BIBLIOGRAPHY
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International Humanitarian Law

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

ICRC

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)

Africa and international humanitarian law : the more things change, the more they stay the same

Gus Waschefort. In: International review of the Red Cross, Vol. 98, no. 902, August 2016, p. 593-624
https://library.icrc.org/library/docs/DOC/irrc-902-waschefort.pdf

Le début de l'application du droit international humanitaire : discussion autour de quelques défis

Julia Grignon. In: Revue internationale de la Croix-Rouge : sélection française Vol. 96, 2014/1, p.111-136
https://library.icrc.org/library/docs/DOC/irrc-893-grignon-fre.pdf

Do the Geneva Conventions matter ?

ed. by Matthew Evangelista and Nina Tannenwald. - Oxford : Oxford University Press, 2017. - XII, 362 p.

Droit international humanitaire

Union interparlementaire, CICR. - Genève : Union interparlementaire ; CICR, 2016. - 136 p.

Entretien avec le brigadier général Richard C. Gross, conseiller juridique du président du comité des chefs d'États-major interarmées des États-Unis

par Vincent Bernard et Anne Quintin. In: Revue internationale de la Croix-Rouge : sélection française Vol. 96, 2014/1, p.13-28 : photogr.
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Marko Milanovic. In: Revue internationale de la Croix-Rouge : sélection française Vol. 96, 2014/1, p. 137-166
https://library.icrc.org/library/docs/DOC/irrc-893-milanovic-fre.pdf

The innocent combatant : preserving their jus in bello protections

Mark "Max" Maxwell, Richard V. Meyer. In: Penn state journal of law & international affairs, Vol. 5, issue 1, 2017, p. 111-163
https://elibrary.law.psu.edu/jlia/vol5/iss1/6

International humanitarian law

Inter-Parliamentary Union, ICRC. - Geneva : Inter-Parliamentary Union ; ICRC, 2016. - 128 p.

International humanitarian law's old questions and new perspectives : on what law has got to do with armed conflict

Thomas Forster. In: International review of the Red Cross, Vol. 98, no. 903, December 2016, p. 995-1017
https://library.icrc.org/library/docs/DOC/irrc-903-forster.pdf

Jus in bello et jus ad bellum dans la théorie et la pratique de l'Antiquité au XVIIIe siècle

par Béatrice Heuser. - In: Guerre et droit. - Paris : Hermann, 2017. - p. 115-126

Legal evaluation of the Saudi-led intervention in Yemen : consensual intervention in cases of contested authority and fragmented states

Themistoklis Tzimas. In: Zeitschrift für ausländisches öffentliches Recht und Völkerrecht = Heidelberg journal of international law, 78. Jg, H. 1/2018, s. 147-187

Neutrality in international law : from the sixteenth century to 1945

Kentaro Wani. - London ; New York : Routledge, 2017. - XVII, 226 p.

The notion of armed attack under the UN charter and the notion of international armed conflict : interrelated or distinct? : LL.M. Paper (Geneva Academy)

Öykü Irmakkesen. - [S.l] : [s.n], 2014. - 29 p.
http://www.prix-henry-dunant.org/wp-content/uploads/2014_IRMAKKESEN_Paper.pdf

Rights under international humanitarian law

Lawrence Hill-Cawthorne. In: European journal of international law, Vol. 28, no. 4, November 2017, p. 1187-1215
https://doi.org/10.1093/ejil/chx073

The updated ICRC commentary on the Second Geneva Convention : demystifying the law of armed conflict at sea

Bruno Demeyere, Jean-Marie Henckaerts, Heleen Hiemstra and Ellen Nohle. In: International review of the Red Cross, Vol. 98, no. 902, August 2016, p. 401-417
https://library.icrc.org/library/docs/DOC/irrc-902-demeyere.pdf

When is a conflict international ? time for new control tests in IHL

Djemila Carron. In: International review of the Red Cross, Vol. 98, no. 903, December 2016, p. 1019-1041
https://library.icrc.org/library/docs/DOC/irrc-903-carron.pdf

II. Types of conflicts

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

Armed groups, rebel coalitions, and transnational groups : the degree of organization required from non-State armed groups to become party to a non-international armed conflict

Tilman Rodenhäuser. In: Yearbook of international humanitarian law, Vol. 19, 2016, p. 3-35

Authorizations for maritime law enforcement operations

Rob McLaughlin. In: International review of the Red Cross, Vol. 98, no. 902, August 2016, p. 465-490
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Blind justice ? : the role of distinction in electronic attacks

Jack MacDonald. - In: Ethics and policies for cyber operations : a NATO Cooperative Cyber Defence Centre of Excellence initiative. - [Cham] : Springer, 2017. - p. 17-32

Challenges of civilian distinction in cyberwarfare

Neil C. Rowe. - In: Ethics and policies for cyber operations : a NATO Cooperative Cyber Defence Centre of Excellence initiative. - [Cham] : Springer, 2017. - p. 33-48

The difficulties of conflict classification at sea : distinguishing incidents at sea from hostilities

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Drone use "outside areas of active hostilities" : an examination of the legal paradigms governing US covert remote strikes

Max Brookman-Byrne. In: Netherlands international law review, Vol. 64, issue 1, April 2017, p. 3–41
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Eco-Struggles : using international criminal law to protect the environment during and after non-international armed conflict

Matthew Gillett. - In: Environmental protection and transitions from conflict to peace. - Oxford : Oxford University Press, 2017. - p. 220-253
http://dx.doi.org/10.1093/oso/9780198784630.003.0011

Ethics and policies for cyber operations : a NATO Cooperative Cyber Defence Centre of Excellence initiative

Mariarosaria Taddeo, Ludovica Glorioso (eds.). - [Cham] : Springer, 2017. - XVII, 252 p.

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Sahar Haroon. - [Islamabad] : Research Society of International Law, 2017. - IX, 42 p.
http://rsilpak.org/wp-content/uploads/2017/05/2017_Cyber-Warfare_Final.pdf

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The law of maritime blockade : past, present, and future

Phillip Drew. - Oxford : Oxford University Press, 2017. - XVII, 168 p.

Legal protection of the environment : the double challenge of non-international armed conflict and post-conflict peacebuilding

Dieter Fleck. - In: Environmental protection and transitions from conflict to peace. - Oxford : Oxford University Press, 2017. - p. 203-219
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Legal treatment of Boko Haram militants captured by Cameroon

Stephen Kingah. In: Revue africaine de droit international et comparé = African journal of international and comparative law, T. 26, no 1, 2018, p. 44-63
https://doi.org/10.3366/ajicl.2018.0219

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Marco Roscini. - In: Ethics and policies for cyber operations : a NATO Cooperative Cyber Defence Centre of Excellence initiative. - [Cham] : Springer, 2017. - p. 99-114

Naval mines : legal considerations in armed conflict and peacetime

David Letts. In: International review of the Red Cross, Vol. 98, no. 902, August 2016, p. 543-565
https://library.icrc.org/library/docs/DOC/irrc-902-letts.pdf

Non-kinetic capabilities and the threshold of attack in the law of armed conflict

Bart van den Bosch. - In: Netherlands annual review of military studies 2017: winning without killing : the strategic and operational utility of non-kinetic capabilities in crises. - The Hague : Asser Press, 2017. - p. 255-273
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Prisoners dilemma : ascertaining and augmenting the multinational NIAC detention regime

Yateesh Begoore. - In: Max Planck yearbook of United Nations law. - Leiden : Brill, 2017. - p. 436-458
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La réglementation des conflits armés non internationaux : un privilège de belligérance peut-il être envisagé dans le droit des conflits armés non internationaux ?

Claus Kress et Frédéric Mégret. In: Revue internationale de la Croix-Rouge : sélection française Vol. 96, 2014/1, p. 29-68
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Tear gas, expanding bullets and plain-clothed personnel : the interface between human rights and humanitarian law in modern military operations

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Transposition de la notion de "fonction de combat continue" dans les conflits armés internationaux et son application aux forces armées gouvernementales dans les conflits armés non internationaux : Essai final L.LM en droit international humanitaire et droits humains (Geneva Academy)

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https://library.icrc.org/library/docs/DOC/irrc-902-demeyere.pdf

War at sea : nineteenth-century laws for twenty-first century wars ?

Steven Haines. In: International review of the Red Cross, Vol. 98, no. 902, August 2016, p. 419-447
https://library.icrc.org/library/docs/DOC/irrc-902-haines.pdf

The war report : armed conflicts in 2017

Annyssa Bellal... [et al.]. - Geneva : The Geneva Academy of International Humanitarian Law and Human Rights, March 2018. - 159 p.
https://www.geneva-academy.ch/joomlatools-files/docman-files/The%20War%20Report%202017.pdf

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https://library.icrc.org/library/docs/DOC/irrc-903-carron.pdf

III. Armed forces / Non-state armed groups

(Combatant status, compliance with IHL, etc.)

Armed groups and procedural accountability : a roadmap for further thought

Katharine Fortin. In: Yearbook of international humanitarian law, Vol. 19, 2016, p. 157-180

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Compliance with international humanitarian law by non-state armed groups : how can it be improved ?

Hyeran Jo. In: Yearbook of international humanitarian law, Vol. 19, 2016, p. 63-88 : diagr.

Engaging armed groups through the development of human rights obligations : incorporating practice, motivation and ideology to promote compliance with international law

Daragh Murray. In: Yearbook of international humanitarian law, Vol. 19, 2016, p. 119-155

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Maike Kuhn and Antje C. Berger. - In: The role of legal advisers in international law. - Leiden ; Boston : Brill Nijhoff, 2016. - p. 337-351

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La psychologie du combattant et le respect du droit des conflits armés : étude des facteurs criminogènes pouvant influencer le comportement du combattant au regard du droit international humanitaire

Robert Remacle et Pauline Warnotte. - Namur : Presses universitaires de Namur, 2018. - 209 p.

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Routledge handbook of military ethics

ed. by George Lucas. - London ; New York : Routledge, 2015. - XXVI, 449 p.

Totality of the circumstances : the DoD law of war manual and the evolving notion of direct participation in hostilities

Ryan T. Krebsbach. In: Journal of national security law and policy, Vol. 9, no. 1, 2017, p. 125-157
http://jnslp.com/wp-content/uploads/2017/04/Totality_of_the_Circumstances_FINAL.pdf

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Welcome on board : improving respect for international humanitarian law through the engagement of armed non-state actors

Annyssa Bellal. In: Yearbook of international humanitarian law, Vol. 19, 2016, p. 37-61

IV. Multinational forces

African Union operations

Ademola Abass. - In: The practice of shared responsibility in international law. - Cambridge : Cambridge University Press, 2017. - p. 613-638
http://www.sharesproject.nl/publication/shared-responsibility-for-african-union-operations/

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Carla Ferstman. - Oxford : Oxford University Press, 2017. - XII, 221 p.

The international responsibility of international organisations : cooperation in peacekeeping operations

Moritz P. Moelle. - Cambridge [etc.] : Cambridge University Press, 2017. - XIV, 373 p.

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Marten Zwanenburg. - In: The practice of shared responsibility in international law. - Cambridge : Cambridge University Press, 2017. - p. 639-668
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UN peacekeeping operations and the protection of civilians : saving succeeding generations

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United Nations peacekeeping operations

Ray Murphy and Siobhán Wills. - In: The practice of shared responsibility in international law. - Cambridge : Cambridge University Press, 2017. - p. 585-612
http://www.sharesproject.nl/publication/the-practice-of-shared-responsibility-of-united-nations-peacekeeping-operations-for-harmful-outcomes/

V. Private entities

Commentaire de la Partie 1 du Document de Montreux sur les obligations juridiques pertinentes et les bonnes pratiques pour les Etats en ce qui concerne les opérations des entreprises militaires et de sécurité privées pendant les conflits armés

Marie-Louise Tougas. In: Revue internationale de la Croix-Rouge : sélection française, Vol. 96, 2014/1, p. 237-292
https://library.icrc.org/library/docs/DOC/irrc-893-tougar-fre.pdf

The International Code of Conduct for Private Security Service Providers' Association (ICoCA) : core documents, frequently asked questions, membership requirements

International Code of Conduct Association. - Geneva : International Code of Conduct Association, 2014. - 86 p.

The Montreux document : report of the Ethiopia regional conference on private military and security companies

[DCAF]. - Geneva : DCAF, 2016. - VI, 94 p.

Private military contractors

Chia Lehnardt. - In: The practice of shared responsibility in international law. - Cambridge : Cambridge University Press, 2017. - p. 761-780
http://www.sharesproject.nl/publication/the-practice-of-shared-responsibility-in-relation-to-private-military-contractors/

Private security companies and other private security service providers (PSCs) and environmental protection in jus post bellum : policy and regulatory challenges

Onita Das and Aneaka Kellay. - In: Environmental protection and transitions from conflict to peace. - Oxford : Oxford University Press, 2017. - p. 299-325
http://dx.doi.org/10.1093/oso/9780198784630.001.0001

State responsibility for international humanitarian law violations by private actors in occupied territories and the exploitation of natural resources

Marco Longobardo. In: Netherlands international law review Vol. 63, no. 3, October 2016, p. 251-274

Towards an International Code of Conduct for Private Security Providers : a view from inside a multistakeholder process

Anne-Marie Buzatu. - Geneva : DCAF, 2015. - 115 p.

VI. Protection of persons

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

Le consentement à l'accès humanitaire : une obligation déclenchée par le contrôle du territoire et non par les droits de l'Etat

Françoise Bouchet-Saulnier. In: Revue internationale de la Croix-Rouge : sélection française Vol. 96, 2014/1, p. 167-178
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The duty to rescue at sea, in peacetime and in war : a general overview

Irini Papanicolopulu. In: International review of the Red Cross, Vol. 98, no. 902, August 2016, p. 491-514
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par Améyo Délali Kouassi. In: Revue générale de droit international public, Tome 121, no 4, 2017, p. 1013-1030

Questions/réponses du CICR et lexique sur l'accès humanitaire.

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Rights under international humanitarian law

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(Distinction, proportionality, precautions, prohibited methods)

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XIII. International human rights law

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

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All with Abstracts

"After the war is before the war": the environment, preventive measures under international humanitarian law, and their post-conflict impact

Anne Dienelt. - In: Environmental protection and transitions from conflict to peace. - Oxford : Oxford University Press, 2017. - p. 420-437. - Cote 358/160

This chapter draws the bow between preventive measures under IHL and their relevance in a post-conflict situation regarding environmental protection. The author analyses the training of forces, the marking of protected zones and the weapons review according to Article 36 of Additional Protocol I. Since IHL provisions and principles protecting the natural environment are of relevance for the training of forces and the weapons review, they are briefly summarized as well. But do these preventive measures also impact post-conflict situations? The author studies post-conflict assessments of the environment. These can result in an updating of military manuals and military curricular relating to the training of forces. A monitoring of the conduct of hostilities can also influence the weapons reviews (including weapons instructions), leading to updating them by using the lessons learned extracted from the war theatre. Protected zones can also be assessed post-conflict, resulting in the conclusion of peace agreements including demilitarized zones detached from Article 60 AP I. To restore justice after war, post-conflict assessments of the environment can thus be a useful tool. The legal bases for this assertion are assessed in this chapter.

http://dx.doi.org/10.1093/oso/9780198784630.003.0018

Africa and international humanitarian law : the more things change, the more they stay the same

Gus Waschefort. In: International review of the Red Cross, Vol. 98, no. 902, August 2016, p. 593-624

Africa, both on the inter-State level and the academic level, maintains a very low profile in the global debate on international humanitarian law (IHL). IHL issues do not feature prominently in the armed conflict debate within Africa, and African States and people do not significantly participate in the global IHL debate. This contribution is aimed at both identifying the reasons for this lack of regional engagement with IHL and identifying entry points for such engagement. It also ambitiously calls for ongoing and engaged focus on IHL in Africa, and to this end, a number of issues for future consideration can be extrapolated from the issues discussed.

https://library.icrc.org/library/docs/DOC/irrc-902-waschefort.pdf

African Union operations

Ademola Abass. - In: The practice of shared responsibility in international law. - Cambridge : Cambridge University Press, 2017. - p. 613-638. - Cote 345/735

The Africa Union (AU) often conducts its military operations in collaboration with other actors, such as African subregional organisations, and the United Nations. Participation by several parties in AU operations enhances the nominal and operational legitimacy of the mission, but it also expands the scope for committing internationally wrongful acts. The responsibility of the AU vis-à-vis joint actors in these operations will vary according to the extent and nature of involvement, and according to whether an operation is carried out by the AU and other organisations, or by member states of the AU in their own rights.

http://www.sharesproject.nl/publication/shared-responsibility-for-african-union-operations/

Armed drones and globalization in the asymmetric war on terror : challenges for the law of armed conflict and global politic economy

Fred Aja Agwu. - New York ; London : Routledge, 2018. - XV, p. 342 p. - Cote 341.67/835

This book is a critical exploration of the war on terror from the prism of armed drones and globalization. It is particularly focused on the United States' use of the drones, and the systemic dysfunctions that globalization has caused to international political economy and national security. To underline the controversial nature of the "war on terror" and the pragmatic weapon (armed drones) fashioned for its prosecution, some of the elements of this controversy have been interrogated in this book. They include the

doubt over whether the war should have been declared in the first place because terrorist attacks hardly meet the United Nations' casus belli – an armed attack. Some critics believe that the "war on terror" is not an armed conflict properly so called, and, thus, remains only a "law enforcement issue." The United States and all the states taking part in the war on terror are obligated to observe International Humanitarian Law (IHL). It is within this context of IHL that this book appraises the drone as a weapon of engagement, discussing such issues as "personality" and "signature" strikes as well as the implications of the deployment of spies as drone strikers rather than the Defence Department, the members of the U.S armed forces.

Armed groups and procedural accountability : a roadmap for further thought

Katharine Fortin. In: Yearbook of international humanitarian law, Vol. 19, 2016, p. 157-180

This chapter investigates the meaning of the term "accountability", as it is used in policy discussions surrounding armed groups. It takes a detailed look at literature from public administration on the concept of procedural accountability and applies it to the various accountability mechanisms that evaluate the conduct of armed groups against international norms. In doing so, the chapter points out some of the shortcomings of some of these accountability mechanisms. It ends by examining some of the more innovative accountability models, such as the process created by Geneva Call and the ad hoc processes created by the United Nations Assistance Mission in Afghanistan (UNAMA) field office in Afghanistan vis-à-vis the Taliban.

