

## THE APPLICABILITY OF THE FIRST GENEVA CONVENTION IN THE WAR OF THE TRIPLE ALLIANCE



<https://doi.org/10.56238/arev6n4-338>

Submitted on: 11/20/2024

Publication date: 12/20/2024

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### ABSTRACT

The work was developed within the theme of international humanitarian law (IHL). The research was based on several renowned authors and articles in electronic media. The objective of the article is to show within the current context, based on the applicability of the First Geneva Convention (1864) in the War of the Triple Alliance (1864-1870). The definitions of the dignity of the human person were briefly addressed, based on the increase in the protection of the human person over the years, the historical evolution of international humanitarian law and the international law of armed conflicts. The origin of the war, its relationship with the Geneva Convention, international humanitarian law and the IAC were explained. IHL/DICA was linked to the advent of violations and war crimes, with a greater emphasis on the applicability of the First Geneva Convention to crimes committed in this war.

**Keywords:** War of the Triple Alliance, International Humanitarian Law, TIP, First Geneva Convention.

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## **INTRODUCTION**

The Paraguayan War began in December 1864, when troops of the Paraguayan Army invaded the Province of Mato Grosso, claiming that territory for Paraguay, and ended in March 1870, with the death of the Paraguayan President, Francisco Solano López, without a joint peace agreement between the parties involved in the conflict. The conflict was the result of regional contradictions, economic interests and political disagreements between the border states. One of its main consequences was the consolidation of borders in the Southern Cone region (LIMA, 2016).

The clash placed on one side the Triple Alliance, formed by the Empire of Brazil, the Republic of Argentina and the Republic of Uruguay, and on the other the Republic of Paraguay. Brazil and Argentina were the regional powers, historical rivals that disputed the hegemony of the estuary of the Río de la Plata. Uruguay, on the other hand, was a cotton state, created to absorb intrigues and prevent one of the two from exercising total control of trade in the Plata estuary. On the other hand, Paraguay, an extremely militarized and nationalist nation, ruled by the López family since 1840, when Carlos Antônio López took office (LIMA, 2016).

The traditional Geneva Convention was born in 1864, on the initiative of the International Committee of the Red Cross and which had just been founded. It is the origin of the so-called Geneva conventions and which are now universal. Its applicability in the War of the Triple Alliance is the subject of this article.

The Brazilian Constitution, the Political Constitution of the Empire of Brazil, was granted by Dom Pedro I on March 25, 1824. In its Title 8 "On the General Provisions and Guarantees of the Civil and Political Rights of Brazilian Citizens" it determined in its item 19 (writing at the time) of its article 179, that "From now on, flogging, torture, the brand of hot iron, and all other cruel punishments are abolished". In other words, at that time, there was already a concern with the dignity of the human person.

Therefore, the intention of the article is to verify the applicability of the First Geneva Convention in the South American conflict.

## **DIGNITY OF THE HUMAN PERSON AND THE GENEVA CONVENTION**

Pointing out the origin of the human person, as a value to be respected by all, is not an easy task. However, analyzing history, it can be said that one of its roots is found in Christianity. Taking a leap in the centuries, we arrive at the Enlightenment period, the

century of reason. The seventeenth and eighteenth centuries were of fundamental importance for the consolidation of the dignity of the human person as a being respected by all. Despite the fact that the concept of the dignity of the human person is on the list of those considered vague and imprecise. It is a concept, in fact, that has been under construction since its origin.

In many situations, only the analysis of the concrete case will allow us to know whether or not there has been an effective violation of the dignity of the human person. For the purposes of recognizing this concept, one cannot disregard the historical-cultural diversity that reigns among peoples.

International treaties, the result of a global discussion on a given topic, occupy a prominent place in the human rights scenario, imposing the observance of vital rules for society.

The Geneva Convention was the name given to the international treaties signed between 1864 and 1949 to reduce the effects of wars on the civilian population, in addition to offering protection for captured or wounded military personnel. Meeting on the initiative of the Swiss government on August 22, 1864, twelve European countries signed the first Geneva Convention to "improve the lot of wounded soldiers on the battlefield." Thus, international humanitarian law was born, which offers protection to victims of war and armed conflict. Therefore, these treaties would at least serve to make clear what the world considers unacceptable in an armed conflict. Anyone who exceeds these limits will commit so-called war crimes.

