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José María Pino Suárez 400-2 esq a Lerdo de Tejada. Toluca, Estado de México. 7223898475
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TÍTULO: Regulación legal de las armas de acuerdo con los principios y normas actuales de conformidad general del derecho internacional.

AUTORES:

1. Anatoly Prudnikov.

2. Mikhail Smirnov.

RESUMEN: El artículo trata sobre los problemas de la regulación de las armas convencionales, las perspectivas de la regulación de las armas de destrucción masiva, especialmente las armas biológicas. La esfera de la seguridad internacional requiere la limitación convencional del desarrollo de armas. En el mundo moderno, nuevas amenazas, como el terrorismo y el dominio geopolítico, llevan a la necesidad de fortalecer el control internacional de equipos. En primer lugar, es necesario fortalecer el control convencional y prohibir o limitar una serie de tipos de armas. Sin control internacional, principalmente a través de la ONU, existe un grave riesgo de uso de nuevos tipos de armas por parte de varios grupos marginales en países con control estatal inestable.

PALABRAS CLAVES: derecho internacional público, conflictos militares, armas de destrucción masiva, guerra biológica, seguridad internacional.

TITLE: Legal regulation of weapons in accordance with current generally accordance Principles and Standards of International Law.

AUTHORS:

1. Anatoly Prudnikov.

2. Mikhail Smirnov.

ABSTRACT: The article deals with the problems of the regulation of conventional weapons, the perspectives of regulation of weapon of mass destruction, especially biological weapon. The sphere of international security requires the conventional limitation of the arms development. In the modern world, new threats, such as terrorism and geopolitical dominance, lead to the need to strengthen the international equipment control. First of all, it is necessary to strengthen the conventional control and prohibit or limit a number of weapons' types. Without international control, primarily through the UN, there is a serious risk of the use of new types of weapons by various marginal groups in countries with unstable state control.

KEY WORDS: international public law, military conflicts, WMD, biological warfare, international security.

INTRODUCTION.

The article analyzes general trends in the development of various types of weapons in terms of their compliance with the requirements of international humanitarian law and international security law. Currently, there is a tendency in the world to reduce the international conventional regulation of both weapons of mass destruction and conventional weapons. Chemical and bacteriological weapons as legal concepts do not develop in the form of progressive norms of international law (Markova, Shherbakova, Depsames, Tsyplakova, & Yakovleva, 2016).

The lack of international control leads, in turn, to the desire of national states to solve the problem of armaments independently. This is reflected in the adoption of new types of more powerful and deadly equipment and weapons, than previous models. The opacity of implementation of the Biological

Weapons Convention is particularly disturbing. The lack of control by the international community leads to the desire of industrialized countries to explore and create samples of new pathogens, viruses and toxins. Since bacteriological weapons are closely related to progress in infectious medicine, there is the possibility of developing private bacteriological centers, from which viruses can be stolen and used in the interests of terrorist groups.

The new arms race may become another significant problem, with more powerful means of delivering nuclear weapons, with greater survivability of equipment, with an increase in the power and accuracy of such weapons. This, inevitably, will lead to the desire of all nuclear-weapon states to create their own, more modern technical means, for example, space orbital means of bombardment, means with low visibility or increased survivability. All the above mentioned increases the risk of global war and does not contribute to solving the more significant problems of mankind.

Transparency, along with international standards of humanitarian law, are the main ways to increase the international security and progressively develop international law.

DEVELOPMENT.

Discussion.

It is an axiom that the development of law has always reflected the development of society. Technical innovations inevitably fall under legislative analysis and are subject to legalization. This might concern both national laws or even institutional standards and international legal instruments. In most cases, the legislator's task is to simplify the operation of new kinds of equipment through various services. New standards of security are also actively adopted, for example, as is the case in naval and aviation law. In the past, it was not necessary to consider the humanization of law, as technical innovations lacked a moral aspect.

But as time passed, the field of warfare means required separate legal regulation. The development of philosophical thought in Europe in the 19th century resulted in a consolidation of moral and ethical issues, education of the masses and the positive development of mankind. The ideas of Hugo Grotius (Grotius, 1902), included in "De jure belli ac pacis libri tres" (Three Books about the Rights of War and Peace) resulted in the notion of restricting the means and methods of warfare, and ultimately in the creation of international humanitarian law.

Materials and Methods.

As concerns the means of warfare, special attention should be given to the Hague rules defined by 1907 as a result of the Hague Conventions of 1899 and 1907. As time went on, the means of warfare were restricted or prohibited many times, but the approach to regulation remained unchanged.