Armed groups, rebel coalitions, and transnational groups : the degree of organization required from non-State armed groups to become party to a non-international armed conflict

Tilman Rodenhäuser. In: Yearbook of international humanitarian law, Vol. 19, 2016, p. 3-35

Identifying non-state parties to armed conflicts becomes increasingly complex. As seen in recent conflicts in Syria, Libya, Yemen, or the Central African Republic, turmoil or inter-communal tensions escalate into armed conflicts, armed groups fragment increasingly, and some armed groups operate transnationally. Over the past decade, international jurisprudence developed numerous indicative factors to identify organized armed groups. While recognizing their great value, this chapter proposes to take a step back from these concrete indicators in order to recall broad but fundamental characteristics that any party to non-international armed conflict needs to have under international humanitarian law. It is shown that every party to a non-international armed conflict has to fulfil three criteria: it has to be (1) a collective entity; (2) with capabilities to engage in sufficiently intense violence; and (3) internal structures sufficient to ensure respect for basic humanitarian norms. Building on this basic understanding, the chapter provides an analysis of two questions that are highly relevant in contemporary conflicts but understudied: First, what link needs to exist between different armed groups in order to be considered one party to a conflict? And second, at what point can two or more groups that operate in different states form one transnational party to conflict?

Authorizations for maritime law enforcement operations

Rob McLaughlin. In: International review of the Red Cross, Vol. 98, no. 902, August 2016, p. 465-490

Although there are areas of uncertainty and overlap, authorizations for maritime law enforcement operations are beholden to a different regime from that which governs the conduct of armed conflict at sea. This article seeks to briefly describe five regularly employed authorizations for maritime law enforcement operations at sea: flag State consent, agreed pre-authorization, coastal State jurisdiction, UN Security Council resolutions, and the right of visit.

https://library.icrc.org/library/docs/DOC/irrc-902-maclaughlin.pdf

Autonomous weapon systems, drone swarming and the explosive remnants of war

Maziar Homayounnejad. - London : Dickson Poon School of Law, King's College London, 2018. - 67 p. - Cote 341.67/844 (Br.)

Lethal Autonomous Weapon Systems (LAWS) are essentially weapon systems that, once activated, can select and engage targets without further human intervention. While these are neither currently fielded nor officially part of any nation's defence strategy, some States and defence contractors are currently developing LAWS for future deployment. In particular, swarming munitions have garnered a great deal of interest. These will consist of dozens, hundreds or (potentially) thousands of micro-drones that will operate

collaboratively and as a coherent whole, to outsmart, saturate and overwhelm enemy defences. The aim is that even in the face of counter-measures and heavy defensive fire, at least a few 'leakers' will get through to take out their target. Yet, the flipside of such a weapon system is that large numbers of 'non-leakers' will succumb to defensive fire and will remain on former battlefields. Should they fail to explode as intended, these micro-drones will very likely become explosive remnants of war (ERW) and will pose a danger to civilians; one that will weigh more heavily on young children, especially in view of the munitions' striking resemblance to toy aeroplanes. After some introductory remarks, this article will provides both a critical analysis of the LAWS ERW problem and a legal commentary of the potential application of three treaties. Specifically, the article presents the ERW problem at a glance; reiterates a working definition of LAWS; describes some weapon systems likely to emerge as LAWS, focusing on swarming munitions; frames both the LAWS ERW problem, as well as some potentially mitigating assumptions; then it comments in detail on the potential application of Protocol V to the Convention on Certain Conventional Weapons (CCW); the Convention on Cluster Munitions; and Amended Protocol II to the CCW (Amended Mines Protocol).

http://dx.doi.org/10.2139/ssrn.3099768

Blind justice ? : the role of distinction in electronic attacks

Jack MacDonald. - In: Ethics and policies for cyber operations : a NATO Cooperative Cyber Defence Centre of Excellence initiative. - [Cham] : Springer, 2017. - p. 17-32. - Cote 348/134

This chapter questions the direct applicability of the just war tradition's principle of distinction to electronic attacks involving computer network exploitation (CNE). It offers three principle challenges to maintaining the norm of distinction in electronic attacks that are rooted in the impossibility of foreknowledge of the object of attack in a computer network. In lay terms, without significant inside assistance it is impossible for a hostile agent seeking to exploit a computer network from knowing the network's architecture and role prior to conducting hostile exploitation of the network. Due to this lack of knowledge, it is impossible for the hostile agent to be certain that initial exploitation will be free of negative consequences. This draws attention to the understanding of hostile action in both CNE and computer network attacks (CNA). This impossibility of foreknowledge leads to three challenges in applying the principle of distinction to cyber attacks: the access problem – where if CNE is considered to be an attack, then our understanding of distinction collapses, the boundary problem – where it may be impossible for an agent to know the boundaries or couplings of the system that they are attacking, and the levels problem – where humans are held accountable for non-human agency inherent in the deployment of autonomous software programmes ('viruses', 'malware', etc). This chapter argues that these problems are surmountable, but not with an understanding of distinction that is directly transposed from human interactions.

Challenges of civilian distinction in cyberwarfare

Neil C. Rowe. - In: Ethics and policies for cyber operations : a NATO Cooperative Cyber Defence Centre of Excellence initiative. - [Cham] : Springer, 2017. - p. 33-48. - Cote 348/134

Avoiding attacks on civilian targets during cyberwarfare is more difficult than it seems. We discuss ways in which an ostensibly military cyberattack could accidentally hit a civilian target. Civilian targets are easier to attack than military targets, and an adversary may be tempted to be careless in targeting. Dual-use targets are common in cyberspace since militaries frequently exploit civilian cyber infrastructure such as networks and common software, and hitting that infrastructure necessarily hurts civilians. Civilians can be necessary intermediate objectives to get to an adversary's military, since direct Internet connections between militaries can be easily blocked. Cyberwarfare methods are unreliable, so cyberattacks tend to use many different methods simultaneously, increasing the risk of civilian spillover. Military cyberattacks are often seen by civilian authorities, then quickly analyzed and reported to the public; this enables criminals to quickly exploit the attack methods to harm civilians. Many attacks use automatic propagation methods which have difficulty distinguishing civilians. Finally, many cyberattacks spoof civilians, encouraging counterattacks on civilians; that is close to perfidy, which is outlawed by the laws of armed conflict. We discuss several additional problems, including the public's underestimated dependence on digital technology, their unpreparedness for cyberwarfare, and the indirect lethal effects of cyberattacks. We conclude with proposed principles for ethical conduct of cyberwarfare to minimize unnecessary harm to civilians, and suggest designating cyberspace "safe havens", enforcing reparations, and emphasizing cyber coercion rather than cyberwarfare.

The Chemical Weapons Convention : hollow idealism or capable mechanism ? : the Syrian intervention as a test case

David Martin. In: Loyola of Los Angeles international and comparative law review, Vol. 37, no. 1, 2015, p. 31-66. - Cote 341.67/851 (Br.)

Section I of this article analyzes the background of chemical weapons use and regulation, highlighting why universal disarmament is vital to regional and universal stability. Section II discusses the legal framework of the Chemical Weapons Convention (CWC), pointing out the unique features that make it an effective mechanism for chemical disarmament as compared to existing disarmament frameworks (particularly the Nuclear Non-Proliferation Treaty and the Biological Weapons Convention). Section III discusses the events leading up to the decision to enforce the CWC in response to Syria's chemical weapons violations in 2013. Section IV analyzes the aspects of the CWC framework that have made implementation in Syria a success and those that could pose future challenges. Section V concludes that the CWC framework, which enabled the peaceful cooperation in the disarming of Syria, should not only serve as a model for re-solving chemical weapons violations, but also for international disarmament agreements in general.

http://digitalcommons.lmu.edu/ilr/vol37/iss1/2

Le ciblage extraterritorial au moyen de drones armés : quelques conséquences juridiques

Jelena Pejic. In: Revue internationale de la Croix-Rouge : sélection française Vol. 96, 2014/1, p. 69-110

L'utilisation des « drones » s'est développée de manière exponentielle au cours des dix dernières années, soulevant une multitude de problèmes, notamment d'ordre juridique. Sur le plan international, c'est l'utilisation de drones armés par des États pour le ciblage extraterritorial d'individus qui a suscité un important débat. Cet article présente certains aspects du cadre juridique pertinent, en portant une attention particulière au droit international applicable aux frappes de drones dans des situations de conflit armé. Il traite brièvement du jus ad bellum avant de se concentrer sur le jus in bello, abordant tour à tour des questions relatives au point de savoir quand il y a conflit armé, quelles sont les règles en matière de ciblage, qui peut être ciblé et où les personnes peuvent être ciblées.

https://library.icrc.org/library/docs/DOC/irrc-893-pejic-fre.pdf

Command responsibility in peacekeeping missions : normative obligations of protection in criminal law environment

Lenneke Sprik. In: Journal of conflict and security law, Vol. 22, no. 3, Winter 2017, p. 497-522

The passive stance taken by respectively Belgian and Dutch peacekeeping commanders towards the commission of genocide in both Kigali (Rwanda) and Srebrenica (Bosnia Herzegovina) has been challenged in domestic courts in recent years. As a result, the individual responsibility of the peacekeeping commanders involved has been addressed. Peacekeeping operations' distinct, normative character combined with the remoteness of peacekeeping troops vis-á-vis the parties to the conflict complicate any legal assessment made regarding the commanders' accountability under international criminal law. This article explores whether a separate type of command responsibility could be developed to fit the specific circumstances in which military commanders operate, based on the command responsibility applied to occupation commanders in post-Second World War trials. Situations of occupation and peacekeeping are characterised by a similar focus on positive rather than negative obligations of protection. Such a normative context may influence how their criminality is perceived. Therefore, this article considers the use of the German Funktionslehre to differentiate between security control and custodial control. That distinction could separate 'peacekeeping command responsibility' from regular command responsibility. Culpability would then be incurred for the failure to act rather than for the crimes committed by a commander's subordinates. Using such a context-sensitive approach to command responsibility for peacekeeping commanders could further a fair assessment of the commander's liability by taking the normative environment in which peacekeeping takes place into account.

https://doi.org/10.1093/jcsl/krx015

Commentaire de la Partie 1 du Document de Montreux sur les obligations juridiques pertinentes et les bonnes pratiques pour les Etats en ce qui concerne les opérations des entreprises militaires et de sécurité privées pendant les conflits armés

Marie-Louise Tougas. In: Revue internationale de la Croix-Rouge : sélection française, Vol. 96, 2014/1, p. 237-292

Le Document de Montreux sur les entreprises militaires et de sécurité privées (le Document de Montreux) a été adopté en 2008 par dix-sept États pour réaffirmer et, autant que nécessaire, clarifier les obligations existantes des États et d'autres acteurs en vertu du droit international, en particulier du droit international humanitaire (DIH) et du droit international des droits de l'homme (DIDH). Il vise également à identifier les bonnes pratiques et les options en matière de réglementation pour assister les États dans la promotion du respect du DIH et du DIDH par les entreprises militaires et de sécurité privées (EMSP). Aujourd'hui cinquante-trois États et trois organisations internationales ont signé le Document de Montreux. Il contient vingt-sept « déclarations » (sections) rappelant les principales obligations juridiques internationales des États concernant les opérations des EMSP en situation de conflit armé. Chaque déclaration est la réaffirmation d'une règle générale de DIH, de DIDH ou d'une règle relative à la responsabilité des États formulée de manière à clarifier son applicabilité aux opérations des EMSP. La finalité de cet article est de détailler le fondement de chaque obligation juridique mentionnée dans la première partie du Document de Montreux (Partie 1). Il suit la structure de sa Partie 1 dans le but d'en faciliter la compréhension. La deuxième partie du Document de Montreux, relative aux bonnes pratiques, n'est pas couverte par cet article.

https://library.icrc.org/library/docs/DOC/irrc-893-tougar-fre.pdf

Compliance with international humanitarian law by non-state armed groups : how can it be improved ?

Hyeran Jo. In: Yearbook of international humanitarian law, Vol. 19, 2016, p. 63-88 : diagr.

How can compliance of non-state armed groups with international humanitarian law (IHL) be improved? In answering this question, this chapter presents a political science perspective and approach to achieve three goals. First, the author discusses the current state of our understanding about the compliant behavior of non-state armed groups in contemporary security. Second, existing legal tools and policy instruments are outlined, with an eye toward enhancing IHL compliance by armed groups. Third and finally, the author provides conjectures regarding the conditions under which some policies might work better than others. This examination of rebel groups and IHL non-compliance calls for more systematic policy evaluation in future research for the improvements of compliance mechanisms to better attain the goals of IHL.

Le consentement à l'accès humanitaire : une obligation déclenchée par le contrôle du territoire et non par les droits de l'Etat

Françoise Bouchet-Saulnier. In: Revue internationale de la Croix-Rouge : sélection française Vol. 96, 2014/1, p. 167-178

Le débat quant à la licéité des opérations de secours transfrontalières est revenu au premier plan suite aux échecs qu'ont connus les organisations humanitaires internationales en tentant de répondre aux besoins humanitaires en Syrie. Au-delà de la souffrance incommensurable que vit le peuple syrien, ces échecs sont particulièrement difficiles à justifier étant donné que le droit international humanitaire (DIH) s'est progressivement développé ces cinquante dernières années et que les notions d'accès humanitaire et de droit à l'assistance et à la protection pour les victimes de désastres et de conflits semblent désormais faire l'objet d'un consensus international. Ce consensus est illustré au sein des Nations unies (ONU) par les activités du Bureau de la coordination des affaires humanitaires (OCHA), par la politique et les pratiques du Conseil de sécurité de l'ONU vis-à-vis du droit à l'accès pour les opérations humanitaires de secours, ainsi que par la « responsabilité de protéger » les victimes des conflits, avec l'appui, au besoin, de forces armées internationales.

https://library.icrc.org/library/docs/DOC/irrc-893-bouchet-saulnier-fre.pdf

A contextual-functional approach to investigations into right to life violations in armed conflict

Luca Gervasoni. In: Questions of international law, Zoom-in 36, 2017, p. 5-26. - Cote 345.1/679 (Br.)

International human rights courts and quasi-judicial mechanisms have played a fundamental role in establishing criteria that apply to the conduct of investigations in cases concerning the loss of life. The purpose of this contribution is to explore the source of those parameters, what they entail in terms of practical activities that States are bound to carry out in order to satisfy their duty to investigate, and verify how they apply to situations of armed conflict. The following analysis unveils the existence of some issues that hinder an unmodified transposition of investigative standards elaborated for peace situations to

contexts of armed conflict; it analyzes decisions of human rights bodies that have tackled and partly overcome some of those critical issues; it tries to detect challenges that still remain and to envisage a coherent theoretical framework applicable to varying scenarios and capable of leading to satisfactory results in any such case. In so doing, this contribution tries to identify a common denominator characterizing the recalled judgments, detecting it in a functional-contextual approach to the duty to investigate and conclud-ing that the ensuing obligation is not unrealistic, even in times of armed conflict, since it is inherently flexible and context-specific.

http://www.qil-qdi.org/wp-content/uploads/2017/02/02_Investigation-in-armed-conflicts_GERVASONI_FIN-2.pdf

Corporate human rights violations in the Occupied Palestinian Territories : is there any recourse ?

Ena Cefo. In: Georgetown journal of international law, Vol. 47, 2016, p. 793-832. - Cote 351/140 (Br.)

This Note explores the available remedies against corporate violations of human rights within the Occupied Palestinian Territories (OPT). It considers the difficulty of recourse against corporate actors at the international level and the domestic level in the United States. It concludes with analyzing soft-law codes-namely, the U.N. "Protect, Respect and Remedy "Framework on Business and Human Rights, U.N. Global Compact, OECD Guidelines for Multinational Enterprises, and ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy. The hope for victims of human rights violations in the OPT is to use these soft-law principles to pressure implicated corporations to respect human rights, and to advocate for the development of binding codes of direct corporate responsibilities.

CPU and keyboard: weapons of mass disruption?

Sigmar Stadlmeier. - In: Dehumanization of warfare : legal implications of new weapon technologies. - Cham : Springer, 2018. - p. 147-160 . - Cote 341.67/

In a well-known paper on legal issues of computers and war Schmitt and others reminded their readers of the very basic fact that the “warriors” in computer wars would simply be “individuals armed with CPUs and keyboards”. However, a few years later during a press conference in May 2009 U.S. President Barack Obama referred to instruments of cyber warfare as “weapons of mass disruption”, obviously paraphrasing the well-known term of weapons of mass destruction (WMD) and having in mind the catastrophic consequences a coordinated attack on critical infrastructure could trigger. This paper primarily seeks to give an overview of the legal issues raised and investigate whether and to which extent cyber warfare operations fall in line with a trend of dehumanisation of warfare in the sense of reducing the human role or component in warfare. Given the limited size many basic legal questions of cyber warfare will be touched upon but not discussed in detail.

Crime-based targeted sanctions : promoting respect for international humanitarian law by the Security Council

Hilde D. Roskam. In: Yearbook of international humanitarian law, Vol. 19, 2016, p. 89-117

The UN Security Council (Security Council) has the task to maintain and restore the international peace and security. As a part of this task, it has the competence to impose targeted sanctions against individuals and entities that commit violations of international humanitarian law, when this poses a threat to the international peace. In recent years—since 2004—the Security Council expressly created the possibility to actually make use of this competence by adopting listing criteria towards that end in eight different sanctions regimes. Indeed, many individuals and substantially less entities have been listed by the Security Council or a sanctions committee (partly) because they committed violations of international humanitarian law. This tool has also been used against armed groups and their leaders in the Central African Republic (CAR) and the Democratic Republic of Congo (DRC) that violated international humanitarian law (IHL), e.g. by recruiting and using children. The studies into the two cases showed that these measures have not been implemented effectively and that it is not clear what exactly armed groups should do in order to have the measures against them lifted. More generally, it is questionable whether the Security Council is the best organ to deal with violations of IHL and whether targeted sanctions are useful in ensuring respect for IHL. Because the practice of imposing sanctions in response to violations of IHL is quite new, it is possible that relevant concerns, especially practical problems, can and will be addressed in the future. However, even then, it is problematic to leave the enforcement of IHL to the Security Council.

