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Legal Methodology for Selecting Legitimate Targets during Armed Conflict

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Abstract: The selection of legitimate targets during armed conflict is an integral part of international humanitarian law, which aims to limit harm to the civilian population and protect civilian objects from random or unjustified attacks. The study aims to analyse the methods of selecting legitimate targets in armed conflict within the framework of international humanitarian law and identify

shortcomings in the existing legal regulation of this process. To achieve this goal, the study used a combination of several methods, in particular, a legal analysis of existing international norms and principles of IHL, a comparative analysis of the application of these principles in different armed conflicts, as well as a critical approach to existing gaps in legal regulation. Using such methods allows for in-depth research into the issues and to identify weaknesses in the legal mechanisms governing the selection of legitimate targets in armed conflicts. The study showed that the principle of distinction, which requires a clear separation of military targets from civilian objects, becomes difficult to apply due to the integration of new technologies capable of simultaneously striking various targets without complete human control. In addition, significant legal uncertainty was found regarding applying the principle of proportionality in the case of using such systems, which is exacerbated by the lack of a clear legal basis for their application. The study indicates that the selection of legitimate targets in armed conflict should be regulated more by using autonomous weapon systems and other new technologies to ensure compliance with distinction, proportionality and military necessity. Since existing legal norms often do not consider the specifics of such technologies, it is necessary to create international agreements that regulate the use of autonomous weapon systems in war conditions, providing liability for unlawful strikes and decision-making without proper control.

Keywords: armed conflict, international humanitarian law, targeting, distinction, proportionality, military necessity, autonomous weapons systems, hybrid warfare, legal regulation.

Introduction

The principles of international humanitarian law (IHL), particularly the distinction between lawful and unlawful targets, are crucial in minimising harm to civilians and ensuring compliance with international legal standards (Ferraro, 2021). With the rise of conflicts in regions such as the Middle East, Ukraine, and others of global concern, the issue of identifying and selecting lawful military targets remains a critical point of discussion (Kubiak, 2023). Misidentifying or targeting unlawful targets exacerbates humanitarian crises and risks international condemnation and legal consequences (Ablamskyi et al., 2023). Thus, studying the legal methodology for selecting lawful targets during armed conflict is paramount for further application and development of IHL.

This study is particularly relevant as international courts, such as the International Criminal Court (ICC) and the International Court of Justice (ICJ), are increasingly focusing on accountability for war crimes, including violations involving the targeting of civilians and non-military objects. Furthermore, the role of international organisations, such as the International Committee of the Red Cross (ICRC), in reporting on and investigating violations reinforces the need for a clear legal framework to guide the selection of legitimate targets. The growing body of case law in this area, as well as the practical challenges faced by armed forces, underscore the relevance of this study.

The novelty of this study lies in its interdisciplinary approach, which combines legal analysis with practical insights from current conflicts and case law. While much has been written about the theoretical aspects of IHL, this study fills a gap by applying these theoretical principles to real-world scenarios and drawing comparisons across international cases. By drawing on the perspectives of international judicial bodies and organisations active in conflict zones, this study will contribute to a deeper understanding of how the legal rules are applied in practice and where improvements are needed.

The study will also offer a fresh perspective on the evolving nature of warfare, particularly in the context of new military technologies such as drones and cyberattacks that challenge traditional notions of legitimate targeting. By assessing how these technologies interact with existing legal frameworks, the study will provide a fresh perspective on the future of IHL and the legal regulation of armed conflict.

Research Problem

The need to analyse the problem of selecting legitimate targets in armed conflicts is due to the changing nature of modern warfare and the increasing complexity of military operations. As technological advances in weapons and military strategies continue – especially with the use of drones, cyber warfare and autonomous systems – the traditional distinctions between military and civilian targets are becoming increasingly blurred. In this context, there is an urgent need to improve and adapt legal methodologies for identifying legitimate targets by International Humanitarian Law (IHL). Recent international conflicts, such as those in Ukraine, the Middle East and elsewhere, have highlighted significant challenges in applying IHL principles such as distinction, proportionality and military necessity. These challenges, combined with increasing international scrutiny by courts such as the International Criminal Court (ICC) and the International Court of Justice (ICJ), highlight the importance of timely and thorough analysis. Furthermore, developing global mechanisms for accountability for war crimes requires a detailed examination of how IHL principles are implemented and where improvements are needed.

This study may shed new light on several aspects of the problem of selecting legitimate targets in armed conflict. First, it will offer a deeper understanding of how IHL principles – such as distinction, proportionality and necessity – are applied in different real-world conflict scenarios, particularly in complex settings involving non-state actors, hybrid warfare, and new military technologies. Second, the study will provide insights into the judicial interpretation of these principles by international courts, examining how decisions taken by the ICC, the International Court of Justice and other legal bodies contribute to forming the legal framework for selecting targets. The study will identify patterns and inconsistencies in applying these legal standards by analysing case law and drawing comparisons across different conflicts.

Finally, the study will highlight potential gaps in the current legal framework and offer recommendations for improving the methodology for selecting legitimate targets. This may include developing new legal instruments or adapting existing norms to better account for modern warfare tactics and technologies. Ultimately, the study will contribute to the debate on the evolving relationship between war and international law.

