BIBLIOGRAPHY
2nd Quarter 2014

International Humanitarian Law

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

ICRC

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Introduction

The International Committee of the Red Cross Library

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

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

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

The Library is open to the public from Monday to Thursday (9 a.m. to 5 p.m. non-stop) and on Friday (9 a.m. to 1 p.m.).

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. At the end of the bibliographic heading, "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 trimester. 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)

Advanced introduction to international conflict and security law

Nigel D. White. - Cheltenham ; Northampton : E. Elgar, 2014. - 144 p. - Cote 355/1029

A broad overview of the law of armed conflict in the age of terror

Shane R. Reeves and David Lai. - Chicago : Section of Administrative Law and Regulatory Practice, American Bar Association, 2014. - p. 139-161. - In: The fundamentals of counterterrorism law. - Cote 303.6/227

Customary humanitarian law today : from the academy to the courtroom

Theodor Meron. - Oxford : Oxford University Press, 2014. - p. 37-49. - In: The Oxford handbook of international law in armed conflict. - Cote 345.2/952
ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38474.pdf

L'évolution de l'héritage juridique humaniste d'Henry Dunant

Myriam Fillaud. - Paris : Pedone, 2013. - p. 51-62. - In: Humanisme et droit : offert en hommage au professeur Jean Dhommeaux. - Cote 345.22/241(Br.)

The gentle modernizer of the law of armed conflict ?

Inger Österdahl. - Oxford : Oxford University Press, 2014. - p. 207-228. - In: Jus post bellum : mapping the normative foundations. - Cote 345/650

Handbook on international rules governing military operations

ICRC. - Geneva : ICRC, December 2013. - 459 p. - Cote 345.24/60 (2013 ENG)
http://www.cid.icrc.org/library/docs/DOC/icrc-002-0431.pdf

The individualization of war : from war to policing in the regulation of armed conflicts

Gabriella Blum. - Stanford : Stanford law books, 2014. - p. 48-83. - In: Law and war. - Cote 345.2/949
ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38450.pdf

Law and war

ed. by Austin Sarat, Lawrence Douglas, Martha Merrill Umphrey. - Stanford : Stanford law books, 2014. - 234 p. - Cote 345.2/949

The law applicable to military strategic use of outer space

Duncan Blake. - The Hague : T.M.C. Asser Press, 2014. - p. 115-140. - In: New technologies and the law of armed conflict. - Cote 345.2/951

The law of neutrality

Paul Seger. - Oxford : Oxford University Press, 2014. - p. 248-270. - In: The Oxford handbook of international law in armed conflict. - Cote 345.2/952
ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38482.pdf

The legality of the killing of Osama Bin Laden

by John Cerone. In: Proceedings of the [...] annual meeting of the American Society of International Law No. 107, 2013, p. 47-51

Limits of law : promoting humanity in armed conflict

Sarah Sewall. - Stanford : Stanford law books, 2014. - p. 23-47. - In: Law and war. - Cote 345.2/949
ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38448.pdf

Manuel de droit de la guerre

David Cumin. - Bruxelles : Larcier, 2014. - 534 p. - Cote 345.22/237

New rules for victims of armed conflicts : commentary on the two 1977 Protocols Additional to the Geneva Conventions of 1949

by Michael Bothe, Karl Josef Partsch,Waldemar A. Solf ; with the collab. of Martin Eaton. - Leiden ; Boston : M. Nijhoff, 2013. - 843 p. - Cote 345.2/443 (2013)

The Oxford handbook of international law in armed conflict

ed. by Andrew Clapham and Paola Gaeta ; assistant ed.: Tom Haeck, Alice Priddy. - Oxford : Oxford University Press, 2014. - 909 p. - Cote 345.2/952

A scrap of paper : breaking and making international law during the Great War

Isabel V. Hull. - Ithaca (Etats-Unis) ; London : Cornell University Press, 2014. - 368 p. - Cote 94/515

The sharia and islamic criminal justice in time of war and peace

M. Cherif Bassiouni. - New York : Cambridge University Press, 2014. - 385 p. - Cote 281/58

Treaties for armed conflict

Robert Kolb and Katherine Del Mar. - Oxford : Oxford University Press, 2014. - p. 50-87. - In: The Oxford handbook of international law in armed conflict. - Cote 345.2/952
ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38476.pdf

War is governance : explaining the logic of the laws of war from a principal-agent perspective

Eyal Benvenisti, Amichai Cohen. In: Michigan law review Vol. 112, no. 8, June 2014, p. 1363-1415. - Cote 345.2/957 (Br.)

II. Types of conflicts

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

Air warfare

Michael N. Schmitt. - Oxford : Oxford University Press, 2014. - p. 118-144. - In: The Oxford handbook of international law in armed conflict. - Cote 345.2/952
ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38478.pdf

The application of jus post bellum in non-international armed conflicts

Kristen E. Boon. - Oxford : Oxford University Press, 2014. - p. 259-268. - In: Jus post bellum : mapping the normative foundations. - Cote 345/650

Are we reaching a tipping point ? : how contemporary challenges are affecting the military necessity-humanity balance

Shane R. Reeves, Jeffrey S. Thurnher. In: Harvard national security journal features 2013, 12 p. - Cote 345.25/297 (Br.)
http://tinyurl.com/38462-Reeves

Counterterrorism operations, international law, and the debate over the use of lethal force

James W. Zirkle. - Chicago : Section of Administrative Law and Regulatory Practice, American Bar Association, 2014. - p. 213-229. - In: The fundamentals of counterterrorism law. - Cote 303.6/227

Criminalizing humanitarian relief : are U.S. material support for terrorism laws compatible with international humanitarian law ?

Justin A. Fraterman. In: International law and politics Vol. 46, no. 2, winter 2013, p. 399-470. - Cote 345.22/240 (Br.)
http://nyujilp.org/wp-content/uploads/2014/05/46.2-Fraterman.pdf

Les cyber-attaques dans les conflits armés : qualification juridique, imputabilité et moyens de réponse envisagés en droit international humanitaire

Laura Baudin. - Paris : L'Harmattan, 2014. - 246 p. - Cote 345.27/135

Cyber operations and the use of force in international law

Marco Roscini. - Oxford : Oxford University Press, 2014. - 307 p. - Cote 345.26/254

Cyberattacks and international human rights law

David P. Fidler. - Cambridge ; New York : Cambridge University Press, 2014. - p. 299-333. - In: Weapons under international human rights law. - Cote 341.67/743
ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38616.pdf

Direct participation in hostilities from cyberspace

Collin Allan. In: Virginia journal of international law Vol. 54, no. 1, December 2013, p. 173-193. - Cote 345.29/205 (Br.)
www.vjil.org/assets/pdfs/vol54/Allan_Note.pdf

An evaluation of the U.S. policy of "targeted killing" under international law : the case of Anwar Al-Aulaqi (part I)

Jake William Rylatt. In: California western international law journal vol. 44, fall 2013, p. 39-72. - Cote 345/657 (Br.)

Extending positive identification from persons to places: terrorism, armed conflict, and the identification of military objectives

Laurie R. Blank. In: Utah law review Vol. 2013, no. 5, 2013, p. 1227-1261. - Cote 345.28/111 (Br.)
http://epubs.utah.edu/index.php/ulr/article/viewFile/1188/864

Extraterritorial lethal targeting : deconstructing the logic of international law

Michael N. Schmitt. In: Columbia journal of transnational law Vol. 52, no. 1, 2013, p. 77-112. - Cote 345.26/252 (Br.)
http://tinyurl.com/38486-Schmitt

From jus in bello to jus post bellum : when do non-international armed conflicts end ?

Rogier Bartels. - Oxford : Oxford University Press, 2014. - p. 297-314. - In: Jus post bellum : mapping the normative foundations. - Cote 345/650

Geography, territory and sovereignty in cyber warfare

David Midson. - The Hague : T.M.C. Asser Press, 2014. - p. 75-93. - In: New technologies and the law of armed conflict. - Cote 345.2/951

Internal (non-international) armed conflict

Eric David. - Oxford : Oxford University Press, 2014. - p. 353-362. - In: The Oxford handbook of international law in armed conflict. - Cote 345.2/952
ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38516.pdf

International humanitarian law in civil war

Emily Hencken Ritter. - London ; New York : Routledge, 2014. - p. 323-333. - In: Routledge handbook of civil wars. - Cote 355/1024

International humanitarian law, non-state armed groups and the International Committee of the Red Cross in Colombia

Miriam Bradley. In: Journal of international humanitarian legal studies Vol. 4, issue 1, 2013, p. 108-134
Only from ICRC headquarters :
http://booksandjournals.brillonline.com/content/journals/10.1163/18781527-00401002

Land warfare

Yves Sandoz. - Oxford : Oxford University Press, 2014. - p. 91-117. - In: The Oxford handbook of international law in armed conflict. - Cote 345.2/952
ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38477.pdf

The law or armed conflict and the responsible cyber commander

Jody M. Prescott. In: Vermont law review Vol. 38, book 1, 2013, fall 2013, p. 101-145. - Cote 345.29/206 (Br.)
http://tinyurl.com/38499-Prescott

Legal phantoms in cyberspace : the problematic status of information as a weapon and a target under international humanitarian law

Jack M. Beard. In: Vanderbilt journal of transnational law Vol. 47, no. 1, 2014, p. 67-144. - Cote 345.26/253 (Br.)
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Libya : from repression to revolution : a record of armed conflict and international law violations, 2011-2013

ed. by M. Cherif Bassiouni. - Leiden ; Boston : M. Nijhoff, 2013. - 933 p. - Cote 323.15/LBY 1

Maritime warfare

Wolff Heintschel von Heinegg. - Oxford : Oxford University Press, 2014. - p. 145-181. - In: The Oxford handbook of international law in armed conflict. - Cote 345.2/952
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Modern technologies and targeting under international humanitarian law

Charlotte Lülf. - Bochum : Ruhr-Universität Bochum, Dezember 2013. - 59 p. - Cote 345.25/299 (Br.)
http://www.ruhr-uni-bochum.de/ifhv/documents/workingpapers/wp3_3.pdf

Postwar

Robert M. Chesney. In: Harvard national security journal Vol. 5, issue 1, 2014, p. 305-334. - Cote 345.26/251 (Br.)
http://harvardnsj.org/wp-content/uploads/2014/01/Chesney-Final.pdf

A scrap of paper : breaking and making international law during the Great War

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Terrorism

Andrea Bianchi and Yasmin Naqvi. - Oxford : Oxford University Press, 2014. - p. 574-604. - In: The Oxford handbook of international law in armed conflict. - Cote 345.2/952
ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38540.pdf

Unmanned aerial vehicles : do they pose legal challenges ?

Ian Henderson and Bryan Cavanagh. - The Hague : T.M.C. Asser Press, 2014. - p. 193-212. - In: New technologies and the law of armed conflict. - Cote 345.2/951

Unmanned naval vehicles and the law of naval warfare

Robert McLaughlin. - The Hague : T.M.C. Asser Press, 2014. - p. 229-246. - In: New technologies and the law of armed conflict. - Cote 345.2/951

Where do cyber hostilities fit in the international law maze ?

William H. Boothby. - The Hague : T.M.C. Asser Press, 2014. - p. 59-73. - In: New technologies and the law of armed conflict. - Cote 345.2/951

III. Armed forces / Non-state armed groups

(Combatant status, compliance with IHL, etc.)

Armed forces and international jurisdictions

Marco Odello, Francesco Seatzu (eds.). - Cambridge [etc.] : Intersentia, 2013. - 234 p. - Cote 345.2/950

Direct participation in hostilities from cyberspace

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Focusing on armed non-state actors

Andrew Clapham. - Oxford : Oxford University Press, 2014. - p. 766-810. - In: The Oxford handbook of international law in armed conflict. - Cote 345.2/952
ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38568.pdf

International humanitarian law, non-state armed groups and the International Committee of the Red Cross in Colombia

Miriam Bradley. In: Journal of international humanitarian legal studies Vol. 4, issue 1, 2013, p. 108-134
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http://booksandjournals.brillonline.com/content/journals/10.1163/18781527-00401002

International legal regimes, armed forces and international jurisdictions

Marco Odello. - Cambridge [etc.] : Intersentia, 2013. - p. 15- 50. - In: Armed forces and international jurisdictions. - Cote 345.2/951

Members of the armed forces and human rights law

Peter Rowe. - Oxford : Oxford University Press, 2014. - p. 521-542. - In: The Oxford handbook of international law in armed conflict. - Cote 345.2/952
ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38528.pdf

The principle of distinction between civilians and combatants

Nils Melzer. - Oxford : Oxford University Press, 2014. - p. 296-331. - In: The Oxford handbook of international law in armed conflict. - Cote 345.2/952
ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38514.pdf

The responsibility of armed opposition groups for violations of international humanitarian law : challenging the state-centric system of international law

Ezequiel Heffes. In: Journal of international humanitarian legal studies Vol. 4, issue 1, 2013, p. 81-107
Only from ICRC headquarters :
http://booksandjournals.brillonline.com/content/journals/10.1163/18781527-00401003

Should rebels be amnestied ?

Frédéric Mégret. - Oxford : Oxford University Press, 2014. - p. 519-541. - In: Jus post bellum : mapping the normative foundations. - Cote 345/650

Targeted killing of drug lords : traffickers as members of armed opposition groups and/or direct participants in hostilities

Patrick Gallahue. In: International journal on human rights and drug policy Vol. 1, 2010, p. 15-33. - Cote 345.29/208 (Br.)
http://www.hr-dp.org/files/2013/12/12/Human_Rights_and_Drugs_Vol_1_-_Patrick_Gallahue.pdf

The practice of international courts and tribunals on armed forces : issues of status and attribution

Andrea Carcano. - Cambridge [etc.] : Intersentia, 2013. - p. 141-167. - In: Armed forces and international jurisdictions. - Cote 345.2/951

The relationship between truth commissions and armed forces

Alison Bisset. - Cambridge [etc.] : Intersentia, 2013. - p. 189-205. - In: Armed forces and international jurisdictions. - Cote 345.2/951

Unlawful combatants

Knut Dörmann. - Oxford : Oxford University Press, 2014. - p. 605-623. - In: The Oxford handbook of international law in armed conflict. - Cote 345.2/952
ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38541.pdf

Weapons and armed non-state actors

Andrew Clapham. - Cambridge ; New York : Cambridge University Press, 2014. - p. 163-196. - In: Weapons under international human rights law. - Cote 341.67/743

IV. Multinational forces

Continuing impunity of peacekeepers : the need for a convention

Siobhan Wills. In: Journal of international humanitarian legal studies Vol. 4, issue 1, 2013, p. 47-80
Only from ICRC headquarters :
http://booksandjournals.brillonline.com/content/journals/10.1163/18781527-00401001

The law applicable to peace operations

Dieter Fleck. - Oxford : Oxford University Press, 2014. - p. 206-247. - In: The Oxford handbook of international law in armed conflict. - Cote 345.2/952
ICRC Access : https://ext.icrc.org/library/docs/ArticlesPDF/38481.pdf

The use of weapons in peace operations

Nigel D. White. - Cambridge ; New York : Cambridge University Press, 2014. - p. 197-239. - In: Weapons under international human rights law. - Cote 341.67/743

V. Private entities

The mercenary moniker : condemnations, contradictions and the politics of definition

Aaron Ettinger. In: Security dialogue Vol. 45, no. 2, April 2014, p. 174-191
Only from ICRC headquarters : http://sdi.sagepub.com/content/45/2/174.full.pdf

Private military and security companies

James Cockayne. - Oxford : Oxford University Press, 2014. - p. 624-655. - In: The Oxford handbook of international law in armed conflict. - Cote 345.2/952
ICRC Access : https://ext.icrc.org/library/docs/ArticlesPDF/38542.pdf

The regulation of private military and security contractors

Faiza Patel... [et al.]. In: Proceedings of the [...] annual meeting of the American Society of International Law No. 107, 2013, p. 199-210

VI. Protection of persons

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

Armed conflict and forced migration : a systematic approach to international humanitarian law, refugee law, and international human rights law

Vincent Chetail. - Oxford : Oxford University Press, 2014. - p. 700-734. - In: The Oxford handbook of international law in armed conflict. - Cote 345.2/952
ICRC Access : https://ext.icrc.org/library/docs/ArticlesPDF/38548.pdf

Assuming risk : a critical analysis of a soldier's duty to prevent collateral casualties

Cheryl Abbate. In: Journal of military ethics Vol. 13, no. 1, April 2014, p. 70-93
Only from ICRC headquarters : http://www.tandfonline.com/doi/pdf/10.1080/15027570.2014.910370

The chaplaincy exception in international humanitarian law : "American-born cleric" Anwar al-Awlaki and the global war on terror

K. Benson. In: Buffalo human rights law review Vol. 20, 2013/2014, p. 1-36. - Cote 281/59 (Br.)

Children and the first verdict of the International Criminal Court

Diane Marie Amann. In: Washington university global studies law review Vol. 12, no. 3, p. 411-432. - Cote 362.7/7 (Br.)
http://law.wustl.edu/WUGSLR/Issues/Volume12_3/wugslr12_2013_issue3_411_432.pdf

Children and youth in armed conflict

by Ann-Charlotte Nilsson. - Leiden ; Boston : M. Nijhoff, 2013. - 2 vol. (1587 p.) . - Cote 362.7/392(I)

Climate change and human security during armed conflict

Erik V. Koppe. In: Human rights and international legal discourse Vol. 8, no. 1, 2014, p. 68-83

Les dilemmes de la protection des civils des territoires occupés : l'exemple précurseur de la Première Guerre mondiale

Annette Becker. In: Revue internationale de la Croix-Rouge : sélection française Vol. 94, 2012/1, p. 55-71
http://www.cid.icrc.org/library/docs/DOC/irrc-885-becker-fre.pdf

Enfants-soldats et droits des enfants en situation de conflit et post-conflit : réalités et enjeux

sous la dir. de Mohamed Abdelsalam Babiker, Maxence Daublain, Alexis Vahlas. - Paris : L'Harmattan, 2013. - 299 p. - Cote 362.7/394

Engaging or shaming ? : an analysis of UN's naming and shaming of child abusers in armed conflict

C. Nyamutata. In: Journal of international humanitarian legal studies Vol. 4, issue 1, 2013, p. 151-173
Only from ICRC headquarters :
http://booksandjournals.brillonline.com/content/journals/10.1163/18781527-00401005

Gender and armed conflict

Christine Chinkin. - Oxford : Oxford University Press, 2014. - p. 675-699. - In: The Oxford handbook of international law in armed conflict. - Cote 345.2/952
ICRC Access : https://ext.icrc.org/library/docs/ArticlesPDF/38547.pdf

"Humanitarian rights" : bridging the doctrinal gap between the protection of civilians and the responsibility to protect

Dan Kuwali. In: Journal of international humanitarian legal studies Vol. 4, issue 1, 2013, p. 5-46
Only from ICRC headquarters :
http://booksandjournals.brillonline.com/content/journals/10.1163/18781527-00401004

International humanitarian law, non-state armed groups and the International Committee of the Red Cross in Colombia

Miriam Bradley. In: Journal of international humanitarian legal studies Vol. 4, issue 1, 2013, p. 108-134
Only from ICRC headquarters :
http://booksandjournals.brillonline.com/content/journals/10.1163/18781527-00401002

Malice supplies the age? : assessing the culpability of adolescent soldiers

Maria Achton Thomas. In: California western international law journal Vol. 44, fall 2013, p. 1-38. - Cote 362.7/395 (Br.)

Protection of children rights under Islamic laws in Sudan : conflict or congruence with human rights and humanitarian law norms

Mohamed Abdelsalam Babiker. - Paris : L'Harmattan, 2013. - p. 199-230 . - In: Enfants-soldats et droits des enfants en situation de conflit et post-conflit : réalités et enjeux. - Cote 362.7/394

VII. Protection of objects

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

Conflict minerals and the law of pillage

Patrick J. Keenan. In: Chicago journal of international law Vol. 14, no. 2, winter 2014, p. 524-558. - Cote 363.7/155 (Br.)
http://tinyurl.com/38470-Keenan

"Culture for development" and the UNESCO policy on the protection of cultural property during armed conflict

Sigrid Van der Auwera. In: International journal of cultural policy Vol. 20, no. 3, 2014, p. 245-260. - Cote 363.8/84 (Br.)

Nanotechnology and military attacks on photosynthesis

Thomas Faunce. - The Hague : T.M.C. Asser Press, 2014. - p. 175-190. - In: New technologies and the law of armed conflict. - Cote 345.2/951

Le patrimoine culturel, cible des conflits armés : de la guerre civile espagnole aux guerres du 21e siècle

sous la dir. de Vincent Négri. - Bruxelles : Bruylant, 2014. - 249 p. - Cote 363.8/83

Le patrimoine culturel matériel et immatériel : quelle protection en cas de conflit armé ?

Christiane Johannot-Gradis. - Genève [etc.] : Schulthess ; Paris : LGDJ, 2013. - 832 p. - Cote 363.8/82

Protection of the natural environment

Jean-Marie Henckaerts and Dana Constantin. - Oxford : Oxford University Press, 2014. - p. 469-491. - In: The Oxford handbook of international law in armed conflict. - Cote 345.2/952
ICRC Access : https://ext.icrc.org/library/docs/ArticlesPDF/38527.pdf

War and cultural heritage : an analysis of the 1954 Convention for the protection of cultural property in the event of armed conflict and its two protocols

Kevin Chamberlain. - Builth Wells : Institute of Art and Law, 2013. - 247 p. - Cote 363.8/51 (2013)

War time pains, all time pains : spoilage of cultural property in Mali

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(Distinction, proportionality, precautions, prohibited methods)

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XII. Implementation

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

Armed forces and the International Court of Justice : the relevance of international humanitarian law and human rights law to the conduct of military operations

Giulio Bartolini. - Cambridge [etc.] : Intersentia, 2013. - p. 51-89. - In: Armed forces and international jurisdictions. - Cote 345.2/951

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XIII. International human rights law

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

Armed conflict and forced migration : a systematic approach to international humanitarian law, refugee law, and international human rights law

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XV. Contemporary challenges

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

Anticipating the biological proliferation threat of nanotechnology : challenges for international arms control regimes

Margaret E. Kosal. - The Hague : T.M.C. Asser Press, 2014. - p. 159-174. - In: New technologies and the law of armed conflict. - Cote 345.2/951

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Permissibility of targeted killing

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XVI. Countries/Regions

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Guantanamo and the end of hostilities

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The legality of the killing of Osama Bin Laden

by John Cerone. In: Proceedings of the [...] annual meeting of the American Society of International Law No. 107, 2013, p. 47-51

Le patrimoine culturel, cible des conflits armés : de la guerre civile espagnole aux guerres du 21e siècle

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Alabania

The practice of international courts and tribunals on armed forces : issues of status and attribution

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Belgium

A scrap of paper : breaking and making international law during the Great War

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Bosnia and Herzegoniva

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Counterterrorism operations, international law, and the debate over the use of lethal force

James W. Zirkle. - Chicago : Section of Administrative Law and Regulatory Practice, American Bar Association, 2014. - p. 213-229. - In: The fundamentals of counterterrorism law. - Cote 303.6/227

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The practice of international courts and tribunals on armed forces : issues of status and attribution

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Netherlands

The law or armed conflict and the responsible cyber commander

Jody M. Prescott. In: Vermont law review Vol. 38, book 1, 2013, fall 2013, p. 101-145. - Cote 345.29/206 (Br.)
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Rwanda

The practice of international courts and tribunals on armed forces : issues of status and attribution

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Sierra Leone

Malice supplies the age? : assessing the culpability of adolescent soldiers

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Somalia

Uncertainty on Somalia's beaches : the legal regime of onshore anti-piracy operations

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Spain

Le patrimoine culturel, cible des conflits armés : de la guerre civile espagnole aux guerres du 21e siècle

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Sudan

Enfants-soldats et droits des enfants en situation de conflit et post-conflit : réalités et enjeux

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Protection of children rights under Islamic laws in Sudan : conflict or congruence with human rights and humanitarian law norms

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Syria

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United Kingdom

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Compliance with international humanitarian law : democratic third parties and civilian targeting in interstate war

Alyssa K. Prorok and Benjamin J. Appel. In: Journal of conflict resolution Vol. 58, no. 4, 2014, p. 713-740. - Cote 345.25/302 (Br.)

