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Demining and Removal of Explosive Remnants of War in Peace Operations: Findings from the Leuven Manual

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The Leuven Manual

- Leuven Manual on the International Law Applicable to Peace Operations, Cambridge 2018
- «...covers consensual Peace Operations»
- «Peace Operations are often deployed to areas where anti-personnel landmines or explosive remnants of war are present. Such explosive ordnances represent a constant threat to the civilian population in the area. The ordnances also represent a threat to the Peace Force, both with regard to its security and with regard to its ability to achieve its mandate. The present Chapter discusses what responsibility a Peace Force has to remove explosive ordnances or otherwise to protect civilians against the danger they represent.»

Background

- My personal first meeting with the issue:
Allegations in Norwegian media re.
Afghanistan, 2006
- The Behrami case, 2007
- Conventions on, inter alia, anti-personnel
land mines (1997), cluster munitions (2008),
explosive remnants of war (CCW Protocol V,
2003)

Leuven Manual, ch. 4 on IHRL

- Human rights obligations may be derived from those of an international organization and/or from those of troop contributing states, and be based on treaty and/or customary law (rule 5.1)
- A question of jurisdiction (rule 5.2)
- Each troop contributing state shall ensure that its troops comply with its human rights obligations (rule 5.3)
- How do such rules translate to the specific context of demining etc. in peace operations?
- Academic claims that customary law requires an entity that has jurisdiction over an area to decontaminate that area. What if a peace operation has jurisdiction.

Rule 18.1: Host State and mandate

The primary responsibility for demining and removal of explosive remnants lies with the Host State. Any responsibilities of a Peace Operation for demining and removal of explosive remnants must be stipulated in the mandate.

Rule 18.2: Identification of contaminated areas

A Peace Force should make feasible efforts to identify all areas under its control which are known or suspected to be contaminated by anti-personnel mines, cluster munition remnants or other explosive remnants of war.

Rule 18.3: Decontamination

If this is required by a Peace Operation's mandate, a Peace Force shall make feasible efforts to clear, remove or destroy anti-personnel mines, cluster munition remnants and other explosive remnants in affected areas under its control. If a Troop Contributing Country is bound by applicable treaty obligations in this regard it must comply with them.