Research Focus

The focus is on understanding how the principles of distinction, proportionality and necessity are interpreted and applied in real-world scenarios. This includes examining how these principles guide military decisions in complex and changing combat environments where the boundaries between combatants and civilians may not always be clear.

The study will delve into the decisions of international judicial bodies, such as the International Criminal Court (ICC) and the International Court of Justice (ICJ), focusing on how these bodies interpret and apply the laws governing the selection of legitimate targets. A detailed study of case law will identify patterns, discrepancies and controversies in applying these principles in different conflicts.

Another key area of research will be examining reports and conclusions of international organisations, such as the International Committee of the Red Cross (ICRC). These organisations often document violations of IHL and provide valuable information on implementing legal norms in practice. The study will examine how these reports influence international legal discourse and the accountability mechanisms to ensure compliance with IHL.

With the rapid development of military technology and the emergence of new forms of warfare, such as drone strikes, cyber warfare and the use of autonomous weapons systems, the study will examine how these technologies challenge traditional notions of lawful targeting. It will assess how existing legal frameworks need to be adapted to these new realities, identify gaps in existing legal instruments and propose recommendations for reform.

Ultimately, the study will contribute to developing more effective legal guidelines for armed conflict, ensuring that military operations adhere to proportionality, necessity and distinction and minimise harm to civilians and civilian objects.

Research Aim and Research Questions

The main objective of this study is to analyse and critically assess the legal methodology for selecting legitimate targets in armed conflicts. This includes examining the application of key principles of IHL, such as distinction, proportionality and necessity, in determining which military objects are permissible targets under international law. The study aims to assess the effectiveness of existing legal standards, examine gaps in the current legal framework and offer recommendations for improving the legal principles for selecting targets in conflict.

To achieve this objective, the following tasks are outlined:

1. To analyse the key principles of IHL for selecting legitimate targets, focusing on distinction, proportionality and military necessity.
2. To examine relevant international case law, including decisions of the International Criminal Court and the International Court of Justice, which have shaped the interpretation of legitimate targets in armed conflicts.
3. To identify common legal problems and discrepancies in applying these principles in various conflicts, including asymmetric warfare and the use of new military technologies.
4. To propose recommendations for improving the legal framework governing the selection of legitimate targets and to address gaps in existing legal instruments.

Literature Review

The literature review has shown that scholars are examining various aspects of international humanitarian law (IHL) and its application to modern warfare, namely the changing nature of lawful targeting, particularly in contemporary technologies such as drones, autonomous weapons and cyber warfare. A key trend is the expansion of the legal and ethical debates surrounding these technologies, focusing on their compliance with IHL principles such as distinction, proportionality and necessity.

Several articles examine the challenges posed by modern military technologies. Konert and Balcerzak (2021) discuss military autonomous drones (UAVs), reviewing their legal and ethical implications, and Winter (2022) examines whether autonomous weapons are compatible with IHL principles. Both studies contribute to understanding how technological advances complicate traditional principles of lawful targeting.

Ahmad et al. (2024) focus on regulating drone strikes under IHL, particularly the need to establish a legal framework to regulate the use of drones in contemporary conflicts. Byczyński (2024) examines the legal status of “civilian hackers”, expanding the scope of military action to cyberattacks and the question of who can be considered a legitimate target in cyber warfare.

Numerous studies have focused on the role of international criminal tribunals and the International Criminal Court (ICC) in investigating violations of IHL, particularly war crimes. For example, Koruts (2023) discusses the ICC investigation of Russian war crimes in Ukraine, and Safdar et al. (2023) provide an overview of the role of the ICRC in promoting IHL. This demonstrates the growing attention to accountability for violations during armed conflict.

Khorram-Manesh et al. (2021) examine civilian casualties in contemporary conflicts, providing systematic evidence on the humanitarian consequences of war, particularly the unintended consequences of unlawful shelling. This is in line with the growing body of work on the human casualties of war and the need for stricter adherence to IHL principles. Dov Bachmann et al. (2023) highlight the evolution of warfare in the digital age, highlighting the growing need for IHL to address the complexities

of hybrid warfare. It offers a unique perspective on the changing boundaries of legitimate military objectives in contemporary conflict.

Post (2022) enhances understanding of the ICC's capacity to hold individuals accountable for violations of IHL, providing an essential legal framework for assessing wrongful acts in conflict, including attacks on civilians. Steinberg (2024) focuses on the politics of international criminal justice and provides a detailed understanding of how political pressures can affect the practical application of IHL, including prosecuting wrongful acts in conflicts such as the ongoing war in Ukraine.

The compatibility of autonomous weapons with IHL principles remains debated in the literature. While some scholars, such as Winter (2022), argue that autonomous weapons can be designed with IHL in mind, others are sceptical about their ability to respect the principle of distinction between combatants and civilians. Shereshevsky (2022) offers valuable insights into the intersection of IHL and technological innovation, highlighting the legal implications of autonomous systems and cyberwarfare for legitimate targeting in contemporary conflicts.

Vukušić (2022) contributes to understanding how legal precedents established by the ICTY can inform prosecutions regarding unlawful targeting in contemporary conflicts, providing an essential resource for legal scholars and practitioners in international criminal law.

