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## Restriction of Methods of Warfare in International Humanitarian Law

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### Abstract

The importance of the article comes to shed light on the rules related to limiting the means and methods of combat in international humanitarian law by establishing rules and controls for combat, organizing the conduct of hostilities, and taking into account the requirements of military necessities. It included rules and principles related to means and methods of fighting, and the results of the article reached Islamic Sharia is distinguished in this regard, that breaching its provisions entails an afterlife as well as a worldly penalty, and this is claimed to protect human rights during wars, whether they are combatants or non-combatants, in addition to The rules of Islamic Sharia, which include the protection of war victims, are based on morals and human values, and morality is the fence of human behavior in the treatment of war victims. Finishing off the wounded and torturing him, just as Islam forbids the killing of women, children, the elderly, and others who do not fight He does not take part in hostilities against Muslims.

**Keywords:** Restriction, Methods of Warfare, International Humanitarian Law

### Introduction

The provisions of international humanitarian law impose on the warring parties to respect the guarantees contained in its charters and restrict or prohibit the use of certain means and methods of fighting, and international humanitarian law ,although it does not prevent war, seeks to limit its effects in order to ensure the requirements of humanity that cannot ignore the necessities of war.

In view of the increase in human rights violations during times of armed conflicts, especially during and after the First and Second World Wars, the Member States of the United Nations developed an attempt to limit these violations, a number of rules to be followed during armed conflicts, these rules are what were codified as the Geneva Conventions of 1949 and its Additional Protocols of 1977 annexed to it and set out the basic legal framework governing international humanitarian law which refers to the rules governing conduct during an armed conflict that lead to human rights violations if not followed primarily to regulate armed conflict, in particular the protection of victims as an important aspect of international law (Zia, 2009).

International humanitarian law has included the Hague rules in addition to the Geneva rules. The addition of humanity is not limited to the wounded, prisoners, shipwrecked, civilians and civilian objects only, but also includes fighters in the field (Shukri, 1999).

Contemporary developments imposed a development on the legal rules applied in wars, both in terms of form and content. After the theory of armed conflict replaced the traditional theory of war, the word war was no longer used in its traditional sense, and the appropriate for it became international humanitarian law. The mechanisms of international humanitarian law have necessitated the necessity of restricting the freedom of the belligerents to choose the means to harm the opponent by placing numerous restrictions on the behavior of the parties to the conflict during combat operations in order to alleviate the suffering and pain caused by armed conflicts, whether international or non-international, that suffer from civilians and military alike. Either (Ahmed, 2016).

The four Geneva Conventions, which were held in 1949 in the aftermath of the Second World War, and the unspeakable horrors that took place in the victims of war, and decided many provisions that guarantee their care and reduce the pain and calamities they were exposed to and the provisions included in these four conventions, as well as The two annexes added to it in 1977, which constitute what is newly known as international humanitarian law, all of which are concerned with the humanitarian aspect of treating war victims. Undoubtedly, the heavenly laws, especially Islamic Sharia, have contributed a great deal to the formulation of this law (Matar, 2008)

The Third Geneva Convention replaced the Prisoners of War Convention of 1929, but it expanded the scope of the categories of persons entitled to protection and humane treatment, and established effective criminal penalties for persons who commit or order the commission of a grave breach of this Convention, and the Fourth Geneva Convention sought to provide protection For civilians, including the occupied territories, because previous agreements did not result in the protection of civilians in war, which made this agreement take into account the experiences of the Second World War and was concerned with protecting civilians and alleviating the suffering caused by the war.

In Article 27, it affirmed that people have the right to respect for their persons, their honor, their family rights, their religious beliefs, their customs and traditions, and the need to treat them humanely at all times, and to protect them in particular against all acts of violence or threats, and against insults and public curiosity, and the need to protect women in particular against any assault on their honour, in particular against rape, enforced prostitution and any indecent assault on them and with due regard to the provisions relating to health, age and sex, and that all protected persons be treated with the same consideration without any adverse discrimination on the basis of race, religion or political opinions, which is the most important principle of Islamic law.

International humanitarian law includes the laws of war and human rights through the Hague laws that define humanitarian rules to be observed during wars and the Geneva laws relating to the treatment of prisoners of war, the protection of the civilian population in situations of armed conflict, the protection of persons suffering the scourge of conflict, and the protection of property not directly related to military operations (Abu Ashabeh, 2003).

The problem of this study is that all the studies written on this subject shed light on the provisions that protect the victims of armed conflicts and the imposition of restrictions on the way wars are fought. It means the obligation to respect the Geneva Conventions and the obligation of the state to do everything in its power to ensure that its organs comply with the rules set forth. This part of the article's provision affirms in essence the basic principle that the contract is *pacta sunt servanda*, codified by Article 26 of the Vienna Convention on the Law of Treaties and in the event of disputes Compliance with non-international armed groups, compliance with respect for the law is binding on organized armed groups, under Common

Article 3. Compliance with international humanitarian law is the primary responsibility of the parties to any conflict. However, Common Article 1 goes one step further by offering the undertaking of ensuring respect for the law in all circumstances, which in turn involves an internal component and an external component, and the internal component hints at the need for each of the High Contracting Parties to ensure Geneva, respect for these conventions at all times not only by the armed forces and their civil and military authorities, but by the entire population. The external component assumes that third countries not participating in an armed conflict, but also international and regional organizations, have a duty to work to ensure that the parties to the conflict comply with the Geneva Conventions, and that protection extends to all texts of international humanitarian law and the obstacles facing their application. Therefore, the problem of the study can be limited to The obligation of states to abide by the methods of war in international humanitarian law and Islamic jurisprudence and the rules governing armed conflicts in international humanitarian law, the law of armed conflict and the Geneva law . States parties , the situation of non-international armed conflicts and non-compliance with respect for international humanitarian law binding on organized armed groups , and holding States legal responsibility in case of failure to comply with international humanitarian law , and the obstacles that prevent the development of international humanitarian law mechanisms without respecting the Geneva Conventions from completing his tasks.

