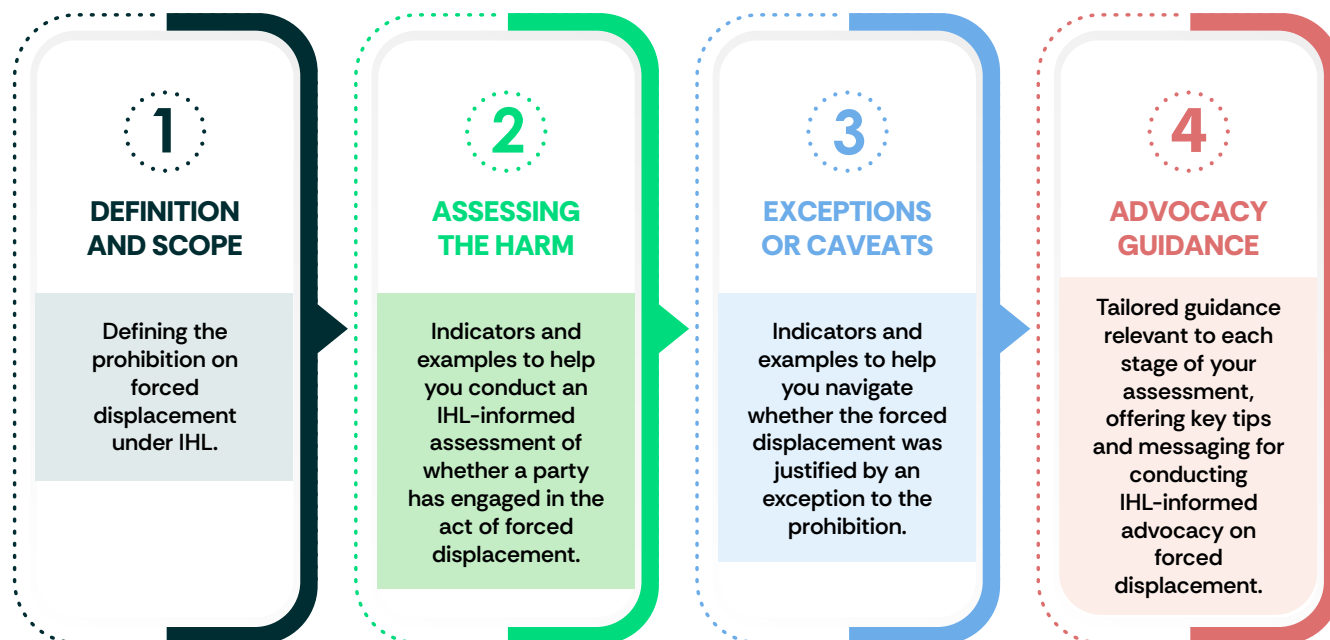
- ♦ **Preventative advocacy** allows you to **remind parties of their obligations** before a violation has occurred. It may incorporate **concerning trends** or **early warning signs** that you have observed or simply highlight the general risk to and vulnerability of civilians in armed conflict.
- ♦ **Advocacy in response to harm** is designed for when you have information that forced displacement has occurred and/or displaced persons are experiencing harm. While you may not have sufficient information to suggest a failure to respect IHL, it allows you to **raise concerns** in response to harm and remind parties of their obligations.
- ♦ **Advocacy suggesting a failure to respect IHL** is reserved for situations where you have assessed the rules on forced displacement in detail, including applicable exceptions or caveats. It allows you to explain how the conduct appears to violate IHL and, where appropriate, respond to attempted **denials or justifications** by the offending party.

For each of these stages, you will find **key tips** for humanitarian actors and guidance on using appropriate language to **advocate with credibility** based on your **level of confidence**.

Chapter 1: Forced Displacement Under IHL



You are here because you are concerned that people have been displaced through forceful means. This Chapter will guide you through the actions that constitute forced displacement and help you navigate the two important exceptions to its prohibition under IHL.



1 DEFINITION AND SCOPE

Under IHL, forced displacement refers to the involuntary removal, deportation, or transfer of civilians from their homes or places of residence. It occurs where a party to an armed conflict compels, orders, or coerces individuals or groups to leave.²

Key terminology: We use the term ‘**forced displacement**’, which is applicable in all types of conflict. Occupation law uses more

specific language. In particular, it prohibits the “**deportation**” (removal beyond the occupied territory) and “**transfer**” (movement within or into the territory) of protected persons by the occupying power, except under very limited conditions. As occupation law also imposes more comprehensive and restrictive rules, you will find tailored guidance applicable to situations of occupation in section: Advocacy guidance.

As noted at the outset, IHL only prohibits **forced displacement**. Civilians may choose to leave their homes to escape the general dangers

² ICRC, CIHL Database, Rule 129; GC IV, Art 49; AP I, Art 17; AP II, Art 17.

of war. Such voluntary movement represents an essential means for civilians to avoid harm to themselves and their families. In this context, **humanitarian corridors** support **voluntary, civilian-led movement**, distinguishing such actions from unlawful forced displacement.



Never imply civilians should remain in harm's way. Even where parties to a conflict appear to have forcibly displaced civilians in violation of IHL, civilians who move to protect themselves are exercising their right to safety. Advocacy should therefore

clearly distinguish **the unlawful conduct of the party** from the **rational and legitimate decisions of civilians**, and should avoid messaging that could inadvertently pressure civilians to remain at risk.

The prohibition on forced displacement contains two important exceptions: (1) if it is necessary for their own safety; or (2) justified by imperative military necessity. In both cases the displacement must be **temporary** and carried out in conditions that ensure the **safety and dignity** of those affected. You will be guided through these exceptions in section 2.3.

2

ASSESSING THE HARM:

Before assessing the indicators of forced displacement, it is worth considering whether there are **concerning trends** or **early warning signs** that civilians are at increased risk of being forcibly removed from their homes.

♦ **Conflict History and Political Dynamics.** Heavily militarised governments or certain authoritarian regimes with limited tolerance for dissent or civilian autonomy may be more prone to forced displacement as a form of control or retaliation. Irrespective of the form of government, political or military campaign that target specific sectors of the population as 'enemies', 'terrorist sympathisers', or 'human shields' may provide an early indication of an intent to forcibly displace such persons.

♦ **Ethnic, Religious, or Social Tensions.** Pre-existing intercommunal tensions, whether ethnic, religious, social, or political, may increase the risk of forced displacement. Such tension, often demonstrated through the use of hate speech or dehumanising language, may

be exploited by parties to a conflict and used as a pretext for displacement, ethnic cleansing, or 'demographic engineering'.

♦ **Military Activity and Geographic Indicators.** The mere presence of civilians in strategic military locations or the declarations of 'military zones' that overlap with or are near to densely populated areas increases the risk of forced displacement. Certain activity on behalf of the military, such as an increase in checkpoints, curfews, or directives limiting of civilian movement may be a precursor to forced displacement.

The above scenarios may indicate that civilians are at an increased risk forced displacement and could justify engaging in **preventative advocacy** (see section 2.4).

Assessing whether the displacement was **voluntary** or **forced** can be difficult. Civilians may flee in anticipation of unlawful attacks, in response to implicit or informal orders to leave, or after witnessing violations against others in their community. Sometimes, what appears voluntary may in fact be coerced.

Under IHL, there are two main categories of forced displacement: (1) **the act of forced displacement** and (2) **targeted IHL violations amounting to forced displacement**. We will guide you through each in turn.

1. The act of forced displacement

Parties to a conflict may compel civilians to leave an area through orders or other coercive acts or threats. The table below will help you assess whether the conduct of the relevant party constitutes forced displacement under IHL.³

Remember: this preliminary assessment is only to assess whether the displacement appears to be forced rather than voluntary. If you are reasonably satisfied that the displacement was forced, the question of its **lawfulness** will depend on whether the party has satisfied one of the two exceptions noted above, which we will cover in section.

SCENARIO	IHL ASSESSMENT
Leaflets dropped from aircraft instructing civilians to evacuate a town due to impending military operations	This scenario likely constitutes an <i>evacuation order</i> , which under IHL amounts to forced displacement . To be effective, it must be capable of being understood and acted upon by the population.
Radio announcement advising civilians to ‘move south to avoid being caught in the fighting’	This scenario is ambiguous . While the language may appear to be discretionary, the context may render the announcement forced displacement through coercion . If the reality on the ground is that civilians who stay are at serious risk of being harmed, it will likely amount to forced displacement .
Civilians leave the area to avoid the dangers of war and seek shelter in nearby towns or across borders.	Without information suggesting forced relocation, this scenario appears voluntary . Notwithstanding, it is important to remain open to information that may suggest subtle forms of force or coercion.
A humanitarian corridor is established, providing guarantees of safe passage.	Humanitarian corridors are lawful when their use is voluntary . If civilians choose to use them to reach safer areas, it suggest voluntary movement and not forced displacement.
Authorities publicly encourage civilians to remain indoors or relocate to nearby shelters during attacks	Protective measures that are proportionate and precautionary in nature are lawful and do not amount to forced displacement. Caution should be exercised, as parties must not use precautions or warning as a cover for forced displacement.
Armed actors telling village leaders to ‘convince your people to leave or we cannot guarantee their safety’	This scenario likely amounts to forced displacement through indirect orders or coercion.

3 The majority of the examples provided have been extracted from the UN fact-finding missions and commissions of enquiry, as well Human Right Reports, including the following: Human Rights Watch: Hopeless, Starving, and Besieged (Gaza Report, Nov 2024); UN OHCHR, UN Commission of Inquiry on Darfur (2005–ongoing); UN Human Rights Office – Statement by High Commissioner Volker Türk on Gaza (Rafah), May 2024.

2. Targeted IHL violations amounting to forced displacement

In some cases, displacement occurs not through explicit orders or coercive threats, but as a result of deliberate violations of IHL designed to force civilians to flee. Examples may include intentional or indiscriminate attacks against civilians, starvation as a method of warfare, and collective punishment. When such acts are committed with the intent or foreseeable consequence of driving civilians from their homes, the resulting displacement may constitute **forced displacement under IHL**. These forms of displacement are sometimes perpetrated as part of broader campaigns of **ethnic cleansing** or **demographic engineering**, and are prohibited under IHL.⁴

There are two principal reasons why this form of forced displacement requires a more careful and nuanced assessment. First, it involves determining whether the underlying actions — such as bombing civilian areas or obstructing humanitarian aid — were in violation of IHL, and whether they were carried out with the **intent** to forcibly displace civilians. Second, it requires sensitive messaging to avoid putting civilians at greater risk. It is important not to

imply that civilians are at fault for seeking safety, nor to pressure them to stay in dangerous conditions. Even when forced displacement is unlawful, fleeing a combat zone may still be the only realistic way for civilians to protect themselves.

Despite these complexities, intentionally displacing civilians through targeted IHL violations or forms of ethnic cleansing are clearly prohibited under IHL. For tailored guidance on how to respond to such conduct in your advocacy, we encourage you to contact our IHL Advisory Service.



Advocacy signposting: At this point, you will have made an assessment of whether civilians have been forcibly displaced by a party to the conflict. Before raising concerns over a potential failure to respect IHL, it will be necessary to assess whether the forced displacement was justified under one of the two **exceptions**. However, even if you are unsure if these exceptions apply or you don't know the exact cause of the displacement, you will find the **appropriate language** to use in section 2.4 **Advocacy guidance**.

3

EXCEPTIONS OR CAVEATS

The prohibition on forced displacement is subject to two important exceptions. Under IHL, the **temporary** forced displacement of civilians may be lawful if: (1) the movement is strictly required for the **safety of the civilians themselves**; or (2) is justified by **imperative military necessity**. In both cases, the displacement must be **temporary**, and the displaced persons must be treated **humanely**, received under **appropriate conditions**, and allowed to voluntarily return as soon as circumstances permit.⁵

When navigating or responding to these exceptions, it is important to keep the following key points in mind:

- ♦ While there are situations where the safety of civilians or military operations clearly justify temporary displacement, you should also be aware that these exceptions are **sometimes exploited** by parties to a conflict. Particular attention should be paid to whether displacement is being used to **exploit economic resources**, as a pretext for **ethnic cleansing**, or out of **mere military convenience**.

⁴ ICRC, CIHL Database, Rule 129; API Art 51(2); AP II Art 13(2).

⁵ ICRC, CIHL Database, Rule 129; GC IV Art 49; API Art 17(1).

- ◇ Where forced displacement **appears unlawful** (i.e. the relevant exception does not apply and/or is being exploited by a party to the conflict), it **does not** mean that civilians should refuse the order. Complying with an unlawful order may be necessary for civilians to protect themselves and their family.
- ◇ If someone refuses to leave – irrespective of whether the order or conduct was lawful – that person **remains a civilian** who is **protected from attack**. Ordering forced displacement or issuing an advance warning does not relieve the attacking party of their obligations to distinguish between military and civilian targets, to take precautions in attack, or to avoid disproportionate attacks. See **Category 1** for more detail on the operation of these rules.
- ◇ The party responsible for forcibly displacing civilians bears the burden of justifying that an exception to the rule applies. As a humanitarian actor, it is appropriate for you to raise concerns over the forcible displacement of civilians, even if you are unsure whether such displacement is justified by one of these exceptions.

1. Evacuations for civilian safety

Whether displacement is necessary for the protection of civilians must be determined on a case-by-case basis. It should be kept in mind that, if reasonable alternatives exist to spare the civilian population, the forced displacement will not be considered a necessary measure. The table below will help you assess whether this exception applies in the situation you are assessing.

SCENARIO	ASSESSMENT AND ADVOCACY
Military authorities order the evacuation of a village in the direct path of a planned offensive, providing clear timelines, safe passage, and temporary relocation plans.	This is likely a lawful temporary evacuation under IHL, justified by imperative security needs of the civilians. Advocacy should ensure conditions remain humane, return is guaranteed, and displacement is monitored for abuses.
Civilians are ordered to leave an area due to the risk of shelling, but no arrangements are made for evacuation routes, assistance, or eventual return.	While the stated justification is civilian protection, the lack of arrangements undermines this claim and suggests coercion. Advocacy should focus on the need for proper evacuation safeguards, assistance, and meaningful review of necessity.
Authorities issue an evacuation order claiming the area is unsafe, but fighting is minimal, and the real purpose appears to be gaining territorial control.	The evacuation appears to be a pretext for control rather than civilian protection. Without genuine, immediate risk, this may be unlawful under IHL. Advocacy should question the necessity and proportionality of the measure and press for independent review.
Civilians are displaced due to nearby fighting and the order is not reviewed for months, with no plan to return the population despite improved conditions.	Even if initially justified, failure to revisit the need for displacement or to enable return when conditions allow may render the measure unlawful. Advocacy should call for regular review, restoration of rights, and plans to facilitate safe return.

Civilians living near a munitions storage site are temporarily relocated after an attack damages the facility, with the relocation ending once the site is secured and cleared.

This scenario reflects a good-faith application of protective displacement. Advocacy may still be needed to ensure continued oversight, support services, and voluntary return once safe.

2. Imperative Military Necessity

Forced displacement can also be legally permissible if it meets the stringent criterion of imperative military necessity. This principle requires that displacing civilians is essential for achieving a pressing and specific military objective and is limited to situations where there are no viable alternatives to ensure the security or success of the military campaign.⁶

Whether displacement is necessary for imperative reasons of security must be determined on a case-by-case basis. By way of example, it has been held that forcibly displacing a town's population in order to obtain the military advantage of assuming control of that town is not justified for imperative military reasons and is therefore unlawful.⁷ On the other hand, ordering the temporary removal of civilians from an area where essential military targets are located in order to effectively and lawfully attack those targets may be justified by imperative military necessity.

Without access to sensitive military information, it may be difficult to assess whether the military necessity exception applies. However, this should not discourage you from exploring the issue, asking the right questions, or pressing the parties to a conflict for answers. The table below will help you assess whether this exception applies in the situation you are assessing.

SCENARIO	ASSESSMENT AND ADVOCACY
Military forces order civilians to evacuate an urban area in which fighters and legitimate military targets are embedded in the population while planning a large-scale offensive involving artillery and airstrikes.	This likely meets the threshold of imperative military necessity under IHL. Advocacy should ensure the evacuation is temporary, humane, and includes provisions for safe return and humanitarian support. Important: civilians who do not leave must still be protected and factored into any proportionality assessment.
Civilians are removed from an area weeks before any hostilities are expected, to allow military forces to establish a logistics base and facilitate long-term operations.	This suggests military convenience rather than imperative military necessity. Advocacy should question the timing and necessity of displacement and press for evidence-based review and alternative measures.
Authorities evacuate a town near a key military checkpoint, citing vague 'security concerns,' but provide no evidence of imminent hostilities or risk to civilians.	The lack of specificity and urgency raises doubts about the necessity. Advocacy should highlight that justifications for forced displacement should be transparent and must be in response to genuine reasons/a genuine reason of military necessity or civilian security.

⁶ ICRC, CIHL Database, Rule 129; GC IV, Art 49; AP I, Art 17; AP II, Art 17.

⁷ Prosecutor v. Radovan Karadžić, Case No. IT-95-5/18-T, Public Redacted Version of Judgement Issued on 24 March 2016 – Volume I of IV (TC), 24 March 2016, para. 492.

Residents are displaced to make way for the construction of a long-term military installation, with no plan for their return.

An area is declared a closed military zone for indefinite strategic purposes, and civilians are removed without regular review or prospect of return.

Civilians are relocated temporarily after the area is mined in preparation for an imminent defence against enemy advance, with assurances of safe return once the threat passes.

This is not a lawful basis for displacement under IHL. Removing civilians to enable permanent infrastructure development is administrative or strategic, not imperative. Advocacy should contest the measure and call for accountability.

Indefinite displacement without regular review or return plans is contrary to IHL. Advocacy should focus on the requirement for temporary, proportionate measures and seek regular reassessment of conditions.

This scenario appears compliant with IHL, assuming the threat is real, and return is guaranteed. Advocacy may focus on monitoring, ensuring the return process is safe, and that displaced persons' needs are met in the interim.

4



ADVOCACY GUIDANCE

In this section, we take what you have learned from your IHL-informed assessment (above) and offer the following three stages of advocacy guidance:

We provide three distinct stages of advocacy that reflect where you are at in your assessment:

- ♦ **Preventative advocacy** remind parties of their IHL obligations before a violation occurs, especially when risks or early warning signs are present.
- ♦ **Advocacy in response to harm** raise concerns about harm and the conduct of the relevant party, without suggesting a violation of IHL.
- ♦ **Advocacy suggesting a failure to respect IHL** raise concerns about a possible IHL violation where you have assessed all elements of the rule, including exceptions and caveats.

