

FOREWORD

Like all of the co-authors of this text, I devoted almost the entirety of my professional life to service as an Army officer. My career began as an infantry officer in the storied 82ND Airborne Division following my graduation from the United States Military Academy in 1985. At that time, the role of law and lawyers in military operations was usually imperceptible to junior combat leaders like me, focused on preparing for high-intensity conflict against the Soviet threat.

My role in the Army changed dramatically when, in 1990, the Army selected me to attend law school and become a Judge Advocate (military attorney). When I returned to the ‘operational Army’ as a Judge Advocate in 1993, the increased significance of law and legal advisors during military operations was apparent; the radical change in the strategic environment that occurred during those three years led commanders at every level to become increasingly aware of the indelible connection between law, legitimacy, and mission accomplishment.

In the years that followed, I served as a legal advisor at every level of command, in many different theaters of operations. My career culminated with the honor of serving as the legal advisor to General Marty Dempsey, the Chairman of the Joint Chiefs of Staff. As I reflect back on my experience, one constant was the value military commanders placed in legal advisors who were not only expert in law, regulations, and policies but who also remained cognizant of the complex military operational context within which their ‘clients’ functioned.

I believe that to fully understand the law of armed conflict (sometimes referred to as the “law of war” or “international humanitarian law”), one must study not only the law, but also how that law is interpreted, applied, and assessed in the context of military operations. Given that, I consider *THIS* text unique and valuable. While there are other sources that describe this law, no other source provides students and other interested readers with not only a comprehensive explanation of the law, but also an opportunity to work through operational hypotheticals to gain an appreciation for the challenge commanders confront when striving to ensure legal compliance while navigating complex operational situations.

This comprehensive text covers the landscape of the law of armed conflict: how it regulates hostilities; protects victims of war like the wounded or sick combatant or the prisoner of war; mitigates the risk to innocents amid the ambiguity and brutality of armed hostilities and combat; and provides the foundation for discipline and accountability of those who engage in conflict. The operational scenarios and study problems tie the topics together and exposes the reader to the reality that—no matter how certain the law may appear—military operational decisions are often made in chaotic, complex, and time-sensitive situations, where the stakes are literally life and death.

THE LAW OF ARMED CONFLICT: AN OPERATIONAL APPROACH provides an opportunity to develop an understanding of this complexity. Each of the authors shared my experience of many years of military service, and all served as military legal advisors. Indeed, I have worked side by side with most of them. The text they produced is consistent with my high expectations—a reflection of the fact that they are able to leverage their unique expertise as both legal scholars and military operational practitioners. They use a scenario-based approach to provide readers not only the means to develop expertise in the law of armed conflict, but also the opportunity to appreciate how it is applied in the chaos of combat.

Throughout the text, *OPERATION IRAQI FREEDOM* provides the perfect vehicle for case studies because it covers—in a short time period—most of the thorny legal issues that have become nearly standard in military operations from Grenada in 1983 to Iraq, Syria, and Afghanistan today. These include assessing when the law applies, targeting, weapons and tactics, treatment of the wounded and sick, detention, rules of engagement, post-hostilities security operations, naval warfare, war crimes and accountability issues, and other nuanced topics that implicate law, policy, and the military mission. This scenario-based approach ties together all the chapters and illuminate the law and how it is applied, both in theory and in practice.

Military legal advisors, as the authors can personally attest, have extraordinarily difficult jobs in military operations. They share the dangers and privations of other soldiers and practice law amid the chaos and confusion of combat. They routinely offer advice on matters that have direct and immediate mortal consequence, and their advice profoundly impacts mission accomplishment and the perception of legitimacy. Their advice is not always perfect, but their presence demonstrates the commitment of our Nation and our allies to the law of armed conflict.

There can be no doubt, therefore, that both this topic and this book are important to enhance the understanding of a body of law that will only become more significant in the years and decades to follow. In its Second Edition, it will undoubtedly continue to be a valuable resource not only for students of the law of armed conflict, but also for all who want to comprehend the difficulties—and criticality—of its practical application.

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