



Allied Command Transformation
Staff Element Europe,
Legal Office – Bld 104 – Room 120
B-7010 SHAPE
Belgium

Phone: NCN 254-5499 / commercial 0032 65 44 5499
Fax: NCN 254-4210/ commercial 0032 65 44 4210



2010 NATO Legal Conference

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International Institute of Humanitarian Law

San Remo, Italy

Executive Summary

Despite a delay in the program caused by the April volcanic eruptions of Eyjafjallajökull, the NATO legal community, now extended to include personnel from NATO legal offices, NATO and partner nations Ministries of Defence and Foreign Affairs, and invited representatives from international and non-government organizations met during the last week of September, 2010.¹ Hosted by the International Institute of Humanitarian Law in beautiful San Remo from 27 to 30 September 2010, one hundred and six legal advisers and legal personnel partners considered the topic *Implementing NATO's Strategy In Afghanistan—Legal Responsibilities and Challenges* through lectures, discussions, and occasional spirited debate.

Beyond the five-month interruption, the 2010 conference presented two significant changes from the four conferences conducted from 2006-2009. First, invitations to participate were extended to legal advisers from the Ministries of Foreign Affairs and Ministries of Defence of NATO and partner nations to attend and actively participate in the 2010 conference. Second, Mr. Peter Olson, who assumed the post as the Legal Adviser to the Secretary General in February 2010, used the conference to meet his new colleagues and address the largest annual gathering of NATO and national legal advisers.

Starting with an introductory afternoon session on Monday, 27 September, to discuss effective legal knowledge sharing within the organization for persons assigned to NATO legal offices, the conference participants mixed opportunities for informal discussions with a total of six plenary sessions conducted on Tuesday, Wednesday, and Thursday. Social events included an icebreaker hosted at the Italian Logistics Base on Monday evening, a conference dinner on Wednesday evening at a harbor side San Remo restaurant, a guided walking tour for spouses, and wonderful *al fresco* lunches and coffee breaks during the proceedings of the conference.

¹ The four previous meetings occurred at the Joint Force Training Centre, Bydgoszcz, Poland (2006), the Joint Warfare Centre, Stavanger, Norway (2007), the NATO Rapid Deployable Corps, Istanbul, Turkey (2008), and Eurocorps, Strasbourg, France (2009).

Each plenary session addressed sub-topics of the conference theme, *Implementing NATO's Strategy In Afghanistan—Legal Responsibilities and Challenges*, with a moderated discussion to provide all participants the opportunity to ask questions to the speakers and each other. The six subtopics were: *Strategic Overview; Perspective From The Theater; Responsibilities of International Organizations; Direct Participation In Hostilities, the Status of Non-State Actors, and Detention; Contractors in International Military Operations—Challenges And Developments; and Rule Of Law In Afghanistan*. Like past conferences, the 2010 meeting was held under the Chatham House Rule that grants participants free to use the information received, but without revealing either the identity or the affiliation of the speaker(s), or that of any other participant, without permission.

TUESDAY SEPTEMBER 28

The conference formally opened on Tuesday morning with welcoming remarks from *Mr. Peter Olson, Ambassador Maurizio Moreno* the President of the International Institute for Humanitarian Law, *Mr. Tom Randall* the Legal Adviser to the Supreme Allied Commander Europe and *Minister Giorgio Marrapodi* of the Italian Ministry of Foreign Affairs who also described Italy's efforts and contributions to the International Security Assistance Force (ISAF) and Afghanistan.

Mr. Martin Howard, Assistant Secretary-General for NATO Operations, followed with a strategic perspective on the common characteristics of NATO operations, the uniqueness of the conflict in Afghanistan, the vast spectrum of responsibilities of ISAF, and the international legitimacy of NATO's intervention based upon United Nations Security Council Resolutions and its relations with the Government of the Islamic Republic of Afghanistan. Acknowledging the challenge differing legal views pose for the conduct of operations by NATO and ISAF in Afghanistan, Mr. Howard called for the legal community to work together in a timely and flexible manner to find the right balance between the legal and political aspects in risk assessment while reinforcing cooperation between nations. Three practical outcomes of such an approach could permit better employment of NATO resources, the resolution of problems jointly rather than sequentially, and a creative relationship between policy makers and legal advisers.

