



# DISPLACEMENT IN TIMES OF ARMED CONFLICT

HOW INTERNATIONAL HUMANITARIAN LAW  
PROTECTS IN WAR, AND WHY IT MATTERS



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# EXECUTIVE SUMMARY

Displacement is part and parcel of war and one of the greatest humanitarian challenges of our time. When people are forced or obliged to leave their homes and communities behind, their physical and mental health often suffers. They can lose their independence, be or feel unsafe, lack access to essential services and be at heightened risk of health problems and violence. Displacement affects host communities, too – especially if they are unprepared and lack the support they need.

This study shows that when it comes to displacement during armed conflicts, international humanitarian law (IHL) needs to be an integral part of reflection on how to reduce and solve displacement in armed conflict. It examines the intersection between IHL and displacement and provides insights to determine whether violations of IHL or respect for IHL have a fostering or mitigating impact on displacement. For over one year we looked at displacement patterns in around a dozen different countries from all around the world. This study is based on existing literature, interviews with ICRC delegates and many documents from the ICRC archives. It capitalizes on the knowledge of armed conflict and displacement that the organization has been gathering for decades.

The study first reminds us that displacement is just one of many ways of coping with the effects of war, and that there are many reasons pushing people to leave in such situations. Civilians fleeing a conflict are not passive victims, but rather active agents. Although they are compelled by external circumstances to make a decision, they decide whether to stay or flee and where to go. Sometimes those decisions are made hastily, as people run for their lives in the midst of an attack. Others think long and hard with their relatives about whether staying would present too great a risk, and whether they have the resources to escape.

Violence or the threat of violence is one of the most important considerations: the evidence points to a correlation between waves of violence and displacement – displacement being a way for people to avoid actual or predictable danger and to find safety elsewhere. Conflict is inherently violent. IHL is designed to limit the suffering that war causes by striking a balance between considerations of humanity and military necessity. While acts of violence affecting civilians may – though not always – constitute IHL violations, the report sets out many violations that directly or indirectly trigger displacement: violations of the principles and rules governing the conduct of hostilities, including distinction and precautions; unlawful use of landmines; direct attacks against civilian infrastructure and installations for the provision of basic services and the consequent disruption of these services; unlawful attacks against medical facilities, personnel, and vehicles; unlawful denial of access for impartial humanitarian organizations; direct attacks against civilians; murder; hostage-taking; torture; sexual violence, etc. These violations can also generate pre-emptive displacement. Civilians have a long memory of IHL violations and are aware of the impact of these violations on others. They might likely anticipate them happening or happening again and choose preventive displacement.

The study also shows that in some circumstances, if communities get the humanitarian assistance and protection they need locally, leaving may become less of a pressing necessity. Conversely, where IHL violations stifle humanitarian efforts, or sever the lifeline altogether, civilians may be forced to seek help elsewhere.

The study then analyses the patterns of displacement and provides insights on how IHL violations may influence these patterns. Sometimes, a single incident causes people to flee. In other cases, the build-up of violations over time brings about displacement. The intensity and types of violations also have a profound influence on how long people remain displaced, and on the circumstances of their displacement.

The cumulative effect of violence resulting from the conduct of hostilities, whether or not in violation of IHL, tends to keep displaced people away from their homes for longer – and can force them to move many times over. When violence is directed against specific civilians or groups of civilians, in violation of IHL, it is more likely to trigger protracted displacement, or to make return impossible for those people, who will thus need to try to find a durable solution by integrating into the community in the place of displacement or by resettling elsewhere.

Finally, the report explains the role of IHL in protecting and helping people willing to return to their homes once the hostilities or other reasons for their displacement are over. Better respect for IHL first mitigates the widespread damage to and destruction of civilian objects caused by war. IHL also prohibits the use of certain weapons and requires the parties to the conflict to clear, remove or destroy explosive remnants of war in territories under their control, after the cessation of hostilities and as soon as feasible, making the environment safer for returnees. As such, respect for IHL contributes to making return a genuine option for displaced people. In addition, the protection that IHL confers on civilians may contribute to the safety of returnees.

Displacement is more than a mere consequence of war, it can also be a deliberate strategy and a violation of IHL in itself. If we are to put an end to conscious violations, we must look at what the law says and beyond what the law says, and examine why they occur in the first place. Considering the intent behind the action is a way to better explore, reflect more deeply – and ultimately, effectively address – the causes of IHL violations. Understanding the reasons behind IHL violations helps the ICRC develop new lines of argument or action, in the legal realms or others, that can be added to the existing ones.

During the phases of displacement, it is essential for parties to a conflict to observe IHL – when people may be at risk of displacement, to reduce the conditions that could force them to flee in the first place; during flight, so that they can move safely and reach their destination unhampered; during their stay in the place of displacement, and upon return or resettlement in another part of the country, to contribute to their protection and to support their efforts to rebuild their lives. All the evidence from the external literature and the ICRC's own records tends towards the conclusion that IHL is instrumental in protecting civilians from displacement and during displacement.

As this study shows, better respect for IHL has at least four key benefits:

- It is one of several ways to address the causes of displacement and prevent people from becoming displaced in the first place.
- It plays a decisive role in enabling humanitarian action in support of people at risk of displacement.
- It contributes to ensuring that people are protected during displacement.
- It contributes to creating an environment conducive to safe and dignified return.

Displacement is a matter of serious concern for States, international organizations, non-governmental organizations and other actors all around the world. Many have pledged to do whatever they can to address both its root causes and its consequences. The observations below, which draw on the findings of this study, should go some way to furthering that cause.



**1. Parties to armed conflicts – States and/or non-State armed groups – have a duty to respect the law and should use the many tools at their disposal to do so.**

There are various ways to ensure parties to a conflict better comply with the law and avoid violating IHL, a number of which are obligations under this body of law. For example, through training State armed forces and non-State armed groups to respect IHL and use weapons that are appropriate to the circumstances. They could include IHL in their rules of engagement, discuss and review their conduct in previous campaigns, and investigate allegations of serious IHL violations and, if appropriate, prosecute the suspects.

**2. All States and parties to an armed conflict have an obligation to ensure respect for the law.**

Parties to the conflict must ensure respect for IHL by their armed forces and other people or groups acting on their instructions, or under their direction or control. Where parties to the conflict make addressing displacement a matter of policy, we should rightly expect them to be on the front line of promoting IHL and preventing violations. States that are members of coalitions, deploy troops abroad or provide support to a party to a conflict have an even greater responsibility to show leadership and seek to ensure their partners and allies abide by IHL, even if they are not themselves parties to the conflict. All States have a duty not to encourage, nor aid or assist in violations of IHL by parties to the conflict and they must exert their influence on the warring parties, as far as possible, to prevent and put a stop to violations.

**3. Parties to armed conflicts – States and/or non-State armed groups – have much to gain from observing and enforcing IHL as it pertains to displacement.**

The more reliant people are on States and humanitarian organizations, the greater the costs. We can only reduce this human, social and financial burden if we tackle the causes of displacement. When civilian infrastructure is damaged and destroyed, there is a double whammy – the cost of managing displacement and the cost of rebuilding or repairing property. By observing and enforcing IHL, States and non-State armed groups can make it easier for returnees to regain their independence, resume their businesses, start farming their land again, and play their part – practically and politically – in the reconstruction process. This report highlights the true human, political, financial and economic costs of displacement.

**4. As displacement is part and parcel of war, the parties to the conflict should anticipate and seek to address both short-term and long-term displacement when circumstances dictate and as required by IHL.**

For people caught up in conflict, displacement can sometimes be the best if not the only way to escape imminent danger or hardship. So parties to the conflict need to be prepared for the possibility of displacement and make sure civilians are given safe passage to leave the conflict zone and reach a more stable location. Furthermore, IHL requires parties to the conflict to evacuate people as a temporary measure, if the security of the civilians concerned or imperative military reasons so demand.

**5. Analysing the acts as well as the types of violence that cause displacement, and highlighting how these affect people, is a necessary exercise.**

The international community cannot hope to address the causes of displacement effectively unless we understand why it happens and what forces civilians to flee. Therefore, we should ask ourselves the following questions: was the act that triggered people's displacement simply part and parcel of war (something that IHL tolerates)? Or was it, in fact, an IHL violation? Was it intentional? And if so, was it committed with the deliberate intention of forcing people out of their homes?

Understanding the reasons behind IHL violations helps the ICRC and other actors develop new lines of argument or action, in the legal realm and others, that can be added to existing ones.

**6. Preventing violations and promoting IHL is a matter of priority. The ICRC's role and expertise are important for preventing displacement in armed conflict and protecting displaced people.**

By raising awareness of IHL, supporting authorities to incorporate IHL into their domestic framework and to implement its rules, and maintaining dialogue with States and non-State armed groups on strengthening protection of the civilian population, the ICRC helps prevent violations and, whenever they do occur, suggests ways to stop them from happening again. We could do more to stress the many consequences of displacement and the benefits of complying with IHL as it pertains to displacement. And more generally, we must continue to make the case for prevention to all parties. The ICRC has a singular role to play in helping to prevent displacement in armed conflicts and ensuring that displaced people receive the protection and assistance they need because of the sheer scale of the organization's reach and solid IHL and protection expertise.

# GLOSSARY

## DISPLACEMENT

For the purpose of this study, displacement is defined as a process in which people are compelled to flee or to leave their homes or places of habitual residence in order to avoid the effects of armed conflict, and find themselves in another part of the country or abroad.

## FORCED DISPLACEMENT

As a general term, forced displacement refers to the movement of refugees and asylum seekers across international borders as well as the movement of internally displaced people within a country. It encompasses individuals who have been forcibly displaced as a result of persecution, armed conflict, generalized violence or human rights violations.<sup>1</sup> Under IHL, it refers to the prohibition of forced displacement of the civilian population by parties to an armed conflict, unless the security of the civilians involved or imperative military reasons so demand.<sup>2</sup> The ICRC prefers to use this term to refer to the IHL prohibition, and this is how it will be used in this study.

## INTERNALLY DISPLACED PEOPLE

Individuals or groups of individuals who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.<sup>3</sup>

## MIGRANTS

The International Red Cross and Red Crescent Movement, which includes the ICRC, describes migrants as individuals who leave or flee their country of origin or habitual residence to seek safety or better prospects. Migration can be voluntary or involuntary, but most of the time a combination of choices and constraints are involved. This definition includes, among others, labour migrants, stateless migrants and migrants deemed irregular by public authorities. It also includes refugees and asylum seekers, notwithstanding the fact that they constitute a special category under international law.<sup>4</sup>

1 See UNHCR Global Trends: Forced displacement in 2015: <https://www.unhcr.org/statistics/unhcrstats/576408cd7/unhcr-global-trends-2015.html>. The World Bank also uses this term with the same meaning, see: <http://www.worldbank.org/en/topic/fragilityconflictviolence/brief/forced-displacement-a-growing-global-crisis-faqs>, all web addresses accessed June 2018.

2 Fourth Geneva Convention, Art. 49; Additional Protocol II, Art. 17; and CIHL Rule 129.

3 <http://www.unhcr.org/protection/idps/43ce1cff2/guiding-principles-internal-displacement.html>

4 International Federation of Red Cross and Red Crescent Societies, *Policy on Migration*, 2009: <https://www.ifrc.org/Global/Governance/Policies/migration-policy-en.pdf>

## REFUGEES

People who have crossed an international border and are at risk, or have been victims, of persecution in their country of origin.<sup>5</sup>

### THE ICRC'S APPROACH TO INTERNAL DISPLACEMENT AND MIGRATION

When addressing migration and internal displacement, the ICRC recognizes that these two phenomena often pose interrelated challenges. Whether those displaced cross into another country or not, the **causes for flight are often the same**. Internally displaced people and migrants may also share **similar needs and vulnerabilities**, specifically those that result from being confronted with a new environment and deprived of the support of one's own community. However, the two issues remain **distinct**, notably in terms of applicable legal frameworks and the corresponding responsibilities of the authorities concerned. In armed conflicts, where violations of IHL are often a cause of displacement, this means **promoting greater respect for IHL, in particular the rules and principles on the conduct of hostilities, by parties to a conflict**. Parties to a conflict are also reminded that forced displacement of the civilian population, when not justified by imperative military reasons or the security of the population concerned, is prohibited by IHL. Conversely, with regard to migrants, the ICRC does not seek to prevent migration, as it does not encourage or discourage migration. Instead, we engage in a dialogue with authorities to ensure that they respect their obligations, including under IHL and international human rights law, and that the rights of vulnerable migrants are respected.

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<sup>5</sup> According to the 1951 Refugee Convention, a refugee is a person who has been forced to flee his or her country owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, and unable to or, owing to such fear, unwilling to avail him or herself of the protection of that country. See also regional refugee instruments for extended refugee definitions.





# INTRODUCTION



“Some families told me that they threw away their bags while fleeing because it was impossible to take their personal belongings. ... Many people have lost contact with their relatives. ... Many of them wish to go back, to have a normal life, to provide education for their children again”<sup>6</sup>. These are the words of Marianne Gasser, head of delegation in Syria for the ICRC, speaking about the fate of families displaced by war. The human drama of displacement might be summarized thus: fleeing, sometimes in urgency and chaos, losing everything you own, seeing your family separated by the war, feeling afraid and uncertain, but – despite everything – wanting to have a normal life again and to provide a future for your children. Displacement is a striking feature of war. Addressing its causes and consequences is one of the greatest challenges of our time.

At the ICRC, we consider preventing the emergence of conditions that may lead to displacement during armed conflict a central part of our work.<sup>7</sup> We have repeatedly stated that strengthening respect for international humanitarian law (IHL) would greatly reduce the number of displaced people worldwide.<sup>8</sup> In an address in New York in September 2016, the ICRC president, Peter Maurer, said, “The truth is that unrestrained violence and violations of international humanitarian law are one of the main drivers of forced displacement.”<sup>9</sup> That view is held by many other organizations, for instance the United Nations Office for the Coordination of Humanitarian Affairs.<sup>10</sup> It makes intuitive sense that there should be a link between violations of the law and displacement, and to expect that respect for IHL would typically contain – or even curb – displacement. The aim of this study is to unpack this idea by looking more closely at what causes displacement during armed conflict and by examining whether the evidence shows a direct link between displacement and IHL. This study seeks to answer those questions by examining **what the relationship is between IHL and displacement in past and present-day conflicts**.

For over one year we looked at displacement patterns in around a dozen different countries from all around the world. This study is based on existing literature, interviews with ICRC delegates and many documents from the ICRC archives. It capitalizes on the knowledge of armed conflict and displacement that the organization has been gathering for decades. **Moreover, this is not a study of IHL, but rather a study about IHL and its intersection with displacement during armed conflict.** As such, we will examine this link from a human and social sciences standpoint, rather than a purely legal one (see [Annex I](#) for more details about our methodology).

6 [https://twitter.com/ICRC\\_sy/status/981908574996697088](https://twitter.com/ICRC_sy/status/981908574996697088)

7 ICRC, *Addressing Internal Displacement in Times of Armed Conflict and Other Violence*, Geneva, 2018; ICRC, *ICRC Internal Displacement Strategy for 2016–2019*, Geneva, 2016: <https://www.icrc.org/en/document/internal-displacement-our-approach-and-strategy-2016-2019>

8 Jakob Kellenberger, “The ICRC’s response to internal displacement: strengths, challenges and constraints”, *International Review of the Red Cross* (IRRC), Vol. 91, No. 875, September 2009, pp. 475–490; Veronika Talviste, Jamie A Williamson, Anne Zeidan, “The ICRC approach in situations of pre-displacement”, *Forced Migration Review*, No. 41, “Preventing displacement”, 2012, p. 22.

9 Speech given by Mr Peter Maurer, president of the International Committee of the Red Cross, Plenary Statement to the United Nations Summit Addressing Large Movements of Refugees and Migrants, 19 September 2016: <http://www.un.org/en/development/desa/population/migration/events/ga/documents/2016/ecosoc/icrc.pdf>

10 “We can press all parties to armed conflict to respect international humanitarian law and protect the ordinary men, women and children. Fewer people would flee if warring parties took the necessary steps to spare them from the effects of hostilities, and complied with the principles of distinction and proportionality. We can and must do more to compel warring parties to refrain from using forced displacement as a weapon of war.” Extract from: Valérie Amos, “Preventing displacement”, *Forced Migration Review*, No. 41, “Preventing displacement”, 2012, p. 4.



For the purpose of this study, we define displacement as a process in which people are compelled to flee or to leave their homes or places of habitual residence in order to avoid the effects of armed conflict, including violence. The literature makes little attempt to clarify exactly what “violence” means. After all, armed conflicts are inherently violent. IHL is not designed to stop certain types of violence from happening, but rather to limit the suffering that war causes by striking a balance between considerations of humanity and military necessity. The same conclusion applies to displacement. Armed conflict will always claim victims and force people to flee their homes, even if the parties to the conflict abide by IHL to the letter. So there are two important questions that we need to ask. First, what does “violence” – a broad, generic term – really mean, and does it constitute an IHL violation? Second, to what extent does respect for, or violations of, IHL influence displacement? Could we identify unlawful acts of violence causing displacement?

