



AN EXAMINATION OF THE HUMANITARIAN CONSIDERATIONS IN THE BOMBARDMENT OF MILITARY TARGETS AND OBJECTIVES

By

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Abstract

This paper examined the relationship between International Humanitarian law (IHL), military targeting practice and the concept of military objectives. The study of the history of warfare over the years has established the undeniable fact that certain objects and persons may be legitimately attacked during armed conflicts, hence, the need to always determine whether a group of people are lawful military targets. It is very important for the military to be able to interpret the definition of military objective adopted in the 1977 Additional Protocol 1 to the four 1949 Geneva Conventions. Also, the military must understand and be able to apply some of the humanitarian considerations this paper discussed. This paper is doctrinal in nature. The research adopted a doctrinal method of legal research which is library-based. This study relies both on primary and secondary sources of information. The primary sources used include laws and cases while the secondary sources of information used include books, journal articles, news articles and materials from the internet. This study found that IHL rules are usually disregarded and violated by members of the armed forces during armed conflicts. It also found that the failure of many countries to domesticate IHL rules have greatly contributed to the violations. This study concluded that if the military men whose job it is to plan, approve and execute attacks continue to do their job in a manner that is inconsistent with international humanitarian considerations, they will continue to wreck great havocs, and this will lead to a flagrant disregard of IHL. This is totally unacceptable.

Keywords: Humanitarian Considerations, Military objectives, Civilians, Civilian objects, Bombardments, Military.



1.0 INTRODUCTION

Henry Dunant, the father and true pioneer of contemporary humanitarian law in the nineteenth century moved humanitarian law a step forward.¹ He proposed that a society of trained volunteers be organized in all countries to care for wounded combatants which birthed the International Committee of the Red Cross (ICRC).² He also called for an international treaty among nations to assure more humane care of the wounded, and this paved way for the four Geneva Conventions.³ Furthermore, he called for some international principles that will be sanctioned by a convention and inviolate in character which will protect the wounded in war and those trying to help them. These principles include the principles of humanity, military necessity, proportionality, distinction, precaution etc.⁴ In addition to IHL principles, The International Red Cross and Red Crescent Movement, popularly known as The Movement, which includes the ICRC (founding member), The Federation and National Societies has the following fundamental principles; impartiality, neutrality, humanity, independence, voluntary service, unity and universality.

In 1864, Henry Dunant and other founding fathers like Guillaume-Henri Dufour (a general of the Swiss army and a writer of military tracts 1787-1875), Gustave Moynier (a young lawyer 1826-1910), Louis Appia (Medical Doctor, 1818-1898) and Theodore Maunoir (Medical Doctor, 1806-1869) laid the foundation for an International Humanitarian Law that is treaty based.⁵ Revisions of the

¹ Jakob Kellenberger, Customary International Humanitarian Law, Volume 1, Rules, Forward, International Community of the Red Cross, Cambridge University Press, the Edinburg Building, Cambridge, 2005.

² British Red Cross, The Beginning of the Red Cross, One Man's Inspiration for a kinder world. Available at <https://www.redcross.org.uk/about-us/our-history/movement-origin#> last accessed on the 29th of January, 2025.

³ Francois Bugnion, Birth of an Idea: the Founding of the International Committee of the Red Cross and of the Red Crescent Movement: from Solferino to the original Geneva Convention (1859-1866), International Review of the Red Cross, Vol 94, Issue 888: ICRC: 150 Years of Humanitarian Action, Cambridge University Press, 17th Oct 2013. Available at <https://www.cambridge.org/core/journals/international-review-of-the-red-cross-and-red-crescent-movement-from-solferino-to-the-original-geneva-convention-18591864/1546E3971BC5FAB62F31D6BEDE98DCD6> last viewed on the 29th of January, 2025.

⁴ F u n d a m e n t a l P r i n c i p l e s o f I H L , a v a i l a b l e a t http://casebook.icrc.org/a_to_z/glossary/fundamental-principles-ihl last accessed on 29th January, 2025.

⁵ International Committee of the Red Cross, The Nobel Prize, available at <https://www.nobelprize.org/prizes/peace/1917/red-cross/history/> accessed on the 29th of January, 2025.



treaty was done in 1906, 1929 and 1949, and new conventions held that protected hospitals, ships, Prisoners of war and civilians.⁶

Even though it cannot be said that the incidences of armed conflicts have reduced since the end of the second world war, various international and non-international conflict all across the world have shown that civilians have become targets at an alarming rate.⁷ There is a great need to protect the civilian population.⁸ All these efforts resulted in the four Geneva Conventions which formed the corner stone of the IHL that we know today.⁹

Apart from the four Geneva Conventions, there are other treaties available governing the conducts of hostilities; The Declaration of St Petersburg 1868, The Hague Conventions of 1899 and 1907 and the Geneva Protocol of 1925 which bans the use of chemical and bacterial weapons in war.¹⁰ In 1977, the two additional protocols to the Geneva Convention were adopted, and in 1980, the convention on Certain conventional weapons and its five protocols was adopted.¹¹ Then, the Ottawa Convention on the Prohibition of Anti-Personnel Landmines 1997, Statute of International Criminal Court 1998, Protocol to the 1954 Convention for the protection of Cultural Property in the event of armed conflict 1999 and the optional Protocol on the involvement of children in armed conflict 2000 were also adopted.

All these treaties as well as the rules of customary international law makes provisions that governs the conduct of hostilities and protects civilians. They postulate humanitarian considerations that ought to be made in the bombardment of military targets and objectives.

