



AREAS OF APPLICATION OF INTERNATIONAL HUMANITARIAN LAW “PHYSICAL SCOPE”

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Received: 01/09/2024, Accepted: 14/10/2024, Published: 22/11/2024

Abstract:

Enter In the contemporary era, international humanitarian law is constituted by a set of international concepts, which are shaped by a range of actors and institutions, including international organizations, the international judiciary, and international agreements, as well as the body of international jurisprudence.

The objective of this body of law is to safeguard individuals and civilians during armed conflict, to mitigate the effects of war and limit its impact, and to protect combatants who are unable to fight, such as prisoners, the sick, and the wounded.

International humanitarian law is a branch of public international law that is only applicable in instances of international or non-international armed conflicts. This legal framework is distinguished by its relative inactivity during peacetime and its heightened relevance as soon as an armed conflict emerges. Consequently, the material scope of international humanitarian law encompasses both international and non-international armed conflicts.

Keywords: *International humanitarian law; International armed conflicts; Material scope of international humanitarian Law non-international armed conflicts;*

I- Introduction

International law criminalizes the threat or use of force against the territorial integrity or political independence of any state or in any other manner that is inconsistent with the purposes of the "United Nations" (United Nations, 1945). However, the international reality has witnessed a series of armed conflicts in which the best of human genius has been used in terms of evil, harm, destruction and devastation (Al-Majdoub, 2004).

The acceleration of events in this way prompted jurists and experts in international humanitarian law to actually establish legal rules defining the methods and means of warfare, as well as providing protection for victims of armed conflicts. A significant number of international agreements have been concluded, with The Hague and Geneva Conventions representing two fundamental sources of international humanitarian law (Ben Omran, 2012).

The term "law of war" was initially used in international law until the adoption of the Charter of the United Nations, and then another term was adopted, namely the law of armed conflict, which resulted from the explicit prohibition of war by the Charter of the United Nations. After the International Conference on Human Rights held in Tehran in 1968, international jurisprudence applied the term international humanitarian law to this branch of international public law.

The significance of this subject matter lies in the clarification of the concept of international humanitarian law as it pertains to armed conflicts, as well as the delineation of its scope of application. The focus of our inquiry is the material scope of international humanitarian law, specifically its application in the context of armed conflict. In order to gain a deeper understanding of this topic, we sought to identify and examine the various areas of application of international humanitarian law.



In order to address this problem, we employed a descriptive approach, delineating international armed conflicts, non-international armed conflicts, and conflicts excluded from the material scope of international humanitarian law. This study is organized into three sections. The first section addresses the concept of international armed conflicts; the second section discusses the concept of non-international armed conflicts, and the third section addresses conflicts excluded from the scope of armed conflicts.

2- International armed conflicts

The criminalization of violations of international humanitarian law, as stipulated in the four Geneva Conventions and their additional protocols, along with other relevant agreements, represents a significant achievement for humanity. These legal instruments were designed to protect individuals and property during armed conflicts and to mitigate the detrimental impact of war.

International law has distinguished between two categories of armed conflict: international and non-international. International armed conflicts are defined as those occurring between two or more states; whereas non-international armed conflicts are those occurring between a state and non-governmental armed groups, or between these armed groups themselves. In order to define the concept of an international armed conflict, it is first necessary to provide a definition of an international armed conflict and then to define the various types of international armed conflict.

2-1 Definition of International armed conflicts

The application of international humanitarian law is contingent (Abu Hani & Al Ashawi, 2010) upon the existence of international armed conflict between two or more states.

There are numerous definitions of international armed conflict. One such definition is provided by Oppenheim, who defines it as (Oppenheim, 1944) "a conflict between a state and another state or several states in which the armed forces intervene to subjugate the defeated party and impose the conditions of the victor".

Ali Sadiq Abu Haif defines international armed conflict (Salah El-Din, 2002) as "a struggle that takes place between the two armed forces of the two conflicting parties, with the aim of protecting the rights and interests of one side against the other side." He further clarifies that wars only take place between states.

