War on terror and the application of international humanitarian law

Guerra ao terror e aplicação do direito internacional humanitário

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ABSTRACT
It is difficult to pinpoint where terrorism begins in history, not least because there is no general consensus on the term, as mentioned above. This leaves room for different interpretations of what terrorism is. What we can say is that even though this practice predates the September 11 attack, after this event, the word "terrorism" became known to the general population.

Keywords: War, Terror, Humanitarian, Law.

RESUMO
É difícil precisar onde começa o terrorismo na história, mesmo porque não existe um consenso geral, um consenso sobre esse termo, como dito anteriormente. Dando margem, assim, a diferentes interpretações do que é terrorismo. O que podemos afirmar, é que ainda que essa prática seja anterior ao atentado de 11 de Setembro, após este acontecimento, a palavra “terrorismo” passou a ser conhecida pela população em geral.

Palavras-chave: Guerra, Terror, Humanitário, Direito.

1 INTRODUCTION

It is difficult to pinpoint where terrorism begins in history, not least because there is no general consensus on the term, as mentioned above. This leaves room for different interpretations of what terrorism is. What we can say is that even though this practice predates the September 11 attack, after this event, the word "terrorism" became known to the general population.

There are many definitions of terrorism. In general, it can be considered "[...] a political goal; [...] a specific form of the use of force - terror; but it does not employ it in such a way as to immediately produce that political goal, that is, it does not aim to dissuade or compel, but rather to induce in the target a behavior that allows it to be defeated (DINIZ, 2004, p, 19). The concept of terrorism as a war, a crime or a "disease" entails various security policies. The first concerns state retaliation against terrorist groups, while the second uses the existing criminal system to deal with these organizations. It is in reference to the analogy of terrorism as war that the responses to 9/11 took place. Finally, if terrorism is combated by interpreting it as a "disease", whose causes and symptoms need to be "remedied", it is necessary to deal with political-cultural differences and socio-economic situations that are fertile ground for the emergence of terrorist organizations (LUTZ; LUTZ, 2007).

The lack of a consensual definition of the term also hinders the multilateral implementation of measures to combat terrorism. The first efforts to address the issue within the scope of Public International Law took place in 1937, within the framework of the League of Nations, under the title "Convention on the Prevention and Punishment of Terrorism". Twenty-six years later, there was the "Convention on Offenses and Other Acts Committed in Aircraft", a set of regional agreements and treaties between three or more countries (UNODC, n.d.). In 1994, the third paragraph of resolution 49/60 of the Declaration on Measures to Eliminate International Terrorism issued by the United Nations (UN) defined terrorism as:

> Criminal acts intended or calculated to provoke a state of terror among the general public, a group of people or individuals for political purposes are unjustifiable under any circumstances, regardless of the political, philosophical, ideological, racial, ethnic, religious or other considerations that may be invoked to justify them (ONUBR, 2017, s/p).

The United Nations, an organization designed to promote international peace and security, has also failed to establish a cohesive concept within its own bodies. The issue of terrorism began to be discussed more intensively in mid-1972, after the attack on the Munich Olympics. Although measures and guidelines on how to combat these attacks were produced, the UN never unanimously defined the practice of terrorism (ALCÂNTARA, 2015).

Perpetrated by the terrorist group Al-Qaeda, the attacks on the Twin Towers and the Pentagon on US soil on September 11, 2001, became the hallmark of transnational terrorism and shaped the security and defense policy of Western states in the following decades. Under the name of the "War on Terror", the US military response turned, above all, to countries in the Middle East.

By targeting citizens rather than states directly, terrorist groups question the state's monopoly on the use of force and its ability to protect society from external invaders, causing it to increase its security apparatus extraordinarily. It is in transnational terrorism that the 9/11 attacks found fertile ground, and against which the global war on terrorism, evoked as the "War on Terror" by the United States, immediately emerges as contemporary rhetoric (SANTOS FILHO, 2005; SUGAHARA, 2008).