⁶ History of the ICRC, International Committee of the Red Cross, available at <https://www.icrc.org/en/document/history-icrc> accessed on 29th of January, 2025.

⁷ United Nations 9632ND Meeting (AM & PM), Meetings Coverage and Press Releases, In Progress at UNHQ, We must go above, beyond, compliance, Fully Protect Civilians against 'Harms They are Suffering on Our Watch', Senior Humanitarian Official Tells Security Council, S C / 1 5 7 0 2 , 2 1 M a y , 2 0 2 4 . A v a i l a b l e a t <https://press.un.org/en/2024/sc15702.doc.htm> Last accessed on the 29th of January, 2025.

⁸ Dr. Abdul G. Koroma, Customary International Humanitarian Law, Volume 1, Rules, Forward, International Community of the Red Cross, Cambridge University Press, the Edinburg Building, Cambridge, 2005.

⁹ Sources of International Humanitarian Law, Diakonia International Humanitarian Law Center, available at <https://www.diakonia.se/ihl/resources/international-humanitarian-law/sources-international-humanitarian-law/> last viewed on the 29th of January, 2025.

¹⁰ Ibid

¹¹ Ibid



However, despite the several provisions of the law for the protection of civilians and person hor de combat, civilians are still the largest casualties during any armed conflict. The rules exist but they are being severely disregarded most of the time leading to unimaginable torture for the civilian population and other protected persons. It is very crucial that every member of the armed forces of every state understanding the concept of military target and objectives as well as all the principles of international humanitarian law which will be discussed in this work to ensure compliance with humanitarian considerations.

1.1 THE CONCEPT OF MILITARY TARGET AND OBJECTIVES

The law of targeting is at the core of international humanitarian law and at the heart of the law of targeting is the concept of military objectives. The principle of military objectives is now a part of customary international humanitarian law on land, sea or in the air.

First used in the non-binding 1923 Rules of Air Warfare, the term "military objectives" was created in The Hague by a Commission of Jurists (established in 1922 by the Washington Conference on the Limitation of Armament).¹² It also appears in the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict,¹³ the 1949 Geneva Conventions for the Protection of War Victims (which do not define it), the 1998 Rome Statute of the International Criminal Court, and particularly the 1999 Second Protocol to the Cultural Property Convention.¹⁴

Article 52(2), Protocol 1 of 1977 gives the first definition of military objectives, it says;

Attacks shall be limited strictly to military objectives. In so far as objects are concerned, military objectives are limited to those objects

¹² See Geneva Convention(I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Aug.12,1949, DOCUMENTS ON THE LAWS OF WAR, supra note 2, art. 19 2d para., at 195, 205; Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, Aug.12,1949, id.,art.185th para., at 299,308.Both texts refer to the perils to which medical establishments may be exposed by being situated close to "military objectives."

¹³ Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, May 14, 1954, DOCUMENTS ON THE LAWS OF WAR, supra note 2, art. 8(1)(a), at 371, 376.

¹⁴ Yoram Dinstein, "Legitimate Military Objectives under the current jus in bello", International Law Studies, Volume 78. Legal and Ethical Lessons of NATO's Kosovo Campaign



which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.

The above provision is saying in essence that every attack (act of violence against the adversary, whether in offence or defense),¹⁵ whether large scale like a massive air strike or small scale like a single gunman firing a bullet, must be directed solely at military objectives. Military operations must be conducted between military men in uniform only, civilians must be spared.

The first article of the Oxford Manual 1880¹⁶ states that the state of war does not admit to any act of violence save those done between the armed forces of belligerent states. This was followed by a statement of clarification which cleared all doubts and establishes that there is a distinction between individuals who are members of the armed forces of a state and the other members of the country, civilians.¹⁷

This well-known principle of distinction received its first formal recognition in the Instructions of Professor Francis Lieber.¹⁸ President Lincoln promulgated these Instructions in the Federal Forces in the United States Civil war.¹⁹ The Instructions stated that in the olden days during armed conflicts, civilians in the affected areas and their properties were always subject to the “barbaric” whims and caprices of the army commander.²⁰ However, the Instructions also admitted

¹⁵ Article 49(1), Protocol I of 1977

¹⁶ D.Schindler and J.Toman, *The Laws of Armed Conflicts, The Laws of War on Land*, Oxford, 9 September 1880, Historical, treaty, International Humanitarian Law Databases, Martinus NijhoffPublisher, 1988, pp.36-48. Available at IHL Treaties - Oxford Manual, 1880, last accessed on 30th January, 2025

¹⁷ Medecins Sans Frontieres, *The practical Guide to Hummanitarian Law*, Calling Available at Doctors without borders | The Practical Guide to Humanitarian Law, last accessed on the 30th of January, 2025.

¹⁸ Paust, Jordan J. “Dr. Francis Lieber and the Lieber Code.” *Proceedings of the Annual Meeting (American Society of International Law)*, vol. 95, 2001, pp. 112–15. *JSTOR*, <http://www.jstor.org/stable/25659466>. Accessed 31 Jan. 2025.

¹⁹ Jenny Gesley, *The “Lieber Code”-the First Modern Codification of the Laws of War*, Library of Congress Blogs, In Custodia Legis, Law Librarians of Congress, ISSN 2691-6592, available at *The “Lieber Code” – the First Modern Codification of the Laws of War | In Custodia Legis* last accessed on the 31st of January, 2025.

²⁰ Ibid



that as civilization is advancing now, so also is the distinction between a private individual living in a hostile country and the hostile country itself with its military men, during armed conflict.²¹ It is now an established principle, that a private individual who is not a soldier ought to be spared, as well as his properties as much as possible.

