The use of force in international missions
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Introduction

When the states’ leaders cannot or do not want to resolve political disputes through peaceful communication and they cease talks, then the cannons start to “speak”. A war inevitably leads to unintended human suffering and serious material damage. War is a disaster itself as the military tribunal during Nuremberg Trials adjudicated after the World War II. A War, in fact, is a primitive and wild outburst of violence, for which the values of humanism and humanitarianism do not matter. Today no one can justify a war as such. Despite this, the countries continue to make war, and people kill each other to resolve political conflicts. It seems to be necessary to act in two ways. On the one hand, it is essential to reduce and stop the phenomenon of war by promoting the peaceful ways of resolving conflicts between the countries. On the other hand, the wide dissemination of the contents of international humanitarian law to safe the potential victims of armed conflicts is required.

This study is an attempt to present the activity of the Polish Armed Forces in shaping security and world peace by eliminating or reducing the phenomenon of war. It also presents issues related to the international humanitarian law in solving armed conflicts’ problems. The primary objective of the international humanitarian law is the strive to mitigate the effects of war by limiting the means and methods of warfare and to oblige the warring parties to protect civilians against the consequences of the military actions.

Presented scientific elaboration consists of two chapters. The first chapter deals with matters related to the involvement of the Polish Armed Forces in the development of inter-
national security. The activity of the Polish Army was presented through the prism of its participation in multinational peacekeeping missions, which took place after the World War II in many regions of the world. It also shows the need for security and the desire to reduce the possibility of armed conflict’s escalation, which are an essential part of the interest of community seeking free development, while eliminating the danger of war.

The next chapter refers to the problems related to international humanitarian law. It presents three different forms of armed forces’ activities perceived by the: armed conflict, situations other than armed conflict and peace support operations. Moreover, this chapter shows the main legal rules applicable in armed conflict, and presents information about the activities of the Red Cross humanitarian organizations. The study also contains the abbreviations, appendices and bibliography.

Presented publication intends to help the reader in understanding matters related to the broad activity of the Polish Army in the arena of international politic implemented in order to shape the international security and world peace. It also explains the problems related to international humanitarian law and the need for its wide dissemination for creating the safer tomorrow for human beings on our globe.

Authors
Chapter I.

Polish Army in the international military operations (Stanisław Topolewski)

History of the Polish military involvement in the international operations dates back to 1953 when the first military observers were appointed to the Neutral Nations Supervisory Commission in Korea (NNSC). The Commission consisted of 1065 soldiers and civilian observers. In 1954, Polish troops began service in the International Control Commission (ICC). In Indochina 1948 soldiers were involved, while in Vietnam 650 people participated in the mission¹.

Polish Army under the UN leadership took part in various mission, namely²:

- The Polish Logistic Unit (POLLOG) as a part of the Second United Nations Emergency Force in Egypt (UNEF II) – military contingent consisted of 822 to 1026 soldiers specialized in logistics operations;
- The Polish Military Contingent UNDOF (Syria) – it was the second UN mission, in which Poland took part. Polish soldiers were responsible for logistics;
- The Polish Military Contingent UNTAG (Namibia) – consisted of 393 soldiers, mainly servicemen in central warehouses and supply providers;

• The Polish Military Contingent UNPROFOR (Croatia) – Poland deployed operating battalion (POLBATT) for the first time;
• The Polish Military Contingent UNTAC (Cambodia) – Polish Contingent consisted of engineering and supply units in the strength of 709 soldiers. Their main task was to provide water, food and fuel;
• The Polish Military Contingent UNIFIL (Lebanon) – Polish medical unit, whose mission was to provide medical support of UNIFIL personnel and the local population;
• The Polish Military Contingent UNCRO (Croatia);
• The Polish Military Contingent UNMEE (Eritrea, Ethiopia) – separated component of the Polish Armed Forces designated to participate in UNMEE headquarters in 2000–2001;
• The Polish Military Contingent UNIMIS (Sudan) – separated component of the Polish armed forces designated to staff works in UNIMIS headquarters in 2005;
• The Polish Military Contingent (Chad) – Poland deployed 400 soldiers to protect and facilitate humanitarian and peacekeepers convoys.

Poland, as NATO member, took part in the following missions:
• The Polish Military Unit IFOR (Bosnia and Herzegovina);
• The Polish Military Unit/Polish Military Contingent SFOR (Bosnia and Herzegovina);
• The Polish Military Unit Strategic Reserve (Bosnia and Herzegovina, Kosovo);
• The Polish Military Unit AFOR (Albania);
• The Polish Military Unit/Polish Military Contingent KFOR (Kosovo);
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- The Polish Military Contingent *Amber Fox* (Macedonia);
- The Polish Military Contingent *Allied Harmony* (Macedonia);
- The Polish Military Contingent *Display Deterrence* (Turkey);
- The Polish Military Contingent *Distinguished Games* (Greece);
- The Polish Military Contingent ISAF/NATO Training Mission – A (Afghanistan);
- The Polish Military Contingent *Active Endeavour* (Mediterranean Sea);
- The Polish Military Contingent *Swift Relief* (Pakistan);
- The Polish Military Contingent *Baltic Air Policing* (Estonia, Lithuania, Latvia);
- The Polish Military Contingent *Peaceful Summit* (Latvia);
- The Polish Military Contingent NATO Training Mission – I (Iraq).

Under the EU leadership, Polish Military Contingents participated in following missions:

- The Polish Military Contingent *Concordia* (Macedonia);
- The Polish Military Contingent EUFOR Althea (Bosnia and Herzegovina);
- The Polish Military Contingent EUFOR (DR Congo);
- The Polish Military Contingent EUFOR (Chad);
- The Armed Forces Operational Group EUMM (Georgia).

Polish Military Contingents also participated as a part of the international coalition such as:

- The PLEPE (Ethiopia);
- The Polish Military Contingent *Desert Shield/Desert Storm* (Persian Gulf);
- The Polish Military Contingent *Uphold Democracy* (Haiti);
The Polish Military Contingent Desert Thunder/ Desert Fox (Persian Gulf);
The Polish Military Contingent MIF (Persian Gulf);
The Polish Military Contingent *Enduring Freedom* (Afghanistan);
The Polish Military Contingent *Enduring Freedom/ Iraqi Freedom* (Persian Gulf);
The Polish Military Contingent *Iraqi Freedom* (Iraq).

1) **Polish Military Contingents’ (PMC) tasks in missions abroad**

The Polish Military Contingents’ tasks in missions abroad were a result of analysis, goals assessment and preparation of conditions for such operations.

The main source of tensions and destabilisation, which determined the Polish Military Contingents’ tasks in operations were geopolitical and military situation, as well as contradictions between states, nations and ethnic or religious groups. The tasks performed by the PMCs counteract unfavourable developments, limit negative consequences and support their rapid elimination.

The tasks facing the PMCs in ensuring a stable and secure environment in the area of operations were:

- ensuring stability and security;
- preventing the threat from neighbouring countries;
- countering terrorist threats;
- establishing government agencies and institutions and ensuring their proper functioning;

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• reconstructing basic infrastructure;
• supporting civilians;
• respecting international law.

The most important PMCs’ task is ensuring stability and security in the conflict zones, implemented by⁴:
• forcing the ceasefire between conflicted parties;
• preventing violence;
• supervising the ceasefire;
• combating resistance, terrorist, and criminal groups;
• supporting efforts to promote national reconciliation;
• transformation, creation, preparation and support of new armed and security forces.

Difficult geopolitical and military situation in the areas of crisis requires meticulous planning. The PMCs’ tasks, resulting from the evaluation of existing threats in neighbouring countries, include for example⁵:
• protection of borders and control over the movement of people at border crossings;
• border crossings’ organization and maintenance;
• airspace defence;
• prevention from the infiltration of special services’ agents and criminal groups;
• assistance in creating armed forces capable to defend the country and fight against outside interference;
• support the activities of the security services and the judicial administration;
• protection of government institutions;
• strive for cease the fighting between conflicted parties;

⁴ Ibidem, pp. 41–42.
⁵ Ibidem, p. 42.
• prevention from acts of hostility;
• control and management processes of refugees’ return from abroad and their settlement;
• organization and protection of refugee camps.
To counteract the threat of terrorism, Polish Military Contingents perform tasks such as:
• combating terrorism and criminal groups;
• demonstrating strength and readiness to combat threats;
• cutting off aid, and local population support, for the terrorist groups;
• identifying and detaining terrorists;
• training local security forces and judicial administration to fight terrorism;
• identifying and monitoring the activity of terrorist groups;
• strengthening protection and regular patrolling of vulnerable areas and facilities;
• detecting and protecting arms caches and weapon of mass destruction depots;
• preventing intensification of ethnic and religious conflicts.
As far as reconstruction of basic infrastructure is threatened, the PMCs execute tasks mentioned below:
• assisting in obtaining funds for reconstruction;
• supporting renovations of authorities’ administrative facilities;
• supporting the modernization and renovation of schools, health care facilities and public buildings;

\[6\] Ibidem, p. 43.
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- improving the operation of power plants and transmission lines;
- reconstructing of destroyed bridges;
- building a network of water and sewage systems;
- providing food and hygiene products;
- protecting religious and cultural heritage sites.

While supporting the civilian population, the PMCs executes the following tasks:

- cooperation with non-governmental organisations;
- participation and protection of humanitarian aid;
- business support;
- protection of food and water supply, as well as sanitary measures for the population;
- provision of aid to the population in the framework of CIMIC.

The forces participating in operations have a wide range of abilities to respond, from kinetic to non-kinetic activities. The PMCs use combat capabilities in necessary situations. They primarily participate in the process of assisting the state’s structures during crisis, through training, equipping and supplying security forces and preparing the state for independent actions. While performing these tasks it is essential to have in readiness – together with civilian experts and advisors – special tasks units, military police special units or police structures.

2) **Polish Military Contingents on selected missions examples**

The European Union mission in Republic of Chad and Central African Republic was established to ensure security of
the UN humanitarian activities. The EUFOR was mainly tasked with “the blue helmets” support for ensuring stabilization in Sudanese province Darfur wherein ethnical and political conflict, initiated by a rebel in 2003, caused about 400,000 casualties. The operation in Chad and the Central African Republic was the fifth military operation of the European Union under the European Security and Defence Policy (ESDP).

The UN Security Council by resolution 1778, adopted on 25th of September 2007, provided the mandate for the EU mission in Chad. The principal tasks of the mission were:

- establishment of the UN Mission in the Central African Republic and Chad, composed of civilians, policemen and soldiers. The mandate included the training of Chadian police aimed at ensuring the protection of the population, as well as the maintenance and promotion of human rights;
- authorization the European Union to refer to the area forces in order to protect and safeguard the UN mission within one year from the date of achieving the initial operational capabilities.

The main EUFOR task was to improve security conditions, primarily in the area reserved for displaced people, refugee camps and in areas abandoned by them, to facilitate their voluntary return. In addition, the tasks also included: empowering humanitarian aid, the free movement of these organizations’ personnel, ensuring safety for carried out re-

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sponsibilities, as well as securing the appropriate functioning of the police and law enforcement in the camps and places founded for the refugees. An important task was also the creation of conditions for the development and reconstruction of the country, and participation in protecting personnel and local population property.

In the area of operations 12 refugee camps and 30 displaced persons camps functioned, wherein around 180,000 people found shelter. They were administrated, managed and supplied by both the UN and the non-governmental organizations (NGOs). Refugees received accommodation, food, medical care and education. The difficult conditions were caused by camps overcrowding. Safety of the camps was supervised by the Local security officers, police, the UN and the Chadian army. The EUFOR was the so-called outer ring of security.

The operation was subordinated to the Force Command (FNQ – Forward Headquarters) deployed in the capital – N'Djamena and in Abéché as well. Operational tasks were carried out from four operating camps: 3 in Chad (Iriba, Forch, Goz Beida), and 1 in the Central African Republic (Biaro). Through such deployment, EUFOR had enough space for manoeuvre in the area of operation, also within parts bordering Sudan.

Active participation in the operation was declared by: France (2,100), Poland (400), Ireland (400), Sweden (200), Austria (160), Romania (150), Belgium (80–100), the Netherlands (70), Finland (60), Italy (one hundred–bed field hospital), Spain (airplane transport), Greece (airplane transport).

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10 W. Horyń, op. cit, p. 23.
Portugal (airplane transport), Slovenia (15). The participating states were represented in operation command by 22 officers. On the 23rd of November 2007, Polish Minister of National Defence signed decision on the participation of Polish Armed Forces in the EU mission in Chad.

Polish forces stationed in the Iriba camp, about two hundred kilometres from Abéché, in which 115 UN personnel members were accommodated. The Polish Military Contingent subordinated directly to the commander of the operation.

The main tasks of the PMC involved:

- monitoring the local situation and patrolling the area;
- protecting humanitarian aid convoys;
- ensuring the safety of the UN staff and NGOs;
- providing the protection of the MINURCAT personnel;
- people, places and objects control;
- cooperating with the authorities and local leaders;
- assisting the local population and the displaced people;
- protecting airfields and other strategic objects;
- intervention and response in cases of human rights violations and crime committing in the areas of refugees and displaced camps.

The area of responsibility practically covered region without any infrastructure. This was an area of 10,000 square kilometres, mostly hilly and desert space. The roads were exclusively unmade and in the rainy season became nearly impassable.

The first PMC rotation, consisting of 136 soldiers and civilian employees, was moved to Chad in two tours (on the 6th

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and 8th of September 2008). On the 15th of September 2008, Fully Operational Capability (FOC) was declared, to perform the tasks mandated in the PMC Chad mission area. From that day, Polish military contingent was ready to perform its mandate, imposed on the EUFOR by the UN Security Council.

In October 2008, fifteen soldiers from Croatia and three individuals from MINURCAT civilian personnel came to the North Star Camp. They reinforced the EUFOR Multinational Battalion South, which was based on the PMC Chad. During the first PMC rotation the Polish civil-military cooperation CIMIC team and the PMC Command maintained regular contact with representatives of the UN and NGOs. The Civilian-military cooperation CIMIC group completed elementary school renovation project in Iriba and handed over numerous school materials to students. These supplies came from the Association of Aid to the Church in Need and the military Caritas. During the first rotation, the PMC conducted 452 patrols, convoys, escorts and four joint operations: Polaris and Polaris II, operations Atria and Sega. These actions were carried out mostly in and around the refugee camps. The meetings with local authorities and humanitarian organizations’ representatives were also organised. Since October 2008 the PMC performed new tasks, i.e. took responsibility for forward operating base around Guereda. Thanks to the presence of Polish troops, the areas nearby two refugee camps could be better controlled. In Chad, the Polish soldiers, for the first time, were solely responsible for the contingent functioning. Furthermore, they the military base was built from scratch.

On the 24th of November 2008 main force of the Polish Military Contingent’s second rotation have arrived in the African operational area of the EUFOR. According to the man-
date, the soldiers of the Polish contingent performed the tasks related to protection of the UN staff. They were also responsible for protection and provision of aid organizations’ personnel freedom of movement, as well as implementation of conditions for a safe return of refugees from Sudan’s Darfur to the places of residence.

Since December 2008, the combat groups of the second PMC rotation started to perform their duties. They were monitoring the situation in region, carrying out patrols, convoys, and escorts (nearly 600 in total). Together with soldiers from Croatia and France, three joint operations were carried out under the codename SEGA. The Polish engineer patrols secured about 100 pieces of hazardous materials, munitions and other dangerous remnants of the numerous armed conflicts in the region.

Soldiers of the third rotation of the Polish Military Contingent in the Republic of Chad, serving as part of the UN force MINURCAT, started operation in May 2009. Since 18th May, they took over responsibility for the tasks mandated in the Sector North. The operational activities of Polish troops in the Sector West were supported by: Croatian contingent (15 troops) forming the Fifth Delta combat group, stationed in the Iriba base, French engineering group, responsible for the roads passability and two Russian helicopters from air force group, stationed in Abéché (aerial reconnaissance patrols and medical evacuation).

The Polish Military Contingent completed its operations in Chad on 31st of October 2009. On December 9th, at the Iriba base, responsibility in the Northern Sector was handed over to the Mongolian Military Contingent. This ceremony ended a half year of Polish Armed Forces stationing in Africa.
Bosnia and Herzegovina sought to obtain independence after the Yugoslavia breakup. In May 1991, the parliament of Bosnia and Herzegovina proclaimed independence, which was supported by the people in a referendum and recognized in April 1992 by the EEC and the USA. In March 1992, a conflict broke out between Serbs, Croats, and Muslims Bosniaks on the partition of Bosnia and Herzegovina. This conflict covered the entire territory of the republic until the end of April. The military situation in Bosnia and Herzegovina has changed at the turn of 1994 and 1995, after organizational changes and obtaining substantial military aid by Bosnian Muslims and Croats. The Serbs lost part of the existing territorial gains in the north-western part of the republic. Peace was returned just by *The Agreement on the military aspects of the establishment of peace in areas of Bosnia and Herzegovina* signed by the leaders of the conflicted parties near Dayton, in November 1995. Country was divided into the Federation of Bosnia and Herzegovina and the Republic of Serbia. With signing of the agreement in Dayton, the United Nations Security Council adopted a resolution, which gave the NATO’s member states and local organizations the right to establish the International Implementing Forces.

On the basis of the Resolution No. 1031 of 15th December 1995, the Implementation Forces – IFOR were established to implement the provisions of the Peace Agreement on Bosnia and Herzegovina mandated by the UN, for one year. The NATO was authorized to lead the military operation

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codenamed the Joint Endeavour. In addition to NATO’s member states’ military contingents, the Partnership for Peace countries and the countries outside of this program participated in the operation, in which about 60,000 soldiers were involved.

The Polish Military Contingent joined the IFOR on the 5th of February 1996 and was incorporated into the Nordic-Polish Brigade (NORDPOLBDE) set up by Denmark, Finland, Norway, and Sweden. The Nordic-Polish Brigade was the part of the Multinational Division – North14. The legal basis for the participation of Polish soldiers in operation in Bosnia and Herzegovina was the Council of Ministers Resolution No. 141 of the 5th of December 1995. Minister of Defence, on the 13th of December 1995, issued the decision concerning the PMC formation and participation in the mission.

The Polish contingent’s tasks included:

- controlling the movement in the check points on the separating line;
- patrolling the separation zones;
- gathering information concerning minefields;
- monitoring the withdrawal of troops and parties’ armaments outside the agreed zone;
- providing support to other battalions in the area of their responsibility, if necessary;
- supporting the exchange of prisoners between the conflict parties;
- assisting humanitarian activities;
- ensuring the safety of civilians;

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The Polish Military Contingent IFOR consisted of the Polish Security Group, National Supply Group, the Polish staff in the Nordic Security Group (NSG) and at the headquarters of the Nordic-Polish Brigade. Polish battalion soldiers were deployed in three towns: Teslic, Zepce and Jelah. 671 soldiers of the Polish Military Contingent served in the IFOR.

In connection with the UN IFOR mandate’s expiration on the 20th of December 1996, the UN Security Council, under Resolution No. 1088 of the 12th of December 1996, decided to extend the IFOR mission and changed its name to SFOR (Stabilization NATO Force). The Polish Military Contingent’s in SFOR forces were reduced to 500 soldiers and constituted the Nordic-Polish Brigade. Polish soldiers performed their duty in the following units, namely: in the operational battalion, in command of the multinational forces, at the headquarters of the Nordic-Polish Brigade, and in the National Element Supply of the International Company of Military Police (NORPOLBDE).

