

# **THE CHALLENGES IN ENFORCING THE PRINCIPLE OF DISTINCTION IN MODERN COMBAT SETTING**

**PENINNAH APILI**

**BKS21B11/059**

**A DISSERTATION SUBMITTED TO THE SCHOOL OF LAW IN PARTIAL FULFILLMENT OF  
THE REQUIREMENTS FOR THE AWARD OF THE DEGREE OF BACHELOR OF LAWS OF  
UGANDA CHRISTIAN UNIVERSITY**

**May, 2025**



**UGANDA CHRISTIAN  
UNIVERSITY**


*A Centre of Excellence in the Heart of Africa*

## DECLARATION

I Apili Peninnah, hereby declare that this dissertation is my original work and has never been submitted for any award of a Bachelors Degree of Law (LLB) in any university or institution of higher learning.

APPROVAL.

This dissertation under the topic, “Examining the Challenges in Enforcing the Principle of Distinction in the Modern Combat Setting has been prepared under the guidance and supervision of Mr. Muhereza Nicholas.

Signed.....

Date-14 May 2025

MR. MUHEREZA NICHOLAS

(supervisor).

## ACKNOWLEDGEMENT.

I wish to acknowledge myself for all the handwork and hours I put into this dissertation.

I wish to acknowledge the support provided to me by various individuals from both the formal and informal sector, who contributed to the data used in this study. Without their cooperation, this study would have been very difficult if not impossible to accomplish.

I also acknowledge my family members especially my mother, father, and aunt who have given me emotional and mental support during the carrying out of this study.

Above all, I am grateful to the LORD for all that he has done in my life.

## Table of Contents

DECLARATION .....	ii
APPROVAL.....	iii
ACKNOWLEDGEMENT.....	iv
ABSTRACT.....	vii
CHAPTER ONE.....	1
GENERAL BACKGROUND.....	1
1.0 Introduction.....	1
1.1 Background.....	1
Statement of the problem.....	2
1.3. Objectives of the study .....	4
1.3.1 General objective of the study .....	4
1.3.2 Specific objectives .....	4
1.4 Research questions.....	4
1.5 Significance of the study .....	5
1.6 Justification of the study.....	6
1.7 Scope of the study .....	6
1.7.1 Geographical scope .....	6
1.7.2 Thematic scope.....	6
1.7.3 Time scope.....	7
1.8 Literature review .....	7
1.8.1 The historical development of the Principle of Distinction in IHL.....	7
1.8.2 Modern Warfare and the Erosion of the Principle of Distinction.....	8
The role of non-state actors and asymmetric warfare.....	9
Research Methodology.....	10
1.9.1 Research design.....	10
1.9.2 Data source .....	11
1.9.3 Data collection instrument.....	11
1.9.2 Ethical issues.....	12
1.10 Outline of chapters: Chapter synopsis .....	12
CHAPTER TWO .....	13

NON-LEGAL CHALLENGES AFFECTING THE ENFORCEMENT OF THE PRINCIPLE OF DISTINCTION .....	13
2.0 Introduction.....	13
2.1 The Changing Nature of Armed Conflict. ....	13
2.2 Urban Warfare. ....	14
2.3 Technological Developments and Autonomous Weapons Systems. ....	16
2.4 The Role of Non-State Armed Groups.....	18
2.5 Asymmetric Warfare and Strategic Incentives.....	19
2.6 Conclusion. ....	20
CHAPTER THREE.....	21
INTERNATIONAL, REGIONAL, AND DOMESTIC PERSPECTIVES ON THE PRINCIPLE OF DISTINCTION. ....	21
3.0 Introduction. ....	21
3.1 International Perspective.....	21
3.1.1 The Hague Conventions of 1899 and 1907. ....	21
3.1.2 Treaty Law, Geneva Conventions of 1949, and their Additional Protocols of 1977. ....	22
3.1.3 Customary International Law (CIL). ....	23
3.2 Regional Perspectives.....	24
3.2.1 Africa.....	24
3.2.2 Europe. ....	25
3.3 Domestic perspective, Uganda.....	26
3.4 Conclusion. ....	28
CHAPTER FOUR. ....	29
SUMMARY OF FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS. ....	29
4.0 Introduction. ....	29
4.1 Summary of Findings. ....	29
4.2 Conclusions. ....	31
4.3 Recommendations.....	31
BIBLIOGRAPHY.....	33
Books, articles, online articles, and journals .....	33

## ABSTRACT.

The Principle of Distinction under IHL is in place to ensure that parties to an armed conflict differentiate between combatants and civilians at all times. The evolution of warfare in this modern era has however made it difficult to appreciate this Principle thereby affecting its applicability. This dissertation aims to examine the challenges that have come about as a result of modern forms of conflict, such as cyber operations and attacks, the use of autonomous weapon systems, and asymmetric warfare. It will also explore how the urbanization of battlefields and the technological sophistication of modern warfare have made implementation of the Principle of Distinction difficult. While borrowing from case studies from recent conflicts and analysing the existing legal frameworks, the study will highlight the gaps between the law and the realities of modern combat. The dissertation will conclude by providing recommendations for strengthening the enforcement or implementation and compliance with the Principle of Distinction through legal policies and technological reforms, therefore ensuring greater protection for civilian populations in future armed conflicts.

## CHAPTER ONE.

### GENERAL BACKGROUND.

#### 1.0 Introduction.

The Principle of Distinction is a foundational concept within International Humanitarian Law (IHL), stipulating that all parties in an armed conflict must differentiate between combatants and civilians, and direct hostilities solely towards legitimate military targets. This doctrine seeks to protect civilian lives and property by prohibiting deliberate attacks against those not taking part in hostilities.<sup>1</sup>

Combatants typically include members of state armed forces, excluding medical and religious personnel, as well as individuals in militias and organized resistance movements affiliated with a party to the conflict.<sup>2</sup> Civilians, by contrast, are individuals not lawfully permitted to participate directly in hostilities. Anyone not fitting the criteria of a combatant is thus recognized as a civilian under IHL.<sup>3</sup>

#### 1.1 Background

As one of the oldest principles in IHL, the Principle of Distinction is regarded as a fundamental, non-derogable standard by the International Court of Justice.<sup>4</sup> It applies only in the context of military confrontation and prohibits directing attacks

---

<sup>1</sup> ICRC Casebook, How Does Law Protect in War? Principle of Distinction, <https://casebook.icrc.org/law/principle-distinction> (accessed 30 April 2025)

<sup>2</sup> ICRC Casebook, How Does Law Protect in War? A to Z glossary, combatants, [https://casebook.icrc.org/a\\_to\\_z/glossary/combatants](https://casebook.icrc.org/a_to_z/glossary/combatants) (accessed 30 April 2025)

<sup>3</sup> ICRC Database, Customary IHL, Practice relating to Rule 1, The Principle of Distinction between civilians and combatants, <https://ihl-databases.icrc.org/en/customary-ihl/v2/rule1> (accessed 30 April 2025)

<sup>4</sup> ICJ legality of the threat or use of nuclear weapons, advisory opinion, 1996, paras 78-79

against non-combatants and non-military structures.<sup>5</sup> The UN Group of Governmental Experts has noted the principle of distinction as one of the established legal international Principles in the context of how international law applies to the use of information and communications technologies by states and identified the need for further study on how and when it applies.<sup>6</sup>

The nature of warfare has however evolved since the codification of legal rules like the Geneva Conventions of 1949 and their additional protocols that govern and provide for the Principle of Distinction. Armed conflicts of this new age are characterized by asymmetry, where non-state actors, insurgents, and terrorist groups do not adhere to the traditional laws of war. There is also the emergence and use of technologies such as drones, cyber warfare, autonomous weapons, and the integration of civilians into hostilities. All these have in a sense blurred the lines between combatants and civilians and as a result, the Principle of Distinction has become harder to enforce.

