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Terry D. Gill · Robin Geiß ·
Heike Krieger · Christophe Paulussen
Editors

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Editors
Terry D. Gill
Criminal Law Section, Section Military Law
University of Amsterdam
Amsterdam, The Netherlands

Robin Geiß
School of Law
University of Glasgow
Glasgow, UK

Heike Krieger
Department of Law/Public Law
Free University of Berlin
Berlin, Germany

Christophe Paulussen
Research Department
T.M.C. Asser Instituut
The Hague, The Netherlands

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Cover illustration: 25 kms from Ruweishid. Jordanian Red Crescent Camp for refugees fleeing the war in Iraq. An ICRC tracing service is also in place. A few tents have collapsed during a storm the day before Photo: François de Sury. Date: 26/04/2003. Copyright: ICRC, Geneva. Reference: V-P-JO-E-00061

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Editorial

The year 2019 marks the 70th anniversary of the four Geneva Conventions. The four Conventions represent an outstanding step forward in the development of international humanitarian law. While the First and the Third Geneva Convention could build on pre-existing law, the Second and the Fourth Convention created new protection regimes. In particular, the creation of Common Article 3 of the Conventions and the Fourth Geneva Convention relative to the Protection of Civilian Persons in Times of War represents a watershed moment of legal reform. Nearly universally ratified, the Conventions continue to set the standard for humanitarian treatment in times of war together with the three Additional Protocols of 1977 and 2005, respectively.

Yet, law reform is not confined to single watershed moments in the conclusion of new treaties but constantly unfolds over time. Interpretation adapts international agreements to new challenges. On the basis of subsequent practice, it allows to keep legal obligations in line with changing practices of states and—to some extent—other actors. Systematic interpretation gives room to integrate input from other legal regimes and thereby further the development of a treaty. Moreover, customary international law may allow the creation of new rules where the momentum for the conclusion of a new treaty cannot be reached.

Academic debates are an important part of these processes. They help to identify where change took place or where it may become necessary, and they contribute to defining the limits for change. After all, international humanitarian law, like all law, is exposed to various claims by different actors that may pursue diverging or even opposed political interests. Changes in the way wars are waged as well as technological developments or the rise of new actors constantly change battlefield realities. In light of these dynamics, it is a continuous challenge to assess whether humanitarian rules still remain adequate or whether law reform is needed and if so, through which channels it should be brought about. The Geneva Conventions and the debates surrounding them provide ample proof for these processes, and the present volume of the Yearbook of International Humanitarian Law focuses on pertinent examples.

One example for changing battlefield tactics lies in a shift to urban warfare and the corresponding increase of sieges in recent conflicts. In her contribution "Evolution of the International Humanitarian Law Provisions on Sieges", *Agnieszka Szpak* analyzes the development over time of the pertinent legal rules and highlights the role of both customary international law and United Nations Security Council Resolutions as instruments to prompt such a development. The impact of international criminal law on the interpretation of international humanitarian law is dealt with in the contribution by *Harmen van der Wilt* "Towards a Better Understanding of the Concept of 'Indiscriminate Attack'—How International Criminal Law Can Be of Assistance". He starts from the observation that in relation to the means and methods of warfare and the protection of civilians Additional Protocol I closed a protection gap but that enforcement remains problematic because of complex *mens rea* issues. As a redress, he suggests borrowing from international criminal law doctrine and its differentiation between several categories of *mens rea*.

The spread of non-international armed conflicts after the end of the Cold War challenged the Geneva Conventions and Additional Protocol II not least because of their limited outreach. A remedy was seen to lie in a turn to customary international law. The contributions by *Marten Zwanenburg* and *Joshua Joseph Niyo* analyze specific challenges arising in the context of these conflicts. In his contribution "Double Trouble: The 'Cumulative Approach' and the 'Support-Based Approach' in the Relationship Between Non-State Armed Groups", *Zwanenburg* addresses the highly controversial question under which circumstances a non-international armed conflict exists and who are the parties to such a conflict. He engages with the diverging approaches put forward by the International Committee of the Red Cross and supports the so-called cumulative approach. *Joshua Joseph Niyo* demonstrates how international human rights law can contribute to change, development, and specification of international humanitarian law. In his contribution "The Rebel with the Magnifying Glass: Armed Non-State Actors, the Right to Life and the Requirement to Investigate in Armed Conflict", he analyzes how both legal regimes can mutually re-enforce each other and focuses, in particular, on the right to life and investigation duties.

While compliance with international humanitarian law has always been seen as its quintessential Achilles' heel, recent conflicts have even worsened the overall perception. For some years now, armed conflicts seem to be characterized by a systematic and strategically motivated disregard for the rules of international humanitarian law. Thus, many debates on occasion of the 70th anniversary of the Geneva Conventions addressed the particular challenges stemming from non-compliance. Against this backdrop, *Jann Kleffner* provides us with "A Bird's-Eye View on Compliance with the Law of Armed Conflict 70 Years After the Adoption of the Geneva Conventions". He maps the various existent compliance mechanisms and makes a plea for contextualizing compliance as well as moderating expectations as to what can be achieved. To underpin his argument, he zooms in on three specific challenges: the prevalence of non-international armed conflicts, the culture of repression and the individualisation of victimhood based on the human rights paradigm. Subsequently, *Ioana Cismas* and *Ezequiel Heffes* look

into the role that religious leaders may play in the enhancement of compliance with international humanitarian law. In their contribution "Not the Usual Suspects: Religious Leaders as Influencers of International Humanitarian Law Compliance", they make a case for engaging with societal actors which may contribute to inducing compliance. In particular, they analyze what makes religious leaders influential among their constituencies and how compliance can benefit from this influence.

In the second part of the Yearbook, *Aniel de Beer* and *Martha Bradley* analyze the 2018 decision of the International Criminal Court's Appeals Chamber in *Prosecutor v Jean-Pierre Bemba Gombo*. Their contribution "Appellate Deference Versus the *De Novo* Analysis of Evidence: The Decision of the Appeals Chamber in *Prosecutor v Jean-Pierre Bemba Gombo*" focuses on the International Criminal Court's procedural and evidentiary law issues and criticizes that the Appeals Chamber has analyzed the evidence of the case *de novo* in order to arrive at a conclusion different from the one reached by the Trial Chamber. The Yearbook closes with its "Year in Review 2019" in which *Kilian Roithmaier*, *Taylor Woodcock* and *Eve Dima* report on events which were particularly relevant for international humanitarian law and international criminal law in the year 2019.