First of all, the means of warfare should strive for a selective nature of action. This means that weapons and munitions striking a large area with the probability of injuring civilians will be prohibited or restricted. Secondly, weapons should not cause unnecessary suffering, but should immediately demobilize the enemy. In the final years of the 19th century, poison and explosive bullets were included in this category. But the task of this article does not include a retrospective analysis of all means of warfare once restricted or prohibited.

Instead, we will try to evaluate certain modern achievements in the development of weapons as regards international law.

Precision weapons.

Weapons with the technical ability to guide ammunition to a specific target with the use of a radio beam or otherwise throughout the entire flight phase to the target. As precision weapons directly comply with the provisions of the 4th Hague Convention on the Laws and Customs of War on Land of 1907, it should be assumed that the development of precision systems will continue. It should also

be noted that precision weapons also comply with another important principle of international humanitarian law: the prohibition of means with a non-selective nature of action. Article 51 of Additional Protocol 1 to the Geneva Conventions of 1949 for the Protection of War Victims directly specifies the following characteristics:

a) Attacks not aimed at particular military assets.

b) Attacks with the use of methods or means of warfare that cannot be aimed at particular military assets.

c) Attacks with the use of methods or means of warfare, the consequences of which cannot be restricted as required in accordance with this Protocol, and which, therefore, in every case hit military assets and civilians or civilian assets without distinction.

It should be assumed that guided munitions, first and foremost missiles, will be increasingly used in theaters of operations with urban development and in areas where civilians have not been evacuated.

Non-lethal weapons of mass destruction.

Such weapons include various chemicals that, first and foremost, fall outside the scope of the Hague Convention on the Laws and Customs of War on Land of 1907, which in Article 23 prohibits the "use of weapons, projectiles or substances capable of causing unnecessary suffering" (Paragraph D) (Clapham et al, 2014).

Yet non-lethal chemicals fall outside the definition of chemical weapon according to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, as substances related to chemical weapons "... due to their chemical effect on life processes can cause a lethal outcome, temporary incapacity, or permanent damage to human beings or animals" (Article 2, Paragraph 2 of the Convention).

It should also be noted that non-lethal chemicals are not only allowed for use, but are also specified in the Convention of 1993 as "chemicals against disorder" that include any chemical "capable of causing the irritation of sense organs or physical disturbances in the body of human beings which disappear within a short period of time after initial impact" (Article 2, Paragraph 7) (Organization for the Prohibition of Chemical Weapons, 2001). Therefore, any means of lacrimatory, scorching or mental effect may be used without any pretenses on the part of international organizations.

It should be noted that the Convention of 1974 "On the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxic Weapons and on their Destruction" is more radical in character and prohibits the use of any pathogenic microorganisms, whether lethal or non-lethal. However, the Convention does not prohibit research in regard to bacteria and viruses, but with a developed biochemical industry and numerous dual-purpose production facilities, it is not a difficult engineering task to reconstruct a plant for the production of military biological agents. As concerns the U.S., it should be noted that in 2001, the Administration of President Bush refused to ratify the Protocol to the Convention that created the mechanism for the mutual evaluation of convention adherence.

On February 6, 2003, at a meeting of the UN Security Council in New York, Colin Powell, U.S. Secretary of State, reported on the development of weapons of mass destruction in Iraq. In an effort to demonstrate the achievements of American intelligence, the Secretary of State showed the participants of the meeting a tightly sealed test tube with a white powder inside. He stated to the audience, "A teaspoon of anthrax spores is in here. It was enough to block the work of the entire U.S. Senate in the fall of 2001. The amount Iraq has would be enough to fill tens upon tens upon tens of thousands of teaspoons" (BBC Radio, 2002). The "Iraqi Freedom" operation, which began a month later, was designed to dissolve the Iraqi political regime, which was accused by the United States of producing all types of weapons of mass destruction ("WMD").

Despite the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction signed in 1972, all the permanent members of the UN Security Council understood that research in the field of biotechnology, including of a military nature, cannot be stopped. Naturally occurring new viruses and bacteria make medical and veterinary research a modern necessity. The African continent has a seemingly endless wealth of new deadly viruses to study, as was the case in 2002 with the Ebolavirus, and before that there were various hemorrhagic fevers, for example, Marburg virus known in particular to military biologists.

Interest in biological weapons has existed throughout the history of humanity. There are even cases from the Middle Ages (Alibeck & Handelman, 1999), where plague bodies were used to bombard besieged cities and create diversions on enemy territory. However, there was no systematic use of such weapons, as neither side had a sufficiently developed medical industry. This meant that a plague or cholera epidemic (the most famous diseases in the Middle Ages) could easily spread to neighbors or even the attackers themselves. One of the most successful operations related to biological weapons in history was the actions of the British in 1763 against the Indian rebellion of the tribal leader Pontiac. The British general Amherst offered blankets and clothes infected with smallpox to sick Native Americans, writing in a letter to his subordinates, "Is it possible to spread the smallpox epidemic among the tribes of rebel Indians? We must use any trick to weaken them"(Grenier, 2005). The method turned out to be very effective, not least of all because of the immunity and medical knowledge available to whites, as smallpox was widely known in Europe and many were infected. Among the natives, this disease had a most striking effect. Jared Diamond, in his Guns, Germs, and Steel, mentions that Native American contacts with whites often led to outbreaks of unknown and devastating diseases (Diamond, 1997).

