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Miscellanea Iuris Gentium is a journal devoted to the problems of theory and practical application of Public International Law. We would also like to present some materials concerning the history of teaching of Public International Law at the Polish and foreign universities.

Scholars, practitioners and doctoral students are warmly encouraged to present their views in our journal.

The authors are kindly asked to send their papers in English or in French (printed and in electronic Word Program version) to the Secretary of the Chair of Public International Law, Jagiellonian University, 31-007 Cracow, Gołębia 9, Poland. The length of the paper should not exceed 30 pages of MIG format. The authors are asked to submit their data, including their current affiliations.

The materials sent will not be returned to the authors. The author will be notified of the acceptance, rejection or need of revision of the paper. The Chair of Public International Law will not provide any gratification to the authors, each author, however, will receive 10 pieces of the MIG Yearbook including her or his printed article.

From the Editor

We would like to present our readers with the tenth/eleventh joint edition of *Miscellanea Iuris Gentium*. Andrzej Zdebski's idea of publishing a series of academic papers, only two of which have appeared in print up until the year 2000 (in 1990 and 1991), was put into practice in the Jagiellonian University Chair of Public International Law, headed by Professor Stanisław Nahlik (†1991) and subsequently by Professor Gwidon Rysiak (†1996). The eighth/ninth joint edition was published in 2006. In this way, the current issue of *Miscellanea* is a continuation of the series started 18 years ago.

Authors with a recognized international academic standing have published their articles in *Miscellanea*. Among them, we find names such as: Manfred Lachs, Stanisław E. Nahlik, Jean Claude Gautron, Ulrich Beyerlin, Jerzy Makarczyk, as well as their colleagues. In the meantime, many of the junior authors have obtained professorships. We would like to continue this good tradition.

Apart from papers devoted to the theory and practice of international public law, we intend to publish materials relating to the history of teaching public international law. As a continuation of this intention, we would like to present a short biography of Professor Stanisław E. Nahlik, one of the most outstanding Polish scholars specialized in the law of nations and a renowned diplomat.

K.L.

**INTERNATIONAL HUMANITARIAN LAW
COURSE
FOR MILITARY PERSONNEL
OF THE 2ND MECHANIZED CORPS IN KRAKÓW**

Report prepared by

Piotr Łubiński and Marcin Marcinko*

The great majority of contemporary wars is characterized by one common feature which is asymmetry being understood as war between two enemies whose relative military power differs significantly. The so-called asymmetric armed conflicts involve armies equipped with modern weapons and superior military technology on one side and terrorists or guerillas on the other side. What deserves attention is the fact that the above-mentioned traditional front does not really exist in the types of conflicts referred to above and therefore skirmishes are rather seldom as well as regular battles, the tactics, in turn, is based on ambushes, acts of sabotage and terrorist acts. It is essential to mention that such asymmetric warfare is often supported by various non-state actors for whom resignation from the use of violence would mean more harm than

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profit which is why they are not interested in peace making. Due to the foregoing, it is the civilians who suffer most as they become the main victims of war violence.

In view of the above, the international community endeavours to take measures to relieve the civilians in their suffering and ensure the quick armistice. Such measures include peace-keeping operations or peace-enforcement activities. In such operations contingents of the armies of the states most concerned with restoring peace usually take part. The problem is that soldiers participating in the above-mentioned operations may become targets themselves and be attacked by the conflicted parties; it may also be necessary for them to use firearms in order to escort the humanitarian aid convoys. In view of the above, it is incumbent upon these soldiers to be familiar with rules and standards of the international humanitarian law (IHL) governing the use of means and methods of warfare and ensuring the protection of people who do not participate in fighting at all (e.g. civilians) or ceased to participate (e.g. wounded soldiers, prisoners of war). Unfortunately, it must be taken into consideration that the other party involved in the asymmetric warfare, i.e. guerillas or terrorists will not be familiar with the humanitarian law or, which is even worse, their military actions will intentionally violate its rules and standards. It must be remembered, though, that such behaviour does not release the soldiers who participate in peace-keeping operations from the duty to abide by the IHL; this duty results both from the international obligations as well as internal laws of the states involved in such operations. In addition to the above, infringing the humanitarian law the soldiers participating in the mentioned operations make themselves liable to criminal prosecution by domestic courts or by international tribunals in case they commit war crimes.

