

ENGINEERING WORKS AND FACILITIES CONTAINING HAZARDOUS FORCES



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are subject to the protective rules of international humanitarian law. These rules take into account the potential future risks arising from parties to a conflict engaging in practices that could cause unforeseeable and unpredictable damage, often resulting in significant and wide-ranging consequences. As a result, specific urban rules have been formulated within this law to ensure greater caution and precautions before engaging in certain military actions that may target the assets of a city with special importance and clear status under the provisions of this law.

The philosophy of international humanitarian law prohibits these objectives due to the difficulty of predicting the resulting effects of such actions and the dangers that may arise from targeting these assets. These sites must be completely removed from hostile acts between the parties to the conflict. Therefore, international humanitarian law faces a real challenge in addressing the legal status of civilian objects of special importance, as well as engineering works and facilities containing hazardous forces. The presence of dams and

nuclear power plants within the territory of one of the parties to the conflict poses a real burden in the management of hostile operations.

There is no doubt about the strategic importance of such facilities, as they currently represent a real need for the state in securing its water resources and electricity supply. Consequently, there are real challenges and complexities facing states in implementing the provisions of international humanitarian law.

The protection of certain civil facilities, such as dams, bridges, and nuclear power plants, from attacks is crucial due to the potential catastrophic humanitarian consequences on civilian populations and surrounding civilian objects if they are partially or completely destroyed. Since some of these works and facilities constitute civilian objects, they are naturally covered by protection from direct attacks. However, it is not permissible to attack dams, bridges, and nuclear power plants classified as military objectives, as well as military objectives located in close

proximity to them, if such an attack would result in the release of hazardous forces causing severe losses among civilian populations.

The examples provided regarding these objects are representative of their special importance in international humanitarian law. The scope of protection extends to cover other cases that align with the aforementioned instances of criminalization. International humanitarian law considers protecting interests deemed worthy of protection and does not limit cases of prohibition and criminalization to specific instances, facts, applications, or examples without others. Wherever there is an anticipated danger from a specific facility, this danger is considered to be outside the norm and is described as a serious and grave threat to civilians and protected groups under the provisions of this law.

In this context, we are dealing with situations that fall within the framework of regulating the provisions of international humanitarian law for facilities containing hazardous forces.

The protection provided for in international humanitarian law includes engineering works and facilities containing hazardous forces (such as dams, water barriers, and nuclear power stations) as well as other military objectives close to or within these works, should not be the object of attack. "This applies even if they are military objectives, if the attack would release hazardous forces causing severe losses among the civilian population" (Protocol 1, Article 56, Protocol 2, Article 15). The two additional protocols have limited the scope of this rule to dams, water barriers, and nuclear power stations for the generation of electricity, and it was not possible to reach an agreement during the diplomatic conference that led to the adoption of the two additional protocols to include this rule for engineering works and facilities containing hazardous forces. However, the considerations explained above should be similarly applied to other facilities such as chemical plants and oil refineries. Since attacks on such facilities could cause serious harm to civilian populations and the

natural environment, the decision to attack them, if they become military objectives, requires taking all necessary precautions during the attack.

This special protection from direct attacks ceases only if the military objective in question is being used to make a significant and direct contribution to military operations, and if this attack is the only means of bringing an end to this support. Under no circumstances should these works, facilities, or military objectives be subject to acts of reprisal. In the event that the special protection ceases and any of these works, facilities, or adjacent military objectives are attacked, all practical precautions must be taken to avoid the release of hazardous forces, in addition to the precautionary measures required under the general rules governing the conduct of hostilities. To facilitate their identification, they must be marked with a special sign consisting of a group of three bright orange circles placed on the same axis. It is worth noting that this sign is purely symbolic and does not represent a precondition for the special protection provided by international humanitarian law.

Although international humanitarian law precisely regulates the issue of directing direct attacks at these objects, in cases where these objects are used to provide regular, significant, and direct support for military operations, we believe that allowing the conflicting parties to target these objects under certain restrictions and in accordance with the above-mentioned conditions represents a kind of risk-taking and acceptance of the risks arising from targeting. Therefore, such licenses represent one of the most dangerous aspects that can be expected in armed conflicts. They are a means of circumventing the conditions and claiming to adhere to the principles mentioned, as the adopted standard and the burden of proof are extremely difficult. Thus, granting any permission to deal with these facilities is unacceptable and unjustified. The matter exceeds the danger of targeting a museum, school, university, or hospital. It involves a high level of risk, and the danger lies not only in the targeting itself but also in giving exceptional cases where targeting is acceptable, justified, and not sinful. The decision to target a

dam or a nuclear power station could lead to catastrophic consequences that may exceed the risks of a state using nuclear weapons. Can we justify the use of nuclear weapons for military needs, or what? Therefore, the matter as a whole requires decisive, clear, and specific measures.

Regulating these few allowed exceptions is done in a precise manner, in which the right to target these objects or facilities is granted as follows:

Regarding dams or bridges, if they are used to provide regular, significant, and direct support for military operations and if such an attack is the only way to end that support, there must be deterrent measures aimed at preventing the use of these facilities to support enemy forces. Therefore, military action should be directed towards cutting off the use of these facilities to support the enemy's forces. This can be achieved through various military actions that do not directly target the structure of the dam or its related facilities, but rather by targeting the gathering of troops in nearby areas or the transportation and

communication means through specific and proportionate air or ground strikes that do not cause damage to the dam itself or its infrastructure to preserve it and not violate the established protection rules during armed conflict.

