BIBLIOGRAPHY
3rd Issue 2018

International Humanitarian Law

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

ICRC

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International Committee of the Red Cross
Library and Public Archives
19, avenue de la Paix
1202 Geneva
Tel: +41-22-730-2030
Email: library@icrc.org
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Introduction

The International Committee of the Red Cross Library

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

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

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

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

Origin and purpose of the IHL bibliography

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

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

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

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

How to use the IHL Bibliography

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

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

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

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

Access to document

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

Chronology

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

Contents

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

Sources

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

Disclaimer

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

Subscription and feedback

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

I. General issues

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

The companion to international humanitarian law

ed. by Dražan Djukic, Niccolò Pons. - Leiden ; Boston : Brill Nijhoff, 2018. - XL, 719 p.

Comparing experiences : engaging states and non-state armed groups on international humanitarian law

Andrew Carswell and Jonathan Somer. - In: The companion to international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2018. - p. 39-55

Current challenges to normative restrictions on warfare

Michael Brzoska. In: S+F : Sicherheit und Frieden, Jg. 36, H. 1, 2018, p. 34-39
https://library.ext.icrc.org/library/docs/ArticlesPDF/45294.pdf

'Explosive missals' : international law, technology, and security in nineteenth-century disarmament conferences

Scott Keefer. In: War in History, Vol. 21, no. 4, 2014, p. 445-464
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From slaves to prisoners of war : the Ottoman Empire, Russia and international law

Will Smiley. - Oxford : Oxford University Press, 2018. - X, 283 p.

The Hague Conferences and international politics, 1898-1915

Maartje Abbenhuis. - London [etc.] : Bloomsbury Academic, 2019. - XIII, 294 p.

Human rights, humanitarianism, and the practices of humanity

Michael Barnett. In: International theory, Vol. 10, issue 3, November 2018, p. 314-349
https://doi.org/10.1017/S1752971918000118

Human rights in war : on the entangled foundations of the 1949 Geneva Conventions

by Boyd van Dijk. In: American journal of international law, Vol. 112, no. 4, October 2018, p. 553-582
https://doi.org/10.1017/ajil.2018.84

In defense of concurrent application: the ILC draft articles on the protection of persons in the event of disasters and international humanitarian law

Aldo Perez. In: Denver journal of international law and policy, Vol. 46, no. 3, p. 259-288

Indeterminacy in the law of war : the need for an international advisory regime

Ariel Zemach. In: Brooklyn Journal of International Law, Vol. 43, issue 1, 2017, p. 1-74
https://brooklynworks.brooklaw.edu/bjil/vol43/iss1/25

International humanitarian law : cases, materials and commentary

Nicholas Tsagourias, Alasdair Morrison. - Cambridge [etc.] : Cambridge University Press, 2018. - XXXVIII, 386 p.

The law in war : a concise overview

Geoffrey Corn, Ken Watkin, Jamie Williamson. - London ; New York : Routledge, 2018. - XVIII, 302 p.

Law of the environment and armed conflict

ed. by Karen Hulme. - Cheltenham ; Northampton : E. Elgar, 2017. - XXXIV, 870 p.

Legislative measures in international humanitarian law : a jigsaw of subtle fragmentation

Azra Kuci and Jelena Plamenac. - In: The companion to international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2018. - p. 56-78

A new look at international law : gendering the practices of humanitarian medicine in Europe's "Small Wars," 1879-1907

Jean H. Quataert. In: Human rights quarterly : a comparative and international journal of the social sciences, humanities, and law, Vol. 40, no.3, August 2018, p. 547-569

The North and South divide in the practice and application of international law : a humanitarian and human right law perspective

Abdul Hamid Kwarteng and Thomas P. Botchway. In: Journal of politics and law, Vol. 11, no. 1, 2018, p. 79-87
https://doi.org/10.5539/jpl.v11n1p79

A path towards greater respect for international humanitarian law

Valentin Zellweger and François Voeffray. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 341-356

Power, law and the end of privateering

Jan Martin Lemnitzer. - Basingstoke ; New York : Palgrave Macmillan, 2014. - XII, 254 p.

Promoting the teaching of IHL in universities : overview, successes and challenges of the ICRC's approach

Etienne Kuster. - In: The companion to international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2018. - p. 3-38
https://www.icrc.org/en/document/promoting-teaching-ihl-universities-overview-successes-and-challenges

Promotion and implementation of international humanitarian law : a Commonwealth perspective

Commonwealth Secretariat. In: Commonwealth law bulletin, Vol. 43, no. 3-4, 2017, p. 504-520

Salience and the emergence of international norms : napalm and cluster munitions in the inhumane weapons convention

Elvira Rosert. In: Review of international studies, 2018, 23 p.
https://doi.org/10.1017/S0260210518000232

II. Types of conflicts

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

Admininistrative detention in non-international armed conflicts

Françoise J Hampson. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 157-178

Applying Additional Protocol II of the Geneva Conventions to the United Nations Forces : legal insights on a growing responsibility

Artem Sergeev. In: Journal of international humanitarian legal studies, Vol. 8, issue 1-2, 2017, p. 234-254
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Akira Mayama. In: International law studies, Vol. 93, 2017, p. 132-156
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Cyber operations during the conflict in Ukraine and the role of international law

Jozef Valuch and Ondrej Hamulak. - In: The use of force against Ukraine and international law : jus ad bellum, jus in bello, jus post bellum. - The Hague : Asser Press, 2018. - p. 215-235

Fragmented wars : multi-territorial military operations against armed groups

Noam Lubell. In: International law studies, Vol. 93, 2017, p. 215-250
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Gender, conflict and international humanitarian law : a critique of the 'principle of distinction'

Orly Maya Stern. - London ; New York : Routledge, 2019. - IX, 242 p.

The globalisation of non-international armed conflicts

Pavle Kilibarda and Gloria Gaggioli. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 117-155

The intricate relationship between international human rights law and international humanitarian law in the European Court for Human Rights case law : an analysis of the specific case of detention in non-international armed conflicts

Damien Scalia and Marie-Laurence Hebert-Dolbec. - In: The companion to international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2018. - p. 115-134

Law and violence in the Global South : the legal framing of Mexico's "narco war"

Alejandro Rodiles. In: Journal of conflict and security law, Vol. 23, no. 2, Summer 2018, p. 269-281
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Law in the twilight : international courts and tribunals, the Security Council and the internationalisation of peace agreements between state and non-state parties

Cindy Wittke. - Cambridge [etc.] : Cambridge University Press, 2018. - XXXII, 244 p.

Mapping war, peace and terrorism in the global information environment

Michael John-Hopkins. In: Journal of international humanitarian legal studies, Vol. 8, issue 1-2, 2017, p. 202-233
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Maritime interception and the law of naval operations : a study of legal bases and legal regimes in maritime interception operations

Martin Fink. - The Hague : Asser Press, 2018. - XVI, 317 p.

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Wolff Heintschel von Heinegg. - In: Operational law in international straits and current maritime security challenges. - Cham : Springer, 2018. - p. 11-37

Naxalite rebellion : domestic law and order, and humanitarian law in a non international armed conflict

Zia Akhtar. In: Journal of international humanitarian legal studies, Vol. 8, issue 1-2, 2017, p. 1-32
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Scott Graham. In: International criminal law review, Vol. 18, issue 4, 2018, p. 655-685 : carte
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Occupation of sea territory : requirement for military authority and a comparison to art. 43 of the Hague Convention IV

Tassilo Singer. - In: Operational law in international straits and current maritime security challenges. - Cham : Springer, 2018. - p. 255-289

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Jan Martin Lemnitzer. - Basingstoke ; New York : Palgrave Macmillan, 2014. - XII, 254 p.

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Sergey Sayapin, Evhen Tsybulenko, eds.. - The Hague : Asser Press, 2018. - XXVII, 454 p.

War crimes committed during the armed conflict in Ukraine : what should the ICC focus on ?

Rustam Atadjanov. - In: The use of force against Ukraine and international law : jus ad bellum, jus in bello, jus post bellum. - The Hague : Asser Press, 2018. - p. 385-407

What went wrong when regulating private maritime security companies

Ian M. Ralby. - In: Operational law in international straits and current maritime security challenges. - Cham : Springer, 2018. - p. 161-180

III. Armed forces / Non-state armed groups

(Combatant status, compliance with IHL, etc.)

Ad hoc commitments by non-state armed actors : the continuing relevance of state consent

Eva Kassoti. - In: Non-state actors and international obligations : creation, evolution and enforcement. - Leiden ; Boston : Brill Nijhoff, 2018. - p. 86-105

Applying combatant status under the international law of armed conflict to the domestic militia system of the United States

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The importance and difficulties of establishing and clarifying the international legal personality and responsibility of non-state armed groups

Heleen M. Hiemstra. - In: International responsibility : essays in law, history and philosophy. - Genève [etc.] : Schulthess, 2017. - p. 161-177

Individual, not collective : justifying the resort to force against members of non-state armed groups

Anthony Dworkin. In: International law studies, Vol. 93, 2017, p. 476-525
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The responsibility to protect and non-state armed groups

Jennifer M Welsh. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 357-375

The status of police in armed conflicts

by Patrycja Grzebyk. In: Israel yearbook on human rights, Vol. 48, 2018, p. 105-124

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Yahli Shereshevsky. In: Michigan journal of international law, Vol. 39, no. 2, 2018, p. 241-281
https://ssrn.com/abstract=3098492

Who is a civilian? : membership of opposition groups and direct participation in hostilities

Emily Crawford. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 19-40

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Applying Additional Protocol II of the Geneva Conventions to the United Nations Forces : legal insights on a growing responsibility

Artem Sergeev. In: Journal of international humanitarian legal studies, Vol. 8, issue 1-2, 2017, p. 234-254
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V. Private entities

Protection in practice : protecting IDPs in today's armed conflicts

Nina Schrepfer. In: International journal of refugee law, 2018, 15 p.
https://library.ext.icrc.org/library/docs/ArticlesPDF/45197.pdf

What went wrong when regulating private maritime security companies

Ian M. Ralby. - In: Operational law in international straits and current maritime security challenges. - Cham : Springer, 2018. - p. 161-180

VI. Protection of persons

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

Children and the armed conflict in Eastern Ukraine

Natalia Krestovska. - In: The use of force against Ukraine and international law : jus ad bellum, jus in bello, jus post bellum. - The Hague : Asser Press, 2018. - p. 261-275

Civilian protection and the arms trade treaty

Blinne Ní Ghrálaigh. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 315-338

Civilians with skin in the game : the law of war manual's rejection of the ICRC guidance on direct participation in hostilities

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The commander's dilemma : violence and restraint in wartime

Amelia Hoover Green. - Ithaca ; London : Cornell University Press, 2018. - XIV, 256 p.

Conflict-related male sexual violence and the international criminal jurisprudence

Patricia Viseur Sellers and Leo C. Nwoye. - In: Sexual violence against men in global politics. - London ; New York : Routledge, 2018. - p. 211-235

The crime of rape in military and civilian jurisdictions

Lois Moore and Christine Chinkin. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 179-204

The death of lex specialis? : regional human rights mechanisms and the protection of civilians in armed conflict

Bill Bowring. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 251-272

Dominic Ongwen and the rotten social background defense : the criminal culpability of child soldiers turned war criminals

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The duty in international law to investigate civilian deaths in armed conflict

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Pavle Kilibarda and Gloria Gaggioli. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 117-155

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Human dignity in international human rights, humanitarian and international criminal law : a comparative approach

by Stefanie Schmahl. - In: Human dignity and criminal law : Würzburg conference on human dignity, human rights and criminal law in Israel and Germany, July 20-22, 2015. - Berlin : Duncker & Humblot, 2018. - p. 79-105
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In defense of concurrent application: the ILC draft articles on the protection of persons in the event of disasters and international humanitarian law

Aldo Perez. In: Denver journal of international law and policy, Vol. 46, no. 3, p. 259-288

International prosecution of sexual and gender-based crimes perpetrated during the First World War

William A. Schabas. - In: Justice without borders : essays in honour of Wolfgang Schomburg. - Leiden ; Boston : Brill Nijhoff, 2018. - p. 395-410

Military collaterals and ius in bello proportionality

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The non-combatant casualty cut-off value : assessment of a novel targeting technique in Operation Inherent Resolve

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https://library.ext.icrc.org/library/docs/ArticlesPDF/45333.pdf

The principle of proportionality in the rules governing the conduct of hostilities under international humanitarian law : international expert meeting, 22-23 June 2016, Quebec

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Protecting children in armed conflicts

Shaheed Fatima QC... [et al.] ; legal panel and contributors: Sean Aughey... [et al.] ; [foreword by Gordon Brown]. - Oxford ; [etc.] : Hart, 2018. - LXIII, 535 p.

Protection in practice : protecting IDPs in today's armed conflicts

Nina Schrepfer. In: International journal of refugee law, 2018, 15 p.
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Regulating armed drones and other emerging weapons technologies

Stuart Casey-Maslen. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 97-115

The responsibility to protect and non-state armed groups

Jennifer M Welsh. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 357-375

The right to reparation for victims of armed conflict

Carla Ferstman. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 207-229

Safeguarding medical care and humanitarian action in the UN counterterrorism framework

Alice Debarre. - New York [etc.] : International Peace Institute, September 2018. - III, 33 p.
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Sexual violence against men in global politics

ed. by Marysia Zalewski... [et al.]. - London ; New York : Routledge, 2018. - XIV, 262 p.

The status of police in armed conflicts

by Patrycja Grzebyk. In: Israel yearbook on human rights, Vol. 48, 2018, p. 105-124

Targeting the targeted killings case : international lawmaking in domestic contexts

Yahli Shereshevsky. In: Michigan journal of international law, Vol. 39, no. 2, 2018, p. 241-281
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What if Goliath killed David ? : the coalition to counter ISIS and the status and responsibility of ISIS' child soldiers

Samantha Bradley. In: American university international law review, Vol. 33, no. 3, 2018, p. 571-604
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Who is a civilian? : membership of opposition groups and direct participation in hostilities

Emily Crawford. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 19-40

VII. Protection of objects

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

Environmental and cultural heritage crimes : the possibilities under the Rome Statute

Helen Brady and David Re. - In: Justice without borders : essays in honour of Wolfgang Schomburg. - Leiden ; Boston : Brill Nijhoff, 2018. - p. 103-136

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XVI. Countries/Regions

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Classical and political humanitarianisms in an era of military interventionism and the war on terror

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ISRAEL

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Children and the armed conflict in Eastern Ukraine

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UNITED STATES

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Human rights and America's war on terror

ed. by Satvinder S. Juss. - London ; New York : Routledge, 2019. - XXIII, 238 p.

A human rights perspective to global battlefield detention : time to reconsider indefinite detention

Yuval Shany. In: International law studies, Vol. 93, 2017, p. 102-131
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Of robots and rules : autonomous weapon systems in the law of armed conflict

Michael Press. In: Georgetown journal of international law, Vol. 48, no. 4, 2017, p. 1337-1366
https://www.law.georgetown.edu/international-law-journal/in-print/volume-48-number-4-summer-2017/of-robots-and-rules-autonomous-weapon-systems-in-the-law-of-armed-conflict/

Periodic review boards for law-of-war detention in Guantanamo : what next ?

