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Revista de Antropología, Ciencias de la Comunicación y de la Información, Filosofía,
Lingüística y Semiótica, Problemas del Desarrollo, la Ciencia y la Tecnología

Año 35, 2019, Especial N°

19

Revista de Ciencias Humanas y Sociales

ISSN 1012-1587/ ISSNe: 2477-9385

Depósito Legal pp 198402ZU45



Universidad del Zulia
Facultad Experimental de Ciencias
Departamento de Ciencias Humanas
Maracaibo - Venezuela

The International Responsibility for Protection of Victims from Armed Conflicts (Study of Iraq Case)

Associate Professor Dr. Imad Khaleel Ibrahim
President of the Department of International Relations
College of Political Science / University of Mosul
almukhtaremad@yahoo.com

Abstract

It has adopted a wide range of international legal norms that recognize human rights and fundamental freedoms, both at the level of general rules, international human rights law and international humanitarian law, and in view of the various violations of these rights resulting from the wars or conflicts that have raged - - The international community, whether international or non-international, and the resulting serious violations of the rules of international law in general and international humanitarian law in particular, have been supplemented by these rules and texts with other legal procedures to provide international institutional mechanisms to implement the rules As well as the development and strengthening of the international liability regime that arises when the obligation to implement or violate it is violated.

In light of the prevalence of the state of war as a sign of sovereignty at that time, the rules of international humanitarian law were gradually adopted with a view to codifying its customary rules and thus the norms of general international law which subjected the issue of resorting to war and the use of force to an international organization with many images: The Hague Conventions of 1899 and 1907 and the Covenant of the League of Nations, as well as its prohibition under the Briand-Kellogg Charter in Paris, until it was expressly prohibited under Article 2 (4) of the Charter of the United Nations.

There is no doubt that the first of the problems faced by States in the application of the rules of international humanitarian law is the importance of finding a balance between military necessity and humanitarian concerns.

The use of force will lead to the violation of these humanitarian norms, thereby refuting the principle of necessity.

Therefore, there are fundamental principles relating to the right to redress and redress for victims of armed conflicts, including (missing persons and their families) at the international level in general, and with regard to Iraq in particular, in accordance with the scope of the multilateral international responsibility towards individuals, States, international organizations and security companies, There are also multiple mechanisms to implement this responsibility in accordance with national and international legal norms.

Opening words: international law, international humanitarian law, national law, international responsibility

La responsabilidad internacional de proteger a las víctimas de los conflictos armados (Estudio del caso de Iraq)

Resumen

Ha adoptado una amplia gama de normas jurídicas internacionales que reconocen los derechos humanos y las libertades fundamentales, tanto a nivel de las normas generales, el derecho internacional de los derechos humanos y el derecho internacional humanitario, y en vista de las diversas violaciones de estos derechos resultantes de las guerras o conflictos que se han desatado - La comunidad internacional, ya sea internacional o no internacional, y las graves violaciones resultantes de las normas del derecho internacional en general y del derecho internacional humanitario en particular, se han complementado con estas normas y textos con otros procedimientos legales para proporcionar mecanismos institucionales internacionales para implementar las reglas, así como el desarrollo y fortalecimiento del régimen de responsabilidad internacional que surge cuando se viola la obligación de implementarlo o violarlo.

A la luz de la prevalencia del estado de guerra como un signo de soberanía en ese momento, las normas del derecho internacional humanitario se adoptaron gradualmente con el fin de codificar sus normas consuetudinarias y, por lo tanto, las normas del derecho internacional general que sometían la cuestión de recurrir a la guerra y el uso de la fuerza a una organización internacional con muchas imágenes: los Convenios de La Haya de 1899 y 1907 y el Pacto de la Liga de las Naciones, así como su prohibición bajo la Carta de Brian Kellock en París, hasta que fue expresamente prohibido Artículo 2 (4) de la Carta de las Naciones Unidas.

No hay duda de que el primero de los problemas que enfrentan los Estados en la aplicación de las normas del derecho internacional humanitario es la importancia de encontrar un equilibrio entre la necesidad militar y las preocupaciones humanitarias. El uso de la fuerza conducirá a la violación de estas normas humanitarias, refutando así el principio de necesidad.

