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# ARMED CONFLICT & VIOLENCE ALL OVER THE WORLD

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## INTRODUCTION

International humanitarian law is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not or are no longer participating in the hostilities and restricts the means and methods of warfare. International humanitarian law is also known as the law of war or the law of armed conflict. International humanitarian law is part of international law, which is the body of rules governing relations between States. International law is contained in agreements between States – treaties or conventions –, in customary rules, which consist of State practice considered by them as legally binding, and in general principles. International humanitarian law applies to armed conflicts. It does not regulate whether a State may actually use force; this is governed by an important, but distinct, part of international law set out in the United Nations Charter.[3] The ICRC[4] was the first role before the Humanitarian Law which is also known as Guardian of International Humanitarian Law, ICRC was founded in 1863 by Henry Dunant who discovered the history by Solferino on terrible battlefield. He applied the Principle of Humanity the endeavor "to prevent and alleviate suffering wherever it may be found"[5], ICRC followed up two proposal the first is declare army medical services neutral and give them a distinctive emblem so that they could function on the battle field and second was the in Peacetime, voluntary relief societies to act as auxiliaries to army medical services in time of war here was the foundation of International Humanitarian Law and the proposal also gave Remarkable results. On 1864 the convention for the Amelioration of the condition of the wounded army soldier filed was adopted which show the source of international humanitarian law. Article 5 of the Statutes states that the role of the ICRC is "to undertake the tasks incumbent

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[3] Advisory Service, International Humanitarian Law, ICRC.
[4] International Committee of the Red Cross (1863).
[5] Yves Sandoz, The International Committee of the Red Cross as guardian of international humanitarian law International Committee of Red Cross, 31, Dec.(1998).

upon it under the Geneva Conventions, to work for the faithful application of international humanitarian law applicable in armed conflicts and to take cognizance of any complaints based on alleged breaches of that law" (Article 5.2c), and also "to work for the understanding and dissemination of knowledge of international humanitarian law applicable in armed conflicts and to prepare any development thereof" (Article 5.2g).[6]

## SOURCES OF INTERNATIONAL HUMANTARIAN LAW

The history of Humanitarian law was started or developed by the laws of war, between the war various civilian citizen are stuck in the battlefield where some of not able to participate in the battlefield. In Battle of Solferino Henri Dunant travel to the northern Italy however he is the foreseen witnessed of the situation of **battlefield of Solferino** Ten thousands of wounded soldier and died as well was left on the battlefield by their retreating armies. After return to home, he wrote a book on "A Memory of Solferino", in his book he gave a suggestion to form an international body to provide the remedies to the wounded soldiers during the wartime. After this the **Geneva 1864** was formed "The First multilateral International law" it provide the protection and care to the wounded soldier who were not able to participate in the war, Moreover it provide the protection of medical and religious personnel and respect for the execution of their duties in wartime.

On 1868 the **Declaration of St Petersburg**, it was the modern law which specifies that in armed conflict prohibited the use of particular weapons of war, they are explosive which explode on direct soft tissue. Afterward the first peace conference were happened which known as **Hague Regulation of 1899** which proposed some convention to prohibit some explosive from balloons, dexterous gases, and bullet which expand after hitting to the human body. However the Second Hague Regulation of 1907 was adoption of settlement of international disputes, the law of customs of war on land, rules regarding naval warfare and in **Marten Clause** States were to consider themselves bound by certain minimum fundamental standards of behavior, as understood by considerations of 'humanity' and 'public conscience'.

[6] Id.

***THERE IS GENEVA CONVENTION PROTOCOL WAS FOLLOWING***

On 1925, the first revisions and developments came with the adoption for the Prohibition of Poisonous Gases and Bacteriological Methods of Warfare.

In 1929 of two Geneva Conventions, one for the protection of Prisoners of War, and the second on Wounded and Sick in Armies in the Field. Also adopted soon after the Geneva Conventions was the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict,

On 1993 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, and the 1997 Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction.[7] Afterwards many treaties and Revision of Protocol were made due to time of the Revolution the Law also be improvised by Time.

## ESSENTIAL RULE OF INTERNATIONAL HUMANTARIAN LAW

The parties to a conflict must at all times distinguish between the civilian population and combatants in order to spare the civilian population and civilian property. Neither the civilian population as whole nor individual civilians may be attacked. Attacks may be made solely against military objectives. People who do not or can no longer take part in the hostilities are entitled to respect for their lives and for their physical and mental integrity. Such people must in all circumstances be protected and treated with humanity, without any unfavorable distinction whatever. It is forbidden to kill or wound an adversary who surrenders or who can no longer take part in the fighting. Neither the parties to the conflict nor members of their armed forces have an unlimited right to choose methods and means of warfare.