Andrea Harrison. In: ILSA journal of international and comparative law, Vol. 24, issue 3, 2018, p. 541-578
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Power, law and the end of privateering

Jan Martin Lemnitzer. - Basingstoke ; New York : Palgrave Macmillan, 2014. - XII, 254 p.

A precautionary tale : the theory and practice of precautions in attack

Noam Neuman. In: Israel yearbook on human rights, Vol. 48, 2018, p. 19-41

Regulating armed drones and other emerging weapons technologies

Stuart Casey-Maslen. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 97-115

A rule book on the shelf ? : Tallinn manual 2.0 on cyberoperations and subsequent state practice

by Dan Efrony and Yuval Shany. In: American journal of international law, Vol. 112, issue 4, October 2018, p. 583-657 : tabl.
https://doi.org/10.1017/ajil.2018.86

Targeted killings and the punishment of enemy leaders

Francesco Romani. - In: International responsibility : essays in law, history and philosophy. - Genève [etc.] : Schulthess, 2017. - p. 179-196

Targeting the targeted killings case : international lawmaking in domestic contexts

Yahli Shereshevsky. In: Michigan journal of international law, Vol. 39, no. 2, 2018, p. 241-281
https://ssrn.com/abstract=3098492

YUGOSLAVIA

Military necessity, proportionality and dual-use objects at the ICTY : a close reading of the Prlic et al. proceedings on the destruction of the Old Bridge of Mostar

Maurice Cotter. In: Journal of conflict and security law, Vol. 23, no. 2, Summer 2018, p. 283-305
https://doi.org/10.1093/jcsl/kry015

All with Abstracts

Academy on human rights and humanitarian law articles and essays on emerging challenges in the relationship between international humanitarian law and international human rights law

Sergio Alejandro Rea Granados... [et al.]. In: American university international law review, Vol. 33, no. 3, 2018, p. 511-666. - Cote 345.1/685

Special issue of the American University International Law Review featuring the winning papers from the 2017 Human Rights Essay Award, sponsored by the Academy on Human Rights and Humanitarian Law of American University Washington College of Law. The goal of this publication and of the competition is to provide an academic venue for scholarly legal writing by human rights experts and activists. By publishing their work, it seeks to contribute quality legal writings on particular topics of relevance to the development of this dynamic area of the law. The book also reflects the diversity of cultures and languages that characterizes our interconnected world. By publishing articles in English and Spanish, it enhances and broadens the voices that shape international human rights and humanitarian law in the future.

http://auilr.org/wp-content/uploads/2018/09/amuilr_33n3_issue_low.pdf

Ad hoc commitments by non-state armed actors : the continuing relevance of state consent

Eva Kassoti. - In: Non-state actors and international obligations : creation, evolution and enforcement. - Leiden ; Boston : Brill Nijhoff, 2018. - p. 86-105. - Cote 345.29/327

The present contribution seeks to revisit the question of the legal nature of unilateral ad hoc commitments issued by non-state actors. The chapter presents the two main approaches to the question of the juridical nature of these instruments to be found in the existing literature, namely the consent and customary law theses, and discusses the definitions of 'international legal personality' and 'law-making capacity' they each rest on. The author argues in favour of the customary law thesis, as it respects the definition between legal personality and law-making capacity. Looking at the wider implications of her findings, the author argues that the distinction between legal personality and law-making capacity presented here may serve as a broader basis for assessing commitments entered by other non-state actors in different fields of law.

Admininistrative detention in non-international armed conflicts

Françoise J Hampson. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 157-178. - Cote 362/141

This chapter addresses the issues arising from the implementation and enforcement of administrative detention in situations of non-international armed conflicts (NIACs). Special attention is given to the rules of internment applicable to extraterritorial NIACs. Arguing that the lack of clarity of current international legal standards in this matter stems from historical reasons rather than disagreement, the author discusses potential developments.

Applying Additional Protocol II of the Geneva Conventions to the United Nations Forces : legal insights on a growing responsibility

Artem Sergeev. In: Journal of international humanitarian legal studies, Vol. 8, issue 1-2, 2017, p. 234-254

Following the widespread participation of United Nations (UN) forces in hostile environments, this article aims to expand the obligations of the UN under international humanitarian law. The article argues that Additional Protocol II (AP II) to the Geneva Conventions can bind UN forces, even though the UN is not formally a party thereto. The argument is built on three distinct legal issues: the first issue is whether the UN's involvement in a conflict internationalizes a non-international armed conflict; the second issue is the legal nature of the UN's obligations under AP II, which will be explained through two legal theories of indirect consent; and the third issue is the conformity of UN forces to the criteria of an armed group outlined in AP II. The article concludes that if UN forces meet certain conditions, as will be outlined herein, they should be bound by the provisions contained in AP II.

https://doi.org/10.1163/18781527-00801003

Applying combatant status under the international law of armed conflict to the domestic militia system of the United States

Travis R. Stevens-White. In: Military law review, Vol. 225, issue 2, 2017, p. 486-511. - Cote 345.29/326 (Br.)

This article will analyze and apply substantive international law of armed conflict (LOAC) to the primary domestic legal mechanisms for national defense regarding militia forces of the United States and its states and identify likely conflicts that may arise at the intersection of our domestic system and the overarching international LOAC. A key aspect of this analysis is the ability of the general population, acting either as individuals or as some ad hoc militia (under domestic law) independent of governmental oversight, to qualify for privileged combatant status under LOAC. Furthermore, the potential for domestic mechanisms to assimilate the general population, likely operating under the limited temporal authority of a levée en masse, into a legitimate military force with continued long-term standing under LOAC is both strategically promising and academically fascinating.

Arguing international humanitarian law standards in national courts : a spectrum of expectations

Sharon Weill. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 231-250. - Cote 362/141

Noting that international law is interrelated with international politics, both in its formation, definition and enforcement, this chapter illustrates the contradictory and often incoherent position in which national courts place themselves when applying international law, despite being formally expected to comply with the rule-of-law principle. It argues that national judges have developed nuanced approaches to deal with situations in which, although being expected to act as neutral legal actors, they have included political judgements.

Armed non-state actors and customary international law

Agata Kleczkowska. - In: Non-state actors and international obligations : creation, evolution and enforcement. - Leiden ; Boston : Brill Nijhoff, 2018. - p. 60-85. - Cote 345.29/327

This chapter aims to assess the influence of armed non-state actors (ANSA) on the formation of customary international law. Looking at the legal significance of their practice, it first discusses whether the standards applied to States can be extended to ANSAs and whether they can be considered to take part in the formation of customary norms. The author then questions whether armed non-state actors are bound by customary international law themselves.

Autonomous weapon systems : the possibility and probability of accountability

Swati Malik. In: Wisconsin international law journal, Vol. 35, no. 3, 2018, p. 609-642. - Cote 341.67/870 (Br.)

This paper addresses the challenge of accountability that arises in relation to autonomous weapon systems (AWS), a challenge which focuses on the hypothesis that AWS will make it impossible to identify, hold liable, and punish those responsible for unlawful outcomes that result from their use. After evaluating the evolution of accountability in international law and discussing its relevance in the context of AWS in section I, section II examines the concept of meaningful human control apropos AWS. Section III reviews the potential avenues of accountability attribution which may be available and section IV the feasibility of its assignment in case of commission of crimes impacted by the use of AWS. Based on this analysis, section V comments on whether the alleged AWS-specific accountability gap is real, and if so, whether it is possible to bridge the gap through extant laws or by proposing the development and introduction of a new framework.

http://hosted.law.wisc.edu/wordpress/wilj/files/2018/10/Malik_Final.pdf

Autonomous weapons and weapon reviews : the UK second international weapon review forum

James Farrant and Christopher M. Ford. In: International law studies, Vol. 93, 2017, p. 389-422

This article considers how military lawyers completing weapon reviews might approach their legal duties if confronted with a weapon system that incorporates autonomous technology or artificial intelligence. The article begins by reviewing current and likely near future technological capabilities before considering whether existing international humanitarian law can adequately regulate these technologies. While noting the widespread lack of compliance with Article 36 of Additional Protocol I, the article argues that, properly applied, Article 36 is an effective gatekeeper for keeping unlawful weapon systems from the battlefield. After assessing the feasibility of a preemptive ban on autonomous weapons based on “meaningful human control,”

the article argues that “authorized power” provides a better option for regulating future technology within existing international law.

https://digital-commons.usnwc.edu/ils/vol93/iss1/13/

Belligerent rights and obligations in international straits

Jörg Schildknecht. - In: Operational law in international straits and current maritime security challenges. - Cham : Springer, 2018. - p. 67-83. - Cote 347/168

An international workshop on Maritime Situational Awareness, held in Istanbul from October 9th-11th 2013, reunited legal advisors from Australia, France, Germany, New Zealand, Turkey and the United Kingdom. The participants focused on the topic of international straits and examined legal issues that might be of operational relevance to the maritime nations for planning current and future maritime operations. This chapter summarises the view of the majority of the participants who joined those events. In cases where opinions were divided, the author outlines the arguments brought forward and offers solutions.

British war crimes trials in Europe and Asia, 1945–1949 : a comparative study

W.L. Cheah and Moritz Vormbaum. In: Leiden journal of international law, Vol. 31, no. 3, September 2018, p. 669-692

Between 1945 and 1949, the British military conducted a large number of war crimes trials in Europe and Asia. Based on historical archival records, among other sources, this article evaluates and compares the British authorities' implementation of the 1945 Royal Warrant and war crimes trials in Europe and Asia, with a specific focus on trials organized in Germany and Singapore. By examining the British war crimes trial experience in those two jurisdictions, the article analyzes factors shaping the evolution of the Royal Warrant's legal framework and trial model in different contexts. It therefore contributes to the growing historical work on post-Second World War trials and current debates among scholars of transitional justice and international criminal law on the contextual factors that impact on war crimes trials.

https://doi.org/10.1017/S0922156518000262

Children and the armed conflict in Eastern Ukraine

Natalia Krestovska. - In: The use of force against Ukraine and international law : jus ad bellum, jus in bello, jus post bellum. - The Hague : Asser Press, 2018. - p. 261-275. - Cote 345.26/291

This chapter investigates the legal problems relating to the status of children affected by the armed conflict in Eastern Ukraine, such as their involvement in hostilities, losing parents, being deprived of schooling, trafficking and other grave violations of children's rights in the combat zone and territory not controlled by the Ukrainian Government. The author analyses legislative measures that have been implemented in Ukraine in relation to the provisions of international humanitarian and human rights law relating to children affected by armed conflict, as well as reveals certain gaps in national juvenile and criminal legislation. The author makes several propositions, notably: full implementation of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict and fundamental revision of the section of the Criminal Code of Ukraine dedicated to crimes against the peace and security of mankind.

Civilian protection and the arms trade treaty

Blinne Ní Ghrálaigh. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 315-338. - Cote 362/141

This chapter discusses the impact of the 2014 Arms Trade Treaty (ATT) on the protection of civilians. Starting with a brief overview of the ATT and its negotiation process, the author then analyses its articles 6 and 7, which lie at the heart of the treaty's civilian protection regime, setting out the bases on which states may refuse weapon exports. He finally argues that the ATT framework, imperfect as it is, contains nevertheless the necessary elements and mechanisms to ensure its efficacy as a tool to reduce human suffering caused by conflict.

Civilians with skin in the game : the law of war manual's rejection of the ICRC guidance on direct participation in hostilities

Cynthia Marshall. In: Military law review, Vol 225, issue 2, 2017, p. 259-288 ; tabl., diagr.. - Cote 345.25/380 (Br.)

Civilians in and around contemporary armed conflicts present a problem to the fundamental principle of international humanitarian law requiring warring parties to distinguish between combatants and civilians,

as the former are lawful military targets and the latter are immune from direct attack. Civilians forfeit this targeting immunity if they directly participate in hostilities (DPH), but DPH is not defined by treaty IHL, nor does State practice or international jurisprudence provide clear instruction on the term's meaning. To resolve this situation, in 2003 the ICRC launched an informal expert process to research and discuss the interpretation of DPH, resulting in the 2009 publication of the Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law. On June 12 2015, the American Department of Defense expressly rejected the Guidance and gave its own instruction on what constitutes DPH in the Law of War Manual. This article analyses those two diverging positions on the definition of DPH and explores the implications of the Manual's rejection of the Guidance.

Classical and political humanitarianisms in an era of military interventionism and the war on terror

Matthew Bywater. In: Journal of international humanitarian legal studies, Vol. 8, issue 1-2, 2017, p. 33-112

This paper scrutinises the modus operandi of classical and political humanitarianism: the use of ambiguity and prescription to frame calls for international action to protect civilians, and public commentary on jus in bello and jus ad bellum. It does so by innovatively considering the perspectives of belligerents alongside those of humanitarian actors, so as to identify how belligerents have responded to the two humanitarian modus operandi, and to ascertain the connection of humanitarian actors to the wars and international military interventions that they have implicitly or explicitly called for or endorsed. The paper finds that the response of belligerents differs from what both classical and political humanitarians expect. Even where humanitarians maintain ambiguity, the intention to will military action remains present and even the documentation and reporting of violence will bolster military intervention. Such consequences will be perceptible to belligerents, who may restrict humanitarian space. When humanitarians advance jus ad bellum perspectives, the humanitarian identity envisioned by classicists is not necessarily compromised. But belligerents are positively influenced by such perspectives only when those perspectives coincide with their own position.

https://doi.org/10.1163/18781527-00801005

Combat losses of nuclear-powered warships : contamination, collateral damage and the law

Akira Mayama. In: International law studies, Vol. 93, 2017, p. 132-156

There have been non-combat losses of nuclear-powered warships during sea trials and peacetime patrol missions. Nuclear contamination is spreading from some of these sinking sites. It is also conceivable that combat losses of nuclear-powered warships could cause contamination of civilians, civilian objects and the natural environment. If such combat losses occur at sea, both belligerent and neutral States will have to deal with a difficult question: to what extent and by who can harm resulting from such contamination be compensated for payment of damages. This article attempts to dissect whether nuclear contamination incidentally caused to civilians, civilian objects and the natural environment during international armed conflict can be properly categorized as collateral damage as envisaged by the laws of armed conflict and neutrality at sea, the lawfulness of which is assessed following the principle of proportionality.

https://digital-commons.usnwc.edu/ils/vol93/iss1/5/

The commander's dilemma : violence and restraint in wartime

Amelia Hoover Green. - Ithaca ; London : Cornell University Press, 2018. - XIV, 256 p. . - Cote 355/1108

Why do some military and rebel groups commit many types of violence, creating an impression of senseless chaos, whereas others carefully control violence against civilians? A classic catch-22 faces the leaders of armed groups and provides the title for Amelia Hoover Green's book. Leaders need large groups of people willing to kill and maim—but to do so only under strict control. How can commanders control violence when fighters who are not under direct supervision experience extraordinary stress, fear, and anger? The Commander's Dilemma argues that discipline is not enough in wartime. Restraint occurs when fighters know why they are fighting and believe in the cause—that is, when commanders invest in political education. Drawing on extraordinary evidence about state and nonstate groups in El Salvador, and extending her argument to the Mano River wars in Liberia and Sierra Leone, Amelia Hoover Green shows that investments in political education can improve human rights outcomes even where rational incentives for restraint are weak—and that groups whose fighters lack a sense of purpose may engage in massive violence even where incentives for restraint are strong. Hoover Green concludes that high levels of violence against civilians should be considered a "default setting," not an aberration.

