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Interdependence between the law of international humanitarian Law and international criminal

الترابط بين قانون القانون الدولي الإنساني والقانون الجنائي الدولي

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Abstract :

The overlap between international criminal law and international humanitarian law ends up with a great convergence between them to accommodate the first one in what may be one law, as the two laws aim to achieve security and peace for the individual at the global level, and criminal international law criminalizes acts that IHL seeks to criminalize and prohibit. The purpose of this article, therefore, is to examine the dialectic of the interrelationship between international humanitarian law and international criminal law by clearly defining what the two laws are and the inevitably shaped relationship between them.

Keywords: international humanitarian law, international criminal law, crimes against humanity, war victims, armed conflict.

الملخص:

أن التداخل بين القانون الدولي الجنائي والقانون الدولي الإنساني يصل منتهاه بالتقارب الكبير بينهما ليستوعب الاول الثاني بما قد يكون قانون واحد , إذ إن القانونين يهدفان إلى تحقيق الامن والسلام للفرد على المستوى العالمي , ويجرم القانون الدولي الجنائي الافعال التي يسعى القانون الدولي الإنساني إلى تجريمها وحظرها. لذا فان الغاية من هذا المقال , هو الوقوف على جدلية الترابط بين

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القانون الدولي الإنساني والقانون الدولي الجنائي من خلال بيان ماهية القانونين وشكل العلاقة الناشئة بينهما بشكل حتمي.

الكلمات المفتاحية: القانون الدولي الانساني , القانون الدولي الجنائي , الجرائم ضد الانسانية , ضحايا الحرب , النزاع المسلح.

Introduction

Represented a call to respect for human and rights issue old has increased in the societies of human in centuries VIII th and nineteenth centuries, and were prescribed by religions and Club Z by philosophers and reformers, it is the principle of constant and not of the developments in the community of international contemporary, but the problem was represented in the non - existence of mechanisms and laws to prosecute crimes against humanity Which is located between the two peoples or two states or between the two groups on the grounds Presentation s yeh or sectarian or violations that are located in within the countries of their rulers.

Has taken the concept of human rights and inciting Al Z respect a batch of new since two centuries of time, but the steps of prosecution and criminalization successively since the end of the war , the global second consisted in the trial of the victor to the vanquished in Normbr g and Tokyo and then continued evolution in the image of the Convention on the Geneva fourth and was followed by resolutions of the UN United and organizations and the drafting of human rights in the agreements and covenants , and the formation of the courts of special (Rwanda U - g and Slavia former) , and the establishment of the Court of Criminal international and the Court of Criminal African.

The purpose of the research was to underscore the dialectic of the interrelationship between international humanitarian law and international criminal law by stating what constitutes the law and the inevitable form of the relationship between them. Therefore, the division Artiana search through the end to two sections , the first of them focused on the (what international humanitarian law and international criminal law) , while the second focuses on the (relationship between the law of international humanitarian law and international criminal.

The first topic: what is international humanitarian law and international criminal law

To clarify this, the topic was addressed through two requirements:

First requirement: what international humanitarian law

The second requirement: the nature of international criminal law

First requirement: what international humanitarian law

According to the requirements of the research and the purpose of the research distributed the requirement to three branches,namely:

Section I: Definition of international humanitarian law

Section II: Sources of international humanitarian law

Section III. Scope of application of international humanitarian law

Section I : definition of the law of international humanitarian : numerous Ta definitions Fiqh law , international humanitarian , but that these definitions , although different content , but it agreed in concept and end, as it sees Zemmali that the law of international humanitarian : " is a set of rules of international written and customary, which aims in the event of The existence of a conflict armed to protect people affected by this conflict and produce it from damage, and aims to protect the property that is not a relationship directly to the operations of military (Zemali, 1997)

The Salah al - Din sees that the law of international humanitarian : " is a set of principles and rules agreed upon internationally, which aims to reduce the use of violence in time of conflict and armed, all through the protection of individuals involved in the operations of war, or who stopped for participation where the wounded and the wounded , prisoners and civilians, as well as about by making the violence in fighting the military is limited to those actions necessary to achieve the goal of military (Salah Al-Din, 1976)

It is clear from through the definition of yen , the law of international humanitarian does not interfere with or discuss the legality or lack of legality of the war, it is not the law of international humanitarian war fair or war unjust, in the sense that this law stands neutral with regard to the causes of conflict and the motivation, and assumes responsibility, and is limited to its goal and purpose of the

Protecting people from the effects of devastating wars and their catastrophic consequences, regardless of the causes of war.

As characterized by the rules of law , international humanitarian as with the status of jus cogens and is not complementary, in the sense that it is not permissible for individuals agree on what opposers, it has been emphasized on this Al - Qaeda in the Treaty of Vienna on the Law of Treaties of 1969 , and therefore the subjects of this law concerned with the protection of victims of conflict and armed international and non - international , as concerned also organized the course of business and military (Omran, 2009)

We see E n the law of international humanitarian become need urgent for humanity after the spread of the hotbeds of war in many of the parts of the world , especially in our region , the Arab, what is doing the role in the protection of civilians and victims of the wars of the injured and wounded, and adjust the behavior of combatants during operations of war, war is what is used in which of the means of combat is not permissible to be a fugitive from unchecked but must Oincentha murder remains murder no matter how numerous titles that are which, and whatever were his motives noble or evil.

The basis of the term law of international humanitarian , in longer term the law of international humanitarian idiomatically alternative to the term law of war , which popularized It was used until the development of the Charter of Nations United in 1945.

Given the explicit prohibition of the United Nations Charter for war, jurisprudence replaced the term law of war with the law of armed conflict as a more appropriate idiomatic alternative and in line with the shift in the international outlook for war.

In the wake of the announcement that issued by the Conference of the International Human Rights in Tehran in 1968 , affected by this branch legal mobility active for the movement of human rights, which was to link its content the idea of human rights impact is clear in the launch of Fiqh International for the term of law of international humanitarian on this branch of the branches of law , international prescription Section II the system of legal international relevant to the protection and guarantee human rights (Al-Zamali, without year)

We conclude from the foregoing that this law relates to the effects of war and its consequences, focusing on the protection of human

rights, which led to the humanization of the articles of the law in this regard Vtbelor international humanitarian law.

Section II : sources of law , international humanitarian : all the law of sources that derive them the legitimacy of its rules, and the principles and provisions, as well as the law of international humanitarian has many of the sources that derive such provisions, and refers to his work from which, and from these sources , agreements and treaties and international, which was compatibility and compact them among the countries that develop rules of war , such as the Treaty of the Hague, as is the source agreements Geneva , which formulated by the community of international to be applied to the civilians time of war that developed before the year 1949 and beyond, and the protocols attached to the agreements last . Also plays a custom international, and the principles of public law and the jurisprudence of the courts of international jurisprudence international role important in explaining the rules of this law and development.

