

COMPLIANCE WITH INTERNATIONAL HUMANITARIAN LAW NORMS IN THE DESTRUCTION OF MILITARY OBJECTS AND MILITARY TARGETS

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Annotation. *This article is devoted to the analysis of international humanitarian law norms regarding compliance with the principles of lawfulness in the destruction of military objects and military targets in the context of modern armed conflicts. The evolution of the concept of «military target» is studied from the traditional understanding of fortresses and fortifications to the modern definition enshrined in Additional Protocol I to the Geneva Conventions of 1977. The historical development of the laws of war from the Hague Conventions to modern international standards governing the conduct of armed conflicts is analysed.*

Special attention is paid to the principle of distinction between military and civilian objects, the presumption of inviolability of civilian structures and population, as well as requirements for minimizing losses among the civilian population during military operations. Issues of proportionality of military actions, prohibition of mass bombing of populated areas, and the obligation to use precision weapons to reduce collateral losses are examined.

The authors analyse modern challenges in applying international humanitarian law norms in the context of military technology development and the emergence of precision-guided weapons. The article emphasizes the necessity of independent assessment of the ratio between potential civilian casualties and obtained military advantages. Special attention is paid to the analysis of violations of international humanitarian law norms in the context of Russian aggression against Ukraine.

Keywords: *international humanitarian law, military targets, civilian objects, Geneva Conventions, Additional Protocol I, principle of distinction, proportionality, precision weapons, collateral damage.*

Introduction. In the current conditions of the Ukrainian state, the destruction of military objects has an ambiguous character. On one hand, there is the destruction of military objects on enemy territory by defence forces, with which our glorious Armed Forces of Ukraine successfully cope; on the other hand, there are constant enemy attacks on «supposedly» military objects in Ukraine. In practice, we see mindless shelling, hits on civilian objects, critical infrastructure objects, and sometimes deliberate destruction of objects that pose increased danger (for example, the Kakhovka Reservoir). These very

facts became the litmus test for analysing international humanitarian law norms and, consequently, determining the topic of this article.

The purpose and objectives of the study. The objectives of the article are to analyse the principle of distinction between military and civilian objects as a fundamental norm of international humanitarian law and its practical implementation in modern conflicts and to assess the impact of technological progress, in particular high-precision weapons, on the application of the principles of proportionality when making decisions regarding military targets. In addition, it is important to analyze modern challenges in the application of international humanitarian law in the context of asymmetric warfare and advanced military technologies and to provide a critical assessment of violations of international humanitarian law in the context of Russian aggression against Ukraine as an example of modern violations of norms regarding targets.

Literature review. The theoretical foundation of this study is based on fundamental works in international humanitarian law and the laws of armed conflict. The primary sources include the Geneva Conventions of 1949 and their Additional Protocols, particularly Additional Protocol I of 1977, which established the modern framework for distinguishing between military and civilian targets [1].

Classical works by Jean Pictet [10] on the Geneva Conventions provide foundational understanding of the humanitarian principles underlying the protection of civilians in armed conflict. The comprehensive commentaries on the Geneva Conventions by the International Committee of the Red Cross (ICRC) offer authoritative interpretations of key provisions related to military targeting.

Contemporary scholarship by Yoram Dinstein [2] in «The Conduct of Hostilities under the Law of International Armed Conflict» provides crucial analysis of the principle of distinction and proportionality in modern warfare. Michael Schmitt's [6] work on military necessity and humanitarian constraints offers valuable insights into the balance between military effectiveness and civilian protection.

The evolution of targeting law is thoroughly examined in W. Hays Parks' [8] seminal work on air warfare and civilian casualties, which traces the development from World War II area bombing to precision-guided munitions. Ian Henderson's [4] research on contemporary challenges in applying distinction principles provides relevant analysis for modern asymmetric conflicts.

Studies by Marco Sassòli and others [5] on the interpretation of «direct participation in hostilities» contribute to understanding the boundaries between combatants and civilians in contemporary conflicts. The work of Nils Melzer [7] on targeted killing and the boundaries of military targeting offers important perspectives on precision warfare and civilian protection.

Regional and conflict-specific studies, including analyses of conflicts in former Yugoslavia, Iraq, and Syria, provide practical examples of how targeting norms have been applied and violated in recent decades. The documentation by human rights organizations and international criminal tribunals offers empirical evidence of targeting practices and their legal assessment.

Recent scholarship addressing the Russian aggression against Ukraine, including reports by international monitoring missions and legal analyses of targeting practices, provides contemporary relevance to the study. The work of international fact-finding missions and human rights organizations documenting attacks on civilian infrastructure, hospitals, and schools in Ukraine offers crucial empirical data for analyzing contemporary violations of targeting norms.

