

Yearbook of International Humanitarian Law

Volume 19

More information about this series at <http://www.springer.com/series/8912>

Terry D. Gill · Tim McCormack
Robin Geiß · Heike Krieger
Christophe Paulussen
Editors

Yearbook of International Humanitarian Law 2016

 ASSER PRESS

 Springer

Editors

Terry D. Gill
Criminal Law Section, Section Military Law
University of Amsterdam
Amsterdam
The Netherlands

Robin Geiß
School of Law
University of Glasgow
Glasgow
UK

and

Netherlands Defence Academy
Breda
The Netherlands

Heike Krieger
Department of Law/Public Law
Free University of Berlin
Berlin
Germany

Tim McCormack
Melbourne Law School
Carlton, VIC
Australia

Christophe Paulussen
Research Department
T.M.C. Asser Instituut
The Hague
The Netherlands

The views expressed in this *Yearbook* are not necessarily those of the members of the Editorial Board, the Board of Advisors to the Editorial Board, the Board of Recommendation and/or those institutions they represent, including the T.M.C. Asser Instituut and T.M.C. Asser Press.

ISSN 1389-1359 ISSN 1574-096X (electronic)
Yearbook of International Humanitarian Law
ISBN 978-94-6265-212-5 ISBN 978-94-6265-213-2 (eBook)
<https://doi.org/10.1007/978-94-6265-213-2>

Library of Congress Control Number: 2017963264

Published by T.M.C. ASSER PRESS, The Hague, The Netherlands www.asserpress.nl
Produced and distributed for T.M.C. ASSER PRESS by Springer-Verlag Berlin Heidelberg

© T.M.C. ASSER PRESS and the authors 2018

No part of this work may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, microfilming, recording or otherwise, without written permission from the Publisher, with the exception of any material supplied specifically for the purpose of being entered and executed on a computer system, for exclusive use by the purchaser of the work.

The use of general descriptive names, registered names, trademarks, service marks, etc. in this publication does not imply, even in the absence of a specific statement, that such names are exempt from the relevant protective laws and regulations and therefore free for general use.

Cover picture: Chocó Department. An ICRC employee speaks to members of the ELN armed group about the principles of international humanitarian law and the obligation to protect the lives of the civilian population, health personnel, and the sick or wounded.

Photo: Juan Arredondo. Reproduced with permission: Getty Images/ICRC

Printed on acid-free paper

This T.M.C. ASSER PRESS imprint is published by Springer Nature
The registered company is Springer-Verlag GmbH Germany
The registered company address is: Heidelberger Platz 3, 14197 Berlin, Germany

Editorial Board

General Editors

Prof. Terry D. Gill (*Editor-in-Chief*), University of Amsterdam/Netherlands Defence Academy
Prof. Tim McCormack (Editor, Correspondents' Reports), University of Melbourne
Prof. Robin Geiß (Editor), University of Glasgow
Prof. Heike Krieger (Editor), Free University of Berlin

Managing Editor

Dr. Christophe Paulussen, T.M.C. Asser Instituut, The Hague

Editorial Assistant

Geneviève Girard, LL.M., T.M.C. Asser Instituut, The Hague

Board of Advisors to the Editorial Board

Dr. Louise Arimatsu, The Royal Institute of International Affairs, Chatham House, London
Dr. William Boothby, Geneva Centre for Security Policy
Prof. Geoffrey Corn, South Texas College of Law
Prof. Robert Cryer, University of Birmingham
Dr. Cordula Droege, International Committee of the Red Cross
BGen. Prof. Paul Ducheine, Netherlands Defence Academy/University of Amsterdam
Prof. Wolff Heintschel von Heinegg, Europa Universität Viadrina, Frankfurt (Oder)
Prof. Dr. Jann K. Kleffner LL.M., Swedish Defence University
Dr. iur. Nils Melzer, Swiss Federal Department of Foreign Affairs
Prof. Héctor Olásolo, University of El Rosario, Colombia/The Hague University of Applied Sciences
Jelena Pejic, International Committee of the Red Cross
Dr. Kinga Tibori-Szabó, Kosovo Specialist Chambers
BGen. Kenneth W. Watkin (Ret'd)/Former Judge Advocate General, Canada
Dr. Gentian Zyberi, Norwegian Centre for Human Rights