1. Treaty of The Hague : means the treaty in general each agreement expected countries by their authorities competent constitutionally so, or is the agreement held by persons law , international Kalmnzmat international, and produces about the effects of legal private or public, located in the circle of relationships, or situations that are governed by the law of international public.

Thus, out of the scope of the treaty agreement , which does not have the limbs of the people the law of international public, whether they are countries or organizations . There are honorary agreements such as agreements gentleman , which accords the honor of international binding persons Aakadiha morally any as personal, as heads of states and governments and ministers of foreign affairs, but it does not have the effects of legal binding for States, nor entail the denunciation of any responsibility for international.

As well as out agreements that are associated states by with organizations and international humanitarian (organization Cross and Red International) in conditions of conflict and armed international and non - international, with a view to enabling these organizations , non - governmental organizations to carry out the activities of relief and humanitarian population of civilians . Any agreement but was pinned between the people the law of international public, but they go down

under which the status of persons law , private, and accept that prevail in the agreement held , including the rule of law , internal (Abdel Zaher, 2013)

In contrast , is every agreement of an international treaty , even called it the term or label agreement, the Convention, the Charter of the era, a protocol, a memorandum of understanding, if the conclusion of by the authorities competent work treaties on behalf of the State, or on behalf of a person of law international , which is attributed to the agreement, and the purpose of It shall have the effect of having legal effects and shall be governed by general international law (Al-nbaki,2010)

It is based on the law of international humanitarian in the main, to the Law of The Hague concerning the organization of the conduct of business and military, which put several agreements international aims to define the rights and obligations of states in the management of war (Pictet, 1984).

Also it enters the scope of the law of The Hague, several agreements separate from the Conference of the Hague and these agreements : Permit Paris Maritime 1856 - Declaration of Saint Petersburg 1868 - Declaration of Brussels 1874 - Convention on the Ottawa 1997 (JamilHassanein, 2010)

We see that the law of The Hague is a source of essential from sources of law , international humanitarian, what contained in this law , the rules governing the operations of military, and what is used in which the means and tools of combat.

II - Conventions Geneva that before the year 1949 and beyond : considered these agreements the beginning of the birth of the law of international humanitarian contemporary, as was the lookout from which to tragedies that left behind by wars, and their effects on the population of civilians, have been drafting many of the agreements we mention them : the Convention Geneva in 1846 relating to improving the case of the wounded soldiers in the field - Convention Geneva in 1906 related to improving the case of the wounded and sick soldiers in the field - Conventions Geneva in 1929 - Conventions Geneva , the four are after the year 1949 - its two Additional Protocols of 1977 (Dr. Kamran Salhi, 2008)

That is the law of international humanitarian not up to what came to him today only after the throes of a difficult, and the stage long of

conflict and suffering, and for the s Te rules of this law from the curse of resistance from some countries in order to t our disposal of the subject to its provisions , as we see that the multiplicity of agreements and development The best evidence of the importance of this law to humanity.

2.Custom International : Al - Qaeda customary is the rule is written or a blog, arise within the community of international when the countries set of behaviors positive or negative in the context of relations of mutual, or in respect of international and about progressively, so that arises from repeated mirroring in time and spread in the place , or generality of where people, habits and due consideration within the community of international, known as precedents according to the concept developed as the element component of the corner material for custom international, while composing element of belief compulsory these precedents corner moral custom international (Nizar al-Anbaki, without year).

Accordingly, the cases that was not covered by the text of the Convention applies under the rule of custom are:

-the case of what if it was one of the parties belligerent is not a party supreme in this text Convention.

-the case is whether they are issues of new non - organization rules of the Convention

4.The principles of public law : are the words from the rules common in the systems of international advanced, as T. enable states in the case of non - existence of relationships list has a base agreement or customary be based on to these principles public in finding solutions to their differences (al-Zamali, without year).

5.jurisprudence courts International : The examples on issues of international , which constitute the provisions of the source of the law of international humanitarian, the trial of Guillaume Emperor of Germany on the impact of the war world first, and the Court of Nuremberg for the year 1945 the famous trial of criminals of war from nationals of countries of the axis of the European (Al-Masadi, 2006) .6 FiqhInternational : considered the writings of senior scholars of the law of international humanitarian and opinions source important of the sources of law , international humanitarian, and that all through the detection of defects and gaps and shortcomings in the agreements and

international, and drew the attention of States to it, and urged them to adopt the conventions and international (Majzoub, 2004).

We see that the conventions and norms of international constitute a source of fundamental rules of law, international humanitarian, the principles of public law and the jurisprudence of the courts, and the opinions of jurists and Hrohathm they constitute a source complementary to the rules of the law of international humanitarian, can refer to it in the case of free agreements and norms of solutions of the incident before.

Section III : the scope of application of the law of international humanitarian : The application of the law of international humanitarian calls determine the scope that works in it, on both the material of any conflicts that covered, personal and any persons who apply them.

So the we dealt with this subject would be of through knowledge - scale material for the application of the law of international humanitarian , and scale profile of the application of the law of international humanitarian.

1. Scale material for the application of the law of international humanitarian : include the following:

A - Conflicts and armed international: can be summarized conflict, international armed cases the following:

-Armed conflict between States.

-The internal armed conflict , which has been recognized as a state of international conflict.

-conflict armed internal involving the intervention of a foreigner .

-Internal armed conflict involving the intervention of the United Nations.

-Wars of national independence.

-Separation Wars (Shalaldeh, 2005).

B - Conflicts and armed non - international: required for the case of conflict and armed non - international conditions the following:

-to be there a limit minimum of violence beyond the degree of severity of disturbances and tensions internal , such as acts of riots occasional and familiar.

-to be there fairly a minimum of regulation and structure of the military, and be there leadership is responsible and able to respect the law of war.

-to be there fairly a minimum of control over the territory in the sense to conduct military sustained and coordinated.

The exception of these conflicts disturbances internal and tensions internal. (Awhari, 2001)

We believe that expanding the scope of physical law of international humanitarian to include conflicts and armed non - international to the side of conflicts and international, was a step successful, as it does not require recognition of the States state of war with them to apply the law of international humanitarian, because the States in its wars will seek to not advertisement outright to the case of war In order not to be subject to the provisions of this law.

