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mid-June to July 2013

Nouvelles acquisitions de la Bibliothèque

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341.67/179 (Br.)

Autonomous weapon systems and international humanitarian law: a reply to the critics / Michael N. Schmitt. - In: Harvard national security journal, Features,, online February 5, 2013, 37 p. - Photocopies
This article is designed to infuse granularity and precision into the legal debates surrounding such weapon systems and their use in the future "battlespace." It suggests that whereas some conceivable autonomous weapon systems might be prohibited as a matter of law, the use of others will be unlawful only when employed in a manner that runs contrary to international humanitarian law's prescriptive norms. This article concludes that Human Rights Watch report "Losing Humanity"'s recommendation to ban the systems is insupportable as a matter of law, policy, and operational good sense. Human Rights Watch's analysis sells international humanitarian law short by failing to appreciate how the law tackles the very issues about which the organization expresses concern. Perhaps the most glaring weakness in the recommendation is the extent to which it is premature. No such weapons have even left the drawing board. To ban autonomous weapon systems altogether based on speculation as to their future form is to forfeit any potential uses of them that might minimize harm to civilians and civilian objects when compared to other systems in military arsenals.
341.67/728 (Br.)

Contient : La problématique du commerce d'armes de guerre, les pays exportateurs, le cas de la Belgique et celui de la Communauté Européenne, tentatives réglementaires au niveau universel, armes de destruction massive et textes de documents officiels.

341.67/727

Collective arms control responses from 1925 to 1991 evolved into three types of agreements, which focused on: (1) non-armament; (2) confidence-building measures; and (3) arms limitations. After 1991, the focus became arms reduction. This article describes the global efforts to regulate nuclear weapons, how each approach differed and was built on previous experience, the impact of world events on negotiations and the resultant pressure on the parties to achieve agreement, and what we can expect in the future of nuclear arms control.
341.67/170 (Br.)

The global spread and misuse of small arms is one of the most alarming and growing security issues of the post-Cold War era. For many reasons, however, controlling the spread of small arms is extremely difficult. Nonetheless, given the serious nature of the small arms issue, numerous states, nongovernmental organizations, and individual activists have sought to address various small arms problems. One of the earliest suggestions that analysts and advocates offered was to develop international norms and standards of behavior that outline the parameters of acceptable small arms activities. Despite the numerous actions that states and NGOs have taken over the past ten years in an effort to combat these problems, corresponding norms are relatively weak or nonexistent. This article seeks to answer why this is the case. It examines why global small arms control norms are largely weak or nonexistent and explains
why the prospects for stronger norms are few. Although research on norms in international relations is swelling with studies showing whether, how, and why norms emerge and affect state behavior, few studies focus on cases where norms actually do not emerge or influence action. The primary explanation for weak small arms norms is a competitive normative environment that is facilitated and perpetuated by: (1) competing coalitions that promote opposing norms and ideas and (2) a great-power consensus that works against stronger arms control norms.

**Lethal robotic technologies: the implications for human rights and international humanitarian law / comment by Philip Alston.** - In: Journal of law, information and science, Vol. 21, no. 2, 2011/2012, p. 35-60. - Photocopies

This analysis is predicated on three principal assumptions. The first is that the new robotic technologies are developing very rapidly and that the unmanned, lethal weapons carrying vehicles that are currently in operation will, before very long, be operating on an autonomous basis in relation to many and perhaps most of their key functions, including in particular the decision to actually deploy lethal force in a given situation. The second is that these technologies have very important ramifications for human rights in general and for the right to life in particular, and that they raise issues that need to be addressed urgently, before it is too late. The third is that, although a large part of the research and technological innovation currently being undertaken is driven by military and related concerns, there is no inherent reason why human rights and humanitarian law considerations cannot be proactively factored into the design and operationalisation of the new technologies.


The introduction of autonomous weapon systems into the "battlespace" will profoundly influence the nature of future warfare. This reality has begun to draw the attention of the international legal community, with increasing calls for an outright ban on the use of autonomous weapons systems in armed conflict. This article is intended to help infuse granularity and precision into the legal debates surrounding such weapon systems and their future uses. It suggests that whereas some conceivable autonomous weapon systems might be prohibited as a matter of law, the use of others will be unlawful only when employed in a manner that runs contrary to the law of armed conflict's prescriptive norms governing the "conduct of hostilities." This article concludes that an outright ban of autonomous weapon systems is insupportable as a matter of law, policy, and operational good sense. Indeed, proponents of a ban underestimate the extent to which the law of armed conflict, including its customary law aspect, will control autonomous weapon system operations. Some autonomous weapon systems that might be developed would already be unlawful per se under existing customary law, irrespective of any treaty ban. The use of certain others would be severely limited by that law.


It has long been assumed that progress toward arms control and disarmament is possible only after constituting legal frameworks from which such an action could be initiated. Although the legal framework regarding a particular weapon might be questioned for its effectiveness, the related practices of legalization themselves are rarely interrogated. This article problematizes practices of legalization in the field of arms control and disarmament. It builds upon innovations by critical security studies scholars to scrutinize the ICRC's engagement with the problem of conventional weapons, especially landmines. Study of practices of legalization demonstrate the embeddedness of legal discourses in the regulation and prohibition of weapons. It compels state and non-state actors to represent their interests in legal terms and represents their efforts as attempts towards developing existing legal frameworks. This article acknowledges the experiences with practices of legalization in the preceding halfcentury of arms control and disarmament negotiations. A reflection on these experiences exposes the limitations and possibilities of practices of legalization and encourages alternative approaches to regulating and prohibiting weapons.
Regulating the use of unmanned combat vehicles: are general principles of international humanitarian law sufficient? / comment by Meredith Hagger and Tim McCormack. - In: Journal of law, information and science, Vol. 21, no. 2, 2011/2012, p. 74-99. - Photocopies
Some weapons are prohibited by a specific multilateral treaty regime and others by customary law. Neither source of prohibition applies to unmanned combat vehicles (UCVs). In the absence of a specific legal prohibition, UCVs can lawfully be deployed in armed conflict provided their use is consistent with so-called general principles of international humanitarian law (IHL). These general principles limit or restrict the circumstances in which UCVs can lawfully be deployed. In combat operations militaries utilising UCV technology are closely scrutinised and generally do try to ensure compliance with IHL. The real concerns lie with dubious usage of UCVs in covert operations where the IHL framework seems to provide a conveniently permissive legal regime, there is an apparent absence of any effective review of compliance with IHL and no accountability for alleged violations of the law. In some circumstances it is highly questionable whether IHL is the applicable legal framework.

The UN arms trade treaty: arms export controls, the human security agenda and the lessons of history / Mark Bromley, Neil Cooper and Paul Holtom. - In: International affairs, Vol. 88, no. 5, September 2012, p. 1029-1048
The UN conference to negotiate an Arms Trade Treaty (ATT) concluded on 27 July 2012 without reaching consensus on the text of a draft treaty and saw both the US and Russia calling for more time to negotiate. The ATT process marks the latest in a series of attempts to insert human security concerns into arms export controls. The setback in July raises questions about the current level of international support for the human security agenda, as well as the relative power of different actors to shape global governance structures. This article locates the ATT negotiations in the broader history of multilateral efforts to regulate the international arms trade, from the 1890 Brussels Act to post-Cold War initiatives. The historical record shows that such efforts are more likely to succeed if they are negotiated or imposed by major arms exporters. The introduction of human security concerns, as well as the merging of export control and arms control agendas, went some way towards reversing this trend. In particular, it created a broad international coalition of supportive states and NGOs from the global North and South. Yet disagreements over the purpose of an ATT remained. The draft ATT included human security provisions, but China, Russia, the US and a number of emerging powers ensured that state security considerations remained paramount in decision-making on arms exports. The US was the first major actor to announce its unwillingness to sign the draft ATT in July 2012 and two alternative interpretations of US actions are considered. The article concludes by considering the options available to supporters of the ATT process following the 2012 conference and examines the notion that the ATT campaign has become an initiative ‘out of its time’, one that might have had success in the 1990s but not in current circumstances.

CHILDREN

Much of the children’s rights literature, especially as pertains to child soldiers, constitutes hopeful child rights advocacy, based purely on intuition. This article anchors its recommendations in humanitarian law itself, advancing three major claims: first, international humanitarian law should explicitly identify a category of combatant that it implicitly recognises - namely, the super-privileged, or victimised combatant (for individuals who are victims in virtue of being combatants rather than victims only after other harm befalls them); second, children are fitting candidates for populating that category; and third, the rationale behind identifying super-privileged combatants offers sharp and feasible guidelines for the treatment they warrant, including enhanced opportunities to withdraw from combat and modified treatment in detention. Both the first and second claims are defensible not solely based on intuition, but also by reference to the Geneva Conventions and their attendant commentaries. Thus, the Geneva Conventions already contain the ingredients necessary to extend greater protection to child soldiers than is commonly acknowledged.