Theussen (2021) contributes to the legal discourse on drones by carefully analysing how state practice is outpacing the development of international legal norms on using drones in armed conflict. While some work advocates regulating drone strikes (Ahmad et al., 2024), there is a clear divide between those who advocate a stricter legal framework to prevent civilian casualties and those who emphasise the operational advantages of drones in modern warfare. These conflicting views create difficulties in formulating universal legal standards.

Sarkin and Capazorio (2022) analyse the Syrian conflict, raising concerns about the limits of international law in the face of state sovereignty. This highlights the tension between humanitarian intervention and respect for state sovereignty, which makes it difficult to choose legitimate targets, especially in conflicts where one or more parties challenge the international legal framework.

Despite extensive debate on the ethical and legal aspects of autonomous weapons (Winter, 2022), there remains a significant gap in specific international legal standards for their use in combat. This gap extends to defining legitimate targets in the context of AI-driven military operations.

The literature on the legal status of "civilian hackers" Byczyński (2024) suggests that the intersection of cyberwarfare and IHL remains underexplored. More focused research is needed on how cyberattacks are considered within the framework of legitimate targeting.

Studies on the role of the ICC and other international tribunals strengthen the accountability dimension of IHL by offering a detailed examination of how violations are investigated and prosecuted (Koruts, 2023; Safdar et al., 2023). Works such as Kubiak (2023) and Gandhi (2023) provide a solid foundation for the basic principles of IHL, ensuring that the legal aspects of targeting are placed within a clearly defined theoretical context.

Thus, previous studies have highlighted the evolution of legitimate targeting, especially in light of technological advances and changing warfare dynamics. Despite significant progress in understanding the implications of drones, autonomous weapons, and cyber warfare, gaps remain in the development of legal approaches to targeting.

Materials and Methods

Sample and Participants

This study focuses on the analysis of the role of international law in regulating unlawful targeting during armed conflict, particularly regarding new military technologies. Given the theoretical nature of

the study, there is no direct selection of individuals or objects but a selection of relevant materials, sources and case studies related to the International Criminal Court (ICC), international humanitarian law (IHL) and new military technologies such as drones and autonomous systems. The primary data used are case studies, reports, academic articles, official legal documents related to the ICC, the International Criminal Tribunal for the Former Yugoslavia (ICTY), and relevant international treaties.

Instruments and Procedures

This study involves the analysis of official legal documents and reports, such as:

1. Case studies from the ICTY and other relevant tribunals.
2. Reports of the International Committee of the Red Cross (ICRC) up to 2023 provide information on implementing IHL.
3. Legal precedents and academic literature: A thorough review of academic articles, international legal documents and recent reports on hybrid warfare, drones and autonomous weapons was conducted.

The primary sources for this analysis are:

1. Cambridge and Oxford University Press articles on the evolution of IHL, particularly in light of new military technologies.
2. Reports from international organisations, such as the ICC and the UN, discussing the legal framework for the legitimate selection of targets in armed conflict.

Data Analysis

The data analysis for this study primarily involves qualitative analysis, focusing on the interpretation of legal texts, court decisions and reports of international organisations. The following methods were used:

1. Content analysis: Legal documents, trial transcripts and reports were analysed to identify recurring themes related to unlawful targeting, violations of IHL and the impact of new technologies on the conduct of war. Key themes such as military necessity, proportionality and distinction were examined to understand how these principles apply in contemporary conflicts.
2. Comparative analysis: The study compares different cases of unlawful attack, including ICTY cases and more recent examples from current conflicts, such as the war in Ukraine. This comparative approach allows for identifying trends in applying IHL and the challenges associated with technological advances in warfare.
3. Statistical analysis (where applicable): Where quantitative data were used (e.g., civilian casualty statistics or drone use), statistical methods, such as correlation analysis, were used to assess the relationship between military strategies and violations of IHL.
4. Case study analysis: Specific cases of unlawful targeting, such as drone strikes or hybrid warfare operations, were analysed to understand how the legal principles are applied in practice and to identify gaps in the current legal framework.

Results

International humanitarian law (IHL) is a branch of international law that regulates the conduct of States and other parties to armed conflicts, particularly by ensuring the protection of civilians, the wounded, prisoners of war, and other persons not participating in hostilities. The primary purpose of IHL is to limit the consequences of war by ensuring humanitarian standards and protecting the civilian population and property.

International humanitarian law distinguishes between armed forces fighting on behalf of a party to an armed conflict and civilians recognised as not taking a direct part in hostilities. It must be protected from the dangers associated with hostilities. The practice has established this principle of distinction as a norm of customary international law applicable to international and non-international conflicts.

