

Recent Developments in IHL and Detention Law and Practice

The 13th Annual Minerva/ICRC Conference on International Humanitarian Law

Conference Call for Papers

Hebrew University of Jerusalem, 12-13 November 2018

Introduction:

The Minerva Center for Human Rights at the Hebrew University of Jerusalem and the Delegation of the International Committee of the Red Cross (ICRC) in Israel and the Occupied Territories are organizing an international conference that seeks to evaluate recent developments in the law and practice related to detention mostly in relation to armed conflict.

The conference, the 13th in the series of Minerva/ICRC annual international conferences on IHL, is scheduled for 12-13 November 2018 in Jerusalem.

Recipients of this call for papers are invited to submit proposals to present a paper at the conference. Authors of selected proposals will be offered full or partial flight and accommodation expenses.

Submission deadline: 15 July 2018

Background:

Increasing attention, mostly in the field of IHL, has been drawn in recent years to detention practices and their legal basis, ranging from the treatment or prolonged detention of militants or suspects of alleged acts of terrorism (Guantanamo Bay, internments in Iraq, Afghanistan, but also in European countries, detention by multinational forces, peace support operations), treatment of “foreign fighters”, to the most recent controversies caused by immigration detention (including outside conflict zones).

In many of these cases, complicated questions have been raised pertaining to applicable judicial and other safeguards available to the detainees, including questions relating to the availability of *habeas corpus*, periodicity of review of the detention, the interplay between criminal and security detention, overall duration of detention and access to evidence underlying the relevant security determinations. At a more doctrinal level, questions have arisen relating the right of states and non-state actors to detain in NIACs, and the relationship between IHL and human rights norms regulating detention.

Recent years have seen important legal developments in the field, which invite rethinking about existing detention laws and policies, when linked to armed conflict or national security. These include the judgment of the European Court of Human Rights in *Hassan v UK* (2014) which read certain detention powers into the ECHR, the UK Supreme Court judgment in *Al Waheed v Ministry of Defence* (2017), which extended the same logic to detention allegedly authorized by the Security Council, and the UN Human Rights Committee’s General Comment 35 (2014), which addressed security detention and immigration detention. These developments have been taking place against the background of the 2012 Copenhagen Process on the Handling of Detainees in International Military Operations Principles and Guidelines, the ICRC consultations and formal meetings on strengthening IHL protections for persons deprived of their liberty, and

of efforts such as the Geneva Call designed to facilitate the application of international standards by non-state actors involved in armed conflicts. They have also coincided with increased concerns about, and steps taken against, home grown terrorism suspects and fighters returning from foreign battlefields.

The conference organizers invite recipients of this call to submit proposals to present a paper dealing with one or more of the following issues:

- The power to detain in armed conflict – State vs Non State Armed Groups: internment in NIAC?
- The interplay between detention regimes under IHL, IHRL and refugee law;
- Challenges posed by the treatment of so called “foreign fighters” and the legal regime applicable to them (from capture to return);
- IHL and movement restrictions falling short of “actual” detention (passport revocation, control orders, assigned residence);
- Detention in multinational operations (including peace support operations) and transfers to national authorities;
- Safeguards applicable in all conflict and security-related detentions (including administrative detention);
- The exercise by military courts of detention powers over civilians; and
- Violation of IHL norms governing detention and international criminal law.

The committee also welcomes additional proposals on other relevant and contemporary issues relating to the topic of the conference.

Submissions:

Researchers interested in addressing these and other issues are invited to respond to this call for papers with a 1-2 page proposal for an article and presentation, along with a brief CV. Proposals should be submitted by email to the Minerva Center for Human Rights at the Hebrew University of Jerusalem (mchr@savion.huji.ac.il) no later than 15 July 2018.

Applicants should expect notification of the committee's decision by 15 August 2018. Written contributions (of approx. 10-25 pages) based on the selected proposals will be expected by 15 Oct. 2018. The *Israel Law Review* (a Cambridge University Press publication) has expressed interest in publishing selected full length papers based on conference presentations, subject to its standard review and editing procedures.

Conference Academic Committee:

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Bruno Demeyere, ICRC, Israel and the Occupied Territories
Danny Evron, Minerva Center for Human Rights, Hebrew University of Jerusalem
Miya Keren-Abraham, ICRC, Israel and the Occupied Territories
Karen Loehner, ICRC, Israel and the Occupied Territories
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