New world, new policies. This is the argument that anchors the change in the organizational structure of the state and the internal and external political guidelines of the USA (CROFT, 2006). Afghanistan soon became the first US combat target, starting with Operation Enduring Freedom (MORAN, 2015). Despite popular expectations, the US government's retaliation was not as immediate as expected, and was only carried out on October 7, 2001, and was expected to end in December of that year.

President George W. Bush and the Department of Homeland Security dramatically transformed the US defense strategy. With a preventive character, the state security program centralized the United States' actions against terrorism and the discourse of security for national survival (JERVIS, 2003). In addition, it was determined that foreign inhabitants should only be tried by military courts - which had just been established -, a possible offensive on Iraq and, finally, the granting to the CIA of various prerogatives to punish those suspected of terrorist practices in other countries (ROGERS, 2004).

The context of the war on terror classified Iraq, Iran and North Korea as "*rogue states*", which were supporting and producing terrorists. For members of the US government, therefore, the leaders of these countries should be suppressed and replaced by democratic rulers and regimes (ROGERS, 2004; MORAN, 2015). The new security strategy sought to prevent possible terrorist attacks, under the logic of *a priori* self-

defense "against [...] emerging threats before they are fully formed." (BUSH apud JERVIS, 2003, p. 6)[1] . Thus, the guidelines of the war on terror are, firstly, unilateral action, which means not measuring efforts, allies and international rules and, secondly, the idea that US leadership is fundamental to re-establishing peace in the international system. The use of US military and war forces is prioritized over multilateral cooperation (JERVIS, 2003; MORAN, 2015).

The war on terror is not a war in the conventional sense, i.e. an interstate conflict. In the context of the 2001 attacks on US territory, George W. Bush responded to Bin Laden's offensives as a war: "The deliberate and deadly attacks that were carried out yesterday against our country were more than acts of terror. They were acts of war" (BUSH, 2001, s/p)[2] . Bush also stressed that it was a war, but of a different kind (RUSCHMANN, 2005).

The decentralized and virtual organization of terrorist groups is incompatible with the functioning logic of the State System and its regulation by International Law. Clashes between two or more states over the balance of power or territorial disputes are interstate conflicts; this is the phenomenon of war. Intra-state conflicts that occur within a given territory over the seizure of power are civil wars. Terrorist actions do not fit into these classifications (SANTOS FILHO, 2005; WALLENSTEEN, 2002).

According to Moreira (2012), the attacks on the Twin Towers and the Pentagon in 2001 marked a change in the nature of conflicts in our century, how force is used in the international environment and the role of international law in regulating it. The enemy is no longer so easily identifiable, as it is now presented in the form of an ideal that threatens the way of life of another political community - an absolute war against a concept (SCHMITT, 2009).

With regard to the emerging conflicts in the post-Berlin Wall world, the asymmetry of power between the warring parties shows that clashes do not necessarily occur between states, nor is the phenomenon of war limited to them in the contemporary world (BENOIST, 2007). The traditional theory of war, formulated by Clausewitz, was transformed after Lenin with the Bolshevik irregular war, destroying the legal regulations of war that had persisted in the pre-1917 law of war. This lack of restrictions on war led to its criminalization (SCHMITT, 2009).

The invasions of Afghanistan and Iraq demonstrate just how different the war on terror is from the classic wars, because the targets this time are regimes and internal leaders, not states, which makes it difficult to be clear about who is being fought and who the combatants are. The population of both countries was at the mercy of the conflict, which made it difficult for the warring parties to distinguish who was on their side or not (RUSCHMANN, 2005).

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In light of what has happened, the United Nations Security Council (UNSC), considering that terrorism is becoming a threat of international proportions to peace and security, took a stand in a resolution on the importance of combating this evil. It established that all member states of the United Nations must cooperate individually and collectively to bring criminals who commit terrorist acts to justice. In addition, states must also commit to denying financial funding or any support whatsoever to these individuals (SMITH, n.d.).

It is worth mentioning the great commotion that broke out on the international scene after the terrorist attack in question. Thus, with regard to IHL, the current context has led to a relaxation of the use of force, considering its use legitimate in order to prevent possible future attacks. A clear example of this is that the United States used the claim of self-defense to carry out incursions with the use of force in Afghanistan and Iraq. In the case of the latter, the United States used the nuclear weapons situation to support the legitimacy of its actions against Iraq (SILVA; ROSA, 2015).

