



CONTROL OF CONVENTIONAL, NUCLEAR, BIOLOGICAL AND CHEMICAL WEAPONS WITH REFERENCE TO INTERNATIONAL HUMANITARIAN LAWS

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ABSTRACT

A weapon, arm or armament is any implement or device that can be used with intent to inflict damage or harm. Weapons are used to increase the efficacy and efficiency of activities such as hunting, crime, law enforcement, self-defence, and warfare. In broader context, weapons may be construed to include anything used to gain a tactical, strategic, material or mental advantage over an adversary or enemy target. We can say there are many disadvantages of these weapons like genocide, mass killing, mass destruction. If now there is no control on these weapons than all human being will go through these problems. This article is about Control of Weapons with reference to International Humanitarian Laws which are conventional weapons, biological weapons, nuclear weapons and chemical weapons.

KEY WORDS: Conventional Weapons, Nuclear Weapons, Biological Weapons, Chemical Weapons, International Humanitarian Laws.

INTRODUCTION:

Restrictions on the types of weapons permitted in armed conflict have existed for thousands of years. Ancient codes of war prohibited means or methods of warfare considered to be barbarous, treacherous or inhumane. In ancient Greece and Rome it was forbidden to use poison or poisoned weapons. The ancient Hindu "Laws of Manu" prohibited the use of poisoned or burning arrows. Other civilizations developed similar rules. These practices were the seeds of the future development of international humanitarian law governing the choice of weapons.¹

In more recent times, rules regulating means and methods of warfare have been laid down in legally binding international agreements. The use of explosive and expanding bullets was forbidden by the St Petersburg Declaration of 1868 and The Hague Declaration of 1899.²

The use of chemical and biological weapons was outlawed by the Geneva Protocol of 1925.³ This ban was later strengthened by the adoption of the Biological Weapons Convention (1972) and the Chemical Weapons Convention (1993), which prohibited the development, production, stockpiling and transfer of such weapons. In the 1990s, the international community acted forcefully to eliminate anti-personnel landmines. The adoption of and wide adherence to the 1997 Convention on the Prohibition of Anti-personnel Mines is a reflection of the deep public concern about the human cost of weapons used in armed conflict today. Under the 2007 model Nuclear Weapons Convention, all States would be prohibited from pursuing or participating in the "development, testing, production, stockpiling, transfer, use and threat of use of nuclear weapons."

CONTROL OF CONVENTIONAL WEAPONS:

Conventional weapons refer to weapons that are not weapons of mass destruction. They include but are not limited to: armoured combat vehicles, combat helicopters, combat aircraft, warships, small arms and light weapons, landmines, cluster munitions, ammunition and artillery. They are the principal tools used in all wars up to the present day. However, while they inflict dramatic damage, they often get less attention compared to weapons of mass destruction.

The use of conventional weapons and their unregulated trade have a devastating human cost. Indeed, thousands of people are injured, killed, raped and forced to flee their home during armed conflict. Insecurity is reinforced at the local level with the growth of criminality, and at a regional level with the development of arms races. Heavy conventional weapons inflict huge damages on infrastructures by destroying housing, industries, roads and so on. They also affect future generations by weakening economic and political stability, damaging the environment, and increasing dependency on foreign assistance.

Moreover, States spend huge amounts of money on conventional weapons which strengthens the commercial interests related to this type of weapons and diverts resources from basic human needs.

The flow of illegal arms and light weapons (SALW) trafficking poses a threat to security and law enforcement. Dark goods are often a factor behind the occurrence of forced displacement of civilians and major human rights violations in various parts of the world, both by corrupt governments, organized crime and terrorists. The state has the inherent right to defend itself. The state can use armed force in accordance with the Charter of the United Nations and International Humanitarian Law.⁴

In general, small arms include various types of killer devices from handguns to

MANPADS. Although there is no definition agreement, the term small arms is understood to be portable firearms and ammunition designed for individual use by the military. Included in this case is a gun; rifle and carbine; assault weapons; and light machine guns. The definition of small arms continues to be a discussion to get a uniform understanding.