Polish battalion performed the following tasks:

- fulfilment of the military aspects of the Dayton Agreement, in the area of responsibility16;
- support of the International Police Task Force;
- cooperation with the Centre for Coordination of the Civil-Military Cooperation (CIMIC);

15 Ibidem, p. 164.
• protection of the SFOR security in the area of responsibility, and the ability to move the SFOR forces;
• coordination of military centres’ inspections of conflicted parties, to ensure compliance with agreed arrangements.

In 2000, the Stabilisation Force brigade level was liquidated. As a result, thirteen battle groups, in strength of the battalion, were subordinated to the divisions. One of them was Nordic-Polish Battle Group (NPBG), formed on 5th of January, consisting of 300 Polish soldiers. In the next stage of changes the Danish contingent was withdrawn and the former Portuguese battle group was moved to Doboj. The SFOR contingent was reduced to 12,000 soldiers. From the 5th of January 2003, they co-created Multinational Combat Group along with a renewed POLBAT subdivision.

In June 2004, during the Istanbul Summit, NATO decided to hand over the SFOR stabilization mission force in Bosnia and Herzegovina to the European Union forces. On the 2nd of December 2004, the European Union Force (EUFOR) officially took over mission in Bosnia from NATO. The mission was attended by 22 EU’s countries and 11 non-EU countries. The EUFOR headquarters was located in Camp Butmir in Sarajevo. The main task responsibility of EUFOR was to maintain security in the region by: providing a safe environment for local authorities to implement the peace agreement and to ensure freedom of movement in the responsibility zone. The Polish Military Contingent was part of the Multinational Task Force and had about 200 soldiers, who stationed at the base in Tuzla.

The tasks of the Polish soldiers were:

- eliminating illegal weapons stockpile;
- conducting day and night patrols in the zone of responsibility;
- maintaining readiness to organize checkpoints;
- carrying out inspections of warehouses and armaments factories;
- destructing weapons, ammunition, and warfare means;
- construction and reconstruction of roads and bridges;
- monitoring the process of civilians return to the abandoned places of residence;
- supervising local demining teams.

After the EUFOR transformation, on the 27th of June 2007, changes were also made in the Polish contingent. The Manoeuvring Company and the National Component Supply were transferred to Camp Butmir in Sarajevo, where an infantry unit became part of the Multinational Manoeuvring Battalion, formed after the dissolution of the task forces. In addition, two observer liaison teams were set up and deployed in Doboj and Teslic. In accordance with the political decisions, the Polish Military Contingent EUFOR in Bosnia and Herzegovina ceased its activities on the 30th of November 2010.

On December 1st, the Polish Military Contingent (PMC EUFOR / MTT) started the consulting and training mission in Bosnia and Herzegovina. The PMC was again reduced to just 50 soldiers. It consisted of 4 Mobile Training Teams and 2 Liaison and Observer Teams.

The main tasks of the PMC were:
• training and creating the military capabilities of the Bosnia and Herzegovina’s Armed Forces;
• monitoring the security situation;
• cooperating with representatives of local authorities, public institutions and the NGOs in the area of responsibility.

On the 31st of May 1974, in Geneva, an agreement between Israel and Syria was signed. It ended the war between these two countries. On the basis of the Security Council’s resolutions, the United Nations forces UNDOF (United Nations Disengagement Observer Force) were established on the Golan Heights. Their main role was to keep the peace between Syria and Israel, while the main tasks included:

• maintaining a continuous presence in the separation zone and monitoring violations of the zone;
• establishing and maintaining teams and response;
• patrolling the separation zone and presence in the restricted area, as well as controlling access to them;
• controlling the level of party forces within the restricted zone of presence;
• labelling the demarcation line;
• making appropriate decisions in the event of breaching restrictions;
• conducting humanitarian activities and supporting the International Committee of the Red Cross.

Austria, Peru, Poland and Canada sent the troops to the newly established peace keeping forces in the Golan Heights.

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18 A.Z. Rawski, Oblicza..., op. cit., p.132.
in Syria. The Separated Group of Polish Military Special Units performed the tasks, which included: adaptation of the camp, demining, transport of people, building materials, providing equipment and food to the camp. These activities took place in a difficult situation. The camp was not prepared, and severe mountainous conditions hampered the work of a transport company.

Since 1974, twelve military contingents’ rotations performed their duties. The last one ended the mission in June 1979. Major changes occurred in 1979, when mandate of UNEF II was completed and the Polish Military Special Unit was sent back to the country. This was equal to independence of the Polish Separated Military Group, which was reinforced by 60 soldiers and transformed into the Polish Military Contingent in Syria. The tasks of the Polish contingent involved: cleaning the area from unexploded and landmines, fortification works, construction and maintenance of roads, labelling demarcation lines between the zones, transport of people, food and equipment supply and vehicles repairing. In 1992, the POLLOG decreased to approx. 130 people and it was decided that its tasks will be performed by the POLBATT.

On the 30th of June 1993, the Polish contingent took over operational tasks from the Finnish Battalion retracted from the Golan Heights. On December 9th, that year, the POLBATT began to carry out tasks mandated in the separation zone. Battalion command and security company stationed at Camp Ziouani. Conducting operations, POLBATT took over responsibility for the demarcation zone’s southern sector with a length of over 50 km and a width of approx. 9 km. the POLBATT maintained: 9 posts, 12 stations and outposts, 19 car and foot patrols, 3 immediate reaction
groups, 9 rapid response patrols, 1 reserve troop (the Special Task Service).

The main operational tasks were:

- overseeing the separation zones, Israeli troops to Alpha line and Syrian troops to Bravo line;
- avoiding the presence of troops on both sides of the conflict zone;
- report any breaches of lines A and B, air force activity on both sides, firing incidents in the zone and nearby, fortification works conducted by conflicted parties, to move the threats from the UN vehicles and personnel;
- using the Rapid Response Groups (RRG) and liaison officers to counteract violations mentioned above;
- patrolling the separation zone;
- conducting demining works in the zone.

The POLBATT carried out 32 contingents’ rotations during the mission. In connection with the Polish contingents withdrawal from the UN missions, the PMC in Syria handed over their duties to the Philippine contingent on the 22nd of October 2009. On November 18th, after 35 years of presence on the Golan Heights, the Polish mission, as a part of the UNDOF was completed.

The history of the mission in Lebanon dates back to March 1978. The mission was established in connection with repeated attacks on Israel, carried out from Lebanon by the Palestine Liberation Organization (PLO). In March 1978 after the PLO attack on the beach in Tel Aviv, the Israeli Army acquired the area on the south from of the Litani River within a few days. On the 17th March 1978, the UN Security Council considered the Lebanese complaint against the Israeli inva-
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sion, and on March 19th, that year, on the basis of the resolutions of the Security Council of the United Nations No. 425 and 426 the UNIFIL (United Nations Interim Force in Lebanon) was established\(^{20}\). Immediately after the adoption of the resolution, Israel was called to respect the territorial integrity of Lebanon and withdraw forces from the occupied territory. The UNIFIL was supposed to support the Lebanese government in rebuilding effective power structures, which had to have a positive impact on the improvement of the international order. The first UNIFIL units entered Lebanon on the 23\(^{rd}\) of March 1978.

In accordance with the UN resolution, the UNIFIL was established to:

- confirm the withdrawal of Israeli forces from southern Lebanon;
- assist the Lebanese Government in restoring effective authority in the territory;
- restore international peace and security\(^{21}\).

Poland was involved in this mission relatively late, because in 1992\(^{22}\). It was related to the UN Secretary General request sent to the Polish government asking for support and delegate the Medical Company to replace doctors from Norway and Sweden. The Poles accepted the request on the 13\(^{th}\) of April 1992, and the first group in strength of twenty medics reached the UNIFIL Field Hospital in Naqoura and immediately started to work.

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\(^{21}\) L. Elak, *Funkcjonowanie...*, op. cit., p. 28.
\(^{22}\) Ibidem, p. 62.
Its task was to provide medical support to the UNIFIL personnel, as well as to the local population, and to provide aid to the people injured in Israeli rocket attacks on southern Lebanon in June 1993. In April 1994, the Polish Logistics Battalion (POLLOG) was sent to Lebanon.

The Poles took over the mandated responsibilities previously performed by the Swedes. The Central Supply Mission Depot was also the subject to the Polish forces. Polish officers performed the duties as a staff officers at the UNIFIL Headquarters and in the International UNIFIL Military Police Company. From June 1996, group of renovation subunits was sent to Lebanon. At the same time, Poland took over all logistics tasks in the UNIFIL forces, including inter alia:

- transport of personnel and various kinds of materials to the operational contingents;
- maintenance of central warehouses, repair of motor vehicles and other UNIFIL forces’ equipment;
- demining the area and fortification works in the place where the UNIFIL units were deployed;
- medical care for personnel within the UNIFIL field hospital and other tasks related to granting humanitarian aid to the local population.

On the 1st of April 1995, Brigadier General (Ph.D.) Stanislaw F. Wozniak was appointed to the Force Commander position of the UNIFIL, the second largest UN mission in the world. The Polish commander of the UNIFIL came to command at the beginning of the Israeli Army offensive against Hezbollah bases, known as the operation “Grapes of Wrath”, launched on the 11th of April 1996. During this operation,

23 M. Gągor and K. Paszkowski, Międzynarodowe..., op. cit., p.154.
Polish engineers, medics and logisticians were repeatedly strafed by the Israeli army. In 2000, the Israelis finally left southern Lebanon, and the situation in the region stabilized, allowing a gradual UNIFIL and PMC reduction. In April 2001, POLLOG decreased by 30 posts. On August 1st, the Belgian Engineering Company arrived. In October 2005, the Polish doctors were replaced by medics from India.

The situation between Israel and Lebanon worsened on the 12th of July 2006, when an open armed conflict with Lebanese Hezbollah started. The reason was the Hezbollah militants attacked Israeli troops deployed along the western section of the border with Lebanon and kidnapped two Israeli soldiers. The military action was discontinued on August 14th, when both sides accepted the provisions of the UN Security Council, which called for a ceasefire. On the basis of the UN Security Council resolution No. 1701 of 14th August 2006, the Polish government decided to increase the participation of the Polish Armed Forces in the UNIFIL operation. The result of this decision was the Polish-Spanish initiative of creating a motorized infantry battalion to support the operation. This project was officially declared to the Department of Peacekeeping Operations, and after acceptance, the Polish contingent structure was extended to the Manoeuvre Company (SPANBATT), becoming ready to carry out mandated tasks in May 2007. At the end of 2009, due to the general contingents’ withdrawal from the UN mission, the PMC Lebanon began retreating the troops.

On the 1st of December 2009, after 17 years of service, the last rotation of the Polish contingent officially transferred responsibility to the Danish Logistic Battalion in Naqoura base.
Serbian-Albanian conflict in Kosovo led to the outbreak of war in 1998.

Kosovo War became a mutual ethnic cleansing. Both sides have committed acts of violence against civilians, causing substantial emigration of local people. Parties to the conflict signed a peace agreement on the basis of the UN Security Council resolutions on the 21st of June 1999, and the international NATO force KFOR, under the command of NATO, entered Kosovo. At the beginning of the mission, the KFOR Forces consisted of 50,000 soldiers from 30 countries, both NATO, and non-NATO members. The KFOR was divided into four multinational brigades: the South-West, the Central, the North-East and the East. Each of them have taken the responsibility for a specific region of the province, but all were subject to the commander of the KFOR.

The objectives of the KFOR troops were to create and maintain safety conditions for the Kosovars in their place of residence, and ensure security and public order, as well as monitor, control and if appropriate, enforce the peace agreements. On the basis of the Minister of National Defence decision No. 15 of 19th June 1999, the Polish Military Unit, within the International Forces KFOR, was created and sent to Kosovo as a part of the Joint Guardian operation. The tasks of the Polish contingent included: ensuring the safety of civilians and international forces, demilitarization of subordinated region, patrolling the border, maintaining the checkpoints, and supporting humanitarian aid. The Polish Military Unit was strengthened by the infantry platoon of the Lithuanian Armed Forces and the company of Ukrainian Armed Forces. The Military Unit was created on the base of the 18th Airborne Assault Battalion, which was KFOR strategic rearguard. The
battalion, containing of 784 soldiers, was deployed in the area of Kacanik and Štrpce.

Tasks performed by the battalion were:

- patrolling the area of responsibility;
- disarming and escort;
- protecting and defending the civilian population;
- protecting own troops;
- conducting reconnaissance;
- controlling the military aspects of the peace agreements;
- supporting international organizations;
- securing humanitarian actions.

In July 2000, the Airborne Assault Battalion was replaced by the joint Polish-Ukrainian unit (POLUKRBAT). In October and November, the POLUKRBAT prevented disturbances in the area of responsibility and conducted operations to confiscate Kosovo Albanians’ weapons and ammunition. In 2001, on the Kosovo-Macedonian border, clashes between Albanians and Macedonians occurred, which posed a threat to the Polish troops stationing there. The Polish contingent was strengthened by the GROM commando teams and the 1st Special Commando Regiment. In May 2007, the Polish Motorized Company from POLUKRBAT was sent to the northern part of Kosovo and along with the US and Czech troops formed the Task Force IBAR subjected to the French Multinational Task Force South (MNTF North). On the 26th of June 2009, the Lithuanian contingent was withdrawn, and at the same time, the PMC has decreased from 320 to 230 soldiers.

In early 2010, the task forces were transformed into the battle groups. The Multinational Task Force East became the Multinational Battle Group East. The Polish Military Contin-
gent was transformed into manoeuvring company. The Polish soldiers became a rapid response group in crisis situations.

In January 2011, the PMC KFOR manoeuvring company was sent to the north of Kosovo, where it took over the Nothing Hill Camp from Turkish company subordinated to the French Multinational Battle Group North (North MNBG). The Polish Military Contingent implemented stabilization mission as a part of the Multinational Battle Group East. The main effort was focused on monitoring compliance with international agreements and treaties in order to create the conditions appropriate to achieve the mission’s objectives.

In December 2005, the UN proposed the European Union to strengthen military operation The United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUCE), launched in 2003, to ensure safety during presidential and parliamentary elections. The UN operation BENGA was undertaken by 22 European countries, eight of which deployed military missions, including Poland. Other countries supported the operation by providing a means of air transport, as well as strengthening Operations Command personnel in Potsdam. The European forces in the Democratic Republic of Congo consisted of about 2,400 soldiers in total. The basis for planning and organizing the participation of Polish soldiers in this operation was the decision of the President of the Republic dated on the 27th of April 2006, on which Poland sent the Polish Military Contingent consisting of the Military Police unit and the Land Forces in strength of 130 soldiers. It was the third-largest national contribution to EUFOR forces.

The Polish Military Contingent was sent to Congo on the 19th of June 2006. The PMC was equipped with weapons and
tools to ensure efficient implementation of tasks in the mission area (both during day and night). These were mainly light weapons, specialized equipment, the military police vehicles and lightly armoured DZIK II vehicles.

The main tasks of the PMC were:

- protecting the EU Force Headquarters in Kinshasa;
- ensuring security of Ndolo airport in Kinshasa;
- providing the safety and security of international staff of the UN and the EU;
- cooperating with the police\textsuperscript{24}.

The European Union military operation in the Democratic Republic of Congo was completed on 30\textsuperscript{th} November 2006.

On the 24\textsuperscript{th} of November 2003, the earthquake (7.6 on the Richter scale) struck Pakistan, destroying six towns and killing approximately 50,000 people. After the catastrophe, 139 Polish soldiers started humanitarian operation, entitled the “Swift Relief”. The Polish Military Contingent, together with Spanish, Italian and Lithuanian troops was incorporated into the international battalion of the NATO Response Force.

The task of the contingent included:

- demolition of damaged structures;
- elimination of debris in destructed areas;
- roads reparation;
- preparation of temporary shelters for the population before the upcoming winter;
- extraction and purification of water.

The PMC was equipped with engineering machinery, dump trucks, water purification equipment, electricity gener-

\textsuperscript{24} Z. Bednarski, \textit{Wojsko Polskie…}, op. cit., p. 9.
ators, crane lorries, cars, Honker light vehicles, trucks, refrigerator trucks, ambulances, water tanks, residential, technical and sanitation containers, power and food supplies. Soldiers of the Polish contingent returned to the country in three rounds (from 26th January to 15th February 2006).

The military mission of the Polish contingent in the Republic of Pakistan was exclusively humanitarian mission. During the three-month mission, the Polish soldiers helped the country struck by the earthquake, by building seven temporary buildings: two schools, the Trade Public Centre, housing estate, public administration buildings were cleaned from the debris. Besides, two groups of soldiers worked to clean up and rebuild the only road between Arja and Bagh. Polish soldiers together with water purification teams from Spain and Lithuania acquired more than 110 cubic meters of drinking water.

3) Operation in Iraq

On the 2nd of August 1990, Iraqi armoured and mechanized troops and special forces crossed the border with Kuwait hitting in two directions: on the state’s capital and on the south of the country. Kuwaiti border with Iraq, with a length of 242 km, was difficult to defend for the 17,000 soldiers army of Kuwait25. After three days of fighting, the Iraqi army captured the Kuwait along with the capital. The remaining forces led by the Kuwaiti emir Jaber Al-Ahmad Al-Jaber Al-Sabah and members of the government took refuge in Saudi Arabia.

In response to this action, at the request of the United States, a meeting of the UN Security Council was convened, during which Resolution no. 660 of the 2nd August 1990 was adopted. The document called for the withdrawal of Iraqi troops from the occupied territories. Two days later, the US President George Bush decided to send American troops to the Persian Gulf region. The coalition consisted of 38 countries, including Poland. General Norman Schwarzkopf was appointed to the position of US forces’ commander. The Operation Desert Storm started.

On the 6th of August 1990, the UN Security Council adopted Resolution No. 661, imposing an embargo on Iraqi trade, financial transactions and supply of military equipment and arms. On the 9th of August 1990, the Iraqi authorities announced the annexation of Kuwait. A week later, the Iraqi security forces detained 4,000 Britons and 2,500 Americans, taking into captivity as hostages, in case of an attack on Iraqi facilities. On August 25th, the UN Security Council adopted Resolution No. 665, authorizing the use of force to implement the embargo imposed on Iraq. On November 29th, the Security Council issued another resolution No. 678, sanctioning the use of force to remove the Iraqi troops from Kuwait. The Security Council issued an ultimatum to the Iraqi authorities demanding the withdrawal of forces from Kuwait to January 15th, 1991. The ultimatum was rejected.

On the 7th of January 1991, the coalition partners began implementing the Operation Desert Storm. It consisted of three phases: air operations, aircraft preparing to conduct joint operation of ground, air and sea forces, codenamed the

Desert Sword. The Operation Desert Storm was supported by the Polish contingent (319 troops), comprising: the hospital ship ORP Wodnik and the rescue ship ORP Piast, together with medical personnel. The main tasks of the Polish Military Contingent were related to the participation in rescue operations (towing, fire fighting, etc.), evacuation of the wounded and sick, and medical care. Polish participation in the Operation Desert Storm ended in May 1991.

On February 26th, Saddam Hussein announced the decision to retreat Iraqi forces from Kuwait. During the withdrawal to the north, Iraqi troops were destroyed by aircraft and helicopters offensive. On February 27th, the coalition troops took over the capital of Kuwait. On the February 28th, Iraq accepted the UN Security Council resolutions. The same day, the US President George Bush, in a televised speech, announced that Kuwait is free and Iraqi troops withdrew from that country.