2.scale personal for the application of the law of international humanitarian : includes scale personal protection of combatants and prisoners of war, also includes the protection of the wounded , the sick and distressed in the seas, and includes also the protection of personnel services , medical and religious , associations relief volunteer, and also the protection of civilians.

The scale Profile of the application of the rules of law , international humanitarian includes several categories, namely combatants and prisoners of war, the wounded , the sick and distressed in the seas, and personnel services , medical and religious associations relief volunteer and civilians , and of these groups of the Committee of the International Cross and Red Crescent Red , which play a role key in extending the hand of aid and assistance to those in need it, and is considered a tool executive of the tools the application of the law of international humanitarian.

The second requirement : the nature of international criminal law

And addressed the issue through three branches is also balanced with the demand for the first and the structure of the Te , namely:

Section I: Definition of international criminal law

Section II: Sources of International Criminal Law

Section III. Scope of application of international criminal law

Section I : definition of the law of international criminal: cited jurists numerous definitions of international criminal law, he was defined FaqihJruffin as : " international legal norms recognized in international relations, which are designed to protect the system a set of social international punishment for acts involving an assault on it " . The Blauska recognized him as : " the law , which consists of legal rules relating to the punishment of international crimes , which constitute a violation of international law (Stanelau, 2002).

In the Arab Fiqh There are many definitions of international criminal law cited by Arab writers, where p t FH Dr. Hamid al - Saadias : " the law that addresses the problems posed by international crimes such as war of aggression and endangering world peace and security of peoples at risk and otherwise preventing harmony and harmony in relations International (al-Saadi,1971)

P t FH Dr. Abdul Rahim Sidqi"that the legal rules concerning the punishment of international crimes, i.e., crimes that constitute a violation of international law group (Sedky, 1984)

We tend to think that the closest definition of health is that of jurist Graven above.

Section II: Sources Law International Criminal : means the sources of law criminal International : sources that derive including al - Qaeda legal basis of its origin and its paint borders.

Sources are of two types:

1.Key sources.

2. Secondary sources.

1.Sources Main: stated in Article 21 of the rules of Statute of the Court of Criminal international order of sources to the shrines divided on the terms as stated in item I of the system Statute of the Court itself and the rules of evidence for the then heading the second treaty due application and the principles of law , international and rules , including the Those related to armed conflict (war).

The following item II Item III Principles of legal learned of laws national to be incompatible with the system of the Court Statute.

Accordingly, the sources of basic include:

A - System Statute of the Court of Criminal International.

B- Treaties International conventions.

C- Principles and rules of international law.

A - System Statute of the Court of Criminal International : enjoy the law of criminal international two special characteristics , one property criminal , which contains the principle of legality , which means that no crime or punishment except the text of the law, and the law of criminal international explained to us the crime and types in the texts and explain to us penalties resulting from the commission and already came in system Statute of the Court of Criminal international as confirming the principle of no crime , but the text of the " do not ask the person criminally under this regime Statute that did not constitute conduct on the time of occurrence crime intervention in the jurisdiction of the Court (Stanelaw, without year).

The further strengthening of the principle of no punishment, but the text of “not punished any person convicted of the court, but according to this system basic (Shalaldeh, without year).

B - treaties and conventions of international : come treaties and conventions of international in the second sources of major treaties and means " agreement of an international hold between two or more writing and is subject to the law of international , both have been in close or more and whatever they label by calling them (Bassiouni, 2004).

Divided treaties into two types:

Type I : Treaties that are held between two or more in a matter related to them and is not binding non - parties signatories of them.

Type II: treaties that are held between the number of non - specific of states in matters concerning them all and affect them and decide the rules of the Basic Court as if they treaties that applied by the Court are treaties obligatory application or vice versa, and means of treaties obligatory application is that include the rules of private law, criminal international.

It is worth mentioning that the rules that govern the conclusion of treaties and international and determine what implications it from the effects contained in the Convention on the Vienna Special Law of Treaties International in 1969 , which entered into force in 1980.

C - the principles of law , international and rules : considered the rules of the basic principles of law , international and rules of a source major of the sources of law criminal international, which confirms the relevant document between the two laws , and the principles of law , international and rules of equal , in which to be written or non - written , and in this aspect highlights the role of the custom between sources law

Criminal international , The majority of the principles of law , international and rules of origin custom , and the text of the system basic of sources of basic (treaties and conventions and international) , and followed the principles of law , international and rules (Ahmed Abdul Zahir, without year), it means from that principles and rules that have not focused on treaties , and the principles derived from customary international as one of the most important sources of law , international in the rules of non - written , including the principles prescribed in the law of international disputes and armed means those principles that contained in the laws of war and customs , and the purpose of determining these rules revert to the principles and rules for determining the concept of aggression , and acts that achieved by the crime of war of aggression.

2 .Sources of secondary: the sources of secondary are those contained mentioned in the system Basic are: principles of legal public , and the principles of law derived from the courts and international , and custom international.

A - Principles of legal public: know these principles as principles essential that rely on the various systems of legal in a number of countries. It does not mean it should be the principles of limited application to the individuals and their relationships, but applies to apply to relations international.

In fact it is resorting to these principles when the inability of sources, the original precedent mentioned and about this effect came in the Charter of Rome, the terms of resorting to these principles.

(First) - " to be the principles derived from the laws of national systems of law in the world, including in it the laws of national states that have a state of the crime.

(II) - not t opposed to these principles with the system basic and not with the law of international nor with the norms and standards recognized by the internationally.

(III) - to be these principles are consistent with human rights recognized by the internationally, and should not entail the application of any distinction between individuals (Mary, 2009).

B - the principles of law derived from the trial of international: means the principles of legal derived from before the courts of international those views of jurisprudence that make the scholars of the law Wusha t h Ye or judgments that issued by the courts different in various countries of the world, and are considered sources of secondary exceptional is resorting to the face of inference.

In this regard , it stated in the rules of Statute of the Court of Criminal International permanent clarification on the introduction of the views of the courts where confined to the views that issued by the court itself criminal international permanent.

C - custom international: no longer custom source is the implementation of the punishment under which, because of the law of criminal international property criminal requires that no crime or punishment except the text of the law , as has already been noted , reportedly including emphasizes that , in the system Statute of the Court of Criminal International Article (22) It stated in paragraph first of which " do not ask the person criminally .... what did not constitute behavior meaning the time of occurrence crime intervention in the jurisdiction of the Court " and then stated in Article (23) " not punished any person convicted by the court , but according to the rules of the basic (Ibid, without year).

However , the number is not significant by the scholars of Western and especially modern of them did not deny the custom as a source in matters related to relations international understanding Qsroh in this space is not a space penalty or criminalization compatible with religions divine morality humanity and logic proper.

