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The Principle of Distinction and International Mechanisms for its Implementation

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Abstract

This study examines the principle of distinction as one of the fundamental principles of international humanitarian law and its role in protecting civilians and civilian objects during armed conflicts. The principle requires parties to distinguish at all times between civilians and combatants and between civilian objects and military objectives, and to direct military operations only against lawful military objectives. The study analyzes the legal basis of the principle under the 1949 Geneva Conventions, Additional Protocol I of 1977, customary international humanitarian law, and international jurisprudence. It also examines its practical application, particularly the protection of civilians and civilian objects and its relationship with the principles of proportionality and precautions in attack. The study further addresses the challenges created by contemporary armed conflicts, including urban warfare, non-international armed conflicts, dual-use objects, drones, cyber operations, artificial intelligence, and autonomous weapon systems. It examines international mechanisms for ensuring compliance with the principle, including the International Committee of the Red Cross, the Protecting Power, the International Fact-Finding Commission, the United Nations, and non-governmental organizations. In addition, it analyzes the role of international criminal justice, from the Nuremberg and Tokyo Tribunals to the International Criminal Tribunals for the former Yugoslavia and Rwanda and the International Criminal Court. The study concludes that the principle of distinction has strong legal and customary foundations, but its effective implementation depends on

international cooperation, effective monitoring, investigations, accountability, and the enforcement of international humanitarian law.

Keywords: Principle of Distinction; International Humanitarian Law; Protection of Civilians; International Criminal Justice; Armed Conflicts.

Introduction

Armed conflicts have undergone significant transformations throughout their historical development. Traditional warfare, which was primarily characterized by direct confrontations between regular armed forces, has gradually evolved into increasingly complex forms of conflict involving multiple actors, irregular armed groups, urban warfare, and the use of civilian areas and critical infrastructure as theatres of military operations. These developments have considerably expanded the risks faced by civilians and civilian objects and have consequently reinforced the importance of regulating the conduct of hostilities under international humanitarian law.

International humanitarian law does not seek to eliminate armed conflict as such, but rather to limit its effects and reduce the suffering caused by warfare, particularly with regard to persons who do not participate, or who have ceased to participate, in hostilities. Within this legal framework, the principle of distinction occupies a fundamental position. It requires parties to an armed conflict, at all times, to distinguish between civilians and combatants and between civilian objects and military objectives, and to direct military operations only against persons and objects that may lawfully be targeted.[1]

The principle of distinction is therefore closely connected to the protection of civilians and civilian objects. Military operations cannot be considered lawful merely because they take place in the context of an armed conflict. Their legality depends upon compliance with the rules governing the identification and selection of lawful military objectives, as well as the obligation to refrain from attacking civilians and civilian objects.

The importance of this principle has increased considerably in contemporary armed conflicts. The proliferation of non-international armed conflicts, the involvement of non-state armed groups, the increasing use of urban environments for military operations, the presence of dual-use objects, and the rapid development of military technologies have created new challenges for its practical implementation. The use of drones, cyber operations, artificial intelligence, and increasingly autonomous weapon systems raises complex questions concerning the ability of military actors to distinguish effectively between lawful military targets and protected persons and objects.[2]

The significance of the principle of distinction also derives from the fact that it constitutes the foundation upon which other fundamental principles of international humanitarian law operate, particularly the principles of proportionality and precautions in attack. Without a proper distinction between military objectives and protected persons and objects, the practical effectiveness of these complementary rules would be seriously undermined.

The legal foundation of the principle of distinction can be found in the four Geneva Conventions of 1949, Additional Protocol I of 1977, customary international humanitarian law, international judicial decisions, and the jurisprudence and practice of international criminal tribunals.[3]

The study of the principle of distinction is therefore important not only from a theoretical perspective, but also from the standpoint of its practical enforcement. The existence of legal rules alone cannot guarantee effective protection if there are no international mechanisms capable of monitoring compliance, preventing violations, investigating serious breaches, and establishing individual criminal responsibility.