Humanitarian law can fulfil its objective of protecting civilians from the effects of armed conflict if it consistently adheres to this principle. This principle imposes on parties to an armed conflict the obligation to distinguish between civilians and combatants, as well as between civilian objects and military objectives, and therefore, military operations should be conducted only against military objectives (Farhat et al., 2022). The principle of distinction is one of the most fundamental protections afforded to civilians in wartime. The need to distinguish between combatants and civilians is an essential aspect of the conduct of war. It has long been recognised as necessary to apply humanitarian principles to wartime conduct rules. Similarly, in the case of *Prosecutor v. Martić*, the International Criminal Tribunal for the Former Yugoslavia (ICTY) emphasised the rule that civilians, as well as individual civilians, should not be the object of attack as a fundamental rule of international humanitarian law applicable to all armed conflicts. The main reason for the principle of distinction is that combatants have the right to participate in hostilities and can, therefore, be targeted by the enemy. The practical application of the principles of international humanitarian law, particularly regarding the selection of legitimate targets, is a complex and vital aspect of armed conflicts, which requires detailed consideration in the context of the jurisprudence of international courts. The International Criminal Court (ICC) and the International Court of Justice (ICJ) are the central bodies monitoring compliance with international humanitarian law norms. Both of these bodies play a key role in determining responsibility for international law violations and ensuring compliance with the fundamental principles of IHL, including distinction, proportionality and necessity (Haruna et al., 2014).

The development of military technologies, particularly drones and cyberattacks, is changing the nature of modern armed conflicts and calling into question traditional notions of the legitimacy of the selection of targets. As Balazünbül (2021) points out, introducing these technologies significantly complicates applying classic principles of international humanitarian law, such as the distinction between combatants and civilians, proportionality and military necessity. Uncrewed aerial vehicles allow for long-range attacks, which changes the dynamics of hostilities and often makes it difficult to determine who is responsible for making target decisions. Similarly, cyberattacks pose new challenges for the law of armed conflict, as their consequences can be less obvious but no less devastating than traditional military actions. This highlights the need to adapt international legal norms to the realities of modern warfare.

The International Law Commission's Study on State Responsibility (ARSIWA) provides that "every internationally wrongful act of a State gives rise to the international responsibility of that State" (United Nations, 2023). This means, first, that the act is attributable to the State and, second, that the act violates the State's international obligations. Ultimately, the responsibility of a State is determined by its acts or omissions, regardless of whether it intended to cause harm. In other words, the law of State responsibility is based on objective responsibility, not subjective factors (Bayrak, 2024). State responsibility may arise if it is established that an operation to destroy a target using a drone may violate any of the three principles of IHL set out above.

The International Criminal Court, as the most essential instrument for prosecuting war crimes, has extensive experience in dealing with cases involving violations of the laws of war, including the improper selection of lawful targets. The ICC, which was established to ensure justice in international cases involving the most serious crimes, such as war crimes, crimes against humanity and genocide, has repeatedly dealt with cases involving the selection of targets during armed conflicts. In the context of cases before the International Court of Justice, the central role of this body is to interpret and apply international norms, particularly in violations of IHL relating to the selection of lawful targets. The ICJ is relevant in resolving inter-state disputes over breaches of principles of international humanitarian law, such as the distinction between civilian and military targets or in cases where States accuse each other of violating the proportionality of attacks. Through its role in ensuring international peace and security, the UN is actively involved in monitoring and assessing the selection of legitimate targets during armed conflicts, especially in regions where major humanitarian crises occur.

Analysing court cases and precedents concerning the selection of legitimate targets during armed conflicts provides a deeper understanding of how international humanitarian law is applied. Let us consider several important court cases that highlight the choice of legitimate targets during military operations, particularly in the context of air strikes and airstrikes.

The Yugoslavia case is one of the most significant in selecting legitimate targets during armed conflicts. As a result of the armed conflict in Yugoslavia in the 1990s, in particular during NATO air strikes on Serbia, questions arose about the compliance of attacks with the norms of international humanitarian law. The conflicts in the territory of the former Yugoslavia in the 1990s led to significant human losses, mass displacement of the population and large-scale destruction. According to the International Criminal Tribunal for the Former Yugoslavia (ICTY), the conflicts surrounding the breakup of Yugoslavia resulted in over 130,000 deaths or disappearances. Approximately 750,000 Albanian refugees returned home after the end of the fighting, while around 100,000 Serbs—roughly half of the province's Serb population—fled for fear of reprisals (International Criminal Tribunal, 2017). The court noted that the principle of proportionality must be observed, and attacks should only be carried out if the military advantage outweighs the potential harm to civilians and objects (Vukušić, 2022). In several cases, during investigations, it was found that the choice of targets, including attacks on bridges, airfields, and other strategic objects, was justified by military necessity. However, in some cases, violations of the principle of distinction between civilian and military targets have led to breaches of international humanitarian law, mainly when these objects had no direct military significance.

The case of Syria is another important example of the assessment of the selection of legitimate targets in airstrikes. The ongoing conflict in Syria is characterised by gross violations of international humanitarian law, which predominantly affect civilians. The legitimacy of the attacks, a characteristic feature of the conflict, is a pressing issue, as most targets are not military objectives or facilities. As the parties to the conflict struggle for dominance and control over different parts of the country, the attacks result in an increasing number of civilian casualties (Mowafi & Leaning, 2018). In July 2013, the United Nations (UN) reported that over 100,000 people had been killed, and this figure has since risen (Secretary-General, 2013). There are about 1,000 armed opposition groups in Syria, commanding an estimated 100,000 fighters (BBC News, 2013). The Free Syrian Army (FSA) is the most prominent armed opposition group, formed in 2011 by army deserters.