The Declaration of ST. Petersburg of 1868 cannot be looked away from.²² It also recognized this principle of distinction. The Declaration stated that the only legitimate object which States should endeavor to accomplish is to weaken the military forces of the enemy.²³

Even though, the Hague convention of 1907 did not really shine the spotlight on this principle, many of its provisions, though did not directly mentioned the principle of distinction or the concept of military objective, provided for protection for private individuals and their properties during armed conflicts. For example, Article 25 annexed to the Regulations of Hague IV, this provision prohibits military men launching attacks on an undefended place in land combat.

More so, Article 1 of Hague IX,²⁴ prohibits the bombardment of undefended places in naval warfare. Something common to both land and naval warfare is that it is expected of the commanding officer in charge of the bombardment to give prior notice of the bombardment.²⁵ The commander also has the duty to protect as much as he can, buildings dedicated to religion, science, art, hospitals, museums etc. are to be protected as long as those buildings were now not being used for military purposes.²⁶

1.2 THE PRINCIPLE OF DISTICTION

The study of the history of warfare over the years has established the undeniable

²¹ Ibid

²² ICRC Database, Treaties, States Parties and Commentaries, Declaration Renouncing the Use, in Time of War, of Explosive Projectiles Under 400 Grammes Weight. Saint Petersburg, 29 November / 11 December 1868., Declaration, Available at <https://ihl-databases.icrc.org/en/ihl-treaties/st-petersburg-decl-1868/declaration> or A look at the Declaration of St. Petersburg of 1868, last accessed on the 31st of January, 2025.

²³ Ibid

²⁴ ICRC Database, Treaties, States Parties and Commentaries, Convention (IX) concerning Bombardment by Naval Forces in Time of War. The Hague, 18 October 1907., Article 1, available at <https://ihl-databases.icrc.org/en/ihl-treaties/hague-conv-ix-1907/article-1>, last accessed on the 31st of January, 2025.

²⁵ Ibid

²⁶ Ibid



fact that certain objects and persons may be legitimately attacked during armed conflicts.²⁷ While giving its Advisory Opinion on the “Legality of the Threat or use of a Nuclear weapon”, the International Court of Justice²⁸ in 1996 stated that the Principle of Distinction between combatants and non-combatants (civilians) is a very fundamental and germane principle of customary international law.²⁹ This principle of distinction is the essence of the jus in bello.

Article 48 of Protocol Additional I of 1977 to the 1949 Geneva Conventions for the Protection of War Victims, entitled “Basic rule” states;

In order to ensure respect for and protection of the civilian population, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.

2.0 RULES OF CUSTOMARY INTERNATIONAL HUMANITARIAN LAW ON THE PRINCIPLE OF DISTINCTION

Customary international law has quite a number of rules on the principle of distinction. Some of these rules will be briefly considered below.³⁰

2.0.1 The conflict's parties must always make a distinction between combatants and civilians. Only combatants may be the target of attacks. Civilians must not be the target of attacks.

Both international and non-international armed conflicts are subject to this regulation. The first of this rule's three elements is that parties to a conflict must

²⁷ Agnieszka Jachec-Neale, “The Concept of Military Objectives in International law and targeting practice”, ISBN 9781138242708, Routledge, 2016. <https://www.routledge.com/The-Concept-of-Military-Objectives> viewed on 3rd of June, 2021.

²⁸ Advisory Opinion on Legality of the Threat or Use of Nuclear Weapons, 1996 I.C.J.Reports 226, 257 (July 8).

²⁹ Yoram Dinstein, “Legitimate Military Objectives under the current jus in bello”, International Law Studies, Volume 78. Legal and Ethical Lessons of NATO's Kosovo Campaign

³⁰ ICRC Database, Customary IHL, The Principle of Distinction between Civilians and Combatants, available at <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule1>, last accessed on the 31st of January, 2025.



be able to tell the difference between combatants and civilians. Second, during armed conflict, only fighters must be assaulted; and third, civilians must not be harmed.³¹

Military manuals which are applicable in or have been applied in non-international armed conflicts specify that a distinction must be made between combatants and civilians to the effect that only the former may be targeted. To direct attacks against civilians in any armed conflict is an offence under the legislation of numerous States. There are also a number of official statements pertaining to non-international armed conflicts invoking the principle of distinction and condemning attacks directed against civilians. States' submissions to the International Court of Justice in the Nuclear Weapons case referred to above were couched in general terms applicable in all armed conflicts.³²

Regarding international or non-international armed conflicts, no official opposing practice was discovered. This concept is occasionally stated in many ways, most notably as the principle of separation between combatants and non-combatants, according to which citizens who do not actively participate in hostilities are classified as non-combatants.³³

³¹ Ibid

³² Jean-Marie Henckaerts, Louise Doswald-Beck, Carolin Alvermann, Knut D'ormann and Baptiste Rolle, Customary International Humanitarian Law, Volume 1, Rules, International Community of the Red Cross, Cambridge University Press, the Edinburgh Building, Cambridge, 2005, pp.65.

³³ Consult the military manuals of the US, Croatia, the Dominican Republic, Ecuador, Hungary, Sweden, Israel, the Military Court at Ramallah, the Kassem case, Belgium, Colombia, and other countries. Report of the UN Secretary-General on safeguarding humanitarian aid for refugees and other individuals in war situations; Report in accordance with paragraph 5 of Security Council resolution 837 (1993) on the UN Security Council's investigation into the attack on UN forces in Somalia on June 5, 1993; ICJ, Nuclear Weapons case, Advisory Opinion.



