The Role of States in the Application of International Humanitarian Law: Between Efficiency and Effectiveness

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Abstract:

Most States respect the norms of international humanitarian law by taking all necessary measures for the execution of their obligations as reflected in the Geneva Conventions of 1949 and the 1977 additional protocols. Yet, the world continues to suffer from the effects of armed conflicts, both international and non-international.

The change of the classic concept of war that has been between the borders of States and their regular armies have changed into the war on terrorism and evolved into cyber wars and the threat of epidemics like the Corona Virus pandemic (Covid-19) and its variants. Future wars would be won in a laboratory, not on a battlefield. The application by States of the rules of international humanitarian law remains between the need to activate their role and the fact that their role is ignored.

***Key words**: Cyber war; International humanitarian law; Terrorism; The Additional Protocols; The fifth generation; The four Geneva Conventions.*

Introduction:

To counteract the multiple forms of combat operations and ordnance, and to limit the daily build-up, states have been required to participate in the development of legal norms prohibiting military operations without regard to necessity. Deal with the development of weapons and prevent their proliferation as much as possible, clarify the scope and scale of combat and the definition of combatants to demonstrate their rights and duties

What is happening in the world of international and non-international armed conflicts reminds us of the urgent need for the norms of international humanitarian law, serious and persistent violations of this law, the world has fallen into disasters

and tragedies such as in Central Africa, Mali, Palestine, Syria, Western Sahara, Iraq, Libya, Georgia recently Ukraine, and many countries in the world.

In view of the importance of the development of international humanitarian law, we thought that the study should look at the degree to which States are devoted to international humanitarian law and their contribution to the establishment of its norms, but the development of the situation has turned into a conflict between states on different continents.

Non-international armed conflicts are sometimes unknown and often difficult to apply to the rules of international humanitarian law. Most of the current international conflicts are non-international armed conflicts; the battlefield is transformed into a computer and laboratory battle, the Cyber war, and Corona Virus Pandemic (COVID-19)

From what is stated earlier, one can notice that the rules of international humanitarian law still an effective legal basis in which states play a role. This leads us to ask the following key question: To what extent do states contribute to the implementation of the rules of international humanitarian law? To respond to this key problematic, the study should be split into two main themes:

The first focuses on investigating the factors contributing to the development of international humanitarian law and its application. Whereas the second sheds light on the development of international humanitarian law which was reflected in its legal nature, since it was an organizational law that has become binding for all those involved in its determination. This is unacceptable to some, who deny its existence and confuse the notion of the existence of the legal norm with that of its effectiveness.

THE FIRST CHAPTER:

Contribution of States to the Application of the Rules of International Humanitarian Law

Distinguishing combatants from civilians, thereby protecting all groups of combatants and non-combatants, develop international mechanisms to ensure the application of international humanitarian law. Meanwhile, states have an obligation to respect and apply the rules of international humanitarian law at the national level as a first step in applying that law.

1- International Mechanisms to Ensure Compliance with the Implementation of International Humanitarian Law:

The law of armed conflict, also known as International Humanitarian Law (IHL), is one of the most heavily regulated areas of international law. As Professor Greenwood notes, throughout its history the development of international humanitarian law has been influenced by religious concepts and philosophical

ideas. The customary rules of warfare are among the very first rules of international law." (Stuart Maslen, 2001, p. 12)

International Humanitarian Law is defined as the body of international norms derived from convention or custom, specifically aimed at solving humanitarian problems arising directly from international and non-international armed conflicts, for humanitarian reasons methods and methods of warfare they like or protect, restrict and people affected or potentially affected by armed conflict. The International Committee of the Red Cross (ICRC) has adopted this definition. (أحمد، 2007، صفحة 19)

International Humanitarian Law is also known as a set of legal norms aimed at protecting international and non-international victims of various types of armed conflicts, both personal and personal."