Criminalizing humanitarian relief : are U.S. material support for terrorism laws compatible with international humanitarian law ?

Justin A. Fraterman. In: International law and politics Vol. 46, no. 2, winter 2013, p. 399-470. - Cote 345.22/240 (Br.)
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Diminishing the value of war crimes prosecutions : a view of the Guantanamo military commissions from the perspective of international criminal law

Jonathan Hafetz. In: Cambridge journal of international and comparative law Vol. 2, issue 4, 2013, p. 800-824. - Cote 344/623 (Br.)
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An evaluation of the U.S. policy of "targeted killing" under international law : the case of Anwar Al-Aulaqi (part I)

Jake William Rylatt. In: California western international law journal vol. 44, fall 2013, p. 39-72. - Cote 345/657 (Br.)

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The legality of the killing of Osama Bin Laden

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Sarah Sewall. - Stanford : Stanford law books, 2014. - p. 23-47. - In: Law and war. - Cote 345.2/949
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The regulation of private military and security contractors

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Yugoslavia

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Tom Gal. In: Journal of international criminal justice Vol. 12, no. 1, March 2014, p. 59-80
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All with Abstracts

Advanced introduction to international conflict and security law

Nigel D. White. - Cheltenham ; Northampton : E. Elgar, 2014. - 144 p. - Cote 355/1029

Advanced Introduction to International Conflict and Security Law provides a concise and insightful guide to the key principles of international law governing peacetime security, the use of force, conflict and post-conflict situations. Nigel D. White explores the complex legal regimes that have been created to control the level of armaments, to limit the occasions when governments can use military force to mitigate the conduct of warfare and to build peace.

Air warfare

Michael N. Schmitt. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 118-144. - Cote 345.2/952

This chapter is structured in two parts. It lays the groundwork for discussion with a survey of the historical lex scripta directly applicable to air operations, including efforts to craft restatements of the law of air warfare. However, most discussion is reserved for the second part, which considers the extant law of air operations from the perspective of airmen. It does so by examining the law governing the four questions that are central to their operations-where can they fly, at what can they shoot, how must they conduct air operations, and what weapons may they use.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38478.pdf

Anticipating the biological proliferation threat of nanotechnology : challenges for international arms control regimes

Margaret E. Kosal. - In: New technologies and the law of armed conflict. - The Hague : T.M.C. Asser Press, 2014. - p. 159-174. - Cote 345.2/951

This chapter explores challenges—both in the technical realm and in international arms control regimes and laws—in the pursuit of nanotechnology as it intersects with the proliferation of biological weapons. Nanotechnology is thriving in academia, in the private sector, and in state science and technology programs. The security implications, both for traditional non-proliferation regimes and for misuse by non-state actors, have not received commensurate attention with other technological advances. At the same time, policy makers and the scientific community, domestically and internationally, are attempting to develop new means to address risks associated with biotechnology, including synthetic genomics. Although the potential threats of nanotechnology research in an age of terrorism or a new age of state-based proliferation may not be as easy to envision in the near term as those associated with biotechnology, the possibilities are becoming more real as nanotechnology is transitioned from the laboratory to products. A number of recent advances in nanotechnology have strongly suggested nanotechnology's malfeasant potential in the hands of adversaries.

The application of jus post bellum in non-international armed conflicts

Kristen E. Boon. - In: Jus post bellum : mapping the normative foundations. - Oxford : Oxford University Press, 2014. - p. 259-268. - Cote 345/650

Jus post bellum's deep moral and legal associations with the humanitarian tradition have meant that predominant approaches to the concept have tended to focus on international wars and international actors at the expense of any deep exploration of what role jus post bellum might play in non-international or internal situations. Now that non-international armed conflicts outnumber international armed conflicts by a significant margin, it is time to reassess the scope of jus post bellum norms in cases of internal conflict. This contribution argues that some jus post bellum principles will be the same regardless of the nature of the conflict—specifically, those derived from international criminal law and human rights law. Nonetheless, this chapter argues that in areas where jus post bellum relates to rebuilding and reconstruction after non-international conflicts, it should be regulated by the principle of "bounded discretion" and show deference to local authorities.

Are we reaching a tipping point ? : how contemporary challenges are affecting the military necessity-humanity balance

Shane R. Reeves, Jeffrey S. Thurnher. In: Harvard national security journal features 2013, 12 p. - Cote 345.25/297 (Br.)

This short article addresses the relationship between the principles of military necessity and humanity, and warn that an overemphasis on humanity may be unfolding in the contexts of the "capture or kill" debate, autonomous weapons systems, and cyber warfare.

http://tinyurl.com/38462-Reeves

Armed conflict and forced migration : a systematic approach to international humanitarian law, refugee law, and international human rights law

Vincent Chetail. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 700-734. - Cote 345.2/952

This chapter examines the application of three branches of international law to forced migration and refugee protection in an armed conflict. It provides a comparative assessment of these branches of international law in terms of their application to protection of refugees in war, refugees fleeing war, and refugees in post-war contexts. The analysis indicates that international humanitarian and refugee law are not a panacea in terms of protection, and that it is international human rights law that fulfils the central function of filling the gaps in protection left by humanitarian and refugee law.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38548.pdf

Armed forces and international jurisdictions

Marco Odello, Francesco Seatzu (eds.). - Cambridge [etc.] : Intersentia, 2013. - 234 p. - Cote 345.2/950

Different activities conducted by armed forces and their personnel are governed by different branches of international law, in particular international humanitarian law, international criminal law and human rights law. In recent times, the growing number and jurisprudence of international jurisdictions have also addressed the activities of military personnel engaged in different scenarios, including the internal organisation of armed forces and forms of violation of different rules of international law. Relevant decisions include, for instance, the international ad hoc criminal Tribunals, special courts, and truth and reconciliation commissions, as well as human rights courts and the International Court of Justice. This book explores the relationship between armed forces and international tribunals, courts and non-judicial bodies, taking into consideration the case-law developed by those jurisdictions. The contributors are legal academics from various European universities' law schools, with a specific expertise in international human rights, criminal and humanitarian law.

Armed forces and the International Court of Justice : the relevance of international humanitarian law and human rights law to the conduct of military operations

Giulio Bartolini. - In: Armed forces and international jurisdictions. - Cambridge [etc.] : Intersentia, 2013. - p. 51-89. - Cote 345.2/951

This article reviews the International Court of Justice's (ICJ) role in defining International Humanitarian Law (IHL) through its case law. The author notes that while the ICJ jurisprudence is limited in volume, the ICJ has made important contributions to IHL through cases, Nicaragua v USA (1986), Congo v Uganda (2005), and advisory opinions, Nuclear Weapons advisory opinion (1996), Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (2004). The author argues that the ICJ has reaffirmed and clarified legal principles surrounding IHL. For example, the ICJ has combined "Hague Law" and "Geneva Law" into a single, complex system for IHL. Moreover, the ICJ has stressed that there is underlying customary law to certain international treaties, such as the VIII Hague Convention, which apply despite non-ratification. Furthermore, other international bodies rely on the legal principles developed by the ICJ. However, the ICJ's decisions have been too brief, making some principles ambiguous.

The author also examines the application of the definition of armed conflict, conduct of hostilities, the law of occupation, humanitarian assistance, and guarantees for the implementation of IHL in ICJ jurisprudence. Finally, the author considers ICJ case law relating to the extraterritorial application of human rights treaties and the relationship between IHL and HRL. [Summary by students at the University of Toronto, Faculty of Law (IHRP)]

Arms transfers and international human rights law

Annyssa Bellal. - In: Weapons under international human rights law. - Cambridge ; New York : Cambridge University Press, 2014. - p. 448-471. - Cote 341.67/743

The legality of any given weapon is typically determined by reference to at least three criteria: its inherent characteristics (for example, in accordance with international humanitarian law, whether it is a weapon of a nature to cause superfluous injury or unnecessary suffering against combatants, or is inherently indiscriminate); its typical impact (for example, where in most cases civilians caught up in armed conflcit are disproportionately affected when compared with military utility, or when it tends to be used for torture); and, lastly, the actors who use it. These criteria all play a role in the regulation of arms transfer. This chapter assesses the mechanisms and criteria that have been elaborated - including the United Nations Arms Transfer Treaty, which was adopted on 2 April 2013 - to reduce the impact on individuals, groups, and societies. Since the 1990s a number of regional and international instruments have sought to regulate arms transfers. The normative weight of these instruments differs, some being international or regional treaties, others being phrased in soft law terms. To date, none has asserted global control over the transfer of all conventional weapons. This, therefore, was the intent behind the elaboration of a global Arms Trade Treaty within United Nations auspices.

Assuming risk : a critical analysis of a soldier's duty to prevent collateral casualties

Cheryl Abbate. In: Journal of military ethics Vol. 13, no. 1, April 2014, p. 70-93

Recent discussions in the just war literature suggest that soldiers have a duty to assume certain risks in order to protect the lives of all innocent civilians. I challenge this principle of risk by arguing that it si justified neither as a principle that guides the conduct of combat soldiers, nor as a principle that guides commanders in the US military. I demonstrate that the principle of risk fails on the first account because it requires soldiers both to violate their strict duty of obedience and loyalty and to exceed their special obligations to protect their fellow comrades, the state, the state's constituents and other protected civilians. I then illustrate that the principle of risk fails on the second account since it conflicts with the commander's primary obligation to protect and promote the welfare and lives of his or her soldiers. I conclude by arguing that we cannot reasonably expect soldiers and commanders to adhere to the principle of risk until there is a radical, institutional-level transformation of militaristic goals, values, strategies, policies, warrior codes and expectations of service members in the US armed forces.

Only from ICRC headquarters: http://www.tandfonline.com/doi/pdf/10.1080/15027570.2014.910370

Autonomous weapons and the law of armed conflict

Allyson Hauptman. In: Military law review Vol. 218, winter 2013, p. 170-195

This article begins by outlining the principles of the law of armed conflict (LOAC). It then examines the laws governing weapons. Next, it reviews existing and developing autonomous weapons technology, and finally, the article explores the moral principles important to determining the answer to this question. Ultimately, it concludes that until technology is advanced enough to mirror human decision making processes, humans must remain a part of the "kill chain" for the foreseeable future, but that possibility of autonomous weapons that can follow LOAC are possible.

http://tinyurl.com/38696-Hauptman

Autonomous weapons : are you sure these are killer robots ? : can we talk about it ?

Shane R. Reeves and William J. Johnson. In: The army lawyer April 2014, p. 25-31. - Cote 341.67/746 (Br.)

The rise of autonomous weapons is creating understandable concern for the international community as it is impossible to predict exactly what will happen with the technology. This uncertainty has led some to advocate for a preemptive ban on the technology. Yet the emergence of a new means of warfare is not a unique phenomenon and is assumed within the Law of Armed Conflict. Past attempts at prohibiting emerging technologies use as weapons — such as aerial balloons in Declaration IV of the 1899 Hague Convention — have failed as a prohibitive regime denies the realities of warfare. Further, those exploring

the idea of autonomous weapons are sensitive not only to their legal obligations, but also to the various ethical and moral questions surrounding the technology. Rather than attempting to preemptively ban autonomous weapons before understanding the technology's potential, efforts should be made to pool the collective intellectual resources of scholars and practitioners to develop a road forward. Perhaps this would be the first step to a more comprehensive and assertive approach to addressing the other pressing issues of modern warfare.

http://www.loc.gov/rr/frd/Military_Law/pdf/04-2014.pdf

Beyond bounds : Morocco's Rif war and the limits of international law

Anna Chotzen. In: Humanity : an international journal of human rights, humanitarianism, and development Vol. 5, no. 1, Spring 2014, p. 33-54

This paper examines the failure of international humanitarian law to sufficiently regulate the use of advanced military technologies, specifically in conflicts between sovereign and non-sovereign actors. This failure is twofold. First, the regulation of weapons consistently lags behind their development and use. Second, international humanitarian law generally excludes non-sovereign actors from its jurisdiction. Juxtaposing the 1925 Geneva Gas Protocol with the contemporaneous Moroccan Rif War reveals loopholes in international humanitarian law that enable major powers to enjoy unrestricted use of advanced military technologies toward imperial ends. This paper contends that the failure to regulate chemical warfare in the 1920s has significant parallels with the nebulous legal status of drone warfare today.

http://muse.jhu.edu/journals/humanity/v005/5.1.chotzen.pdf

Blind in their own cause : the military courts in the West Bank

Yaël Ronen. In: Cambridge journal of international and comparative law Vol. 2, issue 4, 2013. - Cote 345.28/112 (Br.)

The military courts operating in the West Bank do not ordinarily regard the criminal system they enforce as governed by the law of occupation. Their reasoning for this view reveals that they perceive themselves as quasi-domestic courts. This approach removes the guarantee of basic protection for protected persons under the law of occupation, leaving suspects and defendants hostage to potential vagaries of the military commander in enacting the security legislation. The courts' responses to this shortfall in protection are principally that in practice, many of the international standards have been incorporated into the law applied in the military courts by duplication of Israeli law, and that Israel's High Court of Justice offers means of ensuring compliance of the criminal process with international law. Both responses further reflect the courts' abdication of their role in guaranteeing legal protection under the law of occupation.

http://cjicl.org.uk/archive/

A broad overview of the law of armed conflict in the age of terror

Shane R. Reeves and David Lai. - In: The fundamentals of counterterrorism law. - Chicago : Section of Administrative Law and Regulatory Practice, American Bar Association, 2014. - p. 139-161. - Cote 303.6/227

At the most fundamental level, law and war are seemingly irreconcilable terms. “Law” implies an orderly polity where human relations and behaviors are governed usually by plentiful and inescapable rules, whereas the term “war” connotes an abandonment of restraint of rules by substituting in their place brutal force. For the greater part of recorded history, the relationship between the imposed obligations of law and the violence of war best understood as described by Cicero, the famous Roman philosopher, when he stated “inter arma leges silent” – in times of war the laws are silent. However, despite an absence of formal legal obligations, belligerents made some efforts to limit the brutality of warfare, particularly when men began to fight as organized groups, through informal rules and customs. Seventeenth-century jurist Hugo Grotius, recognizing these customary obligations while simultaneously understanding the savagery of hostilities, noted that in warfare, belligerents must “not believe that either nothing is allowable, or that everything is”.

The chaplaincy exception in international humanitarian law : "American-born cleric" Anwar al-Awlaki and the global war on terror

K. Benson. In: Buffalo human rights law review Vol. 20, 2013/2014, p. 1-36. - Cote 281/59 (Br.)

Anwar al-Awlaki, frequently described by the media as an "American-born cleric," was the first American citizen to be targeted for extrajudicial assassination by the Obama administration as part of the Global War on Terror (GWOT). While there have been scholarly works considering the legality of his killing under

domestic law, none have examined his status as a chaplain under International Humanitarian Law (IHL), what this designation could mean for the legality of Anwar al-Alwaki's killing, or what his killing could mean for the GWOT in general. This paper provides a necessarily brief history of Al Qaeda in the Arabian Peninsula (AQAP) and Anwar al-Awlaki's journey thereto before discussing the Bush and Obama administrations' positions on pertinent legal issues. After establishing that IHL applies in the case of the al-Awlaki killing, it is argued that al-Awlaki conformed to IHL's standard of religious personnel due to his position as a "cleric," casting doubt on the legality of his killing. The precedent set by his killing therefore has important ramifications for other clerics working in cases where IHL applies.

Children and the first verdict of the International Criminal Court

Diane Marie Amann. In: Washington university global studies law review Vol. 12, no. 3, p. 411-432. - Cote 362.7/7 (Br.)

Early prosecutions before the ICC focused on the war crimes of recruiting and using child soldiers. The ICC's first trial, Prosecutor v. Lubanga, dealt exclusively with those crimes. The experiences of children thus underlay the ICC's first verdict; that is, the conviction, sentencing, and reparations decisions that ICC Trial Chamber I issued in Lubanga in 2012. Examining those three decisions, this article discusses how Trial Chamber I treated both child soldiering and, more broadly, the issue of children in armed conflict. The article concludes by touching on prospects for the ICC's future treatment of these matters. This article first makes a foray into history.

http://law.wustl.edu/WUGSLR/Issues/Volume12_3/wugslr12_2013_issue3_411_432.pdf

Children and youth in armed conflict

by Ann-Charlotte Nilsson. - Leiden ; Boston : M. Nijhoff, 2013. - 2 vol. (1587 p.) - Cote 362.7/392 (I)(II)

Children and youth in armed conflict grow up in very challenging circumstances. Thus, an in-depth examination of the many interrelated issues they face is warranted, which this comprehensive book provides. This book addresses their situation in a multidisciplinary way, linking their reality in peacetime to their situation in wartime, and deals with issues such as: their economic, social and cultural rights; public health; the traumatic consequences of war; whether violence gives rise to violent behavior; the United Nations Convention on the Rights of the Child; and international humanitarian law. Other issues explored include the provision of education in armed conflict; the African Union's Kampala Convention on internally displaced persons; Colombia's Constitutional Court's Auto decision 251 on internally displaced children and youth; the Inter-American, African and European human rights work on children in armed conflict; and the numerous challenges involved with transitional justice. Further the Monitoring and Reporting Mechanism set up by Security Council resolution 1612 (2005), the work of the Security Council Working Group on Children and Armed Conflict and the Offices of the Special-Representatives of Children and Armed Conflict and on Sexual Violence in Conflict, gender-based violence and the African Youth Charter are studied. This is a book that students and professionals from different disciplines and backgrounds, including from academia, international organisations, non-governmental organisations, the medical community, governments, etc., will find to be a valuable resource in their quest to learn more about an area of study that has long been neglected.

Climate change and human security during armed conflict

Erik V. Koppe. In: Human rights and international legal discourse Vol. 8, no. 1, 2014, p. 68-83

This article focuses on the relationship between climate change and human security in times of armed conflict. After all, the effects of climate change are likely to increase the vulnerability of those caught up in armed conflict. This article thus seeks to clarify the rules of public international law which would appear to be most relevant for the protection of the victims of armed conflict under such circumstances. These rules follow not only from international humanitarian law, which is primarily applicable in times of armed conflict, but also from international human rights law. Before discussing these rules in more detail, however, this article first considers the relationship between climate change and armed conflict in general and the legal framework relevant to seeking to prevent armed conflict. The article ends with a brief conclusion.

Comment déterminer le début et la fin d'une occupation au sens du droit international humanitaire

Tristan Ferraro. In: Revue internationale de la Croix-Rouge : sélection française Vol. 94, 2012/1, p. 73-106

Le droit international humanitaire (DIH) ne définit pas précisément la notion d'occupation, pas plus qu'il ne fournit de normes strictes permettant d'établir à quel moment débute et s'achève une occupation. L'article ci-après propose une analyse détaillée de la notion d'occupation et de ses éléments constitutifs au regard du DIH, et arrête un ensemble de critères juridiques permettant de déterminer dans quelles conditions une situation doit être qualifiée d'occupation aux fins du DIH. Il conclut en suggérant une adaptation de ces critères juridiques aux caractéristiques spéciales de l'occupation par un intermédiaire et de l'occupation par les forces multinationales.

http://www.cid.icrc.org/library/docs/DOC/irrc-885-ferraro-fre.pdf

Compliance with international humanitarian law : democratic third parties and civilian targeting in interstate war

Alyssa K. Prorok and Benjamin J. Appel. In: Journal of conflict resolution Vol. 58, no. 4, 2014, p. 713-740. - Cote 345.25/302 (Br.)

This article examines compliance with international laws prohibiting the intentional targeting of noncombatants in interstate war, specifically focusing on the role of third-party states in enforcement. We argue that the expectation of third-party coercion, when sufficiently high, can induce war participants to comply with this body of law. We identify the conditions under which combatant states will anticipate a high likelihood of coercion, demonstrating that third-party states are most likely to coerce combatants when they have both the willingness and opportunity to do so. Democratic third parties that value the rule of law and human rights possess the willingness to coerce war participants, while strong allies, trade partners, and intergovernmental organization (IGO) partners with existing ties to the combatant state have the opportunity to engage in coercion by linking combatant behavior to the provision of benefits or imposition of costs. Based on this logic, we hypothesize that war combatants who have ratified the Geneva/Hague Conventions prohibiting the intentional targeting of noncombatants during war are more likely to comply with the legal obligations included in those conventions when they interact with relatively strong democratic alliance, trade, and IGO partners. In a series of quantitative tests on a data set of all interstate wars from 1900 to 2003, we find strong statistical and substantive support for the role of third parties in inducing compliance with the law.

Conflict minerals and the law of pillage

Patrick J. Keenan. In: Chicago journal of international law Vol. 14, no. 2, winter 2014, p. 524-558. - Cote 363.7/155 (Br.)

