

LEUVEN MANUAL ON THE INTERNATIONAL LAW APPLICABLE TO PEACE OPERATIONS

The Leuven Manual is the authoritative, comprehensive overview of the rules that are to be followed in Peace Operations conducted by the United Nations, the European Union, NATO, the African Union and other organisations, with detailed commentary on best practice in relation to those rules. Topics covered include human rights, humanitarian law, gender aspects, the use of force and detention by peacekeepers, the protection of civilians, and the relevance of the laws of the Host State. The international group of expert authors includes leading academics, together with military officers and policy officials with practical experience in contemporary peace operations, supported by input from experts in an individual capacity working for the UN, the African Union, NATO and the International Committee of the Red Cross. This volume is intended to be of assistance to States and international organisations involved in the planning and conduct of Peace Operations, as well as to practitioners and academics.

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LEUVEN MANUAL ON THE
INTERNATIONAL LAW
APPLICABLE TO PEACE
OPERATIONS

*Prepared by an international Group of Experts
at the invitation of the International Society
for Military Law and the Law of War*

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Foreword

In 2011 the Managing Board and Board of Directors of the International Society for Military Law and the Law of War took the decision to ask a Group of Experts to draft a Manual on the International Law Applicable to Peace Operations. Over the years the project generated academic activities across the globe: we discussed the international law applicable to Peace Operations notably at our events in Cameroon, Canada, China, the Czech Republic, Germany, Italy and Peru.

Two of the most intensive and productive project meetings took place in the medieval Belgian city of Leuven. In its long history the city of Leuven has several times been under siege and occupation. Nevertheless, the city has proudly fostered its reputation as a safe haven and driver for knowledge, especially since 1425 with the foundation of the oldest university in the Low Countries, and despite the horrific destruction of its renowned academic library during World War I.

This history and the current status of Leuven as a peaceful and prosperous venue with a thirst for knowledge inspired the International Society for Military Law and the Law of War to name the Manual the ‘Leuven Manual on the International Law Applicable to Peace Operations’, to connect the city’s name to a Manual which intends to facilitate the lifesaving work of policy makers, peacekeepers and those involved in the training and education of such men and women in support of sustainable peace. May the reference to Leuven give hope to the Peace Operations community that war-torn cities and conflict zones can indeed revive their former glory thanks to peaceful human efforts!

We congratulate the Project Management Team, the Senior Academic Advisors and the Group of Experts on the results of their hard work during the past years, and we thank the project’s Observers for their

commitment and active and invaluable participation throughout the process. On behalf of the editors, we would finally like to express our sincere thanks to Cambridge University Press, in particular to Finola O’Sullivan, for helping to make the publication of the Leuven Manual possible.

Brigadier General (ret.) Jan Peter Spijk and Ludwig Van Der Veken
*President and Secretary-General of the International Society
for Military Law and the Law of War*

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Abbreviations

ACIRC	African Capacity for Immediate Response to Crises
ACO	Allied Command Operations
ACT	Allied Command Transformation
ADCON	administrative control
AMIB	African Mission in Burundi
AMISOM	African Union Mission in Somalia
AMU	Arab Maghreb Union
AOO	area of operations
APF	African Peace Facility
APSA	African Peace and Security Architecture
ARIO	Articles on the Responsibility of International Organizations
ARSIWA	Articles on Responsibility of States for Internationally Wrongful Acts
ASF	African Standby Force
AU	African Union
C ₂	command and control
CAAC	children and armed conflict
CCs	Component Commanders
CDT	Conduct and Discipline Teams
CDU	Conduct and Discipline Unit
CEN-SAD	Community of Sahel-Saharan States
CFSP	Common Foreign and Security Policy
CivOpCdr	Civilian Operation Commander
CJEU	Court of Justice of the EU
CMC	Cluster Munitions Convention
CMPD	Crisis Management and Planning Directorate
CMTF	Conflict Management Task Force
COMESA	Common Market for Eastern and Southern Africa
CONOPs	Concept of Operations
CONTCO	Contingent Commander