Section III: The scope of application of international criminal law: It is divided into two personal and substantive domains.

1. the scope of personal international criminal law : has reached the evolution of the rules of individual criminal responsibility in the scope of international criminal law at the present time a great stop because of serious violations of international humanitarian law violations, since no international community can condone the crimes that could threaten the security and integrity of any it was responsible for them state or individuals, whatever their status in a basket of leadership in their countries, but the international criminal responsibility of the individual was not determined by international law from , but

went through the evolution of doctrinal and legal long took the result to entrench the principle of immunity in domestic legislation on the one hand , and to the rule The traditional concept of international law holds that only a State is responsible for international crime by virtue of being the only international person (Al-Saadi, without year).

This development has recently been demonstrated by the recognition that international crimes can be committed only by a natural person and therefore the only place of criminal responsibility. Has been devoted to international treaties , the principle of individual responsibility before the international criminal law, including the provisions of Article (227) of the Treaty of Versailles in 1919 AD that made Ambrat War Germany boil Om second row Te personal responsible for the crimes committed by Germany and its account in World War First (Dr. Abdel Fattah, 2004).

The US Attorney at the Nuremberg Tribunal based this trend , deciding that: “The perception that the state may commit crimes is an illusion or imagination . Crimes are always committed only by natural persons , while it is true that an illusion or imagination is used in the responsibility of a state or society. in order to impose a shared responsibility a and collectively, and that none of the defendants referred to trial cannot take refuge behind his superiors orders and behind the jurisprudence considers these crimes acts of the State and that orders received were clear of illegality or acts committed by the heinous and brutal, and say it cannot That you create until uddVa watered - down” (Calchoven, 2004).

The court did not only rejected the work of the state 's theory , but it went beyond that, which is that the obligations of international imposed on individuals cancel their duties in obedience to their national governments under the agency for their own, as long as the State in which the UK late to its a done The Ala ml may TjAozat the powers conferred on them by international law (Hussein, 2006).

As stipulated in Articles (6 , 8) of the Rules of Court Normb and Rigg, and articles (5 , 8) of the Regulations of the Tokyo Tribunal on the individuals who are responsible for criminal acts set forth in these conventions .

The principle of criminal responsibility of individuals is enshrined in the Statute of the International Criminal Tribunal for the Former Yugoslavia and Slavia(1993) in its sixth article, and the

International Tribunal for Rwanda in 1994 in its fifth article, and the Statute of the International Criminal Court affirms the introduction of the principle of individual criminal responsibility. the fourth paragraph of the preamble stipulates that : " the court a permanent body that has the authority to exercise its jurisdiction over persons for the most serious crimes of concern international ," the Statute of the international Criminal Court confirmed the report of the responsibility of individuals for the commission of international crime " (Ibid, without year)

The jurists of international criminal law have unanimously agreed on the importance of a permanent international criminal court, because it will protect the international community from grave kinds of conduct, as States with such a court must assess the consequences of such behavior before they are brought before it (Bashat, 1974). And to deter both tempted him to commit serious crimes in the future; it will also pay the national judicial authorities to prosecute those responsible for such crimes as if these authorities are primarily responsible for the prosecution of these persons. The court will be a major step towards ending impunity, and the international community's efforts passed in the establishment of an international criminal court several stages until the adoption of the Statute of the International Criminal Court at the Rome Conference 1998 , which confirmed the system of her basic on the report of the responsibility of individuals for the commission of international crime (al-Qadi, 2012).

2.The substantive scope of international criminal law : Perhaps one of the most important precedents historical in determining the substantive scope of international criminal law have been reported in the Nuremberg and Tokyo tribunals that were established after consultations between the victorious nations to discuss the actions to be taken towards the war criminals , has ended this the consultations T to contract agreement International is the London Convention of 8 August 1945 establishing an international military tribunal to try major war criminals . Which specialized in trying them for (crimes against peace, war crimes, crimes against humanity)

This jurisdiction has been affirmed in the Charter of the Court as well as in its judgments, which were subsequently drafted by the International Law Commission within seven principles:

(A) Any person who commits an act which constitutes an offense under international law for which he is responsible and liable to punishment.

(B) The absence of punishment in domestic law for an act which is a crime under international law shall not absolve the person who commits the act from liability under international law.

(C) A person who has committed a crime in accordance with international law because he or she has acted as head of State or government official shall not be exempt from liability for the application of international law.

(D) A person who commits an act on the order of his Government or superior shall not be exempt from liability in accordance with international law , provided that there is a moral option available to him .

(E) Everyone charged with a penal offense under international law has the right to a fair trial in respect of facts and law.

(F) The following offenses shall be considered punishable:

-Crimes against peace.

-war crimes.

-Crimes against humanity.

(G)- it is considered a crime under international law to participate in the commission of a crime against peace, a war crime or a crime against humanity (Muhammad, 2011).

I mean agreements the law of international humanitarian need for the legislature national task to include crimes of war within the legislation of the Interior, so that the agreements Geneva four and its two Protocols but the definition of crimes against humanity and determine the elements to remain the role of the legislator national report sanctions needed it, it should not remain the penalty theoretically does not achieve its objectives.

The second topic: the relationship between the law of international humanitarian law and international criminal

It has not been given the relationship between the law of international humanitarian law and criminal international interest of scholars of the Arabs only in a few of them where he addressed the jurists whom the Egyptians on the subject of law criminal international with the change in the labeled " the law of international criminal " or crime, international or eliminate criminal international (Awad, 1965). So

the topic is divided into two demands explained first demand evolution Keywords of the law , international humanitarian law and international criminal , while interpreted the second requirement of what the relationship between the law of international humanitarian law and international criminal.

The first requirement: the evolution of the relationship between international humanitarian law and international criminal law

The second requirement: the nature of the relationship between the law of international humanitarian law and international criminal

The first requirement: the evolution of the relationship between international humanitarian law and international criminal law

To analyze this relationship has to be a statement and its beginnings sauced and Rhea and the results of the events of international grave on modularization, so demand focused on the three branches,are:

Section 1: The Beginnings of Common Interest

Subchapter II: Crystallization of interest to create a governing and legal authority

Section III: Results world wars Witten and codify the relationship between Aleghanonan

Section I : the beginnings of common interest : began attention to talk seriously about the crimes against humanity in the exhibition taking dragged the Im war in the prime of the century , the nineteenth ten were the first formulation and clear them in the agreements of the Hague in the early century , the nineteenth century, and then increased during the war world first, but they did not become part of virtually the law of international only after the victory of the allies in war World II, and precisely as a result of the atrocities that were committed in this war, with the crimes against humanity, as are known today, are the practices of old Mo yields in the history of the time , but try to punctuate o The way to stop them began in World War I. Li . Then developed this attempt to push real towards t Guenin ha within the law of international, to become the prosecution of the perpetrators and Mhacpt are part of the law of international, after that it was talking about Hungary 's perceptions of liberal what must stop him, and what should be punished him . Was cited by the Charter of London , which on the basis of which the courts of crimes of war and international in Normbur g and Tokyo,

and for inclusion in the crimes of international, adopted by the drafters of the Charter on the report , which is issued by the Commission on crimes of war after the war world first, so LED zither on the continuity of the relationship in law international , who grew up in customs basis, even if it came in violation of these norms and the law in the period of war (Sidqi, without year).

