



UNITED NATIONS
OFFICE OF LEGAL AFFAIRS

41st Annual Seminar for Diplomats on
International Humanitarian Law
jointly organized by the International Committee of the Red Cross and
New York University School of Law

Statement

by

Mr. Miguel de Serpa Soares

Under Secretary General for Legal Affairs and
United Nations Legal Counsel,

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Arthur T. Vanderbilt Hall

Professor Meron,

Ms. Spoljaric,

Ladies and Gentlemen,

I would like to thank the NYU Law School and the ICRC for again inviting the Office of Legal Affairs to this event. As just highlighted by Ms. Spoljaric, this is the 75th anniversary of the Geneva Conventions. Unfortunately, we are reminded every day, these days, of the importance of international humanitarian law in general, and of the four Geneva Conventions in particular. It is crucial that we add our voices to the calls for full implementation of these instruments and of the



philosophy at their core. Events such as this annual seminar significantly contribute to the call for the respect for international humanitarian law.

Lately, and especially in the last couple of years, the debates on matters concerning both international humanitarian law and the prohibition on the use of force have been numerous and lively, to say the least. It is generally not for the Office in which I have the privilege to serve to offer academic views on such matters. Our role is to advise the Secretary-General and our colleagues and to do so mostly in a confidential manner.

Nevertheless, the multiplication of conflicts in places where the United Nations is present and operates has given rise to a number of questions that happen in real time – related to the intersections between the legal framework that is specifically applicable to the United Nations and the law of armed conflict itself.

Our specific legal framework was designed to make sure that the United Nations may independently perform its functions all over the world without hindrance, in times of war and peace.

The Charter itself enshrines the privileges and immunities of the Organization. Pursuant to Article 105, paragraph 1, of the Charter, the United Nations “shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes”. To implement these privileges and immunities, the General Assembly adopted the Convention on the Privileges and Immunities of the United Nations on 13 February 1946 (known as “the General Convention”).

Article II, Section 3 of the General Convention provides that the “premises of the United Nations shall be inviolable”; also, that the “property and assets of the





United Nations, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, ~~judicial~~ or legislative action". This provision is reproduced or incorporated in all of the Organization's negotiated ~~status-~~ forces and ~~status-~~mission agreements and it is generally included in host country agreements with Member States.

The question has arisen as to the precise scope of inviolability of United Nations premises in times of armed conflict. According to some, international humanitarian law may, at times, prevail over the inviolability of our premises. Is this true as a matter of law? ~~Are~~ there any limitations or qualifications to the inviolability of United Nations premises? (th)8.0.00einvlabliluvl y qns dTJ -165(0.004 Tc -0n8.3(n





damage them, or interfere with them. Acts of sovereign authority may not be performed at or on them. Thus, United Nations premises cannot, without prior authorization, be lawfully entered by domestic law enforcement officials. Crucially for our purposes, inviolability also means that the premises must not be targeted, hit or damaged by any State authorities, including a State's forces.

There are no stated qualifications to, or limitations on, the inviolability of premises in the Convention on the Privileges and Immunities of the United Nations. There is no reference there to situations of armed conflict, civil unrest or other emergency situations as constituting possible limitations on such inviolability.

The inviolability of United Nations premises is similar in nature to the inviolability of the diplomatic premises of States, despite the different purposes of the two relevant rules. However, the inviolability of United Nations premises differs from that accorded to diplomatic premises of States, in the sense that it is not subject to reciprocity.

Because of this similarity, it is helpful to consider State practice in relation to diplomatic premises.

Pursuant to Article 22 of the Vienna Convention on Diplomatic Relations (1961), the premises of a diplomatic mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission. In addition, the premises of diplomatic missions, including their furnishings and other property you may find there, shall be immune from search, requisition, attachment or execution.

Article 45 of the Vienna Convention on Diplomatic Relations explicitly refers to situations of armed conflict. It states that diplomatic premises must still be







Over the years, the Office of Legal Affairs has ~~is~~ consistently maintained that the





I should also add that, more generally, the question of the continued applicability of United Nations privileges and immunities in times of armed conflict appears settled by general principles on the effects of armed conflicts on treaties. In its 2011 Draft Articles on the Effect of Armed Conflicts on Treaties, the International Law Commission took the view that, just like treaties relating to diplomatic and consular relations, those which are constituent instruments of international organizations are among the treaties, and I quote, “the subject-matter of .5(n)8resen4(u)8. in





On this occasion, the General Assembly also deplored the breaches of the inviolability of United Nations premises, the failure to ~~to~~ ~~and~~ the property and assets of the Organization immunity from any form of interference, incursions or misuse, the failure to protect United Nations personnel, premises and property and any disruption caused to Agency operations by such violations.

But what is the position from the point of view of international humanitarian law? United Nations premises are typically civilian objects and, as such, enjoy protected status in times of armed conflict. This protected status as civilian objects may,







Nations is clearly among the obligations of the Charter referred to in Article 103, and so are the details of the application thereof enshrined in the General Convention.

An attack hitting and damaging United Nations premises would thus be a breach of the Charter and the General Convention even if it complied with applicable rules of international humanitarian law, unless there are any circumstances that would otherwise preclude the wrongfulness of such an act under the law of international responsibility.

So, as promised, I have ended where I started: inviolability of United Nations premises applies both at war and at peace. There is no exception to this absolute rule. Clearly, the rule applies as part of a system of international law obligations.





My aim today was to give you a glimpse of some of the complex interplay between international humanitarian law and other areas of the law that specifically affect the United Nations. Hopefully, this will have inspired you to consider these issues even further, especially as they are, unfortunately, more relevant by the day.

Allow me to conclude by wishing you all some intense and fruitful debates over the next two days.

Thank you.