CPPC	Civilian Planning and Conduct Capability
CRC	Convention on the Rights of the Child
CSDP	Common Security and Defence Policy
DDR	disarmament, demobilisation and reintegration
DDRR	disarmament, demobilisation, reintegration and repatriation
DFS	Department of Field Support
DPA	Department of Political Affairs (UN)
DPKO	Department of Peacekeeping Operations
DSACEUR	Deputy Supreme Allied Commander Europe
EAC	East African Community
EASF	East African Standby Force
ECCAS	Economic Community of Central African States
ECommHR	European Commission of Human Rights
ECOWAS	Economic Community of West African States
ECtHR	European Court of Human Rights
EDF	European Development Fund
EEAS	European External Action Service
ESDP	European Security and Defence Policy
EU	European Union
EUMS	EU Military Staff
FC	Force Commander
HOM	Head of Mission
HOMC	Head of Military Component
HQ	headquarters
IA	Implementing Arrangement
IAC	international armed conflict
IACionHR	Inter-American Commission on Human Rights
IACtHR	Inter-American Court of Human Rights
IAP	Policy on Integrated Assessment and Planning
ICC	International Criminal Court
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
IDP	internally displaced person
IFOR	Implementation Force
IGAD	Intergovernmental Authority on Development
IHL	international humanitarian law
IHRL	international human rights law
ILC	International Law Commission
INTERFET	International Force for East Timor

LIST OF ABBREVIATIONS

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ISAF	International Security Assistance Force
ISOP	Interim Standard Operating Procedures
ITLOS	International Tribunal for the Law of the Sea
JFC	Joint Force Command
KFOR	Kosovo Force
MC	Military Committee (NATO)
MFO	Multinational Force and Observers
MINUSCA	UN Multidimensional Integrated Stabilization Mission in the Central African Republic
MINUSMA	UN Multidimensional Integrated Stabilization Mission in Mali
MONUSCO	UN Stabilization Mission in the Democratic Republic of the Congo
MOU	Memorandum of Understanding
MPCC	Military Planning and Conduct Capability
MPLAN	Mission Plan
NA ₅ CRO	Non-Article 5 Crisis Response Operation
NAC	North Atlantic Council
NARC	North African Regional Capability
NATO	North Atlantic Treaty Organization
NCMP	NATO Crisis Management Process
NIAC	non-international armed conflict
NNTCCs	non-NATO Troop Contributing Countries
OAS	Organization of American States
OUA	Organisation of African Unity
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
OIOS	Office of Internal Oversight Services
OLA	Office of Legal Affairs
ONUC	UN Operation in the Congo
OpCdr	Operation Commander
OPCOM	operational command
OPCON	operational control
OPLAN	Operational Plan
OSCE	Organization for Security and Co-operation in Europe
PCA	Permanent Court of Arbitration
PCC	Police Contributing Country
PCIJ	Permanent Court of International Justice
PCRS	United Nations Peacekeeping Capability Readiness System
PFP	Partnership for Peace
POC	protection of civilians
PSC AU	Peace and Security Council of the AU

PSC EU	Political and Security Committee of the EU
PSD	Peace and Security Department (AU Commission)
PSOD	Peace Support Operations Division (PSD)
R2P	Responsibility to Protect
REC	Regional Economic Community
ROE	Rules of Engagement
SACEUR	Supreme Allied Commander Europe
SACT	Supreme Allied Commander Transformation
SADC	Southern African Development Community
SCSL	Special Court for Sierra Leone
SEA	sexual exploitation and abuse
SFOR	Stabilisation Force
SHAPE	Supreme Headquarters Allied Powers Europe
SOFA	Status of Forces Agreement
SOMA	Status of Mission Agreement
SRSG	Special Representative of the UN Secretary-General
TA	Technical Arrangement
TACOM	tactical command
TACON	tactical control
TCC	Troop Contributing Country
TOA	Transfer of Authority
UN	United Nations
UNCLOS	UN Convention on the Law of the Sea
UNCT	UN Country Team
UNDP	UN Development Programme
UNEF	UN Emergency Force
UNHCR	United Nations High Commissioner for Refugees
UNICEF	UN Children's Fund
UNIFIL	UN Interim Force in Lebanon
UNMIS	UN Mission in Sudan
UNPROFOR	UN Protection Force
UNSAS	United Nations Standby Arrangements System
UNSC	United Nations Security Council
UNSG	United Nations Secretary-General
USG DPKO	Under-Secretary-General for Peacekeeping Operations
WEU	Western European Union
WFP	World Food Programme
WHO	World Health Organization

Background, Purpose and Approach of the Manual

1. In 2011 the Managing Board and Board of Directors of the International Society for Military Law and the Law of War¹ took the decision to ask a Group of Experts to draft a Manual of the International Law Applicable to Peace Operations as proposed by Mr Arne Willy Dahl, the Society's Honorary President. The project was notably inspired by the 1994 *San Remo Manual* on armed conflicts at sea, the 2010 *HPCR Manual* on air and missile warfare and the 2013 *Tallinn Manual* on the international law applicable to cyber warfare. Just like those manuals, this Manual is also intended to serve both practitioners and academics. It is aimed at senior policy makers at both the national and intergovernmental organisation level, at senior military officers involved with the planning and conduct of such missions, at senior level staff in non-governmental organisations which carry out humanitarian and related activities in areas where Peace Operations are being conducted, and at the academic community involved in research and teaching related to Peace Operations.

