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**The Distinction Between Military Objectives and
Non-Military Objects in General and Particularly the Problems
Associated with Weapons of Mass Destruction**

(Fifth Commission, Rapporteur : Baron F.A. von der Heydte)

(The French text is authoritative. The English text is a translation.)

The Institute of International Law,

Reaffirming the existing rules of international law whereby the recourse to force is prohibited in international relations,

Considering that, if an armed conflict occurs in spite of these rules, the protection of civilian populations is one of the essential obligations of the parties,

Having in mind the general principles of international law, the customary rules and the conventions and agreements which clearly restrict the extent to which the parties engaged in a conflict may harm the adversary,

Having also in mind that these rules, which are enforced by international and national courts, have been formally confirmed on several occasions by a large number of international organizations and especially by the United Nations Organization,

Being of the opinion that these rules have kept their full validity notwithstanding the infringements suffered,

Having in mind that the consequences which the indiscriminate conduct of hostilities and particularly the use of nuclear, chemical and bacteriological weapons, may involve for civilian populations and for mankind as a whole,

Notes that the following rules form part of the principles to be observed in armed conflicts by any *de jure* or *de facto* government, or by any other authority responsible for the conduct of hostilities :

1. The obligation to respect the distinction between military objectives and non-military objects as well as between persons participating in the hostilities and members of the civilian population remains a fundamental principle of the international law in force.

2. There can be considered as military objectives only those which, by their very nature or purpose or use, make an effective contribution to military action, or exhibit a generally recognized military significance, such that their total or partial destruction in the actual circumstances gives a substantial, specific and immediate military advantage to those who are in a position to destroy them.

3. Neither the civilian population nor any of the objects expressly protected by conventions or agreements can be considered as military objectives, nor yet

a) under whatsoever circumstances the means indispensable for the survival of the civilian population,

b) those objects which, by their nature or use, serve primarily humanitarian or peaceful purposes such as religious or cultural needs.

4. Existing international law prohibits all armed attacks on the civilian population as such, as well as on non-military objects, notably dwellings or other buildings sheltering the civilian population, so long as these are not used for military purposes to such an extent as to justify action against them under the rule regarding military objectives as set forth in the second paragraph hereof.

5. The provisions of the preceding paragraphs do not affect the application of the existing rules of international law which prohibit the exposure of civilian populations and of non-military objects to the destructive effects of military means.

6. Existing international law prohibits, irrespective of the type of weapon used, any action whatsoever designed to terrorize the civilian population.

7. Existing international law prohibits the use of all weapons which, by their nature, affect indiscriminately both military objectives and non-military objects, or both armed forces and civilian populations. In particular, it prohibits the use of weapons the destructive effect of which is so great that it cannot be limited to specific military objectives or is otherwise uncontrollable (self-generating weapons), as well as of "blind" weapons.

8. Existing international law prohibits all attacks for whatsoever motive or by whatsoever means for the annihilation of any group, region or urban centre with no possible distinction between armed forces and civilian populations or between military objectives and non-military objects.

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(9 September 1969)