also seeks through his study, to achieve a set of goals centered around a general goal , which is to restrict the methods of war contained in the rules of international humanitarian law by clarifying the mechanisms of their application and identifying methods of warfare in international humanitarian law and Islamic jurisprudence and the rules governing armed conflicts in international humanitarian law and conflict law Armed groups and Geneva law The law of war for what is similar to the lack of commitment and adherence to all its aspects , and to identify the obstacles facing the restriction of methods of warfare, and to set a set of determinants through which compliance with respect for international humanitarian law is binding on organized armed groups.

Where the study questions were legally built to know the justifications and historical circumstances that led to the non-compliance of states, organizations and armed groups to adhere to the methods of war? And the mechanism for applying and implementing the rules of international humanitarian law for the rules and legal obligations on the conflicting or warring parties, regardless of the legality or illegality of the position of these parties? As for the sub-questions of the study, each sub-objective was assigned a question dedicated to answering it through the study . What is the concept of restricting methods of warfare in international humanitarian law and Islamic law? And what are the factors for analyzing the inclusion of human rights during the war in Yemen in international humanitarian law and Islamic jurisprudence? And are the obligations contained in the four Geneva Conventions and the protocols annexed thereto of 1977 for all states party to international Islamic law and Islamic law that states, organizations and armed groups abide by in the methods of war ? And what are the methods of war to include human rights? And what are the obstacles that prevent the implementation of the mechanisms of international humanitarian law from respecting the Geneva Conventions by adhering to the methods of warfare?

*The principle of restricting the right of the parties to the conflict to choose methods and means Fighting in international humanitarian law*

In this context, it can be said that the various legal bases are contained in general agreements and special agreements on restricting the right of the parties to the conflict to choose methods and means of warfare in international humanitarian law.

In general agreements, we find the Hague Conventions of 1899, which talk about imposing measures to mitigate the excesses of combatants, control the conduct of hostilities, restrict the methods and means of using force, and prohibit them from combatants, especially those that cause excessive harm, and then the Hague Conventions of 1907, which stipulate To protect the authority of the principles of the law of nations as established between civilized peoples, the laws of humanity, and the requirements of public conscience, in addition to the Geneva Conventions of 1949 AD, which dealt with most issues related to the protection of all victims of armed conflicts, directly or indirectly, and two protocols were attached to this Convention in 1977 AD (Kamal, 2011)

As for the agreements on the principle of restricting the right of the parties to the conflict to choose methods and means of warfare, they specified the means prohibited during armed conflicts, and there were international agreements banning some types of conventional weapons, in addition to recent agreements that also banned certain types of weapons.

*1. The principle of restricting the right of the parties to the conflict to choose methods and means of warfare in general agreements*

International Humanitarian Law The general conventions of international humanitarian law , which are represented in the Hague Conventions of 1899 and 1907, and the International Humanitarian Law Conventions. Geneva of 1949 AD, to protect the victims of armed conflicts and alleviate human suffering during wars, and the protection of his rights during the course of hostilities between the parties to the conflict (Rochu, 2013)

*1.1. The principle of restricting the right of the parties to the conflict to choose methods and means of warfare in the Hague Conventions The year 1899 AD and 1907 AD*

The principle of restricting the right of the parties to the conflict to choose methods and means of warfare finds its legal basis in The Hague Conventions and on this basis this section will be divided into two components as follows

**First - The principle of restricting the right of the parties to the conflict to choose methods and means in the Hague Conventions of 1899**

The Hague Conventions of 1899 have their origins in some Informal initiatives such as those of the Red Cross in this regard, this organization has significant contributions, as it usually calls on governments or the international community to adopt more precise rules on a topic.

These initiatives also come from other parties, such as the leaders of the armies and the Institute of International Law, which sought to establish international legalization prohibiting the use of weapons that by their nature cause unnecessary suffering or unnecessary injury, and to grant protection to the category of prisoners of war to mitigate the excesses of combatants, and to control the conduct of hostilities (Barbah, 2013)

and states Article 55 of the 1899 Hague Conventions: "The occupying forces of war exercise their powers based on the principle of war necessity in particular, a principle that forces the occupier to do what he deems appropriate to maintain security and public order, and the security and safety of his forces." It also regulates the rights and duties of combatants in the

conduct of military operations, and aims to limit the effects of violence and deception so that they do not exceed military necessity, and Hague law primarily seeks to establish interstate rules on the use of force (Nasiri, 2009)

These agreements included three sections

A- Section One: International agreements regulating the conduct of hostilities, methods and tools, and are aimed at In general, the achievement of the military necessity of the warring parties, i.e.regulating the rights of combatants to fight and to use the necessary weapons in order to achieve the objective of the war.

B - Section Two :International agreements aimed at protecting the victims of armed conflicts , and the distinction between Combatants and non-combatants, and civilian and military objectives, in implementation of the principle of humanity.