The year 2019 also marks change for this Yearbook. *Kilian Roithmaier*, who has acted as Editorial Assistant for Volume 21 (2018) and Volume 22 (2019), will leave the T.M.C. Asser Institute. Thanks are due for his diligent support. Also *Christophe Paulussen* will move on to tackle new tasks. *Christophe Paulussen* worked first as Assistant Managing Editor (Volumes 15 (2012)—17 (2014)) and then as Managing Editor (Volumes 18 (2015)—22 (2019)) for the Yearbook. We are grateful to him for the rigour, patience, and perseverance with which he cared for the Yearbook and handled authors, reviewers, and editors. We are glad that he will continue to care for the Yearbook as member of the Board of Advisors from Volume 23 (2020) onward.

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70th Anniversary of the Geneva Conventions

Chapter 1
Evolution of the International Humanitarian Law Provisions on Sieges

Agnieszka Szpak

Contents

Abstract The international regulations on siege warfare have evolved from lenient to increasingly restrictive, both with regard to the conduct of hostilities and to humanitarian assistance to victims of war. Siege warfare is not forbidden but heavily restricted, in particular by the prohibition of starvation of the civilian population, the latter commonly considered as customary in character. Together with the evolution of international humanitarian law, the evolution of armed conflicts, once fought on battlefields and now increasingly in urban areas and among the civilians, results in sieges being a lawful method of warfare but only when directed against combatants. This chapter examines the legality of sieges in the light of international humanitarian law. Apart from the analysis of international humanitarian law, a possible impact of the United Nations Security Council Resolutions on the law and practice of siege warfare is signaled. The aim of this chapter is to show historical and current regulations of international humanitarian law on siege warfare and in this way identify the evolution of the law on sieges.

Keywords Siege · International humanitarian law · Prohibition of starvation · Relief operations · International armed conflict · Non-international armed conflict

A. Szpak (✉)
Department of International Security, Faculty of Political Science and Security Studies, Nicolaus Copernicus University, Toruń, Poland
e-mail: aszpak@umk.pl

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1.1 Introduction

Although sieges are very often reminiscent of past wars, especially those of the Middle Ages,[1] they are a method of warfare still used in contemporary armed conflicts. The siege tactics were actually invented by the Assyrians in the first millennium BC.[2] When thinking about famous—or rather infamous—sieges (as they always resulted in humanitarian catastrophe), what comes to mind are Vienna, Paris, Leningrad,[3] Sarajevo,[4] Grozny and more recent—and perhaps less known—cases like Aleppo, Homs and Ghouta (all three in Syria). One may add the siege operations in Luhansk and Donetsk in Ukraine in 2014.[5] The contemporary relevance of sieges is evidenced by their increased use in the armed conflict in Syria—a civil war that broke out in 2011 and resulted in a humanitarian crisis. The siege tactics have been used on a very high scale. Sieges have impeded the deliveries of humanitarian assistance and have also been accompanied by attacks against civilians.[6]

Usually the main victims of sieges are not combatants but civilians: "[i]n fact, experience indicates civilians are likely to experience the deprivations of isolation, physical, psychological, or electronic, far sooner and to a greater extent than their military co-besieged."[7] Nowadays we can observe accelerated urbanization, which means that as urbanization develops, armed conflicts become more urbanized as well. Even after the termination of an armed conflict, long lasting destruction of infrastructure that provides indispensable services, including hospitals, may still afflict the population. It very severely hinders sustainable urban development. Moreover, during protracted armed conflicts, bombardments with explosive weapons and other attacks on urban areas may cause massive displacement of people and set back a country's development by decades. Urban environment as a ground of military operations is complex and challenging as there is always a greater risk of collateral damage, and in general civilians always suffer the most, no matter whether they are direct victims or collateral damage.[8] As Sean Watts indicates, the practicalities of strategy and tactics

[1] Campbell 2005; Gravett 1990.

[2] Campbell 2005, p 4.

[3] Forczyk 2009; Glantz 2001.

[4] The siege of Sarajevo was adjudicated in the *Galić* case by the International Criminal Tribunal for the former Yugoslavia (ICTY). Stanislav Galić was the commander of the Sarajevo Romanija Corps in the Bosnian Serb Army, from September 1992 in the rank of Major General. Galić carried out a campaign of shelling and sniper attacks on Sarajevo with the intention of spreading terror among the civilian population. These attacks, which occurred every day for many months (1992–1994), led to the deaths of hundreds of women and men of all ages, including children, and injuries to thousands of people. Galić was found guilty of the crime of spreading terror among the civilian population in violation of the laws and customs of war and murder and other inhuman acts as part of crimes against humanity and sentenced to life imprisonment. For more details, see ICTY 2019.

[5] Watts 2014, p 4; van den Boogaard and Vermeer 2019, p 166.

[6] Power 2016, pp 1–4.

[7] Watts 2014, pp 3–4; van den Boogaard and Vermeer 2019, p 168.

[8] Hills 2004, Preface; Watts 2014, pp 3–4.

have consistently necessitated urban combat as city areas frequently include locations of great strategic importance, such as crossroads, ports or riverfronts. Access to transit routes and proximity of resources are the main factors that make these places great locations for urban settlement; however, the same factors make such cities also high-value targets of military operations.[9]

But as military operations conducted in complex urban environment have often turned out to be time-consuming, risky and involving a lot of resources, it should not come as a surprise that commanders in the past and of today have decided not to enter urban areas and resorted to sieges instead. The aim of such tactic was to reduce enemy resistance or force the opponent to surrender.[10] The motives for resorting to sieges, still relevant in contemporary armed conflicts, include the necessity to avoid high casualties among the attacking forces which are frequent in case of urban warfare as well as the need to redirect or conserve forces and resources for subsequent military operations. Another motive is the desire to avoid block-by-block urban attacks, very destructive for both sides.[11]

As the chapter deals with the evolution of the law of sieges, it is necessary to define the subject matter of the legal regulations. The literature offers several definitions. For example, Laurie Blank claims that a siege is a method of warfare that "seeks to completely isolate the defending party and all persons within the besieged area—physically, psychologically and electronically. Indeed, it can be an essential tactic to force the enemy to surrender or otherwise submit."[12] What is worth emphasizing is the element of electronic isolation, also pointed out by Sean Watts.[13] The latter author adds that "[e]lectronic warfare and network attacks can reduce enemy capacity to command and control besieged forces and can also distort the enemy's operational awareness to the advantage of the besieging force."[14] Beth Van Schaack indicates that siege warfare

