

LIEBER NOTES

Periodic Newsletter of the Lieber Society on the Law of Armed Conflict
Interest Group of the American Society of International Law

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Letter from your Chair

By Andrea Joy Harrison

It's hard to believe that six months have passed since becoming Chair of this venerated society. It has been a privilege getting to know many of you, and I am honored to be able to serve the Society in this capacity for the next 3 years. For those of you who don't know me, I studied IHL at the Geneva Academy for IHL and Human Rights, and for the past 9 years I've served as a legal advisor with the International Committee of the Red Cross (ICRC), both in Geneva and Washington, DC. My interest in the law of armed conflict is not purely academic, however, as my brother and brother-in-law both serve in the U.S. Navy. It's from this perspective that I'm hoping to bring together the many backgrounds and views of our community, which includes military practitioners, academics, human rights activists, and students.

I want to thank the Executive Committee, which has been incredibly proactive and creative, and to thank all of you for your patience as we continue to work on new projects (like this newsletter!) and propose new ideas to invigorate the membership. Thank you to everyone who completed the membership survey that we sent out, and if you did not, please do so at:

<https://www.surveymonkey.com/r/DGBP87B>

I also wanted to share with you some feedback from the question that addressed what individuals hope to

get out of the Lieber Society.

It won't come as any surprise that many responses indicated a desire to see more networking opportunities and events. You will see in this newsletter we have included an upcoming events section, and we hope to organize a few local DC happy hours. I realize not everyone is based in DC, so I would encourage you to use the Lieber Society's Facebook page to organize happy hours with other members in your own area. We are also putting together an "expert roster" that we will share on our Facebook andASIL webpages. If you wish to be included in this roster, please fill out the online survey above.

In addition to networking and events, I noted that many of you are interested in learning more about what practitioners are doing, so we will attempt to feature practitioners in this newsletter as often as possible and to highlight their work.

My vision for the role of Chair is to promote the many great talents and ideas of this Society. I'm not here to command an army, I'm here to facilitate a community. As such, I'm relying on all of you to engage actively in promoting projects that interest you. Please feel free to reach out at any time with suggestions or to ask how you can contribute to this dynamic group.

Respectfully,

Andrea

Lieber Notes is the periodic newsletter of the Lieber Society. Any views expressed in this newsletter are those of the authors in their private capacities and do not purport to represent the official view of the Society or any government or organisation.

Lieber Society Executive Committee

Andrea Joy Harrison (Chair)
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Rachel E. Van Landingham (Secretary)
Christopher Bailey
Tracey Begley
Melanne Civic
Aaron Fellmeth
John Hursh
Peter Margulies
Michael W. Meier
Nicholas Mull
Jaimie Orr
James A. Schoettler



Newsletter Editor

Aaron Fellmeth (aaron.fellmeth@asu.edu)

Upcoming Events

October 10-12, 2019: International Law Weekend at Fordham University School of Law will host several panels of interest this year, including two sponsored by members of the Lieber Society: (1) *Mercenaries or Private Military Contractors?: Regulation of an Ever-Expanding Phenomenon* and (2) *Foreign Fighters and their Families: A Debate Regarding How to Reconcile the Competing Demands of ICL, IHL, Human Rights, and Refugee Law*, co-sponsored with the ABILA International Human Rights Committee.

October 10-11, 2019: The Judge Advocate General's Legal Center and School will host its Tenth National Security Law Workshop in Charlottesville, VA. Lieber Society member Laurie Blank (Emory University) will moderate the roundtable on Direct Participation in Hostilities.

March 13, 2020: A day-long conference entitled *Civilian Casualties: The Law of Prevention and Response* will be co-sponsored by the American Society of International Law, the American Red Cross, the Naval War College's Stockton Center for International Law, and the ICRC. The conference will take place at the American Red Cross's Washington, DC headquarters.

Winners of the 2019 Francis Lieber Prizes

The Executive Committee congratulates the winners of the 2019 Francis Lieber Prizes:

Book prize:

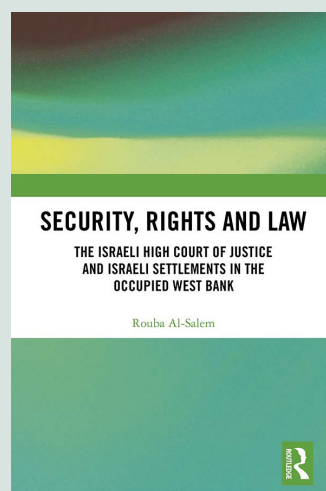
— ROUBA AL-SALEM, *SECURITY, RIGHTS AND LAW: THE ISRAELI HIGH COURT OF JUSTICE AND ISRAELI SETTLEMENTS IN THE OCCUPIED WEST BANK* (Routledge)

Article prize:

— Polina Levina Mahnad, *Protecting Cultural Property in Syria: New Opportunities for States to Enhance Compliance with International Law*, 99 INT'L REV. RED CROSS 1037 (2018)



Polina Levina Mahnad



Tribute to Col. (ret.) Dick Jackson

The Executive Committee wishes to take this opportunity to honor Colonel (retired) Richard B. "Dick" Jackson, who formally retired from all his LOAC duties this year. Dick became the Special Assistant to the U.S. Army Judge Advocate General for Law of War Matters in 2005 after serving in the U.S. army for over 30 years. He also served as the Lieber Society chair from 2010-2013, and has long served on the Board of the U.S. Committee of the Blue Shield. Dick also shared his love of LOAC with students as an adjunct professor at Georgetown University Law Center.

We asked Dick to tell us what his time as the Chair of Lieber meant to him, and here is what he had to say:

I think my favorite Lieber Society memories involve collaborative activities—having government, academics and IHL practitioners get together at Tillar House seminars or elsewhere to discuss the issues of the day from these very diverse perspectives. It was often fruitful and always resulted in some common grounds for further discussion. The friendships that resulted from those interactions and the mutual respect they engendered lasted long after the often-brief encounters.

Thank you, Dick, for all of your hard work and dedication these past decades. You have been an inspiration to many generations of LOAC lawyers, and a generous and thoughtful colleague. We will miss your continued contributions to this field, but we wish you the best as you enjoy your retirement.



Member News

In late 2018, Executive Committee member **Aaron Fellmeth** was appointed Dennis S. Karjala Professor of Law, Science & Technology at the Arizona State University, Sandra Day O'Connor College of Law.

Earlier this year, member **Laurie Blank** published a blog post on Sieges, Evacuations, and Urban Warfare in EJIL: *Talk!* Read it at <http://ejiltalk.org/author/laurieblank/>

Publications from Members

O'CONNELL, M., TAMS, C., & TLADI, D. (2019). SELF-DEFENCE AGAINST NON-STATE ACTORS (Max Planck Trialogues). Cambridge: Cambridge University Press. doi:10.1017/9781108120173

O'CONNELL, M. (2019). THE ART OF LAW IN THE INTERNATIONAL COMMUNITY (Hersch Lauterpacht Memorial Lectures). Cambridge: Cambridge University Press. doi:10.1017/9781108551144

Jill Goldenziel's article *The New Fighting Words: How U.S. Law Hampers the Fight Against Liberal Democracy* (with Manal Cheema) is forthcoming in the UNIVERSITY OF PENNSYLVANIA JOURNAL OF CONSTITUTIONAL LAW. It can be found here: https://papers.ssrn.com/sol3/Papers.cfm?abstract_id=3286847

Soon to be published by Oxford University Press is an anthology edited by Major Ronald T.P. Alcalá and Eric Talbot Jensen: THE IMPACT OF EMERGING TECHNOLOGIES ON THE LAW OF ARMED CONFLICT

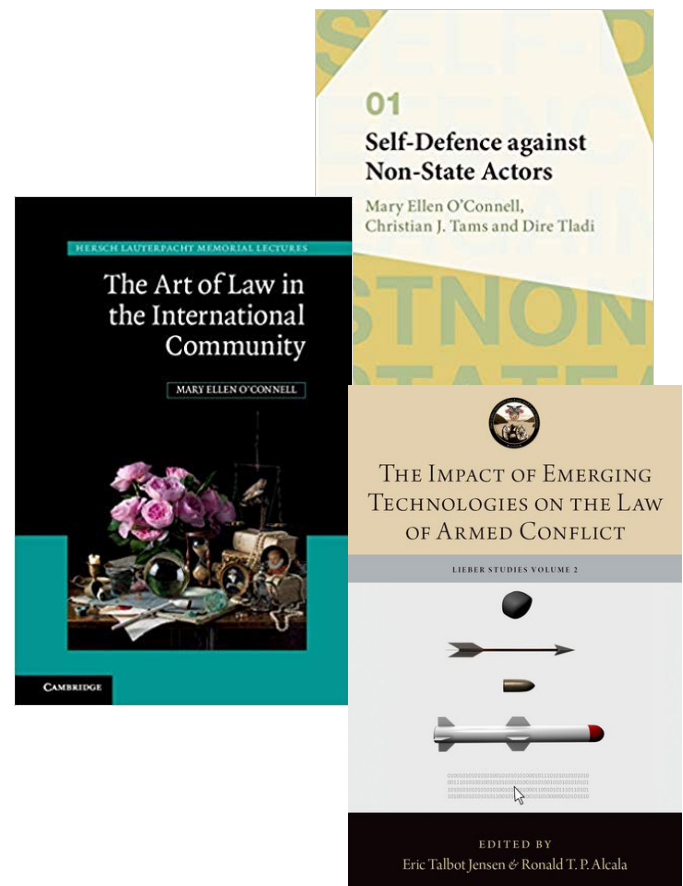
The U.S. Army JAG's Corps' Future Concepts Directorate

By Lt. Col. Matthew A. Krause

The U.S. Army Judge Advocate General's Corps (JAGC) is thinking about the future: specifically, it wants to make sure the right legal advisors with the right skills are advising at the right echelons in the U.S. Army. Whenever the JAGC needs a deeper understanding of the implications of future conflicts, it calls the Future Concepts Directorate (FCD).