C- Section III: The Third Hague Convention issued by the First Hague Peace Conference in 1899 ,regarding the sick and wounded of land wars to be applied in naval warfare (Marzouki, 2009)

### **Second - The principle of restricting the right of the parties to the conflict to choose methods and means of warfare in the Hague Conventions of 1907**

The Fourth Hague Conventions on Land War of 1907 AD stated in their preamble: “In cases not covered by the provisions of the concluded agreement, the civilian population and combatants shall remain under the protection of the powers of the principles of the law of nations, as stated in the customs established among civilized peoples, and the laws of humanity, and the requirements of the public conscience.

Also, the rules of protection that prohibit directing hostilities in this way, and ensure the protection of the civilian population against this type of attack, are included in the provisions of Chapter IV of Protocol I of 1977 AD, which codified the norms and laws of war related to the protection of persons and the civilian population from the effects of The fighting that was the Hague Regulations on Land War 1907 AD partially dissected it (Kamal, 2020)

Article 22 of the Hague Regulations annexed to the Hague Convention on Land War of 1907 states“ :The belligerents shall not have an absolute right to choose the means of inflicting harm. with the enemy”.

The rules of the Hague Conventions of 1907 focused on three main axes: the first is the idea of necessity, which obliges combatants to restrict the means of using force, and the second is the idea of humanity that On reducing the suffering of combatants and others because of the war, and reducing the accidental loss of life. As for the third axis, it included the idea of restricting the methods and means of fighting and not breaching trust among the fighters. (Hatem, 2020)

- 1.2. *The principle of limiting the right of the parties to the conflict to choose methods and means of warfare in the Geneva Conventions The year 1949 AD and its two annexes to the year 1977 AD.*

dealt with the Geneva Conventions For the year 1949 AD, the protection of prisoners, notables ,civilian property, combatants and civilians, but it was not granted adequate protection, which made it support this deficiency by adopting two additional protocols of 1977 AD.

### **First - the principle of restricting the right of the parties to the conflict to choose methods and means of warfare in agreements Geneva in 1949:**

The Geneva Conventions are concerned of 1949, in particular with this protection, and it is still in use A platform from which states can urge belligerents and belligerents to ensure the protection of civilians and their environment and their property.

Articles have been stipulated 13,12,12,12 In its second common paragraph in the four Geneva Conventions of 1949 AD, it states: "The parties to the conflict who are under his authority shall treat them humanely and treat them without discrimination based on political opinions, religion or any other similar criteria, and any attack on their lives is strictly prohibited. or use violence against them. The four Geneva Conventions of 1949 also included some Limited rules , and rather certain means designed to protect the civilian population as a whole from the consequences of war, and the articles of Chapter Two are set out in Part Two 13 to 26) whose provisions cover some civilians who are not covered by the provisions of Article 4 and who are not protected under it, such as: nationals of the parties to the conflict who are under its authority, or nationals of the occupying power (Nasiri, 2009)

### **Second - The principle of restricting the right of the parties to the conflict to choose the methods of the two protocols annexed to the Geneva Conventions of 1949**

The first Geneva Protocol, annexed in 1977, related to the protection of victims of international armed conflicts, was adopted due to the shortcomings in the protection aspects, whether for prisoners , the civilian population, or civilian or military objects or property. The content of each protocol will be detailed below

#### **A- The principle of restricting the right of the parties to the conflict to choose methods and means of warfare in Additional Protocol I of 1977**

What was included in this first protocol of 1977 AD, the states parties pledged to respect the humanitarian principles that belong to all peoples, including the priority of the principle of human security and peace, whereby states must, accordingly ,not engage in any armed conflict against each other and remove the causes leading to that .

This protocol has prohibited weapons in many articles, especially in Article 35, which regulates Methods and means of warfare which It stated the following (Sassoli, 2017)

- right limbs Any armed conflict in the choice of methods and means of combat is not Really don't limit it restrictions.
- The use of weapons, projectiles, materials and means of warfare that are likely to cause unnecessary injury or suffering is prohibited.
- It is prohibited to use methods and means of warfare that are expected to cause severe damage to the natural environment.

as states Article 48 of Additional Protocol I of 1977 AD: "The parties to the conflict shall work to distinguish between civilian objects and military objectives and between the civilian population and combatants only, in order to secure and protect civilian objects and the civilian population " ( Makki, 2017)

It is clear from the text of this article that the parties to the conflict must respect the principle of distinction by working to direct military attacks against military objectives to ensure the protection of civilians and civilian objects.

**B - The principle of restricting the right of the parties to the conflict to choose methods and means of warfare in the Second Additional Protocol of 1977**

The United Nations played a major role in establishing and strengthening many of the rules of international humanitarian law, through the international agreements that it participated in, and these efforts reinforced the existence of principles to reduce wars and make them more humane (Hatem, 2020)

Which is based on the principle of respect for persons who do not participate in hostilities, or who are rendered unable to fight, and this conclusion stems from the enumeration of Article 3 common to the Geneva Conventions of 1949 AD for prohibited acts in all places and times, such as assault on physical safety. Fundamental guarantees for non-combatants to provide the necessary services may support prisoners and guarantee their judicial rights when tracing them (Locard, 2019)

This protocol also introduces a new addition in the field of interest in civil wars, which are wars that arise within the territory of a single state. As such, it is considered one of the most important pillars of international humanitarian law. In this regard, governments should not issue death sentences during the conflict, or at least refrain from implementing these sentences so as not to exceed what is stipulated in this Protocol.

Thus, the adoption of this second Additional Protocol of 1977 is a new opening in the era of humanitarian protection against the dangers of non-international armed conflicts. International humanitarian law did not provide protection for the victims of those conflicts before the adoption of this second annex to the Geneva Conventions, Especially that limited and partial protection that it was brought forth by the third article common to these conventions.