The illicit exploitation of natural resources — often called conflict minerals — has been associated with some of the worst violence in the past half-century, especially in the Democratic Republic of Congo. Prosecutors and scholars have struggled to develop legal tools to adequately hold accountable those who have been responsible for the exploitation of civilians and resources in conflict. The most common legal tool, the crime of pillage, has been inadequate because it has been applied only to discrete, relatively small episodes of theft. As important as it has been, the episodic theory is of limited utility when applied to what have been called resource wars in which combatants struggled for control over access to exploitable resources. In these conflicts, there was substantial evidence that a principal reason for the conflict and an important source of revenue to fund the various fighting forces was resource revenue. In response, scholars and advocates have attempted to develop a corporate theory of the crime of pillage. The corporate theory calls for the prosecution of individuals or entities who purchase or use resources derived from conflict areas or that are extracted under the direction of those involved in the war. The problem with the two dominant theories of pillage is that the episodic theory of prosecution fits squarely into existing law but is too narrow to address the kinds of harms that occur in modern resource wars, and the corporate theory of prosecution fits the facts but is too broad to fit comfortably into existing law. What has been missing is a theory that fits the facts more closely while at the same time fitting more easily into existing law. This Article supplies such a theory, one that is consistent with the law underpinning the traditional episodic theory while accomplishing some of the goals of the corporate theory. Under the systematic approach, individuals could face prosecution for their participation in large-scale pillage operations, such as controlling a mine whose proceeds were used to fund the fighting. Using the International Criminal Court's ongoing prosecution of Bosco Ntaganda, a notorious Congolese warlord, as a case study, this Article shows that the systematic theory of pillage would allow for prosecution when individuals created a process or system by which to engage in exploit resources they did not own — a form of theft — when that exploitation was sufficiently connected to the overall conflict.

http://tinyurl.com/38470-Keenan

Continuing impunity of peacekeepers : the need for a convention

Siobhan Wills. In: Journal of international humanitarian legal studies Vol. 4, issue 1, 2013, p. 47-80

Since the end of the Cold War United Nations (UN) authorised peacekeeping missions have tended to be not only more complex, but also much more interventionist and more robust than could ever have been imagined in the early days of peacekeeping.1 However, because peacekeeping is not explicitly provided for under the UN Charter, and has developed ad hoc in response to changing perceptions as to the nature of the role and responsibilities of peacekeeping missions, it is often unclear what laws are applicable to peacekeeping missions and when those laws apply. This paper explores the implications of that lack of clarity, focusing in particular on gaps in the international law regulating the conduct of peacekeepers. The author argues that the current approach, whereby prosecution for crimes committed by peacekeepers is dealt with primarily through the domestic law of the Troop Contributing State, is unsatisfactory, and is likely to remain unsatisfactory despite efforts to persuade Contributing States' to establish the legal and administrative frameworks necessary to prosecute and punish their troops for crimes committed outside their territorial borders. A convention based regime specifically tailored to ensuring that peacekeepers are held accountable to internationally agreed standards would be the most effective way of enabling the UN to comply with the rule of law standards it itself espouses.

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Counterterrorism operations, international law, and the debate over the use of lethal force

James W. Zirkle. - In: The fundamentals of counterterrorism law. - Chicago : Section of Administrative Law and Regulatory Practice, American Bar Association, 2014. - p. 213-229. - Cote 303.6/227

This chapter provides a brief overview of some of the more significant legal issues presented by the threats of international terrorism, including the use of drones for the targeted killings of terrorist leaders. Two of the more significant areas of disagreement arise from the fact that the armed conflicts of today are primarily non-international armed conflicts (NIAC). The battlefields of today more frequently do not involve traditional forces arrayed against each other in pitched battles. Instead, civilians affiliated with terrorist groups take up arms and deliver murderous attacks across international boundaries with no regard for human life, much less state sovereignty. Because these conflicts are not state against state, the boundaries of the "battlefield" can be more difficult to ascertain. Because of the nature of NIACs, the battleground is often not neatly contained within defined state borders. This can lead to a second point of disagreement. When lethal force is employed, should it be pursuant tot international humanitarian law, or should international human rights law be applied ?

Criminalizing humanitarian relief : are U.S. material support for terrorism laws compatible with international humanitarian law ?

Justin A. Fraterman. In: International law and politics Vol. 46, no. 2, winter 2013, p. 399-470. - Cote 345.22/240 (Br.)

In the wake of the U.S. Supreme Court's decision in Holder v. Humanitarian Law Project, there has been much discussion about the potentially chilling effect that U.S. material support laws may have on the provision of humanitarian assistance in both disaster and war zones. This Article examines these issues in depth, providing an analysis of the material support legal regime and the Humanitarian Law Project decision, the regime's potential legal impact on humanitarian organizations, and the interaction between these laws, international law, and U.S. constitutional law. More specifically, this Article advances a number of arguments: First, it posits that the material support laws pose a serious threat to the provision of much needed humanitarian relief. Next, it argues that the United States has a clear obligation under international humanitarian law—more specifically under the Geneva Conventions—to refrain from interfering with the provision of humanitarian assistance in certain circumstances. As a result, the material support laws as applied to humanitarian relief organizations place the United States in violation of its international legal obligations. The Article then considers the impact of this conflict as a matter of U.S. domestic law, looking at the literature and jurisprudence on self-executing treaties to examine whether the Conventions are judicially enforceable in U.S. courts. In doing so, it asserts that some provisions of the Conventions could arguably provide humanitarian workers and organizations facing criminal prosecution with a defence against allegations of providing material support. Finally, the Article considers a possible enlarged humanitarian exception to the existing statutory regime, as well as the particular difficulty faced by the International Red Cross movement in adapting its activities to ensure compliance with the material support laws.

http://nyujilp.org/wp-content/uploads/2014/05/46.2-Fraterman.pdf

"Culture for development" and the UNESCO policy on the protection of cultural property during armed conflict

Sigrid Van der Auwera. In: International journal of cultural policy Vol. 20, no. 3, 2014, p. 245-260. - Cote 363.8/84 (Br.)

UNESCO increasingly points to the value of culture for sustainable development. However, if we review UNESCO policies on the protection of cultural property in the event of armed conflict, developing countries do not seem to find access or implement them. Consequently, this paper analyses UNESCO initiatives related to the protection of cultural property in the event of armed conflict from a developmental perspective and explores whether they are adequate and inclusive for developing countries. Data for this paper were gathered from document analyses and additional expert interviews obtained via email questionnaires. The paper finds that UNESCO tends to be willing to improve the situation. However, the ratification rates of the relevant UNESCO Conventions in developing countries remain low, the implementation of these instruments is almost non-existent and the commitment to UNESCO protection policies is insufficient. This is mainly due to a lack of awareness and to the fact that the initiative has to come from the state concerned; the possibilities for international cooperation are still quite limited.

Current challenges to international humanitarian law

Antonio Cassese. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 3-19. - Cote 345.2/952

In the view of the author, the real weakness of humanitarian law lies in the fact that in the numerous wars that plague the planet, civilians are no longer protected. All wars, internal or international, result in massacres. Why? The reason is very simple: the segment of IHL that governs the conduct of hostilities, namely the use of the means of war (arms) and the methods of war (attacks against the enemy), is loose and flawed by lacunae. The first failing is the total and asymmetric nature of modern armed conflicts. The entire body of law which we have at our disposal today is modelled on a Rousseauian conception of war, fought between two armies. As a result, the author identifies specific gaps: First, guerrillas and terrorists are discouraged from respecting IHL, irregular combatants usually do not comply with the prescriptions of IHL and make no effort to distinguish themselves from civilians. A second serious deficiency of modern IHL lies in the fact that it does not sufficiently limit the exorbitant military might of belligerent powers. Thirdly, IHL fails to control the actions of 'private contractors. A fourth deficiency of modern IHL is that there are no effective mechanisms for determining when a belligerent has violated that very law. Finally, IHL fails to secure compensation to victims. After identifying these gaps, the author proposes action on three level to mitigate the devastation of armed conflicts: the drawing up of non-binding guidelines; the set up of flexible and effective monitoring mechanisms; and the compensation of victims

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Customary humanitarian law today : from the academy to the courtroom

Theodor Meron. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 37-49. - Cote 345.2/952

Today, customary international law has effectively moved from the domain of academia to the courtroom. Customary international law now comes up in almost every international court and tribunal, in almost every case, and frequently has an impact on the outcome. International courts ranging from the ICJ, the Iran-United States Claims Tribunal, and the ICSID arbitral tribunals to the regional human rights courts have pronounced on important issues of customary international law in recent years. The author believe it is in the international criminal tribunals - particularly in the International Criminal Tribunal for the former Yugoslavia (!CTY) - that the jurisprudence on customary international law has been most rich.

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Les cyber-attaques dans les conflits armés : qualification juridique, imputabilité et moyens de réponse envisagés en droit international humanitaire

Laura Baudin. - Paris : L'Harmattan, 2014. - 246 p. - Cote 345.27/135

Quel Etat peut aujourd'hui dire qu'il n'a jamais fait l'objet de cyber-attaques, de façon directe ou indirecte ? Les attaques cybernétiques sont devenues une nouvelle arme pouvant être employée en prémices à l'éclatement d'un conflit en menaçant la stabilité des relations internationales. Ce livre tente de les définir pour établir une qualification et un encadrement juridique précis en droit international, et ainsi envisager une éventuelle sanction.

Cyber operations and the use of force in international law

Marco Roscini. - Oxford : Oxford University Press, 2014. - 307 p. - Cote 345.26/254

The internet has changed the rules of many industries, and war is no exception. But can a computer virus be classed as an act of war? Does a Denial of Service attack count as an armed attack? And does a state have a right to self-defense when attacked in cyber space? With the range and sophistication of cyber attacks against states showing a dramatic increase in recent times, this book investigates the traditional concepts of 'use of force', 'armed attack', and 'armed conflict' and asks whether existing laws created for analogue technologies can be applied to new digital developments. The book provides a comprehensive analysis of primary documents and surrounding literature to establish whether and how existing rules on the use of force in international law apply to cyber operations. In particular, it assesses the rules of the jus ad bellum, the jus in bello, and the law of neutrality (whether based on treaty or custom), and analyses why each rule applies or does not apply in the cyber context. Those rules which can be seen to apply are then discussed in relation to each specific type of cyber operation. The book addresses the key questions of whether a cyber operation amounts to the use of force and, if so, whether the victim state may exercise its right of self-defense; whether cyber operations trigger the application of international humanitarian law when they are not accompanied by traditional hostilities; what rules must be followed in the conduct of cyber hostilities; how neutrality is affected by cyber operations; and whether those conducting cyber operations are combatants, civilians, or civilians taking direct part in hostilities. The book is essential reading for everyone wanting a better understanding of how international law regulates cyber combat.

Cyberattacks and international human rights law

David P. Fidler. - In: Weapons under international human rights law. - Cambridge ; New York : Cambridge University Press, 2014. - p. 299-333. - Cote 341.67/743

This chapter begins by observing that human rights advocates have, to date, behaved differently with respect to cyberweapons than they have with development, deployment, proliferation, and use of many old and new weapons. This apparent indifference exists even when experts depict cyberspace awash with cyberweapons used by state and non-state actors with impunity in attacks against civilian and governmental computer networks. To explain this situation, the chapter first analyses the technological aspects of cyberweapons and how these aspects relate to human rights thinking. It next probes the human rights features of the categories of cybersecurity threats: cybercrime, terrorism, espionage, war, and attacks on political opposition. The prospects of belligerents using cyberweapons in armed conflict raise a complex set of human rights issues, especially how human rights law relates to IHL during armed conflicts. However, the complexity does not generate problems in kind or on a scale that human rights experts have not previously confronted in conventional armed conflicts. In fact, existing experiences with cyberweapons suggest that such weapons pose less threat to human rights interests than traditional military weaponry and tactics.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38616.pdf

Death from above ? : the weaponization of space and the threat to international humanitarian law

Robert David Onley. In: Journal of air law and commerce Vol. 78, issue 4, fall 2013, p. 739-765. - Cote 341.67/36 (Br.)

While the widespread use of drones in combat today has justifiably led to extensive legal analyses in the early part of the twenty-first century, the broader ongoing weaponization of outer space - as seen through the proliferation of anti-satellite weapons technology and space-based bombers - has not garnered the same legal scrutiny. But as modern civilizations have become entirely dependent on satellite technology for the peaceful functioning of the global digital economy, the new found military capability to rapidly destroy a nation's satellite communication system represents a lethal and legal unknown that must be critically assessed. Through an examination of existing international laws on space weapons and a comparison with the laws relating to weapons of mass destruction, the need for a comprehensive global ban on anti-satellite and other low-earth orbit weapons platforms becomes evident and necessary for the preservation of the international humanitarian legal order. This paper focuses on anti-satellite weapons, in particular, and argues that such weapons should be treated like WMD's in order for the international legal system to deter the militarization of the nation state's final frontier: outer space. In the same manner that the utility of nuclear and chemical weapons was circumscribed by universal bans on their use, so too must anti-satellite and space-based weapons platforms, as will be argued herein.

http://works.bepress.com/robert_onley/1/

The developing law of weapons : humanity, distinction, and precautions in attack

Steven Haines. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 273-295. - Cote 345.2/952

This chapter covers seven key issues. First, the term "weapon" is discussed and a definition provided. Secondly, the weapons law element of LOAC will be explored, including how it relates to other existing bodies of law dealing with weapons. Thirdly, an account is given of the development of the conventional law of weapons, because the bulk of current weapons law is contained in treaties. Those treaties contain important principles underpinning weapons law and define its nature. A fourth aim of the chapter is to identify these principles and comment on their importance. Fifthly, since conventional law has a vital relationship with customary law, some comment is offered on the current state of the customary law of weapons. Sixthly, it returns to the issue of technology, in particular new technologies that represent significant challenges to existing law. Finally, some attempt is made to assess where the law might go in the future and what issues are likely to be on the agenda in the immediate term.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38512.pdf

Les dilemmes de la protection des civils des territoires occupés : l'exemple précurseur de la Première Guerre mondiale

Annette Becker. In: Revue internationale de la Croix-Rouge : sélection française Vol. 94, 2012/1, p. 55-71

Si les avancées du droit humanitaire dit « de Genève » et du droit international dit de « La Haye », ne restèrent pas lettre morte pendant le Premier Conflit mondial, ce fut surtout en ce qui concerne les blessés et les prisonniers de guerre, mieux protégés que les civils par le droit conventionnel humanitaire encore balbutiant. Si l'idéal d'humanité a pu alors trouver réalisation à grande échelle grâce aux efforts du Comité international de la Croix-Rouge (CICR) et d'une myriade d'autres organisations charitables, confessionnelles ou non, cependant les entorses et le violations de ce droit ont été le fait de tous les belligérants dès lors qu'ils en eurent la possibilité. Les différentes populations occupées, sur les fronts ouest, est et dans les Balkans, en furent les cobayes et les victimes exemplaires.

http://www.cid.icrc.org/library/docs/DOC/irrc-885-becker-fre.pdf

Diminishing the value of war crimes prosecutions : a view of the Guantanamo military commissions from the perspective of international criminal law

Jonathan Hafetz. In: Cambridge journal of international and comparative law Vol. 2, issue 4, 2013, p. 800-824. - Cote 344/623 (Br.)

One of the most important questions in the current Guantanamo detainee litigation is whether the United States may prosecute individuals in military commissions for offenses that are not recognized as war crimes under international law. The United States maintains that such offenses—particularly, material support for terrorism and conspiracy—are violations of the 'US common law of war', a form of customary domestic liability in armed conflict distinct from international law. This paper offers a critique of the US theory from the perspective of international criminal law practice and theory. In particular, it explains how the US position unduly expands the conception of war crimes liability, thereby distorting the meaning of a war crime and undermining the value of prosecuting conduct on that basis.

http://cjicl.org.uk/archive/

Direct participation in hostilities from cyberspace

Collin Allan. In: Virginia journal of international law Vol. 54, no. 1, December 2013, p. 173-193. - Cote 345.29/205 (Br.)

As demonstrated by the cyber attacks against Georgia in 2008 and the cyber attacks against Aramco in 2012, civilians are increasing their participation in armed conflicts through cyber attacks. In 2009, the International Committee of the Red Cross (ICRC) published a document on how to determine when a civilian's participation in armed conflict reaches the necessary level to render him or her targetable by one of the parties to the conflict. The Tallinn Manual was published this year to provide legal guidance in cyber situations. While professionals have written in this area previously, it is the first time that experts have compiled a manual of rules to indicate how international law applies to cyber situations. It includes a section on direct participation in hostilities through cyber means. This paper compares and contrasts the ICRC's approach and the Tallinn Manual's approach. The author reaches the conclusion that the Tallinn Manual's approach has the general effect of lowering the standard for civilians' actions in meeting the

direct participation in hostilities bar. This makes a civilian participating in hostilities through cyber means targetable in more situations than a civilian participating in hostilities under the ICRC's framework.

www.vjil.org/assets/pdfs/vol54/Allan_Note.pdf

Le droit de l'occupation belligérante devant la Cour suprême israélienne

David Kretzmer. In: Revue internationale de la Croix-Rouge : sélection française Vol. 94, 2012/1, p. 107-140

Depuis la guerre de 1967, au cours de laquelle Israël a occupé la Cisjordanie et la bande de Gaza, la Cour suprême d'Israël a été saisie de milliers de requêtes concernant des actes de l'armée et d'autre autorités dans ces territoires occupés. Cet article examine l'apport de la jurisprudence de la Cour dans ces affaires au droit de l'occupation belligérante. Il aborde d'abord les questions relatives à la compétence et aux normes applicables pour ensuite analyser la manière dont la Cour a interprété les besoins militaires, le bien-être de la population locale, les modifications de la législation locale et l'utilisation des ressources. Il examine ensuite l'attitude de la Cour à l'égard de la nature prolongée de l'occupation et de l'existence de colonies israéliennes, de colons et de travailleurs pendulaires israéliens dans les territoires occupés, l'introduction d'un triple critère de proportionnalité afin d'évaluer la nécessité militaire et les hostilités dans les territoires occupés. Dans la section finale, l'auteur tire quelques conclusions générales sur la contribution apportée par la Cour au droit de l'occupation.

http://www.cid.icrc.org/library/docs/DOC/irrc-885-kretzmer-fre.pdf

Le droit de l'occupation est-il applicable à la phase d'invasion ?

Marten Zwanenburg, Michael Bothe et Marco Sassòli. In: Revue internationale de la Croix-Rouge : sélection française Vol. 94, 2012/1, p. 31-54

Trois experts du droit de l'occupation — Marten Zwanenburg, Michael Bothe et Marco Sassòli — ont bien voulu prendre part à ce débat en défendant trois conceptions différentes. Marten Zwanenburg considère que l'unique critère permettant de fixer le moment où une invasion devient une occupation est celui qui est défini dans l'article 42 du Règlement de La Haye et rejette donc la "théorie de Pictet". Michael Bothe, s'il s'oppose lui aussi à la théorie de Pictet, considère qu'une éventuelle phase intermédiaire entre l'invation et l'occupation, si elle devait exister, ne pourrait être que très brève et que, une fois qu'un envahisseur a pris le contrôle d'une partie d'un territoire envahi, le droit de l'occupation s'applique. Enfin, Marco Sassóli défend la théorie de Pictet et affirme que, afin d'éviter toute lacune juridique, il convient de ne faire aucune distinction entre la phase d'invasion et la phase d'occupation pour appliquer les règles de la IVe Convention de Genève. Afin de satisfaire à des exigences de clarté et de brièveté, nos trois auteurs ont simplifié certaines subtilités de leur argumentation. Le lecteur comprendra que leur positions réelles peuvent être plus nuancées qu'elles n'apparaissent dans ces pages.

http://www.cid.icrc.org/library/docs/DOC/irrc-885-zwanenburg-bothe-sassoli-fre.pdf

Droit humanitaire pénal

Jacques Fierens ; préf. de Pascal Vanderveeren. - Bruxelles : Larcier, 2014. - 372 p. - Cote 344/620

Est-il possible de dire dans le langage du droit ce qui s'est passé à Auschwitz ou au Rwanda ? La guerre peut-elle être légale ? Les victimes ont-elles une place dans la procédure et dans le processus de mise au jour de la vérité judiciaire ? Les accusés de génocide ou de crimes contre l'humanité sont-ils des monstres ou des barbares ? Juge-t-on les vrais responsables des crimes commis ? Existe-t-il des infractions universelles ? Infliger la peine de mort ou une peine de prison à un génocidaire a-t-il du sens ? Les juridictions internationales sont-elles autre chose que des tribunaux de vainqueurs ? Sont-elles inféodées aux intérêts politiques ? Pour répondre à ces questions, cet ouvrage retrace de manière synthétique l'histoire du droit humanitaire, en détermine les principaux enjeux et s'interroge sur le sens des réponses qu'il prétend apporter aux grands questionnements qui le traversent.

Economic, social, and cultural rights in armed conflict

Eibe Riedel. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 441-468. - Cote 345.2/952

Previously, states parties in the midst of violent conflict tended to be excused from effective monitoring and implementation of their human rights obligations until peace-time conditions were restored. States were referred to IHL and other international law rules in armed conflict situations. In the last 20 years, however, the practice of human rights treaty bodies has gradually changed. Today the human rights treaty bodies regularly question states parties on the realization of human rights, even in times of armed conflict,

and a number of authors have addressed how human rights obligations can apply alongside or instead of IHL rules. The focus of debate has been primarily on the relationship between civil and political rights (cp-rights) and IHL rules, in particular the protection of the right to life during armed conflict situations. Economic, social, and cultural rights (esc-rights), by contrast, have received little or no attention. Examples given in the IHL context usually focus on the prohibition of torture and inhuman and degrading treatment, violations of the right to life, the prohibition of slavery, restrictions of freedom of movement, etc, which of course mark grave violations of human rights. Yet the Geneva Conventions of 1949 and the Additional Protocols of 1977 also contain specific obligations in respect of esc-rights. People who die of hunger or starvation, are denied access to basic health care, face deplorable working conditions, lack housing, water, and adequate sanitation, all suffer as much, if not more than those whose rights are violated under many provisions of the International Covenant on Civil and Political Rights (ICCPR).

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38525.pdf

L'emploi de la force en période d'occupation : maintien de l'ordre public et conduite des hostilités

Kenneth Watkin. In: Revue internationale de la Croix-Rouge : sélection française Vol. 94, 2012/1, p. 179-236

Le présent article explore le droit qui régit le maintien de l'ordre public et la sauvegarde de la sécurité intérieure en situation d'occupation belligérante. A l'instar de ce qui s'est produit en Irak en 2003-2004, tout conflit armé international s'accompagne d'un risque de généralisation de la violence. Inévitablement, les forces militaires et les forces de police s'engagent dans des activités qui se juxtaposent et se recoupent. Or, les normes relatives au maintien de l'ordre sont basées sur les droits de l'homme, tels que le droit à la vie, et sont également présentes dans le droit international humanitaire. Ainsi, en période d'occupation militaire, tans les normes qui régissent la conduite des hostilités que les normes relatives au maintien de l'ordre public sont applicables. Leur mise en oeuvre simultanée au titre du droit international humanitaire et des droits de l'homme vient en fait renforcer la protection des habitants des territoires occupés.

http://www.cid.icrc.org/library/docs/DOC/irrc-885-watkin-fre.pdf

Enfants-soldats et droits des enfants en situation de conflit et post-conflit : réalités et enjeux

sous la dir. de Mohamed Abdelsalam Babiker, Maxence Daublain, Alexis Vahlas. - Paris : L'Harmattan, 2013. - 299 p. - Cote 362.7/394

Contient notamment : La protection des enfants dans les conflits armés : comment réaliser de nouveaux progrès ? / J.- M. de la Sablière. - Prévention, démobilisation et réinsertion communautaire des ex-enfants associés aux forces et aux groupes armés / M. Daublain et P. Effebi. - Armed non-state actor and child protection / A. Goodlife. - Protection of children rights under islamic laws in Sudan : conflit or congruence wiith human rights and humanitarian law norms / M. A. Babiker.