2. The project built on the achievements of the *Handbook of the International Law of Military Operations*, edited by Dr Dieter Fleck and Professor Terry Gill (which deals, inter alia, with Peace Operations), in that the *Handbook* was a major source of information and its editors participated in the project as Senior Academic Advisors. While the *Handbook* aimed at providing a comprehensive overview of the different rules and legal regimes governing the deployment of armed forces abroad in a wide variety of missions, ranging from full combat to Peace Operations, this Manual limits itself to in-depth coverage of “consensual” Peace Operations, both of the traditional peacekeeping variety and of multi-dimensional Peace Operations which include aspects of peacekeeping and peacebuilding, and support for the political process of conflict resolution.

¹ For more information about the International Society for Military Law and the Law of War, please visit www.ismllw.org. All URLs in the Manual were last accessed on 1 July 2017.

The Manual is therefore a discrete work that comprehensively addresses the application of international law in Peace Operations and that therefore deals with questions which have not been addressed in the *Handbook*. As a specific but comprehensive work, the Manual is positioned on a level that goes beyond the *Handbook* as a work on the international law of military operations in general on the one hand, and the various national guides aimed at mid to low level officers at the tactical level on the other hand. It will be of value and interest to a varied audience drawn from policy makers, practitioners, academics and others with an interest in the topic. Its authority rests in its bringing the relevant law and associated good practices together in a structured and accessible form of rules to which all members of the Group of Experts have subscribed. This output is intended to be of assistance to States and international organisations involved in planning and conducting Peace Operations as well as the traditional mixed audience of the International Society for Military Law and the Law of War as a privileged forum where legal practice and academic research and teaching converge.

3. The Manual devotes attention to the various stages of the planning and conduct of Peace Operations conducted both by the United Nations (UN) and by regional organisations and other arrangements. It attempts to address all relevant issues, ranging from the legal basis of such operations, applicable legal regimes in the conduct of operations, in particular international human rights law (IHRL) and international humanitarian law (IHL), relations with the Host State, Sending State and other interested parties, the use of force in self-defence and in the execution of tasks laid out in the mandate, assistance in the maintenance of a stable environment and the maintenance of law and order, and promotion of human rights and the rule of law. It also includes treatment of such issues as the protection of civilians, the maintenance of discipline and prevention of abuse of the civilian population of the Host State, the immunities and the consequences thereof for mission personnel, and questions of international responsibility and criminal liability for violations of international law.

4. The Manual offers a detailed guide to areas of international law which are specifically relevant to the planning and conduct of Peace Operations with a particular focus on those which required further research and clarification in doctrine, and where useful or necessary it offers policy recommendations, notably where the law is silent or unclear. The Manual is intended to provide an authoritative restatement of the applicable law and where relevant of so-called “best practice” in

the planning and conduct of the types of Peace Operations referred to earlier. The Manual consists of “black letter rules” (145 in total) and an accompanying “commentary”.² The black letter rules reflecting existing law are phrased so as to reflect legal obligation (‘shall’, ‘must’, ‘have to’ ...). Best practices as reflected in the black letter rules are phrased in conformity with applicable law but are distinguished from positive legal obligations by use of appropriate language such as ‘should’ rather than ‘shall’. The black letter rules reflect a consensus of the participating experts and have been endorsed by the leadership of the International Society for Military Law and the Law of War. The commentary devotes attention to the application and interpretation of the black letter rules and reflects the input of the Group of Experts. Observers from the UN, from the International Committee of the Red Cross (ICRC) and from a number of regional organisations and arrangements participated in the discussions during the drafting of the black letter rules and commentary and were given the opportunity to provide specific comments and input on matters directly related to the policies and practice of their respective organisations, some of which are included as appendices to the Manual.³

5. The project took several years to complete. The need to ensure a high quality, authoritative guide to Peace Operations prevailed over the desire to present the publication by a specified date. It was also important that the result be a collective work reflecting the views of all project participants, rather than an edited volume of individual chapters. Therefore, the timeline allowed for a sufficient number of face-to-face meetings in order to achieve and confirm that consensus.