It is forbidden to use weapons or methods of warfare that are likely to cause unnecessary losses or excessive suffering. The wounded and sick must be collected and cared for by the party to the conflict which has them in its power. Medical personnel and medical establishments, transports and equipment must be spared. The Red Cross or Red Crescent on a white background is the distinctive sign indicating that such persons and objects must be respected. Captured combatants

[7] Cicero from Pro Milone, 4.11 (52BC); in time of war, law is silent; State Library.

and civilians who find themselves under the authority of the adverse party are entitled to respect for their lives, their dignity, their personal rights and their political, religious and other convictions. They must be protected against all acts of violence or reprisal. They are entitled to exchange news with their families and receive aid. They must enjoy basic judicial guarantees.[8]

## INTERNATIOANL ARMED CONFLICT AND NON-INTERNATIONAL ARMED CONFLICT

**International Armed Conflict,** it does not cover internal tensions or disturbances such as isolated acts of violence. The law applies only once a conflict has begun, and then equally to all sides regardless of who started the fighting. International humanitarian law distinguishes between international and non-international armed conflict. International armed conflicts are those in which at least two States are involved. They are subject to a wide range of rules, including those set out in the four Geneva Conventions and Additional Protocol I.

**Non-International Armed Conflict**, Article 3 of Geneva Convention 1949, which describe that one or more states armed group are involved, it's about hostilities occur between government Armed Conflict and Non-Group state or Group of state Armed conflict Furthermore, two requirements are necessary for such situations to be classified[9] as Non International armed conflicts:

- The hostilities must reach a minimum level of intensity. This may be the case, for example, when the hostilities are of a collective character or when the government is obliged to use military force against the insurgents, instead of mere police forces.

- Non-governmental groups involved in the conflict must be considered as "parties to the conflict", meaning that they possess organized armed forces. This means for example that these forces have to be under a certain command structure and have the capacity to sustain military operations.

[8] International Humanitarian Law, International committee of the Red Cross, P. 6, Oct. (2002).
[9] See. Casebook.icrc.org.

## VIOLATION OF HUMANTARIAN LAW IN WORLD

### YEMEN

Amnesty International said three years of a major armed conflict in Yemen, as well as a blockade imposed by a Saudi-led coalition, had "shattered" access for people's basic needs, including food and water. The United Nations (UN) described the ongoing conflict in Yemen as "the worst man-made humanitarian crisis of our time." Approximately 22.2 million people in Yemen — or three-quarters of its population — require immediate assistance with over 8 million citizens thought to be at risk of starvation.[10]

### MYANMAR

In September 2017, the UN described a security operation in Myanmar that targeted Rohingya Muslims as a "textbook example of ethnic cleansing." When violence erupted in Rakhine state in August 2017, hundreds of thousands of Rohingya fled crimes against humanity to neighboring Bangladesh. Amnesty said the country's army committed "extensive violations" of international humanitarian law and authorities were continuing to restrict humanitarian access in the Asian country.[11]

### SOMALIA

To the Somalian government, the report urges that they keep the air strikes in line with international humanitarian law, investigate allegations of civilian casualties, and create a safe and reliable mechanism for civilians to report casualties. To the governments of states providing assistance to US drone strikes, the report pushes for risk assessment of the strikes to be undertaken before they are conducted, and to ensure that their assistance is in line with international humanitarian law. The report urges the UN, EU and African Union, to call upon the US and Somalian government to conduct independent investigations into allegations of civilian casualties, and to urge them to implement the recommendations the report lays out. Finally, to Al-Shabaab the report calls for an end to the attacks on civilians and other serious violations of international humanitarian law, for the group to allow free access by humanitarian actors to all territories under their control, and for Al-Shabaab to cooperate with investigations into alleged violations of international humanitarian law.[12]

[10] Sam Meredith, 10 Global Hotspots for major human right violation, CNBC, (2017).
[11] Id.
[12] Leanne winkels, Amnesty report details apparent US violation of Humanitarian law in Somalia, Jurist, and 20 Mar. (2019).

## CASES OF VIOLATION UNDER HUMANTARIAN LAW

### APPLICATION OF THE CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE[13]

Croatia and Serbia emerged as independent nations after the break-up of the Federal Republic of Yugoslavia. In 1999, Croatia filed an application with the ICJ against Serbia, alleging violations of the Convention on Genocide during the period of 1991-1995. The application was based on events that occurred after Croatia declared its independence in 1991, in a conflict between the Croatian armed forces and forces of the Serbian ethnic minority living in Croatia at the time, together with other paramilitary troops that objected to Croatia's declaration of independence. Croatia claimed that genocide had taken place when Serb forces took control of one-third of Croatia's territory. During the spring and summer of 1995, Croatia succeeded in taking back its former territory. Serbia based its counterclaim on alleged genocidal events that occurred during the spring and summer of 1995.