The author will first examine, in Part I, the broad context of the Khadr case. That context includes the Khadr family background, the relevant law relating to children in armed conflict, the overall situation of juvenile detainees at Guantanamo Bay and elsewhere, and a bit of history on the prosecution of children in armed conflict. In Part II, he will document the efforts to put the issue of Omar’s youth before the Washington federal court in habeas corpus proceedings, including some effort to develop the facts relating to Omar’s capture and subsequent detention in Afghanistan and Guantanamo. In Part III, the author will examine the ways in which the question of juvenile status affected military commission proceedings, both before and after the Hamdan decision. In Part IV, the role of the Canadian courts in this complex array of litigation will be explored through the lens of Omar’s age. He will examine the ways in which the issue of Omar’s youth was addressed in proceedings before the Inter-American Commission on Human Rights in Part V, and Part VI will discuss the outcome of the Khadr case. It will also offer his own conclusions and reflections on the ways in which the international law of armed conflict and human rights interacted in these proceedings.

The agreement by the Security Council to adopt thematic resolutions on children is a powerful expression of our collective commitment to children and their rights: specifically to ensuring children’s right to protection from serious violations of international law. Still history is replete with examples of protectionism by powerful decision-makers; not all follow a rights-based approach as entrenched within international human rights law. The objective of this paper is to investigate the decision-making processes and related outcomes of the Security Council from the perspective of international law. At the core of this investigation is an analysis of two interconnected dynamics: first the extent to which the Council is bound – under the Charter of the United Nations – by the Convention on the Rights of the Child (CRC); and second the extent to which the Council is in compliance with these obligations. This includes de-constructing the resolutions from the perspective of the procedural right of the best interests of the child and also assessing the outcomes with reference to the Council’s primary responsibility – the maintenance of peace and security. Attentive to the normative power of the Security Council’s decisions and recommendations, the paper cuts deeper to investigate: (i) the legal effects of the resolutions for the development international law relating to children and (ii) the consequences for children’s right to protection from serious violations of international law – present and future.

CONFLICT-VIOLENCE AND SECURITY

This book provides a comprehensive, interdisciplinary, and holistic analysis of the socio-psychological dynamics of intractable conflicts. Daniel Bar-Tal's original conceptual framework is supported by evidence drawn from different disciplines, including empirical data and illustrative case studies. His analysis rests on the premise that intractable conflicts share certain socio-psychological foundations, despite differences in context and other characteristics. He describes a full cycle of intractable conflicts – outbreak, escalation, and reconciliation through peace building. Bar-Tal's framework provides a broad theoretical view of the socio-psychological repertoire that develops in the course of long-term and violent conflicts, outlines the factors affecting its formation, demonstrates how it is maintained, points out its functions, and describes its consequences. The book also elaborates on the contents, processes, and other factors involved in the peace building process.
355/997

**Undoing war : war ontologies and the materiality of drone warfare** / Caroline Holmqvist. - In: Millenium : journal of international studies, Vol. 41, no. 3, June 2013, p. 535-552. - Photocopies
The turn to military robotics is a striking feature of contemporary Western warfare. How then to make sense of the increasing reliance on unmanned weapons systems, in particular, the use of combat-enabled Unmanned Aerial Vehicles/drones? Questioning the intuitive and oft-repeated claim that robotics 'take the human experience out of war' (reducing it to a video game), the author argues that in order to make sense of current developments, we need precisely to reconsider our understanding of the human, her role in, and experience of, war. In this, we are aided by a critical materialist inquiry that investigates the human–material assemblage as a complex whole, taking both fleshy and steely bodies into account. Drawing on the philosophies of Maurice Merleau-Ponty and Judith Butler, the author shows that only by considering what being human means – in ontological terms – and by asking how human experience is altered through new technologies will we be able to think politically and ethically about contemporary war.

355/996 (Br.)

La mission humanitaire conservera pour finalité de prévenir et soulager la souffrance humaine dans les situations de crises extrêmes. A contre-pied du sujet de cette édition - l'avenir de l'action humanitaire - et en utilisant le pouvoir des images, Paul Bouvier, conseiller médical du CICR, nous ramène exactement il y a deux siècles, dans la "guerre de la Péninsule" entre Français, Espagnols et Britanniques, parmi les plus féroces des guerres napoléoniennes. Témoin des atrocités de cette époque, l'artiste Francisco de Goya réalisa une série de gravures, connues sous le nom de "Les Désastres de la Guerre", qui offrait une vue peu commune jusque-là de la guerre. En montrant l'horreur et les ravages de la violence armée, la déshumanisation qui en résulte, ainsi que la détresse et la souffrance des victimes, il a dénoncé les conséquences de la guerre et de la famine, et la répression politique qui a suivi. Sa représentation lucide compatissante, mais sans compromis de la guerre et des ses conséquences n'est pas seulement unique mais aussi très pertinente aujourd'hui. Son travail est également un cri de protestation et un plaidoyer pour plus d'humanité dans la tourmente de la violence armée. Il anticipe l'initiative que Henry Dunant prendra soixante ans plus tard, à Solférino. D'une certaine manière, Goya annonce Dunant. Nous invitant à parcourir une sélection de gravures de Goya, l'auteur se penche sur les victimes, les auteurs et les témoins de violences, et explore comment ces images sont liées à l'expérience contemporaine des acteurs humanitaires confrontés aux violences extrêmes de la guerre. L'auteur décrypte les esquisses de Goya et les relie à l'essence de l'action humanitaire comme une réponse à la souffrance humaine.

**DETENTION**

400.2/133 (Br.)

The emergence and early demise of codified racial segregation of prisoners of war under the Geneva Conventions of 1929 and 1949 / Timothy L. Schroer. - In: Journal of the history of international law, Vol. 15, 2013, p. 53-76. - Photocopies
The 1929 Convention relative to the treatment of prisoners of war included the following provision in article 9 : "Belligerents shall, so far as possible, avoid assembling in a single camp prisoners of different races or nationalities". This article will examine the question of how and why that provision came into being and what it reveals about prevailing ideas at the time concerning "race" and the law of war. The article will conclude by examining the 1949 convention on prisoners of war, which eliminated the requirement to segregate prisoners by
race, thereby throwing into higher relief the move to codify racial segregation in the 1929 convention.

400.2/134 (Br.)

In search of legal grounds to detain for armed groups / Nelleke Van Amstel. - In: Journal of international humanitarian legal studies, Vol. 3, issue 1, 2012, p. 160-191
Arbitrary deprivation of liberty is prohibited by international law; hence even during armed conflict internment of adversaries must have a legal basis in international humanitarian law or national law. The law of non-international armed conflict contains an inherent power to intern. Nevertheless, a further legal source is needed to ensure detention is not arbitrary, outlining grounds and procedure of detention. Such legal grounds do not exist for internment by organised armed groups. This article will outline the possible consequences for members of armed groups when interning without a further legal basis, thus in violation of the prohibition of arbitrary detention, and will subsequently suggest solutions to overcome the imbalance between obligations imposed upon and instruments granted to these actors.


400.2/343

The sources of the U.S. government's authority to detain suspected terrorists, and the limitations on that authority, remain ill-defined. This article aims to fill this gap by clarifying the reach and limits of existing sources of U.S. government authority to detain suspected terrorists in the ongoing conflict with al-Qaeda and associated forces. While prior scholarship has examined pieces of the detention picture, this article seeks to offer a more comprehensive view—examining both statutory and constitutional authority for law-of-war detention, and comparing it to detention and prosecution of terrorism suspects under domestic criminal law. In the process, the article shows that law-of-war detention has weaknesses not often recognized by those who champion its use for terrorism suspects. In many cases, criminal law detention and prosecution of terrorism suspects is not only more consistent with U.S. legal principles and commitments, but is also likely to be more effective in battling terrorism.

400.2/132 (Br.)

Contient notamment : Preventive detention in Europe, the United States, and Australia / C. Slobogin. - Anti-terror preventive detention and the independent judiciary / R. Welsh. - The prison : its contribution to punishment, rehabilitation and public safety / A. Coyle. - Preventive detention beyond the law : the need to ask socio-political questions / A. Loughnan and S. Selchow.

