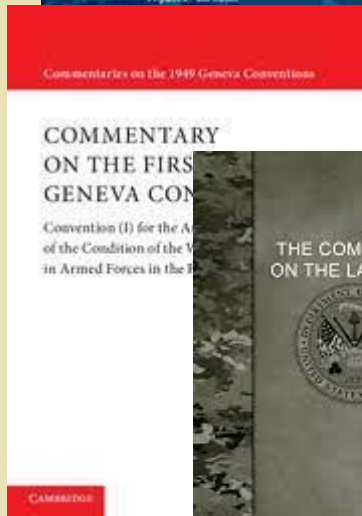
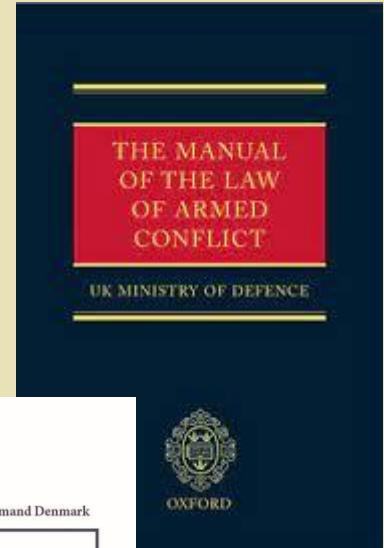
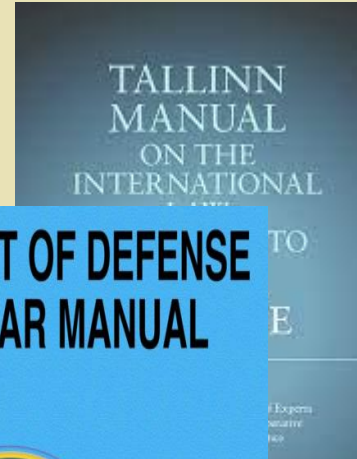


A collection of military medals and a pair of glasses on a light-colored surface. The medals include a red ribbon medal with a circular emblem, a blue ribbon medal with a circular emblem, and two silver star-shaped medals with circular centers. A pair of gold-rimmed glasses with thin temples is also visible. In the bottom left corner, there is a circular compass with a white face and black markings.

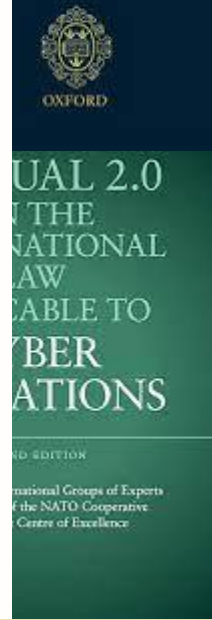
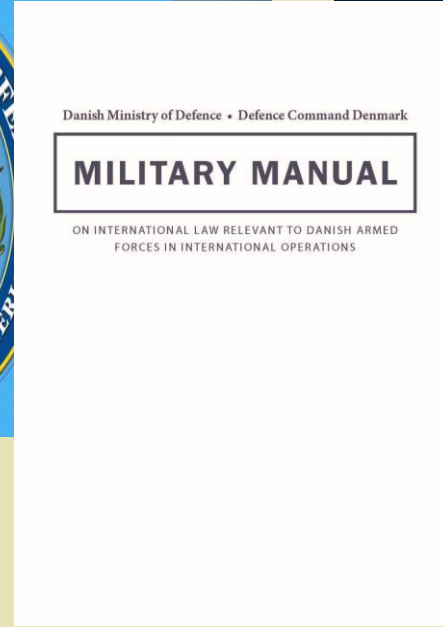
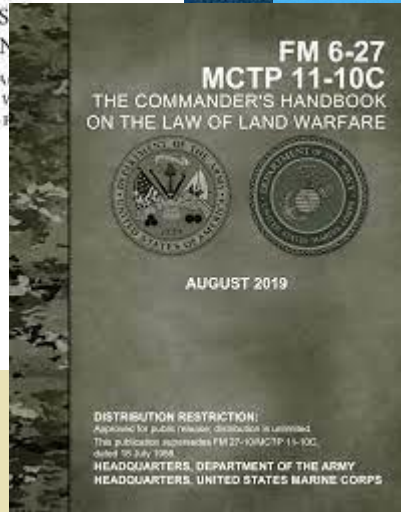
Law Formation and Development: State Perspective

Mr. Michael Meier
Special Assistant for Law of War Matters
U.S. Army

Proliferation of Manuals and Commentaries



**DEPARTMENT OF DEFENSE
LAW OF WAR MANUAL**



Who has time to read all of these?



Kimberly Wilkins tell us...