As a humanitarian organization, we do not engage in pure academic research, although our aim is always to look at the evidence behind what we do. We have a duty to assess our work, not just so we can do things better, but also so that everyone – the people we help, States, donors and society at large – can hold us to account.

This is the first instalment of *IHL Impact*, a series of academically rigorous, evidence-based studies by the ICRC’s Law and Policy Forum that draw on the organization’s unparalleled knowledge and resources to examine how IHL actually makes a difference on the ground. This study has three aims.

First, we aim to **better understand what impact IHL has on displacement in times of armed conflict**, looking at the data to see whether (and how) the assumed link between IHL violations and displacement, and between respect for IHL and displacement prevention, is confirmed by broader research. The findings aim at informing the work of the ICRC and other stakeholders in the future. If the evidence confirms a clear link, this will provide additional arguments for our dialogue with States and other parties to a conflict on the protection of the civilian population, and form a stronger basis for our engagement with them at the level of policy and humanitarian diplomacy.

Second, by analysing the impact of IHL, we aim to **produce research data that the ICRC and other organizations can use alongside pragmatic arguments** to strengthen all our efforts to promote respect for the law. This reflects the acknowledgement that humanitarian arguments can, together with legal arguments, have a greater impact in convincing parties to the conflict to abide by IHL, and can complement and strengthen legal arguments.

Third, we provide **examples of, and insights into, current patterns of displacement**.

The main purpose of this study is to draw attention to the key role that IHL plays in preventing and addressing displacement and to influence law and policymaking among States and international and multilateral organizations.



# **DISPLACEMENT IN TIMES OF WAR**

## THE HARROWING REALITY OF DISPLACEMENT

Displacement takes a heavy toll on people's lives in more ways than one. As well as the hardship it causes displaced people themselves, it has immense social and economic costs. According to an ICRC study on the situation in Colombia, displacement can affect a huge portion of the population, directly or indirectly, and result in a significant impact on the social fabric of the country. Individuals and communities face distress, the loss of family and/or friends, and the loss of home, land and cultural traditions. This account sheds light on just how far-reaching its impacts can be, and why curbing displacement by tackling its causes is so important.

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*As well as the hardship it causes displaced people themselves, it also has immense social and economic costs.*

Displacement affects first and foremost those who are forced or obliged to flee their homes, putting their safety – and sometimes their lives – in danger. Being displaced can take a severe toll on people's **health**.<sup>11</sup> They struggle to **access basic medical care**, placing their health at even greater risk. In some parts of the world, displaced people become malnourished or contract infectious diseases because there is no running water or because they live in unsanitary conditions.<sup>12</sup> Elsewhere, a lack of locally available, good-quality care and the difficulty for displaced people to access it mean that chronic and non-communicable diseases go untreated.<sup>13</sup> Previous studies also highlight the links between displacement and certain health conditions, but caution that longer-term monitoring is needed.<sup>14</sup>

Local people also suffer when **medical personnel flee combat zones**. Thousands of doctors fled Iraq in the aftermath of the US operations in 2003, leaving the country's health system in tatters.<sup>15</sup> ICRC records corroborate this. We witnessed doctors, teachers and engineers fleeing in great numbers, leaving local services without the skilled workers they required.<sup>16</sup> Regrettably, these indirect effects of displacement are hardly ever included in official statistics.

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11 <https://conflictandhealth.biomedcentral.com/articles/10.1186/1752-1505-8-22>; [www.unhcr.org/excom/EXCOM/3ae68bf424.html](http://www.unhcr.org/excom/EXCOM/3ae68bf424.html); A. Cotroneo, *op. cit.*, p. 294; Samanta L. Thomas, Sutard Thomas, "Displacement and health", *British Medical Bulletin*, Vol. 69, 2004, pp. 115–227.

12 Hani Mowafi, "Conflict, displacement and health in the Middle East", *Global Public Health*, Vol. 6, No. 5, May 2011, pp. 472–48.

13 Marcus Skinner, "The impact of displacement on disabled, injured and older Syrian refugees", *Forced Migration Review*, No. 47, "The Syria crisis, displacement and protection", 2012, p. 40.

14 For instance, a separate study on Ukraine indicates that displacement is fuelling the spread of HIV: Tetyana I. Vasylyeva, Maria Liulchuk, Samuel R. Friedman *et al.*, "Molecular epidemiology reveals the role of war in the spread of HIV in Ukraine", *Proceedings of the National Academy of Sciences*, Vol. 115, 2018: [www.pnas.org/content/early/2018/01/09/1701447115](http://www.pnas.org/content/early/2018/01/09/1701447115)

15 The statistics are not exact. Joseph Sassoon gathered the data, with estimates of the number of doctors that have fled ranging from 12, 000 to 18,000 (out of a total of 34,000 in Iraq in 2003). The Iraqi Red Crescent has estimated that around 50% of doctors have left, and 70% of specialists. J. Sassoon, *op. cit.*, p. 143.

16 ICRC, *Urban Services during Protracted Armed Conflict*.

## Possible consequences of displacement



It is a well-established fact – and one supported by our own observations – that armed conflict takes a heavy toll on people’s **psychological and psychosocial well-being**.<sup>17</sup> This is no less true for displaced people. The violence and its effects can be traumatic, especially when displaced people have witnessed loved ones being killed or wounded or become separated from relatives.

In an ICRC survey in Colombia, 67% of households questioned mentioned some form of psychosocial problem.<sup>18</sup> A separate ICRC study on displaced women in Afghanistan gave the chilling account of a woman who saw her son die in an explosion. Another saw her son burn to death; every day since then she has been haunted by the image of her son wretched in flames.

Using explosive weapons in populated areas can put untold stress on civilians and severely affect their mental health.<sup>19</sup> Although people of all ages suffer, it can be an exceedingly traumatic experience for children.<sup>20</sup> Sadly, most people with psychological trauma do not get the right treatment for their condition, particularly if they are displaced.

Children are known to be especially vulnerable to the effects of war. They are more likely to become **malnourished**,<sup>21</sup> and are frequently deprived of an **education** during times of armed conflict – and the risk is even greater when they are displaced.<sup>22</sup> There have been several detailed studies into this issue in the Middle East.<sup>23</sup> Even when, as in Colombia, education is provided for displaced children, the stark reality is that – for

<sup>17</sup> For example: Angela Cotroneo, “Specificities and challenges of responding to internal displacement in urban settings”, *IRRC*, Vol. 99, No. 904, pp. 298–300; ICRC, *op. cit.*, 2018, pp. 21–24.

<sup>18</sup> Angela Consuela Carrillo, “Internal displacement in Colombia: Humanitarian, economic and social consequences in urban settings and current challenges”, *IRRC*, Vol. 91, No. 875, September 2009, p. 541.

<sup>19</sup> Handicap International, *op. cit.*, 2017, p. 8.

<sup>20</sup> International Organization for Migration (IOM), *Assessment on Psychosocial Needs of Iraqis Displaced in Jordan and Lebanon*, cited by C. Champman *et al.*, *op. cit.*, p. 16; G. Loescher *et al.*, *op. cit.*, p. 30; Lea James, Annie Sovcik *et al.*, “The mental health of Syrian refugee children and adolescents”, *Forced Migration Review*, No. 47, “The Syria crisis, displacement and protection”, 2012, pp. 42–44; Leila Billing, “Iraq’s children pay the price of war”, *Forced Migration Review*, “Iraq’s displacement crisis: The search for solutions”, 2007, pp. 42–43.

<sup>21</sup> L. Billing, *op. cit.*

<sup>22</sup> A. Cotroneo, *op. cit.*, p. 294; G. Loescher *et al.*, *op. cit.*, p. 29; [www.unicef.org/media/media\\_100857.html](http://www.unicef.org/media/media_100857.html).

<sup>23</sup> Handicap International, *op. cit.*, 2017, p. 31; J. Sassoon, *op. cit.*, pp. 41–42; JRA Williams, “Education crisis for Iraqi children”, L. Billing, *op. cit.*, pp. 45–46.

many and varied reasons – they simply cannot attend school.<sup>24</sup> And there are myriad other ways that being displaced disrupts children’s lives.<sup>25</sup> Displacement also brings its own set of challenges for other groups. Disabled people (many wounded in conflict) and the elderly often find it harder to lead independent lives than the young and able-bodied.<sup>26</sup> A person’s gender can also determine how vulnerable they are. Young men, for example, face the very real threat of being forcibly conscripted into militia groups. Pregnant women suffer more than others from having no access to health-care services.<sup>27</sup> And the ICRC has documented countless cases where women heads of household have had no source of income and been unable to provide for their families.<sup>28</sup>

Displacement also comes with an **economic cost**.<sup>29</sup> A Handicap International report on the conflict in Syria recounts how many displaced people lose their property and possessions.<sup>30</sup> When people flee, the communities they leave behind often change beyond recognition. Buildings and infrastructure – homes, farms and other private property, as well as critical infrastructure such as water pipes and ducts – when abandoned, can be looted, damaged or destroyed. In the same report, 90% of the Syrians questioned said that their home or possessions had been destroyed.<sup>31</sup> The longer people are displaced, the harder they find it to return. Many come back to find someone else in their home, forcing them to make alternative living arrangements. As the cumulative effect of these impacts takes hold, displaced people become unable to live independently, instead relying on governments and humanitarian organizations for assistance and protection.<sup>32</sup>

Other consequences of displacement are felt by **host communities**.<sup>33</sup> When displaced people stay in one place for a prolonged period, they can put a strain on local resources, triggering resentment and economic problems.<sup>34</sup> Displaced people and host communities, or displaced people from different communities, may struggle to coexist peacefully. Their very presence can, in certain circumstances, cause tension – as evidenced in the literature<sup>35</sup> and corroborated by the ICRC’s own experience. In Iraq, there are relatively few camps and most people flee to other towns and cities. We have seen time and again how this influx of displaced people can push up prices and rents, and cause competition between displaced people and residents for the same jobs.<sup>36</sup> The same patterns have been observed in Colombia.<sup>37</sup> When conflict breaks out, neighbouring countries pay a heavy economic price.

24 A. C. Carrillo, *op. cit.*, p. 541.

25 A. Massella, *op. cit.*, p. 7.

26 Handicap International, *op. cit.*, 2017, p. 31; Marcus Skinner, “The impact of displacement on disabled, injured and older Syrian refugees”, *Forced Migration Review*, No. 47, “The Syria crisis, displacement and protection”, 2012, p. 39.

27 Handicap International, *op. cit.*, 2017, p. 20.

28 Charlotte Lindsey, *Women Facing War: ICRC Study on the Impact of Armed Conflict on Women*, 2002.

29 Internal Displacement Monitoring Centre (IDMC), *The ripple effect: economic impacts of internal displacement*, Geneva, 2019: <http://www.internal-displacement.org/sites/default/files/publications/documents/201902-economic-impact-cost-estimates.pdf>

30 Handicap International, *op. cit.*, 2017, p. 24.

31 Handicap International, *op. cit.*, 2017, p. 24.

32 A. C. Carrillo, *op. cit.*, p. 539.

33 A. Cotroneo, *op. cit.*, pp. 300 ff.; ICRC, *op. cit.*, 2018, p. 29–31.

34 J. Kellenberger, *op. cit.*, p. 483.

35 G. Loescher *et al.*, *op. cit.*, p. 5.

36 Roger Zetter, Héloïse Ruadel, “Development and protection challenges of the Syrian refugee crisis”, *Forced Migration Review*, No. 47, “The Syria crisis, displacement and protection”, 2012, p. 7.

37 A. C. Carrillo, *op. cit.*, p. 540.

## Possible consequences of displacement



It is not easy, however, to assess the enduring economic impact of conflict and displacement. Research also suggests that the influx of Iraqi refugees into surrounding countries might have had a positive – rather than a negative – long-term effect because, once the crisis period was over, their presence kick-started the economy and led to improved local services.<sup>38</sup> There can be no doubt, however, that mass displacement puts immense strain on host governments and public resources.<sup>39</sup>

When people become displaced, their **physical and mental health** often suffers. They can lose their independence, feel unsafe, and be at heightened risk of health problems and violence.

And displacement can affect **host communities**, too – especially if they are unprepared and lack the support they need.

## HOW VIOLENCE AND/OR IHL VIOLATIONS TRIGGER DISPLACEMENT

Displacement is part and parcel of war. But one has to keep in mind that social, political and economic factors also have an impact of displacement.<sup>40</sup> The jury is still out on which factor has the most weight as a cause of displacement. But there is one that comes up time and again, no matter when, where or how the conflict plays out. And that factor is “violence”, whether it is in violation of IHL or not. Evidence from the literature<sup>41</sup> and our records<sup>42</sup> shows that **more people flee because of violence and the direct or indirect effects of hostilities than for any other reason.**<sup>43</sup> Violence is still the

<sup>38</sup> J. Sassoon, *op. cit.*, p. 78; Paul Collier, *Exodus, How Migration is Changing Our World*, New York, 2013; ICRC, *op. cit.*, 2018, p. 31.

<sup>39</sup> A. C. Carrillo, *op. cit.*, p. 541.

<sup>40</sup> Emilie Combaz, *Effects of Respect for International Humanitarian Law on Displacement*, GSDRC & Humanitarian and Conflict Response Institute, 2016, p. 14; Asia Pacific Refugee Rights Network, *Understanding and Addressing Root Causes of Displacement in the Asia-Pacific*, 2015; Khalid Koser and Susan Martin, “Introduction”, in Khalid Koser and Susan Martin (Eds), *The Migration-Displacement Nexus: Patterns, Processes and Policies*, New York, Oxford, 2011, p. 4; Jack M. Mangala, “Prévention des déplacements forcés de population – possibilités et limites”, *IRRC*, Vol. 83, No. 844, 2001, p. 1077. For this reason, academics are increasingly eschewing the traditional distinction between voluntary, forced, economic and political migration, blurring the distinction between migration and displacement.

<sup>41</sup> E. Combaz, *op. cit.*, p. 5.

<sup>42</sup> ICRC, *Displaced in Cities: Experiencing and Responding to Urban Internal Displacement Outside Camps*, Geneva, 2018, p. 18.

