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mid-March to April 2011

Nouvelles acquisitions de la Bibliothèque

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ARMS

The ICRC has played a key role in the successful effort to ban cluster munitions. This CD contains ICRC statements and other materials on this topic published between 1976 and 2009. Contents: ICRC publications and reports, ICRC statements and official submissions to international conferences, Conferences of the International Red Cross and Red Crescent Movement, Other public statements and Media material
CD 39/002
CD-ROM 6

341.67/574 (2010)

341.67/353 (Br.)

CHILDREN

The UN Security Council has set up a wide-ranging monitoring regime for child recruitment and use for armed conflict. This is a particularly complex task for two reasons: first, international law and international policy on children's involvement in armed conflict is inconsistent, and its application in countries emerging from conflict is problematic. Second, children's involvement is part of a wider social and economic order that is being reconfigured by violence - that order, and children's responses to it, need to be described and interpreted for monitoring to be useful. This note illustrates these problems by presenting and assessing monitoring guidelines for child recruitment and use in one country emerging from a conflict in which children and youth were widely involved: Nepal.
362.7/333

The civil war that was fought by children: understanding the role of child combatants in El Salvador's civil war, 1980-1992 / Jocelyn Courtney. - April 2010. - p. 523-556. - In: Journal of military history Vol. 74, no. 2. - Photocopies
From 1980 to 1992, the Salvadoran government and the Farabundo Martí Front for National Liberation (FMLN) fought each other in a civil conflict that devastated El Salvador, killing 75,000 people and leaving thousands more homeless or injured. Over 80 percent of the government's troops and over 20 percent of the FMLN's were under eighteen years of age; however, thus far, historians have missed the centrality of the role of children in this conflict. This article explores the legacy of both sides' reliance on child soldiers and examines the costs of child soldiering in terms of demobilization issues and postwar societal problems.
362.7/334 (Br.)

Violent conflict is one of the greatest development challenges facing the international community. Beyond the immediate human suffering it causes, it is a source of poverty, inequality and economic stagnation. Children and education systems are often on the front line of violent conflict. The 2011 Global Monitoring Report will examines the damaging consequences of conflict for the Education for All goals. It sets out an agenda for protecting the right to education during conflict, strengthening provision for children, youth and adults affected by conflict, and rebuilding education systems in countries emerging from conflict. The Report also explores the role of inappropriate education policies in creating conditions for violent
conflict. Drawing on experience from a range of countries, it identifies problems and sets out solutions that can help make education a force for peace, social cohesion and human dignity. 362.7/335


CONFLICT-VIOLENCE AND SECURITY


"Virtuous war" and the emergence of jus post bellum / Benjamin R. Banta. - 2011. - p. 277-299. - In: Review of international studies Vol. 37, no. 1. - Photocopies

Scholars from various subfields have recognised a dangerous novelty for ethical thought on war in the combination of a detached, or virtual, technical ability to wage war and the ethical imperatives of human rights norms – deemed "virtuous war"). This article begins by discussing the contention that the just war tradition acts as the enabling discourse for virtuous war, and the further contention that the wars being enabled are paradoxically unjust. After assessing the validity of the virtuous war claim it is argued that the just war tradition's core ethical commitment not only remains the most sound starting point for thinking about the morality of war, but is a commitment that those in the virtuous war literature suggesting alternate ethical doctrines on war implicitly reject. It is contended, though, that the addition of a third pillar to the just war structure of cause and means criteria – a justice after war or jus post bellum – has arisen due to the virtuous war reality, and is necessary in order for the just war tradition to remain committed...
to its core ethical principle in a 21st century marked by virtuous war. Lastly, I present a brief sketch of jus post bellum informed by the article’s key claims.

