

BIBLIOGRAPHY

4th Quarter 2015

International Humanitarian Law

New acquisitions on international humanitarian law,
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March 2016

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Introduction

The International Committee of the Red Cross Library

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

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

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

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

Origin and purpose of the IHL bibliography

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

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

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

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

How to use the IHL Bibliography

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

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

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

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

Access to document

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

Chronology

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

Contents

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

Sources

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

Disclaimer

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

Subscription and feedback

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

I. General issues

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

The 1949 Geneva Conventions : a commentary

ed. by Andrew Clapham, Paola Gaeta, Marco Sassòli ; assistant ed. Julia Grignon... [et al.]. - Oxford : Oxford University Press, 2015. - XCIX, 1651 p.

The decline of international humanitarian law opinio juris and the law of cyber warfare

Michael N. Schmitt and Sean Watts. In: Texas international law journal, Vol. 50, issue 2, 2015, p. 189-231
<http://ssrn.com/abstract=2481629>

Le droit de la guerre : traité sur l'emploi de la force armée en droit international

David Cumin. - Paris : L'Harmattan, 2015. - 3 vol. (1681 p.)

Droit international humanitaire : réponses à vos questions

CICR. - Genève : CICR, mai 2015. - 107 p.
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Arthur van Collier. In: African yearbook on international humanitarian law, 2014, p. 44-67

The ICRC study on customary international humanitarian law as viewed through the prism of 14th-18th century jurisprudential thought

Albert Nell. In: African yearbook on international humanitarian law, 2014, p. 1-43

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Emily Crawford and Alison Pert. - Cambridge : Cambridge University Press, 2015. - XXV, 301 p.

Islam and the law of armed conflict : essential readings

ed. by Niaz A. Shah. - Cheltenham ; Northampton : E. Elgar, 2015. - XVIII, 866 p.

Medical care in armed conflict : international humanitarian law and state responses to terrorism

Dustin A. Lewis, Naz K. Modirzadeh, and Gabriella Blum. - [Cambridge (Etats-Unis)] : Harvard Law School Program on International Law and Armed Conflict, September 2015. - XXI, 208 p.
<http://pilac.law.harvard.edu/mcac>

La mise en oeuvre du droit international humanitaire par les Etats musulmans : contribution à l'étude de la compatibilité entre DIH et droit musulman

Afissou Bakary. - [S.l.] : [s.n.], 2014. - 654 p.
<https://tel.archives-ouvertes.fr/tel-01132782>

II. Types of conflicts

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

Les bombardements à l'aide de drones et les principes du droit international humanitaire : la difficile conciliation des principes d'humanité et de nécessité militaire

Eric Pomes. - In: Guerre aérienne et droit international humanitaire. - Paris : Pedone, 2015. - p. 263-278

Classifying cyber warfare

Louise Arimatsu. - In: Research handbook on international law and cyberspace. - Cheltenham ; Northampton : Edward Elgar, 2015. - p. 326-342

The combatant's privilege in asymmetric and covert conflicts

Jens David Ohlin. In: The Yale journal of international law, Vol. 40, issue 2, Summer 2015, p. 337-392

<https://library.ext.icrc.org/library/docs/ArticlesPDF/41906.pdf>

Cyber-attacks and the exploitable imperfections of international law

by Yaroslav Radziwill. - Leiden ; Boston : Brill Nijhoff, 2015. - XVII, 411 p.

Cyber war and the law of neutrality

David Turns. - In: Research handbook in international law and cyberspace. - Cheltenham ; Northampton : Edward Elgar, 2015. - p. 380-400

Cyberterrorists : the identification and classification of non-state actors who engage in cyber-hostilities

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Denying humanitarian access as an international crime in times of non-international armed conflict : the challenges to prosecute and some proposals for the future

Rogier Bartels. In: Israel law review, Vol. 48, no. 3, November 2015, p. 281-307

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Tilman Rodenhäuser. In: International review of law, Vol. 2015, issue 1, January 2015, 16 p.
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Is the principle of distinction still relevant in cyberwarfare ?

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La jurisprudence internationale en matière de guerre aérienne

Isabelle Moulier. - In: Guerre aérienne et droit international humanitaire. - Paris : Pedone, 2015. - p. 131-169

La mise en oeuvre des principes de distinction et de proportionnalité en matière d'opérations aériennes

Xavier Perillat Piratoine. - In: Guerre aérienne et droit international humanitaire. - Paris : Pedone, 2015. - p. 315-328

La neutralité à l'épreuve de la guerre aérienne

Anouche Beaudouin. - In: Guerre aérienne et droit international humanitaire. - Paris : Pedone, 2015. - p.195-246

Perspectives of international humanitarian law

Knut Ipsen. - In: From Cold War to cyber war : the evolution of the international law of peace and armed conflict over the last 25 years. - London [etc.] : Springer, 2016. - p. 9-18

Le principe de précaution dans la guerre aérienne

Marco Sassòli. - In: Guerre aérienne et droit international humanitaire. - Paris : Pedone, 2015. - p. 75-130
<http://archive-ouverte.unige.ch/unige:73931>

Les zones d'exclusion aérienne

Jean-Christophe Martin. - In: Guerre aérienne et droit international humanitaire. - Paris : Pedone, 2015. - p. 171-193

III. Armed forces / Non-state armed groups

(Combatant status, compliance with IHL, etc.)

The combatant's privilege in asymmetric and covert conflicts

Jens David Ohlin. In: The Yale journal of international law, Vol. 40, issue 2, Summer 2015, p. 337-392

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by **Joseph Alkatout.** - Berlin : Duncker and Humblot, 2015. - 284 p.

Non-state armed actors and international humanitarian law : a demanding relationship ?

Stefanie Haumer. In: Humanitäres Völkerrecht : Informationsschriften = Journal of international law of peace and armed conflict, Vol. 28, 3/2015, p. 120-125

IV. Multinational forces

The legal status of employees of private military/security companies participating in U.N. peacekeeping operations

Mohamad Ghazi Janaby. In: Northwestern journal of international human rights, Vol. 13, issue 1, 2015, p. 82-102

<http://scholarlycommons.law.northwestern.edu/njihr/vol13/iss1/4/>

Security detention in international territorial administrations : Kosovo, East Timor, and Iraq

by **Omer Faruk Direk.** - Leiden ; Boston : Brill Nijhoff, 2015. - XIX, 250 p.

V. Private entities

Just war theory and private security companies

Scott Fitzsimmons. In: International affairs, Vol. 91, no. 5, September 2015, p. 1069-1084
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Law's impunity : responsibility and the modern private military company

Hin-Yan Liu. - Oxford ; Portland : Hart, 2015. - XXVII, 371 p.

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Non-state actors under international humanitarian law

Hans-Joachim Heintze and Charlotte Lülff. - In: Non-state actors in international law. - Oxford ; Portland : Hart, 2015. - p. 97-111

VI. Protection of persons

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

Cadres normatifs nationaux pour la protection des soins de santé : rapport de l'atelier de Bruxelles, 29-31 janvier 2014

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Julia Brooks. - [Cambridge, MA] : Advanced Training Program on Humanitarian Action (ATHA), [June 2015]. - 17 p.

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Protecting child soldiers from sexual violence by members of the same military force : a re-conceptualisation of international humanitarian law ?

Rosemary Grey. - [S.l.] : International crimes database, 2015. - 12 p.

<http://tinyurl.com/41895-Grey>

La protection des droits de l'enfant pendant les conflits armés en droit international

par Ameth Fadel Kane. - [S.l.] : [s.n.], juin 2014. - 490 p.

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Vanessa Holzer. - Cambridge [etc.] : Intersentia, 2015. - XIV, 257 p.

Sexual violence during armed conflict and reparation : paying due regard to a unique trauma

Mispa Roux. In: African yearbook on international humanitarian law, 2014, p. 87-110

Use of explosive weapons in densely populated areas : implications for international humanitarian law

Kesolofetse Lefenya. In: African yearbook on international humanitarian law, 2014, p. 68-86

VII. Protection of objects

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

Les enjeux de la guerre aérienne pour la protection de l'environnement : remarques à propos du Manual on international law applicable to air and missile warfare

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<http://heinonline.org/HOL/Page?handle=hein.journals/stanit51&size=2&id=135>

The status of Western Sahara as occupied territory under international humanitarian law and the exploitation of natural resources

Ben Saul. - [S.l.] : The University of Sydney Law School, September 2015. - 32 p.
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The Syrian conflict and the use of cultural property for military purposes

Jadranka Petrovic and Rebecca Hughes. - In: Accountability for violations of international humanitarian law : essays in honour of Tim McCormack. - New York ; London : Routledge, 2016. - p. 136-176

Syria's world cultural heritage and individual criminal responsibility

Marina Lostal. In: International review of law, Vol. 2015, issue 1, January 2015, 17 p.
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VIII. Detention, internment, treatment and judicial guarantees

Deprivation of liberty in international armed conflict

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Transfers from one authority to another

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IX. Law of occupation

Economic dealings with occupied territories

Eugene Kontorovich. In: Columbia journal of transnational law, Vol. 53, no. 3, 2015, p. 584-637
<http://jtl.columbia.edu/economic-dealings-with-occupied-territories/>

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The status of Western Sahara as occupied territory under international humanitarian law and the exploitation of natural resources

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<http://ssrn.com/abstract=2663843>

The transformation of occupied territory in international law

by Andrea Carcano. - Leiden ; Boston : Leiden Nijhoff, 2015. - XXX, 539 p.

X. Conduct of hostilities

(Distinction, proportionality, precautions, prohibited methods)

Accountability for targeted killing operations : international humanitarian law, international human rights law and the relevance of the principle of proportionality

Michelle Lesh. - In: Accountability for violations of international humanitarian law : essays in honour of Tim McCormack. - New York ; London : Routledge, 2016. - p. 95-116

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Hardly the Tadic of targeting : missed opportunities in the ICTY's Gotovina judgements

Roe Ariav. In: Israel law review, Vol. 48, issue 3, November 2015, p. 329-355

"Humanitarian bombardments" in jus in bello ?

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International humanitarian law applied to cyber-warfare : precautions, proportionality and the notion of "attack" under the humanitarian law of armed conflict

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Is the principle of distinction still relevant in cyberwarfare ?

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Military members claiming self-defence during armed conflict : often misguided and unhelpful

Ian Henderson and Bryan Cavanagh. - In: Accountability for violations of international humanitarian law : essays in honour of Tim McCormack. - New York ; London : Routledge, 2016. - p. 73-94

Of souls, spirits and ghosts : transposing the application of the rules of targeting to lethal autonomous robots

Tetyana (Tanya) Krupiy. In: Melbourne journal of international law, Vol. 16, issue 1, June 2015, 58 p.
<http://law.unimelb.edu.au/mjil/issues/issue-archive/161>

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XI. Weapons

Les bombardements à l'aide de drones et les principes du droit international humanitaire : la difficile conciliation des principes d'humanité et de nécessité militaire

Eric Pomes. - In: Guerre aérienne et droit international humanitaire. - Paris : Pedone, 2015. - p. 263-278

Les défis de la robotique militaire posés au droit international humanitaire

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Neil C. Rowe. - In: Research handbook on international law and cyberspace. - Cheltenham ; Northampton : E. Elgar, 2015. - p. 307-325

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Susan O'Connor. In: New Zealand yearbook of international law, Vol. 11, 2013, p. 73-105

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Use of explosive weapons in densely populated areas : implications for international humanitarian law

Kesolofetse Lefenya. In: African yearbook on international humanitarian law, 2014, p. 68-86

XII. Implementation

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

Accountability for targeted killing operations : international humanitarian law, international human rights law and the relevance of the principle of proportionality

Michelle Lesh. - In: Accountability for violations of international humanitarian law : essays in honour of Tim McCormack. - New York ; London : Routledge, 2016. - p. 95-116

Accountability for violations of international humanitarian law : essays in honour of Tim McCormack

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Domestic war crimes trials : only for "others" ? : bridging national and international criminal law

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Excessive collateral civilian casualties and military necessity : awkward crossroads in international humanitarian law between State responsibility and individual criminal liability

Yutaka Arai-Takahashi. - In: Sovereignty, statehood and state responsibility : essays in honour of James Crawford. - Cambridge [etc.] : Cambridge University Press, 2015. - p. 325-339

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Andrew Coleman. - In: Accountability for violations of international humanitarian law : essays in honour of Tim McCormack. - New York ; London : Routledge, 2016. - p. 243-266

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La jurisprudence internationale en matière de guerre aérienne

Isabelle Moulier. - In: Guerre aérienne et droit international humanitaire. - Paris : Pedone, 2015. - p. 131-169

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Moving from the mechanics of accountability to a culture of accountability : what more can be done in addition to prosecuting war crimes ?

