BIBLIOGRAPHY
1st Issue 2019

International Humanitarian Law

New acquisitions on international humanitarian law, classified by subjects, at the International Committee of the Red Cross Library

ICRC

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Introduction

The International Committee of the Red Cross Library

The International Committee of the Red Cross (ICRC) endeavours to prevent suffering by promoting and strengthening international humanitarian law (IHL) and universal humanitarian principles. The ICRC Library in Geneva contributes to this mission by maintaining an extensive collection of IHL documents to help ICRC colleagues in their work. While the Library was set up primarily to serve ICRC staff members, it also takes on its own share of IHL-promotion work with the general public.

To this end, the Library holds a wide collection of specific IHL documents that can be consulted by the public: preparatory documents, reports, records and minutes of Diplomatic Conferences where the main IHL treaties were adopted; records of Red Cross and Red Crescent Movement conferences, during which many IHL matters are discussed; every issue of the International Review of the Red Cross since it was founded; all ICRC publications; rare documents published in the period between the founding of ICRC and the end of the First World War and charting the influence of Dunant's ideas; and a unique collection of legislation and case law implementing IHL at domestic level.

The Library also acquires as many external IHL publications as possible, with those produced in English and French being the priority. Each journal article, chapter, book, working paper, report etc. is catalogued separately, making the Library's online catalogue (https://library.icrc.org) one of the most exhaustive resources for IHL research.

The Library is open to the public from Monday to Friday (9 am to 1 pm).

Origin and purpose of the IHL bibliography

The bibliography was first produced at the request of field communication delegates, who were in charge of encouraging universities to offer IHL courses and of assisting professors who taught this subject. The delegates needed a tool they could give their contacts to help them develop or update their IHL knowledge.

Given their needs, it was decided to classify the documents so readers could pinpoint what they needed, access the documents easily and use abstracts to decide whether or not to read a document in full.

It quickly emerged that the bibliography was also helpful to other researchers, students and legal professionals working in the field of IHL. The Library therefore decided to make the bibliography accessible to the general public.

In short, the bibliography can be useful for developing and strengthening IHL knowledge, helping ICRC delegations, National Societies, schools, universities, research centres etc. to build up their library's IHL collection, and keeping track of topical IHL issues being tackled by academics. It is also useful for authors in the process of writing articles, books and theses and legal professionals who work on IHL on a daily basis to see what has been written on a specific IHL subject.

How to use the IHL Bibliography

Part I: Multiple entries for readers who only need to check specific subjects

The first part is tailored for such readers, with 15 IHL categories that have been identified in conjunction with ICRC legal and communication advisers. An additional "Countries/Regions" category has been added for a regional approach. Each article, book and chapter is classified under every relevant category. This enables readers to swiftly identify references of interest without trawling through the whole bibliography. To avoid making the document too long, this first part only provides bibliographic references. For the abstract, please refer to the second part of the bibliography

Part II: All entries with abstract for readers who need it all

Rather than going through the first part and coming across repeated references, readers can skip to the second part where all the documents are listed alphabetically (by title), together with an abstract. The abstract is either that produced by the author or the publisher, where provided, or is drawn up by the IHL reference librarian responsible for the bibliography. As a result of a fruitful partnership with the University of Toronto, a number of abstracts are now also produced by students involved in the International Human Rights Program (IHRP).

Access to document

Whenever an article is electronically available in full text, a link allows you to access the document directly. Some links only work from within ICRC HQ premises such as the library. Some links require an ICRC login. All documents are available for loan at the ICRC Library. "Cote xxx/xxx" refers to the ICRC library call number. In case your local library cannot provide you with some of the documents, requests for copies or scans (in a reasonable amount) can be sent to library@icrc.org

Chronology

This bibliography is based on the acquisitions made by the ICRC Library over the past four months. The Library acquires relevant articles and books as soon as they become available. However, the publication date may not coincide with the period supposedly covered by the bibliography due to publishing delays.

Contents

The bibliography lists English and French writings (e.g. articles, monographs, chapters, reports and working papers) on IHL subjects.

Sources

The ICRC Library monitors a wide range of sources, including all 120 journals to which the Library subscribes, bibliographical databases, legal databases, legal publishers' catalogues, legal research centres and non-governmental organizations. It also receives suggestions from the ICRC legal advisers.

Disclaimer

Acquisitions are made by the Library and do not necessarily reflect the opinions of the ICRC.

Subscription and feedback

Please send your request for subscription or feedback to library@icrc.org with the subject heading "IHL bibliography subscription/feedback".

I. General issues

(General catch-all category, Customary Law, Religion, Development of law, Scope, Multiple subjects monographies)

The Additional Protocols 40 years later : new conflicts, new actors, new perspectives : 40th round table on current issues of international humanitarian law (Sanremo, 7th-9th September 2017)

International Institute of Humanitarian Law ; ed. Fausto Pocar ; associated ed. Gian Luca Beruto. - Milano : Franco Angeli, 2018. - 281 p.
http://iihl.org/wp-content/uploads/2018/06/The-Additional-Protocols-40-Years-Later-New-Conflicts-New-Actors-New-Perspectives.pdf

Adoption of the Additional Protocols of 8 June 1977 : a milestone in the development of international humanitarian law

François Bugnion. In: International review of the Red Cross, Vol. 99, no. 905, 2017, p. 785-796
https://library.icrc.org/library/docs/DOC/irrc-905-bugnion.pdf

Complex battlespaces : the law of armed conflict and the dynamics of modern warfare

Ed. by Christopher M. Ford and Winston Williams. - New York : Oxford University Press, 2019. - XXIII, 528 p.

Les conflits armés et le droit

Claude Emanuelli. - Montréal : Wilson et Lafleur, 2017. - XII, 306 p.

The contribution of international humanitarian law to the development of the law of international responsibility regarding obligations erga omnes and erga omnes partes

Marco Longobardo. In: Journal of conflict and security law, Vol. 23, no. 3, Winter 2018, p. 383-404
https://doi.org/10.1093/jcsl/kry026

The Copenhagen process : some reflections concerning soft law

Bruce Oswald. - In: Tracing the roles of soft law in human rights. - Oxford : Oxford University Press, 2016. - p. 109-127

The "dangerous concept of the Just War" : decolonization, wars of national liberation, and the Additional Protocols to the Geneva Conventions

Jessica Whyte. In: Humanity : an international journal of human rights, humanitarianism, and development, Vol. 9, no. 3, Winter 2018, p. 313-341
http://humanityjournal.org/issue9-3/the-dangerous-concept-of-the-just-war-decolonization-wars-of-national-liberation-and-the-additional-protocols-to-the-geneva-conventions/

Droit et stratégies de l'action humanitaire

sous la direction de Patrick Aeberhard et Pierre-Olivier Chaumet. - Paris : Mare & Martin, 2018. - 312 p.

Le droit international humanitaire

Patricia Buirette. - Paris : La Découverte, février 2019. - 128 p.

A fine line between protection and humanisation : the interplay between the scope of application of international humanitarian law and jurisdiction over alleged war crimes under international criminal law

Rogier Bartels. In: Yearbook of international humanitarian law, Vol. 20, 2017, p. 37-74

How to cope with diversity while preserving unity in customary international law ? : some insights from international humanitarian law

Katharine Fortin. In: Journal of conflict and security law, Vol. 23, no. 3, Winter 2018, p. 337-358
https://doi.org/10.1093/jcsl/kry023

International humanitarian law and justice : historical and sociological perspectives

ed. by Mats Deland, Mark Klamberg and Pal Wrange. - London ; New York : Routledge, 2019. - X, 231 p.

Management of the dead from the Islamic law and international humanitarian law perspectives : considerations for humanitarian forensics

Ahmed Al-Dawoody. In: International review of the Red Cross, Vol. 99, no. 905, 2017, p. 759-784
https://library.icrc.org/library/docs/DOC/irrc-905-al-dawoody.pdf

Manuel sur les règles internationales régissant les opérations militaires

CICR. - Genève : CICR, septembre 2016. - 488 p.
https://library.icrc.org/library/docs/DOC/icrc-001-0431-2016.pdf

The myth of international humanitarian law

Page Wilson. In: International affairs, Vol. 93, no. 3, May 2017, p. 563-579
https://doi.org/10.1093/ia/iix008

Principes de droit des conflits armés

par Eric David. - Bruxelles : Bruylant, 2019. - 1412 p.

Un siècle de Croix-Rouge : de sa fondation au milieu des années 70

par Véronique Harouel-Bureloup. - In: Droit et stratégies de l'action humanitaire. - Paris : Mare & Martin, 2018. - p. 101-111

"The Great Humanitarian" : the Soviet Union, the International Committee of the Red Cross, and the Geneva Conventions of 1949

Boyd van Dijk. In: Law and history review, Vol. 37, no. 1, February 2019, p. 209-235

Towards a counter-hegemonic law of occupation : on the regulation of predatory interstate acts in contemporary international law

Valentina Azarova. In: Yearbook of international humanitarian law, Vol. 20, 2017, p. 113-160

The use of soft law in regulating armed conflict : From jus in bello to "soft law in bello" ?

Peter Vedel Kessing. - In: Tracing the roles of soft law in human rights. - Oxford : Oxford University Press, 2016. - p.129-153

II. Types of conflicts

(Qualification of conflict, international and non-international armed conflict, asymmetric, cyber, urban, naval and aerial warfare...)

L'application du droit des conflits armés à l'espace extra-atmosphérique

Louis Perez. - Paris : Institut de recherche stratégique de l'Ecole militaire, 31 janvier 2019. - 10 p.
https://www.irsem.fr/data/files/irsem/documents/document/file/2966/NR_IRSEM_n69_2019.pdf

Belligerent obligations under article 18(1) of the Second Geneva Convention : the impact of sovereign immunity, booty of war, and the obligation to respect and protect war graves

Wolff Heintschel von Heinegg. In: International law studies, Vol. 94, 2018, p. 127-139
https://digital-commons.usnwc.edu/ils/vol94/iss1/5/

The current state of customary international law with regard to the use of chemical weapons in non-international armed conflicts

Anne Lorenzat. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no. 2, 2017-2018, p. 349-409
http://www.ismllw.org/REVIEW/2017-2018%20ART%20Lorenzat.php

The distinction between international and non-international armed conflicts : challenges for IHL ? : 38th round table on current issues of international humanitarian law (Sanremo, 3rd-5th September 2015)

International Institute of Humanitarian Law ; ed. Carl Marchand ; associated ed. Gian Luca Beruto. - Milano : Franco Angeli, 2016. - 249 p.
http://iihl.org/full-list-congresses-international-conferences-round-tables-since-institutes-foundation/the-distinction-between-international-and-non-international-armed-conflicts-challenges-for-ihl/

Duty to render assistance to mariners in distress during armed conflict at sea : a U.S. perspective

Raul (Pete) Pedrozo. In: International law studies, Vol. 94, 2018, p. 102-126
https://digital-commons.usnwc.edu/ils/vol94/iss1/4/

Enhancing environmental protection in non-international armed conflict : the way forward

Jeanique Pretorius. In: Zeitschrift für ausländisches öffentliches Recht und Völkerrecht = Heidelberg journal of international law, 78. Jahrgang, H. 4/2018, p. 903-932

International humanitarian law and the targeting of data

Tim McCormack. In: International law studies, Vol. 94, 2018, p. 222-240
https://digital-commons.usnwc.edu/ils/vol94/iss1/9/

"Jolly Roger" (pirate flag)

Ziv Bohrer. - In: International law's objects. - Oxford : Oxford University Press, 2018. - p. 259-271

The relationship between international humanitarian law and the notion of state sovereignty

Rogier Bartels. In: Journal of conflict and security law, Vol. 23, no. 3, Winter 2018, p. 461-486
https://doi.org/10.1093/jcsl/kry021

Renforcement du droit international humanitaire protégeant les personnes privées de liberté : consultation régionale d'experts gouvernementaux sur les motifs et procédures d'internement et les transferts des détenus : Montreux, Suisse, 20-22 octobre 2014

rapport préparé par Ramin Mahnad. - Genève : CICR, novembre 2015. - 69 p.
https://library.icrc.org/library/docs/DOC/icrc-001-4234.pdf

Le renforcement du droit international humanitaire protégeant les personnes privées de liberté : consultation thématique d'experts gouvernementaux sur les conditions de détention et les détenus particulièrement vulnérables : Genève, Suisse, 29-31 janvier 2014

rapport préparé par Ramin Mahnad. - Genève : CICR, novembre 2015. - 84 p.
https://library.icrc.org/library/docs/DOC/icrc-001-4230.pdf

Silent war : applicability of the jus in bello to military space operations

Kubo Macák. In: International law studies, Vol. 94, 2018, p. 1-38
https://digital-commons.usnwc.edu/ils/vol94/iss1/1

Understanding cyber warfare : politics, policy and startegy

Christopher Whyte and Brian Mazanec. - London ; New York : Routledge, 2019. - X, 296 p.

When do terrorist organisations qualify as 'parties to an armed conflict' under international humanitarian law ?

Rogier Bartels. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 2, 2017-2018, p. 451-484
https://dx.doi.org/10.2139/ssrn.3209305

When general international law meets international humanitarian law : attribution of conduct and the classification of armed conflicts

Remy Jorritsma. In: Journal of conflict and security law, Vol. 23, no. 3, Winter 2018, p. 405-431
https://doi.org/10.1093/jcsl/kry025

III. Armed forces / Non-state armed groups

(Combatant status, compliance with IHL, etc.)

Are enhanced warfighters weapons, means, or methods of warfare ?

Rain Liivoja and Luke Chircop. In: International law studies, Vol. 94, 2018, p. 161-185
https://digital-commons.usnwc.edu/ils/vol94/iss1/7/

Boots (on the ground)

Kimberley N. Trapp. - In: International law's objects. - Oxford : Oxford University Press, 2018. - p. 151-161

La protection des personnes capturées dans les conflits armés

par Jérôme Cario. - In: Droit et stratégies de l'action humanitaire. - Paris : Mare & Martin, 2018. - p. 127-134

When do terrorist organisations qualify as 'parties to an armed conflict' under international humanitarian law ?

Rogier Bartels. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 2, 2017-2018, p. 451-484
https://dx.doi.org/10.2139/ssrn.3209305

IV. Multinational forces

The obligation to investigate in peace operations : the role of cooperation in ensuring effectiveness

Vito Todeschini. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 2, 2017-2018, p. 405-450
http://www.ismllw.org/REVIEW/2017-2018%20ART%20Todeschini.php

Responsibility in connection with the conduct of military partners

Bérénice Boutin. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 1, 2017-2018, p. 57-91
https://ssrn.com/abstract=3134459

V. Private entities

N/A

VI. Protection of persons

(Women, children, journalists, medical personnel, humanitarian assistance, responsibility to protect, displaced persons, humanitarian workers, ...)

The Additional Protocols 40 years later : new conflicts, new actors, new perspectives : 40th round table on current issues of international humanitarian law (Sanremo, 7th-9th September 2017)

International Institute of Humanitarian Law ; ed. Fausto Pocar ; associated ed. Gian Luca Beruto. - Milano : Franco Angeli, 2018. - 281 p.
http://iihl.org/wp-content/uploads/2018/06/The-Additional-Protocols-40-Years-Later-New-Conflicts-New-Actors-New-Perspectives.pdf

Advances and progress in the obligation to return the remains of missing and forcibly disappeared persons

Grazyna Baranowska. In: International review of the Red Cross, Vol. 99, no. 905, 2017, p. 709-733
https://library.icrc.org/library/docs/DOC/irrc-905-baranowska.pdf

Belligerent obligations under article 18(1) of the Second Geneva Convention : the impact of sovereign immunity, booty of war, and the obligation to respect and protect war graves

Wolff Heintschel von Heinegg. In: International law studies, Vol. 94, 2018, p. 127-139
https://digital-commons.usnwc.edu/ils/vol94/iss1/5/

Collateral damage and the enemy

Aurel Sari and Kieran Tinkler. In: The British yearbook of international law, 2019, 107 p.
https://library.ext.icrc.org/library/docs/ArticlesPDF/46276.pdf

Conflict displacement and legal protection : understanding asylum, human rights and refugee law

Charlotte Lülf. - New York : Routledge, 2019. - VIII, 254 p.

Crises humanitaires et responsabilités

sous la dir. du Pr Spener Yawaga. - Paris : L'Harmattan, 2018. - 669 p.

