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AN INTERROGATION OF THE SCOPE OF COMPLIANCE WITH THE PRINCIPLE OF DISTINCTION IN THE COURSE OF THE RUSSIA'S WAR ON UKRAINE 2022

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ABSTRACT

The principle of distinction is the cornerstone of the protection regime available to the civilians and civilian objects during armed conflict. This forms the basis for the robust provisions dedicated to the protection of these protected entities in Geneva Convention iv and additional protocols 1 & 2 of 1977 and other related laws governing the conduct of hostilities. This article examines the scope of compliance with the principle of distinction in the Russian/Ukraine war 2022. It highlights some of the civilian objects that came under attack and the number of lives lost. It recommends free and transparent access to investigators to unearth the perpetrators with a view to making them account for their wrongful acts.

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1. INTRODUCTION

The international community experienced a period of lull in the area of international armed conflicts until the 24th day of February 2022, when Russia declared war on Ukraine, describing it as a special operation. The phrase, special operation is not recognized anywhere in the laws of war governing the conduct of hostilities. Granting that the war is between two sovereign states, it is not a difficult task to situate it as international armed conflict, it is equally not a difficult task determining the applicable laws. Our research reveals significant evidence of the violations of international human rights law, international humanitarian law, international criminal law public international law etc.

It is apposite to state here that this article focuses on the violations of international humanitarian law only. It is also pertinent to point out that several principles of international humanitarian law have been observed in breach. Such international humanitarian law principles that have been violated in the course of the war include; the principle of distraction, the principle of proportionality the principle of precautions in attack[1] as set out under international humanitarian law. However, we shall be limiting our interrogation to the principle of distinction only. This is necessitated by the enormity of the attacks on civilians and civilian objects and the use of explosive weapons indiscriminately in densely populated areas.[2]

This article seeks to interrogate the scope of compliance with the principle of distinction by both parties to the war in Ukraine. It will start with the establishment of the typology of the conflict with a view to establishing or ascertaining the applicable laws which precedes the typology. It will then identify and analyses the attacks that prima facie

[1] See the interim report on Reported violations of international humanitarian law and international human rights law in Ukraine. Prepared by, "office for Democratic Institutions and human rights of 20th July 2022. P3

[2] See the text of the press Release dated 18th October 2022, "UN Commission has found an array of war crimes, violations of human rights and international humanitarian law have been committed in Ukraine" Available at; https;//www.ohcr.org/en/press-releases/2020/10/un-commsion-has-found-away-war-crimes-violations-humans-rights-and. Accessed 14/11/22.

constitutes violations of the principle of distinction as provided under international humanitarian law, with particular focus on the relevant laws and obligations arising therefrom. Efforts will also be made at interrogating the means and methods adopted by both parties that have contributed to the violations of the principle of distinction. The concluding and final section will come up with some recommendations that will compel parties to a conflict to respect their obligations under international humanitarian law.

2. TYPOLOGY OF THE WAR IN UKRAINE

International humanitarian law treaties and customary international humanitarian law distinguish between two types of armed conflicts; international armed conflict, which refers to conflict which occurs between two or more states and non-international armed conflicts, which denotes a conflict between a state and non-governmental armed groups or conflict that is between such armed groups only.[3] This dichotomy becomes imperative following the emergence of non-state armed groups in the conflict space as against the traditional notion of war between state parties only. It is instructive to point out that state sovereignty is territorial and states regulate their relationships through mutual agreements called treaties or conventions which include the regulation of conducts during situations of war. Agreed that there are two types of armed conflict, international and non-international armed conflict. It is imperative to point out that our interrogation shall be limited to international armed conflict only based on the identity of the parties to the war in Ukraine which is the focus of this article.

International armed conflict though defined in the Hague conventions of 1907, which precedes the Geneva conventions of 1949 and its 1977 protocols additional thereto, this interrogation will adopt the definition proffered under the regime of the Geneva conventions of 1949 and its additional protocols. International armed conflict is defined as;

> in addition to the provisions which shall be implemented in peace time, the present convention shall apply to all cases of declared war or of any other armed conflict which

[3] See Melze. N. international humanitarian law: a comprehensive introduction a publication of the international committee of the Red Cross. August 2016.

> may arise between two or more of the high contracting parties even if the state of war is not recognized by one of them[4].