The companion to international humanitarian law

ed. by Dražan Djukic, Niccolò Pons. - Leiden ; Boston : Brill Nijhoff, 2018. - XL, 719 p. - Cote 345.2/1046

This important and unique volume begins with seven essays that discuss the contemporary challenges to implementing international humanitarian law. Its second and largest section comprises more than 260 entries covering the vast majority of IHL concepts. Written by a wide range of experts, each entry explains the essential legal parameters of a particular element of IHL, while offering practical examples and, where relevant, historical considerations, and supplying a short bibliography for further research. The starting point for the selection were notions arising from the Geneva Conventions, the Additional Protocols, and other IHL treaties. However, the reader will also encounter entries going beyond the typical scope of IHL, such as those related to the protection of the natural environment and animals, and entries that, in addition to an IHL perspective, discuss relevant issues through the lens of human rights law, refugee law, international criminal law, and so on.

Comparing experiences : engaging states and non-state armed groups on international humanitarian law

Andrew Carswell and Jonathan Somer. - In: The companion to international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2018. - p. 39-55. - Cote 345.2/1046

The genesis of this contribution was a conversation between the authors when they were working respectively as point persons for training State armed forces with the ICRC (Andrew) and non-State armed forces with Geneva Call (Jonathan). When discussing the barriers to IHL compliance buy-in by each type of armed actor, Andrew mentioned that his audience regularly points the finger at non-State armed groups as the principal perpetrators of IHL violations - to which Jonathan replied that his audience points the finger in precisely the opposite direction. This contribution is based on a discussion between the authors that took place at the University of Toronto's Munk School of Global Affairs and Canadian Red Cross's 2017 IHL conference, entitled Order in Chaos: the Evolution of Law Governing Armed Conflict.

Complicity in violations of human rights and humanitarian law by incumbent governments through direct military assistance on request

Erika de Wet. In: International and comparative law quarterly, Vol. 67, part 2, April 2018, p. 287-313

This article examines whether general international law supports the claim that direct military assistance by one State to another State upon the latter's request is prohibited where the inviting State is implicated in (gross) violations of international humanitarian and/or human rights law. It approaches the question from the perspective of State responsibility, analysing the threshold requirements of Article 16 of the Articles on State Responsibility (ASR), 1 which represents the customary international law standard for responsibility for aiding or assisting wrongful conduct by another State. In so doing, the article illuminates how factual uncertainties complicate the triggering of the responsibility of the intervening (assisting) State for any violations of international humanitarian and/or human rights law by the territorial (recipient) State. Thereafter, the article questions whether, in the event that the responsibility of the intervening State is triggered, it would in consequence have to withdraw its troops and/or military air power from the territorial State.

https://doi.org/10.1017/S0020589317000550

Conflict-related male sexual violence and the international criminal jurisprudence

Patricia Viseur Sellers and Leo C. Nwoye. - In: Sexual violence against men in global politics. - London ; New York : Routledge, 2018. - p. 211-235. - Cote 362.9/348

Conflict-related male sexual violence (CRMSV) seldom is redressed at international courts. When intermittent adjudication of CRMSV does occur, it evinces neither a defined prosecutorial strategy nor a uniform judicial approach. The authors aver that CRMSV simultaneously benefits from the current innovations in the redress of sexual violence under international criminal law yet suffers from an inconsistent legal focus. In response, this chapter proposes a survey of the legally significant, yet insufficient and unevenly developed CRMSV jurisprudence rendered by the modern international courts. This survey highlights pertinent legal decisions about CRMSV whether as a war crime, a crime against humanity, or a component of genocide. Complex and strategic choices about which charges to bring, what facts to submit before the Trial Chamber, and how to interpret physical and psychological CRMSB evidence are of particular importance.

The crime of rape in military and civilian jurisdictions

Lois Moore and Christine Chinkin. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 179-204. - Cote 362/141

This chapter considers the implementation of international humanitarian law and international criminal law in national military and civilian criminal jurisdictions and addresses the question of how sexual violence should be prosecuted at the national level. It argues that national military justice systems are, generally speaking, inappropriate for prosecuting sexual violence in conflict and that primary responsibility should rest with national civilian criminal authorities. Looking at the complex network of legal regulations on the issue, the authors note that it only accords limited protection against conflict-related sexual violence ; legislative, social and practical obstacles, together with lack of political will, combine to deny adequate protection against those offenses.

Crisis in the laws of war ? : beyond compliance and effectiveness

Ian Clark... [et al.]. In: European journal of international relations, Vol. 24, issue 2, 2018, p. 319-343. - Cote 345.24/419 (Br.)

How can we tell what state the laws of war are in today, and whether they face exceptional pressures? Standard accounts of the condition of this body of law focus on problems of compliance and effectiveness. In particular, there is a dominant international legal diagnosis that most non-compliance is accounted for by the prevalence of non-state belligerents in irregular or asymmetric conflicts. We propose that any such diagnosis is partial at best. A focus on compliance and effectiveness tells us nothing about the reasons for actor behaviour, or about its impact on the regime. We advance a different conceptual framework, exploring the complex connections between compliance, effectiveness and legitimacy. We propose an alternative diagnostic model that places legitimacy at the heart of the analysis, treating it as causal, not simply symptomatic. This highlights when violations result in legitimacy costs for the individual actor, as opposed to reaching a tipping point when violations cumulatively impose legitimacy costs on the regime itself. We argue for the need to move beyond discussions framed by compliance and effectiveness, and towards the forms, reasons and reception of non-compliant behaviour, as this provides a truly social measure of the state of the law.

https://library.ext.icrc.org/library/docs/ArticlesPDF/45351.pdf

Current challenges to normative restrictions on warfare

Michael Brzoska. In: S+F : Sicherheit und Frieden, Jg. 36, H. 1, 2018, p. 34-39. - Cote 345.22/989 (Br.)

The dominating order of warfare, with international humanitarian and arms control law at its core, is constantly subject to change with new experiences and differing political constellations. Changing practices of warfare by major military powers as well as intellectual challenges to the justification of rightful behavior in warfare question foundations of this order. While going into different, and partly contradicting directions, three common critical elements of practice and discourse are highlighted: the territorial and temporal debordering, repolitization of warfare, and damage limitation. While not likely to lead to a new order of warfare, the identification of these elements helps to understand both current and future warfare by major military powers.

https://library.ext.icrc.org/library/docs/ArticlesPDF/45294.pdf

Cyber operations during the conflict in Ukraine and the role of international law

Jozef Valuch and Ondrej Hamulak. - In: The use of force against Ukraine and international law : jus ad bellum, jus in bello, jus post bellum. - The Hague : Asser Press, 2018. - p. 215-235. - Cote 345.26/291

The phenomenon of cyberspace has started to play an important role in conflicts and hostilities and represents a big challenge for contemporary international law. Cyber incidents are increasingly used to engage, harm or weaken enemies/counterparts. We can also see the different forms of abuse pursued in cyberspace during the conflict in Ukraine. This conflict is a productive example of the complexity of the legal approach and the (lack of) capability in relation to the legal understanding of cyber operations and attacks. The goal of this chapter is to highlight this complexity and determine the status of cyber incidents realized in Ukraine from the perspective of international law. Having considered the distinction between cyber attacks and cyber operations, our assumptions in the realms of conflict in Ukraine tend towards the latter notion.

Cyber seminar : diplomacy and defense in cyber space

Stef Blok... [et al.]. In: Militair Rechtelijk Tijdschrift, Jaargang 111, 2018, 48 p. - Cote 348/148 (Br.)

> The 'Tallinn Manual 2.0' expands on the highly influential first edition by extending its coverage of the international law governing cyber warfare to peacetime legal regimes. The product of a four-year follow-on project by a new group of 19 renowned international law experts, it addresses such topics as sovereignty, State responsibility, human rights, and the law of air, space, and the sea. It identifies 154 'black letter' rules governing cyber operations and provides extensive commentary on each rule. A '1 Year Anniversary Party' was organized on June 20, 2018 by the Ministry of Foreign Affairs in The Hague. Both minister of Foreign Affairs Stef Blok and Minister of Defence Ms Ank Bijleveld contributed with a keynote speech and two panels of academic and military speakers addressed a range of important issues. This Special Edition of the Netherlands' Military Law Review presents most of the speeches and contributions of this 'Cyber Seminar'.
>
> https://puc.overheid.nl/mrt/doc/PUC_248137_11/

The death of lex specialis? : regional human rights mechanisms and the protection of civilians in armed conflict

Bill Bowring. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 251-272. - Cote 362/141

> This chapter studies the relationship between international human rights law (IHRL) and international humanitarian law (IHL) in regard to the protection of civilians in armed conflict. First outlining the various approaches to the problem since 1996, the author then turns to the jurisprudence of the Inter-American Commission and Court of Human Rights. Third, he discusses the refusal of the European Court of Human Rights to engage with the spectre of lex specialis as a means of resolving the apparent tension between IHRL and IHL.

Detention by armed groups under international law

Andrew Clapham. In: International law studies, Vol. 93, 2017, p. 1-44

> This article tackles the question of whether international law entitles armed groups to detain people, as well as the separate question of what international law obligations bind the armed group when persons are detained. The focus is on the obligations that relate to the right to challenge the basis for any such detention, although some attention is given to issues of fair trial and the question of punishment. The last part of the article briefly considers the legal framework governing responsibility for States and those that assist armed groups. State responsibility questions relating to attribution and assistance are considered, as are the separate rules which would determine the criminal responsibility of accomplices who could be prosecuted.
>
> https://digital-commons.usnwc.edu/ils/vol93/iss1/1/

Does an armed group have an obligation to provide reparations to its victims ? : construing an obligation to provide reparations for violations of international humanitarian law

Paloma Blázquez Rodríguez. - In: Non-state actors and international obligations : creation, evolution and enforcement. - Leiden ; Boston : Brill Nijhoff, 2018. - p. 406-428. - Cote 345.29/327

> If victims of state abuses generally experience a gap between entitlement and reality, this can be further observed when it is armed opposition groups (AOGs) committing the human rights and humanitarian law abuses. The disparity between the legal status of victims of state abuses, on the one hand, and victims of AOG's abuses, on the other hand, in the same conflict, is increasingly considered unsatisfactory from a justice-perspective. This chapter addresses the major gap in relation to the victims' right to redress, taking a victim-oriented approach and exploring ways in which AOGs can be held to account and be obliged to provide reparations to the victims of their acts.

Dominic Ongwen and the rotten social background defense : the criminal culpability of child soldiers turned war criminals

Raphael Lorenzo Aguiling Pangalangan. In: American university international law review, Vol. 33, no. 3, 2018, 605-635. - Cote 345.1/685

> This paper seeks to confront the difficult question of holding the child soldier, who climbed the ranks, accountable, through the challenges embodied in Prosecutor v. Ongwen. A former child soldier himself, Ongwen is charged with the same crimes of which he was victim. Part I will be devoted to establishing the

premise of the study. The paper will look at the factual milieu in which Ongwen is based. Part II will delve into possible grounds for excluding criminal responsibility for the child soldier turned alleged war criminal. Distinct from Ongwen's Defense Counsel's approach, Part II will advance Ongwen's "rotten social background" not as a form of duress, but as a mental defect. Part III will conclude with a caveat addressing the doctrinal repercussions posed in ruling for or against the former child soldier who has come of age.

http://auilr.org/wp-content/uploads/2018/09/amuilr_33n3_issue_low.pdf

Drones and other unmanned weapons systems under international law

by Stuart Casey-Maslen... [et al.]. - Leiden ; Boston : Brill Nijhoff, 2018. - X, 255 p. . - Cote 341.67/869

Drone strikes have become a key feature of counterterrorism operations in an increasing number of countries. This work explores the different domestic and international legal regimes that govern the manufacture, transfer, and use of armed drones. Chapters assess the legality of armed drones under jus ad bellum, the law of armed conflict, the law of law enforcement, international human rights law, international criminal law and domestic civil and criminal law. The book also discusses the application of law to fully autonomous weapons systems where computer algorithms decide who or what to target and when to fire.

The duty in international law to investigate civilian deaths in armed conflict

Mark Lattimer. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 41-72. - Cote 362/141

This chapter asks whether international law imposes a positive duty on parties to a conflict to investigate civilian deaths. It first considers the general obligations on parties to conflict to account for the missing and the dead, particularly after any engagement to perform examinations, and to mark and register grave sites. Second, it turns to specific obligations on parties where a suspected violation of IHL has occurred. Third, it considers briefly additional investigatory obligations that apply in the case of a suspected war crime or other violation of international criminal law.

Enforcement of international humanitarian law

Gentian Zyberi. - In: Human rights institutions, tribunals and courts : legacy and promise. - [Cham] : Springer, 2018. - 25 p. - Cote 345.24/418 (Br.)

This chapter provides a critical assessment of the enforcement system of international humanitarian law (IHL). This chapter focuses on IHL enforcement at the three levels. At the domestic level, the chapter starts from the obligations imposed on States under the Geneva Conventions and their two Additional Protocols. At the regional level, the chapter addresses the enforcement of IHL through the regional human rights systems. At the international level, the chapter analyzes the enforcement of IHL by discussing briefly the mechanisms included under IHL treaties, including Protecting Powers, the ad hoc and the standing International Fact-Finding Commission, and the ICRC. The focus then shifts on the main UN organs, including the Security Council, the General Assembly, its subsidiary bodies, and the International Court of Justice. Another type of enforcement mechanisms addressed here includes international criminal courts and tribunals. Finally, the chapter addresses the role of non-State actors, focusing on non-State armed groups and non-governmental organizations.

https://ssrn.com/abstract=3160079

Environmental and cultural heritage crimes : the possibilities under the Rome Statute

Helen Brady and David Re. - In: Justice without borders : essays in honour of Wolfgang Schomburg. - Leiden ; Boston : Brill Nijhoff, 2018. - p. 103-136. - Cote 344/741

This chapter examines the possibilities for prosecuting environmental and cultural heritage crimes under the Rome Statute. The ICC Prosecutor's 2016 Policy on Case Selection and Prioritisation refers to destruction of the environment as a factor the Prosecutor will consider in assessing the gravity of crimes when deciding whether to commence a prosecution. The chapter briefly traces the historical path from Nuremberg to the ICC of prosecuting environmental and cultural heritage crimes. It outlines how cultural property and the environment have been legally protected under IHL and ICL to date. It explores how such crimes could be prosecuted as war crimes, crimes against humanity, genocide and aggression. The chapter concludes that the ICC's jurisdiction those crimes offers potential to prosecute not only cultural property crimes but also environmentally-damaging or destructive crimes.

'Explosive missals' : international law, technology, and security in nineteenth-century disarmament conferences

Scott Keefer. In: War in History, Vol. 21, no. 4, 2014, p. 445-464. - Cote 341.67/873 (Br.)

This article challenges traditional interpretations of the 1868 Declaration of St Petersburg banning explosive bullets and the 1899 Hague Declaration forbidding expanding bullets as humanitarian agreements. A review of the legal terms of these arms control agreements and diplomatic correspondence provides evidence that Britain sought to harness advanced technology to overcome manpower deficiencies in imperial and European warfare. In 1868 Britain wanted to avoid restrictions on the employment of advanced technology in imperial wars, while at the Hague Peace Conference in 1899 a similar rationale was advanced to mask a desire to use advanced technology in European wars.

https://library.ext.icrc.org/library/docs/ArticlesPDF/45302.pdf

Extra-territorial use of force, civilian casualties, and the duty to investigate

Ryan Santicola and Hila Wesa. In: Columbia human rights law review, Vol. 49, issue 3, Spring 2018, p. 183-266. - Cote 345.1/686 (Br.)