The curious case of civilians working in munitions factories : civilian assumption of risk in armed conflict and the United States' DoD law of war Manual

Anna Khalfaoui. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 2, 2017-2018, p. 251-304
http://www.ismllw.org/REVIEW/2017-2018%20ART%20Khalfaoui.php

Deceased persons as protected persons within the meaning of international humanitarian law : German Federal Supreme Court judgement of 27 July 2017

Kai Ambos. In: Journal of international criminal justice, Vol. 16, no. 5, December 2018, p. 1105-1116
https://doi.org/10.1093/jicj/mqy061

Emploi d'armes explosives en zones peuplées : examen de la question juridique sous l'angle humanitaire, juridique, technique et militaire : rapport de la réunion d'experts : Chavannes-de-Bogis, Suisse, 24-25 février 2015

CICR. - Genève : CICR, novembre 2015. - 41 p.
https://library.icrc.org/library/docs/DOC/icrc-001-4244.pdf

Explosive weapons in populated areas : humanitarian, legal, technical and military aspects : expert meeting : Chavannes-de-Bogis, Switzerland, 24 to 25 February 2015

ICRC. - Geneva : ICRC, June 2015. - 45 p.
https://library.icrc.org/library/docs/DOC/icrc-002-4244.pdf

Humanising the law of targeting in light of a child soldier's right to life

Rose Catherine Barrett. In: The international journal of children's rights, Vol. 27, no. 1, 2019, p. 3-30
https://doi.org/10.1163/15718182-02701009

Implementing international law : an avenue for preventing disappearances, resolving cases of missing persons and addressing the needs of their families

Ximena Londoño and Alexandra Ortiz Signoret. In: International review of the Red Cross, Vol. 99, no. 905, 2017, p. 547-567
https://library.icrc.org/library/docs/DOC/irrc-905-londono.pdf

Proportionality in the conduct of hostilities : the incidental harm side of the assessment

Emanuela-Chiara Gillard. - London : Chatham House, December 2018. - 52 p.
https://www.chathamhouse.org/publication/proportionality-conduct-hostilities-incidental-harm-side-assessment

La protection des civils en droit international humanitaire

par Abigaël Hansen. - In: Droit et stratégies de l'action humanitaire. - Paris : Mare & Martin, 2018. - p. 113-126

Le renforcement du droit international humanitaire protégeant les personnes privées de liberté : consultation thématique d'experts gouvernementaux sur les conditions de détention et les détenus particulièrement vulnérables : Genève, Suisse, 29-31 janvier 2014

rapport préparé par Ramin Mahnad. - Genève : CICR, novembre 2015. - 84 p.
https://library.icrc.org/library/docs/DOC/icrc-001-4230.pdf

Targeting the Islamic State's religious personnel under international humanitarian law

Till Patrik Holterhus. In: Yearbook of international humanitarian law, Vol. 20, 2017, p. 199-228

VII. Protection of objects

(Environment, cultural property, water, medical mission, emblem, etc.)

Culture under fire : armed non-state actors and cultural heritage in wartime

[Marina Lostal, Kristin Hausler and Pascal Bongard]. - Geneva : Geneva Call, October 2018. - 60 p.
https://www.genevacall.org/wp-content/uploads/2019/02/Cultural_Heritage_Study_Final_HIGHRES.pdf

Enhancing environmental protection in non-international armed conflict : the way forward

Jeanique Pretorius. In: Zeitschrift für ausländisches öffentliches Recht und Völkerrecht = Heidelberg journal of international law, 78. Jahrgang, H. 4/2018, p. 903-932

Proportionality in the conduct of hostilities : the incidental harm side of the assessment

Emanuela-Chiara Gillard. - London : Chatham House, December 2018. - 52 p.
https://www.chathamhouse.org/publication/proportionality-conduct-hostilities-incidental-harm-side-assessment

VIII. Detention, internment, treatment and judicial guarantees

The Asia-Pacific War and the failed second Anglo-Japanese civilian exchange : 1942-1945

Rowena Ward. In: The Asia-Pacific journal, Vol. 13, issue 12, no. 4, March 2015, 17 p.
https://apjjf.org/2015/13/11/Rowena-Ward/4301.html

The Copenhagen process : some reflections concerning soft law

Bruce Oswald. - In: Tracing the roles of soft law in human rights. - Oxford : Oxford University Press, 2016. - p. 109-127

The impact of World War I on the law governing the treatment of prisoners of war and the making of a humanitarian subject

Neville Wylie and Lindsey Cameron. In: European journal of international law, Vol. 29, no. 4, November 2018, p. 1327-1350
https://doi.org/10.1093/ejil/chy085

Interpreting - again - the prohibition of torture

Stephen Ellmann. - In: Human rights and America's war on terror. - London ; New York : Routledge, 2019. - p. 86-130

La protection des personnes capturées dans les conflits armés

par Jérôme Cario. - In: Droit et stratégies de l'action humanitaire. - Paris : Mare & Martin, 2018. - p. 127-134

Rendition in extraordinary times

Margaret L. Satterthwaite and Alexandra M. Zetes. - In: Human rights and America's war on terror. - London ; New York : Routledge, 2019. - p. 131-160

Renforcement du droit international humanitaire protégeant les personnes privées de liberté : consultation régionale d'experts gouvernementaux sur les motifs et procédures d'internement et les transferts des détenus : Montreux, Suisse, 20-22 octobre 2014

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rapport préparé par Ramin Mahnad. - Genève : CICR, novembre 2015. - 84 p.
https://library.icrc.org/library/docs/DOC/icrc-001-4230.pdf

IX. Law of occupation

Against the law : Turkey's annexation efforts in Occupied Cyprus

Ilias Kouskouvelis and Kalliopi Chainoglou. In: Annuaire de La Haye de droit international = Hague Yearbook of international law, Vol. 29, 2016, p. 55-102

The application of bilateral investment treaties in annexed territories : whose BITs are applicable in Crimea after its annexation ?

Katharina Wende. In: Annuaire de La Haye de droit international = Hague Yearbook of international law, Vol. 29, 2016, p. 133-170

Benign occupations : the Allied occupation of Germany and the international law of occupation

Peter M. R. Stirk. - In: Transforming occupation in the Western zones of Germany : politics, everyday life and social interactions, 1945-55. - London [etc.] : Bloomsbury Academic, 2018. - p. 43-59

International law of belligerency and occupation : a pedagogic introduction

June L. Dsouza. - Allahabad : Central Law Publications, 2016. - VIII, 360 p.

The law of military occupation from the 1907 Hague Peace Conference to the outbreak of World War II : was further codification unnecessary or impossible ?

Thomas Graditzky. In: European journal of international law, Vol. 29, no. 4, November 2018, p. 1305-1326
https://doi.org/10.1093/ejil/chy063

Towards a counter-hegemonic law of occupation : on the regulation of predatory interstate acts in contemporary international law

Valentina Azarova. In: Yearbook of international humanitarian law, Vol. 20, 2017, p. 113-160

X. Conduct of hostilities

(Distinction, proportionality, precautions, prohibited methods)

L'application du droit des conflits armés à l'espace extra-atmosphérique

Louis Perez. - Paris : Institut de recherche stratégique de l'Ecole militaire, 31 janvier 2019. - 10 p.
https://www.irsem.fr/data/files/irsem/documents/document/file/2966/NR_IRSEM_n69_2019.pdf

Are enhanced warfighters weapons, means, or methods of warfare ?

Rain Liivoja and Luke Chircop. In: International law studies, Vol. 94, 2018, p. 161-185
https://digital-commons.usnwc.edu/ils/vol94/iss1/7/

Are the targets of aerial spraying operations in Colombia lawful under international humanitarian law ?

Héctor Olasolo and Felipe Tenorio-Obando. In: Yearbook of international humanitarian law, Vol. 20, 2017, p. 229-252

Collateral damage and the enemy

Aurel Sari and Kieran Tinkler. In: The British yearbook of international law, 2019, 107 p.
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Anna Khalfaoui. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 2, 2017-2018, p. 251-304
http://www.ismllw.org/REVIEW/2017-2018%20ART%20Khalfaoui.php

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International humanitarian law and the targeting of data

Tim McCormack. In: International law studies, Vol. 94, 2018, p. 222-240
https://digital-commons.usnwc.edu/ils/vol94/iss1/9/

New technologies and the law in war and peace

ed. by William H. Boothby. - Cambridge : Cambridge University Press, 2019. - XXI, 504 p.

Precautions in attack and urban and siege warfare

Jeroen C. van den Boogaard and Arjen Vermeer. In: Yearbook of international humanitarian law Vol. 20, 2017, p. 163-198

Proportionality in the conduct of hostilities : the incidental harm side of the assessment

Emanuela-Chiara Gillard. - London : Chatham House, December 2018. - 52 p.
https://www.chathamhouse.org/publication/proportionality-conduct-hostilities-incidental-harm-side-assessment

Targeting the Islamic State's religious personnel under international humanitarian law

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XI. Weapons

Are enhanced warfighters weapons, means, or methods of warfare ?

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http://www.ismllw.org/REVIEW/2017-2018%20ART%20Lorenzat.php

Le droit à l'épreuve des drones militaires

sous la direction de Fouad Eddazi. - Paris : Librairie générale de droit et de jurisprudence, 2018. - VIII, 347 p.

Emploi d'armes explosives en zones peuplées : examen de la question juridique sous l'angle humanitaire, juridique, technique et militaire : rapport de la réunion d'experts : Chavannes-de-Bogis, Suisse, 24-25 février 2015

CICR. - Genève : CICR, novembre 2015. - 41 p.
https://library.icrc.org/library/docs/DOC/icrc-001-4244.pdf

Ethical aspects of military maritime and aerial autonomous systems

Linda Johansson. In: Journal of military ethics, Vol. 17, no. 2-3, August-November 2018, p. 140-155
https://doi.org/10.1080/15027570.2018.1552512

Explosive weapons in populated areas : humanitarian, legal, technical and military aspects : expert meeting : Chavannes-de-Bogis, Switzerland, 24 to 25 February 2015

ICRC. - Geneva : ICRC, June 2015. - 45 p.
https://library.icrc.org/library/docs/DOC/icrc-002-4244.pdf

Hasta la vista, LAWS : where do we stand on the long-debated ban on lethal autonomous weapon systems ?

Stephan Koloßa. In: Humanitäres Völkerrecht = Journal of international law of peace and armed conflict, Bd. 1, H. 3-4, 2018, p. 195-208

The ICRC and the Red Cross and Red Crescent Movement : working towards a nuclear-free world since 1945

Linh Schroeder. In: Journal for peace and nuclear disarmament, Vol. 1, no. 1, 2018, p. 66-78
https://library.ext.icrc.org/library/docs/ArticlesPDF/46200.pdf

New technologies and the law in war and peace

ed. by William H. Boothby. - Cambridge : Cambridge University Press, 2019. - XXI, 504 p.

Pre-deployment common law duty of care and article 36 obligations in relation to autonomous weapons : interface between domestic law and international humanitarian law ?

Ozlem Ulgen. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 1, 2017-2018, p. 135-168
http://www.ismllw.org/REVIEW/2017-2018%20ART%20ulgen.php

The treaty on the prohibition of nuclear weapons : a commentary

Stuart Casey-Maslen. - Oxford : Oxford University Press, 2019. - XXII, 269 p.

Weapons and the international rule of law : 39th round table on current issues of international humanitarian law (Sanremo, 8th-10th September 2016)

International Institute of Humanitarian Law ; ed. Baldwin De Vidts ; associated ed. Gian Luca Beruto. - Milano : Franco Angeli, 2017. - 263 p.
http://www.iihl.org/wp-content/uploads/2017/08/Weapons-and-international-rule-of-law_Sanremo-Round-Table-2016-3.pdf

Weapons review obligation under customary international law

Natalia Jevglevskaja. In: International law studies, Vol. 94, 2018, p. 186-221
https://digital-commons.usnwc.edu/ils/vol94/iss1/8/

XII. Implementation

(ICRC, protecting powers, fact finding commission, other means of preventing violations and controlling respect for IHL, state responsibility)

The Additional Protocols 40 years later : new conflicts, new actors, new perspectives : 40th round table on current issues of international humanitarian law (Sanremo, 7th-9th September 2017)

International Institute of Humanitarian Law ; ed. Fausto Pocar ; associated ed. Gian Luca Beruto. - Milano : Franco Angeli, 2018. - 281 p.
http://iihl.org/wp-content/uploads/2018/06/The-Additional-Protocols-40-Years-Later-New-Conflicts-New-Actors-New-Perspectives.pdf

Advances and progress in the obligation to return the remains of missing and forcibly disappeared persons

Grazyna Baranowska. In: International review of the Red Cross, Vol. 99, no. 905, 2017, p. 709-733
https://library.icrc.org/library/docs/DOC/irrc-905-baranowska.pdf

Boots (on the ground)

Kimberley N. Trapp. - In: International law's objects. - Oxford : Oxford University Press, 2018. - p. 151-161

Conference on the ICRC updated commentary on the First Geneva Convention : capturing 60 years of practice

Samuel Longuet... [et al.]. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 1, 2017-2018, p. 169-230
http://www.ismllw.org/REVIEW/2017-2018%20ART%20Conference%20on%20the%20ICRC.php

Crises humanitaires et responsabilités

sous la dir. du Pr Spener Yawaga. - Paris : L'Harmattan, 2018. - 669 p.

The curious case of civilians working in munitions factories : civilian assumption of risk in armed conflict and the United States' DoD law of war Manual

Anna Khalfaoui. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 2, 2017-2018, p. 251-304
http://www.ismllw.org/REVIEW/2017-2018%20ART%20Khalfaoui.php

Deceased persons as protected persons within the meaning of international humanitarian law : German Federal Supreme Court judgement of 27 July 2017

Kai Ambos. In: Journal of international criminal justice, Vol. 16, no. 5, December 2018, p. 1105-1116
https://doi.org/10.1093/jicj/mqy061

The educational value of international humanitarian law clinics : the examples of Leiden and Bochum

Robert Heinsch, Lotte Chevalier. In: Humanitäres Völkerrecht = Journal of international law of peace and armed conflict, Bd. 1, H. 3-4, 2018, p. 225-240

The impact of international humanitarian law on the principle of systemic integration

Vito Todeschini. In: Journal of conflict and security law, Vol. 23, no. 3, Winter 2018, p. 359-382
https://doi.org/10.1093/jcsl/kry028

Implementing international law : an avenue for preventing disappearances, resolving cases of missing persons and addressing the needs of their families

Ximena Londoño and Alexandra Ortiz Signoret. In: International review of the Red Cross, Vol. 99, no. 905, 2017, p. 547-567
https://library.icrc.org/library/docs/DOC/irrc-905-londono.pdf

The myth of international humanitarian law

Page Wilson. In: International affairs, Vol. 93, no. 3, May 2017, p. 563-579
https://doi.org/10.1093/ia/iix008

National committees and similar entities on international humanitarian law : guidelines for success : towards respecting and implementing international humanitarian law

ICRC. - Geneva : ICRC, December 2018. - 81 p.
https://library.icrc.org/library/docs/DOC/icrc-002-4367.pdf

The obligation to investigate in peace operations : the role of cooperation in ensuring effectiveness

Vito Todeschini. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 2, 2017-2018, p. 405-450
http://www.ismllw.org/REVIEW/2017-2018%20ART%20Todeschini.php

Reflections on the international adjudication of cases of grave violations of rights of the human person

Antônio Augusto Cançado Trindade. In: Journal of international humanitarian legal studies, Vol. 9, no. 1-2, 2018, p. 98-136
https://doi.org/10.1163/18781527-00901003

The relationship between international humanitarian law and the notion of state sovereignty

Rogier Bartels. In: Journal of conflict and security law, Vol. 23, no. 3, Winter 2018, p. 461-486
https://doi.org/10.1093/jcsl/kry021

Responsibility in connection with the conduct of military partners

Bérénice Boutin. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 1, 2017-2018, p. 57-91
https://ssrn.com/abstract=3134459

The standards of 'due diligence' as a result of interchange between the law of armed conflict and general international law

Antal Berkes. In: Journal of conflict and security law, Vol. 23, no. 3, Winter 2018, p. 433-460
https://doi.org/10.1093/jcsl/kry022

There and back again : the Inter-American human rights system's approach to international humanitarian law

Alonso Gurmendi Dunkelberg. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 2, 2017-2018, p. 305-348
http://www.ismllw.org/REVIEW/2017-2018%20ART%20Gurmendi%20Dunkelberg.php

When general international law meets international humanitarian law : attribution of conduct and the classification of armed conflicts

Remy Jorritsma. In: Journal of conflict and security law, Vol. 23, no. 3, Winter 2018, p. 405-431
https://doi.org/10.1093/jcsl/kry025

XIII. International human rights law

(Relationship with IHL, application in situations of armed conflict and other situations of violence, extraterritoriality, human rights bodies,...)

Advances and progress in the obligation to return the remains of missing and forcibly disappeared persons

Grazyna Baranowska. In: International review of the Red Cross, Vol. 99, no. 905, 2017, p. 709-733
https://library.icrc.org/library/docs/DOC/irrc-905-baranowska.pdf

Are the targets of aerial spraying operations in Colombia lawful under international humanitarian law ?

