

Exam JUR5730 International Humanitarian Law/ Law of Armed Conflict

Autumn 2009

The two neighbouring countries Alfa and Beta have had increasingly strained relations since the 1990s. One of the reasons is that a local rebel group, Omega, is fighting for independence from Alfa. The Omega rebels operate both in the southern part of Alfa and in a remote mountainous border area of Beta. They engage in drug production and trafficking on both sides of the border in order to fund their armed struggle. The Omega rebels claim that the southern part of Alfa really belongs to them, and they want to establish their own state there. Since they started with armed attacks inside Alfa, the Alfa government has tried to drive them out of this area.

On New Years Eve in 2008, an Alfa military aircraft patrolling the border area between Alfa and Beta is shot at by machine gun fire. The firing comes from the Beta side of the border. The pilots shoot themselves out in parachutes, and land in the border zone, where they are captured by Omega rebels and taken hostage. Also on 10 January 2009, the Alfa President issues a Decree where he gives full authority to all Alfa military forces to directly attack drug producers and drug traffickers in the areas of military operations on both sides of the border. Use of deadly force in these attacks is expressly permitted.

In March 2009, after several useless attempts to free the two pilots that are hostages of the Omega rebel group, the Alfa government decides to send in a rescue team disguised as an international humanitarian mission. They use a military helicopter that is painted white with a red cross on each side, with a crew of elite soldiers dressed as medical personnel and with concealed guns. The Omega rebels are taken by surprise, the two hostages are freed, but four rebels are killed in the operation.

1. Qualify the situation:

- a) Before New Years Eve 2008
- b) Between New Years Eve 2008 and 10 January 2009
- c) After 10 January 2009

2. Discuss whether the Presidential Decree on the use of deadly force against drug traffickers and drug producers is consistent with international humanitarian law.

3. Discuss the legality of the hostage rescue operation.

Alfa and Beta are Members of the UN and parties to the Four Geneva Conventions of 1949 and the two Additional Protocols of 1977.