This definition was confirmed in the *tadic* case[5], stating that "an armed: Conflict exists whenever there is a resort to armed force between states" the definition of international armed conflict has been expanded to include armed conflict which people are fighting against colonial domination and alien occupation and against racists regimes in the exercise of their right to self-determination, as enshrined in the charter of the united nations and the declaration of the principles of international law concerning friendly relations and cooperation amongst states in accordance with the charter of the united nation.[6] It is instructive to state that this definition has been established as a norm of customary international law[7] Furthermore, the ICRC commentary on the first Geneva convention describes international armed conflict to mean;

> any difference arising between two states and leading to the intervention of armed forces is an armed conflict within the meaning of article 2, even if one of the parties denies the existence of a state of war. It makes no difference how long the conflict lasts, or how much slaughter takes place. The respect due to the human parson as such is not measured by the number of victims.[8]

Putting these definitions together and from the identity of the parties, Russia and Ukraine, it is unambiguous that the conflict satisfies the

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[4] See Article 2, common to the four Geneva conventions of 1949 and article 1 (3) of additional protocol 1, of 1977

[5] See ICTY, *The Prosecutor v Tadic*, 1T-94-1-AR72, Appeals Chamber, Decision,2 October 1995, Reported in Marco Sassoli, Antoine A.B and Anne, how does law Protect in Armed conflict cases Documents and Teaching Materials on contemporary Practice in International Humanitarian Law, Vol III, 2011. P1758

[6] See article 1(4) Additional protocol 1, to the Geneva Convention of 1949. (AP1)

[7] See chapter 1 Rule 1, customary international law, vol 1, Cambridge university press, 2009.

[8]Dorman K, Lijnzaad L, SassoliM.eds, International Committee of the Red Cross; Commentary on the First Geneva Convention. Cambridge University Press, 2016, p86.

legal threshold for international armed conflict, triggering the application of international humanitarian law rules.

3. THE APPLICABLE INTERNATIONAL HUMANITARIAN LAW RULES

International humanitarian law begins to apply immediately hostilities begin. It means in effect that with the outbreak of the armed conflict in Ukraine on the 24th day of February 2022, the conducts of the two parties came under the search light of international humanitarian law. Key amongst the laws that came into effect are the four Geneva conventions of 1949, (more particularly convention iv) the Additional protocols of 1977 and customary international humanitarian law. Also of concern in this article is the use of weapon systems that lack the capacity to distinguish between combatants and civilians by reason of being indiscriminate by design.[9] It is also instructive to note that international law prohibits the use of certain weapons under any circumstances, a position that has attained the status of customary international law, which means that the prohibition is binding on all states regardless of their treaty obligations.[10]

4. BASIC RULES OF CIVILIAN PROTECTION

International humanitarian law operates to protect civilians and civilian population from the effects of hostilities. Also protected are civilian objects, combatants that have been rendered horse de combat and are no longer participating in hostilities and cultural objects. This is done through the regulation of the way and manner in which military operations are conducted. The regulations that have direct impact on the protection of civilians and civilian objects are in the principle of distinction[11], proportionality[12] and precautions in attack[13]as succinctly codified in additional protocol 1, to the Geneva conventions and customary international humanitarian law. It is instructive to note that civilians continue to enjoy the protection of the law until such a time when they take up arms and directly participate in the hostilities. As pointed out earlier, this

[9]ibid
[10]See Generally Articles 35 and 36, of AP1 of 1977 and Rule 70 Customary International Humanitarian Law.
[11]See Art 48, API
[12] See Art 51 (5) (b) API
[13] See Art 57 (1) API

article is limited in scope, i.e., the interrogation of the scope of compliance with the principle distinction in the Russia war in Ukraine.

The principle of distinction[14] requires that, parties to an armed conflict at all times distinguish between civilians and civilian objects on the one hand combatants and military objectives on the other. It is pertinent to reproduce the full proviso for purposes of clarity;

> in order to ensure respect for and protection of the civilian population and civilian objects the parties to the conflict shall at all times distinguish between the civilian population and combatant and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.

