Legal Parameters for the Use of Force within the Context of Peace Operations

Gill, T.D.

Publication date
2015

Document Version
Final published version

Published in
The handbook of the international law of military operations. - 2nd edition

License
Article 25fa Dutch Copyright Act

Citation for published version (APA):
http://opil.ouplaw.com/view/10.1093/law/9780198744627.001.0001/law-9780198744627
(p. 169) **6.3 Legal Parameters for the Use of Force within the Context of Peace Operations**

6.08 The conduct of peace operations with the consent of the Receiving State excludes any use of force other than in self-defence. According to UN doctrine, this includes any force which is authorized and necessary for mission accomplishment and the protection of civilians (see Chapter 22). In cases of such authorization, self-defence may extend beyond mere reaction to direct threat of force against the peacekeeping forces and can include reactions in response to armed threats against the integrity of the mission and the protection of civilians accompanying the mission and of the civilian population of the Receiving State within the capability of the mission.

1. The UN doctrine of self-defence has evolved over the years from a strictly personal level of self-defence in response to acts directed against individual peacekeepers into a significantly broader concept of self-defence which allows for the use of force in response to armed actions directed against UN personnel, equipment, installations, and to the extent possible within the capabilities of the mission in the protection of civilians and the execution of the mandate. This concept of self-defence has its legal basis in the UN's powers in the realm of maintaining international peace and security and in the terms of the mandate.

34 There may be diverging views on the practical consequences of that respect. Respect, for the aims and purposes of the law of the Receiving State, does not necessarily include its procedural requirements. See R. Batstone in Fleck (ed.), Handbook of the Law of Visiting Forces, 61–7.
1 See Findlay, The Use of Force, 87 et seq., especially at 89–93. See also Section 24.05 and supporting commentary.
1 Standard Generic Rules of Engagement, United Nations, Department of Peacekeeping Operations, Military Division, May 2002, on file with authors.
2 Ibid. 5.
4 Ibid. 3. The anti-United Nations propaganda and incitement to violence, especially on the Radio Télévision Ivorienne (RTI) and local radio networks, resulted in the extensive looting and destruction of assets and property of United Nations and humanitarian agencies in the western towns of Daloa and San-Pédro, and most seriously in Guiglo.
5 As a result of the violent demonstrations organized by the Young Patriots, the security situation in Côte d’Ivoire deteriorated sharply at the beginning of the year. There were serious obstructions to the freedom of movement of the impartial forces, interruption of socio-economic activities and rampant insecurity in Abidjan, as well as in various parts of Government-controlled areas. Humanitarian activities came to a standstill as a result of the destruction by protesters of the offices of the United Nations and those of other humanitarian agencies, their relief supplies, warehouses, communications, and other equipment. UN Doc. S/2006/222 dated 11 April 2006, para. 18, at 4.
7 SC Res. 1542 (2005) of 30 April 2005 (MINUSTAH, Haiti): to protect civilians under imminent threat of physical violence, within its capabilities and areas of deployment.
8 SC Res. 1565 (2004) of 1 October 2004 (MONUC, Democratic Republic of Congo): to ensure the protection of civilians, including humanitarian personnel, under imminent threat of physical violence.
9 UNAMID, Darfur, SC Res. 1769, 2007: to contribute to the protection of civilian populations under imminent threat of physical violence and prevent attacks against civilians, within its capability and areas of deployment, without prejudice to the responsibility of the Government of the Sudan.
10 Victoria Holt and Glyn Taylor, Independent study commissioned jointly by the UN Office for the Coordination of Humanitarian Affairs (OCHA) and the UN Department of Peacekeeping Operations (DPKO), 17 November 2009.
11 Excerpt from ‘Experiences from UN Military Peace Enforcement Operations in the DRC April 2003-January 2005’, Brigadier General Jan Isberg, Former Deputy Force Commander and Brigade Commander MONUC, on file with authors.
15 See Standard Generic Rules of Engagement, United Nations, Department of Peacekeeping