The definition of international armed conflicts is also provided in international covenants through the statements made in the four Geneva Conventions of 1949. In particular, paragraph 2 of Article 2 common to the four Conventions stipulates that the Convention applies to all cases of declared war or of any other armed conflict that may arise between two or more High Contracting Parties to the conflict, even in the absence of recognition of the state of war by one of them.

In accordance with the provisions set forth in the First Additional Protocol, Article 01, Paragraph 04, issued in Geneva in 1977 and attached to the four Geneva Conventions of 1949, wars of national liberation were incorporated, as stated in the fourth paragraph of Article 1 of this Protocol.

Despite this expansion, the text excluded from the circle of protection the armed struggle waged by peoples against authoritarian regimes or conflicts aimed at dividing a country from the scope of conflicts, which the international community recognized in the Second Additional Protocol of 1977.

The following forms of armed conflict are considered to be of an international nature (Al-Shalaldeh, 2005): interstate conflicts, internal armed conflicts, and internal armed conflicts involving foreign intervention, internal armed conflicts involving the intervention of the United Nations, wars of national liberation, and wars of secession.



2-2 Types of International Armed Conflicts

The contemporary international legal framework recognizes a multitude of types of international armed conflicts, which are defined by the four Geneva Conventions of 1949 and the First Additional Protocol of 1977. This discussion will initially focus on cases of declared wars, cases of occupation of territories belonging to one of the High Contracting Parties, and then cases of international armed conflicts related to wars of national liberation.

2-2-1 Cases of declared wars

Prior to 1949, international humanitarian law was referred to as the law of war. It exclusively pertains to cases of declared wars, which were initially delineated and their provisions were elucidated by the Hague Convention of 1899. This convention was subsequently reaffirmed in the Third Hague Convention on the Initiation of Hostilities in 1907 (Ben Omran, 2012, p. 23). Article One of this Convention stipulates that all contracting states must recognize that military operations may not be initiated without prior and explicit warning, either in the form of a declaration of war that elucidates the rationale behind the decision to engage in hostilities or as a final warning that is followed by a conditional declaration of war.

The text of this article of the Third Hague Convention has resulted in numerous conflicts being removed from the scope of armed conflicts (Ben Omran, 2012, p. 24) and the law of war being inapplicable to them. The Sino-Japanese conflict (1931-1932) provides an illustrative example of this phenomenon. Both parties denied that war had broken out between them and considered the 1925 Geneva Convention and the 1907 Hague Convention inapplicable.

This prompted the drafters of the Geneva Conventions to address the aforementioned flaw in the laws of war, which was included in Article 2 common to the four Geneva Conventions of 1949. This article confirms in its first paragraph that, in addition to the provisions that apply in times of peace, this Convention applies in cases of declared wars or any other armed clashes that may arise between two or more of the High Contracting Parties, even if one of the parties attempts not to recognize the state of war.

The text of this article posits that the law of war is applicable to all instances of declared war and other forms of armed conflict, even in the absence of recognition by one or more parties to the conflict (Massaad, 2008). Therefore, the absence of a prior declaration is no longer a justification for denying the existence of a war between the conflicting parties, which results in the application of the rules of international humanitarian law.

2-2-2: Cases of occupation of territories belonging to one of the High Contracting Parties

In the context of the occupation of a territory belonging to one of the High Contracting Parties, the term is defined in accordance with the following statement by (Saad Allah, 2016): "It is armed violence perpetrated by the armies of two states, involving two or more conflicting parties, which ultimately results in the control of one state over another, and the dissolution of the latter's legitimate authorities."

Article 42 of the Regulations Relating to the Laws and Customs of War on Land, which was annexed to the Convention Respecting the Laws and Customs of War on Land and concluded at The Hague on October 18, 1907, defined the state of "occupation" and stated that "the territory of a State is considered occupied when it comes to be actually under the authority of the enemy's troops, and that this occupation extends only to the territories where the occupier can exercise this authority after its establishment.