### DETENTION


The Obama Administration has made it clear that some detainees will be held indefinitely “under the laws of war” but has provided no clear guidance as to what that detention would look like. Historical practice has generally involved detention for much shorter periods of time than many at Guantanamo have already been detained. There are some notable exceptions, however, where fighters were detained for extended periods of time, including more than twenty years in the case of Morocco. Surprisingly, considering the number of armed conflicts that have involved detention, there is no common international practice concerning long-term or indefinite detention upon which states may rely. The question then becomes, assuming that long-term and potentially indefinite detention of unlawful enemy combatants (or unprivileged enemy belligerents) will occur as justified by the law of war, what should that detention look like? This article argues that the basic provisions and safeguards currently extant in the law of armed conflict are sufficient to satisfy an indefinite detention paradigm. Though many of these provisions are under-utilized or ineffective in the current detention framework, the current structure could be adapted to provide a LOAC detention model that accounts for a contemporary view of individual rights, protections, and privileges. Such an adapted paradigm would be completely appropriate for the indefinite detention of the 48 detainees designated by the U.S. Government to be held at Guantanamo Bay, and would provide all the safeguards and ensure the overall security necessary for that detention until the conflict is over or until the detainees no longer pose a risk.

### GEOPOLITICS


323.2/902 (Br.)

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323.15/ISR 40

297/148

323.10/34

323.11/SOM 14

**HEALTH-MEDICINE**

356/130 (Br.)

La protección del "personal humanitario" por el derecho internacional humanitario en los conflictos armados actuales / José Luis Rodríguez-Vilasante y Prieto. - 2010. - p. 43-58. - In: Anuario de acción humanitaria y derechos humanos = Yearbook on humanitarian action and human rights 7
In today's armed conflicts targeted attacks on humanitarian personnel has become a direct target of organized violence. International humanitarian law, from its outset, has protected health personnel, who are entitled to be respected, providing necessary assistance to carry out its humanitarian mission. In addition, parties to armed conflict must ensure the safety of humanitarian personnel authorized to provide assistance to victims, and this authorization can't be refused or removed for any arbitrary reasons. It also provides protection to members of peace and humanitarian missions within the United Nations mandate. IHL provides freedom of movement to impartial humanitarian organizations, which is essential to the performance of their duties. Finally, the criminal protection of humanitarian personnel and resources has been included in the Rome Statute of the International Criminal Court and in the Spanish criminal law.

356/235

**HISTORY**

94/465

94/466
**HUMAN RIGHTS**

**Giuliani and Gaggio v Italy**: the context of violence, the right to life and democratic values / Stephen Skinner. - 2010. - p. 85-93. - In: European human rights law review No. 1. - Photocopies

Discusses the implications of the European Court of Justice decision in Giuliani v Italy in which it was established that the 2001 shooting of a G8 summit demonstrator in Genoa by an auxiliary carabiniere did not constitute a breach of the European Convention on Human Rights 1950 art.2 by reason of an excessive use of force, but that it had breached its procedural aspects as a result of the inadequate investigation into his death. Considers the arguments on the use of lethal force, the criticisms of the Italian regulatory framework and the public order policing operation, the procedural dimension, and the right to life in terms of the violent context 345.1/27 (Br.)


**Margins of conflict**: the ECHR and transitions to and from armed conflict / ed. by Antoine Buyse. - Antwerp [etc.] : Intersentia, 2011. - XIII, 196 p. ; 24 cm. - (Series on transitional justice ; vol. 5). - ISBN 9789400001572 345.1/582


**HUMANITARIAN AID**


This paper is part of 18-month research project "Raising the bar : enhancing transatlantic governance of disaster relief and preparedness". 361/320 (Br.)


This synthesis report is part of the cluster approach evaluation phase 2 commissioned by the Inter-Agency Standing Committee (IASC). The evaluation was carried out between July 2009 and April 2010 by a group of evaluators from Global Public Policy Institute and Groupe URD. 361/470

**Desafíos a la seguridad y protección de los trabajadores humanitarios**: el compromiso de los donantes / Ignacio Martín Eresta. - 2010. - p. 15-32 : tabl., graph.. - In: Anuario de
La seguridad de los trabajadores humanitarios es una premisa básica para el acceso de las víctimas de los desastres a la ayuda, por eso tanto el Derecho Internacional Humanitario como otras medidas jurídicas nacionales e internacionales protegen especialmente a éstas personas.