Accordingly, this study seeks to answer the following central research question:

To what extent do the rules of international humanitarian law governing the principle of distinction ensure effective protection for civilians and civilian objects during armed conflicts, and how effective are international mechanisms in ensuring respect for this principle and holding violators accountable?

To answer this question, the study is divided into two main sections:

Section One: The Legal Framework and Scope of the Principle of Distinction under International Humanitarian Law.

Section Two: International Mechanisms for Ensuring Respect for the Principle of Distinction and Accountability for Its Violations.

SECTION ONE

THE LEGAL FRAMEWORK AND SCOPE OF THE PRINCIPLE OF DISTINCTION UNDER INTERNATIONAL HUMANITARIAN LAW

The principle of distinction constitutes one of the fundamental rules regulating the conduct of hostilities. Its primary purpose is to ensure that military operations are directed exclusively against legitimate military objectives and that persons and objects enjoying protection under international humanitarian law are not made the object of attack.

The examination of this principle requires consideration of its legal basis and substantive content, followed by an analysis of its application to civilians and civilian objects in contemporary armed conflicts.

Subsection One: The Legal Basis and Content of the Principle of Distinction

First: The Legal Basis of the Principle of Distinction

The principle of distinction is firmly established in conventional and customary international humanitarian law. Although the four Geneva Conventions of 1949 did not formulate the principle in a single comprehensive provision, their protective system is fundamentally based upon the distinction between persons participating in hostilities and those who do not.

The four Geneva Conventions establish specific protection for wounded and sick members of armed forces, prisoners of war, and civilians. Their common Article 3 also establishes minimum humanitarian guarantees applicable in non-international armed conflicts.[4]

The principle was subsequently formulated in a more explicit and comprehensive manner in Additional Protocol I of 1977. Article 48 provides that, in order to ensure respect for and protection of the civilian population and civilian objects, the parties to the conflict must at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and, accordingly, direct their operations only against military objectives.[5]

Article 51 of Additional Protocol I further establishes the general protection of the civilian population against dangers arising from military operations. It expressly prohibits making the civilian population or individual civilians the object of attack and prohibits indiscriminate attacks.[6]

Similarly, Article 52 establishes the general protection of civilian objects and provides that civilian objects are all objects that are not military objectives. It further requires attacks to be strictly limited to military objectives.[7]

The principle has also acquired customary status. The International Committee of the Red Cross, in its study on customary international humanitarian law, identifies the obligation to distinguish between civilians and combatants and between civilian objects and military objectives as a fundamental customary rule applicable to armed conflicts.[8]

The International Court of Justice has likewise recognized the fundamental character of the principle. In its 1996 Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons, the Court emphasized that international humanitarian law is based upon fundamental principles, including the obligation to distinguish between civilian populations and combatants and between civilian objects and military objectives.[9]

Consequently, the principle of distinction cannot be regarded merely as a conventional obligation arising from treaty law. Its fundamental nature and customary character make it an essential component of the legal framework governing the conduct of hostilities.

Second: The Substantive Content of the Principle

The principle of distinction operates through two principal forms of differentiation: distinction between persons and distinction between objects.

With regard to persons, the basic rule requires parties to distinguish between civilians and combatants. Civilians are protected against attack unless and for such time as they take a direct part in hostilities.[10]

Combatants, by contrast, may generally be made the object of attack, subject to the other rules of international humanitarian law. The distinction is therefore based primarily upon the legal status and conduct of individuals in relation to the armed conflict.

With regard to objects, international humanitarian law requires a distinction between civilian objects and military objectives. Civilian objects enjoy general protection against attack unless they qualify as military objectives under the applicable legal criteria.

Article 52(2) of Additional Protocol I defines military objectives as those objects which, by their nature, location, purpose, or use, make an effective contribution to military action and whose total or partial destruction, capture, or neutralization, in the circumstances ruling at the time, offers a definite military advantage.[11]

This definition establishes two cumulative conditions. First, the object must make an effective contribution to military action. Second, its destruction, capture, or neutralization must offer a definite military advantage in the circumstances prevailing at the time of the attack.

