## Legitimate Targets?

Social Construction, International Law and US Bombing

JANINA DILL



## Contents

Αc	cknowledgements	page xı
Ta	ible of treaties under international law	xiii
Та	able of cases	xv
Li	st of acronyms	xviii
	Introduction	1
	Part I A constructivist theory of international law	17
1	The challenge	19
	1.1 The causal dependence of international law	20
	1.2 The epistemic dependence of international law	28
	1.3 The ontological dependence of international law	31
2	The theory	44
	2.1 How international law works: intellectual and	
	motivational effects	45
	2.2 What international law is: dependent, but separate	53
	Part II The definition of a legitimate target of attack	
	in international law	65
3	Positive law	67
	3.1 The definition of a legitimate target of attack	68
	3.2 A purposive and textual interpretation	82
	3.3 A historical interpretation	96
	3.4 The logic warfare ought to follow: sufficiency	105
4	Customary law	112
	4.1 The definition of a legitimate target of attack	113
	4.2 The United States and the First Additional Protocol	121

x Contents

	4.3 The logic warfare ought to follow: sufficiency versus	
	efficiency	129
	Part HI An empirical study of international law in war	143
5	The rise of international law in US air warfare	145
	5.1 The institutionalisation of compliance	146
	5.2 The growing sense of legal obligation	152
6	The changing logic of US air warfare	163
	6.1 The definition of a legitimate target of attack in US air	
	warfare	163
	6.2 The logic US air warfare follows: from sufficiency to	
	efficiency	181
7	The behavioural relevance of international law in US air	
	warfare	195
	7.1 How international law works: the intellectual effect	196
	7.2 How international law works: the motivational effect	208
	7.3 Other factors that influence which logic warfare	
	follows	220
	7.4 What international law is: constitutive of legitimacy	
	in war	239
	Part IV An evaluation of international law in war	247
8	The lack of normative success of international law	
	in US air warfare	249
	8.1 The logic warfare ought to follow: sufficiency versus	
	efficiency	249
	8.2 The logic warfare ought to follow: sufficiency versus	
	liability	266
9	The impossibility of normative success for international	
	law in war	278
	9.1 The limits of international law in war	278
	9.2 The potential of international law in war	290
	Conclusion	299
Βi	Bibliography	
Αį	Appendix	
In	Index	