HUMAN SHIELDS IN INTERNATIONAL HUMANITARIAN LAW

By Michael N. Schmitt*

INTRODUCTION

Human shielding involves the use of persons protected by international humanitarian law, such as prisoners of war or civilians, to deter attacks on combatants and military objectives. Labelled “counter-targeting” in military parlance, the tactic hardly represents a new battlefield phenomenon. Shielding occurred, for example, in both the American Civil War and the Franco-Prussian War. The British Manual of Military Law, issued as the First World War commenced, noted that placing prominent civilians on trains in occupied territory to prevent attacks “cannot be considered a commendable practice.” During the Second World War, as pointed out in the Commentaries to the 1949 Geneva Conventions, public opinion was shocked by certain instances (fortunately rare) of belligerents compelling civilians to remain in places of strategic importance (such as railway stations, viaducts, dams, power stations or factories), or to accompany military convoys, or again, to serve as a protective screen for the fighting troops. Such practices, the object of which is to divert enemy fire, have rightly been condemned as cruel and barbaric.…

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2 J.M. Spaight, War Rights on Land 466 (1911). Interestingly, during the Civil War, the Union Commander in Alabama ordered that secessionist preachers be placed on trains to deter attacks. W. Winthrop, 2 Military Law and Precedents 797 n. 61 (2nd ed., 1920).


Despite condemnation, the practice persisted throughout the Cold War, including the Korea and Vietnam conflicts.\footnote{Statement of Secretary of State D. Acheson, Sept. 6, 1950, repr. in M. Whiteman, 10 Digest of International Law 424 (1968); Dep’t of Defense Statement, Dec. 26, 1966, repr. in ibid., at 427.}


\begin{itemize}
  \item The Iraqis also threatened to use journalists as human shields, although those seized were released before the conflict began. A.L. DeSaussure, “The Role of the Law of Armed Conflict During the Persian Gulf War: An Overview”, 37 Air Force L. Rev. 52-53 (1994).
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