The distinction becomes particularly difficult in relation to dual-use objects. Such objects may simultaneously serve civilian and military purposes, including electricity infrastructure, bridges, communication systems, transportation facilities, and other infrastructure. Their military use does not automatically remove all legal protection; rather, the applicable legal criteria must be satisfied before the object can lawfully be considered a military objective.

The principle of distinction therefore requires more than a general assumption concerning the nature of an object or the identity of a person. It requires a careful assessment of the factual circumstances prevailing at the time of the attack.

Subsection Two: The Application of the Principle of Distinction in Contemporary Armed Conflicts

First: Protection of Civilians and Civilian Objects

The primary objective of the principle of distinction is to protect persons who do not participate in hostilities and objects that do not contribute to military action.

Civilians enjoy general protection against direct attack. This protection applies in both international and non-international armed conflicts. Parties to an armed conflict are prohibited from intentionally directing attacks against civilians, and indiscriminate attacks are likewise prohibited.[12]

Civilian protection extends to individuals living in cities, villages, residential areas, displacement camps, shelters, and other locations where civilian populations are present. It also extends to persons who have ceased to participate in hostilities, including wounded, sick, detained, or captured persons.

The protection of civilians is complemented by the protection of civilian objects. Houses, schools, hospitals, places of worship, humanitarian facilities, and other civilian infrastructure remain protected unless and for such time as they become military objectives under the applicable legal criteria.

Importantly, the presence of a military objective within a civilian area does not automatically deprive the entire area of civilian protection. The party conducting the attack remains under an obligation to identify the military objective and direct the attack against it while taking all feasible precautions to minimize incidental civilian harm.

Article 57 of Additional Protocol I requires parties conducting attacks to take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event minimizing, incidental loss of civilian life, injury to civilians, and damage to civilian objects.[13]

The principle of distinction is therefore closely connected to the principles of proportionality and precautions in attack. Distinction determines whether the object or person may lawfully be targeted in the first place; proportionality limits excessive incidental civilian harm; and precautions require parties to take feasible measures to reduce such harm.

Second: Challenges Arising from Contemporary Warfare

Contemporary armed conflicts have created significant practical challenges for the implementation of the principle of distinction.

One of the most important challenges is the increasing prevalence of non-international armed conflicts involving organized armed groups that may operate within densely populated civilian areas. The integration of military activities into civilian environments makes the identification of legitimate military targets increasingly difficult.

Urban warfare presents another major challenge. When military objectives are located within or near residential areas, attacks may generate substantial risks for civilians and civilian infrastructure. The legal obligation to distinguish remains fully applicable, even in highly complex urban environments.

Technological developments have also transformed the battlefield. Unmanned aerial vehicles, advanced surveillance systems, digital targeting tools, artificial intelligence, cyber capabilities, and autonomous weapon systems have introduced new operational possibilities while simultaneously raising questions concerning legal accountability and human control.[14]

The development of autonomous weapons is particularly significant because certain functions traditionally performed by human operators may increasingly be delegated to technological systems. This raises questions regarding whether such systems can reliably identify protected persons and objects and assess the circumstances necessary for lawful targeting.

Cyber operations present additional difficulties. Determining whether a digital system constitutes a military objective, identifying the consequences of a cyber operation, and assessing indirect effects on civilian infrastructure may be considerably more difficult than in conventional kinetic operations.

Nevertheless, technological developments do not eliminate the applicability of existing international humanitarian law. Rather, they require the existing rules to be interpreted and implemented in a manner capable of preserving the protection of civilians in changing operational environments.

SECTION TWO

INTERNATIONAL MECHANISMS FOR ENSURING RESPECT FOR THE PRINCIPLE OF DISTINCTION AND ACCOUNTABILITY FOR ITS VIOLATIONS

The incorporation of the principle of distinction into international legal instruments does not, by itself, guarantee compliance. Effective protection requires preventive, supervisory, investigative, and judicial mechanisms capable of encouraging compliance and establishing responsibility when serious violations occur.