A new wave of interest in weapons of mass destruction came about during World War I. Of course, first and foremost, this meant chemical weapons. The triumph of mustard gas, lewisite, and other toxic substances increased awareness about the need for a legislative ban on these weapons or at least their regulation in the area of military operations. The result was the signing by leading countries, including the USSR, of the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare. It is more informally known as the Geneva Protocol due to its place of signing in 1925.

However, in the period between the two world wars, the development of weapons of mass destruction technology was severely limited not so much by laws and international law, as by the technical development of means of protection against WMD. The introduction of special chemical services in the majority of the world's armies and the mass production of gas masks led to a weakening of the effect of WMD usage. In the field of bacteriological weapons, the main issue of the time was the poor training of bacteriological specialists and the generally low level of knowledge in the field of bacteriology medicine.

Perhaps the only proven example of the use of bacteriological weapons as well as their production and testing during World War II was in Japanese Unit 731 of the Kwantung Army. The Japanese bacteriological officers from Unit 731 captured by the Soviet troops in the summer of 1945 provided detailed testimonies about their activities at the trial in Khabarovsk. This court case is known as the Khabarovsk War Crime Trial, and most of the materials were made public (Raginsky et al, 1950), giving rise to numerous studies, including Factories of Death by Sheldon Harris and The Devil's Gluttony by Seiichi Morimura. Today, these books have been translated into Russian and are available to a wide circle of readers.

Facts of the use of biological weapons during the Korean War (1950–1953) by the U.S. Army are little known to the public. The International Scientific Commission for the Investigation of the Facts Concerning Bacterial Warfare in Korea and China, as mentioned in its Report, recorded several dozen cases and took relevant photographs of the use of bacteriological weapons by the America's Army, mainly with help from military air forces operating far from the front line (Raginsky et al, 1950).

At the same time, as M. V. Supotnitsky writes in his fundamental monograph "Biological War", it should be recognized that the expectations of the U.S. military as regards bacteriological weapons have not been met (Supotnitsky, 2013). The spread of WMD did not have a significant effect either through the use of "traditional" carriers (fleas, rodents, etc.) or dispersed mixtures, such as the "white powder" mentioned earlier. Isolated cases of infection were quickly detected and did not lead to mass epidemics.

It should be noted that almost all attempts by bioterrorists to create known pathogens, such as the plague or anthrax, have shown to be ineffective. As M. V. Supotnitsky notes in his analysis of the activities of the well-known terrorist organization, the Aum Shinrikyo sect, after a number of publications in the press about the dangers of biological attacks using pathogens and known toxins, "sectarians tried to create biological weapons with the help of the books because it seemed so simple". However, "attempts to disperse the botulinum toxin in crowded places (including at the crown prince's wedding) did not cause the expected lesions, although, according to tabular data, there is not a single more toxic substance in nature than the botulinum toxin. Taking at face value everything written in the Western media about the "Sverdlovsk emission," sectarians tried to reproduce it in 1993 in Tokyo, throwing under pressure from the cooling tower of their office building kilograms of anthrax pathogen spores (or what they believed to be those spores). The only result of such an experiment was that local residents filed a complaint to the department of environmental protection about the unbearable stench coming from the building where the sect was located".

At the end of the topic of the danger of bioterrorism in the media, it should be noted that the white powder used in the letters terrorists sent to infect several senators and famous journalists in the U.S. in 2001 turned out to be real anthrax. However, Saddam Hussein had nothing to do with it because it was the American Ames strain.

Thus, biological weapons can be truly dangerous, but only if their development and use are handled by the state and relevant special services.

A promising area in this field is the modification of natural diseases to help conceal any artificial interference; for example, the influenza virus has developed naturally many times, which is why the creation of new versions would not draw attention. It can also be assumed that research in the field of agricultural viruses and animal etiological factors will continue. Under conditions of low phytosanitary and veterinary control in most countries around the world, first and foremost in developing countries, undermining the economic potential of a competitor seems to be quite a feasible task. It should be noted that the U.S. has experienced targeted plant infestation at least once since the second half of the 1950s (Supotnitsky, 2013).

As concerns traditional development areas, various non-lethal forms of attack are deserving of mention, when the enemy is not destroyed but rather demobilized. As for well-known causative agents, research has been carried out with tularemia. In regards to genetic achievements, we should also suppose the theoretical possibility of using biological weapons against certain genetic and racial groups of the population (Alikbekov & Hendelman, 2003).

