



# **The Human Factor: The Enduring Relevance of Protecting Civilians in Future Wars**

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The U.S. military has shifted from a counterinsurgency "population-centric" approach to an enemy-centric one, focused on destroying an enemy through decisive victory. And yet it should be careful not to cast aside measures to protect civilians as a vestige of the counterinsurgency era. In the future, wars are likely to be fought in urban areas, thus making the protection of civilians more relevant than ever. The U.S. military and its allies should take steps now to adapt planning, training, tactics, and tools in order to better protect civilians in scenarios in which they may find themselves fighting in densely populated areas.

Daily images coming out of Ukraine of civilian deaths and displacement and the destruction of civilian infrastructure, after a decade of similar scenes emerging from Syria and Iraq, make it hard to fathom that the future could hold even larger and deadlier conflicts. And yet, a war involving the United States and its allies against Russia over the Baltic states, or against China over Taiwan, could bring about a level of devastation not seen since World War II, even without the use of nuclear weapons.<sup>1</sup>

To condition the U.S. military to fight a war that could be "more chaotic, intense, and highly destructive" than it has seen in decades,<sup>2</sup> the armed forces have shifted from a counterinsurgency "population-centric" approach to enemy-centric operations that are focused on lethality, sharp war, and the need to annihilate an adversary. The United States has also invested in emerging technologies like robotic and autonomous systems, artificial intelligence, and hypersonic weapons.<sup>3</sup>

Warfare that centers on destroying an enemy through decisive victory has historically carried devastating consequences for civilians.<sup>4</sup> The fight to dislodge the Islamic State in Iraq and Syria in a

dense urban environment resulted in devastating losses of civilian life and the destruction of civilian infrastructure; the protracted displacement of civilians; and the disruption of education, health services, and employment. Rebuilding a country's human and economic capital after a war takes decades. For their part, the United States and its allies are quick to distinguish themselves from countries like Russia by making clear that they will not directly or intentionally target civilians as a means of winning a war. At the same time, U.S. military officials have warned the public that the policies and tactics that were effective at reducing civilian harm during the counterinsurgency era are neither legally required nor practical to employ in larger-scale wars, in which the stakes and risks are higher.<sup>5</sup>

This outlook may prove short-sighted for legal, political, humanitarian, and moral reasons, but it also risks overstating the extent to which doing more to protect civilians is impractical or operationally unwise. Recent analyses of the conflicts in Raqqa and Mosul demonstrate the consequences of removing safeguards meant to reduce civilian harm from operations. But they also illustrate the fact that adapting military planning and operations could have

1 See, for example, David C. Gompert, Astrid Stuth Cevallos, and Cristina L. Garafola, *War with China: Thinking Through the Unthinkable* (Santa Monica, CA: RAND Corporation, 2016), <https://doi.org/10.7249/RR1140>.

2 *FM 3-0 Operations*, U.S. Army, October 2017, [https://armypubs.army.mil/epubs/DR\\_pubs/DR\\_a/pdf/web/ARN6687\\_FM%203-0%20C1%20Inc%20FINAL%20WEB.pdf](https://armypubs.army.mil/epubs/DR_pubs/DR_a/pdf/web/ARN6687_FM%203-0%20C1%20Inc%20FINAL%20WEB.pdf).

3 *Renewed Great Power Competition: Implications for Defense—Issues for Congress*, Congressional Research Service, March 10 2022, <https://sgp.fas.org/crs/natsec/R43838.pdf>.

4 See the many examples cited in Lawrence Freedman, *The Future of War: A History* (New York: Public Affairs, 2017).

5 See Charles Pede and Peter Hayden, "The Eighteenth Gap: Preserving the Commander's Legal Maneuver Space on 'Battlefield Next,'" *Military Review*, March-April 2021, <https://www.armyupress.army.mil/Journals/Military-Review/English-Edition-Archives/March-April-2021/Pede-The-18th-Gap/>; Shane Reeves and Robert Lawless, "Reexamining the Law of War for Great Power Competition," Lieber Institute, Jan. 27, 2021, <https://lieber.westpoint.edu/reexamining-the-law-of-war-for-great-power-competition>; and John Cherry, Kieran Tinkler, and Michael Schmitt, "Avoiding Collateral Damage on the Battlefield," *Just Security*, Feb. 2021, <https://www.justsecurity.org/74619/avoiding-collateral-damage-on-the-battlefield/>. See also Sahr Muhammedally, "Counter-Terrorism Hangover or Legal Obligation? The Requirement to Protect Civilians in War," *War on the Rocks*, March 30, 2021, <https://warontherocks.com/2021/03/counter-terrorism-hangover-or-legal-obligation-the-requirement-to-protect-civilians-in-war/>.



made a significant impact on civilians without impairing operational effectiveness.<sup>6</sup> Rather than casting aside measures to protect civilians as a vestige of the counterinsurgency era, the U.S. military and its allies should take steps now — while time still allows — to adapt planning, training, tactics, and tools in order to better protect civilians in scenarios in which they may find themselves fighting in densely populated areas, like the capitals of the Baltic states or Taiwan.

## **Laws of Armed Conflict**

Central to the military's outlook on civilian harm mitigation is the distinction that it draws between what is required by law within a specific context and what may be preferable as a matter of policy. From the military's point of view, provided it abides by basic rules, it may take advantage of the broad operational discretion provided by the law to achieve its military objectives. Moreover, its view of what is legally required is also informed by what it deems as feasible and practical under the circumstances at the time of an operation.<sup>7</sup>

At their heart, the laws of armed conflict reflect an attempt to balance legitimate military objectives and the humanitarian consequences of war.<sup>8</sup> Like most international law, the laws of armed conflict may be found in treaties such as the 1949 Geneva Conventions that were negotiated and ratified immediately following World War II, as well as in the customary practice of states, which is rooted in a sense of legal obligation.