<sup>43</sup> There are also some countries in which violence is mentioned, but in which it is not the main cause of displacement, e.g. certain categories of displaced people in Kenya, Ethiopia and Somalia: IDMC, *Understanding the Root Causes of Displacement: Towards a Comprehensive Approach to Prevention and Solutions*, IDMC, Geneva, 2015.



number-one cause of internal displacement in Colombia.<sup>44</sup> In one study, more than 86% of respondents said they had chosen to leave after coming under direct attack.<sup>45</sup>

The impact of violence has also been demonstrated in detail in Uganda, South Sudan and Darfur.<sup>46</sup>

*Evidence from the literature and the ICRC's own records shows that more people flee because of violence – whether lawful or unlawful – than for any other reason.*

In Somalia, people are taking flight to escape both drought and the non-international armed conflict to seek safety elsewhere.<sup>47</sup> In the Democratic Republic of the Congo, the conflict-induced violence that erupted in the province of North Kivu in 2012–2013 was the principal cause of displacement.<sup>48</sup> And in Ukraine, a wave of displacement was triggered when conflict-induced

violence erupted in the east of the country. Without exception, the literature on the situation in Ukraine reveals a direct correlation between the conflict-induced violence and displacement.<sup>49</sup> Similar conclusions have been drawn about the situations in Mosul, Iraq,<sup>50</sup> and Syria.<sup>51</sup> A comparative study of displacement in Bosnia and Herzegovina in the 1990s, and in Afghanistan and Burundi, shows that conflict-induced violence was one of the leading causes on every occasion.<sup>52</sup>

Access to **humanitarian assistance** can also influence people's decision to stay or flee. But the relationship between humanitarian aid and displacement is by no means straightforward. In one sense, humanitarian organizations can help to address some of the reasons that might cause people to flee. Yet their presence can also act as a pull factor. People living near camps sometimes move there spontaneously because conditions are better and/or they can receive humanitarian assistance.<sup>53</sup> In other cases, camps spring up around relief-distribution points or hospitals. At the ICRC, we have witnessed the back-and-forth of people fleeing to camps, staying for just long enough to get the assistance they need, before returning home, sometimes making several round trips a year. This might also be a strategy where people keep a foot in the camp in case they

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- 44 María Alejandra Arias, Ana María Ibáñez and Pablo Querubin, "The Desire to Return During Civil War: Evidence for Internally Displaced Populations in Colombia", *Peace Economics Peace Science and Public Policy* Vol. 20, No. 1, January 2014, p. 209; Angela Consuela Carrillo, "Internal displacement in Colombia: Humanitarian, economic and social consequences in urban settings and current challenges", *IRRC*, Vol. 91, No. 875, September 2009, p. 529; Agnès de Geoffroy, "Fleeing war and relocating to the urban fringe – issues and actors: The cases of Khartoum and Bogotá", *IRRC*, Vol. 91, No. 875, September 2009, pp. 509–526.
- 45 Nancy Lozano-Gracia, Gianfranco Piras, Ana María Ibáñez and Geoffrey J.D. Hewings, "The journey to safety: Conflict-driven migration flows in Colombia", *International Regional Science Review*, Vol. 33, No. 2, April 2010, p. 157.
- 46 Gil Loescher, James Milner, Edward Newman, Gary Troeller (Ed.), *Protracted Refugee Situations: Political, Human Rights and Security Implications*, United Nations University Press, 2008; Marisa O. Ensor, "Displaced girlhood: Gendered dimensions of coping and social change among conflict-affected South Sudanese youth", *Refugee*, Vol. 30, No. 1, 2014, p. 15; J. Alix-Garcia et al., *op. cit.*
- 47 Laura Hammond, "History, Overview, Trends and Issues in Major Somali Refugee Displacements in the Near Region (Djibouti, Ethiopia, Kenya, Uganda and Yemen)", *Bildhaan: An International Journal of Somali Studies*, Vol. 13, No. 1, 2014, p. 7.
- 48 Sean Healy and Sandrine Tiller, "Be near a road: Humanitarian practice and displaced persons in North Kivu", *Refugee Survey Quarterly*, No. 35, 2016, pp. 56–78.
- 49 Ganna Ianova, *Internally Displaced Persons in Ukraine: Gaps in Law and Practice* (Master's Thesis, Lund University Student Papers 2017); Kateryna Ivashchenko-Stadnik, *The Impact of the Current Military Conflict on Migration and Mobility in Ukraine*, Robert Schuman Centre for Advanced Studies, Research Paper No. RSCAS 2015/15, 2015.
- 50 ICRC, *op. cit.*, 2018, p. 19.
- 51 Elizabeth Ferris, Kemal Kirişçi and Salman Shaikh, *Syrian Crisis: Massive Displacement, Dire Needs and a Shortage of Solutions*, Foreign Policy at Brookings, The Brookings Institution, 2013; E. Meininghaus, *op. cit.*
- 52 Patricia Weiss Fagen, *Refugees and IDPs after Conflict: Why They Do Not Go Home*, United States Institute of Peace Special Report 268, 2011.
- 53 E. Combaz, *op. cit.*, p. 7; A. South et al., *op. cit.*, p. 211.



can no longer find safety and protection at home. So, although having humanitarian organizations close by can help to curb displacement, people are more likely to become displaced if they have to travel further afield for assistance.<sup>54</sup>

Not everyone who flees during armed conflict does so in response to an actual act of violence. Apprehension and fear can influence people's decisions, too. In many cases, people decide to flee perceived and anticipated threats as a **preventive measure**.<sup>55</sup> This observation is supported by a considerable body of research, including studies on the situation in Colombia<sup>56</sup> and North Kivu.<sup>57</sup> And the ICRC has witnessed people making this call first-hand in places like Iraq, Ukraine and Yemen. History teaches us a lot in this respect. For instance, in March 1988, thousands of civilians were killed and wounded, or fled for their lives, when a chemical attack was launched on the city of Halabja, in violation of the 1925 Geneva Protocol and the customary IHL prohibition of using chemical weapons. When the Americans started their operations 15 years later, people fled in anticipation of a repeat attack because the incident was still fresh in their minds, causing a wave of short-term displacement from other nearby towns and cities to the countryside. Preventive displacement provides an insight into how civilians make decisions and assess risk. Gender, age, ethnicity, personal experience or social status may influence their ability to anticipate violence and flee the perceived threat. Moreover, while violence is the most commonly cited cause for flight, one should not forget that there may be other reasons why people feel compelled to abandon their homes.<sup>58</sup>

At the ICRC, we have also seen people flee because of a build-up of acts of violence that are not, in themselves, IHL violations. We will return to the cumulative effect of violence later in this paper. But for now, it is important to stress that some acts of war, even if they are lawful, can cause displacement.

Displacement is part and parcel of war.

There are plenty of reasons why people choose to stay or flee.

But **violence** – whether lawful or unlawful under IHL – is one of the most important considerations.

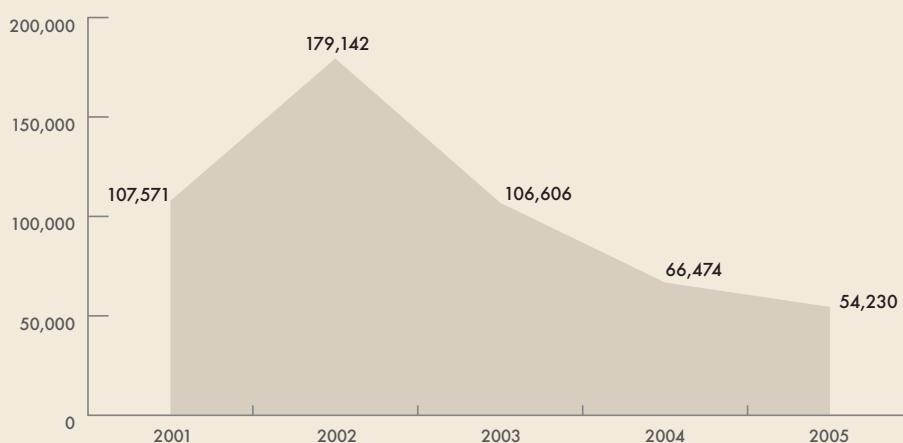
The evidence points to a **correlation between waves of violence and displacement**.

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- <sup>54</sup> Guita G Hourani and Eugene Sensenig-Dabbous, *Insecurity, Migration and Return: The Case of Lebanon following the Summer 2006 War*, CARIM Research Report No. 2007/01. Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute, 2007; Esther Meininghaus, "Humanitarianism in intra-state conflict: Aid inequality and local governance in government and opposition-controlled areas in the Syrian war", *Third World Quarterly*, Vol. 37, No. 8, 2016, pp.1454–1482.
- <sup>55</sup> E. Combaz, *op. cit.*, p. 13; Laura Atesta and Dusan Paredes, "Do Mexicans flee from violence? The effects of drug-related violence on migration decisions in Mexico", *Journal of Ethnic and Migration Studies*, Vol. 42, No. 3, September 2015, p. 480; S. Albuja, *op. cit.*
- <sup>56</sup> M. A. Arias *et al.*, *op. cit.*; N. Lozano-Gracia *et al.*, *op. cit.* The study shows that "[m]ost displacement (86.2%) occurs as a result of direct attacks (reactive displacement), while preventive displacement occurs when people leave to avoid victimization."
- <sup>57</sup> S. Healy *et al.*, *op. cit.*, p. 60.
- <sup>58</sup> At the same time, when asked, people may be less willing to state these reasons because they believe that violence is a more acceptable reason.

### VIOLENCE AND DISPLACEMENT IN COLOMBIA, 1995–2005

The Colombian conflict began in the 1960s. Present on the ground for more than 40 years, the ICRC has seen first-hand how internal displacement has changed over time. Things took a sudden turn for the worse in 1996 when there was a surge in paramilitary activity. The ensuing violence made life unbearable and caused scores of civilians to take flight, with numbers spiking in 1997 and 1998. The situation stabilized in 1999, but the let-up was short-lived, and civilians began fleeing their homes in droves again at the turn of the century. A fresh outbreak of violence and a series of massacres caused around 60% more people to flee in 2000 than in the previous year. In 2002, paramilitary incursions in and around Rionegro generated more waves of displacement and forced displacements in February, August and September. There was a more general rise in the number of internally displaced people nationwide that year. The figure dropped sharply in 2003–2005. An internal ICRC report gives a year-on-year snapshot of the evolving situation. In 2001, there were 107,571 internally displaced people assisted by the ICRC in Colombia. The number surged to 179,142 in 2002, then fell to 106,606 in 2003, 66,474 in 2004 and 54,230 in 2005.

#### DISPLACED PEOPLE ASSISTED BY THE ICRC IN COLOMBIA (2001-2005)



The trend, set alongside the upsurge in fighting between the Colombian army, the Revolutionary Armed Forces of Colombia (FARC) and new, emerging armed groups, shows a discernible correlation between violence and displacement.

### WHAT IHL SAYS ABOUT FORCED DISPLACEMENT

IHL does not give a clear-cut definition of displacement or forced displacement; it uses a variety of terms which can collectively be referred to as acts of “forced displacement”. In international armed conflicts, Article 49(1) of the Fourth Geneva Convention prohibits “[i]ndividual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country”. The Convention does not, however, impose a blanket ban – paragraph 2 states that “the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand”.

In non-international armed conflicts, Article 3 common to the Geneva Conventions makes no mention of displacement. Article 17 of Additional Protocol II states that “the displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand”. Paragraph 2 of the same article states that “civilians shall not be compelled to leave their own territory for reasons connected with the conflict”. This article generally covers forced movement, which includes both “displacements of the civilian population as individuals or in groups within the territory of a Contracting Party where a conflict ... is taking place”<sup>59</sup> and situations in which civilians are compelled “to leave their own country for reasons connected with the conflict”.<sup>60</sup>

Customary IHL (CIHL) rules 129–133 concern the act of displacement and displaced people. Rule 129 states that parties to an international armed conflict “may not deport or forcibly transfer the civilian population of an occupied territory” and that parties to a non-international armed conflict “may not order the displacement of the civilian population”, in whole or in part, unless the security of the civilians involved or imperative military reasons so demand.<sup>61</sup> Rule 131 states that “[i]n case of displacement, all possible measures must be taken in order that the civilians concerned are received under satisfactory conditions of shelter, hygiene, health, safety and nutrition and that members of the same family are not separated”.

Rule 132 states that “[d]isplaced persons have a right to voluntary return in safety to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist”. Article 49(2) of the Fourth Geneva Convention enshrines this rule, stating that “persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased”. Unlawful deportation or transfer constitutes a grave breach according to Article 147 of the Fourth Geneva Convention and Article 85(4)(a) of Additional Protocol I. In addition, the forced displacement of the civilian population is a war crime in both international and non-international armed conflicts under the Statute of the International Criminal Court.

<sup>59</sup> ICRC, *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, 1987, para. 4852 (on APII, Art. 17(1)).

<sup>60</sup> *Ibid.*, para. 4858 (on APII, Art. 17(2)). The term “forced movement of civilians” is used in the title of Article 17 of APII.

<sup>61</sup> Jean-Marie Henckaerts and Louise Doswald-Beck, *Droit international humanitaire coutumier*, Vol. 1: Règles, Bruylant, Brussels, 2006, p. 602.



# **THE ACTUAL IMPACT OF IHL VIOLATIONS**



Are the acts of violence that cause civilians to flee not simply a natural feature of war – something that IHL tolerates? Or are they, in fact, IHL violations? If so, are the violations unintentional? Or are they committed deliberately, either with the intention of forcing people out of their homes or for some other reason? The ICRC's extensive body of data is the ideal place to look for answers to these questions.

We can explain what causes civilians to flee only by first unpacking what displaced people mean when they talk about “violence”, and second by expanding the investigation to the other acts, which are not necessarily violent in nature, that push people to move. We can appreciate the reasons why many people are compelled to flee only if we understand why others stay put. As such, our analysis should focus on recorded cases of violations to see where IHL compliance might help to curb or even eliminate displacement, where it reduces suffering of displaced persons and where it contributes to facilitating a safe return.

Admittedly, there are some limits to this methodology. Determining whether an act of violence constitutes an IHL violation is not always an easy task. IHL may permit the use of a given method or means of warfare in some circumstances and prohibit it in others. For instance, IHL does not in principle expressly prohibit the use of explosive weapons; however, their use may under certain circumstances violate IHL rules and principles regulating the conduct of hostilities, in particular the prohibition of direct attacks against civilians or civilian objects (i.e. any object which is not a military target, such as a house, school or a place of worship), the prohibition of indiscriminate and disproportionate attacks, the obligation to take all feasible precautions to avoid, or at least minimize, incidental loss of civilian harm. Consequently, not all of the examples given below are necessarily IHL violations. Every case should be assessed on its merits.

## THE CONDUCT OF HOSTILITIES

Military operations nearly always affect civilians in some way. And most clashes cause displacement of civilians. Even when the parties to the conflict abide strictly by IHL, there is a strong likelihood that civilians will find themselves compelled to flee for their security, whether or not they have actually experienced violence themselves. They may flee to survive and/or because they fear being **arrested, killed or injured** during military operations. In circumstances like these, displacement cannot necessarily be attributed to a specific IHL violation. It could even be the result of respecting an IHL obligation, considering that parties to a conflict must take all feasible precautions to protect persons under their control from the effects of hostilities, and that this may entail removing them temporarily from the vicinity of military objectives (see below). Preventive displacement is about more than just an instinct to survive or personal experience. It also arises because of situations that people have witnessed. Trapped between two warring sides, civilians face the very real risk of being hit in their own homes or while trying to flee – whether or not in violation of IHL.

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*Even when the parties to the conflict strictly abide by IHL, there is a strong likelihood that civilians will find themselves compelled to flee for their lives, whether or not they have actually experienced violence themselves.*

### DISPLACEMENT RESULTING FROM RESPECT FOR IHL

Displacement can be the result of IHL obligations. For instance, customary IHL requires that “each party to the conflict must, to the extent feasible, remove civilian persons and objects under its control from the vicinity of military objectives” (CIHL rule 24). This obligation is also recognized by the prohibition of forced displacement as it does not extend to situations where the security of civilians (or imperative military reasons) so demand (CIHL rule 129). Evacuation can be the result of an effective advance warning given by the attacking forces (CIHL rule 20). The sole aim of a warning is to allow the civilian population to take protective measures, which is often evacuation. These evacuations aim at protecting these civilians against the risk of incidental harm that they would face if they remain in an area where fighting will flare up or if they flee only once the fighting has started. In this case, displacement is a means to save lives. However, evacuations must be temporary and displaced people have a right to voluntary return in safety as soon as the reasons for their displacement cease to exist.

At the ICRC, we observe cases where State armed forces and non-State armed groups fail to abide by the principles and rules of IHL governing the conduct of hostilities (distinction, proportionality and precautions), and we raise our concerns in confidential, bilateral talks with the parties to a conflict.

One of the simplest yet most devastating examples of violation is when parties to a conflict carry out indiscriminate attacks, neglecting to distinguish between combatants and civilians as well as between military objectives and civilian objects. The ICRC’s own records and the literature abound with accounts of **indiscriminate attacks**.<sup>62</sup> They can occur, for instance, because combatants have not been properly trained, are negligent, are using the wrong weapons or are deliberately breaking the rules. But whatever the reason, they take a heavy toll on the civilian population, killing, wounding and forcing people to flee for their lives. And in some cases, attacks like these make escape impossible until the situation has stabilized.

Situations of hostilities are chaotic for civilians caught up in them, as the ICRC has observed. In cases where these are also considered to be indiscriminate and/or disproportionate attacks in violation of IHL, this may make the situation noticeably worse.

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*At the ICRC, we observe cases where states armed forces and non-state armed groups fail to abide by the principles and rules of IHL governing the conduct of hostilities (distinction, proportionality and precautions).*

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<sup>62</sup> E. Ferris *et al.*, *op. cit.* (note 40), p. 11. See CIHL rules 11 and 12 on indiscriminate attacks as well as rule 71 on indiscriminate weapons.

### ICRC OBSERVATIONS

IN INTERVIEWS CARRIED OUT BY THE ICRC, CIVILIANS DWELT EXTENSIVELY ON HOW IT FELT TO BE UNDER AERIAL BOMBARDMENT AND SHELLING. THEY SPOKE OF THE CHAOS AND CONFUSION DURING THE ATTACKS, HELICOPTERS WHIRRING AND FIGHTER PLANES ROARING OVERHEAD; THEY DESCRIBED THEIR TERROR AS ROCKET SHELLS AND MORTARS EXPLODED, DEBRIS FLYING EVERYWHERE. FIRE SEEMED TO COME FROM EVERY SIDE. PEOPLE RAN IN ALL DIRECTIONS, THE OLDER CHILDREN HELPING THEIR MOTHERS GATHER THE YOUNGER ONES. MANY PEOPLE DIED INSIDE THEIR HOMES, WHICH WERE COMPLETELY DESTROYED.