Light weapons are heavier and larger than small arms and are designed to be used by a small team or infantry crew. Included in this are man-portable firearms and ammunition; light artillery guns; rocket; and guided missiles used for tanks, aircraft or fortification. Light weapons can also include heavy machine-guns, grenade launchers (hand-held under-barrel and mounted grenade launchers), MANPADS, portable anti-tank and rocket launchers systems, and mortars under 100 mm caliber. Light weapons are very widely produced, easily hidden, and require little maintenance, or use training.

The Convention on Certain Conventional Weapons is another important treaty in this area.⁵ Along with the Geneva Conventions of 1949 and their Additional Protocols of 1977, the Convention is one of the principal instruments of international humanitarian law. This publication contains the current text of the Convention and its five Protocols and is intended to promote understanding of the instrument's rules and to facilitate its ratification and implementation by governments.

The CCWC consists of a set of additional protocols first formulated on October 10, 1980, in Geneva and entered into force on December 2, 1983. As of the end of October 2020, there are 125 state parties to the convention.⁶ Some of those countries have only adopted some of the five protocols, with two being the minimum required to be considered a party.⁷

The convention has five protocols:

- Protocol I restricts weapons with non-detectable fragments
- Protocol II restricts landmines, booby traps
- Protocol III restricts incendiary weapons
- Protocol IV restricts blinding laser weapons (adopted on October 13, 1995, in Vienna)
- Protocol V sets out obligations and best practice for the clearance of explosive remnants of war, adopted on November 28, 2003, in Geneva.⁸

Protocol II was amended in 1996 (extending its scope of application), and entered into force on December 3, 1998. The amendment extended the restrictions on landmine use to internal conflicts; established reliability standards for remotely delivered mines; and prohibited the use of non-detectable fragments in anti-personnel landmines (APL). The failure to agree to a total ban on landmines led to the Ottawa Treaty.

Protocol I: Non-Detectable Fragments

Protocol I on Non-Detectable Fragments prohibits the use of any weapon the primary effect of which is to injure by fragments which are not detectable in human body by X-rays.⁹ The reason is that such fragments are difficult to remove and cause unnecessary suffering. The protocol applies when the "primary effect" is to injure by non-detectable fragments and does not prohibit all use of e.g. plastic in weapons design.¹⁰

Protocol II: Mines, Booby Traps and Other Devices

Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices was amended on May 3, 1996, to strengthen its provisions and extend the scope of application to cover both international and internal armed conflicts. The protocol regulates, but does not ban, land mines. It prohibits the use of non-detectable anti-personnel mines and their transfer; prohibits the use of non-self-destructing and non-self-deactivating mines outside fenced, monitored and marked areas; prohibits directing mines and booby traps against civilians; requires parties to the conflict to remove mines and booby traps when the conflict ends; broadens obligations of protecting peacekeeping and other missions of the United Nations and its agencies; requires States to enforce compliance with its provisions within their jurisdiction; and calls for penal sanctions in case of violation.¹¹

Protocol III: Incendiary Weapons

Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons prohibits, in all circumstances, making the civilian population as such, individual civilians or civilian objects, the object of attack by any weapon or munition which is primarily designed to set fire to objects or to cause burn injury to persons through the action of flame, heat or a combination thereof, produced by a chemical reaction of a substance delivered on the target. The protocol also prohibits the use of air-delivered incendiary weapons against military targets within a concentration of civilians, and limits the use of incendiary weapons delivered by other means. Forest and other plants may not be a target unless they are used to conceal combatants or other military objectives.¹² Protocol III lists certain munition types like smoke shells which only have a secondary or additional incendiary effect; these munition types are not considered to be incendiary weapons.¹³

Protocol IV: Blinding Laser Weapons

Protocol IV on Blinding Laser Weapons prohibits the use of laser weapons specifically designed to cause permanent blindness. The parties to the protocol also agree to not transfer such weapons to any state or non-state entity. The protocol does not prohibit laser systems where blinding is an incidental or collateral effect, but parties that agree to it must take all feasible precautions to avoid such effects.¹⁴