Thus, the so-called First Geneva Convention created the Red Cross, an agency responsible for helping both civilians and military personnel in times and places of war. It also dealt with sanitary problems, respect and care for wounded or sick soldiers (1864), the guarantee of protection for hospitals and ambulances, instituted the symbology of the Red Cross.

### **THE WAR OF THE TRIPLE ALLIANCE (1864–1870)**

The War of the Triple Alliance or Paraguayan War was the largest military conflict in South America and the second largest in the American continent, behind only the American Civil War (1861–1865).

The conflict opposed on the one hand the Triple Alliance, formed by the two regional powers, the Empire of Brazil and the Republic of Argentina, historical adversaries, which

fought for hegemony in the Río de la Plata, and a cotton state, the Republic of Uruguay, which was founded to prevent only one of the powers from dominating both banks of the Río de la Plata estuary. And on the other side, the Republic of Paraguay, an extremely militarized and nationalist nation, ruled authoritarily by the López family since 1840, when Carlos Antonio López took office. This conflict is represented in Figure 1.

Figure 1 – Theater of Operations of the Paraguayan War (1864-1870).



Source: Revista de História da Biblioteca Nacional, 2011.

The Paraguayan offensive against the Province of Mato Grosso was not something carried out impulsively and without preparation. By 1863, the Paraguayan Army had approximately 28,000 veterans. In August 1864, Paraguay had approximately 64,000 new soldiers ready for war, as well as a new squadron led by the steamship Tacuari. López insisted that he could not ensure Paraguayan independence, the fixing of borders, and the

domination of rivers without confronting and overcoming his greatest threat, the Brazilian Empire (LIMA, 2016).

The military actions began with the seizure by the Paraguayans of the Brazilian ship *Marquês de Olinda*, which was carrying the new governor of the Province of Mato Grosso, Colonel Frederico Carneiro de Campos. The Paraguayan government had received information that the Brazilian ship was carrying weapons, ammunition and a reasonable amount of money (SEVERO, 2012).

On November 11, 1864, the Paraguayan war steamer (*Tacuari*) pursued and intercepted the Brazilian ship (*Marquês de Olinda*), placing all its crew members in custody, prohibiting them from communicating with anyone on land. This interception was a response to the support given by the Brazilian government to Uruguayan caudillo Venâncio Flores, who was fighting to depose the then Uruguayan president Atanasio Aguirre, an ally of Solano López (LIMA, 2016).

The Brazilian Empire decided not to consider the Paraguayan action an act of war and decided to seek a diplomatic resolution, but was surprised by the news that the Paraguayan Army began a violent offensive against the border territories of the Province of Mato Grosso, taking locations such as Fort Coimbra, the military village of Miranda and the city of Corumbá (LIMA, 2016).

After his offensive against the Province of Mato Grosso, Solano López began the incursion to the South, with an itinerary that crossed Brazilian and Argentine territories until reaching Uruguay, with the main objective of keeping the Partido Blanco Oriental in power and thus acquiring an outlet to the sea through Uruguayan ports, a Paraguayan national strategic objective (LIMA, 2016).

## THE PARAGUAYAN OFFENSIVE IN THE NORTHERN THEATER OF OPERATIONS

On December 13, 1864, the Paraguayan government issued a declaration of war on Brazil, but the Brazilian government gave little importance, considering a Paraguayan attack against the Empire almost impossible (LIMA, 2016).

Solano López ordered, on December 24, 1864, the invasion of the Province of Mato Grosso. The invasion took place on two fronts, a column of 5,000 men commanded by Colonel Vicente Barrios and another of 4,000 men commanded by Colonel Francisco Isidoro Resquín (LIMA, 2016).



The column commanded by Barrios invaded Fort Coimbra, a Brazilian fortification on the banks of the Paraguay River, the column commanded by Resquín attacked the locality of Miranda, aiming to join Barrios' troops further on (SEVERO, 2012).

Upon taking Coimbra, the Paraguayan Army seized 50 cannons that were taken to the Fortress of Humaitá and went on to form the Coimbra Battery. After taking the fort, Barrios went to Corumbá, a locality with approximately 80 masonry houses and 149 ranches (SEVERO, 2012).

