

LIEBER CODE

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

Dear members,

Fall is upon us! I'm sure for many of us, this is the busiest season of the year, but we hope you can take time to look through this edition of Lieber Notes. Both of our writing prizes are now being advertised, so please share these widely with your networks (links are included below). We also managed to pull off two excellent IHL events in September: i) a webinar entitled AI in IHL: Legal and Ethical Implications of Emerging Disinformation and Decision-Making Technologies and ii) a papers conference entitled Partnered Operations and International Law, which was co-sponsored with the European Society of International Law (ESIL) Interest Group on Peace and Security.

We are planning a networking/career panel before the end of 2022, and have ideas for a few other substantive panels, but please feel free to reach out if you would like to propose an event.

We very much hope that this year's ASIL annual meeting will take place in person as planned, in which case we will be able to organize an in-person networking event as well as our traditional business meeting. Please keep an eye out for announcements about the annual meeting, especially as we will have elections in early Spring and we have a large number of vacancies – including Chair – opening this year.

As always, my best wishes to all of you and your loved ones during what remains a difficult time for many. Stay well and stay involved!

Andrea Harrison

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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.

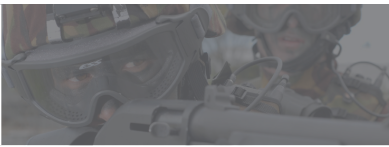
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Call for Papers

Lieber Writing Prize

The American Society of International Law's Lieber Society on the Law of Armed Conflict awards the Lieber Prize to the authors of publications that the judges consider to be outstanding in the field of law and armed conflict. Both monographs and articles (including chapters in books of essays) are eligible for consideration — the prize is awarded to the best submission in each of these two categories.

Criteria: Any work in the English language published during 2021 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 either 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 7 January 2022. One submission per prize category is allowed. 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), curriculum vitae and other 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 the award of the 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 winners of the Lieber Prize in both categories will be announced at the American Society of International Law's Annual Meeting in April 2022.

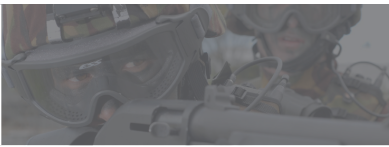
Richard Baxter Military Writing Prize

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 (also known as international humanitarian law, IHL). The Richard R. Baxter Military Prize is awarded for exceptional writing in English by an active member of the regular or reserve armed forces, civilian employees of an armed force/ Ministry of Defense (or Department of Defense for the United States), and military service veterans, regardless of nationality.

The Prize: The winner will receive a certificate confirming that he or she has won the 2022 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/IHL: For this competition, the Law of War/IHL is that part of international law that regulates the conduct of armed hostilities. Papers may address any aspect of the law of war/IHL, 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 the armed forces are preferred.



Qualifications for entering the competition: 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 the regular or reserve armed forces, civilian employee of an armed force/ Ministry of Defense (or Department of Defense for the United States), and military service veterans, regardless of nationality.

Papers that may be entered: 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. A bibliography is not required. Both papers that have been published and papers that have not been published will be considered for the Baxter Prize. The paper should have been written/published no earlier than the year prior to the award year, meaning for the 2022 Baxter Prize, papers should have been written or published in 2021.

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 and military rank or rating (former rank for veterans, or civilian equivalent) Current e-mail addresses and current 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 submitting papers: Papers for the 2022 competition must be received no later than 7 January 2022.

Use of email to submit papers: Electronic submission is required in Adobe format (.pdf) or Microsoft Word (.doc). Submissions should be sent to the Baxter Military Prize Coordinator, Dr. Christopher E. Bailey, at christopherbailey286@yahoo.com. 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 6-9, 2022.

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.

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. 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. The paper should have been written/published should have been written or published in 2021. Inquiries, as well as submissions, should be sent to the Baxter Military Prize Coordinator, Dr. Christopher E. Bailey, at christopherbailey286@yahoo.com.

Events

Partnered Operations and International Law 24 September 2021.

The Sapienza University of Rome, the Lieber Society and the ESIL Interest Group on Peace and Security co-hosted an academic conference on "Partnered Operations and International Law." The conference covered three main themes: the applicability of international law to partnered operations; the conduct of hostilities in partnered operations; and responsibility for IHL and IHRL violations committed in the course of partnered operations. The keynote speech was given by Gary D. Brown of the US National Defense Academy and the concluding remarks by Professor Enzo Canizzaro of the Sapienza University of Rome. Papers from the conference will appear in a special issue of the Journal of Conflict and Security Law in 2022.