On March the 2nd, the UN Security Council adopted Resolution No. 686, calling for Iraq to release all prisoners captured during the Gulf War, return to Kuwait all taken property and accept responsibility for damage. On March 3rd, ceasefire was signed in the Iraqi town of Safwan near the Iraqi-Kuwaiti border. On April the 3rd, the Security Council adopted Resolution No. 687, appointing a special disarmament commission the UNSCOM (United Nations Special

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28 Z. Moszumański and Z. Palski, Tradycje i doświadczenia żołnierzy polskich w Iraku i krajach sąsiednich, Warszawa 2003, p. 86.
The commission’s inspectors had to deal, mainly, with the liquidation of Iraq’s chemical and biological weapons, as well as the missiles with a range greater than 150 km\textsuperscript{30}.

The resolution had 10 essential points, that include inter alia:

- problems of the Iraqi-Kuwaiti border;
- establishment of a demilitarized zone between the parties;
- disarmament of Iraq;
- implementation of future arms control system;
- restitution of Kuwait’s property taken by Iraq;
- compensation for losses incurred as a result of aggression;
- issue of repatriation;
- cessation of supporting international terrorism by Iraq.

In response to the attack on New York City of September 11\textsuperscript{th}, 2001, the United States launched a military operation against Iraq. In September 2002, the Senate and the US House of Representatives passed a joint resolution, authorizing the use of military force against Iraq, which allowed the US president to use legal means against Iraq, based on the UN Security Council Resolution, to ensure the national security. In November 2002, the UN Security Council adopted Resolution No. 1441, which gave Iraq a final 30 days to comply with previous UN resolutions\textsuperscript{31}.

\textsuperscript{30} Ibidem, p. 14.
\textsuperscript{31} L. Elak, Funkcjonowanie..., op. cit., p. 63.
On March 20th, 2003 at 2.15 pm, the US President George W. Bush’s ultimatum deadline expired. Shortly before that, the US President Spokesman – Ari Fleischer said: America stood on the brink of war with Iraq and, therefore, Americans must prepare for conflict.\(^{32}\)

After the expiry of the ultimatum, military operation known as the Iraqi Freedom began with the Tomahawk cruise missiles hitting. The precision bombs were dropped from F-117A aircraft directly in place were the Iraqi authorities deliberated. The aim of this attack was to eliminate the major Iraqi authorities.

Donald Rumsfeld – the US Secretary of Defence – on April 16th, 2002 announced that Poland was invited by the US government to participate in operation to maintain order and stability in Iraq. On May the 1st, during the Force Generation Conference in London, Poland was suggested to take command and responsibility over one of four areas, to which Iraq was divided.\(^{33}\)

Poland was active in the coalition operation from the very beginning. On the 3rd September 2003, the Multinational Division Central-South (MND-CS) under Polish command, took over responsibility for five provinces. The commander of the Multinational Division Central South gen. Andrzej Tyszkiewicz took the charge of the central-southern zone of Iraq replacing the commander of the 1st Marine Expeditionary Force gen. James Conway.\(^{34}\) The MND-CS initially con-

\(^{32}\) Cz. Marcinkowski, Operacje..., op. cit., p. 72.

\(^{33}\) A. Tyszkiewicz, Doświadczenia i wnioski z przygotowania i udziale pierwszej zmiany Dywizji Międzynarodowej w misji stabilizacyjnej w Iraku, „Przegląd Wojsk Lądowych”, No. 8, Warszawa 2004, p. 5.

\(^{34}\) Ibidem, p. 75.
sisted of three multinational brigades: Polish, Ukrainian and Spanish. The Polish 1\textsuperscript{st} Brigade Combat Group was responsible for the provinces of Karbala and Babil. The Ukrainian 2\textsuperscript{nd} Brigade Combat Group was put in control of Wasit province – while the Spanish 3\textsuperscript{rd} Brigade Combat Group for Al-Qadisiyyah and An Najaf. The Multinational Division Central-South concentrated 8,500 soldiers and military personnel from 24 countries.

The Multinational Division Central-South primarily tasks were:

- ensuring security and public order;
- removing hazardous materials and the physical effects of war;
- protecting critical infrastructure, arms and ammunition warehouses;
- providing humanitarian aid;
- assistance in creating and functioning of local government administration;
- assistance in organizing and training Iraqi armed formations\textsuperscript{35}.

The basic forms of the MND-CS operational activities included:

- patrolling, escorting and organizing checkpoints;
- disarming, decommissioning and confiscating weapons and ammunition;
- mine clearing and the decommissioning of weapons and ammunition warehouses;
- implementing the CIMIC tasks (Civil Military Cooperation);
- conducting training of Iraqi security forces\textsuperscript{36}.

\textsuperscript{35} Ibidem, p. 31.
\textsuperscript{36} G. Jasiński, \textit{Kronika Wojska Polskiego Irak}, op. cit., p. 50.
The main task of the 1st rotation of the Polish Military Contingent was to ensure security in the zone of responsibility, by protecting and collecting military equipment of Saddam’s army, reconstructing infrastructure, demining the country, limiting access to weapons to terrorist groups, participating in the creation of new local government structures, protecting religious and cultural sites and create the conditions for civil-military cooperation\textsuperscript{37}.

The most important multistage operations carried out by the MND-CS included:

- The Operation Chamberlain, aimed at preventing the infiltration of criminal groups coming to Iran;
- The Operation Cascade, tasked with eliminating or arresting Muqtada al-Sadr and his followers;
- The Operation Power Crude, which carried out the reconnaissance along the designated sections of oil pipelines and high-voltage transmission lines;
- The Operation Iraqi Hayy, aimed at protecting pilgrims traveling to/from Mecca, through coaches supervision and assurance of road safety\textsuperscript{38};
- The Operation Victory Thunder, which task was to check roads and bridges and protect the US 1st and the 4th Infantry Division, the 82\textsuperscript{nd} Airborne Division, the 1st Marine Expeditionary Force routes of movement;
- The Operation Night Scimitar, focused on confirmation of Muqtada al-Sadr’s whereabouts, places of training, as

\textsuperscript{38} Ibidem, p. 71.
well as, finding militia ammunition depots and arresting the members of Mahdi Army.

On March 26th, 2004 units of the 1st Battalion Battle Group, supported by the US 402nd Special Forces Battalion of the Iraqi Corps, Civil Defence and the Independent Airborne Assault Group, carried out the Operation Colonel, whose aim was to arrest the former Iraqi army officer suspected of anti-coalition activities, who hid in buildings north of Al-Hindijji.

During the operation three buildings were searched and five people were arrested. Moreover, a large amount of weapons, ammunition, communications and intelligence documents was acquired.

In addition, seven operations were conducted jointly with the 1st Battalion of the 37th Armoured Regiment. The MND-CS units also participated in the non-operational activities, for example, they provided protection for convoys during the exchange of Iraqi currency. An important task was to take control of former Iraqi Army’s weapons and create the one of the main ammunition warehouse in the zone of the MND-CS responsibility. At the time of the responsibility transfer of the Division, twelve former Iraqi Army ammunition warehouses existed. During the second rotation, the MND-CS units completely secured five places where ammunition used to be stored.

The 2nd rotation of the Polish Military Contingent in the Republic of Iraq implemented the stabilization tasks and was ready for dynamic pre-emptive actions. From February 13th to July 17th, 2004, after the Spanish-Latin 3rd Brigade Combat Group withdrawal, the Multinational Division Central-South

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controlled only three provinces. The main task of the MND-CS was to conduct stabilization operations in the zone of responsibility in order to create favourable conditions for the transfer of power to the military and the civilian authorities and the withdrawal of subordinated forces\footnote{M. Bieniek, \textit{Stabilizacja II – osiągnięcia i porażki. Irak 2004 ku normalności}, (Materials from the conference organized on the initiative and under the patronage of the Minister of National Defence), Warszawa 2004, pp. 23–24.}. In order to accomplish this task, the Division and its independent units jointly with the Iraqi security forces, conducted an average of 78 patrols each day. In addition, 33 stationary and mobile checkpoints, as well as, observation points were established, in the villages and on the nearby roads.

During the whole operation, 14,595 different kinds of patrols, 4,909 convoys were carried out, and 6,112 checkpoints and observation points were established. During the reconnaissance activities, 84,577 vehicles were searched on the checkpoints, engaging 734,602 people. The Division was repeatedly supported by the US troops.

The General strength of the Multinational Division Central-South, as of June 22\textsuperscript{nd}, was 6,176 people, including 2,430 Poles.

On 18\textsuperscript{th} July 2004, the 3\textsuperscript{rd} rotation of the Polish Military Contingent started performing its duties. Polish forces controlled three provinces: Babil, Al-Qadisiyah and Wasit. The 3\textsuperscript{rd} rotation mission focused on stabilization, supporting the interim government in the implementation of the elections, establishing and handing the power to the new government, as well as, training of the Iraqi Security Forces’ officers. In this period, the headquarters from the bases in Babylon and Kar-
bala was moved to the headquarters in Diwaniyah. The Division was reinforced by Mi-24 helicopters, armoured vehicles Honker-Scorpio, armoured transporters, as well as, the US Army Hummer vehicles\textsuperscript{41}.

During the 3\textsuperscript{rd} rotation approximately 19,000 different kinds of patrols and nearly 4,000 convoys were conducted. About 8,000 checkpoints and observation points were established.

During the patrols and at checkpoints about 86,000 cars and almost 440,000 people were checked\textsuperscript{42}.

An important task carried out by the Division, was an operation to take control of the former Iraqi army weapons and the establishment of the main ammunition warehouse in the MND-CS zone of responsibility.

The 4\textsuperscript{th} rotation of the Polish Military Contingent in Iraq operated from February, 1\textsuperscript{st} to July 26\textsuperscript{th}, 2005, during which responsibility for security in the area was handed over to the Iraqi Security Forces. In the result, the Polish contingent was reduced from 2,500 to 1,700 soldiers. The operational reserve of approximately 700 soldiers was kept in readiness in Poland at the same time\textsuperscript{43}.

Starting from the 4\textsuperscript{th} rotation, the nature of the mission changed. Since then, the main task of the Polish forces was training and stabilization. It was related to the preparation of the Iraqi army to transfer responsibility for the security of controlled provinces. The process of transfer can be divided into operational and no-operational activities.

\begin{itemize}
\item \textsuperscript{41} W. Horyń, op. cit., p. 34.
\item \textsuperscript{42} Ibidem.
\item \textsuperscript{43} K. Gaj and J. Zuziak, \textit{Wojsko Polskie...}, op. cit., p. 71.
\end{itemize}
Operational tasks included: neutralizing the activities of rebel threats in the Division’s zone of responsibility, including conducting anti-terrorist operations, combating arms and fuel trafficking, supporting the Iraqi forces in ensuring security during Islamic religious holidays, collecting and destroying weapons and ammunition, protecting ammunition depots, conducting reconnaissance of possible threats from terrorist groups and extremists, counteracting attempts to destabilize the situation in the region, patrolling the zone of responsibility, escorting people and property, protecting convoys, protecting and maintaining roads in the zone of responsibility of the Division, as well as, supporting the Iraqi security forces in monitoring and protecting the key elements of civilian infrastructure.

The non-operational activities were focused on: preparing the Iraqi security forces to conduct operations against the rebels independently, implementing the actions of military consulting and training groups, monitoring the proper information policy in order to reduce the impact of anti-Iraqi forces on the society, assisting the authorities of the province in the development and protection of local infrastructure, supporting Iraqi authorities to maintain public order and the rules of law, and protecting the military bases and the prisons in Al-Hilla.

From 6th to 10th May, the operation Cobweb was carried out in the northern part of the province of Wasit. The operation involved designated forces of the 1st Brigade.

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Combat Group, the 2nd Brigade Combat Group, the Independent Airborne Assault Group, the 8th Division, and the 3rd Brigade of the 5th Division of the Iraqi Army. As a result of this operation strong terrorist group, who organized attacks in the area south of Baghdad, was liquidated. Twenty nine terrorists were arrested and 40 various types of weapons, detonators and explosives were confiscated\(^45\).

On the 26th of July 2005, the 5th rotation of the Polish Military Contingent started the operation in the Echo base in Ad Diwaniyah in Iraq, which lasted until February 4th, 2006\(^46\).

The main aim of the mission was training Iraqi forces and stabilizing the situation in the region. The other tasks were the same as for 4th rotation of the PMC. The Multinational Division Central-South performed various operational, engineering tasks, civil-military cooperation, humanitarian aid, logistics and information operations but the most important was training of the Iraqi Security Forces. The special instructors teams (the Military Transition Team) were formed, responsible for preparing the Iraqi units to operate independently. The second team, the Border Transition Team, was in charge of training the Iraqi Border Guard. The additional advisory teams trained the Iraqi police. The 5th rotation instructors trained the battalion, brigade, division, and headquarters personnel\(^47\).

On the 26th of January 2006, the MND-CS handed over responsibility for security in the provinces of Al-Kadisija and Wasit to the 8th Division of the Iraqi Army. Al-Kadisija and

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\(^{47}\) G. Jasiński, *Kronika...*, op. cit., p. 212.
Wasit were the first provinces, for which the Iraqi forces were responsible. The ceremony was held at the headquarters of the 8th Division in Ad Diwaniyah and was attended by top leaders of the Iraqi Army\textsuperscript{48}.

The training process was specially prepared for the 8th Iraqi Army Division, which had to reach the adequate level of training to allow the division to conduct independent combat operations and take over the MND-CS area of responsibility. The training included topics such as: organizing checkpoints and act in them, patrolling dangerous areas and protecting convoys, planning and executing anti-terrorist operations, mainly by eliminating terrorists hideouts and acquiring illegal weapons stockpile. They also conducted tactical, engineering, communication, medical, logistical and shooting trainings. The Polish instructors of the 5th rotation conducted 2,681 hours of training classes.

On January 10th, the Polish Manoeuvring Group soldiers, along with coalition forces, supported the De Oppresso Liber Operation, leaded by the Iraqi Army. Its aim was to arrest wanted terrorists, linked to the familial criminal groups suspected of murder, kidnapping and drug trafficking.

From 4th of February 2006, the 6th rotation started to operate advisory and training mission. Polish soldiers controlled only two provinces: Al-Kadisija and Wasit. During the 6th PMC’s rotation, the process of advising, training and supervising was conducted to prepare the 8th Division of the Iraqi Army to perform operational activities independently. The training included the same tasks as the 5th rotation of the

\textsuperscript{48} Ibidem.
The use of force in international missions

PMC. The MND-CS organized 1,368 patrols, during which 1,574 vehicles and 2,959 people were checked.

The Iraqi security forces supervised by the MND-CS, conducted 30,447 patrols and established 9,856 permanent and 6,531 temporary checkpoints. Iraqi soldiers and officers checked 334,538 vehicles and 393,363 people. Within six months, the MND-CS soldiers disarmed 4,383 artillery shells, 20 rockets and 1,400 rounds of shooting. They confiscated 18 guns and 3 mortars as well49.

On the 5th of April 2006, the Polish President Lech Kaczyński visited the Republic of Iraq, meeting Iraqi President Jalal Talabani and the commander of the Multinational Corps in Iraq gen. Peter Chiarelli. The President also visited the MND-CS soldiers in Echo base in Ad Diwaniyah. The main point of the visit was the Easter meeting with the PMC soldiers.

On the 18th of July 2006, the 6th rotation of the PMC finished its duties in Iraq. The same day, the 7th rotation consisted of about 1.8 thousand soldiers and military personnel from 12 countries, including nearly 900 Poles started its activities50. The main tasks of the 7th rotation of the MND-CS were: preparing the Iraqi security forces and provincial authorities to take over responsibility for security, consultancy in the management of government agencies, humanitarian aid and implementation of the CIMIC projects, as well as supporting the reconstruction process in Iraq51.

49 Ibidem, p. 240.
50 K. Gaj and J. Zuziak, Wojsko..., op. cit., p. 73.
51 G. Jasiński, Kronika..., op. cit., p. 244.
The Advisory and Training Group was part of the Division’s structure. The military experts’ actions were focused on advising on combat systems integration, coordinating the operations of Iraqi leaders and departments at the provincial level, overseeing the Iraqi Army independent operations and their logistical support. They also implemented the civil-military cooperation projects, including the rebuilding of infrastructure and public facilities. The 8th PMC rotation in the Republic of Iraq was responsible for the Quadisiyah and Wasit provinces.\footnote{R. Marzec, \textit{Służba w TOC, Powrót do Iraku}, [in:] \textit{Wspomnienia żołnierzy z VIII zmiany PKW Irak}, Żagań 2008, p. 175.}

Tasks performed by the MDCS during the 8th rotation resulted from the mission’s mandate and had the advisory and training character. The main effort was focused on capacity building of the Iraqi Security Forces and the local authorities’ responsibility for security in the provinces. The other tasks included the directing government agencies consulting, humanitarian aid, the CIMIC projects and supporting the reconstruction process of Iraqi state structures. The military experts’ actions focused on reconnaissance, transport, communications and medical evacuation, as well as the isolation of the area of operations. They also continued the implementation of the civil-military cooperation projects, including the restoration of infrastructure and public facilities.\footnote{K. Kardaś, \textit{Sytuacja polityczno-militarna}, [in:] \textit{Powrót do Iraku. Wspomnienia żołnierzy VIII zmiany PKW Irak}, Żagań 2008, pp.19–20.}

According to the Multinational Forces Command in Iraq decision, on 20th June 2007, responsibility for the province of Wasit was handed over to the Multinational Division Central.
On 25th July 2007, the 9th rotation began to operate, implementing the stabilization, training and advisory tasks. The main effort was focused on: coordinating the activity of the Iraqi commanders and giving them expert support in carrying out independent operations, supporting the Iraqi security forces in the area of command, logistics and medical evacuation, assisting local authorities in taking responsibility in the province, conducting humanitarian operations, implementing the CIMIC projects and supporting the Iraqi reconstruction process. Protection of its own forces and maintaining readiness to respond to crisis situations was also an important issue. During the 9th rotation, 28 operations, 1,496 day and night patrols, 533 escorts and convoys were carried out, 838 checkpoints were established. In addition, the Air Forces completed 363 reconnaissance flights, the land forces supporting flights, 175 cargo flights and 85 flights of the Rapid Reaction Air Forces. The hundreds of different calibre weapons, mortars, missiles, explosives and several thousand rounds of shooting were confiscated, and more than 350 criminals were arrested.

The 10th rotation of the Polish Military Contingent in the Multinational Force started its operation on 30th January 2008. The main tasks of the 10th rotation of the MND-CS were: preparing the Iraqi security forces and provincial authorities to take over responsibility for security, the government agencies’ management consulting, delivering humanitarian aid and implementation of the CIMIC projects, supporting the reconstruction process in Iraq, as well as, protection

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54 Ibidem, p. 322.
55 W. Horyń, op. cit., p. 35.
of its own forces, and maintaining readiness to respond to crisis situations.

As part of routine operations, 1,421 day and night patrols, 656 escorts and convoys were conducted, and 529 checkpoints were established. As a result, the forces inspected 4706 cars and 13,980 people. The Combat Group soldiers participated in 16 searching actions during the Cordon & Search Operation, and took part in 8 interventions of rapid reaction forces. They confiscated several hundreds of weapons of different calibre, mortars, missiles, explosives and thousands of rounds of shooting. During the 10th rotation sappers destroyed 7,161 unexploded ordnance.