Roadmap

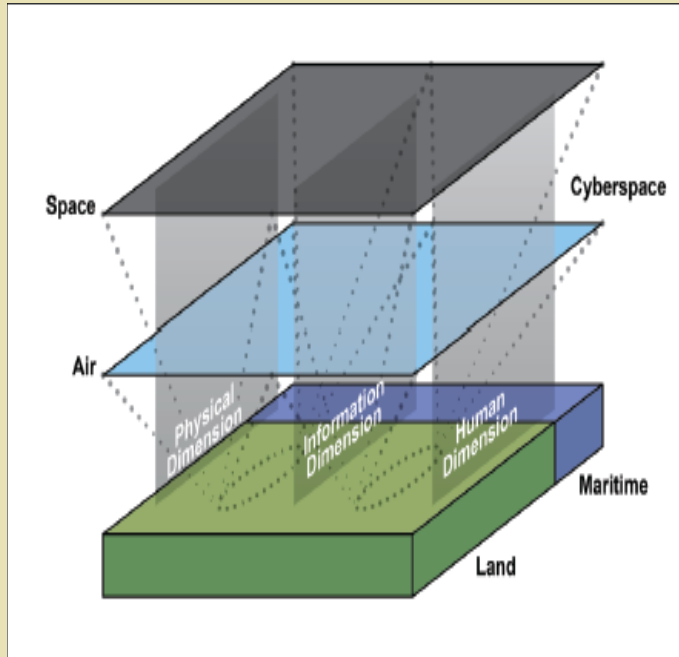
- ◆ Legal Doctrine Must be Developed in coordination with military doctrine
- ◆ How we use manuals, handbooks, and commentaries to train and develop LEGADs
- ◆ How do we train and advise commanders on future (and current) battlefields



Legal Doctrine

- ◆ As the way a force fights and doctrine changes, legal doctrine must change with it.
- ◆ 2018 National Defense Strategy
 - Move from COIN/CT to LSCO
 - Looking at peer and near peer threats (Russia and China)
- ◆ 2018 Army Strategy
 - Multi-domain operations

Field Manual 3-0



- ◆ Must be prepared to fight in all 5 domains and 3 dimensions in a LSCO
- ◆ The doctrinal shift towards LSCO is an opportunity to reimagine how legal advice is provided to our clients.

A vertical strip on the left side of the slide features a collage of military-related items. At the top, there are several circular medals or coins. Below them is a blue ribbon with a circular emblem. The central part of the strip shows a large, ornate red and white cross-shaped medal with intricate scrollwork. At the bottom, a portion of a compass rose is visible, showing cardinal directions and degree markings.

Field Manual 3-0

- ◆ Commanders, staffs, and subordinates ensure that their decisions and actions comply with all applicable United States, international, and host-nation laws and regulations, and all applicable international treaties and agreements. Commanders at all levels ensure that their Soldiers operate in accordance with the law of armed conflict and applicable rules of engagement. (See FM 6-27 for more information on the law of war.)



Legal Support to Operations

- ◆ Army Field Manual 6-27 (Commander's Handbook on Law of Land Warfare)
- ◆ Army Field Manual 1-04 (Legal Support to Operations)
 - Leaders must evaluate and analyze the anticipated operations of the supported unit to best design the structure for legal support at their echelon.
 - “Traditional [Legal] division structure, centered on legal functions, may not adequately provide the legal support required of a dispersed and tactically focused corps or division headquarters.”
 - In short, Army doctrine acknowledges the tailorable approach to judge advocate placement.

Legal Support in Developing Doctrine is Important




- ◆ “Hiding in Plain Sight”
 - Forces will struggle to hide on the battlefield
 - Adversaries will use EMS to locate and destroy C2 nodes
 - Deception will be key
 - LEGADs must ensure it doesn’t violate LOAC

“If you stay in one place for longer than two or three hours, you will be dead” – GEN Mark Milley



Military Manuals

- ◆ As doctrine changes, Military Manuals will need to be revised.
- ◆ Many States are currently in the process of revising their Manuals
 - DoD Law of War Manual is being revised
 - The UK
 - Netherlands



LEGADs use of Manuals, Commentaries and Handbooks

- ◆ Need to understand what the law is and what is policy
- ◆ 18th Gap?
- ◆ Rise of Soft Law
 - Political Declaration on Explosive Weapons in Populated Areas
 - Civilian Harm Risk Mitigation Action Plan

Commentaries

- ◆ ICRC Revised Commentaries
 - “fraught source for the military, diplomatic, and judicial practitioners called on to implement the Convention consistent with established meaning in the challenging conditions of armed conflict.” (Watts)
- ◆ Good place to start but should not be only source.





Are some Manuals Better than Others?

- ◆ Who wrote it? State practitioners vs. “experts”
- ◆ The 2023 Newport Manual on the Law of Naval Warfare
 - State practitioners (in private capacity)
 - Focused on *lex lata* versus *lex ferenda*
 - Noted instances where there was disagreement



Advising Commanders

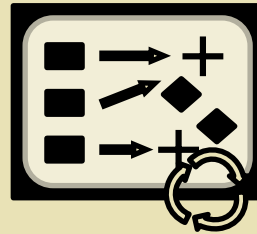
- ◆ Legal Advisors will not always be present
- ◆ Commanders and LEGADs must proactively educate and train the force on LOAC before conflict so they can assess legal risk without a LEGAD present
- ◆ Must be done prior to armed conflict

Impact of Technology on legal advice

**Space based
ISR Asset**



Battlespace Management



Fire Unit



- ◆ Effective targeting will require speed and delegation reviews
- ◆ Technology will present challenges (e.g., Project Convergence), which uses space-based systems, AI, and other decision-making tools that reduce the time to ID and engage a target from 20 minutes to 20 seconds.

Questions