Helen Durham and Eve Massingham. - In: Accountability for violations of international humanitarian law : essays in honour of Tim McCormack. - New York ; London : Routledge, 2016. - p. 267-281

Non-state actors under international humanitarian law

Hans-Joachim Heintze and Charlotte Lülff. - In: Non-state actors in international law. - Oxford ; Portland : Hart, 2015. - p. 97-111

Preventing breaches of IHL through dissemination : the role of national societies

Annabel McConnachie. In: University of Western Australia law review, Vol. 39, issue 1, June 2015, p. 68-82
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Strengthening compliance with international humanitarian law : the work of the ICRC and the Swiss government

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XIII. International human rights law

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

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The (mis)-use of general principles of law : lex specialis and the relationship between international human rights law and the laws of armed conflict

Silvia Borelli. - In: General principles of law : the role of the judiciary. - London [etc.] : Springer, 2015. - p. 265-293

La protection des droits de l'enfant pendant les conflits armés en droit international

par **Ameth Fadel Kane.** - [S.l.] : [s.n.], juin 2014. - 490 p.

XIV. International criminal law

Accountability for violations of international humanitarian law : essays in honour of Tim McCormack

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Accountability for violations of the law of armed conflict and the question of the efficacy of international criminal law in ameliorating violence in armed conflict

Dale Stephens. - In: Accountability for violations of international humanitarian law : essays in honour of Tim McCormack. - New York ; London : Routledge, 2016. - p. 177-197

The Australian experience of conducting war crimes trials

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Denying humanitarian access as an international crime in times of non-international armed conflict : the challenges to prosecute and some proposals for the future

Rogier Bartels. In: Israel law review, Vol. 48, no. 3, November 2015, p. 281-307
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The impact of criminal prosecutions on compliance with IHL : challenges and perspectives on the way forward

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Kai Ambos. - In: Research handbook on international law and cyberspace. - Cheltenham ; Northampton : E. Elgar, 2015. - p. 118-143

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Hin-Yan Liu. - Oxford ; Portland : Hart, 2015. - XXVII, 371 p.

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Military members claiming self-defence during armed conflict : often misguided and unhelpful

Ian Henderson and Bryan Cavanagh. - In: Accountability for violations of international humanitarian law : essays in honour of Tim McCormack. - New York ; London : Routledge, 2016. - p. 73-94

Protecting child soldiers from sexual violence by members of the same military force : a re-conceptualisation of international humanitarian law ?

Rosemary Grey. - [S.l.] : International crimes database, 2015. - 12 p.
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Taming Westphalian sovereignty : international penal process and the expansion of universal jurisdiction

Jackson Nyamuya Maogoto. - In: Accountability for violations of international humanitarian law : essays in honour of Tim McCormack. - New York ; London : Routledge, 2016. - p. 26-52

XV. Contemporary challenges

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

Conduct of hostilities : the practice, the law and the future : 37th round table on current issues of international humanitarian law (Sanremo, 4th-6th September 2014)

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Les défis de la robotique militaire posés au droit international humanitaire

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Distinctive ethical challenges of cyberweapons

Neil C. Rowe. - In: Research handbook on international law and cyberspace. - Cheltenham ; Northampton : E. Elgar, 2015. - p. 307-325

International criminal responsibility in cyberspace

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Is the principle of distinction still relevant in cyberwarfare ?

Karine Bannelier-Christakis. - In: Research handbook on international law and cyberspace. - Cheltenham ; Northampton : Edward Elgar, 2015. - p. 343-365

Medical care in armed conflict : international humanitarian law and state responses to terrorism

Dustin A. Lewis, Naz K. Modirzadeh, and Gabriella Blum. - [Cambridge (Etats-Unis)] : Harvard Law School Program on International Law and Armed Conflict, September 2015. - XXI, 208 p.
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XVI. Countries/Regions

ABKHAZIA

Economic dealings with occupied territories

Eugene Kontorovich. In: Columbia journal of transnational law, Vol. 53, no. 3, 2015, p. 584-637
<http://jtl.columbia.edu/economic-dealings-with-occupied-territories/>

AFGHANISTAN

Detention operations abroad

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Perspectives of international humanitarian law

Knut Ipsen. - In: From Cold War to cyber war : the evolution of the international law of peace and armed conflict over the last 25 years. - London [etc.] : Springer, 2016. - p. 9-18

AFRICA

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Andrew Coleman. - In: Accountability for violations of international humanitarian law : essays in honour of Tim McCormack. - New York ; London : Routledge, 2016. - p. 243-266

CANADA

The legal advisor of the Canadian armed forces addressing international humanitarian law and international human rights law in military operations

Blaise Cathcart. - In: Convergence and conflicts of human rights and international humanitarian law in military operations. - Pretoria : Pretoria University Law Press, 2014. - p. 275-300
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COLOMBIA

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CYPRUS

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IRAQ

Security detention in international territorial administrations : Kosovo, East Timor, and Iraq

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MOROCCO

The status of Western Sahara as occupied territory under international humanitarian law and the exploitation of natural resources

Ben Saul. - [S.l.] : The University of Sydney Law School, September 2015. - 32 p.
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SYRIA

Humanitarian access in international humanitarian law : the case of Syria and Security Council Resolution 2139 (2014)

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The status of Western Sahara as occupied territory under international humanitarian law and the exploitation of natural resources

Ben Saul. - [S.I.] : The University of Sydney Law School, September 2015. - 32 p.
<http://ssrn.com/abstract=2663843>

YUGOSLAVIA

Accountability for violations of the law of armed conflict and the question of the efficacy of international criminal law in ameliorating violence in armed conflict

Dale Stephens. - In: Accountability for violations of international humanitarian law : essays in honour of Tim McCormack. - New York ; London : Routledge, 2016. - p. 177-197

Hardly the Tadic of targeting : missed opportunities in the ICTY's Gotovina judgements

Roe Ariav. In: Israel law review, Vol. 48, issue 3, November 2015, p. 329-355

The impact of criminal prosecutions on compliance with IHL : challenges and perspectives on the way forward

Serge Brammertz. In: University of Western Australia law review, Vol. 39, issue 1, June 2015, p. 4-28
<http://www.law.uwa.edu.au/uwalr/issues/2015-volume-39.-issue-1>

La jurisprudence internationale en matière de guerre aérienne

Isabelle Moulier. - In: Guerre aérienne et droit international humanitaire. - Paris : Pedone, 2015. - p. 131-169

Sexual violence during armed conflict and reparation : paying due regard to a unique trauma

Mispa Roux. In: African yearbook on international humanitarian law, 2014, p. 87-110

Srebrenica : on joint criminal enterprise, aiding and abetting and command responsibility

Harmen van der Wilt. In: Netherlands international law review, Vol. 62, issue 2, July 2015, p. 229-241
<http://dx.doi.org/10.1007/s40802-015-0036-8>

Taming Westphalian sovereignty : international penal process and the expansion of universal jurisdiction

Jackson Nyamuya Maogoto. - In: Accountability for violations of international humanitarian law : essays in honour of Tim McCormack. - New York ; London : Routledge, 2016. - p. 26-52

Les zones d'exclusion aérienne

Jean-Christophe Martin. - In: Guerre aérienne et droit international humanitaire. - Paris : Pedone, 2015. - p. 171-193

All with Abstracts

The 1949 Geneva Conventions : a commentary

ed. by Andrew Clapham, Paola Gaeta, Marco Sassòli ; assistant ed. Julia Grignon... [et al.]. - Oxford : Oxford University Press, 2015. - XCIX, 1651 p. - Cote 345.21/44

The context in which the four Geneva Conventions are to be applied and interpreted has changed considerably since they were first written. The borderline between international and non-international armed conflicts is not as clear-cut as was once thought, and is complicated further by the use of armed force mandated by the United Nations and the complex mixed and transnational nature of certain non-international armed conflicts. The influence of other developing branches of international law, such as human rights law and refugee law has been considerable. The development of international criminal law has breathed new life into multiple provisions of the Geneva Conventions. Prepared under the auspices of the Geneva Academy of International Humanitarian Law and Human Rights, this commentary adopts a thematic approach to provide detailed analysis of each key issue dealt with by the Conventions, taking into account both judicial decisions and state practice. Cross-cutting chapters on issues such as transnational conflicts and the geographical scope of the Conventions also give readers a full understanding of the meaning of the Geneva Conventions in their contemporary context.

Accountability for targeted killing operations : international humanitarian law, international human rights law and the relevance of the principle of proportionality

Michelle Lesh. - In: Accountability for violations of international humanitarian law : essays in honour of Tim McCormack. - New York ; London : Routledge, 2016. - p. 95-116. - Cote 344/667

Michelle Lesh takes up the issue of targeted killing operations. Her chapter notes that the primary purpose of investigating targeted killings is to create accountability for potential violations of the law. In assessing when accountability measures are necessary, the chapter examines the duty to investigate and the principle of proportionality. By pointing the primacy of the principle of accountability in IHL and International Human Rights Law, the chapter focuses on the interaction of these rules in the context of investigations into targeted operations. Lesh observes that the growing use of drone attacks and other forms of targeted killings, particularly in non-international armed conflicts, where the geographical boundaries of conflict are often challenged and where attacks are regularly operated remotely, renders the two legal frameworks potentially applicable when questions of accountability are at issue. She argues that there are strong policy and humanitarian reasons to impose constraints on targeted killings and that these require that every targeted killing should be investigated.

Accountability for violations of international humanitarian law : essays in honour of Tim McCormack

ed. by Jadranka Petrovic. - New York ; London : Routledge, 2016. - XXI, 321 p. - Cote 344/667

This book considers the various issues emanating from present-day breaches of norms of international humanitarian law (IHL) and at how impunity for such breaches can be tackled. It is particularly concerned with the interplay between the rules governing accountability for violations of IHL and those of other areas of law, including international criminal law, human rights law, arms control law, general principles of international law, national constitutional law and national criminal law in terms of military discipline.

Accountability for violations of the law of armed conflict and the question of the efficacy of international criminal law in ameliorating violence in armed conflict

Dale Stephens. - In: Accountability for violations of international humanitarian law : essays in honour of Tim McCormack. - New York ; London : Routledge, 2016. - p. 177-197. - Cote 344/667

Dale Stephens' chapter examines the significance of the growth of ICL and its superimposition of particularised thresholds for criminal liability over traditional understanding of the law of armed conflict. Stephens argues that while the genre of ICL is rightly heralded as a successful enterprise, there is inevitably something lost in such a manoeuvre. He asks whether the rise of ICL has witnessed the arrival of a more

accountable age, or whether the conduct of military operations in times of armed conflict responds more faithfully to tenets of restraint from post-modernist influences, and argues that, while not without significant potential, the emergence of ICL, and the evolving jurisprudence of the various tribunals and courts dealing with military operational matters, has not provided any kind of decisive accountability mechanism for the "normal" conduct of warfare, particularly in the context of targeting. Stephens concludes that although this may be disappointing on one level, on the other it may be an entirely predictable outcome given the social goals of ICL.

The Australian experience of conducting war crimes trials

Vasko Nastevski. - In: Accountability for violations of international humanitarian law : essays in honour of Tim McCormack. - New York ; London : Routledge, 2016. - p. 214-242. – Cote 344/667

Nastevski looks at the Australian experience of war crimes trials since the end of World War II. He surveys war crimes legislation adopted in Australia since 1945, largely reflecting international developments to bring accountability for international crimes. He stresses that the approach taken has been piecemeal and underpinned by historical attitudes proclaiming instinctive confidence in the domestic legal system, resulting in legislative gaps that simply do not cover many of the allegations of war criminals residing in Australia. In Nastevski's opinion Australia's experience in bringing to justice war criminals is disappointing. He argues for the necessity of enacting comprehensive war crimes legislation to provide an adequate legislative basis for the prosecution of alleged war criminals in Australia, thereby ensuring nobody is excused from facing justice in this State.

Les bombardements à l'aide de drones et les principes du droit international humanitaire : la difficile conciliation des principes d'humanité et de nécessité militaire

Eric Pomes. - In: Guerre aérienne et droit international humanitaire. - Paris : Pedone, 2015. - p. 263-278. - Cote 341.226/70

Dans ce chapitre Eric Pomes propose un examen de la légalité du recours aux drones au regard des principes du droit international humanitaire. Bien que les drones constituent une arme licite, car n'entraînant pas a priori de maux superflus, l'auteur s'attache à démontrer que leur conformité avec le principe d'humanité est moins évidente: la précision qu'ils permettent risque paradoxalement de conduire à une utilisation plus permissive et donc à un accroissement du nombre de victimes. Un autre facteur qui augmente le risque de violation du droit international humanitaire est l'éloignement du champ de bataille de l'opérateur du drone. Dans un second temps l'auteur analyse le recours aux drones et les missions qui leur sont dévolues au regard des principes régissant la conduite des hostilités. Examinant successivement le respect des principes de nécessité militaire, de distinction et de proportionnalité, il souligne notamment les difficultés liées à la détermination des objectifs militaires, à la participation de civils aux hostilités et aux boucliers humains.

Cadres normatifs nationaux pour la protection des soins de santé : rapport de l'atelier de Bruxelles, 29-31 janvier 2014

CICR. - Genève : CICR, août 2015. - 102 p. - Cote 356/287 (FRE)

Cette publication formule un certain nombre de recommandations concernant en particulier des mesures législatives et des procédures qui devraient aider les États à mettre en œuvre les dispositions du droit international protégeant la fourniture des soins de santé dans les conflits armés et autres situations d'urgence.

