



Peter Rowe

The Impact of Human Rights Law on Armed Forces

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The Impact Of Human Rights Law On Armed Forces

**Andrew Clapham, Paola Gaeta, Marco
Sassòli**



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Human Rights in the Indian Armed Forces Dr. U C Jha, Dr Sanghamitra Choudhury, 2019-03-18 The military plays an important role in nation building and national security Notwithstanding special requirements of military life the members of the armed forces should enjoy the rights guaranteed in the Constitution and other relevant international human rights treaties which India has ratified to the extent that those rights are available to other citizens of the country The guarantee of a fair trial should apply to all proceedings under the military legal system including summary trial and summary systems of court martial The government must ensure the economic social and cultural rights of military personnel including housing medical care education free legal aid and social security Derogations of the Fundamental Rights under Article 33 should not be carried so far as to create a class of citizens who are not entitled to the benefits of the liberal interpretation of the Constitution This book is aimed at all those who are involved in promoting protecting and enforcing the rights of not only the members of the armed forces but also the other forces engaged in the security of the country It will of relevance to parliamentarians government officials military authorities and members of the civil society who have a stake in the armed forces

Contemporary Challenges to the Laws of War Caroline Harvey, James Summers, Nigel D. White, 2014-10-16 The laws of war are facing new challenges from emerging technologies and changing methods of warfare as well as the growth of human rights and international criminal law International mechanisms of accountability have increased and international criminal law has greater relevance in the calculations of

political and military leaders yet perpetrators often remain at large and the laws of war raise numerous normative structural and systemic issues and problems This edited collection brings together leading academic military and professional experts to examine the key issues for the continuing role and relevance of the laws of war in the twenty first century Marking Professor Peter Rowe s contribution to the subject this book re examines the purposes of the laws of war and asks whether existing laws found in treaties and customs work to achieve these purposes and if not whether they can be fixed by specific reforms or wholesale revision

Criminal Jurisdiction over Armed Forces Abroad Rain Liivoja, 2017-09-28 This book studies the principles and practice of extending a country s criminal law to offences committed abroad by their armed forces personnel

The Right to Life in Armed Conflict Ian Park, 2018-02-15 The application of the right to life during armed conflict is an issue that polarizes opinion and generates considerable debate Many believe that human rights law has no place in armed conflict yet the European Court of Human Rights and domestic courts have ruled that it can apply The exact contours of how the right to life applies during armed conflict remain largely unresolved In this text Ian Park seeks to clearly articulate the right to life obligations of states during both international and non international armed conflict in respect of those individuals affected by the actions of states armed forces and members of the armed forces themselves In determining the right to life obligations of states Park identifies the sources of law from which right to life obligations arise how case law has developed and modified these obligations and analyses how the law creates obligations in practice Implicit in this analysis is a consideration of recent armed conflicts and the actions of states that lead to a series of concrete proposals designed to best ensure compliance with a state s right to life obligations

Military Investigations in Armed Conflict Claire Simmons, 2024-04-02 An allegation is made that a war crime was committed by a soldier during a conflict Who should investigate the allegation How should they investigate This book explores a topic of critical importance in legal and policy discussions surrounding the accountability of military operations in armed conflict and problematises some presumptions that are often made about the topic The work provides the international legal framework necessary to address these questions and establishes the precise standards of independence and impartiality as applicable to investigations in armed conflict It questions the assumption that the standards of independence and impartiality of investigations should be measured in the same way that we measure these standards for judges courts and tribunals It also explores the ways in which military institutions and culture as well as the context of armed conflict may impact on the effectiveness of investigations or the perception of justice by those affected By demonstrating the precise ways in which military investigations can contribute to or hinder the effectiveness of investigations the book clarifies States responsibilities with regard to their accountability efforts for serious violations of international law in armed conflict The work will be a valuable resource for academics researchers and policy makers working in the areas of international humanitarian law international human rights law as well as political science and military ethics

Military Justice in the Modern Age Alison

Duxbury, Matthew Groves, 2016-08-04 Military justice is changing rapidly due to both domestic and international influences This book explains what is happening and why Civil-Military 'Legal' Relations: Where to from Here? Pauline Therese Collins, 2018-04-03 Civil military relations establishes the civilian control over the military to protect democratic values This book argues analysis of the CMR is distorted by the absence of consideration of the judicial arm with the civil seen as referring only to the executive and or legislature The civil courts approach to military discipline and the impact that has for CMR within the United Kingdom United States and Australia is investigated The author concludes that by including the courts in the development of CMR theory militarisation of the civilian domain is discouraged A paradigm shift acknowledging the fundamental role of all three organs of government in liberal democracies for control of States power is essential for genuine civilian oversight **House of Commons - Defence Committee: UK Armed Forces Personnel and the Legal Framework for Future Operations - HC 931**

Great Britain: Parliament: House of Commons: Defence Committee, 2014-04-02 UK military personnel as individuals are properly subject to UK and international law wherever they serve and there are processes to ensure scrutiny of their individual behaviour and legal compliance but in the last ten years legal judgments in the UK and elsewhere against the MoD have raised a number of legal ethical and practical questions for the Armed Forces and their conduct of operations The growing number of such challenges is leading to a feeling of disquiet amongst military personnel and informed commentators about the extent and scale of judicial involvement in military matters There are two aspects of the use of human rights law in military operations that most concern the Committee The extraterritorial application of the European Convention on Human Rights has allowed claims in the UK courts from foreign nationals However the requirement for full and detailed investigations of every death resulting from an armed conflict is putting a significant burden on the MoD and the Armed Forces Secondly there has been a failure of the accepted principle of combat immunity most recently evidenced in the Supreme Court majority judgment in June 2013 allowing families and military personnel to bring negligence cases against the MoD for injury or death This seems to us to risk the judicialisation of war and to be incompatible with the accepted contract entered into by Service personnel and the nature of soldiering