In the definition of Article 2 common to the four Geneva Conventions, the second paragraph states that the Convention shall also apply to all cases of occupation, whether partial or total, of the territory of one of these High Contracting Parties, even in the absence of armed resistance.



Article 2 common to the four Geneva Conventions offers a conceptual framework that extends the applicability of these conventions to all instances of partial or total occupation of territories, even in the absence of armed resistance. The legitimacy of any particular occupation is regulated by the Charter of the United Nations and the law of resort to force. The law of occupation applies regardless of whether the occupation is considered legitimate or not. The approval of the Security Council is irrelevant in this regard. Regardless of the goal or designation, whether it is in fact an invasion or liberation, administration or occupation, the facts on the ground are the determining factor.

As international humanitarian law and the law of occupation are primarily motivated by humanitarian considerations, the facts on the ground alone determine the method of applying international humanitarian law. This background (Saad Allah, 2016, p. 399) helps create a new understanding of the relationship between international humanitarian law and the law of occupation based on the following principles:

- An occupier has no sovereignty over an occupied territory.
- The rights of the occupier are limited to the temporary period of its occupation.
- The occupying authority is obligated to respect the laws in force in the occupied territory in the absence of security threats or anything that impedes the application of international law of occupation.
- The occupying authority must restore and ensure order and public safety as much as possible.
- The occupying authority must ensure adequate standards of hygiene and public health and the provision of food and medical care to the population of the occupied territory.
- The occupying power may not compel the population of the occupied territory to enlist in the armed forces.
- Mass or individual transfers of the population from or within the occupied territory are prohibited.
- Transfer of the civilian population of the occupying power into the occupied territory is prohibited, regardless of its nature.
- Collective punishment is prohibited.
- Taking of hostages is prohibited.
- Prohibition of all measures of reprisal against protected persons and their property.
- The occupier is prohibited from confiscating private property.
- Destroying or seizing enemy property is prohibited, except in cases where absolute military necessity dictates it in the conduct of military operations.
- Destruction of cultural property is prohibited.
- Individuals accused of criminal acts may enjoy procedures that respect internationally recognized judicial guarantees, such as notification of the reason for detention, specific charges, and a fair trial without delay.
- Red Cross and Red Crescent personnel are obliged to carry out their humanitarian activities.

The practical reality of the situation in the occupied Palestinian territories, particularly in the Gaza Strip, serves to illustrate the reality of the Israeli occupation. Despite the withdrawal of Israeli



ground forces from Gaza in 2005, the occupation persisted as Israel retained effective control over the territory, including its territorial waters and airspace, as well as the movement of people and goods. This resulted in the Gaza Strip effectively becoming an open-air prison. This demonstrates the Zionist entity's lack of commitment as an occupying power to the rules of international humanitarian law, particularly with regard to the provision of basic necessities for Gaza residents, including water, food, and medicine. Additionally, it is important to consider Israel's violation of international human rights law, given the prolonged duration of the occupation. Since October 7, 2023, Israel has been perpetrating egregious violations of the rules of international humanitarian law against the Palestinians in all the occupied territories. These violations include war crimes, crimes of genocide, and crimes against humanity. Israel has employed a range of internationally prohibited weapons, repression, collective punishment, starvation, terror, and other illicit methods. The perpetrators of these crimes bear criminal responsibility.

It is distressing to observe that these crimes continue unabated, with no apparent intervention to halt them. They occur in full view of the global community, despite the presence of international bodies that have assumed the responsibility of maintaining international peace and security and protecting human rights. These bodies are led by the United Nations, the UN Security Council, the International Criminal Court, the International Court of Justice, and the Arab League, which has thus far failed to play an active role in the events currently unfolding. Furthermore, the Joint Defense Agreement has yet to be activated.