400/139

ENVIRONMENT

There is a growing realization at the national and international levels that personal growth and happiness which has come to be recognized as fundamental human rights cannot be achieved in a severely damaged environment. The right to a healthy natural environment is thus gaining increasingly wide acceptance as a fundamental human right. It is expressly provided for in various international treaties, other legal texts and the constitutions of many States. And, therefore, despite the current prescriptive framework regarding protection of the environment during armed conflict being week, the current trend towards general acceptance of environmental protection as vital for the survival of humanity raises a certain hope about the practical usefulness and effectiveness of current normative guidance. This paper intends to argue a point that instead of blaming the current frame of law and laxity in implementation and arguing for a possibly unproductive codification process, a special effort should he made to
ensure that the existing rules are adopted by as many States as possible. The paper also, seeks to articulate some suggestions to strengthen existing regime of protection of environment during armed conflict.


One of the concerns of international humanitarian law is lack of enforcement of customary and treaty rules on protection of the environment during armed conflict. Environmental degradation may be a priority issue for the international community but the same cannot be said for addressing environmental damage during wars. This chapter assesses the effectiveness of treaty and customary international law rules with respect to the environment and armed conflict. It argues that investigation of the conflict in Kosovo illustrates the weakness of the treaty regime. This chapter argues that it is customary humanitarian law which offers hope for environmental protection in armed conflict.


Contient notamment : Humanitarian access in South Sudan / N. Bennett. - Have we lost the ability to respond to refugee crises ? The Maban response / S. Tiller and S. Healy. - Maintaining NGO space in South Sudan : the importance of independent NGO coordination in complex operating environments / N. Helton and I. Morgan.

Syria's uprising and the fracturing of the Levant / Emile Hokayem. - In: Adelphi, 438, 211 p. : carte

This publication describes the ICRC approach to providing appropriate surgical care given the constraints of security, limited supplies, limited technology and limited human resources that are inherent to war. In modern conflicts, it is often the isolated general surgeon in a rural district hospital who is the first to receive war casualties, frequently with no possibility for further evacuation. In such situations, appropriate clinical techniques and protocols are more essential than ever. Volume 1 dealt with the general principles of war surgery. Volume 2 deals with the wound ballistics, epidemiology, clinical picture, surgical treatment and complications of war wounds.

356/227 (I and II ENG)

**HISTORY**

94/499

94/269 (Br.)

**HUMANITARIAN AID**


Dans cet article, l'auteur explique que l'intégration de l'assistance humanitaire dans les opérations anti-insurrectionnelles tendant à "gagner les coeurs et les esprits" n'a pas été une réussite et que les coûts, sur le plan tant des opérations que du droit, l'emportent manifestement sur les avantages. Il démontre qu'une telle manipulation de l'assistance humanitaire est contraire aux principes fondamentaux du droit international humanitaire. En outre, des recherches de plus en plus nombreuses concluent que l'utilisation de programmes d'aide et de secours à court terme dans les contre-insurrections (COIN) a été inefficace et que, dans des pays comme l'Afghanistan, elle a même pu nuire à l'objectif militaire général qui était de vaincre les insurgés. Alors que les États-Unis et l'OTAN mettent progressivement fin à leurs opérations militaires en Afghanistan, le moment est venu pour les militaires et les décideurs politiques de réviser l'ordre donné de gagner les coeurs et les esprits comme stratégie anti-insurrectionnelle afin d'en tirer des enseignements et de reconnaître l'importance d'un espace neutre et indépendant pour l'aide humanitaire.


L'évolution de l'environnement mondial dans lequel ils travaillent pose de profonds défis aux acteurs humanitaires, tant du fait de la complexité croissante des crises majeures et de leur impact sur les personnes touchées qu'en raison des changements que connaît le secteur humanitaire lui-même alors qu'il tente de répondre à ces enjeux. L'article présente ce que le Comité international de la Croix-Rouge (CICR) considère comme certains des défis essentiels auxquels l'action humanitaire est confrontée aujourd'hui et sera confrontée ces prochaines années ; il indique ensuite comment l'institution entend relever ces défis sans trahir les principes fondamentaux d'impartialité, neutralité et indépendance qui guident son action.


Obtenir et maintenir l'accès des acteurs humanitaires aux populations ayant besoin d'aide représente un défi. Il existe en effet toutes sortes d'obstacles à l'accès humanitaire : hostilités en cours, climat d'insécurité, lourdeur fréquente des procédures administratives ou tentatives des parties aux conflits armés pour empêcher l'accès humanitaire. Ces difficultés sont souvent aggravées par la connaissance insuffisante qu'ont les États, les groupes armés non étatiques et

Toute la problématique réside [...] dans l'inconfortable situation des actions et aides humanitaires ayant pour but la protection des droits de l'être humain qui se trouvent de plus en plus situées sur un terrain glissant, qui risque de les détourner du bon chemin. Face à ce constat peu rassurant, une interrogation s'impose : comment l'humanitaire est-il détourné de sa vocation d'origine et par qui ? Quelles sont les causes de cette effectivité mouvementée et quelles peuvent être les raisons de tout cet amalgame autour de l'humanitaire d'aujourd'hui ? Le problème peut être posé autrement : est-ce que la seule violation grave et systématique des droits de l'homme suffit, en elle-même, à justifier la solidarité d'autres Etats, soucieux de faire de l'Etat de droit un modèle universel à suivre partout dans le monde ?

361/599 (Br.)


Le présent numéro de la Revue consacre ses premières pages aux réflexions de deux chefs de file de l'action humanitaire. En 2010, Kristalina Georgieva a été la première commissaire de l'Union européenne chargée spécifiquement de l'aide humanitaire et de la réaction aux crises. A ce titre, elle est à la tête de la direction générale de l'aide humanitaire et de la protection civile de la Commission européenne (ECHO), un des principaux fournisseurs d'aide internationale, Jakob Kellenberger vient d'achever son second mandat en qualité de président du Comité international de la Croix-Rouge (CICR), après une décennie qui a rudement mis à l'épreuve les principes consacrés par le droit international humanitaire et défendus par le Mouvement international de la Croix-Rouge et du Croissant-Rouge. Madame la Commissaire Georgieva et Monsieur le Président Kellenberger se sont régulièrement rencontrés pour s'entretenir des dossiers communs aux deux organisations. La Revue leur a demandé de prolonger l'une de leurs rencontres pour parler des défis futurs de l'action humanitaire. Ils exposent tous deux leurs points de vue sur plusieurs questions d'actualité, telles que la corrélation entre crise et développement ou le problème de la coordination entre acteurs humanitaires. Madame la Commissaire Georgieva donne également son avis sur des principes humanitaires, notamment l'indépendance du financement de l'action humanitaire vis-à-vis des Etats depuis l'adoption du traité de Lisbonne de l'Union européenne et la création du Service européen pour l'action extérieure, chargé de mener la nouvelle politique étrangère et de sécurité commune de l'Union européenne.

Evidence-based action in humanitarian crises / Dennis Dijkzeul... [et al.]. - In: Disasters : the journal of disaster studies and management, Vol. 37, supplement 1, July 2013, 138 p. : diagr., graph., tabl.. - Bibliographies


Syria’s refusal to allow humanitarian actors to provide assistance to the Syrian population in need, at least on a number of occasions, has again drawn attention to the continued validity of the requirement of state consent with regard to the outside provision of humanitarian assistance. This refusal to give consent has again foregrounded such questions as to whether a state’s denial of access is an entirely discretionary decision and whether humanitarian actors can provide assistance without obtaining consent to operate.
361/600 (Br.)

Cet article passe en revue six tendances de fond, ou « mégatendances » — dans les domaines de la démographie, des techniques et des sciences, de l'économie, du pouvoir politique, du climat et des schémas des conflits — et leurs répercussions sur l'action humanitaire future. Les effets combinés de ces tendances de fond laissent présager un environnement particulièrement complexe pour les interventions humanitaires à venir. Ainsi, les conflits de demain ont une probabilité plus grande de se dérouler dans de grandes villes, en raison de facteurs tant économiques qu'environnementaux. Les médias sociaux favorisent des mutations sur le plan politique comme dans le domaine de l'action humanitaire, tandis que l'évolution des pouvoirs politiques et économique mondiaux influencera vraisemblablement la manière dont le système humanitaire international est financé et soutenu.