Future Concepts Directorate is the think tank of The Judge Advocate General's Legal Center and School located on the campus of the University of Virginia in Charlottesville. It has one mission: to serve as the JAGC's subject-matter-expert on the application of the law to future conflicts, something it calls LOAC-F. It does this by constantly assessing the legal requirements of the future operational environment, proposing and reviewing Army doctrine, and providing the intellectual foundation to design a JAG Corps that will be ready for future multi-domain operations.

The constantly evolving nature of the military law profession does not often lend itself to academic analysis of issues that may not arise for years or even decades. Future Concepts Directorate is uniquely situated to provide this analysis, and it does so



along three lines of effort. First, it encompasses the operational Army's expertise on legal issues during future conflicts. Second, it conducts legal reviews of all new Army doctrine. Third, it provides in-depth analysis of JAGC strategic initiatives. Mostly though, it is known for its research on the legal aspects of any future capability in which Judge Advocates may need to develop competence.

Military officers at FCD, called future concepts officers, are Judge Advocates from operational backgrounds, possess advanced legal degrees, and usually have experience in international law, national security law, or acquisitions law. Future concepts officers are encouraged to think creatively and question the status quo. Despite being the JAGC's doctrine proponent, FCD does not consider itself constrained by doctrine or conventional thinking when it comes to problem solving.

Since most of the research, writing, and thinking about the law in future conflict has come from Academia, FCD partners with civilian law schools, non-governmental organizations, and others in order to ensure it is a part of the most current discussion. For example, FCD has a strong relationship with the Lieber Institute for Law and Land Warfare at the United States Military Academy at West Point, New York and maintains a fairly robust engagement schedule with other interested organizations within and outside of the federal government.

Despite being a think tank, FCD operationalizes knowledge because it recognizes the need to empower JAGC leaders with the information they need to train and prepare their legal advisors for future multi-domain operations. One of FCD's initiatives has been the creation of a regular podcast called Battlefield Next

featuring discussions with practitioners, academics, and writers in order to generate discussion among Judge Advocates at all echelons from the Pentagon down to tactical forces. FCD will also have a re-designed website featuring a regular blog, and an industry-leading repository of academic works involving LOAC-F available to the public.

Although most discussions about future conflict involve artificial intelligence, machine learning, autonomous systems, deep fakes, and other cutting edge technology, FCD also recognizes that most future conflicts will still have characteristics of past conflicts. Accordingly, FCD continues to research the use of explosive ordnance in urban areas, the targeting of medical personnel and facilities, effects on civilians, and methods of accountability for atrocity crimes. Additionally, FCD concerns itself with the proliferation of private military companies and attribution challenges.

The Director, Lieutenant Colonel Matthew Krause describes FCD this way: "We are a small organization that has a somewhat flat culture for a military organization. We have very open and candid conversations. There are no bad ideas in our directorate when it comes to ensuring the future JAG Corps is ready for the future fight. We often draw analogies to works of

science fiction, but to FCD, there is no such thing because our future legal advisors need to be flexible enough to specialize in the capabilities of their clients even if those capabilities do not yet exist."

Lieutenant Colonel Krause invites anyone to reach out to him to discuss matters of interest, ideas about events, or potential feature topics for the FCD podcast. You may reach him at matthew.a.krause4.mil@mail.mil.



Call for Papers for the 2020 Lieber Society Richard R. Baxter Military Writing Prize

Since 2007, the Lieber Society on the Law of Armed Conflict, an interest group of the American Society of International Law, has annually recognized a paper that significantly enhances the understanding and implementation of the law of war. The Richard R. Baxter Military Prize is awarded for exceptional writing in English by an active member of the regular or reserve armed forces, regardless of nationality.

The Prize. The winner will receive a certificate confirming that he or she has won the 2020 Lieber Society Richard R. Baxter Military Prize and a one-year membership in the American Society of International Law (ASIL). The judges may also recommend additional persons to receive Lieber Society Richard R. Baxter Military Prize Certificates of Merit.

Request for Assistance. Any person receiving this Call for Papers who is aware of exceptional writing that

meets the qualifications of this competition is requested to nominate the paper directly to the Lieber Society and forward this Call to the author of that paper.

