Techniques for Regulating Military Force

Monica Hakimi

The Oxford Handbook of Comparative Foreign Relations Law

Edited by Curtis A. Bradley

Abstract and Keywords

This chapter draws on the five chapters that follow—each of which describes the war powers in a single country—to identify and analyze some of the techniques for regulating this area of foreign affairs and then to reflect on the value of comparative research on it. Three basic techniques are: (1) to establish substantive standards on when the government may or may not use force, (2) to divide among different branches of government the authority to deploy the country’s armed forces, and (3) to subject such decisions to oversight or review. There is considerable variation, both across countries and over time within particular countries, in how and with what effect each technique is used. Given that variation, comparative war powers research might be of limited relevance to national officials who make use of force decisions or to analysts who seek to explain them. Rather, the principal benefit of such research might be to bring into stark relief each country’s own national ethos—to shed light on how it defines itself and conceives of its relationship with the rest of the world.

Keywords: United States, United Kingdom, Germany, Japan, France, use of force, war powers, comparative analysis, ethical legal reasoning

Monica Hakimi

Monica Hakimi is a Professor of Law at the University of Michigan Law School. Her research focuses on how international law operates and adapts to contemporary challenges, particularly in the areas of human and national security. Professor Hakimi is currently a contributing editor of EJIL Talk!, the blog that is affiliated with the European Journal of International Law; on the board of editors of the American Journal of International Law and the Texas National Security Review; a member of the executive council of the American Society of International Law; and on the advisory board of the Institute of International Peace and Security Law at the University of Cologne, Germany. Between 2003 and 2006, she was an attorney-adviser in the Office of the Legal Adviser at the U.S. Department of State.