Les nouvelles technologies de l'information et de la communication ont un profond impact sur le secteur humanitaire. Les communautés touchées par les crises et les réseaux mondiaux de volontaires s'ouvrent toujours davantage au numérique : les premières constituent de plus en plus la source d'informations de crise pertinentes et les deuxièmes parviennent de mieux en mieux à gérer et à visualiser les informations reportées sur des cartes de crise interactives. Le présent article introduit la cartographie de crise et, à travers plusieurs exemples - Haïti, Russie, Libye et Somalie - il montre comment, en ce début du XXIe siècle, les communautés touchées et les réseaux de volontaires maîtrisant le numérique façonnent le nouveau visage de l'intervention humanitaire.

This paper presents the reflections of the authors on the differences between the language and the approach of practitioners and academics to humanitarian logistics problems. Based on a long-term project on fleet management in the humanitarian sector, involving both large international humanitarian organisations and academics, it discusses how differences in language and approach to such problems may create a lacuna that impedes trust. In addition, the paper provides insights into how academic research evidence adapted to practitioner language can be used to bridge the gap. When it is communicated appropriately, evidence strengthens trust between practitioners and academics, which is critical for long-term projects. Once practitioners understand the main trade-offs included in academic research, they can supply valuable feedback to motivate new academic research. Novel research problems promote innovation in the use of traditional academic methods, which should result in a win—win situation: relevant solutions for practice and advances in academic knowledge.

Cet article affirme qu'il est temps pour les organisations humanitaires d'examiner de façon nettement plus systématique tous les facteurs de transformation qui rendront les populations du
361/597

Understanding the evolution of any institution is more than just taking a glance of its own history. In the aftermath of the Second World War, the International Committee of the Red Cross (ICRC) found itself in a political, economic and institutional crisis. The legitimacy and usefulness of this body was questioned by the newly consolidated state-nation international
system. In the period covering from 1945 to 1952 this organization had to deal with this crisis, after which it became much better prepared for new challenges - particularly the emerging decolonization wars and the struggles fought in the context of the Cold War. It is argued in this research, taking the Greek Civil War and Indonesia as special study cases, that the successful outcome is due to the dynamics between the ICRC and the Red Cross Movement, the struggle for power in the Cold War, the actions of ICRC’s own delegates, its right of initiative, and as well the international humanitarian system, composed back then by new and old non-governmental organizations and the United Nations. It was through the reassessment of its mandate and proving the international community the necessity of conserving a neutral organization that this organization was legitimate and its unique status had a reason to be.

INTERNATIONAL CRIMINAL LAW


This book confronts the problem of the legal uncertainty surrounding the definition and classification of ethnic cleansing, exploring whether the use of the term "ethnic cleansing" constitutes a valuable contribution to legal understanding and praxis. The premise underlying this book is that acts of ethnic cleansing are, first and foremost, a criminal issue and must therefore be precisely placed within the context of the international law order. In particular, it addresses the question of the specificity of the act and its relation to existing categories of international crimes, exploring the relationship between ethnic cleansing and genocide, but also extending to war crimes and crimes against humanity. The book goes on to show how the current understanding of ethnic cleansing singularly fails to provide an efficient instrument for identification, and argues that the act, in having its own distinctive characteristics, conditions and exigencies, ought to be granted its own classification as a specific independent crime.


The concept of war crimes in non-international armed conflicts is a relatively recent rule in contemporary international law. Although it has been confirmed by the two ad hoc UN international criminal tribunals, provided in conventional international law and the domestic criminal laws of quite a few States, as well as endorsed by the majority of international law scholars, it is not completely impossible to challenge its status as customary international law. Its greatest problem lies in the absence of sufficient State practices. In the author's opinion, it is at most an emerging rule in customary international law. The oppositions to the concept by some Asian States, namely China, India and Pakistan, could be accommodated as persistent objectors in international law.

*Somebody else's problem : how the United States and Canada violate international law and fail to ensure the prosecution of war criminals / Nicholas P. Weiss.* - In: Case western reserve journal of international law, Vol. 45, no. 1-2, Fall 2012, p. 579-609. - Photocopies

The United States and Canada have created programs to ensure that they will not be havens for war criminals and human rights violators. This, however, fails to meet their international legal
obligation to ensure that suspected war criminals and human rights violators will be prosecuted for their crimes. This note analyzes and compares the war crimes prosecution policies of Canada and the United States. It concludes that both countries take inadequate measures to ensure war criminals are prosecuted for their crimes, and thus, these countries are failing to meet their international obligations. This note recommends both countries implement statutes to ensure suspected war criminals are prosecuted, forcing Canada and the United States to conform to their international obligations.

INTERNATIONAL HUMANITARIAN LAW-GENERAL


Jeff McMahan’s challenge to conventional just-war theory is an attempt to apply to the use of force between states a moral standard whose pertinence to international relations (IR) is decreasingly contestable and the regulation of which international law (IL) is, therefore, under pressure to afford: the preservation of individual rights. This compelling endeavour is at an impasse given the admission of many ethicists that it is currently impossible for international humanitarian law (IHL) to regulate killing in war in accordance with individuals’ liability. IHL’s failure to consistently protect individual rights, specifically its shortfall compared to human rights law, has raised questions about IHL’s adequacy also among international lawyers. This paper identifies the features of war that ground the inability of IL to regulate it to a level of moral acceptability and characterizes the quintessential war as presenting what I call an ‘epistemically cloaked forced choice’ regarding the preservation of individual rights. Commitment to the above moral standard, then, means that IL should not prejudge the outcome of wars and must, somewhat paradoxically, diverge from morality when making prescriptions about the conduct of hostilities. In showing that many confrontations between states inevitably take the form of such epistemically cloaked forced choices, the paper contests the argument by revisionist just-war theorists like McMahan that the failure of IL to track morality in war is merely a function of contingent institutional desiderata. IHL, with its moral limitations, has a continuing role to play in IR.


The present contribution is a reply to an article by Professor Michael Mandel, entitled "Aggressors' rights: the doctrine of "equality between belligerents" and the legacy of Nuremberg". The equal application of international humanitarian law (jus in bello) to all parties to an international armed conflict is a cornerstone principle of jus in bello. In his article, Professor Mandel casts doubt on the legal basis of this principle. Reacting to this claim, this contribution demonstrates that the ‘equality of belligerents’ is a principle firmly grounded in both conventional and customary international law. Moreover, its legal force withstands the test of international jurisprudence, including the International Court of Justice’s controversial Nuclear Weapons advisory opinion.


These remarks were presented in the context of a panel discussion on international humanitarian law and new technology. The author argues that cyber warfare and robots (including drones) might be capable of respecting the basic principles of IHL but nevertheless seriously undermine international law. In this regard the basic principle of international law, in particular the post-Charter grundnorm of international peace and security, need to be revisited in the analysis of the future of these new technologies.

Il diritto internazionale umanitario e il suo rispetto: una sfida permanente / Cornelio Sommaruga. - In: Rivista di studi politici internazionali, Fasc. 313, anno 79, gennaio-marzo 2012, p. 25-34

Après un rapide aperçu des signes de rapprochements qui se sont opérés entre le droit international humanitaire et le droit international des droits de l’homme, tant sur le plan doctrinal que dans la jurisprudence des juridictions internationales, l’auteur se demande si ce rapprochement n’est pas remplacé par un autre phénomène: celui de l’empiétement progressif des droits de l’homme dans le domaine traditionnel et réservé du droit international humanitaire, comme il le montre à la lecture de certaines décisions récentes prises par les organes internationaux chargés d’assurer le respect des droits de l’homme. Au regard du cercle des personnes protégées, des obligations procédurales qui sont inhérentes à une protection effective des droits de l’homme, et de la nature des organes de de contrôle du respect de ces deux branches du droit international, il est peut-être permis de penser que les droits de l’homme offrent une meilleure protection que le droit international humanitaire.

345.2/927 (Br.)


This book is an examination of the permissions, prohibitions and obligations found in just war theory, and the moral grounds for laws concerning war. Pronouncing an action or course of actions to be prohibited, permitted or obligatory by just war theory does not thereby establish the moral grounds of that prohibition, permission or obligation ; nor does such a pronouncement have sufficient persuasive force to govern actions in the public arena. So what are the moral grounds of laws concerning war, and what ought these laws to be ? Adopting the distinction between jus as bellum and jus in bello, the author argues that rules governing conduct in war can be morally grounded in a form of rule-consequentialism of negative duties. Looking towards the public rules, the book argues for a new interpretation of existing laws, and in some cases the implementation of completely new laws. These include recognising rights of encompassing groups to necessary self-defence ; recognising a duty to rescue ; and considering all persons neither in uniform nor bearing arms as civilians and therefore fully immune from attack, thus ruling out "targeted" or "named" killings.