This Article will examine the following specific questions: What does international law require with respect to a duty to investigate civilian casualties? When, if ever, does the duty to investigate arise? And how can states fulfill their duties, including in areas where there is no established state control on the ground? In so doing, the analysis will consider what obligations arise from relevant international humanitarian law (IHL) and international human rights law (IHRL) treaties, as well as those obligations arising from customary international law and state practice. Ultimately, this Article will conclude that states have a duty to conduct at least a preliminary investigation of all allegations of civilian casualties resulting from the use of military force, although the form and substance of these inquiries and any subsequent investigation will vary widely based on the context within which military force is used.

http://hrlr.law.columbia.edu/files/2018/09/RyanSanticolaHilaWesaExtr-1.pdf

Extraterritorial obligations under human rights law

Cedric Ryngaert. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 273-293. - Cote 362/141

This chapter focuses on the extraterritorial application of human rights law, noting that, under IHL, civilian victims of out-of-area military operations largely lack remedies against the states (and international organisations) whose acts caused harm. Finally, the author argues that human rights treaties have been given extraterritorial application in an exceedingly liberal fashion, but that the resulting expansive application should not raise alarm bells as there are multiple valid mitigating legal devices that can take into account the challenges for the state in fully applying human rights norms extraterritorially.

Foreign fighters in the framework of international armed conflict between Russia and Ukraine

Anastasia Frolova. - In: The use of force against Ukraine and international law : jus ad bellum, jus in bello, jus post bellum. - The Hague : Asser Press, 2018. - p. 237-259. - Cote 345.26/291

With the recent increase in the number of foreign nationals travelling abroad to take part in armed conflicts, many publications are dealing with issues related to the status of foreign fighters, as well as rights and obligations of states towards them. However, neither a universal definition of the term foreign fighter has been proposed, nor does a comprehensive analysis exist of the status of foreign fighters in the situation of an armed conflict. At the same time, reality continues to provide new challenges for international lawyers. The ongoing armed conflict on Ukrainian territory is characterized by a very high level of foreign nationals' involvement (on all sides), as well as other specific features that were not too common in previous conflicts. In the present chapter, we will try to answer the question about whether existing international humanitarian law is prepared for such challenges, and whether the introduction of a "foreign fighter" category makes sense in this context.

Fragmented wars : multi-territorial military operations against armed groups

Noam Lubell. In: International law studies, Vol. 93, 2017, p. 215-250

Recent years have seen the emergence of significant legal debate surrounding the use of force against armed groups located in other States. With time, it has become clear that in many cases such operations are not confined to the territory of one other State, but expand to encompass multiple territories and often more than one armed group. This article examines multi-territorial conflicts with armed groups through the lens

of several legal frameworks. Among other topics, it analyses the questions surrounding the extension of self-defense into multiple territories, the classification of the hostilities with the group and between involved States, the scope of the battlefield, the use of terms such as "associated forces" in the context of armed groups, and the interplay with human rights law in such operations. This article sets out to draw together the threads of these debates in the last fifteen years and suggest a way forward for overcoming the legal challenges.

https://digital-commons.usnwc.edu/ils/vol93/iss1/7/

From slaves to prisoners of war : the Ottoman Empire, Russia and international law

Will Smiley. - Oxford : Oxford University Press, 2018. - X, 283 p. . - Cote 400.2/402

The Ottoman-Russian wars of the eighteenth century reshaped the map of Eurasia and the Middle East, but they also birthed a novel concept - the prisoner of war. For centuries, hundreds of thousands of captives, civilians and soldiers alike, crossed the legal and social boundaries of these empires, destined for either ransom or enslavement. But in the eighteenth century, the Ottoman state and its Russian rival, through conflict and diplomacy, worked out a new system of regional international law. Ransom was abolished; soldiers became prisoners of war; and some slaves gained new paths to release, while others were left entirely unprotected. These rules delineated sovereignty, redefined individuals' relationships to states, and prioritized political identity over economic value. In the process, the Ottomans marked out a parallel, non-Western path toward elements of modern international law. This story offers new perspectives on the histories of the Ottoman and Russian Empires, of slavery, and of international law.

The future of the international humanitarian fact-finding commission : a possibility to overcome the weakness of IHL compliance mechanisms ?

Robert Heinsch. - In: The companion to international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2018. - p. 79-97. - Cote 345.2/1046

Article 90 API establishes a permanent International Humanitarian Fact-Finding Commission with the mandate to enquire into serious violations of IHL and to facilitate the path to compliance with IHL through its good offices. However, since the official establishment of the competence of the Commission in 1991, it has only been called upon once, and probably not in a way as envisaged by Article 90 API. This essay will examine whether the Commission can, despite a lack of use in the past, contribute to a more efficient compliance system in IHL in the future. It will elaborate upon the nature of the Commission, and explain the mandate and procedure of this treaty body. Furthermore, this essay will highlight its advantages and challenges, and will finally evaluate the past, present and especially the future of this specific instrument for the enforcement of IHL.

The future of U.S. detention under international law : workshop report

International Committee of the Red Cross, Harvard Law School Program on International Law and Armed Conflict and Stockton Center for the Study of International Law, U.S. Naval War College. In: International law studies, Vol. 93, 2017, p. 272-298

The International Committee of the Red Cross, the Harvard Law School Program on International Law and Armed Conflict, and the Stockton Center for the Study of International Law at the U.S. Naval War College recently hosted a workshop titled Global Battlefields: The Future of U.S. Detention under International Law. The workshop was designed to facilitate discussion on international law issues pertaining to U.S. detention practices and policies in armed conflict. Workshop participants included members of government, legal experts, practitioners and scholars from a variety of countries. This report attempts to capture the main debates that arose in each session. The key issues discussed were as follows: Legal basis for detention; Grounds and procedures for detention; Treatment of those detained; Disposition; Detention by armed groups; State responsibility for actions of armed groups; The future of the U.S.-run detention facility at Guantanamo Bay, Cuba; and The future of detention related to NIACs more generally.

https://digital-commons.usnwc.edu/ils/vol93/iss1/10/

Gender, conflict and international humanitarian law : a critique of the 'principle of distinction'

Orly Maya Stern. - London ; New York : Routledge, 2019. - IX, 242 p. . - Cote 362.8/275

This book conducts a gendered critique of the 'principle of distinction' in international humanitarian law (IHL), with a focus on recent conflicts in Africa. The 'principle of distinction' is core to IHL, and regulates who can and cannot be targeted in armed conflict. It states that civilians may not be targeted in attack, while combatants and those civilians directly participating in hostilities can be. The law defines what it means to be a combatant and a civilian, and sets out what behaviour constitutes direct participation. Close

examination of the origins of the principle reveals that IHL was based on a gendered view of conflict, which envisages men as fighters and women as victims of war. Problematically, this view often does not accord with the reality in 'new wars' today in which women are playing increasingly active roles, often forming the backbone of fighting groups, and performing functions on which armed groups are highly reliant. Using women's participation in 'new wars' in Africa as a study, this volume critically examines the principle through a gendered lens, questioning the extent to which the principle serves to protect women in modern conflicts and how it fails them. By doing so, it questions whether the principle of distinction is suitable to effectively regulate the conduct of hostilities in new wars.

The globalisation of non-international armed conflicts

Pavle Kilibarda and Gloria Gaggioli. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 117-155. - Cote 362/141

This chapter analyses the phenomenon of globalisation of non international armed conflicts (NIAC) both with respect to their typology and the geographical scope of application of IHL. It examines the position of key stakeholders - states as well as non-state actors such as the ICRC - with respect to various landmark situations since the adoption of the 1949 Geneva Conventions. The authors show the various ways in which the 'over-classification' of situations of armed violence as NIACs, particularly in the context of the fight against terrorism, may lead to a lesser scope of protection afforded to the civilian population. Bearing in mind existing conflict situations, they revisit the question of typology of extraterritorial NIACs and that of the geographical scope of application of IHL, and offer their recommendations on how to meet persisting challenges to the protection of civilians with reference to other branches of international law such as IHRL.

The grey zone : civilian protection between human rights and the laws of war

ed. by Mark Lattimer and Philippe Sands. - Oxford ; [etc.] : Hart, 2018. - XXVI, 448 p. - Cote 362/141

The high civilian death toll in modern, protracted conflicts such as those in Syria or Iraq indicate the limits of international law in offering protections to civilians at risk. Yet both international humanitarian law and the law of human rights establish a series of rights intended to protect civilians. But which law or laws apply in a particular situation, and what are the obstacles to their implementation? How can the law offer greater protections to civilians caught up in new methods of warfare, such as drone strikes, or targeted by new forms of military organisation, such as transnational armed groups? Are new instruments or mechanisms of civilian legal protection needed? The chapters in Part 1 address key contested or boundary issues in defining the rights of civilians or non-combatants in today's conflicts. Those in Part 2 examine remedies and current mechanisms for redress both at the international and national level, and those in Part 3 assess prospects for the development of new mechanisms for addressing violations.

The Hague Conferences and international politics, 1898-1915

Maartje Abbenhuis. - London [etc.] : Bloomsbury Academic, 2019. - XIII, 294 p. - Cote 345.22/991

Beginning with the extraordinary rescript by Tsar Nicholas II in August 1898 calling the world's governments to a disarmament conference, this book charts the history of the two Hague peace conferences of 1899 and 1907 – and the third conference of 1915 that was never held – using diplomatic correspondence, newspaper reports, contemporary publications and the papers of internationalist organizations and peace activists. Focusing on the international media frenzy that developed around them, Maartje Abbenhuis provides a new angle on the conferences. Highlighting the conventions that they brought about, she demonstrates how The Hague set the tone for international politics in the years leading up to the First World War, permeating media reports and shaping the views and activities of key organizations such as the Inter-Parliamentary Union, the International Council of Women and the Institut de droit international (Institute of International Law).

Human dignity in international human rights, humanitarian and international criminal law : a comparative approach

by Stefanie Schmahl. - In: Human dignity and criminal law : Würzburg conference on human dignity, human rights and criminal law in Israel and Germany, July 20-22, 2015. - Berlin : Duncker & Humblot, 2018. - p. 79-105. - Cote 345.1/687 (Br.)

The growing interplay between human rights law and international humanitarian law, which were for a long time considered as sharply distinct legal areas, has become a common feature during the last decades. The progressive convergence between the two corpora juris has been debated at length and various doctrinal theories have been established in this regard. Less attention, however, has been paid to the question of how the concept of human dignity is perceived by both bodies of law, and to what extent it is apparent in the default positions and objectives of international criminal law. The following reflections, therefore, pursue the aim of analysing the approach to human dignity in the above-mentioned legal areas in order to better

understand how international law determines the concept of human dignity in substantive and methodological terms.

https://library.ext.icrc.org/library/docs/ArticlesPDF/45285.pdf

Human rights and America's war on terror

ed. by Satvinder S. Juss. - London ; New York : Routledge, 2019. - XXIII, 238 p. - Cote 345.1/688

This volume examines the success of the 9/11 attacks in undermining the cherished principles of Western democracy, free speech and tolerance, which were central to US values. It is argued that this has led to the USA fighting disastrous wars in Afghanistan and Iraq, and to sanctioning the use of torture and imprisonment without trial in Guantánamo Bay, extraordinary rendition, surveillance and drone attacks. At home, it has resulted in restrictions of civil liberties and the growth of an ill-affordable military and security apparatus. In this collection the authors note the irony that the shocking destruction of the World Trade Center on 9/11 should become the justification for the relentless expansion of security agencies. Yet, this is a salutary illustration of how the security agencies in the USA have adopted faulty preconceptions, which have become too embedded within the institution to be abandoned without loss of credibility and prestige.

Human rights, humanitarianism, and the practices of humanity

Michael Barnett. In: International theory, Vol. 10, issue 3, November 2018, p. 314-349. - Cote 361/696 (Br.)

This article uses the concept of international practices to explore the distinctions between human rights and humanitarianism. First section proposes to advance the theoretical and empirical utility of the concept of practices by parsing it into the 'problem' that sets the story in motion. Second section applies this framework to the relationship between human rights and humanitarianism. Beginning in the 1990s, they began responding to many of the same material realities, which unleashed two interrelated processes. They began to revise their practices not only in response to new challenges but also to how the other evolved, generating new distinctions. These points of distinction were structured by different kinds of suffering and informed their contrasting narratives of precarity in the case of humanitarianism, and progress in human rights. The conclusion considers how this discussion of human rights and humanitarianism redirects contemporary research on international practices.

https://doi.org/10.1017/S1752971918000118

Human rights in war : on the entangled foundations of the 1949 Geneva Conventions

by Boyd van Dijk. In: American journal of international law, Vol. 112, no. 4, October 2018, p. 553-582

The relationship between human rights and humanitarian law is one of the most contentious topics in the history of international law. Most scholars studying their foundations argue that these two fields of law developed separately until the 1960s. This article, by contrast, reveals a much earlier cross-fertilization between these disciplines. It shows how "human rights thinking" played a critical generative role in transforming humanitarian law, thereby creating important legacies for today's understandings of international law in armed conflict.

https://doi.org/10.1017/ajil.2018.84

A human rights perspective to global battlefield detention : time to reconsider indefinite detention

Yuval Shany. In: International law studies, Vol. 93, 2017, p. 102-131

This article discusses one principal challenge to detention without trial of suspected international terrorists—the international human rights law (IHRL) norm requiring the introduction of an upper limit on the duration of security detention in order to render it not indefinite in length. Part One of this article describes the "hardline" position on security detention, adopted by the United States in the immediate aftermath of the 9/11 terror attacks, according to which international terrorism suspects can be deprived of their liberty without trial for the duration of the armed conflict in which the organizations they are affiliated with participate. Part Two describes judicial and quasi-judicial challenges to the "hardline" position, and Part Three addresses recent developments in IHRL relating to the co-application of IHL and IHRL and the extra-territoriality of certain IHRL norms. Part Four concludes by offering an IHRL-based perspective to security detention policy.

https://digital-commons.usnwc.edu/ils/vol93/iss1/3/

The importance and difficulties of establishing and clarifying the international legal personality and responsibility of non-state armed groups

Heleen M. Hiemstra. - In: International responsibility : essays in law, history and philosophy. - Genève [etc.] : Schulthess, 2017. - p. 161-177. - Cote 345.24/417

While the United Nations Security Council has on many occasions condemned violations of international humanitarian law committed by non-state armed groups and demanded that such conduct be ceased, international law remains heavily State-centric and does not have a satisfactory answer to these new realities. Although some clarity exists on the legal rules that bind NSAGs when operating in armed conflicts, the implications of violations of such rules is still highly uncharted territory. This contribution looks at some aspects of this 'grey area of international law', elaborating on State responsibility and individual criminal responsibility as indirect ways to achieve some form of responsibility for violations of international law committed by NSAGs, although both mechanisms are found wanting. Finally, the chapter looks at the possible development of a system of direct responsibility for NSAGs and the challenges involved therein.