After looting some more localities such as Nioaque and Coxim, the Paraguayans ceased the march north due to the difficulty of navigation to Cuiabá, the capital of the province, a city better prepared to resist an invasion, thus maintaining control of the territories conquered by the Paraguayan government. Barrios and Resquín returned to Asunción with seized cattle, weapons, cannons, and ammunition, which were used in the offensive carried out in the southern theater of operations (LIMA, 2016).

### 3.2 THE PARAGUAYAN OFFENSIVE IN THE SOUTHERN THEATER OF OPERATIONS

After the offensive in the northern theater of operations, strengthened by the spoils of war, the Paraguayan army began its journey towards Uruguay. To do so, he asked the Argentine government for permission to cross its territory

In an attempt to gain time, General Mitre, Argentine president, explained to the Paraguayans that he would lose the neutrality, publicly defended by him, if he allowed the transit of Paraguayan troops through Argentine soil, in addition to the fact that Brazil and Paraguay already had a huge land border through which they could cross weapons. After that, Mitre denied López's request and ordered his consul in Asunción to return to Buenos Aires (LIMA, 2016).

On March 18, 1865, the Argentine government allowed Admiral Tamandaré's squadron to head towards the Paraguay River. This attitude was the last straw for the Paraguayan government. On March 29, Paraguay declared war on Argentina, but the Argentine government kept López's declaration of war hidden, avoiding giving a justification for him to invade its territory. When the Paraguayan Army invaded Argentina, it seemed like a disloyal attack, a gratuitous aggression (LIMA, 2016).

It was in Buenos Aires that the Treaty of the Triple Alliance was signed and it sought to make it clear that the allies would not fight Paraguay, but the government of Francisco Solano López. On May 1, 1865, representatives of the Brazilian, Uruguayan and Argentine governments formed the coalition to combat the tyranny of the Paraguayan dictator.

On the morning of June 11, the Paraguayan squadron, which had seven ships and six barges, attacked the Brazilian squadron of Almirante Barroso, which had nine steamers, three corvettes and five gunboats.

The battle was intense, the Brazilian squadron was threatened several times, but the genius of its commander, Admiral Barroso, brought victory. When the fight was still undecided, he ordered the frigate Amazonas, whose prow was made of steel, to meet the Paraguayan ship Jejuí, which had a wooden bow, sinking it. Due to the success of this maneuver, Barroso repeated it several times, removing the ships Salto, Paraguari and Marques de Olinda from combat, as well as an enemy (LIMA, 2016).

The Brazilian victory in the Battle of Riachuelo was absolute, the Paraguayan squadron came out of the battle destroyed due to the loss of more than half of its vessels. Along with the defeat came the end of López's lightning war and the consequent blockade of access to the Paraná River, isolating Solano's country once and for all.

Figure 2 – Battle of Riachuelo.



Source: BRASIL, 2014.

Upon settling in Uruguiana, on August 5, Colonel Estigarribia disobeyed the order of its president. Major Pedro Duarte sent an emissary informing the Colonel that the Eastern caudillo Venâncio Flores, president of Uruguay, left Concordia with more than 4,500 men and was coming to meet him (LIMA, 2016).

Alerted by the Jataí massacre, Estigarribia attempted a retreat, but was approached by the Brazilian General Davi Canabarro. Cornered, the Paraguayan Army tried to attack the Brazilians, but fell into an ambush and was surrounded by the troops that had decimated Duarte. Cornered in Uruguaiana, Estigarribia was slow to surrender (SEVERO, 2012).

After days of bombardment by 54 artillery pieces and when more than 17,000 allies were ready for the final assault, the Paraguayan commander sent an emissary, Major Ibañez, who informed the Brazilian commander of the Paraguayan surrender under certain conditions. "Of the almost 12 thousand members of the original contingent, less than 5 thousand remained. [...] a larger bloodbath had been avoided."

The Paraguayan attempt to gain access to the sea through an alliance with Uruguay was over. After the recapture of Uruguaiana, the allies went on the offensive and the war was taken into Guaraní territory.