When suggesting a failure to respect IHL, you will find language suggestions crafted to reflect your **level of confidence** (limited, moderate, or high), based on the extensiveness of your IHL-informed assessment and the quality of information you have received.

Are you assessing a situation of occupation? You can find additional advocacy guidance relevant to occupying powers at the end of this section. As occupation law imposes more comprehensive and restrictive treaty rules, these can be used to strengthen your advocacy.



Purpose: Promote respect for IHL and prevent violations before they occur. Highlight concerning trends or early warning signs where applicable.

Key tips

- Consider engaging with a diverse range of the civilian population can help to ensure you capture the heightened risks to particularly vulnerable groups and individuals – including children, women, persons with disabilities, older persons, and ethnic minorities – and facilitate safe and accessible evacuations.
- Analyse previous actions of the parties to the conflict throughout the course of the conflict to make your determination as to the risk of forced displacement, including previous military operations causing forced displacement, and any discriminatory acts by the parties to the community at risk.
- Take particular note of any existing tensions and the relationship between the community at risk of displacement and the parties to the conflict.
- Leverage your existing relationships with local authorities. In the event there is a legitimate need for displacement, work with those stakeholders to advocate for the establishment of safe passage for civilian populations during displacement.

Key messaging

- *All parties to a conflict are reminded of the prohibition on forced displacement. Displacement of a civilian population can only occur when there is an imperative military necessity or for the safety of the civilian population. In all cases, displacement must be temporary and allow for safe and dignified return of displaced persons.*



ADVOCACY IN RESPONSE TO HARM

Purpose: Respond to conduct causing civilian harm without necessarily suggesting a failure to respect IHL.

Key tips

- **Do not delay** your advocacy while awaiting a full determination of the situation. You can **raise concerns** about forced displacement and remind parties of their obligations while seeking further clarity.
- **Avoid Framing That Suggests Civilians Should Remain in Danger.** Always take care to avoid messaging that implies civilians should stay in harm's way. You can raise concerns about the forced displacement, the obligations on parties to take alternate measures, and the obligation to avoid making areas uninhabitable through unlawful acts.
- **Request Transparency.** Humanitarian actors can legitimately request:
 - » The **rationale** for the displacement,
 - » Whether it was based **civilian safety** or **imperative military necessity**,
 - » How the **duration and scope** are being limited, and
 - » What measures have been taken to **protect displaced persons**.
- **Highlight the need for protection regardless of lawfulness.** Emphasise that all displaced persons must be protected, have the family unit retained, provided with adequate conditions, and granted the right of safe voluntary return.

Key messaging

- *There are [serious/significant] concerns over the forced displacement of civilians. Civilians must be allowed to voluntarily leave an area for their own safety but should not be forced to leave their homes unless strictly required for their protection or for imperative military necessity. [Party X] is reminded of the prohibition on forced displacement unless these narrow exceptions apply, and on its obligation to uphold the dignity and basic needs of displaced persons, including adequate shelter, food, medical care, and protection from harm.*



ADVOCACY SUGGESTING A FAILURE TO RESPECT IHL

Purpose: Suggest a failure to respect IHL based on a complete and contextually specific assessment of the rule(s), including the exceptions and/or caveats.

Remember: Even if you are unsure of whether an exception applies, you can still raise concerns over a failure to respect IHL. The burden is on the party engaging in seemingly unlawful conduct to justify that an exception to the rule applies.

Key tips

- If responding to claims that the forced displacement is justified for the safety of civilians, consider reminding the actors of your interest as a humanitarian to ensure that safety. This may create some common ground and space for meaningful engagement.
- It may be difficult to determine if an imperative military necessity exists based on the information that is publicly available to you, as parties to a conflict often do not make their operations planning publicly known. It may be appropriate to caveat your advocacy language in a manner that acknowledges the gaps in your information or knowledge.

- Despite the difficulties in navigating claims of military necessity, it may still be appropriate to push for more clarity and transparency. Remember that the starting point is that forced displacement is prohibited. The military necessity exception is narrow and, by definition, should only be invoked in exceptional circumstances.

Key messaging

Tailor the messaging below in accordance with the guidance provided in the User Guide, supplementing it with details about the specific situation.

Limited level of confidence

- *There are concerns that [Party X] has forcibly displaced civilians contrary to IHL. The available information suggests that the displacement was not required for the safety of civilians or justified by imperative military necessity.*
- *There are concerns that [Party X] has forcibly displaced civilians contrary to IHL. The justification provided by [Party X] that the displacement [from x area] was justified [by imperative military necessity/to protect civilians] may not be valid [state reasons if appropriate]. [Party X] is reminded of the prohibition under IHL on forced displacement. Displacement of a civilian population can only occur when there is a legitimate imperative military necessity or for the safety of the civilian population. Displacement can only be temporary and parties to the conflict must ensure the safe and voluntary return of civilians once the justification for displacement ceases to exist*

Moderate level of confidence

- *There are serious concerns that [Party X] has forcibly displaced civilians contrary to IHL. The available information strongly suggests that the displacement was not required for the safety of civilians or justified by imperative military necessity.*
- *There are strong indications suggesting the justification provided by [Party X] on the nature of the displacement of [area x] is invalid. [Party X] has claimed the displacement from [area x] is lawful because the displacement is [for imperative military necessity/to protect civilians], however there are strong indications suggesting this does not align with the facts on the ground. [Party x] is reminded that forcibly displacing civilians is only permissible where it is strictly required for civilian safety or justified by imperative military necessity. Any justification falling short of this high threshold is invalid.*
- *[Party X] is reminded of its obligation to facilitate safe and voluntary returns to areas where there is no longer a lawful justification for displacement.*

High level of confidence

- *Based on the available information, [Party X] has failed to respect IHL by forcibly displacing civilians from their homes. There are clear indications that civilians were displaced using force/threats/coercion and that such displacement was not justified by civilian safety or imperative military necessity.*
- *[Party X] claimed the displacement from [area x] is lawful because it is [for imperative military necessity/to protect civilians], however there are clear indications the justification provided is invalid and the displacement is forced and therefore unlawful. Displacement that does not have an imperative military necessity or for the protection of civilians is prohibited under IHL. [Party X] has an obligation to facilitate safe and voluntary returns to areas where there is not a lawful justification for displacement.*



ADVOCACY IN SITUATIONS OF OCCUPATION

If you are monitoring a situation of occupation, you can use this guidance to supplement your advocacy. The IHL rules on occupation are often more detailed and comprehensive and can in most cases be used to strengthen your position.

Key tips

- Occupying powers are expressly prohibited from forcibly transferring or deporting protected persons from occupied territory. This prohibition is strict and applies both to individual acts and to mass displacements, regardless of motive. (Art 49, GC IV).
- The **exceptions** to the prohibition on forced displacement in occupation are law are considered **narrower and more clearly defined** than in other contexts. The only permissible grounds for displacement are:
 - » **The security of the population itself** (e.g. imminent threat from ongoing hostilities or natural disaster), or
 - » **Imperative military reasons** (e.g. where civilian presence directly and concretely obstructs essential military operations, such as the establishment of a defensive position).
- These exceptions must be interpreted **strictly** and applied only as a measure of last resort. The Commentary to Article 49 states that the prohibition on forced displacement in occupied territory is **absolute** and has no exceptions beyond those explicitly listed above. Moreover, occupation law only uses the term **evacuations**, which, according to the official Commentary, imposes a stricter requirement of **temporariness**.
- Occupying powers also have **positive obligations** to ensure the welfare of the civilian population, which includes preserving homes and livelihoods, preventing unnecessary displacement, and ensuring access to essential services and humanitarian aid.

Key messaging

- *There are [serious/significant] concerns that [Party X] has forcibly displaced civilians contrary to IHL. Under Article 49 of the Fourth Geneva Convention, the forcible transfer or deportation of protected persons from occupied territory is strictly prohibited, regardless of motive, except in very limited and temporary circumstances where the security of the population or imperative military reasons so demand. These exceptions must be interpreted narrowly and cannot justify long-term or open-ended displacement.*
- *As the occupying power, [Party X] bears heightened responsibilities to ensure that any displacement of civilians is not only legally justified, but also carried out with full respect for the rights and dignity of the affected population. [Party X] must ensure the safety and dignity of displaced persons and allow safe, voluntary return at the earliest possible opportunity.*

CHAPTER 2



Chapter 2: Treatment of displaced persons



You are here because you have concerns over the treatment of displaced persons. This Chapter will guide you through the obligations owed to displaced persons under IHL.

1

DEFINITION AND SCOPE

Defining the obligation to ensure that detained persons are treated with dignity, provided with adequate conditions, and allowed to maintain the family unit.

2

ASSESSING THE HARM

Indicators and examples to help you conduct an IHL-informed assessment of the treatment of displaced persons.

3

EXCEPTIONS OR CAVEATS

Guidance to help you assess whether the inadequate treatment or conditions experienced by displaced persons are justified by what is feasible in the context of the armed conflict.

4

ADVOCACY GUIDANCE

Tailored guidance relevant to each stage of your assessment, offering key tips and messaging for conducting IHL-informed advocacy on the treatment of displaced persons.

1

DEFINITION AND SCOPE

Under IHL, parties to the conflict must take all possible measure to ensure that persons displaced are treated with dignity, which includes ensuring satisfactory conditions of shelter, hygiene, health, safety and nutrition and that members of the same family are not separated.⁸ The mistreatment of displaced persons is prohibited. The specific needs of elderly persons, children, women, persons with disabilities, and other defined groups must be taken into account.⁹ The party responsible for

displacing civilians must ensure such treatment is afforded to displaced persons both during the act of displacement and in the location to which they are moved.

The reference to ‘all possible measures’ means that the implementation of this obligation will be one of feasibility and must be assessed on a case-by-case basis. However, the language expressly prohibits ignoring measures that were available and could have been taken to ensure humane conditions.

⁸ ICRC, CIHL Database, Rule 131; GC IV Art 49; APII Art 4(3)(b) and Art 17(1).

⁹ Ibid.

2

ASSESSING THE HARM

Assessing whether displaced persons are being treated with dignity—as required by IHL—requires particular care. The assessment of harm in this context is not always straightforward, and in many cases, direct inquiries or documentation efforts may risk retraumatizing displaced persons if the actor lacks the necessary expertise. Depending on mandate and security considerations, there may also be issues in safely accessing displacement camps or other locations of concern.

It is important to consider patterns of conduct and contextual factors that may indicate a heightened risk that displaced populations will not be treated in accordance with IHL. The examples below may serve as **concerning trends** or **early warning signs** of potential or likely mistreatment, particularly when observed in combination.¹⁰

EARLY WARNING SIGN	EXAMPLES PLACING DISPLACED PERSONS AT RISK
Lack of Planning or Preparation	No evident plan for relocation, shelter, or service provision. Absence of resources or infrastructure at the relocation site. Lack of coordination with humanitarian actors.
Restrictions on Humanitarian Access	Denial or delay of humanitarian access, including bureaucratic blockages or vague security justifications. Attempts to obstruct independent monitoring.
Displacement into Inadequate or Unsafe Areas	Civilians are relocated to zones near active hostilities. Civilian areas are contaminated with mines, or lacking basic services. Access points are dangerous or unreachable.
Patterns of Discrimination or Stigmatisation	Displacement is disproportionality affecting specific groups. Authorities use stigmatising or dehumanising rhetoric. Unequal treatment or denial of services is based on ethnicity, religion, or other similar criteria.
History of Mistreatment or Ongoing Abuses	The displacing authority has a documented history of violating civilians' rights. Evidence of arbitrary detention, violence, or family separation during or after displacement.
Absence of Legal or Administrative Safeguards	No registration or tracking of displaced persons. Lack of procedures for family reunification or assistance for persons with specific needs. Civilians uninformed about their rights.

When assessing harm to displaced persons, it is also important to look for trends, visible patterns of neglect or mistreatment, and systemic shortcomings in the conditions and support provided to displaced populations. This may include:

¹⁰ The majority of the examples provided have been extracted from the UN fact-finding missions and commissions of enquiry, as well Human Right Reports, including the following: OHCHR, Report of the Secretary-General on the Protection of Civilians in Armed Conflict, UN Doc S/2023/345 (2023); OSCE Office for Democratic Institutions and Human Rights (ODIHR), Situation of Internally Displaced Roma in Ukraine (2023); UNHCR, Global Report on Law and Policy on Internal Displacement: Implementing National Responsibility (2025); ICRC, The Impact of International Humanitarian Law: Displacement in Armed Conflict (2020).

- ◇ Overcrowded or unsafe displacement sites.
- ◇ Insufficient or absent sanitation facilities.
- ◇ Inadequate food distributions or medical care.
- ◇ The visible presence of persons whose specific needs are not being addressed, for example, elderly, unaccompanied children, or persons with disabilities.
- ◇ Reports or observable signs of family separation without reunification mechanisms in place.
- ◇ Evidence that the authority responsible for the displacement is failing to provide for the displaced population or is obstructing humanitarian assistance.

Part of your assessment may also include making note of the broader consequences arising from inadequate treatment of displacement persons, keeping the following examples in mind:

- ◇ Inadequate conditions in displacement settings heighten the risk of malnutrition, disease outbreaks, maternal mortality, and prolonged disability.¹¹
- ◇ Exposure to traumatic events including displacement, violence, and family separation increases the risk individuals could face short-term or long-term harm to their mental health, such as PTSD, chronic trauma, or depression.
- ◇ The harm experience by displaced persons is amplified in cases of protracted displacement, where the lack of durable solutions can lead to long-term reliance on humanitarian services statelessness, and the erosion of social identity and livelihoods.¹²

You should also be alert to any signs that the conditions of displacement amount to further violations of IHL, such as situations where displaced persons are confined, denied freedom of movement, or held in conditions amounting to inhuman or degrading treatment. IHL prohibits violence, degrading treatment, arbitrary detention, and denial of access to humanitarian assistance to all civilians, including those displaced by the conflict.

THE OBLIGATION TO RESPECT THE PROPERTY RIGHTS OF DISPLACED PERSONS

Displacement caused by armed conflict often results in the loss, destruction, or unlawful appropriation of civilian property. For individuals and communities forcibly displaced, the ability to return and recover their homes, land, and possessions is essential not only for their dignity and livelihoods but also for achieving durable solutions.

Under international humanitarian law (IHL), displaced persons have their property returned, restored, or compensated. This includes the right to reclaim homes, land, or possessions upon return, or to receive redress if restitution is not possible.

This right exists alongside the general protection of civilian property in armed conflict under IHL, which provides that parties to the conflict must:

- **Respect property rights of displaced persons.**
- **Prevent unlawful appropriation or destruction** of civilian homes and land..
- **Prohibit pillage and looting**, including of abandoned or vacated properties.
- **Facilitate restitution or compensation**, where appropriate, particularly upon return.

11 UNHCR, Handbook for the Protection of Internally Displaced Persons (2007) 96–100; World Health Organization, Health of Internally Displaced People: Public Health Aspects (2019) 8–12.

12 David Cantor et al., 'Understanding the health needs of internally displaced persons. A scoping review' (2021) Science Direct, Vol. 4.

Note that assessing property rights can be difficult. Land titles may not have been updated in years due to underdevelopment or conflict, individuals may not have sufficient land or property documentation to prove ownership, or land and property rights may not be codified or are communal in nature. We provide tips for navigating these difficulties and reminding parties of their obligations in section 3.4: Advocacy guidance.

3

EXCEPTIONS OR CAVEATS

There are no exceptions to the obligation that displaced persons must be treated with dignity—including the provision of satisfactory conditions of shelter, hygiene, health, safety, and nutrition, and the preservation of family unity. Like many IHL rules, however, this obligation is subject to the caveat of **feasibility** and intersects with the right of parties to control the facilitation of humanitarian assistance and enact safety measures.

- ♦ **All possible measures.** The law demands that all possible measures must be taken to ensure displaced persons are provided with adequate conditions “to greatest practicable extent”.¹³ This caveat still sets a high threshold and requires that if a party can adopt measures to meet the standard of adequate conditions and maintain the family unit, it must do so, while acknowledging that IHL does not demand the impossible.
- ♦ **Control rights.** Parties must **facilitate humanitarian assistance to displaced persons**, especially if they lack the resources to fulfil the required conditions.¹⁴ This obligation is subject to the **right of control** over humanitarian operations, which it allows the receiving party to take steps to ensure the humanitarian and impartial character of the assistance and facilitate its delivery within the territory (See Category 2, Chapter 1: Access to Humanitarian Assistance). Importantly, the right of control does not permit aid

to be denied or obstructed arbitrarily, emphasising that aid must never be withheld as a means of coercion or punishment.

- ♦ **Maintaining civilian character.** Parties are also entitled to preserve the **civilian character of displacement sites**.¹⁵ This may involve measures such as:
 - **Separating individuals who have taken part in hostilities**, especially if they are members of armed forces or armed groups.
 - **Taking steps to disarm displaced persons**, including confiscating weapons brought into camps.
 - **Detaining individuals** suspected of criminal offences or posing security threats, provided such detention complies with IHL and human rights safeguards.

These rights of control must always be exercised in **good faith**, in a **non-discriminatory** manner, and consistent with the overarching obligation to protect and respect the dignity of displaced persons. Humanitarian actors should remain alert to situations where such controls become a pretext for **violence, arbitrary detention, discrimination, or collective punishment**, and raise concerns through principled advocacy when necessary.

¹³ ICRC, CIHL Database, Rule 131; Art 49, GC IV

¹⁴ ICRC, CIHL Database, Rules 55 and 131; GC IV, Arts 23, 59 and 60; AP I, Art 70(1); AP II, Art 18(2).

¹⁵ UNHCR (2018), ‘[Guidance Note on Maintaining the Civilian and Humanitarian Character of Asylum](#)’.

When assessing each of the above caveats, it is important to consider the **logistical, resource, security, and capacity constraints** faced by the party responsible for displacement. At the same time, the principle requires that **every effort**

must be made to meet the core standard of humane treatment and protection. Feasibility should not be used to justify inaction, but rather to prioritise effective and context-sensitive responses to humanitarian needs.

4



ADVOCACY GUIDANCE

In this section, we take what you have learned from your IHL-informed assessment (above) and offer the following three stages of advocacy guidance:

- ♦ **Preventative advocacy** remind parties of their IHL obligations before a violation occurs, especially when risks or early warning signs are present.
- ♦ **Advocacy in response to harm** raise concerns about harm and the conduct of the relevant party, without suggesting a violation of IHL.
- ♦ **Advocacy suggesting a failure to respect IHL.** raise concerns about a possible IHL violation where you have assessed all elements of the rule, including exceptions and caveats.