The final speaker of Tuesday morning was the *Honourable Harold Hungju Koh*, Legal Adviser of the U.S. Department of State. Mr. Koh provided a comprehensive lecture connecting the Obama Administration, international law, and the armed conflict with Al-Qaeda. *Colonel James Wise*, the Legal Adviser to the Director of the International Military Staff of the Military Committee of NATO, moderated the panel discussion of the topics raised by the speakers and closed the morning session.

The Tuesday afternoon session featured presentations by *Major Warren Fensom*, the Deputy Senior Mentor for the Afghanistan National Army's Legal School at the Kabul Military Training Centre and *Mr. Troy R. Anderson*, a member of the Counter-Insurgency Advisor Assistance Team and a Rule of Law Advisor for ISAF Headquarters. As a representative of the NATO Training Mission in Afghanistan (NTM-A), Major Fensom began his remarks by reminding the audience of the major lines of ISAF operations: disruption of the insurgency, protection of the population, and reform and development of the Afghan National Security Forces. The contribution of NTM-A to this campaign is to

provide trainers, instructors, and advisers for the Ministries of Interior and Defence, the Afghan police, Afghan National Army (ANA), Air Force, logistic systems, medical systems, infrastructure systems, schools and academies while also engaging with civilian non-governmental organizations and international organizations.

The scale and the requirements of NTM-A's mission are vast. Literacy training is seen as central to a successful education effort than enhances operational and training effectiveness. In a country with an overall literacy rate of 28.1 percent, NTM-A's plan is to provide literacy training for 50,000 members of the ANA and police by the end of 2010 and for an additional 100,000 by June of 2011. In an effort that combines literacy training with professional and technical skills, more than 600 instructors and trainers conduct 46 courses at 37 training sites to graduate 4,100 policemen each month. More than 1,200 Coalition trainers and mentors together with over 4,600 Afghanistan National Army trainers lead 95 concurrent courses at 27 sites to produce 6,000 trained Afghan National Army soldiers a month. While these ground-training efforts advance, the mentors and training for the Afghanistan Air Force are involved in 60 courses devoted to English language training, out-of-country pilot training, and operational flight training. In all areas, NTM-A's training and mentoring also intends to help in the fight against corruption in Afghanistan by teaching codes of conduct, providing ethics training, creating transparent assignment processes, merit-based promotions, control mechanisms for fiscal and supply matters that include inspection and auditing procedures while also creating mobile anti-corruption teams.

At the Afghan National Army Legal School where Major Fensom is assigned, he and seven other mentors and trainers work to fulfill the mission of educating, developing, and inspiring the ANA Legal Corps and personnel of the Afghan Ministry of Defence. In addition to literacy training courses address the principles of leadership, non-judicial punishment, military justice, and methods of combating corruption. Among the short-term goals of the ANA Legal School is the delivery of a legal course for non-commissioned officers and ensuring the full operational capability of the ANA Legal School. The mid-term goals include judicial seminars, basic legal officer training, creation of an advanced criminal investigation course, assistance to the legal faculty at the National Military Academy of Afghanistan, and introducing training in the Law of Armed Conflict. Long term goals seek the establishment of a training program and a career path for judges, the introduction of specialized courses such as a defence counsel course, an operational law course, and commander training.

Major Fensom closed his remarks by emphasizing the foundations of success in Afghanistan require the development of the Afghanistan National Security Forces into a professional, capable, and self-sustaining institution. This development and transition cannot occur without the involvement of NTM-A trainers. Shortages of trainers are delaying the timetable for a responsible transition of the training functions to the Government of the Islamic Republic of Afghanistan. Major Fensom concluded by observing that given the scale of the training challenge, success requires crucial and enduring commitment by the ISAF coalition for NTM-A.

