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**ARMS**

Nuclear weapons and compliance with international humanitarian law and the nuclear non-proliferation treaty / Charles J. Moxley, John Burrough, and Jonathan Granoff. - In: Fordham international law journal, Vol. 34, issue 4, April 2011, p. 595-696. - Photocopies

This article addresses the requirements of IHL and the NPT and applies those requirements to contemporary state practice. It discusses IHL in Part I and the NPT in Part II. The result, the article concludes, is that such practice falls far short of the legal requirements. In short, review of the matter reveals that the use of nuclear weapons would violate IHL and that the threat of such use, including under the policy of nuclear deterrence, similarly violates such law. Analysis further reveals that the nuclear weapon states’ existing obligation to bring their policies into compliance with IHL is reinforced by the NPT disarmament obligation as spelled out by the 2010 NPT Review Conference, in particular by its declaration of the need to comply with IHL. The most fundamental implication of the incompatibility of the threat or use of nuclear weapons with IHL is the energetic and expeditious fulfillment of the NPT obligation to achieve the global elimination of nuclear weapons through good-faith negotiations.

341.67/684 (Br.)


341.67/489

**CHILDREN**


362.7/341


362.7/342


362.7/344


This article examines the issue of the position of child soldiers under international law. After preliminary remarks on the approach of international human rights and humanitarian law to the protection of children involved in armed conflicts, the article discusses the prohibitions on recruiting children and the individual criminal responsibility of recruiters. Case-law on the child soldiers’ recruitment is considered. In the fourth part the position of the child soldiers as perpetrators is discussed and the retributive approach to the issue is explored. The last section offers an overview of the restorative justice-oriented solution to the dilemma of the criminal responsibility of child soldiers adopted in the context of the post-conflict situation in Sierra Leone.

362.7/343 (Br.)

**CIVILIANS**

The new politics of protection ? : Côte d’Ivoire, Libya and the responsibility to protect / Alex J. Bellamy and Paul D. Williams. - In: International affairs, Vol. 87, no. 4, July 2011, p. 825-850

Content: Draft declaration of international law principles on reparation for victims of armed conflict


Soldiers hiding in enemy territory that are discovered by civilians face acute ethical problems as to what to do about them. The law of armed conflict forbids harming civilians, yet if they are released they may well betray the soldiers and alert enemy forces that will kill or capture the soldiers. This is not just a theoretical problem; there are recent documented accounts of British and American soldiers who have found themselves in such a position and who have died because they released the civilians. This paper argues that the ethical imperative here is to save the lives of both the soldiers and the civilians and that this should be the guiding principle in such cases. To this end, where possible, non-lethal means of restraint should be used on civilians to incapacitate them while the soldiers escape.

CONFLICT-VIOLENCE AND SECURITY


Fourth generation warfare and its challenges for the military and society / Pat Phelan. - In: Defence studies, Vol. 11, no. 1, March 2011, p. 96-119. - Photocopies 355/727 (Br.)


The line separating disturbances and tensions from armed conflict can sometimes be blurred and the only way to categorize specific situations is by examining each individual case. This categorisation has direct consequences for the armed forces and civil authorities as it does for the victims of the violence. It determines which rules apply and the protection they provide is established in greater or lesser detail according to the legal situation. This leaflet, which has been updated in July 2011, provides a summary of three different legal situations: armed conflict, situations other than armed conflict, and peace support operations. It also examines their definitions, the law applicable, practical implications and the role of the ICRC. The issues are presented in strictly legal terms. This publication does not deal with tactical considerations. 355/832

(2011 ENG)

DETENTION


ECONOMY

**ECONOMIC WARFARE**


**HANDBOOK ON THE ECONOMICS OF CONFLICT**


GEOPOLITICS

**SUD-Soudan : conquérir l'indépendance, négocier l'Etat** / David Ambrosetti... [et al.]. - In: Politique africaine, No 122, juin 2011, p. 5-119

