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Expert Meeting with regional and thematic focus held in Yaoundé from 28 June to 1 July 2015



The *International Society for Military Law and the Law of War* organised an Expert Meeting with Regional and Thematic Focus in the framework of the ISMLLW Research Project on International Law in Peace Operations. The meeting was hosted by the Ministry of Defence and the Ministry of Higher Education of Cameroon. The Expert Meeting was held at the *Higher International War College* of Cameroon in Yaoundé from the 28 June to 1 July 2015.

Peace operations were at the heart of the Expert Meeting. The program included presentations and panel discussions by academic speakers and experienced professionals on:

- Planning and initiating a UN mandated peace operation;
- Mandating a regional organisation to conduct a peace operation;
- Protection of civilians in peace operations;
- Gender issues in peace operations;
- Claims procedures in peace operations.

A detailed report of this Expert Meeting will be used to support the drafting work for specific chapters of the future ISMLLW Manual on International Law in Peace Operations.

20th Congress of the International Society for Military Law and the Law of War



From 14 to 18 April 2015 the *International Society for Military Law and the Law of War* held its 20th Congress in Prague with support of the Czech Ministry of Defence. The main theme of the Congress was *Current International Crises and the Rule of Law*. Participants from 27 different nationalities were present at the event. Debated subjects were among others:

- The Challenges to the Implementation of IHL

- How Defence Procurement & Critical Infrastructure can fall Victim to the Cyber Threat
- Persons in Distress at Sea: Legal Implications for Navies and Enforcement Agencies
- Use of Force Against Pirates: Operational and Legal Challenges
- Non-State Actors and the Laws of Armed Conflict
- Military Orders, Military Superiors and Military Subordinates - a Contribution to Legal Interoperability
- International Principles Governing the Administration of Justice Through Military Tribunals
- Challenges to Domestic Prosecution of War Crimes
- The Importance of Cyber Warfare in Current International Crises

The General Report of the questionnaire prepared for the 20th Congress relates to the *Challenges in the Implementation of International Humanitarian Law* and can be found on the website of the Society.

Upcoming Events / Événements futurs

Italy

The *International Institute of Humanitarian Law* and the *International Committee of the Red Cross* will hold the 39th Round Table on "**The Distinction between International and Non-International Armed Conflict: Challenges for IHL?**" in San Remo from **3 to 5 September 2015**. The discussion will be focused on the recent developments, and specific issues including categorization of armed conflicts under IHL, their current forms, temporal and geographical scope of application of IHL, detention and humanitarian assistance. The Round Table Program is available [here](#).

For more information please visit the website of the Institute at <http://www.iihl.org/round-table-on-the-distinction-between-international-and-non-international-armed-conflict-challenges-for-ihl>

Norway

The *European Society of International Law* will hold its 11th Annual Conference at the University of Oslo, Norway from the **10 to 12 September 2015**. The theme of the conference is "**The Judicialization of International Law – A Mixed Blessing?**". The main focus of the Conference will be to address the international law aspects of the increased judicialization from an interdisciplinary perspective. It will feature plenary sessions, lectures and moderated conversations as well as fora and agorae with speakers. Registration for the conference is now possible.

For more information please visit the website of the University of Oslo at <http://www.jus.uio.no/pluricourts/english/news-and-events/events/2015/esil-2015-en/>

Recent developments / Développements récents

Meeting of all States on Strengthening Humanitarian Law Protecting Persons Deprived of their Liberty

On 29 June 2015 the ICRC published the chair's conclusions on the meeting of all States on Strengthening Humanitarian Law Protecting Persons Deprived of their liberty which was held in Geneva from 27 to 29 April 2015. This document gives a summary of the aforementioned meeting which is part of the consultative process organized by the ICRC in consequence of Resolution 1 of the 31st International Conference of the Red Cross and the Red Crescent in 2011. This was the last of the three consultations on this theme that were organized in preparation for the 32nd International Conference of the RCRC, which will be held in December 2015.

The process aimed at creating a better understanding of existing gaps in IHL. Elements discussed were: conditions of detention; particularly vulnerable categories of detainees; grounds and procedures for internment; transfers of detainees from one authority to another; and detention by non-State parties to NIACs.