<https://library.icrc.org/library/docs/DOC/icrc-001-4215.pdf>

Civilian protection in armed conflicts : evolution, challenges and implementation

Robert Schütte. - Wiesbaden : Springer, 2015. - 236 p. - Cote 345.2/987

The study analyzes the evolution and challenges of the concept of the civilian over the course of human history; the situation and victimization of non-combatants in armed conflicts since the end of the Cold War; and the international community's practical implementation of civilian protection through robust UN peacekeeping missions. The work aims to advance our understanding of civilian protection, its origins and development, as well as its political challenges and operational shortcomings. It shows that even if civilian populations remain an object of aggression and violence in our modern world, humanity has come a long way in protecting the otherwise unprotected and convicting those guilty of systematic human rights abuses.

Classifying cyber warfare

Louise Arimatsu. - In: Research handbook on international law and cyberspace. - Cheltenham ; Northampton : Edward Elgar, 2015. - p. 326-342. - Cote 345/686

In this chapter, Louise Arimatsu addresses how cyber conflicts should be classified under international humanitarian law and, most notably, whether cyber conflicts give rise to an international or non-international armed conflict. This inquiry involves consideration of whether cyber attacks satisfy the requirement of "international", "armed" and "attack" for the purpose of international armed conflict. In relation to non-international armed conflict, the key questions are whether cyber groups can be regarded as "organised" and whether cyber conflict can be ever sufficient intensity to trigger international humanitarian law.

The combatant's privilege in asymmetric and covert conflicts

Jens David Ohlin. In: The Yale journal of international law, Vol. 40, issue 2, Summer 2015, p. 337-392. - Cote 345.29/228 (Br.)

In armed conflicts against extraterritorial non-state actors, covert action has quickly moved from the exception to the rule. U.S. military and paramilitary forces are engaged in global drone and infantry deployments that remain officially unacknowledged by the government. However, the literature has lagged behind in not questioning how basic principles of the law of war — whose architecture depends on the link between individual combatants and the political entities they fight for — apply in covert action, which obscures and denies this link. This article provides a deeper analysis of covert action by concentrating on the basic building block of the law of war: the combatant's privilege — the right of lawful belligerents to kill in wartime free from criminal liability. In order to analyze this question, this article first interrogates a deeper orthodoxy of the field: that the combatant's privilege never applies in non-international armed conflicts. Drawing on historical and conceptual analysis, this article concludes that the orthodox view is both simplistic and exaggerated; the more subtle answer is that government forces and rebels can qualify for the privilege in some situations, though governments retain the right to prosecute vanquished rebels for treason (but not murder). Applying this insight to asymmetric conflicts against terrorist networks, the privilege attaches to any side that meets the classical requirements for lawful belligerency: wearing a fixed emblem, carrying arms openly, a responsible command, and respect for basic customs of warfare — a standard that terrorists inevitably fail. However, government forces also fail the standard when they participate in covert action, regardless of whether the force is exercised by CIA operatives or uniformed soldiers of the Armed Forces. Individual soldiers become legitimate combatants only when they carry their arms openly and their state asserts the privilege on their behalf — a logical impossibility when the state refuses to acknowledge the use of force in the first place.

<https://library.ext.icrc.org/library/docs/ArticlesPDF/41906.pdf>

Conduct of hostilities : the practice, the law and the future : 37th round table on current issues of international humanitarian law (Sanremo, 4th-6th September 2014)

ed. Edoardo Greppi ; associated ed. Gian Luca Beruto. - [Milano] : Franco Angeli, 2015. - 233 p. - Cote 345.25/332

The 37th Round Table on current problems of International Humanitarian Law (IHL) focused on the new and increasing challenges of the application of the law governing the conduct of hostilities in light of the changing nature of conflicts, the means of combat and the actors involved. It gave military practitioners and international experts the opportunity to examine the law and the practice governing the conduct of hostilities as applicable to current/ongoing armed conflicts, with a particular focus on the future and the challenges posed by new technologies. Recent developments in warfare such as cyber warfare or the growing use of autonomous weapons in combat situations, elicit debates not only in relation to the current application of IHL, but also to possible future developments and scenarios. Such debates are essential to ensure that international norms and standards are rigorously respected in future conflicts.

<http://www.iihl.org/conduct-of-hostilities-the-practice-the-law-and-the-future/>

Cyber-attacks and the exploitable imperfections of international law

by **Yaroslav Radziwill**. - Leiden ; Boston : Brill Nijhoff, 2015. - XVII, 411 p. - Cote 345.26/276

Cyber-attacks and the exploitable imperfections of international law reveals elements of existing jus ad bellum and jus in bello regimes that are unable to accommodate the threats posed by cyber-attacks. It maps out legal gaps, deficiencies, and uncertainties, which international actors may seek to exploit to their political benefit.

Cyber war and the law of neutrality

David Turns. - In: Research handbook in international law and cyberspace. - Cheltenham ; Northampton : Edward Elgar, 2015. - p. 380-400. - Cote 355/1068

In this chapter, David Turns assesses the application of the law of neutrality to cyberspace. Turns explains that this is a complicated process because the law of neutrality was devised more than a century ago and was therefore constructed with the intention of protecting the territorial sovereignty of neutral states, namely tangible constructs such as physical territory, territorial waters and territorial airspaces. In contrast, cyberspace is an intangible and interconnected environment. This considerably enhances the potential for operations in cyberspace to implicate third parties. Turns concludes that the law of neutrality is still relevant to cyberspace by analogy and proceeds to examine how neutrality affects the conduct of cyber operations by neutrals and belligerents.

Cyberterrorists : the identification and classification of non-state actors who engage in cyber-hostilities

Andrea C. Goode. In: Military law review, Vol. 223, issue 1, 2015, p. 157-197

This article seeks to clarify the status of cyberterrorists under the law of armed conflict. The use of cyber technology has created increasing opportunities for civilians to participate in hostilities in the course of armed conflict. This participation, however, resists traditional classification. The classification of cyberterrorists is vital to international humanitarian law (IHL) because it allows armed forces to determine which actions are legally available while combating cyberterrorism. The article begins by considering the key criteria to establish direct participation of civilians in armed conflicts: threshold of harm, direct causation and belligerent nexus. It then defines cyberterrorists as "non-state actors who use cyber assets to directly participate in hostilities in support of al-Qaeda, the Taliban, and associated forces, to include ISIL." This article argues that cyberterrorists are unlawful combatants and, as such, are not entitled to combatant privilege. It discusses legally viable actions available to armed forces when they identify cyberterrorists, underlining that United States policy authorizes lethal force only if capture is not feasible and no other reasonable alternatives exist to address the threat effectively.

The decline of international humanitarian law opinio juris and the law of cyber warfare

Michael N. Schmitt and Sean Watts. In: Texas international law journal, Vol. 50, issue 2, 2015, p. 189-231. - Cote 345.2/986 (Br.)

This article sets forth thoughts regarding the performance of States, particularly the United States, in this informal process of the formation and evolution of international humanitarian law, with particular attention paid to the IHL governing cyber operations. The discussion is decidedly non-cyber in nature. It is intentionally so, as the objective is to identify recent tendencies in the process that might foreshadow how IHL governing cyber operations is likely to develop absent a reversal of current trends. Our examination suggests that non-State actors are outpacing and, in some cases displacing, State action in both quantitative and qualitative terms. States seem reticent to offer expressions of opinio juris, often for good reasons. We argue that such reticence comes at a cost - diminished influence on the content and application of the IHL. In our view, States have underestimated this cost and must act to resume their intended role in the process.

<http://ssrn.com/abstract=2481629>

Les défis de la robotique militaire posés au droit international humanitaire

Caroline Brandao. - In: Drones et killer robots : faut-il les interdire?. - Rennes : Presses universitaires de Rennes, 2015. - p. 123-134. - Cote 341.67/785

Dans cet article, Caroline Brandao explore la place donnée à la question de la robotique militaire au sein du droit international humanitaire. Selon ses conclusions, l'absence de références spécifiques aux nouvelles technologies ne signifie pas qu'elles échappent aux règles de cette branche du droit. Elles doivent s'y conformer en tenant compte du fait que les normes actuelles ne réglementent pas suffisamment certains défis posés par ces technologies et qu'il faudrait peut-être en créer des nouvelles.

Denying humanitarian access as an international crime in times of non-international armed conflict : the challenges to prosecute and some proposals for the future

Rogier Bartels. In: Israel law review, Vol. 48, no. 3, November 2015, p. 281-307. - Cote 344/654 (Br.)

Impeding humanitarian access and the starving of civilians is prohibited under international humanitarian law in times of both international and non-international armed conflicts. Such conduct is criminalised under the Rome Statute of the International Criminal Court (ICC Statute) when committed during an international armed conflict. However, without good reason, it is not a war crime when committed during a non-international armed conflict. Contemporary conflicts, such as that in Syria, show that this is a problematic omission. This article addresses the challenges in prosecuting the denial of humanitarian access during international armed conflicts and examines the options to prosecute before the International Criminal Court such denial in times of non-international armed conflict as other war crimes, crimes against humanity, and genocide. The author concludes that these options would not suffice and proposes to add to the ICC Statute the starvation of the civilian population, including through impeding humanitarian access, as a war crime for non-international armed conflicts.

<https://library.ext.icrc.org/library/docs/ArticlesPDF/41608.pdf>

Deprivation of liberty in international armed conflict

Jérôme De Hemptinne, Lawrence Hill-Cawthorne, Vaïos Koutroulis. In: Collegium, No 45, automne 2015, p. 19-50. - Cote 400/159

Contient : Panorama des régimes d'internement et d'emprisonnement dans les conflits armés internationaux / J. De Hemptinne. - Protections for persons deprived of their liberty in international armed conflict / L. Hill-Cawthorne. - Internment of civilians in armed conflict / V. Koutroulis.

https://www.coleurope.eu/sites/default/files/uploads/page/collegium_45_lowres.pdf

Deprivation of liberty in non-international armed conflict

Marco Sassòli, Elisabeth Decrey -Warner, Ramin Mahnad. In: Collegium, No 45, automne 2015, p. 51-81. - Cote 400/159

Contient : Legal framework for detention by states in non-international armed conflict / M. Sassòli. - Detention by non-state armed groups / E. Decrey-Warner. - The challenges in strengthening protection for persons deprived of their liberty in non-international armed conflict / R. Mahnad.

https://www.coleurope.eu/sites/default/files/uploads/page/collegium_45_lowres.pdf

Detention in armed conflicts : proceedings of the 15th Bruges Colloquium, 16-17 October 2014 = La détention en conflit armé : actes du 15^e Colloque de Bruges, 16-17 octobre 2014

CICR, Collège d'Europe. In: Collegium, No 45, automne 2015, 204 p. - Cote 400/159

Session 1 : Deprivation of liberty in international armed conflict. - Session 2 : Deprivation of liberty in non-international armed conflict. - Session 3 : Detention operations abroad. - Session 4 : Transfers from one authority to another.

https://www.coleurope.eu/sites/default/files/uploads/page/collegium_45_lowres.pdf

Detention operations abroad

Andres Munoz Mosquera, Françoise Hampson, Marten Zwanenburg. In: Collegium, No 45, automne 2015, p. 83-112. - Cote 400/159

Contient : NATO operational perspective / A. Munoz Mosquera. - The legal basis for detention in extraterritorial NIACS : the Mohammed Serdar case / F. Hampson. - Review of detention in extraterritorial operations / M. Zwanenburg.

https://www.coleurope.eu/sites/default/files/uploads/page/collegium_45_lowres.pdf

Distinctive ethical challenges of cyberweapons

Neil C. Rowe. - In: Research handbook on international law and cyberspace. - Cheltenham ; Northampton : E. Elgar, 2015. - p. 307-325. - Cote 345/686

In this chapter Neil Rowe identifies various important ethical concerns unique to the use of cyber weapons. These include attribution, product tampering, unreliability, damage repair and collateral damage. He concludes that many of these concerns are intractable. As a result, he encourages the development of international treaties to restrict and regulate their use.

Domestic normative frameworks for the protection of health care : report of the Brussels workshop, 29-31 January 2014

ICRC. - Geneva : ICRC, January 2015. - 96 p. - Cote 356/287 (ENG)

This publication presents a number of recommendations for States – legislative measures and procedures in particular – to help them implement those aspects of international law that protect the provision of health care during conflicts and other emergencies.

<https://library.icrc.org/library/docs/DOC/icrc-002-4215.pdf>

Domestic war crimes trials : only for "others" ? : bridging national and international criminal law

Philipp Kastner. In: University of Western Australia law review, Vol. 39, issue 1, June 2015, p. 29-50. - Cote 344/669 (Br.)

In the context of most discussions around the potential of prosecutions to contribute to strengthening compliance with international humanitarian law, there is a common focus on the international level. This paper argues that national trials of a state's own nationals can and should play a more important role in increasing compliance with international humanitarian law, but that common deceptive perceptions and a marked reluctance to bring war crimes charges against one's own nationals have obstructed the realisation of the full potential of such proceedings.

<http://www.law.uwa.edu.au/uwalr/issues/2015-volume-39,-issue-1>

Le droit de la guerre : traité sur l'emploi de la force armée en droit international

David Cumin. - Paris : L'Harmattan, 2015. - 3 vol. (1681 p.) - Cote 345.2/989

Aussi ancien que la guerre et que le droit international dont il constitue le cœur historique, le droit de la guerre existe. Croisant droit et polémologie, portant sur les conflits armés internationaux et internes, ce traité expose, explique et reconstruit l'ensemble du droit international contemporain relatif à l'emploi de la force armée - auteurs et acteurs de la belligérance, ses buts, moyens, théâtres, régimes et propose une analyse critique de la responsabilité réparatrice et punitive.