A further step towards ensuring respect and protection of the civilian, parties' rights to the choice of method and means and of warfare is limited by article 35 of Additional protocol 1, which provides as follows:

1. In any armed conflict the right of the parties to the conflict to choose methods or means of welfare is not unlimited
2. It is prohibited to employ weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering.
3. It is prohibited to employ methods or means of warfare which are intended, or may be expected to cause widespread, long-term and severe damage to the natural environment

The choice of means and methods of attack becomes a critical issue in the protection of the civilian in view of the fact that indiscriminate weapons will pose danger for the civilian population since they lack the capacity for precision in the targeting process.[15] On the other hand the right of choice of method of attack is not unlimited, it is prohibited to situate military

[14]. See convention on prohibitions on the use of certain conventional weapons which may be deemed to be excessively injuries or to have indiscriminate effect Geneva 10 October 1980

[15]see Article 48 of AP1, to the Geneva conventions 1949, see also Jean-mariehenckaerts and louise-Bect Customary international law volume 4,rule 1

objectives within the vicinity of civilian areas and or civilian object as that will amount to using civilians as human shield[16]

Aside from the principle of distinction and the choice of means and methods of warfare, another principle of international humanitarian law that is aimed at protecting the civilian and civilian objects is the principle of proportionality. The principle of proportionality is a restraining principle that calls for an assessment to determine that civilian loses and damage to civilian objects are not expected to outweigh the military advantage expected.[17]The import of the proportionality principle is that, though the target is a legitimate target of attack, (i.e., military objectives) it can only be launched if the resultant effect will not be excessive in relation to the concrete and direct military advantage anticipated. By the term, "military advantage" it places a higher standard of precaution on the attacker in carrying out the assessment to ensure that the advantages are of a purely military nature to justify the attack.[18] This presupposes that where the resultant effect will be excessive the attack should be suspended.[19] This applies to situations where due to the fluidity of military objectives, circumstances underlying an assessment may change, so care must be taken to realize the changed position and cancel the attack.[20]

To further boost the protection Regime of the civilians and civilian objects, during situations of armed conflict, international humanitarian law has put in place elaborate precautionary measures even before and after attack, and also against the effects of the attack. It is required; that those who plan and decide on an attack must do everything feasible to ascertain

[16]See particularly Article 58 (b) of AP1 1977, which states that; avoid locating military objectives within or near densely populated areas.

[17] See particularly Article 58 (b) of AP1, 1977, which states that: "avoid locating military objectives within or near density populated areas".

[18] See Art 51(5) (b) which provides to the effect that: an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination

[19] See Melzer N. International Humanitarian Law; A comprehensive Introduction. A Publication of the international committee of the Red Cross: 2016, P101.

[20]See Article 57 (2) (11) of AP1, it provides the effect that the attacker should refraining from deciding to launch any attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects or a combination there of which would be excessive in relation to the concrete and direct military advantage anticipated.

that the selected targets are in fact military objectives.[21] In the same vein, where there is a choice between several military objectives that can produce the same military advantage, belligerents must direct their attack against that objective which may be expected to produce the least damage to civilians and civilian object[22] In order to achieve this goal or purpose, military objectives must not be located within or near densely populated areas.[23] From the foregoing there is no doubting the fact that international humanitarian law has made sufficient provision for elaborate protection of the civilians during situations of armed conflict which is what we set out to interrogate in the Russia/Ukraine war considering the massive destruction of civilian lives and properties in the conduct of hostilities.

5. ATTACKS THAT *PRIMA FACIE* CONSTITUTES GRAVE BREACHES OF THE PRINCIPLE OF DISTINCTION

Right from the beginning of the war in Ukraine, some international human rights organizations started monitoring and collecting information on potential violations of international humanitarian law.[24] From the reports of these independent monitoring organizations, it can be deduced that, Civilians and civilian objects were deliberately targeted particularly by the Russian armed forces.[25]The civilian objects that came under attack at various times and places in violation of the principle of distinction include; residential houses, market squares, shopping malls, schools, hospitals,

[21]See art 57 (2) (b) of Ap1, 1977. It states that refrain from deciding to launch any attack which may be expected to cause incidental loss of civilian life injury to civilians, damage to civilian objects or a combination there of which would be excessive in relation to the concrete and direct military advantage anticipated.

[22]See art 57 (2) (a) (i) of Ap1 and also rule 16 of customary international humanitarian law.

[23]See Art 57 (3) Ap1, which provides to the effect that; when a choice is possible between several military objectives for obtaining a similar military advantage the objective to be selected shall be that, the attack on which may be expected to cause the least damager to civilian lives and civilian objects. See also rue 21, customary international humanitarian law.

See art 58 (b) Ap1, and rule 23, customary international humanitarian law.