The Hecz of became the criminalization of acts against humanity gradually and valuable prophet to him later , and from the data fixed , which settled in the principles of the law of international which has become a foregone conclusion and the area of any disagreement around, which constitute a commitment to command in the law of international humanitarian law and international public.

The order that narrow much of the theory of sovereignty and national in general and in the area of human rights , in particular so that no longer a violation of human rights in within the State immune to the principle of sovereignty and non - interference in the affairs of Interior no longer rulers in immune from prosecution , accountability and accountability uncle a commit of violations of the rights of their peoples humanity from the community of international, no longer acceptable to take refuge in the saying that these violations are from the center of affairs , internal and then refrains the community of international prosecution.

Section II: crystallization of interest to find a governor and legal authority: focused dreams of philosophers and writers since centuries for the existence of a world united dominated noble morality (city utopia utopia when Plato and Thomas Moore) and the writings of St. Thomas Moore in a century - fifth ten . It is not the idea of the city utopian idea of a Western purist, it is the idea of her history in the philosophy of Islamic, especially with Farabi in the century, the fourth AH and his book - the views of the city utopia - which put forward the idea of the world virtuous as the highest forms of meeting humanitarian (Shukri, 2011).

Have realized the dreams of these philosophers as of the year the establishment of the League of Nations , which evolved into the Organization of Nations United which , which extracted the powers wider after the end of the war , the World II in 1945. Since that day played organized international role prominent in regulating the

relationship between the countries of the world, especially in keeping the peace.With the acceleration of development in the world of variable towards convergence and convergence of interests, has increased the powers of this organization and international, and has grown the need for the role of the community of international more and more, is not in keeping the peace and preventing wars between nations only, but expanded its powers, especially in Chapter VII of the Charter of the Organization International to protect the peoples Of its rulers. This is in fact a quantum quality in the civilization of human for the benefit of the peoples oppressed from by its rulers. There is no rule of national full only in the light of the Government of the legitimacy of any elected from before the people. Most governments authoritarian are governments is legitimate sense of modern and it is not the sovereignty of the fact that it was originally in order to claim violated, because the sovereignty of national is essentially in violation of by governments authoritarian.

Emerged as some of the rules and customs which crystallized in the rules of law written in half the first of the century , the nineteenth century, and is a statement of Paris issued on 16 Nissan 's 1856 first document international written regulate some aspects of the legal war Navy.

The Declaration of San b Rspor g on the prohibition of the use of projectiles at the time of the war and the site on 29 October the second 1868 , to announce that the progress of civilization must to alleviate as much as possible from the calamities of war, and that the goal of the project only , which must be seeking to countries during the war is to weaken the forces of military enemy with taking into account the principle of basic , which provides that the right of the parties to any conflict armed in the choice of methods and means of fighting is not really not limited by restrictions, so that prohibits the use of force and military as beyond the necessities of war Bhd in weakening the power of the aggressor (Metwally, without year)

And established the Convention Geneva, signed on 22 August 1864 the foundations of law and humanitarian contemporary, was the most important is characterized by they rules are written permanently to protect the victims of war, a treaty multiple parties was the culmination of the efforts of the International Cross and Red to legalize the customs

of war and customs, as the first document international in the field of codification of rules International humanitarian law.

In the year 1899 held the Conference of the Hague , the first peace , which resulted in his signing of the two agreements dealt with the initial laws and customs of war , the land and the second dealt with patients and wounded war Navy, then held the Conference of the Hague II in 1907 , which resulted from the signing of the Convention on the Hague fourth and special respect for the laws and customs of war land signed on 18 October the first in 1907 , has contributed to the Conference of the Hague , the second in put an end to the damage resulting from the war (Makhzoumi, 2009).

And resulted in the development of these efforts for the first time on the base of responsibility for criminal individual adoption of the Treaty of Versailles in the year 1919 , which stipulates in its Article (227) on the establishment of a court of criminal An international trial of Emperor German for the responsibility of international in provoking war world first (Shukri, 2011), in addition to nationals of German accused of committing crimes against the laws as a step first on the road approval to spend a criminal international trial of individuals for committing crimes of international, after what had prevailed in the Fiqh and working international of the responsibility of the state alone as persons of law international, Fetbot the principle of responsibility for criminal contributes to put an end to the crimes of the war as long as aware of people that they would be held personally the results of the crimes that they practice.

Section III : the results of the two world wheaten and codify the relationship between law yen : continued efforts of international in the codification of the laws and customs of war , so came the war global initial Bohoalha and all the campaign of atrocities and the threat to human devastation and destruction, but they have not eliminated on all efforts made at the level of the criminalization of war and the prohibition of Resort to it in international relations . Until the end of the war , the global initial did not resort to force and armed as a way of settling disputes and international act is a draft, and considered the report of the Commission on Responsibilities , which was established in the aftermath of the war world first that the war of aggression is not a crime of international punishable by the law of peoples, it is a legitimate

whatever were the motives where is considered the manifestation Sovereignty of States resort to it whenever it wants and by the means it sees without controls (Majzoub, without year).

And cut off the human step another to codify the rules of war in the wake of the tragedies that left by the war , the global initial came the birth of the League of Nations in the year 1920 to constitute a step first to restrict the recourse to war and to prevent the resort to force in relations and international and the adoption of the settlement by peaceful means to resolve disputes international has merely prohibiting recourse to war to be the exhaustion of the conditions set forth in Article 12.1 which stipulates the that " approves the members of the league on that if arose a conflict of would continue to lead to friction international on to expose it to the arbitration or settlement of the judicial or investigation by the Council , and agree on not resorting to heat B in any case before the expiry of three months on the issuance of the decision of arbitration or judgment of the judicial or report of the Council " (Abdel-Khalek, 1998).