Concerning conditions of detention and particularly vulnerable categories of persons, there was general agreement among the participants that poor conditions of detention can have grave consequences for the mental and physical health of the detainees. Furthermore, certain categories of detainees suffer even more hardship from lack of adequate provision for their specific needs by the detaining authorities. Such categories are women and children for example. Main groups recognized by most States as particularly vulnerable were: women, children, elderly and persons with disabilities. Certain participants mentioned their resolve to add several other categories.

During the debate on grounds and procedures for internment, general agreement was achieved on the fact that grounds for detention should not be arbitrary or supersede military necessity. "Imperative reasons of security" remain generally accepted as the applicable criterion, however several States required this concept to be defined more properly. It was also expressed vehemently that internment should not serve as a coercive tool, but rather as a solution for controlling people's movements and hence reduce security threats. There was no consensus on the question concerning formal membership in a non-State party as sufficient as a ground for internment. Furthermore, there was a wide consensus that detention should be reviewed, however there was no agreement on practical details such as periodicity, the composition of the review-board, etc.

The session on detainee transfer started with the general agreement that the core humanitarian concern in the transfer of detainees is the safeguard of the detainee's well-being when he is handed over to another detaining authority. The principle of *non-refoulement* was heavily discussed during this session, but no agreement could be reached on the usefulness of this concept. Second key element were the different existing risks raised by transfer of detainees. There was an agreement that the best way to minimize such risks is by having a pre-transfer assessment. However, no consensus was reached on the existence of such an obligation.

The penultimate session was dedicated to detention organized by non-State parties to a non-international armed conflict. During this session fundamental differences between State and non-State parties on detention were highlighted. Addressed themes were: States' concerns about the legitimizing effect of regulating detention by non-State parties to a NIAC; accounting for the diversity of capabilities among non-State parties when setting any standards; and incentivizing compliance by non-State parties with any strengthening of IHL. Nonetheless, several States insisted that the time was not ripe yet to have such discussions.

Ultimately, the final session concerned the possible outcomes of the consultation process at the 32nd International Conference of the RCRC. Several States agreed to opt for the binding treaty option, but this option had no broad support. The second option was more broadly supported; a standard-setting document that is not legally binding but is nonetheless internationally recognized in some way, with certain States mentioning the eventual possibility to become binding in the long-run. Whatever the outcome, States agreed that the final document had to keep in mind real world relevance and that the objective of this exercise was to have a practical focus.

For more information, please visit:

Detention in non-international armed conflict: The ICRC's work on strengthening legal protection

<https://www.icrc.org/en/document/detention-non-international-armed-conflict-icrcs-work-strengthening-legal-protection-0>

Meeting of all States on Strengthening Humanitarian Law Protecting Persons Deprived of their Liberty

<https://www.icrc.org/en/download/file/9535/2015-04-29-detention-chairs-conclusions-meeting-all-states-icrc.pdf>

(Leopold d'Hoop de Synghem)

The Grand Chamber of the European Court of Human Rights delivers judgments on the Nagorno-Karabakh cases

On 16 June the Grand Chamber of the European Court of Human Rights rendered two judgments related to the longstanding conflict between Armenia and Azerbaijan in the Nagorno-Karabakh region: *Chiragov and Others v. Armenia* and *Sargsyan v. Azerbaijan*. The Court's conclusions that deserve special attention are presented below.

The facts

The *Chiragov* case is based on the following factual background: the applicants were inhabitants of the Lachin region which was affected by the Nagorno-Karabakh conflict. As a result of aerial bombardment over the region, the villagers fled their houses and were not able to come back afterwards. It was claimed by the applicants that "*Armenian authorities had prevented them as displaced persons from returning to their homes and that this reflected an acknowledged official policy and, accordingly, an administrative practice*". They submitted that Armenia is in violation of Article 1 of Protocol No. 1 to the Convention and of Article 8, 13 and 14 of the Convention. The applicants in *Sargsyan* made the same submissions in relation to their violated rights and the facts of the case were only slightly different: Sargsyan and his family are ethnic Armenians who lived in the village of Gulistan, where they were also denied return after their displacement in 1992.