Which is worth stopping at this definition, it's "Legal Concept of Rules" These Rules are in no way moral or community rules, but rules that States and other international persons must not violate when they commit to them. And the forms of engagement are different. It could be contractual. And various forms of commitment can be contractual, i.e. by ratifying or acceding to a treaty, or it can be customary.(يازجي، 2004، صفحة 110)

One of the things that mainstream scholars of international humanitarian law (IHL) and military ethics have in common is the disconnect between jus ad bellum, the law governing the use of force, and jus in bello, the law governing warfare. In the legal field, the separation ad bellum/in bello has a double meaning: On the one hand the legal status of the parties to the conflict in the jus ad bellum does not affect the application of the jus in bello; On the other hand, the application of the jus in bello does not change the legality of the use of force according to the jus ad bellum. This norm should be firmly rooted in treaties, state practice, the jurisprudence of national and international courts and the legal literature. (Liang, 2021, p. 291)

The international mechanisms for promoting and respecting international humanitarian law include: Protecting power, Enquiry Procedure, International fact-finding commission.

1- Protecting Power: That is, the state that the belligerent state resorts to protect the interests of its nationals in the enemy state, this is not done with the consent of the three states (Devillard, 2007, p. 107).

The Protecting Power is not defined in the four Geneva Conventions of 1949, but Article II, paragraph (c) of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.defines it as follows": Protecting Power means a neutral or other State not party to the conflict who has been nominated by a Party to the conflict and accepted by the opposing Party and

has agreed to carry out the functions assigned to a Protecting Power under the Conventions and this Protocol;" (ICRC, 2022).

The link between the protecting power system and the obligation to enforce international humanitarian law is only indirect. This does not affect the tasks assigned to the protecting power, because if the function of monitoring the application of international humanitarian law is just one function among others (Devillard, 2007, p. 108)

2- Enquiry Procedure: an inquiry will be conducted at the request of any party to the conflict, and any allegation of violation of the provisions of the Conventions will be investigated. Once a violation of the Convention has been established, the parties to the conflict must put an end to the violation.

Article 52 of the First Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in the Armed Forces in the Field, of 12 August 1949, Provides that: "At the request of a Party to the conflict, an enquiry shall be instituted, in a manner to be decided between the interested Parties, concerning any alleged violation of the Convention. If agreement has not been reached concerning the procedure for the enquiry, the Parties should agree on the choice of an umpire who will decide upon the procedure to be followed. Once the violation has been established, the Parties to the conflict shall put an end to it and shall repress it with the least possible delay." (ICRC, 2016)

Investigations into acts that may constitute a violation of international humanitarian law are recognized as essential to the proper application of this set of norms in both international and non-international armed conflicts. (بوجمعة، 2009، صفحة 62)

The legal sources of the obligation to investigate are contained in the International Humanitarian Convention and customary law, including the commitment of the High Contracting Parties to the Geneva Conventions of 1949 and their Additional Protocol I of 1977, (Noam Lubell, 2019, p. 2) applicable in international armed conflicts to enact all legislation necessary to establish appropriate criminal penalties to be applied to persons who have committed or have been ordered to commit serious crimes in order to commit their provisions States have a legal obligation to seek out these individuals, regardless of their nationality, and to institute criminal proceedings (or, in some cases, extradition) against them, which necessarily involves investigations to bring those responsible to justice (Noam Lubell, 2019, p. 3)

3- International fact-finding commission: according to article 90/1/a of Additional Protocol I of 1977 An International Fact-Finding Commission consisting of 15 members of high moral standing and acknowledged impartiality shall be established; (ICRC, 2022)

Article 90/4/a also provides “The Chamber set up under paragraph 3 to undertake an enquiry shall invite the Parties to the conflict to assist it and to present evidence. The Chamber may also seek such other evidence as it deems appropriate and may carry out an investigation of the situation ' in loco '. (ICRC, 2022)

The term legal finding of fact means a decision based on the facts presented by the parties involved. In this case, the Commission will not go to the premises for investigative purposes. In general, no other bodies are required to conduct investigations; another picture of fact-finding is the procedure of the intervention of a survey agency that goes to the places concerned to investigate.