When suggesting a failure to respect IHL, you will find language suggestions crafted to reflect your level of confidence (limited, moderate, or high), based on the extensiveness of your IHL-informed assessment and the quality of information you have received.



Purpose: Promote respect for IHL and prevent violations before they occur. Highlight concerning trends or early warning signs where applicable.

Key tips

- **Highlight legal obligations clearly:** Use clear and non-confrontational messaging to remind parties that under IHL, the treatment of displaced persons must uphold their dignity and basic needs, including adequate shelter, food, medical care, and protection from harm.
- **Frame messaging around human impact:** Connect legal obligations to real-world consequences for displaced individuals and families. Depending on the audience and nature of your advocacy, consider avoiding purely legalistic or accusatory tones.
- **Assess and report trends:** Consider sharing observations about emerging risks through protection clusters, humanitarian coordination platforms, and confidential channels where appropriate.
- **Promote inclusion:** Advocate for specific consideration of the needs of women, children, elderly persons, persons with disabilities, and minority groups in planning and service delivery.
- **Promote humanitarian access:** Emphasise that access by humanitarian organisations is not optional—it is a legal obligation critical to meeting the basic needs and rights of displaced civilians.

Key messaging

- *[Party X] is reminded of its obligation to uphold the dignity of displaced persons and provide for their basic needs, including adequate shelter, food, medical care, and protection from harm.*



Purpose: Respond to conduct causing civilian harm without necessarily suggesting a failure to respect IHL.

Key tips relating to conditions and treatment

- **Work closely with those in charge of displacement camps** to establish monitoring systems and protection responses that will strengthen your access to information and the quality of your advocacy.
- **Consider framing your messaging around concrete, achievable actions**, such as improving sanitation or shelter, reuniting families, or providing access to humanitarian actors or independent monitors.
- **Reference parties' own stated policies or commitments**, where applicable.
- **Highlight systemic issues** in upholding dignity, safety, and care. Use messaging that prioritises the human impact of failing to adequately treat displaced persons for individuals, their families, and the broader community.

Key tips relating to property rights of displaced persons

- **Work closely with housing, land, and property experts** who are aware of the legal framework in the country where you are working. Among other benefits, this may help you establish ownership.
- **Preserve and document property claims.** Advocate for interim measures—such as registration, legal aid, or community-based documentation—that help displaced persons preserve claims to homes and land.
- **Oppose property violations.** Raise concerns where authorities or private actors exploit displacement to seize or transfer ownership of property, especially along political, ethnic, or military lines.
- **Link housing and land to durable solutions.** Emphasise that safe return requires not only physical security but also the ability to reclaim housing, access farmland, and resume livelihoods.

Suggested messaging

- *There are [serious/significant] concerns over the standard of treatment, conditions, and access to basic needs of displaced persons at [location], such as [description of harm].*
- *[Party X] is reminded of its obligation to uphold the dignity of displaced persons and provide for their basic needs, including adequate shelter, food, medical care, and protection from harm.*



Purpose: Suggest a failure to respect IHL based on a complete and contextually specific assessment of the rule(s), including the exceptions and/or caveats.

Remember: Even if you are unsure of whether an exception applies, you can still raise concerns over a failure to respect IHL. The burden is on the party engaging in seemingly unlawful conduct to justify that an exception to the rule applies.

Key tips

- Where appropriate, clearly identify whether the concern relates to general mistreatment or neglect, systemic failure to meet obligations, or specific acts amounting to inhuman or degrading treatment.
- **Frame the Concern Using IHL.** Anchor your advocacy in IHL emphasising the **absolute nature** of humane treatment obligations. Acknowledge that the armed conflict and resource constraints matter, but do not override the obligation to take all possible measures.
- Depending on the context and audience, consider using **protection language** rather than accusations.
- Where appropriate, encourage constructive dialogue on **what is possible now** and what support may be needed to meet obligations.

Key messaging

Tailor the messaging below in accordance with the guidance provided in the User Guide, supplementing it with details about the specific situation.

Limited level of confidence

- *There are concerns [Party X] is failing to uphold the dignity and basic needs of displaced persons, including adequate shelter, food, medical care, and protection from harm. All parties to the conflict are reminded of their obligations to protect [displaced persons] from mistreatment, abuse, and neglect.*

Moderate level of confidence

- *There are strong indications suggesting that [Party X] is failing to uphold the dignity and basic needs of displaced persons, including adequate shelter, food, medical care, and protection from harm. [Party X] has an obligation under IHL to protect [displaced persons] from violence, intimidation, degrading treatment, arbitrary detention, and denial of access to humanitarian assistance.*

High level of confidence

- *Based on the available information, [Party X] is failing to uphold the dignity and basic needs of displaced persons, including adequate shelter, food, medical care, and protection from harm, in violation of IHL. [Party X] has [specify acts of harm], violating its obligation to protect displaced people from mistreatment, abuse, or neglect. [Party x] has an obligation under IHL to ensure displaced persons are protected from violence, intimidation, degrading treatment, arbitrary detention, and denial of access to humanitarian assistance.*

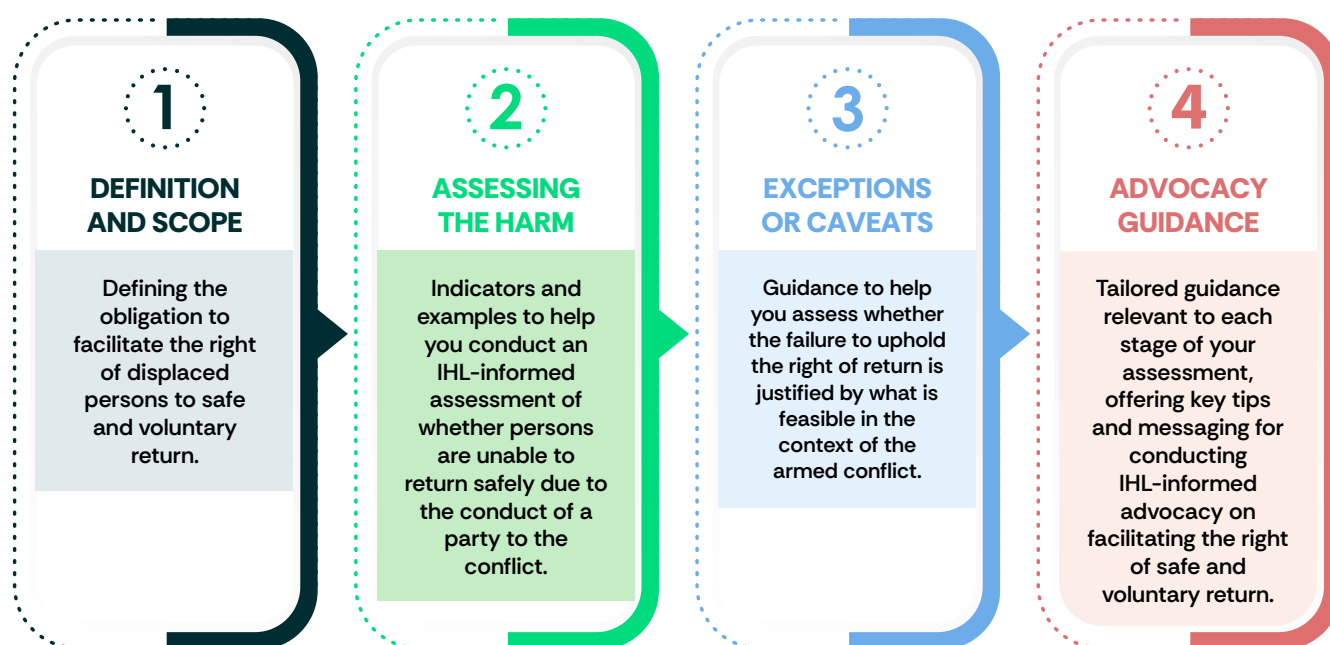
CHAPTER 3



Chapter 3: Denying displaced persons the right of return



You are here because are concerned that displaced persons have been denied the right of return. This Chapter will guide you through the obligations of parties to a conflict to facilitate the right of displaced persons to voluntarily return home once it is safe to do so.



1

DEFINITION AND SCOPE

The **right of return** arises when the reasons justifying the lawful displacement cease to exist. As soon as the security of the civilian population or the imperative military reasons no longer justify the displacement, the party to the conflict that ordered the displacement must facilitate all voluntary returns, including return from those who voluntarily left the area.¹⁶

Facilitating voluntary return may require certain steps to be taken to ensure that return is both possible and safe. Examples include ‘mine clearance; provision of assistance to cover basic needs (shelter, food, water and medical care); provision of construction tools, household items and agricultural tools, seeds and fertilizer; and rehabilitation of schools, skills training programmes and education.’¹⁷ Protecting the property of displaced persons against destruction and illegal use – or compensating for property that cannot be restored – may be necessary to facilitate the return of displaced persons.¹⁸

16 ICRC, CIHL Database, Rule 132; GC IV, Art 49(2); AP I, Art 85(4)(a); AP II, Art 17(1); Article 12(4) International Covenant on Civil and Political Rights; Principle 25 Guiding Principles on Internal Displacement; Article 13(2) Universal Declaration on Human Rights.

17 ICRC, CIHL Database, Rule 132.

18 Ibid. See also: UN Commission on Human Rights, Res. 1996/71

The return of displaced persons must be **safe**, **voluntary**, and **dignified**.

- ◇ **Safe** returns means that individuals must not be exposed to danger, violence, persecution, or other forms of serious harm.
- ◇ To make return **voluntary**, parties must ensure displaced people have the necessary information to make informed decisions about whether to return and individuals without pressure from within their community or from official authorities.
- ◇ Ensuring **dignified** returns requires that humanity is a driving factor in the implementation of the returns process and incorporates everything from ensuring the maintenance of family unity, and access to necessary services and supplies during the returns process, particularly for individuals with specific needs such as persons with disabilities, women, and older persons.

Key point: When considering the **right of voluntary return** for displaced persons under IHL, it is important to understand that this right must not be implemented in a way that undermines the principle of **non-refoulement**, which prohibits the return of individuals to a country or territory where they would face a real risk of serious harm, including persecution, torture, or other grave human rights violations.²⁰ Humanitarian actors should therefore monitor and advocate against returns that are premature, unsafe, or coerced.

2

ASSESSING THE HARM

This section will help you assess whether a party may be failing to respect the right of displaced persons to voluntarily return home.

Denying the right of return can take many forms, but there are some consistent trends that you should look out for when assessing the behaviour of parties to a conflict. Depending on the circumstances, the following conduct can amount to a denial of the right to return:

- ◇ Legal restrictions, administrative obstacles, or discriminatory policies that suppress the civil and political rights of displaced persons.²¹
- ◇ The destruction of displaced persons' homes and villages or the acquisition, resettling of land, or infrastructure developments.²¹
- ◇ Failing to ensure adequate mine clearance or the provision of basic needs, including shelter, food, medical care, household items, agricultural tools, or education.

Looking for concerning trends or early warning signs often involves examining these same factors. Legal and administrative barriers, discriminatory practices, destruction of homes and land, and the failure to ensure civilian areas are safe all increase the risk that displaced persons will be denied their

²⁰ The principle of **non-refoulement** is a cornerstone of international refugee law, enshrined in the 1951 Refugee Convention (Article 33) and widely recognised as a rule of customary international law, binding on all states.

²¹ UN Security Council, Res. 1009, 10 August 1995, § 2; Guiding Principles on Internal Displacement, Principle 29(1).

²² Michael G Kearney, 'The Denial of the Right of Return as a Rome Statute Crime (2020) 18(4) Journal of International Criminal Justice 985, 995.

right to return — and may, in practice, prevent their return altogether. Parties to a conflict might also deny the right of return through more direct measures, such as physically preventing re-entry or detaining those who attempt to return.

Assessing whether a party has denied the right to return must be undertaken on a case-by-case basis. The table below provides a non-exhaustive list of scenarios to help you with this assessment.²²

SCENARIO	IHL ASSESSMENT AND ADVOCACY GUIDANCE
Authorities refuse to clear mines or remove unexploded ordnance in a village previously occupied during hostilities.	Parties to conflict are required to take feasible steps to make areas safe for return. Failure to clear explosive remnants of war may violate this obligation and prevent safe, voluntary return. Advocacy should call for urgent demining and safe return conditions.
The return of a displaced ethnic minority is delayed indefinitely through complex administrative procedures and security approvals not required for other populations.	Discriminatory obstruction of return violates IHL. Advocacy should focus on the principle of non-discrimination and demand equal treatment in return processes.
A party appropriates homes and farmland belonging to displaced persons and redistributes them to others during the conflict.	Property rights of displaced persons must be respected. Seizing or redistributing property impedes return and may breach IHL. Advocacy should focus on restoring property to its rightful owner, compensation where necessary, and for unlawful misappropriation to stop.
Civilians are forcibly returned to areas still affected by active hostilities.	Forced return to unsafe areas violates the obligation to ensure voluntary, safe, and dignified return. Advocacy should demand that returns be suspended until safety is assured, citing obligations under both IHL and the principle of non-refoulement under Refugee Law.
Families returning to their home areas are separated due to bureaucratic procedures or lack of coordination between civil and military authorities.	IHL prohibits family separation. Return procedures must support family unity. Advocacy should promote coordination measures and ensure family reunification.
A displaced person is unable to claim property rights and return home, as her husband is missing and the property is in his name.	Bureaucratic measures should not prevent the right of displaced persons to return home. Exceptional measure may need to be put in place to recognise the families of missing persons as victims of the armed conflict and facilitate their right to return home and reclaim property.

²² The majority of the examples provided have been extracted from the UN fact-finding missions and commissions of enquiry, as well Human Right Reports, including the following: The majority of the examples provided have been extracted from the UN fact-finding missions and commissions of enquiry, as well Human Right Reports, including the following: OHCHR, Report of the Secretary-General on the Protection of Civilians in Armed Conflict, UN Doc S/2023/345 (2023); OSCE Office for Democratic Institutions and Human Rights (ODIHR), Situation of Internally Displaced Roma in Ukraine (2023); UNHCR, Global Report on Law and Policy on Internal Displacement: Implementing National Responsibility (2025); ICRC, The Impact of International Humanitarian Law: Displacement in Armed Conflict (2020).

3

EXCEPTIONS OR CAVEATS

There are no exceptions to the right to return. As discussed, the right of return does not apply where return would place civilians at risk of harm — in other words, the obligation cannot be implemented where return is not safe. Safe return is a prerequisite, not an exception.

The practical implementation of the obligation, however, is subject to the caveat of what is *feasible in the circumstances*. Armed conflict inevitably brings complex and dynamic operational constraints — including active hostilities, insecurity, infrastructure damage, or the presence of explosive remnants of war — that may delay or complicate return processes. While these constraints do not remove the obligation, they shape its application. In such situations, parties must still demonstrate good faith efforts to enable return as soon as practicable and must refrain from taking measures that would deliberately obstruct or indefinitely delay the right of return.

4



ADVOCACY GUIDANCE

In this section, we take what you have learned from your IHL-informed assessment (above) and offer the following three stages of advocacy guidance:

- ♦ **Preventative advocacy** remind parties of their IHL obligations before a violation occurs, especially when risks or early warning signs are present.
- ♦ **Advocacy in response to harm** raise concerns about harm and the conduct of the relevant party, without suggesting a violation of IHL.
- ♦ **Advocacy suggesting a failure to respect IHL** raise concerns about a possible IHL violation where you have assessed all elements of the rule, including exceptions and caveats.

When suggesting a failure to respect IHL, you will find language suggestions crafted to reflect your **level of confidence** (limited, moderate, or high), based on the extensiveness of your IHL-informed assessment and the quality of information you have received.



Purpose: Promote respect for IHL and prevent violations before they occur. Highlight concerning trends or early warning signs where applicable.

Key tips

- **Look out for legal and policy changes.** Stay alert to new laws, decrees, administrative measures, or judicial decisions that may restrict return. Identify any discriminatory measures targeting specific ethnic, religious, or political groups that could block return or reduce its safety.
- **Track patterns of land and property destruction.** Document destruction or appropriation of homes, agricultural land, or infrastructure. Advocate for preservation or documentation of property rights and call for reconstruction and restitution mechanisms.

- **Engage on security conditions in areas of origin.** Advocate for the clearance of explosive remnants of war, unexploded ordnance, and mines. Raise concerns if armed groups remain present or civilian policing is absent in areas of intended return.
- **Push for transparent planning and communication.** Demand transparency from parties to the conflict regarding plans or timelines for facilitating return. Promote consultation with displaced communities to ensure return is voluntary, informed, and appropriate to their needs.
- **Promote access for humanitarian and protection actors.** Advocate for unhindered access to enable needs assessments, protection monitoring, and engagement with authorities on safe return planning.

Key messaging

- *[Party X] is reminded of its obligation to facilitate the right of displaced persons to voluntary return in safety to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist.*
- *In light of [explain early warning signs if applicable], it is critical that all parties to the conflict are reminded of their obligation to facilitate the right of displaced persons to voluntary return in safety to their homes or places of habitual residence.*
- *Parties to the conflict have an obligation to facilitate the return of displaced people to their areas of origin with legal, material, and physical safety guaranteed. This includes ensuring returnees will not be subjected to unnecessary administrative barriers or arbitrarily detained during or upon return, ensuring essential services and supplies are available in areas of origin, and ensuring areas of origin are free from physical safety hazards, including explosive hazards.*



Purpose: Respond to conduct causing civilian harm without necessarily suggesting a failure to respect IHL.

Key tips relating to the right of return

- **Frame the right to return as a positive obligation.** Reiterate that displaced persons have a right to return to their homes in safety and dignity. Emphasise that this is a positive obligation under IHL and other relevant bodies of law, even where there is no suggestion of a violation, which requires parties to take proactive steps to ensure such return is possible.
- Where appropriate, consider **raising protection concerns without attribution.** Frame concerns around risks and obstacles to return rather than direct accusations. Use neutral and protective language.
- **Reinforce temporary protection measures.** Emphasise that while return is a long-term goal, displaced persons must receive protection and adequate conditions where they currently reside until return is feasible.
- **Coordinate.** There are resources available from the Inter-agency Standing Committee for humanitarian actors to measure progress towards durable solutions for displaced persons.¹

Key tips relating to refugee law

- **Consider the interactions between IHL and Refugee Law.** It will be important to understand the obligations of the parties to the conflict and other key stakeholders with whom you are advocating under both IHL and Refugee Law.
- **Non-refoulement is non-derogable.** States and parties to conflict must not return individuals to areas where they face serious risks, regardless of security or political justifications.
- **Examine pressure to return.** Advocacy should expose any political or material pressures that may result in de facto forced return, especially where conflict-related harm persists.
- **Use IHL and refugee law together.** Highlight how the principle of non-refoulement complements IHL's protection against forced displacement and ensures continuity of protection even once the displaced person has crossed a border.