> is a tactic developed during the Middle Ages that involves surrounding a garrison or a populated area with the goal of driving out the enemy forces by deteriorating their defenses and cutting them off from reinforcements and vital supplies. Although sieges are costly and time-consuming, they may under certain circumstances be easier than engaging the enemy directly in open battle or going house to rout out the adversary.[15]

This definition additionally takes into account the costs of sieges and the above-mentioned motives for resorting to sieges instead of directly fighting in urban areas. According to James Kraska, "[s]iege warfare is an operational strategy to facilitate capture of a fortified place such as a city, in such a way as to isolate it from relief in

[9] Ibid., p 2.
[10] Ibid., p 3.
[11] Ibid.
[12] Blank 2019.
[13] Watts 2014, pp 3, 4.
[14] Ibid., p 3.
[15] Van Schaack 2016.

the form of supplies or additional defensive forces."[16] Jeroen C. van den Boogaard and Arjen Vermeer define siege warfare slightly differently, as "a method of warfare where an urban area may not be easily accessible, or is heavily defended, which requires the attacking force to conduct a sustainable military operation to achieve control over the urban area."[17] Finally, Yoram Dinstein also defines siege using the element of "encircling an enemy military concentration, a strategic fortress or any other location defended by the enemy, cutting if off from channels of support and supply."[18] He then stresses that "the essence of siege warfare lies in an attempt to capture the invested location through starvation."[19] Here, expressly, a new element in the definition of siege appears—that of starvation or rather an intent to starve the besieged. Dinstein adds that starvation continues only as long as the besieged forces do not surrender.[20] This element will be important in the context of legality of siege warfare. Christa Rottensteiner also highlights that "[t]he foremost goal of sieges […] was not to inflict suffering on the civilian population, which was seen as an inevitable 'by-product', but to bring about the surrender of the enemy army."[21] To summarize, the necessary elements of a siege include isolation/encirclement of the besieged with the aim of forcing the enemy to surrender. Suffering of the civilians should be only a by-product of the siege, while the intent to starve the besieged will affect the legality of a siege, depending on who the besieging party intends to starve—combatants or civilians.

Following this introduction, the chapter will analyze the legality of sieges in the light of international humanitarian law (IHL). Two types of armed conflicts will be examined—international and non-international armed conflicts. Then, the following section will examine a possible impact of the United Nations (UN) Security Council Resolutions on the law and practice of siege warfare. Finally, in the concluding remarks the author will briefly indicate the evolution of regulations on siege operations. The aim of this chapter is to identify historical and current regulations of siege warfare and in this way identify the evolution of the law on sieges: from more legal leniency in this regard to numerous restrictions on siege warfare. The thesis of this chapter is that the legal regulations on sieges have evolved from rather lenient to more restrictive ones, reflecting the more expansive role of the principle of humanitarianism.

The main research method used is that of legal analysis, which is used to interpret textual material and decipher its meaning. The legal analysis includes examination of the content of legal acts and other documents like UN Security Council Resolutions. The chapter also adopts a critical analysis of the relevant literature in the field of international humanitarian law.

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[16] Kraska 2009.

[17] Van den Boogaard and Vermeer 2019, p 165.

[18] Dinstein 2004, p 133.

[19] Ibid.

[20] Ibid., p 136.

[21] Rottensteiner 1999.

1.2 Legality of Sieges

The law regulating sieges is international humanitarian law (or international law of armed conflicts). Its main sources are treaties and custom, the former embracing, *inter alia* and foremost, the Hague Conventions of 1907, the Geneva Conventions of 1949 and the Additional Protocols to Geneva Conventions of 1977. Together the rules of the law of armed conflicts applicable to sieges may be divided into the rules on the conduct of warfare (so-called 'Hague Law') and the rules on the treatment of victims of war (so-called 'Geneva Law'). This classification is purely academic as rules of both kinds may be found together, for example in Additional Protocol I on the Protection of Victims of International Armed Conflicts.[22] Both Hague and Geneva branches of IHL contain provisions referring to sieges although none of them expressly prohibits it. As the legal character of armed conflicts is of great importance—because the rules applicable to both types of armed conflict often differ—the following section will first identify rules applicable to international armed conflicts, and then to non-international armed conflicts. The motivation and rationale for the development of the rules on siege warfare constitute the rising awareness and the need to more strongly protect civilians and the civilian population (the main victims of armed conflicts). The beginnings of siege warfare customary regulation did not include many humanitarian concerns. Generally, when the besieged force did not accept the demand to surrender or surrender conditions, they were considered fully liable for damage and suffering inflicted by the besiegers, which might have included mass destruction of property, deprivation, pillage or even civilian deaths. Civilians had to wait centuries before the beginnings of international legal protection from being targeted during a siege.[23] As will be seen in the following analysis, this rationale is clearly reflected by the gradual restriction of the international humanitarian law regulations on siege warfare, consonant with the rule that the right of the parties to the conflict to choose methods or means of warfare is not unlimited (Article 22 of the Hague Regulations[24] and Article 35 of Additional Protocol I). The evolution of the provisions on siege warfare contributed to the reinforcement of the principle of distinction. Actually, in the period following the 1977 Additional Protocols,[25] IHL

[22] Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), opened for signature 8 June 1977, 1125 UNTS 3 (entered into force 7 December 1978) (AP I).

[23] Watts 2014, p 5.

[24] Convention (II) with Respect to the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land, opened for signature 29 July 1899, 87 CTS 227 (entered into force 4 September 1900) (Hague Convention II); Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land, opened for signature 18 October 1907, International Peace Conference, The Hague, Official Record 631 (entered into force 26 January 1910), Article 22 (Hague Convention IV).