Le début de l'application du droit international humanitaire : discussion autour de quelques défis

Julia Grignon. In: Revue internationale de la Croix-Rouge : sélection française Vol. 96, 2014/1, p.111-136

Le présent article analyse quelques défis liés au début de l'application du droit international humanitaire (DIH). Il conclut que le DIH des conflits armés internationaux commence à s'appliquer dès lors qu'un État emploie la force sur le territoire d'un autre État sans le consentement de ce dernier, à condition qu'il s'agisse de l'expression d'un exercice collectif de la violence. S'agissant des conflits armés non internationaux, il est désormais bien établi que l'organisation des parties au conflit et le niveau de l'intensité de la violence sont les deux critères étalons permettant de conclure à l'existence d'un conflit armé non international ; et par conséquent au début de l'application du DIH. Le présent article démontre toutefois que certains défis liés à l'application du DIH ne permettent pas de dater avec exactitude le point de départ de l'applicabilité du DIH dans les conflits armés internationaux ; y compris les situations d'occupation, ou dans les conflits armés non internationaux.

https://library.icrc.org/library/docs/DOC/irrc-893-grignon-fre.pdf

Dehumanization: is there a legal problem under article 36?

William Boothby. - In: Dehumanization of warfare : legal implications of new weapon technologies. - Cham : Springer, 2018. - p. 21-52. - Cote 341.67/845

While remote attack, whether using remote piloting, autonomous attack technology or cyber techniques, does not per se raise legal issues, there is a clear ethical dimension. People are nevertheless closely involved, fulfilling various critical roles. All forms of mechanical learning associated with attack technologies are not unacceptable. Consider, for example, learning methods integrated into a weapon system that are designed to increase or ensure victim protection. Ethical concerns will, however, persist and will be associated with concerns that machines should not be permitted to decide who is to be attacked and who is to be spared. Zero casualty warfare is not as such unlawful. Customary and treaty rules of weapons law apply to these weapon technologies including the obligation for states to undertake weapon reviews. The chapter summarises these customary and treaty rules and notes that reviewing autonomous weapon technologies will involve an assessment of whether the weapon system is capable of undertaking the decision-making that targeting law requires, and to which reference is made in the chapter.

Dehumanization of warfare : legal implications of new weapon technologies

Wolff Heintschel von Heinegg, Robert Frau,Tassilo Singer (eds.). - Cham : Springer, 2018. - X, 233 p. . - Cote 341.67/845

This book addresses the technological evolution of modern warfare due to unmanned systems and the growing capacity for cyber warfare. The increasing involvement of umanned means and methods of warfare can lead to a total removal of humans from the navigation, command and decison-making processes in the control of unmanned systems, and as such away from the participation in hostilities - the 'dehumanization of warfare.' This raises the question of whether and how today's law is suitable for governing the dehumanization of warfare effectively. Which rules are relevant? Do interpretations of relevant rules need to be reviewed or is further and adapted regulation necessary? Moreover, ethical reasoning and computer sciences developments also have to be taken into account in identifying problems. Adopting an interdisciplinary approach the book focuses primarily on international humanitarian law, with related ethics and computer science aspects included in the discussion and the analysis.

Detention and interrogation abroad : the 'extraordinary rendition' programme

Helen Duffy. - In: The practice of shared responsibility in international law. - Cambridge : Cambridge University Press, 2017. - p. 89-127. - Cote 345/735

The focus of the chapter is extraterritorial detention and interrogation, and specifically the practice of 'extraordinary rendition'. While not a legal term of art, rendition is broadly recognized as involving the state-sponsored abduction from one state, with or without the cooperation of the government of that state, and the extra-judicial transfer to another state for detention and abusive interrogation outside the normal legal system. The 'war on terror' saw a multifaceted 'extraordinary rendition programme' (ERP) operated by the Central Agency System (CIA), designed and authorised at the highest levels of the United States Bush

administration, and made possible by the participation of a global network of support from many other states and non-state actors. The unusual characteristics of the ERP make it a rich scenario to analyse shared responsibility. In addition to the responsability of the United States for acts of its intelligence agents abroad, other states have house CIA-operated 'black sites', assisted in abductions and transfers, or provided intelligence cooperation in various guises to the ERP. The chapter provides a factual overview of the ERP and explores the multiple breaches of international law, by multiple states, involved in the ERP.

http://www.sharesproject.nl/publication/the-practice-of-shared-responsibility-in-relation-to-detention-and-interrogation-abroad-the-extraordinary-rendition-programme/

The difficulties of conflict classification at sea : distinguishing incidents at sea from hostilities

Wolff Heintschel von Heinegg. In: International review of the Red Cross, Vol. 98, no. 902, August 2016, p. 449-464

Incidents at sea between warships and military aircraft often involve more than provocative actions – they may be aggressive and can sometimes result in death and destruction. In view of the low threshold of a resort to armed force by one State against another that would bring an international armed conflict into existence, it is rather difficult to determine whether incidents at sea remain below that threshold. Similar, albeit less difficult problems arise with regard to forceful measures taken by States against foreign merchant vessels. Here it is important to clearly distinguish between law enforcement at sea and the exercise of belligerent rights.

https://library.icrc.org/library/docs/DOC/irrc-902-heintschel.pdf

La distinction entre la participation directe aux hostilités par les civils et la légitime défense des civils

Touwendé Roland Ouédraogo. In: Revue québecoise de droit international, No 29.2, 2016, p. 191-223. - Cote 345.25/367 (Br.)

En période de conflit armé, lorsque la légitime défense est le fait des individus, elle peut se révéler difficile à circonscrire, voire à distinguer d'autres concepts voisins notamment celui de la participation directe aux hostilités. Celui-ci, bien que n'étant pas une prohibition expresse du droit international humanitaire (DIH), n'est pas non plus un droit des civils, tandis que la légitime défense peut être envisagée à certaines conditions comme un droit des civils. Dès lors, distinguer la participation directe aux hostilités de la légitime défense des civils et/ou d'autres concepts ne sera pas un exercice aisé, précisément sur le champ de bataille. Cela s'explique par le fait que la légitime défense s'exerce généralement et en principe dans un contexte de violence illégale, alors que la participation directe aux hostilités, notion de droit international humanitaire, a lieu dans un contexte de violence autorisée, sinon légale, du moins conforme au DIH, dans la plupart des cas. Alors, comment distinguer la légitime défense des civils de leur participation directe aux hostilités ? En partant de la notion de participation directe aux hostilités telle que définie par le Comité international de la Croix-Rouge dans son Guide interprétatif sur la notion de participation directe aux hostilités, et de la notion de légitime défense du Statut de Rome de la Cour pénale internationale, l'auteur propose quelques critères et une nouvelle catégorisation de l'action des civils au cours d'un conflit, après avoir relevé quelques difficultés de la distinction, lesquelles sont exacerbées par les controverses nourrissant les deux notions principales de son analyse.

https://www.sqdi.org/fr/la-distinction-entre-la-participation-directe-aux-hostilites-par-les-civils-et-la-legitime-defense-des-civils/

Do the Geneva Conventions matter ?

ed. by Matthew Evangelista and Nina Tannenwald. - Oxford : Oxford University Press, 2017. - XII, 362 p. - Cote 345.24/407

The Geneva Conventions are the best-known and longest-established laws governing warfare, but what difference do they make to how states engage in armed conflict? Since the start of the "War on Terror" with 9/11, these protocols have increasingly been incorporated into public discussion. We have entered an era where contemporary wars often involve terrorism and guerrilla tactics, but how have the rules that were designed for more conventional forms of interstate violence adjusted? Do the Geneva Conventions Matter? provides a rich, comparative analysis of the laws that govern warfare and a more specific investigation relating to state practice. Matthew Evangelista and Nina Tannenwald convey the extent and conditions that symbolic or "ritual" compliance translates into actual compliance on the battlefield by looking at important

studies across history. To name a few, they navigate through the Algerian War for independence from France in the 1950s and 1960s; the US wars in Korea, Vietnam, Iraq, and Afghanistan; Iranian and Israeli approaches to the laws of war; and the legal obligations of private security firms and peacekeeping forces. Thoroughly researched, this work adds to the law and society literature in sociology, the constructivist literature in international relations, and legal scholarship on "internalization." Do the Geneva Conventions Matter? gives insight into how the Geneva regime has constrained guerrilla warfare and terrorism and the factors that affect protect human rights in wartime.

Droit international humanitaire

Union interparlementaire, CICR. - Genève : Union interparlementaire ; CICR, 2016. - 136 p. - Cote 345.23/106 (2016 ENG)

Ce guide est le document le plus récent résultant de nombreuses années de coopération et de partenariat entre l'Union interparlementaire (UIP) et le Comité international de la Croix-Rouge (CICR), qui est le gardien et le promoteur du DIH. Il vise particulièrement à familiariser les parlementaires avec les principes généraux des Conventions de Genève et leurs Protocoles additionelles et à les orienter dans le processus de mise en oeuvre de cette branche du droit dans leurs pays respectifs. Le guide décrit de manière detaillée les dispositions dont les Etats parties aux Convention de Genèpve doivent prendre pour s'acquitter des obligations qu'ils ont contractées de "respecter et faire respecter" le DIH.

Drone use "outside areas of active hostilities" : an examination of the legal paradigms governing US covert remote strikes

Max Brookman-Byrne. In: Netherlands international law review, Vol. 64, issue 1, April 2017, p. 3–41. - Cote 341.67/849 (Br.)

This article examines the use by the US of drone strikes in regions described as 'outside areas of active hostilities' a phrase that appears to presume the application of international humanitarian law. In response to this, the article examines these regions to assess whether armed conflicts can be said to exist, and thereby whether international humanitarian law does in fact apply. Periods of armed conflict are identified, as are periods which cannot be characterized as such. Consequently the relevant paradigms of international law applicable to the strikes are established, belying the presumption that international humanitarian law applies generally to drone strikes.

https://doi.org/10.1007/s40802-017-0078-1

The duty to rescue at sea, in peacetime and in war : a general overview

Irini Papanicolopulu. In: International review of the Red Cross, Vol. 98, no. 902, August 2016, p. 491-514

The duty to rescue persons in distress at sea is a fundamental rule of international law. It has been incorporated in international treaties and forms the content of a norm of customary international law. It applies both during peacetime and during wartime, albeit with the necessary adjustments to take into account the different circumstances. States are also under the duty to provide search and rescue services. This article discusses the content and limitations of these provisions and assesses their potential to ensure the protection of human lives at sea. Furthermore, the article suggests that reference to the right to life, as protected in international human rights law, may be useful in further safeguarding human life and ensuring compliance by States with their duties.

https://library.icrc.org/library/docs/DOC/irrc-902-papanicolopulu.pdf

Eco-Struggles : using international criminal law to protect the environment during and after non-international armed conflict

Matthew Gillett. - In: Environmental protection and transitions from conflict to peace. - Oxford : Oxford University Press, 2017. - p. 220-253. - Cote 358/160

This chapter examines the provisions of international criminal law applicable to serious environmental harm, particularly during non-international armed conflicts ('NIAC'). After describing incidents of serious environmental harm arising in armed conflicts, the analysis surveys the provisions of international criminal law applicable to environmental harm during NIACs, including war crimes, crimes against humanity, genocide, and aggression. It then examines the basis for extending to NIACs the protection against military

attacks causing excessive environmental harm (set out in Art. 8(2)(b)(iv) of the Rome Statute), which is currently only applicable in IACs. The examination of this possible amendment of the Rome Statute covers a broad range of instruments and laws forming part of international and national legal codes, all addressing grave environmental harm. Finally, the analysis turns to accountability for environmental harm as a facet of jus post bellum, emphasizing the interconnected nature of environmental harm and cycles of violence and atrocities.

http://dx.doi.org/10.1093/oso/9780198784630.003.0011

The effects of paradigm shifts on the rules on the use of force in military operations

J. F. R. Boddens Hosang. In: Netherlands international law review, Vol. 64, no 3, p. 353-373. - Cote 345.22/ (Br.)

This article explores the effects of paradigm shifts, that is the transition from the law enforcement paradigm to the war fighting paradigm and vice versa, on the rules on the use of force for military operations. The concept and main elements of rules of engagement are explained, followed by an analysis of applicable law and its effect on the use of force in each of the two paradigms. Particular attention is focused on the divergent meanings of necessity and proportionality in the two paradigms. Finally, the effects of paradigm shifts on military operations and on the rules on the use of force are explained. The conclusion offers some guidance on the use of rules of engagement to support such paradigm transitions.

Engaging armed groups through the development of human rights obligations : incorporating practice, motivation and ideology to promote compliance with international law

Daragh Murray. In: Yearbook of international humanitarian law, Vol. 19, 2016, p. 119-155

Non-State armed groups exert extensive influence on populations around the world. However, international law does not effectively regulate the relationship between armed groups and populations subject to their authority or influence and so much of this interaction occurs in a legal vacuum. This chapter proposes international human rights law as a solution. The application of international human rights law obligations to armed groups is increasingly accepted, but the precise content of the resultant obligations is unclear. Significantly, the development of the law in this regard presents a unique opportunity to actively engage armed groups, and to encourage their compliance with human rights law, and international law more broadly. It is suggested that if the practice of armed groups and their motivations are incorporated into the development of human rights obligations, then the resultant obligations can be used not only to regulate armed group activity but also to guide it. Human rights law can be used to demonstrate to armed groups how they can govern in the best interests of the affected population—thereby promoting human rights protection—and why it is in their interest that they do so—thereby promoting compliance. This chapter examines armed groups' practice, motivations, and ideology and discusses armed group governance activities related to the administration of justice and service provision in order to illustrate how the proposed approach could proceed. Although the focus is on international human rights law, where international humanitarian law is applicable it must also inform the development of any obligations.

Enhancing protection in armed conflict through domestic law and policy : universal meeting of national committees and similar bodies on international humanitarian law : conference overview : Geneva, Switzerland, 30 November - 2 December 2016

ICRC. - Geneva : ICRC, November 2017. - 85 p. - Cote 4322/002 [PDF]

This report provides an overview of discussions at the meeting on the role and work of national IHL committees and similar bodies in general, and on the protection of cultural property, provision of health care and protection of internally displaced persons and migrants in armed conflict specifically. The discussions sought to identify good practice at the domestic level in terms of introducing and implementing laws and policies aimed at generating greater respect for IHL. The report highlights the conclusions drawn from these discussions, including elements that were identified as necessary for national IHL committees and similar bodies to be able to discharge their role successfully.

https://library.icrc.org/library/docs/DOC/icrc-002-4322.pdf

Entretien avec le brigadier général Richard C. Gross, conseiller juridique du président du comité des chefs d'États-major interarmées des États-Unis

par Vincent Bernard et Anne Quintin. In: Revue internationale de la Croix-Rouge : sélection française Vol. 96, 2014/1, p.13-28 : photogr.

Le brigadier général Richard C. "Rich" Gross est le conseiller juridique du président du comité des chefs d'États-major interarmées des États-Unis. Après sa formation à l'Académie militaire de West Point, il a intégré l'armée américaine au grade de sous-lieutenant d'infanterie. Diplômé de la Virginia School of Law et de l'US army Judge Advocate General's Corps, il est également titulaire d'un master d'études stratégiques de l'US Army War College. Avant d'occuper ses fonctions actuelles, il a été conseiller juridique en chef du "Joint Special Operations Command", de la Force internationale d'assistance à la sécurité (FIAS), des "US Forces-Afghanistan" (USFOR-A) et du Commandement central des Etats-Unis. Le champ d'application du droit international humanitaire (DIH) soulève des questions plus complexes qu'il n'y paraît. De manière générale, il s'agit de déterminer où, quand et à qui s'appliquent les règles du DIH. Bien que cela ait toujours été un prérequis pour débattre de questions relatives au DIH, les limites de l'applicabilité du droit restent mal définies. C'est dans la perspective d'ouvrir le débat sur les nuances du champ d'application du DIH que le brigadier général Gross nous a accordé cet entretien. Il y présente le point de vue des Etats-Unis sur les circonstances dans lesquelles le DIH s'applique et sur les défis qui nous attendent au vu de l'évolution de la manière dont la guerre est conduite.

https://library.icrc.org/library/docs/DOC/irrc-893-interview-gross-fre.pdf

The environment and armed conflict : employing general principles to protect the environment

Kirsten Stefanik. - In: Environmental protection and transitions from conflict to peace. - Oxford : Oxford University Press, 2017. - p. 94-118. - Cote 358/160

Armed conflict is inherently destructive of the environment. It can cause serious and irreversible damage and threaten the health and livelihoods of individuals and the planet as a whole. International environmental law (IEL) cannot and is not relegated to peacetime, but continues to apply and interact with international humanitarian law (IHL). Therefore, principles of IEL must play a role before, during, and after conflict. This chapter focuses on general principles of IEL, specifically intergenerational equity and the precautionary principle. It demonstrates that these principles can and should be used to interpret and apply existing IHL for civilian and environmental protection. It concludes with a look at peace agreements and truth commissions, arguing that despite limitations of their past use they can provide fertile ground for building sustainable peace.

http://dx.doi.org/10.1093/oso/9780198784630.003.0005

Environmental protection and transitions from conflict to peace

ed. by Carsten Stahn, Jens Iverson and Jennifer S. Easterday. - Oxford : Oxford University Press, 2017. - XLII, 461 p. - Cote 358/63

Environmental protection is fundamental for the establishment of sustainable peace. Applying traditional legal approaches to protection raises particular challenges during the transition from conflict to peace. In the jus post bellum context, protection of the environment and natural resources needs to be considered in tandem with a broad range of simultaneously applicable normative frameworks, such as human rights, transitional justice, arms control/disarmament, UN law and practice, development, and domestic law. While certain multilateral environment agreements, such as the Convention Concerning the Protection of the World Cultural and Natural Heritage protect the environment; international humanitarian law and international criminal law continue to treat environmental protection largely from an anthropocentric perspective. This book is the first targeted work in the legal literature that investigates environmental challenges in the aftermath of conflict. Addressing these challenges, it brings together academics, policy-makers, and practitioners from different disciplines to clarify policies and practices of environmental protection and key normative frameworks. It draws on experiences and practices in post-conflict settings to specify substantive principles and techniques to remedy and prevent harm.

http://dx.doi.org/10.1093/oso/9780198784630.001.0001

Ethics and policies for cyber operations : a NATO Cooperative Cyber Defence Centre of Excellence initiative

Mariarosaria Taddeo, Ludovica Glorioso (eds.). - [Cham] : Springer, 2017. - XVII, 252 p. - Cote 348/134

This book presents 12 essays that focus on the analysis of the problems prompted by cyber operations (COs). It clarifies and discusses the ethical and regulatory problems raised by the deployment of cyber capabilities by a state's army to inflict disruption or damage to an adversary's targets in or through cyberspace. Written by world-leading philosophers, ethicists, policy-makers, and law and military experts, the essays cover such topics as the conceptual novelty of COs and the ethical problems that this engenders; the applicability of existing conceptual and regulatory frameworks to COs deployed in case of conflicts; the definition of deterrence strategies involving COs; and the analysis of models to foster cooperation in managing cyber crises. The volume endorses a multi-disciplinary approach, as such it offers a comprehensive overview of the ethical, legal, and policy problems posed by COs and of the different approaches and methods that can be used to solve them.