Pero esta seguridad se deteriora progresivamente en escenarios cada vez más complejos, que las organizaciones afrontan adoptando diferentes estrategias que combinan aceptación, protección y disuasión. Los retos operativos pivotan sobre las políticas de personal, el grado de desarrollo e integración operativa de planes y sistemas de protección, y las prácticas operacionales de cada organización. En éste contexto, los donantes han suscrito compromisos políticos explícitos con la defensa del espacio humanitario y del acceso a las poblaciones afectadas, básicamente en torno al Good Humanitarian Donorship, y el Consenso Europeo sobre la ayuda humanitaria en el ámbito de la UE. La política pública española reciente ilustra algunos de estos compromisos.


**Integration and coherence : is there a future for independent humanitarian action ? : a legal inquiry into the provision of humanitarian assistance and protection during armed conflict today / Luz Gómez-Saavedra.** - 2010. - p. 105-122. - In: Anuario de acción humanitaria y derechos humanos = Yearbook on humanitarian action and human rights 7. - Bibliographie : p. 121-122

This article challenges, from a legal perspective, the validity of independent humanitarian action (HA) during armed conflict in the face of the United Nations integration and coherence doctrine. The traditional legal foundations of humanitarian action in war are reviewed. In the last decades the modus operandi of actors in armed conflict and their interpretation of international law has evolved and in this framework International Human Rights Law (IHRL) has become the main legal resort to legitimise humanitarian intervention. Confusion between military, political and humanitarian involvement in conflicts has eroded the legal principles of independent HA in favour of opportunities for general law enforcement and IHRL protection and promotion. This paper concludes that there are legal grounds to advocate for independent HA, in order to maintain the humanitarian imperative and the interests of the victims of war, as a valid action in itself without attaching HA to objectives of global peace, security and human rights.


This paper is part of the 18-month research project "Raising the bar : enhancing transatlantic governance of disaster relief and preparedness".

361/351 (Br.)
ICRC-INTERNATIONAL MOVEMENT OF THE RED CROSS AND RED CRESCENT

362.191/1474


362.191/1473


362.191/1342 (Br.)

The need to know : restoring links between dispersed family members / ICRC. -. Geneva : ICRC, December 2010. - 14 p. : photogr. ; 30 cm. - (Focus)
This publication explains how the Family Links network operates and why its services are so important. It describes situations in which family separations occur, and the many ways in which the International Red Cross and Red Crescent Movement supports dispersed families and families of missing people.
362.191/1475 (ENG Br.)

The first Geneva Convention of 1864, which protects the wounded soldiers in wartime, is a treaty universally adopted today. All the states thus voluntarily agreed to limit the usage they could make of one of their essential privileges, that to assure the defence and the security of their territory thanks to their monopoly on the armed violence. As guarantor for the Geneva Conventions, the International Committee of the Red Cross (ICRC) was the mainspring of the unanimous adoption of one of the main texts of the humanitarian international law (IHL). This success was not however without some difficulties. This article examines the modalities which induced governments to integrate a series of standards which would limit their behaviour on the battlefield; and to estimate the role that played the notions of incitement and/or self-persuasion in this process of acceptance. Then, this paper will assess the success of the policy promoting the IHL which was launched by the ICRC; and see if adjustments were necessary and, if yes, of which nature they were. Finally, we shall wonder about the existence for the ICRC of motivations others than charitable ones to obtain that the worldwide governments finally ratify the Geneva Convention.

362.191/1472
INTERNATIONAL CRIMINAL LAW


Is the Rome statute binding on individuals? (and why we should care) / Marko Milanovic. - March 2011. - p. 25-52. - In: Journal of international criminal justice Vol. 9, no. 1


This chapter considers the war crimes provisions in the statutes of ad hoc tribunals and the inclusion of the concept of war crimes in non-international armed conflicts in the ICTR Statute. The war crimes cases at the ad hoc tribunals represent the first application of the criminal provisions of humanitarian law by international criminal courts. Section III explores judicial treatment with regard to the two categories of war crimes before the tribunals, grave breaches of the 1949 Geneva Conventions and “violations of the law and customs of war”. Judicial creativity has been more significant for the latter category of war crimes, and has led to the expansion of the scope of the law of war crimes and the identification of new offences not previously established in positive international law. Such creativity in a criminal context prompts consideration of whether the expansive treatment of the law of war crimes is in keeping with the principle of nullum crimen sine lege and the traditional international lawmaking process. Section IV concludes with a consideration of the legacy of the ad hoc tribunal’s creativity towards war crimes.
344/532