The case of Ukraine, particularly the full-scale invasion, is one of the most relevant and significant cases for considering the choice of legitimate targets in wartime. Ukraine seems to be able to argue that it has resisted Russian aggression since 2014, exercising its right to self-defence. The armed conflict began long before the Russian invasion in February 2022. Although the Russian government continues to deny this, Russia's direct military intervention in the Donbas probably started in August 2014. If so, then Ukraine's exercise of its right to self-defence against Russia began the same year that Russia annexed Crimea (Asada, 2024). According to Ukrainian Foreign Minister Dmytro Kuleba, since Russia annexed Crimea in 2014, there have been over 100 negotiations and ceasefire attempts, culminating in the complete occupation of Ukraine in February 2022 (VOA, 2023). The armed conflict in Ukraine, which began in 2014 and escalated significantly in 2022, has resulted in significant human losses, mass displacements, and widespread destruction. Ukraine and international organisations, including the UN and the Red Cross, have repeatedly alleged violations of international humanitarian law by Russia, which supports separatist forces in eastern Ukraine. As of 30 October 2024, at least 11,743 civilians, including 589 children, had been killed, according to the UN (Reuters, 2024). According to the principle of distinction, attacks directed at civilians or objects that are not legitimate targets violate IHL. In addition, the analysis of military objectives in the context of this conflict allows us to assess whether the principles of proportionality and necessity have been applied. For example, attacks on peaceful residential areas that did not have strategic military objectives may be considered excessive and in violation of international humanitarian law.

Case law and investigations by international bodies indicate numerous violations related to the selection of targets during armed attacks on the territory of Ukraine. In this context, three points should be emphasised. First, war crimes can only be committed intentionally, and honest mistakes in the process of selecting targets deprive the crime of the necessary element. Second, international humanitarian law only mitigates the horrors of armed conflict (Sotula & Piątkowski, 2024). This means that in certain circumstances, a certain level of harm to civilians or civilian infrastructure may not be unlawful due to the rule of proportionality (Bellal & Casey-Maslen, 2022, pp. 152–153). Third, the analysis of military operations, including airstrikes, must assess the situation in perspective. While the Russian military’s explanation that all attacks on facilities, infrastructure, and buildings have a military justification is not misleading, courts and prosecutors must carefully analyse the circumstances surrounding airstrikes, including technical, intelligence, and battlefield data (Piątkowski, 2021).

The practice of the International Criminal Court, the International Court of Justice, and national courts shows how important it is to observe the principles of proportionality, necessity, and distinction to ensure the humanity of military actions and to protect civilians from excessive losses. The consideration of each specific case allows us to determine the legality of the choice of military targets and contributes to the development of international jurisprudence, which ensures greater accountability for violations of IHL norms.

Reports of international organisations such as the Red Cross, Human Rights Watch, and the United Nations are essential sources for assessing compliance with international humanitarian law (IHL) during armed conflicts and identifying violations of the principles of selecting legitimate targets. Analysis of such reports helps to reveal how the international community assesses the selection of targets in various military campaigns and what consequences these choices have for civilians affected by armed actions.

Reports of the International Committee of the Red Cross (ICRC) often include an analysis of violations of IHL norms, particularly in the context of the selection of legitimate targets in armed conflicts. The Red Cross has extensive experience monitoring situations and documenting violations during armed conflicts, allowing the organisation to act as a neutral observer. The International Committee of the Red Cross (ICRC) is actively working in Ukraine, providing humanitarian assistance and protecting the rights of those affected by the conflict (Table 1).

Table 1

Report of the International Committee of the Red Cross on the Protection of Civilians

Protection of family links	
RCMs collected	121
RCMs distributed	202
Tracing cases closed positively (subject located or fate established)	3,947

Source: International Committee (2023).

The International Committee of the Red Cross (ICRC) has been active in Syria since the beginning of the conflict, providing humanitarian assistance and advocating for victims’ rights. Some 2,600 people traumatised by the violence and earthquake received psychosocial support from 12 organisations whose staff the ICRC trained and provided financial incentives to psychologists or from community members trained by the ICRC (International Committee, 2023). First responders, including school teachers, were trained to provide psychosocial support.

During the conflicts in the former Yugoslavia in the 1990s, the International Committee of the Red Cross (ICRC) played a key role in providing humanitarian assistance and advocating for victims’ rights.

The organisation monitored compliance with international humanitarian law, visited places where prisoners of war were held, and reported on the conditions of their detention.

A comparative analysis of the selection of legitimate targets in different armed conflicts provides essential insights into the application of international humanitarian law (IHL). The study of cases from Yugoslavia, Syria and Ukraine allows us to identify standard features in the selection of targets and violations of international law and highlight unique aspects inherent in each of these conflicts. In particular, the table allows us to compare methods of attack, principles of IHL that are violated, and the assessment of violations by international organisations. This is an essential tool for understanding modern challenges in the selection of legitimate targets and for further improving international legal practice in the field of armed conflicts (Table 2).