Por lo tanto, existen principios fundamentales relacionados con el derecho de reparación y reparación para las víctimas de conflictos armados, incluyendo (personas desaparecidas y sus familias) a nivel internacional en general, y con respecto a Irak en particular, de acuerdo con el alcance de responsabilidad internacional multilateral hacia individuos, Estados, organizaciones internacionales y compañías de seguridad. También existen múltiples mecanismos para implementar esta responsabilidad de acuerdo con las normas legales nacionales e internacionales.

Palabras de apertura: derecho internacional, derecho internacional humanitario, derecho nacional, responsabilidad internacional

The importance of research lies in the tragic consequences of armed conflicts, including those related to missing victims and the importance of protecting their rights and the rights of their families.

The problem of research: One of the negative effects of armed conflict, whether international or non-international, concerns the rights of the missing and the rights of their families and how to protect them.

The hypothesis of research is that there are possible and presumed legal mechanisms that should be implemented to protect the rights of missing persons and their families.

Structure of the research: It is centered on the following investigations:

The first topic: Legal protection of the missing and the transfer of responsibility under (national law)

The second topic: Legal protection of the missing and the transfer of responsibility under (orders of the occupation authority)

The third topic: Legal protection of the missing and the transfer of responsibility under international law

The first topic

Legal protection of missing persons and transfer of liability under (national law)

As far as the applicability of the case study to the legal protection of victims of armed conflicts from (missing) to Iraq is concerned (as a continuous conflict

zone) and multifaceted, it must begin with the characterization of the "state of conflict" in Iraq,

1. International armed conflict: This is related to the consequences of the (occupation of Iraq) in 2003 and the accompanying violations of human rights, including the situation of missing persons and their families.

2. Non-international armed conflict: This is related to the chaos, instability and internal conflicts that followed (the occupation) and the human rights violations that accompanied them (such as kidnappings, forced disappearances and taking hostages).

3. Armed conflict (special type): means (contemporary armed conflict) or cross-border armed conflict between the national (Iraqi) government, the coalition states and the international community on the one hand, and the armed terrorist organization or the so-called "Serious violations of all human rights (such as abductions, enforced disappearances and hostage-taking).

The legal protection of missing persons is particularly important in view of the fact that the violation of the obligations and the violation or violation of the humanitarian principles on which any legalization is based may result in loss of life or the removal of the rules from their actual content. The general obligation to respect and enforce respect for international humanitarian law International responsibility for all such violations.

Article (87) of Protocol I provides that a Contracting Party that apprehends the accused for the offenses shall be tried before its national courts. Article 88 (3) states: "No Contracting Party shall disband or dissolve any other party Of the responsibilities which it or another Contracting Party has in respect of the offenses referred to above.

There are basic (national) legal rules, through which the legal protection of those who are missing in Iraq can be discussed as a "conflict zone" and multifaceted, and thus trigger the responsibility of violating these legal grounds.

The legal rules governing offenses or violations of a civil or criminal nature in the territory of a State include:

The Iraqi Penal Code (No. 111 of 1969) in force, the Iraqi Civil Code (No. 40 of 1951) in force, as well as the Iraqi Constitution of 2005 in force.

Article 6 of the Iraqi Penal Code stipulates that: "The provisions of this law shall apply to all crimes committed in Iraq." This means that all crimes committed in Iraqi territory, regardless of their perpetrators, The provisions of the Iraqi Penal Code are vested in the Iraqi courts.

Article 7 of the Iraqi Penal Code deals with the territorial jurisdiction in terms of the applicability of the Penal Code to include all Iraqi territory and any place

subject to the sovereignty of Iraq, including territorial waters, airspace and foreign territories occupied by the Iraqi army if its safety or interests, .

(Article 34) of the Iraqi Penal Code. If the criminal intent of the perpetrator is available, and if the law or agreement imposes a duty upon a person and refrains from performing it with the intention of causing the crime that resulted directly from this abstention, Even if the perpetrator expects criminal consequences to do so, he is liable to risk them.

The articles enclosed between (405_420) of the Iraqi Penal Code, crimes against the life and integrity of the human body, and the materials confined between (421_438) organized crimes against human freedom and deprivation, and social crimes such as the violation of the sanctity of the dead and graves in materials confined between (370_392) .