2-2-3 Cases of international armed conflicts related to wars of national liberation

The scope of international armed conflicts has been expanded to include wars of national liberation, as the First Additional Protocol of 1977 established the inclusion of this type of conflict in the category of international armed conflicts through what is stated in the text of Article 01, paragraph 04. The most important thing to note in the text of this paragraph is that it limits the scope of national liberation movements to conflicts waged by peoples against colonizers and regimes and entities based on a policy of racial discrimination, which results in armed conflicts waged by peoples against oppressive regimes or those aimed at the division of a State and based on social or political grounds not being considered as a type of national liberation movement.

3- Non-international armed conflicts

The term non-international armed conflicts refers to conflicts that take place within the borders of the state's territory between the ruling authorities on the one hand and the separatist forces or revolutionaries on the other hand (Boughanem, 2013). Non-international armed conflicts are currently the most widespread, and the most important thing that distinguishes them is that these conflicts arise between people who are familiar with the political, economic, social, cultural backgrounds and customs of each party.

In order to better understand the subject of non-international armed conflict, also known as non-international armed conflict, we will address the definition of international humanitarian law and then the categories of international humanitarian law.

3-1 Definition of Non-International Armed Conflicts

The term non-international armed conflicts did not exist in the legal field before 1949. Despite the difference in traditional jurisprudence in finding a definition for this phenomenon, they agreed that it is at the core of the internal affairs of the state.

A non-international armed conflict is defined in jurisprudence as: "When violence takes place within the borders of a state and erupts between a state and an organized armed group or groups other than the state or between the armed groups themselves."

Professor Jean Pictet defined it as "any conflict between government forces and dissident armed forces or organized armed groups when these groups exercise control over part of the country's



territory and are under responsible command, such that they are capable of conducting sustained and coordinated military operations.

It is also defined as: "A conflict in which the armed forces of a state engage in armed confrontation with insurgents.

It can also be defined as: "A struggle that takes place on the territory of a sovereign state between its armed forces and an organized dissident armed force, or between regular armed groups, in a sustained and coordinated manner".

Thus, non-international armed conflicts are based on 05 conditions (Saad Allah, 2016, p. 414), which are:

- The emergence of a state of violence.
- The development of violence into continuous and coordinated armed confrontations.
- That the violence takes place on the territory of the state.
- That military operations take place between government forces and one or more organized armed groups, or between those groups.
- That the groups involved in the fighting are able to respect and implement international humanitarian law.

It can also be defined as (Massaad, 2008, p. 57): "A conflict that erupts between two parties within the state and in which armed force is resorted to, and has a public and continuous nature that the state is unable to control, and results in humanitarian and political effects, and may extend outside the same country".

A non-international armed conflict is a war in which one of the parties is not a state (Abu Al Khair, 2008) and can break out between a state and a group of rebels, individuals from national liberation movements, and is often between a state and a territory that wants to secede from the mother state, or between an occupying state and a national liberation movement.

The International Committee of the Red Cross has defined a non-international armed conflict as "a protracted armed confrontation between the armed forces of a government and the forces of one or more armed groups or between such groups arising on the territory of a State (party to the Geneva Conventions). The armed confrontation must reach a minimum level of intensity, and the parties to the conflict must display a minimum level of organization" (Saad Allah, 2016, p. 416).

3-2 Types of Non-International Armed Conflicts

The classification of non-international armed conflicts is of great importance in determining the rights and obligations of the conflicting parties, as well as the applicable rules of international humanitarian law.

These non-international armed conflicts are still ongoing, as they break out every time in many countries of the world, especially in Africa, leaving more killings of individuals and destruction to these countries.

Non-international armed conflicts can be classified into two types: non-international armed conflict according to Article 3 common to the four Geneva Conventions, and non-international armed conflict according to the Additional Protocol to the four Geneva Conventions of 1977.



3-2-1 Non-international armed conflicts according to Article 3 common to the four Geneva Conventions of 1949

The inclusion of Article 3 common to the four Geneva Conventions of 1949 is of great importance in that it governs a traditional type of non-international armed conflict that takes place between regular armed forces and one or more armed groups in the territory of one state.