[24] Some of the international human rights organizations that monitored the potential violations of international humanitarian law in Ukraine include; Office for Democratic Institutions and Human Right, Amnesty International, Human Rights watch, and United Nations office of the High commissioner for Human Rights etc.

[25] See the interim Report on Reported violations of international Humanitarian law and international human right law in Ukraine, July 20, 2022. Accessed 14/11/2022. P14

cultural sites, train station, bread factory, Tv station etc.[26]For example, on the 16th day of March 2022, the Donetsk regional Academic Drama theatre in Mariupol was destroyed by a powerful explosive.[27] It is instructive to point out that the theatre was serving as a shelter for hundreds of civilians, as well as a distribution centre or point for water and food and a gathering point for evacuation[28].Mariupol; city council announced a civilian casualty of about 300 people from the attack[29]. There is nothing to show that the theatre was serving any dual purpose i.e., serving as both military and civilian object, yet it came under attack. This is a blatant violation of the principle of distinction. Another violation of the principle of distinction was witnessed when on the 18th day of April 2022; the railway station in Kramatorsk, in Donetsk Region was hit by a missile,[30] leaving 60 civilians dead and 111 Injured.[31] Medical and educational facilities have not been spared in the war. A report by the Ukraine ministry of health reveals that, between 24 February and 18 may, 2022, 628 medical facilities were damaged and at least 100 were completely destroyed.[32]Similarly, the ministry of Education and Science of Ukraine reported that 1,899 educational facilities had been damaged and 215 destroyed in the hostilities as at 30th June 2022,[33]It is our observation that these colossal destructions of medical and educational facilities were either as a result of indiscriminate bombardment or by deliberately targeting them. Another form of violation of the principle of distinction has been observed in the deployment of explosive weapons in densely populated areas, including cluster munitions capable of producing indiscriminate effect.[34] According to the report monitored by the office for Democratic Institutions and Human Rights

[26] Ibid

[27] See "Ukraine; Mariupol theater Hit by Russia Attack Sheltered Hundreds: Human Rights Watch, 16 march 2022. <https://www.hrw.org/news/2022/03/16/ukraine-mariopol-theatre-hit-russian-attack-sheltered-hundredsAccessed> 16/11/2022.

[28] Ibid

[29] Ibid

[30] See Ukraine war: what do we know about the Kramatorsk train station attack," Euronews with AP, AFP, 8 April 2022, <https://www.euronews.com/2022/04/08/ukraine-war-what-do-we-know-about-the-kramatorsk-train-station-attack>. Date accessed. 16/11/2022.

[31] ibid

[32] See ministry of health of Ukraine Telegram, 18 May, 2022,<https://t.me/mozofficial 2460. Quoted in ODTHR interim Report of July 20, 2022. p20

[33] See the Ministry of Education and Science of Ukraine Report, <https://saveschools.in.ur/en/> Quoted in ODIHR Report of July 20, 2022. P20

[34] Ibid

(ODIHR) such explosives which include; Tochka-u missile artillery and unguarded aerial bombs equipped with cluster munitions have been used at various periods in Mariupol, karkiv, Izum. Borodianka, Chernihiv and Mukalaiv[35] the use of explosive weapons[36] in densely populated civilian areas negates the principle of distinction,[37] Proportionality[38] and the prohibition of indiscriminate attacks under international humanitarian law. Contrary to the prohibition of attacks against civilians and civilian objects as enshrined in the principle of distinction, Russian Armed Forces have been observed to be deliberately and intentionally targeting civilians and critical civilian infrastructure in cities and settlements in Ukraine. The critical civilian infrastructures that came under attack include: energy power plants and infrastructure, which disrupted the supply of electricity, water heating and telecommunication networks.[39] The report reveals that 12 energy facilities were either damaged or completely destroyed in eight regions of the country.[40] In a similar vein, the united Nations Human Rights Monitoring Mission in Ukraine (HRMMU) reported that at least 43 civilians were killed and 160 injured by attacks by the Russian armed forces on cities and energy supply objects across Ukraine.[41] It is instructive to point out that these attacks were carried out largely by indiscriminate weapon systems that are prohibited by international humanitarian law. It is imperative to interrogate more on whether the critical infrastructures that came under attack served any dual purpose as military objectives to legitimize their attack. There is in fact no doubting the fact that, critical or not, civilian objects are protected under international humanitarian law, however where civilian objects serve dual purpose they become legitimate targets of attack, meaning they have

[35] Ibid

[36] See article 51(4) of Ap1, 1977. Also, Rule 14, CIHL

[37] See article 51(4) of Ap1, 1977. Also, Rule 14, CIHL

[38] See Article 51 (5) (b) of Ap1, 1977, see also Article 35, of Ap1, 1977 which regulates the choice of means and methods of warfare by parties to a conflict rule 14 CIHL

[39] See the ODIHR second interim Report on Reported violations of international humanitarian law and international human rights law in Ukraine of 14 December 2022, P18. This was personally monitored from France 24. Come on the 27 December 2022.