Shifting from educational and training efforts to current rule-of-law practice, Mr. Troy Anderson offered a description of the current Afghan legal battlefield, the existing lack of accountability, and the necessity to build rather than to re-build legal capability. Agreeing with Major Fensom's presentation, Mr. Anderson assessed the overall Afghan

priorities as a need for security, staff, education, and to fight corruption. But just as important for a successful joint implementation approach it is essential for NATO and US forces to understand the limited infrastructure available to support formal programs administered by judges, courts, police, and jailors. Court procedures and investigations are far from transparent and rarely produce an auditable decision trail. Steps that Mr. Anderson and ISAF are pursuing to improve this include greater prosecutor support, the creation of an evidence collection guide, the creation of a crime-scene analysis card, while also endeavoring to influence traditional justice practices to include observable rule-of-law protections. Based upon a combination of NATO and US push for improved rule-of-law practices and pull by the Afghans for improved capability and facilities, regional capabilities are increasing, although Mr. Anderson admitted that some of these advancements remain conceptual.

Colonel Michael Jordan, the Legal Adviser for ISAF, joined the panel discussion with Major Fensom and Mr. Anderson to add his perspective on in-theater issues. Colonel Wise continued his duties as moderator, facilitating a serious discussion that lasted more than one hour about ISAF's counter-insurgency strategy, precautionary measures when planning attacks, and the duty of constant care to spare the civilian population. The conference day concluded shortly after 1700 allowing the participants to enjoy an open evening in San Remo.

WEDNESDAY SEPTEMBER 29

The Wednesday morning panel addressed the topic, *The Responsibilities Of International Organizations*. Ms. Olivia Swaak-Goldman, International Cooperation Advisor, Office of the Prosecutor of the International Criminal Court (ICC) opened the proceedings by describing the role of the ICC in the international justice system and the work of the Office of the Prosecutor in monitoring, investigating, and prosecuting genocide, crimes against humanity, and war crimes. Recalling the Court's creation in 1998, Ms. Swaak-Goldman observed the ICC had established a new global system of justice. As reflected in the preamble of the Rome Statute that established the Court, by putting an end to impunity for the perpetrators of the most serious crimes, not only is the intrinsic link between justice and peace recognized, the jurisdiction of the Court serves as a powerful deterrent to future perpetrators. If this system relies on shared responsibility and complementary action between the Court and State Parties, the mandate of the Office of the Prosecutor is to select the situations where the Court should intervene.

This independence to commence investigations distinguishes the ICC from other international tribunals (Nuremburg, Tokyo, the Former Yugoslavia, and Rwanda) where States selected the situations to investigate. Ms. Goldman-Swaak described the three factors contained in Article 53 (1) of the Rome Statute which the Prosecutor shall consider when deciding to initiate an investigation: 1) a reasonable basis to believe that a crime within the jurisdiction of the Court has been or is being committed; 2) the case is or would be admissible under Article 17 of the Rome Statute—meaning that no State is willing or able to prosecute; and 3) consideration of the gravity of the crime, the interests of the victims, and whether the interests of justice are served by going forward. Illustrating how these conditions operate in practice, Ms. Goldman-Swaak compared national proceedings against guerilla leaders, paramilitaries and their political supporters being pursued by the government of Columbia with the absence of such proceedings in the Democratic Republic

of Congo (DRC). Another illustration of the conditions necessary to launch an investigation she offered was the preliminary examination of alleged crimes committed in Iraq during military operations by nationals of 25 State Parties to the Rome Statute. Although incidental cases of willful killing and torture were identified, because they were not committed as part of a large-scale plan or policy, the Office of the Prosecutor did not open an investigation as the cases did not fulfill the gravity threshold established in the Statute.