Exhaustion of domestic remedies

In *Chiragov*, deciding on the question of the exhaustion of domestic remedies the ECtHR, while reiterating from previous case-law "*that it is primordial that the machinery of protection established by the [European] Convention is subsidiary to the national systems*" and that "*[t]he rule of exhaustion of domestic remedies is therefore an indispensable part of the functioning of this system of protection*" (para. 115) dismissed the Government's objection of non-exhaustion of domestic remedies due to its failure to prove the very availability of remedies which would be capable to provide redress to the property claims (para. 120). While dealing with the matter, the Court assessed the possibility for applicants to get redress from both the Armenian and the "Nagorno-Karabakh Republic" ("NKR") authorities. In this regard it was held that "*[g]iven such a denial of involvement or jurisdiction, it would not be reasonable to expect the applicants to bring claims for restitution or compensation before the Armenian courts and authorities*" as well as that "*it is not realistic that any possible remedy in the unrecognised "NKR" entity in practice could afford displaced Azerbaijanis effective redress*" (para. 119). In respect of the availability of remedy the similar conclusion was reached by the Court in *Sargsyan* (paras. 117-119).

Admissibility and State's jurisdiction

In *Chiragov*, in order to trigger admissibility of the claim under article 1 of the ECHR, it was advanced by the applicants and supported by the Azerbaijani Government as a third-party intervener, that the Republic of Armenia exercised effective control over the Nagorno-Karabakh region and surrounding territories. It was also submitted alternatively that Armenian jurisdiction over the territory is exercised through its agents operating there. The Court dismissed the argument on the personal model of jurisdiction and presented its analysis in regard to the question of whether the Republic of Armenia exercised and continues to exercise effective control over the territories. Ultimately the Court held that facts reveal the following: *“the Republic of Armenia, from the early days of the Nagorno-Karabakh conflict, has had a significant and decisive influence over the “NKR”, that the two entities are highly integrated in virtually all important matters and that this situation persists to this day. In other words, the “NKR” and its administration survives by virtue of the military, political, financial and other support given to it by Armenia which, consequently, exercises effective control over Nagorno-Karabakh and the surrounding territories, including the district of Lachin”* (para. 186). Making this conclusion the Court relied on a number of sources including the UN Security Council resolutions 822, 853, 874, 884 adopted in 1993, the report by Human Rights Watch, a statement of the Armenian minister of defence, etc. The Court went further, stating that *“it is hardly conceivable that Nagorno-Karabakh – an entity with a population of less than 150,000 ethnic Armenians – was able, without the substantial military support of Armenia, to set up a defence force in early 1992 that, against the country of Azerbaijan with approximately seven million people, not only established control of the former NKAO but also, before the end of 1993, conquered the whole or major parts of seven surrounding Azerbaijani districts.”* (para. 174).

In *Sargsyan*, the issue of admissibility was based on the question whether Azerbaijan exercises jurisdiction over the village of Gulistan, where the applicant's family used to live and where their property was located. The village is closely located to the line of contact between Azerbaijani and “NKR” forces. Thus, the respondent Government claimed that this territory was not under its control (para. 46-49). Moreover, the following declaration to the Convention was made by Azerbaijan: *“The Republic of Azerbaijan declares that it is unable to guarantee the application of the provisions of the Convention in the territories occupied by the Republic of Armenia until these territories are liberated from that occupation.”* (para. 93). In regard to the declaration the Court referred to its decision on the admissibility where it was held that the declaration *“was not capable of restricting the territorial application of the Convention”* (para. 143). Further, in the Court's view, the notion of occupation within the meaning of article 42 of the 1907 Hague Regulations requires *“the presence of foreign troops, which are in a position to exercise effective control without the consent of the sovereign”* and consequently *“occupation is not conceivable without «“boots on the ground”» therefore forces exercising*

naval or air control through a naval or air blockade do not suffice” (para. 94; para. 96 in *Chiragov*). Following this approach, the Court found that “*Gulistan is not occupied by or under the effective control of foreign forces as this would require a presence of foreign troops in Gulistan*” on the basis of the available facts (para. 144). The Court also rejected the respondent Government's argument on inadmissibility due to the lack of control over the part of the territory. Relying on its previous rulings, *Assanidze* and *Ilasçu*, the presumption of jurisdiction was applied (paras. 139-151).