The U.S. military routinely constrains its military operations according to treaties, but also as a matter of policy. In other words, the U.S. military may, at times, follow the dictates of a treaty that does not

apply in a given situation or to which it isn't party, or it may give deference to a customary international law restriction that it has not recognized as binding, but it does so by choice. For example, the United States is not party to the 1977 Additional Protocols I and II to the Geneva Conventions, which are applicable in international and in non-international armed conflict. But it has nevertheless integrated the protocols' key principles into the *Department of Defense Law of War Manual* and emphasized them in military policies.<sup>9</sup> Sometimes this is done out of a concern for "international public opinion."<sup>10</sup> While this may seem like a distinction without a difference (after all, policy still constitutes a lawful order to U.S. military personnel), it allows the U.S. government more flexibility without it violating an acknowledged legal obligation.

The laws of war require that, once an attack on a verified military target is judged necessary, those responsible for planning and deciding upon that attack must balance military and humanitarian considerations in determining the means and method of attack. Additional Protocol I requires that parties to a conflict comply with the rules of distinction and proportionality and that they undertake precautionary measures in attacks (and against the effects of attack) while engaging military targets. It also requires them to take constant care during military operations to spare civilians and civilian objects.<sup>11</sup> Precautionary measures available to an attacking party include assessing risks to civilians, providing advance warning, adjusting the timing of an attack, cancelling attacks altogether, and weaponizing — i.e., adjusting the type, size, timing, and delivery of ordnance to minimize damage to anything other than legitimate military targets.<sup>12</sup> Practical measures that a defending party can undertake include giving sufficient warnings of incoming

6 See, for example, Michael J. McNerney, et al., *Understanding Civilian Harm in Raqqa and Its Implications for Future Conflict* (Santa Monica, CA: RAND Corporation, 2022), <https://doi.org/10.7249/RR-A753-1>.

7 See *Department of Defense Law of War Manual*, U.S. Department of Defense, June 2015, updated December 2016, <https://dod.defense.gov/Portals/1/Documents/pubs/DoD%20Law%20of%20War%20Manual%20-%20June%202015%20Updated%20Dec%202016.pdf?ver=2016-12-13-172036-190>.

8 The "laws of armed conflict" is the preferred term used by some militaries, but it is also referred to as "international humanitarian law." The Hague Regulations noted, "The right of belligerents to adopt means of injuring the enemy is not unlimited." *Convention (IV) Respecting the Laws and Customs of War on Land and Its Annex*, art. 22, Oct. 18, 1907, accessed at the International Committee of the Red Cross, June 28, 2022, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=56AA246E8CFF07AC12563CD0051675A>.

9 The four Geneva Conventions have been ratified by all states, but not the 1977 Additional Protocols to the Geneva Conventions. An International Committee of the Red Cross study found that a significant number of rules from the protocols governing the conduct of hostilities and the treatment of persons not or no longer taking a direct part in hostilities have been adopted. Therefore, these are customary international law and are applicable to all states regardless of their adherence to relevant treaties. The United States, Russia, China, and Taiwan are not parties to the protocols. See *Customary International Humanitarian Law: Questions & Answers*, International Committee of the Red Cross, 2005, <https://www.icrc.org/en/doc/resources/documents/misc/customary-law-q-and-a-150805.htm>.

10 U.S. Department of Defense, *Department of Defense Law of War Manual*, 3.1.1, <https://dod.defense.gov/Portals/1/Documents/pubs/DoD%20Law%20of%20War%20Manual%20-%20June%202015%20Updated%20Dec%202016.pdf?ver=2016-12-13-172036-190#page=232>

11 *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, 8 June 1977, Article 57(1), accessed at the International Committee of the Red Cross, June 23, 2022, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/4e473c7bc8854f2ec12563f60039c738/50fb5579fb098faac12563cd0051dd7c>.

12 *Protocol Additional to the Geneva Conventions, Article 57*. See also U.S. Department of Defense, *Department of Defense Law of War Manual*, 5.11.

attacks, building shelters for civilians, creating safe routes for civilians to leave the area of hostilities, and proactively removing civilians from places from where defenders will be firing, knowing that these locations are subject to legitimate counter-fire and attack.<sup>13</sup>

While less commonly emphasized, the “constant care” requirement (which supplements the basic rule of precautions) to spare the civilian population, individual civilians, and civilian objects applies to the entire range of military operations, and not solely to attacks. The term “military operations” encompasses “any movements, maneuvers and other activities whatsoever carried out by the armed forces with a view to combat” or “related to hostilities.”<sup>14</sup> As two retired U.S. Army judge advocates general observe, the constant care obligation “serves as a vital balancing function,” reminding commanders and soldiers that the “warrior instinct of aggression and decisive action must always be tempered by genuine commitment to mitigate risk to civilians.”<sup>15</sup> Through this lens, measures to protect civilians should also be factored into operational planning and mission execution not only as a matter of policy, but also in the spirit of meeting legal obligations. This includes both during war and in the preparation for war.<sup>16</sup>

The U.S. military’s view of what is legally required in terms of exercising precautions to protect civilians during attack is quite nuanced. The language of “constant care” comes from Additional Protocol I to the Geneva Conventions, to which the United States is not a state party. However, the 2016 *Department of Defense Law of War Manual* acknowledges that “[p]arties to a conflict must take feasible precautions to reduce the risk of harm to the civilian population and other protected persons and objects,” but it also clarifies that “The standard for what precautions must be taken is one of due regard or diligence, not an absolute requirement to do everything possible.” The *Department of Defense Law of War Manual* seems to acknowledge the constant care requirement as constituting customary international

law when it states, “Although [the Additional Protocol (AP) I constant care] obligation is susceptible to a range of interpretations, Parties to AP I may also interpret it in a manner that is consistent with the discussion in this section.” While acknowledging the importance of Additional Protocol I, this is far short of embracing an affirmative legal obligation to exercise “constant care.”<sup>17</sup>

This distinction between the legal obligation to protect civilians and the policy preference to do so is at the heart of an ongoing debate within the U.S. military about whether and how much large-scale combat operations should include civilian protection measures that were developed by the military over two decades of war.<sup>18</sup> Some argue that U.S. forces should fight to the fullest extent of the limitations imposed by law in order to shorten the duration of a conflict and thus minimize civilian casualties.<sup>19</sup> But a broad international consensus holds the legal requirements to be more stringent than those recognized by the U.S. government. Because the support of the international community may be critical to the success of a campaign, particularly when allies are involved, U.S. planners would do well to give consideration to these stricter requirements as something other than legal luxury goods. Moreover, the assumption that more intensive and violent campaigns are shorter and reduce casualties in the long run is hardly supported by the historical record.