In addition to these mechanisms, the International Committee of the Red Cross has played an important role since its creation in 1859 thanks to the Swiss compatriot “Jean-Henri Dunant” after witnessing the Battle of Solferino in northern Italy between the French and Austrian armies. After 16 hours of fighting, the battlefield had 40,000 dead and wounded. He is the one who called for a more humane war. " humanizing the war Humans can't stop the war, but at least they can tend to the wounded. Horrified by the suffering of wounded soldiers left on the battlefield, Dunant set about a process that led to the Geneva Conventions and the establishment of the International Red Cross (Solferino, 2022)

So, naturally when International humanitarian law is mentioned, we must immediately remember the International Committee of the Red Cross and its progress since its inception. From its inception to the current laws and activities protecting and assisting victims of war and its efforts to ensure compliance with the provisions of international humanitarian law, it is no exaggeration to say that the existence of humanitarian work and the engineering process were intertwined on the existence of the Commission. (أحمد، 2007، صفحة 111)

The UN Charter has set itself a goal in its preamble: to create conditions under which justice and respect for obligations arising from treaties and other sources of international law can be maintained. Since then, the development of and respect for international law has been an integral part of the organization's work. This work is carried out in many ways - by courts, tribunals, multilateral treaties - and by the Security Council, which can authorize peacekeeping missions, impose sanctions or authorize the use of force when it deems it necessary to threaten world peace and security. (Nations, 2022)

These powers are conferred on it by the UN Charter, which is considered an international treaty. As such, it is an instrument of international law by which UN member states are bound. The UN Charter codifies the most important principles of international relations, from the sovereign equality of states to the prohibition of the use of force in international relations (Nations, 2022).

2- Compliance by States with the Norms of International Humanitarian Law:

Responsibility for implementing of compliance with the rules of international humanitarian law rests primarily with States, and the acceptance by States of the Geneva Conventions testifies to the adoption of their rules.

Common article 1 of the four Geneva Conventions provides that "The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances" (ICRC, 2016). Although the 2016 and 2017 updated commentaries on Geneva Conventions I and Geneva Convention II, respectively, took a categorical approach to the claim that Common Article 1 contains an external obligation (Watts., 2020, p. 678).

The recently published 2020 updated commentary on Geneva Convention III got it right here there is disagreement about the legal nature of the positive component of the duty to respect by others, as the content of the duty is not clearly defined and its implementation is largely left to the high contracting parties. In the light of this recognition, this article takes a fresh look at the meaning of Common Article 1 (Watts., 2020, p. 678)

Article 80 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977 provides in its first paragraph as follows «The High Contracting Parties and the parties to the conflict shall without delay take all necessary measures for the execution of their obligations under the Conventions and this Protocol." The second paragraph of the same article states that "the High Contracting Parties and the parties to the conflict shall give orders and instructions to ensure observance of the Conventions and this Protocol and shall supervise their execution. (ICRC, 2022)

States must take action, starting with acceding to humanitarian conventions and trying to coordinate national legislation and keep it consistent with international conventions it represents the peaceful accession and assent of States to the four Geneva Conventions. National laws should also not be belittled by the norms of international humanitarian law.

International law is sufficient to regulate the protection of children in armed conflict, both involving the direct and indirect involvement of children in hostilities and also the protection of children as victims of armed conflict. However in order for the provisions of international law to be effective, they must be included in the national legal managements of each country the legal protection provided to children is more focused on consequences of armed disputes that will affect the child (Mangku, 2021, p. 7)

Keeping national legislation in line with international conventions means bringing national laws into line with international conventions, as international

treaties take precedence over laws. This is stated in the Algerian Constitution in Article 154 of Presidential Decree No. 20-442 amending the Constitution, which provides that: "Treaties ratified by the President of the Republic under the conditions set out in the Constitution shall prevail over the law" (Décret présidentiel N° 20-442, 2020)

The fact that some states have acceded to their additional protocols commits to ensuring that these conventions are respected by each of them within their respective powers and that many conventions and humanitarian documents have achieved universal circulation among states, For example, as of January 6, 2009, there were four States parties to the 1949 Geneva Conventions (194 States) and their 1977 First Additional Protocol (168 States) to their 1977 Second Additional Protocol on Non-International Armed Conflicts (164 States) and the Statute of the International Criminal Court of 1998 (108 States) (كمال، 2011، صفحة 18)

In addition to such measures as acceding to treaties and requiring national laws to comply with the rules of international humanitarian law, States take other measures, including the introduction of international humanitarian law and judicial measures.