Droit international humanitaire : réponses à vos questions

CICR. - Genève : CICR, mai 2015. - 107 p. - Cote 345.2/262 (2015 FRE Br.)

Cette brochure est une introduction idéale au droit international humanitaire. Entièrement remaniée, elle s'adresse à toute personne intéressée tant par les origines que par l'évolution et l'application actuelle du droit humanitaire.

<https://library.icrc.org/library/docs/DOC/icrc-001-0703-2015.pdf>

Economic dealings with occupied territories

Eugene Kontorovich. In: Columbia journal of transnational law, Vol. 53, no. 3, 2015, p. 584-637. - Cote 345.28/119 (Br.)

In recent years, the international legality of economic activity in occupied territories has emerged as matter of significant debate, largely focused on Israeli-controlled territories. Some European officials, supported by prominent scholars and a wide range of NGOs, claim that international law requires limiting or prohibiting economic relations involving the Israeli-controlled West Bank and Golan Heights. The question of the lawfulness of such activity has even greater salience and urgency with Russia's annexation of Crimea and belligerent occupation of Eastern Ukraine. Discussions of these legal issues have proceeded largely along theoretical lines, ignoring the rich trove of relevant state practice from other occupied territories such as Western Sahara, Northern Cyprus, Nagorno-Karabakh, and Abkhazia. The European Union, the United States, and other states have adopted a variety of formal positions regarding activities in these territories. Moreover, recent years have seen a proliferation of state practice and, for the first time, judicial decisions, involving these very questions. This article conducts a comprehensive survey of the relevant current state practice and judicial precedent regarding occupied territories, aside from the well-examined case of Israel. It finds that state practice and decisions of important national courts support a fully permissive approach to economic dealings by third-party states or nationals in territories under prolonged occupation or illegal annexation.

<http://jtl.columbia.edu/economic-dealings-with-occupied-territories/>

Les enjeux de la guerre aérienne pour la protection de l'environnement : remarques à propos du Manual on international law applicable to air and missile warfare

Karine Bannelier. - In: Guerre aérienne et droit international humanitaire. - Paris : Pedone, 2015. - p. 247-262. - Cote 341.226/70

Dans ce texte, l'auteure Karine Bannelier procède à l'analyse des règles du Manuel sur le droit international applicable à la guerre aérienne présenté par le Program on Humanitarian Policy and Conflict Research de l'Université Harvard, qui touchent directement ou indirectement l'environnement. L'auteure fait ainsi une comparaison entre les différentes règles du Manuel et le droit positif conventionnel et coutumier qui traite de la protection de l'environnement en temps de conflit armé. Par le biais de cette analyse, elle souhaite savoir si le contenu de ce Manuel est le reflet du droit conventionnel et coutumier existant ou s'il propose plutôt une évolution du droit des conflits armés dans le domaine de la protection de l'environnement. En comparant avec les protections offertes par les principes cardinaux du droit international humanitaire, par le droit coutumier et par les instruments qui touchent spécifiquement l'environnement, l'auteure constate la position rétrograde qu'offre le Manuel en matière de protection de l'environnement. Elle souligne l'avancée majeure qu'avaient représenté la Convention ENMOD et les articles 35§3 et 55 du Protocole additionnel I en excluant l'invocation de la nécessité militaire pour justifier un dommage à l'environnement et déplore le fait que le Manuel de Harvard ne semble pas refléter le droit positif sur ce point. [Résumé par les étudiants de la faculté de droit (CDIPH) de l'Université de Laval]

Excessive collateral civilian casualties and military necessity : awkward crossroads in international humanitarian law between State responsibility and individual criminal liability

Yutaka Arai-Takahashi. - In: Sovereignty, statehood and state responsibility : essays in honour of James Crawford. - Cambridge [etc.] : Cambridge University Press, 2015. - p. 325-339. - Cote 345.22/273 (Br.)

The article analyses the difference of threshold between State and individual responsibility for establishing what is considered as an excessive collateral loss of civilian lives. According to the author, this threshold should be higher when it comes to international criminal law, because the individual responsibility does not only depend on an objective factor based on a fault, it also depends on the existence of the mens rea, unlike State responsibility. State responsibility can be engaged even if the unlawful conduct does not reach the threshold of war crime. Then, the author explains that it is not possible for a State to plead military necessity when it is not in relation to rules that specifically recognise this concept, in order to attempt to deny responsibility for collateral civilian damage. Finally, the author seeks to "dispel confusion" regarding the interaction between primary rules (IHL) and secondary rules (the law of State responsibility), regarding the concept of military necessity. He wishes to make clear that if the primary rules have been violated, a State cannot invoke a ground of necessity under the law of State responsibility to justify an attack. [Summary by students at the University of Laval, Faculty of Law (CDIPH)]

<https://library.ext.icrc.org/library/docs/ArticlesPDF/42084.pdf>

Exploring U.S. treaty practice through a military lens

Geoffrey S. Corn and Dru Brenner-Beck. In: Harvard journal of law and public policy, Vol. 38, no. 2, Spring 2015, p. 547-628. - Cote 345.22/267 (Br.)

One area of U.S. policy especially impacted by treaty law is military affairs. Indeed, the only treaties currently ratified by every nation in the world are devoted to limiting the harmful consequences of armed hostilities: the four Geneva Conventions of 1949. Because treaties have such a ubiquitous relationship with military affairs, this component of national power provides a useful lens through which to explore U.S. treaty practice. This article provides this exploration, using the context of military affairs to illuminate various aspects of U.S. treaty practice. Because military related treaties implicate every aspect of treaty practice, this treatment provides a comprehensive survey of this practice with the consistent context of one area of U.S. national security policy. This not only explains the treaty making and implementation process, but also illustrates how treaty law impacts even the most vital national security policies of the nation.

http://www.harvard-jlpp.com/wp-content/uploads/2015/05/Corn_Final.pdf

Grand theft global : prosecuting the war crime of pillage in the Democratic Republic of the Congo

by Holly Dranginis. - [S.l.] : Enough project, January 2015. - 27 p. - Cote 344/657 (Br.)

From the Islamic State of Iraq and the Levant (ISIL) to the Lord's Resistance Army (LRA) to Al-Shabaab, many of the world's most infamous and destabilizing armed actors today finance their activities in part through the illegal exploitation and trade of natural resources. Theft in the context of armed conflict constitutes the war crime of pillage, which is punishable in most domestic jurisdictions and at the International Criminal Court (ICC). This report focuses on natural resource pillage in eastern Congo and advocates holding all individuals and entities involved accountable for their participation in these crimes, arguing that many could be prosecuted on the basis of pillage, money laundering, and corruption crimes. It formulates recommendations for action to be taken by the ICC, UN and US special envoys to the region and the Congolese justice system.

<http://www.enoughproject.org/blogs/ending-grand-theft-global-scale-prosecuting-war-crime-pillage-0>

Hardly the Tadic of targeting : missed opportunities in the ICTY's Gotovina judgements

Roee Ariav. In: Israel law review, Vol. 48, issue 3, November 2015, p. 329-355. - Cote 344/662 (Br.)

The Gotovina case presented the International Criminal Tribunal for the former Yugoslavia (ICTY) with a unique opportunity to adjudicate on issues connected with the law of targeting and international humanitarian law (IHL) in a criminal context. This opportunity was especially important given the fact that legal issues arising out of complex, intense combat situations have only rarely been adjudicated. Although Gotovina was not formally charged with carrying out unlawful attacks on civilians, attacks by Croatia on four towns over the course of 'Operation Storm' were the focus of the proceedings. This led both Trial and Appeal Chambers to deal with issues related to the law of targeting such as classification of military objectives, proportionality, and the intent behind an attack. This article argues that the judges failed to take full advantage of the opportunity to discuss these issues. They failed consistently to articulate the legal reasoning behind their findings; they failed to explain the branch of law on which any of their substantive determinations were based; and, perhaps most importantly, they did not explain the relationship between IHL and criminal law and how IHL is to be applied in a courtroom.

Histoire du droit international humanitaire dans la guerre aérienne

Michel Veuthey. - In: Guerre aérienne et droit international humanitaire. - Paris : Pedone, 2015. - p. 37-62. - Cote 341.226/70

Comme nous le démontre Michel Veuthey, la limitation de l'usage de l'arme aérienne n'est pas nouvelle. Cette réglementation est apparue en 1899, lors de la première Conférence internationale de la Paix de La Haye. Cette première réglementation était une interdiction totale et limitée dans le temps basée sur l'imprécision des moyens utilisés à l'époque pour atteindre et détruire les cibles, par conséquent la probabilité que ces moyens provoquent des dommages collatéraux était très élevée. À travers cet article, l'auteur nous rappelle que l'usage des armes aériennes évolue à travers le temps, notamment avec un ciblage qui va devenir plus précis, ce qui va influencer sur la codification, le développement et l'acceptation des règles juridiques en la matière. Historiquement la limitation de l'usage de l'arme aérienne se fait à travers

l'application des principes généraux du droit international humanitaire, notamment en respectant les quatre préceptes que sont les principes de distinction, de proportionnalité, de confiance (interdiction de la perfidie) et de limitation des moyens de nuire à l'ennemi, mais aussi par l'adoption d'instruments et de dispositions spécifiques à la guerre aérienne, tels que la Déclaration IV de La Haye. [Résumé par les étudiants de la faculté de droit (CDIPH) de l'Université de Laval]

The history and development of the law of armed conflict (part I)

Arthur van Collier. In: African yearbook on international humanitarian law, 2014, p. 44-67

This is the first of two articles on the history of the law of armed conflict (LOAC), with a focus on the evolving status of civilians in warfare. This first part examines the development of the law of armed conflict up to and including the Hague Peace Conference of 1907. The author follows early efforts to codify what are now foundational LOAC principles. The work of Hugo Grotius evidences early notions of proportionality and preventing civilian deaths. Rousseau also wrote on the principle of citizen immunity. During the US Civil War, the Lieber Code initiated a movement to codify the customs and usages of armed conflict into multilateral treaties. The St Petersburg Declaration then recognized a balance between military necessity and humanity in the principle of restraint, which the Brussels Declaration of 1874 subsequently confirmed, in addition to clarifying the definition of "belligerent." The Oxford Manual of 1880 restricted violence to armed conflicts between states. Finally, the 1907 Hague Peace Conference made historically groundbreaking progress in limiting military necessity in favour of humanity, despite not providing for the immunity of civilians from direct attack. [Summary by students at the University of Toronto, Faculty of Law (IHRP)]

Humanitarian access in international humanitarian law : the case of Syria and Security Council Resolution 2139 (2014)

Phoebe Wynn-Pope. - In: Accountability for violations of international humanitarian law : essays in honour of Tim McCormack. - New York ; London : Routledge, 2016. - p. 117-135. - Cote 344/667

Phoebe Wynn-Pope examines the concept of humanitarian assistance in the context of the ongoing Syrian conflict. This chapter draws attention to the poignancy of this conflict in which approximately 100,000 civilians have been killed since hostilities began in 2011, and which resulted in humanitarian disaster of catastrophic proportions, leaving more than 9,5 million people in need of assistance, and creating more than 2,5 million refugees and more than 6,5 million internally displaced people. Wynn-Pope considers the obligations on parties to a conflict to provide for the need of the civilian population and to allow access to humanitarian agencies providing assistance. She contends that the international community has been ineffective in the face of severe human suffering in Syria where humanitarian access has been particularly restricted. She also reviews and considers the impact of the United Nations Security Council Resolution 2139 of 22 February 2014 demanding humanitarian access and explores the question of whether the denial of humanitarian assistance judiciable at the ICC.

"Humanitarian bombardments" in jus in bello ?

Robert Kolb. - In: From Cold War to cyber war : the evolution of the international law of peace and armed conflict over the last 25 years. - London [etc.] : Springer, 2016. - p. 113-125. - Cote 345/690

In this contribution, Robert Kolb considers the question, to what extent railway lines used for deportation of civilians may be attacked under international law. Under jus in bello, the attack is difficult to square with article 52(2) of Additional Protocol I of 1977 and related customary international law, which exhaustively provide for the likely objects of attack by belligerents. The contribution then canvasses some arguments as to how an attack could be rendered compatible with international law, considering in particular other legal sources, external to the law on the conduct of hostilities.

Humanitarians under attack : tensions, disparities, and legal gaps in protection

Julia Brooks. - [Cambridge, MA] : Advanced Training Program on Humanitarian Action (ATHA), [June 2015]. - 17 p. - Cote 361/651 (Br.)