As for the Iraqi civil law, in terms of jurisdiction, ie, if the defendant is a foreigner, the article (15) stipulates that the foreigner shall be tried before the courts of Iraq in the following cases: (a) if found in Iraq, Litigation .. for an incident occurred in Iraq () .

Article (17_1) of the law has been dealt with in the matter of international conflict in terms of legislative jurisdiction, ie, Iraqi law is the reference in adapting relations in a case in which the laws are contested to determine the law to be applied among them.

In addition, the Iraqi Civil Code defines the illegal acts of money and self that are liable to be compensated, for example, Article (186), the subject of which is the destruction of money, and (Article 187) , And articles (202, 204 and 205), which determine liability for self-inflicted and compensable wrongful acts, with the assurance that (article 206.1) states that "civil compensation shall not prejudice the imposition of penal sanctions if their conditions are met" .

As for the Iraqi constitution in force in 2005, it has adopted a set of rights that citizens should enjoy under Chapter Two under the title of "Rights and Freedoms". Article 15 stipulates that: The right to life, security and liberty. Such rights may not be denied or restricted except in accordance with the law and pursuant to a decision of a competent judicial authority.

Article (21/1) has prohibited the extradition of "Iraqi" to foreign authorities and authorities (39), as well as (Article / 37_ first) dealt with the following: (a) The freedom and dignity of the human being is protected. Except by judicial decision C. All kinds of psychological and physical torture and inhumane treatment shall be prohibited, nor shall any confession be extracted under duress, threats or torture, and the injured person shall be entitled to compensation for material and moral

damage suffered in accordance with the law.

Accordingly, the national law guarantees the rights to which a person must be entitled, and what acts are criminalized and committed in Iraq and then subject the perpetrators (whatever their nationality) to penal and civil accountability under Iraqi law.

In addition, the relevant rules of international law allow for the submission, prosecution and punishment of perpetrators of criminal acts of national law, as referred to in paragraph 5 of the Declaration on the Principles of International Cooperation in the Detection, General of the United Nations, on 3 December 1973, to bring them to trial in the countries where they were committed and, in paragraph 3 and 4 thereof, States to cooperate on a bilateral and multilateral basis to stop and prevent war crimes and crimes against humanity and to detect, N suspected of having committed such crimes and in the punishment if they are found guilty (), and necessitated (Article / 6) of the Genocide Convention, that persons accused are being tried before a competent court in the State in which the act was committed ().

Another important development in this area is confirmed by the United Nations General Assembly in its resolution 63/119 of 15 January 2009 under the title (Criminal accountability of United Nations staff and experts on missions), urging States to take All appropriate measures to ensure that crimes committed by United Nations personnel and experts do not go unpunished and that the perpetrators of such crimes are brought to justice and therefore prosecuted in accordance with domestic law.

The second topic

Legal protection of the missing and the transfer of responsibility under (orders of the occupation authority)

After the occupation of Iraq on 9 March 2003, the so-called Coalition Provisional Authority (CPA) became its de facto ruler and therefore had to observe international legal norms relating to the occupation as well as the rules of international humanitarian law, especially those governing and protecting the rights of And their exercise of their fundamental freedoms under occupation, as well as their observance and application of the laws in force. However, what was known as the Iraqi civil administrator (Paul Bremer) issued a statement on June 27, 2003, in which he declared (as director of the Coalition Authority) _ his endorsement of a form of orders and decisions that constitute a "legal system" And a clear recognition of the need to respect (the occupied

administration) of the laws in force and the rules and customs of war and the rules of international humanitarian law and ensure its responsibility for violations.

In accordance with the laws and customs of war, the CPA exercises the powers of the interim government for the administration of Iraq and exercises the executive, legislative and judicial powers necessary to achieve its objectives under relevant UN Security Council resolutions. And the laws and customs of war.

Coalition Order No. 7 / Section 3 states that "Torture is prohibited and prohibits cruel, inhuman or degrading treatment or punishment."