The United Nations Security Council (UNSC) had already drafted resolutions that directly affected Iraq, limiting the means used by the state in the conflicts and wars in which it was involved. Resolution 687, for example, established that Iraq had to destroy its nuclear weapons. With the end of the Gulf War, the country also undertook to allow inspections to be carried out with the intention of ensuring compliance with what had been agreed regarding nuclear weapons (SILVA; ROSA, 2015). In 2002, after the September 11 attack, the UNSC unanimously approved resolution 1441, and issued a final warning to Iraq about the urgency of complying with what had been agreed regarding its disarmament. The text does not actually describe what the consequences would be in the event of non-compliance. The US uses these loopholes to strengthen and legitimize its offensive actions against Iraq (SILVA; ROSA, 2015).

2 OBJECTIVE

Conduct a literature search on how aesthetics in integrative oncology can contribute to promoting health, well-being and self-esteem.

3 METHODOLOGY

This is a literature review, developed with articles published between 2017 and 2021 in the electronic databases: Portal Capes, *Scientific Electronic Library Online* - Scielo and Google Scholar, using the descriptors: self-esteem, self-image, aesthetics, oncology, complementary and integrative therapies, and their respective synonyms, in Portuguese and English. Only published articles dealing with the topic and available online were included. Articles outside the proposed period, which did not deal with the topic, not available online and repeated articles found in different databases were excluded.

4 INTERNATIONAL HUMANITARIAN LAW

International Humanitarian Law (IHL), also known as the Law of Armed Conflict or the Law of War, is part of international law and is a doctrine of public international law. Its main objective is to guarantee a peaceful order in the face of armed conflicts, whether international or regional.

That said, IHL aims to maintain peace and human dignity. Through its norms, it regulates the effects of wars, such as limiting weapons and strategies that aggravate war and threaten the lives of the general population, such as nuclear weapons. This legal system also prohibits sexual violence in armed conflicts; it considers attacks on civilians, health professionals and humanitarian aid institutions to be a war crime; it advocates that wounded civilians have the right to help from health professionals, and to basic necessities of life such as food and drinking water, among other rules. IHL also ensures the rights of prisoners of war, for example, torture is forbidden.

It is worth noting that through agreements and treaties, the entire international community is legally obliged to apply IHL if necessary, and in the event of violations of these norms, it is legitimate and obligatory for participating states to challenge these infractions in proceedings before international and national courts. However, for the national implementation of IHL, there is a difference in the protocols if the country follows the dualist or monist legal model. In the monist legal system, the implementation of IHL will be through the "ratification law" measure adopted by parliament and published in the official gazette. It will then have an impact on domestic law, as in this state model there is no separate implementation of international treaties. However, in the IHL implementation manual of the International Committee of the Red Cross, it is mentioned that additional measures are needed to ensure the protection and enforcement of the norms, which is evident in the following excerpt (ICRC, 2015, p.24).

In dualist states, the protocols to be followed for implementation are more obvious, since in this type of system, domestic law and international law are separate and distinct, so there is no possibility of conflict and interference from one over the other. It is worth noting that, generally, states that adopt the monist system have continental law as their legal system, and dualist countries have common law, although most of the time neither legal model is applied in its pure form. Therefore, for the safe and effective implementation of IHL, national humanitarian institutions and committees play a fundamental role, and their main focus is to make the population aware of their rights and to verify the application of IHL in armed conflicts.

In the statement by the International Committee of the Red Cross in 2010, led by former committee president Jakob Kellenberger, an internal investigative study on IHL with the intention of reviewing all the standards and their applicability in the current context, as well as identifying flaws and problems in the system, with the aim of increasingly improving international standards, concluded that it would not be necessary to make changes to IHL standards, but rather to invest in means to guarantee their applicability.

It is necessary to combat gaps and weaknesses in the application of the rules. Legal certainty is needed. In addition, it is essential to add explanations to the guidelines in order to adapt them to current humanitarian demands. Therefore, clarifying conduct is extremely useful for IHL (KELLENBERGER, 2010, s/p).