Below are the links for the introduction, key note and two of the panels. We have received permission to share them with you.

[Intro and Panel 1:](#) Applicability of IHL to (non)-belligerent parties and participation in armed conflicts.

[Key Note by Gary Brown and Panel 3:](#) Responsibility for the violation of IHL/IHRL during partnered operations.

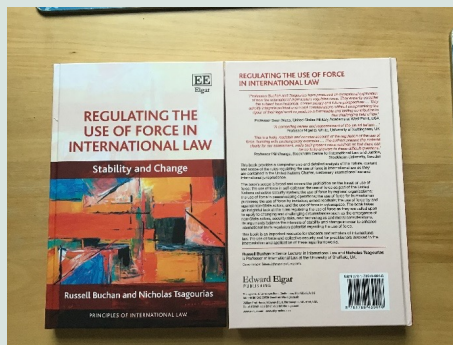
Submitted by Professor Nicholas Tsagourias.

Publications

Russell Buchan and Nicholas Tsagourias
Regulating the Use of Force in International Law: Stability and Change (Elgar 2021)

Info can also be found here https://www.e-elgar.com/shop/gbp/regulating-the-use-of-force-in-international-law-9781786439918.html?mc_phishing_protection_id=28047-c3e70fadu81a4mf68s10

Webpage https://www.sheffield.ac.uk/law/people/law-academic-staff/nicholas-tsagourias?mc_phishing_protection_id=28047-c3e70fadu81a4mf68s10



Yuan Fang, *Current International Law a Good Fit for Cybersecurity? A U.N. Charter-Based Analysis*, 20 Wash. U. Global Stud. L. Rev. 549 (2021).

This article examined the applicability of Jus ad Bellum within the context of cyberspace, available at <http://ssrn.com/abstract=3920621>.

Gergő Barna Balázs and Gábor Kajtár, *Beyond Tehran and Nairobi: Can Attacks against Embassies Serve as a Basis for the Invocation of Self-defence?* European Journal of International Law

Marking the 40th anniversary of the Iran hostage crisis, this article explores the possible invocation of self-defence in case of attacks against embassies. It will be published in the forthcoming issue of EJIL in mid-October, however, its advance electronic version is already available online at the following DOI: <https://doi.org/10.1093/ejil/chab060>

Member Contributions

Ioana Cismas and Ezequiel Heffes,
The Generating Respect Project – Examining Religious Leaders as Influencers of Norm-Compliance in Armed Conflict



What's in a Term?

The term 'influencers' evokes images of trendy, charismatic individuals seeking to generate interest for a product on social media. Outside the digital marketing realm, in the less trendy field of international law, one would not be amiss to think of States as influencers of norm-compliance. Whilst non-state actors can no longer be regarded as passive norm-takers, States remain the main makers, interpreters, and enforcers of international law in times of peace and war. Not many international law experts would consider religious leaders as influencers of norm-compliance. What they would agree, however, is that ensuring respect for international humanitarian norms in armed conflict is one of the most important challenges that the international community faces nowadays.

Obstacles to Norm-compliance in Armed Conflict

Challenges to norm-compliance emerge despite the existence of humanitarian norms anchored in international humanitarian law (IHL), which undisputedly applies to States and non-State armed groups (NSAGs), and international human rights law (IHRL), which is binding on States and increasingly regarded as binding on NSAGs exercising 'either government-like functions or de facto control over territory and population'. Collectively, these bodies of law aim to 'humanize' war by requiring that civilians are protected from attacks, detainees from abuse, and humanitarian assistance is facilitated. Yet, across the globe, and all too often, civilians are killed, detainees are tortured, medical facilities are attacked, and humanitarian relief denied.

We have argued that norm-compliance in armed conflict faces systemic and institutional challenges, whilst also cautioning against simplistic representations of State and non-state as entities that either violate or respect IHL and IHRL in toto, without exception. Instead, parties often follow certain rules while disregarding others. For instance, a NSAG may respect the prohibition of hostage-taking, while deliberately attacking medical

facilities in breach of IHL. Similarly, a State may forcibly displace civilians, while treating detainees in accordance with its international obligations. Parties also modify their behaviours during armed conflict, often reflecting an increase or decrease in their level of compliance with humanitarian provisions.



Humanitarian Engagement: The Traditional & the Novel

To prevent and address violations of humanitarian norms, humanitarian actors have traditionally pursued a direct engagement strategy with the parties to an armed conflict. This has prioritized the incorporation of humanitarian norms in the parties' internal rules and regulations, in their training and accountability mechanisms, thus excluding – in the main – reliance on underlying values to underpin IHL or IHRL provisions. While this has been the dominant strategy, in the last two decades the humanitarian sector has engaged other societal actors that have the potential to influence States and NSAGs, notably among them, religious leaders.

