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Author: Mr. Alessandro Souza de Lima
Brazil

THE MILITARIZATION OF OUTER SPACE AS A FACTOR OF INNOVATION OF
INTERNATIONAL HUMANITARIAN LAW: A COMPARATIVE RESEARCH

Abstract

Humanity, in more recent years, has witnessed a dramatic acceleration of changes in various aspects of life, especially in the technology available, which transforms and transcends the relations between people. The various technological advances throughout history have their effects in many different fields of science, among which International Humanitarian Law (IHL) is not exempt. IHL consists of a set of rules that aim to limit the consequences of an armed conflict. Despite its customary origin, regionalized coding initiatives were found in the history of mankind. However, it was from the effort of Henry Dunant, a Swiss trader who was deeply touched by the suffering he witnessed in the battle of Solferino in 1859, that the first internationally accepted treaties came to light. In addition to customary norms, IHL has been codified in various treaties, among which the Geneva Conventions, which address the protection of certain groups of people, and the Hague Conventions, which refer more specifically to the conduct of hostilities, stand out. In this sense, it is also important to highlight the hybrid characteristic of the Additional Protocols I and II to the Geneva Conventions, with devices that cover the two areas of activity mentioned. It should be noted that other normative instruments have been dynamically inserted within the scope of IHL, with the purpose of following the evolution of war technology, linked to the reception of humanitarian issues by States. Such is the case with the Rome Statute, which established the International Criminal Court in 1998. However, there is controversy about the need to update IHL in the face of certain new technologies, even though they may make belligerence possible in other environments, such as cyber and outer space. At this point, some theorists argue that the principles enshrined in that branch of law are sufficient to cope with the aforementioned developments. However, practice has shown that these new warlike scenarios have raised doubts in the international community as to the applicability of IHL in certain circumstances that were previously unexplored. For this reason, efforts have been made to understand the topic, resulting in documents that, if not binding, at least bring a guiding character to the issue. It is, therefore, this theme that this research project addresses, seeking to identify the need to update the IHL due to the novelty of the considered environment.