Conclusively, in both *Sargsyan* and *Chiragov* the Court found that there has been a continuing violation of Article 1 of Protocol No. 1 to the Convention, article 8 and 13 of the Convention. The question of *just satisfaction* under article 41 of the Convention was postponed.

For more information, please visit:

Sargsyan v. Azerbaijan, Admissibility decision

<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-108386>

Chiragov and Others v. Armenia, Admissibility decision

<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-108383>

Sargsyan v. Azerbaijan, Judgment

<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-155662>

Chiragov and Others v. Armenia, Judgment

<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-155353>

P. Leach., *Thawing the Frozen Conflict? The European Court's Nagorno-Karabakh Judgments*, European Human Rights Advocacy Centre

<http://www.ehrac.org.uk/news/thawing-the-frozen-conflict-the-european-courts-nagorno-karabakh-judgments/>

M. Milanovic., *The Nagorno-Karabakh Cases*, EJIL:Talk!

<http://www.ejiltalk.org/the-nagorno-karabakh-cases/>

(Ilya Sobol)

Release of a new Law of War Manual by the U.S. Department of Defense

After the last publication of a comprehensive manual on the law of war in 1956, the U.S. Department of Defense (DoD) has released a new *Manual* on 12 June 2015. The *Manual*, consisting of 1204 pages and close to 7000 footnotes, constitutes the institutional view of the DoD only and does explicitly not represent the position of

the US government as a whole. It is the product of collaboration between military and civilian lawyers across the DoD. Serving as a guide for military commanders, legal practitioners and other military and legal personnel, it mainly focuses on the international law principles that govern the use of force in armed conflicts. Issues that are covered range from rights of combatants, directives for the use of force, principles of warfare, rights of and rules for handling POWs, protection of civilians, naval warfare, air warfare, cyber warfare and the law of neutrality along with rules in non-international armed conflicts.

Contrary to its predecessor, the new *Law of War Manual* has the purpose of providing information to various actors implementing this law as opposed to the Army Field Manual from 1956 serving the aim of providing “authoritative guidance to military personnel”. The distinction is recapitulated in the part on scope stating that the work does not cover all the law of war issues but rather required careful practice of law.

Moreover, the *Manual* is seen as a return to principles. In part 2.1 it refers to military necessity, humanity and honour as the foundations of law of war principles like proportionality and distinction. Especially the reference to humanity can be seen as a great change to existing military legal doctrine. The mentioning of the principle of honour constitutes a revival of the expression and a reaffirmation of the principle which is to be applicable in a broad scope of conduct. The *Manual* has stated the application of all these principles in their original and abstract form.

Furthermore, the *Manual* also sparked debate on hostages and the so-called lawful killing of civilians forced to serve as human shields. In accordance with the *Manual*, harm to human shields does not render an attack disproportionate. It is also held that there is no distinction drawn between voluntary and forced as well as active and passive human shields. Yet, in the *Manual* hostage taking is prohibited (e.g. 5.16.3) and hostages should not be made the object of an attack (part. 5.3.2). It further states in part 5.4.4 that discrimination during attacks and precaution to reduce civilian casualties should be upheld in times of any such prohibited behaviour, like the misuse of civilian presence for the purpose of shielding military objectives.

Another essential issue in the *Manual* is the law of occupation. It is an important contribution in the debate over transformative occupations like the situation in Iraq. According to the Hague Regulations and the Geneva Convention IV, an occupier does not acquire the ability or right to alter local laws and institutions. However, it is argued that due to the evolution of the law and the emergence of human rights and democratic politics, such acts by the occupying power should not be seen illegal. Yet, it is also held that this kind of process should be based on a Security Council authorization to prevent unilateralism in the reconstruction process and to counteract possible failures thereby. In part 11.5.2 the *Manual* states that the legislative competences of the occupying power are restricted, confirming the duty to

respect the municipal law of an occupied territory as set out in Article 43 of the Hague Regulations. An enhancement of these powers can be made by an authorization of the Security Council. Thereby, the *Manual* upholds multilateral control of an occupying power's behaviour during post-conflict reconstruction.

It also contains a new chapter on "Cyber Operations" which has gained special attention in the light of previous cyber attacks shortly before the release of the *Manual*. The response of the *Manual* restricted denunciation of these acts classifying them as espionage according to part 16.3.2. Furthermore, the *Manual* declares that law of war rules on conducting attacks must be applied to those cyber operations that amount to cyber operations that constitute "attacks".