Large-scale combat operations in complex urban environments where civilians and civilian infrastructure exist in close proximity to military objectives will present challenging dilemmas to the U.S. military. As such, the prospect of mitigating civilian harm in the future may rest as much on ensuring the availability of feasible options and shaping military perceptions of the tradeoffs involved as it does on convincing the military to embrace a different view of its obligations under international law.

13 Sahr Muhammedally, *A Primer on Civilian Harm Mitigation in Urban Operations*, Center for Civilians in Conflict, June 2022, [https://civilians-in-conflict.org/wp-content/uploads/2022/06/CIVIC\\_Primer\\_Civilian\\_Harm\\_Mitigation\\_in\\_Urban\\_Operations.pdf](https://civilians-in-conflict.org/wp-content/uploads/2022/06/CIVIC_Primer_Civilian_Harm_Mitigation_in_Urban_Operations.pdf).

14 *Commentary of 1987 Attack [Article 57]*, accessed at the International Committee of the Red Cross, June 23, 2022, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=D80D14D84BF36B92C12563CD00434FBD>.

15 Geoffrey Corn and James A. Schoettler Jr., “Targeting and Civilian Risk Mitigation: The Essential Role of Precautionary Measures,” *Military Law Review* 223, no. 4 (2015): 794, 800.

16 International Law Association Study Group on the Conduct of Hostilities in the 21st Century, “The Conduct of Hostilities and International Humanitarian Law: Challenges of 21st Century Warfare,” *International Law Studies* 93, no. 322 (2017): 381, <https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=1709&context=ils>.

17 U.S. Department of Defense, *Department of Defense Law of War Manual*, 5.2.3.

18 Pede and Hayden, “The Eighteenth Gap.”

19 “Remarks by Defense Dept General Counsel Paul C. Ney Jr. on the Law of War,” *Just Security*, May 28, 2019, <https://www.justsecurity.org/64313/remarks-by-defense-dept-general-counsel-paul-c-ney-jr-on-the-law-of-war/>.



## **When Civilian Harm Mitigation Is Not Adapted to Large-Scale Combat Operations**

Between 2002 and 2015, the United States experimented with tools, policies, and practices to improve targeting in counterinsurgency operations.<sup>20</sup> When used effectively, these innovations proved to reduce civilian harm. The U.S. military's recent experience in Mosul and Raqqa during the fight against the Islamic State provides a devastating picture of what happened when many of these practices were not sufficiently adapted to a large-scale urban combat operation.

A recent RAND study examining civilian harm during the battle for Raqqa in 2017 found many reasons for the destructive impact of the campaign on civilians. These include: gaps in targeting procedures for dynamic strikes; inconsistent use of post-strike assessments; limited use of human intelligence and open-source intelligence; overreliance on airborne systems leading to target misidentification; inadequate training of partner forces on civilian harm mitigation; prioritization of the use of airpower over ground forces, even in a dense urban environment; failure to appropriately consider structural damage to Raqqa during operations; and a lack of U.S. support for Raqqa's reconstruction.<sup>21</sup> The report also found that expedited target approval in dynamic targeting allowed for less time to gather intelligence and resulted in a reliance on unvetted information from ground forces. Often, this impeded the ability to distinguish between fighters and civilians and led to civilian deaths.<sup>22</sup> At least one monitoring organization places the civilian death toll from coalition airstrikes in Raqqa at between 8,000 and 13,000 and as many or more injured.<sup>23</sup> As the RAND study notes, Raqqa serves as "a cautionary tale about civil-

ian harm in 21st-century conflicts."<sup>24</sup>

In the battle for Mosul, our organization, the Center for Civilians in Conflict, found similar gaps in targeting procedures and post-strike assessments, as well as failures to train partner forces on civilian harm mitigation.<sup>25</sup> Notably, in East Mosul, U.S. and Iraqi forces restrained themselves in their use of firepower, which resulted in less damage during the 2016 phase of the fight. But when the campaign shifted from attrition to annihilation in 2017, West Mosul, particularly the Old City, was reduced to rubble, causing a particularly high death toll.<sup>26</sup> Seventy-two percent of buildings in West Mosul were destroyed compared to 26 percent of buildings in East Mosul.<sup>27</sup> In both Raqqa and Mosul, Islamic State tactics, such as using civilians as human shields and rigging buildings with booby traps and explosives, also contributed to the casualties and destruction.<sup>28</sup>

Rather than accepting the outcomes in Mosul and Raqqa as the best that could have been done under the circumstances, the United States and its allies should instead critically evaluate which measures — whether dismissed as impractical or too costly, or simply never considered — could prove feasible and valuable in preventing further loss of life in some future conflict. Much like in the counter-Islamic State campaign, future war scenarios suggest that fighting will probably take place within or near major population centers. Almost all of these scenarios envision the conflict starting within the territory of a U.S. ally. Although the lives of people in Raqqa and Mosul are no less valuable than any other, the United States and its allies may see political as well as human catastrophe if Tallinn or Taipei is reduced to rubble and a sizeable percentage of either country's citizens is killed.

20 See Larry Lewis, *Reducing and Mitigating Civilian Casualties: Enduring Lessons*, Joint and Coalition Operational Analysis, April 12, 2013, <https://info.publicintelligence.net/JCOA-ReducingCIVCAS.pdf>; and Sahr Muhammedally, "Minimizing Civilian Harm in Populated Areas: Lessons from Examining ISAF and AMISOM Policies," *International Review of the Red Cross*, no. 901 (April 2016), <https://international-review.icrc.org/articles/minimizing-civilian-harm-populated-areas-lessons-examining-isaf-and-amisom-policies>. (NATO's International Security Assistance Force took measures in Afghanistan to restrict indirect firing in residential areas, increase training on civilian harm mitigation, and track and analyze causes of civilian casualties, which led to changes in tactics, which, in turn, reduced civilian deaths. In Iraq, the requirement of positive identification of military objectives and escalation of force measures at checkpoints led to the reduction of civilian harm.)