345.2/929

**A Hobbesian approach to cruelty and the rules of war / Larry May.** - In: Leiden journal of international law, Vol. 26, no. 2, June 2013, p. 293-313

Contrary to the way Hobbes has been interpreted for centuries, the author argues that Hobbes laid the groundwork for contemporary international law and for a distinctly moral approach to the rules of war. The paper has the following structure. First, the author explains the role that the laws of nature play in Hobbes’s understanding of the state of war. Second, he explains Hobbes’s views of self-preservation and inflicting cruelty. Third, he reconstructs Hobbes’s important insight that rationality governs all human affairs, even those concerning war. Fourth, he explicates the idea of cruelty moving from what Hobbes says to a plausible Hobbesian position. Fifth, he addresses recent philosophical writing on how best to understand the rules of war. Sixth, he then turns to legal discussions of cruelty’s place in debates about the laws of war, showing how his Hobbesian approach can ground these laws.


This chapter looks into the past and informst about the reasons why international humanitarian law (IHL) and international human rights law (IHRL) started with separatism and why they progressively converged. The two areas of law have undergone a profound technical, ideological and structural transformation since 1945 where hardly any branches of international law have undergone such changes. Essentially, IHL shifted at least partially from “military” law to “humanitarian” law (protection of victims). Conversely, IHRL shifted from an “aspiration-law”, enmeshed in politics, into a fully-fledged branch of positive interantional law. The humanization of the law of armed conflict and the “positivation” of IRHL opened the way for a partial merger of the two areas of the law.

345.2/913

**Ius in bello under islamic international law / Mohamed Elewa Badar.** - In: International criminal law review, Vol. 13, issue 3, 2013, p. 593-625
In 1966, Judge Jessup of the International Court of Justice pointed out that the appearance of an English translation of the teaching on the ‘Islamic law of nations’ of an eighth-century Islamic jurist (Shaybani) is particularly timely and of so much interest because of the debate over the question whether the international law, of which Hugo Grotius is often called the father, is so completely Western-European in inspiration and outlook as to make it unsuitable for universal application in the context of a much wider and more varied international community of States. However, there has been little analysis of the role of Islam in shaping the modern European law of war and its progeny, international humanitarian law. This article argues that there is a room for the contribution of the Islamic civilisation within international humanitarian law and a conversation between different civilisations is needed in developing and applying international humanitarian law norms.


A person with moral commitments can respect International Humanitarian Law (IHL) only if the permissions granted by it do not depart radically from their basic morality, but the features of contemporary war require considerable departures from morality in the content of any rules applicable to war. The features of the contemporary international political arena, in turn, and especially the dominant interpretation of sovereignty, require that IHL be the same for all parties. But, contrary to the arguments of some influential analytic philosophers, such ‘symmetry’ in the laws need not involve their content’s departing excessively from basic morality. Insisting on the same rules for all, however, leads to the problem that, other things equal, the more stringent the content of a set of rules, the greater the temptation on the part of self-interested parties to flout the rules. However, a hard-headed view of IHL requires no concessions to terrorists or anti-terrorists.


Military and humanitarian lawyers approach the laws of war in different ways. For military lawyers, the starting point is military necessity, and the reigning assumption is that legal regulation of war must accommodate military necessity. For humanitarian lawyers, the starting point is human dignity and human rights. The result is two interpretive communities that systematically disagree not only over the meaning of particular law-of-war norms, but also over the sources and methods of law that could be used to resolve the disagreements. That raises the question whether military lawyers’ advice should acknowledge any validity to the contrary views of the ‘humanitarian’ community. The article offers a systematic analysis of the concept of military necessity, showing that civilian interests must figure in assessing military necessity itself. Even on its own terms, the military version of the law of war should seek to accommodate the civilian perspectives featured in the humanitarian version.


This chapter addresses some of the legal reasons and developments in the international legal system and environment that have led to a convergence between human rights law and international humanitarian law (IHL). It addresses the difficult and important issue of the interplay between human rights law and IHL at the level of norm conflicts as well as regarding cross-fertilization through the case law of human rights bodies. Finally, it explores the response of human rights bodies to violations committed in situations of armed conflict in order to assess the contribution of these bodies for providing remedies to victims of armed conflicts.


Following some framing remarks to place in wider context the discussion that follows on the relationship between international humanitarian law (IHL) and international human rights law (HRL), and the application of the latter in armed conflict, this paper addresses the following: (a) the systemic relationship between IHL and HRL; (b) whether key HRL provisions are amenable to reasonable application in armed conflict, and, if so, whether there are policy considerations that suggest their application as a matter of discretion, even if they are not applicable de jure; (c) assuming that HRL provisions apply in armed conflict de jure, or ought to be applied as a matter of discretion, the relationship between relevant IHL and HRL provisions. The paper does not address issues concerning the de jure application of HRL in armed conflict.


This chapter reviews the different dominating theories on the relationship between international humanitarian law and human rights law. The first one is the separation theory according to which there is a clear separation between the law of peace and the law of war. Depending on the state of international relations, either the corpus juris of the law of peace of that of the law of war is applied. The second theory is the complementary theory: When examining which duties are incumbent on a State in times of armed conflict, it is not possible to avoid taking international human right law into consideration. Even if one accepts that both branches have different roots and approaches as well as functions they can complete each other on specific points. The third one is the integration theory best represented by the Convention on the Rights of the Child, a human rights treaty normally applicable in peacetime but containing provisions that are not only applicable in armed conflict, but are also enshrined in the law regulating armed conflicts.


This article seeks to assess the accuracy of the US’s critique of the ICRC’s approach to establishing customary law. In doing so, it both develops an argument about the appropriate methodology for establishing customary law as well as examines one case study, on universal jurisdiction, in close detail. Narrowly, the question it seeks to answer is whether, and to what extent, the US Government’s response to the ICRC’s study is valid in light of proper approaches to the formation of customary international law? The modern approach to custom is more appropriate as concerns human rights and humanitarian law because of the unreliability of operational state practice, as well as the fact that the community of nations is not an aggregate of its many parts but rather a collective whole. However, this does not discount the tangible and heavy-handed impact of the behavior of powerful states upon the formation of custom. The article concludes that whereas the International Court of Justice in the North Sea found that custom cannot be established in the face of protest by a specially affected state in regard to a specific right, it is argued that global superpower, by virtue of its status, is always specially affected by a supranational law.


According to its recently published cyber strategy, the U.S. seeks to develop international consensus on how traditional law of armed conflict (LOAC) norms and understandings are modified and applied in cyberspace to help secure this global commons. Although the International Committee of the Red Cross’s Interpretive Guidance on Direct Participation in hostilities and the recent U.S. cyber strategy documents and policy statements are very different in many ways, examination of the relationships between their different aspects could be very useful in setting terms of reference framing the discussions which must occur to develop consensus on how LOAC rules and understandings regarding direct participation in hostilities could be adapted for use in cyberspace. This requires identification of their respective strengths and weaknesses, and potential areas of common ground between them. To be useful, this examination must include consideration of the significance of rules of engagement, formulations of hostile intent, and the proper inferences to be drawn from intelligence analyses as well as the legal standards by which direct participation in hostilities is determined.


The article examines the duty to capture and the divergent approaches that each legal regime takes to this normative requirement, and evaluates internal debates within these regimes over when a duty to capture might apply. Part I begins by examining the scope of international humanitarian law (IHL); concludes that its application is often unduly constrained; and offers a new analysis of the classification of armed conflicts, the level of organization required before a non-state actor can be a party to an armed conflict, and the legal geography of armed conflict. Part II examines the concept of necessity and concludes that military necessity is fundamentally incompatible with human-rights law and its understanding of necessity as the least-restrictive means. Finally, Part III concludes that the IHL regime, and its permissive notion of military necessity, should apply when the state is acting as a belligerent against other co-equal belligerents, but that human-rights law, and its more restrictive notion of necessity, should apply when the state acts as a sovereign over its own subjects. However, being a U.S. citizen does not automatically make an individual a “subject” under a sovereign, as opposed to a belligerent. Rather, this article concludes that belligerency is always a relationship between collectives, and that the relevant question is whether the United States stands in a relationship of belligerency to a non-state organization of which the individual is a member.