The best evidence of this is that this article is the result of the tremendous efforts of the International Committee of the Red Cross and the long discussions that took place at the Diplomatic Conference held in Geneva in 1949. Thus, it is considered the first international legislation that subjects non-international armed conflicts to a degree of international organization (muller, 1956) that can provide a minimum of requirements for humane treatment in such conflicts.

The text of Common Article 3 states that armed conflicts that are not of an international character are conflicts that arise on the territory of one of the High Contracting Parties (Vité, 2009) between the established authority and one or more dissident groups, or between rebel groups among themselves without the established authority being a party to them, provided that these dissident groups meet two basic elements: the generality of the scale of the rebellion on the one hand, and their fulfillment of the requirements of organization on the other hand. It obliges all parties to the conflict to apply the provisions contained in this article, without giving a definition of a non-international armed conflict (Awashria, 2001).

This article also defined the personal scope of protection during non-international armed conflicts, such as civilians, members of the armed forces who have stopped fighting due to wounds, illnesses or capture, without discrimination on the basis of race, religion, belief or sex.

In addition, this article prohibited acts against protected persons, such as attacks on life, cruel treatment, torture, hostage-taking, outrages upon personal dignity, the pronouncement of judgments and the execution of sentences without the legal guarantees recognized by custom, and imposed the obligation to care for the wounded and the sick. It also stipulated that the International Committee of the Red Cross might offer its services to the parties to the conflict.

It is worth noting that the International Committee of the Red Cross has sought to expand the interpretation of the concept of armed conflict not of an international character contained in Common Article 3, where it convened several committees, including the Committee of Experts to Study the Application of Humanitarian Principles in the Event of Internal Disturbances held in 1955, as well as the Committee of Experts charged with studying the issue of assistance to victims of internal conflicts held in 1962. These experts attempted to establish a broad definition of such conflicts, and considered internal armed conflicts covered by Common Article 3 as conflicts not of an international character and exceeding the degree of internal disturbances and tensions, meaning that Common Article 3 does not apply to riots and other isolated and scattered acts of violence, whether the government is a party to them or not, and taking into account the level of organization of these rebel groups and the extent of control over part of the territory of the state in question. Thus, the article imposed the application of its provisions in all cases and circumstances, and the High Contracting Parties must abide by its content in the event of a non-international armed conflict breaking out on their territory (Ben Nasser, 2021).

3-2-2 Non-international armed conflicts according to the Second Additional Protocol of 1977

The Second Additional Protocol concluded on August 12, 1977 came after the emergence of a jurisprudential trend that provides an accurate definition of non-international armed conflict, and removes any ambiguity that may be associated with the definition of Common Article 3. This Additional Protocol, which supplements Common Article 3, was a qualitative shift in this direction (dilmi & Ben Haj Taher, 2023).

The armed conflicts to which the text of Article 1 of this Protocol applies are the conflicts that take place between the regular armed forces of the state and the armed forces of the rebel group, which must meet the requirements of the first paragraph: (the generality of the size of the



rebellion, its fulfillment of the requirements of organization, and its undertaking of the requirements of territorial control).

The Second Additional Protocol, Additional Protocol II to the Four Geneva Conventions and Relating to the Protection of Victims of Non-International Armed Conflicts, dated June 8, 1977, and the text of Common Article 3 meet on two points, namely the generality of the rebellion in terms of size and the element of rebels fulfilling the organization. On the other hand, we note that this first article does not include the phrase "parties to the conflict" that is included in Common Article 3, and this is due to the desire of the states to maintain sovereignty, as well as to block the path of the rebels against the existing government. It is worth noting that this protocol does not apply to conflicts between two rebel groups.

In its comment on what was stated in the first paragraph of this protocol, the International Committee of the Red Cross stated (Ben Nasser, 2021, p. 953) that it applies to the following cases of armed conflict:

- Conflicts that occur between regular forces.
- Conflicts that occur between regular forces and rebels.
- Conflicts between forces that usurp power and popular resistance forces.
- Conflicts between different parties in which the regular forces are not a party, due to the absence of the government or its standing away from the conflicts.