Next to describing the strategy of the Office of the Prosecutor to be transparent, predictable, and cooperative with State Parties and the multiple actors the Court must engage, Ms. Goldman-Swaak then provided an update on the proceedings before the Court arising from events in the Democratic Republic of the Congo, Northern Uganda, Darfur, the Central African Republic and, most recently, Kenya. Presently there are five cases ongoing at the ICC and nine issued arrest warrants that have not been executed. Prominent among these are the warrants against Joseph Kony, a leader of the Lord's Resistance Army, and the Sudanese President Omar Al Bashir. There are other situations to which the Court has turned its attention including preliminary examinations concerning Columbia, Georgia, and Afghanistan; however no decision has been made on whether or not to open an investigation. Ms. Goldman-Swaak concluded her well-received remarks by calling for States and the Court to work together to strictly apply and enforce law to hold accountable those most responsible for the gravest violations.

Dr. Oscar Solera, Legal Adviser, UN Office of the High Commissioner for Human Rights opened his lecture with a discussion of the legal framework applicable to military operations in Afghanistan and the complementarity of international human rights law and international humanitarian law. Dr. Solera declared the conflict in Afghanistan a non-international armed conflict where both human rights law (HR) and international humanitarian law (IHL) apply, citing the advisory opinion of the International Court of Justice in the *Nuclear Weapons Case* that, "the protection offered by human rights conventions does not cease in case of armed conflict..." Dr. Solera then examined the situations where some rights for individuals may be exclusively matters of international humanitarian law, others may be exclusively matters of human rights law, and yet others that may belong to both branches. An example of this last situation is found in the protection of the right to life. Both HR and IHL, Dr. Solera observed, contained explicit obligations to ensure that civilian life is protected at all times. Both the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights protect the right to live and prohibit arbitrary deprivation of life while Common Article 3 of the Geneva Conventions protects person taking no active part in the hostilities, including the prohibition against violence towards life and person.

Turning to Afghanistan, Dr. Solera described the ongoing monitoring by UN Mission to Afghanistan (UNAMA) of the effects of the armed conflict, the human rights of civilians, and the number of civilian casualties. While noting the 29% decline in civilian casualties over the past year, Dr. Solera found it worrying that one in five civilian deaths arose in the context of search and seizure night operations. While assuming that night raids are conducted to mainly detain those involved in the conflict, Dr. Solera found it undeniable that raiding private homes at night posed a serious challenge on the determination of when to engage with lethal means. Under these circumstances, he advocated for requiring precautions equivalent to the standards used by law enforcement personnel when using deadly force. Similarly troubling were the amount of civilian deaths caused by so-called escalation of force incidents. These incidents occur when a driver of a vehicle fails to halt

after being given a series of signals to stop. If this category is added to the casualties arising from night raids, they amount to almost half of all civilian deaths. This number exceeds both civilian deaths arising from ground combat operations and aerial strikes. To better protect life, Dr. Solera urged stricter observance of human rights rules such as those that limit the use of deadly force to situations of self-defence which could greatly contribute to ensuring respect by States for their international legal obligations which includes an obligation to investigate when life has been lost or harm has occurred to the human rights of civilians. The duty to investigate violations effectively, promptly, thoroughly, and impartially in order to take action when warranted arises from both domestic and international law to fulfil accepted standards of accountability. Thus, neither secret investigations nor investigations that are not accessible to the victims and their families meet these requirements. Dr. Solera reminded that victims have a right to know and transparency could help defuse anger that has built up in the civilian population. He concluded by observing that military commanders who conducted prompt, impartial, and thorough investigations into breaches of applicable human rights standards and disciplined offenders, fulfil the expectations of transparency that both victims and the international community require.