The application of this Principle faces numerous challenges including but not limited to legal uncertainties, operational difficulties on the battlefield, and deliberate violations by parties to a conflict.

#### Statement of the problem

Article 48 of Additional Protocol 1 of 1977, provides that parties to a conflict shall at all times distinguish between the civilian population and military objective and accordingly direct their operations only against military

---

<sup>5</sup> Additional protocol 1 of June 1977, Articles 48, 51 and 52

<sup>6</sup> UN report of the Group of Governmental Experts on Advancing Responsible State Behavior in Cyberspace in the Context of International Security, July 2021, para 71(f)

objectives<sup>7</sup>. Within the general framework of this Principle of Distinction lies the proportionality Principle and the requirement to take precautions in attacks. However, the changing nature of warfare characterized by the rise of non-state actors, urban combat, cyber operations, and the development and emergence of autonomous weaponry has significantly challenged the enforcement of the Principle of Distinction.

The means and methods that are being applied in modern warfare are novel and perpetrators seem to get off easy as there is no precedent to regulate their actions, hence making the enforcement of the Principle of Distinction challenging. Under cyber warfare, for example, advanced weapons are launched from remote places without involving men and war is conducted from a distance.<sup>8</sup> They are primarily characterized by attacks on the civilian population and by extreme brutality.<sup>9</sup> Warfare has also become asymmetric confrontations and there is a high degree of fragmentation of the armed groups involved. Taking hostages of innocent people and killing civilians are also new strategies of combat. Civilians have been killed indiscriminately, and prisoners including journalists and aid workers have also been beheaded, which is a gross abuse of the IHL, specifically the Principle of Distinction that is against the attacking of innocent civilians in an armed conflict.

---

<sup>7</sup> Protocol Additional to the Geneva Conventions of 12 August 1949

<sup>8</sup> Imperva, Cyber Warfare <https://www.imperva.com/learn/application-security/cyber-warfare/> (accessed on 30 April 2025)

<sup>9</sup> Thurer, Daniel, IHL; Essence and Perspectives, SZIER/RSDIE 2/2007, p8

### 1.3. Objectives of the study

#### 1.3.1 General objective of the study

The general objective of the study is to critically examine the challenges associated with enforcing the Principle of Distinction in modern armed conflict and to explore ways in which IHL enforcement mechanisms can be strengthened to ensure better protection of civilians in contemporary and future armed conflict.

#### 1.3.2 Specific objectives

The specific objectives of the study are;

- a) To trace the historical development and establish the legal foundations of the Principle of Distinction in IHL.
- b) To examine how the changes in the nature of armed conflict have challenged the enforcement of the Principle of Distinction
- c) To analyse and identify the legal, operational, and practical challenges that hinder compliance with the Principle of Distinction in modern warfare.
- d) To assess the effectiveness of the current international legal frameworks and mechanisms in promoting and enforcing the Principle of Distinction
- e) To propose legal, policy, and operational reforms aimed at strengthening the enforcement of the Principle of Distinction in future armed conflicts.

#### 1.4 Research questions

1. What is the historical and legal basis of the Principle of Distinction in IHL?
2. What forms of modern warfare most significantly challenge the application of the Principle of Distinction?

3. What legal, operational, and practical obstacles hinder the enforcement of the Principle of Distinction?
4. How effective are current international legal frameworks and enforcement mechanisms in ensuring compliance with the Principle of Distinction?
5. What reforms and strategies can be proposed to improve the enforcement of the Principle of Distinction in modern and future armed conflict?

### 1.5 Significance of the study

The Principle of Distinction is core in the protection of civilians and civilian property during armed conflict under IHL. Despite its fundamental nature, its enforcement faces gross challenges in the context of modern warfare.

This study is significant because it sheds light on the gap that exists between the traditional legal frameworks of IHL that govern and protect civilians and the realities of the current and contemporary conflict environments. It critically examines the challenges that have resulted from asymmetric warfare, new technologies, and novel battlefield tactics. The research therefore contributes to the ongoing scholarly and policy debates on the effectiveness of humanitarian protections in war.

The study highlights the operational challenges in the field and suggests practical recommendations to improve civilian protection.

Academically, this study adds to the limited body of research that focuses specifically on the enforcement difficulties of the Principle of Distinction in the modern era.

## 1.6 Justification of the study

The justification of this study is the urgent need to address the challenges in the enforcement of the Principle of Distinction. The increasing frequency of civilian casualties in modern-day conflicts, particularly in asymmetric warfare settings calls for a reassessment of how well IHL adapts to new military realities.

This study provides valuable insights into how IHL can evolve to meet the demands of modern warfare. The findings in this study are essential not only for scholars and legal practitioners but also for policy-makers, military strategists, and humanitarian organisations striving to enhance civilian protection in conflict zones.

## 1.7 Scope of the study

### 1.7.1 Geographical scope

Due to limited time and other resources, the researcher focused on reviewing the already published articles, journals, international treaties and conventions, and cases to examine challenges enforcing the Principle of Distinction in modern-day armed conflicts.

### 1.7.2 Thematic scope.

The study's thematic scope is centered on understanding the intersection of legal norms, modern warfare, and the practical realities of ensuring civilian protection in today's conflict setting.

The thematic scope has been divided into several key areas which include; legal foundations and the Principle of Distinction, modern warfare and emerging challenges, civilian protection in contemporary conflicts, enforcement mechanisms and accountability, and reforms and recommendations.

### 1.7.3 Time scope

The study was conducted for a period of four months, from January to April 2025 since this was the stipulated time for the researcher to have completed her research.