States define international humanitarian law through its dissemination and formation, as provided for in Article 47 of the First Geneva Convention :" The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population, in particular to the armed fighting forces, the medical personnel and the chaplains". (ICRC, 2016)

Beyond these dispositions, the judicial measures taken by the State to ensure its implementation of international humanitarian law are a reaffirmation of its obligation to ensure compliance with the norms of this law and therefore to take the necessary measures to punish persons who commit serious violations of international humanitarian law commit the conventions

Tort law plays a role in enforcing state accountability for foreign human rights abuses, and international humanitarian law is also based on actual practice. Tort law was recently invoked to address alleged overseas violations of international human rights and humanitarian law committed by British soldiers and security services in Kosovo, Afghanistan, Iraq and in connection with the "war on terror" (Grusic, 2021, p. 157)

From Article 129 of the Third Geneva Convention of August 12, 1949, we deduce that each High Contracting Party has an obligation to search for persons accused of having committed or ordered the commission of such serious violations and to bring such persons before their own courts, regardless of their nationality. They may be handed over to another interested party for trial, as long as said party

has sufficient evidence against them and, in any event, the accused benefits from the guarantees of trial and free defence (ICRC, 2016)

Disciplinary sanctions are necessary for maintaining military discipline and for maintaining the commander's authority disciplinary sanctions are therefore a significant factor influencing compliance with international humanitarian law Disciplinary sanctions are also crucial to the prosecution of grave breaches of international humanitarian law committed during hostilities : as the judge is rarely at the scene of the hostilities, disciplinary sanctions play an important role in bringing to light the fact that a violation of international humanitarian law has taken place. (Renaut, 2008, p. 324).

Algeria has established special mechanisms to ensure that international humanitarian law is promoted and respected and represented by the Algerian Red Crescent, which plays a role in the implementation of international humanitarian law at the national level and has demonstrated its effectiveness through membership of the Federation of Red Cross and Red Crescent Societies in a regional and international context.

Algeria adopted the National Commission on International Humanitarian Law in 2008. It is a national mechanism that aims to disseminate and publicize international humanitarian law (Décret présidentiel N° 08-163, 2008)

In addition to these mechanisms, Algeria has undertaken the teaching and training of international humanitarian law in order to disseminate it and make it widely known, to stimulate society to take care of it and to enable its rules and knowledge to become familiar to and programmed in their courses at Algerian Universities.

The International Committee of the Red Cross (ICRC) is mandated by states in accordance with the Geneva Conventions, the Additional Protocols and the Statute of the International Movement. This task includes promoting the ratification of treaties, monitoring and disseminating compliance with international humanitarian law and contributing to its further development.

A study by the International Commission on " Strengthening legal protection for victims of armed conflicts concluded that international humanitarian law as a whole remains an appropriate framework for governing the behaviour of parties to armed conflicts, whether international or non-international. Greater compliance with the existing legal framework is in most cases the necessary step to improve the situation of those affected by armed conflict. (Kleinberger, 2011)

However, this study also showed that better protection for these individuals is to address weaknesses in the legal norms. By strengthening international humanitarian law in four specific areas: (a) protection of persons deprived of their liberty, (b) enforcement of international humanitarian law and redress to victims of injuries, (c) protection of the natural environment, and (d) protection internally displaced. (Kleinberger, 2011)

From the above stated, one can conclude that states have worked to uphold the principles of international humanitarian law, respecting their treaty obligations under the four Geneva Conventions of 12 August 1949, and its two Additional Protocols, Algeria is one of the first States to reflect and respect the four Geneva Conventions and the two Additional Protocols through the contribution of the Algerian State, both inside and outside the country, to the development of and respect for international humanitarian law.

THE SECOND CHAPTER:

Disregard for the Role of States in Applying the Rules of International Humanitarian Law

The international legal norm is binding and its effectiveness depends on the type of society in which it is applied. This denial of their existence has negative repercussions for states that apply them. There are some states that have not been able to implement this law due to the policy of double standards. The role of these countries has been weakened internally, as in Libya and Syria . Within the same framework, the development of international humanitarian law not only affects states and their vulnerability in the area of international humanitarian law, it goes beyond the emergence of new actors in armed conflicts. In the past, international armed conflicts took place only between regular armies.