The final speaker of the Wednesday morning panel was *Mr. Tom Randall*, the SHAPE Legal Adviser, who offered his practitioner's view about the authority and responsibilities of a commander in a multi-national NATO force. Mr. Randall began his presentation by comparing NATO commanders with national commanders. While both have similar appearances of responsibility, dramatic differences exist in their authority.

NATO commanders have the responsibility to plan, organize and direct the conduct of multi-national military operations and activities. NATO commanders are accountable to the multinational military chain of command and the committee system of the Alliance that is structured with the North Atlantic Council (NAC) as its highest controlling body. NATO Commanders execute their NAC approved-missions by developing operational plans, providing strategic guidance, operational advice, tactical directives, and issuing orders. NATO commanders exercise their command responsibilities with the expectation that their orders will be carried out in a manner consistent with international law by their principal subordinates, commanders of national forces assigned to NATO. These commanders, unlike their NATO superiors, have legal power based in national law providing them direct authority over their assigned forces. These national commanders, unlike NATO commanders, are empowered to investigate and punish breaches of law by their subordinates or, depending on their national system of justice, start proceedings for investigations, trials and punishment conducted by civilian officials.

A NATO commander's authority is much more limited. NATO, an alliance of nations, lacks the power to impose law and punish. If national commanders or national forces under NATO command commit a breach of the law of armed conflict, ultimately it will be up to national authorities to ensure the offenders are legally responsible for their actions. This is the NATO commander's dilemma: having all the appearances of a fully-empowered command but lacking actual legal control over subordinate commanders and their forces who may have committed criminal offenses. Reality compounds this dilemma because both national and NATO rules govern many actions of his subordinate forces. Where divergent authority exists, complexity clouds the complete and effective exercise of control by NATO commanders. Three examples illustrate this: 1) rules regarding the use of

force; 2) detention of personnel; and 3) rules governing investigations into the possible violations of the law of armed conflict.

NATO rules of engagement prescribe the use of force during NATO operations. When the North Atlantic Council approves an operational plan it separately approves rules of engagement that all member nations must approve. Although they have agreed to these rules, because of national legislation or policies, some nations caveat their approval. Typically these caveats impose further limits on the use of force, prohibit national forces from conducting certain types of operations, or prohibit entry into a specific geographical area. By design, caveats limit the utility of national forces, posing a challenge to NATO commanders to ensure assigned forces actually possess the legal authority to carry out their orders. Where NATO recognizes the right of self-defence and directs that nothing in the rules of engagement impairs this inherent right of a Commander, national rules may be different. In hypothetical situations where civilian casualties occur, the real possibility exists that two sets of rules governing self-defence may apply. In assessing whether a use of force in self-defence committed during a NATO-led operation complied with international law, the determination of which rule controls will certainly have a bearing on the extent both a NATO and a national commander are held legally accountable for their actions.

The topic of detention displays a similar divergence between NATO and national authority. The subject of detainees, held for some limited period of time by an armed force in Afghanistan has received intense public interest. Discussions have focused upon how long a person may be detained, the conditions of their detention, whether they may be transferred to another nation's control and whether the detaining nation could be held responsible for their treatment after transfer. These issues concern both NATO and national commanders. As with rules of engagement and self-defence, different standards are being applied. Both the Commander of ISAF (COMISAF) and the Supreme Allied Commander Europe (SACEUR) have issued directives to NATO forces regarding detention, treatment and transfer of the detained. At the same time a number of ISAF troop-contributing nations have established bi-lateral agreements with the Government of the Islamic Republic of Afghanistan. This causes national commanders to follow these agreements and to concurrently apply their national laws, regulations, and court opinions concerning the treatment and transfer of detainees. This, again, creates two standards for addressing a common issue within a NATO operation and further clouds the authority of a NATO commander.