These mechanisms include humanitarian institutions, international organizations, fact-finding bodies, and international criminal courts.

Subsection One: Preventive, Supervisory, and Investigative Mechanisms

First: The International Committee of the Red Cross

The International Committee of the Red Cross (ICRC) occupies a unique position within the international humanitarian system. Its special role derives from the Geneva Conventions and its

humanitarian mandate to protect the lives and dignity of victims of armed conflict and to promote respect for international humanitarian law.[15]

Founded in 1863 following the initiative of Henry Dunant and other Geneva-based figures, the ICRC has progressively developed into one of the principal humanitarian actors in armed conflicts.

The ICRC possesses a special legal and institutional status. Although established under Swiss law as a private association, its international mandate derives from international humanitarian law, particularly the Geneva Conventions. Its independence, neutrality, and impartiality enable it to communicate with states and non-state parties to armed conflicts.

The principal functions of the ICRC relevant to the implementation of the principle of distinction include dissemination, monitoring, dialogue, humanitarian assistance, and protection.

1. Dissemination and Awareness

The ICRC contributes to the dissemination of international humanitarian law among armed forces, governmental authorities, and civilian actors. This function is particularly important for the principle of distinction because the effective application of the principle requires military personnel to understand the legal difference between civilians and combatants and between civilian objects and military objectives.[16]

The Geneva Conventions require states to disseminate their provisions as widely as possible during peacetime and wartime and, in particular, to incorporate their study into military and, where possible, civilian education programs.

2. Monitoring and Protection

The ICRC monitors humanitarian conditions in conflict areas and visits persons deprived of their liberty. Through its field presence, it can identify humanitarian concerns and engage directly with parties to the conflict concerning violations of international humanitarian law.

In relation to the principle of distinction, such monitoring may contribute to identifying unlawful attacks against civilians and civilian objects and to encouraging corrective measures.

3. Confidential Dialogue and Intervention

The ICRC traditionally relies heavily upon confidential dialogue with the parties to armed conflicts. Rather than immediately resorting to public denunciation, it seeks to establish direct communication with the relevant authorities in order to improve compliance and protect victims.

This method can be particularly valuable where maintaining access to affected populations depends upon continued dialogue and trust.

4. Humanitarian Assistance

The ICRC also provides humanitarian assistance to persons affected by armed conflicts, including medical assistance and support for vulnerable civilian populations.

Its direct field presence enables it to combine legal and humanitarian functions, thereby contributing to the practical implementation of the protective principles of international humanitarian law.

Despite these functions, the ICRC does not possess coercive judicial authority. Its effectiveness therefore depends significantly on the willingness of parties to cooperate and comply with their international obligations.

Second: The Protecting Power

The Protecting Power represents another traditional mechanism under international humanitarian law. It is designed to protect the interests of a party to an armed conflict and its nationals in the territory of an opposing party.

Article 2(c) of Additional Protocol I defines a Protecting Power as a neutral state or another state not party to the conflict, designated by a party to the conflict and accepted by the opposing party, which agrees to perform the functions assigned to it under the Geneva Conventions and the Protocol.[17]

The Protecting Power may undertake a variety of humanitarian and supervisory functions, including monitoring the treatment of protected persons, visiting places of detention, facilitating communication between parties, and reporting concerns regarding compliance with international humanitarian law.

Its role is particularly relevant to the protection of civilians and detained persons, because it provides an external mechanism through which compliance with humanitarian obligations may be monitored.

However, the practical use of the Protecting Power system has declined considerably. Its operation requires acceptance by the parties concerned, and this requirement may be difficult to satisfy in contemporary conflicts, particularly where diplomatic relations have broken down or where non-state armed groups are involved.