The interdisciplinary approach incorporates military strategic studies, particularly works on precision warfare and collateral damage estimation, which provide technical context for understanding the practical application of legal norms. Historical analyses of the development of air power and its impact on civilian populations contribute to understanding the evolution of targeting law.

This literature review reveals both the robust theoretical framework of international humanitarian law regarding military targeting and the ongoing challenges in its practical application, particularly in the context of evolving military technologies and contemporary conflict patterns. The gap between legal norms and their implementation in practice remains a significant concern, particularly evident in recent conflicts including the ongoing Russian aggression against Ukraine.

Results obtained. The concept of «military target» in the broad sense is often used to define the general plan of a certain combat mission (for example, to capture a bridgehead, liberate hostages, ford a river, etc.). In a narrower sense, military targets include individual objects subject to destruction or neutralization. According to the laws of warfare, this concept is used precisely in the narrow sense, denoting a certain object on the terrain or enemy personnel, which in this case represent a lawful military target. Certain potential objects and persons are considered unlawful targets in advance. For example, international humanitarian law norms prohibit any direct attack on the civilian population or on any points, any terrain, or objects used exclusively for humanitarian (Ukrainian hospitals, maternity homes), cultural (theater in Mariupol, Odesa), or religious purposes (Sviatohirsk Lavra, Cathedrals and churches of Ukrainian cities). On the other hand, they lose immunity from attack if used by the enemy not for their intended purpose, but for military purposes. Nevertheless, the presumption of inviolability always applies to them. Additional Protocol I to the Geneva Conventions of 1949 states that «in case of doubt whether an object normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling or a school, is being used to make an effective contribution to military action, it shall be presumed not to be so used».

In ancient times, more than a hundred years ago, the laws of war very simply defined military targets. These were fortresses or any fortifications, as well as adjacent settlements that provided for the fortress and contributed to the defence of the fortifications. At the beginning of the 20th century, it became necessary to depart from such an understanding of military objects, as long-range cannons increased the zone of destruction, and enemy air forces transformed into combat units, which significantly increased the radius of destruction, as it allowed significant penetration deep into enemy

territory. In the period before World War I, the world community adopted two peaceful Hague Conventions, which at that time defined the laws of conducting military actions. These very documents replaced the concept of forts and fortified places with «defended localities». Obviously, this concept was more indefinite and flexible than what fits under the definition of fortress or fortification. Anyone can identify a fortress; however, it is another matter with a settlement or city as a defended locality. Immediately, numerous related questions arise. For example, is such a settlement defended or guarded if no military structures are located in it or no military formations are deployed, or if it has no strategic significance but is within the range of this or that anti-aircraft defence unit extending hundreds of kilometers deep? Therefore, at the beginning of World War II, considering the growing capabilities of military air forces and artillery to inflict damage on military-industrial infrastructure objects, the concept of «defended locality» became as outdated as the concept of «fortified locality» in its time.

After World War I, the world community attempted at the interstate level to determine which objects could be considered lawful military targets by compiling a list of categories of such targets. However, the established rules proved too rigid, so no warring country in subsequent conflicts used them in seeking ways of application. This very fact led to a revision of the concept itself, which now consisted in the fact that instead of a list of lawful military targets, it proved simpler to compile a list of those categories of persons and objects that cannot be such. The history of world conflicts did not stand still, and World War II and its consequences in the form of total destruction and human deaths as a result of mass bombings introduced corrections and demanded a revision of the content of the concept of «military target.» Systematic destruction of cities, block by block, as well as violations of moral norms regarding the civilian population of the enemy side both by allied forces and by Nazis, put forward the demand for introducing more humane laws regulating armed conflicts. For example, in February 1945, during coordinated bombing by British and American air forces, the city of Dresden was destroyed, where more than one hundred thousand civilians died in two days. This very bombing demonstrated the absence of a unified approach in defining military objects. During combat operations in the Far East (even before the use of the atomic bomb), over several months, eighty-four thousand peaceful residents died from incendiary bombs alone, thousands of dwellings were destroyed, and life support systems of entire cities were put out of order. The cited and other numerous cases became part of the tense global conflict and demonstrated to the world the necessity to pay attention as soon as possible, refine and systematize the laws regulating the conduct of armed conflicts, namely to precisely determine which objects can and cannot be considered as lawful targets.