Key messaging

- *There are [serious/significant] concerns that displaced persons are unable to safely return home. Impediments to displaced persons fulfilling their right to return include [describe why displaced persons are unable to safely return].*
- *[Party X] is reminded of its obligation to facilitate the right of displaced persons to voluntary return in safety to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist.*



Purpose: Suggest a failure to respect IHL based on a complete and contextually specific assessment of the rule(s), including the exceptions and/or caveats.

Remember: Even if you are unsure of whether an exception applies, you can still raise concerns over a failure to respect IHL. The burden is on the party engaging in seemingly unlawful conduct to justify that an exception to the rule applies.

Key tips

- **Frame the right to return as a positive obligation.** Reiterate that displaced persons have a right to return to their homes in safety and dignity. Emphasise that this is a positive obligation under IHL and other relevant bodies of law, even where there is no suggestion of a violation, which requires parties to take **proactive steps** to ensure such return is possible.
- **Demonstrate the impact on civilians.** Support your advocacy with demonstrations of civilian harm, such as prolonged displacement, separation from livelihoods, or deteriorating living conditions. This makes the issue more relatable and urgent, and helps broaden advocacy messaging beyond legal audiences.
- **Acknowledge complexity but stress obligations.** Recognise contextual constraints (such as ongoing hostilities or resource limitations), but reaffirm that **IHL does not allow arbitrary or indefinite denial of return**. Highlight that even where full return is not immediately possible, **progressive and non-discriminatory efforts** must be made.
- **Reinforce the temporary nature of displacement.** Emphasise that displacement must never be used as a tool of punishment, control, or demographic change. State clearly that return is a legal **right**, not a matter of policy discretion.
- **Consider escalation.** Where field-level advocacy is insufficient, consider escalating findings through diplomatic, legal, or public advocacy channels, including protection clusters, high-level humanitarian coordination bodies, or, where appropriate, international mechanisms.
- **Uphold the voice of displaced persons.** Support displaced communities to participate in their own return discussions, ensuring their views are reflected in advocacy while protecting them from retaliation or manipulation. Always consider **Do No Harm** principles.

Key messaging

Tailor the messaging below in accordance with the guidance provided in the User Guide, supplementing it with details about the specific situation.

Limited level of confidence

- *There are concerns [Party X] may not be fulfilling its obligations under IHL to facilitate the safe and timely return of displaced persons to their areas of origin. Parties to the conflict are obligated to ensure displaced people have the right to return to their areas of origin when the areas of origin are safe for civilians to return.*

- *Parties to the conflict have an obligation to ensure areas of return are suitable for return upon the cessation of the security concerns in that area. [Party X] is obligated under IHL to ensure civilians can return in safety and with dignity by ensuring returnees will not be subjected to unnecessary administrative barriers or arbitrarily detained during or upon return, ensuring essential services and supplies are available in areas of origin, and ensuring areas of origin are free from physical safety hazards, including the clearance of explosive hazards.*

Moderate level of confidence

- *There are strong indications suggesting [Party X] has failed to meet its obligations under IHL to facilitate the safe and timely return of [displaced persons] to [location].*
- *There are reports [Party X] has reportedly [created burdensome administrative barriers to return/disallowed Group X to return/ appropriated private homes from displaced people/failed to guarantee the physical safety/failed to provide basic services and necessities in areas of return/specify harm], actions which would amount to a failure to uphold the obligation of safe and timely return.*
- *[Party X] has an obligation to facilitate the safe and timely returns of displaced persons to their areas of origin upon the cessation of the security concerns in that area.*

High level of confidence

- *[Party X] has failed to meet its obligations under IHL to facilitate the safe and timely return of [displaced persons] to [location]. [Party X] has [created burdensome administrative barriers to return/disallowed Group X to return/ appropriated private homes from displaced people/failed to guarantee the physical safety/failed to provide basic services and necessities in areas of return/specify harm], actions that amount to a failure to facilitate safe and timely returns of displaced persons.*

CATEGORY 4

Harm to detained or missing persons and
their families





Category 4

Harm to detained or missing persons and their families

Introduction and Relevant Considerations

Scope of category 4

This category focuses on the range of harms experienced by persons who are detained or missing in armed conflict, including the adverse impact on their families.

Armed conflict exacerbates the vulnerability of people in detention and the risk that they may go missing. Individuals may be detained without due process, sometimes based solely on their ethnicity, religion, or affiliation to an opposing group. Those in detention are at an increased risk of inhumane treatment or conditions which fail to meet their basic needs, especially if they have been unlawfully detained as a form of retribution or persecution. Poor record-keeping, failure to allow communication with the outside world, and the failure to account for people killed in armed conflict all increase the risk of persons going missing, putting their families in a state of prolonged uncertainty and distress.

IHL plays a critical role in addressing these harms. It prohibits arbitrary detention, imposes minimum standards of treatment, and obliges parties to a conflict to prevent individuals from going missing and facilitate the search for those who are missing.

Within this category, you will find the following chapters dealing with specific forms of harm

and guidance on how to engage in IHL-informed assessments and advocacy.

- ♦ Chapter 1: The Prohibition on Arbitrary Detention
- ♦ Chapter 2: Humane treatment and conditions of detention
- ♦ Chapter 3: Missing persons

Key terminology

- ♦ We use **‘detention’** and **‘detainee’** to refer to all civilians detained or deprived of their liberty for any reason in the context of armed conflict. You may encounter the terms *criminal detention* (where a person is held pending trial) or *internment* (where a person is detained for security reasons). Since **all such individuals are entitled to humane treatment and adequate conditions**, we use ‘detention’ and ‘detainee’ for simplicity.
- ♦ You will see us use the term **‘collective punishment’**, a core prohibition under IHL which provides that individuals must never be penalised for conduct they have not personally engaged in. The rule is absolute: no circumstances justify imposing harm, restrictions, or penalties on individuals or groups as retribution for the acts of others. Detaining individuals based solely on their ethnicity, religion, or perceived association with an opposition group violates the prohibition on collective punishment.

Applicability of IHL

There are some important points to remember about the applicability of IHL:

- ♦ IHL only applies during armed conflict. You should always check that the situation you are monitoring qualifies as an armed conflict before using IHL as part of your humanitarian advocacy.
- ♦ The IHL guidance provided in this Manual can be used in all types of conflict unless it is explicitly stated otherwise. Where there is a particular IHL rule that only applies in a specific type of conflict, we will let you know.
- ♦ As a general rule, IHL only regulates conduct which has a sufficient connection to the armed conflict.¹ The key question is whether the conduct in question was **closely related to the hostilities** or took place in **the context and under the influence of the armed conflict**.
- ♦ International Human Rights Law (IHRL) continues to apply during armed conflict and complements IHL in mitigating civilian harm. Depending on the context, the domestic law of the state may also offer an alternative or supplementary legal framework for humanitarian advocacy, although its protections are not always adequate or consistent with international standards.

If you are unsure about conflict classification, determining a sufficient link, or would like further guidance on the interaction between different legal frameworks, please contact our free [IHL Advisory Service](#).



Advocating with credibility

This Manual provides tailored advocacy messaging for all audiences. It will help you apply IHL in practice with credibility and impact, offering different formulations depending on your **level of confidence**. Remember that your level of confidence (**limited**, **moderate**, or **high**) is based on:

7. An **IHL-informed assessment** of whether a party has failed to respect IHL; and
8. The **quality of the information** you receive.

Below you will find a reminder of **core principles of IHL-informed advocacy** and instructions on how to navigate the **advocacy guidance** provided in this Manual.

Core principles of IHL-informed advocacy

- ♦ **Know your audience & use appropriate language:** Remind parties of their IHL obligations in clear, accessible terms. Tailor tone and framing to stakeholders' knowledge. Use IHL-informed advocacy where it is most likely to be effective.
- ♦ **Collaborative vs individual:** Collaborative advocacy brings credibility and shared risk but less flexibility; individual advocacy offers greater autonomy but places the responsibility on a single actor.
- ♦ **Public vs private:** Public advocacy raises visibility but risks undermining access; private advocacy preserves relationships but lacks transparency. Sometimes both are needed.

Remember that effective IHL-informed advocacy **does not mean you need to cite legal articles or use legal jargon**. In most cases, you can **remind parties of the key provisions of**

¹ Under IHL, this requirement of sufficient connection to the armed conflict is referred to as the nexus.

IHL and their obligation to respect them—even without full contextual details or without using legal terminology.

Navigating the advocacy guidance

For each chapter in this Category, we provide you with **advocacy guidance** specific to persons detained or missing in armed conflict. In most cases, this guidance is divided into three distinct stages that reflect where you are at in your IHL-informed assessment of the situation:

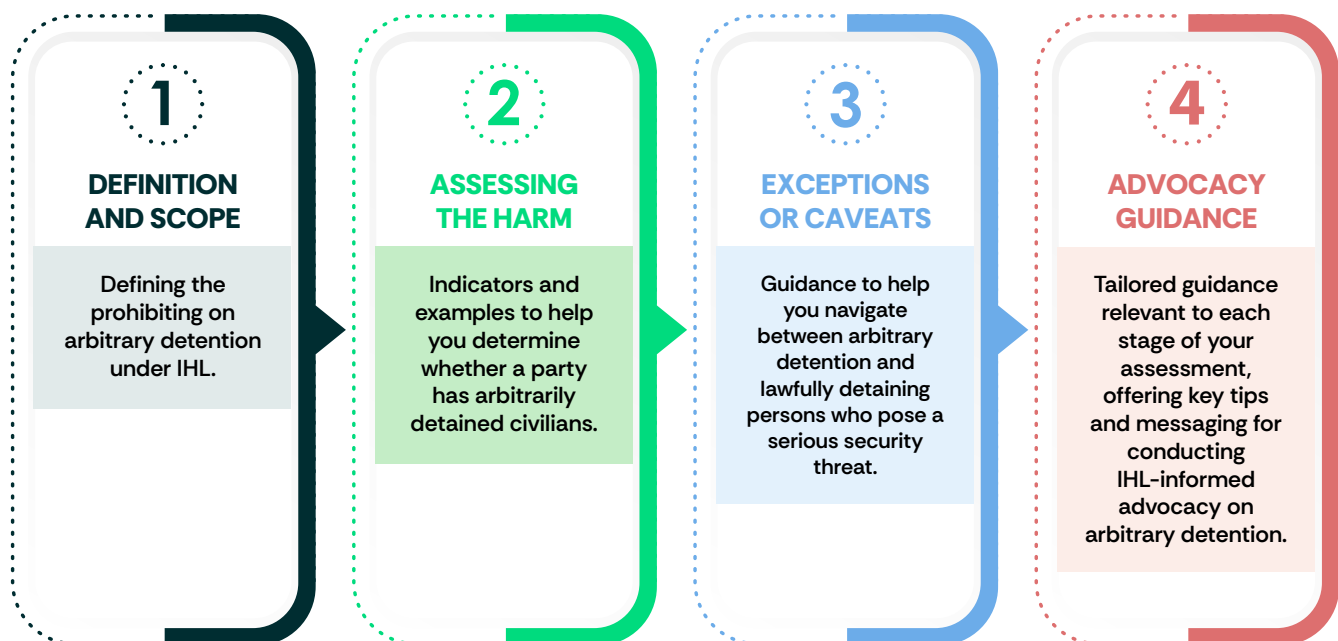
- ◇ **Preventative advocacy** allows you to **remind parties of their obligations** before a violation has occurred. It may incorporate **concerning trends** or **early warning signs** that you have observed or simply highlight the general risk to and vulnerability of civilians in armed conflict.
- ◇ **Advocacy in response to harm** is designed for when you have information that detained or missing persons and their families are experiencing harm due to the conduct of a party to the conflict. While you may not have sufficient information to suggest a failure to respect IHL, it allows you to **raise concerns** in response to harm and remind parties of their obligations.
- ◇ **Advocacy suggesting a failure to respect IHL** is reserved for situations where you have assessed the rules on detention and missing persons in detail, including applicable exceptions or caveats. It allows you to explain how the conduct appears to violate IHL and, where appropriate, respond to attempted **denials or justifications** by the offending party.

For each of these stages, you will find **key tips** for humanitarian actors and guidance on using appropriate language to advocate with credibility based on your **level of confidence**.

Chapter 1: The Prohibition on Arbitrary Detention



You are here because you are concerned that civilians are being detained arbitrarily – which means they are being detained unlawfully. This Chapter will guide you through the prohibition on arbitrary detention under IHL and help you to conduct IHL-informed assessment and advocacy in response to civilian harm.



Before we begin, it is important to clarify that our approach to the prohibition on arbitrary detention is different from other chapters. Assessing the lawfulness of detention often involves analysing complex legal processes with limited access to information. For this reason, we do not guide you through each element of the rule in detail. Instead, we focus on identifying **broad patterns** of arbitrary detention, especially when used as a means of **discrimination** or **collective punishment**.

Such practices frequently serve as a warning sign that detainees may go on to suffer inhumane treatment or go missing, highlighting the connection between arbitrary detention and the other chapters in this Category.

1

DEFINITION AND SCOPE

The term *arbitrary detention* refers to the deprivation of liberty **without legal basis** or in a manner that is **inconsistent with procedural or substantive safeguards**.² To say that detention is arbitrary is to say that the detention is **unlawful under IHL**.

There are two ways in which detention will be considered arbitrary and therefore unlawful:

6. **There is no lawful basis justifying the detention.** Under IHL, it is lawful to detain someone pending a criminal charge (criminal detention) or if they pose a serious security threat (internment). If neither of these are satisfied, the detention will be arbitrary.
7. **The detaining authority is denying procedural guarantees.** Persons awaiting criminal charges must be provided with fair trial guarantees and those detained for security reasons must have the lawfulness of their detention reviewed. Failing to provide these procedural guarantees makes the detention arbitrary under IHL.

The prohibition on arbitrary detention is highly case-specific and may require complex legal analysis. It involves determining **the legal basis** and **ongoing justification** for detention and assessing whether **procedural guarantees** and **review mechanisms** are in place apply. Such determinations often fall outside the immediate capabilities or mandates of humanitarian actors, whether due to a lack of access, legal expertise, or other limitations. For tailored guidance on the legal basis and procedures of detention, we encourage you to contact our free **IHL Advisory Service**.

The focus of this Chapter is to help you identify situations where detention is being used to:

- ♦ **Persecute or discriminate** against individuals based on their ethnicity, religion, political affiliation, or perceived loyalties.
- ♦ **Collectively punish civilians** for their association — real or perceived — with armed actors or opposition groups.
- ♦ **Coerce or intimidate** the local population into compliance, submission, or silence.
- ♦ **Retaliate** against individuals or groups for the actions of others.
- ♦ **Lay groundwork for further abuses**, such as torture, inhumane treatment, or enforced disappearance.

Where these patterns of detention are observed, they should not be dismissed as a purely legal or technical issue. Arbitrary detention can indicate or precede further IHL violations and can be addressed by careful IHL-informed assessments and advocacy.

2 ICRC, CIHL Database, Rule 99; GC IV, Arts 42–43, 78; API, Art 75(3); AP II, Art 2(2), Art 5(1)(a).

2

ASSESSMENT OF HARM

Below is a table outlining scenarios that may suggest a risk or failure to respect the prohibition on arbitrary detention, focusing on the use of detention as a form of persecution, coercion, or retribution.³ These are **broad patterns of conduct** that you may be able to observe or verify without needing full legal details of the legal grounds and procedures of detention.

SCENARIO	IHL-INFORMED ASSESSMENT
A large number of civilians from a single ethnic or religious group are arrested following a military operation against an armed group believed to operate in the area.	This scenario may indicate arbitrary detention through discrimination and/or collective punishment, both of which are prohibited under IHL. Detention is arbitrary if it is not linked to individual conduct but rather based solely on the detainee's membership to a particular group.
Civilians are detained in retaliation for an attack by an opposition armed group, there appears to be no credible information linking them individually to the attack.	The detention in this scenario appears to be a form of retaliation and collective punishment , which is arbitrary and unlawful. Detention is only lawful where the individual is facing criminal charges or poses a serious security threat.
Detention of political activists, civil society members, or journalists in conflict-affected areas without formal charges or judicial review.	This scenario could reflect the use of detention to suppress dissent or exert control over the population , suggesting arbitrary or politically motivated detention.
A large number of civilians are detained with no published reasons for the detention and access to all family members, humanitarian organisations, and journalists is denied.	These detention practices raise serious concerns. Without the reasons for the detention or access to the detainees it is impossible to reach a definitive conclusion, but the secrecy (itself a violation of IHL) suggests that the detention may be arbitrary.
Statements by officials or public broadcasts claim that civilians in the area are 'terrorist sympathisers' or 'enemies of the state' and suggest mass detention is justified.	The rhetoric in this scenario presents an early warning sign that the party may engage in arbitrary detention of civilians as a form of coercion and control. If implemented, such detention would be based on perceived affiliation and unlawful.

³ The majority of the examples provided have been extracted from the UN fact-finding missions and commissions of enquiry, as well Human Rights Reports, including the following: UN Human Rights Office (OHCHR), Thematic Report: Detention in the Context of the Escalation of Hostilities in Gaza (October 2023–June 2024) (July 2024); Independent International Commission of Inquiry on Syria ("Web of Agony" Report, Jan 2025); Joint UNMISS & OHCHR Report (Dec 2024): Arbitrary arrests and detentions in South Sudan.

3

EXCEPTIONS OR CAVEATS

The prohibition on arbitrary detention is absolute and allows for no exceptions.

Nonetheless, parties to a conflict may seek to justify mass civilian detention by invoking the right to detain persons who pose a serious security threat. This form of security detention (known as ‘internment’) is only justified for **imperative security reasons**, which means that the individual must pose a serious and immediate security threat. Further, persons in security detention must be given the right to **challenge** their detention and have its lawfulness **periodically reviewed**.⁴

As a humanitarian actor, you are unlikely to have access to information on whether an individual posed a serious security threat. Furthermore, as previously discussed, we do not provide guidance on assessing the legal bases or procedural guarantees of detention in this Manual, as they often require access to legal files and technical legal analysis. However, it is important to be aware of security detention (internment) for two main reasons:

8. Accurately **remind parties of their obligations under IHL**. There will be situations where it is appropriate to remind parties that they are only permitted to detain persons pending trial or individuals who pose a serious security threat. In doing so, it may also be appropriate to emphasise the high threshold for security detention and the associated procedural guarantees.