Some IHL treaties also prohibit the use of certain types of weapons, such as **anti-personnel mines and cluster munitions**.<sup>63</sup> These weapons may also cause displacement by making life difficult, or even unbearable, for civilians, sometimes long after the conflict has ended. Other weapons, while not expressly banned under IHL, are used in a way that violates or may violate IHL in certain circumstances such as in populated areas. Parties have an obligation to refrain from **indiscriminate and/or disproportionate attacks**. They have an obligation to take all feasible precautions to avoid, and in any event to minimize, incidental civilian harm. Yet we have documented countless cases where the incidental civilian harm caused by the use of mortars, rockets, tanks, missiles, heavy artillery, helicopters, fighter jets or improvised explosive devices raised concerns with regard to the extent to which the warring parties upheld these rules.

### ICRC OBSERVATIONS

IN ONE CONFLICT, THE ICRC COLLECTED REPORTS OF A WIDESPREAD FAILURE BY ALL PARTIES TO ABIDE BY IHL ON THE BATTLEFIELD, WHICH ENDANGERED THE VERY PEOPLE THAT THEY WERE CLAIMING TO PROTECT. FOR INSTANCE, GOVERNMENT FORCES WERE OBSERVED USING ARTILLERY AND HEAVY WEAPONRY, MAINLY 23 MM AND 14.5 MM ANTI-AIRCRAFT GUNS, MORTARS, ROCKET LAUNCHERS MOUNTED ON ARMoured VEHICLES, AND TANKS. MASSIVE, INDISCRIMINATE FIRING AT BUILDINGS, INFRASTRUCTURE AND PEOPLE LEFT MANY DEAD AND WOUNDED.

Conversely, our experience shows that **civilians feel much safer when they know that attacks are aimed at specific military targets**.

The ICRC has expressed concern about warring parties using explosive weapons that have a wide impact area in towns and cities,<sup>64</sup> due to the significant likelihood of indiscriminate effects. This means that their use against military objectives located in populated areas is likely to fall foul of the IHL rules prohibiting indiscriminate and disproportionate attacks.<sup>65</sup> This, and the devastating civilian harm they cause,<sup>66</sup> is why we have been calling on parties to armed conflict to **avoid the use of explosive weapons with a wide impact area in densely populated areas**, despite there being no express legal prohibition.

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63 Under the Ottawa and Oslo conventions.

64 <https://www.icrc.org/en/explosive-weapons-populated-areas>

65 ICRC, 2015 IHL Challenges report, p. 49.

66 ICRC, *Urban Services during Protracted Armed Conflict*.



There is a substantial body of research, from academics and humanitarian organizations, into their impact. In a Handicap International report on the Syrian conflict, 36% of respondents said they had decided to flee because of the threat of explosive weapons.<sup>67</sup> The study's findings are corroborated elsewhere in the literature<sup>68</sup> and by our own experience in the field. Shelling and bombardment by means that have wide-area effects inevitably cause displacement, regardless of whether the act itself is compliant with IHL. The effects of such attacks are felt far and wide, in the town and the countryside. But, because of the interconnectedness of urban services and infrastructure, and the heightened dependency of civilians on them in urban areas, the consequences are more acute in towns and cities, where such attacks cause high civilian casualties, shatter homes and civilian infrastructure, and push people to flee.<sup>69</sup>

## HOW DESTRUCTION AND/OR IHL VIOLATIONS LEAVE COMMUNITIES IN RUINS

War leaves a lasting legacy on civilian objects, including infrastructure. Civilians often leave because **their property and possessions have been seriously damaged or destroyed** and their home left uninhabitable, regardless of whether this was in violation of IHL. In Colombia, for example, we have met many internally displaced people whose homes or farms had been razed to the ground. Elsewhere, displaced people have said time and again that they had no choice but to leave after losing their homes and belongings. Some of these people, left with nothing and no reason to stay, chose to join family members in a neighbouring country. And we have heard first-hand from displaced people how State armed forces and non-State armed groups first looted then set fire to homes, and forced residents to flee; for instance, on the pretence of carrying out door-to-door searches – even though pillaging is specifically prohibited under IHL.<sup>70</sup>

### ICRC OBSERVATIONS

WHEN THE OPPOSITION TOOK OVER CONTROL OF PARTS OF A TOWN, THE ARMY STARTED SHELLING REGULARLY (EVERY FIVE MINUTES, ON AVERAGE), FROM 4PM TO MIDNIGHT EVERY DAY. DISPLACED PEOPLE SHOWED US PICTURES OF THE MORTAR SHELLS AND THE MORTAR IMPACTS ON THEIR HOUSES.

<sup>67</sup> Handicap International, “Everywhere the bombing followed us”, *Forced Displacement and the Use of Explosive Weapons in Populated Areas: Perspectives of Syrian Women Refugees in Lebanon*, Handicap International, 2017, p. 6. See also: Handicap International, *Qasef: Escaping the Bombing: The Use of Explosive Weapons in Populated Areas and Forced Displacement: Perspectives from Syrian Refugees*, Handicap International, 2016.

<sup>68</sup> Lahib Higel, *Iraq's Displacement Crisis: Security and Protection*, Ceasefire Centre for Civilian Rights and Minority Rights Group International, March 2016, p. 11; Joseph Sassoon, *The Iraqi Refugees. The New Crisis in the Middle East*, New York, I. B. Tauris, 2011, p. 72; Simon Bagshaw, “Driving displacement: Explosive weapons in populated areas”, *Forced Migration Review*, No. 41, “Preventing displacement”, 2012, p. 12.

<sup>69</sup> ICRC, *Urban Services during Protracted Armed Conflict: A Call for a Better Approach to Assisting Affected People*, ICRC, Geneva, 2015: [www.icrc.org/en/document/urban-services-protracted-conflict-report](http://www.icrc.org/en/document/urban-services-protracted-conflict-report)

<sup>70</sup> See CIHL rule 52.

The effects of IHL violations extend beyond the loss of property and possessions. Unlawful shelling and bombardment can **destroy vital infrastructure and disrupt essential services**, leaving people with no option but to flee. And the risk of damage and destruction is even greater when warring parties set up checkpoints or military installations in or near critical civilian infrastructure, such as hospitals and schools. (Although this is not necessarily prohibited, parties to the conflict must, to the extent feasible, remove civilian objects under their control from the vicinity of military objectives). More research is needed to determine the extent to which destroying schools affects displacement, but anecdotal evidence suggests that the lack of access to education is one reason why people decide to leave. There are also numerous accounts of water systems being damaged or destroyed, taken control of by one of the parties to the conflict, or deliberately rendered unusable. Cutting the water supply can take a heavy toll on civilians, in some cases forcing

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*The consequences of IHL violations stretch beyond personal property and possessions. Unlawful shelling and bombardment can devastate civilian infrastructure and shut down essential services, leaving people with no option but to flee.*

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*In broader terms, a lack of infrastructure and services can trigger economic problems that, in turn, cause civilians to leave.*

*And since IHL violations are at least partly to blame for this damage and destruction, they underlie many of the other reported causes of displacement.*

them to flee – something we have documented on more than one occasion. Similarly, widespread damage and destruction can leave fuel in short supply and cause frequent power cuts, endangering water systems and medical facilities. In broader terms, the destruction of civilian infrastructure, with the disruptive knock-on effects for services, can trigger economic problems that, in turn, cause civilians to leave. This can result from violations of IHL such as, for instance, the prohibition of attacking, destroying, removing or rendering useless objects that are indispensable to the survival of the civilian population.<sup>71</sup> Since IHL violations could be partly to blame for this damage and destruction, we could argue that they underlie many of the other reported causes of displacement.

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<sup>71</sup> API, art. 54; APII, art. 14, CIHL, rule 54.

#### EXAMPLES OF DAMAGE AND DESTRUCTION COVERED BY IHL

- Damage and destruction occurring when civilian objects are directly attacked (violates the principle of distinction)
- Damage and destruction occurring when an attack on a military objective causes incidental damage to civilian objects that is excessive in relation to the concrete and direct military advantage anticipated by the attack (violates the principle of proportionality)
- Damage and destruction occurring when an attack on a military objective causes incidental damage to civilian objects that is not excessive in relation to the concrete and direct military advantage anticipated by the attack, but feasible precautionary measures were not taken to avoid, or at least minimize, the damage (violates the principle of precautions in attack)
- Destruction of the property of an adversary that is not required by imperative military necessity (violates IHL)
- Damage and destruction occurring when an attack on a military objective causes incidental damage to civilian objects that is not excessive in relation to the concrete and direct military advantage anticipated by the attack, and all feasible precautionary measures were taken to avoid, or at least minimize, the damage (does not violate IHL)
- Destruction of property that is required by imperative military necessity (does not violate IHL)

#### HEALTH-CARE SERVICES

Many people are forced to flee their homes when **vital health-care services are shut down as a result of direct attacks and/or threats against personnel, facilities and vehicles exclusively performing medical functions**. The ICRC has been highlighting the baleful consequences of violence against health care for many years.<sup>72</sup> We have submitted several confidential expressions of concern to parties to armed conflicts, highlighting cases where they have violated the duty to respect and protect these under IHL. Sometimes, these violations are unintentional, caused by negligence or lack of knowledge of the law. For instance, health-care services are sometimes incidentally affected by attacks in violation of IHL rules and principles on the conduct of hostilities. This might be direct or indirect (road destroyed, weapon bearers blocking access, domino effect caused by power or water shortages, etc.). Other times, parties to the conflict deliberately target and destroy regular and field hospitals, commandeer ambulances, or coerce and intimidate medical personnel. They directly attack civilians before turning on the first responders who arrive on the scene to help, or target ambulance drivers, doctors and nurses. Moreover, armed forces even take control of medical centres and use them as military bases, which could amount to violations of IHL, including of the duty to take precautions against the effects of attacks. An ICRC report on civilian protection paints a bleak picture of the sheer scale of these acts, establishing that most allegations of IHL violations involve health-care services. Moreover, internally displaced people have told us time and again that a lack of medical care is one of the main reasons why they chose to leave their homes.

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*Many people are forced to flee their homes when attacks against medical personnel and facilities shut down vital health-care services.*

<sup>72</sup> <http://healthcareindanger.org/>

### SECTARIAN VIOLENCE AND DISPLACEMENT IN IRAQ

Members of a religious or ethnic minority specifically targeted by parties to a conflict are at greater likelihood of being forced to flee their homes. Moreover, sectarian violence can have far-reaching repercussions, no matter what group people belong to.

Iraq, with its complex religious and ethnic make-up, is a prime example. The country has long experienced sectarian clashes, but incidents of violence skyrocketed from 2006. According to a 2007 report by the International Organization for Migration (IOM), 63% of families said that they fled their homes after receiving direct death threats, and 89% said they felt threatened or targeted because of their religious beliefs or ethnic origin.<sup>73</sup> Meanwhile, many of the displaced people we assist have told us about violence linked to military operations, criminal activity and tribal and sectarian clashes.

It is not always easy to gauge exactly why and how sectarian clashes cause people to leave their homes. Is displacement specifically a consequence of violence? Is it specifically caused by IHL violations? Did the perpetrators intentionally set out to cause displacement? If so, did they abide by IHL or break the rules? It goes without saying that conflict-induced violence causes civilians to abandon their homes, even if the acts of violence are not considered violations of IHL. Yet some violent acts and IHL violations target just one group of people, or villages and homes belonging to another community, which may suggest a deliberate intent to force a given group to flee. If parties to the conflict commit violations of IHL with the intent to coerce civilians to leave an area, this would be a violation of the prohibition of forced displacement.

A study into the issue of sectarian violence gives a harrowing account of the suffering that minorities endure, some of which – but not all – are violations of IHL:

“They have suffered from killings, kidnappings, torture, harassment, forced conversions and the destruction of homes and property. ... [M]inorities had suffered disproportionate levels of targeted violence because of their religion and ethnicity, and have formed a large proportion of those displaced, either by fleeing to neighbouring countries or seeking asylum further afield.”<sup>74</sup>

### HOW IHL VIOLATIONS TAKE A HEAVY CIVILIAN TOLL

There are countless IHL violations that force people to flee their homes – intentional, calculated acts that cannot be explained away as negligence. Homes are directly attacked simply because their owners are members of a certain minority or ethnic group. Medical facilities and personnel exclusively performing their medical duties are targeted simply for treating wounded enemy fighters.

<sup>73</sup> 2007 Iraq Displacement Mid-Year Review: [https://www.iom.int/jahia/webdav/shared/shared/mainsite/media/docs/reports/2007\\_year\\_in\\_review.pdf](https://www.iom.int/jahia/webdav/shared/shared/mainsite/media/docs/reports/2007_year_in_review.pdf)

<sup>74</sup> Chris Champman and Preti Taneja, *Uncertain Refuge, Dangerous Return: Iraq's Uprooted Minorities*, Minority Rights Group International, 2009, p. 9.

### ICRC OBSERVATIONS

THE ICRC LEARNED THAT IN ONE CASE THE ARMY ROUNDED UP THE MEN (THE YOUNGEST WAS TEN, THE OLDEST 80 YEARS OLD), PUT THEM IN BUSES AND DROVE THEM TO VILLAGES THREE TO SIX KM AWAY, WHERE THEY ASKED LOCAL PEOPLE TO HUMILIATE THEM, ESPECIALLY IF THEY WERE RELIGIOUS SCHOLARS. THE MEN WERE STRIPPED NAKED, BEATEN, TORTURED AND URINATED ON. EDUCATED PEOPLE, SUCH AS ENGINEERS OR DOCTORS, WOULD THEN BE TORTURED.

ANOTHER TIME, SOLDIERS WERE DIVIDED INTO GROUPS OF TEN. ONE GROUP WOULD SEARCH HOUSES, WHILE ANOTHER WOULD KILL ANYONE WHO RAN AWAY. ANYBODY FOUND HIDING WOULD BE SHOT DEAD. IN ONE HOUSE, AN ENTIRE FAMILY OF NINE, INCLUDING TEENAGERS AND ELDERLY PEOPLE, WAS SHOT IN THE HEAD BY GOVERNMENT FORCES. IN ANOTHER, A TEENAGER WHO WAS HIDING IN THE ATTIC WAS BROUGHT OUTSIDE AND SHOT. IN A THIRD HOUSE, CRAMMED WITH PEOPLE, MORE THAN 30 CHILDREN AGED BETWEEN SEVEN MONTHS AND THREE YEARS OLD WERE KILLED; AROUND 20 WOMEN, INCLUDING FOUR UNMARRIED WOMEN THAT WERE FIRST RAPED, WERE ALSO KILLED.

Scores of civilians flee conflict around the world because they fear being arbitrarily arrested and/or detained, taken hostage or forcibly disappeared – an observation borne out in a study on refugees in Europe,<sup>75</sup> various studies on the situation in Iraq,<sup>76</sup> and many sources used to compile this paper. Combatants often hold people hostage for ransom. The taking of hostages is prohibited under IHL,<sup>77</sup> and hostage-taking can constitute other IHL violations too, such as unlawful forced recruitment,<sup>78</sup> arbitrary deprivation of liberty and forced disappearance<sup>79</sup> – all of which can cause displacement, especially when these tactics are deployed by more than one party to the conflict.<sup>80</sup> People flee because they have seen what has happened to others and are desperate to avoid a similar fate.

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*There are countless IHL violations that force people to flee their homes – intentional, calculated acts that cannot be explained away as negligence.*

The same applies to death threats – yet another reason why many displaced people say they were compelled to flee.<sup>81</sup> Non-State armed groups and State armed forces routinely give residents a deadline to leave their homes on pain of death – not because the security of the civilians or imperative military reasons so demand (as provided for under IHL), but because they want to clear areas for unrelated reasons. Combatants sometimes use death threats to compel people to take a specific course of action or to convert to a given religion or belief system. A study on the situation in Iraq reported that “some have received death threats, usually offering the same three choices: convert, leave Iraq or be killed”.<sup>82</sup> More often than not, civilians only have two real options: leave or die. Under these circumstances, displacement is not an indirect consequence of conflict, but rather a deliberate strategy, likely amounting to a violation of the prohibition of forced displacement under IHL.

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<sup>75</sup> Heaven Crawley *et al.*, *op. cit.*

<sup>76</sup> C. Champman *et al.*, *op. cit.*, p. 13.

<sup>77</sup> See CIHL rule 96, CA3, GCIV, art. 34 and 147; API art. 75(2)(c) API; APII art. 4(2)(c).

<sup>78</sup> N. Lozano-Gracia *et al.*, *op. cit.*, p. 160.

<sup>79</sup> A. C. Carrillo, *op. cit.*, pp. 527–546. See CIHL rules 95, 98, 99 and 136; GC III art. 130; GC IV art. 147; API art. 77(2); APII art. 4(3c)

<sup>80</sup> N. Lozano-Gracia *et al.*, *op. cit.*, p. 160.

<sup>81</sup> A. C. Carrillo, *op. cit.*, pp. 527–546; N. Lozano-Gracia *et al.*, *op. cit.*, p. 528; S. Albuja, *op. cit.*; J. Sassoon, *op. cit.*, p. 62.

<sup>82</sup> C. Champman *et al.*, *op. cit.*, p. 13.