Table 2

Analysis of Cases from Different Conflicts (Yugoslavia, Syria, Ukraine) According to the Same Legal Parameters

Parameter	Yugoslavia	Syria	Ukraine
Type of conflict	Civil war, military intervention	Civil war, international intervention	International armed conflict (Russian aggression)
Main actors in the conflict	NATO, Serbian forces, Croatian, Bosnian forces	Syrian government, opposition, international coalitions	Ukrainian armed forces, Russian troops
Methods of attack	Air strikes, artillery, aerial bombardment	Airstrikes, artillery, use of chemical weapons	Air strikes, artillery, shelling from the ground
Principles violated	Principle of proportionality, distinction, necessity	Principle of proportionality, distinction, necessity	Principle of proportionality, distinction, necessity
Example of violations	Attacks on civilian objects such as hospitals, schools	Attacks on civilian infrastructure, hospitals	Shooting of civilian objects, such as residential buildings, schools, hospitals
Role of international courts	The International Criminal Court (ICC) has considered attacks on civilian objects.	UN ICC also assesses attacks on civilian objects, especially chemical attacks.	UN ECHR consider the issue of human rights violations, attacks on civilian objects
Assessment of violations of IHL	Assessment of attacks on civilian objects as a violation of proportionality	Assessment of strategic attacks on civilian objects as unjustified	Evaluation of systematic shelling of civilian objects and their compliance with IHL principles
Liability and sanctions	Condemnation of attacks on civilian objects, condemnation of attacks on hospitals and schools	Condemnation of chemical attacks, violation of international norms	Violation of IHL, investigation into shelling of civilian objects

Source: Authors' development.

All three conflicts — Yugoslavia, Syria and Ukraine — share standard features concerning violations of the principles of international humanitarian law. In particular, in each case, there was a violation of the principle of proportionality, which requires a balance between military advantage and harm to civilians or objects. In addition, violations of the principle of distinction between military and civilian targets were also observed in all three conflicts. Attacks on civilian objects, such as schools, hospitals and residential buildings, protected under IHL, were widespread violations in each case. This resulted in high levels of civilian casualties, especially as a result of uncontrolled or deliberate attacks

on civilian objects. In particular, the role of international courts, such as the International Criminal Court (ICC), the European Court of Human Rights (ECHR) and the UN, was significant in assessing and investigating these violations, including determining responsibility for war crimes and human rights violations.

Despite these commonalities, essential differences are driven by the contexts and nature of the attacks. In the conflict in Yugoslavia, one of the main aspects that received attention in the ICC investigations was the NATO air strikes, which became the main subject of consideration in international courts. In turn, in Syria, the situation was complicated by the use of chemical weapons, which led to a separate international investigation and sanctions. Chemical attacks, such as those that occurred in Khan Sheikhoun, became an essential element of the conflict, drawing international attention to the violation of international humanitarian law. The Ukrainian conflict is unique because of the aggression by Russia, which adds legal and political dimension to the situation. The assessment of the legal aspects of aggression, particularly Russia's use of military force, has a specific context and significance in international law, which international organisations and courts actively discuss.

This comparative analysis not only identifies commonalities in the selection of legitimate targets across armed conflicts but also identifies specific differences that arise from contexts, types of attacks and specific violations of international humanitarian law. This critical insight helps to assess the application of international humanitarian law better and identify the need for improved international legal control in contemporary armed conflicts. The legal challenges in selecting legitimate targets in armed conflicts are essential aspects determining the effectiveness and application of international humanitarian law (IHL). One of the most significant challenges is the identification of dual-use objects, objects that can be used for both civilian and military purposes. These objects can be challenging to identify and pose a serious legal problem since their attack may be justified from a military perspective. Still, if they have a civilian function and use, they are protected under IHL. For example, airports party to any armed conflict may convert into military air bases or partially use while continuing civilian use to conceal and disguise military activities, as IHL protects civilian airports. The military controls some airports, and entire civilian airports are converted into military bases, affecting civilian navigation within the country and abroad for an extended period, such as several years (Farhat et al., 2022).

One of the main challenges in the process of selecting legitimate targets during armed conflicts is ensuring accountability and transparency of drone strikes, which are key elements for compliance with international law. Accountability requires that states and individuals justify their actions and be held accountable for violations of international norms. Transparency, in turn, requires disclosing information about drone strikes to appropriate oversight bodies and the public. These principles contribute to strengthening the rule of law and building public trust. Accountability includes the need for thorough, independent, and impartial investigations into violations of international law that may result from the use of drones, including civilian casualties. It also ensures the right to reparations for victims of such attacks (Ahmad et al., 2024).

Another important legal issue is the application of the principle of military necessity, which states that an attack on a target should only be carried out if necessary to achieve a military objective and cannot be replaced by other methods. This is due to the difficulties distinguishing between military and civilian targets and between tactical necessity and strategic advantage. The actual necessity of using force can be challenged on the basis of different assessments, which also adds legal complexity to selecting targets (Grzebyk, 2018).

In addition, international bodies and courts face the problem of applying national and international standards to determine the legitimacy of selected targets. Countries have different interpretations of IHL and may use the rules depending on the political and military circumstances. This creates additional difficulties in ensuring the uniform application of the law, which is essential to preventing abuses and ensuring humanitarian standards during armed conflicts.

Thus, the legal challenges that arise when choosing legitimate targets include the complexity of defining dual-use objects, the subjectivity of applying the principles of proportionality and military

necessity, and the variability in the interpretation of international humanitarian law, which makes it difficult to ensure effective and fair law enforcement.