In the framework of *jus ad bellum*, the *Manual* assumes that any illegal use of force evokes the right to self-defence. Hence, the assertion of the ICJ with respect to the difference between the premises for the application of Article 2(4) and Article 51 of the UN Charter, as apparent in the case of *Nicaragua v U.S.*, is opposed.

In conclusion, the effects on U.S. policy and the ramifications of this *Manual* will be seen in the future.

For more information, please visit:

Department of Defense, Law of War Manual

http://www.dod.mil/dodgc/images/law_war_manual15.pdf

E. Jensen., http://www.dod.mil/dodgc/images/law_war_manual15.pdf *Law of War Manual: Information of Authoritative Guidance?*, Just Security

<http://justsecurity.org/24332/law-war-manual-information-authoritative-guidance/http://www.defense.gov/news/newsarticle.aspx?id=129036>

C. Poplin., *Department of Defense Releases Law of War Manual*, Lawfare

<http://www.lawfareblog.com/department-defense-releases-law-war-manual>

A. Ahmad Haque., *The Defense Department Stands Alone on Target Selection*, Just Security

<http://justsecurity.org/24264/dod-stands-alone-target-selection/>

C. Dunlap., *Cyber Operations and the New Defense Department Law of War Manual: Initial Impressions*, Lawfare

<http://www.lawfareblog.com/cyber-operations-and-new-defense-department-law-war-manual-initial-impressions>

S. Watts., *The DOD law of War Manual's Return to Principles*, Just Security

<http://justsecurity.org/24270/dod-law-war-manuals-return-principles/>

G. H. Fox., *The Law of Occupation in the New DoD Law of War Manual*, *Opinio Juris*
<http://opiniojuris.org/2015/07/02/guest-post-the-law-of-occupation-in-the-new-dod-law-of-war-manual/>

(Vera Strobel)

High Level Independent Panel on UN Peace Operations presents its report

In October 2014, approaching the 15th anniversary of the Brahimi report, the current Secretary-General, Ban Ki-moon, established a High-level Independent Panel on UN Peace Operations in order to obtain a comprehensive assessment of the state of affairs of the UN peace operations for future use. When establishing the panel, the Secretary-General announced: *“The world is changing and UN peace operations must change with it if they are to remain an indispensable and effective tool in promoting international peace and security.”*

The HLI Panel consisted in 16 members, chaired by Mr. Jose Ramos-Horta of Timor-Leste and with Ms. Ameerah Haq of Bangladesh as Vice-Chair. Debated topics involving issues faced during peace operations were diverse: the changing nature of conflict, evolving mandates, good offices and peacebuilding challenges, managerial and administrative arrangements, planning, partnerships, human rights and protection of civilians. This Panel focused both on UN peacekeeping operations as well as on special political missions, which are referred to collectively as “UN peace operations”. The paper is a comprehensive document covering the whole range of peacekeeping issues and seeking to improve them by introduction of substantive policy recommendations. The final report of the Panel was issued on 16 June 2015.

For its part, the *International Society for Military Law and the Law of War* currently manages a research project to draft and publish a *Manual of the International Law in Peace Operations*. The research project is inspired by the 1994 *San Remo Manual on International Law Applicable to Armed Conflict at Sea*, and the 2010 *HPCR Manual on the International Law Applicable to Air and Missile Warfare*. It is aimed at senior level policy makers at both the national and intergovernmental organization level, at senior military officers involved with the planning and conduct of such missions, at senior level functionaries in non-governmental organizations which carry out humanitarian and related activities in areas where peace operations are being conducted, and at the academic community involved in research and teaching related to peace operations.

The following topics of particular interest to the Society’s research project were *inter alia* discussed by the HLI Panel on Peace Operations:

Principles of peace operations

There are three core principles of peacekeeping: consent of the parties; impartiality; and the non-use of force except in self-defence or in defence of the mandate. The Panel sees these as highly important for guiding successful peace operations. Yet, the report argues that such principles should not be used as a justification for failing to protect civilians or use force to defend the mission. Thus, the Panel proposes a flexible and progressive interpretation of these principles in light of today's volatile settings.