21 McNerney, et al., *Understanding Civilian Harm in Raqqa*.

22 Dave Philipps, Eric Schmitt, and Mark Mazzetti, "Civilians Deaths Mounted as Secret Unit Pounded ISIS," *New York Times*, Dec. 12, 2021, <https://www.nytimes.com/2021/12/12/us/civilian-deaths-war-isis.html>.

23 "U.S.-Led Coalition in Iraq and Syria," *Airwars*, accessed June 23, 2022, <https://airwars.org/conflict/coalition-in-iraq-and-syria/>.

24 McNerney, et al., *Understanding Civilian Harm in Raqqa*.

25 Caroline Baudot and Sahr Muhammedally, *Policies and Practices to Protect Civilians: Lessons from ISF Operations Against ISIS in Urban Areas*, Center for Civilians in Conflict, 2018, [https://civiliansinconflict.org/wp-content/uploads/2020/11/ISF-Report\\_PRINT\\_Revise\\_hires.pdf](https://civiliansinconflict.org/wp-content/uploads/2020/11/ISF-Report_PRINT_Revise_hires.pdf).

26 Baudot and Muhammedally, *Policies and Practices to Protect Civilians*; and Susannah George, et al., "Mosul Is a Graveyard: Final IS Battle Kills 9,000 Civilians," *Associated Press*, Dec. 20, 2017, <https://apnews.com/article/middle-east-only-on-ap-islamic-state-group-bbea7094fb954838a2fd-c11278d65460>. See also Sahr Muhammedally, *Policy Brief on Civilian Protection in the Current Mosul Campaign*, Center for Civilians in Conflict, Feb. 27, 2017, <https://civiliansinconflict.org/publications/policy/policy-brief-civilian-protection-current-mosul-campaign/>.

27 Baudot and Muhammedally, *Policies and Practices to Protect Civilians*.

28 Baudot and Muhammedally, *Policies and Practices to Protect Civilians*. See also McNerney, et al., *Understanding Civilian Harm in Raqqa*.



## The Way Forward

The U.S. military can prepare its forces for the challenges of large-scale operations in order to mitigate the problem of civilian harm. First, civilian protection should be integrated into commanders' envisioned outcome for each mission and into their operational planning. Second, the U.S. military should focus on making population-centric analyses in the intelligence preparation phase of operations. Third, it should update doctrine and training to reflect the operational and tactical challenges of large-scale operations with regard to the presence of civilians. And fourth, the military should train partner forces on best practices when it comes to civilian harm mitigation.

The *Department of Defense Law of War Manual* adopts the position that “feasible” precautions are “those that are practicable or practically possible, taking into account the circumstances at the time, including both humanitarian and military considerations.”<sup>29</sup> We would argue that it is practical to study patterns of incidental civilian harm based on:

past weapons effects; case studies of urban conflicts, from the point of view of both the attacker and the defender; examination of the terrains in which future conflicts may occur; population dynamics; weapons effects on infrastructure; risks from cyber attacks; adversary tactics that put civilians at risk; and the infrastructure and interdependency of essential services that could be impacted by military operations.

Forces not only need to understand the environment in which they are fighting, but also how to operate in it while minimizing civilian harm, as required by law and policy. The urban environment has three key elements: terrain (surface, subsurface, and subterranean), population, and infrastructure (i.e., electricity, communications, health-care, sanitation, and water).<sup>30</sup> Being prepared for large-scale combat operations necessitates using tools, policies, practices, munitions, and training that are all contextualized for the urban environment and that sufficiently take into account risk to civilians and civilian objects.

29 U.S. Department of Defense, *Department of Defense Law of War Manual*, 5.2.3.2.

30 For a comprehensive analysis on the challenges of urban warfare, see “Urban Warfare Project,” Modern War Institute, accessed June 23, 2022, <https://mwi.usma.edu/urban-warfare-project/>; and “40ID Urban Warfare,” 40th Infantry Division California National Guard, <https://calguard.ca.gov/40id-urban-warfare/>.



## Protection of Civilians in Commanders' Intent

First, from a strategic point of view, the U.S. military should ensure that the protection of civilians is included in the commanders' objectives for each mission and is integrated into their operational plans. This sets up the framework that minimizing harm to civilians and civilian objects is not only a legal requirement and supported by policy, but is also part of the commanders' intent. This would help to ensure its implementation in follow-on resources, training, tactics, tools, and coordination with external actors. Protecting civilian lives and objects is not a task solely for Civil Affairs, which takes the lead on humanitarian access and stability operations. Rather, the protection of civilians should be integrated into planning, intelligence, operations, targeting, and training, and should be considered when determining what lessons can be learned from past missions.

## Population-Centric Analysis

Second, population-centric analysis is needed for future wars that will involve multiple domains and will include joint warfighting functions from land, air, maritime, space, and cyber services.<sup>31</sup> The U.S. military's intelligence preparation of the battlefield, which is typically focused on terrain, weather, and threats within a unit's area of operations, needs to meet the challenges of future wars, which include operating in urban areas.

Civilians are a crucial dimension of urban war. The U.S. military therefore needs to analyze civilian populations; civilian demographics; cyber effects on critical infrastructure; the proximity of civilians and civilian infrastructure to military objectives in determining weapons effects; and the courses of action that civilians are likely to take before, during, and after military operations. Such population-centric analyses should not be employed only for counter-insurgency operations, as some have advocated.<sup>32</sup> Using such analyses in large-scale operations would not only ensure greater fidelity to the laws of armed conflict, but it would also enable operational effectiveness, as population density and infrastructure in large-scale combat operations greatly determine a force's ability to maneuver and move in a city.