### 1.8 Literature review

The literature review will examine existing scholarships on the Principle of Distinction in IHL and its enforcement in modern armed conflicts. It will focus on key themes, including the historical development of the principle, its legal application, challenges in enforcement, and the impact of modern warfare on civilian protection and the impact of modern warfare on civilian protection

#### 1.8.1 The historical development of the Principle of Distinction in IHL.

The Principle of Distinction was first created in 1868 in the St Petersburg Declaration along with the principles of proportionality and the prohibition of unnecessary suffering as they are closely related and were quite necessary due to the evolving technology of weapons. This agreement was the first formal agreement to prohibit certain weapons in war and also show the need for more humane warfare.<sup>10</sup>

This Principle takes its final form in articles 48, 51(2), 52(2) of the Additional Protocol 1 to the Geneva Conventions of 1949. The first additional protocol strived to expand protection for civilians in international armed conflicts.<sup>11</sup>

---

<sup>10</sup> St Petersburg Declaration, 1868

<sup>11</sup> The Geneva Convention of 1949 and its Additional Protocols

Jean-Marie Henckaerts and Louise Doswald Beck have also extensively discussed the application of the Principle of Distinction, particularly in distinguishing between combatants and civilians and civilian property in armed conflicts.<sup>12</sup>

### 1.8.2 Modern Warfare and the Erosion of the Principle of Distinction.

The nature of warfare has drastically evolved in recent years, leading to challenges in enforcing the Principle of Distinction. Felicity Gerry and Robert Kolb have explored how technological advances such as the use of drones, cyber operations, and autonomous weapons systems have complicated the identification of combatants and civilians on the battlefield.

In the IRRC, the civilianization of the digital battlefield was also discussed, where we see private contractors, civilian intelligence personnel, and other civilian government employees are increasingly involved in military operations. The urbanization of warfare has brought conflict literally onto individual civilian doorsteps with many of them taking up active roles.

In asymmetric operations, for example, the nominally weaker side will often engage and rely on civilians to confuse and outmaneuver the asymmetrically stronger enemy.<sup>13</sup>

There is also a difficulty in drawing a distinction between combatants and civilians in the virtual spaces.<sup>14</sup>

---

<sup>12</sup> Jean-Marie Henckaerts and Louise Doswald-Beck Customary International Humanitarian Law, Volume 1: Rules, p3

<sup>13</sup> Andres Wenger and Simon J.A Mason, the civilization of armed conflict. Trends and implications. International Review of the Red Cross, Vol 90, no 872, 2008, p842

<sup>14</sup> Russia, statement by Dr. Vladimir Shin, Deputy Director of the Department of International Information, Security of the Ministry of Foreign Affairs of the Russian federation.

The role of non-state actors and asymmetric warfare.

Asymmetric warfare is popularly perceived as unconventional or non-traditional methodologies.<sup>15</sup> Asymmetry means the absence of a common basis of comparison with respect to a quality, or in operational terms, a capability.<sup>16</sup> It has been defined as a type of conflict where the opposing forces have significantly different military capabilities, strategies or tactics often leading to unconventional methods being used by the weaker party to exploit the stronger party's vulnerabilities.<sup>17</sup> The tactics employed in asymmetric warfare include guerilla warfare, psychological warfare, and the use of technology to exploit the vulnerabilities of the other party.

Non-state actors are individuals or organisations that exert significant political influence but are not affiliated with any particular state or country. They can include among others Non-Government Organisations, private sectors entities, militant groups individuals among others<sup>18</sup>

At present, the act of non-state actors against a state is loosely termed as an act of asymmetric warfare. Non-state actors break another state monopoly, the monopoly on the use of force. The classic non-state actors include terrorist groups, insurgents, armed militia, and organized crime.<sup>19</sup> The trends that come with the non-state actors and asymmetric warfare pose very real threats to civilians who suffer more drastically from these forms of warfare through ethnic expulsions, and even deliberate genocide as deliberate strategies, hence abusing the Principle of Distinction in IHL. Asymmetric conflict and warfare also destroy the financial,

---

<sup>15</sup> Hughes, 1998

<sup>16</sup> Asymmetric warfare: A state vs non-state conflict, Ajey Lele, Ph.D.

<sup>17</sup> Michael Breen, Joshua A. Geltzer, "Asymmetric Strategies as Strategies of the Strong," *Parameters* 41, no. 1 (2011), doi:10.55540/0031-1723.2565, page 42

<sup>18</sup> <https://library.fiveable.me/international-conflict/unit-7> accessed on (30 April 2025)

<sup>19</sup> United Nations Institute for Disarmament Research, Disarmament Forum, Engaging Non-State Armed Groups.

information, and technological infrastructures that underpin modern societies and civilians.

### Legal framework and enforcement mechanisms

The Principle of Distinction is a central notion under IHL, where certain people and objects enjoy protection against attacks because of their civilian status.<sup>20</sup> Additional Protocol 1 of June 1977, Customary IHL and the Hague Regulations provide the legal framework for the Principle of Distinction. Article 51 of Additional Protocol 1 of 1977 provides that the civilian population and individual civilians shall enjoy general protection against dangers arising from military operations.<sup>21</sup> Article 48 of Additional Protocol 1 of June 1977 and the Customary IHL, rules 1 and 7 also provide that at all times, parties to an armed conflict must distinguish between civilian population and combatants and between civilian objects and military objectives.<sup>22</sup>

Frits Kalshoven and Liesbeth Zegveld in their book 'Constraints on the Waging War' under chapter six discuss the enforcement mechanisms in constraints on the waging of war. The enforcement mechanisms include using tribunals, the International Criminal Court, observance of UN forces of the IHL, collective responsibility and compensation for violations, individual responsibility among others.

### Research Methodology

#### 1.9.1 Research design

The researcher employed the use of qualitative doctrinal legal research design, in addition to aspects of descriptive and analytical research. The doctrinal method

---

<sup>20</sup> Diakonia IHL center, IHL advisory service, <https://www.diakonia.se/ihl/resources/international-humanitarian-law/basic-principles-ihl/> (accessed on 30 April 2025)

<sup>21</sup> Additional protocol 1 of June 1977

<sup>22</sup> Additional protocol 1 of June 1977; CIHL, Rule 4

involves a critical analysis of legal textbooks, treaties, cases and academic literature to examine the Principle of Distinction under IHL and the challenges faced in its enforcement in modern armed conflict. Non-doctrinal elements are also included to assess how real-world factors such as technology, asymmetric warfare, and non-state actors have impacted the application of the Principle of Distinction in armed conflicts.

### 1.9.2 Data source

The researcher primarily utilized secondary sources of data for this study including scholarly articles, legal documents, books, reports and case studies. The study analyzed the international treaties and instruments such as the Geneva Convention and its additional protocols, that is 1 and 11. Judicial decisions from international courts and tribunals such as the international Criminal Court, International Court of Justice, and the Yugoslavia and Rwanda Tribunals were also considered in this study. The researcher also relied on the reports and commentary by institutions of the International Committee of the Red Cross, Human Rights Watch, and Amnesty International. Academic literature including books, journal articles, and conference papers were also relied on in this study.

### 1.9.3 Data collection instrument.

A documentary checklist was employed to systematically gather information from legal databases such as JSTOR and ICRC's IHL repository. This enabled a structured review of relevant legal instruments, case precedents, and expert analyses.

### 1.9.2 Ethical issues.

This study does not involve human subjects and relies entirely on publicly available materials. All sources are duly acknowledged in line with academic and legal citation standards.

### 1.10 Outline of chapters: Chapter synopsis

Chapter One introduces the study and lays out the research questions and methodology. Chapter Two explores non-legal challenges such as technological change and irregular warfare. Chapter Three reviews enforcement from international, regional, and domestic perspectives. Chapter Four summarizes findings and offers conclusions and recommendations. Chapter Five presents bibliography.