344/531

344/530

The first English edition of this work was published in 1999 and updated for the second edition in 2005. A parallel French version appeared in 2003. This third English edition contains significant revisions and updates: some 60 new cases and documents reflecting the most recent practice have been added, while 35 of those contained in the second edition have been expanded and updated, many Introductory Texts have been revised and the section on Teaching International Humanitarian Law has been considerably enhanced.
345.2/654 (2011 ENG)

345.2/837

345.2/839

345.2/842

Relief workers deployed in conflict-torn African states are especially vulnerable to a variety of risks, including being taken hostage, being injured as part of collateral damage, or being detained. This piece focuses on how international humanitarian law (IHL) responds to the acts that give rise to these particular risks, whether they are perpetrated by state officials or non-
state organised armed groups acting in the African context. In unpacking the legal protections available to relief workers it is crucial to understand the status that relief workers enjoy under IHL in situations of armed conflict. Any discussion of IHL status necessitates an inquiry into the concept of 'direct participation in hostilities' and the limitations that this prohibition places on civilians. Finally the author discusses the three main risks facing relief workers: being taken hostage, being targeted as part of collateral damage, and being detained, and explores the legal implications of these particular risks for relief workers in the African context.

The role of the United States Supreme Court in interpreting and developing humanitarian law / David Weissbrodt and Nathaniel H. Nesbitt. - 2011. - p. 1339-1423. - In: Minnesota law review Vol. 95, no. 4. - Photocopies

In the absence of a single authoritative mechanism to interpret humanitarian law, a number of treaty bodies, national courts, regional human rights courts/commissions, international tribunals, and thematic mechanisms have been called upon to address humanitarian law issues. Prime among these institutions is the U.S. Supreme Court. Though only in a small number of cases, the Court has relied on humanitarian law principles and treaties from the early days of the Republic to the “war on terrorism.” In what ways does the Court invoke this body of law and how thorough is its analysis? Is the Court institutionally equipped to play a meaningful role in the development of humanitarian law? The Article assesses the historical, current, and potential role of the Court in interpreting and developing humanitarian law. Through a comprehensive examination of the Court’s humanitarian law jurisprudence, it argues that while the Court has offered useful and precedential interpretations of humanitarian law, its analysis suffers from a relatively superficial engagement with the Hague and Geneva Conventions. In short, the Court is reluctant to probe too deeply into this complex body of law and its reliance on humanitarian law is often minimal and sometimes haphazard. Despite these shortcomings, the Court has an important role to play. Throughout its history, but most notably in the years after September 11, 2001, the Court has unearthed various substantive propositions of humanitarian law and offered a novel interpretation of at least one of them, specifically Common Article 3 of the 1949 Geneva Conventions pertaining to transnational armed conflicts involving terrorists. As national and international courts grapple with the implications of international terrorism, the Court will remain an important voice.


Although the elements of crime committed in the western most parts of Sudan are unambiguously covered by norms of international human rights law and humanitarian law, the case of Darfur prompted some of the most puzzling contradictions in the ways in which international relations work. The chasm that exists between the protection of citizens, an entitlement based on the legal instruments and rule, and what is taking place in reality is in large part related to strategic choices of states that favour regime protection over citizen protection. One has to admit that the solution lies in politics, rather than in law.


The Supreme Court of Canada (SCC) declined its jurisdiction in its 2010 ruling in Canada (Prime Minister) v. Khadr by not ordering the repatriation of Canadian Guantanamo detainee Omar Ahmed Khadr. Despite finding that Khadr's deprivation of liberty at Guantanamo was not in accord with the principles of fundamental justice, and that Canada was complicit in his ongoing detention, the Court left the remedy to the Canadian federal government's discretion. This based on a theory of 'royal prerogative' inapplicable on the facts of the case, and an erroneous claim of an inconclusive record relating to alleged relevant foreign relations matters.
A universal and comprehensive definition of direct participation in hostilities (DPH) does not exist. Furthermore, modern warfare's tendency to blur the distinction between combatant and civilian necessitates a new interpretation of DPH. However, States have incentives to pursue narrow or broad interpretations of DPH, or even both. These contradictory strategies create a dilemma for policymakers who seek to reinterpret the concept of DPH. Any revision is likely to put some group of individuals at risk; there is not a simple answer to the question of how to best revise DPH. Instead, a dramatic revision of DPH is needed. This Essay will briefly examine the law of armed conflict before exploring the merits of the interpretations of DPH adopted by the United States, Israel, and the International Committee of the Red Cross. Lastly, this essay will recommend a potential solution to the dilemma of DPH interpretation: a limited membership-based approach.