By better understanding civilian behavior and patterns of life, the military can improve its information-gathering efforts in order to distinguish between civilian and military objectives. Such analysis can also enable the coordination of humanitarian assistance to facilitate the movement of civilians and provide food, water, shelter, and medicine, including if siege-like conditions develop.<sup>33</sup>

While intelligence, surveillance, and reconnaissance assets can contribute significantly to understanding the operational environment, a modern peer or near-peer competitor could potentially hack intelligence systems, jam signals, engage in cyber attacks, and conduct superior misinformation and disinformation operations. In such a scenario, where airspace would likely be denied, degraded, and disrupted, analog systems and non-technological tools (such as human intelligence) and open-source intelligence will be essential to developing a comprehensive population-centric understanding of the operational environment.

Given the proximity of civilians and military targets in urban warfare, analysis of the environment should integrate terrain effects, the threat capabilities of the adversary, and the presence of the population. For example, in an urban environment where civilians are present, any targeting of ammunition storage facilities should first include an analysis of the potential effects of a strike on the surrounding area. A recently released U.S. assessment of a strike that took place in Iraq — where the United States and coalition partners were involved in large-scale urban combat operations — revealed that these secondary effects were not factored in in the pre-strike assessment. This omission resulted in at least 85 civilians dying and over 500 receiving injuries from secondary explosions at the ammunition storage facility that was being targeted.<sup>34</sup>

In large-scale combat operations, the emphasis on speed means that the United States will need to do more to adapt targeting tools and weapons to avoid repeating past mistakes that have resulted in devastating civilian harm.<sup>35</sup> The U.S. military can examine past operations to inform future assessments in order to learn from mistakes that were not adequately anticipated or mitigated. What is reasonably foreseeable will vary depending on the

31 William Dries, "Some New, Some Old, All Necessary: The Multi-Domain Imperative," *War on the Rocks*, March 27, 2017, <https://warontherocks.com/2017/03/some-new-some-old-all-necessary-the-multi-domain-imperative/>.

32 See, for example, Caroline Bechtel, "What the Army's Return to Large-Scale Operations Means for the Intelligence Warfighting Function," *Modern War Institute*, May 8, 2018, <https://mwi.usma.edu/armys-return-large-scale-operations-means-intelligence-warfighting-function/>.

33 See, generally, Muhammedally, "Primer on Civilian Harm Mitigation in Urban Operations."

34 Nick Turse, "US Didn't Expect Major Explosions When an ISIS Bomb Factory Was Bombed," *The Intercept*, April 8, 2022, <https://theintercept.com/2022/04/08/isis-bomb-factory-iraq-pentagon-airstrike/>.

35 See, for example, Muhammedally, "Primer on Civilian Harm Mitigation in Urban Operations."

circumstances of the attack, the target, and the operational environment.

## Doctrine and Training

Third, the U.S. military's doctrine and training need to be updated to reflect the challenges of civilian presence in large-scale combat operations. Current military doctrine on urban warfare inadequately examines the impact on civilians and focuses primarily on maneuvering, operations, and logistics. The 2006 *Joint Urban Operations* and the 2017 Army/Marine urban warfare doctrines acknowledge the risk of harm to civilians and infrastructure during urban operations and advise on how to minimize collateral damage and how to distinguish between combatants and noncombatants.<sup>36</sup> *U.S. Army Multi-Domain Operations 2028* includes some analysis of urban operations, but it makes minimal reference to civilians on the battlefield.<sup>37</sup> *Field Manual 3-0 Operations* does not contain any reference to the law of war and rules of engagement, and only mentions noncombatants in passing.<sup>38</sup> In sum, these manuals provide minimal direction with regard to civilian populations in the context of large-scale combat operations, where there are significant challenges when it comes to handling the movement, displacement, and evacuation of large populations, as well as the possibility of mass casualties.

Current training for large-scale combat operations does not sufficiently include scenarios with civilians present, nor does it reflect an understanding of how civilians will behave during fighting. Training conducted at the National Training Center and the Joint Readiness Training Center stresses combat skills such as combined arms maneuver, deep fires, and armor clashes.<sup>39</sup> But there continues to be a misguided assumption that civilians will leave the area of a conflict or that the majority will be evacuated out of an area in the lead-up to operations. However, any future conflict with a peer will take place amid

a large civilian population. Therefore, military guidance and training should fully acknowledge civilian presence and consider civilian harm mitigation as a key factor in all preparations.<sup>40</sup>

Although this is not an exhaustive list, training should include learning and preparing to: respond to mass casualties in the midst of combat or in the event of a disease outbreak; conduct military operations with civilians present; verify the location of civilians who may move around for safety in the area of operations, especially when forces have degraded intelligence, surveillance, and reconnaissance capabilities; share information with partner forces on the ground to better identify the location of civilians who may be close to military targets; support humanitarian access and ensure food, water, and medical supplies during a siege; counter enemy tactics that use civilians as human shields; protect critical infrastructure, including from cyber attacks; determine what conditions and resources will be needed to restore essential services and clear unexploded ordnance; establish safe routes for civilians who wish to leave an area of fighting; and assess what mechanisms will effectively give civilians warning of an incoming attack.<sup>41</sup>

There are some positive signs that the U.S. military is recognizing these gaps in its doctrine and training. For example, the U.S. Army's Modern War Institute has created the Urban Warfare Project, which is designed for studying urban war.<sup>42</sup> In 2021, the 40th Infantry Division, California Army National Guard, created the U.S. Army's first formal course designed specifically to improve staff planners' ability to analyze and plan large-scale combat operations in urban environments with populations ranging from 50,000 to over 10 million.<sup>43</sup> Our organization participated in the 2021 course and will again in 2022. We are also partnering with the U.S. Naval War College and U.S. Indo-Pacific Command on table-top exercises on the protection of civilians in large-scale combat operations. But much more progress is needed across the

36 *Urban Operations (ATP 3-06/MCTP 12-10B)*, U.S. Army and U.S. Marine Corps, Dec. 7, 2017, [https://armypubs.army.mil/ProductMaps/PubForm/Details.aspx?PUB\\_ID=1003694](https://armypubs.army.mil/ProductMaps/PubForm/Details.aspx?PUB_ID=1003694); and *Joint Urban Operations (Joint Publication 3-06)*, Joint Chiefs of Staff, Nov. 20, 2013, [https://www.jcs.mil/Portals/36/Documents/Doctrine/pubs/jp3\\_06.pdf](https://www.jcs.mil/Portals/36/Documents/Doctrine/pubs/jp3_06.pdf).