In order to disseminate the idea of international humanitarian law among the Polish soldiers who will take part in military operations beyond

the state boundaries under the auspices of United Nations or NATO, the Chair of Public International Law of the Jagiellonian University, together with the Małopolski District Board of the Polish Red Cross in Kraków, has organized the combined theory and practice IHL training course. The training took place in the headquarters of the 2nd Mechanized Corps in Kraków, at 29 Rakowicka Str., (theory part consisted of two meetings, 6hrs long each, dated October 26 and November 8, 2006) and in the Pasternik Garrison Training Centre based in Rzańska (practical part on December 14, 2006). The course was supervised by Prof. Kazimierz Lankosz, Head of the Chair of Public International Law, and Małopolski Committee for International Humanitarian Law with Prof. Andrzej Pankowicz in the capacity of its Chairman. Persons responsible for preparing the contents of the course as well as its organization were: Marcin Marcinko, Ph.D., teaching and research assistant of the Chair of Public International Law, Piotr Lubiński, LL.M., candidate for doctor's degree (Chair as above) and member of the Małopolski District Board of the Polish Red Cross -- Ms Magdalena Sobesto-Wiejak. On the side of the 2nd Mechanized Corps the entire training was supervised by Lieutenant-Colonel Piotr Jarosz; the organizational and technical aspects were the responsibility of Captain Dariusz Kojło, Lieutenant Wojciech Ciborowski and Lieutenant Paweł Rokicki. The training was attended by civil workers as well as soldiers (officer's cadre, regular soldiers) from the Command of the 2nd Mechanized Corps and 6th Air Assault Brigade (26 persons in total).

The main aim of the training was not only to provide knowledge related to humanitarian law but also to compare the actual degree of competence of the said law among the soldiers expected to take part in peace-keeping operations with the knowledge of standards of humanitarian law as required by international obligations of the Republic of Poland. The detailed objectives of the course included the introduction of theoretical assumptions of IHL, specific aspects of this law in the

asymmetric warfare with particular emphasis on difficulty of opponent's identification and the use by the belligerents/guerrillas/terrorists the civilian settlements in this type of conflict. The course also aimed at demonstrating how to abide by the standards of IHL with the concurrent ensuring the security of soldiers who take part in the military operation and verification of the manner of carrying out IHL trainings in respect of practical measures. Similarly, it served as the subject of analysis in order to elaborate a greater selection of educational scenario offers for practical exercises.

The theory part, in the form of lectures, conversation classes and presentation of films, covered the issues being familiar with which may prove of utmost importance for soldiers in the course of military service beyond the state boundaries. Aside from the presentation of basic principles of IHL applied in armed conflicts and the introduction to international law, the provisions of four Geneva Conventions of 1949 have been discussed in detail concerning the protection of war casualties, including the treatment of the wounded, sick and shipwrecked members of armed forces in the light of First and Second Geneva Convention, the amelioration of condition of the prisoners of war in the light of the Third Geneva Convention and the treatment of civilians and the civil property in the time of war in the light of the Fourth Geneva Convention. Furthermore, a detailed analysis of means and methods of warfare has been carried out in the light of IHL, including, in particular, those means and methods which are deployed in contemporary armed conflicts (such as the use of anti-personnel mines, anti-tank mines, booby traps, incendiary weapons, improved conventional munitions, use of ruses of war and forbidden acts of perfidy, activities by mercenaries and the so-called private military contractors as well as guerrilla groups tactics). Due to topicality of the problem and its close relevance to the asymmetric conflicts, the contemporary international terrorism, its symptoms and

affiliations occurring in armed conflicts, including the issue of the so-called "unlawful combatants" has been analysed separately. The great number, variety and specific character of internal conflicts necessitated including the discussion about the so-called non-international armed conflicts in a separate lecture. The last section of the theory part was devoted to the analysis of the nature of contemporary warfare in the light of principles and rules of IHL, based on the examples of armed conflicts in the former Yugoslavia, Rwanda, Iraq and Afghanistan.