Engaging or shaming ? : an analysis of UN's naming and shaming of child abusers in armed conflict

C. Nyamutata. In: Journal of international humanitarian legal studies Vol. 4, issue 1, 2013, p. 151-173

The impact of armed conflict on children has been recognized for some time as a major humanitarian problem. In 1999, the United Nations (UN) Security Council began taking up the abuse of children during armed conflict as a regular thematic issue. As part of the protective framework, the UN adopted a “strategy” of “naming and shaming” government forces and rebel groups recruiting, killing, maiming, raping or other sexual abusing of children during conflict. The philosophical justification of the public exposures is premised on the supposed stigmatic and deterrent effect on named and shamed offenders. However, little analysis has gone into the impact of this UN policy. This paper has the modest aim of assessing the UN’s naming and shaming practice since inception of the policy in 2002. The efficacy of shaming sanctions is contestable. The recent UN annual statistics on the exposed parties do not seem to evince a convincing causal link between of naming and shaming and adherence to international humanitarian law and international human rights law, particularly among armed non-State groups (ANSAs) so far. Naming and shaming represents an antagonistic modus operandi. This paper argues that humanitarian engagement with ANSAs offers a non-confrontational and corrective approach and thus greater promise for compliance and protection of children during armed conflict than naming and shaming.

Only from ICRC headquarters: http://booksandjournals.brillonline.com/content/journals/10.1163/18781527-00401005

Ethical challenges of new military technologies

Stephen Coleman. - In: New technologies and the law of armed conflict. - The Hague : T.M.C. Asser Press, 2014. - p. 29-41. - Cote 345.2/951

The development and use of new military technologies raises many ethical issues. Simply examining the law regarding the use of such technologies does not capture many of these issues, since while there is certainly an intimate relationship between law and ethics, the questions raised by these two disciplines differ. Perhaps the soldier of the future might simply enter into battle in a virtual sense, by piloting a remotely controlled device, or managing attacks against the enemy's computer systems through cyber warfare. But whatever the future may be, it is impossible to get a sense of what the laws governing armed violence 'ought' to be without considering the ethical issues that such new military technologies raise. This chapter considers the issues which new military technologies raise both with regard to jus ad bellum (justice of war) and jus in bello (justice in war).

An evaluation of the U.S. policy of "targeted killing" under international law : the case of Anwar Al-Aulaqi (part I)

Jake William Rylatt. In: California western international law journal vol. 44, fall 2013, p. 39-72. - Cote 345/657 (Br.)

During the past decade, the U.S. policy of conducting extraterritorial "Targeted Killings" against individuals linked with terrorist activities has been met with skepticism and scrutiny. However, while the strikes have followed transnational terrorists targeted by the United States into sovereign States such as Afghanistan, Pakistan, Yemen and Somalia, the United States has consistently denied any illegality, with reference to the "war against Al-Qaeda," and their right to self-defense in the wake of 9/11. This article evaluates the U.S. legal justifications for drone strikes with reference to the highly controversial case of Anwar Al-Aulaqi, a U.S.-Yemeni citizen killed by a Predator drone on September 30, 2011, following his identification by the United States as a senior operational leader of Al-Qaeda in the Arabian Peninsula (AQAP).

L'évolution de l'héritage juridique humaniste d'Henry Dunant

Myriam Fillaud. - In: Humanisme et droit : offert en hommage au professeur Jean Dhommeaux. - Paris : Pedone, 2013. - p. 51-62. - Cote 345.22/241(Br.)

Le but de cet article est d'explorer dans quelle mesure le droit et les outils juridiques - ambitieux - mis au service de l'Homme en période de conflit armé et tels qu'insufflés par Henry Dunant, constituent toujours un droit reconnu, appliqué et utile. Après avoir présenté les apports juridiques humanistes d'Henry Dunant, l'efficacité normative de ce droit face aux formes contemporaines de violence armée ou de crises, sera évaluée. Cette évaluation menant à des conclusions nuancées, une dernière partie de l'article sera consacrée aux nouveaux types d'outils juridiques humanistes qui semblent se développer afin de refreiner les manifestations actuelles de violence (la justice transitionnelle comme outil de lutte contre l'impunité liée au conflit armé et le développement de l'état de droit comme garantie future du non-retour à la violence).

Examining autonomous weapon systems from a law of armed conflict perspective

Jeffrey S. Thurnher. - In: New technologies and the law of armed conflict. - The Hague : T.M.C. Asser Press, 2014. - p. 213-228. - Cote 345.2/951

This chapter explores the legal implications of autonomous weapon systems and the potential challenges such systems might present to the laws governing weaponry and the conduct of hostilities. Autonomous weapon systems are weapons that are capable of selecting and engaging a target without further human operator involvement. Although such systems have not yet been fully developed, technological advances, particularly in artificial intelligence, make the appearance of such systems a distinct possibility in the years to come. Given such a possibility, it is essential to look closely at both the relevant technology involved in these cutting-edge systems and the applicable law. This chapter commences with an examination of the emerging technology supporting these sophisticated systems, by detailing autonomous features that are currently being designed for weapons and anticipating how technological advances might be incorporated into future weapon systems. A second aim of the chapter is to describe the relevant law of armed conflict principles applicable to new weapon systems, with a particular focus on the unique legal challenges posed by autonomous weapons. The legal analysis will outline how autonomous weapon systems would need to be designed for them to be deemed lawful per se, and whether the use of autonomous weapons during hostilities might be prohibited in particular circumstances under the law of armed conflict. The third and final focus of this chapter is to address potential lacunae in the law dealing with autonomous weapon

systems. In particular, the author will reveal how interpretations of and issues related to subjectivity in targeting decisions and overall accountability may need to be viewed differently in response to autonomy.

Extending positive identification from persons to places: terrorism, armed conflict, and the identification of military objectives

Laurie R. Blank. In: Utah law review Vol. 2013, no. 5, 2013, p. 1227-1261. - Cote 345.28/111 (Br.)

This Article addresses the identification of military objectives in a variety of non-international armed conflict contexts, including conflicts with terrorist groups operating transnationally and conflicts with non-state actors located outside the state's borders. In particular, the nature of non-international armed conflict can alter how the basic definition and analysis of the term "military objective" is applied. To the extent that the application of the definition of military objectives in non-international armed conflicts introduces complications and conceptual challenges that blur the lines between civilian and military, and exacerbate existing difficulties, it is important to tease out and better understand those conceptual challenges. Building on foundational discussions of the law of targeting and the definition of military objective as set out in Additional Protocol I and customary international law, this Article analyzes the legal and operational complexities of identifying military objectives in non-international armed conflicts. The first question centers on the meaning of the criterion of "nature" and whether it is substantially narrower in the identification of military objectives on the non-state actor side of the conflict. A second major question concerns dual-use objects -- does the nature of non-international armed conflict result in nearly all objects being dual-use objects? Finally, this Article explores the ramifications of cross-border and transnational conflicts in particular for jus ad bellum and operational considerations as well in applying and interpreting the definition of military objectives.

http://epubs.utah.edu/index.php/ulr/article/viewFile/1188/864

Extraterritorial lethal targeting : deconstructing the logic of international law

Michael N. Schmitt. In: Columbia journal of transnational law Vol. 52, no. 1, 2013, p. 77-112. - Cote 345.26/252 (Br.)

Caustic debates over extraterritorial targeting, which is usually conducted by remotely piloted aircraft (so called "drones"), have plagued the international law community for a number of years. The discourse has been marked by an unusually high degree of counter-normative and counter-factual assertions. In particular, pundits often ask the wrong questions or answer the right ones by reference to the wrong body of law. The result is growing confusion, as analytical errors persist and multiply. Despite public perceptions, the issue is not the drones them-selves, for the relevant legal rules and principles apply equally to any method or means of warfare (drone, manned aircraft, artillery, cruise missile, special forces team, etc.). Instead, two factors common to all such operations lie at the heart of their legality, or lack thereof: 1) extraterritoriality, and 2) lethality. The goal of this Essay is to de-construct the logic of international law relating to so-called "targeted killings" by sharply delineating the legal questions they raise and offering a coherent analytical framework for examining them. No attempt is made to definitively resolve the questions themselves; the framework is methodological, not substantive.

http://tinyurl.com/38486-Schmitt

Extremely stealthy and incredibly close : drones, control and legal responsibility

Frederik Rosén. In: Journal of conflict and security law Vol. 19, no. 1, Spring 2014, p. 113-131

Drone technology is not only a game changer, it also triggers obligations. If we recast our perception of drones as solitary planes to one of a comprehensive technology with extensive surveillance and control capabilities, we encounter new and crucial legal implications of the use of drones in armed conflict. To make its argument, this article first places the surveillance and control capabilities of drone technology within the context of the European Convention of Human Rights. The European Court of Human Rights has found that the Convention applies in a number of cases where a member state exercised control and authority over persons or territories outside Europe. The article argues that this may affect the legal basis for European states that employ drones for attacks. The second part of the article examines the implications of the surveillance capabilities of drone technology for the principle of precaution in international humanitarian law (IHL). The argument is that drone technology offers an effective precautionary measure, which may trigger precautionary obligation across all weapons systems.

If a state possesses drone technology, and if the deployment of this technology may potentially reduce unnecessary harm from armed attacks, including shelling, the state is obliged under IHL to employ this technology for precaution. In addition to identifying so far overlooked legal implications arising from the employment or availability of drone technology for attack in armed conflict, the article raises the more general question of how the laws of armed conflict should be applied in an era of total surveillance.

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Focusing on armed non-state actors

Andrew Clapham. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 766-810. - Cote 345.2/952

This chapter examines the role and obligations of armed non-state actors in armed conflict. It suggests that the traditional approach of international law which excludes armed non-state actors from its list of suitable subjects is not helpful in protecting innocent victims and creates the impression that armed groups inhabit a lawless world. It proposes a number of options that can be considered when addressing violations of international law committed by armed non-state actors. These include encouraging codes of conduct and deeds of commitment, imposition of sanctions and criminal accountability, and launching initiatives aimed at the underlying causes of the conflict

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38568.pdf

From jus in bello to jus post bellum : when do non-international armed conflicts end ?

Rogier Bartels. - In: Jus post bellum : mapping the normative foundations. - Oxford : Oxford University Press, 2014. - p. 297-314. - Cote 345/650

This chapter discusses how to identify the moment when the law dealing with situations of armed conflict (jus in bello or international humanitarian law) ceases to apply and makes way for the law governing the period after the conflict ends. Neither the end of non-international armed conflicts nor the end of the temporal scope of international humanitarian law is defined in treaty law. This chapter proposes using the criteria and identifying factors for the lower threshold at the start of non-international armed conflicts to determine when such conflicts end and when international humanitarian law no longer applies. The chapter describes the challenges in using these criteria and factors, and sets out a modified framework that can serve to identify when the fighting between the parties to the conflict drops below the threshold of intensity and organization and when it thus ceases to be a non-international armed conflict.

The future of the law of armed conflict : ostriches, butterflies, and nanobots

Eric Talbot Jensen. In: Michigan journal of international law Vol. 35, winter 2014, p. 253-317. - Cote 341.67/745 (Br.)

The law has consistently lagged behind technological developments. This is particularly true in armed conflict, where the 1907 Hague Conventions and the 1949 Geneva Conventions form the basis for regulating emerging technologies in the 21st century. However, the law of armed conflict, or LOAC, serves an important signaling function to states about the development of new weapons. As advancing technology opens the possibility of not only new developments in weapons, but also new genres of weapons, nations will look to the LOAC for guidance on how to manage these new technological advances. Because many of these technologies are in the very early stages of development or conception, the international community is at a point in time where we can see into the future of armed conflict and discern some obvious points where future technologies and developments are going to stress the current LOAC. While the current LOAC will be sufficient to regulate the majority of future conflicts, we must respond to these discernible issues by anticipating how to evolve the LOAC in an effort to bring these future weapons under control of the law, rather than have them used with devastating effect before the lagging law can react. This paper analyzes potential future advances in weapons and tactics and highlights the LOAC principles that will struggle to apply as currently understood. The paper will then suggest potential evolutions of the LOAC to ensure it continuing efficacy in future armed conflicts.

"A game of drones" : unmanned aerial vehicles (UAVs) and unsettled legal questions

Maritza S. Ryan. - In: The fundamentals of counterterrorism law. - Chicago : Section of Administrative Law and Regulatory Practice, American Bar Association, 2014. - p. 185-211. - Cote 303.6/227

Just as the strikes by ever more technically sophisticated drones have proliferated, so have the vigorous debates regarding their legality. This chapter aims to examine the legal arguments regarding the remote

targeting and killing of suspected terrorist operatives : is the proper legal framework that of the law of armed conflict, international law, domestic law, or perhaps a combiantion of some or all of them? Does it matter whether the person at thte computer toggle switch, controlling the UAV and activating its weapons system from perhaps thousands of miles aways, wears a military unifrom or civilian clothes? Is a designated target's American citizenship - or, for that matter, his or her location on the globe - relevant? How does the perceived lawfulness of drone strikes under international law shape their effectiveness as a leading component of a national strategy?

"Gate of the sun" : applying human rights law in the occupied Palestinian territories in light of non-violent resistance and normalization

Keren Greenblatt. In: Northwestern journal of international human rights Vol. 12, issue 2, spring 2014, p. 152-190. - Cote 345.28/110 (Br.)

This paper argues that the prolonged duration of the Israeli occupation of the Palestinian territories (hereinafter “OPT”), combined with the intensifying non-violent resistance, justifies a stronger human rights law approach, rather than an IHL approach, in the administration of the Palestinian population and lands. The first section reviews the origins and fundamentals of the international law of belligerent occupation and its relation to international human rights law. The second section provides a brief background of the Israeli occupation of the OPT, particularly of the West Bank. The third section reviews the different approaches to what the applicable legal framework in this situation ought to be, including the Israeli and Palestinian approaches and those of the international community. The fourth section discusss the different approaches and argue that, currently, the most persuasive applicable legal framework is a strong human rights law approach, with a few general norms borrowed from the law of armed conflict. The final section analyzes the case of Bab Alshams in light of this proposed approach and show how this approach would have produced radically different outcomes.

http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1171&context=njihr

Gender and armed conflict

Christine Chinkin. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 675-699. - Cote 345.2/952

This chapter examines the gender-specific harms suffered by women in armed conflict and the international legal framework for responding to them. It discusses how rape and other forms of sexual assault against women during armed conflict have become visible and acquired higher priority within the international legal order since the early 1990s because of feminist activism and intervention. This chapter also highlights legislative and jurisprudential developments that contributed to the increased protection of women during armed conflict. These include the creation of the ad hoc international criminal tribunals, the United Nations Security Council resolutions on ‘women, peace and security’, and the International Tribunal for the former Yugoslavia.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38547.pdf

The gentle modernizer of the law of armed conflict ?

Inger Österdahl. - In: Jus post bellum : mapping the normative foundations. - Oxford : Oxford University Press, 2014. - p. 207-228. - Cote 345/650

This chapter argues that jus post bellum is necessary in order to cope constructively with the consequences of armed conflict. At the same time, the introduction of a systematic and comprehensive jus post bellum will challenge the traditional conceptual categories relating to the law on the use of force. The purpose of jus post bellum is presumed to be the achievement of a just and stable peace based on democracy, human rights, and the rule of law. The introduction of jus post bellum will move the focus away from the beginning towards the middle and end of armed conflict. It will have an impact on jus ad bellum and jus in bello. Its introduction will also move the focus away from military necessity toward humanitarian values. It will further make armed conflict law less state-centered and more people-centered.

Geography, territory and sovereignty in cyber warfare

David Midson. - In: New technologies and the law of armed conflict. - The Hague : T.M.C. Asser Press, 2014. - p. 75-93. - Cote 345.2/951

Cyberspace is a vital part of the modern world with much of our current economic prosperity relying on continued access to the internet. Cyberspace is also a place where conflict can occur, but where international law could be applied to control that conflict. Unlike other domains cyberspace is not exclusively physical and it does not have the same tangible properties of geography as land, sea and air. These differences lead to some difficulties in the application of the law of armed conflict to cyberspace.

However, a pragmatic approach to interpretation allows the law of armed conflict to be applied to the ethereal geography of cyberspace. In particular, laws, such as neutrality and those controlling the use of force, that place geographic limits on international and non-international armed conflicts can be applied to limit the extent of these conflicts in cyberspace. Likewise, laws that govern naval blockade can, in some circumstances, usefully guide application of international law to a 'cyber blockade'. These laws can be applied because, while cyberspace is not an entirely physical domain, actions within cyberspace will still have effects on people, places and objects that do exist in the physical world.

Guantanamo and the end of hostilities

Eric Talbot Jensen. In: Southern Illinois university law journal Vol. 37, March 2013, p. 491-512. - Cote 400.2/354 (Br.)

Detainees in the War on Terror have been at Guantanamo Bay for over a decade. The justification for these detentions has been, at least in part, the on-going hostilities in Afghanistan. However, President Obama's announcement in his 2013 State of the Union address that "By the end of [2014] our war in Afghanistan will be over" may undercut the continuing detention authority for at least some of these Guantanamo detainees. This paper analyzes the legal doctrine of release and repatriation in light of President Obama's announcement and concludes that the President's determination that hostilities have concluded between specific Parties to an armed conflict and the corresponding withdrawal of troops from the area of conflict creates a presumption that detainees from that conflict should be repatriated. This presumption may be overcome on an individual basis by a finding that released and repatriated fighters will return to the battle.

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2233082

Handbook on international rules governing military operations

ICRC. - Geneva : ICRC, December 2013. - 459 p. - Cote 345.24/60 (2013 ENG)

Modern military operations include combat in armed conflict, law enforcement activities, and peace support operations. In this increasingly complex environment, it is imperative that armed forces incorporate international humanitarian law and relevant human rights law into the planning and execution of military operations. This Handbook highlights the most important elements of the international law governing military operations and places them in a practical, operational context. It is intended to facilitate the law's application by all armed forces and to assist commanders in their task of incorporating that law into military strategy, operations and tactics. It is therefore a fitting successor to the original Handbook on the Law of War for Armed Forces compiled by Frédéric de Mulinen and first published by the ICRC over 30 years ago.

http://www.cid.icrc.org/library/docs/DOC/icrc-002-0431.pdf

"Humanitarian rights" : bridging the doctrinal gap between the protection of civilians and the responsibility to protect

Dan Kuwali. In: Journal of international humanitarian legal studies Vol. 4, issue 1, 2013, p. 5-46

The right to intervene under Article 4(h) of the African Union (AU) Constitutive Act and the third pillar of responsibility to protect (R2P) provides for the possibility of using military force to protect civilians from mass atrocities. However, both Article 4(h) and R2P do not specify how the military can or should use force to protect civilians. The omission to define how the military should use force to protect populations at risk was brought to the fore by the implementation of UN Security Council Resolution 1973, through which NATO has been criticized to have overstepped the Security Council mandate. The doctrinal deficit on protecting civilians is worsened by legalistic thinking on the normative separation of human rights and humanitarian law, a division driven by their historical roots. Nonetheless, human rights violations occur during warfare and humanitarian law violations may also be human rights violations. Both spheres of law are complimentary and mutually reinforcing and victims do not distinguish whether they have suffered human rights or humanitarian law violations. What they need is protection. This paper presents a 'humanitarian rights' approach as the symbiotic methodology for civilian protection that recognizes the inherent dignity and worth of every human being.

Only from ICRC headquarters: http://booksandjournals.brillonline.com/content/journals/10.1163/18781527-00401004

Incapacitating chemicals : risk to the purpose and objectives of the Chemical Weapons Convention ?

Ladislav Streda, Jirí Patocka. In: Kontakt Vol. 16, Issue 1, March 2014, p. e57–e63. - Cote 341.67/37 (Br.)

Current trends in the use of military force are influenced by the tendency to minimalize casualties and material losses. As a result, from the beginning of the 1990s, a new category of weapons appeared; the so-called "non-lethal" weapons, which are able temporarily to disable personnel from combat action (preferably without permanent consequences to their health, to the operation of other non-destructive combat material, or to their tactical and technical characteristics), and to protect the environment without limiting desired negative consequences to the enemy's national economy. However recent documents of the Organisation for the Prohibition of Chemical Weapons consider the term "non-lethal chemical weapons" inappropriate and do not recommend its use in connection with international conventions. Therefore these chemicals are classified as "less-than-lethal", "less-lethal" or "temporarily incapacitatiting agents" by law experts. NATO defines an incapacitatiting chemical as "A chemical agent which produces temporarily disabling conditions which (unlike those caused by riot control agents) can be physical or mental and persist for hours or days after exposure to the agent has ceased. Medical treatment, while not usually required, facilitates a more rapid recovery". The Chemical Weapons Convention includes a comprehensive definition of toxic chemicals which covers all types of lethal and incapacitating ("non-lethal") chemicals, but the term "incapacitating chemicals" is neither defined in the Chemical Weapons Convention nor otherwise used. There are a lot of potentially exploitable agents which could be placed in this group of chemicals and new agents continue to emerge.

http://www.sciencedirect.com/science/article/pii/S1212411714000105

The individualization of war : from war to policing in the regulation of armed conflicts

Gabriella Blum. - In: Law and war. - Stanford : Stanford law books, 2014. - p. 48-83. - Cote 345.2/949

In this essay, the author argues that the "humanization of international humanitarian law" marks a shift from collectivism toward cosmopolitan individualism in the regulation of wartime conduct. In other words, wartime regulation has evolved from a predominantly state-oriented set of obligations - which viewed war as an intercollective effort - to a more individual-focused regime; and consequently, these wartime obligations are owed not only to other parties to the conflict but, at least in aspiration, to the entire international community. The author demonstrates how various contemporary debates over particular doctrines and practices of war both reflect and refract the overarching question of the collective or individualized nature of war. Among these debates are the distinction between the jus ad bellum and the jus in bello; the application of the principle of proportionality in the jus in bello; the project of international criminal law; reparations to victims of war ; and detention of terrorists. By framing these issues as implicating the indvidual or collective nature of war, the tradeoffs that exist between a cosmopolitan or national view of war are highlighted.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38450.pdf

Internal (non-international) armed conflict

Eric David. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 353-362. - Cote 345.2/952

The quantitative development of norms applicable to internal armed conflicts was confirmed in the recent ICRC Study on Customary International Humanitarian Law (2005), that shows that among the 161 rules contained in the study, at least 137 (and perhaps even 144 rules) are applicable to both non-international and international armed conflicts. This chapter briefly examines the variety and complexity of IHL rules applicable to non-international armed conflicts (NIACs), and then turn to the criteria for identifying the existence of a non-international armed conflict.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38516.pdf

International criminal law with Asian characteristics ?