In October 1st, 2008, soldiers of the 10th rotation of the Polish Military Contingent forming a part of the Multinational Division Central-South formally ended its operation. On October 4th, the command was officially handed over to the Americans in the Echo base.

4) Operation in Afghanistan

After the attacks on the World Trade Centre on 11th September 2001, the United States started war on terrorism. The Al-Qaeda leader, Osama bin Laden, responsible for the attacks had been hiding in Afghanistan. Therefore, the most countries accepted American military response to the September 11 attacks.

On 12th and 13th September 2001, the North Atlantic Council issued the statements, in which it recognized the attack on the United States as an assault on the all NATO countries, and the so-called antiterrorism coalition was set up.
President George Bush on September 21st, in a speech to the Congress, sent five requests to the Taliban. These included demand to:

- release of all Al-Qaeda leaders hiding in Afghanistan;
- release of imprisoned foreigners;
- closure of all terrorist camps and turning over all extremist organizations’ members to “appropriate authorities”;
- permit the United States to check all terrorist camps.\(^{56}\)

After Taliban refusal, on October 7th, the NATO countries troops, under the leadership of the United States launched military operation directed against terrorists that were residing in Afghanistan (according to article 5 of the Washington Treaty). This mission was code-named “Enduring Freedom”. The aim was to overthrow the supremacy of the Taliban in Afghanistan and the liquidation of a protective umbrella, which was created by the state for international terrorist groups like Al-Qaeda.

The operation Enduring Freedom was carried out under the leadership of the United States, under article 51 of the UN Charter, which grants states the right to individual or collective self-defence, and on the basis of the UN Security Council resolution No. 1368 of the 12th of September 2001, which defined the main goal of the operation, namely, fighting terrorism, including the destruction of its bases and facilities on the territory of Afghanistan.

Under the aegis of the UN Security Council resolution No. 1386 of the 20th of December 2001, the International Security Assistance Force (ISAF) was established. Its main task

was to support the Interim Government of Afghanistan through assistance in ensuring the security of Kabul and surrounding areas, creation and training of the Afghan government structures and new security forces, as well as, assisting in the reconstruction of civilian infrastructure. The ISAF operation was conducted simultaneously with the operation “Enduring Freedom”.

Poland was among those countries which were asked by Americans to take part in the operation “Enduring Freedom”. Therefore, measures were taken to form a military contingent able to participate in the operation as soon as possible. From 16th of March 2002, the Polish Military Contingent participated in the antiterrorist operation “Enduring Freedom”, as a part of the Allied Forces. Poland allocated 300 soldiers for the allied military contingent. Since mid-2002, the Polish contingent in Afghanistan was reduced from 300 to 120 soldiers.

Polish soldiers during the operation performed the following tasks, i.e.:

- mine clearance at Bagram airport and the area adjacent to the PMC camp;
- infrastructure development of the PMC camp;
- expansion of the PMC camp and its fortification;
- distribution of fuel and water to the US units;
- buildings demining and their initial adaptation to the needs of US personnel.

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58 Cz. Marcinkowski, Operacje pokojowe na początku..., op. cit., p. 69.
59 Ibidem, p. 72.
During the actions Polish contingent performed following tasks:

- secured destruction of about 3,000 pieces of mines and other unexploded ordnance;
- flagged about 70 km of roads in the minefields surrounding Bagram;
- developed fortified camps for American, Australian, Canadian, Norwegian, Italian, British soldiers, including establishing and setting barriers of defensive positions;
- distribution of fuel and water for all military contingents;
- implemented the “Kosciuszko” project, including building a network of observation posts around the Bagram base\(^\text{60}\).

The Polish Military Contingent conducted most of its tasks in the Bagram base. Particular elements of the PMC performed works for Polish and other national contingents in line with its specialization. The Polish Military Contingent, designated to Operation Enduring Freedom, was subordinated to the commander of the Engineering Group, co-founded with the Korean military contingent.

During the operation, Polish engineering unit expanded fortification system of the base, making the passages in engineering barriers, demining and clearing area from dangerous objects. As part of the works in Bagram, Polish soldiers constructed fortifications, removed the wrecks of military vehicles, strengthened the fences with razor wire, and made foundations for base installations. Polish soldiers also reinforced and built simple concrete structures, prepared sites for development of facilities and repaired the roads.

The combat group assured the defence and protection of personnel and the equipment of the contingent, was also responsible for convoysing supplies to the contingent and shipments of humanitarian aid, as well as, the protection of the engineering patrols and mail system. They also protected soldiers performing tasks outside the base and escorted delegations visiting the base.

An important role in the functioning of the contingent played the National Supply Component, which was responsible for equipment and materials repairing, organizing supplies for the contingent and conducting financial and material management.

In addition to the statutory tasks, Polish soldiers performed supplementary help for local people, which included taking care of the orphanage in the nearby town of Charikar. By the end of staying in Afghanistan they regularly visited the children, who always received practical and expected gifts: clothes, drinking water and food\textsuperscript{61}.

Ten rotations of the PMC participated in the operation Enduring Freedom. The last rotation accomplished its mission in April 2007.

In the second half of 2006 it was decided to change the nature of Polish participation in the international mission in Afghanistan. The decision was made to finish the operation “Enduring Freedom” and incorporate the Polish Military Contingent into ISAF (International Security Assistance Force) operation led by NATO. The contribution of the Polish Army to the ISAF mission was based on the participation of Polish soldiers in the Command structures in Kabul\textsuperscript{62}.

\textsuperscript{61} J. Matuszak and P. Przeździecki, 10 lat Wojska..., op. cit., p. 39.
\textsuperscript{62} Ibidem, p. 72.
From the 5th October 2006, the Polish Military Contingent became part of ISAF forces, with about 34,000 soldiers and civilian employees. On the 25th April 2007, in the White Eagle base in Bagram transfer of command ceremony took place. The 10th contingent rotation of Enduring Freedom operation ended its activities while the 1st PMC Afghanistan rotation began its mission. The 1st PMC Afghanistan rotation consisted of 1,200 soldiers.

The 1st rotation performed tasks such as cooperating with the Afghan National Army, ensuring security and supporting civilians, patrolling, training the Afghan army and police, supporting reconstruction of the country’s infrastructure. Engineering company was responsible for restoration and demining of the area around the Bagram base.

On June 14th, the Polish Battle Group (PBG) took over responsibility for stabilization in parts of Ghazni and Paktika provinces, performing its tasks in full scope, to restore peace and security of the people of Afghanistan. On the 16th August 2007, in the village of Nangar Khel near to the Polish base in Waza Khwa, tragic incident took place. Polish soldiers were involved in the action, which resulted in the death of 6 civilians.

On the 30th October 2007, the 2nd PMC rotation started its mission, which lasted until April 2008.

The main aims pursued by the second rotation included:

- supporting the Afghan authorities in ensuring security;
- training the Afghan army and police;

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63 Ibidem, p. 77.
64 Ibidem, p. 86.
65 K. Gaj and J. Zuziak, Wojsko..., op. cit., p. 80.
• delivering humanitarian aid.

The tasks carried out in five provinces were not easy. Maintaining security in assigned areas of responsibility was a big effort for all combat teams. Both day and night activities required careful preparation, coordination and protection of soldiers’ safety. More than 970 patrols, 110 convoys and nearly 90 combat operations were conducted, in extremely difficult terrain and climatic conditions. The booby traps were repeatedly used against Polish soldiers and patrolling vehicles were very often under fire. Despite this, soldiers performed scheduled tasks every day.

Polish troops were successful arresting dangerous criminals responsible for attacks on the coalition forces. On November 12th, in Paktika province, key people closely linked to acts of terrorism were arrested. Their capture led to the disintegration of well-organized criminal network.

The 3rd rotation served from April to October 2008. The official command handover ceremony took place at the White Eagle military base in Bagram. The limit of the contingent was increased to 1,500 posts. The 4th rotation lasted from October 2008 to April 2009. Organization of the 4th rotation of the PMC Afghanistan was different from previous ones. Contingent was enlarged to about 1,600 soldiers and civilian employees. Polish soldiers, apart from participating in combat missions, also performed humanitarian projects, including help in building schools and roads, and convoys protecting.

The 5th rotation of the PMC performed tasks in Afghanistan from April to October 2009. Its mission was to take over Ghazni province and set up the base there. The main task

66 Ibidem, p. 81.
of the 5th rotation was to support the Afghan security forces in the preparation and then conducting the general presidential and provincial councils elections. Polish forces’ task was to cooperate directly with the Afghan army and police, especially by providing logistical, medical, fire support and reconnaissance. The PMC also conducted its own operations related to strengthening the security of ISAF forces in Afghanistan. An example of such action was the operation Eagle Feather, which resulted in dozens of detained rebels, acquisition of several firearms depots and detection of improvised explosive devices plants. Soldiers of the Afghan National Army also took part in this kind operations, which are carried out according to the Cordon & Search rules\(^{67}\). The principle of Cordon & Search operations was to block the village, then check out the hiding places to search for weapons, explosives or rebels. Polish soldiers, apart from participating in combat missions, also performed humanitarian projects. They helped to build schools, roads and participated in convoys protection.

The 6th rotation of the PMC served in Afghanistan from October 2009 to April 2010. It was composed of 550 people, therefore less than in the previous mission\(^{68}\). This rotation performed a stabilization, consultation and training operation. The PMC soldiers of the 6th rotation implemented the tasks associated with planning, organizing and directing tactical actions, to ensure security and to control the area of responsibility.

The activities were carried out according to the procedures applicable in the mission area. These included, among

\(^{67}\) http://www.polska-zbrojna.pl (15.05.2012).

others, organizing checkpoints, patrolling, escorting, handling of explosives and situational shooting. A very important element of the training was MEDEVAC – the evacuation of wounded by helicopters – practiced as a land and air option.

The PMC tasks were reached by kinetic action. As part of these kind of actions, military operations were carried out, resulting in detention of several people suspected of criminal activity, and also elimination of several illegal weapons and ammunition stores. An example of this type of action was the Cordon & Search operation, which was conducted on December 31st in Rashidan district. As a result the Taliban commander, accused of attacks on coalition forces, was arrested. The kinetic action also included patrol activities, organization of temporary checkpoints, convoys, escorts and air support.

The 7th rotation of the PMC officially took over its duties on April the 27th, 2010. The tasks of this rotation of the PMC included:

- ensuring the safe conduct of elections in the province;
- guaranteeing the safety of the Afghan Development Zone in Ghazni province;
- training of the Afghan army and police;
- securing reconstruction projects, monitoring situation on the main route between Kabul and Kandahar.

During the operations, the Polish Task Force together with the Afghan partners, carried out a variety of operations, such as the Eagle Shadow, the Shield II and the Liberty.

Polish soldiers acting together with the Americans and Afghans eliminated 10 groups planting improvised explosive devices. In cooperation with the Afghan National Security

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69 Ibidem, p. 82.
The use of force in international missions

Forces (ANSF), 25 antitank mines and 212 antipersonnel improvised explosive devices were found and destroyed. In the course of the mission also the trap car – vehicle-borne improvised explosive device (VBIED) was found and neutralized\textsuperscript{70}.

Furthermore, during the 7\textsuperscript{th} rotation many important projects were implemented, such as the roads restoration in the provincial capital of Ghazni and water supply system development in the provincial capital, as well as, hydroelectric power station was built in Gelen and the first nursery in Ghazni was set up.

In late October, the 8\textsuperscript{th} rotation of Polish Task Force took over the responsibility of the province of Ghazni. The main tasks of the 8\textsuperscript{th} rotation soldiers were to stabilize the situation, as well as consult and train in order to maintain security in the zone of responsibility. They also supported the reconstruction of the country and helped the Afghan authorities and the local administration to develop programs and reconstruct the civil infrastructure. The tasks of the soldiers were also training the Afghan Security Forces and providing the necessary assistance for the residents of the province in the field of security and basic necessities. In the period of this rotation, 14 operations on brigade-level and about 450 operations on battalion and company-level were carried out. Polish soldiers made 5,500 different kinds of combat missions in total. The main task of the PMC was to train soldiers of the 3\textsuperscript{rd} Brigade of 203\textsuperscript{rd} Corps of the Afghan National Army and police officers for the Afghan National Police. The Operational Mentoring and Liaison Teams (OMLT) and the Police Operational Mentoring and Liaison Teams (POMLT) were involved in

\textsuperscript{70} http://www.army.mil.pl (15.05.2012).
this process. During the 8th rotation, the subdivisions of the 3rd Brigade began independent operations under the supervision of the OMLT.

In addition to combat operations, the Polish troops as part of the Provincial Reconstruction Team (PRT) completed 32 projects with a total value of over 16 million PLN. The most important projects were: construction of roads, water and electricity networks and protection infrastructure, as well as, investments improving sanitation and activities supporting education, rehabilitation and creation of civil society. As a result of the PMC activities, improvement was observed in the functioning of the administration in seven districts of the province.

The 9th rotation operated in Afghanistan from April 2011. It conducted nearly 14,000 different combat missions, working during day and night. Soldiers liquidated over 60 caches where small arms and 200 improvised explosive devices were hidden. But the most important task of their actions was to improve security in the province.

Besides combat activities, the Polish part of the Provincial Reconstruction Team (PRT), completed 22 projects for more than 17 million PLN. The funds were used to construct roads, markets and power plants, flood protection infrastructure and landfills, as well as projects supporting education and creation of civil society until the transfer of duties to the 10th PMC rotation71.

On the 26th October 2011, 10th rotation of the Polish Military Contingent began its duties in Afghanistan. Soldiers of Polish Task Force in the Islamic Republic of Afghanistan

71 Vide: Tygodnik Biura Bezpieczeństwa Narodowego, No. 56.
The use of force in international missions

undertook stabilization, advisory and training mission. Their main tasks were to improve safety in the area of responsibility, assist in rebuilding Afghanistan and support the Afghan government and local administration by implementation of development programs and reconstruction of civilian infrastructure. As in previous mission, Polish soldiers also were responsible for training the Afghan Security Forces and providing necessary assistance for the residents of the province in securing the basic living needs72.

During the 10th rotation almost 60 stores of ammunition were eliminated. Polish troops reached the highest level in the detection of ammunitions caches of all military contingents operated in the zone at that time. In addition, soldiers arrested nine militants who were on the most wanted terrorists list.

Polish Task Force, “White Eagle”, took more than 4,500 kinetic and over 7,200 non-kinetic operations. The main effort was concentrated on conducting combat operations, as a part of the winter campaign codenamed “Eagle Rampage”, within which the operation “Devil Hammer”, well known from the media, was carried out. The main operation goal was to transfer responsibility for the southern part of the province of Ghazni to the US Army73.

The PMC soldiers detained nine most wanted terrorists from the Join Prioritized Effects List (JPEL). The most important were: Mulla Abdul Wakhil and Maulawi Mohammad Wali. The second one was detained on the basis of bench warrant issued by the public prosecutor of the Ghazni province. It was the first operation, which was carried out by the Polish

73 http://www.wojsko-polskie.pl (15.05.2012).
Special Forces in Afghanistan. The Polish Task Force “White Eagle” and the Polish Special Forces cooperation, with help from the US Special Forces, led to release of 3 hostages.74

On April the 18th, 2012 the 11th PMC rotation was authorized to take responsibility for the last stabilization mission in Afghanistan. The main goal of operational activities remained ensuring security of the main routes in the province, training the Afghan army and police to take over full responsibility for security, and supporting development and reconstruction of the country.

Polish soldiers planned and carried out 52 operations and nearly 1,500 other actions, which resulted in detection and destruction of more than 70 improvised explosive devices. They seized and liquidated dozens of tons of materials for the production of booby traps and large quantities of weapons and ammunition. More than 120 rebels were arrested, among them 6 leaders of the rebel groups from the list of most wanted persons in Afghanistan.

The Polish Specialists Team completed 43 assistance projects in the amount of 23 million PLN. These were primarily administrative, infrastructural, training and professional activation programs and schools equipping and administration projects.

The 12th rotation of Polish Military Contingent in the Islamic Republic of Afghanistan pursued a mission of training and stabilization in order to rebuild the structures of the Afghan authorities, state institutions, especially the Afghan National Security Forces to the level enabling them to take full responsibility for the northern part of the Ghazni province.

74 Ibidem.
During the 7 month stay in Afghanistan, soldiers from the Combat Group and the Reconnaissance Group participated in 30 military operations and performed over 2,000 patrols. The result of their actions was detection and elimination of 47 ready to use improvised explosive devices. Polish troops also liquidated 16 stores of weapons and ammunition, including more than 21 tons of deadly homemade explosives, 23 firearms and more than 2,500 rounds of ammunition.

The Polish Special Forces commandos detained 6 most dangerous terrorists from the Joint Prioritized Effects List including Abdul Kabir, the most wanted Taliban in eastern Afghanistan. Polish commandos also found and destroyed 25 places where the rebels hid weapons, ammunition and materials for the manufacturing of improvised explosives. The Civil-Military Cooperation (CIMIC) specialists conducted 48 humanitarian aid actions.

The most needy inhabitants of the province received 19,000 pieces of clothing and nearly 900 pairs of shoes. Moreover, the Afghans were endowed with a ton of cleaning products, 9,000 blankets, more than 3,000 books for children and young people, two tons of stationery, and thousands of toys for children. The Polish Provincial Reconstruction Team (PRT) completed 37 development projects estimated at more than 20 million PLN and 6 million US dollars. These were the projects related to the development and improvement of infrastructure in the province, training of public administration employees and vocational training for women and men. Projects related to the extension of the network, modernization and repair of roads, or even establishing the modern Afghanistan Emergency Response Centre, helped to improve the infrastructure of the city and the province.
In May 2013, the 13th rotation of the Polish Military Contingent started its mission. The soldiers of the last two changes ensured the freedom and security on the road “Highway One” – the main route connecting Kabul with Kandahar, which run through the PMC region of responsibility. They were also ready to ensure to the Afghan soldiers and policemen the reconnaissance, medical, artillery, air, and logistics support. The soldiers were also in constant readiness for combat support of the ANSF, if needed. The tasks for the Polish Special Forces remained unchanged as compared to the 12th rotation of the PMC. This meant that the majority of their tasks related to regional security was taken over by the Afghan security forces.

The 15th PMC rotation main task was to advise and support the Afghan National Security Forces, support local authorities in ensuring security and public order in Ghazni province, as well as, provide transferring of forces and equipment of the contingent back to Poland.
Chapter II. International security and rules relating to military operations
(Paweł Żarkowski)

The Charter of the United Nations (1945) prohibits war\(^1\). It even prohibits the threat to use force against the territorial integrity or political independence of any State. As far as armed conflict is concerned, a distinction is made between *jus ad bellum*, or the law that outlaws war – essentially the United National Charter that prohibits the use of force in the relations between States, except in case of self defence\(^2\), or collective security – and *jus in bello*\(^3\), or the law applicable in time of armed conflict\(^4\). That latter does not make any judgement on the motives for resorting to force. Finally the United Nations may order military or non-military action to restore peace\(^5\). Thus war is prohibited under existing international law, with the exceptions of the every State’s right to defend itself against the attack\(^6\).