Humanitarian professionals working in complex environments face increasing threats and attacks that endanger their lives, violate international humanitarian law, and jeopardize the consistent and effective delivery of emergency relief to populations in need. In light of these issues, this paper explores challenges and opportunities related to the predominant organizational approaches to the protection of aid workers in

complex and insecure environments, and highlights often overlooked disparities in the risks faced by different groups of humanitarian professionals based on their status as national or international staff, gender, and organizational affiliation. It argues that insufficient attention has thus far been paid to the significance of these disparities and their implications for operational security and effectiveness. Furthermore, it highlights significant fragmentation and gaps in the protection of aid workers under international law and the culture of impunity prevailing for perpetrators of such attacks. It then examines the recent trends in humanitarian security management — namely, acceptance, protection, and deterrence. Finally, it offers reflections for the humanitarian community on improving the state of knowledge, practice and law with regard to the protection of humanitarian professionals.

http://www.atha.se/sites/default/files/atha-humanitarians_under_attack.pdf

I have a drone : the implications of American drone policy for Africa and international humanitarian law

Adedokun Ogunfolu and Oludayo Fagbemi. In: *Revue africaine de droit international et comparé* = *African journal of international and comparative law*, T. 23, no 1, 2015, p. 106-128

This article criticizes American exceptionalism as it relates to international humanitarian law (IHL) and drone warfare. It provides a general overview of IHL and introduces the two core principles of proportionality and distinction. The article then argues that the United States (US) has neutralized IHL in the context of drone warfare by picking and choosing which treaties to follow. Of particular concern are the impacts of drone warfare in Africa. The article considers whether US drone strikes in Somalia and Sudan have taken place as part of a lawful armed conflict, and whether these strikes targeted individuals who were directly participating in hostilities. It also examines whether these drone attacks complied with IHL requirements of proportionality and distinction. Due to high amounts of collateral damage and serious targeting errors, the article concludes that current US drone use breaches IHL. Finally, the use of drones in Libya during its 2011 conflict is an example of foreign actors undermining African efforts to achieve peace in crises and conflict situations. The article concludes by offering strategies for African leaders to prevent armed conflicts in their territories in order to stem collateral damage from lethal US drone strikes. [Summary by students at the University of Toronto, Faculty of Law (IHRP)]

The ICJ's role in determining accountability for violations of international humanitarian law

Andrew Coleman. - In: *Accountability for violations of international humanitarian law : essays in honour of Tim McCormack.* - New York ; London : Routledge, 2016. - p. 243-266. - Cote 344/667

Andrew Coleman's chapter concerns the role of the International Court of Justice regulating IHL. The chapter highlights the lack of attention in scholarly writing to this particular role of this court. He observes that although IHL clearly falls within this court's jurisdiction, many doubts have been raised by commentators in view of the recent and heavily criticised Bosnian Genocide Case and the subsequent Kosovo Opinion. Colman argues that the court's decisions in these two cases have rather promoted the idea of prevention of IHL violations by "establishing code of conduct that promotes people's rights, and international humanitarian values over antiquated notions of sovereignty and States' rights". Colman concludes that the International Court of Justice can make, and has already made, a major contribution to protection international humanitarian values and IHL.

The ICRC study on customary international humanitarian law as viewed through the prism of 14th-18th century jurisprudential thought

Albert Nell. In: *African yearbook on international humanitarian law*, 2014, p. 1-43

The editors of the 1995 International Committee of the Red Cross (ICRC) Study on customary international humanitarian law (CIHL) made a methodological decision to prioritize State practice over academic writings. In response, the author focuses on historically significant academic literature in order to reflect upon the historicity and normativity of the Study's proposed rules. The author follows the divisions of Pre-Grotians, Naturalists, Positivists, and Grotians against the backdrop of just war theory, which shaped each paradigm in varying degrees. Within each of these tradition he selects the writers which were the most influential in the formulation of international legal theory as it pertains to the regulation of warfare. He concludes that a comparison of the substantive norms of war offered by these academics with the proposed rules of the ICRC Study strengthens the normative standard of the Study by confirming its historicity. He also identifies certain core rules which have been at the forefront of IHL publications and codifications since

the 14th century, such as the rule of distinction between civilians and combatants or the rule of proportionality in attack. [Summary by students at the University of Toronto, Faculty of Law (IHRP)]

The impact of criminal prosecutions on compliance with IHL : challenges and perspectives on the way forward

Serge Brammertz. In: University of Western Australia law review, Vol. 39, issue 1, June 2015, p. 4-28. - Cote 344/668 (Br.)

In this article Serge Brammertz examines whether criminal prosecutions are effective in promoting compliance with IHL. He argues that it would be false to conclude that criminal prosecutions are not increasing compliance based on simplistic before and after comparisons, particularly when so many other factors are influencing the nature and harms of armed conflicts today. But he also underlines significant challenges that directly and indirectly undermine the deterrent effect of international criminal justice. While the development of the doctrine of superior responsibility has brought positive results, international criminal tribunals still face many challenges in successfully prosecuting superiors for the crimes of their subordinates. The author identifies challenges in relation to investigations and evidence, as well as with case selection and the failure to arrest fugitives. He then suggests avenues for reform which would strengthen prosecutions both at the international and domestic level.

<http://www.law.uwa.edu.au/uwalr/issues/2015-volume-39,-issue-1>

Increasing compliance with international humanitarian law through dissemination

Denielle Brassil. In: University of Western Australia law review, Vol. 39, issue 1, June 2015, p. 83-109. - Cote 345.22/271 (Br.)

This article examines the dissemination of international humanitarian law (IHL) as a means of increasing compliance. The first section considers the legal requirement to disseminate found in treaty and customary law and conclude that dissemination is to be conducted not for its own sake, but to increase compliance. The second section sets out a potential framework for devising a dissemination strategy aimed at increasing compliance in two part. The first part draws on the ICRC Prevention Policy and outlines a four-step process for formulating measurable, context-specific targets that allow the effectiveness of a programme to be tested. The second part identifies what dissemination activities can, and cannot, achieve with a view to assisting IHL practitioners choose an activity that aligns with their objectives. The third discusses dissemination in relation to two important audiences: "key actors" and victims of conflict.

<http://www.law.uwa.edu.au/uwalr/issues/2015-volume-39,-issue-1>

International criminal responsibility in cyberspace

Kai Ambos. - In: Research handbook on international law and cyberspace. - Cheltenham ; Northampton : E. Elgar, 2015. - p. 118-143. - Cote 345/686

In this chapter Kai Ambos considers the question of whether the commission of cyber attacks can give rise to individual criminal responsibility, with particular reference to the provisions of the Rome Statute. Ambos examines the conditions by which individuals may be held criminally responsible for war crimes and crimes against humanity and applies them in the cyber context. He also asks whether cyber aggression can fall within the definition of the crime of aggression under the Rome Statute and whether criminal jurisdiction can be exercised over cyber aggression.

International humanitarian law

Emily Crawford and Alison Pert. - Cambridge : Cambridge University Press, 2015. - XXV, 301 p. - Cote 345.2/984

This concise textbook provides an up-to-date examination of international humanitarian law. With the aid of detailed examples, extracts from relevant cases, and discussion questions, students are expertly guided through the text. Emerging trends in theory and practice are also explored, allowing readers to grapple with some of the biggest challenges facing the law of armed conflict in the twenty-first century.

International humanitarian law applied to cyber-warfare : precautions, proportionality and the notion of "attack" under the humanitarian law of armed conflict

Terry D. Gill. - In: Research handbook on international law and cyberspace. - Cheltenham ; Northampton : Edward Elgar, 2015. - p. 366-379. - Cote 345/686

This chapter examines the application of the principle of proportionality and the duty to take precautions in attack in relation to attacks carried out in the cyber domain. Terry Gill argues that a cyber attack would only qualify as an "attack" for the purpose of international humanitarian law if it is committed in the context of a recognised armed conflict and is intended to or reasonably likely to cause appreciable danger of physical harm or damage. He concludes that while many cyber attacks would therefore not qualify as attacks, some would and, for those, international humanitarian law would be applicable by analogy in much the same way as it applies to attacks by kinetic weapons. Thus, cyber attacks against purely military installations or combatants, without any likely appreciable consequences to civilians or civilian objects, would fall outside the applicability of proportionality. Cyber attacks directed against military objectives or combatants that incidentally harm civilian objects or civilians are subject to the proportionality test and would be unlawful if the expected damage to the civilian objects or civilians is likely to be excessive in relation to the anticipated military advantage.

International legal obligations of armed opposition groups in Syria

Tilman Rodenhäuser. In: International review of law, Vol. 2015, issue 1, January 2015, 16 p. - Cote 345.29/230 (Br.)

This article focuses on international legal obligations of armed opposition groups in the course of the Syria crisis. Such obligations are clearly contained in international humanitarian law, and arguably also in international human rights law. In order to determine the applicable law, the classification of the situation as either an armed conflict or one of internal tensions and disturbances is fundamental but controversial. This article examines at what stage of the crisis international human rights obligations and international humanitarian law obligations of non-state armed groups became pertinent, and provides reasons why this is the case. It shall be argued that even before the Syria crisis turned into a non-international armed conflict, opposition groups were bound by fundamental rules of international human rights law. In addition to these rules, all parties to the armed conflict became bound by international humanitarian law once the situation reached a sufficient degree of violence, and the non-state groups a sufficient degree of organization. By examining the Syria crisis, this article shall show what these abstract criteria mean in practice.

<http://dx.doi.org/10.5339/irl.2015.2>

Is the principle of distinction still relevant in cyberwarfare ?

Karine Bannelier-Christakis. - In: Research handbook on international law and cyberspace. - Cheltenham ; Northampton : Edward Elgar, 2015. - p. 343-365. - Cote 345/686

In this chapter, Karin Bannelier-Christakis assesses whether the principle of distinction is still relevant to hostilities conducted in cyberspace. Bannelier-Christakis explains that the principle of distinction applies only to conduct that amounts to an attack under international humanitarian law, which conventionally requires the use of violence that produces physical damage. Bannelier-Christakis criticises this conclusion given that in the contemporary era states place heavy reliance upon cyberspace and thus conduct that affects the functionality of computer systems can be extremely damaging even if it does not cause physical damage. As a result, she argues that the better approach is to subject all military operations (including those in cyberspace) to the principle of distinction regardless of the damage they cause. Customary international law, at least according to Bannelier-Christakis, supports such an approach. She also stresses the difficulty of distinguishing between military and civilian objects in cyberspace given its inherent interconnectivity and also explores how the concept of direct participation in hostilities applies to individuals involved in devising, maintaining and implementing cyber operations during times of armed conflict.

Islam and the law of armed conflict : essential readings

ed. by Niaz A. Shah. - Cheltenham ; Northampton : E. Elgar, 2015. - XVIII, 866 p. – Cote 297/158

This collection reveals a multiplicity of perspectives on the Islamic law of war and peace. Prefaced by an original introduction, the carefully selected works demonstrate how the concept of Jihad is interpreted or misinterpreted. They also examine the rules applicable during the conduct of armed conflict and the significance of peace and security within Islamic tradition. The collection provides valuable insights into the

compatibility of the Islamic law of war and peace and the law of armed conflict, demonstrating how the former could minimise unnecessary human suffering during armed conflict. This book is an essential source of reference for everyone interested in this vital relationship.

La jurisprudence internationale en matière de guerre aérienne

Isabelle Moulier. - In: Guerre aérienne et droit international humanitaire. - Paris : Pedone, 2015. - p. 131-169. - Cote 341.226/70

Dans ce texte, l'auteure Isabelle Moulier fait un examen de la jurisprudence internationale relative à la guerre aérienne et plus précisément en ce qui a trait aux principes de distinction et de proportionnalité. L'auteure fonde son analyse particulièrement sur le jugement de la Cour internationale de Justice portant sur l'affaire relative à la licéité de l'emploi de la force (Yougoslavie c. Belgique), sur son avis consultatif du 8 juillet 1996 relatif à la Licéité de la menace ou de l'utilisation de l'arme nucléaire, sur la jurisprudence du Tribunal pénal international pour l'ex-Yougoslavie, ainsi que sur les décisions de la Commission des réclamations Érythrée-Éthiopie. À travers cette analyse, l'auteure fait ressortir les similitudes et les divergences existantes quant à l'interprétation des principes de distinction et de proportionnalité. Bien que la jurisprudence permette d'éclaircir les différentes règles coutumières du droit international humanitaire et qu'elle amène des précisions sur la définition de certains principes, l'auteure arrive à la conclusion qu'en matière de guerre aérienne, il est difficile d'établir un cadre jurisprudentiel international précis et unifié. [Résumé par les étudiants de la faculté de droit (CDIPH) de l'Université de Laval]

Just war theory and private security companies

Scott Fitzsimmons. In: International affairs, Vol. 91, no. 5, September 2015, p. 1069-1084

This article examines the ethics of using private security companies to undertake combat operations in modern conflict zones. Previous studies on this topic, including those that have drawn on the principles of just war theory, have, out of necessity, been highly speculative because they lacked a strong empirical basis on which to evaluate the behaviour of private security personnel during their operations. Indeed, most scholarship on the ethics of private security companies has relied on a handful of anecdotal examples that happened to receive extensive media coverage. In contrast, this article undertakes the first quantitative analysis of how well the employees of a dozen private security companies adhered to the jus in bello tenets of just war theory and also how their degree of adherence to these tenets affected their tendency to suffer friendly casualties during their security operations in Iraq. It finds that the employees of most of the firms under study exhibited a moderate or high level of adherence to the jus in bello principles of proportionality and discrimination during their security operations in Iraq. Moreover, it also finds that close adherence to these principles did not necessarily expose private security personnel to greater risk of suffering harm.