IHL originated in a very troubled historical scenario marked by numerous armed conflicts and tragedies, especially on the European continent. It is impossible to discuss the origins of IHL without mentioning Henry Dunant, a Swiss philanthropist and co-founder of the ICRC. During the war of unification in Italy, he traveled there and witnessed countless humanitarian injustices and violence, as well as the massacre of more than 40,000 soldiers. In this scenario, Dunant dedicated his trip to helping the wounded of the war, transcribing the events in his book "Memories of Solferino", in which he exposed the humanitarian horror of armed conflicts.

The purpose of the book, therefore, is to alert people to war crimes, and to express the need to help the wounded and prisoners of war, above all by organized humanitarian volunteers who are prepared to do so. As a result, his work caused an international stir, directly influencing the creation of the ICRC, a neutral international body. From then on, IHL became an extremely important and urgent international issue, as technologies increasingly aggravated armed conflicts. Consequently, the major milestones of IHL were established, the Geneva and Hague conventions.

When discussing International Humanitarian Law, it is essential to analyze Hague Law and Geneva Law. The need to establish limits with regard to the methods and means of combat in conflicts was identified in the international community as the standardization of the Law of War was postulated. Geneva Law was built on the four Geneva Conventions of 1949 and the two Additional Protocols of 1977. This law codified the rules for the protection of human beings, especially those who are out of combat, in situations of armed conflict. Therefore, Geneva Law deals with the protection of people when states use force to resolve disputes. In this way, Geneva Law is confused with Humanitarian Law itself (CHEREM, 2002).

The Hague Law, on the other hand, is largely made up of the Hague Conventions of 1899 and Protocol I to the Geneva Conventions of August 12, 1949. This law refers to the law of war itself, and is concerned with governing the conduct and use of force in the course of military operations and armed conflicts, as well as the duties and rights of military personnel on the ground, with the aim of limiting the means employed against the enemy. It is understood that Hague Law can be considered a state-to-state relationship, and can be confused with the Law of War. In summary, with regard to the aforementioned rights, it can be said that:

> Geneva Law, mainly concerned with the protection of the victims of armed conflicts; that is, the non-combatants and those who no longer take part in the hostilities; and The Hague Law, whose provisions relate to limitations and prohibitions of specific means and methods of warfare (BOUVIER, 2020, p. 17).

The Geneva Conventions triggered a series of treaties on international laws relating to the rules of international humanitarian law. These conventions took place between 1864 and 1949, and their consequent treaties correspond to the rights and duties of people, whether combatants or non-combatants, during wartime. Sequentially, the Conventions were intended to protect wounded and sick soldiers during land warfare; wounded, sick and shipwrecked soldiers during maritime warfare; prisoners of war and, finally, civilians, including those in occupied territory. In 1949, all the Geneva Conventions were revisited, representing the updated version of the Geneva Convention (ICRC, 2010).

The First Geneva Convention, dating back to 1864, was influenced by the International Committee of the Red Cross, fostering the work of this Organization throughout the world, and the export of the regulation of hostilities postulated in international law. This convention was aimed at wounded combatants, without discrimination as to which side of the war the soldier was on[3] . Under this convention, hospitals and ambulances are protected from attacks and hostilities by the belligerent parties because they are neutral in the conflict. It is agreed to adopt a flag that allows these environments to be recognized, based on the symbol of the red cross, or red crescent with a white background (ICRC, 2010).

The Second Convention took place in 1906, adapting the provisions of the initial Convention to maritime warfare, and introducing provisions to guarantee the protection and humanitarian assistance of the wounded, sick and shipwrecked by the Party to the conflict that has them in its possession, without discrimination, and prohibiting attacks on the lives of these individuals. The next Convention took place in 1926, dealing with penal and disciplinary sanctions for prisoners of war. It should be noted that the term "prisoners of war", as defined in the Third Geneva Convention, refers to members of the armed forces of a party to the conflict, members of resistance movements, individuals who spontaneously take up arms and crew members (ICRC, 2010).