According to Coalition Provisional Authority Memorandum 3, based on the laws and customs of war and on the Fourth Geneva Convention of 1949 on the Treatment of Civilian Persons in Time of War and on the Basic Rights of Detainees, the purpose of the Memorandum is to provide effective (justice) And the administration of security as provided for in the Geneva Convention, and that the procedures set out in this Memorandum will be for the purpose of strengthening (the rights of Iraqis and the administration of justice in Iraq) and that the conditions therein are based on the needs of international humanitarian law. In Section 6 of the same memorandum, Coalition Forces will apply international standards under the Fourth Geneva Convention to all persons in their custody.

However, there are limitations (see Note 3 above) that significantly limit the enforcement of responsibility towards members of the occupying forces, which is a clear contradiction in the codification of CPA orders and is not merely political propaganda. However, paragraph 1 (f) referred to: (the possibility of the exercise of jurisdiction by the Allied Coalition Forces with respect to the War Crimes Commission against the Allied Coalition Forces).

(Paragraph 2 of the same memorandum), its working paragraphs expressly affirmed the Iraqi judiciary's role and the implementation of the laws of the "States of the Coalition" to exercise civil and criminal legal powers through paragraph (1) which states: In this Memorandum shall not apply to any court, commission or military criminal body formed by the Alliance or any of its member States.

This means unequivocally that all the above-mentioned recognition of human rights and the application of the laws of war, the Geneva Conventions and the procedures of justice are outside the scope of any trial by the occupying authorities and can not be required in an attempt to protect Iraqis and punish violators of their rights. (2) of the Memorandum states: (Nothing in this Memorandum shall prevent any military court or military body from exercising its legal powers conferred upon it by the law of States Coalition in coordination with

the laws of war), and (Paragraph / 3) .. confirmed that (any Iraqi court, including the Central Criminal Court of the problem according to the command (16) on 13 / June / 2003, has no authority over any member of the coalition in any subject, whether civil or criminal) ().

In a letter to the United Nations Mission in Iraq (UNAMI) dated 2 October 2007, the US authorities confirmed that the legal procedures to be followed are one of the human rights concepts associated with arrests and criminal trials in general. Applies to detainees held by their authorities in Iraq for security reasons and is based on their own interpretation of the nature of the dispute.

This is contrary to what US officials (Colin Powell and Condoliza Reyes) have asserted that the occupying forces will in all circumstances remain committed to the laws of war, the Geneva Conventions and the dictates of international law.

This means that members of the occupying forces are subject to international standards of international humanitarian law in the exercise of their duties and when they commit any violations of this law, and not subject to the laws of their countries, which may be negligent in their trial and fair punishment.

The United Nations Mission in Iraq (UNAMI) stated in its 2008 report that the US Embassy objected to the implementation of the International Covenant on Civil and Political Rights (ICCPR) And the Mission stressed that this (Covenant) is fully applicable through the General Comment No. 31 of 2004 of the Commission on Human Rights on the nature of the general legal obligation imposed on States parties In the covenant which states p (Article 2, paragraph 1, requires States parties to respect and ensure Covenant rights to all persons within their territory and to all persons under their jurisdiction). This means that States parties shall respect and ensure the rights under the Covenant to any person under their jurisdiction Or actual control of that State even if it is not within its own territory, while the United States of America itself strongly supported the issuance by the United Nations General Assembly of resolution No. 170/45 of 12 October 1990 on the situation of human rights In Kuwait (when entered by Iraq), which stressed that Iraq should apply to Tzamath in line with (Covenant) in Kuwait ().

There is no doubt that the "occupation" is governed by many rules, most of which were codified in the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 1949, the Hague Convention on the Laws and Customs of War on Land of 1907, (1880).

Article 47 of the Fourth Convention stipulates that in the event of any changes in the governmental institutions of the occupied state, or even when an agreement is signed between such institutions and the occupying state, the persons

present therein shall not be deprived of being subject to legal protection under this Convention. (The Convention).

Article 49 prohibits the forcible transfer of individuals and groups from the territory of the occupied State, as well as the importance of maintaining judicial institutions in accordance with article 64.