<http://onlinelibrary.wiley.com/doi/10.1111/1468-2346.12398/pdf>

Law's impunity : responsibility and the modern private military company

Hin-Yan Liu. - Oxford ; Portland : Hart, 2015. - XXVII, 371 p. - Cote 345.29/229

Law's Impunity asks this question in the context of the modern Private Military Company (PMC), examining the relationship between law and the concepts of responsibility and impunity. This book proposes that ordinary legal processes do not neutralise, but rather legalise impunity. This radical idea is applied to the abysmal record of human rights violations perpetrated by the modern PMC and the shocking absence of accountability. This book demonstrates how the law organises, rather than overcomes, impunity by detailing how the modern PMC exploits ordinary legal processes to systematically exclude itself from legal responsibility. Thus, Law's Impunity offers an alternative to conventional thinking about the law, providing an innovative approach to assess and refine the rigour of legal processes in the ongoing quest to end impunity.

The legal status of employees of private military/security companies participating in U.N. peacekeeping operations

Mohamad Ghazi Janaby. In: Northwestern journal of international human rights, Vol. 13, issue 1, 2015, p. 82-102. - Cote 345.29/227 (Br.)

The outsourcing of military and security services used in U.N. peacekeeping operations to PMSCs creates a gray area in international law. Under international humanitarian law, sometimes called the law of war, peacekeepers who engage in military operations are either civilians engaged in lawful self-defense or unlawful combatants. Conversely, the various international conventions that govern peacekeeping and peace enforcement operations grant peacekeepers the rights of combatants. This tension becomes more acute

when PMSCs are utilized, both when they are employed by a Member State and seconded to the U.N., and when they are employed directly by the U.N. itself. PMSCs seconded to the U.N. would likely not qualify as peacekeepers under the U.N.'s peacekeeping conventions, while the protections afforded to peacekeepers (such as immunity from local prosecution) seem inappropriate regarding PMSCs hired directly by the U.N. In particular, while PMSCs employed in peacekeeping operations would not satisfy the technical criteria of mercenaries under the law of war, the protections afforded to peacekeepers assume that peacekeeping forces are subject to the domestic justice system of a Member State, which would not be the case with those employed directly by the U.N. This tension seems ineluctable given the current structure of international humanitarian law and U.N. peacekeeping rules.

<http://scholarlycommons.law.northwestern.edu/njihr/vol13/iss1/4/>

The legality of invisibility technology in modern warfare

Kaitlin J. Sahni. In: The Georgetown law journal, Vol. 103, issue 6, 2015, p. 1661-1678. – Cote 345.25/334 (Br.)

This note argues that in most land warfare contexts, soldiers can lawfully utilize invisibility technology to hide themselves or their military equipment without violating the law of armed conflict. However, invisibility technology has greater potential for misuse than traditional forms of camouflage, particularly in urban environments, and the United States should be cognizant of the potential for, and proactive in preventing, such misuse in military operations. Part I of this Note describes the invisibility technology currently in development. Part II explains the obligation of the U.S. Armed Forces to test such technology before its adoption, use, or sale. Part III argues that the use of invisibility technology will not ordinarily pose problems of distinction. Part IV argues that invisibility techniques will normally constitute lawful ruses, as do more traditional forms of camouflage, but also highlights the potential for such technology to be used to commit unlawful perfidy. Finally, Part V explores the utility of invisibility technology in reconnaissance operations and the likely consequences for soldiers captured while employing such techniques.

<https://library.ext.icrc.org/library/docs/ArticlesPDF/41904.pdf>

The legality of targeted killings in view of direct participation in hostilities

by Joseph Alkatout. - Berlin : Duncker and Humblot, 2015. - 284 p. - Cote 345.25/331

In today's asymmetric armed conflicts, military agents carry out targeted killings against civilians that "take a direct part in the hostilities". This book defines such participation for the purposes of international humanitarian, criminal and human rights law. Additionally, the general framework of the law of war is revisited, in particular under the currently frequent scenario of non-international armed conflicts. Treaty requirements for the recognition of non-state actors (degree of collectivity) are addressed and the legal ethics of a strict status-based approach in international law (combatants/civilians) is opined on. The study at hand analyzes the repertory of applicable legal texts and their authentic versions in the different official languages. It discloses existing incoherencies and gives an overview of their implementation into the national legislation of several countries. The research closes with a fictional case study. Graphs and figures are used for illustration purposes throughout the document.

Liability for ordering the commission of international crimes

Sarah Finnin. - In: Accountability for violations of international humanitarian law : essays in honour of Tim McCormack. - New York ; London : Routledge, 2016. - p. 53-72. - Cote 344/667

Sarah Finnin's chapter is centred on ordering the commission of a crime, a well-recognised mode of liability under IHL whose elements have been developed in detail in the jurisprudence of the post-World War II military tribunals and more recently the ad hoc International Criminal Tribunals for the former Yugoslavia and Rwanda. Now that the first cases of ordering the commission of international crimes are coming before the ICC, Finnin's focus on the case of Sylvestre Mudacumura makes her chapter a timely contribution to the area of accountability for violations of IHL. Finnin engages in the elements for ordering in the 2012 decision issuing an arrest warrant and in doing so highlights the similarities and differences between the approach taken by ad hoc tribunals and the ICC's approach in Mudacumura to liability for ordering.

The limited reach of superior responsibility

Shane Darcy. - In: *For the sake of present and future generations : essays on international law, crime and justice in honour of Roger S. Clark.* - Leiden ; Boston : Brill Nijhoff, 2015. - p. 374-390. - Cote 344/661 (Br.)

The doctrine of superior responsibility is firmly embedded in the fabric of international criminal law. As a seemingly broad mode of criminal liability, it has not, however, yielded the results that one would expect from a form of liability that allows military commanders or civilian superiors to be held responsible for the acts of subordinates which they fail to prevent or punish. Its apparent potential to hold the most senior leaders to account for allowing international crimes to be committed has not been fulfilled. Superior responsibility has generated controversy from its inception, for several reasons, including its theoretical reach to the top of military and political chains of command and authority. High-ranking officials may be criminally responsible for failing to prevent or punish crimes committed by their subordinates, even where they did not intend that such offences be committed or have full knowledge of their commission. Yet, despite the broadening of criminal liability that superior responsibility entails, practice before international criminal tribunals and elsewhere reveals this the doctrine has not been applied as successfully, as often, or as high up the chain of command as one might expect. This essay seeks to consider why this is the case, paying particular attention to the legal requirements of the doctrine and their application by international and national tribunals.

Medical care in armed conflict : international humanitarian law and state responses to terrorism

Dustin A. Lewis, Naz K. Modirzadeh, and Gabriella Blum. - [Cambridge (Etats-Unis)] : Harvard Law School Program on International Law and Armed Conflict, September 2015. - XXI, 208 p. - Cote 356/285

This legal research briefing for the Harvard Law School Program on International Law and Armed Conflict evaluates international humanitarian law (IHL) protections for wartime medical assistance concerning terrorists. The authors look at the practice of several countries (Colombia, Peru, and the United States) regarding domestic prosecutions of medical treatment for terrorists. They show how IHL lays down extensive protections for medical care, which should constrain some domestic criminal proceedings, but they also expose gaps and weaknesses in the protections afforded by IHL itself.

<http://pilac.law.harvard.edu/mcac>

Military members claiming self-defence during armed conflict : often misguided and unhelpful

Ian Henderson and Bryan Cavanagh. - In: *Accountability for violations of international humanitarian law : essays in honour of Tim McCormack.* - New York ; London : Routledge, 2016. - p. 73-94. - Cote 344/667

This chapter examines the relationship between the criminal law concept of individual self-defence and the law of armed conflict. By limiting itself to use of force to protect individuals against bodily harm, the chapter looks at the questions of how and whether the international law relating to the conduct of hostilities in armed conflict, particularly targeting law, is affected by the "defence" of self-defence under both domestic and international criminal law. Ian Henderson and Bryan Cavanagh argue that the law of armed conflict is most suited to the use of force on the battlefield and that the law of self-defence is best left for non-combat operations.

The (mis)-use of general principles of law : *lex specialis* and the relationship between international human rights law and the laws of armed conflict

Silvia Borelli. - In: *General principles of law : the role of the judiciary.* - London [etc.] : Springer, 2015. - p. 265-293. - Cote 345.2/988 (Br.)

The maxim *lex specialis derogat legi generali* is widely accepted as constituting a general principle of law. It entails that, when two norms apply to the same subject matter, the rule which is more specific should prevail and be given priority over that which is more general. In the international legal system, the concept is frequently resorted to by courts and tribunals as a tool of legal reasoning in order to resolve real or perceived antinomies between norms. One area in which the notion of *lex specialis* is frequently invoked is in the articulation of the relationship between international human rights law and international humanitarian law in situations of armed conflict. This has particularly been the case following the use of the term by the

International Court of Justice in the Nuclear Weapons and The Wall Advisory Opinions. On closer analysis, it appears that those seminal decisions of the International Court of Justice, in using the language of *lex specialis*, did not intend that international humanitarian law should prevail over international human rights law. Rather, when it comes to the relationship between these two branches of law, what is commonly referred to as an application of the *lex specialis* principle is in reality no more than an application of the principle that treaties should be interpreted in the light of any relevant rules of international law binding on the parties. The chapter suggests that, due to the implications that international humanitarian law prevails over international human rights law, the language of *lex specialis* should be abandoned when discussing the relationship between the two bodies of law.

La mise en oeuvre des principes de distinction et de proportionnalité en matière d'opérations aériennes

Xavier Perillat Piratoine. - In: Guerre aérienne et droit international humanitaire. - Paris : Pedone, 2015. - p. 315-328. - Cote 341.226/70

Dans ce texte, l'auteur Xavier Perillat-Piratoine regarde comment les principes de distinction et de proportionnalité en matière d'opération aérienne sont traités dans la jurisprudence, la doctrine et les méthodes et moyens de guerre employés par les forces armées. En mettant l'accent de son analyse sur la mise en œuvre de ces principes par la France, et plus particulièrement par le commandement de la défense aérienne et des opérations aériennes (CDAOA), l'auteur explique comment, dans la pratique, les forces armées font pour appliquer et respecter les principes de distinction et de proportionnalité. À travers l'exposé des différents éléments que les forces armées sont amenées à prendre en considération lors d'une guerre aérienne, l'auteur démontre la tâche fastidieuse et complexe que cela représente. Ces considérations d'ordre juridique, militaire, financier, ou liées à l'opinion publique sont, selon l'auteur, la raison qui explique une tendance fortement vertueuse de réduction des dommages collatéraux et de respect du principe de distinction. [Résumé par les étudiants de la faculté de droit (CDIPH) de l'Université de Laval]

La mise en oeuvre du droit international humanitaire par les Etats musulmans : contribution à l'étude de la compatibilité entre DIH et droit musulman

Afissou Bakary. - [S.l.] : [s.n.], 2014. - 654 p. - Cote 345.22/268

L'étude comparative des normes du droit islamique et du DIH révèle de nombreux points de convergences aussi bien en ce qui concerne le droit de La Haye que le droit de Genève. De plus, les Etats musulmans membres de l'OCI qui sont tous parties aux conventions de Genève de 1949 et en majorité aux PA de 1977, sont impliqués dans les actions de mise en œuvre du DIH initiées ou dirigées par le CICR, que ces actions relèvent de l'article 1 commun des Conventions de Genève ou du contrôle a priori et/ou a posteriori de la mise en œuvre du DIH. En outre, ces Etats ont adopté des textes favorisant l'application conjointe des droits de l'homme et du DIH tels que la Déclaration du Caire sur les droits de l'homme en Islam de 1990. La contribution des Etats musulmans concerne les mécanismes de mise en œuvre en période de paix et de conflits armés et se matérialise aussi bien par la coopération interétatique qu'à travers celle avec les ONG et notamment le CICR. Bien que le concept de jihad puisse soulever des difficultés, les motifs politiques, davantage que religieux, expliquent certaines réticences des Etats musulmans en matière de mise en œuvre du DIH.

<https://tel.archives-ouvertes.fr/tel-01132782>

Moving from the mechanics of accountability to a culture of accountability : what more can be done in addition to prosecuting war crimes ?

Helen Durham and Eve Massingham. - In: Accountability for violations of international humanitarian law : essays in honour of Tim McCormack. - New York ; London : Routledge, 2016. - p. 267-281. - Cote 344/667

While acknowledging the importance of international criminal adjudication in enforcement of IHL, Helen Durham and Eve Massingham emphasise the equal relevance of other broader cultural and social factors that encourage compliance with IHL. They remind us that the 1949 Geneva Conventions set out a range of accountability mechanisms, including the obligation to disseminate the texts of the Conventions and the obligations on State to take precautions against the effects of attacks. They argue that accountability involves more than prosecutions and that a wider examination not just of legal normative obligations, but also ways to find connections to ideas of a culture of accountability is increasingly important.