It is in this context that the ESRC-funded project, or for short, [The Generating Respect Project \(2020-2023\)](#) has been conceived. By documenting the role of religious leaders in war, and examining their influence on parties to conflict, it provides an empirical and conceptual evidence-base for their consideration as key players in the humanitarian arena. The project focuses on three broad humanitarian norms – the protection of civilians from attacks, the protection of detainees, and the facilitation of humanitarian assistance – and six case study countries: Colombia, Myanmar, Mali, Libya, Syria and Yemen.

What is Special About Religious Leaders?

The ICRC [Roots of Restraint in War Study](#) noted that, among other societal actors, religious leaders are capable of significantly influencing the behaviour of armed forces and NSAGs. Humanitarian norms, the study argued, have received 'grated traction' by 'linking the law to local norms and values', since this connection encourages individual members of armed actors to internalize the standards, which in turn may promote restraint in war in a more durable manner (*Ibid.*, 9). Two aspects need emphasis here: religious actors hold the potential to influence the immediate action of armed actors in war, and to socialize them and wider communities in the spirit of humanitarian norm-compliance.

It is at this juncture that the [Generating Respect Project](#) takes shape. We define religious leaders as those actors

that:

- i) have a formal or informal affiliation to religion, belief or spirituality;
- ii) make a claim of special legitimacy to interpret religion and to command obedience from followers/members/adherents;
- iii) are individuals or exercise leadership collectively, through formal or informal groups, organisations, institutions, or networks.

Drawing on [previous studies](#) on the topic, this definition recognizes that religious leaders rely on a 'claim of special legitimacy' that stems from tradition or charisma – when validated by their followers, including members of armed actors, religious leaders will be particularly influential societal actors in many conflict situations.

Whilst, their special legitimacy is a necessary definitional element of religious leadership, it does not fully explain their influence (or lack thereof) in armed conflict. Based on initial project findings, we can conclude that the influence of religious leaders on armed actors needs to be depicted as a relational process. This process, in turn, appears to be shaped by intrinsic factors to both religious leaders and armed actors (e.g. structure, financing, ideology, religious, social and ethnic background, access & communication channels, perception of the opponent, position on IHL/IHRL norms, patterns of violations) and contextual factors (type of conflict, applicability & clarity of IHL/IHRL norms, conflict dynamics, security situation, societal position/perception of religious leaders and armed actor, involvement of third parties).



Some Key Findings of the Generating Respect Project

[The Generating Respect Project](#) draws on desk-based research, key informant interviews, in-country fieldwork and co-productive work with our partner organization Geneva Call. Among the [key empirical findings to date](#), we note that the action of religious leaders has resulted in concrete instances where parties to armed conflict agreed to halt violations of humanitarian norms (for instance, by releasing hostages) and to allow humanitarian access and aid. The research conducted in the case study countries has demonstrated an inclination and willingness of some religious leaders to support humanitarian norm-compliance, drawing on their religious values, norms and convictions. It should be noted, however, that there are other reasons why they may offer their support, including economic or political reasons.

Silences of religious leaders in relation to



gregarious violations of IHL and IHRL, or indeed religious interpretations which legitimize such violations have also been documented. These findings should not lead humanitarians to reject the engagement of religious leaders. Ignoring their role in the spheres of norm-compliance is a defeatist strategy – whether these actors are or have the capacity to influence armed actors positively or negatively. In the former instance, humanitarians are likely to miss an opportunity; in the latter, non-engagement will not stop violations of humanitarian norms, whereas engagement provides some hope. A measure of self-reflection among the humanitarian communities is in order as to why and how such engagement should occur.

On the latter aspect, the Project contributes with a further conceptual clarification. We have intentionally used a broad definition of religious leadership, by acknowledging the informal ways in which actors may be affiliated to religion and recognising expressions of collective leadership. In doing so, we sought to capture more closely the complex empirical reality of religious leadership on the ground, and second, to correct for intra- and extra- religious exclusionary patterns, which manifest themselves, generally, in respect to women and minorities. Were humanitarian organisations to operate with definitions which replicate such patterns, they would likely invisibilise women religious leaders as influencers of norm-compliance. Just how important their specific role can be is illustrated by [the forthcoming digital story](#) ‘Madame Cissé, prédicatrice de l’équité’, the Generating Respect Project’s contribution to Geneva Peace Week.