In the duplication clear art Dr. T. Convention on the London signed on 8 August 1945 to impose the views and interests of the victors on the vanquished in the form of rules of international new did not know the law of international traditional than before, which ruled the trial of criminals of war the Nazis, and the Japanese in the tribunals Normbr g , and Tokyo , despite what took them of their being they represent the will of the victors , where he was tried criminals of war vanquished have not tried criminals of war victors, but they constitute the importance of special terms for the first time the application is effective for the principle of responsibility of criminal individual and some individuals to trial both in the tribunals International Tribunals Normbr g , and Tokyo or in the courts of the States insisted The fulfillment of the military , which defined the law of the Board of Control No. (10) issued by the Allied four as rulers military Germany in 1946 to prosecute persons accused of committing crimes of war and crimes against humanity (Osman, 2009).

In a move important was the Charter of Nations United in the year 1945 as the most important document of international on the prohibition Astdam force in resolving disputes and international, including benefits to prevent war in relations International has included the preamble, " We the peoples of the nations of the United may Alina

on ourselves to save generations coming from the scourge of war , which from through generation one brought on humanity twice sorrow unable her description. "

Not only did the Charter prohibiting the use of force in relations and international and the abolition of the right of nations to wage war as a means to settle their disputes, but denied merely the threat of use of force , which reflects the development of the great in the rules of the law of international, but it did not include a mechanism obliged to prosecute criminals of war.

Followed by it and in the same direction also the signing of the Convention International to prevent genocide , mass and punish them on 9 December 1948 where he called the Convention for the establishment of a court of criminal international trial of individuals accused of committing a crime of genocide and collective, as well as to confirm the principle of responsibility of criminal individual.

The decision of the Council of Security No. (955) on 8 October the second 1994 under Chapter VII of the Charter of the Nations United establishment of the Court of Criminal International for Rwanda U - g and Slavia previous strengthening of the principle of responsibility of criminal individual , which stipulated by Article VI of the rules of the primary, which singled out the eyes of the crimes that relate to war eligibility which violations of the grave of Article III common between the Conventions Geneva four in 1949 , and the Protocol additional II in 1977 , which are crimes of war under Article 85 of Protocol I, and the crimes of genocide , mass, and crimes against humanity (Makhzoumi, without year).

Capped these steps to establish the court of criminal international b m shall be its primary site in Rome, which entered into force later year.

The second requirement: the nature of the relationship between the law of international humanitarian law and international criminal

To stand on this subject search in the knowledge of the folds of the relationship and prospects and mechanisms for the prosecution of international humanitarian law on the grounds that the necessary prosecution of criminal law and clear mechanisms beyond the fundamental basis for the punishment of international accounting , and detailed also three branches , are:

Section I: The relationship between international humanitarian law and international criminal law

Section II: prospects for cooperation between the Aleghanona n

Section III: Mechanisms for the pursuit of international humanitarian law

Section I : the relationship between international humanitarian law and international criminal law : defines some jurists the law of international criminal as " that branch of the system of legal international , which represents one of the means used to achieve a degree high of compatibility and harmony with the objectives of the community international in preventing crime and preserving the community and calendar delinquents to protect him , and achieve the interests of the Supreme society international , where is the law of international criminal fruit of the convergence aspects of international in the law of criminal national , and aspects of criminal in the law of international (Al-Ghareeb, 1994).

Given the long relationship of law yen, we find that there is a relationship between them is the following

:

1- the content protection in the law of international criminal is the protection of human from crimes of nature international , and therefore they find their source in the rules of customary rules of treaties, and thus meet the two laws together , as the law of international humanitarian finds its source in the relevant rules , and thus Valmsb one of the two which is the law of international Year.

2- e n the law of international criminal grew up in the light of the law of war , as it began to develop rules of censorship on the war and the organization of conflicts and armed , and that the sources of criminality in law , international criminal derives directly from the treaties and international , which represents a source of law , international humanitarian , and thus shows that the law of international criminal grew up in some of its aspects in the confines of the law of international humanitarian , where the precursors first law of international criminal was with the perception of the community of international to criminalize images of violations of grave habits and customs of war , the spite of

widening the scope of criminality at the level of international to include crimes of international other as terrorism , international - Torture - trafficking is the project in the drug - trafficking in slave white (Fouad, 2004)... etc.

3 - confirmed the overlap between the law of international criminal law and international humanitarian in the case of judicial criminal international which emerged when formed states Allied tribunals international organizations to try senior criminals of war from the axis , two court Normbr g and Tokyo , where he was based on the two Tribunals on the principles of law , international humanitarian , and used the court term crimes War and crimes against humanity and the crime of aggression (crimes against peace) for the first time (Abdel – Khaliq, without year).

4 .also shows the overlap of through the Council of the Security establishment of the Court of Criminal International temporary for the trial of criminals of war in Yugoslavia , the former , where he adopted the Charter of the Court on Conventions Geneva in 1949 and the Protocols Additional them at the description of the crimes of war and violations of the grave of these norms , and that what happened also on the establishment Court of Rwanda because of the massacres that were committed against the citizens of Rwandans , constitute this case , an image of interest law , international humanitarian law and international criminal conflict armed is a character of the international (Al-Shammari, 2005).

5 .The complete interaction between the law of n the trend now towards the completion of system the Court of Criminal International , which approved its Statute at the Conference of the Rome Diplomatic in the year 1998 where he was defined for the crimes of war as crimes that are committed in violation of the provisions of the Conventions Geneva 1949 and Protocols supplementing them , including means that the law international humanitarian is a law objective for the law of the international of the criminal.

6 .confirms some of the overlap between the law of criminal international law and humanitarian international reach to its ultimate

convergence great between them to accommodate the first second , as may be the law of one , where the laws aim to achieve security and peace for the individual human on the level of global , and criminalizes the law of criminal international acts that seeks law and humanitarian international to criminalize and prohibit , in addition to the giving nature of the criminal commanding the rules of law , humanitarian international is the tool most effective and the effect of a deterrent to those begging him the same violation of the provisions of these rules , and finally will lead the establishment of the Court of Criminal Aldo Yeh as a judicial at the level of international to the melting of the differences between the two laws , as that this Court will become the tool effective to adopt the principles of law and humanitarian international (Ibid, without year).

7 .Constitute violations of grave rules of law, international humanitarian crimes of war may be exposed because of individuals accountable direct , which is due is prosecuted by the states of sovereignty . But that if they state is unwilling to do this litigation , or not in a situation that can from it , may prosecute these crimes of through the courts of criminal international established under a treaty or a decision binding issued from the Council of Security of Nations United.