There are many different kinds of subjects of international law, or entities that assume rights and obligations under this legal system. In relation to the issue of the use of force, the state – defined as a sovereign entity composed of a population, a territory and a governmental structure – is

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\(^1\) *Karta Narodów Zjednoczonych została podpisana w San Francisco w dniu 26.06.1945 roku, Dz. U. z 1947 r., poz. 90 i 91.*

\(^2\) Charter of the United Nations, Chapter VII, Article 51.

\(^3\) Latin term: *jus in bello* – law of war


\(^5\) Charter of the United Nations, Chapter VII, Articles 41, 42.

of course an important bearer of rights and obligations under international law. Consequently, it is responsible for the acts of its functionaries in their official capacity or of de facto agents. Insurgents and liberation movements also have obligations under international law – in particular, under the law of armed conflict. Article 38 of the Statute of International Court of Justice lists the sources of international law as:

- the general principles recognized by civilized nations;
- international conventions or treaties; international customs, as the evidence of a general practice accepted as law;
- judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determinations of rules of law.

1) General limitation on the conduct of war

All military operations, regardless their names or forces that they engage, take place within a legal framework shaped by international law – international humanitarian law, also called the law of armed conflict, as well as human rights law and national legislation. International humanitarian law is a branch of the law of nations or international law. Public international law governs the relations between States themselves or with and between international organizations. It helps maintain a viable international society. That law governs relations between members of the international community namely States.

International law is supranational and its fundamental rules are binding on all States. Its goals are to maintain peace

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to protect the human being in a just order and to promote social progress in freedom. From this reason national legislation needs to be in conformity with a State’s international obligations. The national legislation of each State decides on the effects of treaties in their respective jurisdiction. Many states simply allow treaties to operate as law. Others require treaties to be converted into domestic law and in some cases rewritten, to have any effect.

The law of armed conflict and human rights are intended to protect the lives, integrity and dignity of individuals, albeit in different ways. In other words they are complementary. Both also directly address issues related to the use of force.

The law of armed conflict has been codified and developed to regulate humanitarian issues in time of armed conflict. It aims to protect persons not or no longer taking part in hostilities, and to define the rights and obligations of all parties to a conflict in the conduct of hostilities. The law of armed conflict, also called as international humanitarian law or the law of war, a special branch of law governing situations of armed conflict, in brief a war. This law is a branch of the law of nations or international law. It seeks to mitigate the effects of war. Firstly, it limits the choice of means and methods of conducting military operations. Secondly, it obliges the belligerents to spare persons who do not or no longer participate in hostile actions.

Human rights law protects the individual at all times, both during peace and war. It benefits everyone and its prin-

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Principal goal is to protect individuals from arbitrary States’ behavior. For these protections to be effective, international provisions must be reflected in national legislation. Most human rights instruments allow governments to derogate, under strict conditions, from certain rights when confronted with a serious public threat. However, there is a “hard core” of basic rights, from which governments cannot derogate under any circumstances. Among these basic rights is the right to life. No derogations are permitted under the law of armed conflict, as this branch of law was designed from the outset to apply in extreme situations. It strikes a balance between military necessities and humanitarian objectives.

The law of armed conflict is a set of rules intended to limit the effects of armed conflict due to humanitarian reasons. It has been codified in treaties since 1864\(^\text{10}\). This law protects persons not or no longer participating in hostilities and restricts the means and methods of warfare. A glance at the history of international humanitarian law shows it is hardly possible to find documentary evidence of when and where the first legal rules of a humanitarian nature emerged. And it would be even more difficult to name the creator of international hu-

\(^{10}\) Protection of war victims through law. *The Convention for the Amelioration of the Condition of the Wounded in Armies in the Field* (of 22 August 1864) lays the legal groundwork for the activities of army medical units on the battlefield. Because they were neutralized, their immunity from attack could be upheld: medical units and personnel may be neither attacked nor hindered in the discharge of their duties. Equally, the local inhabitants may not be punished for assisting the wounded. The 1864 Convention made it clear that humanitarian work for the wounded and the dead whether friend or foe, was consistent with the law of war. As everybody knows, it also introduced the sign of the red cross on a white ground for the identification of medical establishments and personnel. https://www.icrc.org/ihl/INTRO/ 120?OpenDocument (27.12.2015).
manitarian law. Everywhere that confrontation between tribes, clans, the followers of a leader or other State’s forerunners did not result in a fight to the finish, rules arose for the purpose of limiting the effects of the violence. Such rules, the precursors of present day international humanitarian law, are to be found in all cultures. More often they generally are not embodied in the major literary works of the culture in religious books or in rules on the art of war.

In the European Middle Ages, the knights’ codes of chivalry adopted strict rules on fighting, not only for their own protection. The notion of chivalry has survived to this day. It was not uncommon for the conflict parties to reach agreements on the fate of prisoners. These were the predecessors of our modern multilateral agreements. Such rules also existed and still exist in cultures with no written heritage.

In short, powerful lords, religious figures, wise men and warlords from all continents have since time immemorial attempted to limit the consequences of war by means of generally binding rules. The achievements of 19th century Europe must be viewed against this rich historical background. Today’s universal, and for the most part written, international humanitarian law can be traced directly back to two persons,

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both of whom were marked by a traumatic experience of war: Henry Dunant\textsuperscript{15} and Francis Lieber\textsuperscript{16}.

At almost the same time, but apparently without knowing of each other’s existence, Dunant and Lieber made essential contributions to the concept and contents of contemporary international humanitarian law\textsuperscript{17}. It in no way detracts from the importance of their contributions, however, to say that these two major figures did not invent protection for the victims of war. Rather they expressed an old idea in a form adopted to that times. Dunant and Lieber both expanded an idea introduced by Jean-Jacques Rousseau in the \textit{Social Contract}, which appeared in 1762:

War in no way a relationship of man with man but a relationship between States, in which individuals are only enemies by accident, not as men but as soldiers.

Rousseau continued logically, that soldiers may only be fought as long as they themselves are fighting. Once they lay down their weapons \textit{“they again become mere men”} and their lives must be spared\textsuperscript{18}. Rousseau thus summed up the principle that the purpose of a bellicose attack may never be the

\begin{footnotesize}
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\item \textsuperscript{15} Vide: H. Dunant, \textit{A Memory of Solferino}, 1862.
\item \textsuperscript{18} J.J. Rousseau, \textit{Umowa społeczna}, Kęty 2002, p. 16.
\end{itemize}
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physical destruction of the enemy, underlying international humanitarian law. In so doing, he lays the foundation for the distinction between members of a fighting force, the combatants on the one hand, and the remaining citizens of an enemy State, the civilians not participating in the conflict on the other.

The use of force is permitted only against the former aggression since the purpose of war is to overcome enemy forces, not to destroy an enemy nation. But force may be used against individual soldiers only so long as they put up resistance. Any soldier laying down his arms or forced to do so because of injury, is no longer an enemy and may therefore, using the terms on the contemporary law of armed conflict, no longer be the target of a military operation. It is in any case pointless to take revenge on an ordinary soldier, as he cannot be personally held responsible for the conflict. Therefore the intellectual foundation for the rebirth of international humanitarian law in the 19th century was laid and Henry Dunant could build on it. In 1859, he was travelling across the war-ravaged plains of Lombardy. He arrived in the vicinity of Solferino just after a terrible battle, and was horrified to see thousands of wounded soldiers abandoned without care, condemned to certain death. After that experience he wrote a book, *A Memory of Solferino*. He was deeply shocked by the absence of any form of help for the wounded and dying, and therefore proposed two practical measures calling for direct action:

- an international agreement on the neutralization of medical personnel in the field;
- the creation of a permanent organization for practical assistance to the war wounded.

The first led to the adoption of the initial Geneva Convention in 1864, while the second to the establishment of the Red Cross\textsuperscript{20}. Four citizens of Geneva: Gustave Moynier, General Cuillaume Henri Dufour, dr. Louis Appia and dr. Theodore Maunoir, joined Henry Dunant in setting up the “\textit{International Standing Committee for Aid to Wounded Soldiers}”, which subsequently became the International Committee of the Red Cross (ICRC).

The first Geneva Convention, signed in 1864, marked the beginning of international humanitarian law. \textit{The Convention for the Amelioration of the Condition of the Wounded in Armies in the Field} (of 22 August 1864) lays the legal groundwork for the activities of army medical units on the battlefield\textsuperscript{21}. Because they were neutralized their immunity from attack could be upheld: medical units and personnel may be neither attacked nor hindered in the discharge of their duties. Equally, the local inhabitants may not be punished for assisting the wounded. The 1864 Convention made it clear, that humanitarian work for the wounded and the dead whether friend or foe, was consistent with the law of war. It also introduced the sign of the red cross on a white background for the identification of medical establishments and personnel.

The first Geneva Convention was part of a growing movement, which started in the early 19\textsuperscript{th} century to codify modern international law. It was accepted in an exceedingly


short time by all then independent States, and by the United States in 1882. In force for over forty years, it was revised in 1906, on the recommendation of the ICRC and on the basic of the experience of several wars.

The First World War (1914–1918) was a serious test for the law of Geneva and resulted in a further revision in 1929. Four years after the end of the Second World War (1939–1945), the (First) Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (of 12 August 1949) was adopted. It is still in force and is therefore the subject of interest in the context of the present study.

A Convention adopted at the 1899 Hague Peace Conference placed the victims of war at sea under the protection of the law of Geneva. A revised version of the Convention was adopted at the 1907 Hague Peace Conference and later became the present (Second) Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (of 12 August 1949).

The above-mentioned Hague Peace Conferences examined another topic with a rich background in customary law: the treatment of prisoners of war. The 1899 and 1907 Conventions on the Laws and Customs of War on Land with the annexed Hague Regulations contained some provisions on the treatment of prisoners. The development of international humanitarian law gave rise to famous Martens Clause.

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22 Konwencja dotycząca praw i zwyczajów wojny lądowej oraz Regulamin praw i zwyczajów wojny lądowej: IV Konwencja haska, Haga, 18 października 1907 r., Dz. U. z 1927 r., Nr 21, poz. 161: H. IV.

23 The Martens Clause was worded as follows in article 1, paragraph 2 of Protocol I: G. P. I, Art. 1, p 2. M. Marcinko, Podstawowe zasady międzynarodowego prawa

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International security and rules relating to military operations
It first appeared in the preamble to *Hague Convention (IV) respecting the Laws and Customs of War on Land*. This clause testifies to the completeness of humanitarian protection in the absence of an explicit rule for a certain type of conduct, it may not be assumed that such conduct is permitted. On the contrary, a solution must be found that, like international humanitarian law in general it meets the requirements of humane behavior\(^{24}\). On the basis of the experience of the First World War, one of the two 1929 Geneva Conventions consisted in fact in a *Prisoner of War Code*, which in turn was developed after the Second World War. The (Third) *Geneva Convention relative to the Treatment of prisoners of War* (of 12 August 1949) remains in force to this day.

On 12 August 1949, the representatives of the 48 States, invited to Geneva by the Swiss Confederation as the depositary of the Geneva Conventions, unanimously adopted four new conventions for the protection of the victims of war. These conventions were the result of lengthy consultation, which the ICRC had undertaken based on its experiences from the Second World War. They were the work not only of legal experts and military advisers, but also representatives of the Red Cross Movement. The four Geneva Conventions of 12 August 1949, replaced the 1929 Conventions and in part *Hague Convention No. IV*.

The first three Conventions cover well-known topics, namely protection of the wounded and sick, the shipwrecked and prisoners of war. However, the Fourth Geneva convention

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\(^{24}\) *Preambuła do IV Konwencji …*, op. cit., Dz. U. z 1927 r., Nr 21, poz. 161: H. IV.
breaks new ground in protecting civilians who have fallen into the enemy’s hands and suffered from arbitrary treatment and violence. Its most important achievement section is that the international community had learned from failure, since it is common knowledge that the worst crimes during the Second World War were committed against civilian persons in occupied territory. The 1949 treaties also led to a further, extremely important development – the extension of the protection under humanitarian law to the victims of civil wars.

Geneva Conventions – revised and expanded in 1949 – lay down rules on the protection of the following groups of people:

1. First Convention: *sick and wounded on the battlefield*;
2. Second Convention: *sick, wounded and shipwrecked at sea*;
3. Third Convention: *prisoners of war*;

This Geneva Conventions have become the most universal of international treaties after the Second World War. The four Geneva Conventions are the most widely accepted international treaties. In fact, they have achieved universal acceptance: they have been ratified by all States in the world. The years after 1949 have not brought peace. Rather, the entire period has been characterized by countless conflicts.

The decolonization of Africa and Asia was often achieved through violent clashes. In the struggle between the weak and the strong, refuge was taken in methods of fighting, which

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were hardly compatible with the traditional manner of waging war – guerrilla warfare. At the same time, an unlimited arms race led to the development of arsenals with weapon systems based on the latest technology. The use of such weapons, above all nuclear weapons, would have inevitably pulled the rug out from under any principle of international humanitarian law.

The 1949 Conventions almost completely pass over a very important point, namely the protection of the civilian population from the direct effects of hostilities. From this reason the ICRC, after much preparation, in the seventies, submitted two new draft treaties to governments for discussion and adoption. The Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, held in Geneva from 1974 to 1977, adopted the two Protocols Additional to the Geneva Conventions on 8 June 1977. Protocol I contains new rules on international armed conflicts, Protocol II develops the rules of international humanitarian law governing non-international armed conflicts. The four 1949 Geneva Conventions remained unchanged, but were considerably supplemented by the Additional Protocols. The Diplomatic Conference was attended by the representatives of 102 States and several national liberation movements.

Both Protocols strengthen the protection of the defenseless to a considerable degree. Additional Protocol I brought together the laws of Geneva and The Hague, which until then had developed separately. The view that it was not enough to

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assist the victims of hostilities finally triumphed. Rather, that law should set limits to military operations, so that unnecessary suffering and damage can be avoided as much as possible. The law of Geneva with the Fourth Geneva Convention on the protection of civilian persons and Protocol I, moved a giant step closer to effective protection of the civilian population against the effects of war.

Furthermore, the two Additional Protocols, the years after 1949 saw further innovations in the protection under international law of persons and objects in time of war. Several other treaties complement these provisions, such as the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict with Protocol Additional I of 1954 and Protocol Additional II of 1999. The treaty, strongly influenced by the Geneva Conventions, created a sort of Red Cross for cultural property, charging UNESCO with its implementation.

In addition to the process set in motion by Henry Dunant and the ICRC to codify the rules for the protection on the wounded, the sick and soldiers who had fallen into enemy hands, there were developments on a second front. President of the United States Abraham Lincoln asked Francis Lieber, a lawyer (the Ger-

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28 Given that the 1954 system of cultural property under special protection never worked, The Second Protocol established a new system. Cultural property of the greatest importance for humanity can be placed under enhanced protection, provided it is adequately protected by domestic law and not used for military purposes or to shield military sites. Enhanced protection is granted from the moment of entry in the List of Cultural Property in the Event of armed Conflict, an intergovernmental committee established under the new Protocol. https://www.icrc.org/ihl/INTRO/590 (14.01.2016).
man immigrant to America) to put together a few rules on the conduct of war for the use of troops in the American Civil War. This resulted in *Instructions for the Government of Armies of the United States in the Field* (General Orders No. 100), today usually referred to as the *Lieber Code*, published in 1863\(^{30}\).

The manual contained rules covering all aspects of the conduct of war. The provisions of the *Lieber Code* were intended to influence the conduct of war with a view to prevent unnecessary suffering and limit the number of victims. Lieber’s work heralded two momentous developments. Firstly, it set a precedent for subsequent military handbooks and instructions on the law of war. Secondly, it marked the starting point for the second series of developments in modern international humanitarian law, which saw the emergence of rules on the conduct of war itself.

The first evidence of this was a short agreement, the 1868 *Declaration of St. Petersburg*, which prohibited the use of projectiles weighing less than 400 grammas\(^ {31}\). The Conference convened by the Russian Tsar in St. Petersburg was able without fuss to prohibit the use of a certain type of ammunition in view of the fact, that such projectiles uselessly aggravated the suffering of disabled men or rendered their inevitable death. Since the purpose of military operations, to disable the greatest number of enemy soldiers, does not require the infliction of such horrendous wounds, the diplomatic repre-


\(^{31}\) Deklaracja z 11 XII 1868 r. w sprawie pocisków wybuchających małego kalibru (Deklaracja St. Petersburska), [in:] Międzynarodowe prawo konfliktów zbrojnych. Zbiór..., op. cit., pp. 19–20.
sentatives were able to agree on the prohibition of the use of this type of projectile.

The St. Petersburg Declaration – as it is usually referred to – is not so much important today, because of the actual prohibition of the considerations, which resulted in that regulation. By eliminating the possibility of total war, the St. Petersburg Declaration gives additional strength to the above-mentioned principle of the law of war, namely that the belligerents are obliged to limit the use of force in meeting a military objective.

The rules governing the conduct of hostilities are set out in the Hague Conventions of 1899 and 1907\(^{32}\). Both Hague Peace Conferences, which took place at the turn of the century, attempted to set broader international legal limits to means and methods of warfare at that time. The most important result was the *Hague Convention No. IV of 18 October 1907, respecting the Laws and Customs of War on Land, and the annexed Hague Regulations*. The Hague Regulations, respecting the Laws and Customs of War on Land, codified the law of war and contains in particular rules on the treatment of prisoners of war on the conduct of military operations – with an especially important chapter on the “Means of Injuring the Enemy, Sieges and Bombardments” and occupied territory. They limit the methods and means of warfare, that parties to a conflict may use. In essence, they regulate the conduct of military operations in an armed conflict by defining proper and permissible cases of uses of weapons and military tactics. In particular Convention IV, with the accompanying Regulation—

tions, which are especially significant in this context. Article 22 of those Regulations contains the following clause: “The right of belligerents to adopt means of injuring the enemy is not unlimited”\(^{33}\).

The Regulations on the Laws and Customs of War on Land had to stand the test of two world wars. The Hague Regulations were subsequently developed to varying degrees. The chapter on prisoners of war was taken up in the 1929 Geneva Convention, whereas the Fourth 1949 Geneva Convention developed the legal rules pertaining to occupied territory. The actual law of the conduct of hostilities was taken up in Additional Protocol I of 1977.

The second Hague Peace Conference in 1907 also examined war at sea and adopted several conventions on different aspects of the law of war at sea. The Conference also went a step further than the St. Petersburg Declaration and prohibited certain types of weapons and munitions. However, most importantly the conference convened by the League of Nations in 1925 adopted the *Protocol prohibiting the use of poisonous gases and bacteriological methods of warfare*\(^{34}\).

The prohibition of the use of poisonous gases, which has become a rule of customary international law and is therefore binding on all States, has been in particular an important factor in the struggle to ban inhumane weapons. Reference must also be made to the Convention of 10 April 1972 on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruc-


The use of force in international missions

The Convention decisively strengthened one of the prohibitions set forth in the 1925 Geneva Protocol, namely the prohibition of bacteriological weapons. The Chemical Weapons Treaty of 1993 prohibits not only the use but also the production and possession of chemical weapons. The Convention on the Prohibition of Military or any other Hostile Use of Environmental Modification Techniques of 10th December 1976 was intended to nip in the bud the expansion of the conduct of hostilities in a new field, that of environmental modification techniques. These conventions were adopted in the framework of the United Nations. At present, a comprehensive treaty on chemical weapons prohibits not only their use but also their development, production and stockpiling.