37 *The U.S. Army in Multi-Domain Operations 2028*, U.S. Army, Dec. 6, 2018, <https://api.army.mil/e2/c/downloads/2021/02/26/b45372c1/20181206-tp525-3-1-the-us-army-in-mdo-2028-final.pdf>.

38 *FM 3-0 Operations*, Department of the Army, October 2017, [https://armypubs.army.mil/epubs/DR\\_pubs/DR\\_a/pdf/web/ARN6687\\_FM%203-0%20C1%20Inc%20FINAL%20WEB.pdf](https://armypubs.army.mil/epubs/DR_pubs/DR_a/pdf/web/ARN6687_FM%203-0%20C1%20Inc%20FINAL%20WEB.pdf).

39 See interviews on the Modern War Institute podcast. "Announcing the Urban Warfare Project Podcast," Modern War Institute, Dec. 13, 2019, <https://mwi.usma.edu/announcing-urban-warfare-project-podcast/>.

40 Sahr Muhammedally, "Preparedness in Urban Operations: A Commander's Planning Checklist to Protect Civilians," *Humanitarian Law and Policy*, May 11, 2021, <https://blogs.icrc.org/law-and-policy/2021/05/11/preparedness-in-urban-operations/>.

41 Muhammedally, "Primer on Civilian Harm Mitigation in Urban Operations."

42 Modern War Institute, "Urban Warfare Project."

43 John Spencer and Rob Wooldridge, "What We Learned Creating the Army's First Urban Planners Course," Modern War Institute, Nov. 29, 2021, <https://mwi.usma.edu/what-we-learned-creating-the-armys-first-urban-planners-course/>.





military services to fully understand and prepare for the challenges of large-scale combat operations.

### Share Best Practices with Partner Forces

Fourth, future wars with a peer or near peer are likely to be fought with partner forces or in support of proxy forces. The United States and its allies and partners should therefore be politically and operationally aligned in the effort to protect civilians. This should include having compatible doctrine, policies, training, and rules of engagement. The conflicts in Iraq and Syria showcased missed opportunities in sharing good civilian harm mitigation practices with the Iraqi forces and Syrian Democratic Forces, including on targeting and tracking and investigating civilian harm, which ultimately contributed to civilian harm.<sup>44</sup> Partners should integrate their strategies and tactics and use appropriate munitions and scenario-based training in order to mitigate and respond to civilian harm during military operations. In addition, the United States should assess the benefits and risks of supporting a partner, including what the potential effects will be on the civilian population. It should also assess whether the partner has adequately resourced capabilities for developing and implementing mitigation plans and programs.<sup>45</sup>

### National Moral Welfare

Whether or not protecting civilians is easy, the United States and its allies should do so out of an abiding interest in tempering the overall humanitarian consequences of war and, more specifically, in limiting harm to non-combatants. But strengthening measures to protect civilians also helps to fulfill the government's public responsibility to protect the moral welfare of those who do the fighting, both during and after a war. The United States learned through its experience in Vietnam that the use of unbridled violence in pursuit of war aims could be as much of a liability as an asset, not only with re-

spect to the limited aims of winning the war, but in preserving the moral welfare of the country itself.<sup>46</sup> When soldiers are involved in or witness events (whether acts of commission or omission) that go against their beliefs or morals, they may suffer from "moral injury," or the "distressing psychological, behavioral, social, and sometimes spiritual aftermath" of exposure to such events.<sup>47</sup> A growing body of social science and medical research recognizes the pervasive and real effects of moral injury, which exhibits similar symptoms as post-traumatic stress disorder.<sup>48</sup> While significant media attention has been given to the moral injuries suffered by veterans associated with civilian casualties resulting from the use of drones,<sup>49</sup> perhaps not enough has been given to the effects of civilian death in over 20 years of war on nearly three million veterans.

For their part, the United States and its allies attempt to reduce the moral ambiguity of war, and therefore the risk of moral injury, through institutional adherence to at least two principal foundations of the just war tradition. First, they recognize a distinction between civilians and combatants. Second, they adhere to the ethical principle of "double effect," which, in theory, restricts intentional attacks against civilians as a means of winning war while allowing the kind of violence necessary to achieve military objectives. Since the Vietnam War, these principles have taken expression in large part through fidelity to the laws of war, which "ha[ve] been designed in part precisely to obviate the need for soldiers to resort to individual moral judgment," while preserving their own morality.<sup>50</sup>

There are good reasons to question whether any law of war program will be enough to withstand the weight of a major conflict, even if entered into for the most just of reasons. In addition, as the executive editor of this publication has found, leaning excessively on "legalism" can serve to weaken, rather than strengthen, constraints on the use of force.<sup>51</sup> The law may be helpful for deeming whether harmful acts are lawful, but may not be effective in actually reducing harm. And in war, moral injury

44 Baudot and Muhammedally, *Policies and Practices to Protect Civilians*; and McNerney, et al., *Understanding Civilian Harm in Raqqa*.

45 Melissa Dalton, et al., *The Protection of Civilians in U.S. Partnered Operations*, Center for Strategic and International Studies, Center for Civilians in Conflict, and InterAction, October 2018, [https://civiliansinconflict.org/wp-content/uploads/2018/10/USProgram\\_PartneredOperations.pdf](https://civiliansinconflict.org/wp-content/uploads/2018/10/USProgram_PartneredOperations.pdf).

46 See, for example, Jonathan Shay, *Achilles in Vietnam: Combat Trauma and the Undoing of Character* (New York: Scribner, 1995).

47 Sonya B. Norman and Shira Maguen, "Moral Injury," U.S. Department of Veteran's Affairs, accessed June 23, 2022, [https://www.ptsd.va.gov/professional/treat/cooccurring/moral\\_injury.asp](https://www.ptsd.va.gov/professional/treat/cooccurring/moral_injury.asp).