Héctor Olasolo and Felipe Tenorio-Obando. In: Yearbook of international humanitarian law, Vol. 20, 2017, p. 229-252

Article 2 of the Convention and military operations during armed conflict

Françoise J. Hampson. - In: The right to life under Article 2 of the European Convention on Human Rights. - Oisterwijk : Wolf Legal Publisher, 2017. - p. 191-211

Boots (on the ground)

Kimberley N. Trapp. - In: International law's objects. - Oxford : Oxford University Press, 2018. - p. 151-161

Humanising the law of targeting in light of a child soldier's right to life

Rose Catherine Barrett. In: The international journal of children's rights, Vol. 27, no. 1, 2019, p. 3-30
https://doi.org/10.1163/15718182-02701009

The impact of international humanitarian law on the principle of systemic integration

Vito Todeschini. In: Journal of conflict and security law, Vol. 23, no. 3, Winter 2018, p. 359-382
https://doi.org/10.1093/jcsl/kry028

International humanitarian law in the jurisprudence of African human rights treaty bodies

Brian Sang YK. In: Annuaire de La Haye de droit international = Hague Yearbook of international law, Vol. 29, 2016, p. 1-53

La protection des civils en droit international humanitaire

par Abigaël Hansen. - In: Droit et stratégies de l'action humanitaire. - Paris : Mare & Martin, 2018. - p. 113-126

Reflections on the international adjudication of cases of grave violations of rights of the human person

Antônio Augusto Cançado Trindade. In: Journal of international humanitarian legal studies, Vol. 9, no. 1-2, 2018, p. 98-136
https://doi.org/10.1163/18781527-00901003

Rendition in extraordinary times

Margaret L. Satterthwaite and Alexandra M. Zetes. - In: Human rights and America's war on terror. - London ; New York : Routledge, 2019. - p. 131-160

The right to life in situations of armed conflict

Clare Ovey. - In: The right to life under Article 2 of the European Convention on Human Rights. - Oisterwijk : Wolf Legal Publisher, 2017. - p. 253-270

Si vis pacem, para bellum : application of the European Convention on Human Rights in situations of armed conflicts

Rick Lawson. - In: The right to life under Article 2 of the European Convention on Human Rights. - Oisterwijk : Wolf Legal Publisher, 2017. - p. 213-230

There and back again : the Inter-American human rights system's approach to international humanitarian law

Alonso Gurmendi Dunkelberg. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 2, 2017-2018, p. 305-348
http://www.ismllw.org/REVIEW/2017-2018%20ART%20Gurmendi%20Dunkelberg.php

The use of soft law in regulating armed conflict : From jus in bello to "soft law in bello" ?

Peter Vedel Kessing. - In: Tracing the roles of soft law in human rights. - Oxford : Oxford University Press, 2016. - p.129-153

When is an act of war lawful ?

Daniel Bethlehem. - In: The right to life under Article 2 of the European Convention on Human Rights. - Oisterwijk : Wolf Legal Publisher, 2017. - p. 231-240

XIV. International criminal law

Les apports du tribunal pénal international pour l'ex-Yougoslavie au droit international pénal

Damien Scalia. - In: Les mutations de la justice pénale internationale ?. - Paris : A. Pedone, 2018. - p. 41-55

A fine line between protection and humanisation : the interplay between the scope of application of international humanitarian law and jurisdiction over alleged war crimes under international criminal law

Rogier Bartels. In: Yearbook of international humanitarian law, Vol. 20, 2017, p. 37-74

The future of international criminal evidence in new wars ? : the evolution of the Commission for International Justice and Accountability (CIJA)

Melinda Rankin. In: Journal of genocide research, Vol. 20, no. 3, 2018, p. 392-411
https://library.ext.icrc.org/library/docs/ArticlesPDF/45704.pdf

International 'criminal' responsibility : antinomies

Ottavio Quirico. - New York : Routledge, 2019. - XLII, 256 p.

"Jolly Roger" (pirate flag)

Ziv Bohrer. - In: International law's objects. - Oxford : Oxford University Press, 2018. - p. 259-271

Reflections on the international adjudication of cases of grave violations of rights of the human person

Antônio Augusto Cançado Trindade. In: Journal of international humanitarian legal studies, Vol. 9, no. 1-2, 2018, p. 98-136
https://doi.org/10.1163/18781527-00901003

XV. Contemporary challenges

(Terrorism, DPH, cyber warfare, asymetric war, etc.)

Complex battlespaces : the law of armed conflict and the dynamics of modern warfare

Ed. by Christopher M. Ford and Winston Williams. - New York : Oxford University Press, 2019. - XXIII, 528 p.

The distinction between international and non-international armed conflicts : challenges for IHL ? : 38th round table on current issues of international humanitarian law (Sanremo, 3rd-5th September 2015)

International Institute of Humanitarian Law ; ed. Carl Marchand ; associated ed. Gian Luca Beruto. - Milano : Franco Angeli, 2016. - 249 p.
http://iihl.org/full-list-congresses-international-conferences-round-tables-since-institutes-foundation/the-distinction-between-international-and-non-international-armed-conflicts-challenges-for-ihl/

Hasta la vista, LAWS : where do we stand on the long-debated ban on lethal autonomous weapon systems ?

Stephan Koloßa. In: Humanitäres Völkerrecht = Journal of international law of peace and armed conflict, Bd. 1, H. 3-4, 2018, p. 195-208

New technologies and the law in war and peace

ed. by William H. Boothby. - Cambridge : Cambridge University Press, 2019. - XXI, 504 p.

Understanding cyber warfare : politics, policy and startegy

Christopher Whyte and Brian Mazanec. - London ; New York : Routledge, 2019. - X, 296 p.

XVI. Countries/Regions

AFRICA

International humanitarian law in the jurisprudence of African human rights treaty bodies

Brian Sang YK. In: Annuaire de La Haye de droit international = Hague Yearbook of international law, Vol. 29, 2016, p. 1-53

ALGERIA

The "dangerous concept of the Just War" : decolonization, wars of national liberation, and the Additional Protocols to the Geneva Conventions

Jessica Whyte. In: Humanity : an international journal of human rights, humanitarianism, and development, Vol. 9, no. 3, Winter 2018, p. 313-341
http://humanityjournal.org/issue9-3/the-dangerous-concept-of-the-just-war-decolonization-wars-of-national-liberation-and-the-additional-protocols-to-the-geneva-conventions/

AMERICAS

There and back again : the Inter-American human rights system's approach to international humanitarian law

Alonso Gurmendi Dunkelberg. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 2, 2017-2018, p. 305-348
http://www.ismllw.org/REVIEW/2017-2018%20ART%20Gurmendi%20Dunkelberg.php

BELGIUM

When do terrorist organisations qualify as 'parties to an armed conflict' under international humanitarian law ?

Rogier Bartels. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 2, 2017-2018, p. 451-484
https://dx.doi.org/10.2139/ssrn.3209305

CAMEROON

Crises humanitaires et responsabilités

sous la dir. du Pr Spener Yawaga. - Paris : L'Harmattan, 2018. - 669 p.

COLOMBIA

Are the targets of aerial spraying operations in Colombia lawful under international humanitarian law ?

Héctor Olasolo and Felipe Tenorio-Obando. In: Yearbook of international humanitarian law, Vol. 20, 2017, p. 229-252

CYPRUS

Against the law : Turkey's annexation efforts in Occupied Cyprus

Ilias Kouskouvelis and Kalliopi Chainoglou. In: Annuaire de La Haye de droit international = Hague Yearbook of international law, Vol. 29, 2016, p. 55-102

EUROPEAN UNION

Conflict displacement and legal protection : understanding asylum, human rights and refugee law

Charlotte Lülf. - New York : Routledge, 2019. - VIII, 254 p.

GERMANY

Benign occupations : the Allied occupation of Germany and the international law of occupation

Peter M. R. Stirk. - In: Transforming occupation in the Western zones of Germany : politics, everyday life and social interactions, 1945-55. - London [etc.] : Bloomsbury Academic, 2018. - p. 43-59

Deceased persons as protected persons within the meaning of international humanitarian law : German Federal Supreme Court judgement of 27 July 2017

Kai Ambos. In: Journal of international criminal justice, Vol. 16, no. 5, December 2018, p. 1105-1116
https://doi.org/10.1093/jicj/mqy061

The educational value of international humanitarian law clinics : the examples of Leiden and Bochum

Robert Heinsch, Lotte Chevalier. In: Humanitäres Völkerrecht = Journal of international law of peace and armed conflict, Bd. 1, H. 3-4, 2018, p. 225-240

IRAQ

Culture under fire : armed non-state actors and cultural heritage in wartime

[Marina Lostal, Kristin Hausler and Pascal Bongard]. - Geneva : Geneva Call, October 2018. - 60 p.
https://www.genevacall.org/wp-content/uploads/2019/02/Cultural_Heritage_Study_Final_HIGHRES.pdf

The future of international criminal evidence in new wars ? : the evolution of the Commission for International Justice and Accountability (CIJA)

Melinda Rankin. In: Journal of genocide research, Vol. 20, no. 3, 2018, p. 392-411
https://library.ext.icrc.org/library/docs/ArticlesPDF/45704.pdf

JAPAN

The Asia-Pacific War and the failed second Anglo-Japanese civilian exchange : 1942-1945

Rowena Ward. In: The Asia-Pacific journal, Vol. 13, issue 12, no. 4, March 2015, 17 p.
https://apjjf.org/2015/13/11/Rowena-Ward/4301.html

MALI

Culture under fire : armed non-state actors and cultural heritage in wartime

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https://www.genevacall.org/wp-content/uploads/2019/02/Cultural_Heritage_Study_Final_HIGHRES.pdf

NETHERLANDS

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Robert Heinsch, Lotte Chevalier. In: Humanitäres Völkerrecht = Journal of international law of peace and armed conflict, Bd. 1, H. 3-4, 2018, p. 225-240

RUSSIAN FEDERATION

The application of bilateral investment treaties in annexed territories : whose BITs are applicable in Crimea after its annexation ?

Katharina Wende. In: Annuaire de La Haye de droit international = Hague Yearbook of international law, Vol. 29, 2016, p. 133-170

SYRIA

Conflict displacement and legal protection : understanding asylum, human rights and refugee law

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Culture under fire : armed non-state actors and cultural heritage in wartime

[Marina Lostal, Kristin Hausler and Pascal Bongard]. - Geneva : Geneva Call, October 2018. - 60 p.
https://www.genevacall.org/wp-content/uploads/2019/02/Cultural_Heritage_Study_Final_HIGHRES.pdf

The current state of customary international law with regard to the use of chemical weapons in non-international armed conflicts

Anne Lorenzat. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no. 2, 2017-2018, p. 349-409
http://www.ismllw.org/REVIEW/2017-2018%20ART%20Lorenzat.php

Deceased persons as protected persons within the meaning of international humanitarian law : German Federal Supreme Court judgement of 27 July 2017

Kai Ambos. In: Journal of international criminal justice, Vol. 16, no. 5, December 2018, p. 1105-1116
https://doi.org/10.1093/jicj/mqy061

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https://library.ext.icrc.org/library/docs/ArticlesPDF/45704.pdf

TURKEY

Against the law : Turkey's annexation efforts in Occupied Cyprus

Ilias Kouskouvelis and Kalliopi Chainoglou. In: Annuaire de La Haye de droit international = Hague Yearbook of international law, Vol. 29, 2016, p. 55-102

UKRAINE

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UNITED KINGDOM

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https://apjjf.org/2015/13/11/Rowena-Ward/4301.html

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http://www.ismllw.org/REVIEW/2017-2018%20ART%20ulgen.php

UNITED STATES

The curious case of civilians working in munitions factories : civilian assumption of risk in armed conflict and the United States' DoD law of war Manual

Anna Khalfaoui. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 2, 2017-2018, p. 251-304
http://www.ismllw.org/REVIEW/2017-2018%20ART%20Khalfaoui.php

Duty to render assistance to mariners in distress during armed conflict at sea : a U.S. perspective

Raul (Pete) Pedrozo. In: International law studies, Vol. 94, 2018, p. 102-126
https://digital-commons.usnwc.edu/ils/vol94/iss1/4/

Interpreting - again - the prohibition of torture

Stephen Ellmann. - In: Human rights and America's war on terror. - London ; New York : Routledge, 2019. - p. 86-130

Rendition in extraordinary times

Margaret L. Satterthwaite and Alexandra M. Zetes. - In: Human rights and America's war on terror. - London ; New York : Routledge, 2019. - p. 131-160

USSR

"The Great Humanitarian" : the Soviet Union, the International Committee of the Red Cross, and the Geneva Conventions of 1949

Boyd van Dijk. In: Law and history review, Vol. 37, no. 1, February 2019, p. 209-235

VIET NAM

The "dangerous concept of the Just War" : decolonization, wars of national liberation, and the Additional Protocols to the Geneva Conventions

Jessica Whyte. In: Humanity : an international journal of human rights, humanitarianism, and development, Vol. 9, no. 3, Winter 2018, p. 313-341

http://humanityjournal.org/issue9-3/the-dangerous-concept-of-the-just-war-decolonization-wars-of-national-liberation-and-the-additional-protocols-to-the-geneva-conventions/

WESTERN COUNTRIES

The "dangerous concept of the Just War" : decolonization, wars of national liberation, and the Additional Protocols to the Geneva Conventions

Jessica Whyte. In: Humanity : an international journal of human rights, humanitarianism, and development, Vol. 9, no. 3, Winter 2018, p. 313-341
http://humanityjournal.org/issue9-3/the-dangerous-concept-of-the-just-war-decolonization-wars-of-national-liberation-and-the-additional-protocols-to-the-geneva-conventions/

YUGOSLAVIA

Les apports du tribunal pénal international pour l'ex-Yougoslavie au droit international pénal

Damien Scalia. - In: Les mutations de la justice pénale internationale ?. - Paris : A. Pedone, 2018. - p. 41-55

All with Abstracts

The Additional Protocols 40 years later : new conflicts, new actors, new perspectives : 40th round table on current issues of international humanitarian law (Sanremo, 7th-9th September 2017)

International Institute of Humanitarian Law ; ed. Fausto Pocar ; associated ed. Gian Luca Beruto. - Milano : Franco Angeli, 2018. - 281 p. . - Cote 345.2/1049

This collection of contributions made by renowned international experts and practitioners in the field of IHL - recalling the 40th anniversary of the adoption of the Additional Protocols to the Geneva Conventions - addresses the central question of sexual and gender violence in armed conflicts and of the integration of a gender perspective into IHL. The 40th Round Table on current issues of international humanitarian law (IHL), focussed on some very fundamental themes, such as the principles of distinction and precaution, the definition and the time frame of armed conflicts, as well the threshold of the application of the Protocols. The Round Table provided a forum to discuss other relevant topics including the treatment of persons deprived of their liberty, the protection of medical personnel and of medical activities, and the question of humanitarian access, as well as to explore whether and how the 40th anniversary of the Protocols could serve as an opportunity to shed some light on their enforcement.

http://iihl.org/wp-content/uploads/2018/06/The-Additional-Protocols-40-Years-Later-New-Conflicts-New-Actors-New-Perspectives.pdf

Adoption of the Additional Protocols of 8 June 1977 : a milestone in the development of international humanitarian law

François Bugnion. In: International review of the Red Cross, Vol. 99, no. 905, 2017, p. 785-796

On 8 June 1977, the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts adopted two Protocols Additional to the 1949 Geneva Conventions. This was the result of nearly ten years of intensive and delicate negotiations. Additional Protocol I protects the victims of international armed conflicts, while Additional Protocol II protects the victims of non-international armed conflicts. These Protocols, which do not replace but supplement the 1949 Geneva Conventions, updated both the law protecting war victims and the law on the conduct of hostilities. This article commemorates the 40th anniversary of the adoption of the 1977 Additional Protocols.

https://library.icrc.org/library/docs/DOC/irrc-905-bugnion.pdf

Advances and progress in the obligation to return the remains of missing and forcibly disappeared persons

Grazyna Baranowska. In: International review of the Red Cross, Vol. 99, no. 905, 2017, p. 709-733

This article analyzes the evolution in international law of the obligation to search for and return the remains of forcibly disappeared and missing persons. Receiving the remains of forcibly disappeared and missing persons is one of the primary needs of their families, who bring the issue to international courts and nonjudicial mechanisms. This obligation has been incrementally recognized and developed by different human rights courts, which have included the obligation to search for and return the remains of disappeared persons in their remedies. In parallel to the development of the obligation by international courts, the international community has begun to become more involved in assisting in return of the remains of forcibly disappeared and missing persons to their families.

https://library.icrc.org/library/docs/DOC/irrc-905-baranowska.pdf

Against the law : Turkey's annexation efforts in Occupied Cyprus

Ilias Kouskouvelis and Kalliopi Chainoglou. In: Annuaire de La Haye de droit international = Hague Yearbook of international law, Vol. 29, 2016, p. 55-102

The article considers the legal aspects of Turkey's activities in the occupied territory of Cyprus and claims that Turkey has violated its obligations under public international law. The article critically assesses the (il) legality of economic and other activities such as the construction of the electricity and water-pipeline projects that Turkey has been carrying out in the occupied territory while providing the "Turkish Republic of Northern Cyprus" ("TRNC") with political, financial, and military support over the past 40 years. For this purpose, the article establishes first that the "TRNC" is a non-existent entity under international law. Secondly, it affirms Turkey's status in the occupied territory of the Republic of Cyprus as one of a belligerent occupying power, violating specific obligations of international law. Thirdly, it examines the validity of the delimitation agreement between the "TRNC" and Turkey, and the agreements for the construction of the underwater pipeline and the electricity supply lines. Finally, the article asserts the rights of the occupied sovereign State, the Republic of Cyprus, under general public international law, international humanitarian law, occupation law, and the law of the sea.

L'application du droit des conflits armés à l'espace extra-atmosphérique

Louis Perez. - Paris : Institut de recherche stratégique de l'Ecole militaire, 31 janvier 2019. - 10 p. . - Cote 346/173 (Br.)