In defense of concurrent application: the ILC draft articles on the protection of persons in the event of disasters and international humanitarian law

Aldo Perez. In: Denver journal of international law and policy, Vol. 46, no. 3, p. 259-288. - Cote 362/142 (Br.)

This article discusses the application of international disaster law not only to peacetime disasters, but also to disasters caused by armed conflict and to complex emergencies. It argues that International Humanitarian Law (IHL) contains a number of gaps that the International Law Commission Draft Articles on the Protection of Persons in the Event of Disasters (Draft Articles) would fill, thus significantly enhancing the protection of victims of disasters caused by armed conflict. The author also discusses the concurrent application of these two bodies of law.

Indeterminacy in the law of war : the need for an international advisory regime

Ariel Zemach. In: Brooklyn Journal of International Law, Vol. 43, issue 1, 2017, p. 1-74. - Cote 345.24/416 (Br.)

Indeterminacy in the law of war exacts a severe humanitarian toll, and it is not likely to be reduced by the conclusion of additional treaties. The present article argues that this may be mitigated through a U.N. Security Council action establishing an international advisory regime. States subscribing to the advisory regime ("operating states") would undertake to follow the interpretation of the law of war laid out by international legal advisors. The advisory regime would represent a bargain between the Security Council and operating states, which would grant protection for states against the costs that typically attach to non-compliance with the law of war, to the extent that the state followed the legal guidance provided by the international advisors. Finally, this article identifies an interpretive approach to the law of war that would make the proposed advisory regime the best bargain from a humanitarian perspective that is politically feasible.

https://brooklynworks.brooklaw.edu/bjil/vol43/iss1/25

Individual, not collective : justifying the resort to force against members of non-state armed groups

Anthony Dworkin. In: International law studies, Vol. 93, 2017, p. 476-525

This article proposes an alternative to the conventional way of deciding when a State may target or detain members of an armed group. Instead of asking whether there is an armed conflict between the State and the group, this article argues that we should look at the State's justification for the use of force against the group or its members. In a non-international context, this justification is rooted in human rights law. For this reason the State is only justified in using force against individual members of non-state groups when it is necessary and proportionate to the defense of life or the restoration of public order. In non-international armed conflict (NIAC), the justification for the use of lethal force depends on the threat posed by individual fighters and the context where they are encountered. The article argues against the use of international humanitarian law to determine the substantive content of human rights law in NIAC, but suggests that human rights law must be interpreted in a context-specific way.

https://digital-commons.usnwc.edu/ils/vol93/iss1/16/

International humanitarian law : cases, materials and commentary

Nicholas Tsagourias, Alasdair Morrison. - Cambridge [etc.] : Cambridge University Press, 2018. - XXXVIII, 386 p. - Cote 345.2/1048

Drawing together key documents, case law, reports and other essential materials, this book offers students, lecturers and practitioners an accessible and critically informed account of the theory, law and practice of international humanitarian law. Providing comprehensive, thematic and targeted coverage of national and international cases and materials, it successfully balances doctrine with practical application to help readers understand how the theories are applied in practice and navigate through jurisprudence with ease. Employing a critical and targeted commentary throughout, this book also helps readers to better understand the implications of the law and the challenges facing international humanitarian law today including: cyber war, detention, direct participation in hostilities, human rights in armed conflict and terrorism. Suitable for advanced undergraduate and postgraduate students and practitioners, it offers a thematic and comprehensive treatment of the subject.

International humanitarian law in the jurisprudence of international criminal tribunals and courts

Alessandra Spadaro. - In: The companion to international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2018. - p. 135-153. - Cote 345.2/1046

The creation of the Ad Hoc Tribunals for the former Yugoslavia and Rwanda marked a new beginning in the close relationship between international criminal law and IHL. This essay argues that, notwithstanding the contribution that some judgement rendered by international criminal tribunals and courts have given to the general understanding and perception of IHL, this process has not been free of obstacles. In fact, it will be shown that the way international criminal tribunals and courts have interpreted relevant IHL rules has not always been in line with this body of law's objectives and content. The author discusses both early and recent jurisprudential development, with a view to emphasizing some of the most problematic aspects of the interpretation and application of IHL by international criminal courts.

International legal dimensions of the Russian occupation of Crimea

Evhen Tsybulenko and Bogdan Kelichavyi. - In: The use of force against Ukraine and international law : jus ad bellum, jus in bello, jus post bellum. - The Hague : Asser Press, 2018. - p. 277-296. - Cote 345.26/291

This chapter analyses the main violations of public international law in the territory of Ukraine as a result of the military occupation of Crimea by the Russian Federation. The following study encompasses an evaluation of the human rights violations in Crimea and the establishment of a Russian regime on the peninsula, while drawing attention to repressions against some parts of the local population, such as the Crimean Tatars. An important focus is placed on the international legal status of the territory. There are numerous international legal acts that have already confirmed that Russia's actions in Crimea constitute military aggression, as well as declared the Crimean Peninsula as an integral part of the territory of Ukraine. Furthermore, this paper briefly analyses the legal mechanisms of responsibility currently in place, which could be used to punish perpetrators for violations of international treaties committed by the aggressor state.

International prosecution of sexual and gender-based crimes perpetrated during the First World War

William A. Schabas. - In: Justice without borders : essays in honour of Wolfgang Schomburg. - Leiden ; Boston : Brill Nijhoff, 2018. - p. 395-410. - Cote 344/741

Sexual and gender based violence has become a focus of modern-day international criminal justice. It is widely believed that the issue was ignored in previous efforts at international prosecution. Yet during and after the First World War there were serious and credible efforts to address allegations of sexual and gender-based violence. Feminist organizations took up the matter, submitting petitions to the Paris Peace Conference insisting that rape and forced prosecution not be neglected by the Commission on Responsibilities, which was charged with organizing the prosecutions. Ultimately, only a few trials took place at Leipzig and they did not address crimes against women.

The intricate relationship between international human rights law and international humanitarian law in the European Court for Human Rights case law : an analysis of the specific case of detention in non-international armed conflicts

Damien Scalia and Marie-Laurence Hebert-Dolbec. - In: The companion to international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2018. - p. 115-134. - Cote 345.2/1046

The relationship between IHRL and IHL has proven tempestuous and ambiguous, thus allowing bodies responsible for their enforcement to engage in cherry picking. The issue of detention in non-international armed conflicts is not immune from this approach. In order to analyse this specific situation, this paper first aims to clarify the mutual influences between these two fields of law. To do so, the authors explore (1) how

IHL bodies use IHRL, and (2) how, in turn, human rights bodies use IHL. With a specific focus on European case law, they (3) underline the problematic use of IHL by the ECtHR in the case of detention in non-international armed conflicts. On this basis, they conclude that maximum protection of detainees remains the judges' main goal.

Is Donbas occupied ?

[Wayne Jordash]. - Wallington (United Kingdom) : Global Rights Compliance, [24 February 2017]. - 19 p. - Cote 351/147 (Br.)

On 24 February 2017 Global Rights Compliance's Managing Partner Wayne Jordash QC held a press briefing at the Ukraine Crisis Media Center (UCMC) dedicated to the three-year anniversary of the occupation of Crimea. During his presentation, entitled 'Crimea: Is Donbas Occupied?', Mr. Jordash spoke about the intricacies of the situation in Ukraine and the legal assessment for determining whether there is in fact an occupation. Moreover, he discussed what the occupation is (both in Crimea and Donbas), as well as Russian participation and Ukraine's obligations under international humanitarian law.

https://www.globalrightscompliance.com/en/publications/crimea-is-donbas-occupied

Judicial practice, customary international criminal law and nullum crimen sine lege

Thomas Rauter. - Cham : Springer, 2017. - XVI, 261 p. - Cote 344/739

This study analyzes the methods used by international criminal tribunals when determining customary international criminal law and considers the compatibility of these approaches with the nullum crimen sine lege principle. It addresses the following questions: Is there one approach common to all international criminal tribunals, or can different approaches be detected in their jurisprudence when determining customary international law? Do international criminal tribunals regard both traditional elements of customary international law – State practice and opinio iuris – as necessary elements for the establishment of customary international law? Do international criminal tribunals argue along the lines of the International Court of Justice, requiring a high frequency and consistency of State practice that is both “extensive and virtually uniform”? In addition, the book analyzes the evidence used by international criminal tribunals in order to establish the constituent elements of customary international law.

Law and violence in the Global South : the legal framing of Mexico's "narco war"

Alejandro Rodiles. In: Journal of conflict and security law, Vol. 23, no. 2, Summer 2018, p. 269-281

Many scenarios of conflict in the global south are economically driven but have experienced such extreme forms of violence that commentators have reviewed the law of non-international armed conflict (NIAC) in light of the ‘war on drugs’ in several countries of Latin America, and elsewhere. The article also addresses this issue but with a view to better understand the relationship between law and violence. International humanitarian law (IHL) is not understood here as a mere set of neutral normative hypotheses which may or not apply to factual situations, but rather as an important means through which war is constructed. This relationship is reviewed in the framework of the struggle of the Mexican government against powerful drug cartels as well as among the latter, in particular during the administration of President Calderón, from 2006 to 2012. It does so, by analysing the legal narratives that have structured the discourse about Mexico’s violence. By simplifying its complexity, these narratives facilitate the qualification of the situation as internal war. This is contestable as a matter of lex lata. Moreover, it is counterproductive as it reinforces the strategic shifts between the law of war and the law of peace. The article concludes by arguing that the acknowledgment of the complexities of these conflicts is of the utmost importance for IHL, since they put into light the contingent character of some of its structuring categories. This sounds self-defeating but it is necessary for avoiding that this body of law reinforces what it seeks to contain.

https://doi.org/10.1093/jcsl/kry003

Law in the twilight : international courts and tribunals, the Security Council and the internationalisation of peace agreements between state and non-state parties

Cindy Wittke. - Cambridge [etc.] : Cambridge University Press, 2018. - XXXII, 244 p. - Cote 345.22/990

This book focuses on the internationalisation and legalisation of peace agreements to settle intrastate conflicts between state and non-state parties. It focuses on two key issues: how international courts and tribunals deal with peace agreements; and what implications the United Nations Security Council's involvement in the negotiation and implementation of peace agreements has for the agreements' legal nature, the status of the non-state parties to agreements and the interpretation of peace agreements. The

author argues that the processes of negotiating and implementing peace agreements between state and non-state parties create new sphere, spaces and forms of post-conflict law making and law enforcement. For example, contemporary peace agreements can simultaneously take the form and function of internationalised transitional constitutions and agreements governed by international law.

The law in war : a concise overview

Geoffrey Corn, Ken Watkin, Jamie Williamson. - London ; New York : Routledge, 2018. - XVIII, 302 p. - Cote 345.2/1047

This book provides a comprehensive yet concise overview of key issues related to the regulation of armed hostilities between States, and between States and non-State groups. Coverage begins with an explanation of the conditions that result in the applicability of international humanitarian law, and then subsequently addresses how the law influences a broad range of operational, humanitarian, and accountability issues that arise during military operations. Each chapter provides a clear and comprehensive explanation of humanitarian law, focusing especially on how it impacts operations. The chapters also highlight both contemporary controversies in the field and potentially emerging norms of the law.

Law of the environment and armed conflict

ed. by Karen Hulme. - Cheltenham ; Northampton : E. Elgar, 2017. - XXXIV, 870 p. - Cote 358/166

Law of the Environment and Armed Conflict selects the most important and influential research articles relating to the protection of the environment in armed conflict. The book plots the trajectory of research on this issue from early weapons impacts and the Vietnam War to possible future directions. Through the selection of articles, the reader is taken on a historic journey, unveiling the contemporary legal and political context, including the connection between international disarmament law and the law of armed conflict. The contributions discussing the example of the Iraq-Kuwait War – brings the reader into the modern discourse and it is skillfully complemented by contributions on the role of customary international law, gaps and possibilities in current law as well as responsibility for wartime environmental damage.

The legality of nuclear weapons for use and deterrence

Christopher Vail. In: Georgetown journal of international law, Vol. 48, no. 3, 2017, p. 839-872. - Cote 341.67/871 (Br.)

This Note advocates for implementing a stricter amendment to the Non-Proliferation Treaty (NPT)'s disarmament provisions so it can achieve total nuclear disarmament of nuclear-weapon states. The actual use of nuclear weapons-which is a per se violation of current international law-is closely tied to the principle of deterrence under the mutually assured destruction (MAD) doctrine. As a result of maintaining nuclear weapon stockpiles for deterrence purposes under MAD, the United States has had the opportunity to seriously consider using those stockpiles for a nuclear attack in times of conflict. The fact that nuclear-weapon states have the ability to commit what would inevitably be a violation of international law is sufficient justification for banning nuclear weapons entirely. The NPT should therefore be amended to require complete nuclear disarmament by nuclear weapon states.

https://www.law.georgetown.edu/international-law-journal/in-print/volume-48-number-3-spring-2017/the-legality-of-nuclear-weapons-for-use-and-deterrence/

Legislative measures in international humanitarian law : a jigsaw of subtle fragmentation

Azra Kuci and Jelena Plamenac. - In: The companion to international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2018. - p. 56-78. - Cote 345.2/1046

IHL has often been deemed outdated and frozen inside a rigid framework, unable to provide an adequate response to the changing reality of armed conflicts. This article contests such a view, arguing that IHL is an expanding corpus juris with legal means to address these challenges. The authors identify two main currents of IHL expansion: implementing legislative measures, which comprise all measures taken at the national level to implement existing IHL rules; and developing legislative measures, which come into existence at the international or national level as a response to the specific challenges - including international treaties focusing on specific topics, customary rules, decisions of international tribunals, and national legislation and jurisprudence. The authors argue that these measures have resulted in the advancement and strengthening of IHL rules, but that developing legislative measures adopted by some State at the national level are inconsistent with the main principles of IHL.

The limits of inviolability : the parameters for protection of United Nations facilities during armed conflict

Laurie R. Blank. In: International law studies, Vol. 93, 2017, p. 45-101

This article examines the international legal protections for United Nations humanitarian assistance and other civilian facilities during armed conflict, including under general international law, setting forth the immunities of the United Nations, and the law of armed conflict (LOAC). Recent conflicts have often caused damage to UN facilities. To identify the appropriate parameters for protection for such facilities, this article therefore focuses on what "inviolability" of UN premises means within the context of LOAC. Part Two of this article addresses the question of which law governs for the purposes of determining the scope of protection for UN facilities and analyzing actions during armed conflict to assess whether damage to UN facilities violated that law. Part Three of this article then examines how LOAC's rules on military objectives, specially-protected objects, proportionality and precautions apply in practice when UN facilities located in areas of combat operations face direct or collateral consequences from those operations.

https://digital-commons.usnwc.edu/ils/vol93/iss1/2/

Mapping war, peace and terrorism in the global information environment

Michael John-Hopkins. In: Journal of international humanitarian legal studies, Vol. 8, issue 1-2, 2017, p. 202-233

This article outlines in general terms how the environment of 21st century transnational organised crime, terrorism and unconventional conflict is being shaped by information-related capabilities (IRCs) that foster global networked connectivity and asymmetric responses to conventional military supremacy. This article explores how the conceptual apparatus regarding the distinction between wartime and peacetime, as well as war zones and peace zones, which has been developed within the framework of international criminal law and humanitarian law, can contribute to military-strategic operational and capability concepts. Integration of these conceptual frameworks within strategic analysis can serve to promote the effective use of force within a full spectrum operational environment in which information, surveillance, target acquisition and reconnaissance thresholds are being lowered as deeper understandings of the social dynamic that sustains ongoing fighting within a global information environment become increasingly feasible through innovations in IRCs. In this context, this article suggests that law enforcement frameworks and approaches have a high threshold of applicability, i.e. to increasingly serious and organised situations of violence, if the strategic failures associated with conventional military operations are to be avoided. Rather than offering an analysis of cyber warfare/cyber attacks or information operations per se, this article is more generally concerned with understanding how military support and command and control operations are being conducted in the global information environment in order to achieve physical effects that can be characterised as non-international armed conflict.

https://doi.org/10.1163/18781527-00801002

Maritime interception and the law of naval operations : a study of legal bases and legal regimes in maritime interception operations

Martin Fink. - The Hague : Asser Press, 2018. - XVI, 317 p. - Cote 347/169

This book considers the international law applicable to maritime interception operations (MIO) conducted on the high seas and within the context of international peace and security, MIO being a much-used naval operational activity employed within the entire spectrum of today's conflicts. It deals with the legal aspects flowing from the boarding and searching of foreign-flagged vessels and the possible arrest of persons and confiscation of goods, and analyses the applicable law with regard to maritime interception operations through the legal bases and legal regimes. Considered are MIO undertaken based on, for instance, the UN Collective Security System (maritime embargo operations), self-defence and (ad-hoc) consent, and within the context of legal regimes various views are provided on the right of visit, the use of force and the use of detention.