On the other hand, the "Agreement on the withdrawal of foreign forces" signed with the United States of America, which is supposed to explain the extension of civil and criminal jurisdiction to the members of the occupying forces for their work in Iraq, has overwhelmed the Iraqi judiciary in exercising its jurisdiction over the crimes and violations that affect Iraqis from Before the occupying forces, and therefore the guarantees guaranteed by international humanitarian legal norms can not be realized.

This means that the conclusion of any agreements between the occupying authorities and the local authorities does not mean that the rules of international humanitarian law are not applied or restricted. Article 8 of the Fourth Geneva Convention states that protected persons themselves can not waive their rights.

Although the so-called United States Uniform Code of Military Justice (referred to as Title 10 / Chapter 47 of the United States of America Act) contains provisions penalizing criminal offenses, such as M / 93 on cruelty and ill-treatment, (120), especially on rape, M / 124_ in respect of amputation of organs, M / 128_ on the assault ().

However, in any case, no State can invoke domestic law and push it against its failure to comply with the rules of international law. Article 32 of the Legal Rules on State Responsibility states that: (a State may not invoke domestic law as a justification for non-compliance with its obligations) (). Article 27 of the Vienna Convention states: "No party may invoke the provisions of its domestic law as a justification for not implementing a treaty".

The third topic

Legal protection of missing persons and the transfer of responsibility under international law

The obligations imposed by the rules of international law in their various sources, whether customary or customary, fall within the general principles of law, which requires that any international legal person bear the consequences of their breach of international responsibility as a natural consequence of non-

fulfillment.

Thus, under the regime of international liability, the State is obliged to compensate third parties (States) that have suffered damages as a result of their illicit acts.

Since 1946, the International Law Commission has adopted several topics to include in its interest, discussions and efforts to codify its ideas, including: "Suppression of crimes against humanity, aggression and the regime of international responsibility", and has therefore prepared a draft legal rules on State responsibility for non- (2001), adopted by the United Nations in the same year.

Article 1 of the Draft Law states that "every internationally wrongful act of the State entails its international responsibility", and that the material elements of the wrongful act are to be attributed to a State in its own right under the rules of international law and not to be considered legitimate, In accordance with their national law, and thus constitutes a breach of their international obligations.

As well as the State's assumption of international responsibility for its violation of the international legal norms of the International Law Commission (Peremptory) which are serious violations and which constitute violations of the rules of international humanitarian law, such as genocide, crimes against humanity,).

This codification of the so-called "secondary rules" of international law applies to violations of all fundamental rules, including the rules of international humanitarian law, and constitutes a legal basis for ensuring respect for the rights of victims of war despite progress in the field of international criminal law. Sovereign states have not achieved the form of an institutionalized global state in which the institutional cover of the State and the inherent responsibility of the State are no longer relevant. The reconciliation of international humanitarian law and concepts or common rules in international law as a whole is an ideal way to improve it.

Moreover, international criminal law defined the so-called "international crime", which included the violation of the rules of war (war crimes) and the launching of an aggressive war against a respectable legal order based on conventions relating to the maintenance of international peace and security (crimes against peace) and crimes committed Against humanity and the crime of genocide, and thus established a legal system that was the outcome of a long and long work of the International Law Commission from 1948 to 1998 when the Rome Statute of the International Criminal Court was established, together with the competence of the UN Security Council Activate the role of the

United Nations yet War Albardh_ the formation of special Internationalized criminal courts.

Under article 1 common to the four Geneva Conventions and Protocol I, States undertake to ensure that their rules are respected in all cases, as well as the obligation of States to cooperate collectively or individually with the United Nations to address situations of serious breaches of the Geneva Conventions and the Protocol thereto, And in conformity with the Charter of the United Nations.

This text is consistent with the wording of article 41 (1) of the Draft State Responsibility, which stressed the need for States to adopt peaceful means in case of serious violations of peremptory norms of international law.

As well as the attribution of international responsibility in cases of multiple international wrongful acts, such as "crimes of genocide and crimes against humanity" in accordance with article 15.

Article 26 states that the violation of so-called "peremptory norms" includes crimes: "genocide, crimes against humanity, racial discrimination, slavery and aggression".