The effects and repercussions of non-international armed conflicts extend beyond the internal framework of the state, such that this state may be vulnerable to foreign intervention in the event that the vital interests of states are affected or endangered. There are those who support the existing regime and those who support the fighters. Major states in particular often resort to fueling conflict within other states for their own interests. The international situation bears many examples, such as what happened and is happening in many countries such as Lebanon, (Burundi, Yugoslavia) in the early nineties, Sierra Leone, East Timor, the Central African Republic, Syria, Libya, Yemen, and Sudan currently. This has accelerated the intervention of workers in the humanitarian field in order to think about frameworks and mechanisms for monitoring the protection of victims of non-international armed conflicts (Boughanem, 2013, p. 73).

4- Cases of conflicts excluded from armed conflicts

In recent years, the world has witnessed a significant increase in the phenomenon of internal violence, especially in Africa and the Middle East, which has resulted in serious violations of human rights. These internal disturbances and tensions and the conflicts that fall under their jurisdiction are characterized as acts that disturb public order, and the level of violence in them is not high enough, so they do not amount to an armed conflict, and therefore the rules of international humanitarian law do not apply to them, as stated in the common Article 3 of the Geneva Conventions of 1949, as well as the text of Article 1, paragraph 2 of the Second Additional Protocol relating to non-international armed conflicts of 1977, and the matter of protecting victims of this type of conflict was left to international human rights law.

The state of internal disturbances and tensions has not been defined in the rules of international humanitarian law, despite the existence of some jurisprudential definitions of it, in addition to the definition of the International Committee of the Red Cross. We will first discuss internal disturbances, then internal tensions.

4-1 Internal Disturbances

Several definitions of internal disturbances have been reported, attributed either to international law scholars or the Second Additional Protocol relating to non-international armed conflicts of 1977, or the International Committee of the Red Cross.



Some international law scholars defined it as: "Situations that do not amount to a non-international armed conflict but include violent confrontations between the ruling authority and dissidents, including a degree of permanence and danger interspersed with the use of violence and rebellion, and conflict between semi-organized groups and the ruling authority.", it can also be defined as (jebabla, 2010): "Chronic or short-term collective confrontations with permanent or intermittent effects, affecting all or part of the national territory, or having a religious, ethnic, political or other character."

As for what is stated in the text of the second paragraph of Article 1 of the Second Additional Protocol to the Geneva Conventions, it becomes clear that it did not provide a definition of disturbances, but rather referred to them as examples, not limited to, such as demonstrations, acts of violence, rebellion, chaos, disobedience, unrest, and similar situations, thus excluding these disturbances from the scope of international protection according to the rules of international humanitarian law because they are not considered armed conflicts according to the standards set by this protocol.

As for the definition of the International Committee of the Red Cross, the most important thing it contains is: "They are situations that are not called a non-international conflict, involving the presence of internal violence of a degree of severity or continuity, and these internal disturbances have different forms, starting with actions that may amount to a spontaneous revolution in the form of a conflict between somewhat organized groups on the one hand, and the police forces or armed forces of the ruling authorities on the other hand, in an attempt by the latter to restore the internal order of the state, and impose the application of a minimum of humanitarian rules to reduce the number of victims." (Atlam, 2006).

4-2 Internal tensions

Definitions of internal tensions can be given, and they are attributed either to international law scholars or according to what is stated in the Second Additional Protocol relating to non-international armed conflicts of 1977 or the International Committee of the Red Cross.

The definition of internal tensions by some scholars is internal tensions that do not rise to the level of internal disturbances in terms of their seriousness, and have situations with high levels of tension, and are characterized by being of a political, religious, racial, ethnic, economic or social nature, and may relate to the remnants resulting from a civil war or a state of political tension, or similar situations that may lead to the disruption of legal guarantees, and taking measures that may reach severe penalties against violators despite the simplicity of the violation committed.