The United States has increasingly relied upon unmanned aerial vehicles (UAVs), or "drones," to target and kill enemies in its current armed conflicts. Drone strikes have proven to be spectacularly successful - both in terms of finding and killing targeted enemies and in avoiding most of the challenges and controversies that accompany using traditional forces. However, critics have begun to challenge on a number of grounds the legality and morality of using drones to kill belligerents in the non-traditional conflicts in which the United States continues to fight. As drones become a growing fixture in the application of modern military force, it bears examining whether their use for lethal targeting operations violates the letter or spirit of the law of armed conflict. In this article I identify the legal framework and sources of law applicable to the current conflicts in which drones are employed; examine whether, and if so in what circumstances, using drones for targeting operations violates the jus in bello principles of proportionality, military necessity, distinction, and humanity; and determine what legal boundaries or limitations apply to the seemingly limitless capabilities of drone warfare. I then evaluate whether the law of armed conflict is adequate for dealing with the use of drones to target belligerents and terrorists in this non traditional armed conflict and ascertain whether new rules or laws are needed to govern their use. I conclude by proposing legal and policy guidelines for the lawful use of drones in armed conflict.

Guía para interpretar la noción de participación directa en las hostilidades según el derecho internacional humanitario / Nils Melzer. - Ginebra : CICR, diciembre de 2010. - 85 p.; 21 cm. - (Referencia)
Tras más de seis años de debates e investigación entre expertos en la materia, el CICR ha publicado la Guía para interpretar la noción de participación directa en las hostilidades según el DIH, cuya finalidad es aclarar el significado y las repercusiones de la participación directa en las hostilidades según el derecho internacional humanitario (DIH).

Operation "Cast Lead" : jus in bello proportionality / by Michael Wells-Greco. - 2010. - p. 397-422. - In: Netherlands international law review Vol. 57. - Photocopies
This article attempts to: (a) provide an analysis of the legal discourse presented on jus in bello proportionality in the Goldstone Report, the Amnesty International report, Israel's response to the Goldstone Report and the Human Rights Watch report; (b) consider what proportionality means and add to the critique by arguing that the ambiguities inherent in key aspects of the proportionality doctrine of armed conflict may contribute to neither the proper realisation of IHL goals nor the attaining of military strategy; (c) submit that, despite the lack of consensus on a clear definition of proportionality, it would be beneficial to debate the contours more clearly to establish parameters so that the principle serves its purpose of protecting civilians.


The United States has used unmanned aerial vehicles (UAVs) or drones over portions of Pakistani territory for reconnaissance and the targeting of members of al Qaeda and the Taliban who have in various ways taken a direct and active part in extensive and ongoing armed attacks against U.S. military personnel and other U.S. nationals in Afghanistan. Some have argued that the U.S. use of drones in Pakistan appears to have violated international law. Is the use of drones within Pakistan merely to target non-state actors under such circumstances violative of international law? Must the United States obtain the express consent of Pakistan before targeting non-state actors who engage in ongoing armed attacks against United States military personnel? Does such a use of armed force against non-state actors necessarily require a conclusion that the United States is at war with either the state from which non-state actor armed attacks are emanating or the non-state actor? Does the selective use of force in self-defense violate the human right to life of human targets who take an active part in the armed attacks? Does use of drones necessarily constitute indiscriminate targeting in violation of the general principle of proportionality? Before addressing these questions, one should consider relevant international legal norms concerning the permissibility of selective self-defense in response to armed attacks by non-state actors emanating from another state. 341.67/680 (Br.)