Simon Chesterman. - [S.l.] : National University of Singapore, Faculty of Law, April 2014. - 41 p. - Cote 344/83 (Br.)

The history of international criminal law typically effaces Asian experience of the topic. This is partly because incidents such as the Tokyo Trial disclose racial and colonial biases that are now seen as embarrassing. Yet failing to engage with Asian experience also impoverishes our understanding of the possibilities and limitations of international criminal law. In particular, pragmatic adaptation of "universal" principles in various Asian jurisdictions offers a helpful lens through which to view the inherent tension between legitimacy and effectiveness in international criminal trials: the desire for legitimacy that goes beyond a state whose leaders may have engaged in unspeakable acts; the need for effectiveness at the local level if any resolution of a conflict is to be enduring. A more nuanced understanding may also help explain an apparent paradox: despite having a long tradition of restrictions

on the conduct of hostilities, Asian states today are twice as unlikely to have accepted the jurisdiction of the International Criminal Court when compared with any other region.

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2341492

International fair trial guarantees

David Weissbrodt. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 410-440. - Cote 345.2/952

The right to a fair trial is a fundamental human right. It ensures that no one is deprived of liberty without due process of law. The use of military commissions by the United States for the trial of 'unprivileged enemy belligerents' has initiated a new debate over the scope and meaning of fair trial guarantees, particularly during periods of armed conflict. The main purpose of this chapter is to chart the basic contours of fair trial guarantees as articulated in international humanitarian law (IHL) and international human rights law (IHRL). It first identifies the principal treaty provisions that guarantee the right to a fair trial during armed conflict; then it explores the concept of a "regularly constituted court" a vital element in fair trial guarantees, to move to examine the actual content of the fair trial guarantees as expressed in treaties and other instruments of international law. Finally, it explores how the normative standards of the fair trial guarantees apply in the practice of military commissions.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38522.pdf

International human rights law in time of armed conflict

Derek Jinks. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 656-674. - Cote 345.2/952

The Geneva Conventions of 1949 govern automatically warfare as well as international and non-international armed conflicts. The applicability of the 'law of war' was previously delimited by formal acts of state such as a declaration of war or a formal 'recognition of belligerency', a formalistic approach that was significantly revised by the Geneva Conventions. This chapter examines the relationship between IHL and international human rights law (IHRL). It first discusses the nature of the 'armed conflict' inquiry and considers IHL as lex specialis displacing or qualifying the application of IHRL. It then outlines three fundamental respects in which the lex specialis claim misconstrues or distorts IHL: IHL and affirmative authorization, 'armed conflict' as determinant of regime boundaries, and reciprocity and humanitarian protection as inducement for compliance. It argues that the very notion of competing legal frameworks is incompatible not only with the text, structure, and history of the Geneva Conventions, but also with the institutional and behavioral foundations of contemporary IHL.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38544.pdf

International humanitarian law in civil war

Emily Hencken Ritter. - In: Routledge handbook of civil wars. - London ; New York : Routledge, 2014. - p. 323-333. - Cote 355/1024

This chapter presents a summary of prevailing legal and social science scholarship on the application of IHL to the context of civil war. After a brief description of the obligations states have to IHL in international conflict, it identifies the differences and the difficulties of applying these international obligations to non-state parties engaged in conflict and even states parties faced with short-term incentives to violate their obligations. The primary mechanism by which compliance with IHL is enforced in international conflict - the threat of reciprocal violations that would impact one's own forces in the future - does no hold much sway in internal conflicts, which have explicit inentives to target those outside of the main parties and are short term in nature. IHL thus relies on new international institutions like the International Criminal Court to prosecute and deter major war crimes that would occur in civil wars - which also suffer from enforcement problems in their institutional infancy. This chapter argues that the nature of civil war undermines the efficient application, and thus practice, of international humanitarian obligations in non-international armed conflict.

International humanitarian law, non-state armed groups and the International Committee of the Red Cross in Colombia

Miriam Bradley. In: Journal of international humanitarian legal studies Vol. 4, issue 1, 2013, p. 108-134

This article analyses the experiences of the International Committee of the Red Cross (ICRC) in Colombia, and has two main purposes: first, to elaborate on the relationship between international humanitarian law (IHL) and the practical work of the ICRC in internal armed conflict; and second, to use our enhanced

understanding of that relationship to shed light on important questions regarding the nature and effectiveness of IHL with respect to non-State armed groups. It proceeds in three main parts. First, it provides background on the work of the ICRC to contextualise the subsequent analysis, establishing the importance of IHL in the work of the ICRC in general. Second, it shows that for the ICRC, IHL is a means to an end (namely protection) rather than an end in itself, and that it is not the only (or even necessarily the primary) means to that end. Third, it argues that the ICRC often finds that reference to IHL is counter-productive to achieving desired protection outcomes, and that this calls into question the adequacy and effectiveness of the IHL framework itself. Finally, it concludes by suggesting why the existing framework may be less than optimal for achieving its aims, and how future research could contribute to a more comprehensive assessment of the appropriateness and adequacy of existing IHL.

Only from ICRC headquarters: http://booksandjournals.brillonline.com/content/journals/10.1163/18781527-00401002

International law of victims

Carlos Fernandez de Casadevante Romani. - Heidelberg [etc.] : Springer, 2012. - 274 p. - Cote 345.1/615

After having ignored victims, only recently both domestic and international law have begun to pay attention to them. As a consequence, different international norms related to victims have progressively been introduced. These are norms generally characterized by a certain concept from the perspective of victims, as well as by the enumeration of a list of rights to which they are entitle to; rights upon which the international statute of victims is built. In reverse, these catalogues of rights are the states' obligations. Most of these rights are already existent in the international law of human rights. Consequently, they are not new but consolidated rights. Others are strictly linked to victims, concerning the following categories: victims of crime, victims of abuse of power, victims of gross violations of international human rights law, victims of serious violations of international humanitarian law, victims of enforced disappearance, victims of violations of international criminal law and victims of terrorism.

International legal regimes, armed forces and international jurisdictions

Marco Odello. - In: Armed forces and international jurisdictions. - Cambridge [etc.] : Intersentia, 2013. - p. 15- 50. - Cote 345.2/951

The author discusses laws that apply to armed forces in the context of the relationship between International Humanitarian Law (IHL) and International Human Rights Law (IHRL). He begins by examining the historical context in which these areas of law developed. The author finds that the traditional distinction between Laws of Peace and Laws of War can no longer be upheld in the context of contemporary forms of violence that do not fit within traditional categories of armed conflict. He finds IHL and IHRL difficult to apply where, for example, armed forces cannot be seen as engaging in "armed conflict". The author finds that although the International Court of Justice clarifies the relationship between IHL and IHRL in certain contexts, uncertainty remains. Additionally, the author considers the applicability of IHL where a State exercises effective control over a certain territory, even where it belongs to another State. The author discusses the difficulty of implementing IHL, specifically in relation to problems of ratione materiae and rationae personae where different jurisdictions are subject to rules regarding particular subject-matter or specific individuals. Lastly, the author considers the ability of International Criminal Law to address problems related to prosecutions based on violations of both IHL and IHRL. [Summary by students at the University of Toronto, Faculty of Law (IHRP)]

International rules and standards for policing

ICRC. - Geneva : ICRC, January 2014. - 64 p. - Cote 345.2/689-1 (2014 ENG)

This brochure intended for audiences involved in law-enforcement functions summarizes the main points of the manual entitled To serve and to protect. It addresses the principles and rules of human rights and humanitarian law relevant to professional law enforcement in democratic contexts.

http://www.cid.icrc.org/library/docs/DOC/icrc-002-0809-2014.pdf

Interview de Raja Shehadeh

par Vincent Bernard, Michael Siegrist et Anton Camen. In: Revue internationale de la Croix-Rouge : sélection française Vol. 94, 2012/1, p. 13-29

Dans cet entretien, Raja Shehadeh s'exprime sur la pertinence du droit de l'occupation aujourd'hui et livre ses réflexions personnelles sur Israël, l'Autorité palestinienne et le travail d'organisations internationales telles que le CICR.

http://www.cid.icrc.org/library/docs/DOC/irrc-885-interview-fre.pdf

Investigations into military operations : what impact on transitional justice ?

Laurie R. Blank. In: Israel law review Vol. 47, issue 1, March 2014, p. 85-104. - Cote 345.22/239 (Br.)

The recent proliferation of external investigations into military operations raises important questions for the conduct of military operations and the interpretation and implementation of international law. The impact of such investigations, and their reports, extends beyond how they influence the military and the implementation of the law of armed conflict, however. As countries and societies embroiled in lengthy conflicts begin to explore the value and effectiveness of undertaking transitional justice efforts during conflict, rather than only after conflict, investigations into military operations and specific incidents can play an important — and perhaps unexpected — role. This article focuses specifically on the interrelationship between investigations and transitional justice efforts. As investigations into military operations become a common tool in the international and national arsenal, understanding how they interact with and affect broader transitional justice efforts and goals becomes important, for both the conceptualization of investigations and the development of transitional justice mechanisms. This article addresses the relationship between investigations and the truth-telling aspect of transitional justice mechanisms, as well as the impact of the use of law and legal analysis on the legitimacy of the investigations and on potential transitional justice mechanisms.

Justice delayed, not denied : statutory limitations and human rights crimes

Jan Arno Hessbruegge. In: Georgetown journal of international law Vol. 43, issue 2, 2012, p. 335-385. - Cote 344/96 (Br.)

From the vantage point of morality and sound legal policy, time bars should not apply to the prosecution of human rights crimes or related reparation claims. Under the civil law tradition, however, even the most serious crimes have traditionally been subject to prescription. In common law systems, statutes of limitations have posed a major obstacle to reparation claims based on human rights crimes, including historical wrongs. In the era of the Rome Statute of the International Criminal Court, customary international law has finally progressed to a stage where States may not point to the passage of time to escape their duty to prosecute and punish perpetrators of genocide, crimes against humanity, and war crimes in their own courts. Furthermore, the vast majority of states are obligated under international treaty law to also abolish statutes of limitations for other human rights crimes, in particular torture and extrajudicial killings. This also has repercussions for crimes committed in a more distant past, as international law allows (but does not require) states to abolish domestic statutes of limitations with retroactive effect, even where the prosecution of acts amounting to international crimes had already become time-barred. While justice delayed no longer means justice denied in respect of the prosecution of human rights crimes, not enough thought has been given to whether the same can be said for related reparation claims. This Article demonstrates that the right to an effective remedy under international human rights treaty law renders claims based on genocide, crimes against humanity, and war crimes imprescriptible. Regrettably, state practice does not follow this approach, which has so far prevented the emergence of a norm of customary international law to that effect.

http://tinyurl.com/38550-Hessbruegge

"Kill 'em and sort it out later" : signature drone strikes and international humanitarian law

Kristina Benson. In: Global business and development law journal Vol. 27, issue 1, 2014, p. 17-51. - Cote 345.25/300 (Br.)

As of this writing, signature drone strikes have been used to kill thousands of people in Yemen, Pakistan, and Afghanistan. Signature strikes, where unknown individuals are targeted for their “signatures,” or behavioral patterns, have killed or injured hundreds of civilians, caused massive psychological trauma among civilian populations, complicated the relationship between the U.S. and Pakistan, and compromised the stated objective of winning hearts and minds. Even so, no scholarly articles have focused on signature strikes’ legality under International Humanitarian Law. This paper uses on-the-ground investigative reports and recently leaked, Justice Department legal analysis to argue that signatures are a problematic proxy for direct participation, and violate the principles of distinction and proportionality.

http://www.mcgeorge.edu/Documents/Publications/02_Benson_27_1.pdf

The "Kundus incident" of 4 September 2009 : was the aerial attack ordered by German Colonel Klein lawful under international humanitarian law ?

Tim Banning. - Bonn : Universität Bonn, Institute for Public International Law, January 2014. - 15 p. - Cote 345.25/298 (Br.)

In its recent judgement of 11 December 2013 the Bonn Regional Court dismissed an action brought by the victims of aerial attack in Kundus ordered by German Colonel Klein on 4 September 2009. The Court did not support the notion of "official misconduct", which would have made the Federal Republic liable. On the occasion, this article offers an analysis of the attack and assesses its lawfulness under International Humanitarian Law. The analysis is largely based on the published findings of a Parliamentary Inquiry Commission on the Kundus incident. It concurs with the Court´s finding that the two hijacked petrol tanker trucks posed indeed legitimate military targets, but it also opposes the Court´s view that all feasible measures for preventing harm to civilians were adopted. This article argues that numerous obligations under International Humanitarian Law were disregarded and that, in fact, an unlawful attack on civilians occurred.

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2378180

Land warfare

Yves Sandoz. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 91-117. - Cote 345.2/952

This Chapter reviews the principles and rules of IHL that apply to land warfare. Those rules that have retained their full relevance-which is the case for most of them-will be highlighted. Equally important, those few rules that deserve to be clarified or rendered more precise or that, in some cases, could justifiably be considered afresh will also be discussed. This review proceeds first by presenting IHL from the perspective of the foot soldier, outlining in detail his or her rights and duties. This emphasizes the fact that compliance with IHL depends first on the conduct of each individual soldier. Of course, in focusing on the individual soldier, it would be wrong to ignore the responsibility of the chain of command. Decisions made by commanders and the high command contrary to the principles of IHL, including the use of prohibited weapons, giving orders that breach humanitarian rules, failure to prevent violations and failing to fulfil duties to train their subordinates, will all be examined in less detail towards the end of the Chapter.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38477.pdf

Law and war

ed. by Austin Sarat, Lawrence Douglas, Martha Merrill Umphrey. - Stanford : Stanford law books, 2014. - 234 p. - Cote 345.2/949

Law and War explores the cultural, historical, spatial, and theoretical dimensions of the relationship between law and war—a connection that has long vexed the jurisprudential imagination. Historically the term "war crime" struck some as redundant and others as oxymoronic: redundant because war itself is criminal; oxymoronic because war submits to no law. More recently, the remarkable trend toward the juridification of warfare has emerged, as law has sought to stretch its dominion over every aspect of the waging of armed struggle. No longer simply a tool for judging battlefield conduct, law now seeks to subdue warfare and to enlist it into the service of legal goals. Law has emerged as a force that stands over and above war, endowed with the power to authorize and restrain, to declare and limit, to justify and condemn. In examining this fraught, contested, and evolving relationship, Law and War investigates such questions as: What can efforts to subsume war under the logic of law teach us about the aspirations and limits of law? How have paradigms of law and war changed as a result of the contact with new forms of struggle? How has globalization and continuing practices of occupation reframed the relationship between law and war?

The law applicable to military strategic use of outer space

Duncan Blake. - In: New technologies and the law of armed conflict. - The Hague : T.M.C. Asser Press, 2014. - p. 115-140. - Cote 345.2/951

Space power theories discussed in the previous chapter, as well as the realities of the strategic utility of weapons of space and the strategic importance of space itself are reflected in the legal framework for the use of space. These factors were present when the Cold War superpowers negotiated the Outer Space Treaty and several other constitutive legal instruments. But as Cold War relations thawed, the impetus for treaty-making diminished. Concurrently the space domain became more congested, competitive and contested with many more entrants. There were and still are efforts to address the current challenges to space security but the instruments resulting from, or proposed by, those efforts lack the same legal force as the original, constitutive legal instruments; they are somewhat vague and their approach to the unfortunate and controversial possibility of hostilities in space is tentative at best. The constitutive legal instruments for the space domain do not directly deal with the possibility of hostilities in space in detail, but they do indirectly contemplate the application of the law of armed conflict. Both the constitutive legal instruments and the subsequent efforts to address the current challenges to space security influence the way in which the law of armed conflict potentially applies to hostilities in outer space. However, there remains great uncertainty about the application of the law of armed conflict to hostilities in the space

domain. Efforts to achieve greater clarity must be undertaken before such hostilities occur, in part because such efforts will help to address some of the current challenges in space security.

The law applicable to peace operations

Dieter Fleck. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 206-247. - Cote 345.2/952

This chapter looks into some salient issues within the wider field of peace operations, focusing on existing gaps and policy problems of legal regulation. It starts with certain frictions that have evolved during the genesis of these operations and their current legal challenges. The following sections suggest a critical look at the existing legal basis and political control of these operations, comment on the status of peacekeepers in the host country and in transit states, and examine select issues of applicable law and policy for the conduct of peace operations. These include security and safety; command and control; freedom of movement, communications, and logistic support; and relevant operational law issues including compliance by peacekeepers with human rights obligations, protection of civilians, force protection, and operational detentions. Problems concerning the accountability of sending states, international organizations, and individual wrongdoers are discussed in context with factfinding, judicial control, and the desirability of their improvement. Finally, some conclusions are drawn, focusing on implementation gaps and desirable legal developments.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38481.pdf

The law of neutrality

Paul Seger. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 248-270. - Cote 345.2/952

While neutrality, as generally understood, may cover a wide range of behaviour, the law of neutrality is not only narrower, but also more precise in its scope. First, the duties and rights of neutrality only apply to sovereign states and not to any other subjects of international law. Secondly, they only apply in a situation of an international armed conflict between two or more states. Thirdly, they impose a limited set of obligations upon the state, these will be explained further in this Chapter. In essence, the core duty of a neutral state is to refrain from supporting, through militarily means, warring parties in an international armed conflict.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38482.pdf

The law of occupation

Philip Spoerri. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 182-205. - Cote 345.2/952

In many recent volatile situations, the law of occupation has been responsive to the challenges at hand, in particular those relating to humanitarian emergencies, arising from the effective control of a territory - or part thereof - by foreign forces. Yet, the applicability and application of the law of occupation to such contexts also raises a number of legal issues. In this respect, several important questions are of concern including the beginning and end of occupation, the delimitation of the rights and duties of the Occupying Power (including the highly debated issue of transformative occupation and the sensitive topic of prolonged occupation), as well as the interaction between the law of occupation and human rights law or the legal framework governing the use of force in occupied territory.This chapter addresses a few selected issues which, from the author’s perspective, have had particularly important operational implications on the ground insofar as their legal dimension may have a direct impact on the population living in a territory subject to the effective control of a foreign army.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38480.pdf

The law or armed conflict and the responsible cyber commander

Jody M. Prescott. In: Vermont law review Vol. 38, book 1, 2013, fall 2013, p. 101-145. - Cote 345.29/206 (Br.)

This article first briefly reviews the different national positions on cyberspace and cyber strategies that address the applicability of international law and LOAC. Second, to provide a perspective that is less nation-centric, this article describes positions taken on LOAC's applicability in cyberspace by an international group of experts who compiled the recently published Tallinn Manual and describe how this work, along with national positions, helps delimit a potentially dangerous "grey zone" of military cyber operations that is perhaps only governed, at this point, by national Rules of Engagement (ROE). Third, to put this "grey zone" in an operational context, this article explores the practical challenges cyber

commanders, and by extension, their legal advisors, face so that the effects of knowing the extent to which LOAC is applicable and the standards by which cyber ROE are created might be better appreciated. Finally, this article concludes with a discussion of potentially significant military personnel selection and education policies in developing responsible cyber commanders. Only a holistic approach to these important tasks is likely to generate sufficient transparency to allow the international community to properly understand how military cyber operations will be conducted in conformance with LOAC, or with ROE that may be largely informed by LOAC or LOAC-like principles.

http://tinyurl.com/38499-Prescott

The legal challenges of new technologies : an overview

William H. Boothby. - In: New technologies and the law of armed conflict. - The Hague : T.M.C. Asser Press, 2014. - p. 21-28. - Cote 345.2/951

It is difficult to determine whether it is technology that challenges the law or the law that challenges the use of novel technologies in armed conflict. New technologies that are in use for weaponry are posing legal challenges such as greater civilian involvement in hostilities, technological asymmetry between warring parties, and legal response to public ethical debates as to the acceptability of introducing those new technologies into warfare. In relation to new technologies on the horizon, we cannot go much further than re-discovering the law versus new technology conundrum. This chapter concludes by emphasising the significance of weapons review under Article 36 of Additional Protocol I as a way of ensuring that existing legal norms are applied to modern technological developments and that the applicable law remains relevant as technology evolves.

Legal phantoms in cyberspace : the problematic status of information as a weapon and a target under international humanitarian law

Jack M. Beard. In: Vanderbilt journal of transnational law Vol. 47, no. 1, 2014, p. 67-144. - Cote 345.26/253 (Br.)

Reports of state-sponsored harmful cyber intrusions abound. The prevailing view among academics holds that if the effects or consequences of such intrusions are sufficiently damaging, international humanitarian law (IHL) should generally govern them — and recourse to armed force may also be justified against states responsible for these actions under the jus ad bellum. This article argues, however, that there are serious problems and perils in relying on analogies with physical armed force to extend these legal regimes to most events in cyberspace. Armed conflict models applied to the use of information as a weapon and a target are instead likely to generate "legal phantoms" in cyberspace — that is, situations in which numerous policy questions and domestic criminal issues are often misinterpreted as legal problems governed by the IHL framework or the jus ad bellum. This article assesses this dilemma in the context of four key problem areas relating to dimensions of information: (1) problems of origin, organization, and availability; (2) problems of access and control; (3) problems of exploitation; and (4) problems of manipulation and content.

http://tinyurl.com/kdftrl5

Legal review of new technology weapons

Damian P. Copeland. - In: New technologies and the law of armed conflict. - The Hague : T.M.C. Asser Press, 2014. - p. 43-55. - Cote 345.2/951

New technology weapons, which employ novel means such as nanotechnology, cyber, space or directed energy, threaten to challenge the existing regulatory norms within which states fulfils their legal review obligations. This legal review obligation, sourced from either customary international law or Article 36 of Additional Protocol I, is a natural consequence of the rule that a state's right to choose means and methods of warfare is not unlimited. States conduct their weapons reviews within the weapons law regulatory framework that is created by specific, treaty based, regulatory rules and general principles of the law of armed conflict. However, the unconventional nature of new technology weapons may reveal gaps in the existing body of weapons law that is largely created to regulate conventional weapons. The question is whether states are capable of regulating tomorrow's weapons with yesterday's laws. The chapter discusses the challenges faced by states in fulfilment of their weapons review obligation of new technology weapons. These challenges are the product of the non-prescriptive nature of the self-regulatory weapons review obligation, the apparent absence of relevant specific treaty regulation and its effect on the application of general principles of weapons law. The chapter finally discusses impediments to future regulation.

