

Military Operations and the Notion of Control Under International Law

Rogier Bartels · Jeroen C. van den Boogaard ·
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Liber Amicorum Terry D. Gill



ASSER PRESS



Springer

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ISBN 978-94-6265-394-8

ISBN 978-94-6265-395-5 (eBook)

<https://doi.org/10.1007/978-94-6265-395-5>

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

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The registered company address is: Heidelberger Platz 3, 14197 Berlin, Germany

Foreword

Professor Gill worked in both institutions we represent, namely the Netherlands Defence Academy (NLDA) and the University of Amsterdam, until his retirement and transition to emeritus professor, respectively. Terry Gill played an important role for our institutions as the dual-hatted professor for Military Law. On 1 September 2001, Terry took up his chair at the University of Amsterdam. As of 2005, he combined this with the newly set-up chair for Military Law at the Netherlands Defence Academy, gradually reducing his tenure at his *alma mater*, Utrecht University, until he divided his time equally between our institutions.

In the meantime, academic teaching and research in the field of military law burgeoned as the world caught fire. The 9/11 terrorist attacks triggered the United States to wage the so-called ‘Global War on Terror’. Besides being the first invocation of the collective self-defence mechanism pursuant to Article 5 of the NATO Treaty, Operation Enduring Freedom (the military operation against the Taliban and Al-Qaeda in Afghanistan) initiated academic and political debate about many of the topics within Terry’s expertise, such as self-defence, the applicability of the Geneva Convention to (and the treatment of) unprivileged belligerents (in Guantanamo Bay), and the territorial scope of conflict (e.g. Pakistan and Somalia).

The subsequent, highly controversial Operation Iraqi Freedom (the military operation against Iraq), generated both military and legal issues, ranging from *jus ad bellum*, *jus in bello* (e.g. the detainee abuse in Abu Ghraib) and the application of human rights law (e.g. the Al Jedda case before the European Court of Human Rights). As a professor at our institutions, Terry Gill has published important, and often-cited articles on all of the aforementioned issues.

The above developments, also produced new – or a return of old – military strategies, such as counterinsurgency operations, which generate thorny legal questions to be answered by commanding officers supported by legal advisors.

Terry's research, and the Ph.D. research he supervised, gained much from the combination of the knowledge of military operations in practice and of the realistic legal frameworks applicable to them. The fact that many of his Ph.D. researchers, working in a variety of places, ranging from the military legal services to international criminal tribunals and academia, have now joined the effort to pay tribute to Terry, is just one example of the legal niche he developed: the International Law of Military Operations, or ILMO in short.

During his farewell lecture in Breda in September 2019, Terry confessed that he did not 'by any stretch of the imagination claim to be the inventor' of this niche. Be that as it may, he rightfully recalled that 'my colleagues in the NLDA (and elsewhere) and I can claim some credit for developing the concept of ILMO as a distinct sub-discipline within public international law and disseminating it, both within the armed forces, to policy makers and to a broader public.' The combined effect it produced is to be found in—what may be seen as his lifework—the Handbook on the Law of International Military Operations, edited together with his long-time friend Dr. Dieter Fleck, and produced with the joint effort of his academic and personal friends from academia and armed forces around the world.

Terry brought together his Ph.D. researchers with those who had already successfully defended their research, as well as practitioners and academics from other institutions, in his well-known research group; first called LACPO (Law of Armed Conflict and Peace Operations) when it was operating within the Netherlands, but finally as an international research network spanning more than twenty academic and military institutions around the world, labelled LACMO (Law of Armed Conflict and Military Operations).

Apart from research, a final trait of Terry's legacy deserves to be mentioned: his passionate and original style of teaching. Terry is a truly talented lecturer. After assuming his chair in 2001, he rapidly set off to supplement and complement the work of his predecessor, Professor Guido Coolen. As he took over a chair with a national law focus, Terry, himself a specialist in international law, not only became a specialist in Dutch military law matters, but also added new courses and new lecturers (and *vice versa*) to the chair of Military Law. Together, they set up a specialised program for military law. This program became an integrated part of the unique master in Military Law until 2018 and still serves as the core of the academic and practical training for all new military legal advisors of the Netherlands armed forces.

With the privilege of having been on the front row of these achievements, it is with great pride and honour that we open this book that serves to celebrate his career and achievements. We want to thank Terry Gill wholeheartedly for all his contributions. and wish him and his wife Annelies all the best.

April 2020

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