European Union common security and defense policy operations

Frederik Naert. - In: The practice of shared responsibility in international law. - Cambridge : Cambridge University Press, 2017. - p. 669-700. - Cote 345/735

In 1999, the European Union decided to develop a Common Security and Defence Policy. The core of this policy consists of military and civilian crisis management operations (the terms 'operations' and 'missions' are used interchangeably). Since 2003, the EU has launched some thirty such operations. These operations involve the EU and its member states. Thus the question arises whether responsibility for the conduct of CSDP operations lies with the EU and/or its member states.

http://www.sharesproject.nl/publication/shared-responsibility-in-the-framework-of-the-european-unions-common-security-defense-policy-operations/

Factors motivating non-state armed groups to comply with international humanitarian law : reflections on positive practices

by Isabelle Gallino. - [S.l] : [s.n], 2017. - 40 p. - Cote 345.24/408 (Br.)

The paper focus on the positive instances where non-state armed groups actually respect IHL, and reflects on the motivational factors bringing such groups to compliance. After an illustration of the main current theories on motivational factors, the author analyzes two specific armed groups in two different contexts, focusing on the cases where these groups made progresses in the field of child soldiers demobilization: the FARC (Fuerzas Armadas Revolucionarias de Colombia) in Colombia and the JEM in Sudan (Justice and Equality Movement). This analysis shows how, despite the context specificity of some motivational factors, recurrent factors for both armed groups can be individuated. Specifically, political and reputational considerations, as well as considerations of legitimacy were present in both armed groups, stimulating them to take positive measures on child soldiers. Furthermore, also the factor of "return to peace" played a significant role in this context, with peace and ceasefire agreements motivating the armed groups to prohibit child recruitment. The author concludes by reiterating the importance of giving a full picture of the situation on the ground, including instances of respect, and of persevering in finding ways to increase such respect. This is essential for maintaining the trust in the IHL system and, consequently, for increasing the respect of human dignity.

http://www.prix-henry-dunant.org/wp-content/uploads/GALLINO_Ravel_LLM-Paper_2017.pdf

La fin de l'application du droit international humanitaire

Marko Milanovic. In: Revue internationale de la Croix-Rouge : sélection française Vol. 96, 2014/1, p. 137-166

Cet article fournit un aperçu des règles qui régissent la fin de l'application du droit international humanitaire (DIH), ou droit des conflits armés. Il expose un principe général selon lequel, à moins qu'il existe une bonne raison de faire une exception en raison d'un texte, d'un principe ou d'une politique particulière, le DIH cessera de s'appliquer dès que les conditions qui ont déclenché son application en premier lieu ne seront plus réunies. Pour que le DIH s'applique, il est nécessaire que ses seuils d'application distincts – l'existence d'un conflit armé international, d'une occupation belligérante ou d'un conflit armé non international – continuent à être atteints, et ce, à n'importe quel moment. Cet article examine également les situations dans lesquelles il est justifié de s'écarter de cette règle générale, ainsi que les facteurs qu'il convient de prendre en compte pour déterminer la fin de l'application du DIH dans chaque type de conflit armé. Ce faisant, l'article

analysera certains des événements et processus (mais pas nécessairement tous) qui conduisent généralement à la fin de l'application du DIH, ainsi que les événements et processus de transition qui mettent fin à l'un des sous-régimes du DIH, mais en déclenchent immédiatement l'application d'un autre. Enfin, l'article abordera rapidement le conflit armé (putatif) entre les États-Unis et Al Qaida et sa fin apparemment imminente.

https://library.icrc.org/library/docs/DOC/irrc-893-milanovic-fre.pdf

Generating respect for the law : an appraisal : 13-14 October 2016 : IHL symposium report

ICRC, University of Tasmania Faculty of Law and Institute for the Study of Social Change. In: International review of the Red Cross, Vol. 98, no. 902, August 2016, p. 671-682

The symposium on "Generating Respect for the Law: An Appraisal" brought together experts from various disciplines, including law, political science, government, philosophy, history, humanitarian action, the military and academia, from across Australia. Over the course of two days, these experts considered several questions: How have perceptions of international humanitarian law (IHL) evolved over time, and where do we now stand? What are the challenges raised by transnational asymmetric armed conflict? How should armed groups who do not accept the constraints of IHL be approached? What roles should States, academics and civil society play in generating respect for the law? And lastly, how does new technology change the face of contemporary warfare?

https://library.icrc.org/library/docs/DOC/irrc-902-symposium.pdf

Genocide, mass atrocity, and war crimes in modern history : blood and conscience

James Larry Taulbee. - Santa Barabara ; Denver : Praeger, 2017. - 2 vol. (360, 336 p.) - Cote 344/712 (I) Genocide and mass atrocity 344/712 (II) War crimes

Written by an expert on international politics and law, Genocide, Mass Atrocity, and War Crimes in Modern History: Blood and Conscience is an easy-to-understand resource that explains why genocides and other atrocities occur, why humanity saw the need to create rules that apply during war, and how culture, rules about war, and the nature of war intersect. The first volume addresses the history and development of the normative regime(s) that define genocide and mass atrocity. Through a comparative study of historical cases that pay particular attention to the factors involved in producing the attitudes and behaviors that led to the incidents of mass slaughter and mistreatment, the author identifies the reasons that genocides and mass atrocities in the 20th century were largely ignored until the early 1990s and why even starting then, responses were inconsistent. The second book discusses why rules in war exist, which factors may lead to the adoption of rules, what defines a war "crime", and how the five fundamental principles laid out in the Geneva Conventions and other international agreements have actually functioned in modern warfare. It also poses—and answers—the interesting question of why we should obey rules when our opponents do not. The final chapter examines what actions could serve to identify future situations in which mass atrocities may occur and identifies the problems of timely humanitarian intervention in international affairs.

HPCR practitioner's handbook on monitoring, reporting, and fact-finding : investigating international law violations

ed. by Rob Grace, Claude Bruderlein ; Program on Humanitarian Policy and Conflict Research. - Cambridge [etc.] : Cambridge University Press, 2017. - VIII, 334 p. - Cote 345.24/401

This book offers a portrait of the practice of monitoring, reporting, and fact-finding in the domain of human rights, international humanitarian law, and international criminal law. By analyzing the experiences of fifteen missions implemented over the course of the past decade, the book illuminates the key issues that these missions face and offers a roadmap for practitioners working on future missions. This book is the result of a five-year research study led by the Program on Humanitarian Policy and Conflict Research at Harvard University, Massachusetts. Based on extensive interviews conducted with fact-finding practitioners, this book consists of two parts. Part I offers a handbook that details methodological considerations for the design and implementation of fact-finding missions and commissions of inquiry. Part II - which consists of chapters written by scholars and practitioners - presents a more in-depth, scholarly examination of past fact-finding practices.

Humanitarian action

Thomas G. Weiss. - In: The Oxford handbook of international organizations. - Oxford : Oxford University Press, 2016. - p. 303-322. - Cote 603/608 (Br.)

This chapter begins by defining some key terms, including humanitarian action, humanitarianism, humanitarian space, and humanitarian intervention. It then examines the history of humanitarian action in wars through the lenses of three historical periods: the 19th century until World War I; the early 20th century through the end of the Cold War; and the last quarter-century. Next, it describes the entities that exert influence on the ground from outside a war zone: international NGOs, the International Committee of the Red Cross (ICRC), the UN system, bilateral aid agencies, external military forces, for-profit firms, and the media. Operating alongside, and sometimes in opposition to, external agents in a particular war zone are local actors, which include NGOs and businesses as well as the armed belligerents. The chapter concludes with a discussion of the coordination of the various moving parts of the international humanitarian system.

https://library.ext.icrc.org/library/docs/ArticlesPDF/44574.pdf

The innocent combatant : preserving their jus in bello protections

Mark "Max" Maxwell, Richard V. Meyer. In: Penn state journal of law & international affairs, Vol. 5, issue 1, 2017, p. 111-163

This article starts with a brief introduction to the core principles of the Just War Theory and use these to identify its fundamental goals. The first section examines the differences between privileged belligerents and civilians and highlights why the rights of privileged belligerents cannot tether to the concepts or goals of domestic criminal law. The second part of the article then examines five specific trends which are part and parcel to the pervasive wave against the use of force and the actual or potential cost to how Soldiers behave in conflict; that is, jus in bello. The authors ultimately conclude that until war itself is fully eliminated from the human experience, the lex specialis of jus in bello within the Just War Theory is pragmatically justified and a morally mandated duty of the international community of States to privileged belligerents.

https://elibrary.law.psu.edu/jlia/vol5/iss1/6

The International Code of Conduct for Private Security Service Providers' Association (ICoCA) : core documents, frequently asked questions, membership requirements

International Code of Conduct Association. - Geneva : International Code of Conduct Association, 2014. - 86 p. - Cote 345.29/255

This booklet aims to introduce the Code and the ICoCA to interested parties, especially governments, private security companies, civil society organizations, and non-state clients of private security companies. The booklet first provides answers to some of the most frequently asked questions on the ICoC and its Association (The ICoC and its Association: Frequently Asked). Following that, for ease in reference it includes the foundational documents of the ICoC Association (The International Code of Conduct for Private Security Service Providers and The Articles of Association). Finally, procedures to join the Association as a member or observer are detailed in the last section of this booklet (Association Membership Requirements).

International humanitarian law

Inter-Parliamentary Union, ICRC. - Geneva : Inter-Parliamentary Union ; ICRC, 2016. - 128 p. - Cote 345.23/106 (2016 ENG)

This handbook is is the most recent outcome of many fruitful years of cooperation and partnership between the Inter-Parliamentary Union (IPU) and the International Committee of the Red Cross (ICRC), the guardian and promoter of IHL. It is specifically designed to familiarize parliamentarians with the general principles of the Geneva Conventions and their Additional Protocols and guide them in the process of implementing this body of law in their respective country. The handbook provides step-by-step information on measures that States party to the Geneva Conventions must take to fulfil the obligations they have accepted to "respect and ensure respect" for IHL.

International humanitarian law

Sandesh Sivakumaran. - In: International human rights law. - Oxford : Oxford University Press, 2018. - p. 503-520. - Cote 345.1/668

International humanitarian law is concerned with the regulation of armed conflict. It is closely related to international human rights law. Although the two come from different historical backgrounds, they have common values, primarly those of respect for, and dignity of, the human person. International human rights law does not cease to apply in time of armed conflict. The continued applicability of international human rights law provides added values to the regulations of armed conflict but also creates difficulties, Given the applicability of both international human rights law and international humanitarian law in time of armed conflict, it is important to discern the relationship between them.

International humanitarian law on cyberwarfare and Pakistan's legal framework

Sahar Haroon. - [Islamabad] : Research Society of International Law, 2017. - IX, 42 p. . - Cote 348/140 (Br.)

It is well-established that existing International Humanitarian Law (IHL) is applicable to cyberwarfare, however there are certain difficulties that need to be addressed. The initial issue is the classification of malicious cyber activity as 'attack' for the purposes of IHL, and then 'attribution' for such acts in cyberspace is also problematic. Inherently linked to the identification of the perpetrator is the challenge of categorizing the nature of the armed conflict. Moreover, once an act is recognized as an 'attack', it remains to be ascertained how the fundamental principles of IHL would be practically replicated in cyberspace. These challenges may be addressed either through classic treaty interpretation or by analogically applying existing corpus of law to cyberwarfare. To tackle the unique issues posited thereby, sometimes a new treaty regime is suggested, however the same would not receive ratifications as rapidly as the threat of cyberwarfare grows. Therefore, the only logical way to uphold and protect the intransgressible principles of humanity and dictates of public conscience is through universal consensus and evolving State practice. The State of Pakistan has been victim to cyber espionage and hacking on multiple occasions, yet lacks an effective system to defend against such acts and even less so against cyber-attacks. Therefore, it must actively seek to address the cyber threats it faces and establish a cyber defense mechanism by firstly identifying cybersecurity loopholes. Pakistan is bound by existing IHL with regards to cyberwarfare and must adhere to those rules in the establishment of such a mechanism. However, where such rules are insufficient domestic cyber laws are relevant to determine State practice and may be built upon.

http://rsilpak.org/wp-content/uploads/2017/05/2017_Cyber-Warfare_Final.pdf

International humanitarian law's old questions and new perspectives : on what law has got to do with armed conflict

Thomas Forster. In: International review of the Red Cross, Vol. 98, no. 903, December 2016, p. 995-1017

The question of whether international humanitarian law (IHL) has an impact on how armed conflicts are conducted is a controversial one. Sceptics claim that the law is virtually irrelevant in determining State behaviour in armed conflict. Proponents point to its importance in mitigating the suffering caused by war. This paper looks at recent scholarship from historians, political scientists, economists and lawyers that challenges traditional narratives held dear by the law's sceptics and proponents alike. It then discusses implications of these approaches for a current understanding of the role of IHL in today's armed conflicts. The new perspectives allow for a broader understanding of IHL's central issues and permit us to ask more pertinent questions when looking at the law with the aim of putting it to use for the protection of civilians.

https://library.icrc.org/library/docs/DOC/irrc-903-forster.pdf

International law and the military use of unmanned maritime systems

Michael N. Schmitt and David S. Goddard. In: International review of the Red Cross, Vol. 98, no. 902, August 2016, p. 567-592

Unmanned maritime systems (UMSs) comprise an important subcategory of unmanned military devices. While much of the normative debate concerning the use of unmanned aerial and land-based devices applies equally to those employed on or under water, UMS present unique challenges in understanding the application of existing law. This article summarizes the technological state of the art before considering, in turn, the legal status of UMSs, particularly under the UN Convention on the Law of the Sea (UNCLOS), and the regulation of their use under the law of naval warfare. It is not yet clear if UMSs enjoy status as ships

under UNCLOS; even if they do, it is unlikely that they can be classified as warships. Nevertheless, their lawful use is not necessarily precluded in either peacetime or armed conflict.

https://library.icrc.org/library/docs/DOC/irrc-902-schmitt.pdf

International organizations and the fight for accountability : the remedies and reparations gap

Carla Ferstman. - Oxford : Oxford University Press, 2017. - XII, 221 p. . - Cote 345.29/266

International organizations have increasingly taken on state or quasi state-like functions in order to exercise control over individuals and societies, most pressingly in contexts of conflict and transition. Their engagement in peace operations has progressively widened, with mandates now regularly including the protection of civilian populations and, in several new operations, containing peace enforcement responsibilities with active combat duties. This increases the risk that their conduct may infringe human rights and international humanitarian law. This book explores the ways in which the principles of accountability and reparation apply to international organizations. When considering whether international organizations are obliged to afford reparation and to whom it is owed, as well as what it entails, we are confronted with the challenge of understanding how the law of responsibility intersects with specialized regimes of human rights and international humanitarian law, particularly in its application to individuals. The justifications for organizational immunities and other limits on international organizations' responsibilities were conceived to ensure IOs independence from state influences and their capacity to engage in often difficult circumstances. Many, if not all, of these rationales remain relevant today, yet disciplinary, oversight, and judicial structures that exist in state administrations to promote accountability and forestall abuses have only partially been put into place for international organizations. At the same time, individuals affected by their conduct have had no, or only cursory recourse to domestic, regional and international courts and they have not been able to rely on their states of nationality to pursue claims on their behalf.

The international responsibility of international organisations : cooperation in peacekeeping operations

Moritz P. Moelle. - Cambridge [etc.] : Cambridge University Press, 2017. - XIV, 373 p. - Cote 345.29/265

The International Responsibility of International Organisations addresses the joint responsibility of organisations for violations of international law committed during the deployment of peacekeeping operations. More specifically, it inquires if and under which circumstances - in terms of the notion of control - international organisations can be jointly responsible. The author analyses the practice of international organisations (the United Nations, the North Atlantic Treaty Organisation, the European Union, the African Union and the Economic Community of West African States) on an inter-institutional level, as well as in the field in the form of five case studies. The likelihood and distribution of responsibility between international organisations engaged in peacekeeping operations is affected by the different layers of applicable primary norms (Security Council mandates, internal law of the organisations, international humanitarian and human rights law). Although external pressure may contribute to enhancing the effectiveness of holding international organisations jointly responsible, any substantial measures and mechanisms can only be implemented with the participation of states and international organisations.

The international responsibility of NATO and its personnel during military operations

by David Nauta. - Leiden ; Boston : Brill Nijhoff, 2018. - XVI, 194 p. - Cote 345.29/259

In 1999, the Alliance mistakenly bombed the Chinese embassy in Belgrade. Around the same period, allegations were made regarding its involvement in human trafficking and forced prostitution in Bosnia-Herzegovina. A decade later, NATO airplanes hit a fuel truck causing significant civilian casualties in Kunduz, Afghanistan. After more than 60 years of existence and a track-record of more than 30 missions performed worldwide, it is surprising that there is still uncertainty on the scope and content of NATO's responsibility for wrongful conduct during its military operations. This timely book deals with the international responsibility of NATO during military operations. It examines the status of the Alliance, the existence of international obligations and conditions of attribution of conduct in NATO.

