Excerpt from UN (Department of Public Information) Summary of 16th Meeting of Fourth Committee at Sixty Eighth General Assembly, 29 October, 2013

Case prepared by Ms. Margherita D'Ascanio, LL.M., student at the Geneva Academy of International Humanitarian Law and Human Rights, under the supervision of Professor Marco Sassòli and Ms. Yvette Issar, research assistant, both at the University of Geneva.

N.B. As per the disclaimer, neither the ICRC nor the authors can be identified with the opinions expressed in the Cases and Documents. Some cases even come to solutions that clearly violate IHL. They are nevertheless worthy of discussion, if only to raise a challenge to display more humanity in armed conflicts. **Similarly, in some of the texts used in the case studies, the facts may not always be proven;** nevertheless, they have been selected because they highlight interesting IHL issues and are thus published for didactic purposes.

[**Source**: GA/SPD/541, UN Department of Public Information, News and Media Division, New York, 'For Peacekeeping Operations Deploying into Volatile Situations, Proper Training, Equipment, Political Neutrality Underpin Success, Fourth Committee Told', Sixteenth Meeting (AM) of Fourth Committee, at Sixty-eighth General Assembly, 29 October 2013, available at: http://www.un.org/News/Press/docs/2013/gaspd541.doc.htm]

[1] IHAB HAMED (Syria) […] said that peacekeeping operations were meant to be transitional, yet as a result of Israel's continued occupation of territories and attacks in the Middle East, there had been three long-term operations in the region. Israel's "active aggression" in targeting peaceful activities in the region, as well as its support of terrorist activities, challenged the peacekeeping operations and played a role in the uninterrupted conflict. Syria called on the United Nations to prevent Israel from enabling terrorists by restoring their health at its hospitals, thereby allowing them to re-engage in active aggression towards peacekeeping personnel in surrounding States. Israeli support to terrorist organizations gave way to a number of actions by the terrorists, including invading the bases of peacekeeping personnel and stealing equipment bearing the United Nations logo. Those terrorist actions challenged the work of the peacekeepers and prevented them from returning home.

Discussion

1. How do you determine which actions result in a State becoming a party to a pre-existing conflict? Are the alleged actions of Israel sufficient in this regard? Would the supply of weapons by a particular state to a rebel group be sufficient to “internationalize” the conflict? (See, ICTY, The Prosecutor v. Tadic)
2. From the facts of the case, how would you classify the conflict in Syria? How does the fact that Israel has, on a few occasions, conducted operations in order to attack the Syrian government affect your response? Is it possible to a have an IAC and a NIAC occurring simultaneously on the territory of a State? If yes, would this be the case for Syria?
3. Does Israel’s treatment of wounded and sick rebels at its hospitals contribute to the military potential of Syrian rebels? Is Israel’s alleged behaviour lawful? Do your answers change if the rebels commit war crimes and crimes against humanity? What do you think of Syria’s request that the UN prevent Israel from treating injured rebels?
4. Does Israel have an obligation to treat the wounded and sick Syrian rebels? If it is party to the conflict? If it is not party? In both cases, what is the legal basis for your answer?