Georg Nolte (Ed.)

European Military Law Systems

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European Military Law Systems

Dr. U C Jha

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European Military Law Systems Georg Nolte, 2003 The German Ministry of Defense decided in 2000 to commission a study comparing various European systems of military law The present book contains not only the original study but also all national reports in English It provides a comparative analysis of different European military law systems on the basis of European Military Law Systems Georg Nolte, 2012-08-06 The German Ministry of Defense decided in 2000 to commission a study comparing various European systems of military law The present book contains not only the original study but also all national reports in English It provides a comparative analysis of different European military law Armed Forces in Law Enforcement Operations? - The German and European systems on the basis of national reports Perspective Kim Eduard Lioe, 2010-11-25 At the center of this study lies the allocation of responsibilities and the division of labor between the armed forces and the mission of the police as well as other security forces in Europe The mission of these forces defines the demarcation line between the spheres of internal and external security by assigning the former to the police and the latter to the armed forces The focal idea is the evaluation of the feasibility of a strict separation as maintained in Germany in a European context practical difficulties in its application and potential ways to overcome such difficulties This comprises in particular a comparison of the German Way with other European states and the corresponding methods chosen against the background of joint operations abroad Armed Forces and Security Services Council of Europe, 2009-01-01 Faced with the growing threats of terrorism and international organised crime European societies are feeling an increasing need for both domestic and external security Government action to combat these threats must be lawful and also legitimate and be conducted with due respect for human rights democracy and the rule of law which are fundamental Council of Europe principles The question arises as to who is going to exercise democratic oversight in this area What are the roles of parliaments the executive the judiciary and civil society Do supervisory bodies exist at supranational level This book presents the various players and their duties in the security field and confirms the need to strike a balance between a democratic conception of fundamental freedoms and security safeguards on the basis of reports by the Council of Europe Parliamentary Assembly and the European Commission for Democracy through Law Military Law Review ,1984 ICC Iurisprudence and the Development of International Humanitarian Law Martin Faix, Ondřej Svaček, 2024-03-28 This book explores how International Humanitarian Law IHL has been developed in the jurisprudence and practice of the International Criminal Court ICC A partial focus is given to the phenomenon of child soldiering which became symptomatic for the early practice of the ICC The book provides readers with broad insight into the activity of the ICC The first part contains chapters focused on the methodology of law finding before the ICC i e identification interpretation and application of the law The authors address complex issues concerning the mutual relationship between treaty law Article 8 of the ICC Statute and customary international humanitarian law and explore the relevance of IHRL in the application and interpretation of Article 8 of the

Rome Statute The second part consists of chapters focused on substantive international criminal law The authors address issues concerning contextual elements of war crimes passive personal scope of IHL denying judicial guarantees as a serious breach of IHL forms of responsibility and circumstances precluding wrongfulness Constitutionalism and the Role of Parliaments Katja S Ziegler, Denis Baranger, Anthony W Bradley, 2007-06-07 Modern constitutionalism has put a lot of hopes in parliaments but there is some consensus that these hopes have not been entirely fulfilled At the same time the role of parliaments in contemporary democracies continues to evolve as parliaments are faced with new challenges How should they react to the new forms of executive and administrative action Should they play a role in upholding judicial independence although the latter is frequently seen as independence from parliament as well as the executive How should they contribute to the protection of fundamental rights The book aims at providing some answers to these questions by first setting the historic scene giving a comparative overview of the modern history of a selection of major European deliberative institutions UK France Germany and the European Parliament The book then looks at themes around the doctrine of separation of powers especially aspects of the relationship between parliament and the executive power and parliaments role and attitude regarding the judiciary with a special focus on the independence of the judiciary in a comparative perspective **Evolving Internal Roles of the Armed Forces** Albrecht Schnabel, Marc Krupanski, 2012-11-12 It is widely assumed at least from a Western perspective that the armed forces provide national defence against external threats In reality within many consolidated Western democracies the armed forces are assuming an increasingly wide range of internal roles and tasks These can include domestic security roles and the provision of humanitarian assistance in situations of natural or humanitarian catastrophe often under the command and control of different civilian agencies This SSR Paper seeks to make sense of this complex reality Different internal roles of armed forces are analysed drawing on the cases of Austria Belgium Canada Denmark Finland France Germany Italy Luxembourg Netherlands Norway Spain Sweden the United Kingdom and the United States of America Through carefully examining evolving internal roles and identifying patterns and lessons from these experiences this SSR Paper provides an important contribution to understanding the evolving nature of contemporary armed forces **Contemporary Challenges to the Laws of War** Caroline Harvey, James Summers, Nigel D. White, 2014-10-16 This book brings together leading experts to explore contemporary issues facing the laws of war Military Courts, Civil-Military Relations, and the Legal Battle for Democracy Brett J. Kyle, Andrew G. Reiter, 2020-12-22

