

**International Conference  
of Ombuds Institutions  
for the Armed Forces**

**13 IC OAF**

**Daily Summary**

Monday, 18 October



## Session 1: Operational effectiveness, human rights law and international humanitarian law

### A perennial debate

Debates on the relationship between operational effectiveness of the armed forces, rights obligations, and the complex conditions in states of armed conflict are not new. However, the changing roles, responsibilities and contexts that armed forces personnel find themselves in, most notably on multilateral deployments or in assistance of civilian authorities, has compelled relevant actors to increasingly reflect on where, when, and how legal provisions complement or inhibit operational effectiveness. Changes are thereby manifest in the acceptance of these debates, the language used therein, and the corresponding balance struck between rights obligations and operational effectiveness.

### Rights obligations to armed forces personnel

One prominent and illustrative fault line between operational effectiveness and rights obligations manifests in recruitment policies for armed forces personnel that would otherwise run foul of fundamental human rights law principles, particularly the principle of non-discrimination. Operational needs dictate certain standards of physical fitness, which translate into greater combat readiness of troops. Yet, recent court rulings have shown that states' views on combat readiness (and corresponding physical requirements) change over time as courts are forced to scrutinize common, and at times mis-placed assumptions being made about fitness and other factors relevant for deployment. Herein, the unique character of military life, most notably that military staff are often subject to a rigorous discipline regime, translates into some leeway granted to states to impose restrictions on military personnel as rights holders.

However, the relationship between operational effectiveness and rights obligations can also work in the opposite way and be of complementary nature. Strengthening the rights afforded to service personnel supports the governance of the defence sector and esprit de corps as vital preconditions for operational effectiveness.

### The boundaries of operational effectiveness

There are clear-cut boundaries to imperatives of operational effectiveness, drawn by International Humanitarian Law (IHL) and human rights law. These bodies of law are not monolithic, and courts have recognised the complexity in applying the right balance between them, yet the rarity of states to derogate human rights law provisions in armed conflict suggests that they do not see a fundamental incompatibility between the two. Pre-deployment training which educates service personnel of all relevant provisions is crucial to ensure the appropriate scope of available actions and ombuds institutions, in cooperation with one another or by themselves, could play an important role in that regard. Further resources to navigate the complex legal space of IHL and human rights law include available knowledge products, such as the [\*Compendium of Standards, Good Practice, and Recommendations on Human Rights of Armed Forces Personnel\*](#).