## CHAPTER TWO

### NON-LEGAL CHALLENGES AFFECTING THE ENFORCEMENT OF THE PRINCIPLE OF DISTINCTION

#### 2.0 Introduction

The Principle of Distinction is a cornerstone in IHL. Its effective enforcement is however not solely dependent on legal provisions. Various non-legal factors like technological advancements, the changing nature of armed conflict among others play significant roles in shaping how the Principle of Distinction is applied in contemporary conflicts. This chapter examines the non-legal challenges that affect the enforcement of the Principle of Distinction, highlighting the difficulties they introduce to the practical enforcement of the Principle of Distinction.

#### 2.1 The Changing Nature of Armed Conflict.

The nature of military engagement is evolving, in that there is a new shift from conventional war of state-to-state confrontations to new forms of conflict with no clear boundaries between military and civilian spheres,<sup>23</sup> for example, what is happening in Gaza where civilians are being targeted with claims that they are working together with combatants. The changing nature of armed conflict explains how since the Cold War's end, the view of warfare has been challenged by three notable developments: the apparent decline in the prevalence of interstate warfare in comparison to the proliferation of intra-state conflicts, the impact of technological developments on western approaches to warfare and the increased

---

<sup>23</sup> Andres Wenger and Simon J.A Mason, *The civilization of Armed Conflicts: Trends and Implications*, International Review of the Red Cross, Volume 90 Number 872 December 2008

reliance on private security companies in military campaigns.<sup>24</sup> According to the Alert 2024 Report, it recorded that 2023 recorded thirty-six armed conflicts, the highest ever since 2014 with new cases in Ethiopia, Somalia, DRC, Sudan, and Israel-Hezbollah.<sup>25</sup>

There is an increasing rise in non-state actors and the new conflicts make it difficult to distinguish between state and non-state actors, making accountability for violations of the Principle of Distinction in IHL difficult as most of the non-state actors act in disregard of IHL.<sup>26</sup>

## 2.2 Urban Warfare.

Urban warfare refers to armed conflict conducted within the confines of urbanized areas such as cities, towns and villages<sup>27</sup>. It is a growing challenge today as many of the armed conflicts are taking part in urban areas, for example, over the past decade, urban warfare has resurged in the middle east and beyond, affecting an estimated 50,000,000 people globally.<sup>28</sup>

---

<sup>24</sup> Christopher S. Browning, International Security: A Very Short Introduction, Very Short Introductions (Oxford Academic, 24 October 2013), <https://doi.org/10.1093/actrade/9780199668533.003.0005> (accessed 3 May 2025)

<sup>25</sup> Escola de cultura de pau, Alert! Report on Conflicts, Human Rights and Peacekeeping <https://escolapau.uab.cat/en/publications/alert-report-on-conflicts-human-rights-and-peacebuilding-2/> (accessed May 3, 2025)

<sup>26</sup> Micheal Aboneka, The Changing Nature of Conflicts is putting a new strain on Human Rights, [https://africlaw.com/2025/01/31/the-changing-nature-of-conflicts-is-putting-a-new-strain-human-rights/#\\_ftn10](https://africlaw.com/2025/01/31/the-changing-nature-of-conflicts-is-putting-a-new-strain-human-rights/#_ftn10) (accessed 3 May 2025)

<sup>27</sup> EBSCO Research Starters Home, Urban Warfare, <https://www.ebsco.com/research-starters/military-history-and-science/urban-warfare> (accessed 3 May 2025)

<sup>28</sup> Humanitarian Law & Policy, Urban Warfare: An Age-old Problem in need of New Solutions, <https://blogs.icrc.org/law-and-policy/2021/04/27/urban-warfare/?ihl=en-GB> (accessed 3 May 2025)

Urban warfare is characterized by intermingling of military objectives with civilians, creating significant challenges for belligerents to fully comply with the principle of distinction.<sup>29</sup>

In urban warfare, since military objectives and civilians and civilian objects are co-located, heavy explosive weapons, such as large bombs, missiles, rockets mortars and artillery shells are more likely to hit the military target, but their wide, inaccurate and all too often indiscriminate blast areas take down everything around them too<sup>30</sup>. Such tactics violate the distinction principle, as weapons used will not be able to differentiate between combatants and civilians, thereby harming civilians.

Urban warfare results in the destruction of critical infrastructure essential to supply vital services such as electricity, water and sanitation, healthcare, food and education.<sup>31</sup> These all fall under the umbrella of civilian objects that are essential and are afforded protection under IHL in the principle of distinction.

Urban environments present numerous obstacles like buildings, walls, buildings, and underground networks that limit visibility and real-time intelligence.<sup>32</sup> The Gaza Strip for example has a dense population of approximately 2 million within 141 square miles. A direct attack in this location led to massive civilian casualties and infrastructural damage.<sup>33</sup> Buildings in urban centers may be indiscriminately

---

<sup>29</sup> Ibid

<sup>30</sup>International humanitarian law and policy on urban warfare and violence by ICRC <https://www.icrc.org/en/law-and-policy/urban-warfare-and-violence> (accessed 4 May 2025)

<sup>31</sup> International humanitarian law and policy on urban warfare and violence by ICRC <https://www.icrc.org/en/law-and-policy/urban-warfare-and-violence> (accessed 4 May 2025)

<sup>32</sup> Samaei, Seyed Reza & Behdadfar, Elham. (2024). HSE and health monitoring of structures in urban underground spaces using artificial intelligence.

<sup>33</sup> Stimson, Unpacking the History of Urban Warfare and Its Challenges in Gaza, <https://www.stimson.org/2023/unpacking-the-history-of-urban-warfare-and-its-challenges-in-gaza/> (accessed 4 May 2025)

attacked leading to mass deaths and civilian casualties, as combatants may be targeting the opposing party, but since both civilians and combatants are on ground in an urban warfare, civilians will be injured and killed thus violating the principle of distinction in IHL.<sup>34</sup>

### 2.3 Technological Developments and Autonomous Weapons Systems.

Rapid advancements in military technology, particularly artificial intelligence, robotics, and autonomous systems have significantly reshaped contemporary warfare.<sup>35</sup> Autonomous weapons systems represent an emerging category of military technologies capable of executing combat operations independently once deployed without human control.<sup>36</sup> These technologies leverage advancements in AI and robotics to identify and track targets, maneuver through combat zones, and make decisions during combat situations. A common example of such weapons is a landmine. The severe injuries and fatalities they have inflicted upon the civilian populace across numerous conflicts are well established, prompting the global community to move towards banning anti-personal mines in 1997.<sup>37</sup>

The challenges these self-operating military systems pose in relation to the principle of distinction include; a lack of human judgment, as these weapons lack the understanding needed to assess a person's combat status, especially in these modern

---

<sup>34</sup> Luigi Daniele, Incidental harm of the civilian in international humanitarian law and its *Contra Legem* antonyms in recent discourses on the laws of war, *Journal of Conflict and Security Law*, Volume 29, Issue 1, Spring 2024, Pages 21–54

<sup>35</sup> Osimen, G. U., Newo, O., & Fulani, O. M. (2024). Artificial intelligence and arms control in modern warfare. *Cogent Social Sciences*, 10(1). <https://doi.org/10.1080/23311886.2024.2407514> (accessed 4 May 2025)

<sup>36</sup> United Nations General Assembly, Lethal Autonomous Weapons Systems, Report of the Secretary General, 1 July 2024 page 5

<sup>37</sup> <https://www.icrc.org/en/document/what-you-need-know-abiut-autonomous-weapons> (accessed 4 May 2025)

era where war is carried out in urban areas densely populated with civilians.<sup>38</sup> The speed and action of the autonomous weapons is also another challenge these weapons create for the Principle of Distinction. They act faster than humans can intervene, increasing the risk of disproportionate attacks before oversight mechanisms can respond.<sup>39</sup> This makes it hard to practice the Principle of Distinction as these autonomous weapons act faster than a human being and may end up attacking civilians that they should not attack.