*1.3. The principle of restricting the right of the parties to the conflict to choose methods and means of warfare in the agreements own*

International Humanitarian Law Ensures Limiting the freedom of warring parties to choose the nature of weapons and the way they are used during armed conflicts. International humanitarian law has established legal rules contained in a set of conventions and treaties that absolutely prohibit the use of some weapons, given their complete conflict with the principles on which international humanitarian law is based (Abdul Hamid, 2020)

In this context, these legal provisions for these prohibitions and restrictions are derived from customary international law and international treaty law. In order to understand the aspects of this issue, some international agreements that prohibit or restrict the use of some types of weapons will be discussed in the following two sections

*1.3.1 International agreements that prohibit or restrict the use of certain types of conventional weapons*

Since the mid-1960s, at the suggestion of several countries in reaction to the use of tear gas, herbicides in war, and other things considered excessively harmful or indiscriminate in effect, including napalm and other incendiary weapons, anti-personnel landmines and cluster bombs, the United Nations General Assembly has passed resolutions aimed at organizing the use of such weapons is prohibited. The Convention on the Prohibition and Restriction of the Use of Conventional Weapons was adopted in Geneva in 1980, its annexed protocols set out the prohibited weapons, (1) which are four protocols, in addition to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines, and the Convention on the Prohibition of Cluster Mines. This will be detailed in the following points: (Hatem, 2020)

### **First - Saint Petersburg Declaration of 1868 AD regarding the prohibition of the use of some projectiles in time of war**

The Saint Petersburg Declaration of 1868, to which seventeen countries are still bound today, is the first international agreement to ban the use of a type of conventional weapon in time of war.

This declaration prohibited the use of projectiles weighing less than 400 grams, if they were of the kind that explode, or were filled with explosive or flammable materials, and its rules were aimed at prohibiting the use of weapons whose use would cause undue suffering. In addition to establishing the principle of distinction between combatants and civilians and to spare them the scourge of war.

### **Second - The United Nations Convention on Prohibitions or Restrictions on the Use of Concerned Conventional Weapons That May Be Deemed to be Excessively Injurious or to Have Indiscriminate Effects**

This agreement was concluded in 1980 AD, and it relates to those weapons that contradict the provisions of international humanitarian law. It also referred to the principle of international humanitarian law that states that the parties to an armed conflict have the right to choose the methods and means of warfare, not an unlimited right.

were contained in four protocols that were attached to the Convention upon its adoption, and they are as follows Radiographs (Kamal, 2020)

Protocol I: It is specific to the prohibition of fragments that cannot be detected by x-rays.

Protocol II: Prohibition or Restriction of the Use of Mines, Booby- Traps and Devices other.

Protocol III :Concerning the prohibition of the use of incendiary weapons.

Fourth Protocol :Special Banning the use of blinding laser weapons.

Below is a brief description of each protocol:

A - Special First Protocol For fragments that cannot be detected by X-ray: This protocol contains only a single provision, whereby the prohibition of the use of any weapon whose main effect is to cause A surgeon in the human body with shrapnel that cannot be detected by X-rays (Hatem, 2020)

may contain toxic materials such as: uranium or zinc, and some of them contain cluster heads or similar materials, and they may not cause death directly. Rather, the predominant effect of them is injuries of a very high degree of gravity, as a result of their fission into infinitesimal fragments. This method can be used with regular rifle ammunition.

B - Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby- Traps and Devices Other:

This protocol provides for the prohibition of all weapons directed against the civilian population and to protect them as far as possible from the long-term effects of these types of weapons, which are indiscriminate and cannot be precisely directed at a military objective. Add to group mode There are restrictions on the use of mines and some booby-traps that are designed to be seemingly harmless, but can explode by touching or approaching them. (Dready, 2009).

The 1980 Geneva Convention defines in advance what is meant by mines as munitions placed under, over, or near the ground or any other surface area, detonated by the presence, proximity or touch of a person or vehicle. As for what is meant by booby-trapped devices: the material designed with the aim of killing or injuring.

Other devices are: Hand-placed munitions, including explosive devices designed to kill or destroy, manually by remote control or automatically detonating after period of time.

### C- The Third Protocol Concerning Prohibitions or Restrictions on the Use of Incendiary Weapons:

The peace treaties of Saint-Germain are the first document that dealt with the issue of incendiary weapons, as these treaties prohibited flame-throwing weapons. (Nasiri, 2009)

The term “incendiary weapon” as defined by the first paragraph of Article 1 of Protocol III of 1980 AD, annexed to the Paris Convention, means: “Any weapon or any ammunition designed or designed primarily to set fire to things or to cause burns to persons by the action of flame, heat, or a combination of The flame and heat generated by the chemical reaction of a substance fired at the target”.

In contrast to Protocol II, which aimed to protect civilians and civilian objects, and combatants alike from the effects of the use of mines, booby traps and devices , the protection contained in Article II of Protocol III is limited to civilians and civilian objects, and does not offer any protection to combatants from the effects of the use of incendiary weapons (Dm, 2008).

has text The third protocol contains the following provisions

- It is prohibited in all circumstances to make the civilian population the object of attack with incendiary weapons.
- It is prohibited in all circumstances to make any military objective located within a concentration of civilians the object of attack With incendiary weapons fired into the air.
- It is also prohibited to make any military objective located within a concentration of civilians the object of attack with incendiary weapons. Weapon attack
- It is forbidden to make forests and other kinds of vegetation the target of a holocaust.

### D- Fourth Protocol on the Prohibition of the Use of Blinding Laser Weapons:

It prohibits the use of blinding laser weapons in anti-personnel weapons. (3) This protocol is considered one of the new protocols annexed to the United Nations Convention of 1980 AD, and certainly its impact will be great on the prohibition of blindness as a means of war and was adopted in 1995 AD .