Third: The International Fact-Finding Commission

The International Fact-Finding Commission was established under Article 90 of Additional Protocol I of 1977. Its principal purpose is to investigate facts relating to alleged grave breaches of the Geneva Conventions and Additional Protocol I and, where appropriate, to facilitate a return to respect for international humanitarian law.[18]

The creation of the Commission represented an important development in the field of international humanitarian law because it introduced a permanent institutional mechanism for investigating allegations of serious violations.

The Commission may investigate alleged grave breaches where the relevant conditions for its jurisdiction have been satisfied. Its investigative role includes examining evidence, hearing relevant parties, and establishing factual circumstances surrounding alleged violations.

It may also perform a good-offices function by facilitating dialogue and encouraging parties to return to compliance with international humanitarian law.

Nevertheless, the effectiveness of the Commission is limited by the conditions governing its jurisdiction, particularly the requirement of state acceptance. Consequently, it does not possess universal automatic jurisdiction over all alleged violations.

Subsection Two: International Organizations and Judicial Mechanisms

First: The United Nations

The United Nations plays an important role in promoting respect for international humanitarian law and protecting civilians during armed conflicts. Through the General Assembly, the Security Council, the Secretary-General, peacekeeping operations, and specialized agencies, the United Nations contributes to the development and implementation of international standards concerning civilian protection.

1. The General Assembly

The General Assembly has contributed to the development of international humanitarian law through resolutions addressing the protection of civilians, the prohibition of certain practices and weapons, the protection of women and children, and the prevention of serious violations during armed conflicts.

Although General Assembly resolutions are generally recommendatory in nature, they may contribute to the development of international standards and reinforce the political and legal commitment of states to humanitarian protection.

2. The Security Council

The Security Council has increasingly incorporated civilian protection into its peace and security agenda. It has adopted resolutions emphasizing the obligation of parties to armed conflicts to respect international humanitarian law and to refrain from attacks against civilians and other protected persons.

Resolution 1674 (2006), concerning the protection of civilians in armed conflict, reaffirmed the importance of civilian protection and emphasized the responsibility of parties to armed conflicts to comply with applicable international humanitarian law.[19]

Similarly, Resolution 1738 (2006) addressed the protection of journalists, media professionals, and associated personnel in situations of armed conflict and reaffirmed the obligations of parties under international humanitarian law.[20]

The Security Council may also request investigations, establish sanctions regimes, authorize peacekeeping operations, and refer situations to the International Criminal Court under Article 13(b) of the Rome Statute when the relevant legal and political conditions are satisfied.

Second: The International Court of Justice

The International Court of Justice has not developed an extensive jurisprudence devoted exclusively to the principle of distinction. Nevertheless, the Court has recognized its fundamental importance within international humanitarian law.

In its 1996 Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons, the Court emphasized the fundamental character of humanitarian principles applicable during armed conflict. It referred to the principle requiring distinction between civilians and combatants and between civilian objects and military objectives.[21]

The Court's jurisprudence therefore reinforces the status of the principle of distinction as a fundamental rule governing the conduct of hostilities.

Third: Non-Governmental Organizations

Non-governmental organizations contribute significantly to the protection of civilians by documenting violations, collecting information, monitoring humanitarian conditions, and drawing international attention to serious breaches.

1. Amnesty International

Amnesty International monitors human rights violations worldwide and has documented serious violations committed during armed conflicts. Its reports may contribute to identifying unlawful attacks against civilians, forced displacement, extrajudicial killings, torture, and other practices incompatible with international humanitarian and human rights law.

2. Médecins Sans Frontières

Médecins Sans Frontières (Doctors Without Borders) provides emergency medical assistance to populations affected by armed conflicts and humanitarian crises. Its activities demonstrate the

practical importance of protecting medical personnel, medical facilities, wounded persons, and civilians during hostilities.

The organization may also publicly denounce attacks against medical facilities and humanitarian personnel, thereby contributing to international awareness of violations.

3. Human Rights Watch

Human Rights Watch investigates and documents violations of international human rights law and international humanitarian law. Its reports concerning armed conflicts frequently address indiscriminate attacks, attacks against civilians, forced displacement, destruction of civilian infrastructure, and other practices inconsistent with the principle of distinction.