INTERNATIONAL HUMANITARIAN LAW-IMPLEMENTATION


Should the United States, as the strongest military power in the world, be bound by stricter humanitarian constraints than its weaker adversaries? Would holding the U.S. to higher standards than the Taliban, Iraqi insurgents, or the North Korean army yield an overall greater humanitarian welfare or be otherwise justified on the basis of international justice theories? Or would it instead be an unjustifiable attempt to curb American power, a form of dangerous “lawfare”? The paper offers an analytical framework through which to examine these questions. It draws on the design of international trade and climate agreements, where obligations have been linked to capabilities through the principle of Common-but-Differentiated Responsibilities (CDRs), and inquires whether the justifications that have been offered for CDRs in these other regimes are transposable to the laws of war. More broadly, the framework tests the extent to which war can and should be equated to other phenomena of international relations or whether it is a unique context that resists foreign analogies. Rather than offering a definitive answer, the inquiry illuminates the types of judgments and predictions that one must hold in order to have a position on the desirability of CDRs in international humanitarian law, most notably, the degree to which weaker adversaries will be prone to abusing further constraints on stronger enemies, the expected effects of CDRs on the propensity to go to war, who on the enemy’s side is the “enemy,” and what are the duties that are owed to one’s enemies. 345.2/48 (Br.)

La protection pénale des conventions humanitaires internationales / rapport général présenté par Claude Pilloud. - 1953. - p. 661-695. - In: Revue internationale de droit pénal 24e année, no 3 345.22/171

INTERNATIONAL HUMANITARIAN LAW-TYPE OF ACTORS


This article examines the plight of child soldiers and the collective duties of nations in their commitments under international law to protect the fundamental human rights of children subjected to conflict. The first part of this article will determine how children become soldiers in...
international and internal armed conflict. The article will then look at the international law intended to protect children in conflict zones and what tests or standards should be applied in determining how child soldiers should be treated, either as war criminals or as victims of conflict. Next, the article will look at the responsibility nations have to protect children from becoming combatants or being re-recruited into emerging armed conflicts; to prosecute those who use children as combatants; to help children in the process of rehabilitation and reintegration; and to educate the citizens about the plight of child soldiers and the factors that place children at risk of becoming child soldiers. The article will conclude with a discussion of what should be the goals and strategies from this point forward in the international effort to stop children from becoming child combatants.


There is a proliferation of literature discussing human rights and business, but far less that looks at the issue of businesses operating in conflict zones and the applicability of international humanitarian law. This is understandable in terms of the prominence and dynamism of human rights as a sub-discipline, contrasted with the conservatism of international humanitarian law. But from a doctrinal perspective it is somewhat odd, as the direct applicability of human rights norms to business is far less clear than the applicability of international humanitarian law. Section II of this paper describes the normative regime that is set up by human rights and international humanitarian law, before Section III turns to the specific situation of conflict zones and efforts to regulate some of the newer entities on the scene, in particular private military and security companies. Section IV then sketches out a regime that focuses not on toothless regulation, but on a model of governance that combines limited sanctions with a wider structuring of incentives. These three parts are referred to in shorthand as "lawyers," "guns," and "money."


This article first analyzes the extent and nature of the hostilities between Pakistan and Tehrik-e-Taliban, the main insurgent group in opposition to the Pakistani government. Both the intensity of the hostilities and the level of the TTP’s organizational structure demonstrate that Pakistan and the TTP are engaged in a non-international armed conflict, along with other relevant non-state armed groups in Pakistan. The intensity of the hostilities between the U.S. and the TTP – which has steadily increased over the past two years, both in frequency and in scope – suggests that the U.S. and the TTP are also engaged in an armed conflict. Once identified as an armed conflict rather than isolated acts of violence, the hostilities between the U.S. and the TTP can be characterized as an intervention into the existing non-international armed conflict, which remains a non-international armed conflict because the U.S. is intervening on the side of the state actor. Alternatively, the conflict between the U.S. and the TTP can be characterized a separate parallel conflict, either a Common Article 3 conflict, using the broad standard established in Hamdan, or, at a minimum, a transnational armed conflict triggering the application of fundamental principles of the law of war that govern the conduct of any military operations.