L'espace extra-atmosphérique est un enjeu sécuritaire international de taille qui est aussi au coeur de la politiquede défense française. La France entend approfondir sa stratégie dans ce domaine, notamment par sa prochaine Revue spatiale de défense attendue pour la fin d'année. Cette stratégie ne peut se faire sans un accompagnement juridique, en particulier au regard du droit des conflits armés. Le but de cette note est ainsi d'analyser si ce droit est applicable au contexte de l'espace extra-atmosphérique et le cas échéant de quelle façon. Des initiatives intéressantes ont cours sur l'interprétation des règles internationales, relatives notamment aux conflits armés, applicables à l'espace extra-atmosphérique. Ces initiatives ont pris la forme de deux manuels qui oscillent entre complémentarité et concurrence. Une brève analyse de ces travaux sera menée et complétée par une analyse du droit des conflits armés actuel. En l'absence d'un traité régulant la conduite d'un conflit armé dans l'espace, les États ne peuvent que se reposer sur les grands principes du droit des conflits armés qui ne sont autres que les principes de distinction, de proportionnalité et de précaution. Il est ainsi suggéré une interprétation de ces principes destinés à réguler les hostilités dans le contexte spatial.

https://www.irsem.fr/data/files/irsem/documents/document/file/2966/NR_IRSEM_n69_2019.pdf

The application of bilateral investment treaties in annexed territories : whose BITs are applicable in Crimea after its annexation ?

Katharina Wende. In: Annuaire de La Haye de droit international = Hague Yearbook of international law, Vol. 29, 2016, p. 133-170

This article analyses the applicability of bilateral investment treaties (BITs) in Crimea after the events of 2014, when the latter was annexed by the Russian Federation. More precisely, it is trying to answer the question whether Ukrainian or Russian BITs are to be applied as of the date of annexation. At first sight, it seems as if the annexation of Crimea resulted in a legal vacuum, in which investments on the peninsula are left unprotected. This is because States are not allowed to recognise the applicability of Russian BITs in Crimea as a consequence of the duty of non-recognition and Ukrainian BITs do not offer effective protection as any violations of BIT standards could not be attributed to Ukraine. Nevertheless, as this article shows, the law of treaties as well as the law of occupation may offer a way out of this legal vacuum with the result that not only Russian but also Ukrainian BITs may be applicable in the annexed territory of Crimea.

Les apports du tribunal pénal international pour l'ex-Yougoslavie au droit international pénal

Damien Scalia. - In: Les mutations de la justice pénale internationale ?. - Paris : A. Pedone, 2018. - p. 41-55. - Cote 344/747

Dans un premier temps, le chapitre montre à travers quelques exemples en lien avec les modes de responsabilité et les incriminations, que l'apport du Tribunal International pour l'ex-Yougoslavie (TPIY) au droit international pénal matériel est considérable, même si la création prétorienne dont il a fait œuvre s'éloigne parfois loin des textes qui le régissent. Dans un deuxième temps le chapitre aborde les contributions

du TPIY aux principes fondamentaux du droit pénal (ici, international), en se concentrant sur le principe de légalité des crimes et des peines et le principe de proportionnalité. On verra qu'en la matière le TPIY ne le respecte pas strictement.

Are enhanced warfighters weapons, means, or methods of warfare ?

Rain Liivoja and Luke Chircop. In: International law studies, Vol. 94, 2018, p. 161-185

Advances in science and technology have made it possible to improve the physical and cognitive capabilities of warfighters by biomedical interventions, such as the administration of drugs, the implantation of devices, and the magnetic stimulation of the brain. These advances raise the question as to whether enhanced warfighters ought to be considered weapons, means of warfare, or methods of warfare, for the purposes of the law of armed conflict. An affirmative answer to this question would make human enhancement subject to various restrictions arising from the law of armed conflict as well as arms control law. This article disagrees with the suggestion that enhanced warfighters, or the enhancements themselves, could constitute biological agents and thus be prohibited by the Biological Weapons Convention. The article also rejects the notion that enhanced warfighters might amount to weapons more broadly. Placing human beings who possess moral agency on par with mere instruments of warfare distorts the accepted meaning of the law. At the same time, because means of warfare and methods of warfare are more malleable categories, there are at least some hypothetical scenarios where enhanced warfighters could fit within these categories.

https://digital-commons.usnwc.edu/ils/vol94/iss1/7/

Are the targets of aerial spraying operations in Colombia lawful under international humanitarian law ?

Héctor Olasolo and Felipe Tenorio-Obando. In: Yearbook of international humanitarian law, Vol. 20, 2017, p. 229-252

Since the beginning of the program of aerial spraying of illicit crops with a glyphosate-based chemical mixture in Colombia, local farmers and peasants have claimed that it affects their health, environment, and economy. As a result, the legality of this program has been analyzed from an International Human Rights Law (IHRL) perspective. Nevertheless, when it takes place in situations of armed conflict, it is also regulated by International Humanitarian Law (IHL). After finding that some aerial spraying operations conducted in Colombia amount to “attacks” under IHL, the chapter looks into the alleged protected status of both illicit crops and the farmers who grow them for organized armed groups fighting the Colombian government. The chapter concludes that, unless they lose their protected status, they are unlawful targets for the Colombian government. As a consequence, and without prejudice to the findings of a legality analysis of the aerial spraying program in Colombia from an IHRL perspective, if the Colombian government decides to restart the program, it will have to design its aerial spraying operations so as to make sure that they do not amount to attacks under IHL.

Article 2 of the Convention and military operations during armed conflict

Françoise J. Hampson. - In: The right to life under Article 2 of the European Convention on Human Rights. - Oisterwijk : Wolf Legal Publisher, 2017. - p. 191-211. - Cote 345.1/690

The past twenty years have been marked by attempts to invoke the European Convention on Human Rights in relation to the extra-territorial acts of armed forces. This includes not only international armed conflicts, but also extra-territorial non-international armed conflicts, such as the situation in Afghanistan and Iraq after the installation of new regimes headed by locals. This contribution briefly examines what appears to be the current approach to the application of Article 2 of the Convention in this context and the problems to which it gives rise. It then considers a possible way forward.

The Asia-Pacific War and the failed second Anglo-Japanese civilian exchange : 1942-1945

Rowena Ward. In: The Asia-Pacific journal, Vol. 13, issue 12, no. 4, March 2015, 17 p. - Cote 400.2/454 (Br.)

The proposed 2nd Anglo-Japanese civilian exchange, originally planned for October 1942, never eventuated partly due to differences in the interpretations of what constitutes a merchant seaman and views on whether the Hague Convention should apply. The failure of the exchange meant that over 3,000 Japanese and British

civilian internees as well as another 2,000 or so Japanese and American civilian internees remained in internment camps until at least August 1945. At the heart of the negotiations were 331 Japanese pilots and pearl divers who had been employed in the pearling industry until the outbreak of war. The impasse would impact attempts at civilian exchange involving multiple powers throughout the Asia-Pacific War.

https://apjjf.org/2015/13/11/Rowena-Ward/4301.html

Belligerent obligations under article 18(1) of the Second Geneva Convention : the impact of sovereign immunity, booty of war, and the obligation to respect and protect war graves

Wolff Heintschel von Heinegg. In: International law studies, Vol. 94, 2018, p. 127-139

Article 18(1) of the Second Geneva Convention requires parties to an international armed conflict, "after each engagement" and "without delay," to "take all possible measures to search for and collect the wounded and sick, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead and prevent their being despoiled." This article focuses on the latter obligation: the duty to search for and collect the dead. It assesses this obligation in light of the International Committee of the Red Cross 2017 Commentary on the Second Geneva Convention, the first such commentary completed by the ICRC since 1960. After examining the language of Article 18(1), the article explores whether the sovereign immunity of sunken warships frustrates Article 18(1) obligations before turning to the concept of sunken warships as war graves and how this concept may affect efforts to search for and collect the dead. It concludes that the belligerent's duty to search for and collect the dead extends to the remains found within sunken warships, as the sovereign immunity of sunken warships does not bar the application of Article 18(1) to belligerents since sunken warships qualify as booty of war. Regarding sunken warships as war graves, the obligation to respect these war graves would only apply after the belligerent affirmatively declares that the wreck constitutes a war grave. Until then, the belligerent parties remain bound by Article 18(1) to search for and collect the dead.

https://digital-commons.usnwc.edu/ils/vol94/iss1/5/

Benign occupations : the Allied occupation of Germany and the international law of occupation

Peter M. R. Stirk. - In: Transforming occupation in the Western zones of Germany : politics, everyday life and social interactions, 1945-55. - London [etc.] : Bloomsbury Academic, 2018. - p. 43-59. - Cote 351/149

This chapter seeks to show the extent to which the making of international law has been influenced by the supposedly "benign" post-war occupations of Germany by the three Western Allies - the United States, Britain and France. More precisely, it focuses upon how during the occupation and the negotiations of the Geneva Convention in 1949 the Western Allies struggled to bring their interests and practices as occupiers within the scope of international law. Three areas or practices stood out as significant in the experiences of both occupiers and occupied during the military occupation of Germany: the taking and execution of hostages, the provision of food, and regime transformation.

Boots (on the ground)

Kimberley N. Trapp. - In: International law's objects. - Oxford : Oxford University Press, 2018. - p. 151-161 . - Cote 345/782

This chapter explores the symbol of 'boots' in armed conflict, which are at the centre of discourse about military might and territorial control. With an eye on the themes of territoriality and extraterritoriality, this chapter considers some of the implications of 'boots (on the ground)' from the perspective of international law. For instance, a state's having boots on the ground in military operations potentially results in its exercise of human rights obligation triggering 'jurisdiction', in addition to the otherwise applicable international humanitarian law obligations. Or, it might result in that state being held responsible for commission of international crimes committed by non-state actors (through the mechanic of attribution via the 'effective control' test set out in Nicaragua and the Bosnia Genocide Case). In addition, 'boots on the ground' can also serve an important symbolic function—in particular signalling the level and nature of commitment to genuine humanitarian operations.

Collateral damage and the enemy

Aurel Sari and Kieran Tinkler. In: The British yearbook of international law, 2019, 107 p.. - Cote 345.25/383 (Br.)

The purpose of this paper is to determine whether a party to an armed conflict is bound to ensure that any incidental harm it may cause to enemy military personnel not or no longer liable to attack remains below a certain threshold. While the law of armed conflict provides that incidental harm to civilians must not be excessive in relation to the military advantage anticipated from an attack, the relevant treaty rules are silent on the position of protected enemy personnel. This could indicate that protected enemy personnel may be exposed to incidental harm without any limitations. However, this position is difficult to reconcile with the humanitarian considerations that underpin the law of armed conflict. Alternatively, this silence may hint at a gap in the treaties, though not necessarily in the customary rules governing the conduct of hostilities. If so, commanders would be left guessing what degree of collateral damage is permissible, which, in the absence of clarifying the applicable rules, may lead them to break the law inadvertently. Based on a detailed assessment of the law, state practice and the competing arguments put forward in the literature, the authors conclude that the principle of military necessity, more specifically the prohibition of causing unnecessary destruction, as complemented by the duty to 'respect and protect' certain classes of enemy personnel, imposes an obligation on belligerents to reduce the level of incidental harm inflicted on protected enemy personnel to what is unavoidable and to justify that harm with reference to the military benefit anticipated from an attack. We term this the 'non-civilian proportionality rule'.

https://library.ext.icrc.org/library/docs/ArticlesPDF/46276.pdf

Complex battlespaces : the law of armed conflict and the dynamics of modern warfare

Ed. by Christopher M. Ford and Winston Williams. - New York : Oxford University Press, 2019. - XXIII, 528 p. . - Cote 345.2/1054

The conduct of warfare is constantly shaped by forces beyond the battlefield. These forces create complexities in the battlespace for military operations. The ever-changing nature of how and where wars are fought creates challenges for the application of the unchanging body of international law that regulates armed conflicts. The term "complex" is often used to describe modern warfare, but what makes modern warfare complex? Is it the increasingly urbanized battlefield where wars are fought, which is cluttered with civilians and civilian objects? Is it the rise of State-like organized armed groups that leverage the governance vacuum created by failed or failing States? Is it the introduction of new technologies to military operations like autonomous weapons, cyber capabilities, and unmanned aerial systems? Or is it the application of multiple legal regimes to a single conflict? Collectively, these questions formed the basis for the Complex Battlespaces Workshop in which legal scholars and experts from the field of practice came together to discuss these complexities. During the workshop, there was a general consensus that the existing law was sufficient to regulate modern warfare. The challenge, however, arises in application of the law to new technologies, military operations in urban environments, and other issues related to applying international human rights law and international humanitarian law to non-international armed conflicts. This inaugural volume of the Lieber Book Series seeks to address many of the complexities that arise during the application of international law to modern warfare.

Conference on the ICRC updated commentary on the First Geneva Convention : capturing 60 years of practice

Samuel Longuet... [et al.]. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 1, 2017-2018, p. 169-230

The Conference on the ICRC updated Commentary on the First Geneva Convention took place at the Egmont Palace in Brussels on 29 September 2017. It was organized jointly by the Belgian Interministerial Commission for Humanitarian Law, the Belgian Red Cross and the International Committee of the Red Cross, with support of the Belgian Society for International Law. The following pages provide a summary of the contents of the presentations and discussion held during the conference.

http://www.ismllw.org/REVIEW/2017-2018%20ART%20Conference%20on%20the%20ICRC.php

Conflict displacement and legal protection : understanding asylum, human rights and refugee law

Charlotte Lülf. - New York : Routledge, 2019. - VIII, 254 p.. - Cote 365/534

While the 21st century bears witness to several conflicts leading to mass displacement, the conflict in Syria has crystallised the need for a solid legal framework and legal certainty.This book analyses the relevant legal instruments for the provision of a protection status for persons fleeing to Europe from conflict and violence. It focuses on the conceptualisation of conflict and violence in the countries of origin and the different approaches taken in the interpretation of them in the 1951 Refugee Convention, the Recast Qualification Directive of the European Union and the European Convention on Human Rights. It traces the hierarchical order of protection granted, starting with refugee protection status, to subsidiary protection status and finally with the negative protection from non-refoulement. Recent case law and asylum status determination practices of European countries illustrate the obstacles in the interpretation as well as the divergence in the application of the legal instruments.

Les conflits armés et le droit

Claude Emanuelli. - Montréal : Wilson et Lafleur, 2017. - XII, 306 p. . - Cote 345.2/1050

Il ne se passe guère de jour sans que les médias rapportent des nouvelles de combats en quelque point du globe. Invariablement, le récit fait état des victimes et de leurs souffrances : civils écrasés sous les bombes, prisonniers de guerre victimes de sévices, délégués d'organismes humanitaires tués dans une embuscade, etc. Parfois, fort heureusement, les nouvelles sont meilleures : échange de prisonniers de guerre, rapatriement de blessés, distribution de vivres et de médicaments aux populations assiégées, évacuation de civils menacés par les combats, rassemblement de familles dispersées, etc. Qu'ils s'inspirent de sentiments belliqueux ou, au contraire, de sentiments d'humanité, ces actes, et d'autres commis par les belligérants, sont réglementés par le droit international dans le but de protéger les victimes des conflits armés. La connaissance de cette réglementation est essentielle à son application efficace et à la propagation des idées nobles qui l'inspirent.

The contribution of international humanitarian law to the development of the law of international responsibility regarding obligations erga omnes and erga omnes partes

Marco Longobardo. In: Journal of conflict and security law, Vol. 23, no. 3, Winter 2018, p. 383-404

This article explores the influence of international humanitarian law (IHL) on the development of the law of international responsibility and, in particular, the contribution of IHL to the adoption of rules related to breaches of obligations erga omnes and obligations erga omnes partes. Indeed, IHL conventions embody some obligations erga omnes and erga omnes partes, as demonstrated, for instance, by Common Article 1 of the 1949 Geneva Conventions, by some provisions relating to the suspension, termination and modification of IHL treaty provisions, and by some monitoring mechanisms. The study of the relevant provisions of the law of armed conflict, state practice and international case law demonstrates that IHL conventions had already envisaged some consequences of violations of obligations erga omnes and erga omnes partes, which were later codified by the International Law Commission. Accordingly, it is possible to argue that IHL contributed to the development of general international law in this field.

https://doi.org/10.1093/jcsl/kry026

The Copenhagen process : some reflections concerning soft law

Bruce Oswald. - In: Tracing the roles of soft law in human rights. - Oxford : Oxford University Press, 2016. - p. 109-127. - Cote 345.1/689

On 19 October 2012, the "Copenhagen Process on the Handling of Detainees in International Military Operations" was concluded with seventeen states welcoming the Copenhagen Process Principles and Guidelines. The purpose of this chapter is to use the Copenhagen process and the ensuing Principles and Guidelines to show how soft law was and is developed in the context of detention.

Crises humanitaires et responsabilités

sous la dir. du Pr Spener Yawaga. - Paris : L'Harmattan, 2018. - 669 p. . - Cote 345.23/462

Cet ouvrage conduit une réflexion sur les crises humanitaires et les responsabilités qui en découlent. La question est de savoir si les conceptions traditionnelles de la responsabilité, comme idée ou comme régime juridique, s'adaptent aux contraintes spécifiques liées à la gestion de ces crises dans le monde contemporain. Les contributeurs de ce livre ont tenté de donner un éclairage sur le phénomène des crises humanitaires aux plans juridique, politique, historique et socio-anthropologique.