Civilians can also suffer direct attacks or even be murdered, in violation of IHL. We have heard first-hand accounts of parties to the conflict intentionally and unlawfully using force against civilians, for instance by beating men, women and children, of cases where combatants have intentionally attacked civilians directly, and of other deliberate IHL violations. On occasion, non-State armed groups and State armed forces **summarily execute** small groups of civilians or carry out larger-scale **massacres**. And displaced people have recounted incidents of **torture** in many countries. Sometimes the perpetrators target people on the pretence that they side with the enemy. There have even been reports of combatants carrying out indiscriminate attacks for no reason other than as a show of force.

Many displaced people say they were compelled to flee their homes to escape **sexual violence**. There is a long-established link between armed conflict and sexual violence, and the subject has been covered at length by academics and humanitarian organizations alike, including the ICRC.<sup>83</sup> It causes untold physical and psychological pain and suffering, and victims are sometimes subsequently killed. Women are often at the greatest risk, and many flee with their families to escape the threat.<sup>84</sup> Yet other studies show that it is men, not women, who are more likely to suffer sexual violence.<sup>85</sup> As with other IHL violations, civilians assess the risk based on what they witness in person or hear from others (e.g. some people, usually young women, may be kept as sex slaves<sup>86</sup>). Others flee after being raped.<sup>87</sup> Paradoxically, by fleeing sexual violence, civilians may end up putting themselves in even graver danger of being raped. That is why the ICRC also seeks to ensure that those who need to leave can do so safely and unhindered.

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*If communities get the assistance they need locally, leaving could become less of a pressing necessity. Conversely, where IHL violations stifle humanitarian efforts ... civilians may be forced to flee.*

### ICRC OBSERVATIONS

A WOMAN REPORTED TO US THAT SHE SAW A GROUP OF MILITIAMEN ENTER A HOME WHERE SIX WOMEN – BOTH MARRIED AND UNMARRIED – WERE STAYING. SHE SAW THE MEN TEAR OFF THE WOMEN’S CLOTHES AND BEAT THEM. SHE THEN RAN AWAY. THOUGH SHE DID NOT WITNESS WHAT HAPPENED LATER, SHE HEARD THAT THE WOMEN WERE RAPED AND KILLED.

Intentional acts of violence generate displacement and often constitute IHL violations. **Violations directly targeting civilians take a heavy toll on them.**

Displacement is part and parcel of war. People can become displaced even when the parties to the conflict comply with the law. **But IHL violations can cause greater displacement.**

<sup>83</sup> <https://www.icrc.org/en/what-we-do/sexual-violence>; “Q&A: The ICRC’s approach to sexual violence in armed conflict”, IRRC, Vol. 96, No. 2, 2014, pp. 449–455, <https://www.icrc.org/en/international-review/article/conversation-peter-maurer>; José Riera, Andrew Harper, “Iraq: the search for solutions”, *Forced Migration Review*, “Iraq’s displacement crisis: The search for solutions”, 2007, p. 10; Raphaëlle Branche and Fabrice Virgili (eds), *Viols en temps de guerre*, Payot, Paris, 2011.

<sup>84</sup> A. Lindley, *op. cit.*, p. 13; J. Sassoon, *op. cit.*, p. 16.

<sup>85</sup> Chris Dolan, “Letting go of the gender binary: Charting new pathways for humanitarian interventions on gender-based violence”, IRRC, Vol. 96, No. 894, June 2014, pp. 485–501; Sandesh Sivakumaran, “Sexual Violence Against Men in Armed Conflict”, *European Journal of International Law*, Vol. 18, No. 2, 2007, pp. 253–276; *Sexual Violence against Men and Boys in the Syria Crisis*, UNHCR, 2017.

<sup>86</sup> J. Sassoon, *op. cit.*, p. 16.

<sup>87</sup> C. Champman *et al.*, *op. cit.*

## IHL AND HUMANITARIAN ASSISTANCE

Even when **humanitarian relief personnel** are not targeted directly, they can become incidental victims of violence, whether lawful or unlawful under IHL, forcing the organizations they work for to scale back their efforts or even suspend their activities altogether. And when they do so, the people they are there to help are often stripped of a vital lifeline. The parties to a conflict can sometimes impose restrictions, in contravention of IHL, that make it harder for humanitarian organizations to support people in need and address the causes of displacement. If communities get the assistance they need locally, leaving could become less of a pressing necessity, provided their protection is also ensured. Conversely, where IHL violations stifle humanitarian efforts, or sever the lifeline altogether, civilians may be forced to seek help elsewhere.

### SUMMARY: VIOLATIONS CAUSING DISPLACEMENT RECORDED IN THE REPORT

As our own records show, violations such as those mentioned in this study make people fear for their safety and compel many of them to flee.

- Failure to abide by rules and principles of IHL relevant to the conduct of hostilities (distinction, proportionality, precautions)
- Unlawful use of landmines and cluster munitions
- Destruction of private property by the occupying power except where required by imperative military necessity
- Direct attacks against civilian objects, including infrastructure
- Unlawful attacks against medical facilities, vehicles or personnel
- Unlawful denial of access for humanitarian organizations
- Hostage-taking, unlawful forced recruitment
- Torture
- Threats of murder
- Direct attacks against civilians, murder of individuals or groups
- Sexual violence

## THE CUMULATIVE EFFECT OF IHL VIOLATIONS

As we have seen, individual IHL violations are often reason enough for people to flee their homes, especially when the perpetrators target civilians directly. Multiple, concurrent IHL violations cause mass displacement. That is why, when seeking to understand why unlawful violence in the conduct of hostilities causes displacement, we need to consider how **multiple, concurrent violations produce a cumulative effect**.

The literature on the situation in Iraq, although drawing on small sample sizes, supports the conclusion that the cumulative effect of violence and/or IHL violations is often what causes people to become displaced. In the first study, 70% of people questioned said they had decided to leave their home because of one or more of the violations discussed elsewhere in this paper.<sup>88</sup> And in the second study, 77% said they had been caught up in an explosive

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*When seeking to understand why unlawful violence in the conduct of hostilities causes displacement, we need to consider how multiple, concurrent violations produce a cumulative effect.*

<sup>88</sup> Ashraf Al-Khalidi, Sophia Hoffman, Victor Tanner, *Iraqi Refugees in The Syrian Arab Republic: A Field-Based Snapshot*, The Brookings Institution/University of Bern Project on Internal Displacement, 2007, p. 46, <https://www.brookings.edu/research/iraqi-refugees-in-the-syrian-arab-republic-a-field-based-snapshot/>; J. Sassoon, *op. cit.*, p. 62.



weapon attack, 75% knew someone who had been killed in the conflict, 72% said their car had been bombed, 68% had been harassed or interrogated, and 16% had been tortured.<sup>89</sup> Of course, not all of these reasons are – or could be – IHL violations. That can only be determined by examining each case individually.

Both the ICRC and other humanitarian organizations have long argued that the causes of displacement are complex and multifaceted,<sup>90</sup> and much of the ICRC's internal literature supports this view.

First-hand accounts suggest that a comparable build-up of violations is causing waves of displacement in Syria. The literature paints a similar picture. People are fleeing their homes to escape the combined human, psychological, social and economic costs of war, some of which are related to (or could constitute) IHL violations, while others do not.

Rather than being isolated incidents, **IHL violations** often occur in parallel.

Sometimes, a single violation causes people to flee. In other cases, civilians take flight when multiple violations occur over time, **producing** a sort of **cumulative effect**.

People can even flee because of a build-up of violent acts that are not, in themselves, IHL violations.

## DISPLACEMENT: A CONSEQUENCE OF WAR OR A DELIBERATE STRATEGY

We should not overlook the fact that displacement is more than a mere **consequence of war** or the **result of an IHL violation**. In some cases, it can be a **deliberate strategy** in its own right amounting to a violation of the IHL prohibition of forced displacement. When examining what causes people to flee, we must consider the intent behind the acts pushing people to flee. We cannot hope to understand displacement, let alone contain it, unless we recognize that one or more warring parties may be intentionally trying to force people from their homes and deliberately violating IHL to achieve this end.

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*When examining what causes people to flee, we must consider the intent behind the action.*

Sometimes the parties to a conflict use overt methods, such as forced displacement, by ordering people to leave their homes or by transferring them by force for the purposes of so-called ethnic cleansing and demographic reengineering. Yet research has revealed a battery of other, more underhand strategies that State armed forces and non-State armed groups employ to force civilians out of their homes. They do not explicitly order displacement, nor do they organize it, but they provoke it deliberately by using methods such as direct attacks against civilians, sexual violence, public beatings, threats against people's lives and safety, and direct attacks against civilian objects, including homes, places of work, infrastructure and religious and cultural property.<sup>91</sup> In addition to other violations of IHL, these cases may also amount to forced displacement as prohibited by IHL.

<sup>89</sup> *Trauma Survey in Syria Highlights Suffering of Iraqi Refugees*, UNHCR, 2008; J. Sassoon, *op. cit.*, p. 72.

<sup>90</sup> *Civilians without Protection: The Ever-Worsening Humanitarian Crisis in Iraq*, ICRC, 2007.

<sup>91</sup> Thomas Pellathy, "The incorporation of displacement into the logic of war: The case of Kosovo", in Andrzej Bolesta (ed.), *Conflict and Displacement. International Politics in the Developing World*, Bialystok, 2004, p. 13.



During the wars in the former Yugoslavia, scores of people were forcibly displaced. Minority groups were also harassed by the authorities or discriminated against in an attempt to force them to flee by other unscrupulous means.<sup>92</sup> More recent evidence shows how armed forces have sought to forcibly displace more people through counter-insurgency operations, by destroying private property and by threatening civilians with detention and summary execution. Other comparable examples include Saddam Hussein's forced displacement and Arabization campaign in Iraq.<sup>93</sup> Ample research into the situation in Colombia shows how displacement is both a side-effect of war and a deliberate strategy.<sup>94</sup> The scale of displacement depends on what the parties to the conflict are seeking to achieve. Non-State armed groups looking to gain control over or strengthen their grip on a territory might tend to displace fewer people because they cannot govern a populated area without the support of the people who live there. The same applies to State armed forces, who might be deterred by the prospect of international sanctions.<sup>95</sup> Conversely, some non-State armed groups with more ideological or criminal aims could be predisposed to following this strategy, for instance as a way to seize land to grow illicit crops.

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*Not all IHL violations  
are intentional.*

Not all IHL violations are intentional. We have received allegations of attacks that run counter to two IHL principles – distinction and precautions – but that were not apparently carried out with the aim of harming civilians. Consequently, it is possible that taking appropriate precautions could put an end to the violation and make it safer for civilians to stay put.

#### INTRODUCING THE CONCEPT OF INTENT HELPS TO CLASSIFY DIFFERENT TYPES OF VIOLENCE AND/OR OTHER ACTS.

Thus, a violent act and/or other act that causes people to flee can fall into one of four categories:

1. an unfortunate consequence of the conflict that does not violate IHL
2. an inadvertent IHL violation that causes displacement as an unintended consequence
3. a deliberate IHL violation that causes displacement as an unintended consequence
4. a deliberate IHL violation committed with the intention of causing displacement.

<sup>92</sup> Angelo Gnaedinger et Christophe Girod, "Le politique, le militaire, l'humanitaire: un difficile ménage à trois", in Jean Cot (ed.), *Dernière guerre balkanique? Ex-Yougoslavie: témoignages, analyses, perspectives*, Paris, L'Harmattan, 1996, p. 148; Naoko Hashimoto, "The causes of internal displacement of minority groups in the aftermath of the bombing of Kosovo in 1999: Was prevention possible?", in Andrzej Bolesta (ed.), *op. cit.*, pp. 40–41.

<sup>93</sup> Philip Marfleet, "Displacement and the State – the Case of Iraq", in Khalid Koser and Susan Martin (eds), *op. cit.*, pp. 96–118.

<sup>94</sup> N. Lozano-Gracia *et al.*, *op. cit.*

<sup>95</sup> Abbey Steele, "Massive Civilian Displacement in Civil War: Assessing Variation in Colombia" (2007) Households in Conflict Network Working Paper No. 29/2007; [www.db.idpproject.org](http://www.db.idpproject.org)

These categories are not found as such in IHL and are not conceived as an artificial pigeon-holing exercise but rather as a better way to explore, reflect on and, ultimately, address the causes of displacement. If we are to put an end to displacement, we must look not only at what the law says but also beyond the law and examine why displacement occurs in the first place. Understanding the reasons behind IHL violations helps the ICRC develop new lines of argument or action, in the legal realm and others, that can be added to existing ones. In category one above, ensuring parties to the conflict comply with IHL is unlikely to prevent displacement at all, or at least directly, given that no IHL violations have been committed and IHL is already being respected. In category two, where the act violates IHL, but displacement is an unintended consequence, we might hope to make a difference by stressing the humanitarian consequences, how the violation affects people, or by raising awareness of obligations and promoting respect for these, for instance by suggesting workable precautions. Categories three and four, however, call for additional alternative strategies to bring about changes in behaviour.

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*If we are to put an end to violations, we must look beyond what the law says and examine why they occur in the first place.*





**LINKS BETWEEN  
THE EFFECTS  
OF ARMED CONFLICT,  
IHL VIOLATIONS  
AND PATTERNS  
OF DISPLACEMENT**

## STAY OR FLEE

Not everyone chooses to leave at the same time. Some people try to ride out the effects of armed conflict for as long as possible, only abandoning their homes at the very last moment. Others opt to flee much earlier, grabbing whatever possessions they can carry. In 2015, scores of civilians fled the town of Ramadi. Around 80% of homes were destroyed there in clashes between the Islamic State group and the Iraqi army. But elsewhere, people make different choices. Flight from armed conflict is just one of many ways of coping with hardship or seeking to escape the violence. And, as one author puts it, it is very much a personal, **conscious decision**, although compelled by external circumstances: “Where earlier scholarship framed forcibly displaced people as passive victims, it is now well established that civilians facing war are active agents who make decisions in complex conditions”.<sup>96</sup> Some people think long and hard about whether staying would present too great a risk, and whether they have the resources to escape. We have witnessed countless families making hard choices – finding someone to protect their home from looters, securing jobs to come back to, or putting arrangements in place for relatives who cannot make the journey – before fleeing. Some send their families to safety and stay behind to look after their property or keep working. In other cases, whole families flee together.

Everyone experiences displacement differently. And when people weigh up whether to stay or flee, their decision is influenced by age, gender, health and personal and family circumstances. In our experience, older relatives often prefer to stay behind to look after the family home or are simply not fit for the journey. In some cases, women and children are more inclined to flee than men, for instance, because they are sent to look for humanitarian assistance while the men stay to look after their property. But no two situations are the same, and people are heavily influenced by local norms and cultures. Some see staying put as the best option. Others choose to stay because they fear losing their possessions or are apprehensive about what might happen to them once they leave. And others remain because they worry they could be mistaken for a combatant or believe they will be unable to cope with the upheaval.<sup>97</sup> For some people, leaving is simply not an option because they are disabled or mobility-impaired, because fleeing would be too arduous, because roads are impassable, because they cannot afford to make the journey, or because fighting is still going on nearby. They remain trapped and are in some cases at even greater risk of enduring the consequences of armed conflict.

State armed forces and non-State armed groups can sometimes **prevent civilians from fleeing**, perhaps intending to use them as human shields in violation of IHL. Aside from issuing direct orders, they frequently lay siege to a town or city to stop people escaping. And by doing so, they make it harder to evacuate the wounded and sick and get humanitarian assistance to the civilians trapped inside. More often than not, the weapon bearers who control the territory are the ones who restrict civilian movements – by laying booby traps and anti-personnel mines, carrying out enforcement patrols and even attacking civilians directly in violation of IHL. We have received allegations of combatants opening fire on civilians as they walk in the street or as they try to escape. The ICRC does not only seek to help people to avoid displacement by trying to prevent the emergence of conditions that may compel them to leave their homes behind; we also try to ensure that people who need to leave a combat zone for their security can do so and can move to a more stable location in safety.

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*Forcibly displaced people are not passive victims ... but active agents who make decisions in complex conditions.*

<sup>96</sup> E. Combaz, *op. cit.*, p. 7.

<sup>97</sup> A. Massella, *op. cit.*, p. 7.



Those who decide to flee may do so according to different **patterns**: preventive or reactive displacement, individual or en masse, spontaneous or organized, short-term or long-term, etc. At the height of the fighting, people tend to leave in huge numbers along the same route. Yet the effects of armed conflict and/or some IHL violations cause civilians to flee alone or with their relatives, often at different times and in different directions. For instance, in the late 1990s, only 20–30% of Colombia’s displaced people fled en masse. The overwhelming majority left one-by-one, family-by-family or in small groups.

