

Preventing Civilian Deaths in Military Conflicts:
Consistent Enforcement and Non-Kinetic Warfare Strategies

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Introduction

Civilian deaths in military conflicts continue to raise legal, ethical, and strategic concerns despite International Humanitarian Law (IHL). IHL refers to the rules that govern the conduct of armed conflict and aim to limit its effects, particularly on civilians. IHL establishes clear protections for civilians, prohibiting direct targeting of civilians and limiting collateral damage. Military forces are required to take precautions to minimize or avoid harm. However, repeated incidents of civilian casualties demonstrate that these protections are not consistently upheld. This inconsistency is significant because it weakens global accountability, undermines international law, and increases the likelihood of future violations.

In addition to the legal consequences, the perceived demonstration of whether civilian casualties were considered and whether nation-states are held equally accountable can drive increased retaliation, conflict escalation, and destabilizing legal standards.

Credible enforcement influences decision-making, leading to reduced civilian harm.

This paper proposes that consistent enforcement of international humanitarian law, combined with the increased use of non-kinetic and indirect methods of warfare, defined as actions that achieve military objectives through disruption rather than physical destruction, can significantly reduce civilian deaths while achieving strategic objectives effectively.

Background

International humanitarian law governs the rules of military engagement and the protection of civilians. The two guiding basic principles of humanitarian law that all military commanders must follow are the Principle of Distinction and the Rules of Proportionality.

According to Barber (2010, pp. 474-475), the Principle of Distinction requires that “military commanders must distinguish between military objectives and civilian persons or objects,” describing it as one of the “intransgressible principles of international customary law” that “must be observed by all States.” The Rule of Proportionality is the “prohibition of indiscriminate attacks, including attacks which may be expected to cause disproportionate harm to civilians, causing incidental loss of civilian life, injury, or damage to civilian objects, or a combination thereof.”

The International Committee of the Red Cross (ICRC, 2019) emphasizes that vulnerable populations, civilians, especially children, are entitled to special protections under IHL and that states are responsible for ensuring compliance with the law. It states that accountability measures reinforce the “preventive aspect” of humanitarian law.

Despite these clear guidelines, enforcement remains inconsistent. This inconsistency is due to the selective enforcement of the laws. When accountability is expected, behavior changes, leading to reduced civilian harm. When accountability is uncertain, actors may not anticipate consequences, weakening the deterrent effect of international law (Kastner, 2010).

Akhavan (2001) explores whether international criminal tribunals can deter future war crimes by establishing accountability. He argues that prosecutions influence decision-making among political and military leaders and signal that “impunity is no longer guaranteed.” This indicates that the threat of accountability shapes high-level strategic decisions, reinforcing the deterrent effect of consistent enforcement. This supports the argument that consistent legal accountability directly influences military and political decision-making and behavior by increasing the perceived consequences of violating international humanitarian law, which will help prevent future harm to civilians.

Further studies support this conclusion. Jo and Simmons (2016) show that International Criminal Court (ICC) involvement reduces civilian killings when prosecution is likely. Kim and Sikkink (2010) demonstrate that human rights prosecutions contribute to improved state behavior. Morrow (2007) explains that compliance is influenced by reciprocity, reputation, and the expectation of consequences. These findings demonstrate that consistent enforcement influences behavior and reduces civilian harm.

Consistent enforcement matters because it shapes how military and political leaders calculate risk before acting. If commanders believe that investigations, prosecutions, or international condemnation are likely, they are more likely to reconsider methods that could cause excessive civilian casualties. This is especially important in conflicts where military assets are located near schools, hospitals, or residential areas. In those situations, the law does not disappear simply because a military target exists nearby. Instead, the obligation to distinguish between combatants and civilians becomes even more important. The practical effect of enforcement is therefore both preventive and punitive. It punishes violations after the fact, but it also encourages greater caution before decisions are made. That preventive function supports the broader argument of this paper: when legal accountability is viewed as credible and consistent, leaders are more likely to select methods and timing that reduce civilian harm.

Alternatives

Counterarguments include that civilian casualties may represent unavoidable collateral damage or result from faulty intelligence. While this may have occurred, it does not eliminate the responsibility to take precautions. As Barber (2010) explains, proportionality remains binding, requiring that anticipated civilian harm not exceed military advantage.