The final illustration of the NATO commander's command dilemma concerns investigations, particularly in the case of civilian casualties. The landmark decision of General Yamashita in 1945 addressed the commander's responsibility for failing to control or punish the actions of subordinates about which he should have known. Consequently, a critical component of command responsibility is the duty to investigate suspected breaches of international law possibly committed by subordinates. In 2007 and 2010 SACEUR issued guidance to COMISAF to ensure thorough investigation of incidents of civilian casualties. The two key points of this guidance concerns their promptness and that they be conducted in a way that does not prejudice the ability of national authorities to hold accountable individuals who may be guilty of misconduct. If an ISAF investigation discovers evidence of law of armed conflict violations, this information is to be referred at once to the appropriate national authority. The national commander involved is to be held

accountable to the NATO chain of command as well as to his national authorities to ensure the matter is thoroughly investigated and resolved.

After providing these three examples of the difference between national rules and NATO rules in operations, Mr. Randall concluded by commenting on the increasing phenomenon of nations committing their forces to a NATO operation but doing so under provisions that indicate they may not be prepared to follow NATO rules or policies. NATO commanders, like national commanders, have an obligation to conduct their operations in accordance with the law of armed conflict. The limits of NATO command, however, pose a unique challenge on commanders and their legal advisers as they attempt to carry out NATO policies and directives. Mr. Randall then moderated an active discussion between the panel members and with the conference participants that continue until the lunch hour.

The Wednesday afternoon session featured *Sir Daniel Bethlehem*, Legal Adviser, British Foreign and Commonwealth Office, and *Mr. William Lietzau*, Deputy Assistant United States Secretary of Defense (Detainee Policy). Sir Daniel's presentation addressed why the discussion about detention is important, its legal framework, particular challenges, and the strategic issues connected to detention in Afghanistan. Mr. Lietzau reviewed the issue of non-state actors and detention in Afghanistan. Upon the conclusion of their remarks, *Judge Fausto Pocar*, International Criminal Tribunal For the Former Yugoslavia, moderated a question and answer session that concluded events for the day.

THURSDAY SEPTEMBER 30

On the last day of the Conference, *Mr. Steve Rose*, the ACT Legal Advisor chaired a lively panel on the use of civilian contractors in conflict environments. The discussion focused on the proliferating use of private military security companies (PMSC), a significant but controversial aspect of 21st Century civil-military operations. As noted by the panel chairman in his opening remarks, the concept of armed civilians contracted to carry out security functions sets off both theoretical and practical alarm bells within the NATO structure. From the standpoint of international law, PMSC's do not fit easily into the canons of the Geneva Conventions and their modern adaptations. From the perspective of the ISAF campaign, PMSC's have become a lightning rod – viewed by some nations as an inevitable necessity due to lack of military manpower, and by others as a relatively uncontrolled element undercutting the rule of law and unity of effort. In ISAF, the use of PMSC's has recently reached a tipping point, with Afghan President Karzai banning them ("thieves by day, terrorists by night"), with some limited exceptions. In this context, the panel discussed various options being developed to regulate the activities of PMSC's to make them more accountable.

A representative from the Swiss Mission to NATO, *Mr. Paul Garnier*, updated the Conference on two related initiatives, the Montreux Document and an International Code of Conduct for PMSC businesses. The Montreux Document, launched in 2006 as a joint initiative by Switzerland and the International Committee of the Red Cross, restates and clarifies the core international obligations of States, PMSCs and their personnel operating in situations of armed conflict. The Document also compiles a list of recommended practices designed to help governments develop legislative and administrative measures that comply with these obligations. Although more than 30 nations have accepted the

Montreux Document as a statement of principles and practices, it is not a legally binding document.

The challenge now is to deepen the commitment of all stakeholders, especially States, to these principles and practices. In this context, several conferees urged NATO to review its policies on contractors to align with the Montreux Document. One panelist observed that there is a discontinuity between NATO's Multiple Futures study, which envisions increasing use of private military and security services around the world, and NATO's baseline document on contractor support to operations [(C-M(2007)0004)], which does not mention the existence of the PMSC phenomenon at all. This point sparked a vigorous discussion, with some commenting that C-M(2007)0004 is primarily intended as a logistics document to ensure that NATO gets good value for its operational support contracts, and others noting that NATO seems reluctant or unable to develop PMSC guidelines so long as there remain significant differences in national approaches.