The legality of the killing of Osama Bin Laden

by John Cerone. In: Proceedings of the [...] annual meeting of the American Society of International Law No. 107, 2013, p. 47-51

One major obstacle in assessing the legality of the killing of Osama bin Laden is that we do not have all the facts. However, we also do not have all the law. The complexity of analyzing the legality of the killing begins with the threshold issue of applicable law. Is the conduct to be analyzed according to domestic law or international law? If the conduct is analyzed under international law, then several different bodies of international law are potentially applicable, including jus ad bellum (i.e., the law regulating recourse to the use of armed force), jus in bello (i.e., international humanitarian law or the law of armed conflict), international human rights law, international criminal law, and the law of state responsibility for injury to aliens, as well as those rules of international law that allocate jurisdiction among states. Even if the question of applicable law is settled, there are a number of potentially relevant legal issues that are unsettled within each of these bodies of law. This analysis examines the applicability and application of jus ad bellum, jus in hello, and international human rights law, and highlights some of these unresolved issues.

Libya : from repression to revolution : a record of armed conflict and international law violations, 2011-2013

ed. by M. Cherif Bassiouni. - Leiden ; Boston : M. Nijhoff, 2013. - 933 p. - Cote 323.15/LBY 1

The book provides a historical overview of the country and the ruinous policies of the Qadhafi regime, a chronological review of the evolution of the conflict, a description of the belligerents and their organizational makeup, an account of the NATO intervention and its legality, a basic legal characterization of conduct of the belligerents and the various accountability mechanisms pursued thus far, and appraisal of the post-conflict period, as well as a detailed assessment and legal characterization of ten different theatres of conflict, including Benghazi, Tripoli, Misrata, Sirte and the Nafusa Mountains.

Limits of law : promoting humanity in armed conflict

Sarah Sewall. - In: Law and war. - Stanford : Stanford law books, 2014. - p. 23-47. - Cote 345.2/949

The chapter's focus is explaining the gap between the U.S. traditionalist view of the law and that of the progressives. This gap is not well understood by Americans, who are routinely reassured that the U.S. military abides by the laws of war and then perplexed as outside critics dispute U.S. claims. It discusses the two general perspectives on the law and illustrate their implications through two examples : defining military objectives and taking precautions to protect civilians. In both cases, the U.S. rejects progressive standards yet routinely takes additional measures to oprotect civilians for reasons that are independent of the law. It is the norm of minimizing civilian casualties, however, not the law, that prompts these additional measusres. Indeed, normative argument divorced from law offers progressives and alternative means of pushing advanced military powers to enhance civilian protections. Yet the most fundamental IHL challenge remains enforcement of the most basic protections for civilians. Even the U.S. is uneven in enforcement of the basic rules of war. The history of American prosecution of servuce members for IHL violations illustrates this vexing challenge. Progressives should place less emphasis upon raising legal requirements for protecting civilians than upon enforcing minimal standards.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38448.pdf

Malice supplies the age? : assessing the culpability of adolescent soldiers

Maria Achton Thomas. In: California western international law journal Vol. 44, fall 2013, p. 1-38. - Cote 362.7/395 (Br.)

This article considers the issues arising out of international criminal law's incoherence in dealing with child soldiers as perpetrators. Particularly those aged fifteen to seventeen. This article discusses the legal and moral concerns of attaching criminal responsibility to adolescent soldiers before proposing that prosecuting adolescent soldiers may be appropriate in certain circumstances. In doing so, the article recognizes the tension between international law's normative commitment to protect children and the duty to end impunity and seek justice for the victims of war crimes and crimes against humanity. It proposes how this tension might be resolved through case-by-case application of the criminal defenses of superior orders and duress, and suggests how these defenses might be applied to recognize the specific characteristics of adolescent soldiers.

Manuel de droit de la guerre

David Cumin. - Bruxelles : Larcier, 2014. - 534 p. - Cote 345.22/237

Analyse synthétique et pédagogique de l'ensemble du droit de la guerre, étrangère comme civile, dans tous les théâtres (terre, mer, air), aussi bien les auteurs, causes et buts (jus ad bellum), que les acteurs, instruments et modalités (jus in bello), y compris les sanctions à la violation des règles.

Maritime warfare

Wolff Heintschel von Heinegg. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 145-181. - Cote 345.2/952

This contribution deals with the principles and rules of international law applicable to international armed conflicts at sea, ie with the law of naval warfare and the law of maritime neutrality. Although naval engagements during non-international armed conflicts occurred in the past, the law governing such conflicts is not addressed here.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38479.pdf

Members of the armed forces and human rights law

Peter Rowe. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 521-542. - Cote 345.2/952

This chapter will discuss what is encompassed by the term 'armed forces' and who are entitled to be called members of the armed forces. It will also explore the role of human rights law from the standpoint of members of the armed forces and others who take an active part in hostilities. How a state, or an organized armed group, treats its own members in the light of this law is a variant on this theme and also requires discussion.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38528.pdf

The mercenary moniker : condemnations, contradictions and the politics of definition

Aaron Ettinger. In: Security dialogue Vol. 45, no. 2, April 2014, p. 174-191

Despite considerable efforts, the concept of the 'mercenary' remains ill-defined within the scholarly literature on non-state combatants. In common usage, 'mercenary' is intended to function as a descriptive category of combatant, denoting certain unique or transhistorical properties. Instead, however, it is a highly subjective, imprecise and politicized term. This article critically analyses historical, legal and philosophical definitions of 'mercenary', and asks whether it is worth retaining the term as an analytical category at all. In short, the answer is no. The article's exposition of the 'mercenary moniker' uncovers the statist political ethic that anchors different interpretations of the mercenary concept. It shows that conceptions of the mercenary are deeply rooted in a Westphalian political ethic of war and conflict that upholds the instrumentality of the state to notions of political community, morality and identity. Accordingly, it argues that 'mercenary' should be jettisoned from the academic conceptual vocabulary of non-state combatants, and proposes 'freelance militant' as an alternative. Properly contextualized, this alternative could make possible a conceptual vocabulary that is able to clearly distinguish between such freelance militants and other non-state combatants.

ICRC Access: http://sdi.sagepub.com/content/45/2/174.full.pdf

Military strategic use of outer space

Duncan Blake. - In: New technologies and the law of armed conflict. - The Hague : T.M.C. Asser Press, 2014. - p. 97-114. - Cote 345.2/951

A nation's space objects are not immune from warfare or conflict just because they are in orbit around the Earth. Countries should assume that their space assets can and will be targeted during hostilities both kinetically and non-kinetically. This chapter describes relevant technological developments in the space domain and how they are of military significance now, and potentially in the future. This chapter describes the development of space-based capabilities, some of which simply enable terrestrial warfare, but some of which potentially involve weapons "through", "to", "in" and "from" space. It also explores the utility and constraints of such capabilities, and theories about how such capabilities should be used.

Modern technologies and targeting under international humanitarian law

Charlotte Lülf. - Bochum : Ruhr-Universität Bochum, Dezember 2013. - 59 p. - Cote 345.25/299 (Br.)

Over the last decades, the worldwide evolution and advancement of technology interfused nearly all aspects of life, including the conduct of States and non-State actors in armed conflict. The lex specialis governing armed conflicts, international humanitarian law (IHL), has always been challenged by these transformation of conflicts and continuously advancing weaponry. However, those involved in armed conflict situation, especially those taking part in actual combat, are in need of precise regulation or at least interpretation thereof to determine which conduct is lawful and which is not. Therefore modern

technologies and the alteration in targeting made possible by their use have to be continuously reassessed for their compliance with IHL and its overall objectives. This thesis focuses on two distinctive types of modern technology, on the one hand unmanned Aerial Vehicles (UAV) and unmanned combat aerial vehicles (UCAV) and on the other hand cyber attacks and their (il)legality under the laws of armed conflict.

http://www.ruhr-uni-bochum.de/ifhv/documents/workingpapers/wp3_3.pdf

Nanotechnology and military attacks on photosynthesis

Thomas Faunce. - In: New technologies and the law of armed conflict. - The Hague : T.M.C. Asser Press, 2014. - p. 175-190. - Cote 345.2/951

Advancing scientific knowledge regarding the photosynthetic process at a molecular level has raised the possibility of widespread artificial photosynthetic projects in the future, for example, for large-scale or 'off-grid' renewable energy and food production. The value that these projects would have to states and the global community, attracts the possibility that artificial photosynthesis, and the photosynthetic process in general, may become 'direct' military targets. This chapter explores the extent to which the existing principles of the law of armed conflict, international environmental law and the ENMOD Convention are capable of regulating a direct attack on natural or artificial photosynthesis. In particular, it examines whether the basic principles of international environmental law prohibit direct manipulation of natural or artificial photosynthesis and are applicable during warfare. It then analyses whether natural photosynthesis may be protected from direct military attack under Articles 35(3) and 55 of Additional Protocol I or under the ENMOD Convention.

Nanotechnology and the law of armed conflict

Hitoshi Nasu. - In: New technologies and the law of armed conflict. - The Hague : T.M.C. Asser Press, 2014. - p. 143-157. - Cote 345.2/951

Nanotechnology is a rapidly evolving field of science cutting across many disciplines including engineering, quantum physics, optics, chemistry and biology, and typically involves manipulation of matter on the atomic and molecular level in the size range of 1–100 nm (1 nm = 10-9 m) in one or more external dimensions. It enables, for example, the increased and tailored rate of energy release, manipulation of optical properties, increased electrical conductivity, and improved hardness and strength with reduced weight, which can find useful applications for advanced military equipment and weaponry. The introduction of nanotechnology into weaponry is also expected to influence the application and interpretation of the law of armed conflict, raising the question as to whether the existing rules are sufficiently clear and adequate in light of the technology's specific characteristics, as well as with regard to the foreseeable humanitarian impact it may have. This chapter revisits the rationale underlying the law of armed conflict and examines to what extent the problems arising from the use of nanotechnology-enhanced or enabled weapons could adequately be addressed within the current legal framework governing weaponry. To that end, this chapter focuses on the three enhanced capabilities that nanotechnology introduces to weaponry: (1) penetration; (2) accuracy and manipulation in the delivery of focused force application; and (3) camouflaging.

Necessity and non-combatant immunity

Seth Lazar. In: Review of international studies Vol. 40, issue 1, January 2014, p. 53-76. - Cote 345.25/113 (Br.)

The principle of non-combatant immunity protects non-combatants against international attacks in war. It is the most widely endorsed and deeply held moral constraint on the conduct of war. And yet it is difficult to justify. Recent developments in just war theory have undermined the canonical argument in its favour – Michael Walzer's, in Just and Unjust Wars. Some now deny that non-combatant immunity has principled foundations, arguing instead that it is entirely explained by a different principle: that of necessity. In war, as in ordinary life, harms to others can be justified only if they are necessary. Attacking non-combatants, the argument goes, is never necessary, so never justified. Although often repeated, this argument has never been explored in depth. In this article, I evaluate the necessity-based argument for non-combatant immunity, drawing together theoretical analysis and empirical research on anti-civilian tactics in interstate warfare, counterinsurgency, and terrorism.

Le nettoyage ethnique : aspects de droit international

Sébastien Marmin ; préf. de Syméon Karagiannis. - Paris : L'Harmattan, 2014. - 503 p. - Cote 344/618

Le nettoyage ethnique est une pratique visant à réaliser l'homogénéité démographique sur un territoire donné. Il peut ainsi s'analyser comme un instrument de création d'un Etat-nation. Les règles internationales de garantie des droits fondamentaux opposeront une résistance face à cette pratique qu'il

semble pertinent d'évaluer à l'heure où de nombreuses tensions communautaires sont encore à déplorer de par le monde. L'enjeu d'une telle entreprise est de déterminer l'opportunité d'élaborer une règle prohibitive spécifique au nettoyage ethnique. Celui-ci peut être entrepris sous couvert d'un conflit armé ou en temps de paix. Le droit international des droits de l'homme est applicable dans les deux hypothèses mais laisse cependant des possibilités de dérogations en temps de guerre. Celles-ci seront compensées par l'application, en période de conflit armé, d'un droit spécifique appelé droit international humanitaire. Les règles les plus à même de prévenir le nettoyage ethnique seront à rechercher dans ces deux corps de règles ainsi que dans le droit international des minorités.

New rules for victims of armed conflicts : commentary on the two 1977 Protocols Additional to the Geneva Conventions of 1949

by Michael Bothe, Karl Josef Partsch,Waldemar A. Solf ; with the collab. of Martin Eaton. - Leiden ; Boston : M. Nijhoff, 2013. - 843 p. - Cote 345.2/443 (2013) and 345.2/433 (2013)

It is a major cultural achievement that violence in armed conflicts is restrained by international legal rules. As the nature of these conflicts changes, these rules have to be adapted accordingly in order to provide effective protection for the victims. The adoption of the two Protocols Additional to the Geneva Conventions in 1977 was a major step in this development. The authors, who were involved in the negotiation of these two treaties, give a first hand account of the meaning of the text and the intent of the negotiators. The book is, thus, an important tool to better understand and implement these treaties which have proved their salutary importance in the all too many conflicts during the last decades. The current volume is a revised reprint, with new introductory materials, of the original text published in 1982.

New technologies and the law of armed conflict

Hitoshi Nasu, Robert McLaughlin. - The Hague : T.M.C. Asser Press, 2014. - 259 p. - Cote 345.2/951

Contient notamment : The legal challenges of new technologies : an overview / W. H. Boothby. - Geography , territory and sovereignty in cyber warfare / D. Mison. - The law applicable to military strategic use of outer space / D. Blake. - Examining autonomous weapon systems from a law of armed conflict perspective / J. S. Thurnher.

Les obligations relatives aux droits de l'homme dans le cadre de l'occupation militaire

Noam Lubell. In: Revue internationale de la Croix-Rouge : sélection française Vol. 94, 2012/1, p. 237-260

Le présent article examine l'applicabilité du droit international des droits de l'homme dans des situations d'occupation militaire. Partant du postulat qu'il peut y avoir des obligations en matière de droits de l'homme dans de telles circonstances, il analyse leurs modalités précises d'applicabilité des droits de l'homme et la relation de ces droits avec la notion d'occupation. Enfin, il indique les obstacles pratiques et juridiques à la mise en oeuvre des obligations relatives aux droits de l'homme et plaide pour une démarche contextuelle qui permette de protéger les droits de l'homme tout en admettant les réalités concrètes de l'occupation militaire.

http://www.cid.icrc.org/library/docs/DOC/irrc-885-lubell-fre.pdf

Occupation transformative et impulsion unilatéraliste

Gregory H. Fox. In: Revue internationale de la Croix-Rouge : sélection française Vol. 94, 2012/1, p. 141-177

L'occupation de l'Irak en 2003 a suscité un important débat entre les juristes. Une occupation pouvait-elle être "transformative" ? N'était-il pas traditionnellement interdit à l'occupant de modifier de manière substantielle l'infrastructure juridique ou politique de l'Etat dont il contrôlait le territoire ? L'expérience irakienne a conduit certains commentateurs à affirmer que, d'une part, ce "principe conservationniste" avait été peu observé dans la pratique et que, d'autre part, une occupation à des fins de transformation était en accord avec plusieurs tendances importantes du droit international moderne. Ces tendances incluraient notamment la reconstruction, sur base libérale et démocratique, des Etats sortant d'un conflit, l'application extraterritoriale des obligations conventionnelles relatives aux droits de l'homme et le déclin des conceptions abstraites de la souveraineté territoriale. L'auteur du présent article estime que ces prises de position sont très excessives. La pratique des Puissances occupantes ne confirme pas la thèse selon laquelle les transformations libérales démocratiques sont répandues. Par ailleurs, il n'a jamais été allégué que les traités relatifs aux droits de l'homme exigeaient que les Etats parties légifèrent dans les territoires

d'autres Etats. Plus important encore, le principe conservationniste joue un rôle capital en imposant des limites à l'appropriation unilatérale par l'occupant des pouvoirs législatifs de l'Etat subordonné. Certes, les actions de transformation post-conflit ont constitué l'une des caractéristiques de l'ordre juridique de l'après guerre froide, mais ces actions ont été menées de manière collective, le plus souvent par le biais du Chapitre VII de la Charte des Nations Unies. Autoriser les occupants à renverser cette tendance en réfutant toute nécessité d'approbation collective des "réformes" entreprises dans les Etats occupés équivaudrait à valider un unilatéralisme anachronique. Une telle démarche irait à l'encontre de la multilatéralisation de tous les aspects des conflits armés, évidente dans tous les domaines, bien plus que dans la seule reconstruction post-conflit.

http://www.cid.icrc.org/library/docs/DOC/irrc-885-fox-fre.pdf

Origins of the norm against chemical weapons

Catherine Jefferson. In: International affairs Vol. 90, no. 3, May 2014, p. 647-661

The use of chemical weapons in Syria in August 2013 led to calls for a tough international response in order to uphold the norm against what is often portrayed as a particularly odious form of warfare. The condemnation of poison weapons has a long history and this article examines the origins of the international norm against their use. It focuses particularly on the proceedings of the first Hague Peace Conference and suggests that this represented the emergence of an important distinction between the customary norm against poison and poisoned arms, and a newly codified norm against the use of asphyxiating gas projectiles, which was primarily an attempt to limit the potential of new weapons technologies. However, psychological responses to the wide-scale use of chemical weapons in the First World War underscored a deep revulsion to this form of warfare and blurred the distinction between gas projectiles and poison. While the Hague Conventions ultimately failed to avert the use of chemical weapons, the formation of the 1925 Geneva Protocol reaffirmed the norm against the use of poison in war and represented both a legal and moral condemnation of chemical and biological weapons that continues to be enshrined in international law today.

Only from ICRC headquarters: http://onlinelibrary.wiley.com/doi/10.1111/1468-2346.12131/pdf

The Oxford handbook of international law in armed conflict

ed. by Andrew Clapham and Paola Gaeta ; assistant ed.: Tom Haeck, Alice Priddy. - Oxford : Oxford University Press, 2014. - 909 p. - Cote 345.2/952

Part A provides the historical background and sets out some of the contemporary challenges. Part B considers the relevant sources of international law. Part C describes the different legal regimes: land warfare, air war fare, maritime warfare, the law of occupation, the law applicable to peace operations, and the law of neutrality. Part D introduces crucial concepts in international humanitarian law: weapons and the concepts of superfluous injury and unnecessary suffering, the principle of distinction, proportionality, genocide and crimes against humanity, grave breaches and war crimes, and internal armed conflict. Part E looks at fundamental rights: the right to life, the prohibition on torture, the right to fair trial, economic, social and cultural rights, the protection of the environment, the protection of cultural property, the human rights of the members of the armed forces, and the protection of children. Part F covers important issues such as: the use of force, terrorism, unlawful combatants, the application of human rights in times of armed conflict, refugee law, and the issues of gender in times of armed conflict. Part G deals with accountability issues including those related to private security companies and armed groups, as well as questions of state responsibility brought before national courts and issues related to transitional justice.

Le patrimoine culturel, cible des conflits armés : de la guerre civile espagnole aux guerres du 21e siècle

sous la dir. de Vincent Négri. - Bruxelles : Bruylant, 2014. - 249 p. - Cote 363.8/83

À partir de l'épisode fondateur que constitue la préservation du patrimoine artistique espagnol et son évacuation vers Genève lors de la guerre civile entre 1936 et 1939, ce volume explore, à travers les contributions d'un panel d'experts, l'évolution des pratiques et du droit international assurant la protection des biens culturels lors des conflits. Les expériences menées jusqu'à nos jours pour que soient préservés le patrimoine et les témoins des cultures qui forgent notre mémoire collective, ébranlée par les guerres, sont également décrites et analysées, de même que le rôle des institutions spécialisées et dédiées à cette entreprise. Les contributions rassemblées dans cet ouvrage sont issues d'un colloque international sur la sauvegarde des biens culturels lors des conflits armés et des crises, au Musée d'art et d'histoire de Genève. Ce colloque international a bénéficié du patronage de l'UNESCO.

Le patrimoine culturel matériel et immatériel : quelle protection en cas de conflit armé ?

Christiane Johannot-Gradis. - Genève [etc.] : Schulthess ; Paris : LGDJ, 2013. 832 p. - Cote 363.8/82

L'individu est vulnérable en cas de guerre dans son intégrité physique mais aussi dans son identité culturelle, notamment dans les conflits à composante ethnique, culturelle ou religieuse. La destruction du patrimoine culturel peut alors devenir un enjeu du conflit. Le sort du patrimoine culturel ainsi pris dans la tourmente n'est pas uniforme. Dans diverses contrées il existe par des monuments ou objets, un patrimoine "matériel" essentiellement protégé par le droit des conflits armés ; ailleurs, là où le bâti est éphémère, il s'exprime dans l'oralité, la gestuelle, la musique ou d'autres expressions que livrent les individus avec leurs supports. Ce patrimoine est principalement "immatériel". Cette thèse vise à démontrer que tout patrimoine culturel est matériel et immatériel, et que le droit applicable en cas de conflit peut le protéger, d'abord avec le droit des conflits armés, mais aussi par d'autres instruments applicables, tels que les traités de droits de l'homme ou les Conventions de l'UNESCO sur le patrimoine culturel.

Permissibility of targeted killing

Ophir Falk. In: Studies in conflict & terrorism Vol. 37, issue 4, 2014, p. 295-321. - Cote 345.25/301 (Br.)

Targeted killing has become an increasingly prevalent tactic employed by states in their efforts to counter terrorism. Despite its widespread use, the criteria for targeted killing permissibility have remained vague. This article identifies and evaluates the circumstances under which targeted killings can be considered permissible and looks at on-the-ground implementation by Israel and the United States. While both Israel and the United States may have largely adhered to the laws of armed conflict, in practice, discrepancies in implementation exist. This is primarily due to the ambiguity of the "distinction" and "proportionality" principles, two key legal and moral criteria that need further clarification.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38710.pdf

The plea of superior orders in the Hong Kong trials

Bing Bing Jia. - In: Hong Kong's war crimes trials. - Oxford : Oxford University Press, 2013. - p. 169-198. - Cote 344/115 (Br.)

The plea of superior orders, though well-known to present deay international law, may not, as yet, be free of the controversy that has existed since the begining of its life as a feature of international criminal law. The point of dispute lies in its categorization either as a mitigating factor in sentencing or as a defence excluding criminal responsibility. In a sense, the two differing functions of the plea can both stake a claim to reflect customary law, as chiefly derived from the post-WWII military trials. It is however clear from the discussion of the present chapter, that the law at the time of the Hong Kong trials admitted of only one version of it, even though various tribunals had ventured to suggest alternatives in the light of the factual circumstances of the cases before them.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38509.pdf

Post-occupation law

Yaël Ronen. - In: Jus post bellum : mapping the normative foundations. - Oxford : Oxford University Press, 2014. - p. 428-446. - Cote 345/650

This chapter examines the notion of post-occupation law as a body of law that applies after the termination of occupation and regulates transition from dependence created by the occupant to self-sufficiency. Post-occupation law should address both individual and collective interests. The analysis indicates that post-occupation law must be distinct from (albeit possibly related to) existing bodies of law. Unlike the laws of occupation and international human rights law, it is geared towards transition rather than premised on static effective control; and unlike the responsibility to protect and other proposed regimes, it is based on past conduct rather than forward-looking. A new body of law would nonetheless be informed by existing bodies of law and shaped by reference to their respective areas of application.