1- Sovereignty and Humanitarian Intervention:

Confirms the legal steps taken by the Security Council in recent years in relation to the future development of the Security Council's form of international action. This is an example of trying to reconcile the violation of international humanitarian law with the importance of protecting states' sovereignty.

In addition to the International Court of Justice, a variety of international courts, international tribunals, ad hoc tribunals and UN-backed tribunals have various relationships with the United Nations (such as the tribunals for the former Yugoslavia and Rwanda, the Special Tribunal for Sierra Leone, the Extraordinary Chambers of Courts of Cambodia and the Special Court for Lebanon. (Nations, 2022)

The International Criminal Tribunals Mechanism (MICT) was established by the United Nations Security Council on December 22, 2010 to take over a number of essential functions of the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the former Yugoslavia (ICTY), upon completion of their respective mandates. These are set up by the Security Council (and are its subsidiary bodies). The International Criminal Court (ICC) and the International Tribunal for the Law of the Sea (ITLOS) were established by conventions drawn up within the UN, but are now independent bodies with specific cooperation agreements. (Nations, 2022)

The decisions of the Security Council establishing the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda are an important step forward because they unequivocally confirm that individuals are at odds with many concepts, both the concept of sovereignty and some direct legal restrictions and Obligations underlie the establishment of tribunals, which does not constitute a violation of sovereignty as it falls under the jurisdiction of the Security Council. (محمد، 2008، صفحة 56)

The evolution of the international system, particularly the primacy of human rights over all other international principles, has changed the concept of sovereignty from its traditional definition to pave the way for the emergence of a new concept that reduces the hands of the original adversary the state to his people when it comes to human rights violations. International diplomacy has taken steps to activate so-called humanitarian interventions since the 1980s. And French Foreign Minister Roland Dumas said at the time that France believes human rights are paramount. (محمد، سعادي، 2008، صفحة 59)

The development of humanitarian intervention since 1991 was a fundamental problem: respect for the principle of sovereignty. Massacres in some states have prompted the United Nations to review the concept of sovereignty in practice, although in theory it continues to insist on respect for states' sovereignty. The traditional concept no longer fits the dramatic changes in the international community.

In the General Assembly debate at its fifty-fourth session, Secretary-General Kofi Annan urged states 188 not to invoke national sovereignty when dealing with violations of civilians and believed that serious and repeated human rights violations should be avoided where whenever they appear are completely unacceptable. (B, 1999)

On the one hand, the Secretary-General suggested expanding the concept of intervention as much as possible, and on the other hand, states should reconsider the issue of national interest and make it an unbreakable line of defense, that is, the international community could intervene wherever civilians were threatened . The fact that, unfortunately, humanitarian intervention is not clearly identified as a weapon in the hands of the powerful, used of their own accord and not because of the needs of humanitarian aid.

For example, Security Council Resolution No. 688 on the Kurds in northern Iraq identified their influx as a threat to international peace and security, while the Security Council did not accept the same appreciation in its similar resolutions on Yugoslavia and Somalia. If we study the above-mentioned Resolution 688, we note at the outset that it emphasizes respect for national sovereignty, territorial unity and the political independence of Iraqi territory. However, she condemned the repression of Iraqi civilians in various areas of Iraq, particularly in the Kurdish residential areas, as a threat to international peace and security. (S/RES/688(1991))

In order to end the oppression of the population and open the dialogue, the immediate access of humanitarian organizations to different areas of Iraq to help the needy population has been emphasized. To protect the Kurds, so-called security zones were established in northern Iraq, the administration of which was entrusted to the armed forces of a number of successors, including US, British and French forces, as well as United Nations staff.

By resorting to the right of intervention, international humanitarian law has evolved from military intervention to the protection of minorities and human rights. Forcing the state to do something, then to do something while the state is still in its infancy while protecting human rights with the consent of the state itself is the Secretary-General's intervention in the context of ensuring the rights of minorities.