The prohibition of this type of weapon was contained in Protocol IV, which stipulates: on judgments next:

- forbidden to use laser weapons specially designed for their combat function The only one is to cause permanent blindness to unenhanced vision.
- When using laser systems, countries should take all feasible precautions to avoid blindness Permanent for unenhanced vision.
- The prohibition set forth in this protocol does not include blinding occurring as an accidental effect of or accompanying the lawful military use of laser systems.

Third - Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines, and on Their Destruction (Ottawa Convention, 1997) ) :Sassoli , 2017( adopted on September 18, 1997. Article 1 deals with the commitment of the states parties not to develop, produce, or otherwise possess, stockpile, retain or transfer anti-personnel mines.

This agreement was able to establish a new rule represented in the comprehensive ban of anti-personnel mines, and the comprehensive prohibition of all forms of behavior from the use , development, production, possession, storage or transfer of these mines.

Fourth - Convention on the Prohibition of Cluster Munitions

For decades, cluster munitions have killed and injured thousands of civilians in different parts of the world, and these weapons have resulted in many casualties. Its effects persist after the war for a long time (Omar, 2018)

Cluster munitions did not find their way to the Convention on Conventional Weapons of 1980, and later became classified as explosive remnants of war, and are subject to Protocol V 2003 to the Convention on Conventional Weapons 1980. The notoriety of these munitions prompted the International Committee, the United Nations and non-governmental organizations to find an international instrument to confront this ban, and this effort culminated in the adoption of an agreement on May 30 2008 ,AD . The humanitarian impact could be much worse than anti-personnel mines.

### *2International agreements that prohibit or restrict the use of some types of modern weapons*

Leaving the production and use of modern weapons unchecked would destroy all rules of international humanitarian law, as these weapons entail mass destruction and results that far outweigh the military advantages desired from striking legitimate military targets.

Among the prohibited weapons that constitute weapons of mass destruction are chemical weapons and biological.

In order to take note of some of the international agreements that prohibit the use of some modern weapons, we will first look at the agreements that prohibit biological and chemical weapons, and then review the legality of the use of nuclear weapons, in the following elements (Hatem, 2020)

#### **First - International conventions prohibiting the use of biological weapons**

Biological weapons are considered dangerous weapons of mass destruction, which cannot be controlled if they are used . The prohibition of biological weapons was included in the Geneva Protocol of 1925. As well as in the Convention on the Prohibition of the Development, Production and Stockpiling of Biological Weapons and on Their Destruction of 1972, as follows:

A- The Geneva Protocol Concerning the Prohibition of Poisonous or Asphyxiating Gases or Any Other Gases or Bacterial Methods of War of 1925 AD: Despite the existence of texts that preceded this protocol in the field of prohibiting the use of chemical and biological weapons, this protocol prohibited bacteriological means of warfare without prohibiting the production or stockpiling of biological weapons, which was considered a shortcoming that led to the conclusion of an agreement (Makki, 2017).

B - Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological Weapons Toxin and the Destruction of Those Weapons in 1975:

The beginning was with the Saint Petersburg Declaration of 1868, which banned certain types of projectiles during the war that are liable to explode with inflammable materials, then came the Convention on the Prohibition of Bacterial Weapons of 1972 AD), to reach in the end the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological Weapons Al-Taksimiyah and its destruction in 1975

#### **Second - International agreements prohibiting the use of chemical weapons**

Within the framework of the law of armed conflict currently in force, there are two general international treaties related to the absolute prohibition of the use of poisonous and asphyxiating gases and chemical weapons:

- Geneva Protocol on the Prohibition of the Use of Poisonous and Asphyxiating Gases of 1925 AD .

Paris Convention on the Prohibition of the Development, Manufacture, Stockpiling and Use of Chemical Weapons and on Their Destruction, 1993.

There are also special agreements related to the prohibition of chemical weapons , which are : The Hague Declaration banning the firing of missiles with the aim of releasing and diffusion of asphyxiating and poisonous gases in the year 1899 AD.

Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases and of Bacteriological Methods Adopted at Geneva 1925 AD (Ali, 2018)

\*The 1993 Convention on the Prohibition of the Development, Manufacture, Stockpiling and Use of Chemical Weapons, and on Their Destruction. This agreement entered into force in April 1997.

The text of the prohibition of chemical weapons was also mentioned in the Statute of the Permanent International Criminal Court of 1998 in Article 8/B/18, which Asphyxiating, toxic, or other gases outlawed.

### **Third - The legality of the use of nuclear weapons**

Nuclear weapon means: “Any weapon that contains or is designed to contain or use nuclear fuel or radioactive isotopes, which, by detonation or any other uncontrolled atomic transformation, is Capable of overall excellence.

Knowing that so far there is no convention banning the use of nuclear weapons, and the prevailing belief today carries with it that these weapons are of mass destruction and have unconfined effects, whether on humans or the environment.

This prompted the international community to search for international instruments that limit and restrict the spread of nuclear weapons, which are of two types

A- The first category: It includes treaties that regulate the use of energy for purposes peaceful.

B - The second category: the treaties that regulate the use of nuclear energy for purposes military in peacetime.

In its advisory opinion, the International Court of Justice mentioned the characteristics and dangers of nuclear weapons by saying that the Court cannot ignore the unique characteristics of nuclear weapons...Nuclear weapons are explosive devices whose energy is produced by the fusion or fission of an atom, and this process does not, by its nature, just release huge amounts of heat and energy , but also strong and long-lasting radiation, and these characteristics make it have tragic effects, and its destructive power can only be contained in terms of space and not in terms of time.