Both the Parties of Croatia and Serbia claim that act of killing member of the ethnic group and act that caused serious mental or bodily harm were committed against Croatitians and actus reus of the crime of genocide and were committed by Serb troops. In behave of Serbia group and caused serious mental or bodily harm to those who had remained within the territory under the control of Croatia's armed forces. However, the rest of the allegations put forward by Serbia failed to convince the ICJ that such acts constituted the physical element of the crime of genocide. Concerning the mental element of the crime of genocide, the ICJ held that even though the acts were committed against the Serbian group, they were not substantial enough to indicate genocidal intent. Consequently, the ICJ rejected Serbia's counterclaim.

The Judgement of CJI[14] was the definition of the crime of genocide, as provided in article 2 of the Genocide Convention. Pursuant to this article, the crime of genocide includes any of the following acts committed intentionally in order to destroy, partly or in its entirety, a national,

[13] Croatia v. Serbia, 03 Feb (2015).

[14] Theresa Papademetriou, Global Legal Monitor, Library of Congress, 6 Feb. (2015).

ethnic, racial, or religious group: (a) killing members of the group; (b) causing serious bodily or mental harm to such members; (c) deliberately inflicting on the group bodily harm designed to destroy the group physically in whole or in part; (d) taking measures designed to prevent births within that group; and (e) taking children by force from one group and transferring them to another. The ICJ noted that, based on the above definition, the crime of genocide is composed of two constitutive elements: (a) the physical element (actus reus), acts perpetrated against a particular group; and (b) the mental element (mens rea), the intent to destroy such a group. The ICJ stated that the mental element constitutes a dolus specialis (specific intent) which must be present in order to establish the crime of genocide, and it also must exist for each of the acts stated above. As far as evidence of such intent, the ICJ stated it can be found in a state's policy or it can be inferred from a pattern of conduct.

**QUESTIONS RELATING TO THE OBLIGATION TO PROSECUTE OR EXTRADITE**[15]

Hissène Habré was the President of Chad from 1982 until his overthrow in 1990. During his eight year rule, large scale violations of human rights were allegedly committed including arrests of actual or presumed political opponents, detentions without trial or detentions under inhumane conditions, mistreatments, torture extrajudicial executions and enforced disappearances (para. 16). He has since resided in Senegal where he was granted political asylum from the Senegalese Government (para. 16). Afterward The Court considers that Article 7(1) obliges the State concerned to submit the case to its competent authorities for the purpose of prosecution, irrespective of the existence of a prior request for the extradition of the suspect. This obligation may or may not result in the institution of proceedings, in light of the evidence before the authorities (para. 94). However, if the State in whose territory the suspect is present has received a request for extradition, it can relieve itself of its obligation to prosecute by acceding to that request. Extradition is an option offered to the State by the

Convention, whereas prosecution is an international obligation under the Convention, the violation of which is a wrongful act engaging the responsibility of the State (para. 95). Although the prohibition of torture is a norm of jus cogens and customary international law (para. 99), the obligation to prosecute alleged perpetrators of acts of torture under the Convention only applies

[15] (Belgium v. Senegal) 20 July (2012).

to facts that have occurred after the entry into force of the Convention for the State concerned (para. 100). Thus, Senegal's' obligation to prosecute does not apply to acts allegedly committed before the Convention entered into force for Senegal on 26 June 1987 (para. 102).

Senegal's duty to comply with its Convention obligations is not affected by the decision of the Court of Justice of ECOWAS (para. 111) nor can its failure to comply be justified by financial difficulties (para. 112) or its internal law (para. 113). It is implicit in Article 7(1) that the obligation to prosecute must be implemented within a reasonable time, in a manner compatible with the object and purpose of the Convention (para. 114). Having failed to adopt all measures necessary for the implementation of its obligation under Article 7(1) as soon as possible, in particular, once the first complaint had been filed in 2000, Senegal has breached and remains in breach of its obligations under Article 7(1) (para. 117).[16]

## APPLICATION OF THE CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE[17]

The Court then made extensive findings of fact as to whether alleged atrocities had occurred and, if so, whether they could be characterized as genocide. After determining that massive killings and other atrocities were perpetrated during the conflict throughout the territory of Bosnia and Herzegovina, the Court found that these acts were not accompanied by the specific intent that defines the crime of genocide, namely the intent to destroy, in whole or in part, the protected group. However, find that the killings in Srebrenica in July 1995 were committed with the specific intent to destroy in part the group of Bosnian Muslims in that area and that what happened there was indeed genocide. The Court found that there was corroborated evidence which indicated that the decision to kill the adult male population of the Muslim community in Srebrenica had been taken by some members of the VRS (Army of the Republika Srpska) Main Staff.

