

Honest Errors? Combat Decision-Making 75 Years
After the *Hostage* Case

Nobuo Hayashi · Carola Lingaas
Editors

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To Our Fathers

Acknowledgements

“Ah, this is how we used to do research!”—one of the present volume’s contributing authors once said of our endeavour. In today’s relentlessly accelerating environment where we live and work as scholars, quick turnarounds and fast publications have become the new norm. This publication, which embodies careful research, attention to detail and the time invested, has long been in the making.

It all started in 2006 when Nobuo Hayashi came to Oslo. He had already been conducting research on military necessity for some time. Unsurprisingly, he found himself more and more curious about Northern Norway’s devastation during World War II and the 1948 *Hostage* trial held at Nuremberg where Lothar Rendulic, the German Commander who had made the decision, successfully argued military necessity in his defence. The idea of a multi-disciplinary anthology marking the 75th anniversary of Rendulic’s acquittal was born.

With this entirely self-funded undertaking, we aimed to ensure several things. First, we wanted to take it slow. We felt that this project should be an opportunity for participating authors to pause and enjoy reflecting on their discoveries. Second, we wanted to facilitate in-depth collaboration among historians, lawyers, and ethicists. We believe sharpening our understanding of Rendulic’s actions using contemporaneous sources has enabled us to offer truly original insights into modern law and raise timeless ethical questions. Third, we wanted our volume to read more like a cohesive book written by a team of authors than a loosely stitched together bundle of meandering chapters. This meant, among other things, bringing our contributors from around the globe to an online conference in June 2021 and a hybrid workshop in September 2022. No doubt they will also remember our somewhat laborious editorial process.

We are proud that *Honest Errors? Combat Decision-Making 75 Years After the Hostage Case* becomes available to readers just in time for the anniversary. For this we thank our contributing authors who have placed so much of their expertise, dedication and patience at our disposal. We gratefully acknowledge Sven G. Holtsmark’s tireless efforts to help us with all the historical details, as well as original files, photographs and charts. This project has also enjoyed the backing of our employers. The Swedish Defence University in Stockholm and VID Specialized University in

Oslo co-organised our June 2021 conference, alongside the Lieber Institute for the Law of Land Warfare at West Point and the DILEMA project at the Asser Institute in The Hague. Bård Mæland, VID's rector, graced one of our conference panels as moderator. The same goes for all the other presenters, chairs and participants. We also express our gratitude to Frank Bakker and his team at T.M.C. Asser Press for seeing potential in our thoughts and for agreeing to commit them to print.

This anthology would have been impossible without the support and indulgence of our respective families. Sadly, two of them are no longer with us to share this moment. We dedicate our book to their loving memory.

Stockholm, Sweden
Oslo, Norway
April 2023

Nobuo Hayashi
Carola Lingaas

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Abbreviations

| | |
|-------------|---|
| AI | Artificial intelligence |
| AOK | <i>Armeeoberkommando</i> |
| API | Additional Protocol I |
| C4I | Command, control, communications, computes, and intelligence processing |
| CIA | Central Intelligence Agency |
| CROWCASS | Central Registry of War Criminals and Security Suspects |
| DBK | Dominant battlefield knowledge |
| DPR | Donetsk People’s Republic |
| ECtHR | European Court of Human Rights |
| FDSP | Federal Directorate for Supply and Procurement |
| GPS | Global positioning system |
| HUMINT | Human intelligence |
| ICAO | International Civil Aviation Organization |
| ICC | International Criminal Court |
| ICL | International criminal law |
| ICRC | International Committee of the Red Cross |
| ICT | Information communications technology |
| ICTR | International Criminal Tribunal for Rwanda |
| ICTY | International Criminal Tribunal for the Former Yugoslavia |
| IDF | Israel Defense Forces |
| IHL | International humanitarian law |
| ILC | International Law Commission |
| IMINT | Imagery intelligence |
| IMT | International Military Tribunal |
| IRGC | Islamic Revolution Guards Corps |
| ISIS | Islamic State of Iraq and Syria |
| ISR | Intelligence, surveillance, and reconnaissance |
| JAG | Judge Advocate General |
| JSTARS | Joint surveillance and targeted acquisition radar system |
| KTB des OKW | <i>Kriegstagebuch des Oberkommandos der Wehrmacht</i> |

| | |
|---------|---|
| MOK | <i>Marineoberkommando</i> |
| MSF | <i>Médecins Sans Frontières</i> |
| NATO | North Atlantic Treaty Organization |
| NCW | Network-centric warfare |
| NGO | Non-governmental organization |
| NS | <i>Nasjonal Samling</i> |
| NSDAP | <i>Nationalsozialistische Deutsche Arbeiterpartei</i> |
| ODS | Operation Desert Storm |
| OEF | Operation Enduring Freedom |
| OIF | Operation Iraqi Freedom |
| OKW | <i>Oberkommando der Wehrmacht</i> |
| OSCE | Organization for Security and Co-operation in Europe |
| OTP | Office of the Prosecutor |
| PGM | Precision guided munitions |
| POCIMO | Protection of Civilians in Military Operations Act |
| RMA | Revolution in military affairs |
| Sipo-SD | <i>Sicherheitspolizei-Sicherheitsdienst</i> |
| SS | <i>Schutzstaffel</i> |
| TOC | Tactical operations centre |
| UK | United Kingdom |
| UN | United Nations |
| UNTS | United Nations Treaty Series |
| UNWCC | United Nations War Crimes Commission |
| US | United States |
| USAF | United States Air Force |
| WBH | <i>Wehrmachtsbefehlhaber</i> |
| WFStab | <i>Wehrmachtführungsstab</i> |
| WWII | World War II |

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