#### *2. Mechanisms for applying the principle of restricting even the parties to the conflict in the choice of methods and means of warfare in law international humanitarian*

The mechanisms for implementing international humanitarian law are numerous and varied, some of them address violations before they occur, and some of them intervene after the occurrence of these violations, while others are always necessary and at every stage to enhance protection from the dangers resulting from violating the principle of restricting the right of the parties to the conflict to choose methods and means of warfare (Ashish, 2018)

The mechanisms of application are prevention, control and punishment mechanisms, and the latter will be clarified in the second topic when the international responsibility for violating the principle of restricting the parties to the conflict in choosing methods and means of warfare.

This can be done through the parties' pledge to respect international agreements and abide by their provisions, whether in peacetime or in time of war, and these mechanisms must be applied at the national and international levels.

2.1. *Mechanisms to prevent the violation of the principle of restricting the right of the parties to the conflict to choose methods and means Fighting in international humanitarian law.*

Prevention remains better than any other measure in ensuring the application and implementation of the rules and provisions of international humanitarian law, and working to promote knowledge - as widely as possible - of restrictions imposed on the use of unlawful methods and means of warfare.

It is the responsibility of states organizing to international conventions related to prohibiting or restricting the right of the parties to the conflict to choose legitimate methods and means of warfare, and the obligation to disseminate the rules of international humanitarian law at the national level, so that each individual can know what he must do, in the event of an armed conflict What, in addition to the obligation to include these rules in the school curricula so that civilians can gain knowledge of these limitations.

**The obligation to disseminate the rules of international humanitarian law relating to methods and means of warfare**

The dissemination of international law is one of the most prominent international obligations that fall today on the shoulders of states that have accepted the international treaties related to international humanitarian law, namely the four Geneva Conventions of 1949 AD, their two Additional Protocols of 1977 AD, and the Statute of the International Criminal Court of 1988 AD.

Nor can the effectiveness of the international legal rule be achieved, whatever it is ,unless the states agree to abide by them and want to implement them. The acceptance of the Geneva Conventions by states indicates the possibility of adopting their rules in all cases, and these conditions are not limited to wartime. There are obligations that states bear in A time of peace in order to mitigate the scourge of war and to protect the people affected by it

As a result, the four Geneva Conventions stipulate in Common Articles (5) 47, 48, 127, 144 the obligation of the contracting parties to publish the texts of the conventions on the widest scale in peacetime or in time of war. (4) In addition to the text of Article 83 of Additional Protocol I of 1977 AD, annexed to the Geneva Convention of 1949 AD .Given the mandatory nature of publication, we will address:

First - The importance of disseminating the rules of international humanitarian law related to methods and means of warfare:

Knowing the applicable legal rules is one of the most important factors in achieving their effectiveness, hence the importance of spreading and teaching the rules of international humanitarian law (Dam, 2008).

The importance of the obligation to publish the rules of international humanitarian law and the conventions on restrictions imposed on methods and means of warfare is due to the fact that everyone knows about it, especially the military men of the armed forces, whether from the army or the police, and in particular the armed militias These categories are directly addressed to this And rebels in civil wars, where the rules.

The international conferences of the Red Cross did not neglect to praise the importance of disseminating the rules of international humanitarian law, for example, the twenty-fourth conference of the Red Cross, held in Manila in November 1981, in its Resolution No. 10 on the

dissemination of international humanitarian law ,where He called on states to “ensure the commitment that imposes the dissemination of international humanitarian law among the armed forces ,ministries, academic circles and the public .” (Kamal, 2020)

Second - Means of disseminating the rules of humanitarian law related to methods and means of combat:

The knowledge of civilian personnel and combatants of the prohibited means and methods or restrictions on the right of the parties to the conflict to choose the methods and means of warfare shall be achieved through the following means of dissemination:

A- Compulsory publication in the official gazette of the state designated for publishing laws: After the completion of the stages of concluding the international agreement on international humanitarian law, it is published in the Official Gazette, and this publication is a necessary and necessary procedure until the knowledge of all is achieved and becomes effective in the internal law of the state.

b- Publication in written, visual and audio media:

This method achieves the knowledge of all individuals, as it is the most widespread means , and the most willing to be accepted by individuals. and publishing (Omar, 2018)

### **Second: Commitment to teaching and educating the rules of international humanitarian law related to methods and means of warfare**

An individual cannot respect a law he is ignorant of, even if the principle indicates that“ :There is no excuse for ignorance of the law,” and therefore education and education are the most important means promising to improve the implementation of the rules of international humanitarian law.

And it should not be limited to just listing, but it should include the need to actually teach it, the need to allocate training hours to it, and make the sciences of international law Humanism is a basic subject in military sciences so that its rules become part of the doctrine of the individual fighter.

Education is considered one of the most important means promising to improve the implementation of international law, because all other means are doomed to failure unless they are combined with education. This approach was demonstrated a long time ago, dating back to the Hague Convention on Land War of 1899 AD ,where its first article required the contracting states to issue instructions to their land armed forces (Ashish, 2018)

Also, knowledge of the rules of international law is a necessity for those who want to prevent violations that may occur in the future Based on this law, and from this standpoint, the International Committee of the Red Cross recalls on more than one occasion the essential role of education and education in the implementation of international humanitarian law.