2.0.2 It is forbidden to do violent acts or make threats of violence whose main goal is to instill fear in the civilian population.³⁴

Many military manuals around the world contain this rule, and in many states, violating it is illegal. Thankfully, in October 1973, the International Committee of the Red Cross pleaded for the parties to the Middle East conflict; Iraq, Israel, Egypt, and Syria, to avoid from employing weapons intended to inspire terror among people.

This rule is contained in many military manuals all around the world and violation of the rule is an offence under the legislation of many states. In October 1973, the ICRC reached out an appeal to the parties of the conflict in the Middle East, which includes Iraq, Israel, Egypt and Syria and fortunately, these nations agreed not to use weapons that are intended to spread terror among the civilian population. This rule is supported by Article 33 of the 4th Geneva Convention, Article 4(2)(d) and 13(2) of Additional Protocol 11.

During the armed conflicts in the former Yugoslavia, the UN Commission on Human Rights and UN General Assembly adopted several resolutions that stands against the terrorization of the civilian population. The International Criminal Tribunal for the former Yugoslavia in the many indictments before her frowned at any act of violence the primary purpose of which is to spread terror among the civilian population.

Examples of acts of violence cited in practice as being prohibited under this rule include offensive support or strike operations aimed at spreading terror among the civilian population, indiscriminate and widespread shelling, and the regular bombardment of cities, but also assault, rape, abuse and torture of women and children, and mass killing. The indictments on the grounds of terrorizing the civilian population in the above-mentioned cases before the International Criminal Tribunal for the Former Yugoslavia concerned deliberate and indiscriminate firing on civilian targets, unlawful firing on civilian

³⁴ ICRC Database, Customary IHL, The Principle of Distinction between Civilians and Combatants, available at <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule2> last accessed on the 31st of January, 2025.



gatherings, and a protracted campaign of shelling and sniping upon civilian areas. These examples show that many acts violating the prohibition of acts or threats of violence aimed at terrorizing the civilian population are also covered by specific prohibitions.³⁵

2.0.3 On the distinction between civilians and combatants, Customary International Law says except for members of the medical and religious services, every member of a party's armed force is a combatant.³⁶

Members of a state's armed forces may be regarded as fighters in both international and non-international military conflicts. However, only international armed conflicts use the term "combatant status." The Hague Regulations state that a state's armed forces may consist of both combatants and non-combatants in an international armed conflict. However, anyone directly involved in hostilities will not be eligible for the protections provided to civilians in armed conflicts, as stated in Rule 6 of the Contemporary International Humanitarian Law. In Cairo Declaration and Cairo Plan of action members of a state's armed forces were referred to as combatants in both international and non-international armed conflicts.³⁷ It must be noted however that the fact that someone is referred to as a combatant does not entitle the person to combatant status or Prisoner of War Status.³⁸

Combatants or fighters (a term used more in non-international armed conflict) include persons who take active part in hostilities, civilians who take a direct part in hostilities and members of dissident armed forces and other organized armed groups.

³⁵ Jean-Marie Henckaerts, Louise Doswald-Beck, Carolin Alvermann, Knut D'ormann and Baptiste Rolle, Customary International Humanitarian Law, Volume 1, Rules, International Community of the Red Cross, Cambridge University Press, the Edinburgh Building, Cambridge, 2005, pp.72.

³⁶ ICRC Database, Customary IHL, The Principle of Distinction between Civilians and Combatants, available at <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule3> last accessed on the 31st of January, 2025

³⁷ Cairo Declaration, Sections 68–69, and Cairo Plan of Action, Section 82, both adopted at the Africa-Europe Summit held under the Aegis of the Organization of African Unity and the European Union, 3–4 April 2000.

³⁸ Jean-Marie Henckaerts, Louise Doswald-Beck, Carolin Alvermann, Knut D'ormann and Baptiste Rolle, Customary International Humanitarian Law, Volume 1, Rules, International Community of the Red Cross, Cambridge University Press, the Edinburgh Building, Cambridge, 2005, pp.73.



Regardless of this definition, medical and religious personnel who are members of a state's armed forces are not considered combatants. According to the first Geneva convention, medical personnel are protected as non-combatants as long as their medical assignment lasts, provided that they at no point in time take direct part in hostilities. Other groups of people who may be members of a state's armed forces but are not taking up direct part in hostilities and also accorded the non-combatant status as recognized by the Military Manual of Germany and the United States includes Judges, Government Officials and Blue-Collar workers.

2.0.4 All organized armed forces, groups, and units that report to a command that is accountable to that party for the behavior of its subordinates make up the armed forces of a party to the war.³⁹

In essence, this definition of armed forces covers all persons who fight on behalf of a party to a conflict and who subordinate themselves to its command. As a result, a combatant is any person who, under responsible command, engages in hostile acts in an armed conflict on behalf of a party to the conflict. The conditions imposed on armed forces vest in the group as such. The members of such armed forces are liable to attack.⁴⁰

This definition of the armed forces expands on previous definitions included in the Third Geneva Convention and the Hague Regulations, which attempted to identify fighters eligible for POW status. According to Article 1 of the Hague Regulations, militias and voluntary corps that meet four requirements are also subject to the laws, rights, and duties of war:

- 2.0.4.1. to be led by an individual who is in charge of his followers;
- 2.0.4.2. to have a permanent, easily identifiable symbol;
- 2.0.4.3. to carry weapons in plain sight; and

³⁹ ICRC Database, Customary IHL, The Principle of Distinction between Civilians and Combatants, available at <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule4> last accessed on the 31st of January, 2025.