Military collaterals and ius in bello proportionality

by Jann K. Kleffner. In: Israel yearbook on human rights, Vol. 48, 2018, p. 43-61

The law of armed conflict provides that wounded, sick and shipwrecked military personnel as well as military medical and religious personnel (hereafter referred to as "protected military persons") shall be respected and protected in all circumstances. Yet, neither conventional nor customary law of armed conflict specifically addresses the question whether and to what extent such military personnel is protected against incidental harm that can be expected to be caused to them by an attack against a lawful target. This article examines the obligation to respect and protect protected military persons in all circumstances and the question how this obligation can be reconciled, if at all, with the absence of protected military persons from the collateral

damage side of the proportionality equation. It is argued that proportionality as a general principle of the law of armed conflict provides a legal framework for such reconciliation.

Military necessity, proportionality and dual-use objects at the ICTY : a close reading of the Prlic et al. proceedings on the destruction of the Old Bridge of Mostar

Maurice Cotter. In: Journal of conflict and security law, Vol. 23, no. 2, Summer 2018, p. 283-305

This article offers a close reading of the ICTY's adjudication of the destruction of the Old Bridge of Mostar in the case of Prlic et al. It begins by exploring the elements of the crime of wanton destruction not justified by military necessity, the findings on which formed the crux of the legal issues at trial and on appeal. Specifically, it explores the assessment by the Trial Chamber and Appeals Chamber of the related international humanitarian law concepts of military necessity and proportionality. It argues that the Prlic et al Appeal Judgement represents a problematic application of the law which applies to the targeting of so-called 'dual-use objects': objects which qualify as military objectives, but which also simultaneously serve civilian functions.

https://doi.org/10.1093/jcsl/kry015

Military objectives by nature

by Arne Willy Dahl. In: Israel yearbook on human rights, Vol. 48, 2018, p. 1-17 : tabl.

This article discusses a particular point of the definition of a military objective. The questions are whether it is possible to draw up an uncontroversial list of "military objectives by nature" and which items such a list might include. One important issue is whether the category "military objectives by nature" is absolute - in other words whether they must qualify as such at all times. Some think that this is the case, while others are of the opinion that the military advantage test must be met also by those objects that are military objectives by nature. In this paper, an attempt is made to show that although the category "military objectives by nature" may not be absolute, there are certain objects which, by their nature, will make an effective contribution to military action in all practical circumstances and that a list of such objects goes beyond weapons and other typical military items.

Minelaying and the impediment of passage rights

Wolff Heintschel von Heinegg. - In: Operational law in international straits and current maritime security challenges. - Cham : Springer, 2018. - p. 11-37. - Cote 347/168

Since their first extensive use in the 1904–05 Russo-Japanese War naval mines have continued to pose a considerable threat to innocent shipping. States reacted by adopting the 1907 Hague Convention VIII, which has been the only international instrument on the matter to date. In view of the fact that more than 80 percent of imports and exports are shipped by sea, freedom of navigation and, in particular, transit and archipelagic sea lanes passage rights must be preserved to the greatest extent possible. The present article deals with the question of whether international rules and principles provide effective protection of international shipping by prohibiting or restricting the laying of naval mines that impede passage rights in times of international armed conflict, as well as in times of peace or crisis.

The nascent law of cyber blockades and zones

Ana Lenard. In: New Zealand yearbook of international law, Vol. 14, 2016, p. 94-133 ; tabl.. - Cote 348/149 (Br.)

This article seeks to add to the scholarship on cyber warfare and intervention by considering whether the law of conventional blockades and zones can apply to the same cyber tactics, and if not, what the law of cyber blockades and zones otherwise ought to be. The author underlines the importance of ascertaining the law of cyber blockades and zones, because their use has been documented and they are likely to become more prevalent in the future as states look for low-risk, low-cost ways to conduct or support war efforts, or intervene in the affairs of other states.

https://library.ext.icrc.org/library/docs/ArticlesPDF/45237.pdf

Naxalite rebellion : domestic law and order, and humanitarian law in a non international armed conflict

Zia Akhtar. In: Journal of international humanitarian legal studies, Vol. 8, issue 1-2, 2017, p. 1-32

The military conflict within India's borders involves the government forces and the Naxalite rebels. The Naxalite movement has channelled in a violent struggle and there has been an incremental increase in the rate of fatalities. The failure of public interest litigation and the enforcement of the Armed Forces Special Power Act (AFSPA) means that the domestic remedies for empowerment are not successful. The breach of human rights has to be assessed against the insurgency of the Naxalite guerillas and the Geneva Conventions that are applicable under the Non International Armed Conflict (NIAC). This paper will assess the rural origins of the conflict, environmental damage and the litigation by the Adivasi communities before addressing the rules under which the protections are available under the international humanitarian law. This will argue for the strict implementation of the Geneva Conventions and for NIAC to be liable for intervention as an International Armed Conflict (IAC).

https://doi.org/10.1163/18781527-00801001

Neutrality and outer space

Wolff Heintschel von Heinegg. In: International law studies, Vol. 93, 2017, p. 526-547

This article discusses the law of neutrality as it pertains to belligerent operations in and through outer space as well as belligerent outer space operations involving the territory and national airspace of neutral States. As far as the latter is concerned, the traditional law of neutrality is fully applicable. Accordingly, international law prohibits belligerents from launching space objects from neutral territory or through neutral national airspace. While neutral States may not provide belligerents with outer space assets or the use of communications infrastructure located in their territories, they are not obliged to prevent their nationals from providing any of the belligerents with militarily relevant information, such as satellite imagery. As far as belligerent operations in or through outer space are concerned, there is no room for the law of neutrality. The law of neutrality is closely linked to territorial sovereignty and therefore inapplicable in outer space and on celestial bodies. The status of neutral outer space objects is also analyzed in the article.

https://digital-commons.usnwc.edu/ils/vol93/iss1/18/

A new look at international law : gendering the practices of humanitarian medicine in Europe's "Small Wars," 1879-1907

Jean H. Quataert. In: Human rights quarterly : a comparative and international journal of the social sciences, humanities, and law, Vol. 40, no.3, August 2018, p. 547-569

This article examines international law as practice. It explores the ways Geneva Convention rules were implemented in the many armed struggles of the late Imperial age, including colonial and small wars where the law had no formal jurisdiction. Through case studies of several armed conflicts involving British, United States, and German medical staff—placed in the context of the evolving international Red Cross network—it traces the establishment of a hierarchically subordinated but gender integrated nursing corps as a global norm, if not a universal pattern. The article is as much about the methodology of transnational history as about a new approach to law, war, and gender.

The non-combatant casualty cut-off value : assessment of a novel targeting technique in Operation Inherent Resolve

Scott Graham. In: International criminal law review, Vol. 18, issue 4, 2018, p. 655-685 : carte

A tension exists between treaty protections afforded to civilians in non-international armed conflicts from becoming objects of attacks and the International Criminal Court's jurisdiction to punish commanders who recklessly cause such casualties. Yet, media and human rights organizations' criticism that the non-combatant casualty cut-off value (NCV) constitutes a war crime cannot survive rational examination of the mens rea requirement in the Rome Statute. Coalition commanders and targeteers must ensure the NCV is neither presumptively nor conclusively applied in target engagement, whilst taking constant care to focus proportionality assessments to spare civilians.

https://doi.org/10.1163/15718123-01804002

Non-state actors and international obligations : creation, evolution and enforcement

ed. by James Summers and Alex Gough. - Leiden ; Boston : Brill Nijhoff, 2018. - XXXVI, 487 p. - Cote 345.29/327

This volume examines the contribution and relevance of non-state actors in the creation and implementation of international obligations. These actors have traditionally been marginalised within international law and ambiguities remain over their precise role. Nonetheless, they have become increasingly important in legal regimes as participants in their implementation and enforcement, and as potential holders of duties

themselves. Chapters from academics and practitioners investigate different aspects of this relationship, including the sources of obligations, their implementation, human rights aspects, dispute settlement, responsibility and legal accountability.

The North and South divide in the practice and application of international law : a humanitarian and human right law perspective

Abdul Hamid Kwarteng and Thomas P. Botchway. In: Journal of politics and law, Vol. 11, no. 1, 2018, p. 79-87. - Cote 345.22/987 (Br.)

The North and South divide in the practice and application of international laws have been previously perceived to be evident in international environmental law. However, in recent times this divide has permeated other branches, such as human right law and international humanitarian law (IHL), hence the essence of this article. The article is divided into four main parts. The first part gives an introduction on the topic. The second part reviews the literature on the existence of North and South divide in the application of international environmental laws. The third part gives a new dimension to the North and South divide in the application of IHL and human right law with the Syrian Crisis, Malaysian Airline flight MH17 and the 2007 draft resolution on the peace and security of Myanmar as case studies. The last part concludes by giving an overview of how this phenomenon threatens world peace and consequently offers some recommendations.

https://doi.org/10.5539/jpl.v11n1p79

Occupation of sea territory : requirement for military authority and a comparison to art. 43 of the Hague Convention IV

Tassilo Singer. - In: Operational law in international straits and current maritime security challenges. - Cham : Springer, 2018. - p. 255-289. - Cote 347/168

The law of occupation is codified solely with a view to land territory in Hague Convention IV and Geneva Convention IV. It can be argued, however, that the law of occupation can also be applied to the sea. This requires a simultaneous occupation to the sea, as well as requirement for military authority in the maritime domain. The article also points out several peculiarities of the adaptation for the sea territory concerning the rights and duties of the occupying power, such as the duty to guarantee freedom of communications. The legal challenges, which remain due to indefinite terms or wide margins of appreciation, do, however, prove the need for a careful adaption.

Of robots and rules : autonomous weapon systems in the law of armed conflict

Michael Press. In: Georgetown journal of international law, Vol. 48, no. 4, 2017, p. 1337-1366. - Cote 341.67/870 (Br.)

This Note conducts an analysis of the legal regime surrounding the construction and use of autonomous weapons systems (AWS). In order to do so, it examines similar weapons systems utilized by the U.S. military and current U.S. doctrine on the use of robotic autonomy in weapons. An overview of law of international humanitarian law (IHL) principles will also be explored. Subsequently, those legal principles are applied to AWS to investigate whether these weapons systems should be legally prohibited and how certain uses should be restricted. This Note asserts that there is nothing from a legal perspective that fundamentally prohibits the use of AWS in combat situations. However, similar to other weapons, it is the implementation of AWS that could come into conflict with IHL. Key recommendations include limiting the use of AWS to situations where a system can reliably and predictably abide by the core principles of IHL.

https://www.law.georgetown.edu/international-law-journal/in-print/volume-48-number-4-summer-2017/of-robots-and-rules-autonomous-weapon-systems-in-the-law-of-armed-conflict/

On the situation in Palestine and the war crime of transfer of civilians into occupied territory

Michael G. Kearney. In: Criminal law forum, Vol. 28, issue 1, March 2017, p. 1–34. - Cote 344/742 (Br.)

This paper considers the war crime at Article 8(2)(b)(viii) of the Rome Statute, 'the transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies', by addressing the doctrinal elements of the provision in light of the impact which the practice of transfer of Israeli civilians into occupied territory has had on the application of the rule of international law to the broader situation in Palestine. The provision is distinct among war crimes within the Court's jurisdiction as it refers to the activity of a state in addition to that of the individual perpetrator. Following an overview of how Israel's transfer of civilians into occupied territory challenges international law's distinction between civilian and combatant and has given rise to the charge of apartheid, the paper considers the drafting history

of Article 8(2)(b)(viii) before reviewing Israel's state responsibility for unlawful transfer, and considering the temporal jurisdiction of the ICC.

https://doi.org/10.1007/s10609-016-9300-9

Operational law in international straits and current maritime security challenges

Jörg Schildknecht... [et al.], eds. - Cham : Springer, 2018. - VI, 289 p. - Cote 347/168

This book addresses a wide range of contemporary operational maritime law issues across the spectrum of operations. It provides sophisticated analyses and insights, and offers new interpretations of topics that are directly relevant for contemporary naval operations.The book examines unresolved legal issues in order to provide guidelines for conducting maritime operations, and also offers reference material for general education on the law of naval operations. Further, it serves as a comprehensive resource for operational doctrine and military planning, and presents an approach to dealing with multiple legal issues that demonstrates how modern military operations at sea can legally be executed.

Overcoming power asymmetry in humanitarian negotiations with armed groups

Ashley Jonathan Clements. In: International negotiation, Vol. 23, 2018, p. 367-393. - Cote 361/698 (Br.)

Humanitarian actors seeking to offer assistance and protection to civilians in many contemporary conflicts negotiate access with armed groups from a position of weakness. They consequently concede many of their demands, compromising humanitarian operations and principles, and leaving millions of vulnerable civilians beyond reach. Using a structural analysis of the negotiation process in many recent humanitarian crises this article demonstrates the basis of this marked power asymmetry and challenges the assumption in much of the literature that this power imbalance is immutable. Humanitarian negotiators have access to a range of tactics that can alter the structure of the negotiation to reach more favorable outcomes. This article argues that these strategies have proved effective in many recent negotiations, but also carry significant risks to humanitarian actors and to the civilians they seek to assist.

https://library.ext.icrc.org/library/docs/ArticlesPDF/45333.pdf

The '-Pacific' part of 'Asia-Pacific' : Oceanic diplomacy in the 2017 Treaty for the Prohibition of Nuclear Weapons

Matthew Bolton. In: Asian journal of political science, Vol. 26, no. 3, 2018, p. 371-389. – Cote 341.67/872 (Br.)