9. Remain alert to attempted **exploitation of IHL**. Security detention may be invoked to **mask arbitrary or abusive detention practices**, including efforts to collectively punish, intimidate, or remove segments of the population under the guise of security. Understanding the limitations of security detention can help you to spot attempted exploitations of the rule.

4 ICRC, CIHL Database, Rule 99; GC IV, Arts 42–43, 78; API, Art 75(3); AP II, Art 2(2), Art 5(1)(a).

4



ADVOCACY GUIDANCE

Normally, we provide you with three stages of advocacy – **preventative, in response to harm**, and **suggesting a failure to respect IHL**. Given the more nuanced approach in this Chapter to identifying broad patterns of arbitrary detention, we have condensed these stages into a single form of advocacy guidance below.



Purpose: highlight early warning signs and/or respond to broad patterns of detention as a form of persecution, retribution, or coercion against the civilian population.

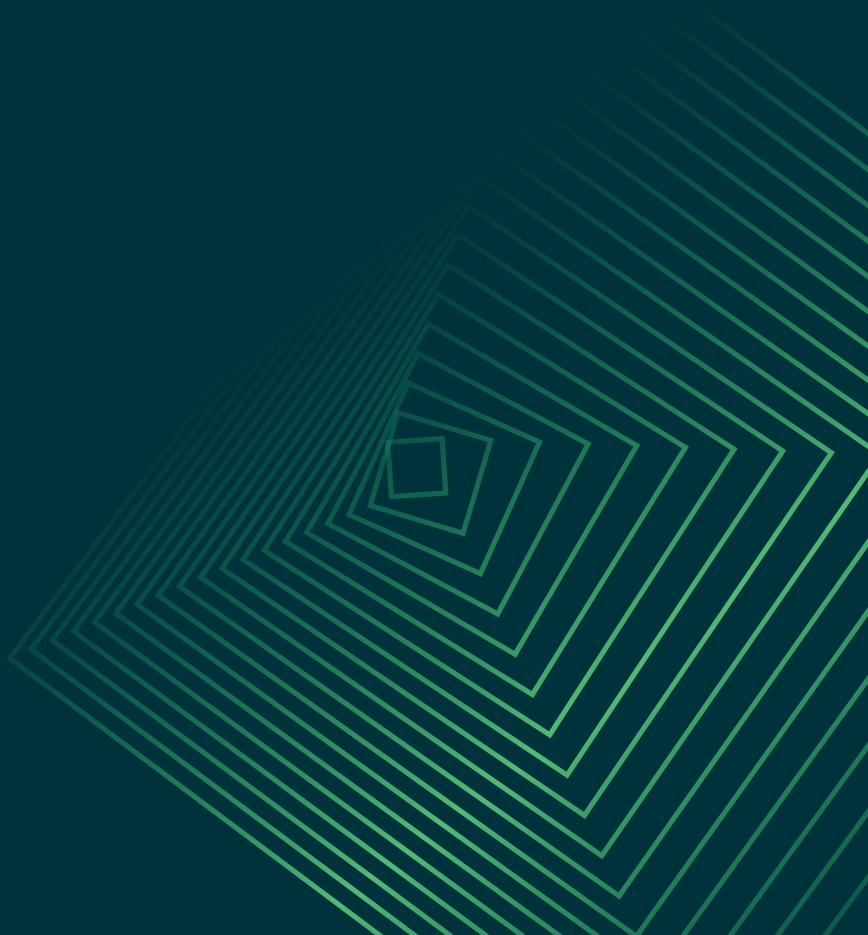
Key tips

- **Recognise the limits of access and information.** You may not know the exact legal basis for detention. Focus on the observable patterns of conduct (mass detentions, discriminatory arrests, lack of review, secrecy) that suggest risks of arbitrary detention.
- **Link arbitrary detention to broader harm.** In reminding parties of their obligations, emphasise how arbitrary detention undermines civilian protection, increases the risk of ill-treatment or disappearance, and impedes access to humanitarian services.
- **Acknowledge lawfulness of security detention but be cautious of exploitation.** Acknowledge that security detention (internment) is permitted in armed conflict. Be aware that you may not have access to the information on which such detention is based. However, if detention appears to be persecutory, retaliatory, or coercive, reliance on security detention may suggest a deliberate attempt by the party to exploit IHL rules.

Key messaging

- *There are concerning reports that persons are being detained [without charge/without publishing reasons/without providing access to families or independent organisations/on the basis of their ethnicity, religion, or perceived affiliation]. [Party X] is reminded that, under IHL, persons may only be detained pending criminal charges or where they pose a serious security threat and must be afforded all procedural guarantees under IHL.*
- *[Party X] is reminded of its obligations under IHL to only detain persons who have been charged with an offence or who have been assessed as posing a serious security threat. Detaining persons based on their ethnicity, religion, perceived affiliation, or other forms of persecution or collective punishment is arbitrary and unlawful.*

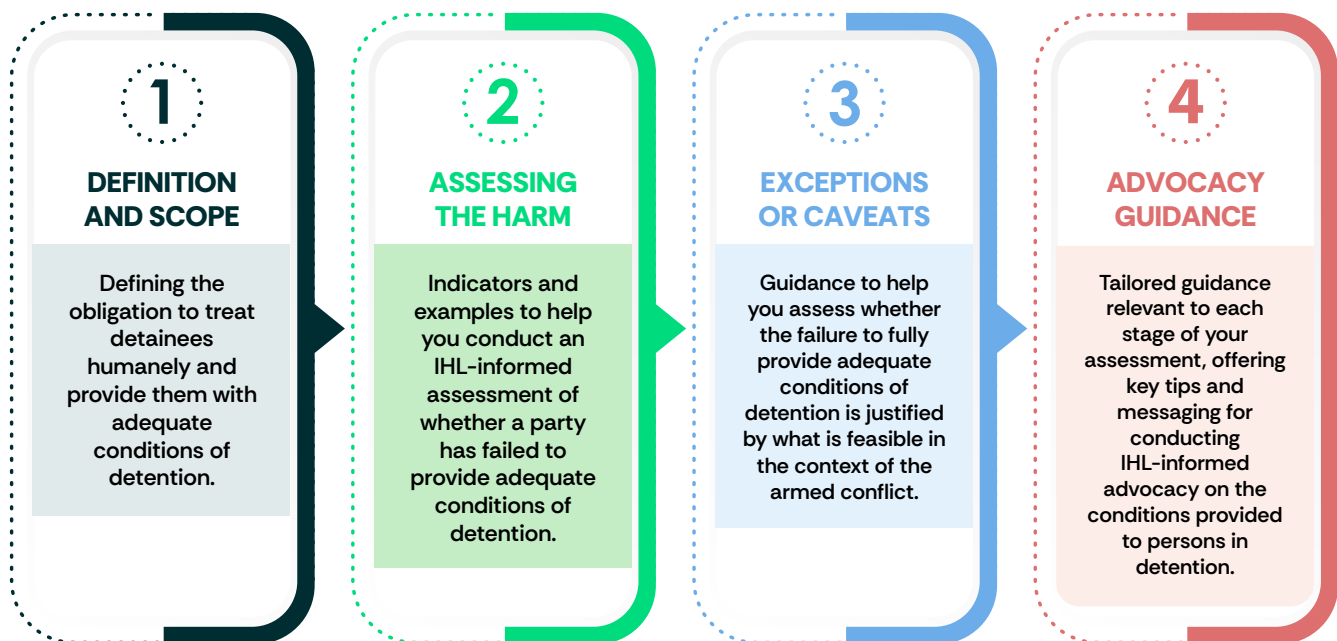
CHAPTER 2



Chapter 2: Humane Treatment and Conditions of Detention



You are here because you are concerned that people held in detention are being treated inhumanely and/or denied their basic needs. This Chapter will guide you through the rules on humane treatment and conditions of detention and help you to conduct IHL-informed assessment and advocacy in response to civilian harm.



1 DEFINITION AND SCOPE

IHL requires that all persons in detention must be treated **humanely** and provided with conditions of detention that meet their **basic physical and psychological needs**.

Humane treatment

Humane treatment is a core rule of IHL that applies at all times in all contexts, without exception.

- ♦ **It is context specific.** Human beings are diverse and have different needs. Humane treatment requires taking into account an individual's unique circumstances, including age, gender, disability, health, and cultural or religious background.

- ♦ **It specifically prohibits certain acts**, such as torture, cruel or degrading treatment, and sexual and gender-based violence. These acts are prohibited in all circumstances because they will always amount to a violation of humane treatment.⁵

Persons in detention are uniquely vulnerable to inhumane treatment because their wellbeing is entirely dependent upon the detaining power. As we guide you through the obligation on parties to provide **adequate conditions of detention** (below), you will see how a failure to provide certain conditions, either in isolation or cumulatively, can amount to **inhumane treatment**.



KEY POINT

Specifically prohibited acts – torture, cruel or degrading treatment, and sexual and gender-based violence – can occur at any time in armed conflicts. Persons in detention are particularly vulnerable to such acts, along with those who have been displaced or put in precarious positions by the conflict. For detailed guidance on these specifically prohibited acts, we direct you Category 1(B).

Conditions of detention

Detained persons must be provided with adequate conditions that meet their basic physical and psychological needs. Similar to humane treatment, determining detainee needs is context specific, but the following represent **minimum standards** that must be fulfilled.

- ♦ **Physical needs:** detainees must be protected from hostilities and other dangers of armed conflict; held in locations removed from the combat zone;⁶ have access to adequate accommodation, appropriate medical care,

hygiene, food, water, and clothing, shelter and medical attention;⁷ and be provided with accommodation safeguarding their hygiene and health.

- ♦ **Psychological needs:** parties to a conflict must respect the convictions and religious practices of detainees and allow contact with the outside world.⁸ Detainees have a right to correspond with their families and receive visitors as frequently as possible.⁹

Detainee's needs, as determined by their age, sex, disability status, health and other factors, must inform the provision of the above essential supplies and services. For example:

- ♦ Women and children must be held in quarters separate from men and adults, respectively, except where families are accommodated together.¹⁰ Female detainees must be under the supervision of women.¹¹
- ♦ Practical steps must be taken to accommodate the access and treatment of persons with disabilities, which may include mobility modifications and delivering information in formats appropriate to people who are deaf or visually impaired.

The realities of armed conflict mean that certain conditions of detention are subject to what is **feasible**, but the core rules must never be violated: detainees must be treated humanely and provided with conditions that meet their basic needs.

5 IHL Centre, Experts on International Humanitarian Law, [Understanding International Humanitarian Law, An Introduction to the Law of Armed Conflict](#), p. 30.

6 ICRC, Customary IHL Database, Rule 121; GC IV, Art. 83; AP II, Art. 5(2)(c).

7 ICRC, Customary IHL Database, Rule 118; GC IV, Art. 87, 89-92; AP II, Art. 5(1)(b).

8 In international armed conflicts, there are additional rules related to "intellectual, education and recreational pursuits, sports and games amongst internees" and working conditions applicable to voluntary employment of detainees. See GC IV, Art. 94-95 and AP II, Art. 5(1)(e) in relation to working conditions.

9 These rights are in line with the obligation of parties to conflict to respect family life as far as possible. See Customary IHL Database, Rule 105; GC IV, Art. 27(1), and GC IV, Art. 116. Respect for family life is also the basis for the specific rules related to family unit included in Additional Protocol II. See Customary IHL Database, Rule 105.

10 ICRC, Customary IHL Database, Rules 119-120; GC IV, Arts 82(2), 85(4); AP I, Arts 75(5), 77(4); AP II, Art. 5(2)(a).

11 ICRC, Customary IHL Database, Rule 119; GC IV, Art. 85(4); AP I, Arts 75(5); AP II, Art. 5(2)(a).



KEY POINT

This Manual focuses on assessing civilian harm. The treatment and conditions of detention of prisoners of war is not covered in this category.¹² For any further information on this, please contact our free IHL Centre Advisory Service.

2

ASSESSING THE HARM:

Before assessing the indicators of harm, it is worth considering **concerning trends** or **early warning signs** that persons in detention are at an increased risk of being treated inhumanely or subjected to inadequate conditions of detention.

- ♦ **Location and condition of detention facilities.** If the detention facilities are in a remote or unsanitary area which is far from sufficient energy and water sources, or if the facilities lack regular maintenance, this could signal that the basic needs of detainees may be harder to meet.
- ♦ **Lack of resources or willingness to cooperate.** Lack of resources or cooperation with families and external actors may lead to difficulty in ensuring that IHL obligations are respected. It may negatively impact regular contact with families, or special assistance for persons with disabilities, or other conditions tailored to the needs of individual detainees.
- ♦ **Denial of humanitarian access.** Regular visits by impartial humanitarian organisations ensure independent monitoring of the conditions of detention. Denying them can be an early warning sign of inadequate conditions or inhumane treatment.
- ♦ **Dangerous rhetoric.** Inflammatory or derogatory language used to describe detainees – especially when it is based on real or perceived support for an opposition group or the religious, ethnic, or other identity of the detainees – is an early warning sign that they may be afforded inadequate conditions or subjected to inhumane treatment.



The above scenarios may indicate that persons detained are at an increased risk of inhumane treatment, or not having their needs met whilst in detention and could justify engaging in preventative advocacy (see section 4) to help mitigate that risk.

The following, non-exhaustive scenarios will help you identify inadequate conditions of detention and/or inhumane treatment, focusing on both the physical and psychological needs of detainees.¹³

¹² IHL Centre, [Protected persons under IHL](#). Prisoners of war are members of armed forces or groups that, when captured and in the hands of the enemy, enjoy special protected status. The terminology is usually used in IACs.

¹³ The majority of the examples provided have been extracted from the UN fact-finding missions and commissions of enquiry, as well Human Rights Reports, including the following: UN Human Rights Council, Report of the Independent International Commission of Inquiry on Ukraine, A/HRC/58/67, 11 March 2025); UN Human Rights Council, Findings of the investigations conducted by the Independent International Fact-Finding Mission for the Sudan into violations of international human rights law and international humanitarian law, and related crimes, committed in the Sudan in the context of the conflict that erupted in mid-April 2023*, A/HRC/57/CRP.6, 23 October 2024; UN Human Rights Council, Situation of human rights in Yemen, including violations and abuses since September 2014, Report of the detailed findings of the Group of Eminent International and Regional Experts on Yemen, A/HRC/42/CRP.1*, 3 September 2019; UN Human Rights Council, Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar, A/HRC/39/CRP.2, 17 September 2018; ICTY, Blaškić Appeal Judgement, para. 654.

SCENARIO	IHL ASSESSMENT
A state detains a large number of civilians in small cells. Detained persons have trouble lying down at night and cannot freely walk around. The detaining authorities cite a lack of financial resources when questioned.	This scenario suggests inadequate conditions of detention. Overcrowded detention centres can spread disease, cause stress, anxiety, and humiliation.
A non-state armed group has a practice of holding men, women and children all together in the same quarter.	Unless they are a family unit, IHL warrants that men, women and children are held in separate quarters. This scenario indicates a possible failure to respect IHL and can place detained persons at an increased risk of harm.
A non-state armed group, in an attempt to control detainees, arbitrarily forbids certain religious practices in their detention facilities.	Under IHL, persons detained have a right to practice their own religion whilst held in detention. Denying religious practices fails to meet the basic psychological needs of detained persons.
A state's detention facilities have no windows, and little ventilation.	Facilities that lack ventilation and light are not considered adequate for the health or hygiene of detainees and indicates inadequate conditions.
A state's detention facilities are located in a remote area, with little supply of running water. It therefore fails to provide adequate sanitary conditions for persons in detention. There is also a lack of access to female sanitary products, and detainees don't have adequate access to showers.	Persons in detention must be held in premises that safeguard their hygiene and health. Denying proper washing facilities indicates inadequate conditions of detention, though there is also a suggestion of limited resources. If a detaining power is unable to provide basic needs, it must cooperate with humanitarian actors.
A state fails to provide adequate access to food, water and medical care that meets the needs of the individual including children, pregnant, post-partum and breastfeeding women, older persons, and persons with disabilities.	Persons in detention must receive sufficient food and drinking water of good quality, as well as necessary medical supplies. The parties are required to cater to the specific needs of different sections of civilians. This scenario suggests a failure to provide adequate conditions.
Persons held in detention facilities are subject to emergency legislation by a party to the conflict that restricts or prohibits contact with the outside world.	Under IHL, detained persons must be allowed to communicate with families. Depending on the circumstances, some restrictions may be permissible. But secret or 'incommunicado' detention is prohibited and can be a precursor to mistreatment and persons going missing.

3

EXCEPTIONS AND CAVEATS

There are **no exceptions to the obligation to treat all persons detained humanely or meet their basic needs.**

However, certain specific provisions relating to **conditions of detention** may be subject to what is **feasible** in a given context. This is in part because the realities of detention in armed conflict are such that parties may not always be able to comply with all the conditions relating to detention to the fullest extent. For example, certain non-state armed groups may not have substantial resources or capabilities to fully comply with all requirements. Equally, a state interfering on the territory of another to help fight an armed group may have a limited number of personnel.¹⁴

At the same time, feasibility caveats do not provide an excuse for parties to minimise or violate their obligations. As a humanitarian actor, there will be situations in which affording a margin of appreciation to the parties is necessary, but you should also be aware of possible attempts to exploit these caveats.

With this in mind:

- ♦ **The right to respect for religious or personal convictions of persons is never subject to any limitations. However, the manner in which these convictions manifest can reasonably be regulated by parties.**¹⁵ In particular, limitations could be permitted for reasons of order, security or the rights and freedoms of others.¹⁶ Even then, these limitations must be reasonable and proportionate, and persons detained must continue to enjoy their right to

manifest their religion or belief to the fullest extent possible.¹⁷

- ♦ **The right to correspond with families is subject to reasonable conditions relating to frequency, and any need for censorship by the authorities.**¹⁸ In particular, if an individual is suspected of, or has engaged in activities hostile to the security of the party, their right to correspond may be limited. However, this cannot result in secret or 'incommunicado' detention.
- ♦ **Regarding the provision of basic necessities to persons held in detention, it is possible that resources are insufficient for the detaining power to fully comply with its obligations.** In this situation, the detaining power must allow humanitarian agencies to assist.¹⁹ This is in line with the right of detainees to receive individual or collective relief.²⁰

14 Sivakumaran, *Armed Conflict-Related Detention of Particularly Vulnerable Persons: Challenges and Possibilities*, International Law Studies N.39, Vol. 94, US Naval War College, 2018, p. 55.