[25] AP I, above n 22; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-international Armed Conflicts (Protocol II), opened for signature 8 June 1977, 1125 UNTS 609 (entered into force 7 December 1978).

rules have strengthened the principle of distinction, thus outlawing military actions where civilians become lawful targets, more specifically.[26]

1.2.1 International Armed Conflicts

1.2.1.1 From the Lieber Code to the Hague Conventions

The first written source of international humanitarian law (even though, strictly speaking, it was applicable to a non-international armed conflict; however, it still was the first modern codification of the laws of war, and was also widely endorsed as applicable to international armed conflicts), the *Instructions for the Government of Armies of the United States in the Field* (the so-called 'Lieber Code') of 1863,[27] allowed the besieging commander to drive the civilians back to the besieged area even when they wanted to leave such a place (Article 18). Article 17, of relevance here, actually accepted as legal the starvation of "the hostile belligerent, armed or unarmed", which meant that civilians could also be starved. The aim was to contribute to "the speedier subjection of the enemy". These provisions reflected the law applicable to international armed conflicts as well. Fortunately, the laws of armed conflicts evolved through the ages, and these provisions are today outdated as they were replaced by the regulations of the four Geneva Conventions and their Additional Protocols. Before the adoption of Geneva Law, siege warfare was rather considered as a matter of conduct of hostilities and not a humanitarian issue.[28] Today it is usually intertwined with the possibility or necessity of deliveries of humanitarian aid, which will be discussed later.

Regulations that refer to besieged areas may also be found in Article 27 of the Hague Convention II of 1899[29] and Article 27 of the Hague Convention IV of 1907.[30] The same provisions were included in the *Brussels Declaration* of 1874[31] and the *Oxford Manual on the Laws of War on Land* of 1880.[32] All these provisions stipulated that every necessary measure must be taken in order to spare, as far as possible, hospitals and cultural and scientific property, on condition they are not used for military purposes. The besieged are obliged to mark such property and buildings with a distinctive and visible sign, of which the enemy should be informed. This provision is based on the principle of distinction between civilian objects and military

[26] Van den Boogaard and Vermeer 2019, p 169.

[27] Lieber 1863.

[28] Watts 2014, p 5.

[29] Hague Convention II, above n 24.

[30] Hague Convention IV, above n 24.

[31] Project of an International Declaration concerning the Laws and Customs of War, opened for signature 27 August 1874, https://ihl-databases.icrc.org/ihl/INTRO/135. Accessed 16 April 2019 (not yet entered into force), Article 17.

[32] The Institute of International Law 1880, Article 34.

objectives and aimed at protecting certain categories of objects. On the other hand, this obligation is softened by the words "as far as possible", which makes it a strong recommendation rather than obligatory behavior for the besieging forces. Its implementation will depend on their capabilities and resources.[33] Moreover, its effective implementation depends on the fulfilment by the besieged forces of their obligation to mark the protected buildings in advance and inform the enemy of it.

1.2.1.2 Geneva Conventions and Additional Protocol I

Currently, there is no explicit prohibition of sieges in international humanitarian law; however, there are provisions that restrict resorting to sieges. Rules found in international humanitarian law treaties—such as rules on targeting, proportionality, precautions, the prohibition of attacking civilians, humanitarian relief, and in particular starvation—have narrowed down the belligerents' legal possibility to use the siege tactics. The most pertinent is the prohibition of starvation. And here the key question is: are sieges of places where civilians are present implicitly prohibited as a consequence of the prohibition of starvation? In practice, civilians are the first to suffer and to suffer most from deficiencies caused by the siege.[34] As will be seen below, there is no straightforward *no* or *yes* answer.

Prohibition of Starvation

Article 54(1) of Additional Protocol I and Rule 53 of the International Committee of the Red Cross (ICRC) Study on Customary International Humanitarian Law[35] provide for the prohibition of starvation of the civilian population as a method of warfare, while Article 54(2) and Rule 54 of the ICRC Study on Customary International Humanitarian Law provide for the prohibition of depriving the civilian population of goods indispensable to its survival. Article 54(2) may be regarded as specifying types of actions that are also contrary to Article 54(1) as they may result in starvation and threaten the survival of the civilian population. According to the provision:

> It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive, whether in order to starve out civilians, to cause them to move away, or for any other motive.[36]

In the framework of siege warfare, this provision seems to prohibit not only destruction of "objects indispensable to the survival of the civilian population" but also

[33] Watts 2014, p 6.

[34] Gaggioli 2019.

[35] Henckaerts and Doswald-Beck 2005.

[36] AP I, above n 22, Article 54.

complete obstruction of deliveries of goods such as food or water as it could result in starvation; hence, the result of complete obstruction of deliveries of objects indispensable to the survival of the civilian population would be the same as in the case of the destruction of such objects. However, opposite views were expressed as well, like the one voiced by A.P.V. Rogers, who argued that Article 54(1) would not be violated by simply preventing the supplies from reaching the besieged area, for example by turning them back. Hence, only the attack, destruction or rendering such objects useless would be illegal.[37] This reading of Article 54(2) is completely in opposition to paragraph 1 and makes it ineffective as this would actually allow starvation of civilians. Hence, a better attitude is to read Article 54 as a whole and take into account the aim of the provision, namely prohibition of starvation, no matter how it is caused. This would lead to a conclusion that preventing supplies of life-sustaining goods is illegal.

However, if these indispensable objects are used by the enemy exclusively to support its armed forces or as direct support to military efforts, then attacks, destruction, removal or rendering such goods useless are allowed on condition that—in any case—the civilian population is not left with so little food or water as to put it at risk of hunger or force to relocate (Article 54(3)). Only exceptionally may any party to the conflict in the defense of its national territory against invasion derogate from those prohibitions—only "by a Party to the conflict within such territory under its own control where required by imperative military necessity" (Article 5(5)).[38] Consequently, only the State on its own territory can destroy objects indispensable to the survival of the civilian population (it would amount to scorched-earth policy) so that they do not fall into enemy hands. This provision prohibits the occupying power from taking such actions as the occupant is not the sovereign.

On the basis of Article 54 of Additional Protocol I, one may conclude that a siege whose purpose is to starve the civilian population is unlawful. This conclusion has also been drawn in the ICRC Study on Customary International Humanitarian Law.[39] Slightly different formulas may be found in the *San Remo Manual on International Law Applicable to Armed Conflicts at Sea* of 1994 and the *Manual on International Law Relating to Air and Missile Warfare* of 2009; Articles 102(a) and 157(a) respectively state that "[t]he declaration or establishment of a blockade [in this case a siege] is prohibited if […] it has the sole [or primary in the latter document] purpose of starving the civilian population or denying it other objects essential for

[37] A. P. V. Rogers, quoted in Watts 2014, p 11.