Military Courts, Civil-Military Relations, and the Legal Battle for Democracy Brett J. Kyle, Andrew G. Reiter, 2020-12-22 The interaction between military and civilian courts the political power that legal prerogatives can provide to the armed forces and the difficult process civilian politicians face in reforming military justice remain glaringly under examined despite their implications for the quality and survival of democracy This book breaks new ground by providing a theoretically rich global examination of the operation and reform of military courts in democratic countries Drawing on a newly created dataset of 120 countries over more than two centuries it presents the first comprehensive picture of the evolution of military

justice across states and over time Combined with qualitative historical case studies of Colombia Portugal Indonesia Fiji Brazil Pakistan and the United States the book presents a new framework for understanding how civilian actors are able to gain or lose legal control of the armed forces The book s findings have important lessons for scholars and policymakers working in the fields of democracy civil military relations human rights and the rule of law Armed Forces Special Power Act Dr. U C Jha, 2015-03-01 The Armed Forces Special Powers Act AFSPA has become one of the most controversial laws both in India and the world A few NGOs and human rights activists have described it as draconian alleging that it gives the armed forces unrestricted power to arrest without warrant destroy property and shoot to kill besides providing them with complete immunity The loud and continuous clamour against the Act has drawn the attention of various international organizations The UN Special Rapporteur on Extrajudicial Summary or Arbitrary Executions Christof Heyns has recently called for the repeal of the law stating AFSPA allows the state to override rights Such a law has no role in a democracy and should be scrapped On the other hand the armed forces hold that the AFSPA is necessary for tackling the growing menace of militancy and protecting their men from the unnecessary harassment caused by litigation General V K Singh the former chief of army staff and now a cabinet minister has emphasized that the AFSPA is a functional requirement of the armed forces This is the first book in India not only to attempt a complete analysis of the various provisions of the AFSPA but also to provide an insight into the legislative efforts of other democracies to meet the challenges of growing terrorism It delves into cases of human rights violations in which members of the armed forces have been implicated and at the same time argues that it is equally important to safeguard the human rights of the members of the armed forces In order to help find an amicable solution the author makes a few recommendations for the consideration of the government and armed forces Human Rights and Non-discrimination in the 'War on Terror' Daniel Moeckli, 2008-01-24 In the post September 11th era liberal democracies face the question of whether and if so to what extent they should change the relationship between liberty and security This book explores how three major liberal democratic states the United States the United Kingdom and Germany have approached this challenge by analysing the human rights impacts of their anti terrorism laws and practices The analysis reveals that the most far reaching restrictions of liberty have been imposed on minorities foreign nationals and certain racial ethnic and religious groups This Disparate treatment raises complex issues concerning the human right to non discrimination Differential treatment on the basis of nationality national origin race or religion is only compatible with the right to non discrimination if there are objective and reasonable grounds for it The author evaluates contemporary anti terrorism efforts for their compliance with this requirement Is there in the context of the current war on terror sufficient justification for applying powers of preventive detention or trial by special tribunal only to foreign nationals Are law enforcement methods or immigration policies that single out people for special scrutiny based on their national origin or their ethnic or religious appearance a suitable and proportionate means of countering terrorism The concluding part of the book argues that in the