Technological developments are other challenges affecting the enforcement of the Principle of Distinction. Modern warfare is increasingly shaped by rapid technological advancements in surveillance, cyber capabilities, autonomous systems, and artificial intelligence<sup>40</sup>. These tools introduce challenges to the enforcement of the principle of distinction under IHL. Cyber warfare operations for example can affect both military and civilian infrastructure, making it difficult to ensure compliance with the Principle of Distinction<sup>41</sup>. A cyberattack intended to disable a military communications system might also disrupt communications in civilian utilities like hospitals and offices.<sup>42</sup> There is also a risk of information overload and automated decision-making in that modern technology generates large volumes of data from sensors, satellites, and other sources.<sup>43</sup> The combatants may be overwhelmed or

---

<sup>38</sup> Noel Sharkey, 'Autonomous Weapons and the Problem of Operational Constraints' (2017) 94 International Legal Studies 322

<sup>39</sup>ICRC, Artificial Intelligence and Machine Learning in Armed Conflict: A Human-Centered Approach, <https://www.icrc.org/en/document/artificial-intelligence-and-machine-learning-armed-conflict-human-centered-approach> (accessed 4 May 2025)

<sup>40</sup> <https://www.qlsl.com/2024/02/the-impact-of-technology-on-modern-warfare/> (accessed 4 May 2025)

<sup>41</sup> Micheal N Schmitt, "'Attack' as a Term of Art in International Law: The Cyber Operations Context' (2012) 37 Yale Journal of International Law 85

<sup>42</sup> <https://www.icrc.org/en/document/international-humanitarian-law-and-cyber-operations-during-armed-conflicts> (accessed May 4, 2025)

<sup>43</sup> Kenneth Anderson and Mathew C Waxman, 'Law and Ethics for Autonomous Weapons Systems: Why a ban Won't Work and How the Laws of War Can' (2013) Hoover Institution Working Paper.

they may defer to the automated systems whose decisions may not align with the Principle of Distinction.<sup>44</sup>

Although these technologies are not inherently unlawful, their complexity and limitations create practical and ethical obstacles to enforcing the Principle of Distinction. Ensuring the compliance with IHL Principle of Distinction in this technological warfare age, requires clear guidelines, rigorous oversight, and human accountability.

#### 2.4 The Role of Non-State Armed Groups.

The involvement of non-state armed groups presents a major challenge to the enforcement of the Principle of Distinction. Non-state armed groups are individuals or groups that are wholly or partially independent of governments and which threaten or use violence to achieve their goals.<sup>45</sup> The non-state armed groups often operate without formal military structures, uniforms or visible insignia, making it difficult for the opposing forces to identify who is a lawful combatant.<sup>46</sup> Many of the Non-state Armed Groups also deliberately blend into civilian populations, using homes, schools, or hospitals to launch attacks.<sup>47</sup> This tactic blurs the civilian combatant distinction and increases the likelihood of civilian casualties, since it is difficult to distinguish between combatants and civilians.

The growing involvement of non-state armed actors in contemporary armed conflicts greatly hinders the practical application of Principle of Distinction. Their

---

<sup>44</sup> Noel Sharky, 'The Evitability of Autonomous Robot Warfare' (2008) 5 International Review of Red Cross

<sup>45</sup> Hofmann & Schneckener 2011, p.2-3, Thomas Ward (2021), The new dogs of war: Non-state actor violence in international politics, Cornell University Press. ISBN 978-1-5017-5890-4. OCLC 1236896058

<sup>46</sup> Sandesh Sivakumaran, The law of Non-International Armed Conflict (Oxford University Press 2012) 234-236

<sup>47</sup> Ryan Goodman, 'The Detention of Civilians in Armed Conflict' (2009) 103 AJIL 48.

unconventional methods such as using people as human shields, along with their frequent violations underscores the importance of context-sensitive approaches.<sup>48</sup>

## 2.5 Asymmetric Warfare and Strategic Incentives.

Asymmetric warfare refers to strategies embraced by a force when the military capabilities of belligerent powers are not merely unequal but are so profoundly distinct that they cannot execute the same type of assaults on one another.<sup>49</sup> Instances of asymmetric warfare tactics encompass; guerilla warfare and terrorist approaches such as hijacking and suicide bombs. These tactics, combined with the strategic incentives of weaker parties to exploit legal protections, present significant difficulties to the Principle of Distinction in IHL.

Asymmetrical warfare's nature itself is a challenge towards enforcement of the Principle of Distinction in modern warfare. It involves conflicts between a powerful country and a less equipped non-state actor. The weaker party, unable to confront the superior force through conventional means often adopts irregular tactics like guerilla warfare, ambushes, and blending in with civilians.<sup>50</sup> These tactics that the weaker parties adopt have detrimental effects on civilians since they can be killed or injured in the process of warfare, hence challenging the enforcement of the distinction principle in modern conflict. By operating in civilian areas, or using civilian infrastructure for military objectives, non-state armed groups create dilemmas for state actors who risk breaching IHL if they retaliate. This tactic

---

<sup>48</sup> Customary IHL , Human Shields, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule97> (accessed on 5 May 2025)

<sup>49</sup> <https://www.britannica.com/topic/asymmetrical-warfare> (accessed on 5 May 2025)

<sup>50</sup> Emily Crawford, *Identifying the Enemy: Civilian Participation in Armed Conflict* (Oxford University Press 2015) 48-50

increases the likelihood of civilian casualties therefore undermining the protective function of the Principle of Distinction.<sup>51</sup>

In asymmetric conflicts, the strategic interests of weaker parties often encourage deliberate violations of the Principle of Distinction. While these violations do not negate the legal obligations of the stronger party, they pose practical, moral, and operational challenges that cannot be addressed through legal frameworks alone. This underscores the need for context-sensitive military doctrine, restraint, and enhanced IHL training even in legally ambiguous settings.

## 2.6 Conclusion.

This empirical review highlights the non-legal aspects affecting the enforcement of distinction in modern warfare. The enforcement of the Principle of Distinction in modern warfare is undermined by illicit challenges such as urban warfare, technological advancements, the behaviors of rebel militias, and asymmetric strategies. These factors complicate the identification of lawful targets and expose civilians to greater risks. Addressing these issues requires not only legal regulation but also practical, ethical, and strategic responses tailored to the realities of contemporary warfare.