Protocol V: Explosive Remnants of War

Protocol V on Explosive Remnants of War requires the clearance of UXO (unexploded ordnance), such as unexploded bomblets from cluster bombs and abandoned explosive weapons. At the cessation of active hostilities, Protocol V establishes a responsibility on parties that have used explosive weapons to assist with the clearance of unexploded ordnance that this use has created. Parties are also required, subject to certain qualifications, to provide information on their use of explosive weapons. Each party is responsible for the territory in their control after a conflict. The protocol doesn't apply to mines and other weapons covered by protocol II.¹⁵ The protocol came about as a result of a growing awareness during the 1990s that the protection against unexploded ordnance was insufficient. The protocol was adopted in 2003 and entered into force in 2006.¹⁵

CONTROL OF NUCLEAR WEAPONS:

A nuclear weapon, also known as a nuclear bomb or a nuke, is a weapon that suddenly releases the energy in the nucleus of certain types of atoms. When triggered, these devices release a huge amount of energy in the form of a nuclear explosion. Nuclear explosions can destroy a city and kill most of its people. They also make nuclear fallout that may also make people very sick. Nuclear weapons are the most damaging weapons to have been created. The first nuclear weapons were built by the United States during World War II. Two nuclear weapons were used to attack cities in Japan. These were the only times when nuclear weapons were used in war.

Today, the United States and Russia have the most nuclear weapons. The other countries that have nuclear weapons are: China, France, United Kingdom, India, Israel, North Korea, and Pakistan. South Africa used to have nuclear weapons, but they decided to destroy them. There are two ways to make nuclear weapons: fission weapons (also called atomic bombs or A-Bombs) and fusion weapons (also called hydrogen bombs, H-Bombs or thermonuclear weapons). The way they make energy for the nuclear explosion is different. Fusion weapons make bigger explosions. Fission weapons use a special isotope of uranium or plutonium. Fusion weapons use a special isotope of hydrogen.¹⁶

Nuclear weapon, device designed to release energy in an explosive manner as a result of nuclear fission, nuclear fusion, or a combination of the two processes. Fission weapons are commonly referred to as atomic bombs. Fusion weapons are also referred to as thermonuclear bombs or, more commonly, hydrogen bombs; they are usually defined as nuclear weapons in which at least a portion of the energy is released by nuclear fusion.

Nuclear weapons produce enormous explosive energy. Their significance may best be appreciated by the coining of the words kiloton (1,000 tons) and megaton (1,000,000 tons) to describe their blast energy in equivalent weights of the conventional chemical explosive TNT. For example, the atomic bomb dropped on Hiroshima, Japan, in 1945, containing only about 64 kg (140 pounds) of highly enriched uranium, released energy equalling about 15 kilotons of chemical explosive. That blast immediately produced a strong shock wave, enormous

amounts of heat, and lethal ionizing radiation. Convection currents created by the explosion drew dust and other debris into the air, creating the mushroom-shaped cloud that has since become the virtual signature of a nuclear explosion. In addition, radioactive debris was carried by winds high into the atmosphere, later to settle to Earth as radioactive fallout. The enormous toll in destruction, death, injury, and sickness produced by the explosions at Hiroshima and, three days later, at Nagasaki was on a scale never before produced by any single weapon. In the decades since 1945, even as many countries have developed nuclear weapons of far greater strength than those used against the Japanese cities, concerns about the dreadful effects of such weapons have driven governments to negotiate arms control agreements such as the Nuclear Test-Ban Treaty of 1963 and the Treaty on the Non-proliferation of Nuclear Weapons of 1968. Among military strategists and planners, the very presence of these weapons of unparalleled destructive power has created a distinct discipline, with its own internal logic and set of doctrines, known as nuclear strategy.

The first nuclear weapons were bombs delivered by aircraft. Later, warheads were developed for strategic ballistic missiles, which have become by far the most important nuclear weapons. Smaller tactical nuclear weapons have also been developed, including ones for artillery projectiles, land mines, antisubmarine depth charges, torpedoes, and shorter-range ballistic and cruise missiles.¹⁷

Treaty on the Prohibition of Nuclear Weapons

The States Parties to this Treaty,

Determined to contribute to the realization of the purposes and principles of the Charter of the United Nations,

Deeply concerned about the catastrophic humanitarian consequences that would result from any use of nuclear weapons, and recognizing the consequent need to completely eliminate such weapons, which remains the only way to guarantee that nuclear weapons are never used again under any circumstances,

Mindful of the risks posed by the continued existence of nuclear weapons, including from any nuclear-weapon detonation by accident, miscalculation or design, and emphasizing that these risks concern the security of all humanity, and that all States share the responsibility to prevent any use of nuclear weapons,