The principle of impartiality is defined as "*adherence to the principles of the Charter and to the objectives of a mission mandate*". Thus, UN troops should "*respond evenhandedly to the actions of different parties*" in accordance with the nature of the attack. Additionally, the report reiterates that missions should protect civilians in an equal manner regardless of their origin of the threat. Furthermore, the promotion of the human rights of civilians as well as of combatants irrespective of their affiliation is the task of a UN mission. Lastly, the report stresses the need for seeking a political solution that respects the legitimate interests of all parties and the local population.

Next, the report sees it as vital that consent, as the second principle of peace operations, by the main parties to a conflict has been given for the deployment of peacekeepers. Yet, in today's conflict management settings it is difficult to obtain consent beyond the fundamental consent of the government. Nevertheless, seeking the consent of other parties involved should be pursued in order to commence a "*robust political process in which the UN is deeply involved*" necessary for achieving sustainable peace.

Finally, the important concept of self-defence and defence of the mandate is applicable during peace operations. As regards the "*concept of defence of the mandate*" the report stresses the importance of clarity as to which tasks within the mandate may require the use of force: this should always include the responsibility to protect civilians and be proactive in doing so. The report further states that different measures and use of military force in response to distinct threats must be deployed including containment, deterrence and direct confrontation, particularly when civilians or peacekeepers are at risk. Actual force should be used as a last resort, when the presence of armed UN forces has no deterrent effect.

Improving speed, performance and capability of uniformed personnel

With reference to the spirit of article 43 of the UN Charter, the Panel's report recommends Member States to support new arrangements for mobilising the requisite capabilities and strengthening systems to deliver on peace operations mandates in more austere and insecure environments. To guarantee the speed,

performance and capabilities of uniformed personnel, several points in particular need to be revisited.

It is the opinion of the Panel that in order to respond to modern crises the UN Security Council should be able to select different options in a various set of possible tools. This set of tools should at least contain following options: (i) a small UN rapid reinforcement/rapid deployment capability; (ii) arrangements for the transfer of personnel and assets in a crisis; (iii) a rapidly deployable integrated UN headquarters; and (iv) national and regional standby arrangements.

Furthermore the Panel recommended that the Secretariat should improve its work to assist the Security Council in managing the force generation efforts and the Security Council itself should increase its political support to the force generation process. Additionally, the Member States should increase their willingness to contribute to these efforts, especially by contributing with specialist support packages. In the same sense, a certain improvement of the information-management by the UN Secretariat towards the deployed capabilities would be welcomed by the Panel.

Conclusively, existing arrangements need to be revisited, taking into account the different recommendations of the Panel.

Protection of civilian populations and the role of international human rights law

One of the problematic issues covered by the report is the protection of the civilian population in the framework of peacekeeping operations. The report sees it through the prism of the increasing role of international human rights law and the importance of different human rights bodies at the present time. The primary responsibility for the protection of civilians, the report argues, is born by the governments. In its term, the Security Council should seek to include the responsibility of the host government to protect civilians in a UN compact between the Secretariat and the host government as well as hold the host government to account in case of violation. Thus, the report recognizes the obligations of both the UN mission and the host government to protect the civilian population.

Additionally, the paper calls for a further integration of human rights in peacekeeping operations and political missions, admitting the improvements that were achieved over the past years, including *“the integration of human rights in policy, guidance and training for uniformed and civilian staff”*. The areas that need to be improved are the inclusion of human rights officers to the missions, implementation of public reporting on human rights in the work of peace operations, and enhancement of efficiency of monitoring and reporting of human rights issues in peace operations. Conclusively, the panel recommends the Secretariat to increase the amount of resources, aimed at recruitment and deployment of human rights and

protection-related personnel, but avoid “*duplication of effort among human rights and protection functions*” by mission management arrangements.

Addressing abuse and enhancing accountability

Another important issue that the panel seeks to improve is the accountability of personnel for cases of sexual exploitation and abuse that, as the report states, undermines “*the work of UN peace operations and their acceptance among the local people*”. The list of the proposed recommendations incorporates, among others, the call for the Secretariat and Member States to “*pursue immediate and robust implementation of the Secretary-General’s proposed measures to strengthen accountability for sexual exploitation and abuse*”, including the establishment of teams for gathering information and evidence of possible violations and the completion of a formal investigation by both the Secretariat and Member States within six months of them being reported. The panel also requests troop-contributing Member States to “*immediately and vigorously investigate and prosecute all credible allegations of misconduct and crime*”.