---

<sup>51</sup> Michael N Schmitt, 'Precision Attack and IHL' (2005) 87 (859) *International Review of the Red Cross* 445

## CHAPTER THREE.

### INTERNATIONAL, REGIONAL, AND DOMESTIC PERSPECTIVES ON THE PRINCIPLE OF DISTINCTION.

#### 3.0 Introduction.

The distinction principle is a core tenet of IHL that obliges belligerents in armed conflicts to differentiate consistently between non-combatants and fighters. As the bedrock of IHL, it rests upon such understanding that such warring parties' aim is to defeat the enemy's military capacity,<sup>52</sup> whereas non-combatant persons shall be safeguarded from dangers arising from military operations.<sup>53</sup> Its interpretation together with implementation however varies across international, regional, and domestic levels depending on the legal frameworks, enforcement mechanisms, and institutional capabilities in place.

#### 3.1 International Perspective.

The principle of distinction is firmly rooted in the foundational treaties on IHL, primarily the Hague Conventions of 1899 and 1907 concerning the laws and customs of war on land and it is further developed in the Geneva Conventions of 1949 and their Additional Protocols of 1977.

##### 3.1.1 The Hague Conventions of 1899 and 1907.

Named after the peace conferences held in The Hague, Netherlands, these treaties laid the early groundwork for laws regulating war on land. Although they did not explicitly state the principle of Distinction in the modern comprehensive way, they did lay the foundation for it by regulating the conduct of hostilities and emphasizing

---

<sup>52</sup> St Petersburg Declaration, Preamble.

<sup>53</sup> Additional Protocol 1, Article 51(1); Customary IHL, Rule 1.

the need to avoid unnecessary suffering.<sup>54</sup> They focus on the means and methods of warfare, aiming to limit impact upon civilians and protect them from direct attacks.<sup>55</sup> They establish the laws and customs of war in the strict sense, by defining the rules that belligerents must follow during hostilities.<sup>56</sup> These conventions, particularly their stipulations concerning land warfare have become recognized as part of customary international law and are considered binding even on nations that have not officially signed them.<sup>57</sup>

### 3.1.2 Treaty Law, Geneva Conventions of 1949, and their Additional Protocols of 1977.

The Geneva Conventions of 1949 and their Supplementary Protocols of 1977 form the modern IHL foundation. The Additional Protocols to the Geneva Convention, specifically, Protocol 1 codifies the principle of distinction, requiring parties to an armed conflict to distinguish between combatants and civilians, and military objectives and civilian objects.<sup>58</sup> The Principle of Distinction is set out in Articles 48 and 52 of Additional Protocol 1 to the Geneva Conventions. The fourth Geneva Convention (Relative to the Protection of Civilian Persons in Time of War) outlines general protection afforded towards civilians in occupied territories and during International Armed conflicts.<sup>59</sup> The Conventions specify who a combatant and a military objective that can be legally targeted.<sup>60</sup> Direct assaults against non-

---

<sup>54</sup> Balkelis, Tomas and Griffante Andrea. "Introduction." *The Shaken Lands: Violence and the Crisis of Governance in East Central Europe, 1914-1923*, edited by Tomas Balkelis and Andrea Griffante, Boston, USA: Academic Studies Press, 2023, pp. 1-14.

<sup>55</sup> [https://www.slideshare.net/Lahiru\\_Dilshan/hague-conventions-190510819](https://www.slideshare.net/Lahiru_Dilshan/hague-conventions-190510819) (accessed 8 May 2025)

<sup>56</sup> Medecins Sans Frontieres, *The Practical Guide to Humanitarian Law*.

<sup>57</sup> ICRC Database, *Treaties, States Parties and Commentaries, Convention (II) with Respect to the Laws and Customs of War on land and its Annex: Regulations Concerning the Laws and Customs of war on land*, The Hague, 29 July 1899.

<sup>58</sup> Additional Protocol 1, Article 48

<sup>59</sup> Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949, Part II.

<sup>60</sup> Additional Protocol 1, Article 52(2)

combatants and or their objectives are classified as core international crimes.<sup>61</sup> Furthermore, any armament that is unable to permit a differentiation of protected persons and combatants is also prohibited under IHL.<sup>62</sup>

Article 51 of AP 1 details the protection of the civilian populace, forbidding indiscriminate attacks against civilians.<sup>63</sup> Article 57 of AP 1 also stipulates the precautions that are to be observed in attack to minimize civilian casualties.<sup>64</sup> This includes doing everything possible to verify that targets are indeed military objectives and to refrain from launching attacks that would cause disproportionate civilian harm compared to the military advantage anticipated.<sup>65</sup> Additional Protocol II also addresses Non-International Armed Conflicts and provides more limited but crucial protections. Article 13 of the Additional Protocol II affirms that civilians shall enjoy general protection against the dangers arising from military operations and prohibits direct attacks against them.<sup>66</sup>

### 3.1.3 Customary International Law (CIL).

Customary International Law (CIL) refers to international obligations arising from established international practices as opposed to obligations arising from formal written conventions and treaties.<sup>67</sup> The ICRC has extensively documented state practices, asserting that distinction as is a fundamental rule of Customary IHL applicable in both International Armed Conflicts and Non-International Armed

---

<sup>61</sup> Rome Statute of the International Criminal Court, 8(2)(b)(ii)

<sup>62</sup> Additional Protocol II, Article 51(4)(b)

<sup>63</sup> Additional Protocol 1

<sup>64</sup> *ibid*

<sup>65</sup> Robert Lawless, *The U.S Legal Obligation to Take Precautions to Minimize Civilian Harm*.

<sup>66</sup> Protocol Additional II to the Geneva Convention of 1949

<sup>67</sup> Cornell Law School, Legal Information Institute, *Wex*, Customary International Law.

Conflicts,<sup>68</sup> meaning that states that have not ratified Additional Protocol I and Additional Protocol II are bound by the core tenets of distinction. Evidence of Customary status includes; military manuals, national legislation, and pronouncements by international bodies.<sup>69</sup>

### 3.2 Regional Perspectives.

#### 3.2.1 Africa

The African Union (AU) and sub-regional organisations such as the Economic Community of West African States (ECOWAS) and the Intergovernmental Authority of Development (IGAD) have shown a growing commitment to humanitarian norms, including the Principle of Distinction, although their framework primarily focuses on human rights, peace, and security. The AU is an intergovernmental organization established in 2002 to promote unity and solidarity of African states, spur economic development and promote international cooperation.<sup>70</sup> The AU has developed policy frameworks for peace support operations that incorporate IHL principles. The AU has developed a comprehensive Protection of Civilians Policy that provides a framework for implementing protection strategies across its peace support operations.<sup>71</sup> This policy includes a four-pillar approach that addresses immediate threats to threats to civilians and promotes broader structural measures such as supporting host state

---

<sup>68</sup> ICRC Database, Customary IHL, Practice relating to Rule 1, The Principle of Distinction between Civilians and Combatants, <https://ihl-databases.icrc.org/en/customaryihl/v2/rule1?hl=en-GB> (accessed 9 May 2025)

<sup>69</sup> ICRC Database, Customary IHL, Advance Warning, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule20?hl=en-GB> (accessed 9 May 2025)

<sup>70</sup> <https://www.britannica.com/topic/African-Union> (accessed 10 May 2025)

<sup>71</sup> Center for Civilians in Conflict, Strengthening Protection of Civilians by AU Peace Support Operations For a New Era of Missions, <https://civiliansinconflict.org/publications/policy/strengthening-protection-of-civilians-by-au-peace-support-operations-for-a-new-era-of-missions/?hl=en-GB> (accessed 10 May 2025)

capacity to prevent violence and establishing accountability frameworks for civilian harm.