[38] AP I, above n 22.

[39] See comment on Rule 53 (Henckaerts and Doswald-Beck 2005, p 188):

> The prohibition of starvation as a method of warfare does not prohibit siege warfare as long as the purpose is to achieve a military objective and not to starve a civilian population. This is stated in the military manuals of France and New Zealand. Israel's Manual on the Laws of War explains that the prohibition of starvation 'clearly implies that the city's inhabitants must be allowed to leave the city during a siege'. Alternatively, the besieging party must allow the free passage of foodstuffs and other essential supplies, in accordance with Rule 55.

its survival."[40] With reference to the wording "sole or primary purpose", it might be difficult to prove as there are no clear criteria for evaluating besieging party's goals; however—as Gloria Gaggioli indicates—lack of attempts at evacuating civilians, or at least those most vulnerable, together with the denial of humanitarian aid should be enough to conclude that starvation of civilians is the purpose of the siege.[41] Hence, the level of intentionality would require that the besieging party wants to starve the civilian population or, at least, accepts such consequences as a foreseeable result of its actions.

Obligation to Evacuate Civilians

More restrictions on siege warfare may be found in the Geneva Conventions I, II and IV and its Additional Protocol I, although not of such gravity as the prohibition of starvation. According to the Geneva Convention I, "local arrangements may be concluded between Parties to the conflict for the removal or exchange of wounded and sick from a besieged or encircled area, and for the passage of medical and religious personnel and equipment on their way to that area."[42] The Geneva Convention II provision in Article 18 is similar but refers to the evacuation by sea.[43] Article 17 of Geneva Convention IV on civilians speaks about the removal of certain categories of people from besieged areas: the injured, the sick, the infirm, children, mothers of young children, and aged persons.[44]

On the basis of the above provisions one may notice that, first of all, parties should only *attempt* to conclude such agreements, which means that this is not obligatory. Secondly, only certain categories of civilians may benefit from this provision—a healthy adult civilian is not enumerated here.[45] Hence, this obligation is rather

[40] International Institute of Humanitarian Law 1994, Article 102(a); Program on Humanitarian Policy and Conflict Research 2009, Article 157(a).

[41] Gaggioli 2019.

[42] Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, opened for signature 12 August 1949, 75 UNTS 31 (entered into force 21 October 1950), Article 15.

[43] Geneva Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, opened for signature 12 August 1949, 75 UNTS 85 (entered into force 21 October 1950), Article 18.

[44] Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, opened for signature 8 August 1949, 75 UNTS 287 (entered into force 21 October 1950), Article 17.

[45] Mikos-Skuza 2018, p 326. By way of example, the *American Law of War Manual* (US Department of Defense 2015, Section 5.19) also states that

> It is lawful to besiege enemy forces. Commanders must seek to make arrangements to permit the passage of certain consignments and should seek to make arrangements for the passage of certain categories of civilians, and of religious and medical personnel. […] Although the commander of the force laying siege has the right to forbid all communications and access between the besieged place and the outside, the parties to the conflict should attempt to conclude local agreements for the removal of wounded, sick, infirm and aged persons, children, and maternity cases, or for the passage of ministers of all religions, medical personnel, and medical equipment on their way to such areas. Concluding such agreements is not compulsory.

limited by being restricted to specific categories of persons, and quite weak as it is recommendatory rather than binding.

In this context, Yoram Dinstein gives an example of the customary legal rule that took effect before adopting the Geneva Conventions. It allowed the besieging forces to drive back civilians escaping from the besieged area in order to speed up the surrender (as was stated with regard to the Lieber Code mentioned above). This rule was confirmed by the American Nuremberg Tribunal in the *High Command* case, where the Tribunal stated that Field Marshal von Leeb's order to German forces to fire on Russian civilians fleeing from besieged Leningrad was lawful. The Tribunal explained that "[w]e might wish the law were otherwise but we must administer it as we find it."[46] The above-mentioned Article 17 of Geneva Convention IV changed that state of the law, although it still applies only to those categories of civilians considered most fragile. Today it is required for the parties to an international armed conflict to only attempt to remove from besieged areas certain categories mentioned above. Moreover, to stress it once again, the language used, i.e. "shall endeavor to conclude", shows that this is a recommendation and not mandatory course of action. This provision is definitely connected with Article 54 of Additional Protocol I on the prohibition of starvation. Yoram Dinstein comments that this provision orders the parties to the conflict to differentiate between sieges of military fortresses and sieges of defended towns. In the latter, not only combatants may be affected but also civilians, and in such a case starvation is allowed to be used only against combatants.[47] But how could that be effectively conducted if combatants and civilians are grouped together in the besieged area? The best solution is to allow the civilians to leave the besieged location or allow life-sustaining products' deliveries. Here, however, comes a problem with the besieging party's lack of control over the distribution to the civilian population in the besieged area. The question is why would the besieging party allow this assistance as it is more than likely to end up in the hands of the enemy? In this case the besieging party may make the distribution of this assistance conditional on the local supervision of a protecting power or the ICRC. This reading of Article 54 combined with Article 17 of Geneva Convention IV simply confirms the above conclusion that the prohibition of starvation is the most pertinent provision relating to sieges, and it clearly restricts resorting to it.

The Former *US Field Manual on the Law of Land Warfare* of 1956 (US Department of the Army 1956, Section 44(a), p 20) contained a contrary provision:

> [I]f a commander of a besieged place expels the non-combatants in order to lessen the logistical burden he has to bear, it is lawful, though an extreme measure, to drive them back, so as to hasten the surrender. Persons who attempt to leave or enter a besieged place without obtaining the necessary permission are liable to be fired upon, sent back, or detained.

Fortunately, this provision has been changed.

[46] Dinstein 2004, p 134; Van Schaack 2016.

[47] Dinstein 2004, p 135.