In accordance with Articles 49, 50, 129 and 146 of the four Geneva Conventions respectively, each Contracting State shall take legislative measures to ensure effective penal sanctions for persons who commit or order to commit any of the grave breaches set forth in the Conventions, States also to pursue persons accused of committing or ordering such grave breaches, and to bring them, whatever their nationality, to their courts, unless they prefer to extradite them to another Contracting State for trial if the State has sufficient evidence against them. Provisions to describe (A. Persons, regardless of their nationality or the nationality of the victims of the violations or the place where the violations were committed, is in conformity with the principle of universal jurisdiction, meaning that States have the jurisdiction to adjudicate gross violations irrespective of where they occur or the nationality of the perpetrators. .

Article 91 of Protocol I requires: "A Party to a conflict that violates the provisions of the Conventions or the Protocol shall be asked to pay compensation if the case so requires and shall be liable for all acts committed by it."

Therefore, all States are obliged to respect the prohibition of torture and ill-treatment as a matter of customary international law, whether or not they are parties to treaties expressly prohibiting the prohibition.

In addition, paragraph 5 of the Declaration on the Principles of International Cooperation in the Detection, Detention, Assignment and Punishment of Persons Convicted of War Crimes and Crimes against Humanity, adopted by the United Nations General Assembly on 3 December 1973, (Para. 3 and 4),

States should cooperate on a bilateral and multilateral basis to stop and prevent war crimes and crimes against humanity, to detect, arrest and prosecute those suspected of having committed such crimes and to punish them if they are found guilty.

The Declaration on the Basic Principles and Guidelines of the United Nations General Assembly No. 60/147 of 21 March 2006 on the Right to a Remedy and Reparation for Victims of Serious Violations of International Humanitarian Law stated in paragraph (III / 4 and 5) In cases of serious violations of international human rights law and serious violations of international humanitarian law that constitute crimes under international law, States have the duty to investigate them and the duty to prosecute those who committed such violations and the duty to punish the offenders in case of conviction. States should cooperate with each other, International law, and to assist international judicial bodies competent to investigate these violations and prosecute the perpetrators, and to recognize and facilitate extradition to other countries or international judicial bodies to achieve international justice ().

The Convention on the Punishment of the Genocide of 1948 came under several provisions that determine how to deal with cases of genocide, including article 4, which stressed the need to punish perpetrators, regardless of whether they hold legal descriptions of a constitutional nature or as ordinary individuals.

Article 6 therefore requires that a person accused of genocide be prosecuted before the national courts of the State in which the act was committed or before the international criminal court, which does not prevent (in accordance with article VIII) any State requesting the United Nations to take measures to prevent the crime of genocide ().

Furthermore, in accordance with article IX, the International Court of Justice shall hear disputes arising out of the difference in the application, interpretation and implementation of this Convention as well as its competence to consider the recognition of State responsibility for cases of genocide.

Thus, Iraq can implement the multiple international liability regime by bringing several cases before the International Court of Justice to cases of human rights violations, including (missing persons) and their families as a result of the use of excessive force, from arbitrariness to the implementation of Security Council resolution 678 The extent to which the application of Security Council resolutions has been exceeded, as well as the consequences of the invasion and occupation in accordance with article II, paragraph 4, of the Charter.

As well as the activation of Article IX of the Convention on the Genocide of 1948, which allows Iraq to hold accountable the countries that committed genocide in it since the beginning of the nineties and impose the embargo measures are not compatible with humanitarian standards and the result of the state of invasion and occupation of the continuation of the commission of these crimes to 2011 when it was Called "handover of sovereignty".

The third period is the violations committed as a result of military operations against terrorist groups after 2014 and the excessive use of offensive force, massive destruction of cities and genocide of many civilians living in areas of military operations, especially when using so-called smart weapons. The two occupying Powers (the United States and the United Kingdom) are parties to the Convention on the Punishment of the Genocide of 1948 and are obliged to bear the international responsibility arising from the genocide in Iraq. Payment reservation and prevent the application of the Convention as confirmed by the International Court of Justice in its advisory opinion in 1951 should not be incompatibility between the essence of the agreement and any reservation between them and the necessity of the obligation of States to the principles contained in the Convention in its relations treaty ().