The AU also recognizes the importance of the principle of distinction in its military operations. It works to incorporate IHL into the training of armed forces and has developed guidelines for its application in support missions. The AMISOM in Somalia implemented an approach to minimize civilian harm from indirect fire or attack demonstrating a proactive approach to protecting civilians.<sup>72</sup> The AU also collaborates with the ICRC to facilitate the incorporation of IHL into its policies and processes.<sup>73</sup> The ICRC provides technical advice and supports the AU in developing policies and procedures for peace-support missions that adhere to IHL.

### 3.2.2 Europe.

The European Union (EU) has established a robust framework for the promotion of IHL, with the principle of distinction explicitly highlighted. Though the EU itself is not a signatory to the Geneva Conventions, it plays major roles in advancing compliance through diplomatic, legal and financial mechanisms.

EU guidelines on promotion and compliance with IHL, adopted in 2005 and revised in 2009 directly importance of the distinction principle.<sup>74</sup> They explicitly outline EU strategies for engaging with third-party states and non-state actors in armed conflict to promote adherence to IHL.

---

<sup>72</sup> IHL in Action, Respect for the Law on the battlefield, Applying AMISOM's indirect fire policy in Somalia: 2010-2011.

<sup>73</sup> <https://www.icrc.org/en/where-we-work/icrc-delegation-african-union?hl=en-GB> (accessed 10 May 2025)

<sup>74</sup> EU guidelines on the promotion of compliance with international humanitarian law <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=legissum:ah0004&hl=en-GB> (accessed 10 May 2025)

Additionally, the EU concept on the Protection of Civilians in EU-led Military Operations (2015) integrates IHL principles into military planning and executions.<sup>75</sup> It emphasizes risk assessments, mitigation strategies, and the obligation to distinguish between civilians and military targets.

EU has also extended financial and technical assistance in support of IHL awareness and training. EU funds projects aimed at promoting

### 3.3 Domestic perspective, Uganda.

There has been an integration of IHL into military doctrine and training. The Uganda Peoples Defence Forces (UPDF) with the support of organisations like the ICRC has been actively working to incorporate IHL principles, including the principle of distinction into its doctrines, training curricula, and operational procedures.<sup>76</sup> This integration aims to ensure that UPDF personnel understand the obligation to distinguish between combatants and civilians, and between military objectives and civilian objects, during the planning and execution of military operations.

Uganda has also been a significant contributor to regional and international peacekeeping operations particularly, under the African Union and the United Nations. Uganda has contributed troops to missions like AMISOM in Somalia and other operations in the region.<sup>77</sup> The Centre for Multilateral Affairs also notes Uganda's active role in promoting regional peace through hybrid AU-UN and UN-led Peace Support Operations.<sup>78</sup> In these peacekeeping contexts, the Principle of Distinction is

---

<sup>75</sup> EU Concept on the Protection of Civilians in EU-led Military Operations (2015), pages 7-9

<sup>76</sup> Relief Web. (2006, August 9). Uganda: Second course in international humanitarian law with UPDF, retrieved from <https://reliefweb.int/report/Uganda/Uganda-second-course-international-humanitarian-law-updf> (accessed 12 May 2025).

<sup>77</sup> UN peacekeeping, Uganda, <https://peacekeeping.un.org/en/uganda> (accessed 12 May 2025)

<sup>78</sup> Patricia Namakula, Assessment of Uganda's Peace Support Operations and its Impact on Regional Peace and Security, page 8.

a crucial element of the legal framework guiding the conduct of peacekeepers. Uganda's participation implies a commitment to operating within international norms, including the protection of civilians and civilian objects.

Uganda has incorporated the Geneva Conventions into its domestic laws through the enactment of the Geneva Conventions Act. This legislation gives legal force to the international treaties signed in Geneva on 12 August 1949.<sup>79</sup> The Uganda Peoples Defence Forces Act additionally requires UPDF members to comply with IHL principles including the Principle of Distinction during armed conflicts.

Uganda has also played an active role in both regional and international IHL-related workshops and programs, frequently organized by bodies such as the AU and the ICRC. In April 2011 for example, the ICRC and the Islamic University in Uganda co-hosted a regional conference in Mbale, Uganda, entitled "IHL and Islam."<sup>80</sup> Uganda, in working closely together with the ICRC has also contributed to the promotion of knowledge and respect for IHL and the Principle of Distinction through organizing national and regional moot competitions and IHL essay competitions alongside delivering guest lectures to promote IHL teaching and knowledge. These engagements foster a greater understanding of humanitarian principles, especially the Principle of Distinction, and supports capacity building within the armed forces and legal institutions.

---

<sup>79</sup> Chapter 249, Volume 14 of the 7<sup>th</sup> Edition of the Principal Laws of Uganda of 2024.

<sup>80</sup> Religion and Humanitarian Principles, Regional Workshops in Kenya and Uganda: Deprived of Freedom During Armed Conflict: Islam and International Humanitarian Law, 09/04/2014, Islamic Circles.

### 3.4 Conclusion.

The Principle of Distinction faces varied implementation across international, regional, and domestic frameworks. Internationally, it is well supported by judicial mechanisms and well-established laws. Regionally, enforcement differs by context. While Africa's perspective promotes the principle of distinction through peace operations and capacity building, European institutions offer stronger legal mechanisms. Domestically, Uganda has demonstrated commitment through legal domestication, military training, and peacekeeping participation.

## CHAPTER FOUR.

### SUMMARY OF FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS.

#### 4.0 Introduction.

This chapter summarizes the key findings of the study, presents well-founded conclusions, and proposes recommendations for strengthening the enforcement of the principle of distinction in modern armed conflict. Drawing from the preceding chapters, it contextualizes the research in a broader discourse of IHL and its applicability in evolving combat scenarios.

#### 4.1 Summary of Findings.

This study investigated the multifaceted challenges in enforcing the distinction principle in contemporary warfare, where the nature of hostilities, actors involved, and technological advancements continue to evolve.

A primary finding is that modern armed conflicts increasingly take place in urban environments where combatants and civilians co-exist within the same physical spaces. This geographical and operational proximity complicates target identification and significantly elevates the risk of indiscriminate attacks. Urban warfare presents a direct challenge to the application of the principle of distinction.

Secondly, the rise of non-state armed groups further disrupt traditional IHL enforcement mechanisms. These actors often operate outside formal military structures, wear no uniforms, and integrate into the civilian population. Their deliberate use of tactics such as blending into civilian environments undermines the legal clarity needed to distinguish between combatants and protected persons.

