

What is the role of the international humanitarian law in fighting against terrorism?

An analysis for the operational effectiveness of the role of the international humanitarian law in the fight against terrorism

Quelle est le rôle pour la lutte contre le terrorisme
du droit international humanitaire pour la lutte contre le terrorisme ?
Une analyse de l'efficacité opérationnelle du rôle du Droit International Humanitaire
dans la lutte contre le terrorisme"

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Abstract

Terrorism has become one of the main threats for world peace and security during the last decades. In this vein, the international humanitarian law (IHL) has been developed for the purpose of reducing the sufferings faced during hostilities. However, terrorism implies the acts of violence committed by non-state entities which pose legal challenges.

This article examines how terrorism interacts with IHL norms, highlighting the legal challenges, Controversies and approaches to harmonize the fight against terrorism with respect for fundamental rights.

Keywords:Terrorism- International Humanitarian Law- Means of combating.

Resumé

Le terrorisme est devenu comme l'une des principales menaces pesant sur le paix sécurité mondiales au fil des décennies récentes. En même temps, le droit international humanitaire (DIH) a été développé dans le but de réduire les souffrances subies pendant hostilités. Cependant, le terrorisme implique des actes de violence commis par les entités étatiques, ce qui pose des défis juridiques particuliers.

Cet article examine la manière dont le terrorisme interagit avec les normes du DIH, met en lumière les problématiques juridiques, les controverses et les approches pour harmoniser la lutte contre le terrorisme avec le respect des droits fondamentaux.

Mot clés: Terrorisme- Droit international humanitaire- Moyens de lutte

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Introduction

Terrorism, known to have started parallel to war, has emerged from a primarily religious orientation and moved to have a political dimension. However, the September 11 attacks resulted in a very strong reaction from nations worldwide. Terrorism was perceived as as a form of armed conflict, raising the complex question of the application of international humanitarian law (IHL) to terrorism. Hence, the attention given to that issue may be not sufficient and inadequately effective. The adoption of IHL during armed conflicts stems from the fact that this kind of legal norms also serves to ensure the protection of individuals and property. It is rooted in the principles of international criminal law to hold perpetrators of terrorism accountable. This law is imposed on all parties involved in a conflict, as it prohibits terrorist measures and actions during armed conflicts, whether they include two or more states, a state against national liberation movements, or occur within the context of non-international armed conflicts involving states against armed elements or rebel forces.

It is important to clarify the research framework because only acts of terrorism committed during armed conflicts fall within the scope of IHL. Indeed, IHL simply does not apply to acts of terrorism occurring in times of peace, i.e., circumstances not judged as armed conflicts. In fact, IHL does not offer a precise definition of terrorism. Instead, it prohibits most acts often considered terrorist acts committed in times of peace. It is based on the fundamental principle of distinction, which seeks to protect civilians by prohibiting deliberate direct attacks against them as well as civilian property. And even IHL prohibits indiscriminate attacks and the use of 'human shields,' while also prohibiting hostage-taking.

In the framework of armed conflict, a multitude of acts classified as 'terrorist' can be assimilated to war crimes, thus paving the way for legal proceedings under the principle of universal jurisdiction, regardless of their nationality or where the crimes were committed. In recent years, states have faced a growing threat from individuals and armed groups outside the state apparatus, using terrorism as a means of action; they have a legitimate responsibility to ensure the security of their population at national, regional, and international levels.

And given that terrorism violates international humanitarian law, the ICRC (International Committee of the Red Cross) is committed to condemning all acts of terrorism, regardless of the agents or situations in which they occur, whether in times of armed conflict or in times of peace.

In the context of hostilities, terrorism must be understood as an act of violence or threat whose primary purpose is to instill fear in the hearts of civilians. This involves deliberate attacks on civilians or non-military targets, the use of brutal and inhumane means without military objectives, and the targeting of individuals or infrastructure unrelated to military objectives or interests. This is a definition that closely resembles that of a war crime: 'Any serious violation of the rules of conduct in times of war'.

The subject is of great importance in the current context of global security and growing concern about acts of terrorism. The article revolves around the following issue: To what extent is international humanitarian law (IHL) effective as a solid legal framework for harmonizing the fight against terrorism with the safeguarding of civilians while respecting essential humanitarian principles during armed conflicts?

What place does the fight against terrorism take in international humanitarian law?"

The present study will be divided into two parts as follows,

1st Part :

Prohibition of terrorist acts in international humanitarian law

International humanitarian law categorically prohibits terrorism and its acts, without condition or exception, and regardless of the situation. The authorities of the parts of the conflict, as well as all states signatory to the humanitarian instruments, are obliged to prosecute any person willing to violate this prohibition.

International humanitarian law, as it stands, could provide a basis for a new legal approach to terrorism in peacetime.

It would also be appropriate to prohibit and punish, in relation to the laws governing peace, any action prohibited to combatants under the law of armed conflict, because terrorism, in everyday language, is a concept that goes beyond the identity of its leaders and encompasses different aspects:

- It is considered as a crime, without exception.
- It involves the use and threat of violence, which generally targets people's lives.
- It is utilized as a means to achieve goals which cannot be reached through legal means.
- It is usually a strategy put by an organized group. It is applied throughout a specific period following a plan.
- The terrorist acts often target everyone without exception.
- Terrorists aim at ensuring a frightening atmosphere to achieve their goals.
- It is mainly associated with the concept of total war where all the tools are justified to reach their objective.¹

IHL is relevant when armed conflicts occur. An international armed conflict involves the intervention of the arm forces of at least two states, or the struggle of the people against the colonial regimes, foreign occupation or racial regimes to exercise their right to self-determination Non-international armed conflict occurs on the territory of a country between government forces and organized armed groups.²

The 1949 Geneva Conventions establish in their common Article 2 the conditions for the application of these conventions. According to the article, the Conventions are relevant in cases of declared war or any other armed conflict between two parties, even if none of the involved countries officially recognizes the state of war. Thus, the provisions of the Geneva Conventions apply not only to international armed conflicts, involving two or more States, but also to non-international armed conflicts, occurring within a country between government forces and non-state armed groups.³

Protocol II of the Geneva Convention concerns internal armed conflicts as defined above. However, as stipulated in paragraph 2 of Article 1 of said protocol, a certain threshold must be reached; this protocol does not apply to internal tensions such as riots, isolated and sporadic situations, violence, and other similar acts are not considered as an armed conflict.

In case of disagreement on whether the threshold for the existence of an armed conflict has been met, courts can be called upon to resolve the issue.⁴

In this section, we analyse the provisions of the international humanitarian law which prohibits terrorism and terrorist acts in international, armed or other conflicts (b). These dispositions are particularly set out in the four Geneva Conventions of 1949 and their additional protocols, which are the main sources of this branch of law.

A) Prohibition of Terrorists' Acts in the International Armed Conflicts

The protection of civilians during the war contains detailed provisions concerning their rights in occupational situations. International humanitarian law defines the obligations of the Occupying Power towards civilians human treatment, respect for fundamental rights, the prevention of violence and abuse, the provision of humanitarian aid, the protection of property and respect for medical and religious institutions.

Thus, the Fourth Geneva Conventions, provides an important legal framework to protect civilians when a territory is occupied, and establishes obligations for the occupying power. Also, it urges to ensure respect for human rights and the preservation of the dignity of civilian populations in such situations.

It should be noted that Common Article 2 states that the provisions of the Geneva Conventions on the protection of civilians also apply in the event of an occupation of a territory, regardless of whether this occupation is temporary or prolonged.⁵

The rules prohibiting terrorism are directly incorporated into the Fourth Geneva Convention of 1949 (a) and indirectly into the first additional protocol of 1977 (b)

a)-Terrorists Acts in Geneva Conventions

The conventions of Geneva don't directly mention the terrorist acts. However, they contain general dispositions and principles which are applicable for sanctioning the acts of violence against civilians which characterize the terrorists' acts.