#### THE BRAZILIAN OFFENSIVE IN THE NORTHERN THEATER OF OPERATIONS

According to Severo (2012, p. 474) "The news of the Paraguayan aggression against Mato Grosso ignited an unexpected patriotic outcry in Brazil, until then a somewhat amorphous country, indifferent to civic summonses." Due to the way Brazil was colonized by the Portuguese and the isolation between the provinces, it was difficult for them to interact, especially the most distant ones such as Mato Grosso, so a patriotic act by the Brazilian population was unexpected even with an imminent foreign invasion. As stated by Severo (2012, p. 471):

In Brazil, the government was studying how to react to the aggression, but there was not much room to act concretely against Paraguay. Caxias offered an action plan, [...]. According to the plan, the Army would enter with 25,000 men through the Patria Pass, over the Paraná River, with 10,000 from Rio Grande do Sul acting on Encarnación and 10,000 invading from the North, through Mato Grosso.

The Empire began the formation of a large army, which on paper was really powerful. There would be approximately 440,000 National Guardsmen divided into 239 higher commands. However, the truth was different, Brazil managed to effectively count on about 15 thousand men, most of them from the South Region, the rest counted only on enlistment sheets, did not have weapons, uniforms or training. In addition to the fact that most of those drafted evaded their obligations, there was a high number of desertions in the preparation of the troop (SEVERO, 2012).



Brazilian troops arrived in Coxim in December 1865, where they remained stationed for six months due to heavy rains. After waiting for reinforcements and supplies that did not arrive, Galvão headed to Miranda to attack the Paraguayans. In December 1866, after 3 months of marching, the troops arrived in Miranda where they found the colony looted and destroyed (LIMA, 2016).

The Brazilian Army invaded Paraguay from the north on April 21, 1866. The Terena and Guaicurus-Kadiwéus indigenous tribes offered to help the Brazilians. Upon arriving in Bela Vista, the column found the fort and the hovels burned, leaving the troop without supplies or shelter. Camissão decided to go to Laguna, a farm owned by López, where he intended to get supplies to continue the invasion of Paraguayan territory, but he was received by 780 Paraguayans with 2 cannons, the Paraguayans retreated after five days of conflict (LIMA, 2016).

Paraguayan troops attacked the Brazilians again on May 8, 1866. Under fire and without provisions, Camission ordered the retreat, which went down in history as The Retreat from the Laguna. Ambushed by the Paraguayan Army several times and harassed by an outbreak of cholera, the Brazilians withdrew to Nioaque, from where they left for the port of Canuto. Of the almost 3,000 men who left in 1865, less than 700 managed to return home in 1867 (LIMA, 2016).

The struggle in the province of Mato Grosso continued, led by the new president José Vieira Couto de Magalhães. After intense fighting, he retook Corumbá, beheading all the Paraguayans who surrendered. Upon returning to Cuiabá, the imperial forces took the smallpox virus that decimated almost half of the city's population, composed of approximately 10 thousand inhabitants (LIMA, 2016).

## THE ALLIED OFFENSIVE IN THE SOUTHERN THEATER OF OPERATIONS

The Emperor of Brazil, Dom Pedro II, realized in July 1865 that he should take a leading role in the War against Paraguay, concluded that his leadership would help stimulate enlistment in the Brazilian Army, which was very lacking in personnel, and would also raise the morale of the troops on the front (LIMA, 2016).

The Emperor and his sons-in-law arrived at the Uruguaiana camp on September 11. After the reception formalities and a brief meeting with the commanders of the Brazilian forces, the Baron of Porto Alegre and Admiral Tamandaré, Dom Pedro II met with the allied

commanders, Venâncio Flores, president of Uruguay, and Bartolomeu Mitre, president of Argentina, for a conversation about the next steps of the Triple Alliance (SEVERO, 2012).

After the Emperor's return to Rio de Janeiro and the surrender of Uruguaiana, the Allied Army began preparations to invade Guaraní territory. With a force of approximately 35 thousand men, General Bartolomeu Mitre camped in Mercedes, in the central region of Corrientes (LIMA, 2016).