Increasingly, war is and will be fought by machines - and virtual networks linking machines - which, to varying degrees, are controlled by humans. This book explores the legal challenges for armed forces resulting from the development and use of new military technologies - automated and autonomous weapon systems, cyber weapons, "non-lethal" weapons and advanced communications - for the conduct of warfare. The contributions, each written by scholars and military officers with expertise in international humanitarian law (IHL), provide analysis and recommendations for armed forces as to how these new technologies may be used in accordance with international law. Moreover, the chapters provide suggestions for military doctrine to ensure continued compliance with IHL during this ever-more rapid evolution of technology.

The modern law of armed conflict is a testament to humanity’s determination to eviscerate the horrors and suffering of war, and it has been profoundly successful in its penetration of the contemporary military psyche, particularly in the case of Western militaries. While this body of law is championed by all, its iconic success has resulted in an "enchantment" of its character that resists effective re-examination of its underlying principles and precepts. Recent conflicts in Afghanistan and Iraq, in conjunction with the more general global war on terror, have fostered an unprecedented amount of popular discussion and critical review of the modern law of armed conflict. This article adds to that critique by arguing that the ambiguities inherent in key aspects of the law of armed conflict may contribute to neither the proper realisation of humanitarian goals nor the attaining of effective victory on the battlefield. There is a need for a more pragmatic assessment of many of the principles underpinning the law and a recognition that the law should evolve to take account of current operational and technological realities, especially in the context of targeting decisions.


In Legitimate target, a criteria-based approach to targeted killing, Amos Guiora proposes that targeted killing decisions must reflect consideration of four distinct elements: law, policy, morality, and operational details, thus ensuring that it complies with principles of domestic international laws. The author, writing from personal experience and an academic perspective, offers important criticism and insight into the policy as presently implemented, highlighting the need for a criteria-based decision making process in defining and identifying a legitimate target. Legitimate target, a criteria-based approach to targeted killing blends concrete examples with a nuanced study of the current targeted killing paradigm with an emphasis on the dilemmas of morality and the law.


To what lengths may a state go to protect its soldiers in war? May it design its military operations to further that goal if this significantly increases civilian casualties? International law currently offers no clear answers. Because recent wars have seen many states prioritize soldier safety over avoiding civilian casualties, spirited debate has arisen over the legal defensibility of this practice. This debate currently focuses on an ethics code proposed by two influential Israeli thinkers and allegedly embodied in Israel’s conduct of its 2008–2009 Gaza war with Hamas. This article shows that current discussion fails to appreciate how judgments about proportionality in the use of military force necessarily differ at the tactical, operational, and strategic levels of warfare. It illustrates this with empirical material from recent armed conflicts. If international law is to address war’s inescapable moral complexities, it must be interpreted to reflect the variation in the kind of decisions that soldiers confront at distinct organizational echelons. This approach largely resolves one of the most vexing conundrums that has perennially bedeviled the law of war.

Study group on the conduct of hostilities under international humanitarian law in the 21st century: working session, 30 August 2012 / Patricia Conlan... [et al.]. - In: Report of the [...] Conference [International law association], 75, 2012, p. 1037-1045

Report of the working session of 30 August 2012 fo the International Law Association study group on the conduct of hostilities under IHL in the 21st Century. Although the law of armed conflict has arguably already adapted in a certain way by providing special rules for non-international armed conflicts, one needs to keep in mind that especially the Hague Law dealing with the means and methods of warfare was mainly designed to deal with interstate wars. Even
though some of these rules are nowadays held to be equally applicable to non-international armed conflicts, they were originally not drafted to cover the situation of these kinds of conflicts, and thus the fit is not always appropriate. What is more, in modern asymmetric conflict constellations the conduct of hostilities increasingly seems to intersect/coincide with law enforcement operations. Thus, the International Law Association study group was set up to examine whether the IHL rules governing the conduct of hostilities are still adequate to deal with current conflicts, or whether it needs revision or amendment.

Targeted killing : when proportionality gets all out of proportion / Amos N. Guiora. - In: Case Western Reserve journal of international law, Vol. 45, no. 1-2, Fall 2012, p. 235-257 : tabl.. - Photocopies

Targeted killing sits at the intersection of law, morality, strategy, and policy. For the very reasons that lawful and effective targeted killing enables the state to engage in its core function of self-defense and defense of its nationals, the author is a proponent of targeted killing. However, his support for targeted killing is conditioned upon it being subject to rigorous standards, criteria, and guidelines. At present, new conceptions of threat and new technological capabilities are drastically affecting the implementation of targeted killing and the application of core legal and moral principles. High-level decision makers have begun to seemingly place a disproportionate level of importance on tactical and strategic gain over respect for a narrow definition of criteria-based legal and moral framework. Nonetheless, an effective targeted killing provides the state with significant advantages in the context of counterterrorism. Rather than relying on the executive branch making decisions in a "closed world" devoid of oversight and review, the intelligence information justifying the proposed action must be submitted to a court that would ascertain the information's admissibility. The process of preparing and submitting available intelligence information to a court would significantly contribute to minimizing operational error that otherwise would occur.

INTERNATIONAL HUMANITARIAN LAW-IMPLEMENTATION


This book offers an in-depth examination of the law and procedure of the Eritrea-Ethiopia Claims Commission, which was tasked with deciding, through binding arbitration, claims for losses, damages, and injuries resulting from the 1998-2000 Eritrean-Ethiopian war. After providing an overview of the war, the authors describe how the Commission was established, its jurisdiction, the sources of law it applied, its treatment of nationality and evidentiary issues, and the relief it rendered. Separate chapters then address particular topics, such as the initiation of the war, battlefield conduct, belligerent occupation, aerial bombardment, prisoners of war, enemy aliens and their property, diplomats and diplomatic property, and general economic loss. A final chapter examines the lessons that might be learned from the experience of the Claims Commission, especially with an eye to the establishment of such commissions in the future. The volume also reproduces all the key documents relating to the Commission: the bilateral agreement establishing the Commission; its rules of procedure; and its numerous decisions and arbitral awards.


Having concluded the debate over the principle of applicability of international humanitarian law to UN peacekeeping operations, the Secretary-General’s Bulletin opened a new debate over its scope of application, the less than customary international law nature of some of its provisions, its applicability to both international and non-international armed conflicts in disregard of the distinction between the two, and the powers of the Secretary-General to “legislate” for States. In the years that followed its promulgation, the Bulletin was also criticized for what it did not include, in particular, the laws of occupation in UN operations and accountability of peacekeepers before the International Criminal Court (ICC). A decade later, much of this criticism became moot. By then, the conventional international law provisions contained in the Bulletin were crystallized into customary international law, and other IHL provisions -
traditionally applicable in international armed conflicts - were gradually extended to apply to
non-international armed conflicts, as well.

**INTERNATIONAL HUMANITARIAN LAW-LAW OF OCCUPATION**


The ICRC commentary on the fourth Geneva Convention advocates the so-called functional beginning of belligerent occupation. Accordingly, the rules on occupied territories of the Fourth Geneva Convention apply as soon as a “protected person” falls into the hands of a party to the conflict present in enemy territory. It is argued in this paper that the application of the functional beginning of occupation is the preferred solution. This would fill probable gaps of protection during the invasion phase and would be in line with the object and purpose of the Geneva Conventions. Moreover, an analysis of the rules relating to belligerent occupation suggests that invading troops would not be disproportionally burdened with additional and impractical obligations. Quite the contrary, the wording of most articles leaves enough leeway to adapt and take into account the difficult circumstances prevailing during an invasion. Furthermore, the functional beginning of belligerent occupation would also bestow certain rights upon the invading power, like a legal basis for security measures and internment.

**INTERNATIONAL HUMANITARIAN LAW-TYPE OF ACTORS**


In the last 20 years the ruthless competition for natural resources, political instability, armed conflicts, and the terrorist attacks of 9/11 have paved the way for private military and security companies (PMSCs) to operate in areas which were until recently the preserve of the state. PMSCs, less regulated than the toy industry, commit grave human rights violations with impunity. The United Nations has elaborated an international binding instrument to regulate their activities but the opposition of the U.S., U.K., and other Western governments—and from PMSCs, which prefer self-regulation—have prevented any advancement.