Humanitarian/Relief Actions

What are the international humanitarian law regulations with reference to civilians that are present in the besieged area? It is quite obvious that a siege of, for example, a city may result in severe humanitarian consequences such as lack of food and water or lack of medical assistance. Humanitarian crises may be exacerbated by the refusal by the State affected by an armed conflict to allow humanitarian aid supplies or by the obstacles in this regard (for example attacks on humanitarian convoys). However, such consent should not be denied arbitrarily.[48]

Article 70 of Additional Protocol I on relief actions is relevant in this context. It broadens the category of beneficiaries of humanitarian assistance and its scope (compared to the above-mentioned provisions of the Geneva Conventions). It is also worth adding that according to the ICRC Study on Customary International Humanitarian Law, Article 70 of Additional Protocol I reflects customary international law.[49] Article 70 states that the whole civilian population under the control of the enemy, not only in occupied territories but also other ones, who is not adequately supplied with food, water or medicines should be able to benefit from impartial and humanitarian relief actions which, however, may be undertaken only with the consent of the parties concerned. Here again "priority shall be given to those persons, such as children, expectant mothers, maternity cases and nursing mothers."[50] But the provision is addressed to all civilians and the civilian population. Felix Schwendimann comments that the precondition of consent "balances the interests of the civilian population and the interests of the receiving state".[51] It may also be argued that the requirement of consent was supposed to reassure States Parties that they will have control over the whole process of delivery of humanitarian assistance as one of their concerns is humanitarian assistance being used as a pretext or cover for interference in their internal affairs by external actors only claiming to be humanitarian, independent and neutral.[52] But, as already mentioned, the consent should not be denied arbitrarily. According to the ICRC Commentaries on the Additional Protocols, the State cannot refuse consent if the conditions enumerated in Article 70 of Additional Protocol I are met.[53] This has also been confirmed in the *Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict*.[54] Although the ICRC Commentaries and the Oxford Guidance are not legally binding, they may be regarded as an authoritative interpretation of binding law that cannot be lightly set aside.

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[48] For more details, see Akande and Gillard 2016, paras 22–26.

[49] Henckaerts and Doswald-Beck 2005, Rule 55.

[50] AP I, above n 22.

[51] Schwendimann 2011, p 998.

[52] Mikos-Skuza 2018, p 325.

[53] Sandoz et al. 1987, pp 819–820.

[54] Akande and Gillard 2016, para 22.

Such relief actions are conditional—a besieging force (and other parties to the conflict, including the besieged party, as well as States Parties that allow the passage of relief consignments)

> (a) shall have the right to prescribe the technical arrangements, including search, under which such passage is permitted;
>
> (b) may make such permission conditional on the distribution of this assistance being made under the local supervision of a Protecting Power;
>
> (c) shall, in no way whatsoever, divert relief consignments from the purpose for which they are intended nor delay their forwarding, except in cases of urgent necessity in the interest of the civilian population concerned.[55]

This provision partly reflects the concerns of States Parties about using humanitarian assistance to support the military efforts of the enemy. According to Sean Watts, this provision seems to prefer evacuation over relief operations during the siege. This conclusion is based on the comparison of belligerents' obligation in the frameworks of relief and evacuation: in the context of relief requirements, Article 70 states that the consent of the parties is necessary while international humanitarian law evacuation standards in the context of sieges and taking into account the prohibition of starvation are pretty much obligatory.[56] Michael John-Hopkins also argues that even though the suffering and casualties among the civilian population are unavoidable consequences of urban warfare, it does not release the parties from their customary law obligations to constantly care for the safety and needs of civilians, which includes ensuring the protection of objects indispensable to the survival of civilian population and humanitarian assistance for civilians that need it.[57]

In this context, one should note that Rule 55 of the ICRC Study on Customary International Humanitarian Law provides that "[t]he parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control."[58]

What if civilians want to stay when the besieging forces allow their removal? In that case there is no reason to treat them differently from combatants. Understandably, civilians do not want to leave their homes and belongings, but it would be unrealistic to demand from the besieging commander—willing to allow the removal of civilians—to protect them as civilians when they want to stay in a besieged area on their own peril.[59] This approach was confirmed for example in the *United Kingdom Joint Service Manual of the Law of Armed Conflict,* which stipulates that in case the military authorities of the besieged do not consent to the evacuation of civilians or the civilians themselves want to stay in a besieged place, it is acceptable for the besieging commander to prevent the supplies from reaching the besieged area, all

[55] AP I, above n 22, Article 70; Kalshoven and Zegveld 2001, p 105.

[56] Watts 2014, p 8.

[57] John-Hopkins 2010, p 489.

[58] Henckaerts and Doswald-Beck 2005, Rule 55.

[59] In this way Dinstein 2004, p 136.

the time on condition that the offer to allow civilians to leave the besieged area is open.[60] Their voluntary stay in the besieged area places them in close proximity to military objectives (combatants and possibly military objectives) and puts them at risk of being indirectly attacked by the besieging force.[61] Civilians' proximity to combatants, who may be starved as a result of a siege, places the civilians in an analogous position; hence the besieging party "would be justified in preventing any supplies from reaching" the besieged area.[62]

In the case of civilians leaving the besieged area, naturally, after the siege has ended, civilians should be able to return to their homes. There is no clear obligation in this regard. The only obligation that may be applicable by analogy is Article 49 of Geneva Convention IV which states that in a case of evacuation of civilians they shall be transferred back to their homes as soon as hostilities in the relevant area have ended.

Sean Watts emphasizes that from the point of view of the besieging forces, the evacuation or removal option may be more desirable than relief operations as relief action's supplies may be transformed to military use and in this way the besieged force may prolong its resistance or tip the scales in its favor. Evacuation may also be preferable to relief operations from a humanitarian point of view as it gives a greater chance of ensuring satisfactory life support and medical care, while at the same time removing civilians from the area of hostilities.[63] On the other hand, a forcible removal of civilians may constitute a war crime (Article 147 of Geneva Convention IV, Article 8(2)(a)(vii) and Article 8(2)(e)(viii) of the Statute of the International Criminal Court[64]) or a crime against humanity (Article 7(1)(d) of the Statute of the International Criminal Court). In the first case, deportation and transfer must take place without a legal title or for illegal purposes (legal purposes are the security of the civilians and imperative military reasons—see Article 49 of Geneva Convention IV and Article 17 of Additional Protocol II). Even in the case of a legally justified evacuation, which applies in the case of a siege, such a state should be temporary and displaced persons should be able to return to their homes as soon as the reasons for their evacuation cease.

The situation is different if civilians have to stay because they are forced to by the commander of the besieged forces. In this case, Article 54 is applicable, which means that cutting off the supplies may not result in starvation of civilians. There are, however, contrary opinions. Dinstein asks: "if the civilians are coerced to stay where they are by the edict of the military commander of the garrison of the besieged town, why should the enemy be barred from destroying the foodstuffs and drinking water installations sustaining them?"[65] According to this view, in such a case civilians are

[60] UK Joint Doctrine and Concepts Centre 2004, Section 5.34.9.