The fourth convention of Geneva, in particular in the article 33, prohibits the collective punishments as well as all forms of intimidation or terrorism. Similarly, Article 4 of Additional Protocol II prohibits acts of terrorism against persons who have not engaged in or are no longer participating in hostilities. The main goal is to ensure that neither individuals nor civilians suffer the horrors caused by collective sanctions.⁶

The aforementioned convention deals with the protection of civilians in times of armed conflict, and it expressly prohibits terrorist acts.

The term terrorism refers to the violence which doesn't aim at terroring civilians. This latter is the same under all circumstances without any exception.⁷

These Conventions establish fundamental rules for parties in conflict, governing the humanitarian treatment of protected individuals, the provision of medical and humanitarian relief, and the maintenance of the rights and dignity of persons. Although the Geneva Conventions do not expressly use the term "terrorism," they establish standards aimed at preventing acts of indiscriminate violence and protecting civilians from the devastating effects of armed conflicts. The principles of distinction, proportionality, and precaution aim to limit damage to civilians and to avoid undue suffering.

The principle of distinction, among civilians and combattants and the protection of goods and civil characters during armed conflicts, has been established in a specific manner in the additional protocole I of 1977. Articles 51, 48(2) and 52(2) of this protocole give details about the relative rules to that distinction.

1- The 33 Article of the Geneva Convention.

The term "terrorism" is directly cited in the 33 article of the Geneva convention of 1949, which put the emphasis on the prohibition of collective and similar penalties, as well as measures of intimidation or terror against protected persons.

It is regarded as the only measure in the Geneva Conventions that explicitly uses the term "terrorism". This article reminds that no one can be punished for an offence that is not directly committed.

The collective sanctions and similarities are forbidden as well as all the measures of intimidation of the terror.

The text also highlights measures of intimidation and of terror who can be against a person under control of enemies or on an occupied territory⁸. It is forbidden to express these measures, highlight the importance of protecting civilians of all forms of violence and exceeding.

Also the 27 article of the same convention⁹ completes the general rule based on which each part needs to treat the civilians.

Persons subject to his authority and subordinate to the hostile part will be treated humanely as indicated in the aforementioned article.¹⁰

Prohibiting the measures of intimidation or the terror, article 33 prevent the use of terrorism and promote respect for the fundamental rights of individuals affected by armed conflict, particularly civilians and combatants out of combat. This implies the need to treat all people individually and fairly, avoiding any form of collective or arbitrary punishment.

In addition to that, article 34 prohibits the taking of hostages¹¹, besides the acts of brigandage in article 33.¹²

However, it seems that the meaning of the term "terrorism" as used in the Fourth Convention is more limited than the meaning attributed to it at present.

2-Evaluation of article 33.

Article 33 of Geneva conventions prohibits the collective punishments and the measures of intimidation or terror against protected persons. This provision is provided for abuse of power and ensures respect for the fundamental rights of people affected by armed conflict.

The prohibition of terrorist acts is an important element is that protection. Terrorist acts, which involves the use of random violence to panic civilians, are considered as dangerous violations of the international humanitarian law. In addition, the aforementioned dispositions prohibit the deliberate attacks to frighten civilians namely bombardments, or ambushes against civilians in the named areas.¹³

The importance of this text is highlighted by the fact that the Geneva Conventions have long established the prohibition of all terrorism measures during international armed conflicts. This ban underscores the imperative to protect civilians and prevent the use of indiscriminate violence to create terror.

Integrating this prohibition in Geneva conventions. The international community recognizes the importance of protecting the fundamental rights of people who got affected by armed conflicts and promoting an environment which respects the international humanitarian law. This latter reinforces the commitment to international peace and security, discouraging the use of terrorism as a means of pursuing political and ideological goals.

Article 3 common and the Additional Protocol II, applicable to armed conflicts non-international, have been formulated respectively from 1949 and 1977. They don't reflect adequate manner of the characteristics of contemporary armed conflicts which differentiate traditional civil wars.¹⁴

b)-Prohibition of Terrorism in the First Additional Protocol Related to CAI of 1977.

In this section, I will address the prohibition of terrorist acts in accordance with the provisions of the Protocol relating to the protection of civilians and civilian property, as well as those concerning methods and means of combat.

1-The Terrorist Acts Oriented against Civilians and Civil Property.

Article 48 of the first additional protocol is considered as elementary basis for all the dispositions linked to the protection of civilians. It sets out the essential principles and specific rules for ensuring the protection of civilians in times of armed conflict.

Terrorist acts intentionally which target civilians and civilian property are prohibited. Additional Protocol I prohibits attacks specifically targeting civilians themselves. Section 51(2) clearly states that it is prohibited to target the civilians, as well as civilian individuals.¹⁵ This prohibition is explicitly and unambiguously worded and applied to various meanings and situations.¹⁶

It is necessary to distinguish civilians from combatants and civilian objects from military objects in order to ensure the security and protection of civilians and civilian objects from the dangers associated with military operations.¹⁷

The prohibition stated in the second paragraph of Article 51 requires particular attention due to its implications. The first sentence clearly and explicitly prohibits attacks against civilians, which may include most acts of terrorism. However, the second sentence prohibits acts of violence whose primary purpose is to sow terror among civilians. These actions do not necessarily have to be specifically directed against civilians; what is important is the intention to sow terror among them. Thus, ultimately, even threats of violence aimed at sowing terror are prohibited.

It is worth considering Article 44 of Additional Protocol I, which sets out new conditions for the status of combatants in international armed conflicts. However, the only relevant question in this regard is whether Article 44 weakens the prohibition of terrorism in a way that encourages terrorist acts. In reality, article 44 does not modify the accompanying obligations of combatant status.

According to Articles 43 and 44, there is no distinction between two categories of combatants: "regular combatants" who are subject to all obligations of the laws of war, and "guerrillas" whom some consider partially exempt from these obligations. All combatants are liable to prosecution for violations of these laws, and in certain circumstances, for committing war crimes. Article 44 does not exempt from observing the traditional obligations of humanitarian law and does not guarantee immunity from the consequences of an act of terrorism.

The notions of vulnerable, soft, and hard targets, as well as public and crowded spaces, are relatively recent in the fight against terrorism. Furthermore, they are not defined within a specific international legal framework. Their interpretation varies depending on the context and the type of discussion (political, legal, operational, and technical) in which they are employed.¹⁸

2- Terrorists Acts Related to Methods and tools of Fight:

International humanitarian law prohibits terrorist acts during international armed conflicts and ensures protection for civilians and civil properties. Nevertheless, it is relevant to wonder whether there are provisions that would also prevent terrorist acts against the armed forces?

The answer provides no evidence of this, since the members of the armed forces of active participants in military operations simultaneously constitute legitimate targets, allow soldiers to shoot, and then allow themselves to be shot, which in civilian terms, would appear to be an act of terrorism, but when it is considered an act of legitimate war when directed against a hostile power.¹⁹

The right of the parts to choose methods and means of combat has limitations, since the first paragraph imposes restrictions, while the second prohibits the use of methods of war likely to cause unjustified suffering.²⁰

B)-Prohibition of Terrorist Acts in non-International Armed Conflicts.

Despite the fact that the word "terrorism" is not used in Article 3, and that its wording was brief, it prohibits terrorist acts through the aforementioned terms, and leaves no doubt that terrorist acts, in any form, even in internal conflicts, against people who are not involved are absolutely prohibited.

In this section we will focus on the prohibition of terrorism in article 3 common (a) and the dispositions of additional protocole 1 (b) besides the war against terrorism since the 11th of Decembre 2011 (c).

a)-Common Article 3 of the 1949 Geneva Conventions and of the Additional Protocole 2.

Article 3 involves the fundamental principles which are applicable to non-international armed conflicts. Its objective is to ensure a protection for individuals who do not participate directly in hostilities as well as civilians, injured and patients in addition to persons who are persons encaptivities or in detention.

Among the clauses, the most significant appear in the first protocole, it is clearly affirmed the respect of rules based on which pacific civilians need to be, in the possible measure, being kept away from hostilities and get benefit of a general protection against the risks related to its operations.²¹ Besides, the article 51 (2) of the additional Protocole It states clearly that it is prohibited to control the armed attacks targeting civilians either in a collective or individual way reinforcing their protection in armed conflicts.