6. A conference on the ‘International Law of Peace Operations’ hosted in Beijing from 9 to 12 November 2011 and organised by the International Society for Military Law and the Law of War with the assistance of its Chinese Group marked the start of the “definition phase” of the project. The ‘General Report’ of the seventeenth Congress of the International Society for Military Law and the Law of War served as a source of information to prepare this conference. Also the materials from the 41st Round Table on ‘International Humanitarian Law, Human Rights Law and Peace Operations’ organised by the International Institute of Humanitarian Law at San Remo, as well as from the ICRC’s 12th

² See Appendix I for a compilation of the black letter rules only, without accompanying commentary. Appendix VIII contains a glossary of terms used for the purpose of this Manual.

³ See Appendices IV, V, VI and VII for the planning and policy aspects of the UN, the African Union, the European Union and the North Atlantic Treaty Organization.

Bruges Colloquium on ‘International Organisations’ Involvement in Peace Operations: Applicable Legal Framework and the Issue of Responsibility’, have helped to identify additional areas to be covered by the black letter rules. Two topics were prepared by individual experts for presentation at the 19th Congress of the International Society for Military Law and the Law of War (‘The Application of Human Rights Law in Peace Operations’ and ‘Operational Detentions and Independent Oversight in Peace Operations’). The 19th Congress was held in Québec City (Canada) in May 2012. At this Congress the project and two papers were presented and discussed. Such discussion generated support for and ownership of the project within the Society’s international membership. During the definition phase, several meetings of the Project Management Team and Senior Academic Advisors were held, mainly in Brussels (Belgium). These included a meeting with the Group of Experts in Münster (Germany) on 8 April 2013, which concluded the definition phase.

7. From the start of the project, the ICRC sent Dr Tristan Ferraro as its Observer to the Group of Experts. He reviewed all IHL related research papers and provided the ICRC’s comments. The ICRC also placed the materials from its 12th Bruges Colloquium at the Society’s disposal.

8. The North Atlantic Treaty Organization (NATO) also sent an Observer to the Group of Experts (Dr Petra Ditrichová-Ochmannová from the Legal Office at Allied Command Transformation Staff Element Europe until 2014, and Mrs Antoaneta Boeva from the Office of Legal Affairs at NATO Headquarters as of 2015). NATO experts also contributed to specific chapters: Dr Ditrichová-Ochmannová supported by the Ministry of Defence of the Czech Republic, and Mrs Boeva in her personal capacity.

9. The European Union (EU) did not formally designate an Observer to the project, but EU expertise was available thanks to the participation in a personal capacity of Dr Frederik Naert (Legal Service of the Council of the EU, and affiliated senior researcher at the Katholieke Universiteit Leuven). Furthermore, the project could count on the participation of the Director of the European Security and Defence College, Mr Dirk Dubois, a member of the Manual’s Advisory Board.

10. At the beginning of the “drafting phase” the focus remained on producing first drafts. A face-to-face meeting of the Group of Experts took place in Brussels from 24 to 26 February 2014. Another face-to-face meeting of the Group of Experts & Observers was held in Brussels from 26 to 28 November 2014. The involvement of the UN’s Office of

Legal Affairs (OLA), Department of Peacekeeping Operations (DPKO) and Department of Field Support in the project was agreed upon in New York on 19 March 2014. Mr Luke Mhlaba (OLA) and Mr Jens Andersen (DPKO) were designated as the UN's Observers to the Group of Experts. Throughout the project the UN Observers gave invaluable comments and inputs from UN experts in their personal capacity for specific chapters. Other UN experts who gave comments included Mr Charles Briefel, Mr Henk-Jan Brinkman, Mr Dirk Druet, Dr Laurent Dutordoir, Mrs Ann Makome, Mrs Laura Perez and Mr Jonathan Robinson.

11. From 28 June to 1 July 2015 several authorities in Cameroon hosted an expert meeting in Yaoundé with special regional and thematic focus (conference approach). African perspectives, as well as the issue of protection of civilians, were on the agenda. The meeting report was prepared in the form of additional draft chapters and sub-chapters for the Manual. The involvement of the African Union (AU) in the project was secured, and Mr Bright Mando (Office of the Legal Counsel) and Col Cheick F. Mady Dembele (Peace and Security Department) were designated as the AU Observers to the project and presented various AU perspectives at the Yaoundé conference.