Culture under fire : armed non-state actors and cultural heritage in wartime

[Marina Lostal, Kristin Hausler and Pascal Bongard]. - Geneva : Geneva Call, October 2018. - 60 p. . - Cote 357/195

This report presents the findings of a two-year long study conducted by Geneva Call on cultural heritage and armed non-state actors (ANSAs). It represents the most comprehensive research available on this topic to date. The report centres around three case studies—Iraq, Mali and Syria— and is based on information obtained through desk and field research, as well as interviews with leading specialized organizations. The study also incorporates the perspectives of ten selected ANSAs operating in these three countries and explores the reasons why certain ANSAs are willing to respect cultural heritage and others are not. The report commences with a thorough analysis of the current international legal framework protecting cultural heritage in armed conflict and its applicability to ANSAs. In addition, the report analyses the various attitudes of ANSAs towards cultural heritage. It then maps the responses of specialized organizations to the impact of ANSAs on cultural heritage and their level of engagement with these actors. The conclusion offers some recommendations and ways forward to enhace the protection of cultural heritage in non-international armed conflicts. In particular, it makes the case for an engagement-based approach.

https://www.genevacall.org/wp-content/uploads/2019/02/Cultural_Heritage_Study_Final_HIGHRES.pdf

The curious case of civilians working in munitions factories : civilian assumption of risk in armed conflict and the United States' DoD law of war Manual

Anna Khalfaoui. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 2, 2017-2018, p. 251-304

This article tracks the appearance and evolution of the concept of civilian assumption of risk in the successive editions of the United States Department of Defense's Law of War Manual. Recognizing that civilians present in or on military objectives could either be wholly or partially discounted in assessing the legality of a strike threatens core protections guaranteed by the principle of proportionality in international humanitarian law. That recognition also leaves the door open to the emergence of a third category between combatants and civilians. The article retraces the origins of the concept of civilian assumption of risk and considers, in particular, the situation of civilians working in or on military objectives. It argues that the notions of civilian assumption of risk and selective application of proportionality laid down in the Law of War Manual are not supported by law or practice and that any attempt at introducing an intermediary category of 'quasi-civilians' or 'quasi-combatants' should be rejected. References to civilian assumption of risk only comply with the law if they are understood to mean that civilians working in or on a military objective expose themselves to the risk of an attack complying with proportionality. Because it is a legally flawed concept fraught with practical difficulties in its implementation, the concept of civilian assumption of risk could have serious repercussions on how military officers understand their obligations and the protections afforded by international humanitarian law.

http://www.ismllw.org/REVIEW/2017-2018%20ART%20Khalfaoui.php

The current state of customary international law with regard to the use of chemical weapons in non-international armed conflicts

Anne Lorenzat. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no. 2, 2017-2018, p. 349-409

Against the backdrop of the resurgence in the use of chemical weapons – particularly nerve, blister and lung agents – in recent years, as observed in the armed conflict in the Syrian Arab Republic, and the increasing volatility of international agreements, as demonstrated by the announcement of several African States to withdraw from the ICC Statute in 2016, a thorough analysis to determine the current state of customary international law with regard to the use of chemical weapons in non-international armed conflicts is in order.

The paper first contextualizes the issue in relation to recent events involving chemical weapons before giving an overview of the ICRC Customary International Law Study's approach taken toward these means of warfare. Thereafter, a short chapter sets the tone for the analysis by giving an account of the theory of customary international law. The actual analysis of the state of customary international law comprises an examination of incidents of confirmed use of chemical weapons in non-international armed conflicts. In addition, relevant resolutions of the UN General Assembly and Security Council are thoroughly scrutinized. Finally, relevant multilateral treaties are examined closely before final conclusions on the issue in question are drawn.

http://www.ismllw.org/REVIEW/2017-2018%20ART%20Lorenzat.php

The "dangerous concept of the Just War" : decolonization, wars of national liberation, and the Additional Protocols to the Geneva Conventions

Jessica Whyte. In: Humanity : an international journal of human rights, humanitarianism, and development, Vol. 9, no. 3, Winter 2018, p. 313-341

In 2002, the North American political theorist Michael Walzer announced the "triumph of just war theory," which he saw as evidence of moral progress. This paper challenges Walzer's progressive narrative by turning to the often-acrimonious debates about just and unjust wars during the drafting of the Additional Protocols to the Geneva Conventions. I show that during the International Committee of the Red Cross's "Diplomatic Conference on the Laws of War" (1974-77) it was the Third World and Soviet states that used the language of the "just war" to distinguish wars of national liberation from wars of "imperialist aggression"—particularly the US War in Vietnam. In stark contrast, the Western states, including the US, attacked the language of just war as a medieval licence to cruelty.

http://humanityjournal.org/issue9-3/the-dangerous-concept-of-the-just-war-decolonization-wars-of-national-liberation-and-the-additional-protocols-to-the-geneva-conventions/

Deceased persons as protected persons within the meaning of international humanitarian law : German Federal Supreme Court judgement of 27 July 2017

Kai Ambos. In: Journal of international criminal justice, Vol. 16, no. 5, December 2018, p. 1105-1116

The defendant, a German national, travelled to Syria in March 2014 to participate in the 'armed Jihad' against the Assad regime. The case at hand refers to an incident where the defendant, with other members of his group, detained two Syrian soldiers, beheaded them and impaled the severed heads on metal poles to publicly expose and ridicule them. After returning to Germany the defendant was arrested and sentenced to two years' imprisonment by the Frankfurt Higher Regional Court [Oberlandesgericht, OLG] on 12 July 2016 for the war crime of treating a protected person in a gravely humiliating and degrading manner pursuant to § 8(1) no. 9 of the German Code of Crimes against International Law [Völkerstrafgesetzbuch, VStGB]. The conviction and sentence was upheld by the German Federal Supreme Court [Bundesgerichtshof, BGH] on 27 July 2017 for the reasons described below (see Section 2.B). The key issue of the case was whether a person to be protected under international humanitarian law (IHL) within the meaning of § 8(1) no. 9 VStGB also includes a deceased person. Both the OLG and the BGH answered this question in the affirmative but this view fails to convince since the concept of person in the VStGB and the underlying IHL is limited to living human beings. Thus, to interpret 'person' broadly would violate the prohibition of analogy (lex stricta) to be understood strictly under German law.

https://doi.org/10.1093/jicj/mqy061

The distinction between international and non-international armed conflicts : challenges for IHL ? : 38th round table on current issues of international humanitarian law (Sanremo, 3rd-5th September 2015)

International Institute of Humanitarian Law ; ed. Carl Marchand ; associated ed. Gian Luca Beruto. - Milano : Franco Angeli, 2016. - 249 p. . - Cote 345.22/993

The 38th Round Table on current problems of International Humanitarian Law (IHL), jointly organized by the International Institute of Humanitarian Law and the International Committee of the Red Cross, focused this year on the complex and delicate issues concerning the application of IHL in the context of international and non-international armed conflicts. Discussions and debates were drawn from the expertise of international IHL academics and specialists as well as from the field-tested experience of military practitioners. The aim was to identify lessons to be learned from recent developments in this area including

related topics such as detention and humanitarian assistance. This event provided the opportunity to examine and discuss fundamental questions regarding the application of IHL and International Human Rights Law in international and non-international armed conflict. Furthermore, this Round Table tackled the challenge of how to enhance the compliance of non-state armed groups with international humanitarian law and strive to shed some more light on how international law applies to all forms of violence, be it in an international or a non-international environment.

http://iihl.org/full-list-congresses-international-conferences-round-tables-since-institutes-foundation/the-distinction-between-international-and-non-international-armed-conflicts-challenges-for-ihl/

Le droit à l'épreuve des drones militaires

sous la direction de Fouad Eddazi. - Paris : Librairie générale de droit et de jurisprudence, 2018. - VIII, 347 p. . - Cote 341.67/877

Les drones militaires sont au coeur de l'actualité. La multiplication des achats de drones par les États en vue de mener leurs opérations militaires, l'utilisation des capacités de ces appareils pour pratiquer des assassinats ciblés extraterritoriaux, l'expansion du recours aux drones en matière de sécurité intérieure, le développement d'un nouveau marché économique des drones, la crainte du développement et du déploiement de « robots tueurs », qui pourraient exercer des missions de combat à partir de leurs seules intelligences artificielles, sans aucune direction humaine, sont quelques exemples de la montée en puissance de cette problématique depuis quelques années. Au vu de ces éléments, on peut s'interroger sur le rôle possible du droit. Peut-il efficacement encadrer le développement et l'utilisation des drones militaires ? L'ouvrage concourt à répondre à ce brûlant défi. Des universitaires, internistes, internationalistes, publicistes et privatistes, ainsi que des représentants du monde de la sécurité et de la défense abordent les différents champs où le droit et les drones sont amenés à se rencontrer, du fait de décisions politiques : les phases de fabrication (notamment à propos des drones autonomes), achat, essai, entraînement, circulation et de déploiement opérationnel (militaire, sécuritaire ou pour les assassinats ciblés) des drones sont autant de sources de questionnements juridiques.

Droit et stratégies de l'action humanitaire

sous la direction de Patrick Aeberhard et Pierre-Olivier Chaumet. - Paris : Mare & Martin, 2018. - 312 p. . - Cote 345.2/1051

Cet ouvrage trouve ses origines dans une rencontre : celle des acteurs de terrain issus de l'épopée humanitaire avec les juristes de la Faculté de droit de Paris 8. Médecins, journalistes, avocats, politiques, et militaires se sont ainsi retrouvés dans cette université aux idées jugées très souvent « avant-gardistes » afin de débattre du concept de l'accès aux victimes ici et là-bas. A l'origine, leur but était de contribuer au développement des grands axes déjà initiés par les ONG médicales françaises, mais également internationales. Reconnus en quelques années, ces droits nouveaux ont permis de passer du droit d'ingérence au droit d'accès aux victimes (1988), pour finalement aboutir au concept de la responsabilité de protéger des Nations-Unies (2005). Toutefois, ce droit humanitaire international doit encore et toujours se développer s'il veut devenir plus efficace. Les ONG en ont en grande partie la responsabilité.

Le droit international humanitaire, 3ème édition

Patricia Buirette. - Paris : La Découverte, février 2019. - 128 p. . - Cote 345.2/625 (2019)

Quels sont les principes qui fondent le droit international humanitaire ? Sont-ils respectés ? Comment la Croix-Rouge a-t-elle été conçue et dans quel but ? Comment le droit international humanitaire a-t-il évolué depuis sa création ? N'est-il pas paradoxal que le droit international humanitaire énonce des règles visant à humaniser la guerre ? Dans l'élaboration et l'application de ce droit, la Croix-Rouge a-t-elle contribué à dépasser cette contradiction ? Pourquoi certaines ONG ont-elles récusé la neutralité de la Croix-Rouge ? Quel doit être le rôle de l'ONU dans les situations de crise humanitaire qui entraînent une transformation de l'humanitaire privé en humanitaire d'État ? Quel sens donner à ses interventions humanitaires, souvent militarisées et à finalité sécuritaire ? Quelle analyse des causes de ces crises est effectuée ? Faut-il intervenir ? L'intervention est-elle légitime ? Où s'arrête l'intervention ? La mise en oeuvre de la paix se pose-t-elle alors ? Qu'entend-on par ingérence humanitaire et responsabilité de protéger ? En quoi l'action humanitaire peut-elle être ambiguë ?La pitié a-t-elle un sens en politique ? Autant de question auxquelles cet ouvrage tente d'apporter des éléments de réponse.

Duty to render assistance to mariners in distress during armed conflict at sea : a U.S. perspective

Raul (Pete) Pedrozo. In: International law studies, Vol. 94, 2018, p. 102-126

The Second Geneva Convention establishes a legal framework for the humane treatment and protection of victims of armed conflict at sea—the wounded, sick and shipwrecked. There are circumstances, however, in which the belligerents do not have the capability or capacity to conduct adequate search and rescue operations after an engagement. In such cases, the Second Geneva Convention allows the parties to the conflict to supplement their search and recovery efforts by requesting assistance from neutral merchant vessels. However, there is no obligation on the part of the belligerents to do so, nor is there an obligation on the part of a neutral to respond to such a request. Nonetheless, customary international law recognizes an affirmative obligation of mariners to render assistance to persons in distress at sea to the extent that they can do so without serious danger to their ship, crew, or passengers. A number of IMO treaties codify this long-standing custom, as does UNCLOS. Still, numerous legal questions remain. For example, does the outbreak of hostilities terminate or suspend the applicability of these maritime conventions or do they remain in effect, in part or in their entirety, during an armed conflict at sea? Do different rules apply between parties to the conflict and parties to the conflict and neutral powers? Are parties to the conflict and neutral powers nevertheless bound during an armed conflict at sea by the provisions of the maritime conventions that reflect customary international law? This article analyzes these questions in light of applicable international law and U.S. state practice. The article concludes that the peacetime duty to render assistance to mariners in distress at sea remains in effect during an armed conflict as a treaty obligation and/or as a matter of customary international law in three circumstances: (1) neutral parties must render assistance to other neutral parties; (2) neutral parties must render assistance to belligerent parties upon request or sua sponte; and (3) belligerent parties must render assistance to neutral parties.

https://digital-commons.usnwc.edu/ils/vol94/iss1/4/

The educational value of international humanitarian law clinics : the examples of Leiden and Bochum

Robert Heinsch, Lotte Chevalier. In: Humanitäres Völkerrecht = Journal of international law of peace and armed conflict, Bd. 1, H. 3-4, 2018, p. 225-240

Teaching international humanitarian law can take many different forms but using clinical legal education in this field of law has proven especially successful. This article describes the benefits as well as the challenges of setting up an international humanitarian law clinic in the traditional teaching environments of the Netherlands and Germany. It highlights the experiences and best practices accumulated during six years of letting students of Leiden University and Ruhr University Bochum successfully conduct research projects with project partners like the International Committee of the Red Cross, the Netherlands or German Red Cross, as well as different human rights NGOs and government agencies. It shows why students love participating in clinical legal education, and why this form of legal training not only enables students to apply their theoretical knowledge to practical situations, but also trains them in soft skills like teamwork, conflict resolution and time management. Lastly, it shows that through setting up IHL clinics all over the world and being part of an international IHL clinic network, the authors contributed to having real impact on the further dissemination, implementation and enforcement of IHL.

Emploi d'armes explosives en zones peuplées : examen de la question juridique sous l'angle humanitaire, juridique, technique et militaire : rapport de la réunion d'experts : Chavannes-de-Bogis, Suisse, 24-25 février 2015

CICR. - Genève : CICR, novembre 2015. - 41 p.

En février 2015, le CICR a organisé une réunion d'experts sur le thème de l'emploi d'armes explosives en zones peuplées ; la réunion a rassemblé des experts gouvernementaux représentant 17 États et 11 experts participant à titre individuel, notamment des spécialistes en armement et des représentants d'agences des Nations Unies et d'organisations non gouvernementales. Le présent rapport rend compte de la réunion ; il a été établi par le CICR, sous sa seule responsabilité.

https://library.icrc.org/library/docs/DOC/icrc-001-4244.pdf

Enhancing environmental protection in non-international armed conflict : the way forward

Jeanique Pretorius. In: Zeitschrift für ausländisches öffentliches Recht und Völkerrecht = Heidelberg journal of international law, 78. Jahrgang, H. 4/2018, p. 903-932

This article analyses the treaty law rules related to environmental protection in non-international armed conflict under international humanitarian law. It highlights that the existing framework is weak and piecemeal, which leaves the natural environment vulnerable to the negative effects of armed conflict. The article poses two potential solutions to enhance environmental protection in non-international armed conflict under international law.

Ethical aspects of military maritime and aerial autonomous systems

Linda Johansson. In: Journal of military ethics, Vol. 17, no. 2-3, August-November 2018, p. 140-155

Two categories of ethical questions surrounding military autonomous systems are discussed in this article. The first category concerns ethical issues regarding the use of military autonomous systems in the air and in the water. These issues are systematized with the Laws of Armed Conflict (LOAC) as a backdrop. The second category concerns whether autonomous systems may affect the ethical interpretation of LOAC. It is argued that some terms in LOAC are vague and can be interpreted differently depending on which ethical normative theory is used, which may increase with autonomous systems. The impact of Unmanned Aerial Vehicles (UAVs) on the laws of war will be discussed and compared to Maritime Autonomous Systems (MAS). The conclusion is that there is need for revisions of LOAC regarding autonomous systems, and that the greatest ethically relevant difference between UAVs and MAS has to do with issues connected to jus ad bellum – particularly lowering the threshold for starting war – but also the sense of unfairness, violation of integrity, and the potential for secret wars.

https://doi.org/10.1080/15027570.2018.1552512

Explosive weapons in populated areas : humanitarian, legal, technical and military aspects : expert meeting : Chavannes-de-Bogis, Switzerland, 24 to 25 February 2015

ICRC. - Geneva : ICRC, June 2015. - 45 p.

Cities have never been immune from warfare. But over the last century, armed conflicts have increasingly been fought in populated areas. This has exposed civilians to greater risk of death, injury, and displacement. And the trend is likely to continue as urbanization intensifies. In 2011, the ICRC stated that explosive weapons with wide-area effects should not be used in densely populated areas due to the significant likelihood of indiscriminate effects. In February 2015, the ICRC convened a meeting of experts on the topic of explosive weapons in populated areas. The meeting brought together government experts from 17 States, plus 11 individual experts, including weapons experts and representatives of United Nations agencies and non-governmental organizations.

https://library.icrc.org/library/docs/DOC/icrc-002-4244.pdf

A fine line between protection and humanisation : the interplay between the scope of application of international humanitarian law and jurisdiction over alleged war crimes under international criminal law

Rogier Bartels. In: Yearbook of international humanitarian law, Vol. 20, 2017, p. 37-74

International humanitarian law (IHL) provides limits to the conduct of warring parties during armed conflicts. If these limits are crossed, international criminal law (ICL) can address alleged violations of IHL. When certain conduct falls outside the scope of jurisdiction over war crimes it may result in impunity. International courts and tribunals have therefore taken a very broad approach to their jurisdiction, including with regards to the concept of non-international armed conflict, which has been expanded well beyond the initial intention of States. While an expansive approach to the application of IHL may be desirable after the fact, in order to ensure that atrocities can be prosecuted as war crimes, applying IHL too broadly to situations on the ground may not result in better protection of those affected by violence. Although the protective function of IHL remains of paramount importance, States nowadays also extensively rely on the permissive aspect of IHL that allows targeting of military objectives, combatants and other persons taking a direct part in hostilities. The present chapter addresses the tension between the desire to expand the jurisdiction over

war crimes and the consequential impact on IHL. It does so by specifically looking at the manner in which international courts and tribunals have pronounced on the material scope of IHL.