**UNRAVELING INTERNAL CONFLICTS IN EAST ASIA AND THE PACIFIC**


HEALTH-MEDICINE

**HEALTH CARE IN DANGER**


**INTER-AGENCY FIELD MANUAL ON REPRODUCTIVE HEALTH IN HUMANITARIAN SETTINGS**

*Inter-agency field manual on reproductive health in humanitarian settings* / Inter-agency working group on reproductive health in crisis. - [rev. ed.]. - [S.l.]: Inter-agency working group on reproductive health in crisis, 2010. - 210 p.: tabl., diagr., graph.; 30 cm. - Bibliographies

**LES SOINS DE SANTÉ EN DANGER**


HUMAN RIGHTS

**AMNESTY INTERNATIONAL: RAPPORT 2011**


Réf. ORG 2 (2011 FRE) (excluded from loan)
Réf. ORG 2 (2011 ENG) (excluded from loan)

345.1/583

345.1/589

323.2/577

HUMANITARIAN AID

361/292 (2011 FRE)

361/557

361/292 (2011 ENG)

ICRC-INTERNATIONAL MOVEMENT OF THE RED CROSS AND RED CRESCENT

362.191/1449 (II part. 1)
362.191/1449 (II part. 2)

Revenir sur le mythe fondateur de Médecins sans frontières : les relations entre les médecins français et le CICR pendant la guerre du Biafra (1967-1970) / Marie-Luce Desgrandchamps. - In: Relations internationales, No 146, été 2011, p. 95-108

INTERNATIONAL CRIMINAL LAW

344/544


The International criminal tribunal for the former Yugoslavia: paving the way for modern international humanitarian law enforcement / Andrew Woodcock. - In: Northern Ireland legal quarterly, Vol. 62, no. 1, Spring 2011, p. 119-136. - Photocopies

The Palestinian declaration and the jurisdiction of the International criminal court / Alain Pellet. - In: Journal of international criminal justice, Vol. 8, no. 4, September 2010, p. 981-999

Prosecuting the war crime of collective punishment: is it time to amend the Rome Statute? / Shane Darcy. - In: Journal of international criminal justice, Vol. 8, no. 1, March 2010, p. 29-51

Recent judgments of the Special Court for Sierra Leone comprise the most significant judicial consideration of collective punishment by an international court since the trials conducted after the Second World War. The Special Court’s conviction of several individuals for the war crime of collective punishment are the first of their kind, although at times the judgments involved strained judicial reasoning on the meaning, scope and rationale of the war crime of collective punishment. In considering the status of collective punishment as an international crime, the author draws on the Special Court’s jurisprudence and explores the customary and conventional law basis of the war crime of collective punishment and the challenge of defining the elements of such a crime. The omission of the war crime of collective punishment from the Rome Statute of the International Criminal Court questions the place of the offence in contemporary international criminal law, particularly in light of the possibility that underlying acts might be adequately addressed by other established war crimes.


The chapter starts in section two with a brief definition of war crimes. Section three of this chapter will deal with international humanitarian law which entails the rules regulating warfare. The fourth section will describe the social context of war, give insight into soldiers’ experiences and offer a better understanding of what war is really about. It will explain how the myths of masculinity and heroism are often shattered by the horrors of war, and how these horrors can easily lead to, abuse, violations of the rules and regulations of warfare and ultimately war crimes. In the fifth section, several examples of war crimes, such as the Rape of Nanking.
(China) and the massacre at My Lai (Vietnam), will be presented in order to grasp the dynamics at play. Overall the chapter aims to provide insight into the various types of war crimes and when and why such crimes are committed.


INTERNATIONAL HUMANITARIAN LAW-GENERALITIES


The author proceeds first to boiling down both bodies of rules to what could arguably be seen as their respective animating principles: distinction for humanitarian law, and non-discrimination for human rights. These separate and apparently contradictory principles are both rooted in the same political liberal tradition, which the author evokes through the use of loose social contract imagery in the description of both distinction and non-discrimination. He revisits some judicial encounters with the relationship between human rights and humanitarian law. Starting with the canonical moment when the International Court of Justice suggested the interpretive principle of lex specialis as a panacea, the author moves to an examination of the respective case law related to humanitarian law in the three regional human rights systems-Europe, the Americas and Africa. Paying close technical attention to that practice will serve to give some depth, through the variety of situations and particular position of human rights bodies, to the implicit connection between lex specialis and jurisdiction, that is, formal sovereignty. Once the political form of sovereignty is put back in place as the basis for the lex generalis / lex specialis trope - and therefore also the argumentative line between peace and war-concluding thoughts will follow concerning the political message of defragmentation. 345.1/76 (Br.)


