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# International Humanitarian Law in the Iraq Conflict

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***Abstract: The armed hostilities in Iraq throughout the last almost two years have raised numerous questions from the perspective of international humanitarian law (IHL) or, as it is also sometimes called, the law of armed conflict. This article aims at addressing some of them. The focus will be on identifying the applicable law throughout the various stages of the hostilities and various problems that entail its practical application. It is not the aim of the authors to identify and attribute specific violations that may have been committed by the parties to the conflict.***

The first point relates to the dichotomy between the laws of warfare and the war of “lawfare.” The term “lawfare”—apparently coined, and certainly popularized, by Major General Dunlap—is not just a clever play of words. We live at a time when the shrewd use of law as a weapon in the marketplace of public relations may often counterbalance the successful employment of weapons in the battlefield. In the debate, General Dunlap has suggested that it may be a good idea to educate the civilian population, which is potentially subject to aerial bombardment, to reconcile itself to the inevitability of some collateral damage being engendered by almost any attack. My own submission is that before you undertake the massive (and perhaps impossible) task of teaching the enemy population to accept death as a fact of life.

Speaking of the media, it cannot be ignored that they report armed conflicts with little understanding of the legal niceties, and this has a serious impact on the perceptions of the public at large. The very availability of precision-

guided munitions (PGMs) at this moment in history—a subject matter that I shall return to *infra* C—has made commentators jump to the hasty conclusion that every attack can be surgical, that every payload may acquire the target “on the nose” and that no collateral damage should be viewed as immaculate anymore. As a matter of fact, in April of this year, a major West Coast newspaper deemed fit to state that “[y]ou can kill all the combatants you want. What you are not allowed to do is cause collateral damage—civilian casualties.”<sup>1</sup> Astonishingly, the authority cited for this implausible assertion is supposed to be no other than yours truly! I hope that I do not have to persuade those present here that, in fact, I have always argued otherwise, i.e., that there is no way to avert altogether collateral damage to civilians. But the real issue is not the misleading authority: it is the misleading statement.

## References

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