Cognizant that the catastrophic consequences of nuclear weapons cannot be adequately addressed, transcend national borders, pose grave implications for human survival, the environment, socioeconomic development, the global economy, food security and the health of current and future generations, and have a disproportionate impact on women and girls, including as a result of ionizing radiation,

Acknowledging the ethical imperatives for nuclear disarmament and the urgency of achieving and maintaining a nuclear-weapon-free world, which is a global public good of the highest order, serving both national and collective security interests,

Mindful of the unacceptable suffering of and harm caused to the victims of the use of nuclear weapons (hibakusha), as well as of those affected by the testing of nuclear weapons, Stressing the role of public conscience in the furthering of the principles of humanity as evidenced by the call for the total elimination of nuclear weapons, and recognizing the efforts to that end undertaken by the United Nations, the International Red Cross and Red Crescent Movement, other international and regional organizations, non-governmental organizations, religious leaders, parliamentarians, academics and the hibakusha,

CONTROL OF BIOLOGICAL WEAPONS:

Biological weapon also called germ weapon, any of a number of disease-producing agents—such as toxins, viruses, fungi, rickettsia, bacteria, or other biological agents—that may be utilized as weapons against animals, humans, or plants.

Event of biological warfare during the past millennium,

- 1155 Emperor Barbarossa poisons water wells with human bodies, Tortona, Italy
- 1346 Mongols catapult bodies of plague victims over the city walls of Caffa, Crimean Peninsula
- 1495 Spanish mix wine with blood of leprosy patients to sell to their French foes, Naples, Italy
- 1650 Polish fire saliva from rabid dogs towards their enemies
- 1675 First deal between German and French forces not to use 'poison bullets'
- 1763 British distribute blankets from smallpox patients to native Americans

1797 Napoleon floods the plains around Mantua, Italy, to enhance the spread of malaria

1863 Confederates sell clothing from yellow fever and smallpox patients to Union troops, USA.¹⁸

It is not clear whether any of these attacks caused the spread of disease. In Caffa, the plague might have spread naturally because of the unhygienic conditions in the beleaguered city. Similarly, the smallpox epidemic among Indians could have been caused by contact with settlers. In addition, yellow fever is spread only by infected mosquitoes. During their conquest of South America, the Spanish might also have used smallpox as a weapon. Nevertheless, the unintentional spread of diseases among native Americans killed about 90% of the pre-Columbian population.¹⁹

The Biological Weapons Convention

The Biological Weapons Convention (BWC) effectively prohibits the development, production, acquisition, transfer, stockpiling and use of biological and toxin weapons. It was the first multilateral disarmament treaty banning an entire category of weapons of mass destruction (WMD).

The BWC is a key element in the international community's efforts to address WMD proliferation and it has established a strong norm against biological weapons. The Convention has reached almost universal membership with 184 States Parties and four Signatory States.²⁰

The BWC itself is comparatively short, comprising only 15 articles. Over the years, it has been supplemented by a series of additional understandings reached subsequent Review Conferences. The BWC Implementation Support Unit regularly updates a document that provides information on additional agreements which (a) interpret, define or elaborate the meaning or scope of a provision of the Convention; or (b) provide instructions, guidelines, or recommendations on how a provision should be implemented.

Formally known as "The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction", the Convention was negotiated by the Conference of the Committee on Disarmament in Geneva, Switzerland. It opened for signature on 10 April 1972 and entered into force on 26 March 1975. The BWC supplements the 1925 Geneva Protocol, which had prohibited only the use of biological weapons.

States Parties to the Biological Weapons Convention undertook "never in any circumstances to develop, produce, stockpile or otherwise acquire or retain:

1. Microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes;
2. Weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict."

BWC States Parties have strived to ensure that the Convention remains relevant and effective, despite the changes in science and technology, politics and security since it entered into force. Throughout the intervening years, States Parties have met approximately every five years to review the operation of the BWC. Between these Review Conferences, States Parties have pursued various activities and initiatives to strengthen the effectiveness and improve the implementation of the Convention. A total of eight Review Conferences have taken place since the first one in 1980.

