Dr Florian Demont-Biaggi, MILAC at ETH Zurich, Deep Morality, LOAC, and the Relevance of Military Practices for War Ethics.

Understanding the relation between morality and the laws of armed conflict is a central problem for contemporary war ethics. Mainstream war ethics draws on a notion of deep morality, contrasts it with the laws of armed conflict, and assigns conceptual priority to morality (McMahan 2004). Uwe Steinhoff (2021) discusses and rejects this view. For him, legal regulations and the practices in which they are employed are the basis of a sound approach to war ethics. Steinhoff's law-first approach misses to give due credit to the relevance of military practices for war ethics. Going back to Michael Walzer's notion of moral philosophy as interpretation (Walzer 1993), I read the war convention as based on practices that cannot be limited to legal practices (Walzer 2015). From that point of view, it is important to consider that some armed forces explicitly commit themselves to prioritize respect for human dignity over the laws of armed conflict whenever there are tensions between legal and moral constraints. This, however, is also an expression of the constitutional values and the democratic processes on which the political mandates for these armed forces (and their military practices) are based. The central claim of the paper is, hence, that war ethics is best understood as deriving its moral substance from military practices, understood together with the legal practices they involve and the agreement-constituting processes on which they are based.

References:

McMahan, J. (2004) "The ethics of killing in war" Ethics 114, 693-733.

Steinhoff, U. (2021) The Ethics of War and the Force of Law. A Modern Just War Theory. London: Routledge

Walzer, M. (1993) Interpretation and Social Criticism. Cambridge: Harvard University Press.

Walzer, M. (2015) Just and Unjust Wars. A Moral Argument with Historical Illustrations. New York: Basic Books.