Postwar

Robert M. Chesney. In: Harvard national security journal Vol. 5, issue 1, 2014, p. 305-334. - Cote 345.26/251 (Br.)

Does it really matter, from a legal perspective, whether the U.S. government continues to maintain that it is in an armed conflict with al Qaeda? Critics of the status quo regarding the use of lethal force and military

detention tend to assume that it matters a great deal and that shifting to a postwar framework will result in significant practical change. Supporters of the status quo tend to share that assumption and oppose abandoning the armed-conflict model for that reason. This Essay argues that both camps are mistaken about this common premise. For better or worse, shifting from the armed-conflict model to a postwar framework would have far less of a practical impact than both assume.

http://harvardnsj.org/wp-content/uploads/2014/01/Chesney-Final.pdf

Preventing and repressing international crimes : towards an "integrated" approach based on domestic practice : report of the third universal meeting of national committees for the implementation of international humanitarian law

prepared by Anne-Marie La Rosa. - Geneva : ICRC, February 2014. - 2 vol. (108, 341 p.) - Cote 345.22/221 CD-ROM

The report, based primarily on national practice, offers a pragmatic approach to the prevention and suppression of international crimes, paying particular attention to the Statute of the International Criminal Court. This report, which takes into account the work and reflections that followed the Universal Meeting, includes discussions on various means and solutions available in meeting the challenges associated with incorporating IHL (in particular, repressive aspects) into national law. The report also provides reflections on other important issues, including universal jurisdiction and the role of punishment in the prevention of serious violations of IHL. The volume 2 contains reference documents aimed at supporting States 'efforts on the issues discussed during the universal Meeting.

http://www.cid.icrc.org/library/docs/DOC/icrc-002-4138-1.pdf

The principle of distinction between civilians and combatants

Nils Melzer. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 296-331. - Cote 345.2/952

Today, the majority of armed conflicts are of a non-international character, that is to say, they involve at least one belligerent party composed entirely of non-state actors, whose organization, equipment, training, and discipline rarely match those of state armed forces. At the same time, there has been a continuous shift of military operations into civilian population centres. The ensuing intermingling of armed actors with the civilian population has not only exposed the latter to increased collateral dangers, but has also facilitated the involvement of civilians themselves in activities more closely related to military operations, from providing food, shelter, equipment, and intelligence to combatants, up to direct participation in combat. Even more recently, the increased outsourcing of traditionally military functions has inserted numerous private contractors and civilian intelligence personnel or other civilian government employees into the modern battlefield. Moreover, con temporary military operations often attain an unprecedented level of complexity, involving the coordination of a great variety of interdependent human and technical resources in different locations. All of these factors have caused confusion and uncertainty as to the distinction between legitimate military targets and persons protected against direct attacks. These difficulties are further aggravated where combatants do not distinguish themselves from the civilian population, for example during undercover military operations or when acting as farmers by day and fighters by night. As a result, civilians are more likely to fall victim to erroneous or arbitrary targeting, while armed forces—unable to properly identify their adversary—bear an increased risk of being attacked by persons they cannot distinguish from the civilian population. This trend, which threatens to undermine some of the most fundamental achievements made in 'humanizing' warfare, calls for a careful analysis of the legal concepts and rationale underlying the principle of distinction with a view to clarifying its meaning in light of the circumstances prevailing in contemporary armed conflicts.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38514.pdf

Private military and security companies

James Cockayne. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 624-655. - Cote 345.2/952

The arrival of large numbers of PMSC personnel on geostrategic key battlefields has quite literally placed them at the centre of contemporary discussions about the regulation of armed conflict. Their form, statutory duties to contractual clients and shareholders, and often their conduct raise difficult questions for international lawyers. Are PMSC personnel civilians, or combatants, or sometimes one and sometimes the other? Can they be targeted for attack? If they cannot effectively be distinguished from either civilians or combatants, how can opposing forces know whether it is lawful to attack them? And, perhaps centrally, who is ultimately responsible for their conduct before international law - especially if they are merely private actors, working for private clients? The persistence of these questions has led to numerous attempts in the last decade at both the nationals and international levels to clarify laws and policies around

the regulation of PMSCs. These complexities coalesce around a number of recurring points of disputation, including the legitimacy of PMSCs' presence on the battlefield, the protections PMSC personnel enjoy, and the privileges they benefit from. This chapter first explores these recurring themes, then examines whether 'states are the answer' to these regulatory questions. Highlighting the limits of state power - and desire - to regulate commercial actors on the battlefield, it moves on to explain why some commentators in fact see states as "the problem". In a final section, it explores whether and how international law might be coming to provide the primary rules of conduct which might serve as the basis for the development of non-traditional mechanisms for enforcing international law: through domestic and civil litigation, and through industry action.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38542.pdf

Prohibiting chemical and biological weapons : multilateral regimes and their evolution

Alexander Kelle. - Boulder ; London : L. Rienner, 2014. - 287 p. - Cote 341.67/744

Whether in the arsenals of states or of terrorist groups, chemical and biological weapons (CBW) are increasingly seen as one of the major threats to global security. Alexander Kelle provides a comprehensive assessment of the multilateral prohibition regimes that have been established to confront the risks posed by CBW in the context of rapid scientific and technological advances.

Proportionality in the law of armed conflict

Enzo Cannizzaro. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 332-352. - Cote 345.2/952

The purpose of this chapter is to reappraise legally the notion of proportionality in humanitarian law (ius in bello), by itself and in its relations with the law governing the resort to the use of armed force (ius ad bellum). The relationship between the rules that determine the legality of the use of force and those which tend to impose restraints on military action, presents an interesting object of analysis and a litmus test for assessing the future development of the law of armed conflict. The two first sections separately analyse the structure and content of proportionality in ius in bello, and in ius ad bellum. The final section is devoted to the role of proportionality in the relationship between the two regimes.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38515.pdf

Protection of children rights under Islamic laws in Sudan : conflict or congruence with human rights and humanitarian law norms

Mohamed Abdelsalam Babiker. - In: Enfants-soldats et droits des enfants en situation de conflit et post-conflit : réalités et enjeux. - Paris : L'Harmattan, 2013. - p. 199-230. - Cote 362.7/394

This chapter primarily focuses on the substantive protection of children rights in Sudan under Islamic laws and how such laws are in harmony or in conflict with international humanitarian and human rights norms related to the protection of the rights of the child. The chapter audits and reviews Sudanese children laws, including the newly enacted Child Act 2010, and review the extent Sudan has harmonized or incorporates its laws along the lines of what is required under the Convention on the Rights of the Child, 1989, and the African Charter on the Rights and Welfare of the Child. In this respect, the chapter relies heavily on the government of Sudan submitted periodic reports to the Committee of the RIghts of the Child.

Protection of the natural environment

Jean-Marie Henckaerts and Dana Constantin. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 469-491. - Cote 345.2/952

This chapter seeks to give an overview of the existing legal protection for the natural environment during armed conflict. Part 1 focuses on general rules of international humanitarian law, ie rules that were not adopted specifically with that end in mind, but which do in fact provide protection for the natural environment. These include: (a) the rules protecting enemy property from wanton destruction, (b) the prohibition against pillage, (c) the rules protecting civilian objects during hostilities, (d) the rules protecting objects indispensable to the survival of the civilian population, and (e) the rules regulating the use of weapons during armed conflict. Part 2 focuses on those rules that specifically provide such protection. As far as treaty law is concerned, the only two provisions in this category are Articles 35 and 55 of AP I, both of which protect the environment only against 'widespread, long-term and severe damage.

Part 3 identifies some of the gaps and deficiencies in the law and presents possible remedies, including efforts currently under way.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38527.pdf

Quasi-hostile acts : the limits on forcible disruption operations under international law

Eliav Lieblich. In: Boston university international law journal Vol. 32, issue 2, summer 2014, p. 355-409. - Cote 345.1/617 (Br.)

One of the most pressing problems in contemporary international law concerns the interaction between hostilities, undertaken in armed conflict, and law enforcement. In situations where law and order collapses, states engaged in transnational law enforcement can be increasingly tempted to blur the boundaries between these paradigms by forcibly targeting objects relating to criminal activity. This Article labels such actions as "forcible disruption operations" ("FDOs") and seeks to offer a comprehensive legal framework for their assessment. As a case study, this Article builds upon a strangely overlooked 2012 operation conducted by EU Naval Forces, in which "pirate equipment" was attacked from the air in Somalia. Using this case study, the Article makes two main claims. First, it contributes to theory by identifying FDOs as complex hybrids: they forcibly target objects on the one hand (a "hostilities" approach), yet attempt to spare the persons using them on the other (a "law enforcement" approach). Thus, FDOs are best described as "quasi-hostile" acts. This Article explores the unique modalities of such operations in various contexts. Second, through its discussion of FDOs, this Article reveals a surprising difference between the hostilities and law enforcement paradigms. While international humanitarian law ("IHL") prohibits the targeting of civilian objects even if used for criminal activities, international human rights law ("IHRL") - due to its system of derogations - might permit such actions in cases of extreme necessity, provided that procedural guarantees are in place. This finding uncovers a novel distinction between IHL and IHRL by exemplifying, perhaps counter-intuitively, that the latter can be more permissive than the former.

Re civilian casualty court martial : prosecuting breaches of international humanitarian law using the Australian military justice system

Joshua Kelly. In: Melbourne university law review Vol. 37, issue 2, 2013, p. 342-371. - Cote 345.22/238 (Br.)

In Re Civilian Casualty Court Martial, disciplinary charges preferred against two Australian commandos accused of causing the deaths of five civilians during a night-time raid in Afghanistan were dismissed as being wrong in law. Despite the relevance of 'war crimes' under the Criminal Code (Cth) to their conduct, the charges preferred against the commandos were based on the ordinary crimes of 'manslaughter' and 'dangerous conduct', available under the Defence Force Discipline Act 1982 (Cth). Through an analysis of the decision to dismiss the charges as wrong in law, this article discusses the issues raised by the prosecution of breaches of international humanitarian law using the Australian military justice system, and asks whether disciplinary charges based on ordinary crimes, or war crimes, should be preferred when prosecuting such breaches.

http://www.law.unimelb.edu.au/DB2C2830-8AFD-11E3-A6000050568D27D4

The regulation of private military and security contractors

Faiza Patel... [et al.]. In: Proceedings of the [...] annual meeting of the American Society of International Law No. 107, 2013, p. 199-210. - Cote

Contient : Introductory remarks by A. Clapham. - Regulating private military and security companies : a comprehensive solution / F. Patel. - U.S. legislative and regulatory developments and the International Code of Conduct for Private Security Provides : filling the accountability gap ? / M. Roggensack. - A Eureopean approach to the regulation of PMSCs / M. Sossai. - Remarks by V. Zellweger

Remedies and reparations

Megan Burke and Loren Persi-Vicentic. - In: Weapons under international human rights law. - Cambridge ; New York : Cambridge University Press, 2014. - p. 542-589. - Cote 341.67/743

Unlawful use of weapons can amount to a violation of the rights to life, liberty, security, freedom from torture, and freedom of assembly and/or expression, among others. A violation may result from the manner and context in which a weapon is used, or from the use per se of a weapon that is illegal. Either case demands redress, whether it occurs during law enforcement, in breach of national criminal law, or unlawfully as a means or method of warfare in armed conflict. Such redress typically takes the form of

remedies and/or reparations. This chapter explores legal precedents for individuals to access remedies, including a range of different types of reparations, in cases where weapons are used in such a way as to result in violations of fundamental human rights. It first reviews the normative framework remedies and reparations, then explores what use of a weapon will give rise to a right to a remedy or reparation, who can seek a remedy for unlawful use of weapons and against whom can claims be lodged. It finally explains the different types of remedy available to victims.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38633.pdf

Responsibility for regime change

Jay Butler. In: Columbia law review Vol. 114, no. 3, April 2014, p. 503-581. - Cote 345.28/109 (Br.)

What obligations does a state have after it forcibly overthrows the regime of another state or territory? The Hague Regulations and the Fourth Geneva Convention provide some answers, but their prohibition on interfering with the governing structure of the targeted territory is outmoded. Based on a careful examination of subsequent practice of the parties to the conventions, this article asserts a new interpretation of these treaties and argues that regime changers are now under positive obligations in the postwar period and beyond. Through their conduct and evaluation of modern regime-change missions, states, both individually and acting collectively through international organizations, have manifested revised understandings of obligations in the postconflict phase of military operations. Accordingly, this article argues that regime-changing states now not only have Geneva-based direct obligations to establish security in the territory, promote representative local government, protect the human rights of the local population, assist with postconflict reconstruction, and safeguard minority groups while exercising control over the territory, but also that such states must ensure that the successor regime - whose installation their initial military intervention facilitated - is one that respects international human rights law.

http://columbialawreview.org/wp-content/uploads/2014/04/Butler-Jay.pdf

The responsibility of armed opposition groups for violations of international humanitarian law : challenging the state-centric system of international law

Ezequiel Heffes. In: Journal of international humanitarian legal studies Vol. 4, issue 1, 2013, p. 81-107

Most of the present rules of international law regulate the behavior of States. Within States, however, there are other entities such as corporations, non–governmental organizations, individuals, international governmental organizations and armed opposition groups that are regulated by different national and international regimes. In this regard, non–State armed opposition groups present particular challenges to international law due to their dominant presence and participation in armed conflicts. Armed opposition groups are one of the most important actors in international humanitarian law today. Yet, taking into consideration that they a priori have certain international humanitarian obligations to fulfill, it remains unclear what the implications are when they, as a group, commit violations. Among these uncertainties, is that there is no formally recognized mechanism to attribute such breaches to the relevant non – state armed opposition group as such. In fact, unlike States, they have no organs. Similarly, there is also no consensus on circumstance that could preclude the wrongfulness of these breaches for armed opposition groups. By challenging the State–centric system of public international law, this article analyses the possible application of certain rules contained in the International Law Commission's Articles on the Responsibility of States for Internationally Wrongful Acts (2001) to violations of international humanitarian law by armed opposition groups.

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The review of weapons under international humanitarian law and human rights law

Stuart Casey-Maslen, Neil Corney, and Abi Dymond-Bass. - In: Weapons under international human rights law. - Cambridge ; New York : Cambridge University Press, 2014. - p. 411-447. - Cote 341.67/743

Reviews for military and law enforcement pourposes have traditionally been seen as drawing on two distinct sources of international law: international humanitarian law and disarmament law (for military reviews), and human rights law and criminal justice standards (for law enforcement purposes). Yet just as law enforcement can benefit in its reviews from taking into account IHL and disarmamaent law - particularly the weapons that such laws prohibit - so too can the military benefit from incorporating respect for fundamental human rights law and criminal justice standards into its review procedures, particularly given their increased use of "less-lethal" weapons. In advancing the argument, this chapter

also contests the suggestion, mooted by some, that "less-lethal" weapons should not be subject to the fundamental rules of IHL. Instead it proposes that all weapons should explicitly be adjudged under both IHL and human rights law and suggests how elements from these legal regimes - and from relevant international standards - can be used to evaluate legality.

The right to life

William A. Schabas. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 365-386. - Cote 345.2/952

The right to life has many dimensions. Some of them, such as the question of when the right to life begins (abortion) and whether the right can be waived (suicide) seem to have little or no connection with issues of armed conflict. On the other hand, three issues are relevant in this context: (i) the relationship between the right to life as set out in international human rights law and international humanitarian law; (ii) the interplay between the norms on capital punishment as they appear in both the international humanitarian law treaties and the human rights treaties; (iii) the impact on the right to life of the rules of international law on the recourse to armed force. Each of these issues is examined in turn.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38520.pdf

The role of the International Commitee of the Red Cross

Jakob Kellenberger. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 20-34. - Cote 345.2/952

The International Committee of the Red Cross (ICRC) is an independent and impartial organization dedicated to the protection and care of victims of armed conflict and other violent situations. It also vows to uphold international humanitarian law (IHL) and universal humanitarian principles. This chapter explains the ICRC's mandate and activities, and its contributions to the clarification and development of IHL.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38473.pdf

A scrap of paper : breaking and making international law during the Great War

Isabel V. Hull. - Ithaca (Etats-Unis) ; London : Cornell University Press, 2014. - 368 p. - Cote 94/515

A century after the outbreak of the Great War, we have forgotten the central role that international law and the dramatically different interpretations of it played in the conflict's origins and conduct. In A Scrap of Paper, Isabel V. Hull compares wartime decision making in Germany, Great Britain, and France, weighing the impact of legal considerations in each. Throughout, she emphasizes the profound tension between international law and military necessity in time of war, and demonstrates how differences in state structures and legal traditions shaped the way in which each of the three belligerents fought the war Hull focuses on seven cases in which each government's response was shaped by its understanding of and respect for the law: Belgian neutrality, the land war in the west, the occupation of enemy territory, the blockade, unrestricted submarine warfare, the introduction of new weaponry (including poison gas and the zeppelin), and reprisals. Drawing on voluminous research in German, British, and French archives, the author reconstructs the debates over military decision making and clarifies the role played by law—where it constrained action, where it was manipulated to serve military need, where it was simply ignored, and how it developed in the crucible of combat. She concludes that Germany did not speak the same legal language as the two liberal democracies, with disastrous and far-reaching consequences. The first book on international law and the Great War published since 1920, A Scrap of Paper is a passionate defense of the role that the law must play to govern interstate relations in both peace and war.

The sharia and islamic criminal justice in time of war and peace

M. Cherif Bassiouni. - New York : Cambridge University Press, 2014. - 385 p. - Cote 281/58

This innovative and important book applies classical Sunni Muslim legal and religious doctrine to contemporary issues surrounding armed conflict. In doing so it shows that the shari'a and Islamic law are not only compatible with contemporary international human rights law and international humanitarian law norms, but are appropriate for use in Muslim societies. By grounding contemporary post-conflict processes and procedures in classical Muslim legal and religious doctrine, it becomes more accessible to Muslim societies who are looking for appropriate legal mechanisms to deal with the aftermath of armed conflict. This book uniquely presents a critique of the violent practices of contemporary Muslims and Muslim clerics who support these practices. It rebuts Islamophobes in the West that discredit Islam on the basis of the abhorrent practices of some Muslims, and hopes to reduce tensions between Western and Islamic civilizations by enhancing common understanding of the issues.

Should rebels be amnestied ?

Frédéric Mégret. - In: Jus post bellum : mapping the normative foundations. - Oxford : Oxford University Press, 2014. - p. 519-541. - Cote 345/650

> This chapter explores the link between jus post bellum and insurgency, with a particular focus on the treatment of amnesties. Insurgents have become a central feature of jus post bellum, but their normative status remains unclear. There is consensus that regardless of the cause they pursued, insurgents should be accountable for violations of the laws of war and other international crimes. The more difficult question is how the fact of having taken up arms in itself should be treated. Analyzing why a privilege of belligerency is recognized in international armed conflicts, the chapter argues that a normatively defensible argument for the amnesty of insurgents must necessarily be based on a partial recognition (at least of the “agree to disagree” type) of the international legitimacy of some insurgencies, particularly those against a regime engaged in massive human rights violations or a foreign occupation in violation of international law.

State responsibility and the individual right to compensation before national courts

Christian Tomuschat. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 811-839. - Cote 352.2/952

> Normally, states parties to an armed conflict settle the financial consequences of that conflict in the traditional way, if ever they reach agreement, by concluding comprehensive treaties that embrace also all the claims that their nationals may have acquired on account of the conflict. The most common form of reparation consists of lump sum payments that do not differentiate between the different groups of victims. Remedies for individuals are not available within the framework of international humanitarian law (IHL) at the international level. This chapter explores state responsibility and the individual right to compensation before national courts, in particular violations of IHL. It looks at compensation claims before the courts of the alleged wrongdoing state, as well as those claims outside the alleged wrongdoing state. It considers national reparation programmes, tort claims arising from military operations during non-international armed conflict, tort claims arising from international armed conflict, the territorial clause, jus cogens versus jurisdictional immunity, implications for public policy, and universal jurisdiction for reparation claims.
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> ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38569.pdf

Targeted killing of drug lords : traffickers as members of armed opposition groups and/or direct participants in hostilities

Patrick Gallahue. In: International journal on human rights and drug policy Vol. 1, 2010, p. 15-33. - Cote 345.29/208 (Br.)

> In 2009, the United States announced that it had placed fifty Afghan drug traffickers with links to the Taliban on a ‘kill list.’ This controversial proposal essentially weds the counter-narcotics effort with the mission to defeat the Taliban, and challenges a cornerstone of international humanitarian law, the principle of distinction. This article argues that drug traffickers, even those who support the Taliban, are not legitimate targets according to the rules applicable to non-international armed conflict. It explores the notions of membership in armed groups, civilian status and acts that result in the loss of protection, and argues that the US plan violates international humanitarian law.
>
> http://www.hr-dp.org/files/2013/12/12/Human_Rights_and_Drugs_Vol_1_-_Patrick_Gallahue.pdf

Terrorism

Andrea Bianchi and Yasmin Naqvi. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 574-604. - Cote 345.2/952

> ihis chapter first examines in which circumstances IHL applies to acts of terror or terrorism. It then looks at how acts of terror and terrorism are prohibited forms of warfare in situations of armed conflict, as well as the rules applicable to operations of so-called "counter-terrorism". Subsequently, the issue of how individual criminal responsibility has come to be attached to acts of terrorism and acts of terror under international humanitarian law will be examined. Issues connected to the status, detention, and treatment of terrorist suspects in international humanitarian law will be briefly discussed as well. Overall, the chapter focuses on the so-called "grey areas" of international humanitarian law, where the existing framework and rules of IHL seem to struggle to accommodate contemporary manifestations of armed conflict, particularly when actors, qualified by one of the parties as "terrorists" are involved.

The concluding section offers some thoughts on how these areas of uncertainty might be eventually resolved and on how the international community can meet the main challenges in the interpretation and implementation of IHL.