long term discriminatory anti terrorism measures will have impacts beyond their original scope and fundamentally reshape ordinary legal regimes and law enforcement methods The Law of Organized Religions Julian Rivers, 2010-07-22 And academics in religious studies Students studying law and religion courses Leaders and engaged members of churches and religious organizations Research Handbook on Jurisdiction and Immunities in International Law Alexander Orakhelashvili, 2025-06-09 This updated Research Handbook presents a comprehensive analysis of the international law of jurisdiction and immunities examining the mutual interdependence between the two as well as shedding light on the implications Featuring diverse contributions from leading experts emerging scholars and practitioners it provides an impartial perspective on the applicable international law The Handbook of the Law of Visiting Forces Dieter Fleck, 2018 The legal position of visiting forces transcends domestic and international law and is of growing importance in our increasingly globalized and insecure world In area and out of area operations both for the purpose of establishing and maintaining peace and in connection with the conduct of other military operations and training are likely to become more frequent for a variety of reasons Finding where the applicable law places the balance between the interests sensitivities and needs of the host state and the requirements often practical in nature of the visiting force is a key objective in ensuring that the relationship between hosts and guests is and remains harmonious All of this must be achieved in an increasingly complex legal environment This fully updated second edition of The Handbook of the Law of Visiting Forces addresses the issues surrounding visiting forces and provides a full overview of the legal framework in which they operate Through an analysis of jurisprudence and historical developments it offers a comparative commentary to the UN NATO and other SOFA rules The Handbook then continues its analysis through cases studies of visiting forces in key countries including a fully updated chapter on Afghanistan that considers the various stages of the conflict before offering conclusions on the current state of Democratic Civil-Military Relations Sabine Mannitz, 2012-05-04 This book the law and its likely future development examines the ways in which European democracies including former communist states are dealing with the new demands placed on their security policies since the cold war by transforming their military structures and the effects this is having on the conceptualisation of soldiering In the new security environment democratic states have called upon their armed forces increasingly to fulfil unconventional tasks partly civilian partly humanitarian and partly military in most complex multi national missions Not only have military structures been transformed to make them fit for these new types of deployments but the new mission types highlight the necessity for democracies to come to terms with a new image and ethos of soldiering in defence of a transnational value community Combining a qualitative comparison of twelve countries with an interdisciplinary methodology this edited volume argues that the ongoing transformations of international politics make it necessary for democracies to address both internal and external factors as they shape their own civil military relations The issues discussed in this work are informed by Democratic Peace theory which makes it possible to investigate relations within the state at the same time as analysing the international dimension This approach gives the book a systematic theoretical framework which distinguishes it from the majority of existing literature on this subject This book will be of much interest to students of civil military relations European politics democratisation and post communist transitions and IR in general

The Execution of Illegal Orders and International Criminal Responsibility Hiromi Sato, 2011-02-16 The legal consequence of the superior orders defense has long been debated as one of the major problems in international criminal law Several controversial issues such as the immunity of the state the absolute character of military discipline and immunity on the grounds of mistake of law and or coercion have been complexly interwoven in the debates The Execution of Illegal Orders and International Criminal Responsibility provides a comprehensive portrait of the relevant debates at the international level up to the present analyzes the conflicting views and shows the significance of the development of international rules for the superior orders defense as well as the implication of the fact that issues concerning some detailed or related rules have been left unresolved This study presents to present a new standpoint not only on dealing with the problem of the superior orders defense but also on reconsidering the international stipulation of rulemaking with regard to criminal matters transatlantic divide Osvaldo Croci, Amy Verdun, 2024-07-30 This books available in paperback for the first time examines the period between the military intervention against Serbia by NATO and the one in Iraq by the US It has been a particularly turbulent one for transatlantic security relations Is the malaise currently affecting the Transatlantic Alliance more serious than ever before and if so why Will differences in the assessment of how to provide order and stability in the international system as well as in the evaluation of threats and how to respond to them mark the end of the Transatlantic Alliance Or will the US NATO the EU and EU member states work together using different instruments and accepting a degree of division of labour to pacify stabilise and rebuild troublesome areas as they have done in South Eastern Europe This book with contributions from leading American Canadian and European scholars analyses the reasons behind the latest crisis of the Transatlantic Alliance and dissects its manifestations Human Rights in the Indian Armed Forces Dr. U C Jha, Dr Sanghamitra Choudhury, 2019-03-18 The military plays an important role in nation building and national security Notwithstanding special requirements of military life the members of the armed forces should enjoy the rights guaranteed in the Constitution and other relevant international human rights treaties which India has ratified to the extent that those rights are available to other citizens of the country The guarantee of a fair trial should apply to all proceedings under the military legal system including summary trial and summary systems of court martial The government must ensure the economic social and cultural rights of military personnel including housing medical care education free legal aid and social security Derogations of the Fundamental Rights under Article 33 should not be carried so far as to create a class of citizens who are not entitled to the benefits of the liberal interpretation of the Constitution This book is aimed at all those who are involved in promoting protecting and enforcing the rights of not only the members of the armed forces but also the other forces engaged

in the security of the country It will of relevance to parliamentarians government officials military authorities and members of the civil society who have a stake in the armed forces <u>Civil-Military 'Legal' Relations: Where to from Here?</u> Pauline Therese Collins,2018-04-03 Civil military relations establishes the civilian control over the military to protect democratic values This book argues analysis of the CMR is distorted by the absence of consideration of the judicial arm with the civil seen as referring only to the executive and or legislature The civil courts approach to military discipline and the impact that has for CMR within the United Kingdom United States and Australia is investigated The author concludes that by including the courts in the development of CMR theory militarisation of the civilian domain is discouraged A paradigm shift acknowledging the fundamental role of all three organs of government in liberal democracies for control of States power is essential for genuine civilian oversight

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