The constitution and the laws of war during the civil war / Andrew Kent. - 2010. - p. 1839-1930. - In: Notre Dame law review Vol. 85, no. 5. - Photocopies
This article uncovers the forgotten complex of relationships between the U.S. Constitution, citizenship and the laws of war. The Supreme Court today believes that both noncitizens and citizens who are military enemies in a congressionally-authorized war are entitled to judicially-enforceable rights under the Constitution. The older view was that the U.S. government’s military actions against noncitizen enemies were not limited by the Constitution, but only by the international laws of war. On the other hand, in the antebellum period, the prevailing view was U.S. citizenship should carry with it protection from ever being treated as a military enemy under the laws of war. This Article documents how this antebellum understanding about the protection of U.S. citizenship was challenged and overthrown during the first years of the Civil War. As articulated by Union statesmen, members of Congress, lawyers, soldiers and publicists, the rebels by seceding and seeking to throw off their allegiance to the United States and its Constitution, had forfeited their right to be protected by the Constitution. Henceforth, all military actions against them would be governed only by the loose standards of the international laws of war - the standards always applicable to foreign enemies. But if, at its option, the United States chose at times to deal with the rebels not as military enemies but as wayward citizens committing civil crimes like treason, then these citizens retained their pre-war constitutional entitlements. Thus the way the United States choose to respond to the rebels determined the applicable legal regime - whether the Constitution and other municipal protections would apply, or only the harsh laws of war. Starting in 1863 in the Prize Cases, and continuing until the end of the century, the Supreme Court decided over 300 cases arising out of the war. The Court adopted and articulated the theories about the relationship between the Constitution, citizenship, and the international laws of war that had been first developed out of the court in the early years of the war. These legal doctrines and understandings prevailed into the mid-twentieth century, until developments like the civil rights revolution and the increasing sense of judicial supremacy began to set the stage for today’s judicial management of the U.S. government’s relationship with military enemies under the aegis of the Constitution.

Defining the battlefield in contemporary conflict and counterterrorism : understanding the parameters of the zone of combat / Laurie R. Blank. - 2010. - p. 1-38. - In: Georgia journal of international and comparative law Vol. 39, no. 1. - Photocopies

The nature of today’s conflicts has led many practitioners and scholars to suggest that the traditional battlefield – once populated by tank battles and infantry – has been replaced by a more complex environment – sometimes called the zone of combat. When many argue that the United States is engaged in a global war against Al Qaeda and other terrorist groups, one natural question is where is the battlefield, or zone of combat, in this global struggle against terrorist groups and how do we identify it. This article will focus on two hitherto ignored aspects in the discussions about the modern battlefield or zone of combat – when and for how long is an area part of the zone of combat and how far does this designation extend geographically. These questions are critical for understanding how to apply the law to questions of targeting, detention, interrogation, direct participation in hostilities, and trials, among others. Because the applicability of the law of armed conflict is naturally limited by – and triggered by – the existence of an armed conflict, it therefore provides a paradigm for understanding the temporal and geographic parameters of the zone of combat that other generally applicable legal frameworks cannot necessarily offer. This article demonstrates that traditional conceptions of belligerency and neutrality are not designed to address the complex spatial and temporal nature of terrorist attacks and states responses. Nor can human rights law or domestic criminal law, which are both legal regimes of general applicability, offer a useful means for defining where a state can conduct military operations against terrorist groups. LOAC, in contrast, provides a framework not only for when it applies, but where and for how long. By using this framework and analogizing relevant factors and considerations to the conflict with al Qaeda, we can identify factors that can help define the zone of combat, including the nature of the hostilities, the government response to the threat and the territorial connections of the terrorist or non-state armed group.

Since the 9/11 attacks, States have been scrambling to find answers to difficult questions surrounding the detention of members of non-State groups. Four legal questions in particular have proven vexing to States: (1) who is subject to detention; (2) what process must the State provide to those detained; (3) when does the right of the State to detain terminate; and (4) what legal obligations do States have in connection with repatriating detainees at the end of the conflict? Nearly nine years since 9/11 two factors have prevented development of the law on these questions. First, some States, international organizations, and NGOs continue to insist that existing law adequately answers these questions. Second, where there is agreement that new law is needed, disagreement about how to develop the law has limited progress. The first objective is to demonstrate that existing law inadequately answers the questions posed. The Article begins by demonstrating why the law of non-international armed conflict, the generally applicable legal regime for armed conflicts between States and non-State groups, does not provide clear answers to these questions. The Article then explains why other legal regimes — international humanitarian law for international armed conflict, municipal law and international human rights law — also fail to provide adequate answers at present. The Article’s second objective is to identify areas of convergence on these four questions that may form the basis for future legal development. The resistance of many to admitting further legal development is necessary is the legitimate fear that States will abuse legal uncertainty to engage in policies inconsistent with the spirit of international law. Immediate work on development of new law may ameliorate these fears. While a new treaty regime may be the ideal vehicle for development of new law, the Article recognizes that agreement on a new treaty is unlikely, and proposes an agreement on common principles by like-minded States as an interim step.