Regarding nuclear power stations, if these stations provide electrical power to support military operations regularly, significantly, and directly, and if such an attack is the only way to end such support, we also believe that this is illogical and unjustified. If the issue is related to the lack of electrical power supply, it is necessary to cut off the means of electrical power transmission rather than targeting nuclear power stations for electricity production. Therefore, justifying this by researchers and scholars seems to ignore the extent of the damage that would result from targeting these facilities in the face of the achieved military benefits. Hence, there should be genuine care in dealing with nuclear facilities, and there should be

no illogical justifications for the military targeting of them.

As for other military objectives located within or near these engineering works or facilities, if they are used to support military operations regularly, significantly, and directly, and if such an attack is the only way to end such support (Protocol I, Article 56-2).

In addition, these works or facilities must be clearly marked with a set of three circles in bright orange color, equal in diameter and placed on the same axis (Protocol I, Article 56-7, and Protocol I, Annex I, Article 16). Therefore, it is necessary to place signs indicating that there are facilities producing hazardous power and to consider the legal provisions for dealing with the sign and not to misuse it.

The detailed rules set out in Article 56 of Additional Protocol I, as well as in Article 15 of Additional Protocol II, are formulated based on the recognition of the need to avoid targeting such facilities, keep them away from hostile acts, and

protect civilians from the serious risks associated with them. Special care should be taken in the event of an attack on these engineering works and facilities. These rules are found in many military manuals. Under the legislation of several countries, attacks on engineering works and the resulting severe losses are considered a crime. Military manuals and legislation of several other countries prohibit attacks on engineering works and facilities as such. When ratifying Additional Protocol I, France and the United Kingdom declared that they could not provide "absolute" protection for engineering works and facilities containing hazardous forces when they are military objectives. However, they acknowledged the great danger inherent in any attack on these works and facilities, and requested the necessary and "duty-bound" precautions to be taken, respectively, in the exceptional situation in which these works and facilities are attacked, to avoid causing severe losses in a manner contrary to the civilian population. The Colombian government, in a similar statement, emphasized the need to

adhere to controls and take precautions for a government force attack on a dam to expel the rebels from there.

Therefore, we find that countries recognize the actual danger posed by direct or indirect targeting of such facilities.

The provisions of protection are not only found in the provisions of international conventional law, but also in customary international law. According to Rule 42 of the International Committee of the Red Cross Study on Customary International Humanitarian Law, "special care must be taken in the event of an attack on engineering works and facilities containing hazardous forces, such as dams, water barriers, nuclear power stations, and other facilities located at or adjacent to these engineering works and facilities, to avoid the release of hazardous forces causing severe losses among civilian populations". This rule applies in both international and non-international armed conflicts. The primary objective is to prevent civilians from suffering severe loss of life and

property, and it is an attempt to establish respect for rules of particular importance in terms of their binding nature, handling them with caution and precision, and not allowing speculation, anticipation, and decision-making that harms others.

It is natural for these protective rules to apply to all types of armed conflicts, both international and non-international, equally and within the same framework of non-discrimination.

You do not see the practice of this rule by states as a one-sided necessity that imposes obligations on one party to the conflict without the other. It is the reciprocal duty of the defender to protect engineering works and facilities containing hazardous forces, or to enhance them by taking all feasible precautions against attacks. This represents a fundamental legal commitment and a real constraint that must be respected and adhered to. These works and facilities should not be used to directly support military operations, military objectives should not be established in or near

them, and they should not be used to shield military operations.

When the Rome Statute of the International Criminal Court was adopted on July 17, 1998, and entered into force on July 1, 2002, it addressed, in one way or another, crimes arising from the use of these methods in combat, treating them as war crimes. Article 8 of this statute defines war crimes over which the Court has jurisdiction once the conditions for the Court's jurisdiction are met. These war crimes include, whether committed in an international or internal armed conflict, the deliberate targeting of civilian sites, attacks against personnel using or carrying out humanitarian assistance or peacekeeping missions under the UN Charter as long as they are entitled to the protection granted to civilians or civilian sites under the law of armed conflict, and deliberate attacks against medical facilities and equipment.

- Deliberately launching an attack with the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to

civilian objects or widespread, long-term, and severe damage to the natural environment, which would be clearly excessive in relation to the concrete and direct military advantage anticipated.

- Attacking or bombing cities, towns, or dwellings or buildings which are not military objectives by any means.

- Deliberately directing attacks against buildings dedicated to religion, education, art, science, or charitable purposes, historical monuments, hospitals, and places where the sick and wounded are collected, provided they are not military objectives.

Therefore, based on the mentioned paragraphs, it is natural that targeting engineering works and facilities of special importance constitutes a war crime with all its elements, due to the seriousness and danger of such attacks and their severe impact on the lives, existence, and fundamental rights of civilians guaranteed by the rules of international humanitarian law.