⁴⁰ Jean-Marie Henckaerts, Louise Doswald-Beck, Carolin Alvermann, Knut D'ormann and Baptiste Rolle, Customary International Humanitarian Law, Volume 1, Rules, International Community of the Red Cross, Cambridge University Press, the Edinburg Building, Cambridge, 2005, pp.76.



- 2.0.4.4. to carry out their actions in compliance with the rules and regulations of war. Additionally, it states that in nations where volunteer corps or militias—also known as "irregular" armed forces—either make up or are a component of the army, they are referred to as "armies."⁴¹
- 2.0.5. Individuals who are not personnel of the armed forces are referred to as civilians.⁴²
- 2.0.6. Unless and until they actively participate in hostilities, civilians are shielded from attack.⁴³

2.1 DISTINCTION BETWEEN CIVILIAN OBJECTS AND MILITARY OBJECTIVES

It is imperative that the conflicting parties always make a distinction between military and civilian targets. Attacks are limited to targeting military targets. Attacks on civilian targets must be avoided.⁴⁴

Simply put, civilian objects are objects which are not military objectives. The International Criminal Court criminalizes intentionally directing an attack against civilian objects; it is regarded a war crime in international armed conflict. In the Nuclear Weapons' case, many states in their pleadings before the ICJ invoked the principle of distinction between civilian objects and military objectives. The court maintained that the principle of distinction is one of the cardinal principles of IHL, an "intransgressible" principle of international customary law. Many states have also made legislations that makes attacking civilian objects a crime.

⁴¹ Jean-Marie Henckaerts, Louise Doswald-Beck, Carolin Alvermann, Knut D'ormann and Baptiste Rolle, Customary International Humanitarian Law, Volume 1, Rules, International Community of the Red Cross, Cambridge University Press, the Edinburg Building, Cambridge, 2005, pp.76.

⁴² ICRC Database, Customary IHL , Definition of Civilians, available at <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule5>, last accessed on 3rd of February, 2025.
ICRC Database, Customary IHL , Definition of Civilians, available at <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule6>, last accessed on 3rd of February, 2025

⁴³ ICRC Database, Customary IHL , Definition of Civilians, available at ICRC Database, Customary IHL , Definition of Civilians, available at <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule7>, last accessed on 3rd of February, 2025.

⁴⁴ ICRC Database, Customary IHL , Definition of Civilians, available at ICRC Database, Customary IHL , Definition of Civilians, available at <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule8>, last accessed on 3rd of February, 2025.



When it comes to objects, military objectives are restricted to those that, due to their nature, location, purpose, or use, effectively contribute to military action and whose partial or complete destruction, capture, or neutralization, under the conditions that prevail at the time, offers a clear military advantage.⁴⁵

Military objectives are defined by international humanitarian law (IHL) as objects which, by their nature, location, purpose, or use, make an effective contribution to military action, and the total or partial destruction, capture, or neutralisation of which would provide a definite military advantage. This definition is contained in Additional Protocol I of 1977 to the four Geneva Conventions (API, art. 52). It is also recognised in similar terms as a rule of customary international humanitarian law (CIHL) applicable to both international and non-international armed conflicts and binding on all States, including those that have not ratified the Additional Protocols of 1977 (CIHL Rule 8).⁴⁶

The decision on whether a target is a military object or civilian objective needs to be an ad hoc decision of army commanders.⁴⁷ Although, there exists no binding list of military objectives, the following are considered military objectives;⁴⁸

2.1.1 Military units and individual members of the armed forces, whether stationed or mobile;

⁴⁵ Albert Camus, *The Practical Guide to Humanitarian Law, Military Objectives*, Medecins Sans Frontieres, available at [Doctors without borders | The Practical Guide to Humanitarian Law](#), last accessed on the 3rd of February, 2025.

⁴⁶ Ibid

⁴⁷ Yoram Dinstein, "Legitimate Military Objectives under the current Jus in bello", *International Law studies*, Volume 78, Legal and Ethical Lessons of NATO'S Kosovo campaign, edited by Andru E. Wall, pp. 8.

⁴⁸ Harrison Dinniss, Heather, A., *Ukraine Symposium – Military Networks and Cyber Operations in the War in Ukraine*, Lieber Institute Westpoint, 29 April 2022, available at <https://lieber.westpoint.edu/military-networks-cyber-operations-war-ukraine/> last accessed on the 3rd of February, 2025.



- 2.1.2 temporary military camps, entrenchments, staging areas, deployment positions, and embarkation points;
- 2.1.3 fixed military fortifications, bases, barracks, and installations, including facilities for training and war gaming;
- 2.1.4 weapon systems, military equipment and ordnance, armor and artillery, and military vehicles of all kinds;
- 2.1.5 Military aircraft and missiles of all types;
- 2.1.6 Military aircraft and missiles of all kinds;
- 2.1.7 Warships of all kinds, whether surface ships or submarines;
- 2.1.8 Military ports and docks;
- 2.1.9 Military depots, munitions dumps, warehouses, or stockrooms for the storage of weapons, ordnance, military equipment, and supplies (including petroleum and other raw materials for military use);
- 2.1.10 Factories that manufacture weapons, munitions, and military supplies, even if they are privately owned;
- 2.1.11 Research and development facilities for new weapons and military equipment;
- 2.1.12 Facilities for military repairs;
- 2.1.13 Military-use power plants (hydroelectric, electric, etc.);
- 2.1.14 Strategic transportation routes, primarily mainline railroads and rail marshalling yards; major motorways (such as the US interstate highways, the German Autobahn, and the Italian autostradas); navigable rivers and canals (including railway tunnels and bridges);
- 2.1.15 Ministries of Defense and any operational or coordination center at the national, regional, or local level that is involved in managing the war (including computer centers, as well as telephone and telegraph exchanges, for military use);
- 2.1.16 intelligence-gathering centers (even when not operated by the military establishment).