Provisions of the Convention

Article I Undertaking never under any circumstances to develop, produce, stockpile, acquire or retain biological weapons.

Article II Undertaking to destroy biological weapons or divert them to peaceful purposes.

Article III Undertaking not to transfer, or in any way assist, encourage or induce anyone to manufacture or otherwise acquire biological weapons.

Article IV Requirement to take any national measures necessary to prohibit and prevent the development, production, stockpiling, acquisition or retention of biological weapons within a State's territory, under its jurisdiction, or under its control.

Article V Undertaking to consult bilaterally and multilaterally and cooperate in solving any problems which may arise in relation to the objective, or in the application, of the Biological Weapons Convention.

Article VI Right to request the United Nations Security Council to investigate alleged breaches of the BWC, and undertaking to cooperate in carrying out any investigation initiated by the Security Council.

Article VII Undertaking to assist any State Party exposed to danger as a result of a violation of the BWC.

Article X Undertaking to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and information for peaceful purposes.

In addition to strategic or tactical military applications, biological weapons can be used for political assassinations, the infection of livestock or agricultural produce to cause food shortages and economic loss, the creation of environmental catastrophes, and the introduction of widespread illness, fear and mistrust.

Biological warfare is a potential threat on the battlefield and in daily life. It is vital for neurologists and other health-care practitioners to be familiar with biological and toxic agents that target the nervous system.

CONTROL OF CHEMICAL WEAPONS:

Chemical weapons have been a part of warfare in most societies, although their use has been particularly controversial since the 20th century.

Ancient Greek myths about Hercules poisoning his arrows with the venom of the Hydra monster are the earliest references to toxic weapons in western literature. Homer's epics, the Iliad and the Odyssey, allude to poisoned arrows used by both sides in the legendary Trojan War (Bronze Age Greece).²¹

Some of the earliest surviving references to toxic warfare appear in the Indian epics Ramayana and Mahabharata.²² The "Laws of Manu," a Hindu treatise on statecraft (c. 400 BC) forbids the use of poison and fire arrows, but advises poisoning food and water. Kautilya's "Arthashastra", a statecraft manual of the same era, contains hundreds of recipes for creating poison weapons, toxic smokes, and other chemical weapons. Ancient Greek historians recount that Alexander the Great encountered poison arrows and fire incendiaries in India at the Indus basin in the 4th century BC.²³

A Chemical Weapon is a chemical used to cause intentional death or harm through its toxic properties. Munitions, devices and other equipment specifically designed to weaponise toxic chemicals also fall under the definition of chemical weapons.

The CWC augments the Geneva Protocol of 1925, which bans the use but not the development or possession of chemical and biological weapons. The CWC also includes extensive verification measures such as on-site inspections, in stark contrast to the 1975 Biological Weapons Convention (BWC), which lacks a verification regime.

A common conception of a chemical weapon (CW) is of a toxic chemical contained in a delivery system such as a bomb or artillery shell. While technically correct, a definition based on this conception would only cover a small portion of the range of things the Chemical Weapons Convention (CWC) prohibits as 'chemical weapons'.

Under the CWC, the definition of a chemical weapon includes all toxic chemicals and their precursors, except when used for purposes permitted by the Convention – in quantities consistent with such a purpose.

Chemical Weapons Convention

- Prohibition of production and use of chemical weapons
- Destruction (or monitored conversion to other functions) of chemical weapons production facilities
- Destruction of all chemical weapons (including chemical weapons abandoned outside the state parties territory)
- Assistance between State Parties and the OPCW in the case of use of chemical weapons
- An OPCW inspection regime for the production of chemicals which might be converted to chemical weapons
- International cooperation in the peaceful use of chemistry in relevant areas

Organisation for the Prohibition of Chemical Weapons (OPCW)

The Organisation for the Prohibition of Chemical Weapons (OPCW) is an inter-governmental organisation and the implementing body for the Chemical Weapons Convention (CWC), which entered into force on 29 April 1997. The OPCW, with its 193 member states, has its seat in The Hague, Netherlands; it oversees the global endeavour for the permanent and verifiable elimination of chemical weapons.

