

CFP: Workshop: Military Violence between military criminal law, international law and the customs of war during the Revolutionary and Napoleonic Wars (1792-1815)

organised by Tanja Bühner and Gundula Gahlen (Paris Lodron University of Salzburg, DFG project 'Illegitimate Violence in the French and Austrian Armies during the Revolutionary and Napoleonic Wars') and the Käte Hamburger Kolleg 'Legal Unity and Pluralism' (EViR) at the University of Münster

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Venue: Käte Hamburger Kolleg 'Legal Unity and Pluralism' Münster

The Revolutionary and Napoleonic Wars (1792-1815) affected almost all European countries, but also parts of Asia, Africa and the Americas. In these wars, in which revolution and changes of power, military conquests and occupations dynamised the legal situation in Europe and the world in many respects, an interstate law of war had not yet been codified. There existed instead three bodies of law from different origins, whose regulations often overlapped but sometimes also contradicted each other: Military criminal law, international law and the custom of war. The planned workshop aims to analyse, from a national, transnational and global perspective, how these three bodies of law developed in the course of the Revolutionary and Napoleonic Wars, how they related to each other and what significance they had for both the use and legal assessment of violence.

There were already differentiated military penal laws for the armies involved as a one-sided state disciplinary law, which was reformed in many armies on grounds of their experiences during this long period of war. Based on the military criminal law the underlying understandings of what was considered legitimate and illegitimate violence in the armies can be identified. In addition to the normative level, legal practice may be analysed as well. In this regard, criminal law files from internal military court proceedings as well as from mixed legal proceedings between the military and civilians are of interest. Furthermore, civilian and military complaints that ultimately did not lead to trials and files on military practices of mercy can be assessed.

Another effective body of law was the international law of war, which was discussed among lawyers as a branch of interstate law and the contents of which were widely published. Neutral observers, but also military and civilian personnel justifying their own actions in war and denouncing the actions of the opponent, often referred to international law in general rather than to specific military criminal law. Given the lack of coherence in international law during the period under consideration, considerable leeway existed for interpretations and the use of international law in war. Legal scholars did not agree on which rights should actually be granted to the opponent. Writings on this subject also often contained contradictions and logical inconsistencies. It is therefore revealing to analyse when discourses on illegitimate military violence referred to international law and which arguments were used.

Finally, the third body of law was the customary law that had developed in the military organisations. It could have different characteristics depending on the army, and sometimes even the unit, and often appears in the sources under the catchword 'customary law of war'. This was understood to mean the customary behaviour of soldiers during and after battle, especially towards the defeated opponent. This concerned general rules of behaviour, but also individually claimed entitlements. For example, although looting was strictly forbidden in the military criminal law of the armies, the plundering of the civilian population after storming a town, after hardships or in an emergency was sometimes viewed as unavoidable, because soldiers proclaimed a right to the spoils of war.

The two-day workshop will examine overlaps, conflicts and interconnections between the three legal masses outlined above during the Revolutionary and Napoleonic Wars with a specific regard to transformations or attempts at unification. In view of the intense violent and political interactions during this period, transnational transfers are also of specific interest. In addition, the global dimensions should be included in the analysis. In the late eighteenth century, an unusual openness to the possibility of cross-cultural legal frameworks was tangible in treatises on international law. Was this inclusive approach also reflected in intercultural wars? Or was the separation into supposedly completely different legal spheres that had taken place at the end of the 19th century already evident at the time?

Both macro- and micro-historical perspectives are welcome: Contributions that take a systematic look at legal issues related to the Revolutionary and Napoleonic Wars, elaborate lines of development or spatial specifics, as well as contributions that use case studies to analyse the effects of these three legal bodies in discourse and practice.

Subject to the approval of a second funding phase of the Kolleg, accommodation and travel expenses will be reimbursed in accordance with the State Travel Costs Act (Landesreisekostengesetz NRW).

Individual paper proposals must include: (1) the presenter's name and email address; (2) the title of the paper; (3) an abstract (roughly 500 words); (4) the presenter's bio (max. 250 words).

Please submit your paper proposals by 31 October 2024 to:

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DFG Research Group 2898 'Military Cultures of Violence'
Sub-project 3: Illegitimate Violence in the French and Austrian Armies during the French Revolutionary and Napoleonic Wars (1792–1815)
<https://www.uni-potsdam.de/en/military-cultures-of-violence>

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