Although these organizations do not possess coercive judicial powers, their documentation and public reporting can contribute to accountability processes by preserving information, informing international institutions, and increasing pressure on states and armed groups to comply with international obligations.

Subsection Three: International Criminal Justice and Accountability for Violations of the Principle of Distinction

The effectiveness of the principle of distinction ultimately depends upon the existence of mechanisms capable of imposing legal consequences upon individuals who commit serious violations.

International criminal justice has evolved from temporary tribunals established after the Second World War to the permanent International Criminal Court.

First: The Nuremberg and Tokyo Tribunals

The Nuremberg and Tokyo Tribunals represented the first major international attempts to impose individual criminal responsibility for serious violations committed during the Second World War.

The International Military Tribunal at Nuremberg was established pursuant to the London Agreement of 8 August 1945. Its jurisdiction covered crimes against peace, war crimes, and crimes against humanity.[22]

The Tribunal contributed to the development of the principle of individual criminal responsibility under international law. Acts such as the killing and mistreatment of civilians, deportation, killing or mistreatment of prisoners of war, plunder, and destruction not justified by military necessity were addressed within the framework of international criminal responsibility.

The International Military Tribunal for the Far East, commonly known as the Tokyo Tribunal, was established to prosecute senior Japanese leaders for crimes committed during the Second World War. Like Nuremberg, it contributed to the development of international criminal accountability for serious violations affecting civilians and prisoners of war.

Despite the exceptional character of these tribunals and the criticisms associated with victor's justice, their historical significance remains substantial. They helped establish the principle that individuals, including political and military leaders, may bear international criminal responsibility for serious violations of the laws and customs of war.

Second: The International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda

The establishment of the International Criminal Tribunal for the former Yugoslavia (ICTY) represented another major stage in the development of international criminal justice.

The Security Council adopted Resolution 808 on 22 February 1993, expressing the decision to establish an international tribunal to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia. Resolution 827 of 25 May 1993 subsequently established the Tribunal and adopted its Statute.[23]

The ICTY prosecuted crimes including grave breaches of the Geneva Conventions, violations of the laws or customs of war, genocide, and crimes against humanity.

Its jurisprudence contributed significantly to clarifying individual criminal responsibility for attacks against civilians, unlawful displacement, persecution, destruction, and other serious violations.

The International Criminal Tribunal for Rwanda (ICTR) was established by Security Council Resolution 955 of 8 November 1994 following the genocide in Rwanda.[24]

The ICTR had jurisdiction over genocide, crimes against humanity, and serious violations of Common Article 3 of the Geneva Conventions and Additional Protocol II.

Its jurisprudence demonstrated that international humanitarian law applies to non-international armed conflicts and that civilians remain protected regardless of the internal character of the conflict.

Third: The International Criminal Court

The establishment of the International Criminal Court represented the culmination of a lengthy process aimed at creating a permanent institution capable of prosecuting individuals responsible for the most serious international crimes.

General Assembly Resolution 44/39 of 4 December 1989 requested the International Law Commission to consider the question of establishing an international criminal court. Subsequent resolutions continued this process and ultimately led to the drafting of the Rome Statute.[25]

The Rome Diplomatic Conference was held in Rome from 15 June to 17 July 1998 and resulted in the adoption of the Rome Statute of the International Criminal Court on 17 July 1998.[26]

The Court has jurisdiction over genocide, crimes against humanity, war crimes, and aggression.[27]

Its relationship with the principle of distinction is particularly significant in relation to war crimes. The Rome Statute criminalizes, among other acts, intentionally directing attacks against the civilian population or against individual civilians not taking direct part in hostilities, as well as intentionally directing attacks against civilian objects where the applicable legal requirements are satisfied.[28]

The establishment of the ICC transformed serious violations of international humanitarian law from merely unlawful conduct into acts capable of generating individual criminal responsibility before a permanent international criminal institution.