The fourth and final Geneva Convention, of 1949, represents the evolution of international law regarding the protection of civilians in a war environment, mainly due to the experience of World War II. It grants protection and respect for human dignity, prohibiting the application of hostilities and violence against individuals, distinguishing between the situation of foreigners in the territory of one of the Parties and civilians in occupied territory. It should also be noted that the Additional Protocols, created in 1977, revisited this convention. The Protocols deal with the protection of victims in international and non-international armed conflicts, with the aim of limiting war (ICRC, 2010).

The First Additional Protocol consists of rules on the protection of civilians and the environments or instruments essential to their survival in the event of international armed conflicts. The Second Protocol is described with the same objective as the first, differing only in the type of conflict analyzed. In this

[3]I Geneva Convention. 1949. Available at: http://www.mpsp.mp.br/portal/page/portal/cao_civel/normativa_internacional/Sistema_ONU/DH.pdf

protocol, the protection of non-combatant civilians occurs in cases of non-international armed conflicts. The Third Additional Protocol "adds the red crystal to the red cross and the red crescent as distinctive emblems" (ICRC, 2016, p. 13). Above all, this last protocol must be guaranteed so that aid reaches those in need, in times of peace and war.

5 FIGHTING TERRORISM IN A WAR SCENARIO

First of all, it is imperative to point out that war is not a recent practice, but a defining feature of human history, and that it has been present in various cultures, states and begins for the most diverse reasons. And, precisely because of this, over the centuries it has been understood that even war needs delineations and limits (FERNANDES, 2018, p. 57). Thus, when we talk about the protection of the human person, we are talking about two distinct areas of law, but which complement each other: human rights and humanitarian law, both of which protect human life and dignity. However, while international humanitarian law is only applied in armed conflicts (international or otherwise), human rights are also applied in times of peace (ICRC, 2010).

In this sense, the 1949 Geneva Conventions have a solid place in the international community as the main pillar of humanitarian law. These, in turn, must be respected in any situation of armed conflict and, unlike human rights, cannot be suspended or limited (ICRC, 2010). In other words, international humanitarian law demonstrates its relevance in practice, as it is the essential safeguard for maintaining minimum standards of humanity even in a context of armed conflict.

Therefore, when it comes to combating terrorism in a war scenario, two questions arise in particular: (i) does terrorism fall within the scope of armed conflict? and (ii) to what extent do existing humanitarian law standards apply to terrorist practices? In order to obtain these answers, it is first necessary to differentiate between armed conflict and terrorism.

On the one hand, there are hundreds of definitions for terrorism, and to this day no single official concept has been established in the international community, not even by humanitarian law. There are even historians such as Walter Ze'ev Laqueur who disbelieve that one day a meaning will be found for the term, since no definition will be able to encompass all the varieties of terrorism that have existed throughout history (LAQUEUR, 1997, p.7). On the other hand, the practical definition of armed conflict is the use of the armed forces of one state against another (with regard to international conflicts), as well as hostilities between the armed forces of the government and organized armed groups or between these groups within the same state, with regard to non-international conflicts (ICRC, 2005).

From this perspective, International Humanitarian Law will only apply to armed conflicts and terrorist acts related to these conflicts, and will not regulate acts of terrorism committed during periods of peace and stability. For the latter, human rights and international criminal law apply. However, this does

not mean that humanitarian law in any way coincides with the fight against terrorism. On the contrary, most of the acts that are prohibited in an armed conflict could fit into the normal scenario as terrorist acts (ICRC, 2015).

As a practical example, there are direct attacks against civilians and civilian property and the taking of hostages, which very much represent the general understanding of terrorism as the spread of terror and indiscriminate violence among and towards the civilian population (ICRC, 2005). As a normative example, we highlight Article 33 of the Fourth Geneva Convention, which deals with intimidation measures, and Additional Protocols I and II of the Conventions, which express, respectively, in their Articles 51(2) and 13(2), that "acts or threats of violence with the primary aim of spreading terror among the civilian population are prohibited" (ICRC, 2015).