parameters of warfare and into the realm of criminal conduct or alternatively it is employing the methods of warfare with a criminal intent. It seems therefore that terrorists should either be thought of as criminal behavior, in which case they might be accused of violating criminal law, or they should be thought of as acting within the scope of war and peace, in which case they might be accused of violating either the law of war or the law of peace. However, they do not seem to fall clearly in either scenario thus despite being law violators, they have situated themselves in an impossible place, located somewhere outside of the law.

INTERNATIONAL ORGANIZATION-NGO-UNITED NATIONS

**Actes constitutifs = Official texts / Union internationale de secours = International relief union.** - 2e éd.. - Genève : Union internationale de secours, décembre 1935. - 44 p. ; 23 cm


**MEDIA**


**PEACE**

**Contribuciones regionales para una declaración universal del derecho humano a la paz = Regional contributions for a universal declaration on the human rights to peace = Contributions régionales en vue d'une déclaration universelle sur le droit humain à la paix / Asociación Española para el Derecho Internacional de los Derechos Humanos ; Carlos Villán Durán y Carmelo Faleh Pérez (editores).** - Luarca : Asociación Española para el Derecho Internacional de los Derechos Humanos, 2010. - 638 p. ; 24 cm


**PUBLIC INTERNATIONAL LAW**

345/579

**REFUGEES-DISPLACED PERSONS**

325.3/462

Armed non-state actors and displacement / Olivier Bangerter... [et al.]. - March 2011. - p. 4-42 : photogr., carte. - In: Forced migration review No. 37
Content notamment : Talking to armed groups / O. Bangerter. - Engaging armed non-state actors in mechanisms for protection / P. Lacroix... [et al.]. - How to behave : advice from IDP's / S. Finne Jakobsen.

325.3/460

325.3/461

325.3/459

This article provides a critical appraisal of the newly adopted African IDPs Convention. In particular, it offers a detailed analysis of the Convention’s transformation of the UN Guiding Principles into legally binding rules for the management of the phenomenon of internal displacement in Africa. By definition, internally displaced persons (IDPs) are persons who have not crossed international frontiers and are citizens of the state within which they find themselves. Although their conditions may be similar to refugees, who are necessarily aliens to the host community, their legal status is not analogous. At the most basic level, there is no doctrinal agreement on whether “IDP” is a legal status at all. This has created a fundamental doctrinal dilemma. The Article analyzes the merits of the arguments for and against according IDPs a distinctive legal status analogous to refugees. It also provides a detailed discussion of the important provisions that define the rights and responsibilities of IDPs and the various state and non-state actors during the three most important phases – before displacement, during displacement, and after return.
325.3/109 (Br.)

The African Convention is a very significant development in the field of internal displacement and brings renewed hope for IDPs in Africa. As is often the case in pioneering enterprisues, the Convention is not perfect. In this article the author highlights some critical points which deserved a deeper or different treatment: the notion of displacement, the obligations of state parties and the role of the African union, the responsibilities of armed groups and other non-
state actors with respect to displacement, the protection and humanitarian assistance to IDPs, the need for durable solutions.

325.3/187 (Br.)


Réf. GEO 2-v (excluded from loan)

SEA WARFARE


WOMEN-GENDER


Rising up in response: women's rights activism in conflict / Jane Barry. - Boulder : Urgent action fund for women's human rights, 2005. - XV, 183 p. : graph. ; 23 cm. - Bibliographie : p. 147-160 This study aims to contribute to find out more about women's activism in the face of armed conflict and its aftermath, and to recommend to the international community how future action can be undertaken that will ensure that the vital contribution of women does not continue to be lost or ignored. 362.8/139


362.8/143

362.8/141