The 2017 Treaty for the Prohibition of Nuclear Weapons (TPNW) placed ‘positive obligations’ on states to assist victims of nuclear weapons use and testing and remediate contaminated environments. States and NGOs from the Pacific region advocated for a strong treaty text, particularly its positive obligations. They were influenced by the region’s history as a site of nuclear weapons testing in Marshall Islands, Kiribati and French Polynesia/Te Ao Maohi; the 1985 South Pacific Nuclear Free Zone’s precedent; and earlier diplomatic efforts and activism linking denuclearization with decolonization. In doing so, Pacific and other formerly colonized states flipped the ‘standard of civilization’ script embedded in humanitarian disarmament law and applied it to their former colonizers. The paper demonstrates the agency of small states—the ‘-Pacific’ part of ‘Asia-Pacific’—in multilateral policymaking on peace and security, often overlooked in international relations scholarship.

https://library.ext.icrc.org/library/docs/ArticlesPDF/45265.pdf

Participation in the conduct of hostilities and state restraint on killing

Ishita Chakrabarty and Hardik Choudhary. In: Queen Mary law journal, Vol. 9, Spring 2018, p. 49-66. - Cote 345.25/379 (Br.)

The International Court of Justice (ICJ) held that principles of human rights must be read in consonance with those of International Humanitarian Law (IHL), without holding the latter as lex specialis in the event of an armed conflict. Thus, the State may not arbitrarily engage in depriving any individual of his right to life. Non-International Armed Conflicts ('NIACs'), though elucidated in the Additional Protocol II, have hardly been a topic of study. IHL prohibits attacks on the civilian population and demand attacks to be directed solely against belligerents. NIACs have made it difficult to distinguish between a combatant and a civilian, since individuals residing within the State territory are unlikely to carry arms openly. These are populations that have to be classified by the nature of activities they undertake. This paper seeks to identify the issues with the conduct of hostilities paradigm and the guidelines provided to determine direct participation and finally, to redefine the powers of the State during a NIAC.

https://library.ext.icrc.org/library/docs/ArticlesPDF/45255.pdf

A path towards greater respect for international humanitarian law

Valentin Zellweger and François Voeffray. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 341-356. - Cote 362/141

This chapter focuses on the need to generate greater respect for IHL. It discusses the deficiencies in the existing mechanisms provided for in the IHL treaties and the lack of a forum specifically dedicated to IHL. It also describes the ongoing diplomatic process facilitated by the ICRC and Switzerland and explains how bridging the current institutional gap could constitute a path towards greater respect for this crucial body of law.

Periodic review boards for law-of-war detention in Guantanamo : what next ?

Andrea Harrison. In: ILSA journal of international and comparative law, Vol. 24, issue 3, 2018, p. 541-578. - Cote 400/174 (Br.)

The questions this article seeks to address is whether periodic reviews of detention in a NIAC are required, whether Periodic Review Boards meet the minimum legal requirements under international law, and whether they should be perpetuated by the United States administration. Part II covers the existing international legal rules regarding periodic review of security detention in relation to armed conflict. Part III analyzes existing United States law and policy with respect to periodic reviews of security detention in relation to armed conflict. Part IV addresses the structure and appropriateness of PRBs for current and future Guantanamo detainees. Finally, Part V considers how PRBs comport with international law and makes recommendations regarding the existing PRB process and any security detention review processes that the United States may consider establishing for future non-international armed conflicts in which it may become involved.

https://library.ext.icrc.org/library/docs/ArticlesPDF/45247.pdf

Power, law and the end of privateering

Jan Martin Lemnitzer. - Basingstoke ; New York : Palgrave Macmillan, 2014. - XII, 254 p. - Cote 347/167

This book offers a new take on the relationship between law and power, exposing the delicate balance between great powers and small states that is necessary to create and enforce norms across the globe. The 1856 Declaration of Paris marks the precise moment when international law became universal, and it is the template for creating new norms until today. Moreover, the treaty was an aggressive and successful British move to end privateering forever - then the United States' main weapon in case of war with Britain. Based on previously untapped archival sources, the author shows why Britain granted generous neutral rights in the Crimean War, how the Europeans forced the United States to respect international law during the American Civil War and why Bismarck threatened violent redemption during the Franco-German War of 1870/1871.

A precautionary tale : the theory and practice of precautions in attack

Noam Neuman. In: Israel yearbook on human rights, Vol. 48, 2018, p. 19-41

This article discusses the obligation to take precautions in attack. It uses as a case study Operation “Neptune Spear”, whose goal was to kill or capture Osama Bin Laden in Pakistan in 2011, and which was regarded as a resounding success. The author assumes the position that the LOAC is the relevant paradigm for analyzing the legality of the operation and that Osama Bin Laden was a lawful target. Based on these assumptions, he analyzes some of the customary rules of precautions in attack and their possible application to the operation. In particular, this article discusses the scope of the duty to take constant care to spare the civilian population in the planning and execution of a military operation. It also studies the requirement to verify that an attack is lawful, and the obligations for those planning or executing the attack, with regard to the choice of means and method.

The principle of proportionality in the rules governing the conduct of hostilities under international humanitarian law : international expert meeting, 22-23 June 2016, Quebec

report prepared and ed. by Laurent Gisel. - Geneva : ICRC, August 2018. - 81 p. - Cote 345.25/378

This report provides an account of the debates that took place during a meeting of international experts co-organized by the ICRC and Université Laval (Quebec) in June 2016 in Quebec. The subject under discussion was the principle of proportionality in the rules governing the conduct of hostilities under international humanitarian law". The principle of proportionality prohibits attacks which may be expected to cause

incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated. As fighting increasingly takes place in populated areas, where incidental harm is likely to occur due to the co-location and intermingling of lawful targets and protected persons and objects, the principle of proportionality is becoming ever more crucial in current armed conflicts. While the existence of the principle of proportionality is undisputed and applied daily by military commanders, the key concepts on which it relies – military advantage, incidental harm and excessiveness – would benefit from further clarification. This report provides an account of the stimulating in-depth debates that took place during the meeting.

https://library.icrc.org/library/docs/DOC/icrc-002-4358.pdf

Prize law and contraband in modern naval warfare

Marcel Schulz. - In: Operational law in international straits and current maritime security challenges. - Cham : Springer, 2018. - p. 211-243. - Cote 347/168

Prize law and the law of contraband are based on the rules of peacetime public international law, especially peacetime law of the sea. The origin of prize and contraband laws is the Paris Declaration of 1856; however, they still are part of the modern humanitarian law and the law of armed conflict at sea. Many historical regulations have barely changed and remain valid today, with States showing no interest in changing them. This chapter initially illuminates historical developments of this very unique and special aspect of naval warfare, which is the precondition for any understanding of modern rules. It notes that, while there may be uncertainties regarding some details, there is a general agreement on the core rules of prize law and law of contraband. They are in no way outdated but rather provide a very practicable framework.

Promoting the teaching of IHL in universities : overview, successes and challenges of the ICRC's approach

Etienne Kuster. - In: The companion to international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2018. - p. 3-38. - Cote 345.2/1046

According to the four Geneva Conventions of 1949, States have to include the study of those texts within their programmes of military and civilian instruction. What role do universities play in that regard? How has the ICRC supported the teaching of IHL during past decades? What are the results achieved and the challenges faced? Which recommendations and questions can be formulated for years ahead? This piece endeavours to provide an overview of the ICRC's experience in promoting the teaching of IHL in academia worldwide.

https://www.icrc.org/en/document/promoting-teaching-ihl-universities-overview-successes-and-challenges

Promotion and implementation of international humanitarian law : a Commonwealth perspective

Commonwealth Secretariat. In: Commonwealth law bulletin, Vol. 43, no. 3-4, 2017, p. 504-520. - Cote 345.23/119 (Br.)

This paper provides an update on some important developments and initiatives relating to international humanitarian law (IHL), with specific reference to the Commonwealth. In particular, the paper considers the promotion and implementation of IHL and highlights the importance of preventing and punishing violations of IHL. It also outlines key humanitarian themes and legal concepts.

Prosecution for the destruction of cultural property : significance of the al Mahdi trial

Lara Pratt. In: International criminal law review, Vol. 18, issue 6, 2018, p. 1048-1079

In recent years, the vulnerability of cultural property during armed conflict has been a high-profile issue of international concern. The al Mahdi prosecution at the International Criminal Court, for the destruction of sites in Timbuktu, represents an important development in the protection of cultural property. As the first international criminal law prosecution solely for cultural property crimes, it is recognition that loss of cultural heritage leads to both local and global harms and opens the door to future prosecutions. This article first briefly explains the current international law framework. It then explains the significance of the al Mahdi trial and the challenges in realising any potential benefits. The article concludes that while the trial is an important development, if this prosecution represents either the totality of international criminal law engagement in Mali or the final prosecution for the destruction of cultural property, the possible benefits will be undermined.

https://doi.org/10.1163/15718123-01806009

Protecting children in armed conflicts

Shaheed Fatima QC... [et al.] ; legal panel and contributors: Sean Aughey... [et al.] ; [foreword by Gordon Brown]. - Oxford ; [etc.] : Hart, 2018. - LXIII, 535 p. - Cote 362.7/441

In armed conflicts around the world, children are being killed, raped, abducted and recruited to fight at a shocking scale. In light of this continuing general failure to protect children in conflict, it is questionable whether existing international law norms and institutions provide sufficient protection and accountability. Consideration needs to be given to whether international law can do more – practically and effectively – when moral lines are crossed. That is the purpose of this book. It reviews the position of children in armed conflict by reference to the 'six grave violations' as identified by the UN Security Council. It analyses the protection offered by international humanitarian law, international criminal law and international human rights law, and also assesses the related adjudicative accountability mechanisms. The analysis concludes with a number of recommendations and proposals for reform, with a view to enhancing accountability and deterring future violations.

Protection by process : implementing the principle of proportionality in contemporary armed conflicts

Amichai Cohen. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 73-95. - Cote 362/141

Taking the example of the US presidential policy guidance on targeted killings, this chapter looks at current changes in the understanding and implementation of the principle of proportionality in international humanitarian law. The author notes that scholars believe that the growing intolerance for any civilian casualties reflects a profound change in the legal norms applicable to armed conflicts. He argues that this evolution stems from the bureaucratisation of military operations and the penetration of new societal attitudes to civilian casualties to the military sphere.

Protection in practice : protecting IDPs in today's armed conflicts

Nina Schrepfer. In: International journal of refugee law, 2018, 15 p. - Cote 365/532 (Br.)

Protecting internally displaced persons (IDPs) in today's armed conflicts means that humanitarian organizations must work in the midst of ongoing armed conflict and violence, in situations where law and order has broken down and general insecurity prevails. These operational realities ultimately determine how IDPs can be protected by humanitarians, and also where limitations exist. For example, humanitarian organizations mostly do not have the capacity to provide physical protection from harm, in contrast to United Nations (UN) Peacekeeping operations with a mandate to protect civilians. Similarly, insufficient political willingness by States to address and halt human rights violations can limit the capacity of humanitarian actors to provide protection.

https://library.ext.icrc.org/library/docs/ArticlesPDF/45197.pdf

Regulating armed drones and other emerging weapons technologies

Stuart Casey-Maslen. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 97-115. - Cote 362/141

This chapter is dedicated to the international legal concerns raised by the integration of drones and other emerging weapons in military operations. It focuses on the use of armed drones in counterterrorism outside the conduct of hostilities, by the United States in particular, and notes that the protection of those who are targeted away from the battlefield is the focus of broader and deeper concern.

Reparation for victims of armed conflict : impulses from the Max Planck trialogues

Christian Marxsen... [et al.]. In: Zeitschrift für ausländisches öffentliches Recht und Völkerrecht = Heidelberg journal of international law, 78. Jahrgang, H. 3/2018, p. 519-806

The international law on reparation for victims of armed conflict is complex. Numerous subfields of international law are involved and reparation-related questions are often highly politically charged. Against this backdrop, the collection of short essays explores whether and under which circumstances individuals have a right to reparation under international law. The introduction unpacks the legal dimensions and identifies the currently most controversial issues. One set of essays then analyses, from different angles, whether a right to reparation for individuals exists as a matter of law. Another set recounts experiences with the implementation of reparation mechanisms and discusses the challenges. A third group of essays addresses the role of domestic courts. The essays ('impulses') are one outcome of the Max Planck Trialogue workshop on reparation for victims of armed conflict, held in 2017 in Berlin.

The responsibility to protect and non-state armed groups

Jennifer M Welsh. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 357-375. - Cote 362/141

After setting out the rationale and function of the principle of the responsibility to protect, the author presents how its initially state-centric focus might be expanded to address the challenge of non-state armed groups (NSAGs) as threats to civilians. He first analyses these actors' legal and political responsibilities, before setting out potential strategies for combating or mitigating the protection challenges they create. Then, he turns to the question of whether and how states can call upon military assistance from the international community to assist them in addressing the threat posed by NSAGs and the states' responsibility for actions of NSAGs over which they have a degree of control.

The right of visit of foreign-flagged vessels on the high seas in non-international armed conflict

Martin Fink. - In: Operational law in international straits and current maritime security challenges. - Cham : Springer, 2018. - p. 245-253. - Cote 347/168

This chapter presents three theories on the use of the right of visit during non-international armed conflicts. The belligerent right of visit and search, which is part of the laws of naval warfare, applies only in international armed conflict. Current conflicts are, however, more often non-international in character. Viewed within this context, the non-existence of a right of visit during a non-international armed conflict may present itself as a legal gap in the operational need for States to board foreign-flagged vessels. The three theories could serve as a departure for discussion whether there may be sufficient legal grounds to apply the right of visit in a non-international armed conflict.

The right to reparation for victims of armed conflict

Carla Ferstman. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 207-229. - Cote 362/141

This chapter explores some of the main challenges victims of armed conflict face in obtaining reparations, citing a variety of case examples. If the right to reparation for victims of armed conflict exists as a matter of law, the author notes that the saying of the law is disconnected from what happens in practice. She argues that the difficulties lie in the limited standing for victims to pursue claims to assert their interests, but also in the absence of rules regarding 'second-best' remedies and reparations, as alternatives to 'full' reparation.

The role of United Nations Commissions of Inquiry in the implementation of IHL : potential and challenges

Théo Boutruche. - In: The companion to international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2018. - p. 98-114. - Cote 345.2/1046

The number of Commissions of Inquiry (CoI or CoIs), especially those established by the UN, has increased significantly over the last years. Such bodies may refer to and apply various norms of IHL. Based on examples derived from the practice of different CoIs, this contribution considers how they may strengthen respect for this body of law. This may be achieved by elucidating allegations of violations, addressing controversial behaviour on the battlefield, clarifying the contents and interpretation of norms, and providing a basis for criminal prosecutions. However, significant challenges stand in the way of realising this potential, including one-sided mandates, the information and evidence available, IHL expertise, and the relationship with International Criminal Law. The value of CoIs should consequently not be overstated.

A rule book on the shelf ? : Tallinn manual 2.0 on cyberoperations and subsequent state practice

by Dan Efrony and Yuval Shany. In: American journal of international law, Vol. 112, issue 4, October 2018, p. 583-657

This article evaluates acceptance of the Tallinn Rules by states on the basis of eleven case studies involving cyberoperations, all occurring after the first Tallinn Manual was published in 2013. Our principal findings are that (1) it is unclear whether states are ready to accept the Tallinn Rules; (2) states show uneven interest in promoting legal certainty in cyberspace; and (3) a growing need for coordinated response to cyberattacks may induce states to consider more favorably the Tallinn Rules.

https://doi.org/10.1017/ajil.2018.86

Safeguarding medical care and humanitarian action in the UN counterterrorism framework

Alice Debarre. - New York [etc.] : International Peace Institute, September 2018. - III, 33 p. - Cote 361/697 (Br.)