The rapidly growing presence of private military and security contractors (PMSCs) in armed conflict and post-conflict situations in the last decade brought corresponding incidents of serious misconduct by PMSC personnel. The two most infamous events—one involving the firm formerly known as Blackwater and the other involving Titan and CACI—engendered scrutiny of available mechanisms for criminal and civil accountability of the individuals whose misconduct caused the harm. Along a parallel track, scholars and policymakers began examining the responsibility of states and international organizations for the harm that occurred. Both approaches have primarily focused on post-conduct accountability—of the individuals who caused the harm, of the state in which the harm occurred, or of the state or organization that hired the PMSC whose personnel caused the harm. Less attention, however, has been paid to the idea of pre-conduct accountability for PMSCs and their personnel. A broad understanding of “accountability for” PMSCs and their personnel encompasses not only responsibility for harm caused by conduct, but responsibility for hiring, hosting, and monitoring these entities, as well as responsibility to the victims of the harm. This article provides a comprehensive approach for analyzing the existing international legal regime, and whether and to what extent the legal regime provides “accountability for” PMSCs and their personnel. It does so by proposing a practical construct of three phases based on PMSC operations—contracting, in-the-field, and post-conduct—with which to assess the various bodies of international law.

Due diligence obligations of conduct : developing a responsibility regime for PMSCs / Nigel D. White. - In: Criminal justice ethics, Vol. 31, no. 3, December 2012, p. 233-261
As non-state actors, PMSCs are not embraced by traditional state-dominated doctrines of international law. However, international law has itself failed to keep pace with the evolution of states and state-based actors, to which strong Westphalian notions of sovereignty are no longer applicable. It is argued that these structural inadequacies stand in the way of international regulation of PMSCs, rather than defects in international human rights and humanitarian law per se. By analyzing understandings of legal responsibility, where such structural issues come to the fore, it is argued that, rather than attempting to resolve the essentially ideological dispute about the inherent functions of a state, regulatory regimes should focus on the positive obligations of states and PMSCs, and the interactions between them. Applying the results of this analysis, current and proposed regulatory regimes are evaluated and their shortcomings revealed.


The first part discusses the evolution of the law of piracy from the classic law of nations to the contemporary regime centered on the United Nations Convention on the law of the sea (UNCLOS), wherein the author highlights several legal obstacles to combating piracy in the context of Somalia. The second section examines whether the UN Security Council resolutions that purport to authorize the use of force against pirates were intended by the Council to implicate the law of armed conflict, as well as whether the international law of armed conflict would prima facie apply to the anti-piracy activities off the coast of Somalia. Finally, the author considers whether recent anti-piracy activity by states off of the coast of Somalia rises to the level of armed conflict.


menschenrechtlicher Standards in Bezug auf Militär- und Sicherheitsunternehmen verpflichtet und für deren Handeln völkerrechtlich verantwortlich sind.
345.29/189

This article examines the common claim that there are gaps in international law that undermine accountability of private military and security companies. A multi-actor analysis examines this question in relation to the commission of international crimes, violations of fundamental human rights, and ordinary crimes. Without this critical first step of identifying specific deficiencies in international law, the debate about how to enhance accountability within this sector is likely to be misguided at best.
345.29/188

The private military company complex in central and southern Africa: the problematic application of international humanitarian law / Mathew Kincade. - In: Global studies law review, Vol. 12, no. 1, 2013, p. 205-226. - Photocopies
The article discusses that the international humanitarian laws have been designed to control state armies and to protect human rights during armed conflict. It addresses that three major issues discussed in Geneva Convention regarding a major role of Private Military Companies (PMC), a private armed security service, in Africa. It expresses four penalty options for PMC regulation with uniform legislative approach regarding mercenaric conduct and completely bans PMC use.
345.29/192 (Br.)

Le 4 septembre 2009, près de Kunduz en Afghanistan, un avion américain guidé par un contrôleur aérien avancé allemand détruit un camion-citerne aux mains des insurgés, occasionnant la mort de plus d’une centaine de civils. Un mois plus tard, du fait des répercussions de ce bombardement dans l'opinion publique allemande, le chef d'état-major de la Bundeswehr et un secrétaire d'Etat à la Défense démissionnent. Faut-il en conclure que l'action militaire doit être soumise à un contrôle plus stricte, au risque de renoncer au combat ? Faut-il au contraire libérer l'usage de la force en prenant le risque de dommages collatéraux, scandaleux aussi bien pour l'opinion publique afghane qu'occidentale ? Alors que les règles d'engagement sont au cœur de cette contradiction qu'elles visent à résondre, elles sont pourtant bien souvent perçues comme une limite à l'efficacité des forces armées, révélant une tension ancienne entre l'objectif final, qui impose la retenue dans l'usage de la force, et la nécessaire efficacité de l'action militaire contre un adversaire agressif et aguerri. À la croisée de l'opérationnel, du juridique et du politique, elles sont devenues essentielles à l'action militaire. Et pourtant, l'actualité de ces objets "introuvables" voire "rejetés" impose de mieux les cerner, dans leur dimension juridique, mais aussi militaire et politique.
345.29/190 (Br.)

In 2010 the Taliban issued a third edition of their Layeha. The Layeha contains Rules and Regulations of Jihad for Mujahidin. This article first details the short history of the Layeha published by the Taliban. Subsequently its content is analysed and compared with the international law of armed conflict that applies in conflicts of an international and non-national character. The author demonstrates that, whilst some rules are incompatible or ambiguous, most rules of the Layeha are compatible with the international law of armed conflict. Compliance with the rules that are compatible could help to achieve the objectives of the law of armed conflict: to minimise unnecessary suffering in armed conflict. The author submits that considering that the Taliban are engaged in fighting in Afghanistan and that they have control or influence in parts Afghanistan, it is encouraging that they have produced such a self-imposed code. Any minimum restraint, whether self-imposed or imposed by municipal or international law, is better than no restraint at all.
INTERNATIONAL HUMANITARIAN LAW-TYPE OF CONFLICT

Cyberwar and unmanned aerial vehicles: using new technologies, from espionage to action / Jessica A. Feil. - In: Case Western Reserve journal of international law, Vol. 45, Issues 1 and 2, Fall 2012, p. 513-544. - Photocopies
American military and civilian national security agencies are frontrunners in developing cybertools that will help keep soldiers and operatives safe and provide a tactical advantage. These cyberweapons have been in development for decades. Some policymakers and academics call for new regulation or even prohibition of cyberweapons, both domestically and internationally. Such regulation would be short-sighted and reactionary. Cyberweapons offer significant range of utility. Properly written computer code ensures targets and goals are met accurately. New technologies offer precision unknown in previous weaponry. Cyberweapons are not the only new technology generating concern. Unmanned aerial vehicles are similarly critiqued. The American government has provided more expansive legal justifications for drone campaigns abroad. The public information available about drone campaigns sheds light on how cyberweapons will fit into the twenty-first century national security universe.
345.25/273 (Br.)

Début février 2011 s’est tenue la 47e conférence de Sécurité de Munich, conférence qui a vu se réunir de nombreux pays et dont les objectifs étaient constitués d’échanges sur les problématiques de sécurité internationale. Toutefois, c’est surtout la parution d’un rapport corédigé par des chercheurs américains et russes qui a retenu l’attention et provoqué le débat, en appelant à la mise en cohérence des règles du droit des conflits armés (et notamment les Conventions de Genève et de La Haye) avec les problématiques spécifiques de la lutte informatique sur Internet. Cet article passe en revue les principaux points soulevés par ce rapport et apporte des éléments d’analyse.
345.25/278 (Br.)

In the past few years, armed conflicts have been increasingly affected by the deployment of modern weapon technologies. As a new phenomenon, cyber space and operations against or through computers come to the fore. But this new technology is not the only challenge. The participation of civilians, especially technical experts, challenges fundamental principles of humanitarian law, as for instance the principle of distinction. One has to question whether traditional humanitarian law and its rules can still be effectively applied to cyber attacks.

The international community's year-long reluctance to characterize the situation in Syria as an armed conflict highlights a clear disparity between the object and purpose of the LOAC and the increasingly formalistic interpretation of the law's triggering provisions. Focusing on Syria, this article critiques the overly technical approach to the definition of non-international conflict currently in vogue—based on Prosecutor v. Tadic’s framework of intensity and organization—and how this approach undermines the original objectives of common article 3 of the Geneva Conventions. This overly legalistic focus on an elements test, rather than the totality of the circumstances, means that the world has witnessed a retrograde of international humanitarian efficacy: Syria appears to be a lawless conflict like those that inspired common article 3—the regime employs its full combat capability to shell entire cities, block humanitarian assistance, and target journalists and medical personnel directly. The LOAC is specifically designed to address exactly this type of conduct, and yet the discourse on Syria highlights the dangers of allowing over-legalization to override—and undermine—logic, resulting in a deleterious impact on human life.