The future of international criminal evidence in new wars ? : the evolution of the Commission for International Justice and Accountability (CIJA)

Melinda Rankin. In: Journal of genocide research, Vol. 20, no. 3, 2018, p. 392-411. - Cote 344/746 (Br.)

This article explores the intellectual formation of the Commission for International Justice and Accountability (CIJA). It illuminates how the development of the CIJA was an attempt by state and non-state actors to affect the course of international criminal justice in Syria and Iraq. First, this article argues that the CIJA was the result of four factors: the UK Foreign Office's desire to support human rights activists in Syria; lessons learned from previous international criminal tribunals; attempts by non-state legal practitioners to invent new ways to overcome the gaps and limitations of the international criminal justice system; and the willingness of Syrian civil society to risk their lives and use the law to hold those responsible for mass atrocities to account. Second, the article argues that as non-state actors with a focus on evidence management, the CIJA may represent an innovative approach to investigating mass atrocities, particularly for activists and civil society actors who wish to play a role in evidence management in new wars. Lastly, it shows how the CIJA may work in parallel with international mechanisms, such as the International Criminal Court (ICC) and other inter-state actors, to collect evidence of war crimes, crimes against humanity, and genocide in new wars, particularly when the ICC is unable to do so. This study combines qualitative research with empirical analysis and draws on a range of primary and secondary sources, including a number of interviews conducted with CIJA personnel, former ICC practitioners, and other practitioners in international criminal law.

https://library.ext.icrc.org/library/docs/ArticlesPDF/45704.pdf

Hasta la vista, LAWS : where do we stand on the long-debated ban on lethal autonomous weapon systems ?

Stephan Koloßa. In: Humanitäres Völkerrecht = Journal of international law of peace and armed conflict, Bd. 1, H. 3-4, 2018, p. 195-208

"Killer Robots" are well known from Hollywood movies, acting independently, tenacious, human-like in their decisions. Autonomous weapon machinery is, however, not a mere fiction any longer. Various states have installed this type of technology already, mostly for defence purposes. Correspondingly, the controversy about the legality of autonomous weapons is fought fiercely. Albeit the debate has just started after 2000, the time still does not appear nigh to finding an international agreement about their legality and ethicality. Many human rights lawyers urge for a ban on those weapon systems; militaries and utilitarian states argue against such ban. This article follows up on the current debate foremost within the Group of Governmental Experts and engages in the discussion. It describes some of the new weapons currently in use and focuses on the core issues in international (humanitarian) law and ethics. Finally, it argues in favour of a ban which can only be based on ethical grounds but not legal ones.

How to cope with diversity while preserving unity in customary international law ? : some insights from international humanitarian law

Katharine Fortin. In: Journal of conflict and security law, Vol. 23, no. 3, Winter 2018, p. 337-358

Drawing upon literature relating to armed groups and international law, this article provides insights on the question of whether customary international law can accommodate non-state actors at the level of duty-bearers and norm-makers. Demonstrating that customary international law can accommodate considerable diversity at the level of duty-bearers, it argues that customary international law will struggle to accommodate diversity at the level of its makers. In particular, it points out that the character of armed groups is so different from that of states, that it is unclear how their practice could be taken into account alongside those of states. Yet, the article demonstrates that there are also problems in a methodology relying upon only state practice and opinio juris, as evidence of customary norms binding on a diversity of actors. It shows that this is particularly the case for human rights law, where the identity of the norm-making entity 'as a state' is highly determinative of the nature of its practice and opinio juris.

https://doi.org/10.1093/jcsl/kry023

Humanising the law of targeting in light of a child soldier's right to life

Rose Catherine Barrett. In: The international journal of children's rights, Vol. 27, no. 1, 2019, p. 3-30

Contemporary conflicts are epitomised by warfare never seen during the codification of the laws of war during the 19th and 20th centuries. In present times, children are increasingly being recruited and used as soldiers. Aside from the prohibition against their recruitment and use, and the prosecution of those who violate these prohibitions, more is needed to protect their right to life. Pursuant to the law of targeting, child soldiers may be subject to the use of lethal force. It has been queried whether there is a moral basis to apply different targeting rules to spare their lives. This paper will suggest that it may be in the interests of humanity for a new approach to be taken. In particular, this paper will consider whether international human rights law may humanise the law of targeting to restrict the degree of force that would ordinarily apply. Humanisation may provide a remedy to the moral dilemma posed.

https://doi.org/10.1163/15718182-02701009

The ICRC and the Red Cross and Red Crescent Movement : working towards a nuclear-free world since 1945

Linh Schroeder. In: Journal for peace and nuclear disarmament, Vol. 1, no. 1, 2018, p. 66-78. - Cote 341.67/876 (Br.)

This article examines why and how the International Committee of the Red Cross (ICRC) and the International Red Cross and Red Crescent Movement as a whole have been contributing to the global efforts towards a world free of nuclear weapons since the first use of the atomic bomb over 70 years ago in Hiroshima. It reminds us that the principles and rules of international humanitarian law (IHL) apply to nuclear weapons, and highlights the humanitarian consequences of their use. These concerns were at the core of the ”Humanitarian Initiative,” which contributed significantly to the adoption of the Treaty on the Prohibition of Nuclear Weapons in July 2017. The author also shares the ICRC’s views that, even before these weapons are fully eliminated and based on existing commitments and obligations, greater efforts must and can be made to review the significance of nuclear weapons in military plans, doctrines and policies, and to reduce the risk of a detonation. The article concludes by reminding that, as for the nuclear weapons “ban treaty,” what is most needed to ensure protection of victims of today’s ongoing armed conflicts is greater respect for and compliance with the existing general rules and principles of IHL.

https://library.ext.icrc.org/library/docs/ArticlesPDF/46200.pdf

The impact of international humanitarian law on the principle of systemic integration

Vito Todeschini. In: Journal of conflict and security law, Vol. 23, no. 3, Winter 2018, p. 359-382

The present article explores the impact of international humanitarian law (IHL) on the consolidation and development of the principle of systemic integration. The analysis relies on the jurisprudence of those international judicial and quasi-judicial bodies that have used IHL for interpretive guidance when applying human rights law in armed conflict. Whereas much attention has been paid to the substantive outcome of the interplay between these two bodies of law, too little consideration has been devoted to the role of systemic integration within this context. Human rights bodies and the International Court of Justice resort to this principle in three ways, namely by means of Article 31(3)(c) of the Vienna Convention on the Law of Treaties (VCLT), through equivalent provisions included in certain human rights treaties, or implicitly. In that regard, systemic integration is employed either to reinforce the application of human rights law by way of IHL, or to avoid norm conflict between diverging norms, especially in relation to the use of force and detention. The article identifies the kinds of impact that IHL has or may have with regard to the consolidation of the principle of systemic integration within the interpretive principles codified in the VCLT and in terms of the modification of some of its constitutive elements. It also aims to demonstrate that systemic integration, rather than lex specialis, is the principle of interpretation most pertinent to the interaction between IHL and human rights law.

https://doi.org/10.1093/jcsl/kry028

The impact of World War I on the law governing the treatment of prisoners of war and the making of a humanitarian subject

Neville Wylie and Lindsey Cameron. In: European journal of international law, Vol. 29, no. 4, November 2018, p. 1327-1350

This article evaluates the impact of World War I on the development of international humanitarian law (IHL) regarding the treatment of the prisoner of war (POW). In contrast to traditional scholarship, which overlooks the war's significance on the jus in bello, we argue that in the area of POW law, the changes brought about by the war were significant and long-lasting and led to the creation of a POW convention in 1929 that set IHL onto a markedly different path from that followed before 1914. Although the process was only completed with the signing of the four Geneva Conventions in 1949, many of the distinguishing features of modern POW law had their roots in the experience of captivity during World War I and the legal developments that followed in its wake. In particular, the scale, duration and intensity of wartime captivity after 1914 gave rise to a conceptual shift in the way POWs were perceived, transforming their status from 'disarmed combatants', whose special privileges were derived from their position as members of the armed forces, to 'humanitarian subjects', whose treatment was based on an understanding of their humanitarian needs and rights.

https://doi.org/10.1093/ejil/chy085

Implementing international law : an avenue for preventing disappearances, resolving cases of missing persons and addressing the needs of their families

Ximena Londoño and Alexandra Ortiz Signoret. In: International review of the Red Cross, Vol. 99, no. 905, 2017, p. 547-567. - Cote

International humanitarian law and international human rights law seek to prevent people from going missing, and to clarify the fate and whereabouts of those who do go missing while upholding the right to know of their relatives. When implementing international law at the domestic level, national authorities should plan carefully before engaging in any policy or legal reform that will address the issue of missing persons and the response to the needs of their families. This article seeks to present a general overview of the provisions of international law that are relevant to understanding the role of national implementation vis-à-vis the clarification of the fate and whereabouts of missing persons and the response to the needs of their relatives. It also presents the role that the ICRC has played in this regard and highlights three challenges that may arise at the national level when working on legal and policy reforms.

https://library.icrc.org/library/docs/DOC/irrc-905-londono.pdf

International 'criminal' responsibility : antinomies

Ottavio Quirico. - New York : Routledge, 2019. - XLII, 256 p. . - Cote 344/750

In the course of the 20th and 21st centuries, major offences committed by individuals have been subject to progressive systematisation in the framework of international criminal law. Proposals developed within the context of the League of Nations coordinated individual liability and State responsibility. By contrast, international law as codified after World War II in the framework of the United Nations embodies a neat divide between individual criminal liability and State aggravated responsibility. However, conduct of State organs and agents generates dual liability. Through a critical analysis of key international rules, the book assesses whether the divisive approach to individual and State responsibility is normatively consistent. Contemporary situations, such as the humanitarian crises in Syria and Libya, 9/11 and the Iraq wars demonstrate that the matter still gives rise to controversy: a set of systemic problems emerge. The research focuses on the substantive elements of major offences, notably agression, genocide, core war crimes, core crimes against humanity and terrorism, as well as relevant procedural implications.

International humanitarian law and justice : historical and sociological perspectives

ed. by Mats Deland, Mark Klamberg and Pal Wrange. - London ; New York : Routledge, 2019. - X, 231 p. . - Cote 345.22/992

In the last decade, there has been a turn to history in international humanitarian law and its accompanying fields. To examine this historization and to expand the current scope of scholarship, this book brings together scholars from various fields, including law, history, sociology, and international relations. Human rights law, international criminal law, and the law

on the use of force are all explored across the text's four main themes: historiographies of selected fields of international law; evolution of specific international humanitarian law rules in the context of legal gaps and fault lines; emotions as a factor in international law; and how actors can influence history. This work will enhance and broaden readers' knowledge of the field and serve as an excellent starting point for further research.

International humanitarian law and the targeting of data

Tim McCormack. In: International law studies, Vol. 94, 2018, p. 222-240

The 2013 publication of the Tallinn Manual on the International Law Applicable to Cyber Warfare confirmed the view of the majority of the international group of experts that data was not an object and therefore not subject to the rules of targeting during an armed conflict. Intuitively, a number of scholars reacted negatively to this view, and instead were drawn to the Tallinn Manual minority position that data did constitute an object. The significance of data, particularly personal data, is only increasing, and the purpose of the law of armed conflict is to reduce the deleterious impact of armed conflict on the civilian population. Focusing on tangibility, on corporeal physicality, as a prerequisite for the application of the law of targeting is anachronistic and unnecessary. However, an intuitive response to the majority view can easily overlook the nuances inherent in the view. First, whenever physical consequences—death, physical damage, or loss of functionality—accompany or result from the targeting of data, the rules of targeting apply. Second, special legal protections in the law of armed conflict apply to data whether or not data constitutes an object. Third, it is fallacious to assume that if data is not an object military data cannot be targeted. Either data is not an object and targeting rules do not apply such that military and civilian data can both be targeted, or data is an object and only military data can be targeted. In either situation, military data can legitimately be targeted and destroyed during an armed conflict. The key point of difference is the targeting of civilian data where no physical destruction or other damage occurs. Here, targeting is permissible if data is not an object, and impermissible if it is. States are yet to clarify their views on this scenario and it is likely that such clarification will only come in response to a major incident involving the destruction of civilian data without accompanying physical damage.

https://digital-commons.usnwc.edu/ils/vol94/iss1/9/

International humanitarian law in the jurisprudence of African human rights treaty bodies

Brian Sang YK. In: Annuaire de La Haye de droit international = Hague Yearbook of international law, Vol. 29, 2016, p. 1-53

Questions concerning the legal status, role, and effect of international humanitarian law (IHL) in the jurisprudence of African human rights treaty bodies remain little examined. They have not received as much, as detailed, or as sustained attention as that given to the same questions in the practice of other human rights mechanisms. This article seeks to fill this gap by assessing how African human rights treaty bodies have interacted with IHL in their practice, and how they can be used to induce compliance with IHL. It analyses trends in the use of IHL by the African Commission on human and peoples' rights, the African Court on human and peoples' rights, and the African Committee of experts on the rights and welfare of the child. Also explored is the relevant prospective role of the African Court of justice and human rights as the African Union's principal judicial organ. This article demonstrates that, though offering an enabling basis for the co-application of IHL and human rights law, the African human rights system's protective potential is yet to have full scope due to an acute lack of systematic analysis of the nature and effect of IHL-human rights law relations. Nonetheless, recent developments like the African Commission's General Comment no.3 on the right to life indicate a systemic turn towards greater recognition of the utility of IHL for the African human rights system.

International law of belligerency and occupation : a pedagogic introduction

June L. Dsouza. - Allahabad : Central Law Publications, 2016. - VIII, 360 p. . - Cote 351/150

Introduction to the legal ingredients involved in belligerency, the terms and conditions that form essential criteria to constitute an occupation, the law applicable in such belligerently occupied territory, the right and duties of occupied force/occupying force/legitimate government of the territory, means that may and may not be applied to force the enemy power to stop the acts of violence being commited against occupied territory, UN initiatives at interfering in such cases, examples of international interference in domestic affairs of sovereign nations, the effect of those instances on the international community, the international law regarding regulation of such situations, the evolution of International law and its place today.

Interpreting - again - the prohibition of torture

Stephen Ellmann. - In: Human rights and America's war on terror. - London ; New York : Routledge, 2019. - p. 86-130. - Cote 345.1/688

Are there any legal rules that govern, or constrain, interpretation of the prohibition against torture ? For Stephen Ellmann, this question at once raises another: interpretation by whom? He argues that, because lawyers' interpretive work is so heavily an exercise in the pursuit of the client's interest, there are very few interpretive rules that bind all lawyers called upon to read the prohibition of torture. In this chapter, he focuses on the role of lawyers for the United States government, charged with interpreting the obligations of US government officials and employees. He discusses diverging interpretations of the prohibition of torture, including diverging definitions of torture itself, and presents the position of past and current US administrations on this issue.

"Jolly Roger" (pirate flag)

Ziv Bohrer. - In: International law's objects. - Oxford : Oxford University Press, 2018. - p. 259-271 . - Cote 345/782

Presently, a black flag with a skull-and-crossbones (the 'Jolly Roger') is merely a cultural icon for piracy. This chapter excavates the flag's deep roots in international law. First, the chapter uncovers that the flag (and prior to it a red banner known as 'Oriflamme') used to be a laws-of-war signal for the intention to summarily execute captured enemy ('take no prisoners'/'deny quarter'). It was used not only by pirates. Second, the chapter shows that intriguingly, the flag's history aids in exposing misconceptions regarding criminal justice. Domestic criminal law is considered the traditional form of criminal justice, whereas, except for piracy, international crimes (meriting universal jurisdiction) are considered a novel, post-World War II, creation. However, historically, universal jurisdiction was applied not only to piracy, but also to felonies (crimes classified today as domestic) and war crimes. That actual history of criminal justice and the Jolly Roger's legal history were forgotten for similar reasons.

The law of military occupation from the 1907 Hague Peace Conference to the outbreak of World War II : was further codification unnecessary or impossible ?