Without presenting a full definition, it can be said that the notion of judicial lawmaking implies the idea that courts create normative expectations beyond the individual case. A judiciary might engage in lawmaking without formally presenting arguments of a justificatory sort; a court could, for example, simply announce a new norm. But where a court does engage in norm justification, it is always engaging in or at least shading into lawmaking. Norm identification, by contrast, although it has a creative element, is not essentially creative. The article is divided into four main parts. Part B highlights the history of the establishment of the ICTY and the content of the ICTY Statute. This background will prove indispensable in comprehending the ICTY’s


Some remarks on the continuity of human rights and international humanitarian law treaties / Fausto Pocar. - p. 279-293. - In: The law of treaties beyond the Vienna convention. - Photocopies


The history of reprisals up to 1945: some lessons learned and unlearned for contemporary international law / Olivier Barsalou. - In: Revue de droit militaire et de droit de la guerre = The military law and law of war review = Tijdschrift voor militair recht en oorlogsrecht = Zeitschrift für Wehrrecht und Kriegsvölkerrecht = Rivista di diritto militare e di diritto della guerra = Revista de derecho militar y de derecho de la guerra, Vol. 49, no 3-4, 2010, p. 335-367
The article provides a critical overview of the history, theoretical foundations and rules and principles governing the use of reprisals in international law. One means by which states can enforce international law is through the use of reprisals or countermeasures. In the interwar era, international lawyers sought to design a legal apparatus aimed at governing the use of reprisals in the international society. They recognized that violence could constitute a legitimate source of authority and justice in the international legal system. The post-1945 system of international law incorporated this idea in an attenuated form. This article sheds some light on a number of intricacies that international lawyers have historically had trouble dealing with in the pre-United Nations Charter era and that the contemporary system of countermeasures seems to ignore, namely the paradoxical position that violence occupies as a source of authority and justice in international law: violence is both necessary and impossible in the international legal system.


The authors call for a refocus of the international community's attention toward the responsibility of the shielding party's obligations to keep civilians safe. The party which deploys civilians as human shields is committing a grievous war crime and must be held personally accountable before international criminal tribunals. Moreover, the authors propose a practical formula for adjusting the proportionality requirement's application in circumstances involving human shields when either (i) the use of human shields is part of the enemy's widespread or systematic policy or (ii) the enemy's fire poses clear and present danger to the impeded party's population or troops. The adjusted application of the proportionality requirement would assist in restoring international law's credibility, realign the balance between the two conflicting principles of humanity and military necessity, and make the laws of war compatible with modern warfare.

The image before the weapon: a critical history of the distinction between combatant and civilian / Helen M. Kinsella. - Ithaca (Etats-Unis) ; London : Cornell University Press, 2011. - XII, 260 p. ; 24 cm. - Index. - ISBN 9780801449031

Privileging asymmetric warfare (Part II)?: the "proportionality" principle under international humanitarian law / Samuel Estreicher. - In: Chicago journal of international law, Vol. 12, issue 1, Summer 2011, p. 143-157. - Photocopies
One of the central controversies of the targeted killing debate is the question of who can be targeted for a summary killing. The following chapter employs a novel normative framework: how to link an individual terrorist with a non-state group that threatens a nation-state. Six linking principles are catalogued and analyzed, including direct participation, co-belligerency, membership, control, complicity and conspiracy. The analysis produces counter-intuitive results, especially for civil libertarians who usually eschew status principles in favor of conduct principles. The concept of membership, a status concept central to international humanitarian law, is ideally suited to situations, like targeted killings, that involve summary killing on the battlefield. This chapter defends one version of the concept, called ‘functional membership’, which takes into account the uniqueness of irregular terrorist organizations. The defense relies on the fact that the alleged dichotomy between status and conduct is partially illusory. Second, functional membership is a hybrid between status and conduct and preserves the best elements of the law of war paradigm with the criminal law enforcement paradigm. Third, functional membership is necessary for applying the pre-existing international humanitarian law standards of ‘directly participating in hostilities’ and engaging in a ‘continuous combat function.’