Thirdly, the proliferation of advanced military technologies, autonomous weapons systems, cyber operations, and drone warfare, poses novel obstacles. These tools can function with minimal or no human oversight and may lack the cognitive capacity to make judgments about civilian status or military necessity. Consequently, the risk of violating the principle of distinction through disproportionate or misdirected attack is amplified.

The study also found that while the Geneva Conventions and their Additional Protocols offer a solid legal foundation, they were designed with traditional, state-centric warfare in mind. As a result, existing legal frameworks struggle to effectively govern contemporary asymmetrical conflicts and emerging technologies. Jurisdictional limitations further constrain accountability, especially when violations involve non-state actors or powerful states.

Regionally, institutions like the African Union have incorporated IHL principles, including the principle of distinction into peace support operations and military training. In Europe, the EU has demonstrated a sophisticated and multi-pronged approach to promoting IHL compliance, including thorough funding, legal frameworks, and strategic partnerships.

Domestically, Uganda has made notable efforts by enacting laws that incorporate IHL such as the Geneva Conventions Act, and by integrating IHL principles into Uganda People's Defence Forces' training and operations. Uganda's participation in international peacekeeping missions further reinforces its commitment to upholding civilian protection in armed conflict.

## 4.2 Conclusions.

The principle of distinction is fundamental to protecting civilians and civilian objects during armed conflicts. While it remains a binding norm under customary international law and treaty-based International Humanitarian Law, its enforcement in modern armed conflicts faces considerable challenges.

The complexity of modern warfare including asymmetric strategies, the use of civilian shields, and the deployment of remote and autonomous weapons has made it increasingly difficult for parties to an armed conflict to distinguish between combatants and civilians and between military objectives and civilian objects. Technological advancements, while potentially enhancing precision has also new moral and legal ambiguities.

Despite the challenges, the international legal framework continues to offer a viable foundation for enforcement, however, there is a pressing need for adaptation through legislative reform, institutional strengthening, and increased accountability measures. Regional and domestic actors must also work in concert with international institutions to enhance respect and compliance with IHL.

## 4.3 Recommendations.

At the international level, the legal framework should be modernized to be able to fulfill its role in changing warfare methods and means. International Humanitarian Law treaties and protocols should be updated to specifically address new forms of warfare such as cyber operations and the use of autonomous weapons.

Accountability mechanisms should also be strengthened. The jurisdiction and support for institutions like the International Criminal Court should be expanded to pursue violations involving failure to distinguish between civilians and combatants.

Independent international panels should also be established to investigate and verify compliance with IHL during armed conflicts. The mandate of international bodies such as the International Criminal Court should be strengthened to investigate and prosecute violations of the principle of distinction with an inclusion of state and non-state actors.

There should be great investment made in regional conflict monitoring and early warning systems to pre-empt hostilities and allow for precautionary distinction measures, for example, the Africa Union's capacity to monitor and sanction violations of IHL through the establishment of specialized IHL monitoring bodies can be expanded. They can also enhance the role of regional courts in handling matters related to the violation of the principle of distinction.

Transparency in warfare should also be encouraged where states and armed groups should be required to report publicly on the measures taken to comply with the principle of distinction during military operations.

Forums for legal experts, technologists, military personnel, and humanitarian actors should be facilitated to assess the impact of new technologies on IHL and propose adaptive frameworks.

## BIBLIOGRAPHY

### Books, articles, online articles, and journals

Ajey Lele, Ph.D. Asymmetric warfare: A state vs non-state conflict.

Balkelis, Tomas and Griffante Andrea. "Introduction." *The Shaken Lands: Violence and the Crisis of Governance in East Central Europe, 1914-1923*, edited by Tomas Balkelis and Andrea Griffante, Boston, USA: Academic Studies Press, 2023

Droege C, *The Interplay Between International Humanitarian Law and International Human Rights Law in Situations of Armed Conflict*. (Oxford University Press 2007)

Emily Crawford, *Identifying the Enemy: Civilian Participation in Armed Conflict* (Oxford University Press 2015) 48-50

EU Concept on the Protection of Civilians in EU-led Military Operations (2015)

EU guidelines on the promotion of compliance with international humanitarian law

Fleck D (ed), *The Handbook of International Humanitarian Law* (3<sup>rd</sup> Edition, Oxford University Press 2013)

Geneva Conventions (IV) Relative to the Protection of Civilian Persons in Time of War, (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287

Geneva Conventions Act, Chapter 249, Volume 14 of the 7<sup>th</sup> Edition of the Principal Laws of Uganda of 2024.

Hofmann & Schneckener 2011, p.2-3, Thomas Ward (2021), *The new dogs of war: Non-state actor violence in international politics*, Cornell University Press. ISBN 978-1-5017-5890-4. OCLC 1236896058

ICJ legality of the threat or use of nuclear weapons, advisory opinion, 1996

Jean-Marie Henckaerts and Louise Doswald-Beck *Customary IHL, Volume 1: Rules*  
Andres Wenger and Simon J.A Mason, *the civilization of armed conflict. Trends and implications. International Review of the Red Cross, Vol 90, no 872, 2008, p842*

Kenneth Anderson and Mathew C Waxman, 'Law and Ethics for Autonomous Weapons Systems: Why a ban Won't Work and How the Laws of War Can' (2013) Hoover Institution Working Paper.

Lubell N, 'Challenges in Applying Human Rights Law to Armed Conflict' (2005) 87 *International Review of the Red Cross* 737

Michael N Schmitt, 'Precision Attack and IHL' (2005) 87 (859) *International Review of the Red Cross* 445

Micheal N Schmitt, "'Attack" as a Term of Art in International Law: The Cyber Operations Context' (2012) 37 *Yale Journal of International Law* 85

Nils Melzer, *international humanitarian law, A Comprehensive Introduction*.

Nils Melzer, *Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law' (2009) International Committee of the Red Cross*.

Noel Sharky, 'The Evitability of Autonomous Robot Warfare' (2008) 5 *International Review of Red Cross*

Patricia Namakula, Assessment of Uganda's Peace Support Operations and its Impact on Regional Peace and Security, page 8.

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 3.

Russia, statement by Dr. Vladimir Shin, deputy director of the department of international information, security of the ministry of foreign affairs of the Russian federation.

Ryan Goodman, 'The Detention of Civilians in Armed Conflict' (2009) 103 AJIL 48.

Sandesh Sivakumaran, The law of Non-International Armed Conflict (Oxford University Press 2012) 234-236

Sassoli M, International Humanitarian Law: Rules, Controversies and Solutions to problems arising in warfare (Edward Elgar Publishing 2019)

Schmitt MN, the Principle of Distinction and New Technologies of Warfare (2010) 87 International Law Studies 301.

Saint Petersburg declaration, 1868.

Thurer, Daniel, International Humanitarian Law; Essence and Perspectives, SZIER/RSDIE 2/2007

UN Report of the Group of Governmental Experts on Advancing Responsible State Behavior in Cyberspace in the Context of International Security, July 2021