The forces of the 1st Brazilian Army Corps, commanded by General Manuel Luís Osório, began, in early April 1866, the assault on an islet, in the Paraná River, facing the Fort of Itapirú. After an arduous fight, the allies took the Island of Carayá from where they intended to attack the fort, an important objective for a future landing in the region, since it protected the beaches that gave access to the Paraguayan defensive device (SEVERO, 2012).

With more than 45,000 men spread across his defensive system, El Mariscal considered himself impregnable. For an attack operation on a fortified square, the attacking force should be three times greater than the enemy, and it should be up to ten times greater if the assault starts from an open field, and the allies did not have such an effective (SEVERO, 2012).

Solano López ordered the withdrawal from Itapirú on April 18, abandoning the Patria Pass, due to the advance of Allied troops. The allies camped in the region, leaving the Uruguayans of Venancio Flores responsible for Estero Bellaco. On May 2, 6,000 Paraguayans commanded by Colonel José Eduvigis Díaz attacked the allied troops, even dominating them for a few moments (LIMA, 2016).

General Osório, upon hearing the shooting, ordered the call to assemble and left, with some Battalions of Volunteers of the Fatherland, to the aid of the Uruguayan troops of Flores. Seeing Osorio's troops, the Paraguayans began to retreat and returned to their lines. The combat at Estero Bellaco was not a battle, but a blow by the Paraguayans who managed to capture four guns from the eastern battery, leaving 3,000 of their men dead on the ground. The allies had 1,200 casualties, including dead and wounded (LIMA, 2016).

After this combat, Osório decided to change the camp of the allied troops to a field more suitable for a defensive battle. The chosen site was a dry land south of the Tuiuti lagoon. On May 20, the Allies moved their camp and prepared the device to stop a probable Paraguayan attack. On May 23, General Osório was awarded the title of Baron of Herval.

The allies defeated the Paraguayans in the famous Battle of Tuiuti, the largest battle in the history of South America. Severo (2012, p.531) states "Never before or since has there been such a massacre, nor so many men face to face as in Tuiuti, on that May 24, the eve of the great Argentine national date." Lima (2016, p.219) comments that "[...] there was no doubt that this had been the bloodiest confrontation in all of South American history."

The losses were heavy for both sides. According to Lima (2016, p.2019),

The Alliance's losses reached 4,049 men, of which 3,011 were Brazilians – 719 killed and 2,292 wounded – 606 Argentines – 126 killed and 480 wounded -, and 432 Uruguayans – 133 killed and 299 wounded. Among the Paraguayans, the casualties were 4,000 killed, about 6,000 wounded and 370 taken prisoner [...].

In addition to the high number of casualties, the allies also lost important generals such as General Antônio de Souza Netto and General Antônio de Sampaio. After the combat, General Osorio asked permission to pursue the Paraguayans and win the war once and for all, but Mitre, commander of the allied forces, decided to keep the troops in position because there had already been many casualties and the enemy army had already run out, it was a matter of time to surrender, in addition his men were exhausted. However, no matter how many arguments Osório used, the Argentine president did not agree with the counteroffensive (LIMA, 2016).

After two months without any action, General Mitre ordered the attack on the Boquerón del Sauce region, where the main pieces of Paraguayan artillery were located. Between July 15 and 17, allied and Paraguayan forces clashed with a high number of deaths, 5,000 allies and 3,000 Paraguayans. The number of casualties was not higher, because the Uruguayan president, Venâncio Flores, disobeyed Mitre and returned before his forces were decimated (LIMA, 2016).

After the disastrous operation of Curupaiti, Dom Pedro II decided to place Marshal Luís Alves de Lima e Silva in command of the Brazilian forces. As soon as he took command, Caxias summoned Osório, who was recovering from wounds, and appointed him commander of the 3rd Army Corps and ordered him to recruit men in Rio Grande do Sul (LIMA, 2016).

The combat of Pare-Cuê took place on October 3, in which the Paraguayans lost 500 men and the Brazilians 170 men. The allied troops seized the bases of San Solano, Villa del Pilar, the Tahí anchorage and cut the telegraph lines that connected the fortress to Asunción, isolating Humaitá to the north and south (SEVERO, 2012).