However, the practical effectiveness of the Court remains subject to several limitations, including jurisdictional restrictions, difficulties in collecting evidence during ongoing conflicts, dependence upon state cooperation, challenges concerning the arrest and surrender of suspects, and broader political considerations surrounding international criminal justice.

Nevertheless, the existence of the Court constitutes an important legal guarantee against impunity and reinforces the principle that serious violations of the distinction between civilians and combatants may result in individual criminal responsibility.

Conclusion

The principle of distinction constitutes one of the fundamental pillars of international humanitarian law. Its central function is to regulate the conduct of hostilities by requiring parties to distinguish between civilians and combatants and between civilian objects and military objectives. The study has demonstrated that this principle derives its legal authority not only from the Geneva Conventions of 1949 and Additional Protocol I of 1977, but also from customary international humanitarian law and international jurisprudence.

The principle of distinction cannot, however, be assessed solely through the existence of legal provisions. Its practical effectiveness depends upon the capacity of international humanitarian and judicial mechanisms to ensure compliance, prevent violations, investigate serious breaches, and establish individual responsibility.

The analysis has also shown that contemporary armed conflicts present significant challenges to the practical application of the principle. The proliferation of non-international armed conflicts, the involvement of irregular armed groups, the increasing use of urban environments, the presence of dual-use objects, and the rapid development of drones, cyber operations, artificial intelligence, and autonomous weapons have complicated the identification of lawful military objectives.

Despite these challenges, technological and operational developments do not suspend the application of international humanitarian law. Rather, they reinforce the necessity of ensuring that existing legal rules remain effectively applied to new means and methods of warfare.

International preventive and supervisory mechanisms, particularly the International Committee of the Red Cross, the Protecting Power, the International Fact-Finding Commission, and the United Nations, make an important contribution to the protection of civilians. Nevertheless, their effectiveness may be constrained by the absence of cooperation, limited jurisdiction, lack of enforcement powers, and political considerations.

Judicial mechanisms have progressively strengthened the principle through the establishment of individual criminal responsibility. From Nuremberg and Tokyo to the tribunals for the former Yugoslavia and Rwanda and, ultimately, the International Criminal Court, international criminal justice has transformed serious violations of humanitarian rules into conduct capable of generating personal criminal responsibility.

Accordingly, the study reaches the following conclusions:

1. **The principle of distinction is a fundamental rule of international humanitarian law**, forming the legal foundation for the protection of civilians and civilian objects during armed conflicts.
2. **The principle possesses both conventional and customary legal force**, making it applicable to international and non-international armed conflicts.
3. **The principle of distinction is closely connected to the principles of proportionality and precautions in attack**, as all three contribute to reducing the effects of military operations on civilians.
4. **Contemporary armed conflicts have increased the practical complexity of applying the principle**, particularly because of urban warfare, irregular armed groups, dual-use objects, and advanced military technologies.
5. **International humanitarian mechanisms contribute significantly to preventive protection**, particularly through the activities of the International Committee of the Red Cross, the United Nations, and international fact-finding mechanisms.

6. The effectiveness of preventive mechanisms remains dependent to a significant extent on cooperation by states and parties to armed conflicts, which may limit their ability to prevent or stop violations.
7. International criminal tribunals have contributed to transforming humanitarian obligations into rules backed by individual criminal responsibility, particularly concerning attacks against civilians and other protected persons.
8. The International Criminal Court represents an important permanent mechanism for combating impunity, although its effectiveness continues to be affected by jurisdictional, evidentiary, political, and enforcement limitations.
9. The principal challenge is no longer the absence of legal rules but the effective implementation and enforcement of existing rules. Strengthening accountability mechanisms, improving military training, ensuring effective investigations, and developing clearer legal standards concerning emerging technologies are therefore essential to maintaining the effectiveness of the principle of distinction.

Footnotes

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6. Ibid., art. 51.
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27. Rome Statute, art. 5.

28. Ibid., art. 8(2)(b)(i) and 8(2)(b)(ii).

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