The Grey Zone Mark Lattimer, Philippe Sands, 2018-07-26 The high civilian death toll in modern protracted conflicts such as those in Syria or Iraq indicate the limits of international law in offering protections to civilians at risk A recent conference of states convened by the International Committee of the Red Cross referred to an institutional vacuum in the area of international humanitarian law implementation Yet both international humanitarian law and the law of human rights establish a series of rights intended to protect civilians But which law or laws apply in a particular situation and what are the obstacles to their implementation How can the law offer greater protections to civilians caught up in new methods of warfare such as drone strikes or targeted by new forms of military organisation such as transnational armed groups Can the implementation gap be filled by the growing use of human rights courts to remedy violations of the laws of armed conflict or

are new instruments or mechanisms of civilian legal protection needed This volume brings together contributions from leading academic authorities and legal practitioners on the situation of civilians in the grey zone between human rights and the laws of war The chapters in Part 1 address key contested or boundary issues in defining the rights of civilians or non combatants in today s conflicts Those in Part 2 examine remedies and current mechanisms for redress both at the international and national level and those in Part 3 assess prospects for the development of new mechanisms for addressing violations As military intervention to protect civilians remains contested this volume looks at the potential for developing alternative approaches to the protection of civilians and their rights

Military Justice Eugene R. Fidell, 2016 This book presents an accessible and honest assessment of the strengths and weaknesses of military justice around the world with particular emphasis on the US UK and Canada

Military Justice White, Nigel D., 2022-03-10 While military law is often narrowly understood and studied as the specific and specialist laws processes and institutions governing service personnel this accessible book takes a broader approach examining military justice from a wider consideration of the rights and duties of government and soldiers engaged in military operations

International Human Rights Philip Alston, Ryan Goodman, 2013 The successor to International human rights in context law politics and morals

Military Courts, Civil-Military Relations, and the Legal Battle for Democracy Brett J. Kyle, Andrew G. Reiter, 2020-12-22 The interaction between military and civilian courts the political power that legal prerogatives can provide to the armed forces and the difficult process civilian politicians face in reforming military justice remain glaringly under examined despite their implications for the quality and survival of democracy This book breaks new ground by providing a theoretically rich global examination of the operation and reform of military courts in democratic countries Drawing on a newly created dataset of 120 countries over more than two centuries it presents the first comprehensive picture of the evolution of military justice across states and over time Combined with qualitative historical case studies of Colombia Portugal Indonesia Fiji Brazil Pakistan and the United States the book presents a new framework for understanding how civilian actors are able to gain or lose legal control of the armed forces The book s findings have important lessons for scholars and policymakers working in the fields of democracy civil military relations human rights and the rule of law

The 1949 Geneva Conventions Andrew Clapham, Paola Gaeta, Marco Sassòli, 2015-10-15 The four Geneva Conventions adopted in 1949 remain the fundamental basis of contemporary international humanitarian law They protect the wounded and sick on the battlefield those wounded sick or shipwrecked at sea prisoners of war and civilians in time of war However since they were adopted warfare has changed considerably In this groundbreaking commentary over sixty international law experts investigate the application of the Geneva Conventions and explain how they should be interpreted today It places the Conventions in the light of the developing obligations imposed by international law on states armed groups and individuals most notably through international human rights law and international criminal law The context in which the Conventions are to be applied and

interpreted has changed considerably since they were first written The borderline between international and non international armed conflicts is not as clear cut as was once thought and is complicated further by the use of armed force mandated by the United Nations and the complex mixed and transnational nature of certain non international armed conflicts The influence of other developing branches of international law such as human rights law and refugee law has been considerable The development of international criminal law has breathed new life into multiple provisions of the Geneva Conventions This commentary adopts a thematic approach to provide detailed analysis of each key issue dealt with by the Conventions taking into account both judicial decisions and state practice Cross cutting chapters on issues such as transnational conflicts and the geographical scope of the Conventions also give readers a full understanding of the meaning of the Geneva Conventions in their contemporary context Prepared under the auspices of the Geneva Academy of International Humanitarian Law and Human Rights this commentary on four of the most important treaties in international law is unmissable for anyone working in or studying situations of armed conflicts *Human Rights in Armed Conflict* Gerd Oberleitner, 2015-03-05 A comprehensive analysis of the legal challenges and practical consequences of applying international human rights law in armed conflict situations *The Use of Armed Force in Occupied Territory* Marco Longobardo, 2018-10-18 Explores the use of armed force in occupied territory under different international law branches *Armed Non-State Actors in International Humanitarian and Human Rights Law* Konstantinos Mastorodimos, 2017-05-15 The accountability of armed non state actors is a neglected field of international law overtaken by the regimes of state responsibility and individual criminal accountability as well as fears of legitimacy Yet armed non state actors are important players in the international arena and their activities have significant repercussions This book focuses on their obligations and accountability when they do not function as state agents regardless of the existence or extent of accountability of their individual members The author claims that their distinct features lead to their classification into three different types de facto entities armed non state actors in control of territory and common article 3 armed non state actors The mechanisms that trigger the applicability of humanitarian and human rights law regimes are examined in detail as well as the framework of obligations In both cases the author argues that armed non state actors should not be treated as entering international law and process exclusively through the state The study concludes by focussing on their accountability in international humanitarian and human rights law and more specifically to the rules of attribution remedies and reparations for violations of their primary obligations *The Army Lawyer* , 2014-05

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