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Title: 'Hard power 'and the European Convention on Human Rights

Issue Date: 2019-06-18

Stellingen behorende bij het proefschrift
'Hard power' and the European Convention on Human Rights
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- 1 The European Convention on Human Rights makes sufficient provision for the legitimate use of 'hard power'.
- 2 It is neither correct nor necessary to interpret the interrelation between international humanitarian law and international human rights law under the European Convention on Human Rights in the same way as under the International Covenant on Civil and Political Rights, the American Convention on Human Rights or the African Charter on Human and Peoples' Rights.
- 3 In Article 15 § 1 of the European Convention on Human Rights ('the Convention'), the limitation clause *threatening the life of the nation* does not qualify the word *war*, provided that the Contracting Party availing itself of that Article is fighting the 'war' in accordance with the provisions of the Charter of the United Nations.
- 4 The Convention is applicable in an armed conflict in which a Contracting Party participates, even outside the territory of any Contracting State; the corollary is that Article 15 of the Convention lends itself for extraterritorial application, including outside the territorial jurisdiction of any Contracting State.
- 5 Since *Medvedyev and Others* and *Al-Skeini and Others, Banković and Others* must be understood in the sense that the deliberate use of force by a Contracting Party to the Convention against an individual who is outside the territorial jurisdiction of any Contracting Party constitutes the extraterritorial exercise of 'State agent authority and control' over a victim of such use of force, so as *ipso facto* to bring the intended victim (and any collateral victim) within the Article 1 jurisdiction of the attacking Contracting Party, but that in contrast, any use of force outside the territorial jurisdiction of any Contracting Party that does not actually target any individual does not, even if a casualty results.
- 6 If a Contracting State places its armed forces at the disposal of the Security Council acting under Chapter VII of the United Nations Charter and acts of its military that would ordinarily constitute violations of the Convention are attributable to the United Nations as a result, then a legal regime and an appropriate remedy should exist to hold the United Nations to account for those acts; however, the absence of such a regime and remedy will not *per se* result in attribution of violations of the Convention to the Contracting State.

- 7 In the light of the case-law developed by the Court in the ‘Spycatcher’ cases (Observer *and* Guardian and The Sunday Times (*no. 2*)), the Court’s *Otto-Preminger-Institut* and *Wingrove* judgments have lost their significance now that the films to which they relate – like other, comparable or even more potentially offensive, materials – can be found on the internet without difficulty.
- 8 Article 50 of the Constitution of the Batavian Republic (*Staatsregeling voor het Bataafsche Volk*, 1798) was more favourable to immigrants than any European immigration legislation currently in force.
- 9 Article 63 § 1 of the American Convention on Human Rights admits of greater judicial creativity than Article 41 of the European Convention, as indeed the award of remedies in the *Moiwana Community v. Suriname* judgment demonstrates.
- 10 The *Lohé Issa Konaté* judgment of the African Court of Human and People’s Rights is interesting in that, called upon to establish the applicant’s status of ‘journalist’ for purposes of freedom of expression, it does so based on the facts of his case, dismissing as irrelevant administrative formalities such as registration as a journalist or possession of a press card.
- 11 William of Orange’s letter to the States of Holland and West Friesland of 28 December 1574 reminds us that the University of Leiden was intended from the very beginning to attract students from abroad.
- 12 Whale oil is a biofuel.