INTERNATIONAL HUMANITARIAN LAW-IMPLEMENTATION

In many cases of alleged war crimes, a civil action may be an attractive alternative to criminal proceedings, for political, logistical or other reasons. This is particularly so with respect to corporate conduct, where the mens rea requirements and custodial penal sentences that are hallmarks of typical criminal justice systems transpose poorly to the corporate context. However, while the universality principle is by now well-established with respect to criminal prosecutions in national courts, the picture with respect to civil claims in one country for war crimes committed in another is substantially less clear. In this spirit, the author analyses the recent Superior Court of Quebec decision in the case of Bil\’in (Village Council) v. Green Park International Ltd. There, the plaintiffs sought to claim against two Quebec corporations and their sole director for participating in war crimes allegedly committed in the West Bank. After a careful examination of the decision, it becomes apparent that such claims may face significant legal and practical hurdles in Canada.

The Oxford Research Group’s (ORG) Recording of Casualties of Armed Conflict (RCAC) Programme has concluded a research project on identifying the international legal obligation to record civilian casualties of armed conflict. As a result of extensive research into international customary humanitarian law and the treaties that embody obligations for states in international humanitarian law and international human rights Law, the research team has identified the elements of the international legal obligation. The various sources of law drawn upon to identify this right include the Geneva Conventions; the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the European Convention on Human Rights, and other human rights instruments; reports and statements of the United Nations; case law of the European Court of Human Rights and the Inter-American Court of Human Rights; and the principles of customary international law. When placed in the context of casualty recording, the principles spread amongst these instruments and sources come together naturally to form a binding obligation on states. The findings of this report indicate that a move towards establishing a systematic mechanism of casualty recording in all theatres of armed conflict is necessary and required by law.

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345.22/177 (Br.)

INTERNATIONAL HUMANITARIAN LAW-TYPE OF ACTORS


Levée en masse – the spontaneous uprising of the civilian population against an invading force – has long been a part of the modern law of armed conflict with regards to determining who may legitimately participate in armed conflict. The concept originated during the French Revolution, and was internationalized with its inclusion in the rules of armed conflict adopted by the Union Army during the American Civil War. Levée en masse continued to be included in the major international law of armed conflict documents from that time on, including The Hague Regulations of 1907 and the Geneva Conventions of 1949. However, since that time, there have been few, if any, instances of levée en masse. This article examines the historical and legal development of the concept of levée en masse, charting its evolution from a general and sustained call to arms to the civilian population to the more strict 19th and 20th century legal categorization of civilians attempting to fend off an invading force. This article also examines the few instances of levée en masse in State practice, and, in doing so, assesses whether the concept retains any utility in 21st century armed conflict.

345.29/160 (Br.)


The article deals with some of the new legal issues arising in the Mrkšić et al. Appeal Judgment, with particular regard to the responsibility of the accused Veselin Slijivančanin for his role in the attack against Croat prisoners of war (POWs) that occurred in Ovcara, Croatia, in 1991. The ICTY Appeals Chamber shed light on the nature and scope of the individual duty to protect POWs under Articles 12 and 13 of Geneva Convention III and held that an agent of the Detaining Power entrusted with custody and control over POWs is under the duty to ensure their safe transfer even when he no longer has custody and control over them. In convicting Slijivančanin for his failure to protect the POWs, the Appeals Chamber also clarified the elements of aiding and abetting by omission. However, the Appeals Chamber’s failure both to characterize the armed conflict in Croatia and to clarify on what legal grounds the captured Croats were entitled to POW status is open to criticism.

345.29/160 (Br.)