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The practice of international courts and tribunals on armed forces : issues of status and attribution

Andrea Carcano. - In: Armed forces and international jurisdictions. - Cambridge [etc.] : Intersentia, 2013. - p. 141-167. - Cote 345.2/951

Because IHL has traditionally developed - and continues to develop - through treaties and the domestic practice of states as exemplified, for instance, by military manuals and decisions of national courts, it would therefore be imprudent to herald the practice of international courts and tribunals as representing the main source and depository of IHL norms. Nevertheless, due to the depth of some of the decisions of international courts and tribunals; as well as their sheer number in the sense of there being an accumulation of cases consistently reiterating the same principle in relation to particular issues; and the possibility that - either because of their precedential effects or persuasive value - they may influence the development of IHL, neglecting such practice would be equally superficial. In light of such considerations pointing to the significance of judicial decisions from both an academic and a normative perspective, this chapter explores some key issues of status and attribution concerning armed forces which have emerged in the practice of international courts and tribunals, and examines the contribution to the development and clarification of IHL made by those jurisdictions. This study looks at the practice in a holistic manner, seeking to join the dots from a plethora of cases, highlighting any emerging patterns as well instances in which the practice has yet to crystallize in a coherent framework.

The relationship between truth commissions and armed forces

Alison Bisset. - In: Armed forces and international jurisdictions. - Cambridge [etc.] : Intersentia, 2013. - p. 189-205. - Cote 345.2/951

This chapter considers the relationship between national truth commissions, the armed forces and violations of international law. It asks what impact the current prosecutorial emphasis may have on the ability of truth commissions to fulfil their mandates by engaging the participation of armed forces personnel. The chapter begins by exploring the ways in which truth commissions have utilised international legal frameworks to assign responsibility for past human rights violations to armed forces. It examines past pratctice in order to demonstrate the traditionally low level of involvement of armed forces with national truth seeking processes and considers the reasons for this lack of engagement. It then moves to analyse the additional difficulties posed by the contemporaneous pursuit of criminal trials and the potential for armed forces participation to fall further in light of the prevailing prioritisation of prosecution in transitional contexts. The chapter argues that the participation of armed focres in national truth seeking is threatened by the pursuit of criminal trials, resulting in the exclusion of an important stakeholder group from the building of the historical record and the denial to individuals of the opportunity to contribute to national truth establishment.

To serve and to protect : human rights and humanitarian law for police and security forces

ICRC ; [forward by Peter Maurer]. - Geneva : ICRC, March 2014. - 438 p. - Cote 345.2/689 (2014 ENG)

Law enforcement officials play a key role in society, serving and protecting the people and upholding the law. That role is valid at all times, including during armed conflicts and other situations of violence. By engaging in dialogue with police and security forces about the law and their operations, the ICRC supports their efforts to incorporate the rules and standards of international law into their procedures. For the past 20 years, the manual To Serve and To Protect has provided guidance for that dialogue. This updated version takes that successful endeavour a step further, using recent experience to explain the international rules and standards applicable to the law enforcement function and their practical implications for law enforcement work.

http://www.cid.icrc.org/library/docs/DOC/icrc-002-0698.pdf

Torture and other cruel, inhuman, or degrading treatment or punishment

Manfred Nowak. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 387-409. - Cote 345.2/952

Since respect for human dignity constitutes a kind of leitmotiv for both IHL and IHRL, the absolute prohibition of torture and other forms of ill-treatment plays a central role in both legal frameworks. Although the terminology is slightly different in IHL, interpretation should seek to reconcile these differences as far as possible. If provisions of IHL have a wider scope of application or are simply more detailed than IHRL, they should be given preference. If provisions of IHL grant less protection than IHRL, they should have priority only if so required by the necessity of armed conflict. In this chapter, the three phenomena of ill-treatment - torture, cruel and inhuman treatment or punishment and degrading treatment or punishment - will be analysed under both IHRL and IHL in light of relevant literature and jurisprudence. Should there be any major differences or contradictions between the relevant norms under the respective legal frameworks, an interpretation aimed at clarifying which norms have precedence will be offered.

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Transitional justice

Nicolas Michel and Katherine Del Mar. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 840-883. - Cote 352.2/952

This chapter examines the different transitional justice mechanisms established to respond to serious international crimes that have occurred in the context of armed conflict. These transitional mechanisms include truth-seeking mechanisms such as truth commissions, commissions of inquiry, and judicial fact-finding. This chapter considers the problems that may arise in the interaction among different transitional justice mechanisms such as protection of the rights of the accused. It also argues that transitional justice requires a coordinated approach among a plurality of mechanisms to assist a society in transitioning from a state of armed conflict in which serious international crimes were committed, to a peaceful and reconciled future.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38570.pdf

Treaties for armed conflict

Robert Kolb and Katherine Del Mar. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 50-87. - Cote 345.2/952

After explaining six reasons why the law of armed conflict is one of the branches of public international law that has been the most intensely codified through treaties, this chapter analyzes: the relationship between treaty law and customary law; problems with ratification of IHL treaties, reservations to IHL treaties, legal relationship between IHL treaties, interpretation of IHL treaties, special agreements, denunciation of IHL treaties and finally, the legal effect of breach of an IHL treaty.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38476.pdf

Uncertainty on Somalia's beaches : the legal regime of onshore anti-piracy operations

Frederic Wiesenbach. In: Journal of conflict and security law Vol. 19, no. 1, Spring 2014, p. 85-112

In March 2012, the EU decided to expand the Atalanta anti-piracy mission to Somalia's beaches. Simultaneously Atalanta's operational strategy has been changed and the constraining rules for the use of force under the law-enforcement paradigm and international human rights law (IHRL) have been eased towards the less strict rules governing the use of force in hostilities under international humanitarian law (IHL). A problem-orientated comparison exemplifies that the law-enforcement and the hostilities paradigms required from Atalanta forces entirely different reasoning for the lawful conduct of force and impose specific restrictions on the permissible means and tactics. An analysis of hypothetical rescue scenarios further examines that the status of the actors and extend of force change the legal paradigm which has serious implications for the lawful conduct of force. Hence, the Atalanta command must take serious attention to the legal status under which rescue operations are conducted to avoid breaches of IHL or IHRL.

Only from ICRC headquarters: http://jcsl.oxfordjournals.org/content/19/1/85.full.pdf

Unexplored outcomes of Tadic : applicability of the law of occupation to war by proxy

Tom Gal. In: Journal of international criminal justice Vol. 12, no. 1, March 2014, p. 59-80

The Tadic ICTY Appeal judgment (1999) has clarified that certain armed conflicts usually classified as non-international are in fact of an international character when a state controls a non-state armed group. This clarification reaffirms the existence of a sub-type of international armed conflict: wars by proxy (Tadic-type conflicts). It also suggests a different legal analysis of a state's ability to occupy another state's territory using a non-state armed group. However, the ICTY Appeals Chamber has neither examined this possibility in depth (i.e. whether applying the law of occupation in such circumstances is legally feasible or practical) nor assessed the results of this application. This article proposes both theoretical and practical foundations for applying the law of occupation, and specifically Geneva Convention IV, to Tadic-type conflicts. The article tries to identify the advantages of such an application from an international criminal law perspective and suggests adjustments and modifications required to enhance the protection of victims and ensure responsibility for violations of international humanitarian law in such circumstances.

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Unlawful combatants

Knut Dörmann. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 605-623. - Cote 345.2/952

One of the most debated subjects in international humanitarian law (IHL) over the years has been the legal situation of "unlawful combatants". In legal writing it has been addressed in some detail after the adoption of the Geneva Conventions of 1949 and then prior to the adoption of the 1977 Additional Protocols to the Geneva Conventions. The debate emerged again with some intensity following the US-led military campaign in Afghanistan, which started in 2001. Different understandings have been expressed and thus different approaches suggested with regard to the legal framework applicable to the possible detainability and targetability of "unlawful combatants". It was asserted in certain circles that "unlawful combatants" do not have any protection whatsoever under IHL, or that they are a category of persons outside the scope of either the Third Geneva Convention or the Fourth Geneva Convention of 1949. Many others opposed these assertions vehemently. While the term has been used earlier, this contribution will look at the time after the adoption of the Geneva Conventions as these treaties and subsequent treaties — in particular the 1977 Additional Protocols to the Geneva Conventions — as well as customary international law set the legal framework for contemporary armed conflicts. Prior to the Geneva Conventions of 1949 the treatment of unlawful combatants was governed through the Martens' clause. At the time of the two World Wars, in international practice, unlawful combatants were dealt with harshly, even allowing them to be shot after capture.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38541.pdf

Unmanned aerial vehicles : do they pose legal challenges ?

Ian Henderson and Bryan Cavanagh. - In: New technologies and the law of armed conflict. - The Hague : T.M.C. Asser Press, 2014. - p. 193-212. - Cote 345.2/951

While Unmanned Aerial Vehicles (UAVs) have been part of warfare for over 150 years, the recent increase in their use, particularly as part of targeted strikes in Afghanistan, Pakistan and Yemen, has resulted in heightened public and academic interest. A significant amount of the public and academic debate has focused on public international law issues. This chapter examines the most relevant aspects of international law to UAV operations, namely the law concerning the resort to and use of force by states (jus ad bellum and jus in bello). Drawing on the recently released Manual on International Law Applicable to Air and Missile Warfare published by the Program on Humanitarian Policy and Conflict Research at Harvard University, the authors critically examine the following main legal issues in relation to UAV operations: can a state respond in national self-defence to the actions of a non-state actor acting independently of any state; can a state use force in the territory of a third state against a non-state actor (what are the geographic limits of a non-international armed conflict?); what is the status of a civilian operator of a UAV in a non-international armed conflict; and is there is an obligation under the law of armed conflict to positively consider the option of capture prior to attempting to kill? While the authors believe that there are preferred legal positions to be adopted on these points, it would be misleading to indicate that there are concluded positions that represent 'the law'. Rather, there is a variety of views, some of which command more or less agreement from states, judicial fora and commentators. Some positions certainly are more consistent with historical and more recent state practice, and it is generally those positions that the authors have found more persuasive.

Unmanned naval vehicles and the law of naval warfare

Robert McLaughlin. - In: New technologies and the law of armed conflict. - The Hague : T.M.C. Asser Press, 2014. - p. 229-246. - Cote 345.2/951

This chapter examines the adequacy of the existing law of the sea and law of armed conflict in regulating and assessing the employment of unmanned vehicles in maritime operational contexts. On the basis of a

general assumption as to the enduring relevance and utility of existing law in addressing the challenges of new technology in the maritime domain, the chapter focuses upon unmanned vehicles as a case study of how existing law can meet the challenge of describing and regulating the military applications of new technology at sea. To this end, the analysis concentrates upon two talismans fundamental to defining and understanding this relationship: (1) the status of unmanned vehicles at sea, most particularly in terms of their legal personality and access to flag state immunities; and (2) the poise and positioning of unmanned vehicles at sea in terms of the legal affront they may generate.

The use of armed drones

Stuart Casey-Maslen. - In: Weapons under international human rights law. - Cambridge ; New York : Cambridge University Press, 2014. - p. 382-407. - Cote 341.67/743

There is scant overall agreement on the legality under international law of drone strikes. Depending on the case, and one's appreciation of applicable law, drone strikes may be extrajudicial executions in violation of human rights or lawful acts in bello. The chapter aims to unpick international legal issues engaged by drone strikes. It first reviews the history of development of armed drones then analyzes the applicability of international humanitarian law. It then turns to the legality of a drone strike without sufficient nexus to an armed conflict and how international law of law enforcement would apply.

The use of weapons and jus ad bellum

Stuart Casey-Maslen. - In: Weapons under international human rights law. - Cambridge ; New York : Cambridge University Press, 2014. - p. 282-295. - Cote 341.67/743

A central dilemma, as posited by Schabas, is that human rights law 'has suggestions within it, albeit hesitant and underdeveloped, that aggressive war is itself a violation. Put otherwise, there is a human right to peace. Thus, the inquiry into whether killing in wartime amounts to arbitrary deprivation of life involves an assessment of whether the perpetrator of the violation was indeed acting lawfully, that is, whether the use of force was compatible with the jus ad bellum. This chapter is intended to promote further discussion of this issue by looking at the relationship between human rights and jus ad bellum through the lens of weapon use. For while not every use of force includes actual discharge of weapons (given that a foreign military occupation that is unopposed but nonetheless aggressive in nature or a blockade would still constitute a use of force ad bellum), in most cases weapons are the mainstay of such a use of force. The author concludes by arguing that the circle can best be squared by an acceptance that the - typically widespread - violations of fundamental human rights occasioned by aggression may be effectively addressed through appropriate forms of remedy and reparation, including transitional justice measures.

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The use of weapons in armed conflict

Stuart Casey-Maslen and Sharon Weill. - In: Weapons under international human rights law. - Cambridge ; New York : Cambridge University Press, 2014. - p. 240-281. - Cote 341.67/743

This chapter describes the relationship between International humantarian law (IHL) and International human rights law (IHRL) as it pertains to the use of weapons in armed conflict. General IHL criteria outlaw the use under any circumstances of weapons possessing certain characteristics (either because they are inherently indiscriminate, or because they are of a nature to cause superfluous injury or unnecessary suffering), while the rules of distinction, proportionality, and precautions in attacks govern combat action "on the battlefield". It is argued that in other circumstances IHRL standards governing the use of lethal force apply.

The use of weapons in peace operations

Nigel D. White. - In: Weapons under international human rights law. - Cambridge ; New York : Cambridge University Press, 2014. - p. 197-239. - Cote 341.67/743

This chapter assesses how weapons may lawfully be used in peace operations. As it is observed, modern peace operations represent a challenge for the development of international human rights-based standards for the use of weapons since such operations are multinational and contain a range of armed components. The author finds that while training, preparation, and risk assessment prior to the deployment of peace operations are improving, clear, human-rights-compliant standards still need to be elaborated, particularly by the United Nations.

War and cultural heritage : an analysis of the 1954 Convention for the protection of cultural property in the event of armed conflict and its two protocols

Kevin Chamberlain. - Builth Wells : Institute of Art and Law, 2013. - 247 p. - Cote 363.8/51 (2013)

Ouvrage en 6 parties: Part 1. Introduction and historical background. Part 2. The Convention for the protection of cultural property in the event of armed conflict, signed on 14th May 1954 in The Hague (including the annexed regulations for the execution of the convention). Part 3. Protocol for the protection of cultural property in the event of armed conflict, signed on 14th May 1954 in The Hague. Part 4. The Second protocol to the Hague Convention for the protection of cultural property in the event of armed conflict, The Hague, 26th March 1999. Part 5. Epilogue. Part 6. Text of the 1954 Convention and other international instruments.

War crimes

Suzannah Linton. - In: Hong Kong's war crimes trials. - Oxford : Oxford University Press, 2013. - p. 95-135. - Cote 344/114 (Br.)

Hong Kong's war crimes process, adjudicating offences from Hong Kong and the New Territories, China (Taiwan, and also Shanghai and Waichow), Japan, and on the High Seas, resonates with the leitmotif of events in multiple jurisdictions across Asia as the Japanese forces swept through and conquered large swathes of Asia in the 1930s and 1940s. This chapter's objective is to engage with the war crimes aspects of the trials held in Hong Kong, and to extract a deeper understanding from the cases themselves, a major task given the serious limitations that the lack of reasoned judgments poses. The majority of the Hong Kong cases actually involved war crimes against civilians. This category of war crimes raises some good substantive issues for closer consideration (involuntary displacement/deportation, torture and other ill-treatment, and unlawful killing of civilians). This study deliberately centralizes the Hong Kong cases; the objective is to excavate a forgotten legal process and shed light on the law of war crimes as it emerges from these cases. Before moving to war crimes against civilians in occupied territory, this chapter first establishes the sources of the law of war crimes relied on in these Hong Kong trials.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38508.pdf

War crimes and other international "core" crimes

Paola Gaeta. - In: The Oxford handbook of international law in armed conflict. - Oxford : Oxford University Press, 2014. - p. 737-765. - Cote 345.2/952

Under the orthodox approach, war crimes were considered crimes under international law only as a means to enforce international rules of warfare at the national level. This basic principle of international law was challenged and eventually discarded following the trials of war criminals before the Nuremberg Tribunal and the Tokyo Tribunal. However, the revolutionary precedent established by the Nuremberg and Tokyo trials did not develop into a fully-fledged body of international criminal rules, known as ‘international criminal law’, until the end of the Cold War, when the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda were set up by the United Nations Security Council. This chapter focuses on the criminalization of war crimes under international law and compares it with the parallel criminalization of crimes against humanity and genocide.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38567.pdf

War crimes, genocide, and justice : a global history

David M. Crowe. - Basingstoke ; New York : Palgrave Macmillan, 2014. - 501 p. - Cote 344/619

From atrocities in the ancient world to more recent horrors in Nazi Germany, Cambodia, and Rwanda, Crowe reveals not only the disturbing consistency they have shown over time, but also the often heroic efforts that nations and individuals have made to break seemingly intractable patterns of violence and retribution—in particular, the struggle to create a universally accepted body of international humanitarian law. He traces the emergence of the idea of 'just war,' early laws of war, the first Geneva Conventions, the Hague peace conferences, and the efforts following World Wars I and II to bring to justice those who violated international law. He also provides incisive accounts of some of the darkest episodes in recent world history, covering violations of human rights law in Afghanistan, Bosnia, Cambodia, Guatemala, the Iran-Iraq war, Korea, Tibet, and many other contexts. He gives valuable insights into some of the most vexing issues of today, including controversial US efforts to bring alleged terrorists to justice at Guantánamo Bay, and the challenges facing the International Criminal Court. Chapters include : The

genocide and Geneva Conventions : Eichmann, Lemkin, Tibet, Guatemala, and the Korean war - IHL : Soviet-Afghan war, Saddam Hussein, ad hoc tribunals, and Guantanámo.

War is governance : explaining the logic of the laws of war from a principal-agent perspective

Eyal Benvenisti, Amichai Cohen. In: Michigan law review Vol. 112, no. 8, June 2014, p. 1363-1415. - Cote 345.2/957 (Br.)

What is the purpose of the international law on armed conflict, and why would opponents bent on destroying each other's capabilities commit to and obey rules designed to limit their choice of targets, weapons, and tactics? Traditionally, answers to this question have been offered on the one hand by moralists who regard the law as being inspired by morality and on the other by realists who explain this branch of law on the basis of reciprocity. Neither side's answers withstand close scrutiny. In this Article, we develop an alternative explanation that is based on the principal-agent model of domestic governance. We pry open the black box of "the state" and examine the complex interaction between the civilian and military apparatuses seething beneath the veil of sovereignty. Our point of departure is that military conflicts raise significant intrastate conflicts of interest that result from the delegation of authority to engage in combat: between civil society and elected officials, between elected officials and military commanders, and within the military chain of command. We submit that the most effective way to reduce domestic agency costs prevalent in war is by relying on external resources to monitor and discipline the agents. Even though it may be costly, and reciprocity is not assured, principals who worry that agency slack may harm them or their nation's interests are likely to prefer that international norms regulate warfare. The Article expounds the theory and uses it to explain the evolution of the law and its specific doctrines, and it outlines the normative implications of this new understanding of the purpose of the law. Ultimately, our analysis suggests that as a practical matter, international law enhances the ability of states to amass huge armies because it lowers the costs of controlling them. Therefore, although at times compliance with the law may prove costly in the short run, in the long run states with massive armies are its greatest beneficiaries.

War time pains, all time pains : spoilage of cultural property in Mali

Afolasade Abidemi Adewumi. In: Art antiquity and law Vol. 18, issue 4, December 2013, p. 309-321. - Cote 363.8/214 (Br.)

This article, which is both descriptive, explores some of the issues arising from cultural heritage law, in particular as they affect destruction of cultural property in war-torn Mali. It argues that for sustainability of cultural heritage and the prevention of the loss of identity and the wiping out of a people's memory, nation States should become party to the 1954 Convention and its Protocols. It also argues that the fact that a State is party to the 1954 Convention does not guarantee the automatic application of the provisions of the 1999 Second Protocol to the Convention in the territory of that nation State. To enjoy the benefits of the Second Protocol, the State Party must first be party to the 1954 Convention and then to the Second Protocol. The underlying premise of this article is that only a near-universal ratification of the 1954 Convention and its Protocol II, coupled with efficient enforcement mechanisms at the domestic level and a historical conscience imbibed by people will guarantee sustainability of cultural heritage against hostilities during armed conflict.

ICRC Access: https://ext.icrc.org/library/docs/ArticlesPDF/38713.pdf

Water on the international security agenda : does water scarcity encourage the use of water as weapon or target of war ?

Laura Puts. In: Humanitäres Völkerrecht : Informationsschriften = Journal of international law of peace and armed conflict Vol. 27, 1/2014, p. 36-44

While the total amount of available water on our planet does not change, there are multiple countries that are experiencing water scarcity today. It has become a precious resource, being used as currency when buying tanks or exercised as tool to exert political pressure. Where more than one country access a shared water body to serve agricultural, industrial and domestic purposes, there is an equal chance for cooperation or conflict. Access to water can also play an important military or political role during times of (international) armed conflict. Vital water infrastructure and dams can be attacked and water reservoirs poisoned. Although International Humanitarian Law vies to protect water in its Additional Protocols, the legal texts are formulated vaguely and unspecifically. Alternative soft-law instruments are seen as expresssions of political will rather than being used to prevent damage to water infrastructure during armed conflict. Existing law to prevent damage need to be strengthened, reformulated and enforced.

Weapons and armed non-state actors

Andrew Clapham. - In: Weapons under international human rights law. - Cambridge ; New York : Cambridge University Press, 2014. - p. 163-196. - Cote 341.67/743

This chapter discusses the complex intereaction between weapons and armed non-state actors. It looks first at the legality of state transfers of arms to rebels and then at their legal obligations as individuals, armed groups, and as putative states.

Weapons under international human rights law

ed. by Stuart Casey-Maslen. - Cambridge ; New York : Cambridge University Press, 2014. - 633 p. - Cote 341.67/743

International human rights law offers an overarching international legal framework to help determine the legality of the use of any weapon, as well as its lawful supply. It governs acts of States and non-State actors alike. In doing so, human rights law embraces international humanitarian law regulation of the use of weapons in armed conflict and disarmament law, as well as international criminal justice standards. In situations of law enforcement (such as counterpiracy, prisons, ordinary policing, riot control, and many peace operations), human rights law is the primary legal frame of reference above domestic criminal law. This book draws on all aspects of international weapons law and proposes a new view on international law governing weapons. Also included is a specific discussion on armed drones and cyberattacks, two highly topical issues in international law and international relations.

Where do cyber hostilities fit in the international law maze ?

William H. Boothby. - In: New technologies and the law of armed conflict. - The Hague : T.M.C. Asser Press, 2014. - p. 59-73. - Cote 345.2/951

Significant portions of the international law of armed conflict are concerned with the notion of "attack", and that is really where the first intellectual challenge confronts us when we consider notions of cyber warfare and, more specifically, of cyber attack. This chapter considers how an attack is understood in relation to cyberspace, and what challenges the use of cyberspace for hostile purposes poses to the application of various principles and rules of the law of armed conflict, particularly the principle of precaution, weapons review, and the issue of control.

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