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International human rights law and the law of armed conflict in the context of counterinsurgency: With a particular focus on targeting and operational detention

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Part C.2. Operational Detention

Introduction

In the previous part, we have examined the interplay between IHRL and LOAC in the context of targeting. In the present part, the assumption is that the insurgent is not targeted, but detained.

The research question to be answered in this part is:

in light of contemporary counterinsurgency doctrine, how do the relevant normative frameworks of IHRL and LOAC governing operational detention interrelate and what does this tell us about the permissible scope of conduct in operational practice?

The approach adopted in this part is similar to that in Part B. This means that the first two chapters (Chapters VIII and IX) in this part examine the concept of operational detention of insurgents in IHRL and LOAC respectively. Chapter X examines, *firstly*, the interplay of both regimes in, what will be referred to as, the *normative paradigm of security detention* and the *normative paradigm of criminal detention* – both of which are sub-paradigms of the normative paradigm of law enforcement specifically dealing with operational detention. *Secondly*, it aims to determine what are the incentives that drive the interplay between both normative paradigms.