Critics of Resolution 688 on the Kurds believe the issue of protecting Kurds in northern Iraq has confirmed the rift between international law and international relations. By creating the Humanitarian Intervention Act, the United States, United Kingdom and France created a security zone on Iraqi soil that was prevented by the Iraqi army. This sets a precedent for the right to interfere in the internal affairs of a sovereign state. (Stern Brigitte, 1993, p. 131)

It was later determined that the intervention in Iraq was not for the protection of the Iraqi people or the legitimate defense of the great powers from the Iraqi regime's threat of using weapons of mass destruction, but was a colonization of a new kind of political remapping of the world, known as the “Greater Middle East”.

The behavior of the great powers shows a contradiction in adjustment to the nature of the conflict. Some states have designated a conflict as an internal conflict, and other states are not allowed to interfere in the internal affairs of the state handling the conflict. The same states and different interests see the need to express the international character of the conflict and to consider a non-regular army as the status of a liberation movement against colonialism or a racist regime that would allow international rules to apply the law to international arms conflicts. That's what the major powers in Syria have been trying to prove for 11 years, ever since they supplied arms to forces opposing the regular Syrian army, the so-called Free Syrian Army, to fight the Syrian regime under President Bashar al-Assad.

It should be noted that there are both international and civil conflicts, as in Libya, where the conflict started in the form of a civil war and turned into an international armed conflict because NATO planes bombed positions of the Libyan army to weaken them . Assisted the Libyan rebels in various battles against the Libyan Army by developing methods of air warfare. This was confirmed by the wars of the time, which require careful consideration of the need to review the rules of these conflicts to refute punishment by surgical warfare or clean warfare, whether they use smart weapons or not.

The Israeli attack on the Palestinians did not emerge from a vacuum. because Israel was aware that no one can blame it while violating all the norms of international law, under the declared protection of the United States of America and the silence of the European states that claim to be the cradle of international law and human rights. Israel's attacks on the norms of international law violated not only the provisions of the United Nations Charter prohibiting the use of military force in international relations or the rules governing the exercise of the right to legitimate defense, but also international humanitarian law, the international community attaches great importance, including the Fourth Geneva Convention for the Protection of Civilians in Time of War.

2- Emergence of New Parties in Armed Conflicts:

Several characteristics of the current conflict patterns can be identified. First, new actors have emerged in armed conflicts. Mohamed Talaa Al-Ghanimi argues that the international community is developing; It is becoming increasingly difficult to determine what falls within the jurisdiction of the state.

According to the report of the Committee of Wise Men at the United Nations level, presented to the General Assembly by Secretary-General Kofi Annan on December 8, 2004, it states that it is necessary to act voluntarily in order to intervene in States that are In doing so, they do not protect their nationals whether they want to or not, like the war against armed groups in Mali. (الدين، 2011، صفحة 166)

US President Bill Clinton announced at the Davos meeting on January 29, 2001 that today the whole world is at a crossroads, not only Europe, the United States and other Asian countries, globalization has the way, maybe on most important, cooperation between countries revolutionized borders works. We must first acknowledge that globalization has made us all freer and more independent. The doors were flung open and the web of communication between states and individuals, between economies and cultures, was praised. (الموسوي، 2003، صفحة 145)

The provisions of international humanitarian law apply in many cases and concern all events in the war on terrorism, the first of the century. Some call it the global war on terrorism. It is a military, economic and media campaign being waged by the United States of America with the participation of some of its allied countries. According to former US President George W. Bush, this war aims to eliminate terrorism and states that support terrorism. This war began after the events of September 11, 2001 and was called “preventive war or pre-emptive war”.

One of the few truly new challenges to international humanitarian law is the reverse phenomenon: States attempt to classify a situation too strongly as an armed conflict to apply international humanitarian law, even when it is not applicable. After the great shock of September 11, 2001, the US administration was challenged by the fog of international terrorism personified by Al-Qaeda and

Osama Bin Laden, but in reality more of a loose network or simple franchise under the name AL- Al-Qaeda exists, declaring that it was engaged in a single worldwide international armed conflict against a non-state actor (Al –Qaeda) (Sassoli, 2007, p. 50) and Islamic state (Daesh).