Critics argue that international law lacks consistent enforcement, limiting its deterrent effect. Kastner (2010) notes that deterrence weakens when perpetrators do not expect prosecution. Peksen (2009) further demonstrates that economic sanctions fail to improve human rights and may increase civilian hardship. These critiques reinforce that deterrence fails not because enforcement mechanisms are ineffective, but because they are applied inconsistently.

Proposal

Military objectives can be achieved through alternative methods, including cyber operations, electronic warfare, economic pressures, and other non-kinetic methods. Non-kinetic methods refer to operations that achieve military objectives through disruption, degradation, or manipulation of systems rather than physical destruction (like bombs, missiles, or firearms). These include cyber operations, electronic warfare, information operations, and economic measures, all of which reduce reliance on force that risks civilian casualties. Rid (2012) argues that cyber operations function more as disruption than destruction, reinforcing the strategic value of non-kinetic approaches. These approaches achieve objectives without physical destruction or loss of life and are more in alignment with IHL.

Cyber operations can disrupt critical military infrastructure without widespread destruction. The Stuxnet cyber operation targeted Iranian uranium enrichment centrifuges by manipulating industrial control systems, causing physical system delays without conventional bombing or traditional military force. This demonstrated that strategic objectives, such as delaying nuclear development, could be achieved through disruption while limiting civilian harm and casualties (Zetter, 2014).

Similarly, control over strategic chokepoints such as the Strait of Hormuz allows states to exert economic and military pressure without direct kinetic engagement. Even limited interference, or the credible threat of disruption, can impact global markets and force diplomatic responses. This method achieves strategic objectives by leveraging access and control rather than physical destruction, thereby reducing the likelihood of civilian casualties. In this way, chokepoint control reflects a non-kinetic approach to conflict that aligns more closely with the principles of distinction and proportionality under international humanitarian law.

During a visit to the United States Military Academy (West Point), cadets and instructors indicated that Sun Tzu's *The Art of War* is commonly treated as essential reading. The emphasis on deception, intelligence, and indirect approaches/actions is reinforced by Sun Tzu (2014). Gray (2005) emphasizes the importance of classical strategic principles, noting that foundational concepts such as indirect action, deception, and intelligence continue to shape modern military training and doctrine.

Investigative reporting and cybersecurity analysis support this, including the podcast *Darknet Diaries*, in which Rhysider (2019) explains how advanced cyber tools can infiltrate and disrupt adversarial systems without direct physical engagement.

The process to implement the strategy includes incorporating strategic theory into military education, emphasizing intelligence-driven operations, prioritizing disruption of enemy systems over destruction, and aligning planning with proportionality principles. By focusing on this method, military forces can achieve objectives while minimizing civilian harm. This approach reinforces strategic effectiveness and compliance with international law.

The United States Department of Defense (2018) Cyber Strategy supports this approach through “defend forward” and “persistent engagement,” which aim to disrupt adversaries before conflict escalates into kinetic warfare. To accomplish this, governments need to increase investments in cyber and electronic warfare capabilities, integrate non-kinetic options into standard operational planning, develop rules of engagement for cyber operations, and train military personnel in cyber and hybrid warfare strategies.

Non-kinetic methods are not risk-free or automatically lawful. Cyber operations, electronic warfare, and disruption of logistics can interfere with an adversary’s capabilities without leveling buildings or exposing nearby civilians to blast effects. They can still interfere with civilian infrastructures and livelihoods. Commanders will still have to review the impact any cyber operation would have on the civilian populations. For instance, an interruption to hospital and other medical systems could indirectly lead to civilian harm and deaths. The same due diligence commanders are required to perform for physical destruction; they have to perform for cyber warfare.

Conclusion

Civilian deaths in military conflicts represent a humanitarian crisis and a failure of accountability and strategic decision-making. While International Humanitarian Law provides a framework for protecting civilians, its effectiveness depends on consistent enforcement. The integration of non-kinetic warfare strategies offers a viable alternative to conventional destructive methods because it expands the options available to military planners. By prioritizing indirect approaches and reinforcing the legal consequences, military forces can pursue strategic objectives while minimizing civilian harm. This approach strengthens strategic effectiveness, compliance with international law, and reduces physical destruction that could lead to civilian loss of life or harm.

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