The article aforementioned also enshrines the principle of general immunity, which stipulates that civilians should not be punished for terrorist acts committed by others.

This means that civilians should not be deliberately attacked or used as targets in military operations. The protection of civilians is a central concern of international humanitarian law, and any act of violence or terror against them is strictly prohibited.

But the second sentence note the population never have to experience threats of violence for the purpose of sowing the terror among civilians.²²

The use of terrorist methods in international armed conflicts constitutes war crimes and results in serious violations of article 85 of Protocol I as well as the Fourth Geneva Convention.

Paragraph 4 of the article 51 as cited, prohibits the conduct of indiscriminate attacks during armed conflicts, which encompasses military actions (or any form of violence) not directed at military objectives.

Attacks in times of war without discrimination, including, as cited in Article 51/4.

Military operations (or any act of violence) not directed at a military objective, are prohibited.

Furthermore, Article 75 of Protocol I prohibits violence against any persons under the control of the hostile party, specifically any act or threat of violence whose main purpose is to sow terror among the civilians.

The international humanitarian law proscribed the attacks against the civilians' properties, the cultural properties as well as the, getting benefits of special protection all of which enjoy special protection in accordance with the provisions of Articles 52 and 53 of Additional Protocol I. Additionally, it prohibits damage to installations containing hazardous materials such as dams, bridges, and nuclear power plants.²³

The First Additional Protocol, in its Article 52, adds detailed rules regarding the prohibition of the destruction of civilian installations, particularly those that are part of urban infrastructure.

Under the Statute of the International Criminal Court, murder is considered a war crime in both non-international and international armed conflicts. According to the statutes of the two International Criminal Tribunals for the former Yugoslavia and for Rwanda,²⁴ as well as the Special Court for Sierra Leone, the murder of civilians and non-combatants is strictly prohibited. This prohibition is also present in many military manuals and in the legislation of numerous national and international legal systems.²⁵

The International Committee of the Red Cross has regularly condemned numerous killings of civilians and non-combatants associated with armed conflict.

The importance of taking appropriate measures has also been emphasized by the International Commission of Jurists, the African Commission on Human and Peoples' Rights, the European Court of Human Rights, the Inter-American Commission on Human Rights, and the Inter-American Court of Human Rights to ensure that force is limited to what is strictly necessary, to investigate suspicious deaths, and to ensure that there is no "arbitrariness" when human losses occur, specifically including assassination, any form of mutilation, torture, and cruel treatment.

b)-Dispositions of the Additional Protocols II of 1977 .

The Second Additional Protocol of 1977 for the protection of victims of non-international armed conflicts affirms and develops the rules stated in the common Article 3 of the four Geneva Conventions. It expands and enhances the scope of protection offered in various areas.

These dispositions reinforce the protection of individuals who suffered from non-international armed conflicts ensuring that they are well treated, respected and protected as prisoners. In short, the second additional protocol of 1977 consolidates and extends the rules set out in Common Article 3 of the Geneva Conventions. It highlights the essential guarantees for the protection of victims of CANI.²⁶

A precise set of legal provisions ensures the protection of civilians detained by the adversary against any form of unjustified violence. These provisions need to be applied fully and unconditionally and do not have to be circumvented for reasons of retaliation. The impact of this innovative provision in the law of non-international armed conflicts is significant. Although this concept may be implicit in the general principles concerning methods and means of war, it has been reaffirmed by representatives of the

international community and incorporated into regular international law. Thus, the prohibition of terrorist activities in internal armed conflicts is now firmly established.

Article 4, in its first and second and the aforementioned second paragraph, will revisit the essence of Common Article 3 to the Geneva Conventions, particularly paragraph (a), (b), (c). The explicit mention of terrorist acts contained in paragraph 02 (d) of the article's text is important, as it is the second time that the word "terrorism" appears explicitly in a document of IHL, one of the instruments of IHL from the Fourth Geneva Convention of 1949.²⁷

2 nd part.

Challenges and Means of IHL to Fight Terrorism.

The IHL provides for various measures to combat terrorism during armed conflicts. However, the increase in terrorist incidents is a significant challenge for the international community, which must seek to increase pressure on terrorist groups through various methods.

It imposes on States the obligation to combat terrorism. According to Article 1 common to the 1949 Geneva Conventions, which is part of the general principles of international humanitarian law (IHL), States must respect and ensure respect for humanitarian law. This obligation means that states must not only comply with humanitarian law when participating in an armed conflict, thereby excluding terrorism as a method of combatting, but also that they must use the means at their disposal to ensure individual compliance with these standards.

It forces countries to fight against terrorism. Based on the article 1 common in conventions of Geneva 1949, which take part in the general principles of international humanitarian law. This obligation show that states need to not only respect the humanitarian law when participating in an armed conflict, thus excluding terrorism as a combatting means, but also have to use the means at their disposal to ensure individual compliance with these standards.²⁸

The very serious challenges (A) posed by the unprecedented escalation of waves of terrorism Can be a motivator for the international community and seeking to multiply the measures and means to intensify the confinement of terrorist organizations and fight resolute against terrorism. (B)

A)- Challenges Identified by International Humanitarian Law to Fight Terrorism.

Since the attacks of September 11, 2001, the omnipresence of that phenomenon provoked a shocking reaction by the states to the extent that they considered it as an engendering for war.²⁹

The IHL is based on the fundamental principles specifically applicable to the fight against terrorism like the prohibition of attacks against civilians and the principle of distinction and in delicate of prohibition of methods and tools of illegal combat. The IHL faces a contemporary conflict between:

1)- The Inapplication of IHL in the Fight against Terrorism.

The lack of application of international humanitarian law is a fundamental problem, the dramatic consequences of which are frequently mentioned in the media. These transformations undermine various aspects of humanitarian law and intensify the already vulnerable conditions of people affected by conflict. At the legal level, they represent violations of capital standards, and imperative.³⁰

Like public international law, supervision of the implementation of international humanitarian law is based on mechanisms for the participation of States.

Article 1 common to four conventions of Geneva 1949. The conventions state the obligation of the parts to “respect and enforce” the requirements. This obligation now applies to all states, whether or not they are parts of a particular conflict and whether or not they are formally bound by the Conventions.³¹

On the ground, compliance with (IHL) depends largely on the political will of the parts to the conflict and the ability of the international community to enforce these standards. Although IHL is crucial to reducing suffering in times of war, it is unfortunately often violated due to various factors and considerations.

2) Means and Methods of War.

The modes of action that a state can legally implement to defend itself depend on the situations it faces. Terrorism can take many forms, ranging from individual acts to state-backed operations. This last situation raises the question of a possible response of one State against another State.³²

Technological advances in weapon systems, such as autonomous weapons, allow the selection and engagement of targets without direct human intervention after initial activation by an operator. From a humanitarian perspective, the loss of human control and discernment over the use of force leaves individuals severely exposed to the effects of armed conflict, be they civilians or combatants. Moreover, it raises important challenges in terms of respect for international law, in particular international humanitarian law (IHL), and raises fundamental ethical questions for humanity, to the extent that it effectively replaces human decision-making about life and death driven by sensors and software and machines.³³

Terroristes look for, use, manipulate and diversifies technologies in the vein of their operations, especially off-the-shelf technologies, which are readily available. Drones, in particular, have been identified as a threat.³⁴

3)-Humanitarian Access.

Humanitarian assistance during armed conflicts, and the ability of independent humanitarian organizations to negotiate autonomously with the parties involved, are often faced with national security and political pressures. International humanitarian law seeks to strike a balance between the security needs of parties involved in armed conflict and the humanitarian imperative that, even in the midst of hostilities, civilians and non-combatants must be able to access the goods and services necessary for their survival.³⁵

The crises that IHL continues to witness are mainly due to parties' failure to comply with IHL and are exasperated by the inability of parties and the international community to find political solutions to end them.