While the main purpose of this paper is to show how IHL violations can cause displacement, the following considerations should be borne in mind:

1. Forced displacement of civilians for reasons related to an armed conflict is prohibited but parties to a conflict may exceptionally and temporarily evacuate the civilian population when the security of the civilians involved or imperative military reasons so demand. In case of displacement, all possible measures must be taken in order that the civilians concerned are received under satisfactory conditions of shelter, hygiene, health, safety and nutrition and that members of the same family are not separated.
2. Parties to a conflict sometimes violate IHL to prevent civilians from fleeing.
3. As well as banning forced displacement in most circumstances, a number of IHL rules can be of relevance for calling on parties to a conflict to refrain from preventing civilians from fleeing.
4. People who stay behind might sometimes be at greater risk of enduring the consequences of armed conflict and/or violations of IHL than those who flee.<sup>98</sup>

#### **WHY THE EFFECTS OF ARMED CONFLICT AND/OR IHL VIOLATIONS MAY AFFECT SOME PEOPLE MORE THAN OTHERS**

While circumstances differ from one conflict to the next, the evidence shows that social status influences how likely civilians are to suffer the effects of armed conflict and/or violations of IHL and to cope with them. In some countries, highly educated people are sometimes less prone to displacement because they are better equipped to cope with the pressures of war and tend not to occupy land coveted by armed groups while, in other areas, doctors and human rights defenders are targeted.<sup>99</sup> The opposite is true in other countries, where people of higher social status are more likely to leave because they have a better chance of making it out of the city and the country, and onwards to other countries.<sup>100</sup>

By their very nature, the effects of armed conflict and/or IHL violations can affect anyone. In wars fought over territory, everyone living in the disputed area can be at risk of being displaced. But in ideological and political conflicts, civilians from certain backgrounds or working in specific occupations may be at greater risk of targeted violations. This is particularly true of lawyers, judges, politicians, engineers, journalists, shopkeepers, doctors, political and human rights activists, and members of minority ethnic and religious groups.<sup>101</sup> Some IHL violations are directed at specific individuals or groups.

<sup>98</sup> C. Barrs, *op. cit.*; J. Kellenberger, *op. cit.*, p. 477; L. Higel, *op. cit.*, pp. 9–10.

<sup>99</sup> N. Lozano-Gracia *et al.*, *op. cit.*; M. A. Arias *et al.*, *op. cit.*

<sup>100</sup> Luigi Achilli, “Back to Syria? Conflicting patterns of mobility among Syrian refugees in Jordan”, *Orient* Vol. 57, No. 1, 2016.

<sup>101</sup> J. Sassoon, *op. cit.*, p. 62; K. Ivashchenko-Stadnik, *op. cit.*, p. 3.



## DIFFERENT PATTERNS OF DISPLACEMENT

When violent clashes break out, and when people come under artillery fire or fear for their safety, they are likely to drop everything and flee for their lives, whether these acts violate IHL or not. Sometimes this results in their **short-term displacement**, and they can return home as soon as the attack ceases: “During military actions, people resettle without thinking whether their well-being will be improved or not: they just want to escape.”<sup>102</sup> The ICRC witnesses first-hand how shelling tends to cause displacement. In Iraq, we have documented many instances of civilians fleeing in haste to nearby towns and villages when fighting breaks out. But the level of destruction and the duration and intensity of the hostilities may be such that people will remain displaced for longer periods. The scale of displacement also varies. For example, when shelling happens in towns and cities, where the level and density of the population is high, it stands to reason that people will leave in vast numbers; in the countryside, waves of displacement are generally smaller. In the Democratic Republic of the Congo, civilians flee their homes when armed groups move into their village, returning shortly after as soon as it is safe to do so. The situation is much the same in Colombia, where some of the displaced people move to a nearby village temporarily until the violence is over, and in Yemen, where civilians – mostly women and children – flee in anticipation of clashes and return once a stable front line is restored. Sometimes, displacement can be highly localized. In Colombia, people living near a police station decamp in unison to a safer place elsewhere in the village each night.

Iraq is a powerful example of both short-term and long-term displacement in action. As US troops prepared to invade in 2003, humanitarian organizations were bracing themselves for mass population movements. In the end, the numbers fleeing were much smaller than anticipated and – like the operations themselves – displacement proved to be short-lived. The coalition forces were able to wage a swift, precise campaign because they were vastly more powerful than their Iraqi counterparts. As a consequence, the fighting had less of a direct impact on civilians. More often than not, however, the outcomes of military operations are less clear-cut.

Before the 2003 conflict, there were sporadic waves of internal displacement in northern Iraq as civilians fled – mostly to the countryside – in anticipation of the fighting to come, taking whatever possessions they could with them. Yet this displacement, too, was short-lived, and people returned just a few days later when it became clear that there was no imminent danger. Some stay away to avoid sporadic fire. Others **move back and forth**, tending to their business in the day before leaving each night. In southern and central Iraq, military operations have long pushed families to flee in the thousands, often temporarily, before returning home once the fighting has subsided. Although these patterns of displacement continue to this day,<sup>103</sup> a new wave of sectarian violence that began in 2006 has caused many civilians to remain displaced for longer.

Sometimes, people flee constant attacks, shattered civilian infrastructure and immense hardship, knowing that a swift return is unlikely. The cumulative effect of the conduct of hostilities, especially where it violates IHL, can thus provoke **protracted displacement**.<sup>104</sup> Warring parties should therefore be mindful of the lasting impact that, for instance, aerial bombardment and artillery fire can have on people living in combat zones.

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*Conflict-induced displacement is a natural consequence of war. Civilians routinely flee to safety. Having the option to do so is vital to their survival.*

<sup>102</sup> K. Ivashchenko–Stadnik, *op. cit.*

<sup>103</sup> Dina Abou Samra, “Military-induced displacement”, in *Forced Migration Review*, “Iraq’s displacement crisis: The search for solutions”, 2007, p. 37.

<sup>104</sup> ICRC, *Urban Services during Protracted Armed Conflict*.

**Targeted IHL violations, meanwhile, are more likely to trigger protracted displacement, and/or to make return a more remote option for the people affected.** That

should come as no surprise because, in many cases, this is precisely what the perpetrators are trying to achieve. Targeted IHL violations are forcing individuals and minority groups to flee to safety. And for as long as the threat remains, they have scant hope of returning home. In Colombia 70% of the displaced people we registered in 2002 had fled alone or as a family. Because most had left in response to a direct

threat, they were unlikely to be able to return in the

near future, or found more opportunities in cities than in the rural environment where their families came from. And in places where sexual violence and unlawful forced recruitment are widespread, civilians live in a climate of fear that tends to keep them away from home for longer.

In other words, people's experience of displacement differs according to the circumstances that caused them to leave.

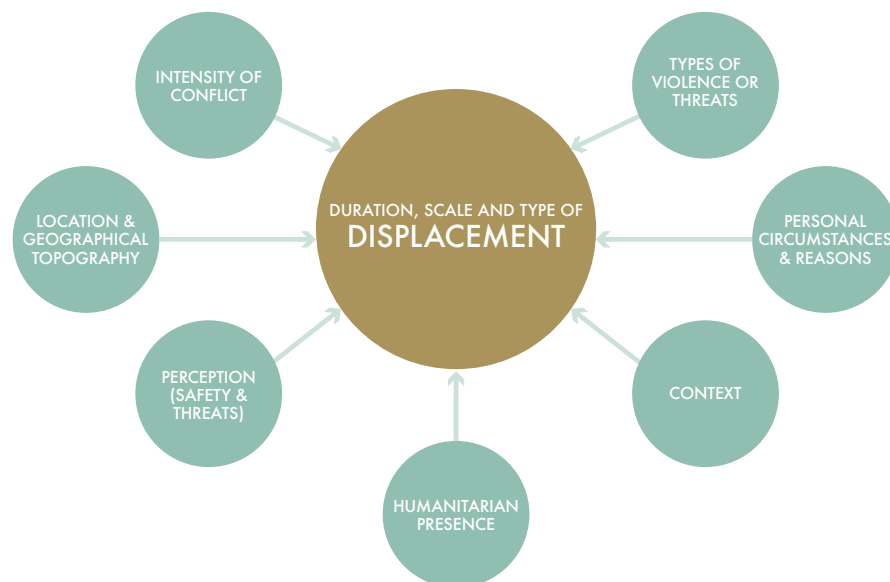
**When people flee acts that do not contravene IHL, they might be displaced for relatively short periods of time.**

**Conversely, displacement caused by IHL violations, or by a build-up of violations, is likely to be more protracted.**

*When people flee acts that do not contravene IHL, they might be displaced for relatively short periods of time. Conversely, displacement caused by IHL violations, or by a build-up of violations, is likely to be more protracted.*

*Targeted IHL violations, meanwhile, are more likely to trigger protracted displacement, and/or to make return a more remote option for the people affected.*

### Factors affecting duration and type of displacement



There are many factors that determine **where** people flee to. Some civilians head to a neighbouring village. Others seek refuge abroad. The reason for their displacement can influence their decision. But people also tend to choose destinations that are relatively safe, where they know someone or where they can find work. Whenever circumstances

allow, people tend to remain as close as possible to their homes or places of habitual residence. Civilians temporarily escaping fighting or shelling typically flee to another part of the city, an adjoining village or somewhere else nearby. Families sometimes move a short distance away if they feel that their home or neighbourhood is no longer safe.<sup>105</sup> This is especially true for civilians who are direct targets of an IHL violation or who have lost everything. And in these cases, language, religious and ethnic factors come into play.<sup>106</sup>

Displaced people are often drawn to places where there is a **humanitarian presence**.<sup>107</sup> While some end up in sprawling camps, many actively choose to avoid them. States and humanitarian organizations have set up camps in Colombia, the Democratic Republic of the Congo, Iraq, Ukraine and Syria; yet scores of displaced people shun them, preferring instead to stay with family or friends, or to rent a hotel room or apartment.<sup>108</sup> There is no one-size-fits-all model, and the situation will evolve in tandem with the conflict itself. Other than in the immediate aftermath of the 1991 Gulf War,<sup>109</sup> displaced people in Iraq have typically chosen to live in host communities rather than in camps.<sup>110</sup> More recently, however, camps have seen numbers swell as people fled the ongoing conflict between the Islamic State group, the Iraqi government and the Kurds.

Isolated violations occurring in the conduct of hostilities tend to trigger short-lived, local displacement. But a build-up of violations can push people further afield and keep them away from their homes for longer – and can force them to move many times over. Research from other organizations points to recurring patterns of **multiple displacement**, whereby people become displaced more than once. One particular study based on interviews with Syrian refugees shows how civilians have often had to move several times inside the country before crossing the border into Jordan or Lebanon.<sup>111</sup> Handicap International has published two reports with similar findings. Most of the 133 people questioned said they had moved between one and three different cities in Syria before finally making it to Lebanon.<sup>112</sup> Moreover, the respondents had typically been displaced three times within their home city, and sometimes up to ten times within the same neighbourhood.<sup>113</sup> Similar patterns of multiple displacement have been observed in Colombia, South Sudan and Afghanistan.<sup>114</sup>

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*A build-up of violations can push people further afield and keep them away from their homes for longer – and can force them to move many times over.*

<sup>105</sup> Handicap International, *op. cit.*, 2017, p. 22.

<sup>106</sup> ICRC, *Displaced in cities. Op. cit.*, 2018; L. Higel, *op. cit.*, p. 16; S. Healy *et al.*, *op. cit.*, p. 61.

<sup>107</sup> E. Meininghaus, *op. cit.*; ICRC, *op. cit.*, 2018, p. 18.

<sup>108</sup> S. Healy *et al.*, *op. cit.*, p. 61.

<sup>109</sup> L. Higel, *op. cit.*, p. 117.

<sup>110</sup> ICRC, *op. cit.*, 2018, p. 20.

<sup>111</sup> E. Ferris *et al.*, *op. cit.*, p. iv.

<sup>112</sup> See also Handicap International, *op. cit.*, 2016; Handicap International, *op. cit.*, 2017, p. 7.

<sup>113</sup> Handicap International, *op. cit.*, 2017, p. 11.

<sup>114</sup> A. C. Carrillo, *op. cit.*, pp. 527–546; A. Cotroneo, *op. cit.*, p. 293; Andrew Solomon and Chareen Stark, “Internal Displacement in Afghanistan: Complex challenges to government response”, in *From Responsibility to Response: Assessing National Approaches to Internal Displacement*, The Brookings Institute/London School of Economics Project on Internal Displacement, 2011, pp. 259–277.

Displacement is just one of many ways of coping with the effects of war. Particularly when displacement is pre-emptive, flight tends to be a conscious decision that people make after weighing up their options.

The intensity and type of violence and of other effects of armed conflict have a profound influence on how long people remain displaced, and on the circumstances of their displacement.

When people flee acts that do not contravene IHL, they are often displaced within their country for relatively short periods of time.

Conversely, displacement caused by IHL violations, or by a build-up of violations, is typically more protracted.

**Understanding the cumulative effect of violations is vital to understanding why people become or remain displaced.**

This cumulative effect tends to cause patterns of multiple displacement.





A. Yousefi/CPRC

**RETURN**

When displaced people hope to return home, many conditions have to be met to ensure a safe, dignified and sustainable return. According to IHL, displaced people have a right to voluntary return in safety to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist. As such, the competent authorities have a duty to take measures to facilitate the voluntary and safe return and reintegration of displaced people. According to the literature, a sustainable return is only possible if a number of conditions are met. Although these conditions are not all necessarily required by IHL, certain rules are of relevance in this regard. For displaced people, a durable return depends on factors such as long-term safety, security and freedom of movement; a suitable standard of living, including at a minimum access to water, food, housing, health care and basic education; access to employment; access to effective mechanisms that restore housing, land and property or provide them with compensation; access to, and replacement of, personal and other documentation; voluntary reunification with family members separated during displacement; participation in public affairs, and so on. Peace and reconciliation processes are also important for the return of refugees.<sup>115</sup> Sometimes, people make several trips home – either alone or with family – before resettling permanently when the time comes.

Many displacement crises are protracted – up to 80% of them last for ten years or more.<sup>116</sup> The longer people are displaced, the more return becomes a remote option. Some are unlikely ever to go back and will rebuild their lives in a new location, choosing instead local integration or resettlement in another part of the country. Those trying to return to their place of origin may face numerous impediments. In Burundi, refugees returned after three decades in exile to find other people living on their land and in their homes. Some returnees had a similar experience in Iraq.<sup>117</sup> Accordingly, displaced people often make regular, brief visits back home to check up on their property and land.<sup>118</sup> The initial cause of displacement can make some people reluctant to return or leave them struggling to cope when they do. The circumstances causing displacement in the first place may persist or might hamper reintegration. The process can be especially hard for members of minority ethnic and religious groups who fled targeted IHL violations, and many never return at all.<sup>119</sup>

Some people opt for **resettlement or local integration** rather than return home because being displaced has brought about a change in circumstances or new opportunities. When people become displaced from the countryside to towns and cities, they often have compelling **socioeconomic reasons** to remain. For instance, in Colombia, Nigeria, Somalia and South Sudan, displacement from rural to urban areas is quite common; those who make the move, especially younger individuals, often end up staying permanently.<sup>120</sup> In Darfur, many internally displaced people decide not to return because they find it easier to make ends meet where they are, they have gained new skills, or they simply prefer city life.<sup>121</sup> In Colombia, people weigh up the economic opportunities back home and in their host city when deciding whether to stay or return.<sup>122</sup> Many South Sudanese refugees living in Uganda have no plans to go home because living in a city gives them a better standard of living and an opportunity to gain an education. Young people are especially disinclined to return because they want to spend their formative

<sup>115</sup> J. Sassoon, *op. cit.*, p.155; M. A. Arias *et al.*, *op. cit.*

<sup>116</sup> Nicholas Crawford, John Cosgrave, Simone Haysom, Nadine Walicki, *Protracted Displacement: Uncertain Paths to Self-Reliance in Exile*, Humanitarian Policy Group, September 2015.

<sup>117</sup> Lucy Hovil, “Preventing re-displacement through genuine reintegration in Burundi”, *Forced Migration Review*, No. 41, “Preventing displacement”, 2012, pp. 30–31; L. Higel, *op. cit.*, p. 21.

<sup>118</sup> S. Healy *et al.*, *op. cit.*, p. 61.

<sup>119</sup> Angelo Gnaedinger et Christophe Girod, “Le politique, le militaire, l’humanitaire: un difficile ménage à trois”, in Jean Cot (ed.), *Dernière guerre balkanique? Ex-Yougoslavie: témoignages, analyses, perspectives*, 1996, p. 161; G. Loescher *et al.*, *op. cit.*, p. 78.