Thomas Graditzky. In: European journal of international law, Vol. 29, no. 4, November 2018, p. 1305-1326

World War I is commonly perceived as having had a profound impact on international law. Such a general perception, be it justified or not, might in any event prove erroneous when looking at specific areas of this law. A focus on the law governing military occupation reveals a notable absence of change over the course of the war and the subsequent interwar period. In search of possible reasons, this article first looks at various opportunities that emerged – but were not ultimately seized – to adapt treaty law in the period between the two world wars. It then assesses whether changes had in fact occurred through other channels such as customary international law or treaty interpretation. Based on the observation that no meaningful change intervened, can it be concluded that, on the whole, the Hague regulations on military occupation met stakeholders' expectations and therefore were not altered? The author suggests, rather, that the equilibrium founded in The Hague in 1899 (and confirmed in 1907) on the lines of tension between the states involved remained operational throughout the period under scrutiny.

https://doi.org/10.1093/ejil/chy063

Management of the dead from the Islamic law and international humanitarian law perspectives : considerations for humanitarian forensics

Ahmed Al-Dawoody. In: International review of the Red Cross, Vol. 99, no. 905, 2017, p. 759-784

This article discusses a number of contemporary issues and challenges pertinent to the management of the dead in contemporary armed conflicts and other situations of violence and natural disasters under Islamic law and international humanitarian law. Among the issues and challenges faced by forensic specialists in Muslim contexts at present are collective burial, quick burial of dead bodies, exhumation of human remains, autopsy, burial at sea, and handling of the bodies by the opposite sex. The article concludes that both legal systems have developed rules which aim at the protection of the dignity and respect of dead bodies, and that they complement each other to achieve this protection in specific Muslim contexts. The main objectives of this article are twofold: firstly, to give an overview of the Islamic law position on these specific questions and

challenges, in order to, secondly, provide some advice or insight into how forensic specialists can deal with them.

https://library.icrc.org/library/docs/DOC/irrc-905-al-dawoody.pdf

Manuel sur les règles internationales régissant les opérations militaires

CICR. - Genève : CICR, septembre 2016. - 488 p. . - Cote 345.23/60 (2016 FRE)

Les opérations militaires modernes comprennent les opérations de combat dans les conflits armés, les opérations de maintien de l'ordre et les opérations de soutien de la paix. Dans cet environnement de plus en plus complexe, il est impératif que les forces armées intègrent le droit international humanitaire et les dispositions pertinentes du droit international des droits de l'homme dans la planification et l'exécution des opérations militaires. Ce manuel met en lumière les principaux éléments du droit international régissant les opérations militaires, en les plaçant dans un contexte opérationnel concret. Il a pour objet de faciliter l'application du droit par les forces armées et d'aider les commandants à intégrer ce droit dans la stratégie, les opérations et la tactique militaires. Il est, à ce titre, le digne successeur du Manuel sur le droit de la guerre pour les forces armées compilé par Frédéric de Mulinen et publié par le CICR pour la première fois voici plus de trente ans.

https://library.icrc.org/library/docs/DOC/icrc-001-0431-2016.pdf

The myth of international humanitarian law

Page Wilson. In: International affairs, Vol. 93, no. 3, May 2017, p. 563-579

Conventional narratives about the body of law regulating the conduct of armed conflict conclude that what was once known as the 'law of war' (LoW) or the 'law of armed conflict' (LOAC) can equally be called international humanitarian law (IHL) today. Yet how and why IHL came to be used as a name for this field is not explained. Understanding the evolution of IHL nomenclature is important because it reveals the background conditions which made possible the changes to the governance of the British armed forces already revealed in this journal (Forster, 88: 2, 2012), and it explains the frequent recourse to IHL invocations by non-governmental organizations in the midst of contemporary armed conflicts. Contrary to orthodox narratives, this article demonstrates that IHL's origins, contents and purpose are altogether different from those of LOAC/LoW. Nevertheless, the article reveals a concerted effort to rebrand LOAC/LoW as IHL—first led by the International Committee of the Red Cross (ICRC), and then taken up by human rights groups from the 1980s onwards. For the latter, a shift to IHL was about providing a means to expand their work into armed conflict scenarios; it was not about improving the law or making it more effective for its own sake. For these reasons, the article argues that the myth of IHL is that it is a body of law at all. Rather, it is a political project by and for international humanitarian and human rights organizations in support of their own political objectives.

https://doi.org/10.1093/ia/iix008

National committees and similar entities on international humanitarian law : guidelines for success : towards respecting and implementing international humanitarian law

ICRC. - Geneva : ICRC, December 2018. - 81 p.

International humanitarian law (IHL) affords protection to people and property in armed conflict, but only if its rules are properly recognized, clearly understood and fully complied with. The first and vital step in ensuring the effectiveness of the law's protection is by States adopting or ratifying the relevant legal instruments. But other actions must also be carried out domestically, beginning in peacetime, to enable compliance with the law. National committees and other similar bodies that are specifically dedicated to IHL can advise and assist governments in fulfilling this complex task. By November 2018, 111 countries had such bodies. This document provides an overview of the role and work of these national IHL committees. It outlines how to make the committee work well, looking at the committee's membership and detailing features that have proved necessary for committees to fulfil their role. It concludes with some templates to help national IHL committees carry out their work effectively.

https://library.icrc.org/library/docs/DOC/icrc-002-4367.pdf

New technologies and the law in war and peace

ed. by William H. Boothby. - Cambridge : Cambridge University Press, 2019. - XXI, 504 p. . - Cote 345.22/997

Policymakers, legislators, scientists, thinkers, military strategists, academics, and all those interested in understanding the future want to know how twenty-first-century scientific advances should be regulated in war and peace. This book tries to provide some of the answers. Part I summarises some important elements of the relevant law. In Part II, individual chapters are devoted to cyber capabilities, highly automated and autonomous systems, human enhancement technologies, human degradation techniques, the regulation of nanomaterials, novel naval technologies, outer space, synthetic brain technologies beyond artificial intelligence and biometrics. The final part of the book notes important synergies that emerge between the different technologies and legal provisions (existing and proposed) assesses notions of convergence and of composition in international law, and provides some concluding remarks. The new technologies, their uses and their regulation in war and peace are presented to the reader, who is invited to draw conclusions.

The obligation to investigate in peace operations : the role of cooperation in ensuring effectiveness

Vito Todeschini. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 2, 2017-2018, p. 405-450

Reports concerning crimes and abuses committed by peace operations personnel deployed in situations of humanitarian crisis often hit the news. In these instances, troop-contributing States (TCSs) retain both a prerogative and a duty to undertake criminal investigations as prescribed by international law. To investigate effectively, however, a TCS will need to interact with the other actors involved in a peace operation: the host State, the leading international organization, and other TCSs. When a local is killed, for example, the investigating TCS must seek the authorization of the host State in order to perform an autopsy on the victim's body, to avoid infringing the latter's sovereignty. In this sense, partial or total non-cooperation on the part of the host State may hamper a TCS's ability to conduct an effective investigation. The present article examines the obligation to investigate in the context of peace operations, particularly as deriving from human rights law and international humanitarian law (IHL). It further explores how the specific agreements applicable in UN and NATO operations address investigative cooperation, aiming to map relevant normative gaps. The article finally proposes an interpretation de lege ferenda of existing obligations under human rights law and IHL, according to which the duty to investigate would require TCSs (a) to regulate investigative cooperation with the other actors involved in a peace operation and (b) to ensure that such actors conduct investigations in line with the required standards of effectiveness.

http://www.ismllw.org/REVIEW/2017-2018%20ART%20Todeschini.php

Pre-deployment common law duty of care and article 36 obligations in relation to autonomous weapons : interface between domestic law and international humanitarian law ?

Ozlem Ulgen. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 1, 2017-2018, p. 135-168

This article explores the interface between a pre-deployment common law duty of care and Article 36 of Additional Protocol I to the Geneva Conventions (API) pre-deployment review procedure in relation to autonomous weapons. It considers whether State and private actors (e.g. manufacturers of autonomous weapons; and telecommunications companies) involved in pre-deployment activities owe a duty of care to combatants and civilians. Part II examines the UK Supreme Court's judgment in Smith and Others v. MOD to identify the basis upon which a pre-deployment common law duty of care can be established and extended to pre-deployment activities relating to autonomous weapons. Part III maps out the nature of a pre-deployment duty of care in relation to autonomous weapons and the content of specific duties. Part IV then examines the nature of the pre-deployment review procedure under Article 36 of API, and the extent to which it establishes a legally enforceable obligation in relation to autonomous weapons. While Article 36 does not require international supervision, it does necessitate domestic implementation of the obligation to review. Consideration is given as to whether it can be enforced at the domestic level by combatants and civilians.

http://www.ismllw.org/REVIEW/2017-2018%20ART%20ulgen.php

Precautions in attack and urban and siege warfare

Jeroen C. van den Boogaard and Arjen Vermeer. In: Yearbook of international humanitarian law Vol. 20, 2017, p. 163-198

Many armed conflicts rage in urban areas, where it is particularly difficult for attackers to prevail over their enemy without causing extensive civilian casualties and destruction to civilian infrastructure. This article aims to provide a general overview of the legal obligations of the parties to armed conflicts with regard to precautions in attack, particularly in urban and siege warfare.

Principes de droit des conflits armés, 6ème édition

par Eric David. - Bruxelles : Bruylant, 2019. - 1412 p. . - Cote 345.2/636 (FRE 2019)

Cette sixième édition, mise à jour de la cinquième édition, s'est vue ajouter : deux chapitres entièrement consacrés au champ d'application du droit des conflits armés et la responsabilité de ses violations en répondant notamment à des questions telles que: quand y a-t-il conflit armé ? Quand ce conflit est-il réputé international ? Quels sont les destinataires du droit des conflits armés ? Comment s'applique-t-il à des forces multinationales telles que les forces de l'ONU ? Quelles sont les incidences de la jurisprudence des juridictions pénales internationales ? Qui porte la responsabilité des violations de ce droit ? Quelles en sont les implications pénales ? Etc.Les principales règles du droit de Genève (situation des personnes au pouvoir de l'ennemi) et du droit de La Haye (conduite des hostilités) sont exposées. Un dernier chapitre étudie sur un plan socio-psychologique les causes des violations du droit des conflits armés, et tente de proposer certains remèdes à ce phénomène.

Proportionality in the conduct of hostilities : the incidental harm side of the assessment

Emanuela-Chiara Gillard. - London : Chatham House, December 2018. - 52 p. . - Cote 345.25/382 (Br.)

The rule of proportionality prohibits attacks which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated. This research paper analyses the key steps that belligerents must take to give effect to the rule, with a particular focus on one side of proportionality assessments – the expected incidental harm. Those undertaking proportionality assessments before or during an attack must consider whether the expected harm will be caused by the attack, and whether that harm could be expected (that is, was it reasonably foreseeable). For the purpose of proportionality assessments, injury to civilians includes disease, and there is no reason in principle to exclude mental harm, even though it is currently challenging to identify and quantify it. Damage to civilian objects includes damage to elements of the natural environment. Once the incidental harm to be considered has been identified, a value or weight must be assigned to it. This is then balanced against the value or weight of the military advantage anticipated from the attack to determine whether the harm would be excessive. In the determination of whether the expected incidental harm would be excessive compared to the anticipated military advantage, 'excessive' is a wide but not indeterminate standard.

https://www.chathamhouse.org/publication/proportionality-conduct-hostilities-incidental-harm-side-assessment

La protection des civils en droit international humanitaire

par Abigaël Hansen. - In: Droit et stratégies de l'action humanitaire. - Paris : Mare & Martin, 2018. - p. 113-126. - Cote 345.2/1051

Ce chapitre explicite la notion de protection de la population civile et présente les sources de cette protection en droit international humanitaire. Il examine également les sanctions envisageables en cas de violation.

La protection des personnes capturées dans les conflits armés

par Jérôme Cario. - In: Droit et stratégies de l'action humanitaire. - Paris : Mare & Martin, 2018. - p. 127-134. - Cote 345.2/1051

Le droit des conflits armés a toujours axé ses textes sur la distinction entre combattants et non combattants. Seul le combattant régulier a le droit de se battre et peut être combattu. La personne civile ne peut participer au combat et à cette condition ne peut faire l'objet d'une attaque. Capturé, le combattant ne peut être

sanctionné pour avoir porté les armes et provoqué la mort d'autrui. Prisonnier de guerre, il sera incarcéré, non pour le punir, mais dans le seul but de l'empêcher de participer aux hostilités.

Reflections on the international adjudication of cases of grave violations of rights of the human person

Antônio Augusto Cançado Trindade. In: Journal of international humanitarian legal studies, Vol. 9, no. 1-2, 2018, p. 98-136

The coexistence of contemporary international tribunals has fostered the access to justice for the determination of international responsibility. There are approximations and convergences between the International Law of Human Rights, International Humanitarian Law, the International Law of Refugees, and contemporary International Criminal Law. The central place is of the human person. In addressing grave violations of the rights of the human person, international tribunals have a humanist common mission of rendering justice as a form of reparation. Jusnaturalism prevails over legal positivism, conscience stands above the "will".

https://doi.org/10.1163/18781527-00901003

The relationship between international humanitarian law and the notion of state sovereignty

Rogier Bartels. In: Journal of conflict and security law, Vol. 23, no. 3, Winter 2018, p. 461-486

This article explores the relationship between international humanitarian law (IHL) and the State sovereignty. Historically, only wars between sovereign States were subject to regulation by the laws of war. From the 19th century onwards, States agreed upon a significant number of IHL treaties and in 1949, despite calls upon sovereignty, they accepted extension of a limited part of the rules to non-international armed conflicts. Since then, through the formation of customary international law and in part as result of new treaties, it has been accepted that the majority IHL has become applicable to internal conflicts. In addition, international institutions have been set up to prosecute individuals for serious violations of IHL. The author discusses how IHL and sovereignty have influenced each other's development. The analysis shows that the development of IHL should not be seen as limiting State sovereignty, but rather ought to be regarded as a manifestation of sovereignty, expressed through the formation of this branch of international law by its core subjects: States. At the same time, as a result of the increased reliance on means other than treaties for clarification and development of IHL, the role of States has become more limited; it is reduced to either accepting or rejecting the prospective developments of IHL and any consequential impact on their sovereignty.

https://doi.org/10.1093/jcsl/kry021

Rendition in extraordinary times

Margaret L. Satterthwaite and Alexandra M. Zetes. - In: Human rights and America's war on terror. - London ; New York : Routledge, 2019. - p. 131-160. - Cote 345.1/688

The practice of rendition—the involuntary transfer of an individual across borders without recourse to extradition or deportation proceedings—is not new. Indeed, the practice of snatching a defendant for trial—"rendition to justice"—has been used by governments for more than a century. Although rendition has been controversial in human rights circles, it has been celebrated by many as crucial in the fight against impunity for grave crimes. With the publication of the National Security Strategy in December 2017, the Trump Administration renewed its commitment to fighting terrorism in aggressive terms with little consideration for human rights. The threat that counter-terrorism measures will become more abusive is made more stark by the rise in nationalist governments pursuing protectionist policies with weakening regard to human rights guarantees. With governments moving to close borders, deport non-nationals, denaturalize their own citizens, and use informal means to transfer suspects, the mechanisms through which a state may transfer custody of an individual—and the permissible purposes for such handovers—have escaped careful scrutiny. In this era of global realignment, the human rights principles guiding inter-state cooperation in such matters must be reasserted. This chapter examines the legal norms governing informal transfers and detentions in this new era and sets out a minimum standard that must be upheld whenever a state renders an individual, no matter how extraordinary the context.

Renforcement du droit international humanitaire protégeant les personnes privées de liberté : consultation régionale d'experts gouvernementaux sur les motifs et procédures d'internement et les transferts des détenus : Montreux, Suisse, 20-22 octobre 2014

rapport préparé par Ramin Mahnad. - Genève : CICR, novembre 2015. - 69 p.

Le présent rapport rend compte de la consultation thématique d'experts gouvernementaux sur les motifs et les conditions d'internement, ainsi que sur les transferts de détenus, qui s'est tenue en octobre 2014. La consultation, qui s'inscrivait dans le cadre de l'initiative du CICR sur le renforcement du respect du droit international humanitaire du CICR, était organisée conformément à la résolution 1 de la XXXIe Conférence internationale de la Croix-Rouge et du Croissant-Rouge. Plus tôt dans l'année s'était tenue une première consultation thématique – portant sur les conditions de détention et les détenus particulièrement vulnérables – qui fait l'objet d'un rapport séparé.

https://library.icrc.org/library/docs/DOC/icrc-001-4234.pdf

Le renforcement du droit international humanitaire protégeant les personnes privées de liberté : consultation thématique d'experts gouvernementaux sur les conditions de détention et les détenus particulièrement vulnérables : Genève, Suisse, 29-31 janvier 2014

rapport préparé par Ramin Mahnad. - Genève : CICR, novembre 2015. - 84 p.