Rules on the protection of individuals and the conduct of hostilities were brought together and developed in the several other treaties complementing these provisions, such as the Convention on Certain Conventional Weapons of 1980 and its three protocols, which aim is to limit the use of certain particularly grim weapons, the 1997 Convention on the Prohibition of Antipersonnel Mines and on their Destruction, the Roma Statue of the International Criminal Court of 1998, and the 2005 Protocol III additional to the Geneva Conventions, establishing an additional emblem, commonly

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38 The three protocols deal with incendiary weapons, mines and non-detectable fragments.
referred to as the red crystal, alongside to the red cross, the red crescent, the red lion and sun\textsuperscript{41}.

The law of armed conflict prohibits a number of weapons and types of ammunition, or restricts their use. In this context it is worth mentioning article 36 of Protocol I. Under the title "New weapons", it obliges the contracting parties, when they study, develop, acquire or adopt a new weapon, means or methods of warfare, to determine whether the use of such weapons, means or method is not contrary to international humanitarian law. The use of bacteriological weapons and poison gases in war is prohibited, but nuclear weapon is still a large problem. It is an incontrovertible fact that at present there is no specific ban on the production, stockpiling and use of nuclear weapons. There are, however, a number of conventions that regulate some aspects of nuclear armament: \textit{The Nuclear Weapons Non-Proliferation Treaty}, of 1 July 1968; \textit{The Treaty on Denuclearization of the Seabed}, of 11 February 1971 and the ban on the stationing of such weapons in space, contained in \textit{The Outer Space Explorations Treaty}, of January 1967. The impressive list of international humanitarian law treaties shows, that the aim of law of armed conflict is to protect the human being and to safeguard the dignity of man in the extreme situation of war.

The provisions of international law have always been tailored to fit human requirements. They are bound to an ideal: the protection of man from the consequences of brute force. The duty to respect the individual takes on special significance when the perpetrator of the violence is the State. Therefore, international humanitarian law is a part of that branch

\textsuperscript{41} https://www.icrc.org/ihl/INTRO/615 (25.01.2016).
of international law, which safeguarding human rights from abuse by State power. Currently, the promotion of human rights and their observance by Member States is one of the most important aims of the United Nations.

Human rights law consists of set of principles and rules, on the basis of which individuals or groups can expect certain standards of protection, conduct or benefits from the authorities, simply because they are human beings. The second half of the 20th century has been characterized by the triumph of human rights. The Universal Declaration of Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the Refugee Convention, the 1966 United Nations Human Rights Covenants and regional human rights treaties, all have enhanced the protection by international law of individuals against abuse of power by governments and promoted individual well-being.

The main universal instruments of international human rights law currently in force include:

- *The Universal Declaration of Human Rights, adopted by the UN General Assembly in 1948*[^42];

- *The International Covenant on Civil and Political Rights of 1966*[^43];

[^42]: The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds, from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10th December 1948 General Assembly resolution 217 A, as a common standard of achievements for all people and all nations. It sets out, for the first time, fundamental human rights to be universally protected. http://www.un.org/en/universal-declaration-human-rights/ (27.01.2016); Prawo w stosunkach międzynarodowych. Wybór dokumentów, red. S. Bielén, Warszawa 1996, pp. 145–149.

[^43]:
• *The International Covenant on Economic, Social and Cultural Rights of 1966*\(^\text{44}\);  
• *The Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment of Punishment of 1984*\(^\text{45}\);  
• *The Convention on the Rights of the Child of 1989*\(^\text{46}\).

Regional instruments, such as *the European Convention on Human Rights*, *the American Convention on Human Rights* or *the African Charter on Human and People’s Rights*, create

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\(^{45}\) The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is an international human rights treaty, under the review of the United Nations, that aims to prevent torture and other acts of cruel, inhuman, or degrading treatment or punishment around the world. The Convention requires states to take effective measures to prevent torture in any territory under their jurisdiction, and forbids states to transport people to any country where there is reason to believe they will be tortured. http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx (03.02.2016).

\(^{46}\) The Convention on the Rights of the Child is the most rapidly and widely ratified international human rights treaty in history. The Convention changed the way children are viewed and treated – i.e., as human beings with a distinct set of rights instead of as passive objects of care and charity. http://www.unicef.org/crc/ (05.02.2016).
their own international supervisory mechanisms alongside the universal system.

The Universal Declaration of Human Rights of 10 December 1948, the two International Covenants of 16 December 1966, one on civil and political rights, the other on economic, social and cultural rights, and other treaties on specific aspects of human rights protection are the results to date of major effort to strengthen the position of the individual in the face of state power.

The right to life is the supreme human right, since without effective guarantees for it, all other human rights would be devoid of meaning. The right of everyone to life, liberty and security of person is proclaimed in Article 3 of the Universal Declaration of Human Rights. These rights are reiterated in Articles 6.1 and 9.1 of the International Covenant on Civil and Political Rights (ICCPR) as well as in regional instruments – African Charter on Human and Peoples Rights, Arts 4 and 647; American Convention on Human Rights, Articles 4.1 and 7.148; European Convention on Human Rights, Articles 2 and 5.149. Article 6.1 of the ICCPR states that “Every human being...

47 The African Charter on Human and People’s Rights, 1987, (also known as the Banjul Charter) is an international human rights instrument that is intended to promote and protect human rights and basic freedoms in the African continent http://www.achpr.org/instruments/achpr/ (07.02.2016).

48 The American Convention on Human Rights, also known as the Pact of San José, is an international human rights instrument. It was adopted by many countries. http://www.hrcr.org/docs/American_Convention/oashr.html (08.02.2016).

49 The European Convention on Human Rights (ECHR) formally the Convention for the Protection of Human Rights and Fundamental Freedoms, drafted in 1950, is an international treaty to protect human rights and fundamental freedoms in Europe. The Convention established the European Court of Hu-
has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived on his life”\textsuperscript{50}.

Article 9.1 of the ICCPR states that “Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law”\textsuperscript{51}.

Professionals responsible for law enforcement should particularly be familiar with the United Nations Code of Conduct for Law Enforcement Officials (CCLEO, 1979)\textsuperscript{52} and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (BPUFF, 1990)\textsuperscript{53}, because these two documents do not set legally binding obligations. They are part of what is commonly known as “soft law”. However, they give useful guidance on specific issues related to the maintenance of law and order.


\textsuperscript{51} ICCPR, No. 14668, part III, Art. 9.1., p. 175.

\textsuperscript{52} Code of Conduct for Law Enforcement Officials adopted by General Assembly resolution 34/169 of 17 December 1979. The term ‘law enforcement officials”, includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention. http://www.ohchr.org/EN/ProfessionalInterest/Pages/LawEnforcementOfficials.aspx (17.02.2016).


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Human rights agreements and the relevant rules of customary law safeguard a series of individual rights from State abuse. Those safeguards are valid in all circumstances, at all times. Only in emergency situations and in strictly defined circumstances do the different agreements allow for derogations from some of their provisions.

The treaties of human rights protect particularly vulnerable categories of persons from abuse of State power. From this reason human rights agreements contain general rules applicable at all times. The protective rules and mechanisms of international humanitarian law are applicable only in time of war. In this sense, international humanitarian law is that part of human rights law which is applicable in armed conflicts. In contrast, however, to the peacetime human rights agreements, there can be no derogation under any circumstances from any of its provisions since they are specifically intended for application in wartime.

**Arrest**

No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law\(^{54}\). Arrest means the act of apprehending a person for the alleged commission of an offence or by the action of an authority. The discretionary power of law enforcement officials in deciding to make an arrest is limited by the principles of legality and necessity and by the prohibition of arbitrariness. This provision makes it clear that the reasons the procedure for an arrest must have a basis in the laws of the State. In addition, the law itself must not be arbitrary,

\(^{54}\) ICCPR, Art. 9, p. 1.
and enforcement of the law in a given case must not be handled in an arbitrary manner.

Anyone, who is arrested must be informed, at the time of arrest, of the reasons for his arrest and must be promptly informed of any charges against him. He must be brought promptly before a judge or other officer authorized by law to exercise judicial power and must be entitled to trial within a reasonable time or to release.

Just anyone, who is deprived of his liberty by arrest or detention must be entitled to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release, if the detention is not lawful. Anyone who has been the victim of unlawful arrest or detention must have an enforceable right to compensation. Additional provisions protect the special status of women and minors.

**Detention**

All persons detained, pending investigation and trial or imprisoned, after conviction, retain their human rights, except for those limitations that are demonstrably necessitated by the fact of incarceration. Depriving a person of his liberty is the commonest and oldest method used by States to fight crime and maintain public order. Rather than prohibit the deprivation of liberty, international law sets out rules and guidelines intended to guarantee that the practice is lawful and non-arbitrary.

Recognition on the need to safeguard the human rights of detainees and prisoners has led the United Nations to develop a variety of instruments enhancing the provisions of the ICCPR. Additional protection of, especially pregnant women
and nursing mothers and minors, in particular, is provided in these instruments.

All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human persons\textsuperscript{55}. The imposition of measures, which are not strictly required for the purpose of the detention or to prevent hindrance to the process of investigation or the administration of justice, or for the maintenance of security and good order in the place of detention is forbidden. This provision is of major importance in determining the discipline and punishment that is proper for acts or offences committed during detention or imprisonment.

The prohibition of torture and cruel, inhuman or degrading treatment or punishment is absolute and without exception. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the “Torture Convention”) was adopted by the General Assembly of the United Nations on 10 December 1984 (resolution 39/46)\textsuperscript{56}. It is part of customary international law and has been codified in a number of instruments of human rights law and the law of armed conflict Cruel, inhuman or degrading treatment or punishment is not defined, but requires treatment inflicting serious pain, without the purpose required for torture or affront to dignity. Needless to say, the scope of the prohibition of torture encompasses all aspects of law enforcement and is not limited to detention and imprisonment.

Under international law, torture is defined as any act, by which severe pain or suffering, whether physical or mental, is

\textsuperscript{55} ICCPR, Art. 10, p. 1.
intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity\textsuperscript{57}.

**Customary law**

The rules of international customary law play an important role in protect the human being in the extreme situation of war. Some of them set absolute obligations which are binding on all States. While the four Geneva Conventions of 1949 have been universally ratified, other treaties comprising the law of armed conflict, including the 1977 Protocols Additional to the Geneva Conventions have not. However, a number of rules and principles set out in treaties that have not been ratified by certain States, including many rules governing the conduct of hostilities and the treatment of persons not, or no longer, taking a direct part in hostilities, are also part of customary law and are therefore binding on all States, regardless of which treaties they have or have not adhered to.

Treaties bind only those States that have agreed to be bound by them, usually through ratification. These written obligations are complemented by customary law derived from a general practice accepted as law. The International Committee

of the Red Cross (ICRC) was mandated by States to carry out a study that would contribute to the clarification of the content of the customary law of armed conflict. The study, which involved extensive research and took eight years to be complete, identified 161 rules, which were found to be customary today. A significant number of customary rules of the law of armed conflict set out, in much greater detail than treaty law, the obligations of parties in non-international armed conflict. This is especially true of rules governing the conduct of hostilities. For example, treaty law does not expressly prohibit attacks on civilian objects in non-international armed conflict, but customary international law does.

Although, nowadays most armed conflicts are non-international, the treaty law applicable to such conflicts remains fairly limited. The ICRC study shows, however, that a large number of customary rules of the law of armed conflict are applicable in both international and non-international armed conflict. To apply these rules there is no need to establish that a conflict is international or non-international, as they refer to any armed conflict.

Contemporary armed conflict often involves a coalition of States. From this reason it can be especially useful to apply the customary law of armed conflict when warring parties form coalitions. It should be borne in mind, however, that customary rules cannot weaken the applicable treaty obligations of individual coalition members. When forming a coalition, States do not all have the same treaty-based obligations,

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because they have not all ratified the same treaties, rules of
the customary law of armed conflict come to represent rules
that are common to all members of the coalition. These rules
can be used as a minimum standard for drafting common
rules of engagement or for adopting targeting policies.

2) Control of armed conflict

The law of armed conflict is a special branch of law cov-
ering situations of war. It recognizes two different categories
of armed conflict. Wars between two or more States are con-
sidered to be international armed conflicts, and war on the
territory of a single State, which are non-international or in-
ternal armed conflicts - usually known as civil wars.

As is set forth in common Article 2 of the Geneva Con-
ventions,

the present Convention shall apply in all cases of declared war or
of any other armed conflict which may arise between two or more
of the High Contracting Parties, even if the state of war is not
recognized by one of them59.

The expression armed conflict appears also in Article 3 of the
Geneva Conventions, which deals with non-international
armed conflicts a confrontation not between two states, but
between the government and a rebel movement. As noted by
Hans-Peter Gasser, the Geneva Conventions and Additional
Protocols contain 20 provisions on internal military conflicts
against 500 on international military conflicts60.

59 Article 2 common to the four Geneva Conventions. The Geneva Conven-
60 H. P. Gasser, op. cit., p. 20.
International armed conflict

An international armed conflict is a declared war or any other armed confrontation between two or more States, even if the state of war is not recognized by one of them. It has to be emphasized that no minimum level of intensity, military organization or control over territory is required for an international armed conflict to be recognized as such. An international armed conflict may consist merely of low-level-combat or there may even be no combat at all, small-scale incursions into enemy territory, or an invasion that meets no resistance.

There are over 30 international instruments in force dealing with the law of international armed conflict. The four Geneva Conventions of 1949 relating to the protection of the persons not or no longer taking part in hostilities (wounded, sick, shipwrecked, prisoners of war, the dead, civilians and those caring for victims of armed conflict) are applicable. The Fourth Geneva Convention also applies in all cases of partial or total occupation on the territory of a High Contracting Party, even if the occupation meets with no armed resistance.

Additional Protocol I of 1977, which supplements the Geneva Conventions of 1949, applies in international armed conflict in situations of occupation and in armed conflicts, in which

61 G. P. I, Art. 1, p. 4.
62 G. I, Art. 2; G. II, Art. 2; G. III, Art. 2; G. IV., Art. 2; G.P. I, Art. 1.
63 G. I–IV.
65 AP I, Art. 1, p. 3.
peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration of Principles International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations.\footnote{AP I, Art. 1, p. 4.}


In cases not covered by conventions, protocols or other international agreements, or in the event such agreements are denounced, civilians and combatants remain under the protection and authority of the principles of international law derived from established custom, the principles of humanity and the dictates of public conscience.
With regard to situations of international armed conflict an important distinction is made between combatants and non-combatants. According to Article 43.2 of Additional Protocol I members of the armed forces of a Party to a conflict – other than medical personnel and chaplains – covered by Article 33 of the Third Convention, are combatants, that is to say, they have the right to participate directly in hostilities\textsuperscript{69}.

All those not qualifying as combatants are non-combatants, who are not entitled to participate in hostilities but who are entitled to protection against the dangerous arising from military operations\textsuperscript{70}.

Persons who do not have combatant status are classified as civilians\textsuperscript{71}. In case of doubt whether a person is a civilian, that person must be considered to be a civilian. Civilians are entitled neither to take part in hostilities nor to have the status of prisoners of war\textsuperscript{72}. The Fourth Geneva Convention sets out rules for the protection of civilians finding themselves in the hands of a party to the conflict or occupying power of which they are not nationals. Additional Protocol I sets out rules for the protection of civilians against the effects of hostilities. Problems sometimes arise when one of the parties to the conflict denies that law of armed conflict is applicable, even though there is fighting.

The commander of all forces engaged in a military operation during wartime has the general responsibility for ensur-

\textsuperscript{69} G. P., Art. 43, p. 2.
\textsuperscript{70} G. P. I, Art. 51.
\textsuperscript{71} G. IV, Art. 4; G. P. I, Art. 50, 79.
\textsuperscript{72} H. IV. R., Art. 4; G. III, Art. 4; G. P. I, Art. 44.
ing respect for the law of armed conflict. General command responsibility extends to all land, sea and air of areas of military operations, movements and locations. The law of armed conflict grants a fundamental protection to persons and objects other than combatants and military objectives. Respect for this law is a matter of order and discipline. As with order and discipline, the law of armed conflict must be respected and enforced in all circumstances. In armed conflict the use of force is regulated by a number of principles set out or suggested in the various instruments on the law of armed conflict, in particular in the 1907 Hague Convention respecting the laws and customs of war on land and its regulations, and in the 1977 Additional Protocol I to the Geneva Conventions of 1949.

1) Under the principle of distinction, parties to a conflict are obliged to distinguish between combatants and civilians and between military objectives and civilian objects. Attacks may be directed only at combatants and military objectives.

2) Under the principle of necessity, only the violence required for the complete or partial submission of the enemy may be used.

3) Under the principle of limitation, the right to choose means and methods of warfare is not unlimited. A number of instruments either restrict or prohibit the use of weapons or methods of a nature to cause superfluous injury or unnecessary suffering.

4) Under the principle of proportionality, a balance must be struck between the expected incidental loss of civilian

\[73\] G. P. I, Art. 72, 75.
life, injury to civilians and damage to civilian objects on the one hand, and the concrete and direct military advantage anticipated on the other hand.

In international armed conflict the most important distinction to be made with regard to detention or deprivation of liberty in general is that between combatants and non-combatants.

Combatants who fall into the power of an adverse party must be recognized as prisoner of war\textsuperscript{74}. Article 4 of the Third Geneva Convention specifies the categories of persons entitled to prisoner of war status and lays down rules for the treatment of prisoners of war during captivity. The basic premise is that prisoners of war must at all times be humanely treated and they must at all times be protected, particularly against acts of violence and intimidation, as well as against insults and public curiosity\textsuperscript{75}.

Civilians, in particular foreign nationals, may be interned for security reasons in connection with an armed conflict. Internment is a measure that may be taken for imperative reasons of security (to protect the persons concerned). It is therefore not a punishment. The regulations for the treatment of internees are virtually the same as those for the treatment of prisoners of war\textsuperscript{76}.

Non-international armed conflicts are armed confrontations that take place within the territory of a State, between the government on the one hand and armed insurgent groups on the other hand. To constitute an internal armed conflict

\textsuperscript{74} G. P. I, Art. 44, p. 1.
\textsuperscript{75} G. III, Art. 13.
\textsuperscript{76} Article 79 to 135 of the Fourth Geneva Convention.
under Additional Protocol II to the Geneva Conventions of 1949 and render that Protocol applicable, there must be:

1) A minimum intensity of violence: more than internal disturbances and tensions, such as riots, isolated and sporadic acts of violence;
2) A minimum of military organization: responsible command and ability to respect the law of armed conflict;
3) A minimum control of territory: enabling sustained and concerted military operations77.

The members of such groups, whether described as insurgents, rebels, secessionists, revolutionaries, freedom fighters, sometimes terrorists, are fighting to take over the reins of power, or to obtain greater autonomy within State, or in order to secede and create their own State.

Civil wars that are not associated in some way with international events are almost unknown and few internal conflicts are conducted behind closed doors. The influence exercised by third-party States takes various forms and may go as far as armed intervention. An internal armed conflict is considered to be internationalized when it involves the armed forces of one or several foreign States. These States intervene either by deploying their own forces in the conflict or by exercising overall control over the local forces78.

It is not sufficient to establish whether an armed conflict is internationalized to determine which law is applicable. Fourth different situations need to be considered:

77 G. P. II, Art. 1.
78 F. de Mulinen, op. cit., pp. 30–33.
1. The relationship between two foreign States intervening on behalf of opposing parties to the conflict is governed by the law of international armed conflict.

2. The relationship between the local government and a foreign State intervening on behalf of insurgents is governed by the law of international armed conflict.