15 ICRC, Customary IHL Database, Rule 127.

16 ICRC, Customary IHL Database, Rule 104.

17 ICRC, Customary IHL Database, Rule 104.

18 ICRC, Customary IHL Database, Rule 125; GC IV, Arts 106-107; AP II, Art. 5(2)(b).

19 ICRC, Customary IHL Database, Rule 118.

20 ICRC, Customary IHL Database, Rule 118; GC IV, Art. 108; AP II, Art. 5(1)(c).

4



ADVOCACY GUIDANCE

In this section, we take what you have learned from your IHL-informed assessment (above) and offer the following three stages of advocacy guidance:

- ♦ **Preventative advocacy** – remind parties of their IHL obligations before a violation occurs, especially when risks or early warning signs are present.
- ♦ **Advocacy in response to harm** – raise concerns about harm and the conduct of the relevant party, without suggesting a violation of IHL.
- ♦ **Advocacy suggesting a failure to respect IHL** – raise concerns about a possible IHL violation where you have assessed all elements of the rule, including any exceptions or caveats.

When suggesting a failure to respect IHL, you will find language suggestions crafted to reflect your **level of confidence** (limited, moderate, or high), based on the extensiveness of your IHL-informed assessment and the quality of information you have received.

- ♦ **Are you monitoring a situation of international armed conflict?** You can find additional guidance relevant to detaining powers at the end of this section. These rules impose more comprehensive requirements applicable in international armed conflicts, but they can also provide a framework for strengthening your advocacy in any type of conflict.



Purpose: Promote respect for IHL and prevent violations before they occur. Highlight concerning trends or early warning signs where applicable.

Key tips

- **Highlight the universal nature of humane treatment.** Whether using IHL language or not, you can speak of human dignity, respect, or other right-based language to promote humane treatment of detainees.
- **Emphasise political and operational self-interest alongside IHL compliance.** Consider connecting humane conditions to **mutual benefits**: preventing unrest in detention sites, avoiding international scrutiny, improving negotiation standing, or setting a standard they would want applied to their own detainees.
- **Stress context-specific needs.** Reference IHL's requirement to account for **the specific vulnerabilities** of detainees: children, women, the elderly, persons with disabilities, and religious or ethnic minorities.

Key messaging

- *[Party X] is reminded of its obligations under IHL to ensure that all persons detained in armed conflict are held in humane conditions, including access to adequate shelter, food, hygiene, medical care, and safety. These conditions must be appropriate to the age, gender, health, culture, religious background, or any other trait or characteristic necessary to meet the physical and psychological needs of detainees.*



Purpose: Respond to conduct causing civilian harm without necessarily suggesting a failure to respect IHL.

Key tips

- **Emphasise humanitarian concern.** Express concern for the **health, dignity, and well-being** of detainees without necessarily asserting fault or attributing intent.
- **Consider how you frame your concern.** Positioning your communication as an opportunity to **prevent future deterioration**, mitigate reputational risk, and fulfil **shared humanitarian objectives** may be more effective than an accusation of wrongdoing.
- **Acknowledge operational challenges while maintaining standards.** Recognise the realities of armed conflict — such as resource constraints or facility damage — while emphasising parties' core obligation to meet the needs of detainees.
- **Stress the importance of allowing access.** Family visitation, independent monitoring bodies, and access to humanitarian assistance are all essential.

Key messaging

- *There are [serious/significant] concerns over the conditions of detention in [location]. Despite the difficulties imposed by the armed conflict, the health, dignity, and well-being of all detainees is essential.*
- *[Party X] is **reminded of its obligations** under IHL to ensure that all persons detained in armed conflict are held in humane conditions, including access to adequate shelter, food, hygiene, medical care, and safety. To the greatest extent possible, these conditions must be appropriate to the age, gender, health, culture, religious background, or any other factor necessary to meet the physical and psychological needs of detainees.*



Purpose: Suggest a failure to respect IHL based on a complete and contextually specific assessment of the rule(s), including the exceptions and/or caveats.

Remember: Even if you are unsure of whether an exception applies, you can still raise concerns over a failure to respect IHL. The **burden** is on the party engaging in seemingly unlawful conduct to justify that an exception to the rule applies.

Key tips

- **Ground your concerns in IHL.** If the situation warrants, frame your concern explicitly as a potential failure to respect IHL obligations on humane treatment and/or adequate conditions of detention.
- **Use precise examples linked to legal duties.** Identify specific **failings**, such as no access to medical care, inadequate sanitation, or overcrowding. Use **concrete facts** wherever available, even if sourced from third-party reports or consistent patterns over time.
- **Anticipate and pre-empt likely pushback.** Prepare to respond to **common deflections** such as 'lack of resources' or 'security needs' by reminding the party that IHL **allows for feasibility**, but not for neglect or inhumanity.
- **Demand concrete remedial action.** Consider moving beyond raising concern: **propose specific improvements** or measures the party can take to address the failure (for example by installing ventilation, ensuring medical access, or separating vulnerable detainees).

Key Messaging

Tailor the messaging below in accordance with the guidance provided in the User Guide, supplementing it with details about the specific situation.

Limited level of confidence

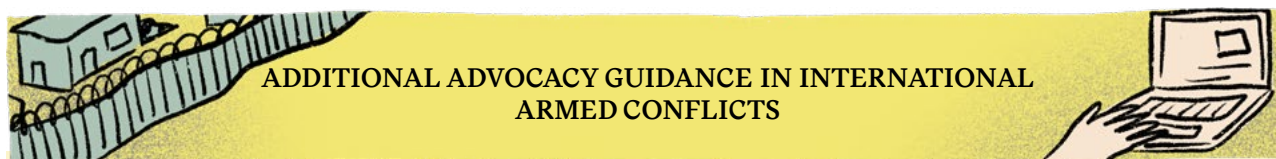
- *The available information raises **concerns** about the material conditions of detention.*
- *[Party X] is obliged to ensure that all persons detained in armed conflict are held in humane conditions, including access to adequate shelter, food, hygiene, medical care, and safety. To the greatest extent possible, these conditions must be appropriate to the age, gender, health, culture, religious background, or any other factor necessary to meet the physical and psychological needs of detainees.*

Moderate level of confidence

- *There are strong indications that detainees have been held in substandard conditions, with lack of access to their basic minimum needs. Poor conditions of detention may amount to inhumane treatment. All parties to the conflict have an obligation under IHL to ensure detainees have sufficient access to basic minimum standards of living.*

High level of confidence

- *There is clear evidence that detainees were held in inhumane conditions of detention in violation of [party X's] obligations under IHL.*
- *[Party X] is obliged to ensure that all persons detained in armed conflict are held in humane conditions, including access to adequate shelter, food, hygiene, medical care, and safety. To the greatest extent possible, these conditions must be appropriate to the age, gender, health, culture, religious background, or any other factor necessary to meet the physical and psychological needs of detainees.*



ADDITIONAL ADVOCACY GUIDANCE IN INTERNATIONAL ARMED CONFLICTS

Purpose: More comprehensive rules on conditions of detention that can be relied on when operating in a situation of **international armed conflict**. Remember that these obligations are subject to what is feasible in the context of the armed conflict.

Please note: Although only applicable in international conflicts under treaty law, these rules may provide valuable framework when advocating for better conditions in all conflict settings. So long as you are aware of the limitations – both legal and practical – you can use them to **frame expectations, shape humanitarian dialogue, and promote better outcomes** for all persons in detention.

General conditions of detention

- **Accommodation:** Detention facilities must have adequate heating, lighting (especially at night), ventilation, and space. Detainees must have appropriate bedding and enough blankets, with attention to the climate, age, sex, and health status.²¹
- **Hygiene and sanitation:** Detainees must have clean, functioning toilets, sufficient water and soap for daily washing, laundry, and personal hygiene. They must have regular access to showers or baths and time to maintain cleanliness.²²
- **Food and nutrition:** Detainees must receive daily rations that are sufficient, nutritious, and varied to maintain health. Their customary diet should be considered, and they must have means to prepare any additional food.²³
- **Clothing:** If detainees lack adequate clothing for the climate, it must be provided free of charge. Clothing or markings must not be degrading or ridiculing.²⁴
- **Separation:** Civilian detainees must be held separately from prisoners of war and other categories of detainees.²⁵

Medical care:

- **Specialised care:** Pregnant detainees, and those who are seriously ill or who need special treatment, surgery, or hospital care, must be taken to a medical facility that can provide proper treatment. They must receive care that is at least as good as the care given to the general population.²⁶ Whenever possible, detainees should be cared for by medical staff of their own nationality.²⁷
- **Free and regular care:** All medical care, including necessary equipment, must be provided free of charge. Detainees must receive medical check-ups at least once a month to assess general health, nutrition, hygiene, and detect any contagious diseases.²⁸

Safety:

- **Protection during conflict and emergencies:** Detention sites in conflict zones must have strong shelters against airstrikes and similar dangers. Detainees must receive the same protective measures as civilians, including fire safety precautions.²⁹

²¹ GC IV, Art. 85 (2).

²² GC IV, Art. 85(3).

²³ GC IV, Art. 89(1), GC IV, Art. 89(1).

²⁴ GC IV, Art. 90(1) – (2).

²⁵ GC IV, Arts 76(1), 84.

²⁶ GC IV, Art. 91(2).

²⁷ GC IV, Art. 91(3).

²⁸ GC IV, Art. 91(5) and GC IV, Art. 92.

²⁹ GC IV, Art. 88.

Religious freedoms:

- **Freedom of religion:** Detainees have the right to practice their religion and attend services, within facility rules.³⁰
- **Access to worship spaces:** Authorities must provide suitable places for religious observance.³¹
- **Religious leadership:** Detained religious leaders must be allowed to minister freely to fellow detainees.³²

Family contact and communication:

- **Notification on detention:** Shortly after being detained, a person must be allowed to send a card to their family with their location and health status. It must be forwarded without delay.³³
- **Correspondence and visits:** Even with restrictions, detainees must be allowed to send at least two letters and four cards monthly.³⁴ Home visits should be allowed in urgent cases (e.g. death or serious illness of relatives).³⁵
- **Limitations:** communication with family can be limited where the detained person is suspected of or has engaged in acts hostile where such limitations are justified for the security of the state or occupying power.³⁶ They must always be treated humanely.³⁷

30 GC IV, Art. 93(1).

31 GC IV, Art. 86.

32 GC IV, Art. 93(2).

33 GC IV, Art. 106. The law specifies, “As soon as persons are detained, or at the latest not more than one week after their arrival”, GC IV, Art 106.

34 GC IV, Art. 107(1).

35 GC IV, Art. 116.

36 This would be the case for a spy, or a saboteur for example. GC IV, Art. 5(1); ICRC Commentary on Art 5 of GC IV (1958), pp. 55-56, GC IV, Art. 5(2). Please also note that in occupied territory, the person may exceptionally and temporarily forfeit their rights of communication with the outside world, but only “if absolute military security so requires”. This is a stricter requirement compared to the first exception mentioned above. On this point, see GC IV, Art. 5(2); IHL Centre, Experts on International Humanitarian Law, Opinion on ICRC Access to all Places of Detention where Protected Persons are Present, 11 July 2024, p. 3.

37 GC IV, Art. 5(3).

CHAPTER 3





Chapter 3: Missing Persons

Overview

Missing persons and their families can experience severe forms of emotional and physical harm. People held in incommunicado detention are cut off from the outside world and often suffer from prolonged exposure to violence, injury, exploitation, or death. The families of missing persons endure deep psychological distress, not knowing whether their loved ones are alive or dead, which can prevent mourning, delay legal and administrative processes – including access to economic support – and cause lasting emotional and social disruption. The harm is often compounded by a lack of information, inadequate support, and the failure of authorities to conduct effective searches or provide answers.

There are several IHL rules designed to mitigate against these types of harms that can be used as part of your humanitarian advocacy. Parties to a conflict must take steps to **prevent persons from going missing, facilitate the search for missing persons, mark and protect gravesites, identify victims**, and allow detainees to **communicate** with their families. Fulfilling these obligations will usually require parties to establish tracing mechanisms, enable victim-led participation, and allow independent experts to engage in forensic DNA analysis.

This Chapter will help you make IHL-informed assessments and advocacy, which can play a central role in mitigating the risk that people will go missing and help families to discover the fate and whereabouts of their loved ones, known as ‘the right to know’.

Who are missing persons and their families?

Under IHL, a **missing person** is someone whose whereabouts are unknown or who has been reported missing in connection with an armed conflict.³⁸ The term includes but is not limited to those whose fate or whereabouts are unknown due to abductions, enforced disappearances, and arbitrary detention.

The **families of missing persons** include all those who suffer due to their close emotional ties with the missing person. Under both IHL and international human rights law (IHRL), the concept of ‘family’ is broader than blood relatives and encompasses all persons with a close connection to the missing.³⁹ The families of missing persons are recognised as victims due to the intense and often prolonged suffering they experience as a direct result of not knowing the fate or whereabouts of their loved ones.⁴⁰

Relevant considerations

It is important to keep the following factors in mind when conducting IHL-informed assessments and advocacy on missing persons.

38 International Committee of the Red Cross, ‘Guiding Principles/ Model Law on the Missing: Principles for Legislating the Situation of Persons Missing as a Result of Armed Conflict or Internal Violence’, Art. 2(a).

39 See Yves Sandoz, Christophe Swinarski and Bruno Zimmermann, Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949 (International Committee of the Red Cross and Martinus Nijhoff 1987), p 351, para 1229 (Hereafter, ‘Commentary on the Additional Protocols (1987)’).

40 For example, see: United Nations, ‘Working Group on Enforced or Involuntary Disappearances General Comment on the Right to the Truth in Relation to Enforced Disappearances’ Doc No A/HRC/16/48, 4. (Hereafter, ‘WGEID General Comment on the Right to Truth’).

- ◇ **Time is of the essence.** Delay in the search for missing persons compounds the suffering of families and reduces the chances of finding missing persons alive or identifying remains. Encourage parties to take **preparatory measures**, including by keeping accurate records of detained and deceased persons, maintaining communication with families and independent organisations, and establishing tracing mechanisms, data management systems, and forensic analysis capabilities.
- ◇ **Missing persons mechanisms.** Mechanisms that focus on the **right to know** rather than accountability are more likely to attract support from the parties to the conflict. Advocacy can play a particularly important role where the goal is solely to reunite families rather than assign blame. Consider also the benefits of **international mechanisms**, which can be more effective in securing funding, cooperation, and political support, especially where tensions persist following factional armed violence.
- ◇ **Coordination and victim-led participation.** Coordination between organisations can help to minimise duplication and increase efficiency. Ensuring meaningful participation of families and victim-led civil society organisations improves the quality of the search and builds relationships of trust and respect.
- ◇ **Support for families:** The families of missing persons are recognised as victims. Advocating for policies and legislative reforms can help to address their needs. For example, certificates of absence can help families access essential services, inheritance, and identity documents tied to the missing person.

Navigating this Chapter

This Chapter is divided into two sections that explain how IHL helps to:

- ◇ **prevent persons from going missing;** and
- ◇ **facilitate the search of missing persons.**

For each section we help you to assess the extent to which parties to a conflict may be failing to respect the applicable rules of IHL and offer guidance for incorporating this assessment in your advocacy.

3.1 Preventing persons from going missing

You are here because you are concerned that people are at risk of going missing. This Chapter will guide you through the obligation to prevent persons going missing and help you to conduct IHL-informed assessment and advocacy in response to the risk of civilian harm.



1

DEFINITION AND SCOPE

The following IHL rules, when taken together, amount to an obligation to prevent persons from going missing as a result of an armed conflict.⁴¹

- ♦ **Arbitrary detention is prohibited.**⁴² As explained in Chapter 1, arbitrarily detaining persons – especially where it is done due to discrimination or in an attempt to punish people for their perceived allegiance to the opposing side – is a critical risk factor for persons to go missing. IHL helps to mitigate this risk by stipulating that it is only lawful to detain persons who have been charged with a criminal offence (criminal detention) or where they pose a serious security threat (internment).
- ♦ Parties must **record relevant details, notify family members, and facilitate family visitation.**⁴³ Accurate record-keeping, communication, and visitation help to prevent persons from going missing by ensuring that the fate and whereabouts of the detained persons are known to multiple people or entities.
- ♦ **Enforced disappearance** is prohibited.⁴⁴ Itself a combination of different IHL rules, IHL prohibits conduct that amounts to forcibly making someone disappear – whether this is through murder, torture, arbitrary detention, or refusing to record detainee details or allow visitation.

41 ICRC, CIHL Study, Rule 98 ('Enforced disappearance is prohibited'); Rule 99 ('Arbitrary deprivation of liberty is prohibited'); Rule 105 ('Family life must be respected as far as possible'); Rule 112 ('Whenever circumstances permit, and particularly after an engagement, each party to the conflict must, without delay, take all possible measures to search for, collect and evacuate the dead without adverse distinction'); Rule 116 ('With a view to the identification of the dead, each party to the conflict must record all available information prior to disposal and mark the location of the graves'); and Rule 117 ('Each party to the conflict must take all feasible measures to account for persons reported missing as a result of armed conflict and must provide their family members with any information it has on their fate'); GC I, Arts 16, 17; GC IV, Arts 26, 129; AP I, Arts 32–34; AP II, Art 8.

42 ICRC, CIHL Database, Rule 99; GC IV, Arts 42–43, 78; AP I, Art 75(3); AP II, Art 2(2), Art 5(1)(a).

43 Ibid, Rule 123 ('The personal details of persons deprived of their liberty must be recorded'), p 439; GCIII Art. 71; GC IV, Arts 107, 112 and 125; AP II, Art. 5(2)(b).

44 ICRC, CIHL Database, Rule 98; GC IV, Arts 27, 32, 147; AP I, Arts 75(2)(a)(i), 75(2)(b).

- ♦ **Parties to the conflict are obliged to avoid, as far as possible, the separation of the family unit and maintain contact between family.**⁴⁵ As part of the obligation to respect family life, these rules are especially relevant where military operations, evacuations, or detention risks separating the family unit and includes a responsibility to facilitate the reunification of dispersed families, and
- ♦ **Parties are obliged to search for and collect the wounded and dead without delay or adverse distinction, record all available information, and mark the location of gravesites.**⁴⁶ The increased numbers of wounded, sick, and deceased persons in armed conflict puts pressure on local resources and can increase the risk that persons will go missing.