Le présent rapport rend compte de la consultation thématique d'experts gouvernementaux sur les conditions de détention et les détenus particulièrement vulnérables qui s'est tenue en janvier 2014. La consultation, qui s'inscrivait dans le cadre de l'initiative du CICR sur le renforcement du droit international humanitaire, était organisée conformément à la résolution 1 de la XXXIe Conférence internationale de la Croix-Rouge et du Croissant-Rouge. Plus tard dans l'année s'est tenue une deuxième consultation thématique – portant sur les motifs et les procédures d'internement, ainsi que sur les transferts de détenus – qui fait l'objet d'un rapport séparé.

https://library.icrc.org/library/docs/DOC/icrc-001-4230.pdf

Responsibility in connection with the conduct of military partners

Bérénice Boutin. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 1, 2017-2018, p. 57-91

This article analyses situations in which States and international organizations partnering in military operations can bear responsibility in connection with conduct attributed to another. When engaging in military cooperation, a variety of international norms providing for obligations in relation to others should be taken into account. These include negative obligations not to assist or direct military partners in engaging in conduct violating international obligations, and positive obligations to take steps to ensure that military partners do not commit wrongful conduct. Taken together, they result in a framework which regulates military collaboration by determining thresholds where implication in the conduct of another, or lack thereof, engages responsibility. The aim of this article is to clarify and to conceptualise this framework, so as to provide an analytical background on the basis on which military officials can determine the proper balance between excessively permissive attitudes fostering violations and unnecessarily precautionary approaches hindering military cooperation. Based on a comprehensive review of relevant rules found in the ILC articles on the responsibility of States and of international organizations, international humanitarian law, and international human rights law, the article identifies four key criteria to allocate responsibility in connection with the wrongful conduct of military partners: knowledge, capacity, diligence, and proximity. In addition, the article offers some perspectives on the apportionment of legal consequences such as reparation.

https://ssrn.com/abstract=3134459

The right to life in situations of armed conflict

Clare Ovey. - In: The right to life under Article 2 of the European Convention on Human Rights. - Oisterwijk : Wolf Legal Publisher, 2017. - p. 253-270. - Cote 345.1/690

In a number of recent cases the Court has ruled that the notion of "jurisdiction" in Article I of the European Convention on Human Rights has an application in certain circumstances where a State is involved in armed conflict outside its national territory. However, hand in hand with this development of the case-law on

jurisdiction, there has been recognition by the Court that the Convention rights should be interpreted and applied in a way which takes into account the legal and factual particularities of armed conflict.

Si vis pacem, para bellum : application of the European Convention on Human Rights in situations of armed conflicts

Rick Lawson. - In: The right to life under Article 2 of the European Convention on Human Rights. - Oisterwijk : Wolf Legal Publisher, 2017. - p. 213-230. - Cote 345.1/690

Cases involving the application of the European Court on Human Rights to situations of armed conflict represent a sad branch of the Court's case-law, but they are becoming increasingly numerous. Present-day conditions dictate that the Court must prepare for war, or at least define its position in respect of cases that emanate from war-like situations, so as to lay the foundations for peace and respect for human rights. What is needed is a coherent view on the meaning of the Convention in situations of armed conflict.

Un siècle de Croix-Rouge : de sa fondation au milieu des années 70

par Véronique Harouel-Bureloup. - In: Droit et stratégies de l'action humanitaire. - Paris : Mare & Martin, 2018. - p. 101-111. - Cote 345.2/1051

La Croix-Rouge est née en 1863 de la volonté de cinq Genevois d'obtenir la formation, dans chaque Etat, d'une société de secours composée de volontaires pour seconder les services de santé des armées. Cette création sera suivie en 1864 d'une conférence diplomatique chargée d'adopter une convention prévoyant notamment l'application du principe de neutralité aux personnels sanitaires des armées et aux volontaires, à leurs hôpitaux et ambulances. Le droit humanitaire était né. Puis la Croix-Rouge étendra ses interventions au temps de paix, tandis que ses actions en période de guerre engendreront progressivement l'extension du champ d'application du droit humanitaire. Ainsi, depuis plus de 150 ans, la Croix-Rouge n'a de cesse de porter secours en s'adaptant, tout comme les Etats, à un monde dont les incessantes mutations rendent la chose parfois difficile.

Silent war : applicability of the jus in bello to military space operations

Kubo Macák. In: International law studies, Vol. 94, 2018, p. 1-38

There are no molecules of air that could carry sound waves in the vacuum of outer space. Accordingly, space warfare may well become the first type of war whose signature sound would be — silence. But does the law of armed conflict (jus in bello) fall silent in times of Silent War? This article addresses the uncertainty at the heart of this issue. First, it delineates the relevant conceptual framework by examining the factual notion of “military space operations,” and its relationship with the legal concept of “armed conflict,” as well as the overlap between the potentially applicable bodies of law. It then argues in favor of the general applicability of the jus in bello to military space operations while distinguishing this issue from the separate question of whether war in outer space can be justified. Finally, it considers the four specific dimensions of applicability of the relevant law: material, personal, temporal, and geographic. The article concludes that the jus in bello applies to space operations generally and clarifies the situations, persons, times, and places to which this body of law applies.

https://digital-commons.usnwc.edu/ils/vol94/iss1/1

The standards of 'due diligence' as a result of interchange between the law of armed conflict and general international law

Antal Berkes. In: Journal of conflict and security law, Vol. 23, no. 3, Winter 2018, p. 433-460

‘Due diligence’ or ‘vigilance’ is a substantial law obligation which requires that the state take all reasonable efforts within its power to prevent and repress the commission of internationally wrongful acts by others, ie non-state actors or other states. The duty of due diligence in general international law has its origin in the law of neutrality and the protection of foreigners from injuries occurring in civil wars. This general international law standard has been further interpreted and developed in the domain of armed conflict. The article argues that the due diligence concept, as it applies in the law of armed conflict (LOAC), developed certain specificities as to its content, particularly with regard to the importance of the interests to be protected and the extension of the concept to non-state actors. In the Corfu Channel and the Genocide (Bosnia and Herzegovina v Serbia and Montenegro) cases, the ICJ defined the due diligence standard as an obligation of conduct and specified certain factors influencing the required degree of diligence, without limiting it to specific branches of international law. Another remarkable impact of LOAC is the extension of

the scope of subjects bound by due diligence duties to individual commanders, armed opposition groups, and international organisations. Both of these developments in LOAC, that is the specificities in the content and the addressees of the due diligence obligations, have contributed to the contemporary interpretation of the due diligence standard in general international law and to the subsequent re-interpretation of LOAC in the light of the latter.

https://doi.org/10.1093/jcsl/kry022

Targeting the Islamic State's religious personnel under international humanitarian law

Till Patrik Holterhus. In: Yearbook of international humanitarian law, Vol. 20, 2017, p. 199-228

Under international humanitarian law religious personnel must be protected against direct military attack. This basic principle, rooted in the humanitarian function of religious personnel on the battlefield, also applies to Islamic chaplains with the organized armed group “Islamic State”. However, the protected status depends on the exclusivity of the engagement in the work of the ministry. Against this background, the chapter assesses the (loss of) protection of the Islamic State’s religious personnel in Iraq and Syria. It distinguishes between such chaplains who are formally integrated into the organized armed group (IS-chaplains), and such civil chaplains who are not (IS-civil chaplains). By taking into consideration the Islamic State’s “holy war”-narrative and the data on their military administration, it will be argued that IS-chaplains are likely to also perform functions of religious propaganda and recruiting. Even in the light of international human rights law, such conduct can hardly be assessed as an exclusive engagement in the work of the ministry. As a result, the chapter argues that IS-chaplains, if such a non-exclusive function is sufficiently verified, can be legally subjected to direct military attack as every other ordinary member of the organized armed group. For the informally collaborating IS-civil chaplains, it will be shown that a protected status is granted quite independent of their religious function but via the general rules on the protection of the civil population. However, on the basis of assumed functions of IS-civil chaplains, the chapter concludes that (religious) recruiting by civilians, under certain circumstances, amounts to a direct participation in hostilities, again, resulting in the legal justification of direct military attack.

"The Great Humanitarian" : the Soviet Union, the International Committee of the Red Cross, and the Geneva Conventions of 1949

Boyd van Dijk. In: Law and history review, Vol. 37, no. 1, February 2019, p. 209-235. - Cote 345.22/996 (Br.)

This article unpacks some of the existing misconceptions within the existing historiography regarding the Soviet impact on the International Committee of the Red Cross (ICRC)' efforts to promote the law's revision, especially after World War II. Whereas most of the literature claims that Soviet contributions were either minimal or highly biased, this article reveals the Soviet delegation's mixed but critical legacy in developing the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, including Common Article 3, in particular.

There and back again : the Inter-American human rights system's approach to international humanitarian law

Alonso Gurmendi Dunkelberg. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 2, 2017-2018, p. 305-348

The Inter-American Court of Human Rights is constantly deciding cases that relate to the conduct of States in times of armed conflict. However, while the Court is a trailblazer in the field of human rights, its record with regard to the advancement of international humanitarian law is less stellar. In this article I will offer an explanation for this disconnect between the Inter-American System and international humanitarian law. Through the analysis of the court’s humanitarian law case law, I argue that the Inter-American Court has gone through a long process of adaptation to international humanitarian law, starting with promising beginnings in the late-nineties at the Inter-American Commission, continuing through a philosophical shift in the early 2000s that drove the Inter-American Court away from direct application of humanitarian law, and ultimately returning to humanitarian law-friendly causeways in the 2010s. I also point to the risks entailed by a human rights system not well connected to humanitarian law and the reasons why I believe the Court’s disassociation with international humanitarian law seems to be slowly but steadily tending towards a positive evolution.

http://www.ismllw.org/REVIEW/2017-2018%20ART%20Gurmendi%20Dunkelberg.php

Towards a counter-hegemonic law of occupation : on the regulation of predatory interstate acts in contemporary international law

Valentina Azarova. In: Yearbook of international humanitarian law, Vol. 20, 2017, p. 113-160

This article examines the regulation in international law of situations of foreign territorial control that breach peremptory norms on interstate force and self-determination of peoples, which it designates as unlawfully prolonged occupations. In the practice of international lawyers, such situations are regulated by the international humanitarian law rules on belligerent occupation, or conflict management law. This practice apparently derives from the distinction between the jus ad bellum and the jus in bello and the dichotomy in the application of the two bodies of law. But this seemingly outdated logic of international legal practitioners is under pressure, as it also amounts to a silencing and failure to address the legality of the occupying state's pursuits and that of the continued denial of the right to self-determination of people to the local population. Applying only the specialized law on occupation, in isolation from other applicable law, overlooks the consequences of unlawfully prolonged occupations on the protection of individual rights and the systemic integrity of international law. This article re-situates occupation law within its broader normative environment and proposes a regulatory approach to predatory acts that would better support the unity, systemic integrity, and value system of contemporary international law.

The treaty on the prohibition of nuclear weapons : a commentary

Stuart Casey-Maslen. - Oxford : Oxford University Press, 2019. - XXII, 269 p. . - Cote 341.67/875

This Commentary offers detailed background and analysis of the Treaty on the Prohibition of Nuclear Weapons, which was adopted at the UN Headquarters in New York in July 2017. The Treaty comprehensively prohibits the use, development, export, and possession of nuclear weapons. Stuart Casey-Maslen, a leading expert in the field who served as legal adviser to the Austrian Delegation during the negotiations of this Treaty, works through article by article, describing how each provision was negotiated and what it implies for states that join the Treaty. As the Treaty provisions cut across various branches of international law, the Commentary goes beyond a discussion of disarmament to consider the law of armed conflict, human rights, and the law on inter-state use of force. The Commentary examines the relationship with other treaties addressing nuclear weapons, in particular the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). Background on the development and possession of nuclear weapons and theories of nuclear deterrence is provided. Particular attention is paid to controversial issues such as assistance for prohibited activities, the meaning of 'threaten to use', and the definition of nuclear explosive devices. Casey-Maslen also considers whether a member of NATO or other nuclear alliance can lawfully become a state party to the Treaty.

Understanding cyber warfare : politics, policy and startegy

Christopher Whyte and Brian Mazanec. - London ; New York : Routledge, 2019. - X, 296 p. . - Cote 348/149

This textbook offers an accessible introduction to the historical, technical, and strategic context of cyber conflict. The international relations, policy, doctrine, strategy, and operational issues associated with computer network attack, computer network exploitation, and computer network defense are collectively referred to as cyber warfare. This new textbook provides students with a comprehensive perspective on the technical, strategic, and policy issues associated with cyber conflict as well as an introduction to key state and non-state actors. Specifically, the book provides a comprehensive overview of these key issue areas: the historical emergence and evolution of cyber warfare, including the basic characteristics and methods of computer network attack, exploitation, and defense; a theoretical set of perspectives on conflict in the digital age from the point of view of international relations (IR) and the security studies field; the current national perspectives, policies, doctrines, and strategies relevant to cyber warfare; and an examination of key challenges in international law, norm development, and the potential impact of cyber warfare on future international conflicts.

The use of soft law in regulating armed conflict : From jus in bello to "soft law in bello" ?

Peter Vedel Kessing. - In: Tracing the roles of soft law in human rights. - Oxford : Oxford University Press, 2016. - p.129-153. - Cote 345.1/689

Historically, soft law has not played a major role in regulating situations of armed conflict. Armed conflict has - contrary to the human rights field - almost exclusively been regulated by hard law instruments. However, this has changed within the last two decades, with new standards targeting situations of armed

conflicts increasingly being elaborated in soft law instruments. This chapter explores and discusses the new trend of regulating armed conflict with soft law instruments and more specifically assesses whether international human rights norm are reflected in recent soft law instruments.

Weapons and the international rule of law : 39th round table on current issues of international humanitarian law (Sanremo, 8th-10th September 2016)

International Institute of Humanitarian Law ; ed. Baldwin De Vidts ; associated ed. Gian Luca Beruto. - Milano : Franco Angeli, 2017. - 263 p. . - Cote 341.67/864

The 39th Round Table on current issues of International Humanitarian Law (IHL), held in Sanremo, gathered together international experts, representatives of governments and international organizations, academics and military officers to engage in open and fruitful discussions on the complex issues of weapons and international rule of law. The Round Table provided an important opportunity to address the crucial topic of the protection of civilians which, now more than ever, constitutes a critical and delicate issue in today's international and non-international armed conflicts. Non-state actors, urban warfare, weapons smuggling and autonomous armaments are some of the issues currently at stake. Considering the multiple transformations characterising the contemporary international scenario, it is an extremely difficult task for all the actors to implement IHL in this specific area. The proceedings of this Round Table, in line with the Sanremo Institute's tradition, aim to further develop and contribute to the ongoing debate on these issues.

http://www.iihl.org/wp-content/uploads/2017/08/Weapons-and-international-rule-of-law_Sanremo-Round-Table-2016-3.pdf

Weapons review obligation under customary international law

Natalia Jevglevskaja. In: International law studies, Vol. 94, 2018, p. 186-221

Under Article 36 of the 1977 Additional Protocol I to the Geneva Conventions, States are required to review new weapons for their compliance with international law. While recent discussions on the regulation of lethal autonomous weapons systems under the auspices of the UN Certain Conventional Weapons Convention increasingly emphasize the importance of national weapons review mechanisms, Article 36 is known to be implemented only by a handful of States. Some legal scholars have nonetheless argued that the Article 36 obligation has attained customary international law status. Remarkably, substantive analysis of State practice and opinio juris required to evidence that certain conduct of States has advanced to a level of customary international law is absent in these claims. This article examines whether the weapons review obligation as formulated under Article 36 is mandated by customary international law. An affirmative answer to this question would require evidence of "extensive and virtually uniform" State practice showing that new weapons are legally reviewed at the earliest stage in the acquisition process as a matter of law. The article concludes that no such evidence exists. It then considers "alternate" weapons reviews by asking whether a narrower obligation to review weapons before fielding forms part of customary international law. It finds that the existence of such a rule is also unsupported by State practice and opinio juris.

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When do terrorist organisations qualify as 'parties to an armed conflict' under international humanitarian law ?

Rogier Bartels. In: Revue de droit militaire et de droit de la guerre = The military law and law of war review, Vol. 56, no 2, 2017-2018, p. 451-484

International humanitarian law places certain obligations on, or gives rights to, a "party to the conflict" or "parties to the conflict". Although nearly 200 provisions of the Geneva Conventions and their Additional Protocols include such a phrase, none of these instruments defines this term. At the same time, even though terrorist groups or organisations may be using armed force during armed conflicts, States appear reluctant to recognise such groups as parties to a conflict. The present contribution explains what is to be understood as parties to the conflict for each of the two types of armed conflict under international humanitarian law, namely international armed conflicts and non-international armed conflicts, and discusses whether, or to what extent, (alleged) terrorist organisations can qualify as such parties. This contribution further critically assesses the findings in recent Belgian case law that various armed actors involved in the Syrian conflict are not considered to be parties to the said conflict.

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When general international law meets international humanitarian law : attribution of conduct and the classification of armed conflicts

Remy Jorritsma. In: Journal of conflict and security law, Vol. 23, no. 3, Winter 2018, p. 405-431

Case law of the International Court of Justice and the International Criminal Tribunal for the former Yugoslavia reveals different judicial attitudes towards questions of State responsibility and IHL, and their mutual relationship, when classifying situations as international or non-international armed conflicts. This contribution will examine this conflict, or fragmentation, in order to shed light on the question whether IHL, or its interpretation and application, has had any influence on the general international law of State responsibility. By analysing the symbiotic relationship between IHL and State responsibility for purposes of the classification of conflict, it is shown that the case law on this matter, which is often cited as an example of fragmentation, can in fact be reconciled, as long as one recognizes that secondary attribution rules have a certain influence on the scope and application of primary rules of IHL. The impact of IHL on State responsibility law lies in the recognition that primary rules of international law may contain secondary lege speciales rules dealing with the attribution of conduct in times of armed conflict.

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When is an act of war lawful ?

Daniel Bethlehem. - In: The right to life under Article 2 of the European Convention on Human Rights. - Oisterwijk : Wolf Legal Publisher, 2017. - p. 231-240. - Cote 345.1/690

The thought behind the topic "When is an act of war lawful ?" is to explore the formulation in Article 15 § 2 of the European Convention on Human Rights that "no derogation from Article 2, except in in respect of deaths resulting from lawful acts of war ... shall be made under [Article 15]". This chapter proposes to touch upon this, but also to use this as a touchstone for some more general comments.

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