### **Third: Contributors to the dissemination and education of the rules of international humanitarian law related to the methods of and means of warfare**

The task of raising awareness, dissemination and education of international humanitarian law is carried out only in accordance with the efforts made by the following bodies

#### **1. The International Committee of the Red Cross**

The ICRC's preventive role is important as it will determine an aspect of the conduct of operations in the field. Its mandate also extends to explaining and disseminating international humanitarian law and the possibility of its development, whether through the ad hoc

publications it issues, the seminars it holds, the training courses it conducts, or the conferences it calls for in cooperation with the Red Crescent or Red Cross Societies.

## **2. National Committees for International Humanitarian Law**

Among the most important national mechanisms in the implementation of international humanitarian law at the national level, we find the national committees of international humanitarian law, whose idea dates back to the twenty-fourth International Conference of the Red Cross held in 1981 in Manila, in which National Societies were invited and held responsible for providing aid to the governments of their countries (Ali, 2018)

One of its recommendations stipulated that states should seek to establish national committees to disseminate the rules of this law locally. These committees are characterized by the following characteristics (Abdul Hamid, 2020)

- The ability of the Commission to assess national law, in relation to the obligations arising from conventions, two protocols and other agreements of international humanitarian law.
- That the commission be in a position to make recommendations on the implementation of international humanitarian law and work to ensure its implementation.
- That the committee play an important role in encouraging the dissemination of international humanitarian law, and that its members be able to prepare studies and suggest activities to help disseminate this law to all segments of society.

## **3. Eligible Persons**

This new category of persons stipulated in the first protocol in 1977 AD is intended to facilitate the application of the conventions and the protocol, especially with regard to the activity of the protecting power. These persons must be prepared in peacetime, with the help of the National Red Crescent and Red Cross Societies, so that they are ready to provide advice to the authorities and inform her.

The idea of qualified personnel is a recent one. It was mentioned for the first time by the First Additional Protocol of 1977 in Article 06 thereof (Ali, 2018)

Qualified persons are at the disposal of the contracting parties, and this is the duty of a state to prepare these persons, as they have the following duties:

\*Contribute to the dissemination of the provisions of international humanitarian law in accordance with what was stated in Article 83 of Additional Protocol I of 1977 AD.

Assist governmental authorities by proposing national measures necessary to implement international law humanitarian.

\*Bringing the views of international humanitarian law and national law closer.

\*Follow up on every development in the field of law and report it to the competent authorities.

### **(4)Legal Advisers to the Armed Forces**

Given the complexity and development of the provisions of international humanitarian law , this requires a lot of experience with a certain group, which is what obliges the armed forces to resort to consulting experts and asking for their help According to Article 82 of Additional Protocol I of 1977 AD, (2) the task of the stipulated advisers is to advise military commanders,

according to the appropriate degree, on the application of the provisions of the agreements and protocol and the appropriate education given to the armed forces in this field.

2.2. *Oversight mechanisms for the choice of methods and means of warfare by the parties to the conflict The rules of international humanitarian law*

It is subjected to serious violations by states engaged in armed conflicts and wars, and although international humanitarian law has established mechanisms for the prevention of these rules, they will not achieve their effectiveness unless they are accompanied by monitoring mechanisms for the implementation of international humanitarian law, and several international bodies have been keen to monitor the parties to the conflict between them Relations hostile, as a reason for violating the rules of international humanitarian law related to the use of methods and means of warfare, and the following is a statement of the role of these bodies in supervising and controlling the use of these methods and means by the parties to the conflict (Hatem, 2020)

**First: The role of the International Committee of the Red Cross in controlling the use of methods and means of warfare**

The International Committee of the Red Cross draws the attention of the parties to the conflict to the fact that there is a violation of the rules of international humanitarian law, especially if we know that it can carry out its tasks with all party, and also be in contact with prisoners, civilians, detainees and victims under occupation.

On various occasions, the idea of establishing an apparatus for one purpose only, which is to monitor and follow up the application of international humanitarian law in times of armed conflict, has been raised. In fact, the International Committee of the Red Cross has sufficiently demonstrated its impartiality, effectiveness, and efficiency, and that in the two Additional Protocols of 1977 AD it was an example An organization with all guarantees of impartiality and effectiveness. As this committee took an increasing role in contributing to the arrest of Violations to which the rules of international humanitarian law in general and the provisions of the Geneva Conventions in particular may be exposed, and this does not mean that the commission has an authority above the authority of states (Sassoli, 2017)

The role of the International Committee of the Red Cross can be summarized as follows:

- It played an important role in the development of the law of war.
- It reminds the parties of the provisions of international humanitarian law. As soon as an armed conflict erupts, it reminds the parties of the need to respect the rules of international humanitarian law. In the event of violations of these rules, it tries to correct these violations through cooperation with the parties to the conflict.
- This committee works to provide advisory services, represented in the regulation of relations between countries in the event of armed conflict regardless of the question of whether or not the state has resorted to force.
- It acts as a mediator between the warring parties.
- Receiving complaints related to violations of the rules of international humanitarian law from different parties.
- So far, this committee continues to provide relief and protection activities for victims of wars, and to work towards respecting international humanitarian law.

### **Second: The role of the international investigation in monitoring the use of methods and means of warfare, including the four Geneva Conventions of 1949.**

pursuant to its articles are harassing articles common to these agreements as being, at the request of any party to the dispute and in a manner to be decided between the parties concerned, an investigation into any allegation of violation of this Agreement, which may be conducted at the request of a party to the dispute. In the event that it is resolved, the two parties shall appoint an arbitrator to decide on the procedures to be followed. The agreements left the two parties the freedom to choose the type of investigation, and if violations are proven, the warring countries must put an end to them and reprimand them as soon as possible (Kamal, 2020)

International investigation procedures are conducted to consider reports of violations of international humanitarian law and international human rights law committed by all parties, to determine whether Unlawful acts occurred, and to identify the perpetrators of these violations, ensure that those responsible are held accountable about her.