Similarly, the most important obstacle to the deployment of humanitarian activities that are commensurate with the needs of populations affected by armed conflicts generally lies in the situation on the ground, where access is often difficult, or even impossible for security and/or political reasons. A growing and dangerous politicization of humanitarian action only aggravates this problem.³⁶

4)-The Presence of Military Companies

The presence of private security agents (PMSCs) in armed conflict situations can present particular risks regarding effective protection of the civilian population. This is especially the case when these companies and their personnel lack appropriate training or sufficient motivation to respect the provisions of International Humanitarian Law (IHL) and other applicable legal frameworks, and are not subject to effective accountability procedures for violations of IHL or other offenses.³⁷

PMSC face significant challenges in complying with IHL due to their private nature, their lack of accountability, regulatory difficulties, and operational complexity. Robust private control and regulation measures must be put in place to reduce the risk of IHL violations by these non-state private actors.³⁸

Furthermore, Private Military Companies (PMCs) pose significant challenges regarding individual accountability. They may sometimes evade legal prosecution due to legal ambiguity and the involvement of individuals from various nationalities .³⁹

PMCs may include clauses in their contracts that limit their legal liability in case of misconduct by their employees. We also observe difficulties in collecting evidence and testimonies, which can hinder investigations and legal proceedings. Furthermore, the lack of international regulation governing individual accountability of PMC personnel means that this responsibility often relies on national laws and bilateral agreements.

To overcome these challenges and promote individual accountability among PMC employees, national and international regulations must be strengthened. This includes developing transparency and maintaining accountability mechanisms, particularly through independent investigations and, if necessary, judicial prosecutions in cases of misconduct. It is also important to raise awareness among PMC employees about their responsibilities under IHL and to encourage a culture of human rights and IHL within these organizational levels.

B)-International Organisms Supporting IHL in the Fight against Terrorism.

Concerning international organizations that support international humanitarian law (IHL) in the fight against terrorism, It is often accepted that existing institutions, as well as other legal branches such as human rights and international criminal law, allow IHL to regulate and punish inappropriate acts.

1)-The Role of International Competent Instances in Fighting against Terrorism.

United Nations conventions and resolutions of the United Nations Security Council establish the global legal framework for combating terrorism. Security Council resolutions 1269 (1999), 1368, 1373, and 1377 (2001), as well as the 12 United Nations conventions and protocols on combating terrorism, form the basis of this framework and address specific aspects of this fight. Furthermore, a number of documents from the OSCE, including the Helsinki - Istanbul Summit Declarations, have reaffirmed the OSCE's commitment to combating terrorism in accordance with the United Nations Charter. It is important to ensure that participating states respect the existing instruments and commitments to combat terrorism broadly and effectively.⁴⁰

Moreover, in the face of the September 11 attacks, the United States could not do without the intervention of the UN.⁴¹

These are legal international commitments and political commitments made to combat terrorism.

2)- The role of contracting parties in reducing and combating terrorism

Terrorism has been unanimously recognized by all countries as the greatest threat to peace, security, and economic and social development. has stability, to the enjoyment of human rights.

The duty to respect international humanitarian law rests with States parties to relevant conventions and protocols, as well as with non-State armed groups that have agreed to be bound by them. However, effective implementation and compliance with international humanitarian law can vary depending on many contextual and political factors.

Moreover, Article 88 paragraph 1 of Additional Protocol I to the Geneva Conventions of 8 June 1977, for the protection of victims of international armed conflicts, stipulates that States Parties undertake to provide as much judicial cooperation as possible in any proceedings related to serious breaches of the Conventions or this Protocol.

Thank to that disposition of additional Protocole I, mutual legal assistance in criminal matters strengthens the capacity of national courts to punish serious violations of international humanitarian law.⁴²

The first path taken by governments is to amend the criminal law to adapt it to the terrorist threat.⁴³

The second path The State's policy of extending the enemy status to include the category of terrorist combatant without including the rights guaranteed to armed combatants. The United States took the furthest step in creating the category of "unlawful combatants" following the September 11, 2001 attack.⁴⁴

They also refused to apply the Geneva Conventions to al-Qaeda members whom they described as "illicit combatants" or "enemy combatants". Most of these «enemy combatants» were transferred to be held there, on the American naval base of Guantanamo.⁴⁵

However, it is often difficult to ensure universal application of these rules, since international humanitarian law is largely characterized by its self-regulated application. Despite the existence of international institutions such as the United Nations, the International Court of Justice and the International Criminal Court, countries are reluctant to cede part of their sovereignty to a supranational regulatory body .⁴⁶

3- International Court Specialized in materials of Terrorism

The basis, there were no international courts specifically specialized in terrorism. However, there were several international tribunals and international judicial mechanisms that had jurisdiction to try individuals accused of terrorism-related crimes, including war crimes or crimes against humanity committed in the context of armed conflict.

The criminal repression of terrorism is difficult to bring to justice by international jurididctions in that it does not have a general competence in this field.⁴⁷

Institutions, including international criminal tribunals, which conduct retrospective investigations into violations committed by organized armed groups or their members, face the challenge of applying a set

of legal rules that clearly require that the primary norms of international humanitarian law (IHL) be respected by a given State.⁴⁸

a) -The International Criminal Court:

The International Criminal Court (ICC) has the capacity to prosecute individuals accused of war crimes, crimes against humanity, and genocide. Although the ICC is not solely an anti-terrorist court, it can also handle cases of terrorist acts committed during armed conflict if they fall under its jurisdiction.⁴⁹

b)-:The Special Tribunal for Lebanon (STL):

The Special Tribunal for Lebanon (STL) was created to try those responsible for the 2005 assassination of former Lebanese Prime Minister Rafik Hariri, an act often referred to as an act of terrorism. Although this tribunal is specific to Lebanon, it can be cited as an example of international tribunals created to deal with acts of terrorism.⁵⁰

c)-The Ad hoc International Penal Tribunals:

In the past, the international community has created specialized tribunals to try war crimes and crimes against humanity arising from specific conflicts. For example, the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) were established to try conflict-related crimes in the former Yugoslavia and Rwanda, respectively.⁵¹

The consecration of the war crime of terrorism allowed the ad hoc tribunals to determine the material and moral elements.⁵²

d) International Tribunals

However, it is worth mentioning the important role of internationalized or mixed tribunals, such as the Special Court for Sierra Leone (SCSL), which was created following an agreement between the UN and the government of Sierra Leone signed on 16/01/2002 (Resolution 1315). Its jurisdiction extended to serious violations of international law, as well as certain crimes under Sierra Leonean law.⁵³

On the other hand, it is not excluded that international criminal courts may have to rule on cases of terrorism to the extent that they apply the rules of customary IHL.⁵⁴

e)-National Courts and anti- terrorism law:

The majority of terrorism-related cases are handled at the national level by national courts, in accordance with national anti-terrorism laws. Many countries have established specialized laws and courts to combat terrorism.⁵⁵

These actions must respect the law, meaning national legislation and international law, especially norms related to human rights. Regardless of the perpetrators' motivations, acts of terrorism committed outside of armed conflict must be prosecuted by national or international law enforcement authorities. States can take various measures to prevent or suppress terrorist acts, such as gathering intelligence, police and judicial cooperation, extradition, imposing criminal penalties, financial investigations, asset freezing, as well as diplomatic and economic pressures against states suspected of supporting individuals involved in acts of terrorism.⁵⁶

In addition, national legal traditions involve universal instruments and require their incorporation into legislation upon ratification. This is not only due to the effective implementation of counter-terrorism measures but also to the need to establish a legal basis for practitioners. However, while universal

instruments against terrorism can serve as a useful legal basis for criminalizing terrorist crimes and for international cooperation, it is clear that these instruments do not specify the sanctions imposed on perpetrators of terrorist acts. This area falls under the sovereignty of countries and cannot be left vacant to the benefit of criminals. On the other hand, countries cannot accept that their territories become safe havens for terrorists. However, due to the rule of double criminality, failure to legislate would mean that it would be almost impossible to proceed with judicial assistance or extradition, and more importantly, authorizing someone to commit a terrorist act or even to prepare or order such an act would be impossible to bring to justice.⁵⁷

In some cases, the state itself may be involved in terrorist activities or support extremist groups, which hampers the state's ability to actively combat terrorism.

