conception of God as being an integral part of a teleological worldview. In both his chapter on Thomas Aquinas and his concluding chapter "Why God Matters," Hill makes a strong case that a divine ordering principle that is intelligible, purposeful, and not arbitrary, and that is mirrored in our own spiritual nature, is crucial to the idea that morality is much more than human convention. But his argument is ultimately too narrow, focusing on the Christian God without seriously considering other religious perspectives.

For example, while Hill briefly references Eastern traditions in the first chapter of the book, he does so in one short paragraph in which he classifies Hinduism and Buddhism as extreme positions of "radical monism and radical nihilism." Whether or not this characterization is true, surely these venerable traditions deserve more than a one paragraph analysis and summary dismissal. In any event, it seems less than obvious that a distinctly Christian conception of God is crucial to the natural law worldview.

All in all, however, *After the Natural Law* serves as a rigorous and lucidly written account of the intellectual history of the natural law worldview, and a persuasive call for re-examining, learning from, and revitalizing classical Western teleological philosophy. With its penetrating insight into how questions of reality and the purpose of human existence directly apply to articulating a foundation for modern moral, legal, and political values, the book, at the very least, is likely to stimulate reflection about what, if any, connection there should be between our moral and metaphysical assumptions. Given its tremendous breadth of historical and intellectual coverage, the book can be recommended to a broad readership, though perhaps especially to students and scholars of philosophy, jurisprudence, and Christian theology.

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The Concept of Military Objectives in International Law and Practice. By Agnieszka Jachec-Neale. Abingdon, Oxon; New York, NY: Routledge, 2015. Pp. xiv, 294. ISBN: 978-1-138-81840-8. US $160.00.

In the early morning of October 3, 2015, a US AC-130 gunship erroneously attacked a *Médecins Sans Frontières (MSF)* trauma hospital in Kunduz, Afghanistan in support of Afghan forces trying to reclaim the city. Despite *MSF* notifying all belligerents in the area of the location of the hospital prior to the attack, and attempts to contact U.S. and Afghan authorities during the air strike, the hospital was destroyed, resulting in numerous injuries and the death of 42 staff members and patients. After releasing a number of contradictory statements in explanation of the attack, it was not until four days later that the U.S. military assumed responsibility for the attack, with Gen. John F. Campbell, commander of U.S. forces in Afghanistan stating that the U.S. would "never intentionally target a protected medical facility."[12] A report of a Department of Defense investigation into the matter was issued on April 29, 2016 and stated that military personnel misidentified the MSF Trauma facility as an insurgent-controlled site and were unaware that they were firing upon a medical facility. The report noted that this "tragic incident was caused by a combination of human errors, compounded by process and equipment failures."[13] General Campbell, as Commander of U.S. forces in Afghanistan concluded that "certain personnel failed to comply with the law of armed conflict and rules of engagement."[14] However, he did not conclude that the incident amounted to a war crime in that the term is typically reserved for *intentional* acts of targeting civilians or protected objects.[15]

[12] Missy Ryan & Tim Craig, *U.S. General: Kunduz Hospital was 'Mistakenly Struck,'* WASH. POST, Oct. 7, 2015, at A9.
[13] Press Release, United States Central Command, CENTCOM releases investigation into airstrike on Doctors Without Borders trauma center (Apr. 29, 2016) http://www.centcom.mil/news/press-release/april-29-centcom-releases-kunduz-investigation [https://perma.cc/A5NH-4E8J]
[14] *Id.*
[15] *Id.*

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While the Kunduz Hospital airstrike is an extremely egregious example of the dangers fraught with executing military attacks during a conflict, it also clearly illustrates how inaccurate intelligence and rash decisions made in the "fog of war" can turn inviolable civilian buildings into deadly targets in an instant. The presence of irregular combatants and asymmetrical warfare as is the norm today further complicates the situation. A new volume by Agnieszka Jachec-Neale in Routledge's Research in the Law of Armed Conflict series entitled *The Concept of Military Objectives in International Law and Targeting Practice* explores the relationship between international law and the practice of armed forces in selecting legitimate military targets. The focus of her work is narrow: the analysis of the term "military objectives" as defined by article 52 of the 1977 Additional Protocol I (API) to the four 1949 Geneva Conventions, which represents the first international instrument to attempt to define military objectives. Article 52 §2 provides as follows:

> Attacks shall be limited strictly to military objectives. In so far as objects are concerned, military objectives are limited to 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.[16]