For more information, please visit:

Report of the High-level Independent Panel on Peace Operations on uniting our strengths for peace: politics, partnership and people
http://www.un.org/en/ga/search/view_doc.asp?symbol=A/70/95

(Leopold d’Hoop de Synghem, Vera Strobel & Ilya Sobol)

The United Nations Independent Commission of Inquiry on the 2014 Gaza conflict presents the report on its findings.

The Commission, set up by the UN Human Rights Council on 23 July 2014 in order to “*to investigate all violations of international humanitarian law and international human rights law in the Occupied Palestinian Territory, including East Jerusalem, particularly in the occupied Gaza Strip, in the context of the military operations conducted since 13 June 2014*” presented its findings on 24 June 2015.

In the report the Commission focuses, *inter alia*, on the means and methods of warfare used by the parties to the conflict. The commission examined the nature and targeting practices of rocket and mortar attacks by Palestinian armed groups, air strikes on residential buildings in Gaza and use of artillery in densely populated areas by the Israel Defense Forces and their precautionary measures. Considering the issue of the conduct of hostilities the Commission paid attention to the so-called “Hannibal directive”, used by the IDF to prevent Israeli soldiers from being captured by armed groups, as well as cases of alleged targeting of civilians not taking a direct part in hostilities. Extrajudicial killings by Palestinian armed groups and their

military operations conducted from within or near densely populated areas were also noted in the Commission's investigation. Conclusively, the report states that all the parties to the conflict might be responsible for violations of international human rights law, international humanitarian law and some of the committed acts may amount to war crimes. The Israeli government refused to cooperate with the Commission and published its own report on the conflict - "The 2014 Gaza Conflict".

For more information, please visit:

Human Rights Council Resolution S-21/1, "Ensuring respect for international law in the Occupied Palestinian Territory, including East Jerusalem"

http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/S-21/1

Report of the Independent Commission of Inquiry on the 2014 Gaza Conflict

http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoIGaza/A-HRC-29-52_en.doc

Report of the detailed findings of the Commission of Inquiry on the 2014 Gaza Conflict

http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoIGaza/A_HRC_CRP_4.docx

"The 2014 Gaza Conflict: Factual and Legal Aspects"

<http://mfa.gov.il/ProtectiveEdge/Documents/2014GazaConflictFullReport.pdf>

(Ilya Sobol)

Publications of Interest/ Publications intéressantes

S. R. Freeland., *Addressing the Intentional Destruction of the Environment during Warfare under the Rome Statute of the International Criminal Court*, Cambridge; Antwerp; Portland: Intersentia, 2015.

For more information, please visit:

<http://intersentia.com/en/addressing-the-intentional-destruction-of-the-environment-during-warfare-under-the-rome-statute-of-the-international-criminal-court.html>

International Committee of the Red Cross., *Safeguarding the provision of health care : operational practices and relevant international humanitarian law concerning armed groups*, Geneva : International Committee of the Red Cross, 2015.

For more information, please visit:

<https://www.icrc.org/eng/assets/files/publications/icrc-002-4243.pdf>

J. M. Lemnitzer., *Power, Law and the End of Privateering*, Palgrave Macmillan, 2014.

For more information, please visit:

<https://www.palgrave.com/page/detail/power-law-and-the-end-of-privateering-jan-martin-lemnitzer/?sf1=barcode&st1=9781137318633>

M. Milanovic., *Extraterritorial Derogations from Human Rights Treaties in Armed Conflict*, Collected Courses of the Academy of European Law, Nehal Bhuta ed., Oxford University Press, Forthcoming.

For more information, please visit:

<http://ssrn.com/abstract=2447183>

D. Robinson., *Inescapable Dyads: Why the International Criminal Court Cannot Win*, *Leiden Journal of International Law*, vol. 19, No. 2, pp. 323-347, 2015.

For more information, please visit:

<http://journals.cambridge.org/action/displayAbstract?fromPage=online&aid=9671765&fileId=S0922156515000102>

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