It is crucial to note that the effectiveness of anti-terrorism legislation depends on its design, implementation, respect for human rights, and its adaptation to the specific needs of each country. Regular assessment of these laws and their effects is essential to ensure that they are effective while protecting fundamental rights.

Terrorism is an emerging international crime that needs to assert itself in the international legal space and not dilute in those that are already well established. Indeed, the stakes of defining terrorism are far from theoretical; they shape the type of response that should be accorded to it.⁵⁸

On one hand, international humanitarian law (IHL) can only be applied to counterterrorism when it takes the form of armed conflict. On the other hand, the prohibition of resorting to terrorism during armed conflicts has been lifted, whose violation would lead from a war crime to a crime against humanity to a crime of genocide.⁵⁹

Conclusion.

Terrorism is considered as a relevant crime to criminal law. In certain cases, terrorist acts can manifest in a context of an armed conflict, considered by the international law. Although the precise manner in which IHL applies to terrorist groups is the subject of in-depth discussions, certain essential principles of international humanitarian law are mentioned to illustrate their role in fighting against terrorism.

As a response to the main problem asked in that article it is important to note that criminal acts related to terrorism are generally originated from national courts. However, they may also be subject to international prosecution. This may occur through the application of provisions of international humanitarian law (IHL), including Article 33 of the Fourth Geneva Convention, or with the support of the principle of universal jurisdiction, which has profoundly revolutionized international legal systems.

The evaluation of the real effectiveness of IHL in the fight against terrorism depends on several factors, notably the political will of States to respect and implement IHL, the ability of national authorities to investigate terrorist crimes and bring those responsible to justice, as well as international collaboration to prevent and suppress terrorism.

This study has come up with the following results:

1-The lack of agreement on a global and unified definition of terrorism has prevented international bodies from developing mechanisms to combat it in a specific context.

2-Even in the absence of specific legal instruments, International Humanitarian Law (IHL) plays a central role in combating terrorism by ensuring the protection of civilians and civilian property.

3-IHL applies only during armed conflict and does not regulate acts of terrorism in times of peace.

4-IHL plays a crucial role in combating terrorism by setting standards and rules for armed conflicts, ensuring the protection of the rights of captured individuals, and preventing abuses that could fuel terrorist recruitment. It also provides a legal framework for the prosecution of suspected terrorists in international courts.

5-International bodies have played a leading role in responding to and combating terrorism by establishing conventions aimed at criminalizing terrorism internationally.

6-The Geneva Convention implemented Article 33, which clearly specifies the prohibition of "terrorist measures" or "terrorist acts," and states the prohibition of collective punishments as well as all measures of intimidation or terrorism. Similarly, Additional Protocol II (Article 4) prohibits "acts of terrorism" against persons who directly participate in hostilities or who cease to do so. The main goal of these provisions is to ensure that neither individuals nor civilians are subjected to collective punishments, which notably create a climate of terror.

7-Acts aimed at spreading terror among the civilian population are expressly prohibited by the two Additional Protocols to the Geneva Conventions. These protocols stipulate that the civilian population, as well as individual civilians, must not be targeted. In accordance with Article 51 of Protocol I and Article 13, paragraph 2 of Protocol II, acts or threats of violence whose main purpose is to sow terror among the civilian population are strictly prohibited.

Suggestions:

We can recommend that a comprehensive and unified definition of terrorism be defined in a way that paves the way for the role of international bodies.

1- Prepare an international strategic plan adopted by States in accordance with international agreements to eliminate the political and social causes of terrorism, economic discourse and media and intellectual directive to fight terrorism, where there is an effective preventive role exercised by the mechanisms and international cooperation with countries and not just a response to a specific incident.

2- Promote ratification and accession to treaties relating to the fight against terrorism.

3- Train and sensitize all actors involved in the fight against terrorism, the principles of IHL.

4- Promote international cooperation against terrorism at all levels.

5-Promote responsibility for terrorism-related violations of IHL and prosecute offenders before national and international courts.

Introduce and recognize terrorism as a serious crime within the jurisdiction of the ICC, and in times of peace and armed conflict.

6- Introduce and recognize terrorism as a serious crime within the jurisdiction of the ICC, and in times of peace and armed conflict.

7- Protect civilians, especially vulnerable populations, from the harmful consequences of terrorism and military operation

By implementing these recommendations, the international community can make a significant contribution to reducing the impact of terrorism while preserving the fundamental principles of international humanitarian law.

Finally, it must be said that it is undeniable that a world without armed groups would be desirable, just as the total abolition of war would be tolerable

¹ -Marco Sassòli, With the collaboration of Lindy Rouillard, the definition of terrorism and the law, international humanitarian, Quebec Review of International Law (Special issue) 2007, P33.adapted.

² - UNDOC, most frequently asked questions on aspects of international law affecting the fight against terrorism, United Nations New York, 2009. P,69 .adapted.

³ -Catherine Rey-Schyr, Article, International Review of the Red Cross 835,30/09/1999 International committee of the red cross, Available on the website: <http://www.icrc.org/>.

⁴-See, preamble and art 1/2 of the second additional protocol of 1977. Adapted.

⁵ -Ibid..

⁶ -UNDOC. op.cit .adv,p72.

⁷ -No protected person may be punished for an offense they have not personally committed. Collective penalties, as well as any form of intimidation or terrorism, are prohibited. Pillage is prohibited. Measures of reprisal against protected persons and their property are prohibited. See Art. 33 of the Fourth Geneva Convention."

⁸ -"Article 4 of the Fourth Geneva Convention specifies the persons to whom it applies and its personal scope: 'Persons protected by the Convention are those who, at any time and in any manner whatsoever, find themselves, in case of conflict or occupation, in the power of a Party to the conflict or Occupying Power of which they are not nationals.' Available on the website: <http://www.icrc.org/>."

⁹ - the incorporation of this article into the Fourth Geneva Convention was preceded by what was stated in the report of the Responsibility Committee created after the First World War. This report considered the use of «intimidation» and the practice of «barbarism» This provision aims to protect persons protected by the Geneva Conventions from abuses of power and acts of terror committed during armed conflicts. It specifically prohibits collective punishment that is practiced by certain states and is considered contrary to customary international law applicable to armed conflicts

¹⁰ - Protected persons have the right, in all circumstances, to respect for their person, their honour, their family rights, their religious beliefs and practices, their habits and customs. They will be treated humanely at all times and protected against acts of violence or intimidation, insults and public curiosity' .

Geneva Convention (IV) on the Protection of Civilians in Wartime,12 August 1949.Commentary - Individual Responsibility. Collective sentences. Looting. Reprisals, available at <http://www.icrc.org/>

¹¹ - art 34 " The taking of hostages is prohibited."

¹² -art 33/2 "Reprisals against protected persons and their property are prohibited." Fourth Geneva Convention . adapted

¹³ -UNODC ,op. cit ,adv.

¹⁴ -Boubacar Hassoumi Kountche, The application of international humanitarian dronal and humanitarian droits fundamental in armed conflicts involving state non entities, doctoral theses, University of Caen Normandie, 2019, p ,26.adapted

¹⁵ - Art 51/ 2. First additional protocol: "Neither the civilian population as such nor civilians should be the object of attacks. Acts or threats of violence whose main purpose is to spread terror among the civilian population are prohibited." Available at <https://ihl-databases.icrc.org/fr>.

¹⁶-Art 51 / 2. First additional protocol: "Neither the civilian population as such nor civilian persons must be the object of attacks. Acts or threats of violence whose main aim is to spread terror among the civilian population." Available on the website <https://ihl-databases.icrc.org/fr>.

¹⁷ - The General Assembly first mentioned "vulnerable targets" in 2006. See Resolution 60/288, Annex, Action Plan, Pillar II (Measures to prevent and combat terrorism), para. 18, where Member States pledged to "strengthen efforts to improve the safety and protection of particularly vulnerable targets such as infrastructure and public places". see,United Nations Counter-Terrorism Office,protecting vulnerable targets from terrorist attacks,2022,p 1,available at <https://www.un.org/>. Protecting vulnerable targets from terrorist attacks, 2022. adapted

¹⁸ -Ibid ,p 1.