Several conferees observed that NATO's strength is movement toward convergence over time, and suggested that a PMSC annex to C-M(2007)0004 might be a useful first step, to include referring to the Montreux Document as a restatement of international obligations and source of best practices for PMSC activity. They pointed out that continuing to ignore the issue at the level of NATO policy runs the risk of future operations suffering from the same PMSC climate of impunity that has led to the harsh Karzai decree in Afghanistan. Regulation of the conduct of PMSCs is more than a legal conundrum; it also has direct impact on operational effectiveness, a fact that will only be amplified as nations continue to signal their intent to withdraw or reduce troops from the ISAF area.

As a possible follow-on step to updating C-M(2007)0004, someone suggested development of a NATO STANAG or model OPLAN annex to establish a framework for PMSC utilization during NATO civil-military operations. Although there was disagreement among the conferees whether NATO should develop its own PMSC policy or leave it to individual NATO Nations as a matter of sovereign discretion, all agreed that PMSCs have become an integral element of military operations and that their use poses important legal, political, and operational challenges.

Mr. Tom Randall convened the final panel of the conference composed of *Captain Patrick McCarthy*, USA-N, Staff Judge Advocate for Joint Task Force (JTF) 435, and *Ms. Linda Dann*, Head Operational and International Humanitarian Law Division, Central Legal Services, UK Ministry of Defence to discuss Rule of Law in Afghanistan. Both speakers addressed the topic from the perspective of actions by their nations that contribute to mission success in Afghanistan. Captain McCarthy provided an extensive review of the U.S.-Afghan efforts to establish the Rule of Law in Afghanistan through a combination of infrastructure building projects and comprehensive training efforts for judges, court personnel, and the staffs of confinement facilities.

Ms. Dann focused her remarks on the topic of detainee transfer. Agreeing with previous speakers, she stressed the importance of the detention issue as matter of strategic effectiveness and as an important interface between law and policy. Noting that United Kingdom detainee transfer policies were now a matter receiving scrutiny from national courts, *Maya Evans v. Secretary of State of Defence*, [2010] EWHC 1445 (Admin), she also emphasized that detainee issues proved a direct and meaningful opportunity for interface with Afghan authorities. Ms. Dann then provided an overview of the 2010 United

Kingdom Ministry of Defence policy concerning the treatment of detainees, the legal issues arising from this policy, practice that is informed by reports regarding treatment and conditions by independent human rights bodies, the importance of establishing relationships with Afghan officials, detainee visits by United Kingdom military and embassy officials, and how investigations into alleged detainee abuse are pursued. She concluded her presentation by observing the detainee issue required strategic engagement at the political and military levels. Of themselves, memoranda of understanding on this topic are insufficient; rather, actions not words speak the loudest. As such, the development of a detainee monitoring and oversight remains an evolving process that is kept under constant review.

After moderating questions from conference audience arising from Captain McCarthy's and Ms. Dann's presentation, Mr. Randall concluded the discussion portion of the conference. Thanks were extended to the conference hosts of the International Institute of Humanitarian Law: Ambassador Moreno, Dr. Stephania Baldini, Colonel Darren Stewart, Lieutenant Colonel Angelo Simeone, Lieutenant Colonel Andrea De Vita, Ms. Patrizia Di Pietro, Ms. Maria Jonsson, and Ms. Patricia Panizzi for their superb hosting that made the conference success. After expressing deep appreciation to Dr. iur. Katharina Ziolkowski, Legal Adviser, German Ministry of Defence, for her role as the *Maître de Cérémonie*, and to Mrs. Dominique Palmer De Greve as the conference organizer, the 2010 NATO Legal Conference closed with the promise of conducting the event again in 2011.