48 See, for example, Brett T. Litz, et al., "Moral Injury and Moral Repair in War Veterans: A Preliminary Model and Intervention Strategy," *Clinical Psychology Review* 29, no. 8 (December 2009): 695–706, <https://doi.org/10.1016/j.cpr.2009.07.003>.

49 See, for example, Eyal Press, "The Wounds of the Drone Warrior," *New York Times*, June 13, 2018, <https://www.nytimes.com/2018/06/13/magazine/veterans-ptsd-drone-warrior-wounds.html>.

50 Jeff McMahan, "The Ethics of Killing in War," *Ethics* 114, no. 4 (July 2004): 731, <https://doi.org/10.1086/422400>.

51 Doyle K. Hodges, *Let Slip the Laws of War! Legalism, Legitimacy, and Civil-Military Relations*, PhD diss., Princeton University, 2018, [https://dataspace.princeton.edu/bitstream/88435/dsp01ns064879r/1/Hodges\\_princeton\\_0181D\\_12663.pdf](https://dataspace.princeton.edu/bitstream/88435/dsp01ns064879r/1/Hodges_princeton_0181D_12663.pdf).

can result from the dissonance between the seeming rationality of rules-bound conduct and its often observable, irrational results. Nancy Sherman illustrates through several episodes in her masterful book *Afterwar* that moral injury may not turn on a single unethical transgression, but rather on a broader range of experiences, including shame from ineptitude or the inability to do more for civilians who have been harmed. As she writes, “killing ... even when using proportional force — involve[s] taking away the most sacred and essential element of a human being — his or her life, his or her livelihood.”<sup>52</sup> A war of much greater intensity and scale, in which soldiers are actively conditioned to become more decisive and lethal, will almost certainly invite larger, potentially existential questions about the moral health of soldiers and the country itself on an order of magnitude not seen for generations. While combatants may or may not adhere to the military’s interpretation of the laws of war, the moral health of U.S. soldiers implicates the integrity of the state.

For now, despite notable failures in accountability for reducing civilian harm, America and its allies remain broadly committed to avoiding the intentional or direct targeting of civilians. But history demonstrates that the challenge of maintaining the nation’s ethical composure could become more acute as the stakes grow and pressure increases to end a future war through blunt and violent forms of coercion or to engage in reprisals. As Hugo Slim cautioned, “in existential wars when our very homes, families, and nations are at stake ... our standards tend to drop and the infliction of widespread suffering becomes strategic or cathartic.”<sup>53</sup> The record also suggests, rather tragically, that national tolerance for civilian harm increases in circumstances involving civilians whose very humanity is perceived differently because of their race. In a survey conducted by our organization, many

more respondents (37 percent) were willing to tolerate civilian deaths in an allied Asian country, like Japan, than in the territory of a European ally, like one of the Baltic states (27 percent).<sup>54</sup>

Nobody would argue that harm to civilians will or can be avoided entirely. To suggest as much would lessen the perceived and anticipated costs of war.<sup>55</sup> Prioritizing the protection of civilians, however, may help to reduce the overall number of morally ambiguous situations confronted by soldiers if war occurs, while also helping the country to withstand internal political pressure to engage in the kinds of acts a nation might later regret. As Joe Chapa notes, “If a justified war is a political endeavor aimed at securing the political community, throughout the struggle participants must also ensure the political community remains one worth preserving.”<sup>56</sup>

## Conclusion

It should not be left solely to the military to determine the human loss that the United States is willing to tolerate to achieve its military aims. The country’s political leadership should be clear in setting civilian protection as a discrete policy objective that serves a range of national interests, and not only when it’s important to “winning hearts and minds” in war-affected countries or when voters demand it (which they are unlikely to do). Nevertheless, the task of preventing, minimizing, and addressing harm in practice will largely fall to the military.

In January 2022, in response to *New York Times* investigations into civilian casualties in Iraq and Syria,<sup>57</sup> congressional oversight on civilian harm issues,<sup>58</sup> and several years of civil society advocacy to improve the transparency of and accountability for civilian harm,<sup>59</sup> Defense Secretary Lloyd Austin directed the Department of Defense to develop the

52 Nancy Sherman, *Afterwar: Healing the Moral Wounds of Our Soldiers* (Oxford: Oxford University Press, 2015), 79, Kindle edition.

53 Hugo Slim, “Civilians, Distinction, and the Compassionate View of War,” in *Protection of Civilians*, ed. Haidi Willmot et al. (Oxford: Oxford University Press, 2016), 11.

54 “China/Russia Casualties Findings,” CIVIC ReThink Media, available at Civilians in Conflict, accessed June 23, 2022, [https://civiliansinconflict.org/wp-content/uploads/2021/07/ReThink-Media-China\\_Russia-Casualties-Findings-Summary.pdf](https://civiliansinconflict.org/wp-content/uploads/2021/07/ReThink-Media-China_Russia-Casualties-Findings-Summary.pdf).

55 Samuel Moyn, *Humane: How the United States Abandoned Peace and Reinvented War* (New York: Farrar, Straus and Giroux, 2021).

56 Joseph O. Chapa, “The Coming Storm: Ethics in the Next War,” *Strategy Bridge*, Oct. 16, 2018, <https://thestrategybridge.org/the-bridge/2018/10/16/the-coming-storm-ethics-in-the-next-war>.

57 “The Civilian Casualty Files,” *New York Times*, <https://www.nytimes.com/spotlight/the-civilian-casualty-files-pentagon-reports>.

58 “Senators Warren and Murphy, Rep. Khanna Call on President Biden to Overhaul U.S. Counterterrorism Policy,” Office of Elizabeth Warren, Jan. 20, 2020, <https://www.warren.senate.gov/newsroom/press-releases/senators-warren-and-murphy-rep-khanna-call-on-president-biden-to-overhaul-us-counterterrorism-policy>. In 2022, Congress also introduced two bills — the Department of Defense Civilian Harm Transparency Act and the Protection of Civilians in Military Operations Act — that would require the Pentagon to improve investigations into civilians killed by the United States, establish a database of investigations to better understand and institutionalize lessons learned, and resource and provide guidelines for the Center of Excellence for civilian harm detailed in the CHMRAP. See Laura Dickinson, Brianna Rosen, and Rachel VanLandingham, “Congressional Actions on Civilian Harm Resulting from U.S. Military Operations: Part II,” *Just Security*, April 28, 2022, <https://www.justsecurity.org/81315/copy-3/>.