¹⁹ -foundation for strategic research, The new legal framework for intervention by armed forces in land environments in the face of terrorism, <https://www.frstrategie.org/>.

²⁰ -See art 35 of the first additional Protocole 1977

²¹ - Protocole additionnel aux Conventions de Genève du 12 août 1949 relatif à la protection des victimes des conflits armés internationaux (Protocole I), 8 juin 1977. Commentaire - Protection de la population civile, disponible à <http://www.icrc.org>.

²² - This prohibition is considered a customary rule of international law enshrined in the practice of States and applies to international and non-international armed conflicts..

²³ - article 56of the first additional protocole.

The 1954 Hague Convention for the Protection of Cultural Property also prohibits any hostile act against protected objects, and without a doubt the mere threat of destroying such objects in order to terrorize the population is prohibited..

²⁴ - terrorism is explicitly cited in the ICTR statute. art 4/d..

²⁵ -See 1863 LIEBER code, known as "Instructions for the Government of Armies of the United States in the Field". adapted

This ban has been widely respected in the system of national and international precedents. In addition, it is supported by official statements and other practices in Nuremberg, and the four Geneva Conventions list "voluntary killing" of protected persons as a serious violation, and recognizes the prohibition on killing as a fundamental guarantee in the Additional Protocols of 1977.

²⁶ -1- "All persons who do not participate directly in hostilities, or who have ceased to do so, have the right to respect for themselves, their dignity, their beliefs and the practice of their religion. Whether they are detained or not, they must be treated humanely, without unjust discrimination, and it is forbidden to subject them to attacks on their lives". This provision underlines the importance of respecting the fundamental rights of people who are not directly involved in the fighting or who have decided to end it. Whether civilians, wounded, sick or captured, they must be treated with dignity and humanity, without distinction, and their right to life must be respected at all times.

2-The following actions against the persons referred to in the first subparagraph shall be considered immediately and in the future, at any time and in any place, without prejudice to the global character

Characterised by the preceding provision:

(a) Injury to the life, health and physical or mental integrity of persons, including murder

And cruel treatments, such as torture, mutilation or any form of corporal punishment

b) Criminal sanction

c) hostage taking

.d) acts of terrorism

e) Violation of the dignity of the person, including humiliating and degrading treatment of human beings, rape and coercion to prostitution, and anything that offends modest

.f) Slavery and the slave trade in all its forms

.g) Theft and looting

Threatening to commit any of the above. Article 4, in its first and second paragraphs.

²⁷-The draft article submitted by the International Committee of the Red Cross (ICRC) initially addressed the prohibition of terrorist acts specifically targeting protected people. However, the final adopted version of the article is more succinct and general. It broadly prohibits terrorist acts, encompassing not only those directed against individuals but also against installations (such as aviation) that may result in incidental casualties.

²⁸ - This duty of vigilance was, of course, taken up by the Security Council in the preamble to Resolution 1373 (2001) of 28 September 2001, where it "reaffirms the principle established by the General Assembly in its declaration of October 1970 (2625) and reaffirmed by the Security Council in its Resolution 1189 (1998), that each State has a duty to refrain from, assist in or participate in the organization and encouragement of acts of civil war or terrorism on the territory of another State, or to tolerate on its territory activities organized with a view to committing such acts". Marie-Hélène Gozzi, *Universal Fight against Terrorism*, which moral for our state of law, press of the University of Toulouse, available at <https://books.openedition.org>.

²⁹-Constant sohod, international humanitarian law put to the test of terrorism, European university editions, available on the site: <https://www.laboutiqueafricavivre.com/>

³⁰Marie-José Domestici-Met, *The Law Against Violence: The Inapplication of Humanitarian Law*, 2020 available at <https://books.openedition.org>.adapted

³¹ -See: The International Court of Justice in its advisory opinion of 9 July 2004, *Legal Consequences of Wall Building in the Palestinian Territories* [ICJ, 2004, § 159]. available on: <https://www.cairn.info/le-droit-international-humanitaire>

³² -Mr. Francis Delon, *International Law and the Fight Against Terrorism*

Revue française d'administration publique, in *Revue française d'administration publique* 2019/2 (No. 170).

³³ -The use of explosive weapons in populated areas is one of the major causes of the damage inflicted on civilian populations in contemporary armed conflicts is the use of explosive weapons with a wide impact radius (or heavy explosive weapons) in urban areas and other inhabited areas

Nuclear weapons For the ICRC, it is extremely unlikely that nuclear weapons will ever be used in armed conflict in accordance with the principles and rules of IHL. Their use against civilian populations or civilian property, possibly entire cities, would violate the principle of distinction. ICRC, twelve issues for 2022, what States can do

[https://www.icrc.org/fr/ p,11..](https://www.icrc.org/fr/p,11..)

³⁴ -Nato, programme of reference about the fight against terrorism,2020on the web site. <https://www.nato.int/cps/fr>.

³⁵ -Naz K. Modirzadeh, Dustin A. Lewis and Claude Bruderlein, Humanitarian Dialogue and the Fight against Terrorism: Antagonism of Norms and the Emergence of a New Political Landscape, *International Red Cross Review*, Volume 93 French Selection 2011/ 2 . p 227.

³⁶ -UNODC, the universal legal framework against terrorism, United Nations 2010, p 28.

³⁷ -ICRC, twelve challenges for 2022 , what States can do, op cit.p17

³⁸ - Example: the Nisour de Square shooting in Baghdad in 2007, in which 17 Iraqi civilians were killed , Blackwater, an SMP that was involved . As well as in Afghanistan, many SMPs have been accused of human rights abuses and violations while in the country. the alleged involvement of the South African company Executive Outcomes in the Sierra Leone conflict in the 1990s. In 2004, employees of CACI International were implicated in abuses at Abu Ghraib prison in Iraq, a scandal involving employees of different companies.

³⁹ - The U.S. Bureau of Foreign Affairs report to the U.S. Congress in 2005 on the use of security services in Iraq indicated that at least 60 companies were present with about 25,000 employees. Similarly, in the following year's report in 2006, the number of companies was estimated at 181, with the revelation of 100,000 contractors. See:

Fawzi Ousadiq, *International Humanitarian Law and Contemporary Challenges*, Modern Book House, 2023, p. 13

⁴⁰ -Bucharest Counter-Terrorism Action Plan, <https://www.osce.org/files>.

⁴¹ -Mario Bettati ,terrorism sees them from international cooperation,Odile Jacob,Paris 2013,p153.

⁴² - Ghislain Okoko, The "War on International Terrorism" and International Humanitarian Law in the Aftermath of the September 11, 2001 Attacks, PhD, University of Grenoble, Alps, 2017 p 372.

⁴³ - François Saint-Bonnet, *The Powers of the State*, Paris, Gallimard,p 104.

⁴⁴ -Ibid .

⁴⁵ - M. Francis Delon,op cit.

⁴⁶ -Gabrielle Lapiere, The Applicability of International Humanitarian Law to the "War on Terrorism": The Battle of Jenin and the Abuses Perpetrated by the Israeli Defence Forces, Essay submitted to the Faculty of Law for the Rank of "Master of Law" , Faculty of Law Université de Sherbrooke ,p 48

⁴⁷ - Ibid , op cit , p 95

⁴⁸ - Jann K. Kleffner, The applicability of international humanitarian law to organized armed groups, *International Review of the Red Cross*, Red Cross, vol 93, selection F,2011/2.

⁴⁹ - The International Criminal Court is a permanent, universal international criminal court charged with trying persons accused of genocide, crimes against humanity, crimes of aggression and war crimes.