[40] Report of the UN, Office of the High commission for human rights, press released of 11 October, 2022. Monitored from France 24. Com news 12/10/2022/

[41] See 'update on the human Rights situation in Ukraine: 1 August- 31 October 2022" UN, Office of the High Commissioner for Human Rights, 2 December 2022. Accessed 4/1/2023

lost their civilian status and protection.[42] However from the reports so far monitored, there is no evidence that point to the fact that the civilians were taking direct part in the hostilities or that the civilian objects have acquired the status of a military objective either by usage, location or providing any administrative or logistical support for military operations.[43]

The Russian Federation Armed forces did not deny the attacks on the aforementioned critical infrastructure in Ukraine, but on two of the occasions, claimed that their action was a response to attacks by the Ukraine armed force.[44] The response by the Russian Federation by way of reprisal attack is yet another violation of international humanitarian law which prohibits attacks carried out as a form of reprisal against the civilian population and civilian objects[45].This suggests that the attacks on critical civilian infrastructure are intentional and not incidental.

It is instructive to note that violations of the basic principles of international humanitarian law have also been perpetrated by Ukrainian armed forces as well. Examples can be found in the use and deployment of prohibited weapon systems, location of military objectives near civilian objects or densely populated civilian areas and use of explosive weapons that are indiscriminate in nature and lacking capacity for precision[46] Examples can be found in the reports as monitored by different

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[42] See generally article 52 of Ap1, this provision is so sacrosanct that it emphasis the fact that even in case of doubt as to whether an object which is normally dedicated to civilian purpose, such as a place of warship, a house or other dueling or, a school, is being used to make an effective contribution to military action, it shall be presumed not be so used.

[43] See article 52 (2) Ap1,1977. This provides that attacks shall be limited strictly to military objective. In so Far a objects are limited to those objects which buy 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 definite military advantage.

[44] On 8 October, 2022, an explosion occurred on the Crimean bridge connecting the Taman peninsula of the Krasnodar region in the Russian Federation and the kerch peninsula of Crimea, presently under Russian occupation Reported in the official website of the Russian Federation, http://hremlin.ru/events/president/news/69568, Accessed: 8/02/2023. Russian Federation equally claimed that the attack on the Russian Black sea fleet in Sevastopol bay, on 29 October 2022 was carried out by Ukrainian armed force Reported by SMOTRI Media, Telegram of 31 October 2022, <http://t,smotri-media29045> Accessed: 8/02/2022.

[45] See Article 51 (6), Art 52 (1) and 54 (4) of AP1, 1977, see also rules 145 and 146 of customary international humanitarian law. (CIHL)

[46] See the ODTHR Interim Report on Reported violations of international humanitarian law and international human rights law in Ukraine of 20th July 2022. P19

international organizations more particularly united nations High commissioner for Human Rights and office for Democratic institutions and human right.[47]Where it was reported that at least 20 incidents where Ukrainian Missiles carrying cluster sub-munitions hit populated areas, ten of which resulted in at least 279 civilian casualties, with 83 deaths and 196 injured.[48] Another incident, though denied by the Ukrainian armed forces is the deployment of a Ukrainian Tochka-U Missiles carrying cluster munitions over the Centre of Donetsk which was intercepted by Donetsk peoples Republic.[49] Furthermore, it has been observed from the methods adopted by both Russian Federation and the Ukrainian armed forces, that both parties violated the rules of international humanitarian law by placing their military positions in residential areas or near civilian population by using them as shields [50] Another method that serves to inhibit or endanger the civilian population by both parties is the use of civilians as human shield. Such examples can be seen in the village of yahindne (Chernihiv region) where the Russian Federation armed forces forced civilians, including children and persons with disabilities to stay with them in the basement of a school they were using as a base for 28 days and the action of the Ukrainian armed forces in starakranyanaka (Lufianks region) where they placed their base in a care home for older people and parsons with disabilities resulting to attacks by the Russian federation armed forces, killing scores.[51] It is in fact, an incontestable fact, that both parties to the international armed conflict in Ukraine have demonstrated general disregard or disrespect for the basic principles of international humanitarian law, more particularly the principle of distinction the principle of precaution