The definition of civilian objects should be read together with the definition of military objectives; this is when it can be perfectly understood. Only objects that qualify as military objectives may be attacked, other objects are protected objects.⁴⁹ Every effort must be made by both sides of the battle to confirm that targets are military objectives.⁵⁰

⁴⁹ ICRC Database, Customary IHL , Target Verification, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule16> last accessed on 3rd of February, 2025.

⁵⁰ Jean-Marie Henckaerts, Louise Doswald-Beck, Carolin Alvermann, Knut D'ormann and Baptiste Rolle, Customary International Humanitarian Law, Volume 1, Rules, International Community of the Red Cross, Cambridge University Press, the Edinburg Building, Cambridge, 2005, pp.95.



State practice considers civilian areas, towns, cities, villages, residential areas, dwellings, buildings and houses and schools, civilian means of transportation, hospitals, medical establishments and medical units, historic monuments, places of worship and cultural property, and the natural environment as prima facie civilian objects, provided, in the final analysis, they have not become military objectives. Alleged attacks against such objects have generally been condemned.⁵¹

Civilians and civilian objects remain protected as long as they do not become military objectives. Unless and until they became military targets, civilian objects are immune from attack.⁵²

2.2 PROBLEMS RELATING TO THE SCOPE OF MILITARY OBJECTIVES

2.2.1 The fate of a retreating Army

There is an opinion that when an army is retreating in disarray, fleeing from the opposing army, the retreating army should enjoy some humanitarian consideration or protection as in the case of the Iraqi Land Forces during the Gulf War. However, this is not so. The only way for a retreating army to immune themselves from further attack is by surrendering to the victorious army, because, a retreating army today can very well regroup to form a more dangerous force tomorrow.⁵³

2.2.2 Lawful individual lawful military target versus treacherous assassination.

There is nothing stopping an individual who is a member of an armed forces, wears an army uniform or carries a weapon from being a lawful military target, it doesn't matter that such a person is not at that time directly taking part in the

⁵¹ ICRC Database, Customary IHL , 'Civilian Objects' Loss of Protection from Attack, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule10> last accessed on 3rd of February, 2025.

⁵² Jean-Marie Henckaerts, Louise Doswald-Beck, Carolin Alvermann, Knut D'ormann and Baptiste Rolle, Customary International Humanitarian Law, Volume 1, Rules, International Community of the Red Cross, Cambridge University Press, the Edinburg Building, Cambridge, 2005, pp.95.

⁵³ Ibid



hostilities or poses an immediate threat to the enemy army. Though the law prohibits treacherous assassination, combatants singling out another combatant (a lawful military target) and killing him does not qualify as a treacherous assassination.⁵⁴

During World War two, when the United States targeted the Commander in Chief of the Japanese fleet, Admiral Yamamoto, in 1943, the US was not wrong to do so.⁵⁵ However, the story is different in the case of the ambush of the car of SS General Heydrich who was killed in 1942 by the members of the Free Czechoslovakia Army because those who targeted him were not men in uniforms. Otherwise, the targeting would have been legal because General Heydrich, being a military man is a lawful military target.⁵⁶

2.2.3 Political Leader as a Military Objective

If a political leader is a member of an armed forces, then such political leader is definitely a military objective. Also, when political leaders, though civilians, go to places that are military objectives, maybe they are driven by military cars or they went visiting the soldiers, they put themselves in danger of being military targets. However, a political leader on his or her own, away and far from any military objective cannot be a military target.⁵⁷

2.2.4 Government Offices as Military Objectives

Government offices are excluded from enemy attack as long as they are not used in furtherance of military activities. Every government office that works with or for the military like the Ministry of Defense and other related offices will constitute legitimate military target. the office of the head of state may or may not be a legitimate military target. For example, the White House and Aso Rock in Nigeria will constitute legitimate military targets because the Presidents occupying them are designated the Commander in Chief of the Armed Forces. However, the Buckingham Palace in London will not be a legitimate target since the Queen hold no such appellation or title.

⁵⁴ Thomas A. Hughes, Britannica, The Editors of Encyclopaedia Britannica, available at Yamamoto Isoroku | Japanese Naval Strategist & WWII Commander | Britannica, last updated 19th December, 2024. Last accessed on the 3rd of February, 2025.

⁵⁵ The Editors of Encyclopaedia Britannica, available at Reinhard Heydrich | Life & Assassination | Britannica, last accessed on the 3rd of February, 2025.