⁵⁰ -The STL was established by United Nations Security Council Resolution 1757, adopted on 30 May 2007, and is an independent judicial organization composed of Lebanese and international judges. It is not a UN tribunal and it is not part of the Lebanese judicial system. However, he prosecutes people by applying Lebanese criminal law. The Tribunal is also the first of its kind to treat the act of terrorism as a separate crime. It focuses on a single fact (attack on Prime Minister Hariri and related attacks (this is not a mass crime but terrorist attacks. See H D bosly and D vandermeersch, genocide , crimes against humanity and war crimes facing justice , 2nd edition, Bruylant, 2012. P 177-

⁵¹ - international jurisprudence dealing with terrorism cases:

International Court of Justice (ICJ):

-Case Nicaragua, United States of America, CIJ Recueil 1986, p. 14, in "Recent Developments in International Law," by Marie Dupont, published in *Les Contributions au Droit International*, edited by Jean Martin, p. 45-6.

-Case relating to armed activities in Congo (Democratic Republic of Congo v. Uganda)

-Affaire relative aux activités armées sur le territoire du Congo (République démocratique du Congo c. Ouganda)

-Case relating to armed activities in the territory of the Congo (Democratic Republic of the Congo v. Uganda)

The case concerned allegations by the Democratic Republic of the Congo (DRC) that Uganda had supported armed groups operating on Congolese territory, which had contributed to conflicts and terrorist acts in the region. The DRC has accused Uganda of violations of international law, including the principle of non-intervention in the internal affairs of a sovereign state and support for terrorism. The ICJ reviewed these allegations and issued a ruling that established Uganda's responsibility for certain violations, while rejecting other allegations

International Penal Courts (IPC):

Al-Mahdi case: First case before the ICC concerning the intentional destruction of cultural property in relation to terrorist acts

The Al-Mahdi case involved charges against Ahmad Al Faqi Al Mahdi, a member of the jihadist group Ansar Dine, for alleged responsibility for the destruction of mausoleums and historic sites in Timbuktu, Mali, in 2012. These actions were considered war crimes under the ICC's Rome Statute. Al-Mahdi pleaded guilty to the charges against him, and the court found him guilty to the crimes

Ad hoc International Penat Tribunals :

International Criminal Tribunal for the Former Yugoslavia (ICTY): Several cases have dealt with acts of terrorism in the context of conflicts in former Yugoslavia.see (Tadic1,127), This judgment is important because it is the first decision of the Trial Chamber of the ICTY in the Tadić case. It established important legal precedents regarding the jurisdiction of the ICTY to try war crimes committed in the former Yugoslavia.

and (Blasisk,109) This judgment concerns the judgment of Tihomir Blaškić, a Croatian military commander, for war crimes committed in Bosnia and Herzegovina during the conflict in the 1990s. This is an important ICTY decision that dealt with individual criminal responsibility for war crimes. See Olivier de Frouville,international criminal law,sources incriminations and liability, ed A . Pedone2012.p296 , pp 2015-217.

International Criminal Tribunal for Rwanda (ICTR) : Cases have discussed the role of terrorism in the Rwandan genocide such as:

Akayesu is a decision of the Trial Chamber of the ICTR in the case of the Prosecutor v. Jean-Paul Akayesu. This decision was significant because it marked the first time in legal history that an international court recognized that acts of genocide had been committed by an individual under international law. Jean-Paul Akayesu, a former Rwandan mayor, was convicted of genocide, crimes against humanity and war crimes for his role in the 1994 Rwandan genocide

⁵² - Constant sohod, International Humanitarian Law is Terrorism Proof, European University Editions, available at <https://www.laboutiqueafricavivre.com>.

⁵³ - H D bosly and D vandermeersch, op cit , pp149-150

⁵⁴ - Mario Bettati, op cit , p 97. See also, p 6 of that article. Et

⁵⁵ -There are six courts in Algeria created as part of the establishment of these specialized clusters in 2004, the purpose of these clusters is to adapt national legislation to the country's international commitments. These include commitments related to the fight against terrorism.

. Supreme Court of Israel judgment of 11/12/2005 n (02/759) committee against torture

-Supreme Court of the United States n1498/08, of 21/06/2010, Holder case against the project of international law.

- Federal Court of Australia, Geneva case against the Ministry of Immigration and Citizenship, 21/08/2007, n, 1273.

- European Court of Justice, jihadists of the Iranian "KHALAK" movement, against the council of the European movement with the support of UK and the Northern Ireland Court of First Instance (2nd Chamber) 12/12/2016.see:

Fawzi Sadiq, International Humanitarian Law and Contemporary Challenges, Modern Book House, 2023 pp. 99-101

⁵⁶ -Ntional Courts and Tribunals :

- Zacarias Moussaoui case: was sentenced to life imprisonment without possibility of parole for his role in the attacks of September 11, 2001.

- Salah Abdeslam case: Trial in Belgium concerning one of the suspects of the attacks in Paris in 2015.sentenced to 20 years in prison. <https://www.levif.be/belgique/justice/live/>

Abdelbaset al-Megrahi case: Trial in the United Kingdom and Scotland concerning the Lockerbie attack in 1988. The Abdelbaset al-Megrahi case is linked to the 1988 Lockerbie bombing, when Pan American World Airways (Pan Am) Flight 103 was destroyed by an airborne bomb over Lockerbie, Scotland, killing all 270 people on board and on the ground. Abdelbaset al-Megrahi, a Libyan national, was found guilty of his participation in the attack.see , Mario Bettati , op cit, p 153.adapte.

⁵⁷-UNODC, Manual for international cooperation in subject of terrorism against terrorism, New York, 2009,available on the web site, <https://www.unodc.org/>.

⁵⁸ - Adriano Mendy, the fight against terrorism in international law, these To obtain the degree of Doctor of the University of Reims Champagne-Ardenne Discipline: International Law and International Relations,2008.p92.

⁵⁹ -Constant sohod, op cit.

Bibliography

Books:

1-H D bosly et D vandermeersch, génocide , crimes contre l'humanité et crimes de guerreface a la justice , 2eme edition, Bruylant, 2012.

2-Olivier de Frouville,droit international pénal, sources incriminations et responsabilité, ed A. Pedone2012.

3-Mario Bettati, le terrorisme les voies de la coopération internationale, odile jacob,paris 2013.

4- Félix Blanc, à propos de : François Saint-Bonnet, à l'épreuve du terrorisme. Les pouvoirs de l'État, Paris, Gallimard, 2017.

5-Constant sohod,le droit international humanitaire a l'épreuve du terrorisme, éditions universitaires européennes, disponible sur le site: <https://www.laboutiqueafricavivre.com/>

5-فوزي أوصديق، القانون الدولي الإنساني و التحديات المعاصرة ، دار الكتاب الحديث ، 2023 .

Thesis:

1-Adriano Mendy, la lutte contre le terrorisme en droit international, these Pour obtenir le grade de Docteur de l'Université de Reims Champagne-Ardenne Discipline: Droit international et Relations internationales,2008.pp 91 et 92.

2- Boubacar Hassoumi Kountche, L'application du droit international humanitaire et des droits fondamentaux dans les conflits armés auxquels prennent part des entités non étatiques,thèse de doctorat, Université de Caen Normandie,2019.

4- Ghislain Okoko, La "guerre contre le terrorisme international" et le droit international humanitaire au lendemain des attentats du 11 septembre 2001,thèse de doctorat, universite Grenoble, Alpes,2017.

5-Gabriel Lapierre,l'applicabilité du droit international humanitaire à la " guerre au terrorisme" :La bataille de Jénine et les abus perpétrés par les forces de défense israéliennes, Maîtrise en droit, cheminement en common law et droit transnational, université de Shebrook, 2009.

Articles

1- Jann K. Kleffner, L'applicabilité du droit international humanitaire aux groupes armés organisés, Revue internationale de la Croix-Rouge,vol 93, sélection F,2011/2.

2-M. Francis Delon, Le droit international et la lutte contre le terrorisme, Revue française d'administration publique, dans Revue française d'administration publique 2019/2 (N° 170), pages 463 à 473.

3-Marco Sassòli ,avec la collaboration de Lindy Rouillard, la definition du terrorisme et le droit international humanitaire, Revue québécoise du droit international, num hors serie, 2007, diffusion numerique 5 mai 2020 p p 29-48.