Is Israel still an occupying power in Gaza ?

Hanne Cuyckens. In: Netherlands international law review, Vol. 63, issue 3, October 2016, p. 275-295. - Cote 351/135 (Br.)

The West Bank and the Gaza Strip came under Israeli occupation in 1967. Both territories had been under constant Israeli control since then, until Israel decided to withdraw its land forces and settlements from the Strip in 2005. Whereas the occupied status of the West Bank still remains uncontested, the status of Gaza after the disengagement is less clear. This article addresses the question whether the Gaza Strip can still be considered to be occupied after the 2005 disengagement. In order to formulate an answer to this question, the article first outlines the different elements needed to trigger occupation. It then shows that, even though the majority argues that the Gaza Strip is still occupied, the effective control test at the core of the law of occupation is no longer met and hence Gaza is no longer occupied. Given that Israel nevertheless continues to exercise some degree of control over Gaza and its population, the absence of occupation does not mean the absence of accountability. This responsibility is however not founded on the law of occupation but on general international humanitarian law, potentially complemented by international human rights law.

https://doi.org/10.1007/s40802-016-0070-1

Janus-faced : rebel groups and human rights responsibility

Hyeran Jo and Joshua Alley. - In: Expanding human rights : 21st century norms and governance. - Cheltenham ; Northampton : Edward Elgar, 2017. - p. 197-214 . - Cote 345.1/ (Br.)

Rebel groups are significant players in contemporary world politics and are often portrayed as violators of human rights. The authors explore the Janus-faced nature of rebel groups toward human rights and show that rebel groups are both human rights violators and advocates. The chapter unearths the patterns of rebel groups' commitment to human rights between 1990 and 2010. It shows that some rebel groups do express their intent to respect human rights when they are willing and capable. Specifically, rebel groups with autonomy aims, strong command and control structures, and strong military capabilities are the ones that have the will and power to engage in public relations for human rights. The authors' findings demonstrate the evidence of "expanding" human rights to traditional outsiders such as rebel groups.

Jus in bello et jus ad bellum dans la théorie et la pratique de l'Antiquité au XVIIIe siècle

par Béatrice Heuser. - In: Guerre et droit. - Paris : Hermann, 2017. - p. 115-126. - Cote 345/736

Ce chapitre retrace l'histoire du jus in bello et jus ad bellum de l'Antiquité au XVIIIe siècle, des écrits de Platon aux Conventions de Genève.

Knock on the roof : legitimate warning or method of warfare ?

Jeroen C. van den Boogaard. In: Yearbook of international humanitarian law, Vol. 19, 2016, p. 183-209

This chapter aims to address the practice of using a "knock on the roof" as a warning before air strikes are launched in order to mitigate civilian casualties during armed conflict. It involves the dropping of non-explosive or low-impact type of munitions on the intended target. This "knock" is reportedly accompanied by other specific warnings, such as telephone calls and text-messages, indicating that the attack on the building is imminent. The knock is intended to be used on a legitimate military objective, leaving no doubt that the attack is in fact about to happen, and urging civilians to relocate to a safer place. This chapter aims to analyse whether, and if so, under which circumstances, the knock on the roof practice may be used within the boundaries of international humanitarian law (IHL), both as a warning and as a method of warfare.

The law of maritime blockade : past, present, and future

Phillip Drew. - Oxford : Oxford University Press, 2017. - XVII, 168 p. - Cote 347/165

Although appearing to be a relatively benign method of warfare when viewed from a distance, a close examination of maritime blockade unveils a sinister character that can, in cases where countries are highly reliant on imports of foodstuffs to feed their populations, prove incredibly deadly, particularly for the young and elderly. This book is unique in that it is the only contemporary book that is dedicated to the study of the law of maritime blockade in the context of modern humanitarian law. Reviewing the development of

blockade law over the past four centuries, The Law of Maritime Blockade provides a historical analysis of the law as it emerged, tracing its evolution through armed conflicts between 1684 and the present. Referring to the starvation caused by the blockade of Germany during World War I and the humanitarian crisis caused by the sanctions regime against Iraq (1991-2003), this book demonstrates that blockade can have extremely deleterious effects for vulnerable civilian populations. In this context the current law of blockade is examined, and found to be deficient in terms of its protection for civilians. Recognizing and advocating that blockade should remain as a valid and effective method of warfare, the book offers a template for a modern law of maritime blockade that incorporates many of the traditional aspects of the law, while reducing the possibilities that blockades can cause or exacerbate humanitarian disasters.

The law of pillage, conflict resources and jus post bellum

Olivia Radics and Carl Bruch. - In: Environmental protection and transitions from conflict to peace. - Oxford : Oxford University Press, 2017. - p. 143-168. - Cote 358/160

This chapter explores the role of the law of pillage in the emerging body of jus post bellum with respect to temporal considerations as to its application; its relationship to the law of occupation; the scope of actors to whom pillage applies; and the legal and practical implications of approaching pillage as an economic crime. The chapter discusses questions such as to what extent does the law of pillage continue to apply during the post-conflict period and to whom does it apply? Would it include unelected transitional government officials who might be found liable for making decisions on natural resource concessions? Does the law of pillage apply to occupying forces having de facto or de jure control over a country? How would it relate to immovable state property in occupation? The chapter discusses the viability of war crimes prosecutions for pillage as well as of alternative avenues of accountability.

http://dx.doi.org/10.1093/oso/9780198784630.003.0007

The law of war : a detailed assessment of the US Department of Defense law of war manual

William H. Boothby and Wolff Heintschel von Heinegg. - Cambridge [etc.] : Cambridge University Press, 2018. - XXIII, 456 p. - Cote 345.25/366

In 2015, the United States Department of Defense published its long-awaited Law of War Manual making a significant statement on the position of the US government on important military matters. Whilst readers recognise the Manual's legal and strategic importance, they may question whether particular statements of law are legally accurate or complete. This book offers a unique in-depth review of the complete Manual, including revisions, on a paragraph-by-paragraph, line-by-line and word-by-word basis. The authors offer their personal assessment of the DoD's declared view as to the law that regulates the conduct of warfare, a subject of unparalleled current importance. William H. Boothby and Wolff Heintschel von Heinegg offer a balanced, articulate and authoritative critique for readers perusing the Manual in whatever capacity.

Legal advisers in the armed forces

Maike Kuhn and Antje C. Berger. - In: The role of legal advisers in international law. - Leiden ; Boston : Brill Nijhoff, 2016. - p. 337-351. - Cote 345.24/405 (Br.)

The roles of legal advisers in public international law are multifaceted as they emanate from a range of legal, political and administrative systems. This chapter focuses on legal advisers to the armed forces under Article 82 of the 1977 additional Protocol 1 to the 1949 Geneva Conventions and international customary law with special emphasis on the work of legal advisers working with the German military.

A legal approach to investigations of arbitrary deprivations of life in armed conflicts : the need for a dynamic understanding of the interplay between IHL and HRL

Gloria Gaggioli. In: Questions of international law, Zoom-in 36, 2017, p. 27-51. - Cote 345.1/678 (Br.)

This paper is a response to the analysis provided by Dr Luca Gervasoni on a 'Contextual-Functional Approach to Investigations of Right to Life Violations in Armed Conflicts'. In his contribution, Dr Gervasoni provided a very thorough and precise analysis of developments in the human rights sphere pertaining to the obligation to investigate in armed conflicts. His main findings are that human rights law (HRL) requires an

effective investigation at all times, even in armed conflicts; and that this requirement is not unrealistic to the extent that human rights bodies can flexibly apply and adapt the requirements for an investigation to be considered as effective depending on the context. With a view to highlighting the relevance of international humanitarian law (IHL) and of its interplay in the field of investigations, the author of this paper attempts to shed further light on whether and to what extent IHL provides for an obligation to investigate (section 2), highlight the greatest discrepancies between IHL and HRL in this field (section 3), propose ways to work out the interplay between IHL and HRL (section 4), and discuss potential challenges in ensuring that the obligation to investigate remains realistic in armed conflicts (section 5).

http://www.qil-qdi.org/wp-content/uploads/2017/02/03_Investigation-in-armed-conflicts_GAGGIOLI_FIN.pdf

Legal evaluation of the Saudi-led intervention in Yemen : consensual intervention in cases of contested authority and fragmented states

Themistoklis Tzimas. In: Zeitschrift für ausländisches öffentliches Recht und Völkerrecht = Heidelberg journal of international law, 78. Jg, H. 1/2018, s. 147-187

In addition to the Houthi uprising, a Saudi-led intervention with the consent of ousted President Hadi led to a further escalation of the violence in Yemen. Such intervention raised critical questions in relation to international law and consensual intervention, as well regarding domestic legitimacy. This article suggests the lawfulness of the consenting government is the primary precondition for the lawfulness of the intervention. Second, whilst in principle consensual intervention remains a right of a legitimate government, it cannot be exercised unconditionally. Consensual intervention is lawful so long as the purpose of the invervention complies with international law. This means that even a lawful government does not possess a carte blanche to enable it to legitimize an intervention without any other precondition. Third, the intervention per se, maintains its legitimacy only as long as it complies with international law principles, as well as with necessity and proportionality.

Legal protection of the environment : the double challenge of non-international armed conflict and post-conflict peacebuilding

Dieter Fleck. - In: Environmental protection and transitions from conflict to peace. - Oxford : Oxford University Press, 2017. - p. 203-219. - Cote 358/160

This chapter examines principles and rules on environmental protection in two critical situations: non-international armed conflicts and post-conflict peacebuilding. What kind of environmental obligations apply in bello between a government and rebels? In what sense are parties to the conflict accountable for environmental devastation? May states be liable also for injurious consequences of acts not explicitly prohibited under international law? How can their obligations be enforced? Furthermore, issues of post-conflict peacebuilding are discussed to explore whether specific principles and rules of jus post bellum are relevant for the protection of the natural environment. While certain aspects of the protection of the environment in relation to armed conflicts appear to be still unclear, some recommendations are developed in support of efforts currently undertaken in the International Law Commission.

http://dx.doi.org/10.1093/oso/9780198784630.003.0010

Legal treatment of Boko Haram militants captured by Cameroon

Stephen Kingah. In: Revue africaine de droit international et comparé = African journal of international and comparative law, T. 26, no 1, 2018, p. 44-63

This study considers the nature of the challenges posed by Boko Haram militants in Cameroon. It presents the government's legal responses. The article equally considers the various ways in which militants can adhere to international law relating to the non-international armed conflict between Cameroon and Boko Haram militants.

https://doi.org/10.3366/ajicl.2018.0219

Leuven manual on the international law applicable to peace operations

Terry D. Gill (et all.). - Cambridge, New York : Cambridge University Press, 2017. - 403 p. - Cote 345.22/300

The Leuven Manual is the authoritative, comprehensive overview of the rules that are to be followed in peace operations conducted by the United Nations, the European Union, NATO, the African Union and other organisations, with detailed commentary on best practice in relation to those rules. Topics covered include human rights, humanitarian law, gender aspects, the use of force and detention by peacekeepers, the protection of civilians, and the relevance of the laws of the host State. The international group of expert authors includes leading academics, together with military officers and policy officials with practical experience in contemporary peace operations, supported in an individual capacity by input from experts working for the UN, the African Union, NATO, and the International Committee of the Red Cross. This volume is intended to be of assistance to states and international organisations involved in the planning and conduct of peace operations, and practitioners and academia.

Meaningful human control - and the politics of international law

Wolff Heintschel von Heinegg, Robert Frau and Tassilo Singer. - In: Dehumanization of warfare : legal implications of new weapon technologies. - Cham : Springer, 2018. - p. 207-218. - Cote 341.67/845

In the Geneva discussions on lethal autonomous weapons systems the concept of "meaningful human control" plays an important role. While the concept as such has served to focus on particular politico-ethical questions and to place the issue of lethal autonomous weapons systems prominently on the agenda of the High Contracting Parties to the Convention on Certain Conventional Weapons (CCW), its legal value is questionable. This chapter highlights the importance of terminology—in law and in politics. It illustrates that terminology can serve different purposes in political and legal contexts when negotiating questions of international humanitarian law (and arms control). The chapter illustrates that the concept of "meaningful human control" does not add anything to existing standards of the law of armed conflict, perhaps even risks blurring them, but should in the first place be used for political purposes. Addressing time and place of decision-making, cognition and volition, as well as the relevance of value-based decision-making, the chapter concludes that the concept may, nevertheless, facilitate the implementation of existing law.

Military medical ethics in war and peace

Michael L. Gross. - In: Routledge hanbook of military ethics. - London ; New York : Routledge, 2015. - p. 248-264. - Cote 355/1105

Readers of a volume on military ethics are likely to be less familiar with medical than military ethics so it is useful to begin there. Medical ethics governs the practice of medicine by protecting the rights of patients. While legal rights sometimes come into play (as in abortion, for example), moral rights generally dominate discussions of medical ethics. When these rights become pressing, some nations may legislate or regulate certain practices (such as euthanasia). Patient rights include a person's right to medical care, autonomous decision-making and informed consent, confidentiality, and privacy. These rights impose duties on nations and on caregivers. In most of the world, developed nations provide a level of medical care to allow individuals to maintain a dignified life while enjoining physicians to act with beneficence.

Military objectives in cyber warfare

Marco Roscini. - In: Ethics and policies for cyber operations : a NATO Cooperative Cyber Defence Centre of Excellence initiative. - [Cham] : Springer, 2017. - p. 99-114. - Cote 348/134

This Chapter discusses the possible problems arising from the application of the principle of distinction under the law of armed conflict to cyber attacks. It first identifies when cyber attacks qualify as 'attacks' under the law of armed conflict and then examines the two elements of the definition of 'military objective' contained in Article 52(2) of the 1977 Protocol I additional to the 1949 Geneva Conventions on the Protection of Victims of War. The Chapter concludes that this definition is flexible enough to apply in the cyber context without significant problems and that none of the challenges that characterize cyber attacks hinders the application of the principle of distinction.

Military operations and media coverage : the interplay of law and legitimacy

Laurie R. Blank. - In: Routledge hanbook of military ethics. - London ; New York : Routledge, 2015. - p. 348-367. - Cote 355/1105

On November 14, 1854, William Howard Russell filed the first war report from the front lines of conflict, an account of the Charge of the Light Brigade in the Crimean War of 1854–1856. Filed by telegraph, Russell's dispatches "brought the war home to readers . . . [writing] with clarity and vitality about the grandeur and

the horror of battle." Over a century and a half later, media coverage of military operations not only informs the public about the events of conflicts near and far, but also plays a significant role in the determinations and perceptions of the success, legitimacy, and lawfulness of military operations. Understanding this interplay between media coverage, demands for information and transparency, law, and legitimacy is therefore essential to any training for and implementation of military interaction with the media, as well as to the planning and execution of successful military operations.

Military trials of war criminals in the Netherlands East Indies 1946-1949

Fred L. Borch. - Oxford : Oxford University Press, 2017. - XII, 255 p. - Cote 344/703

From 1946 to 1949, the Dutch prosecuted more than 1000 Japanese soldiers and civilians for war crimes committed during the occupation of the Netherlands East Indies during World War II. They also prosecuted a small number of Dutch citizens for collaborating with their Japanese occupiers. The war crimes committed by the Japanese against military personnel and civilians in the East Indies were horrific, and included mass murder, murder, torture, mistreatment of prisoners of war, and enforced prostitution. Beginning in 1946, the Dutch convened military tribunals in various locations in the East Indies to hear the evidence of these atrocities and imposed sentences ranging from months and years to death; some 25 percent of those convicted were executed for their crimes. The difficulty arising out of gathering evidence and conducting the trials was exacerbated by the on-going guerrilla war between Dutch authorities and Indonesian revolutionaries and in fact the trials ended abruptly in 1949 when 300 years of Dutch colonial rule ended and Indonesia gained its independence.

Minimizing human suffering and protecting persons affected by conflict : a critical appraisal of the compliance system of international humanitarian law

Henok Ashagrey Kremte. In: Beijing law review, Vol. 8, no. 4, December 2017 p. 440-450. - Cote 345.24/404 (Br.)

Egregious violations of international humanitarian law (IHL) are being committed every day both by states and non-state parties to a battle. This does not, however, mean that all contemporary armed conflicts are always and inexorably characterized by sweeping and widespreading violations. Nevertheless, the disregard of IHL causes devastation and appalling suffering for the victims. What makes such violations even more reprehensible is that the sufferings could be avoided had the pertinent IHL rules were respected. Hence, initiatives should focus on enhancing the efficacy of IHL compliance mechanisms to ensure the lofty aim of IHL, minimizing human suffering and protecting victims. In this essay, a scrutiny on the adequacy of current IHL compliance system in light of contemporary armed conflict is made and a conclusion as to the existence of loopholes has been reached.

http://doi.org/10.4236/blr.2017.84024

The Montreux document : report of the Ethiopia regional conference on private military and security companies

[DCAF]. - Geneva : DCAF, 2016. - VI, 94 p. - Cote 345.29/262

The report presents the discussions held at the regional conference in November 2015 in Addis Ababa, Ethiopia and the recommendations arising from it. The conclusions of the event highlighted that the widespread agreement that the provision of private security has undergone an important evolution with a rise in international PMSCs and domestic private security companies. Participants also discussed how the roles and activities of PMSCs have expanded; in Africa today PMSCs provide operational support to humanitarian actors. Finally, a number of participants raised that community experiences with PMSCs should be taken into account in research of PMSCs and expressed the need to translate the MD to local contexts and to develop actionable solutions.