In order to prevent the allies from taking Asunción and installing a provisional government, López transferred the capital to Luque. On March 24, the allies were already pointing the batteries at Asunción. The imperial gunboats fired a few shots at the city and headed north (LIMA, 2016).

Caxias decided to attack the Guaraní troops coming from the north, for this he ordered the construction of an eleven-kilometer road through the Chaco. On this road marched 23 thousand allied soldiers. The Imperial Navy forced its way through Angostura and embarked the Allied troops at the end of the Chaco road, landing them at San Antonio in the enemy rear. This maneuver became known as the Piquissiri Maneuver (LIMA, 2016).

After this maneuver, the allies began the campaign that became known as *Dezembrada*. On December 6, 1868, the Battle of Itororó took place, in which about 15 thousand Brazilians fought against 5 thousand Paraguayans. The two armies were separated by a three-meter-wide wooden bridge, which left a very small space for the crossing. After numerous unsuccessful Brazilian attacks, Caxias left his command post and, sword in hand, shouted: "Follow me those who are Brazilians!" (LIMA, 2016).

Allied troops occupied Asunción on January 1, 1869. The best solution found to revive the troops was to recruit Manuel Luis Osorio, the Liberator, again, only he could raise the morale of the men and make them continue in the pursuit of El Mariscal. Osório's popularity was frightening, according to Severo (2012, p.590), Captain Delphino would have said: "- He was a father to his soldiers".

The Count d'Eu gathered about 31,000 soldiers and went on the offensive in July, the allied troops were besieging village by village, taking Sapucaí on August 4 and a few days later Ibitimí. Due to the presence of allied troops, López began to flee to the North escorted by General Bernardino Caballero, leaving Lieutenant Colonel Pedro Pablo Caballero in Peribebuí, to defend his retreat (LIMA, 2016).

In the taking of Peribebuí, General João Manuel Mena Barreto, who led one of the columns, was hit in the groin by a rifle shot, and died. Conde d'Eu was enraged and ordered the Paraguayan commander to be flogged and then had him beheaded, then ordered the extermination of the prisoners. The executions only stopped due to the intervention of General Emílio Mallet who asked the count to stop the carnage (LIMA, 2016).

Due to the acts of cruelty committed by Gaston d'Orléans in Peribebuí, several military leaders began to rethink their support for the new Commander-in-Chief. Argentine



General Emílio Mitre announced the withdrawal of Argentine forces from the conflict and General Osório, Marques do Herval, decided to return to Rio Grande do Sul. Without his main commanders, the prince realized the mistake he made (LIMA, 2016).

El Mariscal ordered General Bernadino Caballero to defend the town of Acosta Nú, preparing the forces as best he could to stop the allies. Due to the lack of men of adult age, the Paraguayan Army had a large number of children and adolescents. To hide the young age of his troops from the Brazilians, Caballero ordered the children to paint mustaches and beards, with charcoal, to look like adults (LIMA, 2016).

On the night of August 15, the imperial troops were already surrounding the place where the Guarani had positioned themselves, the place was known as Ñu-guaçu or Campo Grande. On the morning of August 16, the Count d'Eu ordered the attack, there were 20,000 Brazilians against 6,000 Paraguayans. It was a massacre, more than 2,000 Paraguayan soldiers killed and only 323 dead on the Brazilian side. Due to the high number of children killed in this fight, August 16 is considered Children's Day in Paraguay (LIMA, 2016).

López headed north, going into the woods to escape the Brazilians. The Brazilian Emperor ordered the pursuit of the rest of the Paraguayan Army, according to Severo (2012, p. 608) "General Câmara was sent to the North, by the river, and from there with his Cavalry he would hunt the director wherever he was."

On February 8, 1870, Solano López arrived at Cerro Corá, a village located 454 kilometers northeast of Asunción. The Paraguayan Army had just over 400 men, while the Brazilian Army had 30,000 men. On March 1st, about 4,000 men of General Câmara attacked the Lopista camp (LIMA, 2016).

López was pursued by Brazilian troops, being hit by the spear of Corporal José Francisco Lacerda, known as Chico Diabo, and by a saber blow by Captain João Pedro Nunes. El Mariscal fell from his horse and was shot in the chest by the soldier from Rio Grande do Sul, João Soares. Upon seeing the president dead, the Brazilian troops were seized by a savage euphoria, the Paraguayan War had ended (SEVERO, 2012).

