

Forum: **LEGAL COMMITTEE (Advanced)**

Issue: Effects of armed conflicts on treaties.

Position: Chair

Introduction

The question of the effect of an armed conflict on treaties was and is one of the most disputed subjects in public international law.

The provisions on “The Effects of Armed Conflicts on Treaties” consist of a set of 18 articles, an annex and commentaries. They are divided into three parts: Part I, entitled “Scope and definitions” (articles 1 and 2); Part II on “Principles” (articles 3 to 13); and Part III, entitled “Miscellaneous” (articles 14 to 18). The annex contains a list of categories of treaties the subject-matters of which suggest that they will continue to operate, in whole or in part, in the event of armed conflict.

Definitions

Armed conflict

International humanitarian law distinguishes two types of armed conflicts, namely:

- international armed conflicts, opposing two or more States, and
- non-international armed conflicts, between governmental forces and non-governmental armed groups, or between such groups only. IHL treaty law also establishes a distinction between non-international armed conflicts in the meaning of common Article 3 of the Geneva Conventions of 1949 and non-international armed conflicts falling within the definition provided in Art. 1 of Additional Protocol II.

Legally speaking, no other type of armed conflict exists. It is nevertheless important to underline that a situation can evolve from one type of armed conflict to another, depending on the facts prevailing at a certain moment.

Treaty

A treaty is a formal written agreement entered into by actors in international law, namely sovereign states and international organizations. A treaty may also be known as an international agreement, protocol, covenant, convention, pact, or exchange of letters, among other terms. Regardless of terminology, only instruments that are binding upon the parties are considered treaties subject to international law.

International law

International law, also known as public international law and law of nations, is the set of rules, norms, and standards generally accepted in relations between nations.

Sovereign states

A sovereign state, in international law, is a political entity that is represented by one centralized government that has sovereignty over a geographic area. International law defines sovereign states as having a permanent population, defined territory, one government, and the capacity to enter into relations with other sovereign states. It is also normally understood that a sovereign state is neither dependent on nor subjected to any other power or state.

Background information

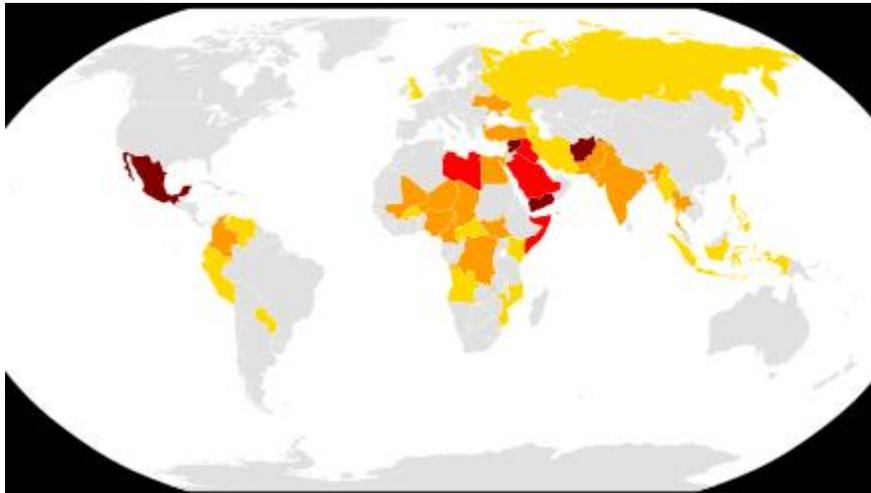
The General Assembly, in resolution 55/152 of 12 December 2000, took note of the Commission's report concerning its long-term programme of work. In resolution 56/82 of 12 December 2001, the Assembly requested the Commission to further consider the topic, having due regard to comments made by Governments.

The General Assembly, in resolution [59/41](#) of 2 December 2004, endorsed the Commission's decision to include the topic in its programme of work.

The General Assembly, in its resolution [62/66](#) of 6 December 2007, reiterated its invitation to Governments to provide information to the Commission regarding State practice, in particular more contemporary practice on the topic "Effects of armed conflicts on treaties"

The work of the Commission on the topic as described above has been proceeding in accordance with the successive resolutions adopted by the General Assembly under the item relating to the report of the International Law Commission.

Nations threatened and affected



Previous efforts

At the 27th meeting, on 5 November 2014, the representative of the Czech Republic, on behalf of the Bureau, introduced a draft resolution entitled “Effects of armed conflicts on treaties” ([A/C.6/69/L.9](#)).

At the 28th meeting, on 7 November 2014, the Committee adopted draft resolution A/C.6/69/L.9 without a vote.

Under this draft resolution, the General Assembly would once again commend the articles on the effects of armed conflicts on treaties to the attention of Governments without prejudice to the question of their future adoption or other appropriate action. It would also request the Secretary-General to invite Governments to submit written comments on any future action regarding the articles. Finally, the General Assembly would decide to include in the provisional agenda of its [seventy-second](#) session an item entitled “Effects of armed conflicts on treaties” with a view to examining, inter alia, the question of the form that might be given to the articles.

Useful links

http://www.idi-iil.org/app/uploads/2017/06/1985_hel_03_en.pdf

<https://www.icrc.org/en/doc/assets/files/other/opinion-paper-armed-conflict.pdf>

https://en.wikipedia.org/wiki/International_law

<https://en.wikipedia.org/wiki/Nation>

https://en.wikipedia.org/wiki/Centralized_government

<http://legal.un.org/docs/?symbol=A/RES/55/152>

<http://legal.un.org/docs/?symbol=A/RES/62/66>

<https://books.google.com/books?id=bslpAAAAYAAJ&pg=PA183&lpg=PA183&dq=the+work+of+the+commission+on+the+topic+as+described+above+has+been+proceeding+in&source=bl&ots=xYbMzm96bY&sig=ACfU3U0VYxloXhRhHya1UL64ELGgTzVmsg>

<https://undocs.org/en/A/C.6/69/L.9>

<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=2ahUKEwixnNKrg53nAhWmzoUKHbzTBgMQFjACegQIBhAB&url=http%3A%2F%2Fwww.aalco.int%2F63rd%2520UNGA%25202008%2F01%2520ILC%2520PDF%2F05%2520Effect%2520of%2520Treaties%2520on%2520Armed%2520Conflicts.pdf&usq=AOvVaw044eePvDHYbPNgbOvrISVC> with this link either look for it in the

downloads because it is rather useful

