

зразковим прикладом впровадження ефективних та професійних командних і штабних процедур НАТО.

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ASSESSING AN INTERNATIONAL ARMED CONFLICT THROUGH INTERNATIONAL HUMANITARIAN LAW

In order to achieve the target, the force structures and rules of engagement of an international police force, military, security and other forces must be integrated with measures aimed at establishing a broader rule of law. All kinds of International force structures can succeed only if they occur under a well understood legal framework, including an appropriate mandate, supporting rules of engagement, and shielded by privileges and immunities. The war in Ukraine induces us to study the experience of legal framework of other countries, involved in armed conflicts.

International law recognizes two kinds of armed conflicts: “international armed conflict” and “non-international armed conflict.” Each has its own rules, although many of the basic provisions are common to both. It is not yet settled which regime applies to cross-border military confrontations between a sovereign State and a non-State terrorist armed group operating from a separate territory.

For example, the applicable legal framework for assessing the recent operations in Gaza is the “Law of Armed Conflict,” also known as “International Humanitarian Law.” According to the decision of the International Criminal Tribunal for the former Yugoslavia (“ICTY”) in the Tadić case, “an armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organised armed groups or between such groups within a State.” The conflict between Israel and Hamas in Gaza meets this definition.

Nowadays, there is a significant variety of factors that cause modern ethno-political conflicts but they have in common the desire of separatist groups to solve their problems through a violent change of internationally recognized state borders. The issue of national self-determination related to secession and the formation of a new independent state should be considered by the international community and resolved in compliance with generally recognized principles of international law and the foundations of democracy.

International humanitarian law is a system of international legal principles and norms governing relations between states (parties) during armed conflicts to protect victims of war, limiting the use by combatants of methods and means of warfare and establishing responsibility for their violation. International humanitarian law should be distinguished from international security law, which is aimed at solving

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problems related to ensuring the peace and security of states, limiting the arms race and providing disarmament (i.e. eliminating the material means of warfare), preventing probable and stopping existing armed conflicts.

The universal and fundamental principles of international humanitarian law focus on the need to humanize armed conflicts, protect victims of war, limit combatants in the choice of methods and means of warfare, protect civilian objects and natural environment during armed conflicts, ensure the interests of neutral states, and responsibility of states and individuals for serious violations of international humanitarian law.

Of particular relevance today is the need to disseminate knowledge about international humanitarian law in law enforcement agencies and among the civilian population, and, what is most important, among law students who should be encouraged to take part in educational and research and work related to the target issue at law universities.

It is particularly significant as unified principles of international law concerning the target issues have not been formulated since when international humanitarian law came into the international area as a universally recognized phenomenon. The international community has not developed a generally accepted source in which these principles would be codified. Legal scholars do not agree on this matter as well.

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ПОНЯТТЯ ТА ОСОБЛИВОСТІ ВІЙСЬКОВОГО ПРАВА ЯК ГАЛУЗІ ПРАВА

Військове право, як комплексна та інтегрована галузь права являє собою сукупність правових норм, що спрямовані на регулювання суспільних відносин у сфері забезпечення національної безпеки та оборони, як пріоритетного напрямку діяльності держави та справи