In its consideration of the Barcelona Traction case in 1970, the International Court of Justice also stressed that "the rights and obligations set forth in the Convention on the Punishment of the Genocide of 1948 are peremptory and that no person of international law can request that these rules be not applied"

On the other hand, according to article 1 of the Convention on the Non-Applicability of Statutory Limitations to Crimes against Humanity of 1968, "No statute of limitations applies to the following crimes, regardless of the time of their commission ... war crimes, crimes against humanity and the crime of genocide, Occupation "(). And that punishment (in accordance with article 2) affects its perpetrators, whether they are representatives of State authority or ordinary individuals.

If the transfer of international responsibility before the International Court of Justice affects States themselves, this does not stop or nullify the movement of international criminal responsibility against perpetrators of violations of international humanitarian law, before international criminal tribunals or before a national criminal court. Article 58 of the " International responsibility ") that" the recognition of international responsibility to States does not prejudice individual responsibility under international law vis-à-vis any person acting on behalf of those States ".

After the Second World War, the principle that individuals, including State officials, could be held responsible under international law, was established in the London Charter of 1945 establishing the Nuremberg Tribunal and endorsed by the General Assembly of the United Nations in its resolution (95) (d) on 11 December 1946, and thus constituted the basis for significant developments in the field of international criminal law, and it is not excluded that there is an update on individual civil liability. Furthermore, in cases where In which State officials commit crimes against international law, often the State itself Is responsible for the commission, non-punishment or punishment of such acts, in particular the crime of aggression, and therefore the State shall not be relieved of its responsibility for internationally wrongful acts if it is prosecuted and punished by its officials who committed such acts, as referred to in article 25 of the Statute Of the International Criminal Court, which states that: (No provision in this Statute relating to individual criminal responsibility shall affect the responsibility of States under international law) nor shall such officials be entitled to take over the State from such responsibilities, That the official position does not exempt piss Of individual criminal responsibility, and then, the responsibility of this, State employees include (whatever the nature of civilian jobs or military) for all the acts they have committed crimes such as genocide and crimes against humanity ().

Furthermore, in accordance with the principle of international jurisdiction, any (third) State, other than the injured States, is entitled to take judicial action for certain serious crimes, including genocide, war crimes, crimes against humanity, torture, slavery, piracy, disappearances Regardless of the location of the crime and the nationality of its perpetrators or victims, and the link between the crime and the State instituting the proceedings and the trial. It lies in the actual presence of the perpetrator within the jurisdiction of that State, as well as the existence of domestic legislation to exercise this jurisdiction).

There are several examples of this

There are several examples of such trials. In France, Tunisian officials were prosecuted for torture in Tunisia. In February 2000, a Senegalese court sentenced former Chadian President Hissène Habré to torture and the British magistrate in 1998_1999 , The former general (Pinochet) while in Britain, for crimes against humanity ().

However, the most important practice of international jurisdiction was by the Belgian judiciary. The 1993 Universal Jurisdiction Act, which was amended in 1999, allows Belgian courts to consider crimes of genocide, war crimes and crimes against humanity even in the absence of a " In the Belgian territory, the law does not allow official immunity to be used to prevent the application of

its provisions. Thus, it was the first full trial under Belgian law against four Rwandans convicted by a Belgian jury in 2001 for involvement in genocide in Rwanda. (1994).

Some of the barriers to the inclusion of domestic legislation in international jurisdiction remain, as well as the widespread lack of practice of this jurisdiction.

Conclusions

1. The negative effects of international and non-international armed conflicts extend to the violation of the rights of missing persons and the rights of their families.
2. The scale of these violations increases with the increasing number of armed conflicts in the international community.
3. There is an international responsibility for the outbreak of armed conflicts, whether international or non-international.
4. The realization of international responsibility includes the consideration of the rights of missing persons and the rights of their families.
5. There are national and international legal mechanisms that should be activated to trigger international responsibility for the violation of the rights of missing persons and the rights of their families.
6. The scope of international responsibility includes: (the individual, the State, international organizations, the international community, the humanitarian system as a whole).

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Revista de Ciencias Humanas y Sociales

Año 35, Especial N° 19, 2019

Esta revista fue editada en formato digital por el personal de la Oficina de Publicaciones Científicas de la Facultad Experimental de Ciencias, Universidad del Zulia.
Maracaibo - Venezuela

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