La neutralité à l'épreuve de la guerre aérienne

Anouche Beaudouin. - In: Guerre aérienne et droit international humanitaire. - Paris : Pedone, 2015. - p.195-246. - Cote 341.226/70

Dans ce texte, l'auteure Anouche Beaudouin traite du principe de neutralité en présence de guerre aérienne. Plus précisément, elle aborde les règles relatives à l'espace aérien en s'attardant davantage aux devoirs et obligations des États belligérants et des États neutres. Elle porte aussi une attention particulière aux règles relatives aux aéronefs neutres hors de l'espace aérien neutre. Dans son analyse, en l'absence de texte contraignant régissant tous les aspects des relations entre belligérants et neutres en cas de guerre aérienne, l'auteure se réfère aux différents textes non contraignants traitant de la neutralité aérienne. Le Manual on International Law Applicable to Air and Missile Warfare (Manuel de Harvard) ainsi que le Manuel de San Remo sont à la base de cette analyse. L'auteure compare ainsi le contenu des différentes règles de ces deux instruments pour tenter de définir les principes de neutralité en matière de guerre aérienne. Dans cet exercice de comparaison, elle arrive souvent au constat que ces règles sont incomplètes et qu'elles manquent de clarté. Malgré le fait que l'auteure arrive à la conclusion que les règles de neutralité en matière de guerre aérienne sont fragiles et incertaines, elle demeure convaincue que ces règles sont indispensables. [Résumé par les étudiants de la faculté de droit (CDIPH) de l'Université de Laval]

Non-state actors under international humanitarian law

Hans-Joachim Heintze and Charlotte Lülfi. - In: Non-state actors in international law. - Oxford ; Portland : Hart, 2015. - p. 97-111. - Cote 345/684

Heintze and Lülfi direct our attention to the consequences and role of humanitarian non-state actors in armed conflicts, in particular the International Committee of the Red Cross. The latter organisation is responsible for shaping international humanitarian law and has acquired a specific protected role in the implementation of the "Geneva rules". That protected role, however, is increasingly contested by the activities of armed non-state actors. The ICRC is no longer the sole humanitarian organisation, and many others have followed in its footsteps. But not all have abided by rigorous rules of international humanitarian assistance, in particular impartiality, neutrality, and independence. Given the necessity of providing humanitarian assistance in both violent conflict and disasters, and the increased presence of armed non-state actors in these situations, "adherence to the humanitarian principles [is] even more important" than before.

Non-state armed actors and international humanitarian law : a demanding relationship ?

Stefanie Haumer. In: Humanitäres Völkerrecht : Informationsschriften = Journal of international law of peace and armed conflict, Vol. 28, 3/2015, p. 120-125

This contribution addresses the issue of non-state armed actors and international humanitarian law (IHL). The status of non-state armed groups under IHL will be analysed. Due to fundamental concerns, States - the creator of international law - do not grant non-state armed actors any special status under international law. However, the unanimous opinion is that non-state armed actors, too, are bound by IHL ; the reason for this is argued about, though. This contribution highlights the incentives which might improve compliance with IHL by non-state armed actors.

Obligations et responsabilités militaires face à la robotisation du champ de bataille

Dominik Gerhold et Marion Vironda Dubray. - In: Drones et killer robots : faut-il les interdire?. - Rennes : Presses universitaires de Rennes, 2015. - p. 143-164. - Cote 341.67/785

Dominik Gerhold et Marion Vironda-Dubray explorent la question de la responsabilité militaire face à la robotisation du champ de bataille dans le cadre du droit français existant ainsi que dans le cadre du droit humanitaire international.

Of souls, spirits and ghosts : transposing the application of the rules of targeting to lethal autonomous robots

Tetyana (Tanya) Krupiy. In: Melbourne journal of international law, Vol. 16, issue 1, June 2015, 58 p. - Cote 345.25/259 (Br.)

The article addresses how the rules of targeting regulate lethal autonomous robots. Since the rules of targeting are addressed to human decision-makers, there is a need for clarification of what qualities lethal autonomous robots would need to possess in order to approximate human decision-making and to apply these rules to battlefield scenarios. The article additionally analyses state practice in order to propose how the degree of certainty required by the principle of distinction may be translated into a numerical value. The reliability rate with which lethal autonomous robots need to function is identified. The article then analyses whether the employment of three categories of robots complies with the rules of targeting. The first category covers robots which work on a fixed algorithm. The second category pertains to robots that have artificial intelligence and that learn from the experience of being exposed to battlefield scenarios. The third category relates to robots that emulate the working of a human brain.

<http://law.unimelb.edu.au/mjil/issues/issue-archive/161>

Perspectives of international humanitarian law

Knut Ipsen. - In: From Cold War to cyber war : the evolution of the international law of peace and armed conflict over the last 25 years. - London [etc.] : Springer, 2016. - p. 9-18. - Cote 345/690

In this introductory contribution, Knut Ipsen highlights the different categories of armed conflict and describes the problems in applying international humanitarian law to these conflicts. He particularly explains the difficulty the "expectation of reciprocity" meets in asymmetrical armed conflicts. He also argues it is necessary to apply international humanitarian law in combination with other fields of international law, in particular human rights law, and highlights the general meaning of the rule of law. He finishes by stressing the important role that the International Committee of the Red Cross (ICRC) has played in promoting international humanitarian law.

Preventing breaches of IHL through dissemination : the role of national societies

Annabel McConnachie. In: University of Western Australia law review, Vol. 39, issue 1, June 2015, p. 68-82. - Cote 345.22/270 (Br.)

This paper discusses dissemination: spreading the word about the rules of IHL, making sure that people are simply – in the first instance – aware of these rules. It explores where the legal obligation to disseminate IHL comes from and how National Societies of the Red Cross and Red Crescent Movement (the Movement) have been tasked by States to assist in that dissemination duty. The author also illustrates, using examples of activities undertaken by her colleagues, how Australian Red Cross seeks to assist in fulfilling this obligation; and finally an introduction to a collaborative dissemination project, in which the author is involved, currently being undertaken by National Societies in the Pacific region.

<http://www.law.uwa.edu.au/uwalr/issues/2015-volume-39.-issue-1>

Le principe de précaution dans la guerre aérienne

Marco Sassòli. - In: Guerre aérienne et droit international humanitaire. - Paris : Pedone, 2015. - p. 75-130. - Cote 341.226/70

Sur la base du droit international coutumier et du Protocole I additionnel aux Conventions de Genève, des précautions doivent être prises par un attaquant au bénéfice de la population civile et des biens civils lors de bombardements aériens et dans les hostilités entre avions. Dans un premier temps, Marco Sassòli nous rappelle les règles et la manière dont celles-ci s'appliquent, tant dans les conflits armés internationaux que dans les conflits armés non internationaux. Dans un second temps, l'auteur soumet une analyse critique des précautions dans l'attaque en distinguant trois catégories de mesures : tout d'abord des précautions dans l'attaque doivent être prises, ensuite il faut assurer que l'interdiction d'attaquer des objectifs non militaires soit respectée et finalement il faut que des mesures soient prises lors de la conduite d'attaques licites afin d'éviter ou de réduire au minimum les pertes parmi la population civile. En dernier lieu, l'auteur précise les précautions à prendre par la partie attaquée, notamment l'obligation pour celle-ci de ne pas abuser des obligations de l'ennemi en essayant de protéger ses objectifs et opérations militaires. [Résumé par les étudiants de la faculté de droit (CDIPH) de l'Université de Laval]

<http://archive-ouverte.unige.ch/unige:73931>

Les problèmes de droit international posés par la robotisation et les systèmes autonomes

Eric Pomès. - In: Drones et killer robots : faut-il les interdire?. - Rennes : Presses universitaires de Rennes, 2015. - p. 215-226. - Cote 341.67/785

La proposition d'interdiction qui est actuellement débattue devant la Commission pour le désarmement conventionnel de Genève est contestée par Eric Pomès pour qui les normes existantes suffisent à prévenir et sanctionner les abus susceptibles d'être commis par le truchement de robots autonomes.

Protecting child soldiers from sexual violence by members of the same military force : a re-conceptualisation of international humanitarian law ?

Rosemary Grey. - [S.l.] : International crimes database, 2015. - 12 p. . - Cote 362.7/410 (Br.)

While international humanitarian law (IHL) clearly prohibits the recruitment and use of children in hostilities, it is less clear to whether, and to what extent, IHL protects child soldiers from the other dangers posed by their own military force. In particular, it is less clear whether, and to what extent, IHL protects child soldiers from being raped, sexually enslaved and/or used as "bush wives" by their commanders and fellow soldiers. These issues have recently been the subject of debate and analysis in the case of *The Prosecutor v Bosco Ntaganda* ("the Ntaganda case"), which is currently before the International Criminal Court (ICC).

<http://tinyurl.com/41895-Grey>

Protecting vulnerable environments in armed conflict : deficiencies in international humanitarian law

Michaela Halpern. In: *Stanford journal of international law*, Vol. 51, no. 2, Summer 2015, p. 119-146. - Cote 363.7/168 (Br.)

Environment protection exists in international humanitarian law, but it is limited and ambiguous. Furthermore, there are no specific rules for "vulnerable environments". This article analyses treaties and historical examples of conflicts where environmental protection was a concern, but it identifies some shortcomings, and proves that treaties failed to provide a direct and effective protection. Some of the protections provided are not clear, some do not see the environment as a true victim of war, but protect it only because it is necessary to human life. Additionally, the threshold for establishing a threat to the environment differs from the thresholds defined in existing conventional law for humanitarian principles - such as proportionality. Therefore, the author considers that a higher threshold allows more deterioration without legal consequences, which makes conventional law lack effectiveness. Principles of military necessity and proportionality could be of use for environmental protection. However, their transposition from humanitarian criterion to environmental is difficult. Finally, the question that arises is whether a new system of law should be adopted or if the existing law should be modified and rendered enforceable. The author advocates clarifying the interpretation of existing law before considering the adoption of a new legal instrument. [Summary by students at the University of Laval, Faculty of Law (CDIPH)]

<http://heinonline.org/HOL/Page?handle=hein.journals/stanit51&size=2&id=135>

La protection des droits de l'enfant pendant les conflits armés en droit international

par Ameth Fadel Kane. - [S.l.] : [s.n.], juin 2014. - 490 p. - Cote 362.7/408

La protection des droits de l'enfant victime des conflits armés est une problématique récente et actuelle qui s'appuie sur l'évolution des droits de l'homme et sur la mutation de la nature des conflits. Elle pose la question de l'existence d'un cadre normatif international consistant, apte à assurer protection et assistance à l'enfant en proie à des hostilités. Sur ce point, il apparaît que le droit international prévoit un ensemble de mécanismes juridiques applicables à l'enfant, qu'il soit victime directe ou indirecte des conflits, ou qu'il participe directement aux hostilités. Cependant, l'examen de ces instruments montre qu'ils se caractérisent souvent par la généralité de leurs dispositions qui ne sont pas toujours adaptées à la prise en compte de la spécificité de l'enfant. De plus, ils soulèvent parfois des questions d'applicabilité. Ainsi, si l'on ne peut pas leur nier toute effectivité, celle-ci reste, à bien des égards, partielle. L'adoption de mécanismes juridiques spécifiquement applicables à l'enfant, comme la Convention des droits de l'enfant de 1989 et ses protocoles facultatifs, avait d'ailleurs pour objet de remédier à cette inadéquation et d'établir l'exhaustivité du cadre juridique. La persistance des violations fait, cependant, prendre conscience des insuffisances normatives et impose une redéfinition de l'objectif de protection. Dans ce contexte, l'implication grandissante du Conseil

de sécurité, mais aussi la criminalisation des violations commises lors des conflits armés, définissent une nouvelle approche de la responsabilité de la communauté internationale en la matière.

Recent developments in German case law on compensation for violations of international humanitarian law

Philipp Stöckle. In: German yearbook of international law, Vol. 57, 2014, p. 613-631. - Cote 345.22/272 (Br.)

The individual right to compensation for violations of international humanitarian law (IHL) remains a contentious one. The reluctance of States to accept international obligations to compensate individual victims of armed conflict means that remedies for violations of IHL appear to be confined to the inter-State level. However recent decisions of domestic courts may have given new impetus to the development of an individual right to compensation. In this article Philipp Stöckle examines a 2013 decision by the German Federal Constitutional Court which, although it dismissed the claim, strengthened judicial control over executive conduct during armed conflict. He then analyses two decisions by regional courts which, although dismissing the claims as well, declared that German rules of governmental liability were applicable to violations of IHL. He concludes that even though these cases were domestic ones, they are still likely to affect the international debate on compensation for victims of armed conflict.

<https://library.ext.icrc.org/library/docs/ArticlesPDF/42022.pdf>

Refugees from armed conflict : the 1951 Refugee Convention and international humanitarian law

Vanessa Holzer. - Cambridge [etc.] : Intersentia, 2015. - XIV, 257 p. - Cote 325.3/505

This book determines the international meaning of the refugee definition in Article 1A(2) of the 1951 Refugee Convention as regards refugee protection claims related to situations of armed conflict in the country of origin. Although the human rights-based interpretation of the refugee definition is widely accepted, the interpretation and application of the 1951 Refugee Convention as regards claims to refugee status that relate to armed conflict is often marred with difficulties. Moreover, contexts of armed conflict pose the question of whether and to what extent the refugee definition should be interpreted in light of international humanitarian law. This book identifies the potential and limits of this interpretative approach. Starting from the history of international refugee law, the book situates the 1951 Refugee Convention within the international legal framework for the protection of the individual in armed conflict. It examines the refugee definition in light of human rights, international humanitarian law and international criminal law, focusing on the elements of the refugee definition that most benefit from this interpretative approach: persecution and the requirement that the refugee claimant's predicament must be causally linked to race, religion, nationality, membership of a particular social group or political opinion.