## PARAGUAY DEVASTATED

According to Francisco Doratício, around Lake Tuiuti a scene of war, on May 24, 1866, about seven thousand human bodies lay on the swamp, many of them mutilated. There, in Paraguayan territory, near the confluence of the Paraná and Paraguay rivers, the

largest pitched battle ever recorded in South America took place. The battle began around 11 a.m., when 25,000 Paraguayan soldiers suddenly came out of the woods near the lake to invade the camp where 35,000 soldiers of the Triple Alliance were.

Despite the initial disadvantage caused by the surprise factor, the defense benefited from the greater number of soldiers and the flooded terrain, compromising the agility of movements. Six hours later, of hand-to-hand confrontation, 90% of the dead were Paraguayans, including several of their leaders. In addition, about 5,000 soldiers, many of them wounded, had been taken prisoner by the Allies.

The unbalanced balance of the Battle of Tuiuti seemed to lead to a quick conclusion to the war. The allies planned to arrive in Asunción soon and depose President Solano Lopez. But Paraguayan troops managed to hold out for another four years, until the country's adult male population was virtually annihilated.

When the Paraguayan capital was finally occupied, Lopez fled accompanied by about 4,000 members of an army made up almost exclusively of the elderly and children – and which was massacred in the Battle of Campo Grande, on August 16, 1869.

This confrontation carried out under extremely unequal conditions, resulted in 2,000 deaths on the Paraguayan side, in addition to 1200 captured soldiers. The episode was called by Paraguayans the Battle of Los Niños and revered as a symbol of heroism. Children's Day in the neighboring country began to be celebrated on the date of the conflict.

For the Brazilian Emperor, it was necessary to capture or eliminate the leader Solano Lopez. Caxias, disappointed, for trying and failing to convince Dom Pedro II to end the conflict and take the troops back to Brazil, even more so since the two allies – Argentina and Uruguay – had already practically withdrawn definitively. Thus, he stepped down from his duties and took his place the Emperor's son-in-law, Louis Philippe Gaston of Orléans, the Count d'Eu, husband of Princess Isabella. It was under the command of the Count d'Eu, only 27 years old, that the Brazilian Army slaughtered the elderly and children in the Battle of Campo Grande, an episode to be forgotten.

## CONCLUSION

Initially, a general history of the conflict was addressed, explaining it in four phases: the Paraguayan offensive in the northern theater of operations; the Paraguayan offensive in the southern theater of operations; the Brazilian counteroffensive in the Northern theater of operations; and the allied counteroffensive in the southern theater of operations. Then, the

definition of the Geneva Convention and its importance for the statements and arguments presented, International Humanitarian Law and the International Law of Armed Conflict (DICA) to support the applicability of the First Geneva Convention in the War of the Triple Alliance.

Examples of serious violations of the IAC are killing or wounding military personnel who have laid down their arms and who no longer participate in hostilities; recruiting children to participate in hostilities. "Due to the acts of cruelty committed by Gaston d'Orléans in Peribebuí, several military leaders began to rethink their support for the new Commander-in-Chief. Argentine General Emilio Mitre announced the withdrawal of Argentine forces from the conflict and General Osório, Marques do Herval, decided to return to Rio Grande do Sul. Without his main commanders, the prince realized the mistake he made" (LIMA, 2016).

Due to the lack of men of adult age, the Paraguayan Army had a large number of children and adolescents. To hide from the Brazilians the young age of his troops, Caballero ordered the children to paint mustaches and beards, with charcoal, to look like adults" (LIMA, 2016).

In this way, the violation was evident, whether by the atrocities committed by the Count d'Eu or by the recruitment of children by Solano Lopez. Thus, the First Geneva Convention would be applicable to the specific case of the War of the Triple Alliance.

Therefore, the first conviction handed down by the International Criminal Court announced in the Trial Chamber for the war crimes of recruiting and enlisting children under 15 years of age and for their use in conflicts in the Congo, in the years 2002 and 2003, would be reviewed as the first conviction by accepting the applicability of the First Geneva Convention (1864) in the War of the Triple Alliance (1864-1870).

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