National security and the right to liberty in armed conflict : the legality and limits of security detention in international humanitarian law

Zelalem Mogessie Teferra. In: International review of the Red Cross, Vol. 98, no. 903, December 2016, p. 961-993

This paper examines the legality and limits of security detention in armed conflict situations. It particularly investigates the issues of whether the protection of national security is a legitimate ground to restrict the right to liberty of persons in situations of international or non-international armed conflict, and if so, what

are the limits to a State's prerogative to restrict the right to liberty of individuals suspected of threatening its national security.

https://library.icrc.org/library/docs/DOC/irrc-903-teferra.pdf

Naval mines : legal considerations in armed conflict and peacetime

David Letts. In: International review of the Red Cross, Vol. 98, no. 902, August 2016, p. 543-565

The purpose of this article is to examine the key elements of the legal framework in which naval mines are used both across the spectrum of conflict and during peacetime. The article will also consider the legal issues associated with the use of mines by States in international armed conflict, and address the distinct legal issues which arise in non-international armed conflict, where the emergence of an increasing presence of non-State armed groups has been a hallmark of the late twentieth and early twenty-first centuries. The obligations placed upon States in peacetime, and under the law of neutrality, when the use and presence of naval mines is a relevant factor will also be analyzed.

https://library.icrc.org/library/docs/DOC/irrc-902-letts.pdf

"Necessity knows no law" : the resurrection of Kriegsraison through the US targeted killing programme

Catherine Connolly. In: Journal of conflict and security law, Vol. 22, no. 3, Winter 2017, p. 463-496

The doctrine of Kriegsraison, and its argument that 'necessity knows no law', is generally considered to have been laid to rest with the creation of the 1949 Geneva Conventions. However, this article asserts that Kriegsraison is resurrected and wholly alive in the USAs' targeted killing programme. The targeted killing programme, now in existence for more than 15 years, remains one of the most problematic aspects of US anti-terror policy and continues to raise numerous legal questions. The article argues that treatment of the various legal frameworks relevant to targeted killing by the USA is suffused with Kriegsraison to such an extent that necessity, in its varying iterations, has become the primary guiding principle for US uses of force, and assessments as to their legality. This argument is predicated on an examination of the USAs' expansive interpretation of jus ad bellum principles, its a-la-carte approach in recognising the applicability of jus in bello rules, and the designation of regions in which it uses force as lying 'outside the area of active hostilities'. Throughout this assessment, parallels are drawn between the conduct of the USA today and between that of WWI-era Germany, which was characterised by Kriegsraison's pervasive influence. Finally, the article contends that the use of armed drones as the primary tool for carrying out the targeted killing programme must be scrutinised, as this is vital to understanding the practical implementation of the Kriegsraison doctrine.

https://doi.org/10.1093/jcsl/krx017

Neutrality in international law : from the sixteenth century to 1945

Kentaro Wani. - London ; New York : Routledge, 2017. - XVII, 226 p. - Cote 352/39

Neutrality is a legal relationship between a belligerent State and a State not participating in a war, namely a neutral State. The law of neutrality is a body of rules and principles that regulates the legal relations of neutrality. The law of neutrality obliges neutral States to treat all belligerent States impartially and to abstain from providing military and other assistance to belligerents. The law of neutrality is a branch of international law that developed in the nineteenth century, when international law allowed unlimited freedom of sovereign States to resort to war. Thus, there has been much debate as to whether such a branch of law remains valid in modern international law, which generally prohibits war and the use of force by States. However, there is a general agreement among scholars as to the basic features of the traditional law of neutrality. The author challenges the conventional understanding of the traditional neutrality by re-examining the historical development of the law of neutrality from the sixteenth century to 1945. The modification of the conventional understanding will provide a fundamentally new framework for discussing the current status of neutrality in modern international law.

Non-kinetic capabilities and the threshold of attack in the law of armed conflict

Bart van den Bosch. - In: Netherlands annual review of military studies 2017: winning without killing : the strategic and operational utility of non-kinetic capabilities in crises. - The Hague : Asser Press, 2017. - p. 255-273. - Cote 348/139 (Br.)

In this chapter it is argued that within the framework of the Law of Armed Conflict (LOAC), attack and kinetic operations can be used as equivalents where military operations that do not constitute attacks have a large overlap with non-kinetic operations. These topics present more than just a linguistic exercise because many (restrictive) rules in LOAC are constructed around the definition of 'attack', placing fewer restrictions on other military operations. Traditionally, the qualification of attack is determined by the (intended) physical consequences of a military operations. if it does not (intend to) result in physical consequences, it is not defined as an attack. If this approach is applied to non-kinetic military capabilities, especially in cyberspace with its non-physical components, the questions is raised whether the traditional physical consequences are still valid criteria for determining whether or not a military operations qualifies as attack.

https://library.ext.icrc.org/library/docs/ArticlesPDF/44386.pdf

North Atlantic Treaty Organization-led operations

Marten Zwanenburg. - In: The practice of shared responsibility in international law. - Cambridge : Cambridge University Press, 2017. - p. 639-668. - Cote 345/735

This contribution focuses on shared responsibility in the context of North Atlantic Treaty Organization (NATO)-led operations. Such a focus is timely because NATO-led operations involve a number of different actors, notably NATO itself, troop contributing states, NATO member states not contributing to the operation concerned, as well as a host state. This suggests a large potential for shared responsibility.

http://www.sharesproject.nl/publication/shared-responsibility-in-north-atlantic-treaty-organization-led-operations/

The notion of armed attack under the UN charter and the notion of international armed conflict : interrelated or distinct? : LL.M. Paper (Geneva Academy)

Öykü Irmakkesen. - [S.l] : [s.n], 2014. - 29 p. - Cote 345.22/957 (Br.)

The paper tries to put together the doctrinal discussions regarding the definitions of both terms and to draw a relationship between the two. It is an exercise to push the limits of the strict distinction between jus ad bellum and jus in bello, not in a provocative way but in search of a reconciled international law. Briefly, it attempts to build a bridge between jus ad bellum and jus in bello, which may sound purely theoretical in the first glance but which have direct consequences for the persons affected by the said acts. It starts with comparing jus ad bellum and jus in bello systems. In a first part, it defines armed attack by comparing the notion with two related concepts; aggression and use of force. It examines how and why three different concepts were used by the drafters of the UN Charter and the significance of this choice. In the second part, the notion of international armed conflict is defined and the focused aspect is the beginning of application of International Humanitarian Law. Thus, what is in the focus of the analysis is the triggering act of International Humanitarian Law as opposed to the continuous act of international armed conflict. The third part finally compares the two main notions, that of armed attack and of triggering act of an international armed conflict. In order to do so, it decomposes them to their elements of nature, intensity, origin, target, intent and legality. The number of controversies each of these elements withholds opens to door for further research on issues such as the responsibility of states for the acts of non-state groups or possible responsibility of the non-state groups themselves. The author's conclusion is that the two notions remain strongly distinct and thus that in this specific issue there is no influence of jus ad bellum in jus in bello or vice versa. Consequently, the protection of persons affected by international armed conflicts remain outside the scope of "politics" and safely objective.

http://www.prix-henry-dunant.org/wp-content/uploads/2014_IRMAKKESEN_Paper.pdf

L'obtention du statut de réfugié sous la directive 2004/83/CE pour les déserteurs : un parcours du combattant ? : un commentaire de l'arrêt Shepherd de la Cour de justice de l'Union Européenne

par Charlotte Verrier. In: Revue belge de droit international = Belgian review of international law = Belgisch tijdschrift voor internationaal recht Vol. 49, 2016-2, p. 635-659

L'article analyse l'arrêt Shepherd de la Cour de justice de l'Union européenne du 26 février 2015. La C.J.U.E. s'est pour la première fois prononcée sur l'application de la directive 2004/83 à un soldat américain ayant

déserté de son armée et demandé l'asile dans l'Union européenne. Alors que le statut de réfugié est communément sollicité par des victimes de la guerre, l'affaire Shepherd est singulière en ce que le demandeur quitte son armée pour éviter toute implication dans la commission de crimes de guerre. Face à cette situation inédite, la C.J.U.E. adopte une attitude hostile limitant ainsi les chances de la demande d'aboutir. Cette décision mérite d'être examinée en ce que le raisonnement de la Cour est contestable au regard de sa conformité au droit international. L'article soutient que la Cour empêche le déserteur de bénéficier de la protection prévue par cette directive alors que l'argumentation adoptée dévoile de nombreuses incohérences en droit international.

Occupants, beware of BITs : applicability of investment treaties to occupied territories

Ofilio J. Mayorga. In: The Palestine yearbook of international law, Vol.19, 2016, p. 136-176

This article argues that Occupying Powers are bound by Bilateral Investment Treaties (BITs) incorporated into the domestic legal system of the occupied State before the occupation. Indeed, Article 43 of the Hague Regulations of 1907 requires the Occupying Power to respect the "laws in force" in occupied territories. Part II of this Article shows that the phrase "laws in force" in Article 43 of the Hague Regulations includes pre-occupation BITs between the occupied State and third States. Therefore, the occupant's consent to be bound by those BITs, even if the occupant is not a party to them, is "indirect" or "derivative". This form of consent not only includes the occupant's submission to the substantive guarantees of the applicable BIT, but also to its dispute resolution clauses. This means that foreign investors could assert their rights under pre-occupation BITs against the occupant through international arbitration. Part III explains that the occupant could not rely on its purported immunity from local law to avoid jurisdiction of an investment tribunal. Finally, Part IV discusses the impact of the concurrent application of the law of occupation and BITs in investor-State disputes.

Occupation

Enrico Milano. - In: The practice of shared responsibility in international law. - Cambridge : Cambridge University Press, 2017. - p .733-760. - Cote 345/735

The chapter first identifies a number of relevant scenarios in which questions of shared responsibility have arisen or may potentially arise with regard to occupation, such as the cases of Iraq, the seceding entities in Georgia or Western Sahara. It then discusses applicable primary norms in the context of occupation, with special regards to the practice concerning the application of international humanitarian law and international human rights law. Relevant practice concerning secondary rules, as laid down in the International Law Commission (ILC) Articles on Responsibility of States for Internationally Wrongful Acts (ARISWA) and the Articles on the Responsibility of International Organizations (ARIO) are also discussed, especially with respect to the implementation of responsibility and with respect to third parties' obligations. The procedures and processes of implementation of shared responsiblity in the context of occupation are considered in the following section. Finally, some conclusions concerning the chapter's findings are drawn in the last section.

http://www.sharesproject.nl/publication/the-practice-of-shared-responsibility-in-relation-to-occupation/

Organizing rebellion : non-state armed groups under international humanitarian law, human rights law, and international criminal law

Tilman Rodenhäuser. - Oxford : Oxford University Press, 2018. - XXXVI, 360 p. - Cote 345.29/268

The number of non-state actors, in the past not accountable for committing international crimes or violating human rights, is proliferating rapidly. Their ways of operating evolve, with some groups being increasingly fragmented and others organizing transnationally or in cyber space. As non-state armed groups are involved in the vast majority of todays armed conflicts and crisis situations, a new and increasingly important question has to be raised as to whether, and at what point, these groups are bound by international law and thereby accountable for their acts.

Post-conflict mine action : environment and law

Ursign Hofmann and Pascal Rapillard. - In: Environmental protection and transitions from conflict to peace. - Oxford : Oxford University Press, 2017. - p. 396-419. - Cote 358/160

Contamination from remnants of conflict is a legacy of many armed conflicts, threatening the environment and human security. Addressing these hazards, reopening access to resources and livelihoods and re-establishing basic security, mine action is a critical activity in the transition from conflict to peace. Yet, clearance of remnants on land may also lead to environmental damage. Furthermore, residual risks remain after clearance and states and mine action organizations may face liability in case of accidents. This chapter examines the negative environmental impact of remnants of conflict and discusses the normative framework and good practice aimed to ensure that clearance does not further harm the environment. It is also demonstrated how mine action illustrates and is relevant to a holistic jus post bellum framework. This chapter finally scrutinizes the different challenges related to addressing liability for environmental degradation and damage to individuals from remnants of conflict and from their removal.

http://dx.doi.org/10.1093/oso/9780198784630.003.0017

Prisoners dilemma : ascertaining and augmenting the multinational NIAC detention regime

Yateesh Begoore. - In: Max Planck yearbook of United Nations law. - Leiden : Brill, 2017. - p. 436-458

While International Humanitarian Law (IHL) contains a comprehensive framework of rules and procedural protections for detainees in international armed conflicts (IACS), there is a conspicuous absence of such rules and protections for detainees in the case of non-international armed conflicts (NIACS). In fact, as the recent Serdar Mohammad v. Ministry of Defence case pointed out, the rules pertaining to NIACS make no mention of detention authority at all, leading some scholars to conclude that International Human Rights Law (IHRL), and not IHL, governs NIAC detention.Contrarily, this paper contends that not only does IHL govern (as well as grant authority for) NIAC detentions, the regime's shortcomings regarding procedural safe-guards and treatment standards may be remedied through the application of the Copenhagen Process Principles – as evolutive interpretation or interpretation based on subsequent agreement – to Common Art. 3 of the Geneva Conventions.

Private military contractors

Chia Lehnardt. - In: The practice of shared responsibility in international law. - Cambridge : Cambridge University Press, 2017. - p. 761-780. - Cote 345/735

Contracted by both state and non-state actors, private military contractors provide services that are typically associated with the armed forces of a state. If private military personnel are hired by a state, they remain outside the structure of the state or international organisation. As they are not subjects of international law, private military or security personnel do not incur international responsiblity. At the same time, their conduct might implicate several international law subjects. Therefore, there are two aspects that are central to the question of shared responsbility for the conduct of private military personnel. First, how does the fact that private military contractors are at play affect the responsibility of the contracting state, or the state in whose territory they operate ? Second, are international law subjects that contract them, or allow them to operate, responsible for their conduct?

http://www.sharesproject.nl/publication/the-practice-of-shared-responsibility-in-relation-to-private-military-contractors/

Private security companies and other private security service providers (PSCs) and environmental protection in jus post bellum : policy and regulatory challenges

Onita Das and Aneaka Kellay. - In: Environmental protection and transitions from conflict to peace. - Oxford : Oxford University Press, 2017. - p. 299-325. - Cote 358/160

A challenge to environmental protection and the jus post bellum framework is the rise in Private Security Companies and other Private Security Service Providers (PSCs). The marked increase in the outsourcing of vast amounts of operational and logistical work to PSCs have caused key issues around PSC oversight, regulation, and concern around civilian protection linked to environmental issues to arise. Using the Iraq (2003–11) and Afghanistan (2001–14) conflicts as examples, this chapter explores the growth of PSCs, their environmental performance, and reviews the adequacy of legal and policy frameworks that regulate PSCs to ensure the provision of adequate environmental protection as part of jus post bellum in order to contribute to sustainable peace. Areas of law explored include international humanitarian law, international human rights law, binding legislation and soft law specific to PSCs, contract litigation, corporate liability, state and non-state actor obligations in respect to PSCs, and shared responsibility.

http://dx.doi.org/10.1093/oso/9780198784630.001.0001

Prohibition prescrite au sous-paragraphe b de l'article premier de la Convention sur les armes chimiques : sommes-nous en présence d'un effet générateur d'une règle du droit international coutumier ?

Emilie Fortin. In: Revue québécoise de droit international, No 29.2, 2016, p. 37-74. - Cote 341.67/843 (Br.)

La prohibition de l'emploi de produits chimiques comme moyen de guerre est l'une des plus anciennes règles du droit international humanitaire. Or, les préoccupations actuelles de la communauté internationale face au danger que pose le terrorisme ne peuvent plus exclure la possibilité de leur emploi en dehors du cadre des conflits armés. La détermination du statut de cette règle en droit international général acquiert de plus en plus d'importance. Elle permettrait notamment de cibler les outils dont disposent les États afin d'engager la responsabilité des entités (étatiques ou non) et individus qui auraient violé cette obligation. Cette étude élabore, dans le cadre d'une réflexion préliminaire, les raisons pour lesquelles il est important de porter cette analyse au-delà du régime juridique du droit international humanitaire. Par une démarche détaillée, elle démontre également que le sous-paragraphe (b) de l'article premier de la Convention sur les armes chimiques est pourvu d'un « caractère fondamentalement normatif » et que les deux éléments constitutifs de la création d'une norme coutumière – la pratique étatique et l'opinio juris – ont suivi l'adoption de cette disposition conventionnelle, de sorte qu'elle s'est doublée d'une règle coutumière.

https://www.sqdi.org/fr/prohibition-prescrite-au-sous-paragraphe-b-de-larticle-premier-de-la-convention-sur-les-armes-chimiques-sommes-nous-en-presence-dun-effet-generateur-dune-regle-du-droit-in/

Promoting compliance with the rules regulating humanitarian relief operations in armed conflict : some challenges

Dapo Akande and Emanuela-Chiara Gillard. In: Israel law review, Vol. 50, issue 2, July 2017, p. 119-137. - Cote 361/693 (Br.)

In recent years, the increasingly frequent and, in certain contexts, extremely severe impediments to the provision of humanitarian assistance to civilians in need have focused attention on how to enhance compliance with the rules of international humanitarian law (IHL) that regulate humanitarian relief operations. Efforts to hold accountable parties to armed conflict and persons responsible for unlawfully impeding humanitarian relief operations face the challenge that the underlying rules give parties latitude in how to implement the central obligation to allow and facilitate the rapid and unimpeded passage of humanitarian supplies, equipment and personnel. This article outlines the rules of IHL regulating humanitarian relief operations and highlights the difficulties, in the majority of situations, of determining whether they have been violated. It then presents current endeavours to promote accountability. It concludes with some reflections on whether the threat of accountability is the most effective way of enhancing compliance with this area of IHL, at least while efforts are under way to negotiate access.

https://doi.org/10.1017/S0021223717000048

La protection internationale des personnes déplacées dans les conflits armés : quelques observations autour de la pratique de la Cour européenne des droits de l'homme

par Améyo Délali Kouassi. In: Revue générale de droit international public, Tome 121, no 4, 2017, p. 1013-1030

Le déplacement de millions de personnes, à travers le monde, constitue un défi considérable sur le plan humanitaire et en termes de protection des droits de l'homme. Ce phénomène mobilise ainsi plusieurs acteurs internationaux. Cet article se propose d'examiner par référence aux mécanismes normatifs et opérationnels de protection existants, l'approche suivie par la Cour européenne des droits de l'homme pour garantir les droits des personnes déplacées. Une démarche surtout pro victima qui permet à l'organe de contrôle européen d'assurer, de façon indirecte, la défense des droits des victimes de conflit armé.