Using the framework of international humanitarian law, this essay critically evaluates the legality of one particular targeted killing: the operation in which Osama bin Laden was killed. By determining whether the US was participating in an international or non-international conflict against Al-Qaeda; whether bin Laden was a legitimate military target; and whether the operation itself was conducted within the parameters of international humanitarian law, that is whether it satisfied the requirements of distinction, proportionality and (arguably) necessity, this essay reveals the operation was most likely illegal under international humanitarian law. The essay concludes by discussing the inadequacy of international humanitarian law as it applies to targeted killing, and offers some general lessons to be learned from the operation.

INTERNATIONAL ORGANIZATION-NGO

Réf. ORG 2-h (ENG)


MEDIA


Journalists play a central role in fostering a society based on the open discussion of facts and the pursuit of the truth, as opposed to one based on rumor, prejudice, and the naked exercise of power. As a result, journalists are often literally in the line of fire and deserve special protection. This article considers the characteristics of deadly attacks on journalists over the last two decades and examines how the applicable legal and policy frameworks can be used better or improved to provide a higher level of protection. Impunity, often a by-product of the politicized nature of journalistic activities, is seen as the major cause of continuous attacks on journalists. The conclusion is drawn that one of the key elements of a strategy to better protect journalists is to “elevate” the issue on a number of fronts: to move prevention and accountability from the local to the central level within domestic jurisdictions, while simultaneously heightening the level of international engagement with this issue.

MISSING PERSONS

 Appropriately rendering disappearances: the despair between extraordinary renditions and forced disappearances / Amy Hasbargen. - In: Hamline journal of public law and policy, Vol. 34, no. 1, Fall 2012, p. 73-114. - Photocopies

This article is designed to depict the parallel atrocious acts that occur in both extraordinary rendition and forced disappearances. Both share similar elements, violate identical laws, and are equally appalling. Section two of this article provides a brief glimpse into what happens in extraordinary renditions and forced disappearances and expresses the high volume of occurrences. Section three of this article shows the difficulty of holding the United States officials accountable for participation in these programs. The fourth section portrays torture as the basic element which ubiquitously occurs in extraordinary rendition and forced disappearances, of which United States official could be held accountable. Sections five through eight cover the international and domestic laws these programs violate. Section nine seeks to
compare the elements and acts followed under both programs. Section ten depicts the atrocious acts and similarities found in extraordinary rendition and forced disappearances through cases. Finally, section eleven explores policy reasons of why both extraordinary rendition and forced disappearances should be illegal in all States.

332/19 (Br.)

The families of people missing in connection with the armed conflicts that have occurred in Lebanon since 1975 : an assessment of their needs / ICRC. - Beirut : ICRC, May 2013. - 25 p. : diagr., graph., tabl. ; 30 cm. - Photocopies

Present in Lebanon since 1967, the ICRC has always striven - through its tracing work, its visits to people deprived of their liberty and its aid for displaced people - to prevent disappearance. However, since the conflicts in Lebanon began in 1975, thousands of people have gone - and today remain - missing.

332/18 (Br.)

In search of a forum for the families of the Guantanamo disappeared / Peter Jan Honigsberg. - In: Denver university law review, Vol. 90, issue 2, 2013, p. 433-481. - Photocopies

332/15 (Br.)

NATIONAL RED CROSS AND RED CRESCENT SOCIETIES


SN/IT/31


SN/IT/33

PEACE


Contient les chapitres suivants : Definitions of peace and reconciliation ; Perspectives on protest ; Apology and reconciliation ; Perspectives on achieving peace

172.4/255

PROTECTION OF CULTURAL PROPERTY


363.8/77

PUBLIC INTERNATIONAL LAW


345/630

From peaceful demonstrations to armed conflict : considering humanitarian intervention in the case of Syria / Elayne Hannon and Hannah Russell. - Majdal Shams : Al-Marsad,
Arab human rights centre in Golan Heights, April 2013. - 79 p. ; 30 cm. - Bibliographie : p. 72-79
345/629 (Br.)

**Jus post bellum in the age of terrorism** / introductory remarks by Kristen Boon ; remarks by Larry May... et al. - In: Proceedings of the [...] annual meeting of the American Society of International Law, No. 106, 2012, p. 331-345
These contributions critically assess the place of the nonstate actor in the context of jus post bellum in light of the war on terrorism and the increase in intra-state conflict. In particular, they discuss the philosophical justifications for a jus post bellum, its contents and scope, the limits of the concept as compared to transitional justice and the law of peace, and how jus post bellum might be applied to conflicts in Northern Ireland and Afghanistan.

**Preventing mass atrocity crimes : the responsibility to protect and the Syria crisis** / Paul R. Williams, J. Trevor Ulbrick and Jonathan Worboys. - In: Case Western Reserve journal of international law, Vol. 45, no. 1 and 2, Fall 2012, p. 473-503. - Photocopies
The article offers information on the Responsibility to Protect (R2P) doctrine, a United Nations initiative which aims to prevent mass atrocity crimes, crimes against humanity, and war crimes occurring within a sovereign state. It states that third "pillars" of R2P, a set of rules within the doctrine, should allow the use of low-intensity military options when peaceful measures do not work. It further reflects on the background of R2P and rights of humanitarian intervention..
345/631 (Br.)

**REFUGEES-DISPLACED PERSONS**

**International norm-making on forced displacement : challenges and complexity** / introductory remarks by Tom Syring ; by Agnès Hurwitz... et al. - In: Proceedings of the [...] annual meeting of the American Society of International Law, No. 106, 2012, p. 429-443

325.3/483

**RELIGION**

**The double-edged sword : religious influences on international humanitarian law** / Carolyn Evans. - In: Melbourne journal of international law, Vol. 6, issue 1, May 2005, [32] p.. - Photocopies
International humanitarian lawyers tend to relegate the role of religion to one of the historical sources of international law. This article demonstrates the way in which religion has an ongoing and complex relationship with international humanitarian law. By examining the role that religion has played both historically and in modern conflicts the author argues that even a secular lawyer who is committed to humanitarian norms has good reason to develop a better understanding of the power of religion if humanitarian law is to prosper in many cultural contexts. By examining religious teachings on the nature of humanity and the rules of war, and considering the religious influence on legal compliance and leadership, the article demonstrates that religious influence is double-edged. While religion can both undermine and support humanitarian law, the author concludes that closer engagement with religious teachings and leaders can be beneficial even for secular proponents of humanitarian law.
281/56 (Br.)

**SEA WARFARE**


In August 2004 the ICJ brought its network of jurists from around the world to Berlin, for the 2004 Biennial Conference. The meeting concluded with the 160 jurists adopting the ICJ Declaration on upholding human rights and the rule of law in combating terrorism (Berlin Declaration). The 11 succinct principles of the Berlin Declaration set out the legal norms that should guide the counter-terrorism measures of every State. This legal commentary to the Berlin Declaration explains the international law, jurisprudence and expert interpretations that underlie the Berlin Declaration. It explains what the principles mean in practice and what international legal standards apply. The last chapter examines the issue of complementarity with international humanitarian law.


Domestic approaches to compliance with international commitments often presume that international law has a distinct effect on the beliefs and preferences of national publics. Studies attempting to estimate the consequences of international law unfortunately face a wide range of empirical and methodological challenges. This article uses an experimental design embedded in two U.S. national surveys to offer direct systematic evidence of international law's effect on mass attitudes. To provide a relatively tough test for international law, the surveys examine public attitudes toward the use of torture, an issue in which national security concerns are often considered paramount. Contrary to the common contention of international law's inefficacy, the author finds that legal commitments have a discernible impact on public support for the use of torture. The effect of international law is also strongest in those contexts where pressures to resort to torture are at their highest. However, the effects of different dimensions in the level of international agreements' legalization are far from uniform. In contrast to the attention often devoted to binding rules, the author finds that the level of obligation seems to make little difference on public attitudes toward torture. Rather, the relative precision of the rules, along with the degree to which enforcement is delegated to third parties, plays a much greater role in shaping public preferences. Across both international law and legalization, an individual's political ideology also exerts a strong mediating effect, though in varying directions depending on the design of the agreement. The findings have implications for understanding the overall
impact of international law on domestic actors, the importance of institutional design, and the role of political ideology on compliance with international agreements.

323.2/195 (Br.)

WOMEN-GENDER


To improve understanding of potential protection options for refugees and internally displaced persons fleeing sexual and gender-based violence, the Human Rights Center at the University of California, Berkeley, School of Law launched a four-country qualitative study in 2012. The research had three main aims: to identify and describe models of temporary physical shelter available to displaced persons in humanitarian settings; to shed light on challenges and strategies relevant to the provision of safe shelter to members of displaced communities; and to identify critical protection gaps.

362.8/192 (Br.)