2

ASSESSING THE HARM

The table below presents a range of scenarios that may indicate an increased risk of persons going missing in armed conflict.⁴⁷ Each scenario is followed by an explanation of the risk and an IHL-informed assessment, highlighting the extent to which the scenario may reflect a failure to respect IHL. It is not necessary to determine the exact cause of disappearances to raise concerns.

SCENARIO	IMPACT ON RISK OF PEOPLE GOING MISSING	IHL ASSESSMENT
Reports of missing persons You have seen reports of missing persons in a situation of armed conflict. There is no public information on the fate or whereabouts of those missing.	The fact that persons are reported missing raises immediate concerns. If the parties to the conflict are unresponsive, it may increase the risk of further persons going missing.	Although not necessarily indicative of a violation of IHL, the fact that persons are reported missing is sufficient to raise concerns, the severity of which will be increased where the reports are numerous.
Lack of information on detainees You have information to suggest that parties to a conflict are failing to keep accurate records of persons in detention and/or preventing them from communicating with their families.	Accurate detainee registration is an essential tool in preventing persons from going missing. Where appropriately recorded and communicated, it allows families and independent observers to keep track of those in detention. Failing to uphold these obligations risks persons going missing.	IHL explicitly requires detainee registration and active communication with families. ⁴⁸ Incommunicado detention is prohibited.

⁴⁵ ICRC, CIHL Database, Rule 105; GC IV, Arts 17, 25, 26, 82; AP I, Art 75(5); AP II, Art 4(3)(b).

⁴⁶ ICRC, CIHL Database, Rules 112, 113, 114; GC I, Arts 15–17; GC II, Arts 18–20; GC IV, Arts 16, 129; AP I, Arts 8, 10, 16, 33, 34; AP II, Art 8.

⁴⁷ The majority of the examples provided have been extracted from the UN fact-finding missions and commissions of enquiry, as well as Human Rights Reports, including the following: UN Working Group on Enforced or Involuntary Disappearances (2024 Report); UN Committee on Enforced Disappearances (CED) General Findings (2023); UN Syria Commission of Inquiry (“Web of Agony” report, Jan 2025). See also: IHL Centre, ‘Lessons Learned: Missing Persons - A critical reflection on the approach to missing persons in Lebanon provided in support of an international missing persons mechanism in Syria’ (September 2022).

⁴⁸ ICRC, CIHL Database, Rules 123, 125; GC III, Art 122–125; GC IV, Arts 136–140; AP I, Art 33; AP II, Art 5(2)(a)–(c).

SCENARIO	IMPACT ON RISK OF PEOPLE GOING MISSING	IHL ASSESSMENT
Arbitrary detention You have information to suggest that persons have been detained without charge or without posing a serious security risk and/or that detained persons are being denied procedural guarantees.	Where persons are detained without a legitimate reason and where they are denied procedural guarantees, it limits the opportunity to review the lawfulness of the detention, communicate with the detainees, and increases the risk that the detaining authority will commit further violations. Each of these scenarios increases the risk that the detainees will go missing.	Arbitrary detention is prohibited under IHL.⁴⁹ Providing reasons and allowing detainees to challenge the lawfulness of their detention helps to ensure detention practices are recorded and monitored. Under IHL, persons deprived of their liberty must be allowed to receive visitation by close family members.⁵⁰
Detention sites declared “off limits” You have information to suggest that a party to the conflict has refused access to detention sites to independent organisations and/or the families of detained persons.	Where access to detained persons is denied, it increases the risk that detainees may be mistreated and/or that their details may not be accurately recorded and communicated, thereby increasing the risk that they will go missing.	In all types of conflict, impartial humanitarian organisations may offer their services. Such offers must not be arbitrarily refused.⁵¹ In international armed conflicts, the ICRC has a unique mandate to access all persons deprived of their liberty in order to verify the conditions of their detention and to restore contacts between those persons and their families.⁵²

49 ICRC, CIHL Database, Rule 99; GC IV, Arts 42–43, 78; AP I, Art 75(3); AP II, Art 2(2), Art 5(1)(a).

50 ICRC, CIHL Database, Rule 126; GC III, Arts 71, 116; GC IV, Arts 106, 116; AP II, Art 5(2)(b).

51 Ibid.

52 ICRC, CIHL Database, Rule 124; GC I, Art 3; GC III, Arts 126, 143; GC IV, Arts 76, 143; AP I, Art 10(1); Statutes of the International Red Cross and Red Crescent Movement, Art 5(2)(c).

SCENARIO	IMPACT ON RISK OF PEOPLE GOING MISSING	IHL ASSESSMENT
Lack of information on the dead You have information to suggest that a party to the conflict is failing to keep accurate records of deceased persons and/or to communicate information on the deceased with their families.	The failure to collect and evacuate the dead and/or to keep and communicate accurate records of deceased persons, the existence of mass graves, denying tracing requests, refusing to facilitate forensic examination, and failing to set up mechanisms for families to seek information all contribute to the risks that deceased persons will not be properly identified, and their families will not know the fate and whereabouts of their loved ones. Such conduct increases the risk that deceased persons will be presumed missing.	IHL requires parties to collect and evacuate the dead without adverse distinction, to accurately record their information and communicate it to their families. Gravesites must be marked and maintained. While IHL does not explicitly state that parties must allow forensic access, the obligations to properly handle and account for the dead are often interpreted as ensuring all feasible means of medical identification are taken, including forensics.
Failure to reunite families You have information to suggest that a party to the conflict is failing to reunite families separated as a result of the armed conflict.	Where the armed conflict has resulted in the dispersion of families, for example through evacuations, detention, or escaping violence through voluntary movement, individuals may not have the resources to reunite with their families. If parties to the conflict fail to facilitate family reunification, it increases the risks that dispersed persons lose contact and are reported missing.	Under IHL, parties to a conflict are obliged to avoid, as far as possible, the separation of the family unit as a result of the armed conflict and to maintain contact between family members as part of the obligation to respect family life.⁵³
Enforced disappearances You have information that a party to the conflict is deliberately disappearing persons through secret killings or incommunicado detention.	All conduct amounting to enforced disappearance, whether individual or systematic, is designed to make persons go missing with no information on their fate or whereabouts.	IHL prohibits enforced disappearance. The term is not explicitly used in IHL treaties, but the prohibition derives from the prohibition of arbitrary deprivation of liberty, the prohibition on murder, torture, and cruel treatment, the obligation to record information of detainees, wounded and sick personnel, and the dead, and the obligation to communicate with the families of detained or deceased persons and respect family life.

53 ICRC, CIHL Database, Rule 105; GC IV, Arts 17, 25, 26, 82; AP I, Art 75(5); AP II, Art 4(3)(b).

3

EXCEPTIONS OR CAVEATS

There are no exceptions to the obligation to prevent persons from going missing. Parties to a conflict must do whatever is within their power to mitigate the risks that person will go missing, including civilians, fighters, and detainees. However, the scope of the obligation may be limited by what is **feasible** within a particular context.

For example, when recording information on detained persons, parties to the conflict can only register the details that are available to them, such as those that have been voluntarily put forward by the detainee.⁵⁴ When identifying the dead, parties must use all means available to them but may not necessarily have access to the most up-to-date forensic or exhumation technologies.⁵⁵ Similarly, deceased persons must be buried in individually marked graves wherever possible, but collective graves may be permissible when dictated by unavoidable circumstances.⁵⁶

Importantly, there is no exception, limitation, or caveat on the obligation to provide information of detained or deceased persons to families directly or through an intermediary.⁵⁷ The obligation to provide all information available is an obligation of result, meaning that all such information must be provided; it is not a question of feasibility.⁵⁸

4



ADVOCACY GUIDANCE

In this section, we take what you have learned from your IHL-informed assessment (above) and offer the following three stages of advocacy guidance:

- ♦ **Preventative advocacy** – remind parties of their IHL obligations before a violation occurs, especially when risks or early warning signs are present.
- ♦ **Advocacy in response to harm** – raise concerns about harm and the conduct of the relevant party, without suggesting a violation of IHL.
- ♦ **Advocacy suggesting a failure to respect IHL** – raise concerns about a possible IHL violation where you have assessed all elements of the rule, including exceptions and caveats.

When suggesting a failure to respect IHL, you will find language suggestions crafted to reflect your **level of confidence** (limited, moderate, or high), based on the extensiveness of your IHL-informed assessment and the quality of information you have received.

54 ICRC, CIHL Database, Rules 123, 125; GC III, Art 122–125; GC IV, Arts 136–140; AP I, Art 33; AP II, Art 5(2)(a)–(c).

55 ICRC, CIHL Database, Rule 116; GC I, Art 15; GC II, Art 18; GC IV, Art 16; AP I, Art 33; AP II, Art 8.

56 ICRC, CIHL Database, Rule 115; GC I, Art 17; GC II, Art 20; GC IV, Art 130; AP I, Art 34(1).

57 ICRC, CIHL Database, Rule 117; GC I, Art 16(1); GC III, Art 122; GC IV, Art 136–140; AP I, Art 33(1); AP II, Art 8(1).

58 Ibid.



PREVENTATIVE ADVOCACY

Purpose: Promote respect for IHL and prevent violations before they occur. Highlight concerning trends or early warning signs where applicable.

Key Tips:

- **Consider framing your advocacy as constructive risk mitigation.** Emphasise the long-term benefits of proactive recordkeeping, notification systems, and coordination with humanitarian actors, rather than as accusations.
- **Tailor your messaging to context and capacity.** Where appropriate, acknowledge resource or other limitations imposed by the conflict, but encourage concrete, feasible steps, such as basic detainee registries and contact with families.
- **Use early warning signs as basis for discussion.** Contrast the potentially destabilising effect of missing persons with the benefit that proper detention practices can accrue with the civilian population.
- **Utilise UN Security Council Resolution 2474.** The first standalone Resolution on missing persons, Resolution 2474 calls upon parties to take measures to prevent persons from going missing, including detainee registration, communication with families, identifying gravesites, and searching for and identifying the dead.

Key Messaging:

[Party X] is reminded of its obligations under IHL to take all feasible measures to prevent persons from going missing in armed conflict, including by maintaining proper records of persons in detention, facilitating family contact, upholding the prohibition on arbitrary detention, searching for and identifying the dead, and marking individual gravesites.



ADVOCACY IN RESPONSE TO HARM

Purpose: Respond to conduct causing civilian harm without necessarily suggesting a failure to respect IHL.

Key Tips:

- **Acknowledge the complexity and request clarification.** Consider framing your inquiries as efforts to prevent further missing persons, rather than as accusations.
- **Appeal to Mutual Interest and Long-Term Benefits.** Emphasise how enacting measures to prevent further missing persons can ease community tensions, reduce grievances, and contribute to post-conflict reconciliation and peacebuilding. Highlight the potential for unrest, protest, or resistance if people continue to go missing.
- **Emphasise Technical and Logistical Value.** Consider advocating for the benefits of technical expertise and training for identifying the dead so that further persons are not declared missing. Position humanitarian actors as a resource that can support the capacity of the receiving party. Reinforce the idea that appropriate recovery and identification enhances the dignity of and respect for the dead.
- **Leverage local actors or intermediaries.** Where direct access or trust is limited, consider working through local civil society or community leaders to help establish better systems and mechanisms to prevent persons from going missing.
- **Engage with the process.** Avoid focusing exclusively on results and engage with the process of establishing databases and systems to collaborate with and notify families, training, and forensic identification.

Key messaging

- There are reports that persons have gone missing during [specify armed conflict]. The uncertainty surrounding their fate causes severe anguish for their families and communities.
- [Party X] is reminded of its obligations under IHL to take all feasible measures to prevent persons from going missing in armed conflict, including by maintaining proper records of persons in detention, facilitating family contact, upholding the prohibition on arbitrary detention, searching for and identifying the dead, and marking individual gravesites.



Purpose: Suggest a failure to respect IHL based on a complete and contextually specific assessment of the rule(s), including the exceptions and/or caveats.

Remember: Even if you are unsure of whether an exception applies, you can still raise concerns over a failure to respect IHL. The **burden** is on the party engaging in seemingly unlawful conduct to justify that an exception to the rule applies.

Key tips

- **Use IHL language carefully and intentionally.** Clearly explain which IHL obligations apply and specify how the observed conduct suggests a failure to respect those obligations.
- **Focus on the impact to missing persons and their families.** Frame the potential violation in terms of the real human impact — grief, uncertainty, intergenerational trauma — to underscore its seriousness.
- **Anticipate and pre-empt common justifications.** Where parties claim a lack of capacity, reiterate that the rules must be complied with to the greatest possible extent. The realities of the conflict may alter how a party fulfils their obligations, but they cannot be an excuse for violating them.
- **Where possible, present corroborating evidence.** Even partial or circumstantial information (for example, satellite imagery of mass graves or credible third-party reports) can increase the weight of your claim.
- **Call for specific remedial actions.** Go beyond condemnation. Request concrete steps, such as a transparent inquiry or publication of detainee lists.

Key messaging

Tailor the messaging below in accordance with the guidance provided in the User Guide, supplementing it with details about the specific situation.

Limited level of confidence

- *There are concerns [Party X] is failing to uphold its obligations under IHL to take all feasible measures to prevent persons from going missing in armed conflict, including by maintaining proper records of persons in detention, facilitating family contact, upholding the prohibition on arbitrary detention, searching for and identifying the dead, and marking individual gravesites.*
- *The claim by [Party X] that [explain justification or denial] does not appear to be substantiated based on the information currently available. [Party X] is reminded that it is obliged under IHL to do everything within its power to prevent persons from going missing, including [specify most relevant aspects of the obligation]. The realities of the armed conflict may impact how these obligations are upheld, but they do not justify non-compliance.*

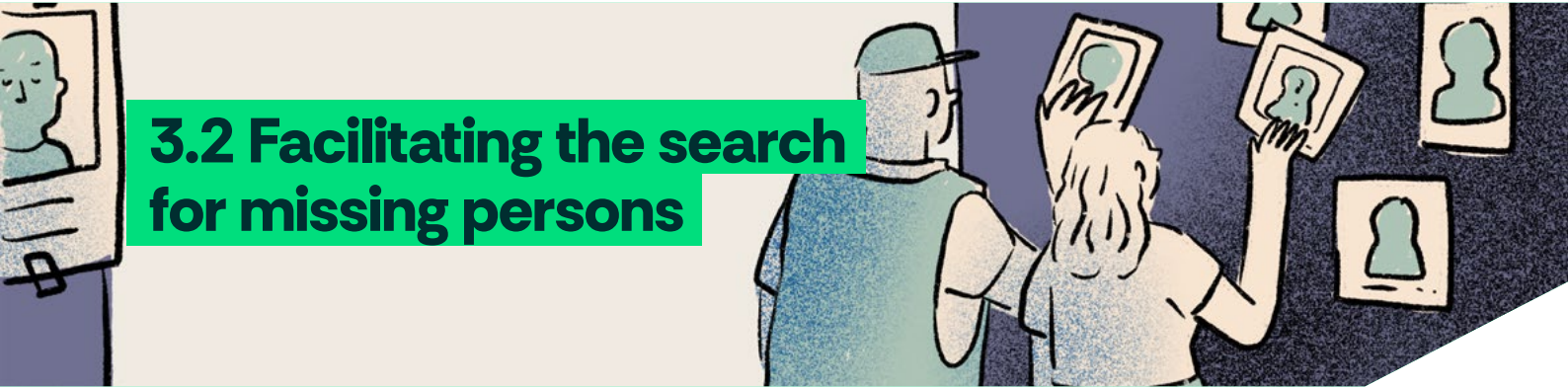
Moderate level of confidence

- *There are strong indications suggesting that [Party X] is failing to uphold its obligations under IHL to take all feasible measures to prevent persons from going missing in armed conflict, including by maintaining proper records of persons in detention, facilitating family contact, upholding the prohibition on arbitrary detention, searching for and identifying the dead, and marking individual gravesites.*
- *The claim by [Party X] that [explain justification or denial] appears invalid. [Party X] is reminded that it is obliged under IHL to do everything within its power to prevent persons from going missing, including [specify most relevant aspects of the obligation]. The realities of the armed conflict may impact how these obligations are upheld, but they do not justify non-compliance*

High level of confidence

- *There are clear indications that [Party X] is failing to uphold its obligations under IHL to take all feasible measures to prevent persons from going missing in armed conflict, including by maintaining proper records of persons in detention, facilitating family contact, upholding the prohibition on arbitrary detention, searching for and identifying the dead, and marking individual gravesites.*
- *The claim by [Party X] that [explain justification or denial] is [invalid/ a deliberate attempt to exploit the rule]. [Party X] is reminded that it is obliged under IHL to do everything within its power to prevent persons from going missing, including [specify most relevant aspects of the obligation]. The realities of the armed conflict may impact how these obligations are upheld, but they do not justify non-compliance.*

3.2 Facilitating the search for missing persons



You are here because you are concerned that people have gone missing during or in the aftermath of an armed conflict. This Chapter will guide you through the obligation to search for missing persons and help you to conduct IHL-informed assessment and advocacy in response to civilian harm.

1

DEFINITION AND SCOPE

Defining the obligations under IHL to account for and facilitate the search for missing persons.

2

ASSESSING THE HARM

Indicators and examples to help you conduct an IHL-informed assessment of whether a party has failed to account for or facilitate the search for missing persons.

3

EXCEPTIONS OR CAVEATS

Guidance to help you assess whether the failure to account for or facilitate the search for missing persons is justified by what is feasible in the context of the armed conflict.

4

ADVOCACY GUIDANCE

Tailored guidance relevant to each stage of your assessment, offering key tips and messaging for conducting IHL-informed advocacy on searching for missing persons.

1 DEFINITION AND SCOPE

IHL requires each party to the conflict **to search for persons who have been reported missing** in armed conflict.⁵⁹ The obligation to account for and facilitate the search for missing persons arises when the relevant party is notified that persons are missing, as soon as circumstances permit.⁶⁰

The obligation to search for missing persons has many facets, including:

- ♦ **Collection and Recording of Information.** Parties must actively collect, preserve, and transmit relevant information that may assist in identifying missing persons, including data on deaths, burials, and detentions. This information must be made available to families.⁶¹
- ♦ **Notification to Families.** The search must include efforts to notify families of the fate and whereabouts of their loved ones, recognising this as a fundamental protection under IHL.
- ♦ **Preservation of human remains and grave sites.** Parties must ensure that bodies are respected, recovered, and identified where possible, and that graves are properly marked and maintained to support future identification efforts. Mass graves are prohibited.⁶²
- ♦ **Cooperation.** Parties must cooperate with families, civil society organisations, and external bodies where applicable to make the search effective. Cooperation is also expected between adversaries to facilitate the search for missing persons, including through shared data, crossline operations, or coordinated exhumation and identification activities.