Article 52 §2 provides the criteria for discerning legitimate military objectives and supports the cornerstone tenet of international humanitarian law, which is the concept of "distinction." It holds that combatants must distinguish between military objects and purely civilian ones in the course of a conflict. In its advisory opinion in the Nuclear Weapons case, the International Court of Justice described the principle of distinction as one of the "cardinal principles" of international humanitarian law and one of the "intransgressible principles of international customary law."[17] Using the definition of military objective as provided in the API as the focal point of her study, Jachec-Neale divides her book into two parts: part one analyzes the definition itself, while the second part explores state practice, illuminating exactly how the definition is operationalized on the ground. It should be noted that her work is confined to situations where the law of armed conflict clearly applies, and it considers only attacks against targets on land. Secondly, it applies the definition only to objects such as buildings and infrastructure and does not discuss the targeting of individuals. Finally, other complementary concepts found in the API such as proportionality (Article 51) and precautions in attack (Article 57) are not discussed.

After an introductory chapter defining the parameters of the book, chapter two begins with a historical analysis of the origins of the legal concept of military objectives. While the premise that certain objects and individuals could be attacked legitimately (and conversely that certain civilian targets are exempt) has existed throughout the history of warfare, the relentless pace of military technological innovation has shaped and re-shaped the nature of conflict throughout the ages. This in turn has continually tested the boundaries of the law meant to constrain them. As the use of large-caliber projectiles fired by artillery expanded the confines of a formerly discrete battlefield to reach civilian populaces, it was clear that the law of warfare must also evolve to address this deadly new reality. Nonetheless, it was not until the middle of the nineteenth century that the laws of war began to be codified in any systematic fashion.

Early non-binding international instruments such as the Hague Regulations[18] codified the customary law concept of "fortified/defended" locations and "undefended" ports, towns, villages, dwellings, or buildings. The definition included in these instruments was open-ended and avoided listing particular objects permissible for attack. A companion Hague Convention relating to naval warfare[19] expanded the list of permissible targets to include targets based on their military importance rather than their location. Thus, for example, factories and workshops servicing naval ships in civilian areas could become legitimate targets. Shortly after its adoption, the enumerated list of military targets in this document was considered obsolete by critics and it was also decried for its lack of a clear definition of

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[16] Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) art. 52 §2, June 8, 1977, 1125 U.N.T.S. 3, 27.

[17] Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1996 I.C.J. at 257 (July 8).

[18] Convention (II) with Respect to the Laws and Customs of War on Land and its Annex: Regulations Concerning the Laws and Customs of War on Land, art. 25, July 29, 1899, *reprinted in* THE LAWS OF ARMED CONFLICTS: A COLLECTION OF CONVENTIONS, RESOLUTIONS, AND OTHER DOCUMENTS 63-93 (Dietrich Schindler & Jiří Toman eds., 3rd ed. 1988).

[19] Convention (IX) Concerning Bombardment by Naval Forces in Time of War, arts. 1 and 2, 18 October 1907, *reprinted in* THE LAWS OF ARMED CONFLICTS: A COLLECTION OF CONVENTIONS, RESOLUTIONS, AND OTHER DOCUMENTS 811-817 (Dietrich Schindler & Jiří Toman eds., 3rd ed. 1988).

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what constituted "defended" or "undefended" areas, which hobbled its effectiveness and left it open to broad interpretation. Given the advent of aerial warfare during the First World War, and a shift in prevailing military doctrine towards strategic bombing of economic and industrial targets situated in civilian areas, it was clear that further development of new legal standards was necessary. Later efforts such as the non-perfected 1923 Hague Rules,[20] which consisted of a set of non-binding draft rules that first used the term "military objective" combined with a list of permissible targets, was also found to be inadequate. Scholars condemned the rules for failing to address the dynamic nature of targeting, military technology, and the practice of states.[21] Despite its non-ratification, the Hague Rules were influential upon the drafting of individual state military doctrine and were widely recognized as binding customary law among nations.

