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Silent enim leges inter arma - but beware the background noise : domestic courts as agents of development of the law on the conduct of hostilities / Yaël Ronen

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Author zone:	Yaël Ronen
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Abstract:	This article highlights the challenges to the operation of domestic courts as agents of development of the laws of armed conflict and particularly of the law on the conduct of hostilities. The first part of the article concerns the spillover from various branches of the laws of armed conflict to the law regarding the conduct of hostilities. The second part of the article addresses the structural constraints on domestic courts in deciding issues relating to the laws of armed conflict, focusing on the conflict between their role as guardians of national interests and their judicial commitment to protecting the individual. The cumulative effect of these characteristics of domestic litigation suggests that the laws of armed conflict, and particularly the law on the conduct of hostilities, are not necessarily well served by development through domestic jurisprudence.
Authors:	Ronen, Yaël
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