Thinking the unthinkable : has the time come to offer combatant immunity to non-state actors ? / Geoffrey S. Corn. - In: Stanford law and policy review, Vol. 22, no. 1, 2011, p. 253-294. - Photocopies

This article will explore this question by focusing on both these proposed analytical elements. It will begin with a review of the origins of the lawful/unlawful enemy combatant dichotomy. It will then discuss the ostensible effects the United States desires to achieve by applying this dichotomy to transnational non-state actors. Ultimately, it will question whether the unthinkable – extending the opportunity to qualify for the privileged combatant’s immunity – might actually offer a greater likelihood of achieving these effects than clinging to the current lawful/unlawful combatant dichotomy.

The scandal caused by the assassination of a guerrilla leader by one of his subordinates and the payment of a substantial economic reward made to him by the State, led to the first questionings regarding the legality of the reward system in Colombia. This article seeks to establish if the state sponsored reward policy respects the rules of International Humanitarian Law applicable to the Colombian armed conflict. For this purpose the article will analyze both the legislative development and three of the most controversial situations raised in practice which prove the range and effects of the use of rewards as a strategic tactic within the armed conflict.


New security threats, which have surfaced in the past few years, are seriously jeopardizing the relevance and implementation of international humanitarian law. This paper investigates the impact of the war on terror on the principle of distinction in international humanitarian law, examining in particular whether the practices of some States, notably the US, have led to the emergence of new rules in relation to the principle of distinction. For this it looks at the principle from two separate, yet correlated, perspectives: a targeting and a detention perspective.


The Internet has become the most essential means of communication and information. This results in a high dependency upon reliable operations of Internet based communication systems, especially those supporting critical infrastructure systems. Given the shortcomings of the Internet with regard to security, the vulnerability of computer systems has become a significant matter of (national or collective security to many states as well as to NATO. The potential conduct of "computer network operations" (CNO), i.e. military defensive or offensive actions taken by the means of the Internet or other computer networks, presents some legal challenges. This survey first examines the nature of CNO and discusses the difficulties of identification of the origin and of attribution of a malicious action carried out via or in the cyberspace to a certain actor. After the presentation of some criteria for the qualification of CNO as "use of armed force" (in the ius in bello meaning), the survey argues that the laws of armed conflict, including the over hundred years old principles and provisions of neutrality, do apply to CNO. At the same time, it demonstrates that the provisions offer a level of humanitarian protection comparable to that applicable to the use of conventional weapons.


How have Inter-American Human Rights bodies dealt with the notion of “war”, which has been transformed over time into the notion of internal and international “armed conflicts”? This question provides the analytical foundation of the first part of this study, which sets out the various types of conflicts that have occurred in the American continent. These situations (armed conflicts, internal strife, State terrorism) have produced a wide range of legal categorizations, utilized by both the Commission and Inter-American Court of Human Rights in their case-law. This conceptual delimitation carried out by these two bodies is all the more important as it affects the law that applies to armed conflicts. Indeed, by analysing this question, the never-ending debate on the relationship between International Human Rights Law and International Humanitarian Law reappears. The second part of this study therefore focuses on the issue of discovering whether and in which way jus in bello has found its place into the Inter-American
Human Rights bodies’ case-law. As the active political life of Latin American societies has shown, the study of the different applicable legal regimes also requires looking into “state of emergency” Law, an issue which has been shaped by the Inter-American Court and Commission’s work.


**PUBLIC INTERNATIONAL LAW**


**Cyber-attacks and the use of force: back to the future of article 2 (4) / Matthew C. Waxman.** - In: Yale journal of international law, Vol. 36, 2011, p. 421-459. - Photocopies 345/588 (Br.)