[61] Watts 2014, p 9.

[62] Ibid., p 18.

[63] Ibid., p 18.

[64] Rome Statute of the International Criminal Court, opened for signature 17 July 1998, 2187 UNTS 3 (entered into force 1 July 2002) (ICC Statute).

[65] Dinstein 2004, p 136.

used as human shields[66] (which is prohibited—Article 23 of Geneva Convention III, Article 28 of Geneva Convention IV, Article 51(7) of Additional Protocol I; Rule 97 of the ICRC Study on Customary International Humanitarian Law) and this absolves the besieging commander from its obligations from Article 54 of Additional Protocol I or customary law. According to Dinstein, the illegal use of human shields by a party to the conflict cannot offer an advantage to that party. Still, the consequences of illegal acts by the besieged commander cannot be borne by the civilians who did not make such a decision.

Precautions Against the Effects of Attacks and the Principle of Proportionality

Another provision that may be relevant for sieges is Article 58 of Additional Protocol I on precautions against the effects of attacks. Before delving into details of this provision, a question must be posed: can sieges be regarded as attacks? According to Article 49 of Additional Protocol I, attacks are "acts of violence against the adversary, whether in offence or in defense." It seems clear that a siege encompasses an element of violence against the enemy (starvation) and, as such, qualifies as an attack.[67] Assuming that siege warfare constitutes a method of warfare or a combination of various such methods, for example bombing and starvation, the rules of targeting and conducting military operations, such as the principle of distinction and proportionality, are applicable.[68] Consequently precautions against the effects of attacks should also apply. Accordingly, parties to an international armed conflict are obliged "to the maximum extent feasible" to attempt to remove the civilians and civilian objects that they control from the vicinity of military objectives, and to avoid locating such objectives in or close to the densely populated zones. The parties must also take any other necessary precautionary measures in order to protect individual civilians as well as civilian population and civilian objects against the dangers caused by military operations.[69]

Hence, the besieged party should take all possible steps to remove the civilian population from the besieged area. There is, however, a certain inconsequence in Additional Protocol I. Its Article 54 prohibits starvation which—in case of a siege—could be complied with by removing civilians from the besieged area, also in compliance with Article 70. On the other hand, Article 54(2) prohibits starvation as "a method of forcing civilians to move away", which makes the removal of civilians in breach of this provision.[70] Nevertheless, this is only one of possible interpretations. Another—consonant with what has been written above—is that the aim of starvation is not to force the civilians to move away but to compel the besieged combatants to surrender. The decision to allow civilians to leave the besieged area in combination

[66] Ibid.

[67] For more details, see Gaggioli 2019.

[68] Gaggioli 2019.

[69] AP I, above n 22, Article 58.

[70] Dinstein 2004, p 136.

with their right to return as soon as possible may serve as evidence of the intent to compel the besieged combatants to surrender rather than to force the civilians to leave.

Commenting on Article 17 of Geneva Convention IV in connection to Articles 57–58 of Additional Protocol I, Elżbieta Mikos-Skuza argues that evacuation could be regarded as a precautionary measure that should be undertaken both by a besieging and a besieged party to a conflict. Still, neither Article 57 nor Article 58 of Additional Protocol I on precautionary measures in attack and precautions against the effects of attacks expressly speaks of evacuation as one of the possible measures undertaken to spare civilians and civilian objects.[71] Still the idea is worth taking into account. Assuming that a siege qualifies as an attack, the principle of proportionality is also of relevance. Gloria Gaggioli pictures a complex situation of a siege where the besieging force prevents objects indispensable to the survival of the population (for example food, water, medicines) from entering the area. She then paints the scenario that such a besieging party does comply with Article 54 of Additional Protocol I, whose purpose is to not to starve the civilian population but convince the enemy to surrender by weakening it. And in the process, objects indispensable to the civilian population's survival may not be attacked, destroyed, removed or rendered useless by the belligerent party. The latter only isolates the town and cuts the supply lines. Several weeks later, as the food reserves have been exhausted, the most vulnerable members of the civilian population fall victim to starvation while others risk their lives attempting to escape the besieged area. As the months pass, the humanitarian situation worsens to unbearable as the number of victims among the non-combatants is high, while the military benefit is not what it was expected to be as the besieged military continues to use any means of survival it controls. Thus, from a humanitarian perspective, should the continuation of such siege be considered disproportionate? The instinctive answer should be affirmative.[72]

Assuming that the principle of proportionality is applicable in such a case, the besieging commander should constantly monitor the siege in order to assess its conduct in the light of the principle of proportionality: whether the expected or real civilian losses are not excessive compared to the military advantage from the siege operation. What should be taken into account is the expected duration of a siege.[73] To support such an argument, one may point to Article 102(b) of the *San Remo Manual on International Law Applicable to Armed Conflicts at Sea* of 1994 which states that "[t]he declaration or establishment of a blockade [here, analogously, a siege] is prohibited if: […] the damage to the civilian population is, or may be expected to be, excessive in relation to the concrete and direct military advantage anticipated from the blockade [here a siege]".[74] A similar provision may be found in the *Manual on International Law Relating to Air and Missile Warfare* of 2009. This provision is a reflection of the general international humanitarian law principle of proportionality.

[71] Mikos-Skuza 2018, p 326.

[72] Gaggioli 2019.

[73] Ibid.

[74] International Institute of Humanitarian Law 1994.

Statute of the International Criminal Court

There is also one more legal document of relevance for siege warfare, namely the Statute of the International Criminal Court of 1998, according to which using starvation of civilians as a method of warfare is a war crime but only if committed in international armed conflicts (Article 8(2)(b)(xxv)).[75] In my opinion, if relevant conditions are met, starvation may also qualify as genocide (Article 6) or a crime against humanity, for example of extermination or persecution (Article 7(1)(b) and (h)). To be considered as genocide, it would have to be committed with a special intent to destroy, in whole or in part, a national, ethnical, racial or religious group, by means of "deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part"; as a crime against humanity, starvation must result in massive deaths as a necessary element of extermination; if it is to be labeled as persecution, it entails denying basic rights with the additional element of discrimination based on political, racial, national, ethnic, cultural, religious, or gender grounds[76] (in both cases of crimes against humanity, they must be a part of systematic and widespread attack against the civilian population).