Security detention in international territorial administrations : Kosovo, East Timor, and Iraq

by Omer Faruk Direk. - Leiden ; Boston : Brill Nijhoff, 2015. - XIX, 250 p. - Cote 400.1/131

This book examines the legal and policy questions surrounding the behavior of post-conflict administrations. This includes discussion about apportionment of responsibility in peace support operations, norm conflict issues in UN Security Council resolutions, and requirements of international human rights law in the fulfillment of these missions. The discussion concludes with a survey of security detention practices in three recent post-conflict administrations in Kosovo, East Timor, and Iraq.

Sexual violence during armed conflict and reparation : paying due regard to a unique trauma

Mispa Roux. In: African yearbook on international humanitarian law, 2014, p. 87-110

The International Criminal Tribunals for Rwanda and the Former Yugoslavia resulted in the first international criminal jurisprudence recognizing the use of sexual violence as a weapon of warfare and the concept of genocidal rape. The author examines whether the contributions of the Tribunals, international discourse, conventional, and case law, have made significant and lasting improvements in protection of and reparation for victims. As a weapon of war, the impact of sexual violence is particularly severe. In addition to the lasting trauma inflicted on individual survivors, this type of violence impacts whole societies by creating "secondary survivors", as intimate partners, family, and group members share victims' suffering. The author examines the motivation, nature, and consequences of these crimes, protection of victims and

their rights, and available legal remedies. In addition to individual culpability, states bear international obligations to make reparations following any internationally wrongful acts during armed conflicts. For all forms of remediation, the aim is to move toward reversing the consequences of the act through reparation. As complete restitution is impossible, it is extremely important that acts of reparation acknowledge crimes in a symbolic manner - in order to restore survivors' dignity - in addition to providing tangible relief, such as compensation damages and rehabilitation. [Summary by students at the University of Toronto, Faculty of Law (IHRP)]

Srebrenica : on joint criminal enterprise, aiding and abetting and command responsibility

Harmen van der Wilt. In: Netherlands international law review, Vol. 62, issue 2, July 2015, p. 229-241. - Cote 344/663 (Br.)

The objective of this article is to find out how the atrocities in Srebrenica have been reconstructed by the ICTY by the choice of concepts of criminal responsibility that reflect the positions, contributions and relative guilt of the participants. The concepts of joint criminal enterprise, aiding and abetting and command responsibility are therefore the guiding notions in the separate sections. These concepts serve distinct purposes. The joint criminal enterprise doctrine is applied if several persons share a common plan and make some contribution to implement that plan. 'Aiding and abetting' refers to persons 'on the fringes' who 'merely' assist in the commission of crimes, without necessarily sharing the intent of the principals. And superior responsibility reflects the reality that international crimes proliferate when military commanders fail to exercise the effective control that fits their position. However, these are 'ideal types' of concepts of criminal responsibility, the application whereof is inevitably conducive to some distortion of reality. The fact that criminal law follows its own logic should be taken into account, when one assesses the case law of the Tribunal in order to obtain an impression of what 'really' happened.

<http://dx.doi.org/10.1007/s40802-015-0036-8>

The status of Western Sahara as occupied territory under international humanitarian law and the exploitation of natural resources

Ben Saul. - [S.l.] : The University of Sydney Law School, September 2015. - 32 p. - Cote 345.28/120 (Br.)

Much of the international legal analysis of dealings in natural resources in Western Sahara has focused on its status as a Non-Self-Governing Territory, as well as the right of self-determination of the Sahrawi people. Surprisingly overlooked in the legal debates is a close examination of the application of the international law of occupation under international humanitarian law (IHL). This article considers whether and why Western Sahara is 'occupied territory' under IHL, discussing some of the unique peculiarities that complicate the legal answer. It then considers issues of state responsibility and individual criminal liability under international law for unlawful dealings with natural resources in Western Sahara by Moroccan and foreign companies.

<http://ssrn.com/abstract=2663843>

Strengthening compliance with international humanitarian law : the work of the ICRC and the Swiss government

Marcel Stutz, Leonard Blazeby, Netta Goussac. In: University of Western Australia law review, Vol. 39, issue 1, June 2015, p. 51-67. - Cote 345.22/269 (Br.)

The International Committee of the Red Cross and Switzerland are currently undertaking a major consultation process on how to improve compliance with international humanitarian law (IHL) by developing stronger international mechanisms. This paper will provide an overview of existing compliance mechanisms in IHL and the reasons for their under-utilisation. It will then outline the background to the Swiss-ICRC consultations, as well as the elements of a future IHL compliance system currently under discussion by States.

<http://www.law.uwa.edu.au/uwalr/issues/2015-volume-39.-issue-1>

The Syrian conflict and the use of cultural property for military purposes

Jadranka Petrovic and Rebecca Hughes. - In: Accountability for violations of international humanitarian law : essays in honour of Tim McCormack. - New York ; London : Routledge, 2016. - p. 136-176. - Cote 344/667

Jadranka Petrovic and Rebecca Hughes examine the normative implications of the belligerent use of the World Heritage List sites and other immovable cultural property for military purpose in the present day Syria. They highlight the magnitude of the Syrian cultural disaster, caused, inter alia, by the use of the ancient sites by the military on all side to the conflict and argue that despite the universal value of cultural property, relevant instruments of neither IHL nor ICL adequately address the question of the use of cultural property for military purposes, which in the Syrian context may result in allowing those in control of cultural property, and whose expose it to destruction or damage, to walk away with impunity. Since cultural property is precious, not just locally, but also across borders and across generations, Petrovic and Hughes urge that its protection must be a matter of high priority for the international community and call for the criminalisation of any use of cultural property for military purposes.

Syria's world cultural heritage and individual criminal responsibility

Marina Lostal. In: International review of law, Vol. 2015, issue 1, January 2015, 17 p. - Cote 363.8/89 (Br.)

Recent reports have confirmed damage to five of the six Syrian world heritage sites during the current armed conflict as well as extensive looting of several of its archaeological sites on the Syrian Tentative List of world heritage. This article examines the role and fate of Syrian world cultural heritage from the beginning of the conflict, maps out the different cultural property obligations applicable to Syria while illustrating, where possible, how they may have been violated. Then, it assesses if and how those responsible for these acts can be prosecuted and punished. The analysis reveals an accountability gap concerning crimes against Syrian world cultural heritage. As such, the article proposes to reinstate the debate over crimes against common cultural heritage which once arose in the context of the Buddhas of Bamiyan.

<http://dx.doi.org/10.5339/irl.2015.3>

Taming Westphalian sovereignty : international penal process and the expansion of universal jurisdiction

Jackson Nyamuya Maogoto. - In: Accountability for violations of international humanitarian law : essays in honour of Tim McCormack. - New York ; London : Routledge, 2016. - p. 26-52. - Cote 344/667

Jackson Nyamuya Maogoto provides an overview of the development of international tribunals in the twentieth century. The primary pivot of his chapter is discussion of the extension of jurisdictional bases that circumvented aspects of statist based criminal jurisdiction through international courts and tribunals. Maogoto focuses on the concept of sovereign immunity while extending universal jurisdiction into the sphere of national criminal jurisdiction through the framework of international crimes.

Terminator ethics : faut-il interdire les "robots tueurs" ?

Par Jean-Baptiste Jeangène Vilmer. In: Politique étrangère, 2014, 4, p. 151-167

Les systèmes d'armes létaux autonomes font débat, certaines ONG réclamant leur interdiction préventive. La notion d'autonomie est pourtant très complexe : il n'existe pas de système d'arme totalement soustrait à l'intervention humaine. En termes moraux et vis-à-vis du droit international humanitaire, ces systèmes posent des problèmes peu différents des autres armes utilisées par l'homme. Il semble donc préférable de les encadrer, plutôt que les interdire a priori.

Transfers from one authority to another

Laurent Gisel, Eric Chaboureaux, Jeremy Kitt. In: Collegium, No 45, automne 2015, p. 113-153. - Cote 400/159

Contient : The principle of non-refoulement in relation to transfers / L. Gisel. - Transfer agreements : the EU experience / E. Chaboureaux. - Post-transfer monitoring mechanisms / J. Kitt.

https://www.coleurope.eu/sites/default/files/uploads/page/collegium_45_lowres.pdf

The transformation of occupied territory in international law

by **Andrea Carcano**. - Leiden ; Boston : Leiden Nijhoff, 2015. - XXX, 539 p. - Cote 345.28/118

This volume discusses the practice of transformative military occupation from the perspective of public international law through the prism of the occupation of Iraq and other cases of historical significance. It seeks to assess how international law should respond to measures undertaken in the pursuit of a given transformative project, whether or not supported by the Security Council. A monographic study tackling the bulk of the international law issues that emerge during and as a result of a transformative occupation, based on a comprehensive analysis of historical cases, applicable norms, and relevant facts.

Up in arms : a humanitarian analysis of the arms trade treaty and its New Zealand application

Susan O'Connor. In: New Zealand yearbook of international law, Vol. 11, 2013, p. 73-105. - Cote 341.67/768 (Br.)

The author examines the Arms Trade Treaty (ATT), which was adopted by the United Nations General Assembly in April 2013 to proactively regulate international trade in conventional weapons (i.e. not chemical, biological, or nuclear weapons). The treaty seeks to increase global security by reducing armed conflict and restricting the capacity of war criminals and human rights abusers to attain weapons. While acknowledging the importance of conventional weapons to state security, the ATT is fundamentally a humanitarian instrument aimed at reducing human suffering in armed conflicts. The ATT's provisions strive to improve the transparency of the conventional weapons trade and to prevent illicit trafficking and diversion of these weapons. The author analyzes the Treaty's core provisions, which set out standards for states to apply domestically. The ATT's failings are also discussed, such as its lack of enforcement mechanisms and weak implementation requirements. The author then examines the ATT in the specific context of New Zealand, including New Zealand's contributions to the arms trade and its potential to implement the ATT effectively, through comprehensive import and export regimes. The author argues that New Zealand ought to ratify the Treaty as quickly as possible, in order to reinforce its leadership as a proponent of arms control and humanitarian regulation. [Summary by students at the University of Toronto, Faculty of Law (IHRP)]

<https://library.ext.icrc.org/library/docs/ArticlesPDF/40923.pdf>

Use of explosive weapons in densely populated areas : implications for international humanitarian law

Kesolofetse Lefenya. In: African yearbook on international humanitarian law, 2014, p. 68-86

Explosive weapons indiscriminately affect an area surrounding their point of detonation. This article argues that this factor results in greatly magnified collateral damage when explosive weapons are used in densely populated areas. Explosive fragmentation, infrastructural damage, and munitions left undetonated create heightened risks for civilians by hindering humanitarian aid and reconstruction efforts. Responding to insufficient data on the impact of such weapons, the article includes first-hand accounts of destruction to civilian objects in Libya, Somalia, Sri Lanka, and Gaza by explosive weapons. The author argues that the core international humanitarian law (IHL) principles of proportionality, distinction, and precaution must be applied more stringently to explosive weapons. Protocols to the Convention on Certain Conventional Weapons (CCW) have placed restrictions on the use of some explosive weapons and require that parties issue warnings before attacks and clear remnants afterwards. The author further suggests that states possessing explosive weapons should be more transparent about their stockpiles, and that the international community must work towards a comprehensive policy on their acceptable use. Though important conventions already regulate the use of explosive weapons, their proper implementation depends upon a more thorough understanding of the damage caused by explosive weapons and potential IHL violations. Lastly international criminal justice must ensure that the parties to the conflict responsible for such violations are held accountable. [Summary by students at the University of Toronto, Faculty of Law (IHRP)]

Les zones d'exclusion aérienne

Jean-Christophe Martin. - In: Guerre aérienne et droit international humanitaire. - Paris : Pedone, 2015. - p. 171-193. - Cote 341.226/70

Dans ce texte, l'auteur analyse les zones d'exclusion aérienne (ZEA), qui se distinguent en deux catégories : celles établies par un tiers en réponse à une crise humanitaire et celles établies par les parties en tant que méthode de guerre. Dans le premier cas, c'est le Conseil de sécurité des Nations Unies qui peut établir cette zone, en décidant de la portée et des modalités de l'exclusion (comme la question de l'utilisation de la force ou non pour la maintenir). Sans décision expresse du Conseil de sécurité, un tiers peut difficilement établir

une ZEA. Dans le second cas, il faut distinguer les « exclusion zones » applicables à des zones internationales et les « no-fly zones » applicables au territoire national. La partie au conflit qui établit l'une ou l'autre doit respecter le critère de nécessité lors de l'établissement des limites spatiales et temporelles de la ZEA, et les principes de distinction, de proportionnalité et de précaution en cas d'ouverture du feu pour forcer le respect de la zone. En effet, établir une ZEA n'annule pas les règles du droit international des conflits armés et ce que la zone ait été établie par une partie à un conflit armé ou par le Conseil de sécurité. [Résumé par les étudiants de la faculté de droit (CDIPH) de l'Université de Laval]

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March 2016



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