**REFUGEES-DISPLACED PERSONS**


Forced migration in war is known to arise from serious assaults on populations and is known to carry serious consequences for the people who move. In the context of international humanitarian law, forced migration is viewed as a survival strategy, a resort to flight in order to get out of the way of hostile action. The varieties of injuries associated with forced migration have been largely assigned to the category of unavoidable or difficult-to-mitigate collateral costs of armed conflict. It is argued in this paper that the phenomenon of forced migration in war constitutes, in itself, a serious violation of international humanitarian law. The agency of government or military command is behind the military or political action that provokes population flight; the short and long-term mortality and morbidity always associated with forced migration occurs disproportionately and indiscriminately to civilian non combatants; and the dissolution of identity, the assault on dignity, the destruction of personal and community records, and the sweeping loss of livelihoods occasioned by war-induced forced migration represent in themselves war crimes or on a grand scale crimes against humanity. This paper presents evidence to substantiate the claim that forced migration in war inflicts intense and extended suffering on civilian populations. Reference is made to Hague and Geneva law, the two international human rights covenants (ICCPR and ICESCR) and to the Refugee Convention to find elements of what should arguably be advanced as the constituent basis for defining forced migration in war as a distinct and independent crime in international criminal law. In much of international humanitarian law, empirically grounded recognition of a new class of grievous injuries or a new category of people to protect leads to an expansion of a preexisting framework (civilian protection) or an entirely new treaty or convention (cluster munitions). The suggestion made here is that forced migration in war be considered within that historical continuum—not as a prevalent and (largely) unavoidable process but as a newly recognised crime.


325.3/465

SEA WARFARE

This article examines Israel's enforcement of a maritime blockade against the Gaza Strip implemented in the course of an 'armed conflict' with Hamas. The first question is the legal characterisation of this conflict and whether it is one to which the laws of naval warfare apply. The conclusion of this article is that, irrespective of the status of the Gaza Strip as an occupied territory, at the relevant time Israel was at best involved in a non-international armed conflict (NIAC) with Hamas. There is only limited support for the proposition that blockade is available in NIACs, and then only in conflicts reaching a high level of intensity. On this basis, Israel had no applicable right of blockade. In the alternative, the article considers the requirements of lawful blockade and concludes they were not met in the present case. The central issue is proportionality. The maritime blockade was part of a comprehensive closure regime that had disproportionate effects on the civilian population of Gaza. A maritime blockade in support of other measures causing disproportionate damage must itself be disproportionate. In the further alternative, the article assesses whether Israel could have justified its actions on the basis of other belligerent rights. Finally, the article considers the law governing the use of force during maritime interdiction operations under the laws of naval warfare. It concludes that a 'policing' paradigm of force is applicable. The law of individual self-defence and war crimes is also considered.
347.799/135 (Br.)

347.799/134 (Br.)

TERRORISM

After exploring the background and development of the Geneva Conventions of 1949 and the Additional Protocols of 1977, this article finds that the current body of law does not address the problem of terrorist combatants. Identifying the harm that has been caused by a lack of clear guidance on the law of armed conflict and terrorism, the article lays out the most important features and decisions that must be made in a new protocol for combating terrorism.
303.6/16 (Br.)

303.6/198

WOMEN-GENDER

Assessing civil liability for harms to women during armed conflict: the rulings of the Eritrea-Ethiopia claims commission / Lucy Reed. - In: International criminal law review, Vol. 11, issue 3, 2011, p. 589-605
This article provides a descriptive account of rulings of the Eritrea-Ethiopia Claims Commission (EECC) related to harms inflicted during the Ethiopia-Eritrea armed conflict that disproportionately affected women. Following the introduction, it presents a brief overview of the creation of the EECC and its jurisdiction, procedure and rulings. It then discusses the EECC's
rulings on sexual violence, describing the special considerations for applying its standard and quantum of proof in relation to liability and damages in rape claims. The next part focuses on the import of the EECC's rulings in relation to expelled and other displaced civilians (including internally displaced persons), who were largely women and other vulnerable populations. Although the EECC did not, for the most part, find displacement itself to be a violation of the jus in bello, it did award significant amounts of compensation for harms suffered by expelled and displaced civilians and for relief provided to such persons, who were predominantly women and other vulnerable populations, as well as for Eritrea's violation of the jus ad bellum.


**War rape, natality and genocide / Robin May Schott.** - In: Journal of genocide research, Vol. 13, no. 1-2, March-June 2011, p. 5-21. - Photocopies 362.8/150 (Br.)


**VARIA**