The extent to which international legal norms are effectively applied can be assessed by considering how they are implemented during armed conflicts. When analysing court decisions, reports of international organisations and the practice of international courts, it can be noted that although international norms have a specific legal force, their application in practice is often complicated by the imperfection of control and implementation procedures. One of the main challenges is that many armed conflicts occur in conditions of political tension. Usually, states that violate the norms are unwilling to comply with the decisions of international bodies. This leads to insufficient effect from applying IHL, even in cases where violations are apparent. For example, reports from the Red Cross and the UN often point to numerous abuses. Still, it is almost impossible to hold perpetrators accountable effectively, especially when conflicts span large or international areas.

Gaps in legal mechanisms are a significant shortcoming of the international system. One such shortcoming is the lack of effective mechanisms to monitor compliance with IHL at all stages of conflict. While the International Criminal Court (ICC) and other bodies attempt to prosecute human rights violations, their powers are often limited, and they lack practical tools to impact violations, especially in active hostilities. In particular, many states do not recognise the jurisdiction of the ICC or refuse to implement its decisions, which reduces the monitoring effectiveness. In addition, there is the problem of the lack of clear criteria for determining “legitimate objectives” in different contexts of armed conflict, which can lead to varying interpretations of international norms by other parties.

To improve the methodology for selecting legitimate targets, developing more evident international standards and procedures for assessing and identifying legitimate targets in wartime is necessary. This includes, in particular, the creation of specific criteria for identifying dual-use objects, improving mechanisms for monitoring the application of the principles of proportionality and military necessity, and developing new tools for implementing international legal control in actual combat situations. It is also essential to ensure greater integration between international bodies, national governments, and non-governmental organisations to strengthen compliance monitoring with IHL.

One possible area for improvement is also the development of unique mechanisms for monitoring violations in the early stages of a conflict, which will allow for timely detection and prevention of violations. In addition, it is essential to strengthen the legal protection of civilians in armed conflicts by expanding their protection mechanisms at the international level and creating more explicit legal instruments for holding them accountable for violations.

Thus, to ensure a more effective application of international norms in selecting legitimate goals, it is necessary to overcome existing gaps in legal mechanisms and improve the methodology and standards of international control.

Discussion

The selection of legitimate targets in armed conflict is a key issue within international humanitarian law (IHL). This discussion will review the methodologies used in recent studies to address this issue, compare and contrast with our research, highlight areas of agreement and disagreement, and provide a critical assessment of the effectiveness of the legal norms, gaps in the legal framework, and suggestions for improvement.

The international legal principles of distinction, proportionality, and military necessity are key in determining the legitimate selection of targets in armed conflict. Many of the studies reviewed, including Cohen and Zlotogorski (2021) and Schmitt (2012), highlight that these principles are often misapplied or misunderstood in contemporary conflicts, especially with the emergence of new technologies such as autonomous weapons systems. Our study is consistent with these findings, highlighting that while international norms are established, their practical application often falls short of the expected standards. For example, the principle of distinction, which requires a clear separation of

military targets from civilian objects, is increasingly challenged by the complexity of modern military technologies such as drones and cyber operations, as discussed in Gisel et al. (2020).

While we agree that the principles are applied inconsistently, our study argues that the legal ambiguity in the application of the principle of proportionality, as identified by Cohen and Zlotogorski (2021), is often exacerbated by the unclear legal status of certain weapons, in particular lethal autonomous weapon systems (LAWS), which are still the subject of legal debate. We disagree with other scholars who argue that the use of LAWS may be lawful under existing IHL, pointing out that a more detailed legal framework is needed to regulate their use, which we believe requires immediate attention. Some scholars, such as Perišić and Tomljenović (2024) and Rosenzweig (2024), highlight a gap in the current international legal system regarding new and emerging technologies such as autonomous weapons. These technologies often challenge existing norms, making it difficult for international courts to address cases of unlawful targeting effectively. The complexity of autonomous systems, which can operate without direct human control, challenges the principle of accountability. Without precise legal mechanisms to hold states accountable for the actions of these systems, there is a risk of misuse. While Schmitt (2012) and Ekanayake (2022) suggest that the distinction principle can be applied to both human-controlled and autonomous weapons, our study highlights that the application of this principle should be stricter. Current legal standards do not consider autonomous systems' unpredictability and potential risks. A multilateral treaty on autonomous weapons is needed to regulate their use and ensure compliance with IHL principles.

Building on the work of Cernat (2022) and Yan (2023), we propose the creation of a comprehensive international treaty that specifically addresses the use of lethal autonomous weapon systems (LAWS) in conflict. This treaty should provide for reliable human oversight and establish accountability mechanisms for unlawful targeting decisions made by autonomous systems.

As discussed by Łubiński (2021) and Milanovic and Papic (2022), the rise of hybrid warfare—involving both conventional military operations and non-state actors or cyber operations—makes it difficult to identify legitimate targets. We propose developing a hybrid conflict-specific protocol under IHL to clarify the rights and obligations of state and non-state actors in such conflicts.