During the practical part the course participants had to demonstrate the acquired knowledge in the scope of IHL by means of evaluating the actions undertaken by the on foot patrol (impersonated by the soldiers of the 6th Air Assault Brigade) and fighters from the "MC Osama" militant organization (impersonated by the soldiers of the 5th Command Regiment of the 2nd Mechanized Corps). For the above purpose two scenarios of the urban area patrolling have been prepared the first option focused on attacking by the militants the patrol squad, the second one consisted in laying an ambush on the area of the protected object. The course participants were asked to observe the events and enumerate on the special form correct and incorrect conduct by both soldiers and militants in the light of IHL. Many guests have been invited to watch the activities, including Mr. Michał Sajkowski from the IHL Dissemination Centre of the Polish Red Cross Central Board and cadets from Kraków and Jaworzno.

The examples of actions consistent with the humanitarian law which appeared in the scenarios were, among others, endeavours by the patrol soldiers to rescue hostages and provide them with first aid after their release (withdrawing militants seized the school building and a few pupils were taken hostage, afterwards used as "human shields"), giving aid to a wounded militant, abiding by the ban on giving pardon, showing respect for the life of wounded militants placed in a hospital and escape

in plain clothes. Among the conduct which violated IHL the following are worth mentioning: the use of civil objects for warfare purposes (mosque, school, day nursery, hospital), acts of perfidy (booby trap mine planted under the corpse of a militant), taking hostages (seizure of school and taking pupils hostage), attack performed from the protected object (mosque) and mining an entrance to the building and setting a high prize for catching the militants' leader (who managed to escape in plain clothes). The course administrators were glad to find that the participants were able to correctly indicate all actions in pursuance of IHL as well as those violating the law and, above all, were able to substantiate their decisions during a brief summary which ended the practical part. The administrators are, therefore, convinced of the course objectives having been achieved, while the activity and commitment on the side of the 2nd Mechanized Corps to prepare and carry out the whole undertaking seem to testify to great interest in IHL among the military personnel and the need to organize other courses which would ensure not only theory but also expertise to be applied while field exercises.

Undoubtedly, one of the factors which greatly influences the brutality of contemporary wars is ignorance of or insufficient knowledge of principles and rules of the international humanitarian law among those who are engaged in warfare. This very fact accounts for essential difficulties in application of the law. Furthermore, the nature of contemporary armed conflicts does not make the matter easier – examples of wars in Iraq or Afghanistan prove how difficult it often is to distinguish fighters from the civilians, whereas the lack of rigour and loose organizational structure of various non-state actors involved in a conflict considerably limits the possibilities of promoting and enforcing the observance of the humanitarian law. It must be remembered, however, that the humanitarian law should be applied towards the fighting parties regardless the reasons and the nature of the armed conflict and no matter how legitimate the

reason is in the name of which the opponents fight. The entities engaged in warfare are also under obligation to observe the IHL, even if one party to the conflict does not seem to follow the rules. Thus, it is necessary to make every effort in order to promote, implement and enforce the international humanitarian law. On the other hand, we must realize that the knowledge of IHL principles and rules itself can not guarantee the end of wars; application of IHL, however, may considerably alleviate the aftermath of armed conflicts, solve a number of related problems and win confidence and support of the civilians touched by the conflict, which, no doubt, is a vital step forward to restore peace and stabilization.

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