

Session of Zagreb – 1971

**Conditions of Application of Humanitarian Rules
of Armed Conflict to Hostilities in which
United Nations Forces May be Engaged**

(First Commission, Rapporteur : Mr. Paul de Visscher)

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

The Institute of International Law,

Recalling its Resolution on "Equality of application of the rules of the law of war to parties to an armed conflict" (Brussels Session, 1963) ;

Recalling its Resolutions on "The distinction between military objectives and non-military objects in general and particularly the problems associated with weapons of mass destruction" (Edinburgh Session, 1969) ;

Noting that the United Nations on various occasions has made use of armed Forces and that such Forces, whatever their mission, might become involved in actual hostilities ;

Considering that pending the elaboration of a comprehensive set of rules governing the status of United Nations Forces, it is necessary to determine the conditions under which the humanitarian rules of armed conflict apply to such Forces ;

Reserving the study of the general problem of the effects which the outlawry of war and of the use of force may have upon the principle of non-discrimination in the application of the other rules relating to armed conflict ;

Declaring, in addition, that the present Resolution is without prejudice to the solution which may be given to the problems connected with the competence of United Nations organs to create or to direct United Nations Forces ;

Has adopted the following Articles :

Article 1

For the purposes of the present Articles, the term "United Nations Forces" shall apply to all armed units under the control of the United Nations.

Article 2

The humanitarian rules of the law of armed conflict apply to the United Nations as of right, and they must be complied with in all circumstances by United Nations Forces which are engaged in hostilities.

The rules referred to in the preceding paragraph include in particular :

- a) the rules pertaining to the conduct of hostilities in general and especially those prohibiting the use or some uses of certain weapons, those concerning the means of injuring the other party, and those relating to the distinction between military and non-military objectives ;
- b) the rules contained in the Geneva Conventions of 12 August 1949 ;
- c) the rules which aim at protecting civilian persons and property.

Article 3

A. If United Nations Forces are formed through individual recruitment, the United Nations shall issue regulations defining the rights and duties of the members of such Forces.

In the event of these Forces becoming involved in hostilities, these regulations shall name the international authorities which, in regard to said Forces, shall be vested with the regulatory, executive and judicial powers necessary to secure effective compliance with the humanitarian rules of armed conflict.

B. If United Nations Forces are composed of national contingents with regard to which the United Nations has not issued any regulations such as those mentioned in the preceding paragraph, effective compliance with the humanitarian rules of armed conflict must be secured through agreements concluded between the Organisation and the several States which contribute contingents.

These agreements shall at least confer upon the United Nations the right to receive all information pertaining to and the right to supervise, at any time and at any place, the effective compliance with the humanitarian rules of armed conflict by each contingent.

Article 4

In order to secure effective compliance with the humanitarian rules of armed conflict by United Nations Forces, it is necessary that the individuals who may be called upon to participate in such Forces receive adequate and previous instruction on the law of armed conflict in its entirety, and especially on the meaning and the scope of the Geneva Conventions of 12 August 1949.

It is desirable that the United Nations, as well as those of its specialised agencies which are concerned with furthering education and health, take all steps within their power in order to coordinate the measures which the States parties to the Geneva Conventions have been invited to take in this field by the International Conferences of the Red Cross.

Article 5

In order to secure effective compliance with the humanitarian rules of armed conflict during hostilities in which United Nations Forces are engaged, it is necessary that the Organisation should ensure that there are, within its Forces, health services composed of competent personnel in sufficient numbers and provided with means of action that are proportionate to the foreseeable needs.

If the direction of such services is entrusted to the States which have contributed contingents, the Organisation shall take all measures in its power to coordinate the activities of these services.

Article 6

In order to ensure effective compliance with the humanitarian rules of armed conflict during hostilities in which United Nations Forces may become involved, it is desirable, if there is no Protecting Power, that an impartial body be empowered to assume the duties entrusted to the Protecting Power by the Geneva Conventions of 12 August 1949.

The body referred to in the present article as well as its members should enjoy the facilities necessary to carry out their functions effectively.

Article 7

Without prejudice to the individual or collective responsibility which derives from the very fact that the party opposing the United Nations Forces has committed aggression, that party shall make Reparation for injuries caused in violation of the humanitarian rules of armed conflict. The United Nations is entitled to demand compliance with these rules for the benefit of its Forces and to claim damages for injuries suffered by its Forces in violation of these rules.

Article 8

The United Nations is liable for damage which may be caused by its Forces in violation of the humanitarian rules of armed conflict, without prejudice to any possible recourse against the State whose contingent has caused the damage.

It is desirable that claims presented by persons thus injured be submitted to bodies composed of independent and impartial persons. Such bodies should be designated or set up either by the regulations issued by the United Nations or by the agreements concluded by the Organisation with the States which put contingents at its disposal and, possibly, with any other interested State.

It is equally desirable that if such bodies have been designated or set up by a binding decision of the United Nations, or if the jurisdiction of similar bodies has been accepted by the State of which the injured person is a national, no claims may be presented to the United Nations by that State unless the injured person has exhausted the remedy thus made available to it.

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(3 September 1971)