⁵⁶ Ibid

⁵⁷ Ibid



2.2.5 Television and Radio Stations Owned by Civilians

It is not unusual in war time to have the military takeover civilian television and radio stations in pursuit of disseminating war information to people or to keep people prepared and ready for attacks. In April, 1999, a state-owned Serbian Television Station was bombed in Belgrade by NATO. The committee that was established to look into the NATO bombing campaign against the Federal Republic of Yugoslavia, the committee concluded that the legality of this bombing was questionable and the bombing could only be justified if the station staff had been integrated into military command. However, The Hague Cultural Property Convention of 1954 identified broadcasting stations as legitimate military targets along with aerodromes and ports. This includes Civilian Airports and Maritime ports.⁵⁸

2.2.5 Police Officers

Policemen will become legitimate military targets if they have been incorporated into the military or if they have in one way or the other participated in the hostilities.⁵⁹

2.2.6 AREA BOMBARDMENT

Civilians and civilian objects as well as the military often live together in cities, towns and villages. Because of this entanglement, it has become increasingly difficult to keep to the considerations International Humanitarian Law has put in place for the protection of civilian objects. IHL frowns at attacks directed at civilians and civilian objects; indiscriminate attacks. IHL also frowns at attacks that are intended to cause incidental civilian harm which are excessive when compared with the military advantage anticipated. The principles of distinction, precautions and proportionality must all work hand in hand for an area bombardment to be lawful. Now, let us check out some rules that guide area bombardment.⁶⁰

The 11th rule of customary International Humanitarian Law prohibits indiscriminate attacks⁶¹ and the 12th rule explains the kind of bombardment that qualifies as indiscriminate attack.⁶² Indiscriminate attacks are those:

⁵⁸ Ibid

⁵⁹ Ibid

⁶⁰ ICRC Database, Customary IHL, Indiscriminate Attacks, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule11> last accessed on 3rd of February, 2025.

⁶¹ ICRC Database, Customary IHL, Definition of Indiscriminate Attacks, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule12>, last accessed on 3rd of February, 2025.

⁶² Ibid



- 2.2.6.1 which are not directed at a specific military objective;
- 2.2.6.2 which employ a method or means of combat which cannot be directed at a specific military objective; or
- 2.2.6.3 which employ a method or means of combat the effects of which cannot be limited as required by international humanitarian law; and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.⁶³

It is forbidden to launch a bombardment attack using any technique that treats several clearly different military targets as one military target, regardless of the equivalent concentration of civilian targets in a city, town, hamlet, or other location. Many military manuals state that in non-international armed conflicts, area bombing is forbidden as a form of indiscriminate attack.⁶⁴ An attack by bombardment through any method or means which treats a number of clearly distinct military objectives as a single military objective regardless of a similar concentration of civilians and civilian objectives in a city, town, village or any other area are prohibited. Area bombardment as a type of indiscriminate attack is prohibited in non-international armed conflict, many military manuals contain this.⁶⁵

Also, it is forbidden to conduct an attack that would be excessive in comparison to the anticipated concrete and direct military gain and that could result in accidental civilian casualties, injuries, or property damage.⁶⁶

2.3 FUNDAMENTAL GUARANTEES IN THE TREATMENTS OF CIVILIANS

Some fundamental guarantees exist in International Humanitarian Law for the protection of civilians during armed conflicts. Fundamental guarantees apply to all civilians who do not take direct part in hostilities. Some of these guarantees are briefly considered below;

⁶³ Leader Maynard, Jonathan, 'Allied Area Bombing in World War II', *Ideology and Mass Killing: The Radicalized Security Politics of Genocides and Deadly Atrocities* (Oxford, 2022; online edn, Oxford Academic, 18 Aug. 2022), available at <https://doi.org/10.1093/oso/9780198776796.003.0006>, last accessed 3 Feb. 2025.

⁶⁴ Ibid

⁶⁵ ICRC Database, Customary IHL, Proportionality in Attack, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule14> last accessed on 3rd of February, 2025.

⁶⁶ ICRC Database, Customary IHL, Principle of Precautions in Attack, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule15>, last accessed on 3rd of February, 2025.



2.3.1 The civilian population, civilians, and civilian property must always be spared when conducting military operations. Every possible effort must be taken to prevent, or at the very least, reduce, inadvertent civilian casualties, injuries, and property damage.⁶⁷

2.3.2 The civilian population, civilians, and civilian property must always be spared when conducting military operations. Every possible effort must be taken to prevent, or at the very least, reduce, inadvertent civilian casualties, injuries, and property damage.⁶⁸

2.3.3 When choosing the tools and tactics of combat, each side to the battle must take all reasonable efforts to prevent, or at the very least minimize, unintentional civilian casualties, injuries, and property damage.⁶⁹

2.3.4 Every conflicting party must make every effort to determine whether the attack could be expected to result in an incidental loss of civilian life, injury to civilians, damage to civilian property, or a combination of these that would be disproportionate to the expected direct and tangible military advantage.⁷⁰

2.3.5 If it becomes clear that the target is not a military objective or that the attack may be expected to result in incidental civilian casualties, civilian injuries, civilian property damage, or a combination of these that would be disproportionate to the anticipated concrete and direct military advantage, each party to the conflict must take all reasonable steps to cancel or suspend the attack.⁷¹

However, other than these rules protecting civilians, there are also some humanitarian guarantees that civilians are expected to enjoy during armed conflicts. These fundamental guarantees are applicable to both international and non-international armed conflict. These guarantees are human rights and they do not cease during armed conflict; we can say this is when International human

⁶⁷ ICRC Database, Customary IHL, Target Verification, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule16> last accessed on 3rd of February, 2025.

⁶⁸ ICRC Database, Customary IHL Choice of Means and Methods of Warfare, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule17> last accessed on 3rd of February, 2025.

⁶⁹ ICRC Database, Customary IHL, Assessment of the Effects of Attacks, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule18> last accessed on 3rd of February, 2025.

⁷⁰ ICRC Database, Customary IHL, Control during the Execution of Attacks, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule19> last accessed on 3rd of February, 2025.