That changed with the arrival of US President Barack Obama and his administration, which decided in 2010 to abandon the notion of the war on terrorism. Focusing on domestic terrorism, the US government said it is not at war with terrorism or Islam, but rather with a specific network, al-Qaeda and extremist terrorist groups. The issue of counter-terrorism and human rights has received significant attention since the establishment of the Counter-Terrorism Committee in 2001 under Security Council Resolution 1373 (2001). In Resolution 1456 (2003), the Security Council stated that States must ensure that all measures taken to combat terrorism meet their obligations. (Nations, 2022)

This transition to a new version of the anticipatory use of force created a major problem, since the redefinition of the preventive use of force in jus ad bellum provided a cover for the expansion of US state power through the use of military force. With the redefinition of the pre-emptive use of force in the jus ad bellum, the US has recognized the right to use military force against unproven threats, thereby easing restrictions on the use of force against other states, with the new definition representing the risk of the use of force The US and powerful nations could use vague, unfounded threats as an excuse to launch pre-emptive attacks, not to defend themselves but to further their narrow national interests. (Badalic, 2021, p. 185)

Armed conflicts are increasing in international law, especially in international human rights, refugee and humanitarian law. This has further aggravated the situation and caused humanitarian crises. Civilians are not only victims of armed conflicts, but have become direct targets of armed conflicts. This is a development among the parties to armed conflicts. (Tauxe, 1999, p. 93)

Most of the current armed conflicts are not international armed conflicts. It has become internal and international, “Internationalized internal conflicts” they appear to be internal conflicts, but there are external factors that have a direct influence on the course of the conflict, such as the intervention of neighbouring states or regional economic interests.

The new phenomenon in international armed conflicts is the capture of combatants, the status of soldiers and the increasing difficulty in distinguishing between combatants and non-combatants. There is a new way in armed conflict. Call military banditry and they commit the most heinous crimes. These warriors are often associated with trafficking drugs, valuable weapons and minerals, the treasures of the conflict, for which there is always a foreign gambit. Regular armies were replaced by armed groups that were difficult to identify - groups with no clear ideology, no concrete military objective. Without faith or law, they are unaware of

the provisions of international humanitarian law and the laws of war because they have departed from humanitarian law. (Tauxe, Jean Daniel, 1999, p. 96)

New wars are not based on the principle of proportionality as was the case in classic wars. Rather, the goal of the war is the annihilation of the others, as was recently the case in Myanmar and China in ethnic cleansing against Muslims. Hence the difficulty in applying the rules of international humanitarian law.

Cyberwar and the Corona Pandemic (COVID-19) as new wars have not excluded the great powers, and these new wars are not regulated by international humanitarian law based on treaties.

On January 22, 2016, the Japanese government published the 5th Science and Technology Baseline Plan (Cabinet Office 2016a). The plan proposes the idea of "Society 5.0" a vision of a future society guided by scientific and technological innovation. The intention behind this concept is described as follows: Through an initiative that merges physical space (real world) and cyberspace by making full use of ICT, we propose an ideal shape of our future society: a 'super-smart society', that will bring wealth to the people The series of initiatives to realize this ideal society is now being further deepened and intensively promoted as Society 5.0. (Atsushi Deguchi, 2020, p. XI)

A note explains the meaningfulness of the term Society 5.0 as follows: (Society 5.0 is) so denotes the new society created by transformations led by scientific and technological innovations, after the hunter-gatherer society, the agrarian society, the industrial society and the information society. (Atsushi Deguchi, 2020, p. XI)

Rapidly evolving communications systems have transformed the wars of their traditional reality into a digital space, with the emergence of the so-called Fifth Society, a society where information and machines come together with the human mind. Therefore, whenever international and national laws are looking for sensible solutions to reduce the extent of criminal activities in order to prevent or eliminate information crime. The legislature of each country must therefore step in to put an end to the threat of future wars, cyberwar or digital warfare threatening international peace and security.