8 .The law of international humanitarian is a branch of law, international positive document to the custom and treaties, and aims to limit the methods and means of war and the protection of victims of conflict and armed. Constitute violations of grave rules of law, international humanitarian crimes of war may be exposed because of individuals accountable direct, which is due is prosecuted by the states of sovereignty. But that if they state is unwilling to do this litigation , or not in a situation that can from it , may prosecute these crimes of through the courts of criminal international established under a treaty or a decision binding issued from the Council of Security of Nations United . It reflects this presentation summary of the status of legal and political status state of the law at the dawn of the dawn of the century one of the twenty. It is not a description of the work day one or the fruits of an effort individually , but is , on the contrary of it , the outcome of the awareness of growing the community of international in the face of the horrors of war and the suffering of superiority Description incurred

humanity on over the ages , awareness of the need to put limits to the violence and the consolidation of these borders in the law , and punish those responsible for violations of the order to deter from begging him himself to go beyond these boundaries in the future (Osman, without year).

Section II : prospects for cooperation between Aleghanona n (how to apply the law of international humanitarian in the law of criminal internal states) : It ratified the majority of the countries of the world to the Convention Geneva, so that reached their number to 189 countries, and joined as well as states to the Protocols Additional, bringing the number to 159 state For the first and 150 countries for the second . But the accession and ratification alone is not sufficient to demonstrate the commitment of states the rules of the law of international humanitarian but to be the application of the provisions of through the issuance of legislation necessary with the exclusion of all provisions that are incompatible with it.

Q Once the signing of the agreements and international with regard humanitarian and approval by, or as soon as the completion of elements of the physical and moral integrity of the rule of customary humanitarian is incumbent on states to take measures necessary to make these rules apply are directly in the law internal . It is these commitments issued legislation with the relevant implementation rules of the law of international humanitarian, and the abolition of all legislation that are incompatible with it.

1 .The obligation of the state to issue legislation criminal necessary : share agreements Geneva four in the need to take countries to the procedures of legislative necessary for the entry into force of the agreements, and through which the suppression of violations of gross to her, and remind them of article 49 of the Convention on the Geneva first in 1949 , which provides for the that " undertakes parties to the High Contracting To take any legislative action necessary to impose effective penal sanctions on persons who have committed or ordered the commission of a grave breach of this Convention (Fouad, without year).

And each party contractor to take measures to stop all acts which are incompatible with the provisions of this Convention, other than offenses of grave set forth in the article following" .

Came article mentioned above comprehensive obligations of States towards the law of international humanitarian, from where he should be the introduction of its provisions in the legislation of criminal national but how different from the state to the other, and is committed to give the same state judicial global separation in violations of the relevant law and humanitarian.

2 .Methods legislative relating to the introduction of sanctions in the law of criminal national : There is in front of the legislature at least two options for the introduction of crimes serious to the law of criminal national; he may be included by the law , the military on the basis that more addressees him are the men of the military, or the inclusion of the rules of law , international humanitarian in law General Criminal Law until the method of fighting violations at the level of the ordinary judiciary is expanded.

3 .The integration of violations of the law of international humanitarian in law , military national : each state system military is subject to him the men of the military during the discharge of their duties, and on this basis can the inclusion of the rules of law , international humanitarian in this law to be considered and that the rules of war , addressing troops and military, which is committed to the laws and customs of war especially as it attached to the provision of protection to civilians , whether they were men or women or children or men of the press or medicine, and provide care and health of prisoners of war . But not enough to include the law of military violations of the law of international humanitarian , but it should include provisions for the criminalization and punishment , and only what differed from the treaty as long as the failure of the penalty box.

4 .The inclusion of crimes law , international humanitarian in the law of criminal public : see some of Fiqh and integrating crimes law international humanitarian in the law of criminal national is the means best at all, because it includes the military and non - military, as it injects the judiciary normal in the fight against these crimes, let alone on it It maintains the principle of legality of crimes and punishments , which requires the necessity of interpretation of the narrow text, as can be through this means the inclusion of only substance in the law of criminal

refers to the provisions of the relevant in the law of international humanitarian.

5 .The principle of state judicial universal in crimes law , international humanitarian : provides for the Convention Geneva in 1949 to the state judicial global violations of physical law , international humanitarian, they are binding in the case of the commission of these crimes to search for the perpetrators , regardless Allen J t about their nationality and place of the occurrence of the crime, and then choose between Bring them to trial in their own countries or extradite them to another party for trial . The longer this method of more means effective in the application of the law of international humanitarian within the law of criminal procedure, not only the State to include the crimes contained in the conventions of international, but give jurisdiction to themselves in the trial of the perpetrators , whether the commission of the crime within the region or outside.

Many of the countries resorted to this means, so has the follow - up number of large of the defendants before the courts of criminal national because of breaches of serious or because of the commission of crimes of war, and based on those trials to the type of state outside the borders of the state, but some countries set conditions for this state , such as requiring the presence of the accused or arrest him before you start the procedures for follow - up, and some states make it subject to the authority of discretionary prosecution public (Ibrahim Obeid, without year).

6 .The obligation of the State to publish the law of international humanitarian : stated in the text of article 47 of the Convention Geneva for the year 1949 on it " undertakes the parties of the High Contracting to publish the text of this agreement on a wider scale could be in their countries in time of peace as in time of war, and undertake , in particular to include studied within the education of military and civil if possible, so as to become the principles that contained well - known to all the population, and especially the forces of combat armed personnel services , medical and religious (Abdel Khalek, without year).

So as is the Ward of the article mentioned above must be of the publication of the rules of the law of international humanitarian both in the form of conventional or form customary, but the publication does not

mean only the delivery of rules to the authorities concerned which forces armed, doctors, journalists and civilians, but also the necessity of the establishment of a committee entrusted to it this role, which is already a commitment by countries of including Algeria.

So requires the law of international humanitarian need to deploy its principles on a wider scale, so ensure knowledge omnes it, especially men of troops and armed police, they address are directly the rules of the law of international humanitarian and knows its leaders and officials , so do not be replaced accountable for the commission of crimes of international, also knows by civilians and ordinary men and the press and doctors to know their rights and obligations . And it is publishing in the Gazette official after the signing and ratification of the Convention, as is also about by means of the media written, visual and audible even aware omnes agreements law of international humanitarian (Osman, without year).

As is the responsibility of all States commitment to clear the adoption of measures to implement the rules of law , international humanitarian and application, and perhaps the most prominent of these measures that have been agreed on it in the necessity of the establishment of committees of international ensure the adoption and application of measures of national to start implementation of the law of international humanitarian, has sought countries for many to create committees and national concerned with law and humanitarian, which is working in permanently with the international Cross and Red, the latter by making efforts great in her meetings regular with - subscribers and local unions professional and mass media and other of associations, as well as for through holding meetings , conferences and local and regional.

