

学位論文の要旨 (論文の内容の要旨)
Summary of the Dissertation (Summary of Dissertation Contents)

論 文 題 目
Dissertation title

Examining the Interpretation of the Principle Prohibiting Superfluous Injury or Unnecessary Suffering:
From the St. Petersburg Declaration of 1868 to the Treaty on the Prohibition of Nuclear Weapons

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This doctoral dissertation examines the central reasons behind the dichotomy in the interpretation of the principle of the law of armed conflict prohibiting superfluous injury or unnecessary suffering. By examining the processes whereby the law of armed conflict became codified, and the historical milestones concerning the use of particular weapons, including relevant jurisprudence, gradually progressing towards modern international humanitarian law (IHL), the author argues that where traditionally a military necessity was the balancing factor for determining unnecessary suffering, this balance has been, since the Vietnam War, in the process of shifting into the predominant focus on long-term health effects.

It further discusses and elaborates on whether the principle may be interpreted in medical terms in addition to the balancing with military necessity. While controversy remains regarding particular weapons and their correlation with the unnecessary suffering principle, long-term health effects of individual weapons, most notably nuclear weapons, are being recognized through jurisprudence as a particular cause of superfluous injury or unnecessary suffering.

This is because of their unceasing, continuous detrimental effect on human health and quality of life even after the end of an armed conflict which should also terminate the application of the law of armed conflict. The case law thus supports the interpretation that weapons causing long-term harmful effects on human body are in fact violating the principle prohibiting superfluous injury or unnecessary suffering by violating the temporal application of the law of armed conflict.

As such the principle is, accordingly, being increasingly interpreted through references to medical terms and not merely poised against military necessity.

備考 論文の要旨はA4判用紙を使用し、4,000字以内とする。ただし、英文の場合は1,500語以内とする。

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