[47]UN, office of the High commissioner for Human Rights. Situation of human rights in Ukraine in the context of the armed attack by the Russian Federation between 24 February – 15th May 2022 <https://www.ochr.org/sites/default/files/documents/countries/ua/2022-06-29/2022-06-UkraineArmedAttack-EN.pdf> Accessed 14/11/2022.

[48]Ibid

[49] Ibid

[50] This was observed in Mariupol and Bucha where the Russian Federation armed force were in stationed in empty apartments or yards of private residents from where attack are carried out in a similar view, Ukrainian armed forces were observed to have positions themselves in residential neighborhoods and launched stirckes from them in the various districts of kharkiv. This is derived from the report of ODIHR of 20, July 2022.

[51] UN, office of the High Commissioner for Human Rights: Situation of human rights in Ukraine in the context of the armed attack by the Russian Federation loc cit.

in attack and the adoption of prohibited means and methods of warfare in their conduct of hostilities.

6. CONCLUSION

International humanitarian law makes it an obligation for parties to a conflict, whether defending or attacking forces to distinguish between the civilian population and combatants and between civilian objects and military objectives, by directing their attacks only against military objectives. However, contrary to this obligation, which is binding on both Russia and Ukraine as state parties to the four Geneva conventions of 1949 and protocols additional thereto of 1977 and several other international treaties, attacks were targeted at civilians and civilian objects in total disregard to the laws of armed conflict. International humanitarian law also limits the rights of parties to the conflict to choose method or means of warfare. It has also been observed that the conducts of hostilities by both parties to the conflict are to a large extent in violation of the law of armed conflict, most especially the Russia Federation armed forces[52]. The Russian federation armed forces are observed to have adopted prohibited methods of warfare largely by using civilians as shield and locating military objectives in civilian populated areas using prohibited indiscriminate weapons that lack capacity for precision even on legitimate targets of attack. Furthermore, all the precautionary measures in launching attacks and precautions against the effects of attacks are blatantly violated. These violations of the laws of armed conflict are responsible for the devastating and catastrophic civilian casualties and massive destruction of civilian objects being witnessed in Ukraine.

It is instructive to state here, that by accepting to be state parties to the Geneva conventions and the protocols additional thereto, Russia and Ukraine undertook to respect and ensure respect for the convention in all circumstance even when the other party fails to respect it. This is in line with the legal maxim *pacta suntsa vanda* (meaning obligations arising from agreements must be respected) it is also important to state that the responsibility to respect and ensure respect constitutes general principle of international humanitarian law that is applicable in all armed conflicts irrespective of treaty obligations. This means in effect that even if Russia

[52] See “Russia’s Kramatorsk ‘Facts’ versus the Evidence”

and Ukraine were not state parties, they will not escape the long arm of the law, as most of these violations have been recognized under customary international humanitarian law and are applicable irrespective of whether a state is a party or not.

Recommendations

Consistent with the obligations of both Russia and Ukraine under the Geneva conventions of 1949, it behoves on them to search for persons who ordered to be committed, such grave breaches, and shall bring such persons regardless of their nationality before its own courts or hand such persons over for trial to another high contracting party concern, provided such party has made out a prima facie case. Granting that the war is still on-going, we recommend the international community to prevail especially on Russia to respect its international obligations as enshrined in the Geneva conventions, by complying with the principles of international humanitarian law, more particularly the principle of distinction to put an end to civilian suffering and distraction of civilian objects. Consistent with the obligation of state parties to respect and ensure respect for the Geneva conventions and the additional protocols, we call on both Russia and Ukraine to respect their duty to investigate and prosecute under IHL, alleged grave breaches of the convention end the laws of war generally. It is our further call on both parties, more particularly Russia to provide international investigators, including investigators of the ICC and United Nations with unimpeded access to the territories under their effective control, with a view to ensuring transparency and accountability for alleged grave breaches of the Geneva convention of 1949. We further call on the international community to prevail on Russia to compensate Ukraine for the destruction caused its infrastructure and the civilian lives lost to serve as a deterrent to war mongers who may want to invade another state.