The lack of a concrete definition for terrorism and the acts considered to be terrorist, comes up against both the difficulty of typifying and classifying such acts, making it difficult to prevent and legally repress these practices, and the various non-convergent understandings between organizations and documents about the definition and, especially, the measures to combat terrorism. In short, it can be seen that terrorism and universalization do not coincide, partly due to the duality between West and East.

And it is against this backdrop of uncertainty that the United Nations Security Council has also tried and still tries to make its contribution to combating terrorist acts, especially after September 11. Committees have been set up, such as the Counterterrorism Committee, which oversees the implementation of Resolution 1373 issued by the Security Council and which aims to curb the financing of terrorism by criminalizing the collection of funds and freezing the financial assets of those deemed to be "terrorists". In turn, the discussion of what constitutes a terrorist person and a terrorist act has been reopened. Undoubtedly, even more so in the context of the aftermath of the attack on the US, in which the main resolutions to combat terrorism were drawn up, these conceptions run the risk of being stereotyped on an ethnic, racial, religious and political level.

However, despite the difficulties involved in implementing the Resolutions in the reality of each State, the Security Council has shown itself to be a pioneer in some discussions, such as the one surrounding Resolution 1540 (2004), which obliges States to stop all support to non-state actors for nuclear, biological and chemical weapons. This resolution had a direct impact on the adoption of the International Convention for the Suppression of Acts of Nuclear Terrorism (2005) by the United Nations General Assembly (UNICRio, 2021).

The difficulties in converging the rules for combating terrorism are also related to state sovereignty. The existence of the modern state, from the very beginning of its conceptualization, is intrinsically linked to its sovereignty. The concept originates from Natural Law, in the same sense that equality is seen as part of the essence of human beings, it is seen as a condition for states.

In the 1970 Declaration of Principles of International Law, it is agreed that all countries enjoy sovereign equality which includes the following elements: legal equality; inherent rights of sovereignty; respect for the legal personality of other states; inviolable territorial integrity and political independence; the right to freely choose and develop their political, social, economic and cultural systems; the duty to comply fully and in good faith with their international obligations and to live in peace with other states.

Sovereignty is also linked to the principles of independence and self-determination of peoples, both of which are provided for in the 1988 Constitution of the Federative Republic of Brazil, in Article 4, which dictates the principles governing the international relations of this state. The jurisprudence of international law that marks this relationship goes back to the arbitration case between the United States of America and the Netherlands in 1928, in the case of the Island of Palmas:

> Sovereignty in the relationship between states means independence. Independence in relation to a part of the globe is the right to exercise the functions of a state there, to the exclusion of any other state. The development of the national organization of states over the last few centuries and, as a corollary, the development of international law, have established this principle of the exclusive competence of the state in relation to its own territory in such a way as to make it the starting point for resolving the majority of questions concerning international relations (UNITED NATIONS, 2006, P.838).

These intrinsic rights of states are important for the viability of the international system. However, the difficulty previously reported in conceptualizing terrorism, coupled with subjectivities in the exercise of state sovereignty, can constitute a major collective risk. Terror is understood as a weapon to be used according to political interests, which has proven to be commonplace at different times in civilization.

Consequently, there are well-known cases in which terrorism is financed by states in order to achieve certain strategic objectives where the action of armed forces would not bring the expected results, or would even cause political inconvenience. In the 1980s, in the face of a Soviet invasion, an Islamic fundamentalist group emerged to protect Afghanistan and was supported by the United States - in a cold war context, the two great powers acted in indirect combat. In 2001, this group, Al-Qaeda, was responsible for the September 11 attacks. However, the links between states and terrorism are not limited to this case. Recently, the European Parliament recognized Russia as a country that finances terrorism.

The difficulty of defining what terrorism is comes from the inherent value judgment. Alessandro Visacro (2022) elucidates the current classifications of terrorism, which are directly linked to states when they are motivated by state terrorism, when force is used illegitimately to keep the current government in power and with persecution of political opponents even outside national territory. David Whittaker also highlights state-sponsored terrorism, where the terrorist group perpetrates terror in order to spread the ideology of that state, or to take control of the region in which it operates.