These obligations are subject to what is **feasible**—that is, what is practically possible under the prevailing circumstances. This means that full compliance with the obligation to search for missing persons may be impacted by security concerns and resources. However, everything that is within a party's capacity must be done, and the feasibility caveat must not be used to avoid obligations.



Are you assessing an international armed conflict? In section: Advocacy guidance, we explain the more comprehensive rules applicable in international armed conflicts, such as the obligations to establish a Central Tracing Agency and allow ICRC visitation. These rules can also provide a framework for strengthening your advocacy in any type of conflict, so long as you are aware of the legal and practical limitations.

59 ICRC, CIHL Database, Rule 117; GC I, Art 16(2); GC III, Art 122; GC IV, Art 136–140; AP I, Art 33(1); AP II, Art 8(1).

60 Ibid.

61 ICRC, CIHL Database, Rule 117; GC I, Art 16; GC IV, Arts 26, 129–131, 136–140; AP I, Arts 32–34; AP II, Art 8.

62 ICRC, CIHL Database, Rule 115; GC I, Arts 15–17; GC II, Arts 18–20; GC IV, Art 130; AP I, Arts 33–34; AP II, Art 8.

2

ASSESSING THE HARM

In this section you will find indicators that may help you assess whether a party to the conflict is failing to uphold its obligation to facilitate the search of missing persons and communicate with their families.⁶³ Once you have made an IHL-informed assessment of the situation, you will be guided on how to incorporate the relevant IHL rules into your humanitarian advocacy.

SCENARIO	IHL ASSESSMENT
Failure to facilitate the search for missing persons You have information that a party to the conflict is failing to appropriately respond to reports of missing persons. They may be denying such reports, refusing to mobilise search efforts, or refusing to communicate with families.	Parties to a conflict cannot ignore reports of missing persons. The conduct appears to violate the obligation under IHL to account for persons reported missing and to inform families of their fate.⁶⁴ A refusal to acknowledge the fate of a person may contribute to enforced disappearance, undermining the family's right to know and the dignity owed to both the missing person and their relatives.
Failure to trace or cooperate Despite significant civilian displacement and casualties over a prolonged period, neither party to an international armed conflict has established or cooperated with a mechanism to trace missing persons.	This suggests a failure to comply with IHL obligations to take all feasible measures to account for missing persons.⁶⁵ The absence of tracing mechanisms may impede families' ability to learn the fate of their relatives and may hinder the ability to identify and rectify patterns of disappearance.
Failure to allow forensic examination A government prevents forensic experts from accessing suspected mass grave sites in former conflict zones, citing security concerns, and no timeline is provided for access.	While security concerns may justify temporary restrictions, a prolonged or indefinite denial without concrete plans to allow forensic investigations could amount to a failure to uphold the obligation to search for and identify the dead.⁶⁶ Forensic access is crucial for proper exhumation, identification, and documentation of remains, and its denial may contribute to ongoing trauma for families and possible evidence destruction. Gravesites must be marked and protected to enable proper identification.
Failure to facilitate search of the missing A party to the conflict publicly accuses an impartial tracing agency of "interfering in national security" and threatens to prosecute staff who continue their work.	This undermines the protection and facilitation obligations under IHL regarding humanitarian organizations conducting tracing activities.⁶⁷ Intimidation of tracing personnel can obstruct the search for missing persons, suppress vital humanitarian functions, and signal a broader disregard for IHL protections.

63 The majority of the examples provided have been extracted from the UN fact-finding missions and commissions of enquiry, as well Human Rights Reports, including the following: UN Working Group on Enforced or Involuntary Disappearances (2024 Report); UN Committee on Enforced Disappearances (CED) General Findings (2023); UN Syria Commission of Inquiry ('Web of Agony' report, Jan 2025). See also: IHL Centre, 'Lessons Learned: Missing Persons - A critical reflection on the approach to missing persons in Lebanon provided in support of an international missing persons mechanism in Syria' (September 2022).

64 ICRC, CIHL Database, Rule 117; AP I, Art 32–33.

65 ICRC, CIHL Database, Rule 117 and 124; GC I–IV, common Article 3; AP I, Art 33.

66 ICRC, CIHL Database, Rule 116 AP I, Art 34.

67 ICRC, CIHL Database, Rule 124; AP I, Art 33(3).

SCENARIO	IHL ASSESSMENT
Failure to coordinate data management There are separate databases of missing persons, detainees, and war dead, but these systems are not interoperable or centrally coordinated. As a result, some missing persons are listed under different identities in multiple registries, while others are excluded altogether. Civil society organizations are denied access to any centralized platform, and families receive conflicting or no information.	This situation reflects a failure to take <i>all feasible measures</i> to account for missing persons and provide families with reliable information.⁶⁸ IHL does not prescribe technical solutions but requires effective, coordinated efforts to ensure traceability. Disjointed and duplicative data systems, combined with lack of transparency and access, can result in duplication, omissions, and misidentification—undermining both the humanitarian purpose of tracing and the rights of affected families.
Failure to search for and identify the dead A party to the conflict recovers bodies of opposing fighters but refuses to share the names or any identifying information their families, the opposing party, or a neutral intermediary.	This may breach the obligation to search for, collect, and record information about the dead and to facilitate their identification and return where feasible.⁶⁹ Withholding such information exacerbates the suffering of families and impedes proper burial or repatriation.

3

EXCEPTIONS OR CAVEATS

There are no exceptions to the obligation to facilitate the search for missing persons. Parties to a conflict must respond to reports of missing persons, communicate with families, and take steps to enable the necessary storing and sharing of information. However, a number of the IHL rules that comprise this obligation are subject to what is **feasible** for the parties to the conflict depending on their capacities and the security situation on the ground. For example:

- ♦ A party that is retreating under heavy enemy fire and cannot safely collect the dead or search for missing persons in contested territory. Once the area stabilizes, the obligation would reassert itself.
- ♦ A party may not be able to access a mass grave site located in a region under opposition control, but it could facilitate third-party access, negotiate ceasefires for humanitarian purposes, or at least collect witness testimonies.
- ♦ A forensic team requests access to an area with active landmines or ongoing clearance operations. The military may delay access until it is safe but must not indefinitely block the search without valid reason. Temporary delays or restrictions on search activities may be lawful if such activities would compromise military operations or safety. However, such limitations must be proportionate and genuinely necessary, not arbitrary or punitive.

By contrast, once information has been obtained on the fate and whereabouts of missing persons, this information must be passed on to family members without any qualification or limitation.

68 ICRC, CIHL Database, Rule 117 and API I, Art 33–34.

69 ICRC, CIHL Database, Rule 116; GC I, Art 16.

4



ADVOCACY GUIDANCE

In this section, we take what you have learned from your IHL-informed assessment (above) and offer the following three stages of advocacy guidance:

- ♦ **Preventative advocacy** – remind parties of their IHL obligations before a violation occurs, especially when risks or early warning signs are present.
- ♦ **Advocacy in response to harm** – raise concerns about harm and the conduct of the relevant party, without suggesting a violation of IHL.
- ♦ **Advocacy suggesting a failure to respect IHL** – raise concerns about a possible IHL violation where you have assessed all elements of the rule, including exceptions and caveats.

When suggesting a failure to respect IHL, you will find language suggestions crafted to reflect your **level of confidence** (limited, moderate, or high), based on the extensiveness of your IHL-informed assessment and the quality of information you have received.

- ♦ **Are you assessing a situation of international armed conflict?** You can find additional guidance relevant to the search for missing persons at the end of this section. These rules impose more comprehensive requirements applicable in international conflicts, but they can also provide a framework for strengthening your advocacy in any type of conflict.



Purpose: Promote respect for IHL and prevent violations before they occur. Highlight concerning trends or early warning signs where applicable.

Key tips

- **Capacity to facilitate the search for the missing.** In addition to the obligation to prevent persons from going missing, parties must be in a position to facilitate the search if people do go missing. Systems must be in place to enable data management, identification, and coordinated search.
- **Emphasise the right to know.** Demonstrate that the focus is on fulfilling the right of families to know the fate and whereabouts of their loved ones, not assigning blame.
- **Highlight shared humanitarian objectives.** Consider framing discussions around dignity, family unity, and the mutual benefits of avoiding long-term social grievances tied to unresolved disappearances.
- **Tailor messages to security or political concerns** – Emphasise that searching for the missing can build community trust and legitimacy and reduce tension, without compromising the party's operational security.

Key messaging

- *[Party X] is reminded of its obligation to account for and facilitate the search for missing persons as soon as circumstances permit, including by collecting and recording information, preserving human remains and gravesites, and cooperating with families and relevant organisations. All information must be provided to the families of missing persons as part of their right to know the fate and whereabouts of their loved ones.*



Purpose: Respond to conduct causing civilian harm without necessarily suggesting a failure to respect IHL.

Key tips

- **Acknowledge the seriousness of the issue.** Highlight the gravity of unresolved disappearances, the suffering of families, and the reputational and social consequences for parties who are perceived to neglect the issue.
- **Appeal to Mutual Interest and Long-Term Benefits.** Emphasise how resolving the fate of the missing can ease community tensions, reduce grievances, and contribute to post-conflict reconciliation and peacebuilding. Show how effective efforts to clarify the fate of the missing can increase public confidence in the authorities, including security forces and judicial institutions. Highlight the potential for unrest, protest, or resistance if the fate of missing persons is not addressed.
- **Emphasise the humanitarian approach.** Where appropriate, consider emphasising that tracing, exhumations, and database management are carried out with the sole aim of providing answers to families, regardless of political or military affiliations. Distinguish missing persons efforts from those aimed at accountability.
- **Emphasise Technical and Logistical Value.** Consider advocating for the benefits of technical expertise and training. Many parties lack the capacity for effective tracing, forensic analysis, or data handling. Position humanitarian actors as a resource that can support the capacity of the receiving party. Consider advocating for dignified handling of remains. Reinforce the idea that appropriate recovery and identification enhances the dignity of and respect for the dead.

Key messaging

- *There are reports that persons have gone missing during [specify armed conflict]. The uncertainty surrounding their fate causes severe anguish for their families and communities.*
- *[Party X] is reminded of its obligation to account for and facilitate the search for missing persons as soon as circumstances permit, including by collecting and recording information, preserving human remains and gravesites, and cooperating with families and relevant organisations. All information must be provided to the families of missing persons as part of their right to know the fate and whereabouts of their loved ones.*



Purpose: Suggest a failure to respect IHL based on a complete and contextually specific assessment of the rule(s), including the exceptions and/or caveats.

Remember: Even if you are unsure of whether an exception applies, you can still raise concerns over a failure to respect IHL. The **burden** is on the party engaging in seemingly unlawful conduct to justify that an exception to the rule applies.

Key tips

- **Use IHL language carefully and intentionally.** Clearly explain which IHL obligations apply and specify how the observed conduct suggests a failure to respect those obligations.
- **Focus on the impact to missing persons and their families.** Frame the potential violation in terms of the real human impact — grief, uncertainty, intergenerational trauma — to underscore its seriousness.
- **Anticipate and prepare for common justifications.** Acknowledge that feasibility may affect how a search is conducted but does not excuse inaction. Insist on transparency and a demonstrated effort. Remember: the burden is on the party justifying its conduct to demonstrate that it is doing everything within its means to facilitate the search for missing persons.
- **Support families as advocates.** Where appropriate and safe, amplify the voices of affected families who are seeking information and closure, ensuring their protection. Consider collaboration with family groups, civil society organisations, and other local actors.
- **Link to broader consequences.** Remind parties that failure to search for the missing can lead to long-term social fragmentation, allegations of abuse, and reputational damage.

Key messaging

Tailor the messaging below in accordance with the guidance provided in the User Guide, supplementing it with details about the specific situation.

Limited level of confidence

- There are **concerns** that [Party X] is failing to uphold its obligation under IHL to do everything feasible to search for missing persons. [Party X] is obliged to account for and facilitate the search for missing persons as soon as circumstances permit, including by collecting and recording information, preserving human remains and gravesites, and cooperating with families and relevant organisations. All information must be provided to the families of missing persons.
- The available information **raises concerns** that [Party X] is failing to facilitate the search for missing persons by [specify issue: collecting and recording information; preserving human remains and gravesites; cooperating with families and relevant organisations]

Moderate level of confidence

- There are **strong indicators** that [Party X] is failing to uphold its obligation under IHL to do everything feasible to search for missing persons. [Party X] is obliged to account for and facilitate the search for missing persons as soon as circumstances permit, including by collecting and recording information, preserving human remains and gravesites, and cooperating with families and relevant organisations. All information must be provided to the families of missing persons.
- The available information **raises strong concerns** that [Party X] is failing to facilitate the search for missing persons by [specify issue: collecting and recording information; preserving human remains and gravesites; cooperating with families and relevant organisations]

High level of confidence

- There are **clear indications** that [Party X] is failing to uphold its obligation under IHL to do everything feasible to search for missing persons. [Party X] is obliged to account for and facilitate the search for missing persons as soon as circumstances permit, including by collecting and recording information, preserving human remains and gravesites, and cooperating with families and relevant organisations. All information must be provided to the families of missing persons.
- The available information **clearly shows** that [Party X] is failing to facilitate the search for missing persons by [specify issue: collecting and recording information; preserving human remains and gravesites; cooperating with families and relevant organisations]



If the situation you are monitoring qualifies as an international armed conflict, there are more detailed and comprehensive rules that you can assess and use in your advocacy. For example, under IHL applicable in international armed conflicts, parties must:

- establish national information bureaux to receive and give information on detained persons and a Central Tracing Agency to facilitate the search for missing persons and communicate information to their families.
- grant the ICRC regular access to persons in detention in order to verify the conditions of their detention and to restore contacts between those persons and their families.⁷⁰
- endeavour to facilitate the return of the remains of the deceased upon request of the party to which they belong or upon the request of their next of kin.

Importantly you should also consider using these rules to advocate for better responses to missing persons in all other types of conflict. While only technically binding in international armed conflict, they provide a useful starting point for convincing parties of best practices.

⁷⁰ ICRC, Customary IHL Database, Rules 124-125.

ANNEX

Select list of other relevant mechanisms and resources

The following does not purport to give an exhaustive list of all available mechanisms and manuals.

Amnesty International and CODESRIA, [Monitoring and Investigating Human Rights Abuses in Armed Conflict](#), 2001.

Amnesty International, [Combating Torture and Other Ill-Treatment: A Manual for Action](#), 11 November 2016.

The Assessment Capacities Project and Emergency Capacity Building Project, [Humanitarian Needs Assessment: The Good Enough Guide](#), 2014.

Association for the Prevention of Torture (APT), [Monitoring Places of Detention: A Practical Guide](#), 2004.

Australian Red Cross, [IHL Handbook for Humanitarians and Health Professionals](#), 2024.

CARE International, [The CARE International advocacy handbook](#), 2014.

Center for Civilians in Conflict, [Toolkit: Advancing the Protection of Civilians in Conflict](#), 2022.

Council of Europe, [Manual on Conducting Effective Investigations in the cases of ill-treatment](#), 2019.

DIGNITY – Danish Institute Against Torture, [Dignity Manual, Collaboration between medical doctors and lawyers when conducting torture in North Africa](#), 2021.

Education Above All and ICRC, [The Role of Humanitarian Actors in Safeguarding Access to Education](#), 2019.

Education Above All and KoboToolbox, [TRACE: Track Attacks on Education Data Portal](#).

Geneva Academy and ICRC, [Guidelines on investigating violations of IHL: Law, policy, and good practice](#), 2019.

Global Coalition to Protect Education from Attack (GCPEA), [Toolkit for Collecting and Analyzing Data on Attacks on Education](#), 2023.

Global Interagency Security Forum, [Evidence based advocacy: How incident information can help](#), 2018.

Hilhorst, T. and Van Wessel, M. Chapter 9: [From humanitarian diplomacy to advocacy: a research agenda](#). In Biekart, K. and Fowler, A. (eds.). *A research agenda for civil society*, 2022, pp. 111–125.

Institute for International Criminal Investigations (IICI), [Murad code – The Global Code of Conduct for Gathering and Using Information about Systematic and Conflict-Related Sexual Violence](#), 2022.

Inter-Agency Standing Committee (IASC), [Multi-Sector Initial Rapid Assessment Guidance](#) (July 2015).

Inter-Agency Standing Committee (IASC), [Operational Guidance for Coordinated Assessments in Humanitarian Crises](#), 2012.

The Integrated Food Security Phase Classification (IPC), [IPC Overview and Classification System](#), International Committee of the Red Cross, The roots of restraint in war, 2018.

International Council of Voluntary Agencies (ICVA), [NGO fora advocacy guide: Delivering joint advocacy](#), 2017.

Metcalf-Hough, V. [Advocating for the better protection of civilians: From stagnation to action](#). HPG report, London: ODI, 2022.

OHCHR, Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, [HR/P/PT/8/Rev. 2](#), 2022.

OHCHR, [Manual on Human Rights Monitoring, Revised edition](#), 2011.

Office of the Special Representative of the Secretary-General for Children and Armed Conflict, [Monitoring and reporting on grave violations](#).

Oxfam, [Civic space monitoring tool](#), 2019.

Programme on Humanitarian Policy and Conflict Research, Harvard, [Monitoring, Reporting, and Fact-finding](#), 2015.

Safeguarding Health in Conflict Coalition and Insecurity Insight, [Critical condition: Violence against health care in conflict](#), 2023.

United Nations Children's Fund (UNICEF), [Advocacy toolkit. A guide to influencing decisions that improve children's lives](#), 2010.

United Nations Children's Fund (UNICEF), [Guidelines on Monitoring and Reporting Mechanism on Grave Violations against Children in Situations of Armed Conflict \(MRM\)](#) 2014.

United Nations, The [UN HANDBOOK for United Nations Field Missions on Preventing and Responding to CRSV](#), 2020.

USAID, [Famine Early Warning Systems Network \(FEWS NET\)](#)

Watchlist on Children and Armed Conflict, [The 1612 Monitoring and Reporting Mechanism, Resource Pack for NGOs](#), Second Edition, 2015.

World Health Organization (WHO), [Surveillance System for Attacks on Healthcare](#)