Section III: Mechanisms prosecution of international humanitarian law : The internationalization of the rules of law criminal by the dimension of the human that the legacy of wars and conflicts and armed became the need to escalate the pace day after day . The war - on what seems - the reality of needed humanity since the start of creation, has reminded distressed that the war world first alone has left about ten million people dead and about one twenty million people have died as a result of displacement and diseases that caused them and enough to Mtvhs to stand at the war world second to grope the tragedy that left by

the war and represented in nearly forty million people are between the civilian and military (Aziz, 2000).

And not the horrors of conflict armed between the republics of Yugoslavia , the former in Bosnia and Herzegovina as between the years 1992 - 1995 us far off it to pay the Council of Security because taking its resolutions Digital 808 on 22 February 1993 , 827 on 25 May 1993 targeted for the establishment of a court of criminal international trial senior criminals of war responsible for those Conflicts.

Prior to calm down the fire of those massacres woke up the conscience of the world on the atrocities and violations of links humanity among the children of people in Somalia between the years 1992 -1993, and in the territory of Rwanda in the year 1994, and in Albania in within the month of March 1997, and in the eclipse between the years 1998-1999, and in Sierra Leone between the years 1999-2000.

And we calculate that the conscience of the human is not unaware of the atrocities that revealed by means of the media every day against the sons of the people of the Palestinian since that began in the uprising blessed in the eighth and twentieth of the month of September of the year 2001 , and the massacres that between the years 2004/2005 on the land of Sudan and its territory suffering in Darfur , which It came out despite the nose of the government of Sudan from Qalbh national purely to Qalbh international under the decision of the Council of Security No. 1593 in 31/3/2005 , who spends referral file Darfur to the Court of Criminal international to punish the abuses that committed by the militias , the Janjaweed (Muhammad cub, without year).

Here arises the question what is the mechanism best that lies in the hands of humanity than to curb these conflicts? What is the mechanism best to the report of the prosecution effectively for those responsible for the damage and crimes that have left behind by the conflicts of yesterday or those conflicts that wake up humanity in the day what to erupt. ?

No doubt that the establishment of the rules of international criminal represent a mechanism effective in the face of war , and without entering the display historic not he take his place in this presentation recall only that humanity has experienced a moment stand then Balajellal when he succeeded the Conference Rome diplomat in the summer of 1998 in the adoption system of the Rome Statute of the Court Criminal international Standing in the seventeenth th of July in 1998

targeted to establish a system of judicial criminal permanent represents a mechanism for the prosecution of crimes of international which entered into force already reaching ratifications on this system towards the Stone ratification by a quorum which Astelzmh system basic entry in into force.

If what we met those trends of international and some of the aspects of the theory of war in Islam from where the objectives of those latter categories covered by the protection Obanha and those objectives and the categories covered by the protection of the law of criminal humanitarian international contemporary perhaps Esteban us over the integration view of humanity that lived peoples with the diversity of civilization and religions to show us in the end dimension monomeric outlook applies to human from where being a human being no difference in that between the different - color or sex or religion or belief

Conclusion

The law of international humanitarian is a branch of law , international positive document to the custom and treaties , and aims to limit the methods and means of war and the protection of victims of conflict and armed . Constitute violations of grave rules of law , international humanitarian crimes of war may be exposed because of individuals accountable direct , which is due is prosecuted by the states of sovereignty . But that if they state is unwilling to do this litigation , or not in a situation that can from it , may prosecute these crimes of through the courts of criminal international established under a treaty or a decision binding issued from the Council of Security of Nations United . It reflects this presentation summary of the status of legal and political status state of the law at the dawn of the dawn of the century one of the twenty . It is not a description of the work day one or the fruits of an effort individually , but is , on the contrary of it , the outcome of the awareness of growing the community of international in the face of the horrors of war and the suffering of superiority Description incurred humanity on over the ages , awareness of the need to put limits to the violence and the consolidation of these borders in the law , and punish those responsible for violations of the order to deter from begging him himself to go beyond these boundaries in the future.

From the contents of the research, the following conclusions were drawn:

1 .There is Ta for the law of international humanitarian, and systems of legal and other related conflicts armed, but they Mgayeran and separated from each other, especially the law of international humanitarian , which is called also the law in war and international criminal law .

2 .The law of international humanitarian on the phrase of the principles , which inspired a sense of human, in order to safeguard dignity of humanity , where requires , respect for the victims of the war and not to be subjected to torture and imposes a distinction between them, and between those involved in the conflict , armed, and in addition to that of proportionality in the use of force .

3 .The call to respect for human and rights issue old has increased in the societies of human in centuries VIII th and nineteenth centuries, were prescribed by religions and Club by philosophers and reformers, it is the principle of constant and not of the developments in the community of international contemporary, but the problem was represented in the non - existence of mechanisms and laws to prosecute crimes against humanity that lies between the two peoples or two states or between the two groups on the basis of customary or sectarian or violations that are located in within the countries of their rulers.

4 .The application of the law of international humanitarian calls determine the scope that works in it, on both the material of any conflicts that covered, personal and any persons who apply them.

5 .The Groves of p scholars of international criminal law , the importance of a permanent international criminal court , because it six s the international community of serious types of behavior, as the countries with the presence of the court must be estimated this behavior consequences before walking on it , spawned the need To cooperate with international humanitarian law and coordinate to protect its principles and foundations

.

6 .E. n overlap between the law of criminal international law and humanitarian international reach to its ultimate convergence great between them to accommodate the first second , as may be the law of

one , where the laws aim to achieve security and peace for the individual human on the level of global , and criminalizes the law of criminal international acts which seeks law humanitarian international to criminalize and prohibit , in addition to the giving nature of the criminal commanding the rules of law , humanitarian international is the tool most effective and the effect of a deterrent to those begging him the same violation of the provisions of these rules.

7 .The signing of the agreements and international with regard humanitarian and approval by, or as soon as the completion of elements of the physical and moral integrity of the rule of customary humanitarian to sufficient unless Ayad followed be on the states to take actions necessary to make these rules apply are directly in the law internal . It is these commitments issued legislation with the relevant implementation rules of the law of international humanitarian, and the abolition of all legislation that are incompatible with it.

8 .The basic problem that has not reached the international community to punish satisfactory solutions to the hostilities and the violator of international humanitarian law lies in the mechanism best that lies in the hands of humanity than to curb these violations? What is the mechanism best to the report of the prosecution effectively for those responsible for the damage and crimes that have left behind by the conflicts of yesterday or those conflicts that wake up humanity in the day what to erupt?

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