La psychologie du combattant et le respect du droit des conflits armés : étude des facteurs criminogènes pouvant influencer le comportement du combattant au regard du droit international humanitaire

Robert Remacle et Pauline Warnotte. - Namur : Presses universitaires de Namur, 2018. - 209 p. - Cote 355/1106

Cet essai s'adresse à toute personne, civile ou militaire, désirant comprendre les circonstances entourant la commission des crimes de guerre. Il décrit le cadre général dans lequel le combattant évolue durant un conflit armé et décortique les facteurs pouvant le pousser à commettre ou non l'irréparable. Si la guerre est brutale et criminogène, des causes internes et externes au combattant influencent en effet son comportement. Un bref aperçu historique des violations les plus graves du droit des conflits armés éclairera ainsi le lecteur sur leur dure réalité. Qui sont ces combattants ? Des hommes ordinaires ? A quelle discipline sont-ils soumis ? L'obéissance aux ordres connaît-elle des limites ? Quels sont les principaux facteurs fauteurs de crimes de guerre ? Jugement ou impunité ? Comment ont été sanctionnés les crimes de guerre et les crimes contre l'humanité dès la seconde moitié du XXe siècle ? Quelle est l'origine des principaux tribunaux pénaux internationaux et ont-ils un avenir ? Autant de questions auxquelles le présent ouvrage tente d'apporter des réponses claires et pragmatiques

Questions/réponses du CICR et lexique sur l'accès humanitaire. In: Revue internationale de la Croix-Rouge : sélection française Vol. 96, 2014/1, p. 293-310

Quels facteurs conduisent à limiter l'accès humanitaire ? Comment le CICR aborde-t-il ces restrictions d'accès ? Quelle est la position du CICR concernant les opérations transfrontalières ? Les préoccupations du CICR relatives à l'accès humanitaire sont-elles récentes ou liées à des contextes spécifiques ? Quelles sont les règles de DIH relatives à l'accès humanitaire ? Les règles de DIH imposent-elles expressément des restrictions à l'accès humanitaire ? Cette section de questions/réponses est suivie d'une partie plus détaillée consacrée au lexique des termes et expressions clés utilisés par le DIH dans ses règles et dispositions relatives à l'accès humanitaire.

https://library.icrc.org/library/docs/DOC/irrc-893-q-a-fre.pdf

Reframing the remnants of war : the role of the International Law Commission, governments, and civil society. - In: Environmental protection and transitions from conflict to peace. - Oxford : Oxford University Press, 2017. - Cote 358/160

Since 2011, states and civil society have sought to draw attention to the health and environmental risks from the toxic remnants of war; a process that has led to the International Law Commission proposing a draft principle that obliges states to help minimize their risks to the environment following conflicts. In addition to raising awareness of the impact and legacy of conflict pollution, the process has helped to reverse the historical decoupling of explosive remnants of war from other physical and toxic war remnants. Itself a product of the humanitarian advocacy framing promoted by the civil society-led campaign against anti-personnel landmines. The new draft principle on the toxic and hazardous remnants of war, which is one of several proposed to help address and remedy environmental damage following conflicts, could eventually help fill a gap in how the international community responds to pollution caused or exacerbated by armed conflict.

http://dx.doi.org/10.1093/oso/9780198784630.003.0019

La réglementation des conflits armés non internationaux : un privilège de belligérance peut-il être envisagé dans le droit des conflits armés non internationaux ?

Claus Kress et Frédéric Mégret. In: Revue internationale de la Croix-Rouge : sélection française Vol. 96, 2014/1, p. 29-68

La section Débat de la Revue vise à contribuer à la réflexion sur des questions contemporaines relatives au droit, à la politique et à l'action humanitaires. Dans ce numéro de la Revue, nous avons invité deux experts en droit international humanitaire (DIH), Claus Kress et Frédéric Mégret, à discuter de la manière dont le DIH applicable aux conflits armés non internationaux (CANI) pourrait être développé. Le professeur Kress suggère la création d'une nouvelle norme de droit international interdisant les CANI, un jus contra bellum internum, accompagnée d'un ensemble correspondant de règles applicables aux CANI, un jus in bello interno. Ce jus in bello interno accorderait aux acteurs non étatiques dans les CANI, un « privilège de

belligérance », semblable au « privilège du combattant » dans les conflits armés internationaux, qui les inciterait à se conformer à ces nouvelles règles de la guerre civile. Frédéric Mégret se livre, quant à lui, à un examen critique de ce privilège de belligérance en soulignant les aspects les plus problématiques et conclut que l'octroi systématique d'un tel privilège n'est, en réalité, pas souhaitable.

https://library.icrc.org/library/docs/DOC/irrc-893-krev-megret-fre.pdf

La réglementation internationale du commerce international des armes classiques : le traité du 2 avril 2013 et la protection de la personne

Emmanuel Guematcha. In: Revue québécoise de droit international, No 29.2, 2016, p. 75-109. - Cote 341.67/852 (Br.)

L'adoption du Traité sur le commerce des armes par l'Assemblée générale des Nations unies marque une étape essentielle dans la réglementation internationale du commerce des armes classiques. Cette adoption est sans doute une avancée dans la prévention de la commission de crimes internationaux, des violations des droits de l'homme et du droit international humanitaire causés par l'utilisation des armes classiques. Le Traité établit un équilibre entre les intérêts des États dans le domaine du commerce des armes classiques et la protection des droits de la personne. Cet équilibre reste cependant fragile et la protection de la personne relative. Le champ d'application du Traité est dans une certaine mesure restreint et il n'existe pas d'organe international et indépendant de contrôle de ses dispositions.

https://www.sqdi.org/wp-content/uploads/75-109-493_Guematcha.pdf?x85994

Regulating cyber operations through international law : in, out or against the box ?

Matthew Hoisington. - In: Ethics and policies for cyber operations : a NATO Cooperative Cyber Defence Centre of Excellence initiative. - [Cham] : Springer, 2017. - p. 87-98. - Cote 348/134

A great deal has been written about the international legal regulation of cyber operations with respect to the use of force (jus ad bellum), in situations of armed conflict (jus in bello) and during times of peace. International lawyers have offered their expertise on how and in what ways international law should respond to the challenges and opportunities raised. The approaches have generally, although not exclusively, fallen into two separate categories. Either the underlying issues presented by cyber operations can be addressed by existing rules and international legal structures, or cyber operations present something so fundamentally new that a whole new set of rules and structures is required. A third approach suggests that existing structures may in fact be up to the challenge of cyber operations, but that in order to be effective, the discipline must reject those parts of itself that are incompatible with this new subject matter—in effect, going against existing doctrine in an effort to address the regulatory demands presented. Which of these three approaches—"in," "out" or "against" the box—is the right one? A critical examination of existing law, policy and practice in this area yields interesting, if not entirely satisfying, answers.

Reparation for environmental damage in jus post bellum : the problem of shared responsibility

Ilias Plakokefalos. - In: Environmental protection and transitions from conflict to peace. - Oxford : Oxford University Press, 2017. - p. 258-273. - Cote 358/160

This chapter explores the problems that environmental damage in armed conflict pose to the determination of shared responsibility, and especially the determination of reparations, in the context of the jus post bellum. When two actors are engaged in armed conflict, there arise no serious issues as to sharing responsibility for violations. But the fact that modern armed conflicts often involve more than two actors (e.g. Libya 2011) complicates the matters arising out of environmental harm, as there may be two or more actors contributing to the same harmful event. This is a typical situation of shared responsibility. Shared responsibility provides that the problem of reparations for environmental harm is to be examined in situations where there is a multiplicity of actors that contribute to a single harmful outcome. This definition covers the breach of obligations under jus ad bellum and jus in bello, as well as under international environmental law.

http://dx.doi.org/10.1093/oso/9780198784630.003.0012

Reparations for the victims of conflict in Iraq : lessons learned from comparative practice

Clara Sandoval and Miriam Puttick. - London : Ceasefire Centre for Civilian Rights ; Minority Rights Group International, November 2017. - 34 p. - Cote 345.24/406

Millions of Iraqi victims have suffered over decades as a consequence of gross human rights violations and serious violations of humanitarian law. Conflict with ISIS has led to the displacement of over 3.1 million people, the killing of thousands, and targeted campaigns against ethnic and religious communities. The conflict has also resulted in widespread damage to infrastructure and personal property. At the same time, state institutions in large parts of the country have been left paralyzed and incapable of providing basic services to citizens. The report assesses Iraq's existing reparations scheme, which has paid out over IQD 420 billion (USD 355 million) in recent years to the victims of 'military operations, military mistakes and terrorist actions'. But the most recent and complex phase of the conflict raises new challenges, requiring that the existing reparations system be strengthened. The report seeks to inform the discussion on reparations in Iraq through analysis of both international and domestic practice, and suggests concrete recommendations to both the Iraqi government and the international community for providing adequate and effective reparations to victims.

http://minorityrights.org/publications/reparations-victims-conflict-iraq-lessons-learned-comparative-practice/

Restrictions on the use of force at sea : an environmental protection perspective

Jinxing Ma and Shiyan Sun. In: International review of the Red Cross, Vol. 98, no. 902, August 2016, p. 515-541

The restrictions on the use of force at sea exist in different branches of international law: the law of the sea and environmental law, mainly applicable during peacetime, and international humanitarian law (IHL), as the law applicable in times of armed conflict. Different rules from these areas must be compared and analyzed to determine the common principles applicable to restricting the use of force at sea for the purposes of environmental protection. Taking into account the particular problems of protecting the marine environment in the context of the use of force, the law of the sea and international environmental law should be applied to restrict means and methods of using force at sea during armed conflict. The detailed concepts and approaches in the law of the sea and environmental law may complement IHL, and the precautionary principle of international environmental law should be triggered to address the lacunae in IHL protecting the marine environmental during armed conflict.

https://library.icrc.org/library/docs/DOC/irrc-902-ma.pdf

Revisionist just war theory and the concept of war crimes

Alejandro Chehtman. In: Leiden journal of international law, Vol. 31, no. 1, March 2018, p. 171-194

Under contemporary international law, war crimes are conceived as particularly serious violations of the laws of armed conflict. Mere participation of rank-and-file soldiers in an unjust or unlawful war is generally not considered to warrant legal punishment. This position is based on the principle of equality between belligerents. During the last 20 years, this principle has been challenged by the so-called revisionist position in just war theory, as well as by certain scholars in international law. According to them, unjust or unlawful participants in armed conflict perpetrate serious wrongs. This article argues that their conduct is not only morally wrongful, but also that it should be criminalized under certain circumstances. On the basis of empirical research on cognitive biases, and on one of the leading accounts of legitimate authority in political philosophy, it argues that participation in war warrants criminalization only when the war is knowingly or manifestly unlawful. Furthermore, it claims that this position is not only sound at the level of deep moral principles, but that in fact it provides a persuasive reinterpretation of existing international law.

https://doi.org/10.1017/S0922156517000498

Revisiting the law of occupation

by Hanne Cuyckens. - Leiden ; Boston : Brill Nijhoff, 2018. - VII, 288 p. - Cote 351/137

In Revisiting the Law of Occupation, Hanne Cuyckens assesses the crucial challenges faced by the law of occupation. Through examples such as the occupation of the Palestinian Territories and the 2003 occupation of Iraq, the author convincingly demonstrates that although the law of occupation may no longer be

perceived as adequate to address contemporary forms of occupation, a formal modification of the law is neither desirable nor feasible. The author identifies means by which the potential dichotomy between the law and the facts can be addressed without formal modification of the former: 1) flexible interpretation of the law itself; 2) the role of International Human Rights law as gap-filler; and 3) the role of the UNSC as a modulator of the law.

The right to life in armed conflict

Ian Park. - Oxford : Oxford University Press, 2018. - XXVI, 239 p. - Cote 345.1/670

The application of the right to life during armed conflict is an issue that polarizes opinion and generates considerable debate. Many believe that human rights law has no place in armed conflict, yet the European Court of Human Rights, and domestic courts, have ruled that it can apply. The exact contours of how the right to life applies during armed conflict remain largely unresolved. In this text, Ian Park seeks to clearly articulate the right to life obligations of states during both international and non-international armed conflict in respect of those individuals affected by the actions of states' armed forces and members of the armed forces themselves. In determining the right to life obligations of states, Park identifies the sources of law from which right to life obligations arise, how case law has developed and modified these obligations, and analyses how the law creates obligations in practice. Implicit in this analysis is a consideration of recent armed conflicts, and the actions of states, that lead to a series of concrete proposals designed to best ensure compliance with a state's right to life obligations.

Rights under international humanitarian law

Lawrence Hill-Cawthorne. In: European journal of international law, Vol. 28, no. 4, November 2017, p. 1187-1215

The idea of 'rights' under the law of war historically referred to state or belligerent rights – that is, rights to engage in actions not permitted under the law of peace. The different sense of rights of individuals was absent from those traditional accounts of the law, and whether individuals are granted rights (for example, of prisoners of war to be humanely treated, of civilians not to be targeted) under contemporary international humanitarian law (IHL) remains contested. This article explores how this debate has developed in recent history. It argues that clear support for the notion of individual rights during the drafting of the 1907 Hague Convention IV and subsequent treaties seemed to be overtaken by state practice in the area of war reparations, only to re-emerge in more recent practice that, in part, is shown to be a result of a more legalized approach to the invocation of responsibility for IHL violations. This growing support for the individual rights perspective of IHL is then juxtaposed with the re-emergence of state rights. The article concludes that these two different notions of 'rights' under IHL present two fundamentally opposing visions for the law's role in regulating armed conflict.

https://doi.org/10.1093/ejil/chx073

Routledge handbook of military ethics

ed. by George Lucas. - London ; New York : Routledge, 2015. - XXVI, 449 p. - Cote 355/1105

This comprehensive reference work addresses concerns held in common by the military services of many nations. It attempts to discern both moral dilemmas and clusters of moral principles held in common by all practitioners of this profession, regardless of nation or culture. Comprising essays by contributors drawn from the four service branches (Army, Navy, Air Force, and Marine corps) as well as civilian academics specializing in this field, this handbook discusses the relationship of "ethics" in the military setting to applied and professional ethics generally. Leading scholars and senior military practitioners from countries including the US, UK, France, China, Australia and Japan, discuss various national cultural views of the moral dimensions of military service. With reference to the responsibilities of professional orientation and education, as well as the challenges posed by recent technological developments, this handbook examines the difficulties underpinning the fundamental framework of military service.

The Saudi-led coalition in Yemen, arms exports and human rights : prevention is better than cure

Shavana Musa. In: Journal of conflict and security law, Vol. 22, no. 3, Winter 2017, p. 433-462

The transfer of arms has long been on the agenda of States. While they continue to be the object of defence, security and economic affection, the consequences spiralling from poorly regulated arms transfers can be

devastating. In fact, the lack of a stringently applied legal framework can not only lead to the illicit trafficking of arms, but can have more serious humanitarian and developmental consequences. Nothing can signify what is meant by 'devastating' quite like the conflict situation in Yemen. At the heart of Yemeni reports has been the involvement of countries like the UK and the USA in inadvertently causing a percentage of the bloodshed through its supply of weapons to Saudi Arabia. This article assesses the issue of arms trade regulation and international law. It pays specific attention to the importance of integrating human rights and humanitarian laws within arms exporting processes and analyses the development of international law on arms transfers within the context of the Yemen conflict.

https://doi.org/10.1093/jcsl/krx013

The Security Council and international law enforcement : a Kelsenian perspective on civilian protection peacekeeping mandates

Harry Aitken. In: Journal of conflict and security law, Vol. 22, no. 3, Winter 2017, p. 395-432

The prevailing view among scholars is that the Security Council's ('Council') enforcement powers are political in nature; Chapter VII of the UN Charter ('Charter') allows the Council extensive political discretion to decide if, when and how to use force to restore international peace and security. This article seeks to challenge and refine this conception of the Council in the sphere of peacekeeping. It does so by analysing Council resolutions mandating civilian protection missions through the prism of Hans Kelsen's writings on the Council's law enforcement function. Applying the Kelsenian lens, it is argued that the Council's resolutions are framed as quasi-judicial decisions, in which it proclaims violations of public international law, and its authorisations for peacekeepers to use force are a form of sanction, which aim at the restoration of legality. The analysis of civilian protection mandates sheds light on the sub-textual interaction between Article 39 and Article 42 of the Charter, in which the Council interprets threats to or breaches of the peace in terms of violations of international humanitarian law and human rights and views the restoration of peace and security as the cessation of those violations. This practice, it is submitted, has implications for the political conception of the Council. It shows the Council voluntarily curtailing the discretion afforded to it in Chapter VII in terms of the triggers of enforcement action and the shape its measures take. This article concludes with some thoughts on how the Council's law enforcement approach can be reconciled with its inherently political character.

https://doi.org/10.1093/jcsl/krx010

State responsibility for international humanitarian law violations by private actors in occupied territories and the exploitation of natural resources

Marco Longobardo. In: Netherlands international law review Vol. 63, no. 3, October 2016, p. 251-274. - Cote 351/136 (Br.)

The interplay between public and private actors in the exploitation of natural resources in an occupied territory makes the regime of state and individual responsibility particularly complex in cases of exploitation by private actors that result in a breach of international humanitarian law. The Occupying Power has the duty not to deplete the natural resources of the occupied territory and, according to the case law of the International Court of Justice, it must also ensure that private actors do not exploit the natural resources of the occupied territory in violation of international humanitarian law. This paper explores the legal basis of this duty of vigilance and the consequences of the Occupying Power's responsibility for the acts of private actors.

Strengthening IHL protecting persons deprived of their liberty : main aspects of the consultations and discussions since 2011

Tilman Rodenhäuser. In: International review of the Red Cross, Vol. 98, no. 903, December 2016, p. 941-959

One key area in which international humanitarian law (IHL) needs strengthening is the protection of persons deprived of their liberty in relation to non-international armed conflicts (NIACs). While the Geneva Conventions contain more than 17 5 rules regulating deprivation of liberty in relation to international armed conflicts in virtually all its aspects, no comparable legal regime applies in NIAC. Since 2011, States and the International Committee of the Red Cross (ICRC) have worked jointly on ways to strengthen IHL protecting persons deprived of their liberty. Between 2011 and 2015, the ICRC facilitated consultations to identify options and recommendations to strengthen detainee protection in times of armed conflict; since 2015, the objective of the process has shifted towards work on one or more concrete and implementable outcomes.