The organisation promotes and verifies the adherence to the Chemical Weapons Convention, which prohibits the use of chemical weapons and requires their destruction. Verification consists both of evaluation of declarations by member states and onsite inspections.²⁴

The organisation was awarded the 2013 Nobel Peace Prize "for its extensive efforts to eliminate chemical weapons". Nobel Committee chairman Thorbjorn Jagland said, "The conventions and the work of the OPCW have defined the use of chemical weapons as a taboo under international law".

Chlorine, phosgene (a choking agent) and mustard gas (which inflicts painful burns on the skin) were among the chemicals used. The results were indiscriminate and often devastating. Nearly 100,000 deaths resulted. Since World War I, chemical weapons have caused more than one million casualties globally.

The use and possession of chemical weapons is prohibited under international law. However, several nations continue to maintain active chemical weapons programs, despite a prevailing norm against the use of chemical weapons and international efforts to destroy existing stockpiles.

CONCLUSION AND SUGGESTION:

Large varieties of weapons exist, and they can be used in many different ways. International humanitarian law regulates the use of weapons: Some weapons are simply prohibited, as such: not only is their use strictly prohibited, but so is their production, transfer, and stockpiling. Other weapons are authorized, but their use is regulated by prohibiting certain forms of use; for instance, any use that is indiscriminate or disproportionate is prohibited.

States must examine whether any new weapon is compatible with the principles of international humanitarian law, in consultation with the International Committee of Red Cross. Different kinds of weapons are available. Some weapons are authorized, except certain uses there of edged weapons and firearms, while others are strictly prohibited incendiary, biological, and chemical weapons. The general rule that prohibits attacks against civilians is applicable to the use of all weapons.

In general, humanitarian law prohibits any weapon "of a nature to cause superfluous injury or unnecessary suffering" and any that may have indiscriminate or excessively injurious effects. This is an ancient principle, linked to the axiom that "the right of the parties to the conflict to choose methods or means of warfare is not unlimited".

Humanitarian law may therefore prohibit the use, production, stockpiling, or selling of certain kinds of weapons. This is now the case for biological and chemical weapons, for instance, and to some extent for landmines. Since 1977 (when Additional Protocol I to the 1949 Geneva Conventions was adopted), humanitarian law has also codified that it is forbidden to employ methods or means of warfare that are intended, or may be expected, to cause widespread, long-term, and severe damage to the natural environment.

For the most part, the rules governing the use of such weapons are set forth in specific international conventions that address these issues specifically and therefore only apply to the States Parties to these conventions. The main exceptions are the Geneva Conventions and Additional Protocols, which are widely ratified by States as well as carrying a status of customary international law, and which go a long way toward regulating means and methods of warfare.

Furthermore, in the study, development, acquisition, or adoption of a new weapon, States are under the obligation to determine whether the use of this weapon would be prohibited by humanitarian law, in some or all circumstances (API Art. 36). The International Committee of the Red Cross (ICRC) has a consultative role to play with regard to this question.

Humanitarian Law Limits the Ways Weapons Are Used: The four 1949 Geneva Conventions and their two 1977 Additional Protocols set forth the restrictions on the use of weapons. Today, these rules are mandatory for all States. Some of the main rules are as follows:

Parties to the conflict must distinguish between civilian and military objects. The weapons they use must always allow them to respect this distinction.

Weapons must not be used in a way that would not be justified by a genuine military requirement or that would be disproportionate to the military advantage sought or to the supposed military threat. The aim of these provisions is to limit superfluous, gratuitous, or unnecessary damage or suffering.

During attacks, parties to the conflict (in particular, their commanders) are under the obligation to take certain precautions to limit their possible effects on civilians and civilian objects. The cardinal principles contained in the texts constituting the fabric of humanitarian law are the following. According to the second principle, it is prohibited to cause unnecessary suffering to combatants: it is accordingly prohibited to use weapons causing them such harm or uselessly aggravating their suffering. In application of that second principle, States do not have unlimited freedom of choice of means in the weapons they use.

In conformity with the aforementioned principles, humanitarian law, at a very early stage, prohibited certain types of weapons either because of their

indiscriminate effect on combatants and civilians or because of the unnecessary suffering caused to combatants, that is to say, a harm greater than that unavoidable to achieve legitimate military objectives.

Further these fundamental rules are to be observed by all States whether or not they have ratified the conventions that contain them, because they constitute in transgressible principles of international customary law.

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