3. The relationship between the local government and insurgents is governed by the law of non-international armed conflict.

4. The relationship between insurgents and a foreign State intervening on behalf of the local government is governed by the law of non-international armed conflict.

In general, in non-international armed conflict non-governmental armed groups fight either among themselves or against governmental forces:

- within the territory of a single State;
- with a level of intensity, exceeding that of isolated and sporadic acts of violence;
- with a level of organization enabling them to carry out sustained and concerted operations.

In addition, the armed groups may also exercise a certain minimum control over the territory. Gaining such control entails no change in the status of the parties, but it does determine which legal instruments are applicable.

The law of non-international armed conflict distinguishes two situations: that in which the armed group has achieved a certain minimum control over a territory and that in which it has not. The applicable law depends on which situation holds. Only a few provisions of the law of armed con-

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Conflict specifically concern non-international armed conflict: most of the applicable legal framework is therefore provided by customary law of armed conflict. However, in general, the following instruments of the law of armed conflict apply:

- Article 3 common to the Geneva Conventions of 1949;  
- Article 4 of the Hague Convention of 1954 for the protection of cultural property;

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80 Article 3. In case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed “hors de combat” by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. To this end, the following acts are shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:
   a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
   b) Taking of hostages;
   c) Outrages upon personal dignity, in particular humiliating and degrading treatment;
   d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensably by civilized peoples.

2. The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to Parties to the conflict. The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

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- The Ottawa Convention of 1997 banning anti-personnel mines;
- The Second Protocol of 1999 to the Hague Convention for the protection of cultural property;
- The Optional Protocol of 2000 to the Convention on the Rights of the Child on the involvement of children in armed conflict;
- Protocol III of 2005 Additional to the Geneva Conventions.

Article 3, common to the Geneva Conventions of 1949, is the most fundamental provision applicable to non-international armed conflict. It constitutes a summary of the essential rules applicable in all armed conflict.

Whenever an armed group has achieved a certain minimum control over a territory, Protocol II additional to the Geneva Conventions, which develops and supplement Common Article 3, is applicable in addition to the other instruments already mentioned. Additional Protocol II contains, in particular:

- an extended list of fundamental rights and protections;
- precise provisions regarding persons whose liberty has been restricted;
- provisions relating to prosecution and punishment of criminal offences related to internal armed conflicts, in-

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81 https://www.icrc.org/ihl/INTRO/615 (02.03.2016).
including a call for a broad amnesty at the end of the hostilities;

- more detailed provisions on wounded, sick and shipwrecked, including the prohibition of forced movement of civilians, unless the security of the civilians involved, or imperative reasons so demand.\(^{83}\)

These written obligations are complemented by customary law, which derives from a general practice accepted as law.

Domestic law and international human rights law, if need be with derogations, are fully applicable in non-international armed conflict, e.g. for persons arrested or detained. Derogations from guaranteed human rights must be compatible with the obligations of the State concerned under the law of armed conflict.

Article 3, common to the Geneva Conventions, introduces the notion of direct or “active” participation in hostilities. Direct participation in hostilities by civilians entails loss of immunity from attack during the time of such participation and may also subject them, upon capture, to criminal prosecution under the domestic law of the detaining State. Despite the serious legal consequences involved, neither the Geneva Conventions nor their Additional Protocols include a definition of what constitutes taking an active part in the hostilities, or even of what would constitute indirect participation. An additional difficulty is that of defining the duration of participation and when preparations for an attack begin, or the “return from” military engagement ends. To address these chal-

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challenging issues the ICRC, in cooperation with the TMC Asser Institute\(^ {84}\), recently initiated a process aimed at clarifying the notion of direct participation in hostilities.

Although there is a different legal basis for non-international and international armed conflict, the behavior expected in practice of armed forces in both situations is so similar, that it is neither necessary nor useful to treat the cases separately.

The status of prisoner of war, for example, exists only in international armed conflict\(^ {85}\). Nevertheless, the behavior expected of a unit taking prisoners in a non-international armed conflict, in particular, humane treatment in all circumstances, without any adverse distinction, does not differ from the behavior expected in an international armed conflict. It is only when prisoners have been safely removed from a combat area that the legal status of a conflict becomes relevant and justifies a difference in treatment. For example, enemy combatants taken prisoner in an international armed conflict must be held in prisoner of war camps and released at the end of active hostilities, whereas persons captured while taking an active part in a non-international armed conflict are subject to detention and liable to criminal prosecution and punishment under domestic criminal law\(^ {86}\). It cannot be expected that armed forces personnel will behave in two radically different ways in non-international and international armed conflict, but they must


be made aware of the differences, and personnel such as military police must receive proper training.

a) Detention in non-international armed conflict

Each State retain the right to use force within their territory in order to restore law and order. International law contains no limitation of sovereign rights in internal conflicts corresponding to the UN Charter’s prohibition of recourse to force in international disputes. It merely sets limits to the manner in which law and order may be established. This means that the right of governments to choose methods and means is no longer unlimited. In case of detention, in non-international armed conflict, the provisions of Article 3 common to the four Geneva Conventions apply. In addition, the rules of Protocol Additional II to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) must also be observed whenever criteria for its applicability, such as control over territory, are met.

Additional Protocol II lays down fundamental guarantees for the humane provisions for the treatment of persons detained (Article 4) similar to those in Common Article 3, minimum provisions for the treatment of persons interned, detained or deprived of their liberty for reasons related to the armed conflict (Article 5), and judicial guarantees for the prosecution and punishment of criminal offences related to the armed conflict (Article 6). Prisoner of war status does not exist in non-international armed conflict.

87 P. Łubiński, Stosowanie MPHKZ w konfliktach międzynarodowych i nie-międzynarodowych. Kwestia stosowania praw człowieka w rejonie odpowiedzialności PKW, [in:] Międzynarodowe prawo humanitare..., op. cit., p. 382.
The common Article 3 to the four Geneva Conventions showed that international humanitarian law is applicable in internal disputes only if the hostilities attain a certain level of intensity. If this is not the case, then the situation is not an armed conflict but only said to be disturbances, tensions, riots, etc. Situations such as these are not subject to humanitarian law. They are nevertheless of humanitarian interest, since they may give rise to human problems on a par with those of civil war. From the legal viewpoint it should be remembered that even in crises of the kind described human rights must be protected. In most countries the law enforcement operations in situations other than armed conflict are conducted by the police or security forces. When military forces are deployed in such situations, they usually play a reinforcement role and are subordinated to the civilian authorities.

The role of officials and organizations tasked with law enforcement, irrespective of who they may be or how they are set up, is to:

- maintain law and order;
- prevent and detect crimes;
- assist in emergencies of all kind.

The law of armed conflict does not apply to these situations, which are governed by the human rights obligations of the State concerned.

The phenomenon of people taking to the streets to express their opinions publicly is common enough in most countries of the world. Events such as rallies, demonstrations or whatever they may be called, are seen as an inevitable consequence of individual and collective freedom. Although such events are not necessarily violent, unfortunately the cases

that tend to stand out and be remembered are those where physical confrontation occurs, among demonstrators or between demonstrators and law enforcement officials.

A number of rights and freedoms codified in such instruments of international human rights law, as the ICCPR are applicable to assemblies, demonstrations, rallies and similar events.

Everyone has:
- the right to hold opinions without interference – Art. 19.1;
- the right to freedom of expression – Art. 19.2;
- the right to peaceful assembly – Art. 21;
- the right to freedom of association – Art. 22.1.

The exercise of these rights is not without limits. Restrictions can be impose, provided that they are:
- lawful;
- necessary;
  - for respect of the rights or reputations of others;
  - for the protection of national security or of public order, or of public health or morals – ICCPR, Arts 19.3, 21 and 22.2.
- proportionate, i.e. States must impose as few restrictions as possible to achieve their aims.

In additional to the above, “public safety” may be invoked as a lawful reason for restricting the right of peaceful assembly and the right to freedom of association. Article 22 of the ICCPR sets out the right of all persons to freedom of as-

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90 ICCPR, Arts 21 and 22.2.
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sociation. However, it is important to note the last sentence of paragraph 2. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and police in their exercise of this right. Many States restrict the political activities of the police and the military in order to prevent these “arms-carrying” forces from becoming involved in political affairs⁹¹.

Maintaining law and order, in particular when dealing with unlawful assemblies, is a complex task. Riots can be frightening experiences for any law enforcement officials, and it takes considerable courage to stand in front of an angry and possibly armed mob. A well-trained, professional and disciplined force is needed to calm or disperse a crowd without resorting to the use of force.

The challenge is great for police or security force, which may be ill-prepared or ill-equipped for such a task. It is, however, far greater for members of the armed forces, whose role or mission prepare them to deal with enemies rather than fellow citizens. They are thus usually neither trained nor equipped for crowd control. Before assigning such a mission to any force, authorities need to make sure that national law conforms to international standards⁹². Furthermore, national legislation must stipulate the circumstances, in which the armed forces may be called upon to perform law enforcement tasks and clarify relations between the civilian and the military power during such operations.

Accordingly, all necessary measures must be taken to:

• avoid excessive use of force by law enforcement officers, including military forces, while maintaining or restoring law and order;
• ensure that any wounded person receives suitable treatment and that dead bodies are treated with respect and identified;
• ensure that those arrested or detained by authorities maintaining or restoring law and order are treated fairly and humanely.

The standard operating procedures for law enforcement officials need to be compatible with international standards regarding the use of force. They should be included in manuals written in plain language, that is accessible to the various kinds of personnel, and transformed into rules of engagement. The training of personnel should involve practical exercises that are as close to reality as possible. A tight chain of command and discipline (including sanctions) should ensure effective supervision and control. Finally, equipment, in particular protective gear and communication devices, is key to maintaining control over a situation and averting violence. Only law enforcement officials with appropriate training, equipment and orders, working in a suitable disciplinary system, should be deployed.

Large-scale events like demonstrations and assemblies involve a degree of predictability in that they require preparation. Law enforcement agencies increasingly endeavor to be involved in the preparation phase, by negotiating the details of an event with a merely faceless mob to provide the basic for

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communication to take place between law enforcement officials and participants in a demonstration. Pinpointed action against individuals breaking the law has a low impact on a demonstration, as it does not affect innocent bystanders, who can carry on without interruption.

None of the instruments of international law offers an adequate definition of what is to be understood by the term “internal disturbances and tensions”. Article 1, paragraph 2 of Protocol II Additional to the Geneva Conventions of the 1949 considers “situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts”\(^\text{94}\). Beyond those few examples, it does not give a definition.

In practice, disturbances are typically acts of public disorder accompanied by acts of violence. In the case of internal tensions, there may be no violence, but the State may resort to practices such as mass arrests of opponents and the suspension of certain human rights, often with the intention of preventing the situation from degenerating into a disturbance.

Essential principles of human rights law that are applicable in times of disturbance and tension and that are particularly relevant for law enforcement are:

- the right of every human being to life, liberty and security of person;
- the prohibition of torture and cruel, inhuman or degrading treatment or punishment;
- the prohibition of arbitrary arrest or detention;
- the right to a fair trial;

\(^{94}\) G. P. II, Art. 1.
the right of persons deprived of their liberty to be treated with humanity;

• the prohibition of arbitrary or unlawful interference with a person’s privacy, family, home or correspondence;

• the right to freedom of opinion, expression, peaceful assembly and association\(^{95}\).

Where national law allows emergency measures to be taken in the interests of national security, public safety or public order, the application of such measures may not be arbitrary or discriminatory. The right to freedom of expression, peaceful assembly and association may be limited as a consequence of internal disturbances and tensions only where such limitations are lawful and necessary.

It is not always clear when separate incidents such as: assemblies, rallies, demonstrations, riots, isolated acts of violence, become related and viewed together, constitute more or less consistent patterns referred to as disturbances or tensions. What is clear, however, is that a pattern of this kind poses serious problems for the authorities in terms of maintaining public safety, and law and order. Disturbances and tensions can eventually lead to situations that threaten the life of the nation and lead the government to proclaim a state of emergency.

The specific law enforcement problems posed by disturbances and tensions depend on the standards of a given

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organization of enforcement agency, its equipment and the training of its personnel. The law enforcement action taken in such situations can have far-reaching consequences. Lawful, non-arbitrary and precisely targeted forms of action directed at initiators and perpetuators of disturbances and tensions can lead to a reassertion of control and defuse a situation. Random action – as well as unlawful, arbitrary and discriminatory action – can erode confidence in law enforcement, further endanger public safety and be at least partly responsible for the further escalation of a situation.

Internal disturbances and tensions can lead to a government losing confidence in its ability to control a situation with the measures it has at its disposal. Accordingly, Article 4 of the ICCPR lays down that States may take “measures derogating from their obligations under the present Convent”, but only “in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed”96.

National legislation embodying human rights law, if needed with derogations, is applicable in a state of emergency. If that state is declared or maintained during an armed conflict, then the law of armed conflict also applies.

Most constitutions contain emergency clauses that empower the head of State or the government to take exceptional measures including restrictions on or the suspension of basic rights with or without the consent of parliament in wartime or in other emergency situations97. Of course, such provisions

97 Parlamentarny nadzór nad..., op. cit., pp. 103–118.
may be misused. International law thus has the task of striking a balance between recognizing the legitimate right of sovereign States to defend their constitutional order and to support human rights.

The various regional human rights instruments also recognize states of emergency. Whereas the ICCPR mentions only public emergency as a basis for declaring a state of emergency, Article 15 of the European Convention on Human Rights, Article 15 of the European Social Charter and Article 27 of the American Convention on Human Rights all mention war as well.\textsuperscript{98}

The derogation of rights provided for under the ICCPR is a suspension of certain obligations by the State. However, even derogations are governed by international human rights law. They do not amount to a complete and unchecked suspension of human rights. A number of requirements need to be fulfilled:

1) The emergency must be officially proclaimed by the domestic body empowered to do so. This enables the population to know the exact material, territorial and temporal scope of the emergency measures and also prevents de facto derogations and retroactive attempts to justify human rights violations.

2) Derogation measures may be taken only “to the extent strictly required by the exigencies of the situation”.

3) The measures taken must not be “inconsistent with the State’s – other obligations under international law and...

must not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin”.

4) Article 4.3 of the ICCPR stipulates that any State Party “shall immediately inform other States Parties (...), through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated”. Similarly, information must be given when the state of emergency ends. These communications are meant to facilitate international supervision.

5) As previously mentioned, some rights cannot be derogated under any circumstances.

6) In article 4.2 of the ICCPR cross-reference is made to a number of non-derogable provisions. They are:

- the right to life – Art. 6;
- the prohibition of torture – Art. 7;
- the prohibition of slavery and servitude – Art. 8;
- the prohibition of detention for debt – Art. 11;
- the prohibition of retroactivity of criminal law – Art. 15;
- the right to recognition as a person before the law – Art. 16;
- the right to freedom of thought, conscience and religion – Art. 18.

None of these may be suspended or abrogated under a state of emergency. Each provision exists for all persons in all circumstances. A State therefore may not use the imposition of a state of emergency as an excuse for failing to protect and uphold non-derogable rights. It is essential for any force that

may operate in a situation of declared state of emergency to fully acknowledge the fact that although some human rights are suspended, the use of force and firearms remains governed by national legislation, in compliance with international obligations.

3) **International military operations**

International military operations are undertaken for the purpose of conflict prevention, peace keeping, peace enforcement or post-conflict peace building\(^{100}\). Where armed forces are located or engaged in the territory of a foreign State with its consent, the provisions provided for national territory apply, to the extent feasible, by analogy. However, additional measures are necessary, such as special agreements and detailed rules for practical cooperation (*Status of forces agreement*).

Situations of presence in foreign territory can result from:

1) The presence in the territory of a State of armed forces of an allied State.
2) The integration of armed forces of various states into an alliance under a common command with or without internationally composed staffs at different levels.
3) The establishment of an United nations Force in the territory on one or more States.

International military operations encompass all multinational operations authorized or conducted by the United Na-

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Authorized operations may be conducted by States or by a regional organizations.

Status of force agreements covering foreign troops usually regulate the issues of detention. However, problematic situations may arise where international peace troops have to detain people for short periods of time before handing them over to civilian authorities, or even for longer periods, especially in the absence of adequate structures due to the collapse of the host nation. The status and treatment on the detainees is reliant on the legal nature of the situation and each individual case.

International military operations have been mandated to undertake a wide variety of tasks including: maintaining cease-fires; election monitoring; conducting humanitarian assistance; maintaining law and order; providing protection to safe areas and civilians, displaced persons and refugees at risk; conducting disarmament of former combatants and warring factions.

In international military operations depending on the situation, troops may have to resort to using force and firearms either for their own protection in self-defense or to achieve their mission. The same rules apply as for operations depending on the situation’s legal status.

The law of armed conflict is applicable to international military operations as soon and as long as the conditions of its applicability are fulfilled, i.e. whenever there is a resort to

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the use of force that reaches the threshold of an armed conflict. The applicability of the law of armed conflict (*jus in bello* or rules governing the use of force in time of war) does not depend on the legitimacy of the operation (*jus ad bellum* or rules governing the right to resort to force). In 1999 the UN Secretary-General Kofi A. Annan issued a bulletin (ST/SGB/1999/13) setting out fundamental principles and rules of the law of armed conflict applicable to UN Forces\textsuperscript{103}.

International military operations must also comply with human rights law, in particular when taking action that interferes with individual rights. As a matter of principle, the UN and its subsidiary bodies are bound by international rules required to fulfill the purposes and exercise the functions set out in the UN Charter. One of the purposes of the UN is the promotion of respect for human rights and fundamental freedoms. Therefore, human rights must be respected and promoted by all bodies, civilian and military, in a international military operations.

The various contingents contributed by United Nations member States are also bound by the international obligations of the State they depend on, as well as, by their national legislation, unless there are provisions to the contrary in the mandate of the international military operations. In addition, the domestic law of the host State, if it conforms to international standards remains applicable\textsuperscript{104}.

\textsuperscript{103} https://www.icrc.org/eng/resources/documents/misc/57jq7l.htm (03.03.2016).
In a international military operation, as in any other, the legal nature of the situation, in which the force is deployed determines the legal framework and rules to be respected. In this regard, the mandate rules of engagement (setting out applicable rules, in particular for the use of force) and status of force agreements (governing the legal status of foreign troops in relation to a host nation) are only indicative.

International military operations are by nature multinational. This raises the issue of legal interoperability. Indeed, the various troop-contributing countries may have different legal obligations in that they may not all have adhered to a certain legal instrument\(^{105}\). They may also have different interpretations of their legal obligations or have expressed reservations when adhering to a particular treaty or convention. Similarly, they may have different opinions on the validity of the guidance provided by so-called soft law instruments such as the CCLEO\(^{106}\) or the BPUFF\(^{107}\). *Code of Conduct for Law Enforcement Officials* (CCLEO) and *the Basic Principles for the Use of Force and Firearms by Law Enforcement Officials* (BPUFF) are examples of soft law instruments that are of particular relevance to law enforcement. Moreover, they may have expressed national exceptions to certain Rules of Engagement (ROE).

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Customary international law helps to settle the issue of the standards applicable to the entire force and to the various contingents, as it lays down rules that are common to all members of the force. These rules can be used as a minimum standard when drafting common rules of engagement or adopting targeting policies. However, customary rules cannot weaken the applicable treaty obligations of individual troop-contributing nations.