1.2.2 Non-International Armed Conflicts

Observing contemporary armed conflicts, mostly of a non-international character, and taking into account the fact that more and more frequently they are fought in cities, one can draw a conclusion that there is a great risk that we will see more cases of sieges. For example, Aleppo in Syria has become a symbol of lawlessness and unimaginable human suffering. Here, once again, the prohibition of starvation of the civilian population is particularly relevant in the context of sieges.

The international law on non-international armed conflicts is less developed than that on international armed conflicts, at least with reference to the treaty law. The possible lacunae are very often filled with customary law. Sean Watts argues that despite the fact that international humanitarian law obligations in international and non-international armed conflicts are still different, there are only few significant differences with regard to targeting and treatment obligations relevant to siege warfare.[77]

First of all, the four Geneva Conventions contain the so-called Common Article 3, the only provision then applicable to non-international armed conflicts. It established an obligation of humane treatment of persons not participating actively in hostilities or those who have stopped doing so. Common Article 3 does not directly refer to sieges—just like in international armed conflicts, there is no express prohibition of sieges in non-international conflicts—but puts some restrictions on siege warfare.

[75] ICC Statute, above n 64.

[76] ICTY, *Prosecutor v Zoran Kupreškić* et al., Judgment, 14 January 2000, Case No. IT-95-16-T, paras 621, 627.

[77] Watts 2014, pp 1, 5.

Most importantly, it commands the parties to an internal conflict to allow an impartial humanitarian body, such as the ICRC, to offer its services to the parties to the conflict (for example in the form of relief assistance). Moreover, the parties to the conflict "should further endeavor to bring into force, by means of special agreements, all or part of the other provisions of the present Convention."[78] Such agreements may include relief agreements or evacuation agreements.[79]

Provisions of Common Article 3 were supplemented and developed in the Additional Protocol II on the Protection of Victims of Non-international Armed Conflicts. Article 14 of Additional Protocol II is worded almost verbatim to Article 54 of Additional Protocol I. It prohibits starvation of civilians and rendering objects indispensable to the survival of the civilian population useless. The difference consists in lack of exceptions to this prohibition as was envisaged in Additional Protocol I. According to the ICRC Study on Customary International Humanitarian Law, this provision reflects customary international law.[80] All the remarks made above on the prohibition of starvation with reference to international armed conflicts are relevant here and will not be repeated. Another regulation that may apply in the context of sieges is Article 18 of Additional Protocol II on relief societies and relief actions. It is identical to Article 70 of Additional Protocol I, so there is no need to repeat it. It suffices to refer the reader to the above remarks. However, Jelena Pejic adds that the fact that consent of the State Party is required does not mean that such a consent can be denied arbitrarily, hence this rule should be interpreted analogously to the one applicable in international armed conflicts. Consequently, if the survival of the civilian population is under threat and there is an impartial and competent humanitarian organization, relief operations must be conducted. The authorities that control the civilian population and are responsible for their safety and survival cannot refuse such assistance without valid reasons as it would amount to a breach of the prohibition of starvation of civilians used as a method of warfare.[81]

In this context, a question on the consent of non-State armed groups arises. Article 18 of Additional Protocol II mentions only consent of the State Party (Common Article 3 is silent in this regard). Opinions differ as to whether consent from a State that is a party to an armed conflict is necessary for operations bringing humanitarian relief to civilians in territories controlled by organized armed groups if such areas can be reached by routes outside the State-controlled territory.[82] However, the *Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict* made a suggestion that such humanitarian relief operations in the State territory remaining under actual control of an organized armed group are a "concern" of that State that is a party to a non-international armed conflict; consequently, the State Party's consent is a requirement only if relief operations involve passing through State-controlled territory; if the area effectively controlled by an

[78] Common Article 3 of the Geneva Conventions.

[79] Watts 2014, p 19.

[80] Henckaerts and Doswald-Beck 2005, p 188.

[81] Peijc 2001, p 1108.

[82] Akande and Gillard 2016, para 24.

organized armed group is directly accessible from another country, such consent is not necessary. However, there are several reasons why such interpretation of Article 18(2) of Additional Protocol II is questionable. Primarily, the basic considerations of State's sovereignty in its territory are contradicted by the suggestion that the State might not be "concerned" by humanitarian relief operations within its borders, even if the State has no effective control in that area. Furthermore, such interpretation would implicate that in specific circumstances no High Contracting Party would be concerned by such a relief operation, which would make the reference in Article 18(2) of Additional Protocol II that expressly refers to the consent of "the" High Contracting Party redundant. Considering this specific reference as well as the fact that Common Article 3(2) of the Geneva Conventions is silent on this topic, an opinion that would properly encompass the general international law rules related to territorial sovereignty of a State and a State's responsibility towards its civilian population is that in such cases it is always necessary to obtain the consent of the State to which the target area of humanitarian relief operations belongs. However, the grounds for the State withholding such consent are more limited whenever the beneficiary of such relief is the civilian population of a territory effectively controlled by armed opposition.[83]

Contrary to the prohibition of starvation being listed as a war crime in international armed conflicts, the Statute of the International Criminal Court does not qualify the same acts but committed in non-international armed conflicts as a war crime. Hence, starvation of civilians in non-international armed conflicts is an ordinary breach of international humanitarian law. According to Peijc and Rottensteiner, even though in the Statute of the International Criminal Court there is no analogous category of a war crime of starvation of civilians in a non-international armed conflict, such act still constitutes a war crime in accordance with customary international law.[84] However, it constitutes a war crime under the laws of several States only,[85] which puts in question its customary character.

To conclude this section, it should be stated that siege warfare as such is not prohibited in both types of armed conflicts but is heavily restricted, in particular by the prohibition of starvation of the civilian population, the latter commonly considered as customary in character.

1.3 United Nations Security Council Resolutions' Impact on the Legal Regulation of Sieges

Current or very recent examples of siege operations in Syria have drawn widespread criticism and condemnation. The UN Secretary General in his *Report on the Implementation of Security Council Resolution 2139 (2018)* observed that as of April

[83] Ibid., paras 28–30.

[84] Peijc 2001, p 1100. In the same way Rottensteiner 1999.

[85] Henckaerts and Doswald-Beck 2005, Rule 53, p 187.