12. From 26 to 28 October 2015 another face-to-face meeting of the Group of Experts & Observers was held in Leuven (Belgium). This meeting allowed the experts to finalise a full set of chapters and sub-chapters in draft form, with a view to an independent review by the Advisory Board to the project. The Advisory Board meeting took place in Leuven on 19 and 20 September 2016, and a last face-to-face meeting of the Group of Experts & Observers was held on 21 September 2016 to incorporate the Advisory Board's advice and provide a final review of the content of the black letter rules.

13. After the last Leuven meeting, the "editing phase" was launched, and an Editing Committee composed of the Senior Academic Advisors and certain members of the Project Management Team prepared the texts for publication. The Leuven Manual of the International Law Applicable to Peace Operations was endorsed by the Managing Board and the Board of Directors of the International Society for Military Law and the Law of War on the occasion of their spring 2017 meetings in Stockholm.⁴

14. The project was managed by a Project Management Team, headed by the Society's Assistant Secretary-General Mr Alfons Vanheusden. As the

⁴ See Appendices II and III for the composition of the Boards of the International Society for Military Law and the Law of War.

Managing Editor of the Manual, he oversaw and co-ordinated all project activities, set deadlines in close co-ordination with the Senior Academic Advisors, and was charged with maintaining regular contact with the members of the Group of Experts & Observers. He was assisted by two Assistant Editors (Mr Marco Benatar and Mr Remy Jorritsma, both from the Max Planck Institute Luxembourg for Procedural Law) and by two Project Management Team Advisors (Capt. Suzanne Appelman from the Dutch Military Legal Service and Dr Aurel Sari from Exeter University). All five of them also participated in the drafting of rules and commentary. The Project Management Team was supported by Mr Luc De Coninck, Member of the General Secretariat of the International Society for Military Law and the Law of War and Editorial Assistant for the Manual. The Project Management Team was also supported by interns on an occasional basis.

15. The project's Senior Academic Advisors were Dr Dieter Fleck, former Director for International Agreements & Policy of the German Ministry of Defence, and Honorary President of the International Society for Military Law and the Law of War; Professor Terry Gill, Professor of Military Law at the University of Amsterdam and the Netherlands Defence Academy; and Air Commodore (ret.) Dr Bill Boothby from the United Kingdom. They advised and where necessary assisted in the recruiting of suitable and qualified members of the Group of Experts specialised in the law and practice of Peace Operations. They also acted in the capacity of General Editors of the Manual, along with Alfons Vanheusden, who also participated in that task. The Senior Academic Advisors ensured the overall quality and cohesion of the Manual, provided input concerning the structure of the Manual and participated in the drafting of rules and commentary.

16. The Project Management Team and Senior Academic Advisors requested selected experts to form the project's Group of Experts. These experts could ask colleagues to assist them in preparing their contributions, but were the single point of contact for the Project Management Team and the Senior Academic Advisors. These contributors were responsible for submitting pieces of publishable quality within the agreed time limits and framework set by the project plan.

17. The Group of Experts was supplemented by the Advisory Board. This Advisory Board provided viewpoints and offered its advice on best practices. They did not have a vote in relation to the content of black letter rules or commentary, although their views were given all due consideration.

18. Support was provided by the respective governments and institutions by covering the costs of their participating experts or hosting project-related meetings. Their support is acknowledged in this Manual.⁵ This support was essential, and the Society's annual budgets covered the necessary additional funding for the project. In 2017 the project entered into its "dissemination phase". A continuing focus will be laid on further dissemination and translation of the Manual, including for use in peace-keeping training centres worldwide. The Manual is published in English but in order to reach the widest possible readership translation of the Manual into other UN languages is envisaged.

19. All revenues derived from the publication of the Manual will be used in furtherance of the objectives of the International Society for Military Law and the Law of War, with priority to project-related activities.

20. The Manual is made up of twenty-one chapters. None of these chapters is the result of the exclusive work of one contributor as the Group of Experts jointly worked on all chapters. The Manual including its commentary is a product of the International Society for Military Law and the Law of War, and given the informal process through which this publication was produced, the participation of experts in an individual capacity, and the agreed status of the Observers to the project, the views expressed in the Manual do not necessarily represent those of any institution, organisation or government with which the members of the Group of Experts & Observers⁶ are or were affiliated. The final text of the Manual was submitted to the publisher in mid 2017.

⁵ See Acknowledgment of Support.

⁶ For the composition of the Group of Experts & Observers, see List of Contributors.