In the past decade, counterterrorism measures have had an increasingly adverse impact on the provision of medical care and the conduct of principled humanitarian action in armed conflict settings. Whether inadvertently or not, they have impeded, and at times prevented, the provision of essential and lifesaving aid, often in violation of international humanitarian law (IHL). This paper aims to assist the Security Council and other stakeholders in upholding their obligations under IHL. It maps the UN counterterrorism framework and looks into the extent to which it guides states in complying with these obligations. In doing so, it offers several recommendations for the way forward, notable that all UN resolutions and national policies that pertain to counterterrorism should contain an exemption for humanitarian activities, and that every relevant UN counterterrorism measure should continue to reiterate that counterterrorism efforts need to comply with international law.

https://www.ipinst.org/wp-content/uploads/2018/09/1809_Safeguarding-Medical-Care.pdf

Salience and the emergence of international norms : napalm and cluster munitions in the inhumane weapons convention

Elvira Rosert. In: Review of international studies, 2018, 23 p. - Cote 345.22/986 (Br.)

This article theorises salience – defined as the amount of attention granted to an issue – as an explanatory factor for the emergence and non-emergence of norms, and shows how salience affects existing explanations such as issue adoption by norm entrepreneurs, mobilisation, social pressure, and framing. The relevance of salience is demonstrated by exploring the question of why the norm against incendiary weapons was adopted in the Convention on Certain Conventional Weapons (CCW) in 1980, and why the norm against cluster munitions was not, even though both weapons were deemed particularly inhumane. Drawing on secondary sources and on original data from public and institutional discourses, I study the influence of salience on those norms in the period of 1945–80. The results demonstrate that and how the discrepancy in salience of the napalm and the cluster munitions issues mattered for the outcomes of the two norm-setting processes.

https://doi.org/10.1017/S0260210518000232

Sexual violence against men in global politics

ed. by Marysia Zalewski... [et al.]. - London ; New York : Routledge, 2018. - XIV, 262 p. - Cote 362.9/348

Sexual violence against men is an under-theorised and under-noticed topic, though it is becoming increasingly apparent that this form of violence is widespread. Yet despite emerging evidence documenting its incidence, especially in conflict and post-conflict zones, efforts to understand its causes and develop strategies to reduce it are hampered by a dearth of theoretical engagement. One of the reasons that might explain its empirical invisibility and theoretical vacuity is its complicated relationship with sexual violence against women. The latter is evident empirically, theoretically, and politically, but the relationship between these violences conjures a range of complex and controversial questions about the ways they might be different, and why and how these differences matter.

Space weapons and the law

Bill Boothby. In: International law studies, Vol. 93, 2017, p. 179-214

Outer space is of vital importance for numerous civilian and military functions in the modern world. The idea of a space weapon involves something used, intended or designed for employment in, to or from outer space to cause injury or damage to the enemy during an armed conflict. Non-injurious, non-damaging space activities that adversely affect enemy military operations or capacity, though not involving the use of weapons, will nevertheless be methods of warfare. Article III of the Outer Space Treaty makes it clear that international law, including weapons law, applies in outer space. The article discusses how the principles and rules of weapons law are likely to apply to particular space weapons or to particular methods of warfare involving outer space.

https://digital-commons.usnwc.edu/ils/vol93/iss1/6/

The status of police in armed conflicts

by Patrycja Grzebyk. In: Israel yearbook on human rights, Vol. 48, 2018, p. 105-124

Police members as well as police stations are often a key target during armed conflicts. They are attacked by non-State armed groups and by State forces as well. Overall, the motivation behind attacking the police may be military (to eliminate part of the adversary's forces), political (to take full control over society), psychological (to cause chaos, disrupt the functioning of the State), or simply criminal (to facilitate criminal activity). The motives have bearing on the assessment of lawfulness of the attacks. With this in mind, the aim of this paper is to evaluate, from the perspective of the law of targeting, the status of police members and police property such as stations, weapons, vehicles, and materials, in international armed conflicts (IACs) and non-international armed conflicts (NIACs). The distinction between IACs and NIACs is necessary because depending on the classification of the conflict, different norms apply and the role of the police also differs.

Strengthening convergences for humanitarian action in ASEAN : an ASEAN Institute for Peace and Reconciliation symposium on international humanitarian law : Manila, Philippines 2-3 October 2017

ASEAN Institute for Peace and Reconciliation. - Manila : ASEAN Institute for Peace and Reconciliation, 2017. - 202 p. - Cote 345.23/461

While states have ratified key international legal conventions, many people are still more bound by their religious and/or indigenous beliefs and traditions than the principles of International Humanitarian Law (IHL) and human rights, which are perceived as abstract and western-influenced. Some look to religious and community leaders for guidance and advice. Acknowledging this fact, enhanced engagements among humanitarian workers, religious scholars, legal experts, policy makers, security and law enforcement authorities, researchers, civil society leaders and other personalities result in mutually beneficial and constructive exchanges to discuss humanitarian principles, legal, doctrinal and ethical aspects surrounding the protection of people in armed conflict situations. It was in this context that the ASEAN Institute for Peace and Reconciliation convened a Symposium on 'Strengthening Convergences for Humanitarian Action'.

https://asean-aipr.org/wp-content/uploads/2018/08/Strengthening-Convergences-for-Humanitarian-Action-in-ASEAN.pdf

The Tallinn Manual 2.0 : highlights and insights

Eric Talbot Jensen. In: Georgetown journal of international law, Vol. 48, no. 3, 2017, p. 735-778. - Cote 348/147 (Br.)

Malicious cyber activities are attributed to both state and non-state actors such as transnational criminal groups, terrorist organizations, and individuals. In response to this widespread phenomenon, the Cooperative Cyber Defense Center of Excellence in Tallinn, Estonia hosted a multi-year process designed to provide the views of a group of renowned experts on the application of international law to cyber activities. The first Tallinn Manual dealt with the law applicable to armed conflict. The second, and recently published, Tallinn Manual (known as Tallinn 2.0) deals with a much broader type of cyber operations-those both in and out of armed conflict. This Article briefly summarizes the key points in the Tallinn Manual 2.0, including identifying some of the most important areas of non-consensus among the Experts who wrote the Manual. The Article then offers some insights into where international law on cyber operations will need to go in the future.

https://www.law.georgetown.edu/international-law-journal/in-print/volume-48-number-3-spring-2017/the-tallinn-manual-2-0-highlights-and-insights/

Targeted killings and the punishment of enemy leaders

Francesco Romani. - In: International responsibility : essays in law, history and philosophy. - Genève [etc.] : Schulthess, 2017. - p. 179-196. - Cote 345.24/417

Looking at the issue with a historical perspective, this chapter argues that there is currently an impasse in the domain of targeted killings, which stems from two concurring trends: on one side, the persistence of legal systems in considering the activity performed by the targeted individuals as the chief factor in determining the legality of the attack; on the other, the progressive shift in both the strategic aspects connected with targeting and in the general legal vocabulary toward the concept of individual responsibility. By looking at selecting instances where people holding leadership positions were killed during the era following World War II, the chapter aims to demonstrate how the general re-orientation of international law toward the punishment of the individual has permeated, almost to the point of subverting, the traditional criteria for targeting.

Targeting speech in war

Rachel VanLandingham. - In: Incitement to terrorism. - Leiden ; Boston : Brill Nijhoff, 2018. - p. 105-120. - Cote 345.22/985

This chapter focuses on measures allowed by the law of armed conflict in response to individuals who provoke and/or use violence, who engage in the distribution of propaganda, or who engage in recruiting activities. It also considers the issue of when communication systems used to communicate such incitement become lawful targets.

Targeting the targeted killings case : international lawmaking in domestic contexts

Yahli Shereshevsky. In: Michigan journal of international law, Vol. 39, no. 2, 2018, p. 241-281. - Cote 345.25/380 (Br.)

Can members of a non-state armed group be targeted based on their formal membership in the armed group, or should their targeting be based on their function within such group? The 2006 Israeli Supreme Court (ISC) Targeted Killings case is a key reference point in this debate. Without scholarly or public attention, the Israeli report on the 2014 conflict in Gaza dramatically diverges from the definition adopted in the Targeted Killings case. This new approach, which has thus far been explicitly endorsed only by the U.S. administration, significantly widens the scope of the legitimate targets. This Article offers three complementary explanations for the decision of the Israeli administration to deviate from the Targeted Killings case. It then criticizes this new approach, arguing that states try to have their cake—insisting on normative symmetry as the main reason for the adoption of the formal membership approach—and eat it too—maintaining the practical inequality of other norms in the law of asymmetric armed conflicts.

https://ssrn.com/abstract=3098492

Transitional justice in Colombia : shadows and lights of the agreement on victims of the conflict

Elena Carpanelli. In: Diritti umani e diritto internazionale, Vol. 11, no. 3, 2017, p. 643-674. - Cote 344/740 (Br.)

The present contribution deals with some of the main legal issues underpinning the Agreement on Victims of the Conflict concluded between the Colombian government and the "Fuerzas Armadas Revolucionarias de Colombia - Ejercito del Pueblo (FARC)" on 15 December 2015, incorporated in the final peace agreement reached between the two parties on 24 August 2016 and officially signed on 26 September 2016. This contribution intends to assess the lawfulness, under international law, of several transitional justice measures envisaged in the agreement. Particular attention is paid to the admissibility of alternative or reduced sanctions for perpetrators of serious human rights violations, taking into account the balance that should be struck in post-conflict settings between the need to restore peace and ensure reconciliation, on the one hand, and the obligation to investigate, prosecute, and duly punish those responsible for crimes under international law, on the other hand.

Two is better than one : systemic integration of international humanitarian law and international human rights law to Boko Haram conflict

Ogunnaike O. Taiwo. In: American university international law review, Vol. 33, no. 3, 2018, p. 637-666. - Cote 345.1/685

The goal of this article is to show that, due to a minimal provision of Common Article 3 and its principal subsequent Additional Protocol II, there still remains a normative deadlock in Nigerian internal armed conflict. Necessities for military observance of the rules of engagement are waning, and concern for the respect of the rules of law continues to suffer neglect. Despite the relevance of Nigerian municipal laws and certain customary norms, the author shows that there is a blank canvas in the treaty-based humanitarian law applicable to internal conflict. The emphasis in this article is on the coordination of normative rules between IHL and IHRL applicable to internal armed conflict. The choice of the principle of Systemic Integration in the coordination thereof, as well as reference to Nigeria's Boko Haram's 'war' as an internal conflict in focus are not less important.

http://auilr.org/wp-content/uploads/2018/09/amuilr_33n3_issue_low.pdf

The United Nations principles to combat impunity : a commentary

ed. by Frank Haldemann and Thomas Unger ; assistant ed. Valentina Cadelo. - Oxford : Oxford University Press, 2018. - XXXIII, 438 p. - Cote 344/738

The fight against impunity has become a growing concern of the international community. Updated in 2005, the UN Set of Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity are today widely accepted as constituting an authoritative reference point for efforts in the fight against impunity for gross human rights abuses and serious violations of international humanitarian law. As a comprehensive attempt to codify universal accountability norms, the UN Set of Principles marks a significant step forward in the debate on the obligation of states to combat impunity in its various forms. Bringing together leading experts in the field, this volume provides comprehensive academic commentary of the 38 principles. The book includes a full introduction and a guide to the relevant literature and case law.

http://opil.ouplaw.com/view/10.1093/law/9780198743606.001.0001/law-9780198743606

The use of force against Ukraine and international law : jus ad bellum, jus in bello, jus post bellum

Sergey Sayapin, Evhen Tsybulenko, eds.. - The Hague : Asser Press, 2018. - XXVII, 454 p. - Cote 345.26/291

Written by a team of international lawyers, this book analyses some of the most significant aspects of the ongoing armed conflict between the Russian Federation and Ukraine. As challenging as this conflict is for the international legal order, it also offers lessons to be learned by the States concerned, and by other States alike. The book analyses the application of international law in this conflict, and suggests ways for this law's progressive development.

War crimes committed during the armed conflict in Ukraine : what should the ICC focus on ?

Rustam Atadjanov. - In: The use of force against Ukraine and international law : jus ad bellum, jus in bello, jus post bellum. - The Hague : Asser Press, 2018. - p. 385-407. - Cote 345.26/291

This chapter deals with the qualification of war crimes as pertains to the armed conflict in Ukraine. Its main aim is to consider the relevant IHL norms and apply them to the alleged acts. This is instrumental in a proper determination of what criteria could be helpful for the ICC in ensuring the criminal responsibility of those who committed – and continue to commit, the horrible acts on both sides of the conflict. Eventually, the chapter will argue that adjudicating war crimes committed in Ukraine by all parties at the ICC level represents an imperative task if the claimed purpose of international criminal law to bring the perpetrators of international crimes to justice is viable at all.

What if Goliath killed David ? : the coalition to counter ISIS and the status and responsibility of ISIS' child soldiers

Samantha Bradley. In: American university international law review, Vol. 33, no. 3, 2018, p. 571-604. - Cote 345.1/685

A coalition of international states is currently engaged in military operations against the Islamic State in Iraq and Syria (ISIS). ISIS employs child combatants as it does adult combatants, with an estimated 1500 persons under eighteen years old serving as of late 2016. This raises two significant legal questions, under three areas of law— International Humanitarian Law (IHL); International Human Rights Law (IHRL); and, International Criminal Law (ICL), the enforceability mechanism of IHL, customary law, and specific international criminal law instruments. The first question raised is this: what is the status of ISIS' more than 1500 child soldiers, and how should coalition forces legally regard them? The second question is one of speculative post-conflict transitional justice. ISIS has published propaganda footage of its child soldiers committing executions and bombings. Post-conflict, what will be the culpability of ISIS' former child soldiers under international law?

http://auilr.org/wp-content/uploads/2018/09/amuilr_33n3_issue_low.pdf

What went wrong when regulating private maritime security companies

Ian M. Ralby. - In: Operational law in international straits and current maritime security challenges. - Cham : Springer, 2018. - p. 161-180. - Cote 347/168

When regulating private maritime security companies (PMSCs) arose as a pressing issue in 2012, a number of key actors accepted that PMSCs should be treated as part of the broader maritime industry, rather than

as a subset of the security industry. The author argues that that choice was a mistake, given the current evolution of PMSCs' activities, and that, as a consequence, the private maritime security industry is largely unregulated.

Who is a civilian? : membership of opposition groups and direct participation in hostilities

Emily Crawford. - In: The grey zone : civilian protection between human rights and the laws of war. - Oxford [etc.] : Hart, 2018. - p. 19-40. - Cote 362/141

This chapter examines the questions raised by the notion of the civilian under IHL, and the concept of civilian loss of protection against targeting due to direct participation in hostilities. To that end, it examines both the treaty and customary law relating to civilians and to direct participation, and explores some of the most notable attempts in recent years, by states and non-state entities alike, to define the concept of direct participation in hostilities. In doing so, it attempts to discern if there is a common accepted understanding of the notion of the civilian and civilian direct participation under current IHL.

International Committee of the Red Cross
Library and Public Archives
19, avenue de la Paix
1202 Geneva
Switzerland
Tel: +41-22-730-2030
Email: library@icrc.org
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ICRC