Although categories of situations such as armed conflict, situations other than armed conflict and international military operations can be presented in order of increasing or decreasing intensity, one particular category does not always follow or precede another. Moreover, some functions such as law enforcement and the use of force may occur in all kinds of situations.

Law enforcement operations are normally conducted in or associated with situations other than armed conflict. However, they may also occur in situations of armed conflict and in peace support operations.

Law enforcement encompasses the following basic responsibilities: maintaining public order and security, preventing and detecting crime, and providing assistance. To fulfill their mission, law enforcement officials exercise the following basic powers: arrest, detention, search and seizure and the use of force and firearms. The term “law enforcement officials” includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention. In countries where police powers are exercised

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by military authorities, whether uniformed or not, or by State security forces, the definition of law enforcement officials includes officers of such services. However, armed forces are usually neither trained nor equipped for such tasks. It should therefore be clear that whenever such responsibilities are entrusted to the armed forces, the quality of law enforcement and the maintenance of public order may suffer.

Situations of armed conflict generally have a highly disruptive effect on public life, public security and public order. Armed conflict also commonly results in large numbers of people deciding to temporarily leave their homes and seek refuge elsewhere, either within their own country or beyond its borders. Modern armed conflict is responsible for creating millions of internally displaced persons and refugees. It is important that law enforcement officials be familiar with the rights and needs of these groups, who are especially vulnerable and entitled to protection and assistance.

In non-international armed conflict, it is up to each nation to decide whether existing law enforcement agencies should continue to carry out their responsibilities, or whether these responsibilities should be shifted to the armed forces. In view of their training and equipment, and also in terms of appearances, it is questionable whether armed forces should be given the task of enforcing the law and maintaining law and order. Basic law enforcement responsibilities should arguably be left in the hands of regular law enforcement agencies for as long as possible.

at all times fulfill the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession. http://www.ohchr.org/EN/ProfessionalInterest/Pages/LawEnforcementOfficials.aspx (12.03.2016).
In international armed conflict, the Geneva Conventions of 1949 and Additional Protocol I of 1977 implicitly acknowledge the civilian status of law enforcement agencies. According to article 43.3 of Protocol I, parties to a conflict may incorporate a paramilitary or armed law enforcement agency into their forces provided that they inform the other parties to the conflict. In such a situation law enforcement officials would acquire combatant status and effectively be subject to the regime for persons with that status.

Under article 54 of the Fourth Geneva Convention, occupying powers may not alter the status of public officials or judges in occupied territories, or in any way apply sanctions to, or take any measures of coercion, or discrimination against them, they should abstain from fulfilling their functions for reasons of conscience. Finally, in the absence of civilian authorities peace support troops may be tasked with maintaining law and order.

Clearly, the use of force or firearms in law enforcement is an extreme measures. This follows directly from the right to life, being the fundamental human right. Of course, the situation in armed conflict is significantly different. The principles underpinning the use of force therefore deserve an explanation, especially since some principles, such as those of necessity and proportionality, are referred to in connection with both law enforcement and armed conflict in completely different senses.

The CCLEO and the BPUFF, although not treaties, offer guidance on the use of force and firearms. The CCLEO sets standards for law enforcement practices that are consistent with provisions on basic human rights and freedoms. The BPUFF sets forth principles formulated to assist Member States
of the Economic and Social Council in their task of ensuring and promoting the proper role of law enforcement official.

The essential principles underlying the use of force and firearms are:

- legality;
- necessity;
- proportionality.

Explain the essential principles for the use of force:

1) legality (use of force only to achieve a legitimate objective);
2) necessity (use of force only when all other means to achieve a legitimate objective have failed); and
3) proportionality (force in proportion to the seriousness of the offence and no more than necessary to achieve a legitimate objective – minimum force).

Law enforcement officials may resort to the use of force only when all other means of achieving a legitimate objective have failed and use force can be justified in terms of the importance of the legitimate objective to be achieved. Law enforcement officials are urged to exercise restraint when using force and firearms and to act in proportion to the seriousness of the offence and the legitimate objective to be achieved (Principles 4 and 5 of the BPUFF)\(^\text{109}\). They are allowed to use only as much force as is necessary to achieve a legitimate objective. The use of firearms for the achievement of legitimate law enforcement objectives is considered an extreme measure. Accordingly, the principles of necessity and propor-

tionality are further elaborated in Principles 9, 10 and 11 of the BPUFF.

Law enforcement officials shall not use firearms against persons, except:

- in self-defence or defence of others, against the imminent threat of death or serious injury;
- to prevent the perpetration of a particularly serious crime involving grave threat to life;
- to arrest, or to prevent the escape of, a person presenting such a danger and resisting their authority;
- and only when less extreme means are insufficient to achieve these objectives.

Intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life. Again, the use of a firearms is an extreme measures. This is further illustrated by the rules of behavior that law enforcement officials need to observe prior to using a firearm.

Principle 10 of the BPUFF states that, in the circumstances provided for under principle 9, law enforcement officials shall:

- identify themselves as such;
- give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless
  - to do so would unduly place the law enforcement officials at risk, or
  - would create a risk of death or serious harm to other persons, or
  - would be clearly inappropriate or pointless in the circumstances of the incident.

Principle 9 of the BPUFF.
The use of force and firearms in connection with assemblies and demonstrations deserves closer consideration. Several principles of particular importance for “policing” assemblies and demonstrations are set out in the BPUFF. In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, when that is not practicable, shall restrict such force to the minimum extent necessary. In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary, and only under the conditions stipulated in Principle 9.

Principle 14 does not present an additional circumstance authorizing the legal use of firearms and does not authorize indiscriminate firing into a violent crowd as a means of dispersing it. It reiterates that only the conditions mentioned in Principle 9, i.e. the imminent threat of death or serious injury, warrant the use of firearms. The additional risks posed by a violent assembly – large crowds, confusion and disorganization – make it questionable whether the use of firearms is at all practicable in such situations, in view of the potential consequences for persons who are present but not involved in any acts.

4) International Committee of the Red Cross in protection of the defenseless in war

The International Committee of the Red Cross (ICRC) is an impartial, neutral and independent organization, whose exclusively humanitarian mission is to protect the lives and

\[111\] Principle 13 of the BPUFF.
dignity of victims of war, internal violence and to provide
them with assistance\textsuperscript{112}.

The ICRC operates worldwide, helping people affected by
conflict and armed violence and promoting the laws that protect
victims of war. Its mandate stems essentially from the Geneva
Conventions of 1949. Organization has based in Geneva, Swit-
zerland and employ some 14,500 people in more than 80 coun-
tries. The ICRC is founded mainly by voluntary donations from
governments and from national Red Cross and Red Crescent
Societies. It directs and coordinates the international relief ac-
tivities conducted by the Movement in situations of conflict. It
also endeavors to prevent suffering by promoting and strength-
ening humanitarian law and universal humanitarian principles.
Established in 1863, the ICRC is a predecessor of the Interna-
tional Red Cross and Red Crescent Movement\textsuperscript{113}.

In international armed conflict, States party to the Ge-
neva Conventions of 1949 and their Additional Protocols of
1977 are bound to accept the humanitarian activities of the
International Committee of the Red Cross provided for in Arti-

cle 126 of the Third Geneva Convention and Article 143 of the
Fourth Geneva Convention.

The ICRC’s right of initiative is also acknowledged in arti-
cle 9/9/9/10 common to the four Geneva Conventions. In
addition, Article 81 of Protocol I Additional to the Geneva
Conventions stipulates that States party to a conflict must
grant the ICRC all facilities within their power so as to enable
it to carry out the humanitarian functions assigned to it by

\textsuperscript{112} F. de Mulinen, op. cit., p. 55.
\textsuperscript{113} http://www.pck.pl/news,1312.html (16.03.2016).
the Conventions and the protocol in order to ensure protection and assistance to the victims of conflicts.

In non-international armed conflict the ICRC also has a right of initiative recognized by the international community as well as enshrined in Article 3 common to the four Geneva Conventions. The ICRC may in particular offer its services to warring with a view to visiting persons deprived of their liberty in connection with an armed conflict so as to verify the conditions of their detention and to restore contacts between those persons and their families. Common article 3 specifies that this does “not affect the legal status of the Parties to the conflict”\(^{114}\).

In situations other than armed conflict the ICRC has a recognized right of initiative, set out, in particular, in the statutes of the International Red Cross and Red Crescent Movement, which allows it to offer its services without that proposition constituting interference in the internal affairs of the State concerned or conferring any particular status on any of the parties\(^ {115}\). To address the humanitarian consequences of the use of force in these situations, the ICRC will not refer to the whole and varied spectrum of international human rights law (IHRL). It applies to a core of fundamental rules protecting human beings in situations of violence. These constitute a small but central essential part of IHRL.

The International Committee of the Red Cross’s activities involve:

- monitoring compliance with that law;
- reuniting dispersed families;


Stanisław Topolewski, Paweł Żarkowski

- tracing missing persons;
- exchanging messages between separated family members;
- visiting prisoners of war and security detainees;
- contributing to the development of that law;
- providing safe water, food and medical assistance for those in need;

Its activities are funded entirely through voluntary contributions, mainly from States and National Societies. Its network of offices is regularly adjusted to keep step with developments in armed conflicts and other situations of violence around the world.

The ICRC performs its tasks in the whole range of situations where military and police forces may operate. It is therefore advisable for commanders to be acquainted with some of the key features of an organization with which they may well share their theatre of operations.

According to the Geneva Conventions, humanitarian work requires impartiality and should benefit people regardless of their race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. It follows that no one should be deprived of assistance or protection merely because of his beliefs, and no population should be abandoned just because they are under the control of a party that the international community is attempting to isolate. The only priority that can be set must be based on need, and the order in which availa-
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ble humanitarian aid is provided must correspond to the ur-
gency of the disasters it is intended to relieve.

Political and military leaders should be aware that the work of the ICRC involves not only assistance but also protection, and that the two are closely connected. Activities such as visiting prisoners to monitor their treatment and conditions of detention, and making representations to parties to a conflict on behalf of individuals or communities, that have been the victims of violations of the law of armed conflict, are also a part of humanitarian work. ICRC delegates need to be on the ground, close to people adversely affected by conflict, to meet those people’s needs and influence the behavior and attitudes of those responsible for the situation. To achieve this, they need to meet, negotiate or deal with the whole range of arms carriers from military personnel to police, from para-
militaries to rebels, from peace support operation forces to private contractors.

In any conflict, parties have a tendency to reject human-
itarian actors that they suspect of having ulterior political mo-
tives. Without dialogue, however, difficult it may be, it would be impossible for the ICRC to be sufficiently accepted to carry out its protection and assistance activities. Consequently, there is no one wielding power or influence over populations, that it would refuse to talk to.

By adopting this approach, the ICRC is not postulating a moral equivalence between parties to a conflict, or conferring any particular status on them\textsuperscript{117}. Neutrality is a means to an end, not an end in itself. It is a tool to keep open the channels

\textsuperscript{117} See: Article 3 common to the four Geneva Conventions.
needed for taking concrete actions. What the ICRC does not do, is take sides in a conflict.

The ICRC believes that there is much scope for constructive interaction and cooperation between humanitarian organizations and the military, and that the relationship between them can be enhanced by mutual consultation. Nevertheless, it continues to press for a clear distinction to be maintained in substance and in appearance between military and humanitarian operations. Consequently, the ICRC must maintain its independence of decision-making and action, while consulting closely with international military missions which are deployed in the same theatre of operations.

**Asistance for detainees**

Before beginning visits to places of detention, the ICRC first submits to the authorities a set of standard conditions. Delegates must be allowed to:

- see all detainees falling within the ICRC’s mandate and have access to all places where they are held;
- interview detainees of their choice without witnesses;
- draw up, during the visits, lists of detainees within the ICRC’s mandate or receive from the authorities such lists which the delegates may verify and, if necessary, complete;
- repeat visits to detainees of their choice as frequently as they may feel necessary;
- restore contacts between detainees and their family members;
- provide urgent material and medical assistance as required.

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Respect for the legal framework

Clearly, the law belongs to the State parties to the treaties, not to the ICRC. The same goes for the obligation to disseminate, teach and provide training in the law. Thanks to its long-term field presence and to the dialogue it maintains with authorities and arms carries throughout the world, the ICRC has developed considerable experience in supporting the efforts aimed at preventing violations.

Recognizing that the mere teaching of legal norms will not result, in itself, in a change in attitude of behavior, the ICRC approach has gradually shifted in the past two decades from dissemination of the law to its integration into the doctrine, training and operations of military and police force. Law is actually a set of general rules, sometimes too general to provide practical guidance in combat or law enforcement situations. It needs therefore to be interpreted, its operational meaning analyzed and its concrete consequences drawn at all levels. In short, the relevant law must be transformed into concrete measures, means or mechanisms at doctrine, education, training, equipment and sanctions levels to allow for compliance during operations.


120 I Raport o implementacji i upowszechnianiu Międzynarodowego Prawa Humanitarnego w Rzeczypospolitej Polskiej, Warszawa 2009, pp. 32–34.
Whenever a State is genuinely committed to fulfilling to promote compliance with the applicable law, and has the resource available to sustain its efforts over the long term, the ICRC is prepared to assume its supportive role as defined in the Protocols Additional to the Geneva Conventions or on the basis of its statutory right of initiative. To provide appropriate support to arms carries during the integration process, the ICRC has a specialized unit and a team for specialist delegates with previous military or police experience in the field.\(^\text{121}\)

They provide support for arms carries in terms of interpreting the law, deriving its operational meaning and deducting the concrete consequences to be drawn from it. Additional steps, for instance that of writing a new tactics manual, adopting new curricula, reviewing and modifying doctrine or buying new equipment, clearly remain under the responsibility of the authorities and arms carries.

The support provided by the ICRC has been particularly significant in the fulfillment of its humanitarian mission to protect the lives and dignity of victims of war and internal violence and to provide them with assistance.

Conclusion

The non-observance of an international humanitarian law provision has repercussions both at the national and internationally level. Infringement of international humanitarian law by the members of State’s armed forces entail the responsibility in international law of the concerned State. This means that State must answer to the injured State for the consequences of each and every case of unlawful conduct, by each and every member of its armed forces. The offensive State must restore the legal situation and possibly pay damages to the aggrieved State.

The injured party may also turn to the ICRC, requesting it, as part of its humanitarian work, to urge the adverse party to observe the rules of humanitarian law. It can likewise appeal to the United Nations and through it to the whole community of States. Lastly, it can appeal to the International Court of Justice in The Hague, but only if the accused State recognizes the Court’s competences. In conclusion, we should recall, that the obligations derived from international humanitarian law are not subject to the condition of reciprocity, but must be respected in all circumstances and unconditionally by each contracting party.

The Geneva Conventions and the Protocols may be denounced like any other international treaty. Denunciation would in no circumstances take effect until the end of the conflict. It is of course not possible to resolve customary law rules because such rules are not at the discretion of individual States.

The conditions should already be created in peacetime to ensure that in armed confrontations the obligations
of humanitarian law can be fulfilled. Military preparedness consequently presupposes the ability to pursue military operations while respecting the limitations set by international humanitarian law. It is extremely important to disseminate knowledge of humanitarian law authoritatively in time of peace, since this is the precondition for respect of its obligations in time of war.

During an armed conflict, the provisions of international humanitarian law must be entirely observed from onset of hostilities. It is not necessary for war to be declared, or a recognized state of war to occur, for this law to be applicable to the belligerents. Of course, humanitarian law does not suffer the fate of those treaties and agreements that lapse, either wholly or in part, when war breaks out, since it is expressly conceived for the special situation of armed conflict. This is true for the law applicable in international conflicts and that applicable in non-international conflicts. Nor can one of the parties repudiate its obligations by denouncing the humanitarian law conventions, since any denunciation would take effect only if the war was over.

Humanitarian law must stand the test of practical implementation, otherwise it is meaningless. The prospects of success are greater, if the rules to be applied take into account not only humanitarian objectives but also military requirements.
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Abbreviations

**ANSF** – Afghan National Security Forces


**BPUFF** – Basic Principles for the Use of Force and Firearms by Law Enforcement Officials

**CCLEO** – Code of Conduct for Law Enforcement Officials

**ECHR** – European Convention on Human Rights

**ECtHR** – European Court of Human Rights

**ESDP** – European Security and Defence Policy

**EU** – European Union


**G. CW** – Convention on prohibitions or restrictions on the use of certain conventional weapons which may be deemed to be excessively injurious or to have indiscriminate effects. Geneva, 10 October 1980, with:

**G. CW. P. I** – Protocol on non-detectable fragments (Protocol I).

**G. CW. P. II** – Protocol on prohibitions on the use of mines, booby traps and other devices (Protocol II).

**G. CW. P. III** – Protocol on prohibitions or restrictions on the use of incendiary weapons (Protocol III).
G. I – Convention for the amelioration of the condition of the wounded and sick in armed forces in the field. Geneva, 12 August 1949.

G. II – Convention for the amelioration of the condition of wounded, sick and shipwrecked members of armed forces at sea. Geneva, 12 August 1949.


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**Abbreviations**


**H. CP. R** – Regulation for the execution of the Convention for the protection of cultural property in the event of armed conflict.

**H. III** – Convention relative to the opening of hostilities. The Hague, 18 October 1907.

**H. IV** – Convention respecting the laws and customs of war on land. The Hague, 18 October 1907.

**H. IV. R** – Annex: Regulations respecting the laws and customs of war on land.

**H. IX** – Convention concerning bombardment by naval forces in time of war. The Hague, 18 October 1907.

**H. V** – Convention respecting the rights and duties of neutral Powers and Persons in case of war on land. The Hague, 18 October 1907.

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**H. XI** – Convention relative to certain restrictions with regard to the exercise of the right of cap-
ture in naval war. The Hague, 18 October 1907.

**H. XIII**
- Convention concerning the rights and duties of neutral Powers in naval war. The Hague, 18 October 1907.

**H. XIV**
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**ICCPR**
- International Covenant on Civil and Political Rights

**ICESCR**
- International Covenant on Economic, Social and Cultural Rights

**ICRC**
- International Committee of the Red Cross

**IHRL**
- International human rights law

**JPEL**
- Join Prioritized Effects List

**MEDEVAC**
- medical evacuation

**MND–CS**
- Multinational Division Central-South

**MONUCE**
- The United Nations Organization Stabilization Mission in the Democratic Republic of the Congo

**NATO**
- North Atlantic Treaty Organization

**NGO**
- non-governmental organization

**NSG**
- Nordic Security Group

**OMLT**
- Operational Mentoring and Liaison Teams

**PLO**
- Palestine Liberation Organization

**POLLOG**
- Polish Logistics Battalion

**POLUKRBAT**
- Polish-Ukrainian Peace Force Battalion

**POMLT**
- Police Operational Mentoring and Liaison Teams

**PRT**
- Provincial Reconstruction Team
ROE – Rule of Engagement
RRG – Rapid Response Groups
SOP – Standing Operating Procedure
St. Petersburg – Declaration renouncing the use, in time of war, of explosive projectiles under 400 grams weight. St. Petersburg, 29 November – 11 December 1868.
UDHR – Universal Declaration of Human Rights
UN – United Nations
UNDOF – United Nations Disengagement Observer Force
UNESCO – United Nations Educational, Scientific and Cultural Organization
UNIFIL – United Nations Interim Force in Lebanon
UNSCOM – United Nations Special Commission
VBIED – vehicle-borne improvised explosive device
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