⁷¹ Ibid Rule 87



rights and International Humanitarian Law overlap or work together. The fundamental guarantees provide that civilians and persons hors de combat must be treated humanely⁷² irrespective of colour, language, race, sex, belief, religion, political or any other opinion, national or social origin, wealth, birth or other status.⁷³ No civilian must suffer any form of ill-treatment, torture, cruel, degrading or inhuman treatment.⁷⁴

3.0 PERSONS AND PLACES ACCORDED WITH SPECIFIC PROTECTION

3.0.1 Medical personnel and objects:

Medical professionals who are only tasked with providing medical care must always be appreciated and safeguarded. If they engage in actions detrimental to the enemy outside of their humanitarian role, they are no longer protected.⁷⁵

3.0.2 Religious personnel and objects:

Religious people exclusively assigned to religious duties must be respected and protected in all situations. If they engage in actions that injure the enemy outside of their humanitarian role, they are no longer protected. According to international law, it is forbidden to attack medical and religious professionals as well as items bearing the Geneva Conventions' distinctive insignia.⁷⁶

3.0.3 Humanitarian relief personnel and objects⁷⁷

3.0.4 Personnel and objects involved in Peace Keeping missions⁷⁸

3.0.5 Journalists⁷⁹

3.0.6 Hospital and safety zones⁸⁰

3.0.7 Demilitarized zones⁸¹

3.0.8 Non-Defended Localities⁸²

3.0.9 Cultural property⁸³

⁷² Ibid Rule 88

⁷³ Ibid Rule 90.

⁷⁴ Ibid Rule 25

⁷⁵ Ibid Rule 27 & 30

⁷⁶ Ibid Rule 31

⁷⁷ Ibid Rule 33

⁷⁸ Ibid Rule 34

⁷⁹ Ibid Rule 35

⁸⁰ Ibid Rule 36

⁸¹ Ibid Rule 37

⁸² Ibid Rule 38

⁸³ ICRC, Protected Persons, available at Protected persons: Civilians | ICRC last accessed on 3rd of February, 2025.



Other than these people accorded protection include women, children, the elderly and the infirmed.⁸⁴

3.1 COMPLIANCE WITH AND ENFORCEMENT OF INTERNATIONAL HUMANITARIAN LAW

A number of the aforementioned regulations are particularly applicable to attacks as defined by IHL, or to military actions that have the potential to injure civilians. Conflicting parties must, however, constantly be careful to avoid harming civilians during any military action. These consist of troop movements and combat-preparation drills, such those carried out during ground operations in cities. Additionally, certain items may be protected in ways that go beyond attacks. For example, items that are essential to the civilian population's survival cannot be assaulted, destroyed, taken away, or rendered ineffective in any other way. This covers the network of drinking water supplies and installations in a city.⁸⁵

As in other situations, adherence to IHL during conflicts in urban areas is contingent upon the commander's knowledge or should have been based on information that was reasonably available from all sources under the circumstances at the time of the attack. It is crucial that information gathered when planning an operation in urban areas considers incidental civilian harm, including any indirect or "reverberating" effects, in addition to confirming that targets are military objectives, which is obviously a crucial requirement. This is because civilians and military objectives often coexist in urban areas.

Techniques like evaluating civilian life patterns and presuming that citizens are present in all civilian buildings, among others, may aid in resolving issues brought on by a city's physical environment incorrectly estimating civilian presence.⁸⁶

4.0 CONCLUSION AND RECOMMENDATIONS

Humanitarian considerations in the bombardment of military targets and objectives exist for the protection of the civilian population and civilian objects.

⁸⁴ ICRC Database, Customary IHL, Respect for International Humanitarian Law, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule139> last accessed on 3rd of February, 2025.

⁸⁵ International Humanitarian Law and the challenges of contemporary armed conflicts: recommitting to protection in armed conflict on the 70th anniversary of the Geneva Conventions, ICRC, pp 18-19.

⁸⁶ ICRC, Protected Persons, available at Protected persons: Civilians | ICRC last accessed on 3rd of February, 2025.



There will be a blatant disregard for international humanitarian law if the military personnel tasked with organizing, approving, and carrying out assaults continue to act in a way that is incompatible with international humanitarian principles.

Therefore, every military personnel must understand the principle of distinction and be able to distinguish between civilians and combatants, as well as between, civilian objects and military objectives. Also, both customary and contemporary international humanitarian rules must be followed. Lastly, States and parties to armed conflict must provide instruction in international humanitarian law to their armed forces and civilians must be sensitized to know that international humanitarian law stops protecting them once they directly take part in hostilities, at that moment they become combatants and combatants are legitimate military targets.⁸⁷ Flowing from the foregoing, this research recommends the following;

- i. Each state must educate her armed forces on the humanitarian considerations provided for by international humanitarian law and ensure that the rules are not violated by the members of her armed forces during armed conflicts.
- ii. Every violation of international humanitarian law must be punished by the international community to serve as a deterrent to other nations.
- iii. The United Nations and the International Committee of the Red Cross should have a system of reward for nations that comply with the rules of international humanitarian law during armed conflict, this will serve as an encouragement to other armed forces to do the same when it's their turn.
- iv. The rules of international humanitarian law should be domesticated in the local laws of each country and written in the military manuals of all forces, this will ensure a greater chance for compliance with and enforcement of the rules.

⁸⁷ ICRC Database, Customary IHL, Respect for International Humanitarian Law, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule139> last accessed on 3rd of February, 2025.