59 “NGO Letter to US Secretary of Defense Demands Accountability and Reform After 20 Years of Civilian Harm,” Center for Civilians in Conflict, Dec. 1, 2021, <https://civiliansinconflict.org/press-releases/ngos-demand-reform/>.


Civilian Harm Mitigation and Response Action Plan in order to improve how the department prevents and responds to civilian harm.<sup>60</sup> In particular, he directed those crafting the plan to provide for the establishment of a center of excellence on civilian harm mitigation and response; the development of standardized processes for collecting and learning from data related to civilian harm; improvements in how the department responds to civilian harm, including through condolence payments and public acknowledgment; and the incorporation of guidance for addressing civilian harm in future doctrine and operational plans. Since 2020, the Defense Department has also been consulting with non-governmental organizations, including ours, on a Defense Department *Instruction on Minimizing and Responding to Civilian Harm in Military Operations*.<sup>61</sup>

These are welcome efforts by the United States, and, if resourced, prioritized, and implemented properly, they could lay the foundation for much needed reform on civilian harm mitigation, prevent the avoidable mistakes of the past, and help to prepare for the future.<sup>62</sup> Civilian and military leadership is essential to move these efforts forward — recent wars show what happens when leadership fails to commit to the protection of civilians.<sup>63</sup>

How the United States adheres to the laws of armed conflict and protects civilians during war sets the tone for other armed forces, especially in partnered operations or when America trains and equips friendly forces. However, for citizens of countries in which America has militarily intervened, especially citizens who have experienced harm, U.S. rhetoric on civilian protection can ring hollow. Recently, for example, when our organization led civilian harm mitigation training with local forces in Iraq, a soldier pointedly asked if the United States had applied such measures in Mosul. U.S. actions that are visible to the world, rather than nuanced interpretations of the laws of war, are what people see.

Engaging an adversary effectively or protecting

civilians should not be a binary choice to achieve the goals of a mission. Rather, the constant care obligation to spare the civilian population from harm should animate all strategic, operational, and tactical decision-making.

Ultimately, in war the moral integrity of the state itself is judged. 

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Image: Chaoyue Pan (CC BY-NC-ND 2.0)<sup>64</sup>

60 "Memorandum: Improving Civilian Harm Mitigation and Response," Department of Defense, Jan. 27, 2022, <https://media.defense.gov/2022/Jan/27/2002928875/-1/-1/1/DEPARTMENT%20OF%20DEFENSE%20RELEASES%20MEMORANDUM%20ON%20IMPROVING%20CIVILIAN%20HARM%20MITIGATION%20AND%20RESPONSE.PDF>.

61 Annie Shiel and Archibald Henry, "Here's What the New DoD Policy on Civilian Harm Should Include," *Just Security*, May 8, 2020, <https://www.justsecurity.org/70077/heres-what-the-new-dod-policy-on-civilian-harm-should-include/>.

62 Annie Shiel and John Ramming Chappell, "DoD Can't Move Forward on Civilian Casualties Without Looking Back," *Just Security*, April 19, 2022, <https://www.justsecurity.org/81167/dod-cant-move-forward-on-civilian-casualties-without-looking-back/>.

63 Notably, NATO has also begun integrating the protection of civilians in preparation for multi-domain high intensity urban war, including developing policies and doctrine on urban warfare. NATO's 2016 Protection of Civilians policy and 2021 Protection of Civilians Handbook confirms that protecting civilians is relevant to all of NATO's three core tasks — collective defense, crisis management, and cooperative security — and applicable to all NATO and NATO-led missions. See "Protection of Civilians: ACO Handbook," NATO Allied Command Operations, 2021, <https://shape.nato.int/resources/3/website/ACO-Protection-of-Civilians-Handbook.pdf>.

64 For image, see [https://www.flickr.com/photos/pan\\_chaoyue/16969008478/in/photolist-2htzAcD-ca2vyu-81CvaR-M4nVKU-NkvUnd-RzosCH-2hiuCfm-yk4kyN-2hvarqx-2njFU52-ZWoysA-29c9WnD-RjKbKS-qTyGZi-2hvBPRb-RRjKE8-297R9Rs-286Nae3-j6h4K4-RgMacW-26rrUFs-26rsHMB-27PfhL8-p8929k-MXKRvu-2hnrqF-rRuB2G-2htwTK7-M4r8jQ-QBc16Q-2iBFWeV-TmnaWt-2iBFWt2-FCmz7a-23YXhXJ-xkqddR-s91jp5-QdQ3iG-fGX956-269p1ZE-ftBi6u-27Per9T-3dMNZV-efj4Ja-C253KE-JTJFSt-oT4kjo-RjvYqh-JzzfmW-qsfJAU](https://www.flickr.com/photos/pan_chaoyue/16969008478/in/photolist-2htzAcD-ca2vyu-81CvaR-M4nVKU-NkvUnd-RzosCH-2hiuCfm-yk4kyN-2hvarqx-2njFU52-ZWoysA-29c9WnD-RjKbKS-qTyGZi-2hvBPRb-RRjKE8-297R9Rs-286Nae3-j6h4K4-RgMacW-26rrUFs-26rsHMB-27PfhL8-p8929k-MXKRvu-2hnrqF-rRuB2G-2htwTK7-M4r8jQ-QBc16Q-2iBFWeV-TmnaWt-2iBFWt2-FCmz7a-23YXhXJ-xkqddR-s91jp5-QdQ3iG-fGX956-269p1ZE-ftBi6u-27Per9T-3dMNZV-efj4Ja-C253KE-JTJFSt-oT4kjo-RjvYqh-JzzfmW-qsfJAU). For license, see <https://creativecommons.org/licenses/by-nc-nd/2.0/>.