The waging of "total war" that ultimately reached its apotheosis during the Second World War stimulated the further development of new standards in the post-World War II era culminating in the drafting of the four Geneva Conventions in 1949. They expanded the protections of civilians, but the term "military objectives" is mentioned only in passing in several of the instruments without being defined. Indeed, no other post-war document used the term or attempted to define it until the 1977 Additional Protocol I, which is the subject of this volume. This was the case because states were reluctant to abandon the strategic bombing tactics of earlier conflicts, which saw use again in the Korean War and Vietnam. While later efforts to further elucidate the rules of military targeting (such as the ICRC's Draft Rules for the Limitation of the Dangers Incurred by the Civilian Population in Time of War[22] and a resolution adopted by the Institute of International Laws meant to clarify existing law relating to military objectives[23]) were attempted, they were again not met with wide acceptance. Regardless, these efforts served to inform the negotiations for the drafting of Additional Protocol I at the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts, which was convened from 1974–1977. Upon its adoption on June 8, 1977, those negotiations produced the first true definition of the term "military objective" included in a binding international instrument.

Chapters three through six are the heart of Jachec-Neale's work. They provide an exhaustive examination of each phrase contained in the definition of "military objective" as defined in the API. Drawing upon the *travaux*, scholarly commentary, and examples gleaned from state practice, the author provides an extremely detailed analysis of the meaning of the term at law and how it has been implemented in the field. She notes that the definition has two key elements: *an effective contribution to military action*; and an *offer of definite military advantage*.[24] These two phrases are in turn qualified by additional criteria, in the case of the first element by the *nature, location, use*, or *purpose* of the object, and in the case of the second by three methods to obtain military advantage: *destruction, capture*, and *neutralization*.[25] It should be noted that with regard to the nature of the article, that particular criterion is intrinsic and permanent and does not change regardless of circumstance. On the other hand, the location, use, or purpose of an object may change according to temporal or circumstantial changes. The object's "effective contribution to military action" must be not only tied to military operations (i.e., the actions of the armed forces and not the entire nation) but it must also be "real and discernible, rather than theoretical, speculative, or hypothetical."[26] Thus, operations targeting the "war effort," a term that includes both military and non-military activities lies beyond the more precise term "military action" and thus was not contemplated by the drafters. Similarly, economic targets

[20] Hague Rules Concerning the Control of Wireless Telegraphy in Time of War and Air Warfare, February 19, 1923, *reprinted in* THE LAWS OF ARMED CONFLICTS: A COLLECTION OF CONVENTIONS, RESOLUTIONS, AND OTHER DOCUMENTS 207-217 (Dietrich Schindler & Jiří Toman eds., 3rd ed. 1988).

[21] AGNIESZKA JACHEC-NEALE, THE CONCEPT OF MILITARY OBJECTIVES IN INTERNATIONAL LAW AND PRACTICE 21 (2015).

[22] Draft Rules for the Limitation of the Dangers Incurred by the Civilian Population in Time of War, International Committee of the Red Cross, 1956, *reprinted in* THE LAWS OF ARMED CONFLICTS: A COLLECTION OF CONVENTIONS, RESOLUTIONS, AND OTHER DOCUMENTS 251-257 (Dietrich Schindler & Jiří Toman eds., 3rd ed. 1988).

[23] The Distinction Between Military Objectives and Non-Military Objects in General and Particularly the Problems Associated with Weapons of Mass Destruction. Resolution adopted by the Institute of International Law at its session at Edinburgh, 9 September 1969, *reprinted in* THE LAWS OF ARMED CONFLICTS: A COLLECTION OF CONVENTIONS, RESOLUTIONS, AND OTHER DOCUMENTS 265-266 (Dietrich Schindler & Jiří Toman eds., 3rd ed. 1988).

[24] JACHEC-NEALE, supra note 10, at 36.

[25] *Id*.

[26] *Id*., at 83.

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that have only the *potential* to contribute to military activity would also not fall within the purview of the definition and would not be considered military action.

The phrase "definite military advantage" must be satisfied in conjunction with the first element of the definition according to the author.[27] The action must be of a military nature and "involve a clear belligerent nexus or other connection to ongoing or planned military operations in a specific armed conflict."[28] Armed forces that pursue non-military gains, such as degrading political or economic resources that evince an attenuated relationship to military advantage will generally not meet the requirements of the test, which requires a clear, discernible connection. To illustrate these points, in chapter seven the author describes problematic cases where the contribution or advantage to military action has been challenged. Attacks against state and political leadership infrastructure, civilian morale, TV and radio broadcasting facilities, and objects involved in the commission of international crimes (a concentration camp for example) are all examined. Examples of such actions include the 2011 NATO action against Libya that included an attack on President Gaddafi's palace in Tripoli. NATO argued that the residence included military communications infrastructure and that the President was not directly targeted. The action proved controversial among nations, particularly the League of Arab States, but the question remained unanswered whether, in the absence of the military communications equipment in the building, it would still have effectively contributed to military action just because of its association with a military leader.