### **Third: The role of the International Fact-Finding Committee in monitoring the use of methods and means of warfare**

Within the framework of the international community's keenness to develop means of international control over the application of international humanitarian law, and in view of the many and grave violations of the provisions of this law that the Geneva Conventions cannot confront, it was necessary for the international community to search for an additional means, thus establishing the International Commission of Inquiry for this purpose (Hatem, 2020)

Agreements have been left The Fourth Geneva of 1949 AD, the parties to the conflict were free to choose the type of investigation, which led to the fact that states rarely sought to request investigations into violations of the rules of international law during armed conflicts, and the Diplomatic Conference tried to reaffirm and develop the rules of international humanitarian law, through Sending a new investigative body according to the text Legal Adopted in Article 90 of Additional Protocol I of 1977 AD related to this Committee.

It was also considered one of the most important innovations and additions that came in the first protocol of 1977 AD, the establishment of a permanent mechanism for fact-finding (4) regarding any allegations of violations or violations

International humanitarian law is handled by this commission regardless of the consent or non-consent of the accused party The role of this committee is mainly as follows (Nasiri, 2009)

- Investigate the facts relating to any allegation of a grave breach of the Conventions and Protocol.
- Work to restore respect for the provisions of the conventions and protocol .
- Facilitating a return to compliance with the provisions of the Conventions and the Protocol through its endeavours benign.

### **Fourth: The role of the Security Council in supervising the use of methods and means of warfare**

The UN Security Council is an effective mechanism within the international legal system. It possesses deterrence tools, which enables it to be a real guarantee for the protection of the rules of international humanitarian law.

The Security Council also takes measures under Chapter VII of the Charter of the United Nations in the event of a threat to international security, given that violating the rules of

international humanitarian law, which are among the objectives for which the United Nations was established, and in accordance with censorship and imposition

Articles of the Charter, the UN Security Council is the body responsible for supervising and implementing international sanctions (Dready, 2009).

This Council has continued to develop and practice the inclusion of human rights considerations in its resolutions on situations of armed conflict . All parties must respect human rights, the security and safety of the civilian population and international humanitarian law”.

It is also considered within the Security Council's competence to impose economic or military sanctions in the event of a threat or violation of international peace and security. In its recommendations issued in 1967 on the Middle East conflict, the Security Council stressed the need to respect basic human rights during hostilities, and also calls on governments to respect humanitarian principles when treating prisoners of war and protecting civilians in time of war in accordance with the requirements of the Geneva Conventions of 1949.

### **Conclusion**

One of the principles governing the laws of war, which is so important in order to protect the lives of people, is that if necessity necessitates waging war, which is of course inhumane, that necessity must be limited and limited by a number of restrictions. There is no doubt that human thought always seeks to reduce brutality in wars, and it is recognized that reducing injustice and oppression in conflicts requires restricting the right to choose weapons and prohibiting the use of military means that cause excessive and unjustified pain.

It is no secret that among the most prominent achievements in the field of war laws and agreements that limit the use of some types of weapons; Therefore, the first clause of Article (35) of Additional Protocol I of 1977 stated that the right of the parties to an armed conflict to choose methods and means of warfare is not an unimpeded right. The second clause of the same article also stipulates the prohibition of the use of weapons, projectiles, materials and means of warfare that are likely to cause superfluous injuries or unnecessary suffering.

The results reached by the researcher are There is no difference between Islamic law and positive international humanitarian law in this regard except in terms of the sources from which the rules and provisions are derived, in addition to the fact that responsibility in positive law is worldly only, while in Islamic law it is both worldly and hereafter. and Islam’s respect for the victims of war and treating them humanely is consistent with G Almighty’s honoring of man as his successor on earth, just as Islam in its essence is a call to mercy, justice, kindness to the weak and benevolent to him., and Islamic Sharia is distinguished in this regard, that breaching its provisions entails an afterlife as well as a worldly penalty, and this is claimed to protect human rights during wars, whether they are combatants or non-combatants. Human behavior in treating war victims, the Islamic obliges its followers to behave in a decent manner in treating their enemies if they are captured, or become unable to fight due to illness or injury, as it is forbidden to finish off and torture the wounded, just as Islam forbids the killing of women and children who do not fight Sheikhs and others who do not take part in hostilities against Muslims.

In the end, this article can recommendThe necessity of facilitating the work of neutral international organizations, led by the International Committee of the Red Cross, in order to implement and disseminate the rules of international humanitarian law and to support their field effort and Emphasizing the importance of countries enacting national legislation to

protect the red cross, red crescent and red crystal emblems , in order to prevent cases of their misuse and to determine deterrent penalties and Urging countries that have begun to establish national structures for the application of international humanitarian law and those that have not yet initiated the initiative to establish such structures, and intensify their support for those committees and provide the material, human and logistical capabilities that allow them to achieve the goals for which they were established and we suggest Edit Article (16 ) is private Vima relate to with a crime aggression being )crime major international ,( And the reduction Period please to me (6) Months instead of From (12) months Universe Duration the last long very, has lead to to me wasted Evidence and clear Milestones crime ,and make please for (6) Months change met him to extend Except for once one and look by request extension From Circle introductory for court criminal international . We suggest that placed paragraph states on me non look in Request please if she was The state aggressor From Countries Always Membership in board Security in order to no be Subject As cover to protect this is Countries From its business change legitimate and justified to commit crime aggression and drop From punishment .

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