Today, the definition of military objects formulated in Additional Protocol I (1977) is in effect [1]. Thus, Article 52 indicates that attacks may be directed only against certain objects (areas, structures, buildings, communications) «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». However, this Protocol specifically defines categories of persons and objects endowed with immunity of inviolability. First, it is in no way permissible to subject the civilian population to attack, and even more so to carry out bombing for the purpose of intimidating or suppressing the will of the civilian population. Such actions are unequivocally classified as war crimes. Such prohibition also extends to civilian objects and structures used for peaceful purposes. Additional Protocol I not only borrowed some provisions from previous acts but also formulated its own, which became new in the history of the formation of laws of war. For example, in case of doubt regarding the use of this or that civilian object for solving military tasks (which may lead to the loss of «inviolable object» status), the party carrying out the attack must proceed from the assumption that the object is used only for its direct, i.e., non-military purpose. Additional Protocol I categorically prohibits the tactics of so-called massive «carpet bombings» or area bombing in populated areas. It also declares unlawful bombing during which «a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects are treated as a single military objective». This valuable clarification undoubtedly has a humane character and is aimed at humanizing the conduct of war; it excludes the infliction of massive bombing strikes on significant areas of territories. Unfortunately, such bombings were often used not only during World War II and the Vietnam War but also in more recent history of armed conflicts: bombing of the Persian Gulf, former Yugoslavia, Syria, Ukraine.

Significant fire damage to densely populated territories of Japan in 1945, methodical bombing of Soviet and European cities during World War II would be considered today flagrant violations of international humanitarian law norms, namely the provisions of Additional Protocols of 1977, which prohibit such actions regardless of the scale and character of the conflict. There is an opinion that the scale of military objects that can become targets of military destruction depends on the scale of the conflict. For example, the more effort and resources the warring side employs to solve purely military tasks, the more transport, supply, or communication systems that were used in peacetime for civilian needs transform into lawful military targets. One cannot but agree with such an opinion, but the realities of present-day Ukraine suggest that under no circumstances can such an expansion of the boundaries of the concept of military targets, which includes civilian population and civilian objects, be recognized as lawful and justified.

Obviously, war, as a phenomenon, cannot be considered a humane action. It leads to the emergence of victims not only among the military but also among the civilian population. The provisions of Protocol I anticipated such a course of events and oblige warring parties when delivering bombing strikes to minimize civilian population losses by coordinating them with the fulfillment of combat tasks. When losses among the peaceful population are unjustifiably large, this testifies to only one thing – military operations were not of a selective character, and therefore they can be considered unlawful. In this case, Protocol I requires from warring parties that the object of preliminary destruction,

in each individual case, be clearly outlined and identified, and the choice of means of attack must be carried out strictly individually based on available armament and equipment. For example, during the Vietnam War, precision-guided weapons were used in successfully conducted air operations («Linebacker I,» «Linebacker II»). This same weapon ensured the success of the American army during Operation «Desert Storm». Therefore, the use of high-precision weapons instead of unguided bombs is especially important when conducting military operations in densely populated areas. Of course, this becomes possible if such weapons are available and capable of ensuring the fulfillment of a specific combat task. The appearance of high-precision weapons and modern target detection systems makes the necessity of distinguishing between military and civilian objects in places of residence of civilian, peaceful population increasingly acute. If during World War II, the destruction of one large military object required more than four thousand aircraft sorties and about ten thousand free-fall bombs, then during the Persian Gulf War, one F-117 fighter could destroy such a target in one sortie using precision weapons. Today, military technical equipment has developed to such an extent that the probable circular error and range deviation is measured not in miles but in feet. Of course, precision-guided weapons are extremely expensive armament that even world armies that have them cannot afford to use for solving any fire tasks; usually, such weapons are kept in reserve until the decisive moment in war or battle. Whatever the specific operational decisions may be, modern means of conducting combat have significantly changed the understanding of what material and human losses among the civilian population can be considered acceptable. The decision to use unguided free-fall bombs for striking in the presence of more accurate weapons may entail significant losses among the civilian population, which could have been avoided by using precision-guided weapons. In this case, civilian population losses are recognized as unjustified, and the corresponding operational decision as unlawful.

Thus, losses suffered by the civilian population as a result of a strike can be considered justified only in the case when all evidence of their inevitability is provided (even if the concentration of civilians at or around a military object was a premeditated step by the enemy).

The content of Additional Protocol I separately pays attention to the issue of conducting measures aimed at reducing losses among the civilian population, which contain, in addition to carefully thought-out methods and means of conducting combat, also stipulated consideration and choice of attack weapons. For example, when carrying out a bombing strike on an enemy headquarters located in a densely populated area of a settlement, the use of unguided bombs cannot be considered justified, especially if the attacking party has precision-guided weapons at its disposal, the use of which would allow avoiding unnecessary, excessive human casualties. On the other hand, the defending party to the conflict has no right to use peaceful residents as a «protective shield» or, for example, to transport them to the area of location of its command center in a critical situation. It must be emphasized that international humanitarian law prohibits all warring parties from hiding behind the civilian population, whether it concerns

occupied territories or not. The history of armed conflicts contains numerous examples of using civilian population, including in occupied territories, as a «barrier» for solving military tasks.