Board of Recommendation

HRH Princess Margriet of the Netherlands, Honorary President of the Netherlands Red Cross
Prof. em. George Aldrich, University of Leiden
Prof. Horst Fischer, University of Leiden
Dr. Dieter Fleck, Honorary President of the International Society for Military Law and the Law of War
H.E. Judge Christopher Greenwood, International Court of Justice
H.E. Judge Theodor Meron, International Criminal Tribunal for the former Yugoslavia
H.E. Judge Fausto Pocar, International Criminal Tribunal for the former Yugoslavia
Prof. Michael N. Schmitt, United States Naval War College

In Memoriam—Frits Kalshoven (1924–2017)

It is with profound sadness that the Editorial Board of the *Yearbook of International Humanitarian Law* was informed about the passing, on Wednesday 6 September 2017, of Prof. Emeritus Frits Kalshoven. We are proud to say that Frits was a member of the Yearbook's Board of Recommendation, and for good reason: he can safely be positioned within the international humanitarian law's hall of fame, as he was instrumental in the development of this important field of law. The theme of belligerent reprisals cannot be studied without consulting Frits' 1971 Ph.D., reprinted in 2005; he was one of the drafters of the 1977 Additional Protocols; in January 1987, Alexandre Hay, the then President of the International Committee of the Red Cross, correctly predicted in his preface to the first edition of Frits' book *Constraints on the Waging of War*, that "it will become one of the classics of the law of armed conflicts"; he was the first Chairman of the UN Commission of Experts to investigate serious violations of international humanitarian law in the former Yugoslavia, which paved the way for the International Criminal Tribunal for the former Yugoslavia; and in 2003, Frits was awarded the Henry Dunant Medal of the International Red Cross and Red Crescent Movement for his continued effort to improve the knowledge of and respect for the law of war.

In addition to all of this (and the above is only a very brief selection of his professional achievements), Frits was a friend, mentor and inspiration to many, both inside and outside the Netherlands. This is discernible from the various personal comments that were written in the days after his passing (and again: the following is a brief selection only): "very kind, warm and humble person—insisting, for example, to always be addressed by his first name"; "the great, and always humble, Frits Kalshoven"; "[w]e lost an IHL giant, gent and a wonderful man" and "[a] crusader for the right cause, a teacher of many, a gentleman until the very end".

It is clear he will be dearly missed by many. Including all of us.

On behalf of the entire team of the *Yearbook of International Humanitarian Law*,

Terry D. Gill (Editor-in-Chief) and Christophe Paulussen (Managing Editor)

Contents

Part I Armed Groups

- 1 Armed Groups, Rebel Coalitions, and Transnational Groups: The Degree of Organization Required from Non-State Armed Groups to Become Party to a Non-International Armed Conflict** 3
Tilman Rodenhäuser
- 2 Welcome on Board: Improving Respect for International Humanitarian Law Through the Engagement of Armed Non-State Actors** 37
Annyssa Bellal
- 3 Compliance with International Humanitarian Law by Non-State Armed Groups: How Can It Be Improved?** 63
Hyeran Jo
- 4 Crime-Based Targeted Sanctions: Promoting Respect for International Humanitarian Law by the Security Council** 89
Hilde D. Roskam
- 5 Engaging Armed Groups Through the Development of Human Rights Obligations: Incorporating Practice, Motivation and Ideology to Promote Compliance with International Law** 119
Daragh Murray
- 6 Armed Groups and Procedural Accountability: A Roadmap for Further Thought** 157
Katharine Fortin

Part II Other Articles

- 7 Knock on the Roof: Legitimate Warning or Method of Warfare?** 183
Jeroen C. van den Boogaard

8 Year in Review 2016	211
Kate Pitcher, Sophie van der Valk and Geneviève Girard	
Final Report ILA Study Group on the Conduct of Hostilities	287
Table of Cases	337
Index	343

In order to make the *Correspondents' Reports* immediately and widely available, they can be accessed online at

www.asser.nl/YIHL/correspondentsreports.

This has the added benefit of the reports being fully searchable, thereby better serving the needs of scholars and practitioners.