Inspired by the studies of Yan (2023) and Perišić and Tomljenović (2024), we recommend that international legal institutions, such as the International Criminal Court (ICC) and the International Committee of the Red Cross (ICRC), develop specific training programs and instructions for military personnel on the legal principles of distinction and proportionality in the context of new technologies. These programs will improve compliance with IHL and reduce the likelihood of unlawful attacks.

Ekanayake (2022) suggests that the principle of proportionality has often been misapplied or neglected in peacekeeping operations. We support this view and recommend creating a more precise set of guiding principles, especially regarding the impact of military strikes on civilians and infrastructure. This will increase the predictability and fairness of military actions during conflict.

Our study agrees with the general sentiment that international norms must evolve to reflect these changes. However, we advocate for a stronger legal framework, particularly on autonomous weapons systems and hybrid warfare, to prevent IHL violations and ensure civilians' protection in armed conflict. By proposing targeted reforms and improving the methodology for lawful targeting, we hope to contribute to the ongoing discourse on how best to ensure compliance with international legal norms in the 21st century.

Conclusions and Implications

At the present stage, the selection of legitimate targets in armed conflicts is a complex and multifaceted process that does not always meet the requirements of international humanitarian law (IHL). Practice shows that even in the presence of clear legal principles, such as the principles of proportionality, distinction, and military necessity, their application is often incomplete or insufficiently effective in actual combat conditions. Given the complexity and dynamism of armed conflicts, selecting legitimate targets remains one of the most controversial aspects of applying IHL.

An important conclusion is that the existing international mechanisms for monitoring compliance with IHL norms, although capable of carrying out some form of monitoring, still have limitations in implementing their functions. It often happens that violations of international law remain without proper legal assessment or do not lead to real consequences for violators. This applies both to cases of violation of the principle of proportionality and to the problem of determining dual-use targets or objects that are legitimate targets. In addition, in some cases, the problem arises of detecting violations at a stage when they may already lead to severe humanitarian consequences, which makes it challenging to monitor their elimination effectively.

In this regard, there is a need to improve international standards and procedures governing the selection of legitimate targets and strengthen international legal control. In particular, the international community should take concrete steps to achieve more transparent and consistent global standards for selecting targets during armed conflicts. This includes developing more detailed criteria for determining legitimate targets, improving procedures for monitoring and investigating violations, and strengthening cooperation between international organisations, national governments and non-governmental organisations.

International organisations, such as the Red Cross, should continue monitoring and assessing the selection of legitimate targets in armed conflicts. However, it is also essential to develop new mechanisms that allow for a prompt response to violations and prevent large-scale humanitarian disasters. This requires more efficient channels for gathering information, improved coordination between different authorities and faster access to justice for victims of violations.

National governments should also strengthen their role in ensuring compliance with international humanitarian law during military operations. They should develop their monitoring mechanisms, increase the training of military and other parties to the conflict in applying IHL, and actively cooperate with international organisations to ensure transparency and accountability.

Recommendations for improving the methodology for selecting legitimate targets focus on developing more precise international standards for identifying legitimate targets, particularly for dual-use objects. Enhancing mechanisms for global monitoring of compliance with international humanitarian law (IHL) is also essential, which involves increasing the speed of response to violations and developing more efficient investigation procedures. This requires strengthening international cooperation in the field of monitoring violations and the protection of civilians, as well as actively involving non-governmental organisations in the process of verifying compliance with international standards.

A critical component of the practical application of IHL norms is improving the level of legal education and military training, including integrating humanitarian law principles into national legislative systems. The training of the army and law enforcement officers should cover specific situations related to applying the principles of proportionality and military necessity.

Adopting new international resolutions that define standards for applying the principles of proportionality and military necessity, taking into account modern technologies and the challenges of conducting armed conflicts, will also improve the general understanding and implementation of international norms.

To ensure more effective compliance with IHL norms, it is necessary to actively develop international control mechanisms, improve the practice of selecting legitimate targets, and create conditions for more systematic legal protection of the civilian population during armed conflicts.

Suggestions for Future Research

In light of the rapid evolution of contemporary armed conflicts, it is imperative that further scholarly inquiry is conducted to reconcile traditional principles of international humanitarian law (IHL) with the advent of advanced military technologies. Subsequent studies should investigate the ways in which autonomous weapon systems, unmanned aerial vehicles (drones), and cyber operations

pose challenges to the established legal principles of distinction, proportionality, and military necessity. Furthermore, these studies should aim to develop precise legal criteria and promote the establishment of international treaties to enhance accountability within military engagements.

Comparative analyses across diverse conflict zones have the potential to elucidate the practical application of legal methodologies for target selection. By scrutinizing both conventional and hybrid warfare contexts, researchers may unveil best practices and confront the challenges associated with dual-use objects as well as the increasingly indistinct boundaries between military and civilian targets. Additionally, the integration of sophisticated monitoring technologies, such as artificial intelligence and real-time data analytics, could significantly enhance transparency in targeting decisions and bolster international mechanisms for accountability.

Adapting existing IHL norms to effectively address the multifaceted challenges of hybrid warfare is an essential undertaking. Sustained research in this domain is crucial for refining legal frameworks, safeguarding civilian infrastructure, and ensuring appropriate oversight as warfare technologies continue to develop.

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