Although imperfect, the targeting process serves as a reliable basis for analyzing the impact of increasingly autonomous technologies, working towards better protection of civilians, and maintaining military effectiveness. Autonomous technologies could improve this process at the same time. There is a risk that the use of autonomous technologies could ultimately lead to an unacceptable loss of human control because we were not sufficiently aware of the consequences of these technologies. (Ekelhof, 2018, p. 88)

This is what the Algerian legislator has done by drafting important laws aimed at reducing the risk of cyberwar or digital war, the most important of which are: Law n° 09.04 of 5 August 2009, which contains the special rules for the

prevention and control of crimes related to information and communication technologies (Loi n° 09-04, 2009), and Law n°18 - 07 of 10 June 2018 on the protection of natural persons in the processing of personal data. (Loi n° 18-07, 2018)

Given the importance of this issue and its impact on the future and security of Algeria, President AbdelMadjid Tebboune has issued Presidential Decree n° 21-439 of 7 November 2021, reorganize the National Authority for the Prevention and Control of Information and Communication Technology Crimes. (Décret présidentiel n° 21-439, 2021)

Epidemics require the intervention of the international community to combat them and face their dangers. So when they spread, humanitarian action is essential, but the Corona (COVID-19) pandemic is important. The World Health Organization (WHO) has declared a global health emergency to combat the coronavirus, and the mutated coronavirus continues to pose a threat to all of humanity.

Just as political and social events, along with technological advances, have changed the way armed conflict is conducted, so too has armed conflict law changed, with states adopting new treaties to better respond to new developments in practice to be able to. (Crawford, Emily, 2021, p. 1)

In recent years there has been a trend to reverse or at least tone down this reactive quality on international humanitarian law Making. Standard practice was to assemble a group of experts, usually drawn from government agencies, the armed forces, academia and legal practice. Over the course of a few years, these experts deal with the questions and problems of their topic and finally design and adopt an instrument that in many respects resembles a contract. (Crawford, Emily, 2021, p. 2)

From the foregoing, it has been found that the parties to the conflict have changed as the victims have changed, since civilians are no longer the only targets in the various conflicts, in addition to that the location of conflicts has changed from battleground to computer and laboratory.

Conclusion:

Since its signature in 1949, the four Geneva Conventions have been developed with three protocols, two in 1977 and one in 2005, relating to the new red crystal, however, various international and national mechanisms for compliance with the implementation and application of the rules of international humanitarian law established by various international documents are increasing day by day.

This does not mean that all States apply the rules of humanitarian law, nor have these above-mentioned texts prevented the disregard of the role of States in

the application of the rules of international humanitarian law. Based on the foregoing, we have reached the following conclusions:

- The victims are unarmed civilians who are helpless. Violations of international humanitarian law are not attributable to a lack of rules and regulations, but rather to failure of States to apply international law due to political control over the diplomat and lack of awareness of it by political and military commanders and combatants. On the other hand, due to the conflict of interests of the great powers, these states were not given enough opportunity to apply these rules, as was the case in Libya

- What is unfortunate and painful, is the civilian casualties in the midst of the conflict and the difficulty in applying the rules of international humanitarian law. The difficulty in the emergence of new parties to armed conflicts, both international and non-international, and the form in which States and humanitarian workers are confronted.

- New wars are not based on the principle of proportionality as was the case in classic wars. Cyberwar and the Corona Pandemic (COVID-19) wars are not regulated by international humanitarian law based on treaties. Future wars would be won in a laboratory, not on a battlefield.

This study therefore makes the following suggestions:

- Additional Protocol II on non-international armed conflicts contains 15 essential articles, while Additional Protocol I on international armed conflicts contains more than 80 articles. Although the ratification of the 1949 Geneva Conventions was universal, this was not the case with other international humanitarian law treaties such as the 1977 Additional Protocols, as a result of which treaty law does not always give full protection to victims of armed conflicts or non-international armed conflicts.

- At the request of the international community, the Red Cross Committee has therefore initiated a comprehensive study of current state practice in customary international humanitarian law. Based on the practice collected in the study, the Special Court for Sierra Leone ruled that the recruitment of children in non-international armed conflicts is a war crime, strengthening the protections of children from recruitment and use as child soldiers.

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