4- Naz K. Modirzadeh, Dustin A. Lewis et Claude Bruderlein, Dialogue humanitaire et lutte contre le terrorisme :antagonisme des normes et émergence d'un nouveau paysage politique,Revue internationale de la croix rouge, Volume 93 Sélection française 2011 / 2 .

-Jurisprudence

International jurisprudence dealing with terrorism cases:

1Cour internationale de Justice (CIJ):

-Affaire Nicaragua, États-Unis d'Amérique, CIJ Recueil 1986, p. 14, dans "Les Développements Récents en Droit International," par Marie Dupont, publié dans Les Contributions au Droit International, édité par Jean Martin, p. 45-67.

2-Affaire , num N° 2005-001 relative aux activités armées sur le territoire du Congo (République démocratique du Congo c. Ouganda)

2-Cour pénale internationale (CPI):

-Affaire Al-Mahdi (Le Procureur c. Ahmad Al Faqi Al Mahdi) numéro de l'affaire : ICC-01/12-01/15
Juridiction : Cour pénale internationale (CPI) Date de l'arrêt : La CPI a rendu son arrêt le 27 septembre 2016.

3-Tribunaux pénaux internationaux ad hoc :

Tribunal pénal international pour l'ex-Yougoslavie (TPIY).

-Affaire Arrêt Tadić (Tadić Trial Chamber Decision), IT-94-1 (TPIY, 7 mai 1997) :

Nom complet de l'affaire : Le Procureur c. Dusko Tadić (IT-94-1)

Juridiction : Tribunal pénal international pour l'ex-Yougoslavie (TPIY)

Date de l'arrêt : 7 mai 1997.

-Affaire arrêt Blaškić (Blaškić Trial Chamber Judgment), IT-95-14-T (TPIY, 3 mars 2000) :Le

Procureur c. Tihomir Blaškić (IT-95-14-T)

Juridiction : Tribunal pénal international pour l'ex-Yougoslavie (TPIY)

Date de l'arrêt : 3 mars 2000.

4-Tribunal pénal international pour le Rwanda (TPIR) .

Arrêt Akayesu (Le Procureur c. Jean-Paul Akayesu) :

Numéro de l'affaire : ICTR-96-4-T

Juridiction : Tribunal pénal international pour le Rwanda (TPIR)

Date de l'arrêt : 2 septembre 1998.

5-Cours et tribunaux nationaux :

États-Unis: Affaire v. Zacarias Moussaoui

Numéro de dossier : 01-cr-455 (E.D. Va.)

Juridiction : Cour de district des États-Unis pour le district est de la Virginie (Eastern District of Virginia)

Date du jugement : Le verdict a été rendu en mai 2006.

Belgique :Affaire Salah Abdeslam

Relative aux attentats de Paris de novembre 2015.

Juridiction : Belgique, principalement la Cour d'Appel de Bruxelles.

Date de l'arrestation de Salah Abdeslam : Salah Abdeslam a été arrêté le 18 mars 2016 à

Molenbeek-Saint-Jean, une commune de Bruxelles.

Procès : Salah Abdeslam a été jugé en Belgique pour sa participation présumée aux attentats de Paris de novembre 2015, notamment pour sa fuite après les attaques. Le procès a débuté en février 2021.

Verdict : Le verdict du procès a été prononcé la peine de **20 ans de prison** à son encontre pour la fusillade de la rue du Dries à Forest le 15 mars. <https://www.levif.be/belgique/justice/live/>

Royaume-Uni et en Écosse, Affaire Abdelbaset al-Megrahi.

Juridiction : Royaume-Uni et Écosse

Date du procès : Le procès a eu lieu en 2001 aux Pays-Bas, à la Cour spéciale pour l'affaire Lockerbie.

Verdict : Abdelbaset al-Megrahi a été reconnu coupable de l'attentat de Lockerbie et condamné à la réclusion à perpétuité.

-Conferences and Colloques.

1-Hans-Peter Gasser, Interdiction des actes de terrorisme dans le droit international humanitaire, exposé a été présente lors de la 11^e Table ronde sur les problèmes actuels du droit international humanitaire, qui s'est tenue a San Remo du 9 au 14 septembre 1985. Une adaptation de ce texte a été publiée en allemand dans "Völkerrecht im Dienste des Menschen", Festgabe Hans Haug, ed. Haupt, Berne et Stuttgart, 1986.

2-Comité international de la Croix-Rouge, Le droit international humanitaire et les défis posés par les conflits armés contemporains, XXXIIe conférence internationale de la croix rouge-et du croissant -rouge ,Genève, octobre 2015.

3-Olivier de Frouville et Sebastien Touzé ,Université de Paris, Pantheon -assas, 70 ans après l'adoption des conventions de Geneve: le droit international humanitaire confronté a de nouveaux défis, colloque international, CRDH, édition Pédone 2022.

Legal Textes

- 1-Quatrième Conventions de Genève du 12 aout 1949 relative a la protection des personnes civiles en temps de guerre de 12/08/1949..
- 2-Convention de la Haye du 18/10/1907 relative au règlement concernant les lois et coutumes de la guerre
Convention de Tokyo du 14/09/ 1963 relative aux infractions et à certains autres actes survenant à bord des aéronefs sur terre.-.
- 3-Premier protocole additionnel de 1977 relatif aux CAI.
- 4-Deuxième protocole additonnel de 1977 relatif aux CANI

Electronic Sites.

- 1- Conventions de Genève et protocoles additionnels .<http://www.icrc.org/>.consulté le :18/09/2023.
- 2- Plan d'action de Bucarest pour lutter contre le terrorisme, <https://www.osce.org/fr> consulté le 02/10/2022.
- 3- CICR, base de données du droit international humanitaire ,<https://ihl-databases.icrc.org/fr> consulté le :19/09/2023.
- 4- Protéger les cibles vulnérables contre les attaques terroristes, 2022, <https://www.un.org/counterterrorism>, consulté le:12/09/2023.
- 5-Michael Lawless, le terrorisme un crime international ,<http;www.journal.forces.GC.CA> ,
- 6 -ONU bureau de lutte contre le terrorisme, <https://www.un.org>.consulté le :12/08/2022.
- 7- Droit international humanitaire, droit de la paix, droit des droits de l'homme et désarmement,<https://disarmamenthandbook.org>.consulté le :19/09/2023
- 8- Daniel Fre, le droit international humanitaire et le controle des armements, Revue internationale de la Croix-Rouge (RICR), n° 772, juillet-aout 1988. pp 404-405 <https://www.cambridge.org>.consulté le :18/02/2023.
- 9- Marie-José Domestici-Met, Le droit face à la violence : l'inapplication du droit humanitaire, <https://books.openedition.org>.consulté le :03/09/2023.
- 10- Marie-Hélène Gozzi, La lutte universelle contre le terrorisme ,quelle morale pour nos États de droit, presse de l'uni versité de toulouse, disponible sur le site, <https://books.openedition.org>.consulté le:14/09/2023
- 11-Nato, programme de référence sur la lutte contre le térrorisme,2020. <https://www.nato.int/cps/fr> consulté le:13/09/2022.
- 12-.fondation pour la recherche stratégique, Le nouveau cadre juridique d'intervention des forces armées en milieu terrestre face au terrorisme, <https://www.frstrategie.org>.consulté le :17/07/2023
- 13- UNODC, question les plus fréquemment posées sur les aspects du droit internationales touchants la lutte contre le terrorisme, nations unis new york,2009, <https://www.unodc.org/>.consulté le 10/10/2022.
- 14- La Croix-Rouge et l'application du droit international humanitaire: <https://www.cairn.info/> consulté le : 20/09/2023.
- 15- Plan d'action de bucares pour lutter contre le terrorisme, Annexe à la Décision MC(9).DEC/1/Corr.1,disponible sur le site <https://www.osce.org/files>.consulté le 21/09/2023.
- 16- UNODC, Manuel pour la coopération internationale en matière pénale contre le terrorisme, New York, 2009,diponible sur le site, <https://www.unodc.org/>.consulté le 12/09/2023.