The evidence before the Court, however, did not prove that the acts of the VRS could be attributed to the Respondent under the rules of international law of State responsibility. Nonetheless, the Court found that the Republic of Serbia had violated its obligation contained in

[16] See. Internationalcrimesdatabase.org/Case/750.
[17] (Bosnia and Herzegovina v. Serbia and Montenegro) 11 July (1996) and 26 Feb. (2007)

Article 1 of the Genocide Convention to prevent the Srebrenica genocide. The Court observed that this obligation required States that are aware, or should normally have been aware, of the serious danger that acts of genocide would be committed, to employ all means reasonably available to them to prevent genocide, within the limits permitted by international law

The Court further held that the Respondent had violated its obligation to punish the perpetrators of genocide, including by failing to co-operate fully with the International Criminal Tribunal for the former Yugoslavia (ICTY) with respect to the handing over for trial of General Ratko Mladic. This failure constituted a violation of the Respondent's duties under Article VI of the Genocide Convention. In respect of Bosnia and Herzegovina's request for reparation, the Court found that, since it had not been shown that the genocide at Srebrenica would in fact have been averted if Serbia had attempted to prevent it, financial compensation for the failure to prevent the genocide at Srebrenica was not the appropriate form of reparation. The Court considered that the most appropriate form of satisfaction would be a declaration in the operative clause of the Judgment that Serbia had failed to comply with the obligation to prevent the crime of genocide. As for the obligation to punish acts of genocide, the Court found that a declaration in the operative clause that Serbia had violated its obligations under the Convention and that it must transfer individuals accused of genocide to the ICTY and must co-operate fully with the Tribunal would constitute appropriate satisfaction."[18]

## NEW TECHNOLOGY OF WARFARE

### CYBER WARFARE

The world is commended to the globalization by using the apps and their base are on other particular countries which regulate the data from other different countries, The Cyberspace is a virtual space that provides worldwide interconnectivity. This feature is generally considered of great utility in peacetime, in particular in the economic, social, information and communication realms. While the military potential of cyberspace is not yet fully understood, it nevertheless appears that cyber-attacks against transportation systems, electricity networks, dams, and chemical or nuclear plants are technically possible. Such attacks could have wide-reaching consequences, resulting in high numbers of civilian casualties and significant civilian damage.

[18] ICJ Cases application before the ICJ; Public International law; Final Determination (1984-2017),

There has been increasing concern in recent years about safeguarding essential civilian infrastructure against cyber-attacks, and calls to protect it from hostile cyber operations, including through the development of norms of acceptable behavior in cyberspace. In this context, it should be noted that cyber operations amounting to an attack under IHL[19] it is the violation of IHL unless the infrastructure is simultaneously used by military purposes in a way that turn it into a military objective.

**AUTONOMOUS WEAPON SYSTEM**

There is no internationally agreed definition of autonomous weapon systems, but common to various proposed definitions is the notion of a weapon system that can independently select and attack targets. On this basis, the ICRC has proposed that "autonomous weapon systems" is an umbrella term that would encompass any type of weapon systems, whether operating in the air, on land or at sea, with autonomy in its "critical functions," meaning a weapon that can select (i.e. search for or detect, identify, track, select) and attack (i.e. use force against, neutralize, damage or destroy) targets without human intervention. After initial activation, it is the weapon system itself – using its sensors, programming and weapon(s) – that takes on the targeting processes and actions that are ordinarily controlled directly by humans. At a fundamental level, it is autonomy in the critical functions that distinguishes autonomous weapon systems from all other weapon systems, including armed drones in which critical functions are controlled remotely by a human operator. Some weapon systems in use today have autonomy in their critical functions. These include air and missile defense weapon systems, ground vehicle "active protection" weapon systems, and border or perimeter weapon systems (sometimes called "sentry guns"), as well as loitering munitions and armed underwater vehicles.[20]

[19] ICJ, Legality of the threat or the use of nuclear weapons, Advisory Opinion, 8 Jul. (1996).
[20] International humanitarian law and challenges of contemporary armed conflicts, 32ND International conference of the Red Cross and Red Crescent, Oct. (2015).

**CONCLUSION**

In the International Humanitarian law there is Drastic changes by the time of the evolution but the issue was the same which conclude by the War, Every country wanted to be powerful, Globalized, more Weaponized and wider area of surface by their Military population. However International Humanitarian law give every country to freedom in a limited surface that they cannot do ill Activity by creating bacteriological weapons, Military weapons and other cybercrimes. The Humanitarian Law give an extensive support to the ICRC to give remedies to the Women, children and Men who are not participating in the War but was stuck due to Area of Probe or Irregular Action by other Countries. In Simple words IHL compels States and non-State parties alike to do their utmost to protect and preserve the life, limb and property of civilians and others *hors de combat*, while at the same time giving parties to a conflict leave to commit acts of violence within certain boundaries.