The present note recalls the legal need to strengthen detainee protection in times of NIAC and the main steps that have been taken over the past years to strengthen IHL.

https://library.icrc.org/library/docs/DOC/irrc-903-rodenhaüser.pdf

Tear gas, expanding bullets and plain-clothed personnel : the interface between human rights and humanitarian law in modern military operations

Cornelius Wiesener. In: Humanitäres Völkerrecht : Informationsschriften = Journal of international law of peace and armed conflict, Vol. 30, 3-4/2017, p. 82-90

This article examines the interplay between human rights law and humanitarian law in relation to riot control agents (such as tear gas), expanding bullets and plain-clothed forces. While outlawed under humanitarian law, they are widely used by police in peace time and not subject to similar bans under human rights law. Surprisingly, the legal challenges arising from their potential use in modern military operations have so far received only limited scholarly attention. This article tries to fill that gap and endeavours to contribute to the broader debate on the interplay between human rights and humanitarian law in (international) military operations. Drawing on the relevant preparatory works as well as subsequent practice and recent jurisprudence, this article shows that the humanitarian law rules on the use of riot control agents, expanding bullets and plain-clothed personnel provide for a sufficiently broad law-enforcement exception. Hence, they can be used in times of armed conflict outside of combat operations.

Totality of the circumstances : the DoD law of war manual and the evolving notion of direct participation in hostilities

Ryan T. Krebsbach. In: Journal of national security law and policy, Vol. 9, no. 1, 2017, p. 125-157. - Cote 345.25/369 (Br.)

This article addresses the evolving notion of direct participation in hostilities, primarily by contrasting the views of a private, international organization – the International Committee of the Red Cross (ICRC) – in its Interpretive Guidance on the Notion of Direct Participation in Hostilities Under International Humanitarian Law, with that of the approach taken by the United States – a nation that has been engaged in continuous armed conflict for over fifteen years – in the Department of Defense (DoD) Law of War Manual. This article concludes that the ICRC approach would inappropriately permit de facto combatants to apply the law of armed conflict as a shield to permit them to support non-State armed forces in a manner similar to that of members of State armed forces but without the corresponding risk of being lawfully targeted at any time. The preferred approach in determining whether an individual has become a member of a non-State armed group is to consider whether, under a totality of the circumstances, he performs functions for that group, either formally or on a continuous basis, that would ordinarily be associated with functions performed by a member of a State armed force. If so, then that individual is a combatant who may be lawfully targeted.

http://jnslp.com/wp-content/uploads/2017/04/Totality_of_the_Circumstances_FINAL.pdf

Towards an International Code of Conduct for Private Security Providers : a view from inside a multistakeholder process

Anne-Marie Buzatu. - Geneva : DCAF, 2015. - 115 p. - Cote 345.29/263

This paper has five main parts: a conceptual section presenting the context out of which the ICOC initiative emerged, two sections that present in chronological fashion the developments leading to the creation of the ICOC and ICOCA respectively, and two sections taking stock and looking ahead, reflecting on lessons learned from these multistakeholder processes and considering what further work is required to support the effectiveness of this approach in accomplishing its ambitious goals going forward.

Transposition de la notion de "fonction de combat continue" dans les conflits armés internationaux et son application aux forces armées gouvernementales dans les conflits armés non internationaux : Essai final L.LM en droit international humanitaire et droits humains (Geneva Academy)

par Sabrina Henry. - [s.l] : [s.n], 2015. - 36 p. - Cote 345.23/115 (Br.)

Ce mémoire aborde l'un des défis qui peut être observé dans les conflits armés contemporains, c'est-à-dire la détermination du statut, dans la conduite des hostilités, de certains acteurs impliqués dans ces conflits. Ce travail a pour objectif de démontrer que le concept de « fonction de combat continue » développé par le

Comité international de la Croix-Rouge devrait être étendu à des catégories d'acteurs autres que celles pour lesquelles il a initialement été conçu. Pour ce faire, l'auteure démontre la nécessité de transposer ce concept dans les conflits armés internationaux à partir de trois scénarios: les membres irréguliers tel que définis à l'article 4A(2) de la Convention de Genève III, le statut des opérateurs de drones de la CIA, et le statut de certains individus engagés par des entreprises militaires et de sécurité privées. Ainsi, à l'aide de ces exemples, l'auteure démontre la nécessité de transposer la « fonction de combat continue » à ces acteurs, mais également que cette possibilité est implicitement envisagée par le Comité international de la Croix-Rouge pour certaines catégories d'acteurs dans son Guide interprétatif sur la notion de participation directe aux hostilités. Le deuxième chapitre propose que la notion « des forces armées » devrait être définie autrement dans les conflits armés non internationaux et suggère que le concept de « fonction de combat continue » soit également utilisé afin de déterminer qui peut être considérée comme étant une cible légitime au sein des forces armées étatiques dans les conflits de nature non internationale. L'auteure soutient que cette transposition s'avère nécessaire puisque la nature des parties impliquées dans ce type de conflits diffère fondamentalement de celles retrouvées dans un conflit armé international. Ainsi, ce mémoire suggère qu'une interprétation différente de la notion « des forces armées » dans les conflits armés non internationaux permettrait de restaurer le déséquilibre observé entre les forces armées étatiques et les membres de groupes armés non étatiques.

http://www.prix-henry-dunant.org/wp-content/uploads/PHD-Press-Release-Sabrina-Henry-2016-Field-French.pdf

UN peacekeeping operations and the protection of civilians : saving succeeding generations

Conor Foley. - New York : Cambridge University Press, 2017. - XVI, 418 p. - Cote 345.29/254

This book is based on the author´s experience of working for more than two decades in over thirty conflict and post-conflict zones. It is written for those involved in UN peacekeeping and the protection of civilians. It is intended to be accessible to non- lawyers working in the field who may need to know the applicable legal standards relating to issues such as the use of force and arrest and detention powers on the one hand and the delivery of life-saving assistance according to humanitarian principles on the other. It will also be of interest to scholars and students of peacekeeping, international law and international relations on the practical dilemmas facing those trying to operationalise the various conceptions of 'protection' during humanitarian crises in recent years.

Underground warfare

Daphné Richemond-Barak. - New York : Oxford University Press, 2018. - XXII, 270 p. - Cote 345.25/365

Underground warfare, a tactic of yesteryear, has re-emerged as a global and rapidly diffusing threat. This book is the first of its kind to examine tunnel warfare in a systematic and comprehensive way, addressing the legal issues while keeping in mind operational and strategic challenges. Like many other aspects of contemporary warfare, the renewed use of the subterranean in armed conflict presents a challenge for democracies wishing to abide by the law. Dr. Richemond-Barak analyzes traditional concepts of the laws of war as they relate to tunnels and underground operations, contemplating questions such as whether tunnels constitute legitimate targets, the assessment of proportionality in anti-tunnel operations, and the availability of advanced warning in this complex terrain. She also identifies issues that are unique to underground warfare, including those that arise when cross-border tunnels burrow under a state's own civilian infrastructure.

United Nations peacekeeping operations

Ray Murphy and Siobhán Wills. - In: The practice of shared responsibility in international law. - Cambridge : Cambridge University Press, 2017. - p. 585-612. - Cote 345/735

This chapter examines situations in which different entities involved in United Nations peacekeeping missions have interfered with the rights of third parties, or have acted in violation of their common obligations and in so doing caused harm, so that shared responsiblity may be engaged.

http://www.sharesproject.nl/publication/the-practice-of-shared-responsibility-of-united-nations-peacekeeping-operations-for-harmful-outcomes/

Unmanned maritime systems: does the increasing use of naval weapon systems present a challenge for IHL?

Wolff Heintschel von Heinegg. - In: Dehumanization of warfare : legal implications of new weapon technologies. - Cham : Springer, 2018. - p. 119-126. - Cote 341.67/845

The legal status of unmanned maritime systems is unsettled. Whereas this does not pose insurmountable problems in times of peace, it could prove as an obstacle to the use of unmanned maritime systems for the exercise of belligerent rights in times of international armed conflict. Nevertheless, unmanned maritime systems will qualify as means of warfare, if they are used for attack purposes. While they are not unlawful per se, even if semi-autonomous or autonomous, their use will have to be in compliance with targeting law.

The updated ICRC commentary on the Second Geneva Convention : demystifying the law of armed conflict at sea

Bruno Demeyere, Jean-Marie Henckaerts, Heleen Hiemstra and Ellen Nohle. In: International review of the Red Cross, Vol. 98, no. 902, August 2016, p. 401-417

Since their publication in the 1950s and 1980s respectively, the Commentaries on the Geneva Conventions of 1949 and their Additional Protocols of 1977 have become a major reference for the application and interpretation of those treaties. The International Committee of the Red Cross, together with a team of renowned experts, is currently updating these Commentaries in order to document developments and provide up-to-date interpretations of the treaty texts. Following a brief overview of the methodology and process of the update as well as a historical background to the Second Geneva Convention, this article addresses the scope of applicability of the Convention, the type of vessels it protects (in particular hospital ships and coastal rescue craft), and its relationship with other sources of international humanitarian law and international law conferring protection to persons in distress at sea. It also outlines differences and commonalities between the First and the Second Conventions, including how these have been reflected in the updated Commentary on the Second Convention. Finally, the article highlights certain substantive obligations under the Convention and how the updated Commentary addresses some of the interpretive questions they raise.

https://library.icrc.org/library/docs/DOC/irrc-902-demeyere.pdf

Victims of environmental harm during conflict : the potential for 'justice'

Merryl Lawry-White. - In: Environmental protection and transitions from conflict to peace. - Oxford : Oxford University Press, 2017. - p. 367-395. - Cote 358/160

This chapter considers the interaction of some of the applicable norms related to liability and reparation for environmental damage in a post-conflict setting, including human rights and humanitarian law norms (including precedents) and their interaction with each other, with a focus on the potential consequences for victims. Using displacement as a specific case study, the discussion regarding potential consequences is supported by the learning that may be drawn from precedent reparations schemes, including those implemented in a 'transitional justice' framework as part of an attempt to afford 'justice' for breaches of human rights and humanitarian law (whether related to the environment or otherwise). The chapter considers some of the potential challenges of this interaction, particularly for justice initiatives, and particularly reparations schemes, experienced in the aftermath of conflict, such as constructing a coherent post-conflict narrative, restitution (or 'truth'), awarding reparation (including 'restitution'), and reconciliation as part of 'peacebuilding'.

http://dx.doi.org/10.1093/oso/9780198784630.003.0016

Violence without borders : the legal ramifications of the airstrike on the Médecins Sans Frontières hospital in Kunduz on 3 October 2015

Parthan Shiv Vishvanathan. In: AALCO journal of international law, Vol. 4, issue 1, 2015. - Cote 359/113 (Br.)

The recent attack on the hospital in Kunduz that was being operated by Médecins Sans Frontières, also known as "Doctors Without Borders", is only the latest tragic reminder of the terrible consequences of armed conflicts, even for those not participating in hostilities. International humanitarian law was created for the specific purpose of preventing such tragedies, and, while inquiries and investigations into the incident are being conducted, this paper examines the legal dimensions of the infraction and the possibility of it being considered a "war crime".

https://library.ext.icrc.org/library/docs/ArticlesPDF/44503.pdf

War at sea : nineteenth-century laws for twenty-first century wars ?

Steven Haines. In: International review of the Red Cross, Vol. 98, no. 902, August 2016, p. 419-447

While most law on the conduct of hostilities has been heavily scrutinized in recent years, the law dealing with armed conflict at sea has been largely ignored. This is not surprising. There have been few naval conflicts since 1945, and those that have occurred have been limited in scale; none has involved combat between major maritime powers. Nevertheless, navies have tripled in number since then, and today there are growing tensions between significant naval powers. There is a risk of conflict at sea. Conditions have changed since 1945, but the law has not developed in that time. Elements of it, especially that regulating economic warfare at sea, seem outdated and it is not clear that the law is well placed to regulate socalled "hybrid" warfare at sea. It seems timely to review the law, to confirm that which is appropriate and to develop that which is not. Perhaps a new edition of the San Remo Manual would be timely.

https://library.icrc.org/library/docs/DOC/irrc-902-haines.pdf

War crimes : increasing compliance with international humanitarian law through international criminal law ?

Dale Stephens and Thomas Wooden. - In: International criminal law in context. - London ; New York : Routledge, 2018. - p. 109-129. - Cote 344/714

Retracing the history of the prosecution of war crimes, this chapter discusses the role of international criminal law to prevent serious violations of international humanitarian law.

The war report : armed conflicts in 2017

Annyssa Bellal... [et al.]. - Geneva : The Geneva Academy of International Humanitarian Law and Human Rights, March 2018. - 159 p. - Cote 345.21/46 (2017)

In 2017, 55 situations of armed violence amounted to armed conflicts according to the definitions under international humanitarian law (IHL) and international criminal law (ICL). The vast majority were non-international armed conflicts (NIACs), as in preceding years. The analysis highlights two salient features: the multiplication of armed non-state actors (ANSAs) and unprecedented casualties linked to armed gang violence. The 160 page War Report 2017 identifies, describes and discusses the situations of armed violence that amounted in 2017 to armed con?icts, in accordance with the de?nitions under IHL and ICL. In 2017, 55 armed conflicts occurred in 29 states and territories: Afghanistan, Azerbaijan, Colombia, Cyprus, the Democratic Republic of Congo (DRC), Egypt, Eritrea, Georgia, India, Iraq, Lebanon, Libya, Mali, Mexico, Moldova, Myanmar, Nigeria, Pakistan, Palestine, the Philippines, Somalia, South Sudan, Sudan, Syria, Thailand, Turkey, Ukraine, Western Sahara and Yemen.

https://www.geneva-academy.ch/joomlatools-files/docman-files/The%20War%20Report%202017.pdf

War, weapons and watchdogs : an assessment of the legality of new weapons under international human rights law

Helin M. Laufer. In: Cambridge international law journal, Vol. 6, no. 1, June 2017, p. 62-74. - Cote 341.67/853 (Br.)

This paper critically analyses the International Committee of the Red Cross' new weapons review and emphasise the importance of considering human rights in the assessment of the legality of weapons. Further, the paper illustrates this practically by analysing the legality of drones and killer robots from the perspective of the right to life and the prohibition against torture and cruel, inhuman and degrading treatment.

https://doi.org/10.4337/cilj.2017.01.04

Welcome on board : improving respect for international humanitarian law through the engagement of armed non-state actors

Annyssa Bellal. In: Yearbook of international humanitarian law, Vol. 19, 2016, p. 37-61

Contemporary armed conflicts are characterised by an increase of violence against civilians and a lack of compliance with international humanitarian law (IHL) by both states and armed non-state actors (ANSAs). The international community has acknowledged the importance of engaging ANSAs on compliance with international norms to any effort to improve the protection of civilians in armed conflict, despite the fact that it is, in some contexts, actively discouraged or even prohibited by states. This chapter aims at identifying the key elements as well as the challenges underlying the humanitarian engagement of armed non-state actors. It will argue that meaningful engagement, that is engagement that also takes on board the views, perceptions and conceptions of international norms by ANSAs calls for a much more sustained effort from the part of the international community. These efforts include the need of more systematic research on the facts and scale in which ANSAs allegedly violate IHL, more inquiry in their actual practice and their impact on the development of international norms, a clarification on the applicable legal framework as well as a more thorough reflection on means to establish a coherent and just system of accountability in case of violations.

When is a conflict international ? time for new control tests in IHL

Djemila Carron. In: International review of the Red Cross, Vol. 98, no. 903, December 2016, p. 1019-1041

This article clarifies the control a State should have over an armed group for the triggering act of an international armed conflict and for the internationalization of non-international armed conflicts in international humanitarian law. It explains the reasons for the distinction between these two types of attribution and details the specificities of each test, with an innovative approach. The author proposes new control tests for both triggering and internationalization, rejecting the effective and overall control tests regarding internationalization proposed by the International Court of Justice and the International Criminal Tribunal for the former Yugoslavia. For instance, regarding the internationalization of a non-international armed conflict, a general and strict control test is proposed. Finally, this article addresses specific issues like the difficult question of the control required for an occupation through an armed group.

https://library.icrc.org/library/docs/DOC/irrc-903-carron.pdf

Women in the archive : locating the international tracing service in German memory work

Silke Von der Emde. In: Seminar : a journal of Germanic studies, Vol. 53, no. 3, September 2017, p. 202-218. - Cote 603/603 (Br.)

The International Tracing Service in Bad Arolsen is one of the largest collections of documents related to the Holocaust and Nazi persecution in the world. Originally set up as a tracing service to help provide information for survivors and family members of victims, it has become an invaluable centre for documenting Nazi persecution since it was opened to researchers in 2007. This paper analyzes the interaction of the people of Bad Arolsen with the ITS, which was set up in their small town without their consent. By focusing on the gender relations inscribed into the archive and on the way the people of Bad Arolsen interacted with the archive, the author shows how we arrive at an expanded notion of the archive on the one hand and at a more multi-dimensional understanding of cultural memory on the other.

https://library.ext.icrc.org/library/docs/ArticlesPDF/44504.pdf

A world history of war crimes : from Antiquity to the present

Michael Bryant. - London [etc.] : Bloomsbury, 2016. - VIII, 289 p. - Cote 344/715

A World History of War Crimes provides a truly global history of war crimes and the involvement of the legal systems faced with these acts. Documenting the long historical arc traced by human efforts to limit warfare, from codes of war in antiquity designed to maintain a religiously conceived cosmic order to the gradual use in the modern age of the criminal trial as a means of enforcing universal norms, this book provides a comprehensive one-volume account of war and the laws that have governed conflict since the dawn of world civilizations. Throughout his narrative, Michael Bryant locates the origin and evolution of the law of war in the interplay between different cultures. While showing that no single philosophical idea underlay the law of war in world history, this volume also proves that war in global civilization has rarely been an anarchic free-for-all. Rather, from its beginnings warfare has been subject to certain constraints defined by the unique needs and cosmological understandings of the cultures that produce them. Only in late modernity has law assumed its current international humanitarian form. The criminalization of war crimes in international courts today is only the most recent development of the ancient theme of constraining when and how war may be fought.

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