As regards the legal issues arising at the present stage, the following should be highlighted:

1. To date, there is no clear definition of biological weapons. There is no sense of using the meaning of the 1972 Convention, where any biological human-pathogenic microorganisms and toxins are recognized as biological weapons, as many medical laboratories work with such pathogenic organisms, including with quite good intentions of creating serums and drugs.

2. The issue of biological weapons designed to affect not people but elements of infrastructure is still unresolved today. For example, in 1997, at a meeting of the UN General Assembly, Cuba accused the United States of the spread of the Thrips palmi pathogen, which destroys agricultural plants. Should the definition of biological weapons be expanded to allow countries developing such types of bacteria to be prosecuted under international law?

3. The development of a fundamental document known as the Plan of Agreement on the Control of Biological Weapons, which was rejected by the U.S. Government in 2001, should be continued.

4. To date, the 1972 Convention allows for the preservation of biological formulations "necessary for testing means of protection." However, the threshold limit for biological weapons a country may store for research purposes has not yet been established. This should be recognized as a significant weakening of the capabilities of the 1972 Convention.

Weapons of high readiness are among the prospective areas of development.

The restriction of strategic weapons mainly affects two aspects: the number of nuclear delivery vehicles and the number of nuclear devices. All modern international agreements are based on agreements of the Cold War era, when the USSR and U.S. expanded the nuclear triad. But modern weapon systems allow striking with the use of conventional munitions from strategic delivery weapons. Therefore, the creation of module strategic systems successfully side steps bans of the Strategic Arms Limitation Treaties, Offensive Disarmament Treaties and other similar contracts, such as the Treaty for Intermediate-Range and Shorter-Range Missiles of 1987.

Here, two main tasks of heavily industrial countries should be mentioned. First, the U.S. adopted the Prompt Global Strike doctrine, which allowed the use of conventional munitions from strategic delivery weapons (Woolf, 2017). Secondly, in practice the development of dual-purpose systems resulted in the need for new international agreements. Thus, the arming of long-distance unmanned aerial vehicles with submissiles does not violate the provisions of the Treaty on Measures for the

Further Reduction and Limitation of Strategic Offensive Arms (NEW START). In addition, the creation of a space shuttle with a satellite launch system side steps the provisions of the Treaty on General Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Heavenly Bodies of 1967, as Clause 4 of the Treaty prohibits the placement of weapons of mass destruction in space and on heavenly bodies and the testing of any kind of such weapons and military exercises, but says nothing about the preparation of space vehicles with conventional weapons (Ireland, 1967). In addition, from a formal perspective, the use of weapons by a shuttle after deorbiting and leaving outer space (100-105 km) will not be considered a Treaty violation.

AI weapons.

The use of multi-level selective systems and robotized destructive munitions will result in the quality improvement of humanitarian means of warfare in view of the Hague and Geneva conventions, but at the same time, the complication of structural units of munitions with electronics will lead to a rise in prices. As a result, economic issues can arise when the cost of a war exceeds the result value of such war. However, the armies of countries lacking large budgets will strive to use the cheapest means of warfare and remain at 20th century levels (Kalinov, 2001).

It should be further mentioned that prospective weapons include such unconventional innovations as infra-sound weapons (creating panic or prostration), laser weapons (causing temporary blindness), kinetic weapons (the use of kinetic arrows during orbital bombardment) (Batalin, 2015). As no convention has managed to regulate their position, their development and subsequent service will not be considered a violation of international law standards. However, if irreversible harm to the health or non-selective nature of action of such weapon is proven, the legal case will be created to require the prohibition of such systems or restriction of their use.

CONCLUSIONS.

In the study, we can see that the problem of international control of various types of weapons is relevant. Both new types of weapons of mass destruction listed in the article and conventional weapons continue to be threatened in the case of their development and production. The problem of biological weapons is currently the most critical, as the process of its research and production is available to many states and individuals.

All prospective weapons mentioned in this article will be influenced by international humanitarian law. Standardizing prospective means of warfare in compliance with international standards as quickly as possible is in the interests of peace and international security alike. Only strict compliance with the UN requirements in the area of international security, as well as the mediation of international organizations, such as the ICRC, can give a positive effect.

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DATA OF THE AUTHORS.

1. Anatoly Prudnikov. Honored Lawyer of the Russian Federation, Doctor of Law, Professor of Constitutional and Municipal Law at Kikotya Moscow University of the Ministry of Internal Affairs of Russia.

2. Mikhail Smirnov. Candidate of Juridical Sciences, Associate Professor of Legal Support for National Security at Moscow Technological University.

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