The fact that the peaceful population is used by warring parties as cover does not negate its right to protection from the consequences and threats of war. This only means that the attacking party must, in any case, direct its efforts toward avoiding losses among the population or at least minimizing them.

Conclusions. The requirements of International Humanitarian Law remain unchanged even in the case when only one of the two parties participating in the conflict has modern systems for conducting war in its armament. In such a case, the actions of each party are evaluated according to its real offensive or defensive capabilities. If an army that has modern offensive means in its armament uses outdated armament when delivering strikes, then the absence of precision-guided weapons in the enemy cannot be a justification for such actions. At the same time, the defending party must, during its defensive and offensive actions, use all possibilities to prevent or maximally deflect a strike against the peaceful population or minimize losses if such a strike cannot be prevented.

Under no circumstances should the question of the ratio between potential losses of the peaceful population and obtained military advantages be decided unilaterally by the commander who plans and carries out the military operation. Only an independent assessment, in our opinion, by organizations and structures that do not participate in the conflict can guarantee the necessary objectivity and prevent unnecessary and useless destruction and, as a consequence, suffering.

Thus, any losses, human or material, that the civilian population has during combat operations, regardless of the category of armed conflict and the character of the set combat task, can be considered justified only if their inevitability is indisputably proven and if ultra-modern and precise weapons available to the attacking party were used when delivering the strike.

References:

1. Additional Protocol to the Geneva Conventions of 12 August 1949, relating to the Protection of Victims of International Armed Conflicts (Protocol I), of 8 June 1977. URL: https://zakon.rada.gov.ua/laws/show/995_199#Text
2. Dinstein Y. Protection from attack of civilians and civilian objects. *The Conduct of Hostilities under the Law of International Armed Conflict*. Cambridge. P. 121–155. URL: <https://doi.org/10.1017/cbo9780511845246.007> (date of access: 15.07.2025).
3. Hague Convention respecting the Laws and Customs of War on Land of 18 October 1907. URL: https://zakon.rada.gov.ua/laws/show/995_765#Text
4. Ian Henderson, Zamani M. The Contemporary Law of Targeting: Military Objectives, Proportionality and Precautions in Attack under Additional Protocol I. *Journal of Conflict and Security Law*. 2011. Vol. 16, no. 2. P. 411–414. URL: <https://doi.org/10.1017/cbo9780511845246.007>

- org/10.1093/jcsl/krr009 (date of access: 15.07.2025).
5. Meron T., Denison C. L. Marco Sassòli and Antoine Bouvier, in cooperation with Laura M. Olson, Nicolas A. Dupic and Lina Milner How Does Law Protect in War? Cases, Documents, and Teaching Materials on Contemporary Practice in International Humanitarian Law International Committee of the Red Cross, Geneva, 1999, 1,493 pages. *Revue Internationale de la Croix-Rouge/International Review of the Red Cross*. 2000. Vol. 82, no. 839. P. 834. URL: <https://doi.org/10.1017/s1560775500184779> (date of access: 15.07.2025).
 6. Janik R. Tom Ruys, Olivier Corten, and Alexandra Hofer (eds), The Use of Force in International Law. A Case-Based Approach. Oxford University Press, Oxford 2018, ISBN 9780198784364, ix + 960 pp., GBP 137.50/Tallinn Manual 2.0 on the International Law Applicable to Cyber Operations. General Editor Michael N Schmitt, Cambridge University Press, Cambridge, 2017, ISBN 9781316630372. *Austrian Review of International and European Law Online*. 2019. Vol. 22, no. 1. P. 382–386. URL: <https://doi.org/10.1163/15736512-02201015> (date of access: 15.07.2025).
 7. Nils Melzer, Human Rights Implications of the Usage of Drones and Unmanned Robots in Warfare, European Parliament, Directorate-General for External Policies of the Union, Directorate B, Policy Department, Brussels, 2013.
 8. Melzer N., Geiß R. Oxford Handbook of the International Law of Global Security. Oxford University Press, 2021.
 9. Parks W. H. Air War and the Law of War. *The Conduct of Hostilities in International Humanitarian Law, Volume I*. London, 2023. P. 307–531. URL: <https://doi.org/10.4324/9781003417255-15> (date of access: 15.07.2025).
 10. Pictet J. S. The New Geneva Conventions for the Protection of War Victims. *The Development and Principles of International Humanitarian Law*. 2017. P. 139–152. URL: <https://doi.org/10.4324/9781315086767-4> (date of access: 15.07.2025).
 11. Sokyrynska O. A., Kovalchuk I. V. Legal analysis of compliance and scope of international humanitarian law before the adoption of the 1977 protocols. *Juridical scientific and electronic journal*. 2022. No. 3. P. 257–259. URL: <https://doi.org/10.32782/2524-0374/2022-3/59> (date of access: 15.07.2025).