<sup>120</sup> J. Alix-García *et al.*, *op. cit.*

<sup>121</sup> J. Alix-García *et al.*, *op. cit.*

<sup>122</sup> M. A. Arias *et al.*, *op. cit.*



years somewhere far-removed from a society led by councils of elder men.<sup>123</sup> Many displaced people choose to remain in camps or host communities to take advantage of educational opportunities.<sup>124</sup>

Some displaced people remain in their current location because they are unable to return or, including for financial reasons, to cross the border and seek refuge and brighter prospects in another country.<sup>125</sup> Conversely, others return because **they lack opportunities** in their place of displacement. Sometimes the lack of opportunities can be caused by authorities deliberately trying to prevent them from staying and integrating locally, and hence not doing anything to help them rebuild their lives, or actively undermining their efforts. In this case, even if people choose to leave because of the unsatisfactory nature of their conditions, they are actually being coerced into doing so. Sometimes displaced people decide to return – despite knowing life back home will be tough – because they face insurmountable language, cultural or religious barriers, feel unsafe, are directly attacked in violation of IHL,<sup>126</sup> or they simply cannot cope with life in their place of displacement.<sup>127</sup>

### ICRC OBSERVATIONS

IN EXTREME CASES, THE ICRC HAS OBSERVED DISPLACED PEOPLE RETURNING HOME DESPITE A DIRE SECURITY SITUATION THERE. THE MAIN REASON GIVEN IS USUALLY THE LACK OF OPPORTUNITY TO EARN A LIVING AND BUILD A FUTURE WHERE THEY HAVE BEEN DISPLACED. PEOPLE PERCEIVE RETURNING TO AN UNSTABLE PLACE OF ORIGIN AS A BETTER OPTION THAN STAYING SOMEWHERE SAFER WITH FEWER OPPORTUNITIES.

Authorities can also instrumentalize humanitarian operations – including by preventing people from receiving humanitarian assistance and from being helped to integrate locally, so that as a result they are obliged to go back to their place of origin. There is no doubt that **humanitarian organizations** often successfully contribute to enabling people to return or integrate locally. They make a real difference to people's lives, distributing food and supplies to returnees while they settle back into life at home, and contribute to re-establishing vital services. Yet humanitarian aid workers can only reach the people who need their help, and do their jobs safely and effectively, if they are allowed to do so and enjoy the full protections afforded to them under IHL.<sup>128</sup> It is also important to remember that humanitarian assistance can have adverse side-effects. If assistance is available in the place of return, but is no longer available in the place of displacement, humanitarian assistance might become a pull factor. For instance, authorities often use camp closures as a means to compel internally displaced people to go back home. And humanitarian organizations do not always cater fully to the needs of returnees.

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*Yet humanitarian relief personnel can only reach the people who need their help, and do their jobs safely and effectively, if they enjoy the full protections afforded to them under IHL.*

<sup>123</sup> M. O. Ensor, *op. cit.*

<sup>124</sup> Marina L. Anselme and Barbara Zeus, "Education as an essential component of prevention of youth re-displacement", *Forced Migration Review*, No. 41, "Preventing displacement", 2012, p. 32.

<sup>125</sup> Arzu Guler, "Voluntariness to remain", *Forced Migration Review*, No. 41, "Preventing displacement", 2012, p. 21.

<sup>126</sup> For instance, the Kibeho massacre that took place in Rwanda in 1995.

<sup>127</sup> E. Ferris *et al.*, *op. cit.*, p. iv; L. Higel, *op. cit.*, p. 5; L. Hammond, *op. cit.*

<sup>128</sup> IHL rules protecting humanitarian relief personnel and objects as well as humanitarian activities: CIHL Rules 31, 32, 55 and 56.

Many people eager to return have to overcome **practical and administrative hurdles**.<sup>129</sup> According to one ICRC report, some displaced people looking to return home are held up at checkpoints because they do not have the right documents. Others are **forcibly returned** by the authorities, fear being mistaken for a combatant, or upon return are stigmatized by the members of their community of origin who chose to stay behind. Others are concerned about inadequate services and infrastructure in their place of origin or worry that they might be directly attacked because there are still weapon bearers on the streets back home. Not all these hurdles have to do with IHL, although some rules do address some of the issues listed here directly. Even though further research is needed to determine the precise relationship between IHL and return, we can argue that respect for IHL could play a positive role for those who want to return to their place of origin. IHL could also play a positive role in supporting people's efforts to rebuild their lives in the place of displacement.

### **VOLUNTARY AND FORCED RETURN**

It is clear from the literature, and from the ICRC's own observations, that many people displaced by conflict are desperate to return home.<sup>130</sup> They might feel a deep sense of attachment to their home community, wish to go back to the life they had before being displaced or long to be reunited with friends and family. They want to recover their possessions and are keen to help with reconstruction efforts. Some struggle to integrate into other communities because they do not speak the local language, belong to a separate ethnic group, or have different religious beliefs. An IOM report on Iraq found that 76% of internally displaced people, when questioned, said they longed to return home one day.<sup>131</sup> However, it does not mean that all displaced people want to go back to their place of origin or that they will be able to do so. Return is not the only durable solution.

Moreover, many displaced people are forced or coerced to return against their will. They have no choice but to go back to escape fighting in their host community, or because they are struggling to meet their basic needs. Others are forcibly returned by a party to the conflict for strategic advantage or electoral gain, or by the authorities as part of forced return campaigns. These returns might be organized by the authorities or be spontaneous following different kind of pressure from the authorities. States go to great lengths to encourage the repatriation of refugees, sometimes resulting in a return that is not really voluntary.

Many Afghan refugees making the journey back from Iran and Pakistan on assisted voluntary repatriation programmes still end up internally displaced.<sup>132</sup> To see people returning home is not necessarily a sign that the situation has improved. Some refugees are removed from their host country because the authorities no longer want them there. Moreover, premature or forced return of displaced people in unsafe or undignified circumstances is likely to result in multiple displacement. Importantly, IHL grants displaced people the right to voluntary return. Under international law, all individuals are protected by the principle of non-refoulement, which prohibits the transfer of a person from one authority to another when there are substantial grounds for believing that the person would be in danger of being subjected to violations of certain fundamental rights.<sup>133</sup>

<sup>129</sup> IOM, *Obstacles to Return in Retaken Areas of Iraq*, 2017, p. 23.

<sup>130</sup> A. Massella, *op. cit.*, pp. 7–8 and 19.

<sup>131</sup> IOM, *Obstacles to Return in Retaken Areas of Iraq*, 2017, p. 12.

<sup>132</sup> Khalid Koser, "The Migration-Displacement Nexus and Security in Afghanistan", in Khalid Koser and Susan Martin (eds), *op. cit.*, pp. 131–135.

<sup>133</sup> ICRC, "Note on migration and the principles of non-refoulement", IRR, Vol. 99, No. 904, p. 345–358.

## ACTS AND/OR IHL VIOLATIONS THAT CONTRIBUTE TO IMPEDING RETURN: CONCERNS FOR ONE'S OWN SAFETY

All the evidence – from the literature and our own records – tends towards the conclusion that IHL is instrumental in protecting civilians. Indeed, a number of IHL rules focus on, and are relevant to, the protection of civilians. Although the following are not all linked to violations of IHL, what is clear is that violations of IHL rules that protect civilians can contribute to impeding return. A study on the situation in Afghanistan<sup>134</sup> reveals how displaced people are less inclined to return home if there is a pervading climate of fear and intimidation and if they cannot trust the parties to the conflict to keep them safe. A separate study on Syria draws similar conclusions – although here, some civilians returned in the early stages of the conflict because they believed that **the security situation had improved**. Meanwhile many displaced people make the journey home because they feel unsafe in their place of displacement. The decision to return is never taken lightly. People weigh up multiple factors, including security conditions at home and in their place of displacement.

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*The decision to return is never taken lightly. People weigh up multiple factors, including security conditions at home and in their host community or camp.*

Protection concerns come up time and again in the ICRC's archives in relation to displaced people's ability to return home. In Colombia, ICRC historical records show that displaced people were often unwilling or unable to return because they **feared for their lives**. Women heads of household and members of minority ethnic communities were unwilling to go home for much the same reason.<sup>135</sup> Despite government efforts to return civilians to their place of origin, people were genuinely concerned for their safety. An ICRC report confirmed that around half of the displaced people would never return home for security reasons, even though doing so was by far their preferred option. Some displaced people said the army could have done more to make the combat zone safe before pulling back when the fighting ended.

There are similar accounts of people not wanting to return home out of fear<sup>136</sup> – again, corroborated by our reports. Fears about instability thus play an important role in people's decision whether to return or not. In the ICRC's experience, hearing accounts about direct attacks against returnees reinforce these fears, even if the number of such attacks might be small in comparison to the number of families returning to these areas. In Iraq, since 2003, major battles have caused people to leave in huge numbers. Most decide to return once the immediate threat to life has receded, but others are unable to follow suit – or can even feel compelled to flee further afield.<sup>137</sup> More recently, many civilians and their family members were suspected of being Islamic State group affiliates. For these people, who could well be attacked or murdered if they returned home, protracted displacement is the safer option.<sup>138</sup> A similar fate befalls members of minority ethnic groups, who remain resolutely opposed to returning to Iraq voluntarily,<sup>139</sup> and people living in fear of sexual violence and other specific violations.<sup>140</sup> A recent IOM report on return in Iraq substantiates our conclusions. The figures show that 52% of displaced people decided to go back because they considered it safe enough to do so, whereas 28% chose to remain displaced because of security fears, damage to

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<sup>134</sup> Khalid Koser, "The Migration–Displacement Nexus and Security in Afghanistan", in Khalid Koser and Susan Martin (eds), *op. cit.*, pp. 135–136.

<sup>135</sup> M. A. Arias *et al.*, *op. cit.*

<sup>136</sup> A. Massella, *op. cit.*, p. 19.

<sup>137</sup> A. Massella, *op. cit.*, p. 10.

<sup>138</sup> Higel, *op. cit.*, p. 21.

<sup>139</sup> *Ibid.*, p. 28; C. Champman *et al.*, *op. cit.*, p. 29.

<sup>140</sup> J. Sassoon, *op. cit.*, p. 158.

and destruction of civilian property and a lack of services in their area of origin.<sup>141</sup> Furthermore, 64% of displaced people and 81% of returnees mentioned fear of reprisals when questioned.<sup>142</sup>

### ACTS AND/OR IHL VIOLATIONS THAT IMPEDE RETURN: SHATTERED HOMES AND CIVILIAN INFRASTRUCTURE

As we have seen, IHL compliance plays a vital role in protecting critical civilian infrastructure. When infrastructure is destroyed, whether or not it is in violation of IHL,

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*When infrastructure is destroyed, people are more likely to become displaced. And sustainable return is not feasible when their communities lie in ruins.*

people are more likely to become displaced. And **displaced people are not able to return home** when their communities lie in ruins, partly because their houses are severely damaged or destroyed, but also because the essential services they need in order to rebuild a stable and sustainable life – such as electricity and drinking water – are simply non-existent.<sup>143</sup> Families tend only to consider returning if health-care services are available back home – especially if they need to care for children or elderly relatives.<sup>144</sup> And more gener-

ally, **returning becomes a challenge** when essential civilian infrastructure such as medical facilities, power plants and schools have been damaged or destroyed<sup>145</sup> – irrespective of whether this was as a result of IHL violations.

A comparative study of the situations in Afghanistan, Bosnia and Herzegovina, Burundi and Iraq looked at internally displaced people who had access to health care, education and employment in their place of displacement. The study found that, where equivalent services were unavailable in their place of origin, people preferred to wait until conditions improved before setting off back home.<sup>146</sup> We have recorded many cases where displaced people have no intention of returning because they have **lost everything**. They have no home, no farm, no animals, no livelihood and no source of income to go back to. There are also cultural and regional factors at play.

There is no hard-and-fast rule when it comes to return. Many displaced people cannot wait to go back home, even to devastated communities. Some are keen to get back quickly to start the rebuilding process. More often than not, however, shattered homes and civilian infrastructure is just one more hurdle that people desperate to return home have to overcome.

### ACTS AND/OR IHL VIOLATIONS THAT IMPEDE RETURN: EXPLOSIVE REMNANTS OF WAR

Some IHL treaties prohibit the use of certain weapons, such as **anti-personnel mines and cluster munitions**. These weapons are a cause of displacement, and they can make it almost impossible for displaced people to return.

Returnees face similar problems with unexploded ordnance, booby traps and other weapons that pose a direct, indiscriminate threat to civilians.<sup>147</sup> Many displaced people simply cannot go home for fear that doors, light switches, cabinets – even their children's toys – might be booby-trapped. And when they hear

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*Displaced people frequently say they are scared to return because their home communities are contaminated by booby traps, mines and unexploded ordnance.*

<sup>141</sup> IOM, *op. cit.*, p. v.

<sup>142</sup> *Ibid.*, p. 14.

<sup>143</sup> A. Massella, *op. cit.*, p. 19.

<sup>144</sup> J. Sassoon, *op. cit.* (note 76), p. 158.

<sup>145</sup> ICRC, *Urban Services during Protracted Armed Conflict*; K. Ivashchenko–Stadnik, *op. cit.*; Khalid Koser and Susan Martin (eds), *op. cit.*, p. 136.

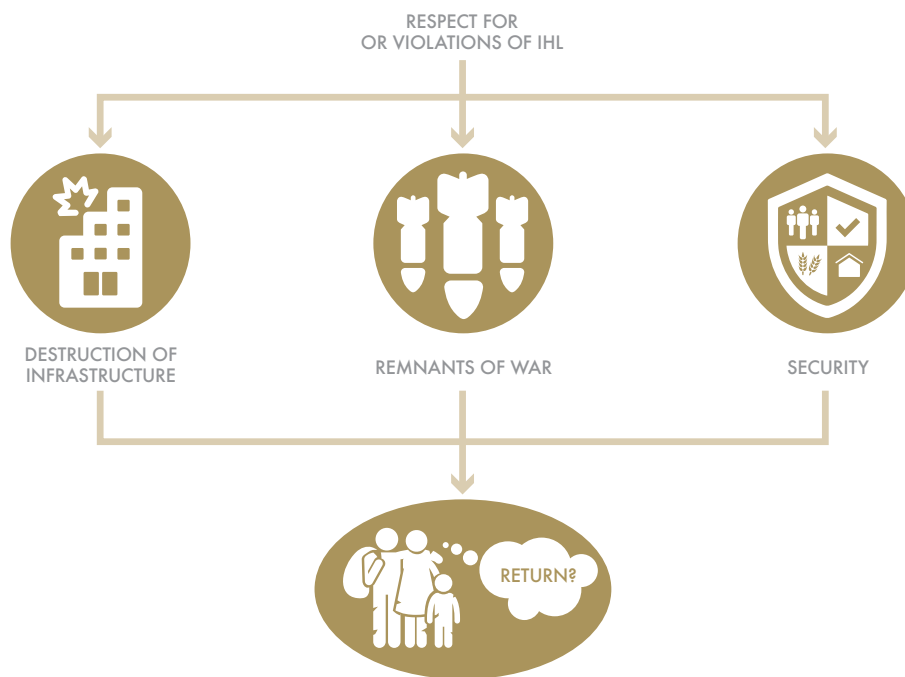
<sup>146</sup> P. Weiss Fagen, *op. cit.*

<sup>147</sup> See CIHL rule 80.

accounts of these devices killing and maiming people, they begin to wonder if they will ever see their own homes again. Displaced people frequently say they are scared to return because their homes are **contaminated** by booby traps, mines and unexploded ordnance.

Before people can safely return, contaminated areas need to be **cleared** and the devices removed and destroyed. The 2003 Protocol on Explosive Remnants of War, and recent developments in IHL,<sup>148</sup> are a step in the right direction. Clearing landmines and explosive remnants of war may be a costly and time-consuming exercise, but it makes communities safer places to live and work and is therefore a vital part of return and resettlement efforts.

### Factors directly linked to IHL affecting decision to return



War tends to cause widespread damage and destruction, making it hard for people to return to their homes.

IHL prohibits the use of certain weapons and requires the parties to the conflict to clear explosive remnants of war to make the environment safe for returnees.

**People are** much more likely to be able to return in safety and dignity if they can enjoy the **protection that IHL confers on civilians**.

<sup>148</sup> See CIHL rule 83.





# **CONCLUSIONS AND OBSERVATIONS**



As recalled by the ICRC president, Peter Maurer:

*If international humanitarian law was fully respected in armed conflict, people would be much less exposed to the humanitarian consequences they invariably face. Respecting the law would go a long way in preventing people from having to leave their homes in the first place. And it would dramatically reduce the plight encountered by those who have left. Respecting and ensuring respect for the law are essential for addressing a root cause of the human cost generated by forced displacement.<sup>149</sup>*

The link between IHL violations and displacement is all too clear. Although displacement occurs during a conflict even when international humanitarian law is respected, violations of IHL can cause greater displacement and contribute to keeping displaced people away from home for longer. So if we are to address the issue of displacement in armed conflict, we must factor the law and respect for the law into our thinking.

