



Le statut de combattant dans les conflits armés non internationaux (Cahiers de droit international) (French Edition)

Gérard Aivo

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Avant les Conventions de Genève de 1949, seuls les conflits armés internationaux étaient réglementés par le droit de la guerre. Ce dernier ne pouvait s'appliquer dans les guerres civiles qu'après la reconnaissance des forces rebelles comme partie belligérante. Or, depuis la Seconde guerre mondiale, on a assisté à une **multiplication des conflits armés non internationaux**. Mais les Conventions de Genève de 1949 leur ont consacré seulement l'article 3 commun ; puis le Protocole II additionnel de 1977 est venu le compléter. Ces deux textes comportent de nombreuses lacunes, notamment l'absence de définition des « combattants » et des « civils », rendant ainsi difficile le respect du principe de distinction pourtant essentiel à la protection des populations civiles. Ces dispositions ne réglementent pas non plus les moyens et méthodes de guerre.

Outre les lacunes normatives, il y a des problèmes matériels qui compliquent la mise en œuvre efficace des règles pertinentes. Il s'agit notamment de la **participation des populations civiles** aux hostilités, y compris les enfants-soldats et les mercenaires. L'absence du statut de combattant dans les conflits armés non internationaux apparaît comme le problème principal compromettant l'efficacité du droit international humanitaire. Celle-ci ne contribue-t-elle pas au non respect de ce droit par les groupes armés ? Faudrait-il conférer ce statut à ces derniers en vue de les amener à appliquer le droit international humanitaire ou envisager d'autres moyens ? Toutes ces questions sont traitées.

L'ouvrage intéressera les praticiens spécialisés en droit humanitaire, en droit de l'homme, en droit international public et en droit pénal international mais aussi les professeurs et les étudiants.

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