Television and radio facilities are often targets in military operations such as in the 1990–1991 Gulf War. Such attacks were justified by claiming these facilities offered backups to military communications networks as well as providing a propaganda outlet for the Iraqi regime. The author suggests that the contention that the use of state media facilities to propagandize and control civilian populations converts them into legitimate military targets is debatable.[29] The example of NATO's attack against Serbian radio and TV broadcasting facilities during its bombing campaign against the Federal Republic of Yugoslavia is noted, and the author's contention finds support in a report issued by the International Criminal Tribunal for the former Yugoslavia (ICTY), which stated that as an attack aimed against Serbian communications infrastructure, it was permissible, but the destruction of a means of disseminating propaganda was only an "incidental aim of its primary goal of disabling the Serbian military command."[30] Military advantages that are merely psychological or social would not meet the demands of the definition.

Part II begins with a long discussion of military doctrine and international law that need not be detailed here. Suffice to say that military doctrine is the principal factor determining how armed forces engage the enemy, and thus it provides concrete evidence of state practice. Military doctrine identifies strategic targets whose destruction is deemed critical to crippling an enemy's war effort, yet the list of acceptable targets may be expanded to include not only purely military assets, but also economic and political ones that may provide questionable "military advantage" as defined in Article 52 §2 of the API as discussed previously. This inevitably places doctrine in conflict with what is permissible under the law and what is desired operationally. The author points out that the "legal scrutiny of proposed targets is part of the targeting process, in which an important role is played by legal advisers who participate in the vetting of targets [and whose] contribution to the process is vital, and particularly so when dealing with strategic targets …"[31] As noted above, such strategic political and economic targets are problematic and controversial as to fulfilling the requirements of the definition. The danger becomes that an expanding body of state practice in the affirmative allowing attacks on these facilities will evince state practice regarding the interpretation of the definition of military advantage that broadens the definition beyond what was envisioned by the framers of the API.

Chapter nine discusses the question of legal interoperability in relation to the identification of military targets. Jachec-Neale discusses this issue in the context of coalition operations. In such situations, coalition partners may operate under common Rules of Engagement, yet each member may also establish limits on its force's military conduct. Perhaps the most interesting illustration of this phenomenom was the 1999 NATO intervention in Kosovo.

[27] *Id.*, at 115.
[28] *Id.*, at 117.
[29] *Id.*, at 161.
[30] Int'l Crim. Trib. for the Former Yugoslavia [ICTY]. *Final Report to the Prosecutor by the Committee Established to Review the NATO Bombing Campaign* ¶ 76 (June 13, 2000) http://www.icty.org/en/press/final-report-prosecutor-committee-established-review-nato-bombing-campaign-against-federal [https://perma.cc/3KG3-JBHU]
[31] JACHEC-NEALE,supra note 10, at 214.

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NATO established a review of military targets by the political leadership of alliance members that included the power to reject attacks on targets deemed unlawful by a coalition partner. States either declined to take part in attacks they did not approve of, or simply exercised a veto power to stop a particular operation. France's use of this power was particularly robust as they refused to take part in attacks that targeted infrastructure such as bridges or television and media facilities. Targets were questioned both in terms of collateral damage as well as to their lawfulness as military targets. Problems of intelligence and information sharing may also promote conflict in targeting choices among members as each force requires differing levels of information to make informed decisions regarding a particular target. Questions remain as to the standard of information that is needed to apply the definition of military objectives in Article 52 §2 of the API to the facts on the ground. This issue has not been definitively addressed under international law and the author suggests that further exploration is required.[32]

The Concept of Military Objectives in International Law and Practice is, without question, the most comprehensive study of the definition of military objectives and its application in warfare available in the literature today. Its exhaustive review of the *travaux*, state practice, and legal commentary on the topic will no doubt encourage further exploration into the many questions and ambiguities raised by Jachec-Neale's research. The work will be indispensable to students and scholars of the law of armed conflict and international humanitarian law as well as individuals tasked with planning and executing military operations throughout the world. It should also be noted that the monograph includes an extensive bibliography of primary and secondary legal materials as well as sources for state practice and military doctrine. A detailed subject index is also provided to assist readers in quickly finding needed passages. This volume will no doubt prove to be an essential addition to any serious library collection on the law of war.

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[32] *Id.* At 261.

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