During the phases of displacement, it is essential for parties to conflict to observe IHL – that is, when people may be at risk of displacement, to reduce the conditions that may force them to flee in the first place; during flight, to minimize suffering during displacement, to contribute to enabling them to move more safely and to reach their destination unhindered; during their stay in the place of displacement, and upon return or resettlement in another part of the country, to contribute to their protection and to support their efforts to rebuild their lives. Urging all parties to uphold the law can help reduce the causes of displacement and alleviate its consequences. As this study shows, compliance with IHL has at least four **key benefits**.

**1. Respect for IHL is one way to address the causes of displacement and prevent people from becoming displaced in the first place.**

We know that IHL violations often result in the displacement of civilians, increase suffering during displacement and contribute to conditions that are not conducive to voluntary, sustainable, safe and dignified returns. Of course, it is not possible to scientifically prove that strengthening respect for IHL will always and systematically curb displacement. However, our research enables us to argue that better respect for IHL does play a role in mitigating the effects of armed conflict, in particular violence, which itself is a cause of displacement. Or, to put it in simpler terms: if our aim is to address displacement, we should take aim at one of its root causes – violations of IHL, in particular unlawful violence.

Displacement is an intrinsic consequence of war. Civilians will always flee conflict. But if the warring parties abide by IHL, there might be fewer situations in which people will be compelled to leave.

When civilian objects, including critical buildings and infrastructure are destroyed unlawfully, people often have no choice but to flee – and later will struggle to return. But when the parties follow the rules of war, including by not committing targeted or indiscriminate attacks against civilians, targeting health-care facilities exclusively performing medical functions and not directly attacking other civilian objects providing vital services, civilians are better equipped to stay at home and cope with the everyday challenges of conflict.

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<sup>149</sup> ICRC president calls on world leaders to address root causes of refugee movements, 19 September 2016: <https://www.icrc.org/en/document/speech-migration-and-internal-displacement-national-and-global-challenges>

**2. Respect for IHL plays a decisive role in enabling humanitarian action in support of people at risk of displacement.**

Having a humanitarian presence on the ground can be an influencing factor, whether positive or negative, on displacement. If humanitarian organizations have access to conflict-affected communities, people will not need to travel further afield to get the assistance they need. By helping to deliver essential services, humanitarian organizations might help people avoid becoming displaced for not being able to meet their basic needs *in situ*. But humanitarian workers can only do their job properly if they are given access to people in need and allowed to carry out their work unimpeded.<sup>150</sup> And for that, they need to be respected and protected by parties to a conflict, and for the rules of IHL to be observed.

**3. Respect for IHL contributes to ensuring that people are protected during displacement.**

The protection that IHL confers is not only important in addressing some causes of displacement, it is also crucial for the protection of displaced people themselves. Being displaced in times of armed conflict often leaves people vulnerable; but this can be minimized by IHL. For instance, respect for IHL protects civilians against indiscriminate attacks, against sexual violence and against other violations, including those preventing humanitarian organizations from bringing them protection and assistance while being displaced.

**4. Respect for IHL contributes to creating an environment conducive to safe and dignified returns.**

IHL rules regarding civilians and civilian objects exist to prevent harm to civilians and damage to or destruction of civilian objects, including critical infrastructure. If all sides abide by the rules, the law can contribute to easing return, and help to keep civilians safe and protected, for instance by requiring warring parties to clear, remove or destroy explosive remnants of war, such as anti-personnel mines, cluster munitions and booby traps from territories under their control. Returnees may also find it easier to settle back into life at home, rebuilding may prove less costly and war-torn communities may become self-sufficient again more quickly.

Displacement caused by IHL violations, or by a build-up of violations, is likely to be protracted. The longer people are displaced, the harder they may find it to return.

Before displaced people willing to come back can hope to return home and rebuild their lives, the competent authorities must take measures to facilitate the voluntary and safe return and reintegration of displaced people. Shattered communities need to be rebuilt. If the parties to the conflict comply with IHL, these conditions for return are more likely to be met.

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150 <https://www.icrc.org/fre/resources/documents/misc/5fzfhn.htm>

Displacement is a matter of serious concern for States, international organizations, non-governmental organizations and other relevant actors the world over. Many have pledged to do whatever they can to address both its root causes and its consequences. The concluding **observations** below, which draw on the findings of this study, should go some way to furthering that cause.

**1. Parties to armed conflicts – States and/or non-State armed groups – have a duty to respect the law and should use the many tools at their disposal to do so.**

Responsibility for complying with the law lies first and foremost with parties to armed conflict, who have a duty to assist and protect civilians against the effects of conflict.<sup>151</sup> In this study, we have demonstrated the impact that IHL violations can have on displacement. It stands to reason that there are ways to curb them, or even to stop them from happening altogether. Parties to the conflict also have a duty to prevent violations targeted against civilians, and to protect them from the worst excesses of war. And under IHL, States bear the primary responsibility for ensuring that the basic needs of civilians under their control are met.

There are various ways to ensure parties to the conflict better comply with the law and avoid unintentionally violating IHL, a number of which are obligations under this body of law. For example, by training State armed forces and non-State armed groups to respect IHL<sup>152</sup> and to use weapons that are appropriate to the circumstances. They could include IHL in their rules of engagement,<sup>153</sup> discuss and review their conduct in previous campaigns, and investigate allegations of serious IHL violations, and, if appropriate, prosecute the suspects. For example, armed forces can be trained to respect IHL<sup>154</sup> or use weapons that are appropriate to the circumstances. They should include IHL in their rules of engagement,<sup>155</sup> discuss and review their conduct in previous campaigns, and investigate allegations of IHL violations and, where necessary, punish the perpetrators.

A deeper reflection on war in urban areas is needed. The potential impact of IHL violations is much higher and severe in towns and cities given the number of people that can be affected. It is therefore vital that IHL is respected. But combatants should perhaps already – as a matter of policy – try to avoid fighting in cities so as to minimize the heavy toll that civilians too often have to pay.

**2. All States and parties to an armed conflict have an obligation to ensure respect for the law.**

Responsibility for ensuring respect for the law lies first and foremost with States and parties to an armed conflict.<sup>156</sup> Parties to the conflict must ensure respect for IHL by their armed forces and other individuals or groups acting *de facto* on their instructions, or under their direction or control. Consequently, where parties to the conflict make addressing displacement a matter of policy, we should rightly expect them to be on the front line of promoting IHL and respect for the law. States that are members of coalitions, deploy troops abroad or provide support to a party to a conflict have an even greater responsibility to show leadership and make sure their

<sup>151</sup> Knut Dörmann and Jose Serralvo, “Common Article 1 to the Geneva Conventions and the obligation to prevent international humanitarian law violations”, IRRIC, Vol. 96, No. 896/896, pp. 707–736.

<sup>152</sup> Elizabeth Stubbins Bates, “Towards effective military training in international humanitarian law”, IRRIC, Vol. 96, No. 896/896, pp. 795–816.

<sup>153</sup> Andrew J. Carswell, “Converting treaties into tactics on military operations”, IRRIC, Vol. 96, No. 896/896, pp. 919–942.

<sup>154</sup> E. Stubbins Bates, *op. cit.*

<sup>155</sup> Andrew J. Carswell, “Converting treaties into tactics on military operations”, IRRIC, Vol. 96, No. 896/896, pp. 919–942.

<sup>156</sup> Knut Dörmann and Jose Serralvo, *op. cit.*

partners and allies abide by IHL. All States have a duty not to encourage, nor aid or assist in violations of IHL by parties to the conflict. As unintentional violations do happen, States should share experiences and best practices to stop them from happening again. Addressing deliberate, calculated violations is much less straightforward. But here in particular, States must take the lead, in line with their duty to exert their influence on the warring parties, to prevent and put a stop to violations.

**3. Parties to armed conflicts – States and non-State armed groups – have much to gain from observing and enforcing IHL as it pertains to displacement.**

The human, social and economic costs of displacement are well documented. They are felt not just in the places that civilians flee from, but also in neighbouring areas and countries that host displaced people, as well as others dealing with the humanitarian fallout. Avoiding these costs is in everybody's interest. So States and non-State armed groups have much to gain from observing and enforcing humanitarian law – whether they are already dealing with displacement or fear it might affect them. In other words, observing and enforcing IHL is more than just a legal obligation or a moral duty: it also brings practical benefits. In the long run, following the rules might likely be the least costly option.

For the people affected, it can mean avoiding the suffering of leaving their homes and community behind, the risks that displacement may entail for their physical and psychological well-being and, often, having to rely on humanitarian aid to survive. Displacement takes its greatest toll on people's lives. But registering and assisting displaced people, providing medical care and managing the other consequences of displacement is an expensive business. The more reliant people are on States and humanitarian organizations, the greater the costs. We can only reduce this burden if we tackle the causes of displacement.

When civilian infrastructure is damaged and destroyed, whether or not in violation of IHL, there is a double whammy – the cost of managing displacement, and the cost of rebuilding or repairing damaged property. It inevitably falls to States to bear these costs, either directly or as donors. It is very much to the advantage of parties to armed conflicts to prevent civilian objects, including buildings and infrastructure, from being unlawfully destroyed in the first place by observing and enforcing IHL.

By observing and enforcing this body of law, parties to the armed conflict make it easier for returnees to regain their independence, resume their businesses, start farming their land again, and play their part – practically and politically – in the reconstruction process. More research is needed into the relationship between IHL and post-conflict stabilization and peacebuilding. This study shows that having all parties observe IHL can be a vital first step towards helping both displaced people and returnees rebuild their lives.

Respect for IHL can also put downward pressure on other, less obvious – non-financial – costs (although, here again, the subject merits further study). Violating IHL can have strategic costs for States armed forces. But when they observe the law, fewer people become displaced, civilians are better protected – no matter where they are – and conditions may be more conducive for displaced people to return home.<sup>157</sup> By observing and enforcing the law, States can also demonstrate – to the public, their allies and the international community at large – that they are acting responsibly and that their commitment to addressing displacement is more than mere rhetoric.

<sup>157</sup> See also Christopher D. Kolenda, Rachel Reid, Chris Rogers, Marte Retzius, *The Strategic Costs of Civilian Harm: Applying Lessons from Afghanistan to Current and Future Conflicts*, Open Society Foundations, June 2016.

**4. As displacement is part and parcel of war, the parties to the conflict should anticipate, and seek to address, both short-term and long-term displacement when circumstances dictate and as required by IHL.**

For people caught up in conflict, displacement can sometimes be the best of a bad set of options. So weapon bearers need to be prepared for the possibility of displacement and should make sure civilians are given safe passage to leave the conflict zone and reach a more stable location. For instance, under IHL, parties are required to evacuate people as a temporary measure, if the security of the civilians concerned or imperative military reasons so demand. Parties also have a duty<sup>158</sup> to give effective advance warning of attacks which may affect the civilian population, unless circumstances do not permit, before an attack happens so they can make whatever arrangements they feel are necessary. Doing so is in everyone's interest – civilians and warring parties alike. When the warning comes, some people might decide that fleeing – often in huge numbers – is their best chance of survival. But even when civilians flee, the warring parties still have a duty to comply with IHL, particularly in the conduct of hostilities. Civilians might still be trapped in the combat zone, unable or unwilling to flee, but they remain protected. Parties must not directly attack civilian infrastructure, and must take all feasible precautions to avoid, and in any event to minimize, incidental damage to these, for the reasons explained at length elsewhere in this paper.

**5. Analysing the acts as well as the types of violence that cause displacement, and highlighting how these affect people, is necessary.**

We cannot hope to address the causes of displacement effectively unless we understand why it happens and what acts and/or violence, whether in violation of IHL or not, are forcing civilians to flee. No two sets of circumstances are the same. The best way to address displacement, and the underlying acts and/or violence that causes it, will vary from one case to the next. Whenever displacement occurs because of something a party to a conflict has done, we should ask ourselves the following questions: was the behaviour/act something that IHL tolerates? Or was it a violation of IHL? Was it intentional? And if so, was it committed with the deliberate intention of forcing people out of their homes? For organizations involved in addressing displacement, it is worth highlighting the many and varied repercussions of displacement, beyond its mere humanitarian consequences. States might sit up and take notice when they learn of its true human, political, financial and economic costs – especially if the data comes from rigorous academic research.

**6. Preventing violations and promoting IHL must be a priority. The ICRC's role and expertise are important for preventing displacement in armed conflict and protecting displaced people.**

Parties to a conflict have to know the rules of IHL. That is why preventing or minimizing suffering by promoting, clarifying, reaffirming and strengthening IHL, as well as assisting States in their efforts to implement it, is a vital part of our work. By raising awareness of IHL and maintaining dialogue with authorities and parties to armed conflicts, we help prevent violations and, whenever they do occur, suggest ways to stop them from happening again. Our mandate and our presence on the ground mean we are uniquely placed to spread knowledge of humanitarian law.

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<sup>158</sup> AP I, Art. 57; CIHL rule 20.

In other words, if warring parties comply with IHL, civilians will be better protected and less likely to suffer directly. Our vital prevention work must go on. But we could do more to stress the many consequences of displacement and the benefits of complying with IHL as it pertains to displacement. And more generally, we must continue to make the case for prevention to States and parties to armed conflicts.

The ICRC is just one of the organizations working both to prevent displacement and to protect and assist displaced people. But we have a singular role to play in preventing displacement because of the sheer scale of our reach and unparalleled IHL and protection expertise. Our staff can only reach and assist people in need if all parties to the conflict allow us to carry out our vital humanitarian work, in accordance with the rules of IHL.





# **ANNEX I: METHODOLOGY**

In this study, we considered the links between displacement and IHL from a human and social sciences, rather than a purely legal, standpoint. We examined case studies, basing our analysis on the facts at hand rather than on only the provisions of IHL *per se*. We first analysed what was actually happening on the ground before attempting to draw any connections with IHL. We adopted an approach that lies outside the bounds of pure legal scholarship so as to understand what could cause parties to a conflict to comply with, or to contravene, the law and, ultimately, to inform future thinking on how to bring such violations to an end.

Part of our research focused on existing literature on displacement. We examined, and drew inspiration from, academic articles and publications by other humanitarian organizations, supplementing our findings with insights from ICRC staff members working in the field. We interviewed around a dozen delegates, asking them about their experiences at the heart of the action, gathering detailed accounts and questioning them more generally about their views on displacement.

Our research also drew heavily on the ICRC's archives. The organization's considerable experience, accumulated over many decades, is documented in reports, minutes, correspondence, memos, internal studies and other records. Although the archives are routinely used to produce internal reports, the ICRC rarely publishes reports that draw directly on internal archives. Sifting through these documents proved a time-consuming exercise, and it was not possible to examine everything. But it was nevertheless a worthwhile endeavour. The archives contain information that has not become clouded by human memory. They are not limited to momentary, personal snapshots, but instead show how a situation has evolved over months, years or even decades. And the first-hand accounts – in different formats, from different times and from different parts of the world – paint a relatively broad picture of events. Using information gleaned from the archives and delegate interviews, we looked at displacement patterns in around a dozen different countries: Colombia (1996 onwards), Iraq (2003 onwards), Syria and Jordan (2011 onwards), Ukraine (2014 onwards) and, to a lesser extent, Afghanistan, Chad, the Democratic Republic of the Congo, Nigeria, South Sudan and Yemen.




This study contains accounts of the situation on the ground in around a dozen countries experiencing armed conflict. But it is by no means exhaustive. Nor do our conclusions apply universally. Displacement is influenced by myriad cultural and social factors, as well as by the lie of the land or the layout of a particular town or city. For that reason, displacement patterns cannot be taken out of context. While we touch briefly on the consequences of displacement, our main aim is to demonstrate the links between IHL and displacement and, in turn, to determine which violations generate different forms of displacement and the positive effects of respecting IHL.

While the majority of IHL rules refer to the protection in general of the civilian population, including displaced people, IHL also contains a small number of rules that address specifically the plight of displaced people. This study has found that there is a clear link between patterns of displacement and compliance with, or violations of, IHL. Of course, respecting or violating IHL cannot account entirely for displacement in times of war. By the same token, it does not always influence displacement in the same way; there are other, more profound, reasons why people flee. As we stress time and again in this paper, the causes of displacement are complex and multifarious. Nevertheless, much of the external literature we reviewed in producing this paper draws conclusions that are consistent with what the ICRC has experienced on the ground. While most of the sources we consulted were qualitative in nature, rather than quantitative, the fact that the same patterns appear time and again, albeit to differing degrees, is particularly telling. So while our conclusions are neither comprehensive nor exhaustive, we can confirm that many of the same trends were found in all of the conflicts we examined.



## MISSION

The International Committee of the Red Cross (ICRC) is an impartial, neutral and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance. The ICRC also endeavours to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles. Established in 1863, the ICRC is at the origin of the Geneva Conventions and the International Red Cross and Red Crescent Movement. It directs and coordinates the international activities conducted by the Movement in armed conflicts and other situations of violence.

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