It can also be defined as a situation in which the state displays its strength and threats without using them as a preventive measure, with the aim of preserving public order within the state, and without the matter developing into a state of disorder (Raqeeb & Aqrawi, 2019).

The Second Additional Protocol of 1977 excluded internal tensions from armed conflicts, and according to the text of Article 1, paragraph 2, it does not constitute a definition of internal tensions. Third World countries, for their part, have striven to prevent the inclusion of (internal disturbances and tensions) within the circle of armed conflict, as they are newly independent and constantly exposed to such situations (Boughanem, 2013, p. 73).

The International Committee of the Red Cross believes that what is meant by internal tension is serious internal tension that affects one of the political, religious, social or economic fields, and is accompanied by one or more cases related to mass arrests and an increase in the number of political detainees, poor or inhumane detention conditions, cases of disappearance, the extension of the state of emergency and the resulting cancellation of basic legal guarantees (Boughanem, 2013, p. 80).

Internal disturbances and tensions are cases of disruption that affect the internal order of the state, interspersed with manifestations of violence, whether by an irregular party that lacks structure and organization, or by the ruling authority, which in these cases uses members of the



police or army to maintain public order. In the mentioned cases, international humanitarian law does not apply, and in such circumstances, the application of international human rights law may also be restricted, such as in a state of emergency.

.5-Conclusion

The rules of international humanitarian law apply in all their sources as soon as an armed conflict breaks out, and thus the provisions of this law apply to all conflicting parties without discrimination or taking into account some of the circumstances that accompany the outbreak of the conflict. The scope of application of international humanitarian law is international armed conflicts, which are stipulated in the four Geneva Conventions, and the scope of these conflicts was expanded in the First Additional Protocol of 1977 attached to the four Geneva Conventions of 1949 to include wars of national liberation.

In addition, international humanitarian law applies to non-international armed conflicts, which are stipulated in Article 3 common to the four Geneva Conventions of 1949, as well as Article 1 of the Second Additional Protocol of 1977 attached to the four Geneva Conventions of 1949. Internal disturbances and tensions were also excluded from non-international armed conflicts in the second paragraph of Article 1 of this Second Additional Protocol. Through this study, we reached the following results:

5-1 Results

1- There are gaps in the third common article theoretically and practically, as it did not specify a definition of non-international armed conflicts on the one hand, and on the other hand, it did not set material or procedural standards through which the scope of these conflicts could be determined, which led to giving broad discretionary power to states to adapt the conflict taking place on their territories.

2- Additional Protocol II of 1977, which complemented the third common article, but did not expand in terms of its scope of application, as it specified one type of non-international armed conflicts in which the government is a party.

3- The third common article established rules for the humanitarian protection of groups affected by this type of conflict, and thus became part of the international public order, and an important part of established international custom.

4- Failure to include internal disturbances and tensions within the scope of protection of international humanitarian law due to the lack of conditions stipulated in Article 3 common to the four Geneva Conventions of 1949, and Article 1 of Additional Protocol II of 1977, in addition to the refusal and reservations of most countries participating in the Diplomatic Conference in Geneva from 1974 to 1977.

5-2 Recommendations

1- Expand the legal framework designated for non-international armed conflicts to ensure that the deficiency in Article 3 common to the four Geneva Conventions of 1949 and Additional Protocol II of 1977 is covered.

2- Take the initiative to embody a unified international law that regulates both international and non-international armed conflicts on the territory of each country, without the state having discretionary authority.

3- Take the initiative to settle armed conflicts by peaceful means.

4- Include the subject of international humanitarian law for teaching in all educational programs at the university.

5- Develop the rules of international humanitarian law by inviting jurists and specialists to research in this field.

6- Opening the way for the formation of judges specialized in international humanitarian law at the local or international level.

7- Programming international and national forums and seminars on the subject of international humanitarian law, and encouraging participation in them.



8- Providing the national judicial system with texts criminalizing violations of international humanitarian law. The article includes the theoretical and practical limits of the research (self-criticism: reflect author future research intentions).

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