Considered a terrorist group by some countries, including but not limited to the United States, the United Kingdom, Australia, Argentina and Colombia, Hezbollah is a Lebanese political party. Its Arabic name translates as "party of God", its backers include Iran and Syria and it is accused of involvement in international drug trafficking. Although it is not on the UN list of terrorists, the UN Security Council is calling for its disarmament.

State support for terrorism doesn't just occur in monetary terms; sometimes it involves allowing the use of their territory, training members or donating arms and supplies. One of the major challenges that counter-terrorism must address is preventing the use of chemical or biological weapons, or weapons for the exclusive use of states. The involvement of sovereign states in terrorism sometimes gives rise to discussions about democratic interests, the self-determination of peoples and the limits of action for the American war on terror. Aside from the paradox of tolerance, where Popper (2022) theorizes that unlimited tolerance would end up being hindered by intolerant ideologies - in the sense that countries taking counter-terrorist action do so to guarantee the freedom and security of their nationals - public international law also provides answers to these dilemmas.

The rules relating to the fight against terror make up International Humanitarian Law, which, due to its importance to humanity, has gained customary status. Although it has a contractualist theoretical basis, international law provides, in the 1970 Declaration of the Law of Treaties, that no state may exempt itself from its legal obligations on the basis of its domestic law. According to Cançado Trindade's interpretation (2022), which also applies to rules consolidated by tradition, he also argues that the idea of sovereignty no longer exerts a strong influence on the interpretation of treaties. With the conclusion of the former judge member of the International Court of Justice:

> Every conventional obligation limits the sovereign powers of both or all of the States parties, and if such a rule of interpretation restricts one contracting party, it would have the effect of restricting the other parties as well, which would seem absurd (TRINDADE, 2017, s/p).

6 FINAL CONSIDERATIONS

This paper problematizes the war on terror and the application of humanitarian law. To this end, the first part presents the conceptual definitions of the research. The second section discusses international humanitarian law and its application in international courts and legal documents. The third chapter presented a contextualization of the fight against terrorism in a war scenario. To this end, it was observed that terrorism is perceived by systematic and scientific elements, which are: terrorist targets and strategies, use or threat of violence, organization into groups and political objectives. Therefore, definitions and distinctions are not consensual, since in the current scenario it is difficult to find criteria and singular characteristics. In this way, the fight against terrorism involves retaliation, punishment, military attacks, assassinations, arrests,

interrogations, trials and structural changes to nullify the causes through the application of national and international criminal law.

It is important to note that the fight against terrorism in a war scenario also involves intelligence services to identify who will be targeted; the international community is mobilized to impose sanctions; cooperation between states via bilateral diplomacy. In short, the conclusion is that it must involve a support network in order to choose the best strategies to combat it. In light of this, it can be said that the War on Terror is made up of normative and conceptual vulnerabilities in the legal and security order of the international system, since economic and political interests contribute to justifying actions and constructing realities, interpretations and problems based on a narrative of influence.

Against this backdrop, the principle of the responsibility to protect should be applied, which deals with the responsibilities of the international community to prevent, react to and rebuild populations facing serious human rights violations. Also, the principle of solidarity for the construction and conceptualization of social public policies. They are necessary as international instruments to enable states and other actors to articulate actions to develop solutions and work with the consequences of terrorism.

Thus, it can be seen that legal institutions and multilateral organizations act beyond mechanisms for projecting power, legitimizing sovereignty and relativizing human rights on the international stage. This is because humanitarian aid is associated with a set of attributes related to projects of social justice, such as support interventions to guarantee human living conditions through immediate, accessible and understandable actions to make security possible.

In view of the above, it is worth considering that the conceptions of international humanitarian law establish relations with terrorism through the constructivist approach of International Relations, due to the recognition of shared identities, values and meanings. Cooperation is simply based on selfish interests. Therefore, in the context of the securitization process from the perspective of Security constructed through the gaze of the observer, the tacit negotiation between publics to decide whether the issue will be treated as a security issue and the material and grammatical elements used in the narratives to help securitize the issue.

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