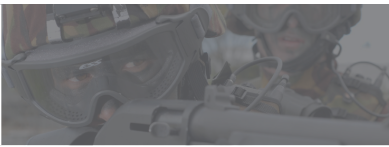
Definition of the Law of War. For this competition, the Law of War is that part of international law that regulates the conduct of armed hostilities. Papers may address any aspect of the law of war, including, but not limited to the use of force in international law; the conduct of hostilities during international and non-international armed conflicts; protected persons and protected objects; the law of weapons; rules of engagement; treatment of detainees, to include interrogation procedures; and occupation law. Papers addressing practical problems confronting members of armed forces are preferred.

Personal Qualifications. Persons submitting papers do not have to be ASIL members. They may be citizens

of any nation, but they must be an active member of a nation's regular or reserve armed forces at both the time of the writing and the time of submission for this competition.

Paper Requirements. Papers submitted in this competition must be in English (or translated into English if written in another language). Paper length may not exceed 35 pages if written with single line spacing or 70 pages if written with double line spacing, including footnotes. Paper size must be either 8.5 x 11 or A4, with all margins at least one inch and at least 12-point font. Both papers that have been published and papers that have not been published will be considered for the Baxter Prize. The paper should have written/published no earlier than the year prior to the award year, meaning for the 2020 Baxter Prize, papers should have been written or published in 2019.

Number/Type of Submissions. Sole



and joint authored papers are eligible, but every author must meet the eligibility requirements. Authors may submit one (1) sole and one (1) joint authored paper.

Redact author information. To facilitate anonymous judging to the greatest extent possible, please ensure that the author's name and personal identifying information are removed or redacted from the submission. In the email to which the submission is attached please provide the following author information:

Full name & military rank or rating
Current e-mail addresses & telephone number

If a person other than the author is making the submission, it must also contain the above data for the person submitting the paper.

Deadline for Submissions. Papers for the 2020 competition must be received no later than **10 January 2020**.

Submission by Email. Electronic submission is required in Adobe format (.pdf) or Microsoft Word (.doc). Submissions should be sent to the Baxter Military Prize Coordinator, Kathleen A. Doty, at doty@uga.edu. The subject line should read "Baxter Prize Submission."

Acknowledgement of Submissions. All submissions will be acknowledged by e-mail.

Announcement of Winner. The winner and any persons receiving Certificates of Merit will be announced at the Annual Meeting of the American Society of International Law in Washington, DC, April 1-4, 2020.

Disclaimer. This announcement is being sent for information purposes to notify personnel of events of common interest sponsored by a non-Federal entity. This announcement does not constitute an endorsement of the Lieber Society on the Law of Armed Conflict or the American Society of International Law. Participation is completely voluntary.

2020 Francis Lieber Prizes: Call for Nominations

The Francis Lieber Prize is awarded annually by the Lieber Society to the author of an exceptional work in the field.

Criteria

Any work in the English language published during 2019 or whose publication is in final proof at the time of submission may be nominated for this prize. Works that have already been considered for this prize may not be re-submitted. Entries may address topics such as the use of force in international law, the conduct of hostilities during international and non-international armed conflicts, protected persons and objects under the law of armed conflict, the law of weapons, operational law, rules of engagement, occupation law, peace operations, counter-terrorist operations, and humanitarian assistance. Other topics bearing on the application of international law during armed conflict or other military operations are also appropriate.

Eligibility

Anyone may apply for the article or book prize. For those in academia or research institutions, the prize is open

to those who are up to 8 years post-PhD or JD or those with up to 8 years in an academic teaching or research position. Membership in the American Society of International Law is not required. Multi-authored works may be submitted if all the authors are eligible to enter the competition. Submissions from outside the United States are welcomed.

Submission

Submissions, including a letter or message of nomination, must be received by **10 January 2020**. Three copies of books must be submitted. Electronic submission of articles is encouraged. Authors may submit their own work. All submissions must include contact information (e-mail, fax, phone, address) and relevant information demonstrating compliance with eligibility criteria. The Prize Committee will acknowledge receipt of the submission by e-mail.

Printed submissions must be sent to:

Professor Laurie Blank
Emory University School of Law
1301 Clifton Road

Atlanta, Georgia 30322
USA

Electronic submissions must be sent to:

Lblank@emory.edu

Please indicate clearly in the subject line that the email concerns a submission for the Lieber Prize.

Prize

The Selection Committee will select one submission for award of the Francis Lieber Prize. The Prize consists of \$500 and a certificate of recognition. It shall also select two additional submissions for award of "Honorable Mention" certificates of recognition.

The Selection Committee will select one submission for the award of the Francis Lieber Prize in the book category and one in the article category. The Prize consists of a certificate of recognition and a year's membership in the American Society of International Law. The winner of the Lieber Prize in both categories will be announced at the American Society of International Law's Annual Meeting in April 2019.